A Thousand Cuts:
A Critical Analysis of the Retributive Response to Sexual and Intimate Partner Violence in Rural Ontario and a New Path Forward

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Abstract

Sexual and intimate partner violence is the most underreported violent crime in Canada, particularly in rural Ontario, despite significant legal reforms intended to protect victims and encourage reporting. This thesis critically examines how the patriarchal foundations of the Canadian criminal justice system actively silences and deters women from reporting sexual and intimate partner violence and proposes that a restorative justice model, developed with a trauma informed and victim centric lens, should be offered as an alternative justice model to victims of sexual and intimate partner violence. This research specifically focuses on rural Ontario, where sexual and intimate partner violence rates are disproportionately high and access to support services is limited, and explores how personal, socio-cultural, and systemic, barriers compound to silence survivors. Drawing from feminist legal theory and restorative justice scholarship, this study argues that the adversarial nature of the criminal justice system is fundamentally incompatible with the individualized needs of victims and instead prioritizes the punishment of offenders over the healing of survivors. Through a comprehensive literature review and critical analysis, this research outlines a restorative justice model tailored to the rural Ontario context. This model emphasizes accountability, respect, and community engagement, aiming to reduce barriers to reporting while offering survivors agency, validation, and an opportunity to heal from the harm they experienced. Ultimately, this thesis advances the argument that only by shifting away from patriarchal legal structures and focusing on survivors' voices can a truly just response to sexual and intimate partner violence be realized.

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Preface

This thesis is the original, unpublished, independent work by the author, Airianna Murdoch-Fyke.

Table of Contents

Chapter 1: Introduction

A. Overview

Why do so many women not report sexual and intimate partner violence? This question is at the heart of much of the literature in the field of sexual violence studies, yet the framing of the issue is problematic. This question places the blame on the women who chose not to report, as if it is their fault for not reporting. The correct question, which is the fundamental question of this research, is how does the patriarchal and paternalistic nature of the criminal justice system deter women from reporting sexual and intimate partner violence, and is there an alternative or complementary system, such as restorative justice, and how would that system improve women's experiences with reporting sexual and intimate partner violence?

One major impediment to reporting is the fear of stigmatization and victim blaming.[1] Over the last four decades there have been significant reforms focused on minimizing and eliminating victim blaming beliefs from the criminal justice system to encourage women to report sexual and intimate partner violence.[2] Section 246.6 (later becoming s.276) of the *Criminal Code of Canada* was first enacted in 1982 as part of a comprehensive rape law reform package.[3] Through this reform package, rape became the three-tiered, gender neutral offence of sexual assault and the unique evidentiary practices that had previously dominated prosecutions were for the most part eliminated from the *Criminal Code of Canada*.[4] In 1991, the Supreme Court of Canada released the decision of *R v Seaboyer*[5]. In their decision, the Court confirmed that sexual reputation evidence cannot be introduced to undermine or support the victim's credibility.[6] In 1992, following the decision in *Seaboyer* Parliament made significant changes to s.276 to prevent the use of the "twin myths", which meant that other sexual activity evidence could not be used to support an inference that the victim was more likely to consent to the sexual activity that formed the subject matter of the charge

or was less worthy of belief.[7] In 1995, the Supreme Court of Canada released the decision in *R v O'Connor*[8] which set out the procedure to be followed when an accused person seeks the production of documents, such as medical or therapeutic records of the victim that are in the hands of third parties.[9] In 1997, Parliament codified the procedure outlined in *O'Connor* and enacted ss.278.1-278.91.[10] In April of 2015, Parliament enacted the *Canadian Victims Bill of Rights* which provided victims with the right to have their privacy considered by the appropriate authorities in the justice system[11] and in July of 2015, Parliament also amended s.278.4 to permit victims the right to counsel during a third-party records application.[12] In 2018, Parliament introduced Bill C-51 that expanded the s. 276 regime, creating a novel "record screening" framework for records in the possession of the accused under ss. 278.92 - 278.94, and expanded victims' right to counsel in s.276 and 278 applications.[13] In 2019, the Supreme Court of Canada released the decisions of *R v Barton,*[14] *R v Goldfinch*[15], and *R v R.V*[16] all of which dealt with how other sexual activity evidence should be handled by courts to protect the dignity and privacy of victims while ensuring a fair trial for the accused. The Supreme Court of Canada has continually condemned the use of myths and stereotypes about how women are supposed to behave before, during, and after a sexual assault or incident of intimate partner violence. What more could possibly be done to encourage victims to report? What more do these women want?

The simple answer is a system that works. If these reforms worked, women would report. As will be outlined in this research, the criminal justice system was not, and is not, designed to support victims; it is designed to punish the accused. These two fundamentally different objectives cannot be reconciled within the same system.

The decision to report, or not report, sexual and intimate partner violence is a deeply personal choice for a victim. Not only must she deal with the violation and invasion of her physical and emotional integrity from the violence, but she is also then faced with the decision whether to report this invasion to the justice system, a system that is supposed to protect her from future harm by denouncing and deterring the violence, to bring justice, and to hold the perpetrator accountable. Yet, only 5% of women choose to report sexual violence to the police.[17] If the system is designed to protect, why do so many women choose not to report? If the system wanted to protect, why do so many barriers exist that 94% of women who experienced sexual violence choose to remain silent?

The criminal justice system is not equipped, nor was it designed, to deal with the idiosyncratic needs of each victim.[18] The criminal justice system is structured to determine whether, beyond a reasonable doubt, the accused person committed the offence.[19] In sexual assault and intimate partner violence matters, this is often determined by evaluating the credibility and reliability of the accused and victim. Until that determination of guilt, the accused is deemed innocent, as they should be. Yet, from a victim's perspective, she is a liar until proven otherwise. This is evident in the language used by the system to identify her; until a guilty verdict she is reduced and referred to as a complainant,[20] not a victim, language that this research purposefully does not use.

Why would someone go through such an adversarial process to seek justice? What if there was a different system that did not position a victim against an accused? What if there was a justice system that was not solely focused on punishing the accused, but on restoring the person who

experienced harm? What would that look like, and could it work for victims of sexual and intimate partner violence?

This thesis highlights and uncovers how the current reporting system and the retributive response of the criminal justice system when dealing with sexual and intimate partner violence in Canada deters and silences victims. Women are forced to stay silent by the system that is supposed to protect them. This research explores the plethora of personal socio-cultural, and systemic barriers that have been created by the system and society at large which actively impede women's ability to seek justice for the violence they experience. This research will argue that the barriers instilled and perpetuated by the patriarchal and paternalistic criminal justice system, and the indifference to their trauma, are what causes women to remain silent. The apparent indifference to their experiences is evident to many victims and was particularly heightened in the wake of COVID-19 and the resulting systemic court delays, which are causing many of the matters already in the court system to be stayed.[21] As will be clear throughout this research, the system cannot be fixed sufficiently to ensure a safe environment for victims, the deeply entrenched patriarchal norms make this an unrealistic exercise. Instead, this research proposes that a better system is needed, one that balances and holds space for a victim's healing and an accused's journey of accountability.

i. Inspiration for this Research

I first became interested in the use of restorative justice for sexual violence in my final year of high school, after I was sexually assaulted by a close friend. I immediately knew that I was not going to report it to the police. We went to school together, worked together, and grew up in a very small community in rural Ontario. I knew that reporting would damage him, but destroy me. What

I wanted was for others to be educated on the issue of consent. I wanted help dealing with my trauma, and I wanted him to understand what he did was wrong. I saw the problems and went to work on the solutions. I proposed to my school administration that a speaker should be brought in to talk to the boys about consent. For $1,500 this speaker would teach all the boys not to rape. One problem solved. Looking back, I am so proud of my determination at such a young age, having gone through such a traumatic event. Sadly, the school administration politely passed on my idea. So, I went to the next problem. I needed help. I spoke with a counsellor from the local women's shelter. Unfortunately, she must have missed the lecture on "not all victims react the same way." She told me that because I didn't cry when telling her what happened that maybe it didn't happen that way. Another dead-end. So, I moved to the last problem, I wanted him to know what he did was wrong. This time, I decided to take matters into my own hands. After work one day, I offered to drive him home and I drove around until I was done saying what I needed to say to him. Whether that could be considered forcible confinement is debatable, but I got him to listen to me, and that was all I wanted. I didn't want him to be charged, I didn't want to ruin his life, I wanted to be heard.

My use of non-traditional healing methods inspired this research. The power of my story, and the stories of many other women, led me to adopt a feminist approach that centers storytelling. Women's narratives and experiences show how power affects who is heard and whose experiences are taken seriously. After asking my school and an organization funded to support me, I was dismissed. Only when I reclaimed my voice and spoke to him directly did I feel heard. This thesis focuses on the power of feminist storytelling, placing women's experiences front and center, to help survivors gain recognition and redress.

B. Feminism, Methodology, and Theory

Before delving into the substance of this research, it is essential to understand what feminism means, what feminist theory entails, and how feminist methodology will be applied in this research.

i. What is Feminism?

Feminism is a concept that means something unique to all who encounter it. There is no single, exhaustive definition of feminism, it is a perspective, not a rigid construct.[22] For many, feminism is a concept to fear, it symbolizes an uprising, a threat to the way society functions, as an unnecessary evil that stands for the hatred of men and threatens families.[23] Those who fear feminism do not fully understand the uniqueness of the concept, or perhaps they do and that is why they fear it, because they fear change and equality for women. While many do not fear feminism, it can be an uncomfortable perspective to understand. Recently, I asked someone what feminism meant to her, she shifted awkwardly in her chair and said there is a spectrum of feminism and frankly she would not want to interact with anyone on the high end of the spectrum. Unsurprisingly, feminism evokes a sense of discomfort for many, and even a sense of hatred, because it signifies a challenge to the way society functions, social norms, and what has been viewed for so long as acceptable and successful.[24] How can individuals embrace an ideology that challenges the way they exist, that questions every facet of our daily lives?

At its core, feminism is a perspective that empowers women to speak, to be heard, and to challenge.[25] A significant and important aspect of feminism is the power of storytelling. Storytelling guides the way we can view society. Feminist storytelling often started at the kitchen

table as women gathered around to share stories, to offer a place for women to be heard. Feminism gives women the ability to express themselves and take back their voice that has been silenced and hold their place in society.[26] This explicit empowerment of women to speak is so powerful, especially since "so much of the oppression of women historically has been through silencing. The silencing of women as hysterical; the silencing of feminists as over the top, angry, humourless; the silencing of incredible pioneering women's achievements."[27] Feminist scholar Laura Bates' conception of feminism echoed that of feminist legal theorist, bell hooks, who stated that feminism can be understood as:

> "The struggle to end sexist oppression. Its aim is not to benefit solely any specific group of women, any particular race or class of women. It does not privilege women over men. It has the power to transform in a meaningful way all our lives … Feminism as a movement to end sexist oppression directs our attention to systems of domination and the inter-relatedness of sex, race, and class oppression. Therefore, it compels us to centralize the experiences and the social predicaments of women who bear the brunt of sexist oppression as a way to understand the collective social status of women."[28]

Bell hooks went further to state that feminism is so much more than fighting sexism and ensuring women have equal rights with men. It is a movement to eradicate the ideology of domination that has infiltrated almost every facet of society.[29] By nature, feminism is not only focused on equality for women but on advocating for equality for all through dismantling the dominant patriarchal constructs that exist in every facet of our society. When applied in the context of violence against women, feminism challenges the dominate narrative that women's bodies are not their own and attacks a power structure that sees women as victims and men as predators.[30] This is important, women are not helpless victims, women do not need saving, women do not need protecting. Women need the ability to be heard, for their voice to matter, and to have autonomy over their decisions. Feminism argues that to understand the root of the problem surrounding sexual violence

requires the dismantling of traditional notions of female sexuality and male power.[31] What power structures exist that give men the belief they have power over women, and how do these power structures encourage the narrative of women as victims who need saving to perpetuate in society?

Feminism is a journey and a way to view the world; it is an opportunity to learn. There is no "'perfect' feminists, we can come as we are with an openness to learn and grow and, because of that, we are kind to each other."[32] Those feminist that come with an openness to learn and grow and courage to stand up have the power to organize for justice and thwart social conventions for the betterment of all, not just for themselves.[33]

Feminism is, at a high level, a concept that promotes the empowerment of women and marginalized individuals, and can be used as a political movement and way of thinking to end oppression for and promote equality.[34] Rosalind Demar opined that "at the very least a feminist is someone who holds that women suffer discrimination because of their sex, that they have specific needs which remain negated and unsatisfied, and that the satisfaction of those needs would require a radical change (some would say a revolution even) in the social, economic and political order."[35] Demar is accurate to state that radical change is required because those who hold the power to make the change are often those actively silencing women and holding their autonomy hostage.

When analyzing the concept of power, who has it and who does not, feminist theorists argue that to "locate power, one must look to practices, what might be seen as the minutia of daily life… to look to the institutions, procedures, analyses and reflections, the calculations and tactics that allow the exercise of a very specific albeit complex form of power."[36] Deconstructing the norms of power and the dominate narratives in society is an essential component of feminist thought.[37] Power is

not always apparent, it is not always concentrated into formal legal or political institutions, it is often embedded into the ordinary, practices of daily life that many do not take the time to analyze. By focusing on procedural norms feminism theorists expose the ways in which power operates subtly through expectations and narrative that shape behaviour and define legitimacy. Feminism also stresses the importance of practice, analyzing what is done versus what is said, and through this analysis the patriarchal power that is embedded throughout the social world will be revealed.[38] By focusing on practices, the culmination of subtle forms of power and control can be revealed and dismantled.[39]

This research adopts a feminist approach for several key reasons. First, it seeks to center women's voices and lived experiences, which are sometimes best conveyed through storytelling, a method intentionally incorporated throughout this work. Second, it directs attention to the operation of power: who holds it, how it is exercised, and how it shapes women's realities. While power is not always visible, the chapters that follow examine the power of the barriers women encounter when reporting sexual and intimate partner violence and critically interrogate the origins of those barriers, and the actors who sustain them. Applying this lens enables a deeper inquiry into whose voices are heard, whose harms are recognized by law, and how institutions might be reimagined to expand women's agency, safety, and dignity.

ii. Feminist Theory and Methodology

Feminist theory is a broad, evolving body of analysis that explains how gendered power is produced, maintained, and contested across social, political, legal, economic, and cultural life.[40] Feminist method "starts with the very radical act of taking women seriously, believing that what we say about ourselves and our experience is important and valid, even when (or perhaps especially

when) it has little or no relationship to what has been or is being said *about* us."[41] This is the starting point of this research, simply believing the women who have been surveyed and had the courage to speak about their experiences within the criminal justice system. Every voice is important, every voice shares a story of trauma, pain, and resilience. It is crucial to listen to the stories and analyze the themes that come out of the existing literature on sexual and intimate partner violence because these are the experiences of real women who trusted in a system that was designed to fail them. Catharine MacKinnon stated that feminist method is a practice of "believing women's accounts of sexual use and abuse by men."[42] Despite all the efforts outlined above by Parliament and the Courts to eliminate stereotypes and encourage women to report sexual and intimate partner violence, this research will argue that the root issue is that we still do not believe women, from the first instance they disclose the violence they experience the criminal justice system is designed to cast doubt. The criminal justice system does not give women the opportunity to tell their story, it is not designed to, and thus it fails to properly respond to the women who put their trust in the system. Feminist research methods developed as a response to dissatisfaction with the hierarchical, objective, positive standards that were prevalent throughout the 1970s.[43] A critical approach to feminism emphasizes that ideas about law, gender, and society are always constructed in relationship to a particular context of social and historical power and shaped by particular ideological perspectives, personal interests, and political agendas.[44] This is especially true within the context of the criminal justice system and is why a feminist approach to research on this topic is warranted. Feminist analysis emphasizes a grounding in practical problems and a reliance on practical reasoning.[45] Feminist research seeks to centre research on the lived experiences of women and girls and challenge the dominate sources of knowledge by placing women and other marginalized groups as the focal point.[46] Feminist analysis insists that theory must be anchored in

lived realities, prioritizing the everyday problems women encounter over abstract or universalized assumptions. According to Katharine Barlett, "feminist method are best characterized by three features:

1. Asking the "woman question": How does a particular legal practice affect women or certain groups of women?

2. Feminist practical reasoning: Pragmatism focuses on the real-world consequences of decisions and what is best, not what is true, since we cannot know that absolutely anyway; and

3. Consciousness-raising: Knowledge arises from experience, personal and collective. Women should not take the conventional wisdom for granted, but discover the contours of their world by examining their experiences."[47]

This is what this research intends to do, by focusing on the voices of survivors, listening to their stories, and placing those lived experiences at the centre of this research in order to propose a new framework to respond to sexual and intimate partner violence. By relying on practical reasoning, reasoning drawn from experience, context, and relational insight, feminist scholarship seeks solutions that are not merely conceptual, but materially responsive and socially transformative. Martha McCluskey states that a feminist critique does not aim to just describe the law and society but seeks to "challenge fundamental assumptions and change distributions of power by understanding that knowledge always helps to create and control as well as to reveal the social world."[48]

Other feminist scholars, describe feminist legal theory as a theory that views "gender as the primary mechanism of difference and that violence is patterned along gender lines… a gender-centred theory would expose how violence plays out in a gendered social context and would permit understanding of the complex ways that gender interacts with the other social conditions and processes."[49] Feminist methodology is grounded in intersectionality, acknowledging that women's

experiences are neither uniform nor interchangeable; instead, they are shaped by layered identities such as race, class, sexuality, disability, religion, and geography.[50] This approach challenges traditional research paradigms that make the experiences of women singular, by centering voices historically excluded from knowledge production, particularly racialized, Indigenous, queer, immigrant, and disabled women. Feminist research seeks not only to describe inequality but to expose power structures and generate transformative, justice-oriented knowledge.

iii. Feminist Methodology Applied

Applied to this research, feminist legal theory illuminates the failures of retributive justice to respond adequately to sexual and intimate partner violence by exposing how survivors' needs for safety, dignity, and voice are silenced and that these failures are deeply rooted in gendered assumptions about justice. The primary goal of the criminal justice system is retribution, punishing offenders and reinforcing legal order. The criminal justice system was not designed to help heal survivors, it is a patriarchal and paternalistic construct that is premised on the notion that the state should have the power to decide what is just and fair. It is not designed nor is it best suited to support survivors' healing, community accountability, or transformation of harmful gender norms. Margrit Shildrick posited that feminism challenges both the "discursive primacy of the universal, white, able-bodied, masculinist subject and the normative codes by which that subject is supposed to live."[51] By applying a feminist methodology this research questions how and why state power operates to silence women, how the system is failing victims, and recognizes that victims do not experience the system as working and that this system is a source of revictimization, frustration, and disappointment.[52]

Feminist legal methods focus on the 'why' and start with a series of questions designed to "reveal male biases hidden behind supposedly neutral laws."[53] This method assumes that even the most ordinary aspects of law conceal "the substantive ways in which man has become the measure of all things."[54] In terms of the criminal justice system the questions we must focus on are: Who developed the system? Why was it developed? Why is the system not working to protect women? And why is the system causing further trauma to women? This research argues that another system, the restorative system, is better equipped to respond to sexual and intimate partner violence and remove the patriarchal power dynamics present in the criminal justice system and is better suited as a framework to encourage women to speak and be heard.

Using feminist approaches, the literature was evaluated to ask how elements of class, gender, and location intersect and contribute to patriarchal structures of oppression and knowledge.[55] Through a feminist lens, this research will explore existing literature that dissects how the systemic barriers to reporting are constructed by male-dominated systems, constructed and managed by men, who are ill-equipped and unable to understand the challenges faced by women and thus unable to respond to victims of sexual violence appropriately.

A literature review was conducted, including peer-reviewed journal articles, books, new articles, surveys, and reports. The literature reviewed was confined to that published between 2000 and 2025 to ensure that the impact of mandatory charging policies, which were implemented in 2000, were considered explicitly or implicitly in the literature.

C. Research Focus

This research argues that sexual and intimate partner violence remains the most underreported violent crime in Canada because of reporting framework and retributive justice system is dismissive of the complex and individualized needs of victims, reinforces an imbalanced power dynamic between the victim and the state, and perpetuates antiquated and sexist stereotypes.[56] These systemic flaws discourage survivors from coming forward and allow cycles of abuse to persist unchallenged.

Two fundamental questions are the focus of this research:

1. How does the patriarchal construct of the criminal justice system deter women from reporting sexual and intimate partner violence?
2. What would a restorative justice response focused on addressing sexual and intimate partner violence look like, and how does it compare to the current legal and institutional response?

To address the patriarchal pressure to not report, the research is guided by four main objectives:

1. Identify the individual and systemic barriers to reporting sexual and intimate partner violence;
2. Examine the causes and development of these barriers critically;
3. Assess the consequences of these barriers, particularly the role they play in sustaining endemic underreporting; and
4. Develop recommendations for a transformed reporting and response framework grounded in restorative justice principles.

This analysis focuses on what factors are necessary for a practical restorative approach to be successful, which first requires us to recognize and understand the individual and institutional barriers that deter reporting. Once the barriers are identified, the next steps is to explore how these barriers could be reduced and/or eliminated through a trauma-informed, restorative justice framework, which balances the needs of victims and accountability of perpetrators. By examining the barriers and the desired outcomes highlighted by victims, this research aims to offer a comprehensive vision for a restorative framework that would eliminate or significantly reduce the identified barriers, encourage survivors to come forward, and provide access to restorative support services that facilitate healing and long-term recovery.

D. Research Caveats

This research acknowledges that men also experience sexual and intimate partner violence and does not attempt to reduce the experiences of those victims. However, this research exclusively focuses on women's experiences and will not discuss any barriers men face in reporting but does acknowledge that a restorative approach could be used to address violence experienced by men as well. Further, given the study's scope and constraints, it does not address every barrier to reporting sexual and intimate partner violence in rural Ontario. This choice preserves depth and focus on the analysis by concentrating on the barriers most commonly experienced by women living in rural Ontario. Third, the unique barriers faced by racialized, marginalized, and immigrant women, as well as members of the LGBTQ2S+ community in rural Ontario are critical and will be discussed in this research but further, in-depth research should be conducted to specifically focus on the unique barriers these populations face.

E. Organization of Thesis

This thesis is organized into four parts. Part One (Chapters One and Two) introduces the topic, outlines the research methodology, and identifies the populations under study. Part Two (Chapters Three and Four) examines the personal and socio-cultural barriers faced by survivors through a comprehensive review of existing literature. Part Three (Chapters Five and Six) analyzes the systemic barriers embedded within the retributive justice system, focusing on law enforcement responses and the broader criminal justice system's treatment of sexual and intimate partner violence. Part Four (Chapters Seven through Ten) presents the restorative justice framework, tracing its evolution, exploring its various models, and considering its potential application within rural Ontario.

Chapter 2:
Framing the Issue and Focus

A. Introduction

This chapter defines key concepts, situates them within broader structural contexts, and identifies the populations central to the analysis. The chapter first distinguishes between sexual violence and intimate partner violence, then explores the various forms these harms take and the underlying power dynamics. It examines how patriarchal and paternalistic structures influence the understanding, response, and perpetuation of these types of violence within the Canadian justice system. The analysis considers how these dynamics intersect to further marginalize survivors, particularly within a retributive framework that discredits women's experiences and limits their agency. The chapter then addresses the unique challenges faced by women in rural Ontario, where geographic, social, and economic isolation intensify barriers to reporting and accessing justice. It also outlines relevant provisions of the *Criminal Code of Canada* that will be referenced throughout the paper. Finally, the chapter identifies the specific groups of women at the center of this study, Indigenous, immigrant, racialized, and white women living in rural Ontario, whose diverse experiences form the basis for the intersectional feminist analysis that follows.

B. Sexual and Intimate Partner Violence

These terms are often used together but they are unique, and it is important to understand the difference between them and the various ways that women experience them before delving into the substantive content of this research.

i. Sexual Violence

All sexual violence is an exercise of power[57] It is not an accident, it is not an unintended consequence, it is a choice to exercise power over another, to strip a woman of her bodily integrity and autonomy, to physically and psychologically control another person in the most violating way possible. Further, it is a gendered harm with men comprising 99% of all perpetrators in sexual assault cases.[58] Sexual violence is a form of gender-based violence and is an attack on someone at least partially, because of that person's disadvantaged position within male-dominated social systems.[59] Sexual violence means sexual acts and behaviours without the consent of the other person or when the other person is unable to consent.[60] Sexual violence in this context, is not isolated to physical acts of sexual assault, rape, dating violence and stalking, but also involves unwelcomed sexual advances, requests for sexual favours or other unwanted conduct of a sexual nature.[61] Sexual violence can also include cyber harassment, degrading sexual imagery, voyeurism, indecent or sexualized exposure, trafficking, and sexual exploitation.[62]

While sexual violence includes sexual assault, in this research sexual assault is specifically defined as an assault of a sexual nature that violates the sexual integrity of the victim. The Supreme Court of Canada held that the act of sexual assault does not depend solely on contact with any specific part of the human anatomy but rather the act of a sexual nature that violates the sexual integrity of the victim.[63]

Sexual assault is any form of sexual activity with another person without their consent.[64] Sexual assault is not done for sexual gratification, it is an act of violence and aggression that involves force, coercion and manipulation of the victim.[65] an act of violence and aggression, it is not done

for sexual gratification, There are many forms of sexual assault, including forced kissing, grabbing, fondling, sexual harassment, and attempted or completed rape (vaginal, oral, or anal penetration by a sex organ, other body part, or foreign object).[66] Sexual assault is about power and control being asserted over another person. With sexual assault, a person's *right* to determine what happens with their own body, mind, and spirit is taken away.

ii. Intimate Partner Violence

Women have been historically viewed as property of men, with rape in marriage only becoming illegal in Canada in 1983.[67] Although Parliament criminalized relationship rape, Ruthy Lazar argued that Canadian legal treatment of sexual violence within intimate partner relationships continues to be shaped by patriarchal assumptions that obscure women's autonomy within marriage and intimate partner relationships.[68] Despite legal reforms eliminating the marital rape exemption, the underlying gendered power structures have not been dismantled in our society. Catharine MacKinnon stated "women's sexuality is, socially, a thing to be stolen, sold, bought, bartered, or exchanged by others. But women never own or possess it, and men never treat it, in law or in life, with the solicitude with which they treat property."[69] As a result, of historically treating women as property to use and the acceptance of women as objects to exploit, despite the ongoing efforts to renounce intimate partner sexual violence, it has become easily tolerated, both socially and legally, because it is embedded in narratives that privilege male authority and minimize women's right to refuse and disbelieving her when she does[70].

Intimate partner violence refers to any behaviour within an intimate relationship that causes physical, psychological or sexual harm to those in the relation.[71] Intimate partner violence can include physical violence, sexual violence, emotional abuse, and controlling behaviours.[72] Intimate

partner violence can also include other forms of domination such as economic abuse, social isolation, and femicide.[73] The defining element that cuts across all manifestations of intimate partner violence is the exercise of power and control, deployed to dominate, silence, and condition women into compliance. Rather than isolated acts of conflict, these behaviours function as purposeful strategies to assert authority, erode autonomy, and reinforce gendered hierarchies within the relationship. In general, men who abuse their intimate partners typically adhere to strong masculine identities and a belief system that violence is justified for problem solving and as a means to control their female partners.[74] In this sense, intimate partner violence is not merely about harm but about sustaining systems of domination that keep women subordinated materially, emotionally, and socially.[75] Often, more than one of these forms of violence are used, along with manipulation tactics that transfer responsibility for the abuse from the assailant to the victim/survivor.

In intimate partner relationships in rural areas, it has been found that male violence is often employed as a strategy to discipline women and the high prevalence of male violence against women in rural regions is associated with the "male socialization centred on domination and traditional gender roles, which are reinforced by male peer support."[76] Intimate partner violence in rural areas often goes unnoticed given the population, as women living in rural and remote areas, unlike women in urban settings, cannot rely on neighbours to detect violence and do not have quick access to resources or a safe place to seek help.[77] Women in rural areas are subjected to significantly higher rates of psychological abuse within intimate partner relationships and higher rates of overall intimate partner violence, compared to urban settings.[78] These dynamics are intensified by geographic isolation, tight-knit communities, and limited service availability, which

reduce women's opportunities to seek help and increase their dependence on male partners. As a result, violence becomes both a mechanism of control within the relationship and a socially sanctioned practice embedded in rural culture, where community silence and loyalty to men can operate as additional forms of coercion.

C. The Patriarchy and Paternalism

Understanding what patriarchy and paternalism mean, how they differ, and how they interact is essential for this research. These concepts shape the social, legal, and cultural conditions in which gendered violence occurs, influencing how women are perceived, governed, and responded to when they experience harm. Before turning to the substantive analysis, it is important to clarify these frameworks.

i. The Patriarchy

Gwen Hunnicutt describes the patriarchy as a "chief characteristic of social structures but is easily obscured. So pervasive, it is hard to "see" it unless the lens is calibrated to gauge it."[79] Patriarchy is "a system of social and political practices in which men subordinate and exploit women. The subordination occurs through complex patterns of force, social pressures, and traditions, rituals and customs."[80] Patriarchy is not defined by individual acts of sexism but through structural norms, institutions, and cultural values that privilege masculinity and male perspectives.[81]

In law, patriarchy is reflected in the creation and enforcement of rules that privilege men's experiences and priorities, often at the expense of women's lived realities.[82] One striking example lies in the language of the *Criminal Code of Canada*. In section 266 (assault) and section 271

(sexual assault), the individual who experiences the offence is referred to as the "complainant" rather than the "victim."[83] As this research will explore further, women are overwhelmingly the victims of assault and sexual assault. However, when they come forward, their testimony is framed as a "complaint." This terminology is not used elsewhere in the *Criminal Code*. While the rationale is that the offence has not yet been proven, unlike in homicide, where it is undisputed that the victim has died, the deliberate choice of language in cases of assault and sexual assault functions to minimize and delegitimize women's experiences. By reducing their suffering to the status of a "complaint," the justice system reinforces a patriarchal narrative that undermines women's credibility and diminishes the seriousness of the harm they endure.

In practice, patriarchy normalizes gendered hierarchies and renders women's accounts of harm less credible or less important than those of men.[84] In the context of intimate partner violence, the domination of men over women can be clearly seen in how society responds to the violence. Nadia Verrelli and Lori Chambers noted that society is ill-informed about the links between violence in the home and the patriarchy, and as a society we mourn the deaths caused by intimate partner violence as exceptional instead of connecting them to wider ongoing patterns of male violence and dominance.[85] James Ptaeck argued that "individual women are assaulted by individual men, but the ability of so many women to repeatedly assault, terrorize, and control so many women draws on institutional collusion and gender inequality."[86] In rural communities, patriarchal views of the family structure and gender roles are prevalent and perpetuates the use of violence as a means of social control.[87] We can also see it in the way the criminal justice system imposes lenient sentences on people who perpetrate violence against women.[88] Patriarchy shapes both the substantive law and procedural rules of the criminal justice system, embedding male-centered assumptions into the very fabric of justice.[89]

ii. Paternalism

Paternalism is distinct from patriarchy as it occurs when those in authority make decisions for others on the assumption that they know what is best, even if this overrides the individual's autonomy or expressed wishes.[90] Paternalism is present at every turn in our lives. It is often not recognized as control over a person but as the standard way society functions. It appears in the familial context, where parents make decisions for their children, and at a macro level, in how our governments operate and the power we grant to them to make decisions in our best interests.

In the context of sexual and intimate partner violence, paternalism is often defended in the name of protection. However, most of the time the focus of the paternalistic approach is only on immediate physical danger and falls short of meaningful reform. It deflects attention away from the urgent need to reform systems and policies that were ostensibly designed to protect women but instead often entrench harm. At its core, sexual and intimate partner violence is grounded in the belief that "women are inferior, can be objectified and dominated, and an acceptance that power and control can be played out on their bodies and minds."[91] A paternalistic framework reproduces this same logic, casting women as weak and inferior, and in doing so, reinforces "the ideology that underlies gendered violence and fail[s] to problematize the resulting oppression that pervades all levels of subjectivity."[92] As Allison Bloom cautions, paternalism towards survivors risks creating cycles of dependency that transform women into "passive clients rather than active participants, thereby undermining the possibility of building a "mass-based, transformatory movement empowering women to claim actively their rights."[93]

As will be apparent in the coming chapters, for women who experience sexual or intimate partner violence, paternalism is reflected in prosecutorial policies, evidentiary rules, and judicial practices

that claim to safeguard victims; however, in reality, these paternalistic decisions of the patriarchal state limit the participation of victims and stymie their control and autonomy over the legal process.

The danger of paternalism is that it conflates protection with control. By positioning survivors as too vulnerable, emotional, or irrational to make legal decisions, paternalistic practices replicate the dynamics of disempowerment central to abuse itself.[94] Instead of enabling survivors to define justice for themselves, the system substitutes state judgment for survivor autonomy, thereby reinforcing hierarchical relations of authority.

iii. The Intersection of Patriarchy and Paternalism

Although patriarchy and paternalism are related, they are distinct concepts. Patriarchy is a structural system that privileges men and masculinity, while paternalism is a practice of control. Patriarchy operates through systemic gendered power imbalances;[95] paternalism operates through restricting the autonomy of individuals, often "for their own good."[96] In the context of sexual and intimate partner violence, patriarchy undermines survivors' credibility and frames their harms as less serious, while paternalism silences survivors by substituting the state's judgment for their own. Together, they entrench a system that both distrusts and disempowers victims.

The retributive criminal justice system in Canada reflects patriarchal values by prioritizing punishment and deterrence over survivor-centered justice. Trials often turn into credibility contests where survivors' testimony is dissected and doubted through adversarial cross-examinations that echo patriarchal assumptions about women's honesty, morality, and sexuality. Supreme Court cases like *R v Seaboyer*[97] and *R v Darrach*[98] illustrate this tension, where debates over sexual history evidence reveal how the legal system struggles to balance women's dignity against

entrenched male-centric norms of trial fairness. By making women's credibility the centerpiece, the system reproduces patriarchal hierarchies that question women's truthfulness and reliability.

At the same time, the system is paternalistic in how it handles victims. Mandatory charging policies were introduced to protect victims but have led to negative outcomes such as family separation, economic instability and criminalizing victims.[99] Further, the treatment of victims in the criminal justice system also outlines the paternalistic and patriarchal views towards victims. Victims are witnesses of the Crown, not autonomous participants, they have no ability to withdraw from the prosecution, and once a charge is laid, they lose control over how the case proceeds, stripping them of their agency again echoing the controlling dynamics of paternalism. The result is that survivors often feel sidelined in proceedings that ostensibly exist to address their harms.

Finally, the combination of patriarchy and paternalism ensures that survivors of sexual and intimate partner violence encounter a justice system that both discredits them and denies them agency. Patriarchy makes their voices less believable; paternalism takes away their choices. This dual structure reinforces the very power imbalances that underlie sexual and intimate partner violence in the first place. Instead of offering empowerment and redress, the retributive system entrenches survivors' marginalization by replicating the dynamics of silencing, control, and mistrust.

D. The Rural Focus

This research specifically focuses on rural Ontario for two reasons. First, rates of intimate partner violence are significantly higher in rural areas than in urban areas[100] and it is important to understand the cause of this disparity before developing a restorative justice model. Second,

women in rural communities face different barriers to reporting sexual and intimate partner violence than victims in urban settings due to the unique challenges brought about by living rurally. Before a restorative justice framework can be effectively developed and implemented, it is essential to understand how living in rural Ontario impacts both the prevalence and reporting of sexual and intimate partner violence and how a rural community could be the ideal jurisdiction to launch a restorative justice pilot program, given the smaller population and the potential for more contained, community-specific adaptations.

Rural Ontario is defined as any municipality outside of a census metropolitan area and includes all Statistics Canada census subdivisions, including lower-tier and single-tier municipalities that either have less than 100,000 people or have a population density of 100 people per square kilometre or less.[101] According to 2021 census data, immigrants comprised 8.2% of rural Ontario's population,[102] 4.2% identify as racialized,[103] and 7.5% identify as Indigenous.[104] Most rural areas have low racial diversity, with most of the rural communities with high racial diversity in southwestern Ontario.[105] Although these percentages may appear modest in comparison to urban centres, they represent distinct and growing communities whose experiences are often overlooked in both research and policy. This gap is particularly evident for women within these groups who experience sexual and intimate partner violence, as their realities are shaped not only by gendered power dynamics but also by intersecting factors such as race, culture, and geography.

However, rural life is not only defined by geography, rurality also involves strong cultural identities, values, beliefs, and practices.[106] Rural communities offer perpetrators unique conditions to control and subordinate their partners in a way that is often socially acceptable in these communities. The typical structure of many rural communities place men in more dominate

positions and the identity of living rurally centres on a connection to traditional family values, relationships with farming, and land.[107] According to DeKeseredy, "many, if not most, rural communities ,especially in the United States, Canada, and Australia, are conservative to begin with and promote the principles of hegemonic masculinity."[108] The conditions of living rurally normalize certain levels of intimate partner violence and maintain a cultural of silence, and privacy.[109]

Rates of police-reported intimate partner violence experienced by rural women in Canada are 75% higher than those for women living in urban settings, and rates of police-reported violent crime are 56% higher for rural women than the national rate.[110] In 2020, Statistics Canada released the following table to outline the significant disparity between the prevalence of intimate partner violence between urban and rural regions across the country[111]:

Police-reported intimate partner violence against women, by urban or rural location of incident and province or territory, Canada, 2020

	Urban	Rural
Province or territory	rate per 100,000 population	
Newfoundland and Labrador	512	871
Prince Edward Island	433	477
Nova Scotia	540	636
New Brunswick[1]	722	823
Quebec	484	526
Ontario	378	598
Manitoba	664	1,913
Saskatchewan	727	2,282
Alberta	535	1,245
British Columbia	469	785
Yukon	1,582	4,982
Northwest Territories	2,971	10,340
Nunavut	...	10,044
Canada	461	985

... not applicable

1. Excludes data from the Saint John Police Service due to data quality concerns.

Note: Rates are calculated on the basis of 100,000 population aged 15 and older. Populations based on July 1, 2020 estimates from Statistics Canada, Centre for Demography. Victims aged 111 and older are excluded from analyses due to possible instances of miscoding of unknown age within this age category. Intimate partner violence refers to violence committed by current and former legally married spouses, common-law partners, dating partners and other intimate partners. Excludes victims where the gender or the age was unknown or where the accused-victim relationship was unknown. Records where the victim and accused were originally coded as boyfriend/girlfriend or ex-boyfriend/ex-girlfriend who lived together have been recoded to spouses/ex-spouses. Records where the victim was under age 18 and the accused was originally coded as the victim's child, and records where the victim was over age 65 and the accused was originally coded as the victim's parent have been recoded to other family.

Source: Statistics Canada, Incident-based Uniform Crime Reporting Survey.

As outlined in the table above, the rates of police reported intimate partner violence are significantly higher in rural regions across the country compared to urban settings. Before being able to develop a restorative justice model, we must first understand why these rates are higher and the unique challenges faced by victims in rural communities. Rural Ontario was selected as the focus of this research because there is often a misconception that rural areas are relatively violence free, which as demonstrated in the statistics above is inaccurate.[112]

Unlike urban areas, rural regions lack accessible support services, shelters, and resources for individuals experiencing violence.[113] Living in a rural community, isolated from the services offered in urban settings, can make it difficult for survivors to seek help or access basic services, such as healthcare or counseling. In many rural communities, relationships are tightly woven and community ties are strong, which can create additional pressure on victims to remain silent about their experiences. Perpetrators may be well-known in the community, and many survivors may fear social ostracism, retaliation, or a damaged reputation by coming forward. Therefore, it is necessary to understand the dynamics of rural communities to appreciate how a restorative justice model should be developed to address the specific needs of rural survivors.

Sexual and intimate partner violence in rural Ontario is also compounded by socioeconomic factors that further isolate victims. Financial dependency is a significant barrier to exiting an abusive relationship, as many survivors in rural communities lack the resources to find stable housing or secure employment[114] and are financially dependent on their abusers.[115] High unemployment rates and limited housing options in rural Ontario force many women to choose between enduring abuse or face financial instability and homelessness.[116] Understanding how violence, economic

dependency, and limited resources intersect is essential when developing practical, sustainable restorative justice processes that empower survivors in rural Ontario. Addressing these complex challenges requires a comprehensive approach that considers the personal and systemic barriers and the personal factors influencing survivors' ability to report and seek justice.

E. The Criminal Code: Addressing Sexual and Intimate Partner Violence

There are three main provisions of the *Criminal Code of Canada* that make up a significant portion of sexual and intimate partner violence in Ontario and that will be the focus on this research. It is important to understand how intimate partner violence is currently criminalized to understand what actions the government deems criminal and how a restorative justice model could be developed to address these specific offences.

i. Uttering Threats

Section 264.1 of the *Criminal Code of Canada*[117] states that:

> **(1)** Every one commits an offence who, in any manner, knowingly utters, conveys or causes any person to receive a threat
>
> > **(a)** to cause death or bodily harm to any person;
> >
> > **(b)** to burn, destroy or damage real or personal property; or
> >
> > **(c)** to kill, poison or injure an animal or bird that is the property of any person.
>
> **(2)** Every one who commits an offence under paragraph (1)(a) is guilty of
>
> > **(a)** an indictable offence and liable to imprisonment for a term not exceeding five years; or
> >
> > **(b)** an offence punishable on summary conviction.
>
> **(3)** Every one who commits an offence under paragraph (1)(b) or (c)

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years; or

(b) is guilty of an offence punishable on summary conviction.

This section makes it a criminal offence to knowingly convey threats to cause death or bodily harm, to damage property, or to harm animals belonging to the victim. Threats in intimate partner relationships are used to control, alienate, intimidate, and emotionally abuse the victim.[118] These constant threats create a climate of fear and uncertainty, making it challenging for women to access support or make decisions freely. Even if there is no physical harm, the psychological impact of such threats can be profound, leaving victims in a constant state of fear. In 2011, uttering threats was one of the most common violent offences committed against women.[119]

ii. Assault

Section 265 of the *Criminal Code of Canada*[120] defines assault as follows:

(1) A person commits an assault when

(a) without the consent of another person, he applies force intentionally to that other person, directly or indirectly;

(b) he attempts or threatens, by an act or a gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has, present ability to effect his purpose; or

(c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs.

(2) This section applies to all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault.

(3) For the purposes of this section, no consent is obtained where the complainant submits or does not resist by reason of

(a) the application of force to the complainant or to a person other than the complainant;

(b) threats or fear of the application of force to the complainant or to a person other than the complainant;

(c) fraud; or

(d) the exercise of authority.

Section 266 of the Criminal Code of Canada provides that:

Every one who commits an assault is guilty of

(a) an indictable offence and is liable to imprisonment for a term not exceeding five years; or

(b) an offence punishable on summary conviction.

The prevalence of physical assault in intimate partner violence cases is significant. In 2019, there were over 67,000 reported cases of physical assault against intimate partners in Canada, making it the most common type of intimate partner violence.[121]

iii. Sexual Assault

Section 271 of the *Criminal Code of Canada*[122] uses the above definition of assault and states that:

Everyone who commits a sexual assault is guilty of

(a) an indictable offence and is liable to imprisonment for a term of not more than 10 years or, if the complainant is under the age of 16 years, to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year; or

(b) an offence punishable on summary conviction and is liable to imprisonment for a term of not more than 18 months or, if the complainant is under the age of 16 years, to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of six months.

Although sexual assault is often stereotyped as a crime committed by strangers, statistics show that most sexual assault occurs within intimate partner relationships. Between 2014 and 2022,

intimate partner sexual assault increased by 163%.[123] What makes this especially complex is that survivors may not recognize the abuse as criminal, particularly when it takes place within a committed relationship.

F. The Women of This Research

A feminist approach in this research recognizes that women's experiences with sexual and intimate partner violence are heterogeneous, shaped by intersecting identities and systems of power. Intersectional feminism offers a critical framework for analyzing how race, socio-economic status, and immigration status intensify the barriers women encounter when seeking justice and support following sexual and intimate partner violence. This study examines how multiple and overlapping forms of marginalization, including racism, classism, and colonialism, further restrict women in rural Ontario from reporting violence or accessing effective resources and protection.

This research examines the lived experiences of Indigenous women, immigrant women, racialized women, and white women in rural Ontario who have experienced sexual and intimate partner violence. By centering these diverse perspectives, the study seeks to identify both the shared and unique barriers present across various social locations. This approach contributes to a more nuanced and inclusive understanding of justice, one that acknowledges the structural inequities embedded within rural communities and the criminal justice system. Employing an intersectional feminist lens ensures that the analysis and recommendations reflect the realities of all women, particularly those most frequently marginalized or excluded from mainstream discourse.

Chapter 3:
Death by a Thousand Barriers:
The Personal Barriers to Reporting Sexual and Intimate Partner Violence in Rural Ontario

A. Introduction

Sexual and intimate partner violence is a pervasive issue that plagues women across Canada and has been the focus of significant research over the last several decades.[124] However, women living in rural Ontario face unique and intensified challenges due to geographic isolation, limited access to support services, lack of anonymity in small communities, and fewer resources, factors that collectively increase vulnerability and create significant barriers to reporting and recovery.[125] Sexual and intimate partner violence remain significantly underreported due to a multitude of barriers faced by survivors. These barriers typically stem from personal factors, such as personal safety, financial dependence,[126] privacy concerns,[127] collateral consequences,[128] and personal feelings of shame and self-blame.[129]

Understanding these barriers is an essential first step in recognizing how the current retributive justice system is failing to respond to, and appropriately address, sexual and intimate partner violence. The voices of victims, the experiences of survivors, and the societal attitudes towards sexual and intimate partner violence must be the foundation of the restorative justice approach proposed in this research. These are not abstract barriers; these obstacles represent the lived experiences that silence real women and reflect a systemic complacency in how Canada addresses gender-based violence. Analyzing these barriers is therefore critical not only to demonstrate the inadequacy of the existing system and the need for a new approach, but also to ensure that the restorative model effectively confronts these harms, so they are not replicated or re-entrenched.

This chapter is divided into two sections. The first section provides an overview of the existing literature on the barriers to reporting sexual and intimate partner violence, situating these barriers within broader systems of patriarchy and paternalism that shape women's experiences with the justice system. The second section focuses on the personal barriers identified in the literature, including those faced by Indigenous, racialized, and immigrant women. Together, these sections highlight how structural power imbalances and social control limit women's ability and willingness at an individual level to report violence, reinforcing the very systems that silence and marginalize them.

B. A Survey of Existing Literature and Reported Challenges to Reporting

Why women do not report sexual and intimate partner violence and stay in an environment of abuse has been a topic of conversation for years. As will be discussed in this section, and in the sections to come, there is a myriad of reasons women stay that have been explored in various bodies of literature over the past two decades.

In 2009, Debra Patterson et al. examined the factors that prevent survivors from accessing support from the legal, medical, and mental health systems.[130] Patterson et al. found that of the survivors surveyed, the majority believed that formal social systems could not or would not help, and in some cases would cause further psychological harm.[131] Specifically, Patterson et al. found that many survivors felt they were not worthy of services because the violence they experienced did not fit the societal understanding of sexual assault, others did see how the system could protect them, and many feared they would not be believed, causing further harm.[132] Patterson's findings

importantly highlight the lack of societal awareness and education surrounding what sexual and intimate partner violence is, the various ways it can manifest, and how the dominant patriarchal attitudes that survivors are liars and thus not deserving of support is deterring victims from coming forward and stymieing their ability to heal. These are dominant themes throughout the literature on barriers to reporting.

In 2010, Shaquita Tillman et al. explored the barriers to reporting faced by African American survivors of sexual assault.[133] Tillman found that despite the high rates of sexual assault among African American women, these survivors are less likely to disclose and are likely to receive less support if they do.[134] Specifically, Tillman et al. found that the intersection of gender, race, and socioeconomic status affect the disclosure pattern among African American women, specifically, stereotypes about African American women's sexuality, and the "Jezebel stereotype which presents African American women as sexually promiscuous and immoral" has led to significant consequences of underreporting.[135] Further, inadequate sexuality socialization and the ability to recognize sexual assault as a form of abuse, as well as "a cultural mandate to protect African American male perpetrators from actual or perceived unfair treatment in the criminal justice system" are additional and unique barriers faced by African American women, compared to white victims.[136] The cultural protection of men from state intervention is a unique barrier faced by racialized women, one that is largely absent from literature focused primarily on white victims. These dynamic underscores a hierarchy of perceived community priorities, where shielding men from external scrutiny takes precedence over the safety of women in the same communities. This undoubtedly leaves victims further marginalized, silenced, and at risk for increased and ongoing abuse.

In 2011, Ilene Hyman et al. focused their research on experiences of intimate partner violence among Sri Lankan Tamil immigrant women in Canada.[137] Hyman found that there was a gap in research that focused specifically on the issues faced by immigrant women. Hyman's research found that the typical Tamil family structure was rooted in patriarchy with clear, rigid gendered roles and expectations, with women experiencing historically lower status than men or boys.[138] Hyman found that the majority of study participants noted stress, changes in child rearing practices, involvement of in-laws, and the lack of social support as major contributors to intimate partner violence following migration. Most notably, the change in traditional gender roles was noted as a major source of conflict and violence "employment and worries about income increased stress for women who in the postmigration context often assumed employment and household responsibilities" which led to martial conflict and violence.[139]

In 2012, in research conducted by Janice Du Mont, focused on concerns over the lack of research on violence against immigrant women was noted. Du Mont noted that Little is known about the extent and consequences of IPV among immigrant women. Du Mont stated that,

> "Although immigrant women are a heterogeneous group, factors related to their premigration and postmigration contexts, such as economic insecurity, family separation, social isolation, language barriers, availability of social supports, discrimination and gendered-migration policies may increase their vulnerability to abuse. Such factors may also intensify the physical and psychological impacts of abuse, while adding to the challenges immigrant women may experience in seeking help and leaving abusive situations."[140]

In 2013, Kimber et al. examined the association between sex, immigrant status and intimate partner violence through a public health lens.[141] Kimber noted that intimate partner violence is an important public health concern, yet little is known about the combined effects of individual and

neighbourhood-level characteristics on intimate partner violence among immigrants.[142] Kimber found that of the research that exists in Canada on the intersection of intimate partner violence and immigrant status, a nuanced relationship exists.[143] Analyses of the 1999, 2004, and 2009 Canadian General Social Survey indicate that both foreign-born status and duration of residence in Canada may affect the likelihood of experiencing intimate partner violence, though results remain inconsistent. Furthermore, the risk of intimate partner violence differs by type of violence, highlighting the need to account for the diverse experiences of immigrant women.[144] Kimber noted that research is lacking in this area and encouraged further focus on the intersection of violence and immigration status for women.

In 2016, Nancy Levit explored the reasons why women stay, siting isolation, inadequate employment skills, lack of shelter, substance abuse, or inadequate knowledge about their options.[145] Levit also noted that other victims stay because their abuser has the power over their finances, they stay because of guilt or despair, family or religious pressures, or for the sake of the children.[146] Some women stay because they are afraid to leave.[147] According to Levit, "it is estimated that a battered woman is 75 percent more likely to be murdered when she tries to flee or has fled than when she stays."[148] Some women stay because they love the person who is abusing them.[149] Levit highlights the numerous barriers faced by women, many of which are deeply rooted in patriarchal constructs of the family unit and the absence of meaningful supports for those who attempt to leave. For many survivors, remaining in an abusive relationship can feel safer than facing the economic insecurity, social stigma, or systemic neglect that often follows leaving. This reality exposes the limits of a paternalistic state response to sexual and intimate partner violence. When the state positions itself as the sole protector of women, yet fails to provide adequate safety

nets or structural change, the approach not only falters but perpetuates the very dynamics of control it seeks to disrupt.

In 2017, Janice Du Mont et al. published further research that focused on comparing the experience of Indigenous and non-Indigenous female survivors of sexual assault in Canada.[150] Du Mont, citing Statistics Canada data, noted that Indigenous survivors are more likely to experience the most serious forms violence, including having been sexually assaulted, strangled, beaten, and threatened with a weapon, and to be injured as a result.[151] Du Mont found that in Canada, Indigenous women are more likely to be survivors of sexual assault and are more likely to experience more severe injuries.[152] This research found that Indigenous women were:

> "More likely to present to a hospital within 24 hours of being assaulted and a treatment centre serving a primarily rural population. They tended to be younger, were more likely to be living in an institutional setting, report community or group affiliations and government or community services as sources of social support, and be assaulted by a parent, guardian, or other relative."[153]

However, Indigenous women face a variety of barriers to accessing support, let alone reporting their assault to law enforcement. These barriers include language, health literacy, values, and culture; fear of experiencing racism, victim blaming, prejudice or other unfair treatment, and loss of children to authorities; and geographic isolation.[154]

In 2018, December Maxwell et al. conducted a study looking at self-reported barriers by Reddit users. The barriers identified included how reporting would impact their social relationships, employment, education, and overall mental health.[155] Maxwell et al. identified three levels of barriers victims experience, individual, interpersonal, and community, which echo the findings of other researchers on this topic.[156] For many in this study, it was self-reported that losing social ties,

important relationships, as well as "misplaced family loyalty when an individual aligns with the perpetrator rather than the survivor"[157] were significant barriers identified. Maxwell also analyzed the self-reported responses to disclosure through the hashtag #butnothingwasdone and found that the power structures in place that are oppressive to survivors further entrenched the "belief in social norms and roles as well as the tenuous relationship of attachments to social networks that were threatened by oppressive systems."[158] Specifically, this study found that:

> "The negative reactions caused many survivors to lose their trust in authority figures like police and fostered a pessimistic outlook that concluded that repeated reports would be futile. There are accounts of how evidence was ignored or destroyed, intrusive procedures were useless, and legal prosecutors did not fulfill their obligations to the survivors. The lack of institutional support and accountability often left survivors without the protection and action they need, as authorities dismiss and minimize their experiences with harmful phrases like "men have urges." This systemic inadequacy led to retraumatization and further victimization, where initial reports of abuse resulted in additional trauma, such as being assaulted by those entrusted to help. The fear of speaking out was also intensified by silencing tactics and the knowledge that previous attempts to seek help were met with inaction or punishment."[159]

The findings of Maxwell et al. are unsurprising as patriarchal structures often justify perpetrators' actions as an inherent, if unspoken, part of social life. Survivors' experiences reveal how entrenched norms work to normalize sexual violence, shifting blame away from offenders while discrediting women's accounts. In this way, the system not only fails to protect but actively silences women, reinforcing a cycle in which their voices are dismissed and their suffering minimized.

In a 2018 study conducted by the West Coast Legal Education and Action Fund (LEAF), which focused on the experiences of Canadian victims of sexual and intimate partner violence, Alana Prochuk found that most participants "ultimately determined that the risks and costs of reporting

outweighed the possible advantages for them and pursued a different course of action."[160] Through these interviews, Prochuk found that similar themes emerged as women shared their experiences. These themes included barriers related to socio-cultural beliefs[161], beliefs, values, and fears about the justice system,[162] negative interactions with justice system personnel,[163] personal consequences of reporting,[164] and concerns about the criminal justice system process.[165]

In 2018, the Centre for Research and Education on Violence Against Women and Children investigated the specific barriers encountered by immigrant women when reporting intimate partner violence.[166] The study identified a range of intersecting challenges that hinder help-seeking and access to justice. These barriers include fear of losing custody of children through apprehension, deportation, or divorce; experiences of discrimination and racism within service delivery systems; limited awareness of Canadian laws, rights, and available domestic violence services; and geographic, social, or cultural isolation.[167] Additional obstacles comprise fear of deportation due to precarious immigration status, social stigma associated with disclosing domestic violence, language barriers, and the absence of culturally and linguistically appropriate services.[168] Economic exclusion resulting from unrecognized credentials, lack of coordinated services, and inadequate access to shelters that accommodate spiritual, cultural, or religious needs further exacerbate these difficulties.[169] Moreover, cultural norms that prioritize family unity and discourage the disclosure of private matters can also deter women from reporting abuse.[170] Collectively, these intersecting barriers demonstrate the complex and multifaceted challenges immigrant women encounter when navigating support and justice systems.

In 2021, following the widespread use of the hashtag #whyididn'treport on Twitter, Catherine Reich et al. published an article, "Why I Didn't Report: Reasons for Not Reporting Sexual Violence as Stated on Twitter"[171], which examined self-reported reasons for why victims of sexual violence choose not to report. Reich et al. identified seven major themes that emerged from the Tweets:

> 1. Internal reactions, which included reactions of self-blame, shame, humiliation and embarrassment, fear, shock and confusion; denial and minimization, and self-worth, depression, and emotional coping;
>
> 2. Expectations of negative social reactions, which including concerns that the victim would not be believed, that reporting would make it worse, victim blaming, a lack of faith in the legal system, and pity;
>
> 3. Perpetrator factors, which included power differential, isolation and physical violence, threats, and manipulation;
>
> 4. Myths, norms, and knowledge, which included societal norms and myths, and defining sexual violence;
>
> 5. Actual negative reactions from others, which included concerns about not being believed, victim blaming, being dissuaded from reporting, and feeling silenced;
>
> 6. Protection of others, which included the perpetrator and loved ones; and
>
> 7. Concerns about evidence, which included concerns about incomplete memories, a lack of proof, delayed reporting, or unknown identity of the perpetrator."[172]

The finding in Reich's study echoed that of prior research that found a pattern of personal, socio-cultural, and systemic barriers that deterred victims from reporting the violence they experienced.

In 2023, Emma Lathan et al. looked at the difference in disclosure rates among college students with no sexual assault history and survivors with such a history.[173] Lathan found that while "non-

reporting survivors and those without sexual assault histories shared two of the top three barriers to reporting (i.e. wanted to avoid thinking or talking about it, did not want family or friends to find out), non-reporting survivors were more likely to endorse personal reasons for not reporting, and those without sexual assault histories were more likely to endorse concerns about law enforcement response to rape."[174] Again, this study echoing the findings outlined previously, continue to raise that personal barriers and the institutional response to sexual violence continue to act as significant barriers to reporting sexual violence and the silencing of victims.

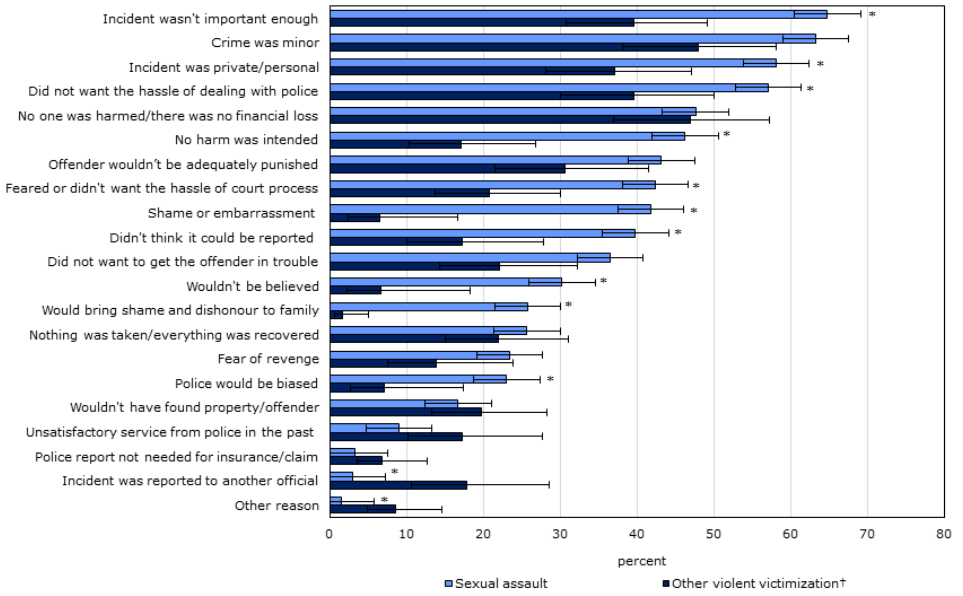
In 2023, Valerie Pijlman et al. also found that the barriers to help-seeking for sexual violence survivors are diverse and may depend on several contextual factors including individual barriers such as shame, interpersonal barriers such as fear of negative social reactions, and sociocultural barriers that included societal stereotypes regarding sexual violence.[175] Pijlman found that of the victims surveyed, while many experience a range of barriers the most significant barrier were individual, and highlighted the importance of addressing barriers to help-seeking on an organization and societal level to encourage victims to seek help.[176]

In a 2023 study, researchers examined the lack of interventions that exist for immigrant populations in Canada experiencing intimate partner violence.[177] This researched echoed that of prior studies that noted immigrant women arriving in Canada experience limited supports, and a variety of challenges and stressors "including learning new languages, acquiring new job kills, and adjusting to new sociocultural environments all the while navigating changing family dynamics and negotiating new gender roles."[178] However, despite these unique challenges faced by these

women, it was found that "structured, tested, and replicable IPV interventions are sorely lacking for immigrant populations, especially in Canada."[179]

In November 2024, Statistics Canada published a report, "Criminal Justice Outcomes of Sexual Assault in Canada, 2015 to 2019."[180] This report builds upon previous Statistics Canada reports and provides updated information on how sexual assault proceeds through the criminal justice system.[181] This report highlighted the barriers to reporting sexual assault that are "uniquely or acutely present for victims of sexual assault, and the numerous stereotypes and myths related to sexual violence"[182] and identified 20 reasons why survey participants chose not to report sexual assault. Statistics Canada then compared these 20 reasons against other forms of violent victimization to show the stark contrast between victims; decisions not to report sexual assault. These reasons are outlined in the chart below.

Chart 1
Reasons for not reporting violent victimization to police, by type of victimization, 2019



* significantly different from reference category ($p < 0.05$)
† reference category
Note: Error bars represent the 95% confidence intervals and can be interpreted as such: if the survey were repeated many times, then 95% of the time (or 19 times out of 20), the interval would cover the true population value. Respondents were asked to provide as many reasons as applied, and therefore percentages do not add to 100. The category "other violent victimization" includes physical assault and robbery.
Source: Statistics Canada, General Social Survey, 2019.

This data gathered from Statistics Canada data indicate that survivors of sexual assault are significantly less likely to report incidents to police compared to victims of other violent crimes, and their reasons for non-reporting differ. Commonly cited reasons include shame, embarrassment, fear of disbelief, fear of retaliation, and concerns regarding potential police bias or lack of support.[183] These findings are consistent with existing research, which demonstrates that women frequently refrain from reporting sexual violence due to substantial systemic, social, and institutional barriers, rather than the perceived severity of the incidents.

C. Confronting the Personal Barriers that Systematically Silence Women

Exploring the barriers that women face when deciding whether to report sexual and intimate partner violence is not a novel research concept. These barriers and the decision to not report has been discussed and researched at length globally with the conclusions all the same, women do not report because it is not safe to. The purpose of this research is not to repeat the findings of previous research but to analyze and engage with that research and ask, if these are the barriers that exist, how can a response framework be developed to minimize the impact, or eliminate them, entirely.

This research focuses on developing a response framework that addresses the specific barriers faced in rural communities. Victims in these areas encounter unique challenges due to geography, financial dependency, family pressures, and limited access to support services. The lack of shelters and safety resources increases the fear of retaliation, often leaving survivors without viable options and discouraging them from seeking help. Financial dependence on abusers makes separation more dangerous and economically difficult. Additional pressures from family, community members, and perpetrators, along with entrenched patriarchal norms, further suppress disclosure. These

barriers highlight a broader systemic issue: the lack of a survivor-centered response that acknowledges the complex vulnerabilities of rural women. Addressing these challenges is critical to creating a justice framework that ensures survivors are safe, supported, and empowered to seek help without fear of harm or isolation.

i. No Safe Haven: Why Reporting Sexual Violence is a Risk, not a Remedy

A common theme that emerged throughout the research reviewed, was that many women fear that reporting would cause further personal safety consequences.[184] In the interviews conducted by Prochuk, she found that many participants were reluctant to report because they were worried that the perpetrator would retaliate.[185] This fear of retaliation was also apparent amongst participants surveyed by Statistics Canada, which found that 23% of surveyed victims noted fear of revenge as a deterrent to why they did not report.[186] Given the dynamics of rural life, many women living rurally who experience sexual or intimate partner violence fear reprisal not only from the perpetrator but also from his social network, including family members, friends, and community allies. In small communities where anonymity is limited and social ties are dense, victims must navigate threats that extend beyond the individual abuser, heightening their sense of insecurity and surveillance. As a result, violence becomes embedded in the social fabric of rural life, where community complicity and loyalty can operate as additional mechanisms of control.[187]

In a Human Rights Watch study that focused on Indigenous women in Canada, the fear for personal safety and retaliation was also raised as a major barrier to reporting sexual violence.[188] Interestingly, this report found that because of the "shocking number of reports of physical and sexual abuse committed by the police against Indigenous women and girls… the fear was so acute

that the investigators likened it to the fear women have in post-conflict countries where state abuses are rampant."[189] A more detailed discussion of police interactions with Indigenous women will be provided in Chapter 5.

For immigrant women living rurally, the fear of further isolation and retaliation from their abuser compounds concerns over personal safety, especially when culturally specific services are severely limited and supportive community connections are weak.[190] Research that focused on the barriers for racialized women found that women have been taught to protect and prioritize their families image over personal safety and therefore will be reluctant to seek help for violence they experience.[191]

Reich et al. found that 33% of Tweets were coded as "survivors not reporting due to factors related to the perpetrator's identity or perpetrator actions."[192] Reich noted that of the coded Tweets, "9% of survivors mentioned perpetrator actions that kept them quiet after the assault, including public slander, excuses, denial, manipulation, and grooming, often within the context of a significant relationship."[193] Reich further noted that 5% of survivors flagged verbal or physical threats as a deterrent against reporting,[194] while another 3% "specifically referenced the use of social isolation and physical violence by perpetrators, also often in the context of a significant romantic relationship."[195] The presence of threats, intimidation, and social isolation, particularly within intimate or significant relationships, indicates that non-reporting frequently results from deliberate coercive strategies rather than individual reluctance. These findings demonstrate that perpetrator-driven barriers are fundamental to the dynamics of sexual and intimate partner violence, reinforcing power structures that silence survivors and protect abusers from accountability.

Further, victims in rural Canada have also noted that their safety concerns are closely connected to the accessibility and acceptance of firearms in the home.[196] Firearm ownership is more prevalent in rural communities than in urban settings and are often used for hunting, sport, or protection.[197] However, in the context of intimate partner violence, firearms are often used to threaten or instill fear and even the known presence of a firearm in the home creates a significant barrier to safety for victims.[198] Between 2010 and 2015, approximately one third of femicides in rural communities were committed using a firearm, and between 2017 and 2020, the proportion of Ontario femicides committed using a firearm was substantially higher at 29% in small and rural communities compared to 12% in urban centres.[199]

The fear survivors have that they will experience further violence, or risk to their safety if they report is a significant barrier, especially when they know there are firearms in the home. Further, this fear underpins the more prominent theme that survivors do not have confidence in the institutions meant to protect them. How can we say that the institutional response to sexual and intimate partner violence is not broken if a survivor feels safer staying silent than reporting their violence to the systems meant to safeguard them?

ii. The Price of Escape: How Financial Dependency Keeps Survivors Silent

Another barrier vocalized by survivors was the fear that reporting would cause financial insecurity.[200] Julia Yates et al. in their 2023 study on economic abuse in rural Ontario, found that financial dependence on the perpetrator is a significant barrier that many women who experience intimate partner violence face.[201] When surviving in an abusive relationship, where finances are

controlled by the person who causes harm, women often feel trapped and forced to stay in the cycle of abuse because of the lack of resources, knowing once they report the violence, that they, and their children, are likely to experience financial insecurity.[202] For women living in rural areas on average the distance to the nearest survivor resource was more than three times further than for urban women.[203] When survivors are financially dependent on their abuser, travelling a significant distance to a different community to access support is a significant barrier and has prevented many women from accessing services.[204]

In their study, Yates et al. found that:

> "The ability of women to move forward following experiences of violence depends on many factors—one of which is their ability to meet their basic needs. When their ability to be economically self-sufficient has been compromised, this becomes a barrier for many women to leave the relationship. Service providers described this form of abuse as an additional barrier to being able to leave these relationships with one describing, "it's just another barrier, right? So, if they're dependent on somebody that is bringing money in but they're abusive and they don't have much money themselves, they don't know where to turn and they think there's no out."
>
> For many women, being able to meet their basic needs and thus survive on their own was dependent on acceptable credit scores and work histories and a solid foundation of financial literacy. An acceptable credit score and work history that allows for ownership over property and possessions and the ability to secure future employment is a vital pre-requisite of survival for women leaving their abusers. For many women who have experienced violence, they have been unable to work or own property or possessions while in their previous relationships, thus hindering them from attaining a strong credit score."[205]

For immigrant women, financial dependency on the perpetrator is even more pronounced, especially in situations where children are involved.[206] Hyman et al. noted that for Tamil women, financial dependency was found to be a reason many women remained in abusive relationships, but financial independence also triggered many to experience violence, with one study participant

noting “violence is increasing because women are thinking ‘I can live alone’”, causing their partners to turn to violence to control them.[207] Kimber et al. found that financial intimate partner violence was significantly higher for first-generation immigrants compared to third-generation immigrants, highlighting the significant dependency women often have on their partners when they first come to Canada.[208]

In rural communities, financial security is often attached to farmland,[209] and victims and their children are often reliant on the resources and revenue associated with the physical property, which serves as a further deterrent to escaping an abusive relationship.[210] This risk of financial insecurity can quickly manifest into further unintended consequences such as housing and food insecurity, compounding the trauma experienced.[211] Further, in rural communities, access to shelter is not readily available, forcing many women to decide whether to remain in the abusive relationship or seek safe shelter in a different community, often away from support networks and/or their employment.[212] The Canadian Centre for Housing Rights (CCHR) noted that the ongoing crisis of housing affordability in Ontario significantly impacts a victims ability to leave abuse.[213] In particular, CCHR found that the lack of existing shelter supports is a particularly acute problem for victims in smaller and rural communities.[214] This barrier was identified by several participants in Yates et al. study, who noted that living in rural areas magnified their financial codependency on her abuser and was a significant deterrent to leave as there was she had no other place to go.[215] This risk of financial instability is significant, especially if unemployment, like in many rural communities, is high and housing is scarce.[216] Women who do make the choice to access shelter services to escape their abuse also risk being turned away. According to the United Way, 4,416

women and children are turned away from East Ontario shelters in 2018-2019 due to a lack of available beds.[217]

Fear over housing stability and the threat of losing material resources provided by the perpetrator is also a major barrier faced by women[218], in particular for immigrant women where there is a lack of culturally sensitive supports or access to shelters with limited language barriers.[219]. One participant in Prochuk's interviews explained how financial dependency on the perpetrator made it extremely difficult for her to pursue safety and legal help:

> "I was trying to escape a very stressful and abusive life … I just felt trapped and I felt like I didn't have any sort of options. Like I couldn't afford to live by myself so where would I go, to a shelter? Well if I'm at a shelter, could I still maintain my job? I guess like finances were a huge barrier for me, like I didn't think that if I brought it forward I would be able to sustain myself on my own … there was nobody I could really depend on other than the perpetrator."[220]

This fear was echoed by participants across multiple studies who noted that the lack of food banks and access to transportation were significant deterrents to reporting her abuse and leaving the violence.[221] Yates found that:

> "Without the necessary environmental prerequisites for resilience in place, many women felt unable to survive on their own. For women in this study, those environmental prerequisites to resilience included accessible services (e.g., food banks), equitable pay and opportunities, and secure employment; however, additional barriers existed to achieving these prerequisites in rural and remote locations."[222]

The fear that the victim will be forced into a shelter, face financial insecurity, and other collateral consequences such as lost employment are very live barriers that exist for women when choosing whether to report sexual and intimate partner violence.[223] This fear of financial insecurity as a

result of reporting is also part of the more significant systemic issue that exists, which is that there is a lack of adequate support in place for women experiencing violence.

iii. The Fear of Being Known: Privacy Concerns Deters Reporting

Intrusions into the private sphere of the victim are another significant barrier that deters many women from reporting.[224] Privacy concerns are heightened in rural settings where communities are close-knit[225] and often have deeply rooted socio-cultural attitudes about women and victims of sexual and intimate partner violence.[226] According to Statistics Canada, 58% of women who were sexually assaulted noted that the incident was private/personal as a reason they did not report it to the police.[227] In Prochuk's research, several participants also noted privacy as a significant reason they chose not to report.[228]

Concerns for privacy are heightened when victims live in rural communities.[229] Prochuk noted that "privacy may be even more critical in smaller communities and for people who face marginalization. For example, some Indigenous women have cited concerns about confidentiality and about community members finding out as reasons for not reporting to police or seeking other services."[230] In a 2016 study on intimate partner violence in rural and northern communities, researchers found that:

> "Gossip within communities was noted by most participants as a powerful tool that keeps women from reaching out to family, friends or service providers. They described how this can stay with a woman and her children for years and that it continues to negatively impact a woman by bringing shame and blame upon her for having spoken out against her violent partner. Gossip, or the threat of gossip, comes from her family, the partner's family, friends or other community people. From this, she might feel isolated in her experience and without options to reach out for help.

> Participants also explained that women might feel threatened by the possibilities of gossip if local people are in frontline positions, such as a community social worker. Regardless of the ethical obligation to maintain a woman's confidence, participants explained that there is a lack of trust this would be provided."[231]

Victims of sexual violence who refrain from reporting incidents due to concerns about privacy and the fear of exposure recognize that they do not feel safe in their communities nor report the incident when confidentiality is not guaranteed.[232] Fear of exposure is of particular concern in rural communities where, "survivors may be unable to access services such as shelters, family courts, hospitals, counselling, or the police without being recognized either by staff or passers-by. In addition to harmful social stigma, this lack of confidentiality poses a risk of escalated violence at the hands of the abusive partner."[233] Although there are safeguards in place in the retributive system, such as publication bans,[234] the reality is that in rural communities the sensitive details of the assault may become public, forcing victims to relive their trauma, become ostracized and attacked in the community, all of which are risks that cause many victims to remain silent in order to stay safe from public scrutiny. It was also noted that in rural communities there is a risk that justice system representatives, such as lawyers, police officers, and social service providers may protect perpetrators with whom they may have social ties given how small communities are, creating yet another barrier for women to access support and report.[235]

iv. *Unseen Costs: The Collateral Consequences of Reporting Sexual Violence*

The theme that reporting could lead to collateral consequences was apparent throughout Prochuk's research who noted that several interview participants expressed deep concerns about the potential repercussions of reporting sexual assault.[236] Many victims interviewed by Prochuk noted that they

feared coming forward would lead to unwanted legal consequences, such as deportation for those with precarious immigration status or child custody.[237]

In 2021, approximately 4.7% of Ontario immigrants were living in rural Ontario.[238] Immigrant women living in rural Ontario face multiple, intersecting barriers and potential collateral consequences when it comes to reporting sexual and intimate partner violence.[239] Not only do these women face the same challenges in accessing services in a rural setting as victims who are Canadian citizens, many immigrant women face language barriers, unfamiliarity with the legal system, a lack of familial supports, a legal inability to work, fear their immigration process may be at risk, and social stigma surrounding perceived cultural norms which may deter community members from acknowledging the violence.[240] Innes et al. found that to protect women with insecure immigration status it is necessary that reporting violence cannot lead to an immigration enforcement consequence for the victim.[241] Innes, et al. stated that fear about their immigration status was a significant deterrent for many women:

> "Women described their inability to leave and their enforced compliance in abusive situations as linked to their immigration status, stating 'because I am illegal' or 'he used my immigration status against me' or describing their lack of knowledge as delaying their departure from violent relationships. In these contexts, women were trapped into situations where they were repeatedly subject to violence, and they were vulnerable to violence increasing in severity, because they feared for their immigration status. They lacked either the recourse to police, social services, or healthcare, either as a direct consequence of their insecure status or because they lacked the *knowledge* that they had recourse. In some cases, support was denied because the providers believed that the victim did not have recourse to support, and advised women that leaving an abusive relationship would result in the loss of immigration status. This demonstrates the complexity whereby even if legal recourse is provided for, it is still lacking in a practical or administrative capacity."[242]

Innes et al. also noted that there was a significant power imbalance that exists between perpetrators and immigrant women.[243] Innes et al. found that:

> "The power imbalance embedded in spousal and employment-based visa types can be understood as a significant vector of insecurity…women linked their fear of removal from a country to this embedded power disparity whereby a visa relies on a relationship with a spouse or a particular employer. Women who feared they would be removed from the country described how they remained in violent relationships even after experiencing episodes of physical violence at the hands of their partner … Participants in several studies indicated that they remained in spousal relationships where they experienced physical and/or physically enforced sexual violence because they feared removal from the country would be a consequence of leaving…In these cases, insecure immigration status was not necessarily the initial reason for violence, but violence was prolonged as a result of insecure status because women felt unable to leave the relationship on which their status was based. Immigration status was used as a threat.
> …
> In the context of a spousal visa, the applicant must file the paperwork to renew immigration status, and they must supply paperwork to evidence the application. This sort of paperwork can be withheld by an abusive spouse or family member. In the example cited above, the woman was left in insecure status with little recourse to refuse the conditions of servitude and the physical violence imposed upon her due to the power disparity she experienced where her immigration status was controlled by her spouse and his family. She was isolated in her domestic setting, and her vulnerability to violence due to the fear of removal was experienced in the context of both intimate partner and family violence. This key example demonstrates that the power disparity in the relationship was enhanced by lack of immigration status, which was used as an additional intersectional vector of abuse."[244]

In her research on the interplay of family and immigration law and domestic violence, Janet Mosher found that abusive partners have used the manipulation of information about her status to deepen their control and trap their partners.[245] Specifically, Mosher found that this occurred without exception in the interviews she conducted noting that "interviewees described the threat of deportation and the use of precarious immigration status by abusers to invoke fear, ensure silence and demand compliance as pervasive."[246] This concern was echoed in other research where

immigrant women reported a fear that not only would immigration authorities intervene and deport them and their families but there was a risk that their children could be taken from them.[247] Although the abusive spouse does not have the power to ultimately decide whether a woman will be removed, the fear of removal alone for many, combined with the lack of access to services and familiarity with the system makes it exceedingly difficult to reach out for help.[248]

Concerns over collateral consequences were also raised in the research of Du Mont[249] and Tabibi.[250] The specific intersection of immigrant victims of sexual and intimate partner violence living in rural Ontario has not been fully explored and would be a valuable research focus to fully appreciate the risk of collateral consequences to immigrant women in these communities.

Additionally, some participants in Prochuk's research expressed that they feared losing custody of their children or the risk of becoming engaged in legal actions with the perpetrator, someone they viewed that could "manipulate the system to further control or harm them."[251] The intersection of intimate partner violence and child custody was examined by Elizabeth Sheehy and Susan Boyd who found that when intimate partner violence was raised in family court, women were often characterized as an alienator and condemned for imposing boundaries between the perpetrator, the children, and herself.[252] Sheehy and Boyd noted that even in situations where intimate partner violence was established,

> "Mothers are called alienators if they do not coach their children to view their fathers in a positive light, or force contact… More disturbingly, women's reaction to violence seem to overshadow men's violence such that women become alienators for not suppressing their own fear … the spectre of women's fear and dislike of the person who has terrorized her being labelled alienation, and then relabelled IPV completes the circle, fully shifting responsibility for IPV from fathers to mothers."[253]

These fears underscore the need for a more supportive, survivor-centered response framework that protects women from collateral legal consequences when reporting sexual and intimate partner violence.[254]

v. The Silent Burden: Dealing with the Aftermath of Shame and Mental Health

Many victims of sexual violence do not report due to feelings of shame and the significant mental health challenges they face as a result of the violence.[255] The trauma of sexual violence can lead to feelings of guilt, self-blame, and humiliation, making it difficult to access help.[256] Sexual violence is a gendered harm and because of this and the patriarchal hierarches that exist within society, the gendered nature of sexual assault contributes to an intricate relationship between sexual victimization and self-blame.[257] Elaine Craig argued:

> "The hierarchical manifestation of gender as a principle of social organization and control – through constructs such as the moral, mental, and physical inferiority of women, the presumptive sexual availability of women, and the notion of sexually active women as untrustworthy – makes it likely that sexual assault survivors will question their own complicity in the sexual violence they experience. They have been socialized to do so. The result of this self-blame is often shame."[258]

Victims may fear being judged or not believed, further reinforcing their reluctance to come forward.[259] Additionally, trauma causes an emotional toll on victims, including anxiety, depression, and post-traumatic stress disorder (PTSD), which can make the process of reporting seem daunting or impossible.[260] For victims who do disclose informally to friends and family the psychological impact that a negative reaction has is profound and are associated with increased experiences of PTSD and depression.[261]

In Reich's analysis of #whyididn'treport Tweets, 42% were attributed to internal reactions preventing survivors from reporting sexual assault or abuse.[262] These internal reactions included self-blame, shame, fear, denial, and emotional coping. Among these, 15% of survivors expressed feeling at fault or deserving of the violence, either at the time of the assault or currently.[263] Further, Reich found that 12% of analyzed Tweets expressed emotions such as fear, shock, and confusion, while 7% referenced emotional barriers to reporting, such as depression and low self-worth experienced during the time of abuse.[264] Reich's findings illustrate how deeply internalized misogyny and victim-blaming shape survivors' emotional responses, turning the harm they experienced into self-directed guilt and shame. Self-blame and shame are not inherent characteristic traits, these are taught to women at a young age, that we must be ashamed of what others do to us. It is important to note that this barrier does not merely exist at a personal level, it is the result of social conditioning that teaches women to doubt their own experiences and minimize the violence committed against them. The prevalence of fear, confusion, and diminished self-worth underscores how sexual violence, and societal reactions to such violence operates not only as a physical violation but also psychologically silences survivors from engaging with the justice system.

Survivors also face significant mental health challenges as a result of the violence they experience and the personal shame they suffer.[265] Individuals living in rural and Northern Ontario have poorer mental health, compared to those living in urban settings.[266] For rural victims of sexual and intimate partner violence the effect of violence negatively compounds the already existing issues of mental health as support services are not readily available.[267] Further, as a result of the limited services, victims of intimate partner violence

> "often experience significant mental health issues such as depression, post-traumatic stress disorder, and suicidal ideation. Victims of intimate partner violence also struggle with insomnia and increased anxiety. This negative impact on their mental health may put them at an increased risk of misusing alcohol and illicit substances to cope with the trauma they have experienced."[268]

A significant problem with addressing the mental health impact of sexual and intimate partner violence is the lack of resources in rural Ontario. In rural communities, access to mental health services is limited due to a shortage of resources and funding.[269] Many gender-based violence organizations struggle to receive funding for such services or are unable to recruit and/or retain qualified candidates to rural areas.[270] Interestingly, in a study that focused on the barriers to accessing mental health in rural communities, researchers found that community based approaches to mental health could be a useful model to address the high rates of mental health issues. Researchers found that community and collaborative models of mental health could improve accessibility to services, decrease social stigma, and increase continuity of patient-centered care.[271]

D. Conclusion

The reporting of sexual and intimate partner violence in rural Ontario is impeded by a myriad of complex interpersonal barriers rooted in systemic inequity. In this chapter personal barriers, including fear for personal safety, financial dependence, privacy concerns, stigma, and mental health difficulties were identified. In rural contexts, these barriers are exacerbated by geographic isolation and limited access to services. Throughout the research reviewed, it was clear that the personal barriers women experience are rooted in patriarchal and paternalistic ideologies and realities present in our society, which further reinforce these obstacles, often rendering silence a safer option than seeking assistance.

Barriers to reporting are especially severe for Indigenous, racialized, and immigrant women, highlighting ongoing structural inequity. Indigenous women face increased fears of both community and institutional harm, including police abuse, and additional challenges linked to colonial legacies. Immigrant women often deal with precarious immigration status, language barriers, and a lack of culturally appropriate services. Financial dependence, limited employment opportunities, and cultural expectations about family unity further restrict survivors, sometimes increasing their risk of violence when seeking autonomy. These factors show that current legal and social support systems often fail to support the most vulnerable. A survivor-centered, restorative approach is needed to address the entrenched barriers facing rural survivors. Recognizing the influence of patriarchy, social control, and institutional failures is essential for developing interventions that allow women to seek support without fear of retaliation, financial hardship, or social exclusion. Progress depends on coordinated, culturally informed services, accessible resources, and policy reforms that address the consequences of reporting, especially for marginalized groups. Without systemic change, cycles of silencing will persist, and rural survivors will continue to lack meaningful pathways to safety and justice.

Chapter 4:
Societal Silencing: The Impact of Socio-Cultural Attitudes on Reporting Sexual and Intimate Partner Violence

A. Introduction

Women face many deep-rooted social and cultural barriers that make it hard for them to report sexual and intimate partner violence.[272] In Canada, these barriers are tied to patriarchal, racist, and paternalistic systems that have long shaped women's roles, credibility, and independence.[273] Women are often expected to keep families together, protect men's reputations, and suffer in silence.[274] Family and community pressures can force women to stay quiet to "preserve family honour" or avoid bringing shame or stigma to their families or communities.[275] Society's attitudes toward sexual violence, such as myths, victim blaming, and downplaying harm, make it seem like women are to blame for what happened to them.[276] When women do come forward, they often face disbelief or close scrutiny, as patriarchal norms still weaken the value of their voices and experiences.[277]

For immigrant and racialized women, these barriers are even stronger because racism, cultural stigma, and language challenges.[278] Many immigrant women come from, or live in, cultures where patriarchal and paternalistic rules are especially strict, which adds to the pressure to obey, stay silent, and feel shame about sexual violence.[279] Fear of discrimination, cultural stereotypes, or being ignored by police and service providers often keeps them from seeking help from the justice system.[280] When race, gender, and immigration status overlap, the risk of not reporting violence or being harmed again goes up, since the justice system often reinforces the same power imbalances it is supposed to fix.

Indigenous women face especially strong patriarchal and paternalistic pressures, made worse by the lasting trauma of colonization, systemic racism, and the history of residential schools and government intervention.[281] Mainstream justice systems, built on colonial and patriarchal ideas, have often failed to protect Indigenous women and have sometimes criminalized them and their communities. For Indigenous, racialized, and immigrant women, the ongoing influence of patriarchy and paternalism creates a culture of disbelief and shame that keeps survivors silent and shields those who cause harm. This chapter will explore these socio-cultural barriers.

B. Socio-Cultural Barriers

i. Blood Burden: Family and Community Pressures Affect Survivors' Choices to Report

Many women experience pressure, as well as internal and external shame from their families if they are labeled as victims of sexual violence and the consequence this will have on the family and community.[282] In rural communities where there is a higher prevalence of traditional gender roles, women are often expected to prioritize family values and remain in relationships even if they experience violence.[283] This familial and community shame and pressure deters many women from reporting sexual and intimate partner violence or disclosing it to friends or family.[284] Many women who experience intimate partner violence in rural settings experience "constraint through commitment" where they compromise their personal safety due to commitments to their family, community, and farm, prioritizing these commitments over their own wellbeing.[285] It is important to note that this barrier is intimately connected to the socio-cultural barriers surrounding sexual and intimate partner violence and how society views women who experience violence.[286] The shame of sexual violence is not for the victims to bear. However, the dominant narrative in our

communities is that the victim is somehow responsible, or partially responsible, for the violence she experienced. It can be challenging to disclose experiences of violence to those closest to you when a safe space for this dialogue to occur has not been promoted within the victim's family or community.

Shame of being a victim of sexual assault and the stigma attached to that can pressure survivors to deal with it privately rather than seek external support.[287] This pressure is particularly apparent in cases of sexual violence involving intimate partners. One participant in Prochuk's research who was sexually assaulted by her husband explained feeling "intense pressure not to let anyone find out about the assault … She explained that her culture views sexual assault as a "family problem" to be resolved discreetly, not a problem to be addressed through the criminal justice system."[288] In research funded by the Department of Justice, it was noted that for many newcomers to Canada, the fear of familial ostracization was a significant barrier to reporting, especially when the victim had no community supports or connections.[289]

For racialized women, family pressures often forced them to sacrifice their own personal goals for the community and family.[290] This echoed the findings in Tilman et al.'s research which found that for African American women, there is immense pressure on victims to protect African American male perpetrators from the actual or perceived unfair treatment of the justice system[291] which causes many women to stay silent to protect the larger community. For Muslim victims, there is a strong cultural pressure to maintain family unity, coupled with the fear that they report, they are compromising their religious responsibility to preserve that unity.[292] In research by Hulley et al. which conducted a global literature review on barriers to reporting intimate partner violence

among Black, Asian, Minority ethnic and immigrant women[293] the majority of studies found that "women with strong cultural and religious communities were often fearful of the consequences of leaving their abusive relationship, concerned about the shame and humiliation this would bring to themselves and their family."[294] In Reich's study on self-reported reasons for not disclosing, she found that 22% of Tweets analyzed "specifically referenced an instance where they did confide the assault or abuse to a close family member or friend and received a negative reaction."[295] 10% were not believed or the assault was minimized.[296]

Family pressures are also heightened in rural communities where perpetrators are often known to the victim's family or a well-known member of the community.[297] Being the woman who accuses someone of sexual violence not only upends her life and family but also the family of the perpetrator, who, again, in rural communities, is often known to the victim and is a very real consideration for many women.[298] Specifically, in a study on sexual revictimization in rural areas, Corbett et al. found that the

> "likelihood that the community would side with the perpetrator and ostracise women who disclosed sexual violence was commonly reported by counsellors. A perpetrator's social standing within small communities worked to absolve any form of responsibility or accountability for harm they had caused, resulting in women being socially and physically ejected from their home."[299]

The feelings of familial and community pressure and shame that often circle victims in rural communities deter many victims from reporting the violence they experience.

ii. *Voices Dismissed: The Struggle for Survivor Credibility*

A significant barrier for women reporting sexual and intimate partner violence is the socio-cultural belief that they were somehow asking for it.[300] This conception that women were somehow asking

for it, reducing the credibility of the victim is interconnected with antiquated rape myths that dominate conceptions of sexual violence.[301] Even though many women consciously rejected victim blaming, this behaviour was still prevalent within the research conducted by Prochuk.[302] This notion of "asking for it" also leads to skepticism around whether to believe survivors or not.[303] interestingly, this mistrust of survivors is present among survivors as well due to the cultural conditioning women experience that they somehow are responsible for the victim they experience and consequentially blame other victims as well or do not see themselves as deserving of help.[304] Prochuk noted that "there is a culturally entrenched skepticism about sexual assault that can deter reporting and that does not seem to apply to other crimes."[305] Further, this self-blame and ownership for the violence experienced also leads victims to anticipate further blame and choose not to report to police because they "anticipate that the police will question the appropriateness of their behaviors and decisions prior to the victimization. It can be inferred from these cases that the victims are aware that by acting "recklessly" they may be seen as at least partially responsible for their situations."[306] This societal conditioning women experience to feel, at least in part, responsible for being sexually violated is troubling and underpins just how dominant the patriarchal narrative is and how much in depth and long term work and repair needs to take place at an individual and societal level to undo these deeply entrenched patterns. Elizabeth Stanko succinctly summarized this absurdity, stating that women are socialized and expected to be responsible for negotiating men's sexual advances and intrusions, so normalized by masculine sexual aggression towards women that this has just become an accepted practice.[307]

Not being believed was a significant reason many women decided not to report their sexual assault to the police.[308] These fears of not being believed were significantly heightened for marginalized

women. Specifically, Prochuk noted that "participants in this project observed that survivors' accounts are more likely to be regarded with suspicion if they use drugs; are survivors of relationship violence; are racialized; have low incomes; have been charged with criminal offences in the past; or are single mothers."[309] Prochuk found that the consequence of this cultural attitude towards disbelieving victims resulted in "some survivors internaliz[ing] the view that sexual assault is not 'a big deal' and may therefore be less inclined to contact police."[310]

Approximately 35% of Tweets analyzed in Reich's research found that expecting an adverse reaction from other people was a primary reason for not reporting a sexual assault. Reich noted that the most "prominent subtheme within this category was the expectation of not being believed" which totaled 17%.[311] Of specific note, one analyzed Tweet stated "rape only happens on TV … not in our little country town."[312] The socio-cultural belief that rape is not something that occurs in rural settings is a significant barrier for rural women as it is challenging to educate rural communities on the prevalence of sexual violence in rural settings when these communities are so tightly knit and often hold a belief that sexual violence is only committed by strangers jumping out of bushes, not their neighbours, friends, or classmates.[313]

For Indigenous women, being believed is an incredible challenge, particularly in light of the deeply entrenched colonialism, genocide, and public perception of indigenous women as less than.[314] Indigenous women are three times more likely to experience sexual victimization in Canada compared to non-Indigenous women[315] and are regarded as one of the most victimized populations in Canada.[316] Although the interaction between Indigenous women and the police will be explored in detail in Chapter 5, it is important to note in this section that Indigenous women are routinely

not believed, and their reports marked as "unfounded" often as a result of officers applying rape myths and blaming Indigenous women for their assault.[317] One victim noted that police blamed her for being drunk and called her a dirty Indian. Other victims noted that they were not believed and police threatened to involve child welfare and accused her of making false reports.[318]

iii. Silenced and Scrutinized: How Society Responds to Sexual and Intimate Partner Violence

In their study, Reich et al. found that 32% of Tweets analyzed noted societal myths, norms, and knowledge about sexual violence as to why victims were deterred from reporting.[319] Specifically, Reich noted that "most commonly survivors mentioned societal norms or specific rape myths such as the belief that people lie about being raped when they really just have regrets about consensual sex, the belief that past consent or assault in the context of a romantic relationship nullifying any claims of assault."[320] Reich noted that 18% of Tweets referenced accepting or internalizing societal attitudes around rape myths such as, "We are so used to giving our bodies to men that even when we don't want to give, we think it's okay when they take" … "It was something I had to live with. It's how it is/was. Another thing girls had to suffer." … "Boys will be boys. You should be flattered."[321] Statistics Canada noted that "feelings of shame or embarrassment (42%), a perception that they wouldn't be believed (30%), or that reporting would bring shame and dishonour to their family (26%) were much more commonly cited by victims of sexual assault than by victims of other types of violent crime (6%, 7%, and 2%, respectively)."[322]

For immigrant, racialized, and Indigenous women, the barrier to be believed is daunting. For immigrant women in Canada who experience sexual or intimate partner violence, one of the biggest barriers to reporting was society's perception of their culture that minimized their

experiences.[323] Okeke-Ihejirika et al. found that especially when discussing Islamic faith or Muslim culture there is a dominant pattern in Canada of blaming culture for the violence, which refers to:

> "a pattern of suggesting that there is something intrinsic to Islamic culture that allows and encourages violence against women and girls to occur and so therefore nothing can be done to prevent it from happening. This blaming culture not only stigmatizes communities in a way that further isolates them from Canadian society but also ignores the gendered and racialized context of IPB. This can have several harmful effects including IPV victims being less willing to speak out for fear of reinforcing stereotypes and undermining their community."[324]

The impact of these stereotypes on immigrant women is particularly profound in rural Ontario, where communities tend to be more conservative and often lack cultural awareness or sensitivity. Immigrant women in these regions frequently encounter racist assumptions that their cultures condone or normalize violence, leading to their victimization being dismissed or minimized. When this prejudice is compounded by a lack of culturally appropriate supports, limited community resources, and persistent language barriers, the isolation and vulnerability of immigrant women become even more pronounced.

iv. From Myth to Misogyny: Unpacking the Roots of Victim Blaming

Prochuk found that cultural misconceptions surrounding consent also contribute to the "difficulty in labeling an experience as sexual assault."[325] For example, myths such as "consent is not needed in relationships or that consent to one sexual activity implies consent to all activities"[326] made it challenging for victims and communities to recognize what constitutes sexual violence. The theme of not being able to label an experience as sexual assault was also present in the research conducted by Clare Heggie et al. which found that many women did not have a fulsome understanding of what sexual violence was and this influenced their decision to seek supports:

> "Women also spoke about dominant narratives that influenced their ability to access services and supports, including terminology, pervasive ideas about who perpetrates sexualized violence, the question of what is considered to be a legitimate experience of sexualized violence, and community stigma. Several women reported that while services typically used the term "sexualized violence," they did not feel that term accurately described their experiences and instead used a variety of terms to describe their own experiences, including "a non-consensual experience" and "sexual assault." Several women said they felt guilty about using services that they believed were for women who had experienced sexualized *violence* because they perceived their experience to be less overtly violent, and therefore not a legitimate experience of sexualized violence."[327]

Reich et al. found that of the Tweets coded as expecting negative reactions, 34% of total Tweets analyzed, 7% anticipated or feared victim-blaming reactions, especially when the perpetrator was an intimate partner.[328] Notably, Reich captured that living in rural communities again was an impediment to reporting due to small town gossip and what people in the small town would say.[329]

The consequences of myths and stereotypes can be significant and "such victim blaming can have a gaslighting effect, undermining survivors' confidence in their own perceptions."[330] Not only can a culture that condones victim blaming have a significant impact on a survivor's self-perceptions but can also negatively impact their relationships with others and self worth.[331] Survivors of sexual assault are more likely to report feeling ashamed or embarrassed than victims of other violent crimes.[332] These myths and stereotypes are particularly challenging to overcome and dispel from society. Despite public education campaigns and increased conversations about sexual violence in the media and schools, victim blaming is so deeply entrenched in our patriarchal society that many victims still accept the blame for what happened to them.

Victim blaming was also experienced by women with strong religious communities, especially after they tried to seek help from religious leaders, "who tended to support abusers, blame women

for being controlling and/or advise women to remain in their abusive relationship."[333] Hulley et al. found that over and over women, in particular racialized women, are being blamed for their abuse, blamed if they do not report it, and blamed if they report it too late, leaving women in an impossible situation.[334]

The patriarchal propensity to displace the blame away from the male perpetrator and onto the female victim is apparent in the way that we respond when victims do report. Prochuk noted that all too often the words "asking for it" are used in the discourse around sexual violence. She notes that

> "These three words blame, shame, and stigmatize survivors of sexual assault. They misplace the responsibility for violence, with profound consequences. These words, and others like them ("what were you wearing?" "Why did you go back to his place?" "Why didn't you fight back?"), often create barriers to disclosing sexual assault to anyone or seeking support of any kind – let alone reporting to police."[335]

C. Conclusion

The social and cultural barriers encountered by women who experience sexual or intimate partner violence are entrenched in patriarchal and paternalistic systems. These systems have shaped societal perceptions of what the perfect victim looks like, who should be believed, and how victims should act. Such beliefs foster an environment in which disclosure is often met with disbelief, judgment, or blame, rather than empathy and accountability. The resulting silence is not because women choose to remain silent, it is because social conditioning has taken their voices away, casting them as liars and whores. This silence underscores the persistent influence of patriarchal norms that prioritize community reputation and male authority over women's safety and truth.

For immigrant, racialized, and Indigenous women, these barriers are intensified by the intersecting forces of colonialism, racism, and cultural stigmatization. Many survivors are further silenced through cultural blame, as violence against them is sometimes perceived as 'normal' within their culture or religion. This perception reinforces both racism and misogyny. Although this research argues for the use of restorative justice for sexual and intimate partner violence, it is acknowledged that even such a system can present risks, given the current socio-cultural attitudes towards victims. While these approaches offer potential for healing and accountability, they may also reproduce existing power imbalances if the gendered and colonial hierarchies are not addressed first.

Chapter 5:
Silencing the Victim: Examining How Police Response Deters Reporting

A. Introduction

Individual barriers are not the only reason that sexual and intimate partner violence are severely underreported in Canada. Institutional responses and systemic barriers that exist when reporting to the police or proceeding through the court system are a significant cause of underreporting.[336] Survivors frequently report that they experienced a lack of sensitivity and support when reporting to the police, as well as an overall lack of trust in law enforcement, which discouraged them from engaging further,[337] commonly referred to as secondary victimization.[338] Secondary victimization occurs when victims experience victim-blaming attitudes, behavior and practices from service providers, such as law enforcement, that further the victimization and result in additional trauma for sexual violence survivors.[339]

Police play an important role in a victim's experience with the justice system, and are often described as the gatekeepers to the justice system.[340] However, as will be explored below, research has repeatedly found that police often dismiss or minimize the experiences of victims, subject survivors to invasive questioning, or perpetuate victim-blaming attitudes, creating an environment that feels hostile rather than supportive.[341] The way law enforcement interacts with victims is crucial as prior or anticipated negative interactions with police are one of the dominant barriers victims face when reporting sexual and intimate partner violence.[342] Therefore, in order to create a framework to encourage victims to report, we must look at how victim's first interactions with the justice system impact their view of the criminal justice system, and their ability to heal and be heard.

This chapter examines the institutional responses to sexual and intimate partner violence in rural Ontario, exploring how law enforcement creates barriers to reporting in their interactions with victims who do report. This chapter will also explore the unique challenges of law enforcement in rural communities, including limited resources, lack of specialized training, and systemic delays, all of which support the need for a new justice model. In Ontario, police services in rural and remote regions are predominantly provided by the Ontario Provincial Police (OPP), although some municipalities maintain their own local police forces. For the purposes of this research, no distinction is drawn between these services. This approach reflects a broader gap in the literature: there is limited empirical research that examines the OPP specifically, particularly in relation to sexual and intimate partner violence in rural contexts. As a result, the analysis considers policing practices more generally rather than isolating service-specific differences that current scholarship does not meaningfully document.

The first section of this chapter will explore the history of retributive justice and how it has developed in the context of Canadian criminal law. The second section of this chapter will focus on law enforcement's response to sexual and intimate partner violence, the barriers to reporting identified by victims, mandatory charging policies, and the overall confidence victims have in reporting to police.

B. Retributive Justice: Power, Punishment, and the Patriarchy

Retributive justice is the system of institutional punishment of an individual for wrongdoing. Retribution involves the imposition of an appropriate sanction or punishment for violation of the

law.[343] The state, through prosecution and before a judge, must establish the guilt of a person for the violation of the law and impose the appropriate sentence.[344]

Retributive justice in Canada refers to a system of justice focused on punishing offenders for the harm they have caused, based on the principle that punishment should be proportionate to the offence committed.[345] Criminal offences are enacted by Parliament, which has exclusive jurisdiction over criminal law and procedure.[346] Rooted in the belief that individuals who break the law deserve to be held accountable through penalties, retributive justice emphasizes deterrence and the maintenance of social order.[347] In Canada, retributive justice is modeled through the criminal justice system, where the state imposes sanctions such as imprisonment, fines, or other forms of punishment to address crimes.[348] Retributive justice is based on the belief that offenders should "pay their debt" to society, with the goal of ensuring justice by imposing a sentence that matches the seriousness of the crime.[349] Although this approach has faced significant criticism for prioritizing punishment over rehabilitation, it continues to play a key role in Canada's criminal justice system.[350]

i. The Evolution of Retributive Justice in Canada

English common law initially shaped Canada's legal framework, which emphasized retributive principles. The Criminal Code of Canada, enacted in 1892,[351] codified many of these retributive principles, reflecting the nation's commitment to retributive justice.

In the mid-20th century, Canada began to critically assess its punitive approach. The Archambault Report, released in 1938, marked a significant shift away from the retributive system at the time,

advocating for rehabilitation over punishment. This report emphasized crime prevention and the rehabilitation of prisoners, proposing changes to focus on the reformation of offenders rather than solely on punitive measures.[352]

Building on the momentum of the Archambault Report, in 1969 the Ouimet Committee further challenged retributive justice.[353] The Committee recommended abolishing corporal punishment and adopting a rehabilitative approach to corrections.[354] The committee's findings led to significant changes in Canadian corrections, including the abolition of corporal punishment and a focus on rehabilitation.[355]

Despite these reforms, retributive justice remained a cornerstone of Canada's criminal justice system through the 20th century. In 1996, the Supreme Court of Canada, in *R v Gladue*[356], highlighted the need to consider the unique circumstances of Indigenous offenders, acknowledging the limitations of a purely retributive approach. This decision led to the development of Gladue Reports, which provide judges with information about an Indigenous offender's background to inform sentencing.

ii. Recognizing Victims in Law: A Step Towards Restorative Justice

In 2015, the *Canadian Victims Bill of Rights* came into force and provides victims of crime with four key rights at the federal level.[357] These include the right to information about the justice process and case-specific details, the right to protection from intimidation and retaliation, the right to participate by sharing views on matters affecting their rights (such as victim impact statements), and the right to seek restitution for financial losses due to the crime.[358] The *Victims Bill of Rights* aims to ensure that victims are treated with dignity and respect within the criminal justice system.[359] However, the *Victims Bill of Rights* has failed to deliver on many of these promises. In

2021, the Federal Ombudsman for Victims and Crime reported that despite the enactment of the quasi-constitutional federal statute victims continue to report "that they lack adequate information about their rights and the services available to them. This clearly illustrates how the adoption of a law in the books is different from its implementation in action as criminal justice personnel continue to systematically overlook or neglect victims' legitimate needs."[360] The Report found that the most common complaints received were related to the timeliness and accessibility of information, the right to participation and the right to protection.[361] In November of 2025, the Office of the Federal Ombudsperson for Victims of Crime released an updated Report that further condemned the poor implementation of the *Victims Bill of Rights.*[362] This Report highlighted that despite victim's rights to request testimonial aids, access to these aids varied across Canada, as did victim's awareness of the existence of such aids.[363] Despite being enacted over a decade ago, the *Victims Bill of Rights,* which was intended to provide victims with dignity and respect, has failed to effect meaningful change with a lack of adequate information being provided to victims undermining its very purpose and rendering it ineffective in addressing the needs and rights of victims.

C. Justice or Control? How Patriarchal Norms in Police Responses Prevent Reporting

Extensive research has focused on the ways in which women are deterred from reporting sexual and intimate partner violence because of the skepticism and outright hostility victims typically experience from law enforcement.[364] Police responses to sexual and intimate partner violence reports were dismissive, with victims encountering victim-blaming attitudes or insufficient investigations.[365] Several studies that focused on the decision to report in Western countries found that the highest level of attrition for victims deciding not to proceed with a sexual assault

prosecution came during the police investigation stage due to dissatisfaction with how police interacted with the victim.[366] In one study that focused exclusively on police investigation practices in Ontario, it was found that although the police officers interviewed described a range of investigative techniques to determine the truthfulness of a sexual assault report, a common thread emerged that hinged on assumptions about how real survivors respond, who real survivors are, how victims respond to trauma, and how they narrate the violence experienced.[367] These types of responses from law enforcement generate distrust among survivors and deters reporting to police.[368] For survivors, not being believed and having a further source of distrust in their lives after experiencing such personal violence can compound the emotional and psychological toll of the assault itself.[369] Some fear being judged or disbelieved, while others are deterred by the daunting prospect of reliving their trauma in a system that may fail to provide justice.[370] Of the 433 survivors surveyed by the Ombudsman, 93% feared the police would not believe them, which stopped them from reporting and 89% were influenced by seeing how other survivors had been treated.[371] Structural issues, such as lack of training in handling sexual violence cases, perpetuate these barriers, leaving many survivors feeling unsupported and silenced.[372] Statistics Canada noted that "nearly six in ten (57%) victims who did not report a sexual assault said it was because they did not want the hassle of dealing with police. This was significantly higher than the proportion of those who did not report another type of violent crime to the police for the same reason (40%)."[373] As a result, trust in law enforcement erodes, deterring victims from seeking justice or protection.

i. Mandating the Elimination of a Victim's Voice: How Mandatory Charging Policies Impact Victims Autonomy to Choose

In 2000, the Ministry of the Solicitor General released the *Policing Standards Manual, 2000,*[374] which directs officers how, among other things, to deal with intimate partner violence. This manual requires that officers must lay a charge where there are reasonable grounds to do so and must not be influenced by any of the following factors:

a. Marital status/cohabitation of the parties;
b. Disposition of previous police calls involving the same victim and suspect;
c. The victim's unwillingness to attend court proceedings or the officer's belief that the victim will not cooperate;
d. Likelihood of obtaining a conviction in court;
e. Verbal assurances by either party that the violence will cease;
f. Denial by either party that the violence occurred;
g. The officer's concerns about reprisal against the victim by the suspect; or
h. Gender, race, ethnicity, disability, socioeconomic status or occupation of the victim and suspect.[375]

Grappling with the Mandatory Charging Policy is complex. On one hand, it's easy to understand the rationale behind its implementation and the needs it aimed to address. When I first began researching mandatory charging, my initial reaction was that it silences women, taking away their voice, leading me to view the policy negatively. However, through further research and conversations with experts in the field, I came to understand that that was the intended purpose, but not in an effort to remove their autonomy. Before mandatory charging policies were implemented, intimate partner violence was not being dealt with appropriately, women were left in unsafe situations if their abuser was not charged after police were called, and police lacked training and trauma informed approaches to sexual and intimate partner violence.[376]

When these policies were put in place, police officers had little to no training on intimate partner violence and it was common "for an officer responding to a "domestic" to ask the woman while

her partner -- and possibly their children -- were standing close by whether she wanted to charge him. Not surprisingly, most women said no."[377] This decision put women in such a dangerous situation and there are numerous reasons why she would choose to not press charges, including a fear that violence would escalate, financial dependency on her partner, shame, fear of reprisal, the impact on citizenship or housing, or a belief that the violence would end.[378] Regardless of what her specific reason would be to not charge, the police would leave, and more likely than not, the violence would continue.

The policy was not created to give women a voice, it was created to remove the need for women to have to have a voice, it was intended "to relieve survivors of intimate partner violence, most of whom were women, from the responsibility of deciding whether or not their partner should be charged."[379]According to Pamela Cross, the Advocacy Director at Luke's Place,

> "the hope for many was that mandatory charging would increase the safety of survivors -- or at least reduce the likelihood that they would be at greater risk because of pressing charges -- increase domestic violence reporting rates, improve police response, and increase abuser accountability. It was also hoped that placing responsibility for laying charges with the police would help to bring domestic violence out into the public and get rid of the idea that it was a private problem confined to the privacy of the family home."[380]

Once the policy came into effect, the number of intimate partner violence charges laid by police jumped significantly, which is unsurprising.[381] However, there was an unintended consequence to this. Soon after the policy was implemented, the number of women being arrested and charged also increased, even though they were often the ones that called the police for help.[382] Police began a practice of dual charging, which included charging both parties, or solely charging the woman.[383] While men can be victimized by intimate partner violence as well, in the infancy of mandatory charging policies it became apparent that police did not know how to properly deal with these

allegations. In an attempt to respond to this problem and "reduce the rate of women being incorrectly charged, tools were developed to assist police officers in identifying the primary or dominant aggressor before making any decisions about who should be charged."[384] Unfortunately, even with the implementation of these tools, police forces still lacked a proper understanding of the dynamics of intimate partner violence, women were still being incorrectly charged and police officers used, and are still using "a lot of discretion and biases when they make decisions about whether to lay charges and who should be charged."[385]

While the policy was supposedly designed to eliminate bias against victims of intimate partner violence, by requiring officers to lay charges whenever reasonable grounds exist, when compared against the Statistics Canada data, that is not the situation in practice. Further, Cross noted,

> "Despite these policies, with a focus on identifying the primary aggressor, and training and education for some police officers on domestic violence, many women continue to be disbelieved. Systemic disbelief of survivors is amplified among racialized, migrant, low-income, disabled, and 2SLGBTQIA+ survivors. Some officers hold deeply rooted stereotypes about who is a "real" or "perfect" victim, leaving those who do not fit this category, and often face disproportionate rates of IPV, to be further dismissed and disbelieved. Even now, not all police are adequately trained in how to conduct a proper IPV investigation, let alone unlearn the problematic myths and stereotypes that continue to impact all aspects of the criminal process. This can lead officers to lay charges against both people, leaving it to the courts to sort out what really happened. This approach minimizes the inevitable negative impact of being arrested on survivors of crime, even if ultimately the charge is dropped or the person arrested is acquitted. Furthermore, this can lead to women being the sole person charged."[386]

In practice, according to Statistics Canada, only 36% of reports result in charges; however, according to Jodie Murphy-Oikonen et al. approximately 20% of cases are deemed baseless by police and are coded as unfounded.[387] Jodie Murphy-Oikonen et al. found that given the high rates of unfounded sexual assault claims, dismissing sexual violence is unfortunately a common practice

among police and calls into question their ability to be a gatekeeper for justice in the sphere of sexual violence.[388] Cross also raised alarms about police officer's ability to be gatekeepers, especially if the violence is committed by fellow officers, noting that

> "Research conducted by CBC News earlier this year shows that 1 in 3 police suspensions across Ontario involved allegations of domestic abuse and/or sexual assault. In fact, the research and existing literature suggests that police "are disproportionately perpetrators of particularly domestic violence."
>
> These statistics raise questions about how the police can properly implement mandatory charging policies when these policies would in fact result in their colleagues and peers being charged with IPV-related offences"[389]

The findings of Murphy-Oikonen et al. research and Luke's Place make it clear that even though such a mandatory policy exists, police lack adequate training and are often steeped with their own biases to actively engage with these policies in a way that protects victims. However, ignoring for a moment the fact that police still have significant discretion when it comes to laying intimate partner violence charges, let us look at the repercussions if such a policy was followed.

First, it removes the victim's voice from the process. In practice, this means that survivors are often compelled into legal proceedings they may not want, furthering a sense of powerlessness and discouraging future engagement with the justice system. Autonomy to choose can be empowering for women, "the decision of whether to charge an abusive partner can be a big part of a woman reclaiming autonomy and choice. For some women, it is important that they get to make that choice and not have it made for them."[390]

Second, instead of supporting victims, the policy imposes a one-size-fits-all approach that disregards the complex personal, social, and economic realities that influence a survivor's decision-making. Victims may choose not to pursue criminal charges for various legitimate

reasons, as discussed in the previous chapter. For example, Cross noted that women may be managing the abuse in other ways and may not be the person who contacted police and a mandatory charging policy may "jeopardize a carefully made plan and increase the risk of future harm to the woman and children."[391] She may be saving money, waiting for stable housing, or for immigration paperwork to be completed, "mandatory arrest laws have had a chilling effect on the likelihood that these women will call the police no matter the circumstances for fear that their partner will be criminally charged."[392] By mandating charging regardless of these considerations, the policy can create additional harm, undermining the very safety and recovery it seeks to protect. Interestingly, research has found that in the United States, there was an increase in lethal intimate partner violence following the implementation of mandatory arrest policies.[393] According to research conducted by Radha Iyengar, intimate partner homicides increased by about 60% in states with mandatory arrest laws.[394] Building on the research of Iyengar, Magdelene Thebaud and Jin Kim, found that this increase in intimate partner homicides was due to a decreased willingness for victims to report their abuser following a prior report and/or retaliation of the abuser after the initial report.[395]

Third, implementing a one-size-fits-all approach to intimate partner violence ignores how structural inequalities shape interactions with the justice system. Survivors from marginalized communities, including those who are racialized, low-income, or undocumented, may view police as a danger rather than a protection.[396] Cross raised that,

> "Mandatory charging has a disproportionately negative impact on some communities of women. Because of systemic racism, Indigenous, racialized and Black women are more likely to be charged either dually or solely.
>
> Women who have had a prior unrelated history with the police are less likely to be believed when they report intimate partner violence. A history of IPV calls to the police may also affect police attitude and willingness to

> conduct a thorough investigation before deciding whether charges should be laid.
>
> … there continues to be reliance on stereotypes when it comes to the "perfect victim" of IPV by many criminal system stakeholders, including the police. Academic literature has characterized the stereotype as typically being a submissive, white, middle-class, straight, cis woman who has not fought back against her abuser. Shelby Moore, in her research on Battered Women's Syndrome in the 1990s has argued that the concept of victimhood is greatly influenced by racial and gendered categories, in which the concept of victimization is tied to the idea of white womanhood and leads to the suspicion of victim experiences among women of colour."[397]

Further, when looking at the systemic discrimination and criminalization of Indigenous peoples in Canada, Indigenous women are more likely to be criminalized by mandatory charging policies,

> " Any policy that affects the criminalization of IPV survivors must be read in conjunction with the statistics about Indigenous women's experiences with the criminal system and in consultation with Indigenous survivors.
>
> …
>
> The continued application of charging policies that require police to lay charges where they have reason to believe violence has occurred simply continues to perpetuate the cycle of Indigenous women being driven into the criminal legal system. A report from the Office of Senator Kim Pate, "Injustices and Miscarriages of Justice Experienced by 12 Indigenous Women", highlights how Indigenous women can be "criminalized as a result of trying to survive and negotiate marginalization and violence." The report goes on to state that "[t]he legal system and authorities that were so conspicuously absent and unresponsive as women experienced abuse sprung quickly into action to criminalize them for taking steps to try to protect themselves or others."
>
> Additionally, the National Inquiry into Missing and Murdered Indigenous Women found that "the Canadian justice system criminalizes acts that are a direct result of survival for many Indigenous women." This criminalization then serves to repeat patterns of colonialism "because it places the blame and responsibility on Indigenous women and their choices, and ignores the systemic injustices that they experience, which often lead them to commit crimes."[398]

Having no control over the state's response can be particularly alienating and harmful for marginalized and racialized women and such a response can be seen as perpetuating the history of colonialism and control over them. Further, these policies also reinforce a punitive model of justice, where the system prioritizes prosecution over the nuanced needs of those most affected by violence. It fails to offer meaningful alternatives to justice that may be more attractive to the parties involved.

However, even with all the flaws outlined above, should mandatory charging policies be eliminated? No, to completely get rid of such a policy would be short sighted and dangerous. Instead, there must be a deep review of these policies to understand what works, what needs to be improved, and what needs to be reenvisioned. In recent years there has been an increased demand to review the effectiveness of mandatory charging policies.

In 2022, following the Renfrew Coroner's Inquest that examined the femicides of three women in rural Ontario the Jury called for the Ontario Government to,

> "Commission a comprehensive, independent and evidence-based review of the mandatory charging framework employed in Ontario, with a view to assessing its effect on IPV rates and recidivism, with particular attention to any unintended negative consequences."[399]

Sadly, despite accepting this recommendation in part, the Province noted that "At this time, the Ministry of the Solicitor General does not have plans to commission an independent review of the mandatory charging framework."[400]

In 2023, the Barbra Schlifer Commemorative Clinic called for the Government of Canada to review mandatory charging policies and their consequences for women who have been victims of

domestic or sexual violence, as well as increased training for police, service providers, and Crowns on gender relations.[401]

In 2023, the Nova Scotia Mass Casualty Commission also called for changes to mandatory charging policies. Recommendation V.10 *Replacement of Mandatory Arrest and Charing Policies and Protocols for Intimate Partner Violence* recommended the following:

> (a) Provincial and territorial governments replace mandatory arrest and charging policies and protocols for intimate partner violence offences with frameworks for structured decision-making by police, with a focus on violence prevention.
>
> (b) The federal government initiate and support a collaborative process that brings together the gender based violence advocacy and support sector, policy-makers, the legal community, community safety and law enforcement agencies, and other interested parties to develop a national framework for a women-centred approach to responding to intimate partner violence, including structured decision making by police that focuses on violence prevention.
>
> (c) Provincial and territorial governments, working with gender-based violence advocacy and support sectors, develop policies and protocols for implementing this national framework to address jurisdiction-specific needs"[402]

Ultimately, while the goal of removing officer bias is crucial, especially when police forces are dominated by white patriarchal ideals, however, doing so through a mandatory one-size fits all policy instead of improved trauma-informed education and training disenfranchises victims, creates further safety risks, and further isolates and disempowers victims. Policies that fail to consider the voices and lived experiences of those most directly affected by violence are unlikely to create outcomes that are just, equitable, or effective.

Further, when comparing this policy, which is supposedly aimed at ensuring victims are protected, against a 2019 data collected by the Centre for Research and Education on Violence Against

Women and Children (CREVAWC), mandatory charging is not improving how police interact with victims. Only 23% of survey participants noted being "supported by police"[403] with 13.8% noting that police were unsympathetic or unhelpful, 21.6% described police as insensitive or blameful, and 18.3% gave examples of inaction by the police.[404]

So, what is the issue? There are policies in place to require mandatory charging in incidents of sexual and intimate partner violence that actively silences the voices of victims. This policy is not being followed is that bad? Yes. Both outcomes are bad. Police have a clear directive on how to handle gendered offences, and they are not following it, instead they are acting as a gatekeeper, to the justice system. Murphy-Oikonen et al. found that:

> "despite the role of police officers to investigate and present evidence to a prosecutor, research suggests that police officers often make decisions about the truthfulness of sexual assault reports prior to a thorough investigation … and increased victim blame by police during the investigation of sexual assault resulted in fewer investigative steps and decreased the likelihood of a case proceeding to prosecution."[405]

Mandatory charging policies for intimate partner violence were initially introduced to protect women from being pressured into deciding whether their abuser should be charged. These policies aimed to shift responsibility onto the state, reduce bias, and ensure consistent police response. However, in practice, these policies have had a range of unintended and harmful consequences, particularly for marginalized communities.

Under these policies, victims often lose autonomy, forcing them into legal processes they may not want to participate in. The one-size-fits-all nature of mandatory charging disregards the complex personal, social, and economic realities victims face. Further, police discretion, lack of adequate

training, and deep-rooted systemic biases continue to result in inconsistent application of the law, including wrongful criminalizing victims.

While eliminating mandatory charging would be dangerous, deep reform is required. Safeguards should remain in place to protect against police bias and inaction, but they must be accompanied by frameworks that respect victim's autonomy, address systemic inequities, and ensure that the justice system offers support rather than harm.

ii. The Patriarchy in Policing: How Gender and Racial Bias in Police Responses Deters Survivors from Coming Forward

A common theme that has emerged among survivors is that they fear police will be biased if they reported sexual violence.[406] Many survivors, particularly racialized survivors, face discrimination racism from law enforcement and are not willing to report sexual or intimate partner violence because of the lack of trust and their fear of police.[407] Racial bias in policing works to silence victims categorically and is particularly heightened in communities that have historically faced discriminatory treatment by law enforcement, such as in Indigenous and Black communities. The impact of systemic racism on trust is profound. When victims expect disbelief, stereotyping, or unequal treatment based on their race, their trust in police protection diminishes. For many individuals, past experiences or community beliefs about over-policing, under-protection, and systemic racism create a justified fear that seeking help could lead to further harm, inaction, victim-blaming, or criminalization of themselves or their loved ones. As a result, racialized women are often forced to remain silent rather than engage with a system they perceive as unsafe. The overt bias in the criminal justice system and the systematic silencing of victims has created an environment wherein victims of violent crime suffer in silence because the organization funded to

protect them causes more trauma. This theme of bias among law enforcement was also present in the data gathered by Statistics Canada, which found that 23% of victims held a belief that police would be biased and flagged this bias as a reason they chose not to report.[408] Interestingly, Statistics Canada found that only 7% of victims of other violent crimes flagged bias as a reason they chose not to report their crime.[409] The stark percentage difference between these two types of crime supports the position that police are biased against gendered violence and as a result of this actual or perceived bias, victims of gender-based violence suffer in silence.

Specifically, Prochuk found that many study participants were acutely aware of bias in the criminal justice system, which contributed to their decision not to report to police.[410] Other research has shown that the survivors in Prochuk's study are not alone, and for many discrimination from police was a significant barrier to reporting the violence they experienced and obtaining justice.[411] Studies conducted on this issue have repeatedly found that police officers often interpreted reports and victim behavior as 'real' or 'false' often disbelieving survivors who did not present as a perfect victim, who were inconsistent with the details, or expressed feelings of self-blame.[412]

The concern that law enforcement would be biased was much more prevalent in interviews conducted with Indigenous women "who experience grossly disproportionate levels of violence, often don't believe that police will provide the protection they require and are significantly less likely than their non-Indigenous counterparts to state that the police are doing a good job of enforcing the laws and treating people fairly."[413] Indigenous women are three times more likely to experience sexual victimization, compared to non-Indigenous women yet there is a significant gap in literature that focus specifically on the voices of Indigenous women.[414]

Not only do Indigenous women face barriers to reporting due to racial bias from police officers, there is deep distrust of the system due to colonialism, police perpetuated violence, and prior negative experiences with police and the justice system due to their Indigenous identity.[415] Prochuk noted that this concern is unsurprising "given the frequency of media reports about police officers sexually and physically assaulting Indigenous women, neglecting investigations of disappearances and violent crimes where Indigenous women are the victims, and even arresting and jailing Indigenous women when they report that they have been sexually assaulted."[416]

In 2013, Human Rights Watch published a shocking report on abusive policing and the failures to protect Indigenous women and girls in Northern British Colombia.[417] The Report found that women Indigenous women tried to report intimate partner violence to the police they were often met with skepticism and victim blaming attitudes.[418] Of service providers interviewed by Human Rights Watch, several noted that RCMP officers were dismissive of Indigenous women reporting intimate partner violence and lacked the understanding or appreciation for the barriers that make it challenging for women to leave abusive situations, often blaming the women's alcohol consumption or drug use as a justification for the abuse, with one officer reportedly telling a victim "You're pretty much asking for it when you're high on that stuff."[419] In the 2019, National Inquiry into Missing and Murdered Indigenous Women and Girls, police brutality of Indigenous women was repeatedly raised and dismissal and disbelief were repeatedly raised, with many witnesses discussing their reluctance to reach out to the police for help.[420] In the Report it was stated that "This long-standing indifference from the police, which many survivors remembered based on the police response to the violence experienced by their parents or grandparents when they were children, understandably continues to shape the perceptions Indigenous Peoples hold of the

criminal justice system, and police in general."[421] This was also echoed by the Canada Director of Human Rights Watch who stated,

> There is still this, sort of, overarching prevalence of a fractured relationship. And, that has to do with both history, it has to do with certainly settler colonialism, it has to do with racist assimilation policies with the residential school system, but it also has to do with current policing failures."[422]

In 2019, Michelle Decker et al. explored the intersection of race and gender inequities and how they discourage women from reporting violence to law enforcement.[423] Of the participants interviewed, Decker found that many women "attributed the disregard they experienced and observed in police interactions to a lack of concern for their well-being and that of their communities."[424] Participants were very aware of the power differential between themselves and the police and noted that this dynamic paralleled the abuse the victims were trying to leave and prompted many women to adopted a survival based deference that limited their ability to seek justice.[425] Overall, Decker concluded that:

> "The utility of the intersectional framework is evidence; for Black women survivors of IPV, the consequent layering of IPV related trauma and power disparities with their perpetrators, coupled with race-related concerns about police power disparities, created unique barriers to engagement with police following violence experiences. This barrier was not discussed by any White study participants."[426]

Survivors, especially racialized and Indigenous women, often choose not to report sexual or intimate partner violence because they fear police bias, disbelief, or discriminatory treatment. Systemic racism, over-policing, under-protection, and negative past experiences create deep distrust, leaving victims afraid that reporting will result in further harm, victim-blaming, or criminalization. Research consistently shows that police are more likely to doubt, dismiss, or stereotype survivors who do not fit the "perfect victim," a pattern particularly acute for Indigenous

women who face disproportionate violence and entrenched colonial harms. Multiple inquiries, including Human Rights Watch and the MMIWG Inquiry, have documented police negligence, brutality, and discriminatory responses toward Indigenous victims, reinforcing long-standing community distrust. Studies also demonstrate that for racialized women, the intersection of race, gender, and police power disparities creates unique and significant barriers to reporting, barriers not experienced by white survivors.

iii. Prejudices Revisited: How Past Police Interactions Reinforce Barriers to Reporting Sexual Violence

Prior involvement with police is also a significant barrier to reporting subsequent victimization, particularly sexual violence.[427] Statistics Canada reported that 9% of women were deterred from reporting their sexual assault to police due to prior unsatisfactory service from police[428] and as noted above, 89% of survivors interviewed in the 2025 Ombudsman Report, who did not report stated that they were influenced by seeing how other survivors had been treated by police.[429] Further, Prochuk noted that several her participants also recounted incidents of serious mistreatment by police.[430] Concerns over mistreatment is heightened when the woman is marginalized, suffers from addiction or mental health concerns, or is involved in sex work.[431]

For Indigenous women, there are genuine concerns over police brutality and the risk that they will experience sexual violence from police officers, the very people who are paid to protect them.[432] Human Rights Watch found that in half the towns studied, allegations of rape or sexual assault by police officers were reported to the researchers.[433] Fear of retaliation, a frequent reason why women and girls do not report police abuse in general, is compounded by fear of stigma and feelings of shame in cases of sexual abuse.[434] Numerous women reported being taken to remote locations and raped by multiple police officers and threatened.[435] In 2012, a civil action was

brought by a woman who accused members of the RCMP of arresting her, taking her to a basement where they physically and sexually abused her. Multiple women reported being sexually assaulted in cells by police officers.[436] In 2015, eight Quebec provincial police were suspended with pay due to numerous reports of abuse and physical and sexual assaults of Indigenous women.[437] Pamela Palmater noted that:

> "A common theme throughout the [Human Rights Watch] report was the fear of retaliation by the police if these children and women spoke out. The fear was so acute that the investigators likened it to the fear women have in post-conflict countries where state abuses are rampant: the palpable fear of the police was accompanied with a notable matter of fact manner when mentioning mistreatment by police, reflecting a normalized expectation that if one was an Indigenous woman or girl police mistreatment is to be anticipated … those that attempted to file complaints against the police have not received justice. after many decades of this kind of behaviour, it is no wonder Indigenous women and girls are fearful of the police and hesitate to call them when they need protection from violent partners."[438]

While the focus of this research is on sexual and intimate partner violence within relationships, and not state perpetrated sexual abuse, it is important to discuss the systemic abuse Indigenous women experience by law enforcement to understand why they choose not to report their victimization. If the people in charge of protecting victims, protecting communities, and upholding the law are actively raping Indigenous women, how can anyone trust that the system is going to be responsive to other forms of abuse?

iv. Policing Silence: How a Lack of Trust in Police Responses Keeps Victims from Coming Forward

A lack of trust in police is also a significant barrier for women deciding whether to report sexual and intimate partner violence.[439] Many survivors know police have beliefs and attitudes grounded in rape myths and this lack of trust erodes the likelihood that victims will report crime.[440]

Racialized and marginalized women have even less trust in law enforcement, which reduces further reduces the likelihood of reporting.[441] Prochuk found that "53% of sexual assault survivors … in three Canadian cities indicated that they were not very confident or not at all confident in police, as did fully 67% in the Northwest Territories. In many cases, such attitudes stem from previous police failures to provide effective service, either to the survivors themselves or to people they know."[442] These findings were echoed in the data gathered by Statistics Canada which found that 57% of victims chose not to report because they did not want that hassle of dealing with the police and 23% who believed the police would be bias, signalling a significant lack of trust in police responses to sexual violence.[443] In a 2022 study conducted by Katherine Lorenz, 64% of participants cited a lack of trust in police.[444] Of the 11 participants interviewed by Dylan et al., only one described a positive experience when reporting the same child abuse case a second time, a decade after it had initially been dismissed.[445] The remaining participants reported interactions marked by disrespect, dismissal, and professional inadequacy, highlighting the ways police contact can erode trust and exacerbate the trauma of victimization.

It bears repeating that law enforcement is often the first point of contact for survivors of sexual or intimate partner violence, and that this interaction profoundly shapes their future trajectory, their healing, their sense of safety, and their understanding of what justice can look like. When study after study demonstrates that women do not trust police to listen, to believe them, or to treat them with dignity, it is unsurprising that reporting rates remain so low. We routinely ask why women are not reporting, and researchers have repeatedly answered this question: the barrier is, in large part, the police response. Yet despite this well-established finding, no meaningful systemic transformation has followed. Police training has not been overhauled. Investigative practices remain largely unchanged. The handling of sexual and intimate partner violence continues to

reflect entrenched paternalistic and patriarchal assumptions about women's credibility and needs. Societal narratives insist that police will protect survivors and that justice will be delivered, but the structural realities tell a different story, one in which institutions benefit from women remaining silent, compliant, and unsupported. Until these systemic issues are addressed, the burden will continue to fall on survivors, and the cycle of under-reporting will persist.

v. A System Failing to Learn: How the Absence of Comprehensive Education on Sexual Violence Affects Police Interactions with Survivors

The lack of training and education law enforcement receives in order to adequately and appropriately respond to reports of sexual violence is a significant cause for many of the previously discussed barriers.[446] Quite simply, law enforcement officers are not trained to respond to victims of sexual violence in any meaningful way, despite decades of legislative reform and training.[447] Interestingly, even in jurisdictions that offer specialist training to deal with sexual offences, research has found that police officers with specialized training did not substantially differ in their levels of blame attributed to victims.[448]

The theme of inadequate training emerged in several interviews conducted by Prochuk. She found that several participants "expressed concern that many police and other justice system staff have not been "trained very well or for very long" on "trauma-informed" practice and the appropriate handling of sexual assault cases."[449] In fact, training on the impact of trauma on a victim has only recently been incorporated into police training in Canada.[450] Specifically, in one interview conducted by Prochuk, a participant commented that "she felt like a "guinea pig" because one of the police officers involved in her case was still in training. She proposed that people with lived experience of sexual assault should be involved in the training of justice system staff."[451]

Another participant in Prochuk's study suggested that "police training on sexual assault should demand significant engagement and effort and should resist a box-ticking model where you barely pay attention and you get your gold star at the end and you say you did it."[452] This theme was also present in the study conducted by Murphy-Oikonen et al. where participants noted communication from police as "mechanical, insensitive, lacking empathy, and lacking compassion."[453] Others who have focused on the inadequacy of training for law enforcement note that there should be improved training on good report writing,[454] communication,[455] and investigative techniques.[456] Other women reported that the questions asked by police, the body language of the officers, and the dismissive attitude of the officers also increased the appearance of insensitivity when reporting.[457] These experiences signal that officers also need better training on how to interact with victims. Specifically, Murphy-Oikonen et al. found that:

> "police officer's approaches to victims, their investigative techniques, and interviewing skills are deemed ineffective by survivors given the limited training available to police officers in interview skills and the impact of trauma on victims … there is considerable variability in police training based on jurisdiction or geographical location, reflecting uncertainty in the quality of training for police officers."[458]

Additionally, although officers receive basic training, this training is short often between 3-9 months with restricted opportunities for specialized sexual assault training.[459] While specialized sexual assault interviewer training does exist in Ontario, this training is only for a select group of officers and trauma-informed interviewing is absent from the curriculum.[460] However, several studies have found that despite additional specialized training, officers attitudes towards sexual assault reports remain unchanged.[461]

In another study, Murphy-Oikonen et al. focused their research on the barriers police officers face in effectively investigating sexual assaults.[462] Many officers surveyed highlighted the lack of, or

inadequacy, of sexual assault specific training that left them feeling a "lack of confidence in their ability to do a good and thorough interview when responding to sexual assault reports."[463] Many officers noted that they began their policing careers in their early 20s and did not have much exposure or experience to dealing with victims prior to joining the force. Some officers also noted that the location to which they were assigned had a dramatic impact on the development of their interview skills and exposure to sexual assaults. One officer noted that "in communities with low call volumes, learning about sexual assault was lessened, unfortunately by pure luck of the draw you could go through your entire training period and never even respond to a sexual assault investigation."[464] This type of situation is likely heightened in rural communities where individual barriers to report are so prevalent leading to a reduction in the total volume of reports made.

When discussing the training they received with respect to sexual assault and victim interview skills the majority of participants note that the training was

> "'very, very brief.' 'very minimal', and 'inadequate.' They disclosed that the content related to sexual assault was 'lumped together with other things' and did not include important areas such as victim interviewing, the impact of trauma, how to set up an interview room, how to ask uncomfortable questions, how to deal with difficult emotions, or how to interview children."[465]

Further, many officers noted that during basic training they assumed that sexual assault investigations would be transferred to investigators with actual training in sexual assault. However "not all police services have specialized investigation units, particularly among rural officers or detachments with human resource limitations."[466] The challenges faced by police officers in rural communities was noted by several participants who were stationed in small remote communities where there was often only one officer in the community at a given time. Murphy-Oikonen et al found that:

> "These officers struggled with knowing that they required further training in sexual assault but leaving the community for training would cause considerable challenges in providing effective service. A rural police officer disclosed the difficulties in attaining training, "*the nightmare is in trying to get training for uniform officers now. That means you are pulling them off the road for the 12-hour shift, then that platoon is short, I mean, it is a real balancing act"*. Geographical challenges also included increased costs associated with substantial distance to the nearest training opportunity."[467]

In larger urban centres, who receives reports of sexual violence may vary. However, in rural communities where law enforcement resources are limited, many victims are forced to report to a member of law enforcement who does not have the knowledge or training to receive such a report in a trauma-informed way. This causes many victims to make the choice to not report at all. Therefore, it is imperative that education and increased training for officers, particularly rural law enforcement receive intensive training on how to respond to victims of sexual violence. Although some studies suggest that specialized training did not reduce the myth based reasoning used by officers, if officers receive the training early enough in their career and repeatedly throughout, there is hope that harmful victim blaming attitudes can be at the very least reduced among law enforcement

D. Conclusion

This chapter highlighted the profound ways in which institutional responses, particularly policing practices, actively silence victims of sexual and intimate partner violence. While individual fears and social pressures contribute to underreporting, systemic failures are often the decisive barrier. Survivors frequently encounter disbelief, victim-blaming, retraumatization, and invasive procedures, all of which compound the trauma of the original abuse. For racialized and Indigenous women, these failures are magnified by historical and ongoing patterns of discrimination, creating

an environment where reporting is often more dangerous than remaining silent. Trust in law enforcement is not simply eroded; it is nonexistent.

Mandatory charging policies, intended to protect victims and reduce officer discretion, reveal the limits of well-meaning reforms. In practice, these policies can strip survivors of agency, fail to address systemic bias, and even result in further criminalization of marginalized victims. Police are not properly trained to understand intimate partner violence dynamics or how to respond in a trauma informed manner. Further, this lack of training allows officers to use stereotypes, particularly regarding Indigenous women, that influence investigative decisions. Consequently, victims experience a complete lack of support at their most vulnerable moments. These outcomes reinforce fear and silence, perpetuating a cycle in which justice is inaccessible to those who need it most.

The prominence of these barriers highlights the urgent need for a justice model that prioritizes survivor safety, agency, and trust over rigid punitive measures. Trauma-informed, culturally responsive, and community-centered approaches are essential to address the structural inequities that shape reporting and police engagement. Integrating restorative principles offers a pathway to meaningful accountability, empowering survivors while challenging the systemic biases embedded in law enforcement and prosecution. Reform must go beyond policy on paper; it must center the voices and experiences of those most affected, ensuring that the justice system becomes a pillar of protection and healing rather than one more source of harm.

Chapter 6:
When Justice Falls Short: The Role of Courts and Crown Attorneys in the Underreporting and Mishandling of Sexual Violence Cases

A. Introduction

Although the criminal justice system is frequently depicted as the principal mechanism for ensuring accountability in cases of sexual and intimate partner violence, for many survivors it constitutes a source of fear, retraumatization, and profound alienation. Court proceedings are often invasive, public, and emotionally taxing, compelling victims to relive traumatic experiences under intense scrutiny, navigate complex and unfamiliar procedures, and endure protracted delays. [468] These systemic conditions, together with the widespread perception that the justice system is biased, dismissive, or inadequately equipped to address sexual violence, serve as significant deterrents to reporting and contribute to persistent barriers to justice in Canada. [469]

For many survivors, the courtroom functions less as a site of protection and more as a continuation of harm. Feminist scholars have consistently argued that the legal system was not designed to accommodate women's experiences, a reality that is especially apparent in sexual violence prosecutions.[470] The adversarial model is fundamentally misaligned with the emotional and safety needs of survivors. When institutions responsible for delivering justice instead reproduce dynamics of disbelief, powerlessness, and gendered inequality, the system itself becomes a significant barrier to reporting.

This chapter investigates how the policies, practices, and institutional culture within courts and Crown Attorney offices directly contribute to the underreporting and mishandling of sexual violence cases. It examines the inflexible implementation of mandatory prosecution policies, the exclusion of victim-centered alternatives, and the pervasive paternalism inherent in prosecutorial decision-making, each of which diminishes survivors' agency and erodes trust in the legal system. The chapter further explores how systemic bias, institutional discrimination, and harmful stereotypes silence victims, particularly Indigenous women, racialized survivors, and women with disabilities, who frequently experience both interpersonal and state-inflicted harm.

As outlined in previous chapters, when survivors anticipate disbelief, disrespect, retraumatization, or indifference, reporting ceases to be a viable path to justice and instead becomes a risk that few are willing to undertake. Recognizing this dynamic is crucial for exposing the limitations of the retributive justice system and for establishing the foundation for restorative, survivor-centered alternatives. This chapter frames these failures not as isolated incidents but as structural characteristics of a system fundamentally unsuited to address the needs of those most affected by sexual and intimate partner violence.

B. Mandatory Charging and Prosecutorial Discretion

i. Mandatory Prosecution Harms Victims that Want Other Options

In 2017, the Ministry of the Attorney General (MAG) published the "Crown Prosecution Manual"[471] (the Manual) which serves as a guidebook to Crown Attorneys in Ontario on how to appropriately screen and manage cases to ensure a consistent approach to prosecutions across

Ontario.[472] Of particular interest to this research is how MAG has directed Crowns to approach sexual and intimate partner violence.

The Manual allows Crowns to divert files towards community justice programs as an alternative to formal prosecution. The Manual notes

> "Community based sanctions hold an accused person accountable for criminal conduct by requiring the completion of rehabilitative programs that effectively respond to the nature of the offence and accused, and the local needs of the community
> …
> Accused persons participating in one of the programs must be willing to assume responsibility for the actions that lead to the criminal charge and be prepared to make meaningful amends. Once in a program, a plan will be created for the accused that will address the underlying cause that lead to the offence. Prosecutors must only consider community based sanctions if a reasonable prospect of conviction exists and must not impose additional requirements on the accused person as a precondition to offering an alternative to diversion."[473]

However, this alternative is not available for accused charged with sexual offences, including sexual assault. The Manual states that sexual offences pose "a serious threat to individual and public safety and must be prosecuted vigorously."[474] While this research agrees with MAG that sexual offences do pose a serious threat to individual safety, the fact that MAG does not require prosecutors to ask victims what they want, or how they wish to proceed in sexual offence matters is a serious issue and is illustrative of the larger issue of underreporting. In this framework created by MAG, victims are not given a voice. While MAG recognizes that "victims have the right to convey their views about decisions to be made that affect their rights under the Canadian Victims Bill of Rights and to have those views considered" this is not the reality in practice.[475]

Further, the use of community justice programs as an alternative to formal prosecution is presumptively ineligible for offences involving intimate partner violence.[476] Only in exceptional cases may a Crown refer an intimate partner violence offence to a community-based sanction program, and even then, it must be with the prior approval of the head Crown Attorney of the jurisdiction.[477] The motivation behind this is likely similar to that of mandatory charging policies, by creating a blanket prohibition against the use of community-based sanctions for intimate partner violence, victims are protected from bias from individual Crowns. However, if a victim wishes to pursue a community-based sanction, it may be deeply disempowering and retraumatizing to have that option categorically denied, particularly when the decision rests with a single Crown Attorney who may not fully understand the victim's needs or the benefit of diverting the matter.

In a Prosecution Directive on intimate partner violence published in November 2017, MAG directed that "Prosecutor must not withdraw charges solely based on the victim's request. The Prosecutor must consider all the circumstances. These victims may be reluctant to continue a prosecution and be under considerable pressure to seek the withdrawal of the charges."[478]

MAG's prohibition on using alternative resolutions for intimate partner violence, as well as the Directive forcing a prosecution to continue despite the victim's request not to proceed, is complex and troubling. This research recognizes that there are many instances where a victim may feel pressured by the accused, family, or the community to drop the charges and abandon the prosecution, which may place her into a harmful and more violent situation. However, this Directive is demonstrative of the barriers that many victims face in the criminal justice system.

Even when victims voice that they do not want to proceed with the prosecution or that they would prefer a form of restorative justice, MAG has stymied their voice and ability to choose.

Further, in situations where a victim refuses to testify or recants her statement, the decision to proceed with the prosecution is still controlled by the Prosecutor assigned to the file.[479] In the intimate partner Directive, MAG explicitly states, "In cases where the victim recants or refuses to testify, the Prosecutor must consider the reasons for the recantation or refusal. The Prosecutor must consider whether the case can be proven using other evidence and the appropriateness of an adjournment."[480] At the same time, there are situations where a victim refuses to testify or recants her statement out of fear; the root of that fear is the issue to be addressed. That issue is not adequately addressed through the retributive framework. Based on the research discussed in previous chapters, a victim's fear is often rooted in a lack of confidence in the system to keep her safe or provide meaningful support. Proceeding with a prosecution is not how she is kept safe because statistically, the perpetrator will be found not guilty, or if he is, he will not be serving a custodial sentence, leaving the victim at risk.

The mandatory prosecution approach outlined in the Crown Prosecution Manual and Intimate Partner Violence Directive raises significant concerns, particularly regarding the erasure of victims' agency in cases of sexual and intimate partner violence. While the Manual and Directive aim to protect victims from external pressures from the perpetrator, family, and community, it paradoxically reinforces a paternalistic system that denies survivors the right to determine their path to justice. Categorically excluding sexual and intimate partner violence cases from alternative resolutions perpetuates a one-size-fits-all model rooted in a patriarchal view that the system knows

what is best for all. However, this belief fails to recognize survivors' diverse needs and wants. The approach taken by MAG overlooks the complexities of intimate partner violence, ignoring situations where survivors may want to seek justice outside of the retributive framework. This research argues that a genuine victim-centric approach could acknowledge the dangers of coercion while also creating a safe space for victims to make informed choices about how they wish to address the harm experienced. Reforming these policies to incorporate meaningful survivor input and restorative options would mark a significant step toward a more equitable and trauma-informed legal system.

C. Failing Survivors: Inadequacies in the Criminal Justice System

i. From Frustration to Silence: Criminal Justice System's Failures Lower Survivors' Confidence

In 2024, the Department of Justice published a report on the Perceptions of and confidence in Canada's criminal and civil justice systems.[481] Of the 4,487 people surveyed, 48% were not at all confident in the criminal justice system, with 32% being only moderately confident.[482] Only 13% of women felt that the criminal justice system was fair to all people and only 20% of women reported that they were confident that the system was accessible to all people.[483]

Statistics Canada reported that perceptions of the court process were often cited as a reason for not reporting sexual assault.[484] 42% of participants in the survey who were sexually assaulted cited fear of the court process or not wanting to deal with the court process as a reason for why they did not report.[485] It was noted in the Statistics Canada report that this "hesitancy may be based on past experiences, the experiences of others, or a fear that expectations will not be met, and the process will not ultimately be worthwhile or could perhaps cause additional harm."[486]

The findings from the Department of Justice and Statistics Canada underscore the broader impact of systemic barriers within the criminal justice system for victims of sexual violence. When nearly half of the survey respondents express no confidence in the criminal justice system, and a small percentage of women believe it is fair or accessible, it reflects deep-rooted issues that extend far beyond individual experiences. These perceptions and the lived experiences behind them serve as powerful deterrents to reporting, as evidenced by the 42% of sexual assault survivors who cited fear or avoidance of the court process as a reason for not coming forward.[487] This is significant, as almost half of victims made the decision not to report an incident of sexual violence because the justice system, which was designed to protect them and hold perpetrators accountable, caused them more fear. The anticipation of being disbelieved, retraumatized, or further harmed by a complex and unresponsive system discourages engagement and reinforces silence.

Further, Statistics Canada found that 43% of victims did not report a sexual assault because they felt the offender would not be convicted or adequately punished.[488] These statistics signal how profound the lack of confidence in the criminal justice system is. The criminal justice system's total failure to adequately respond to victims creates a vicious cycle of inefficiency and mistrust, in which harm is left unaddressed and is continuously compounded, undermining the very purpose of the justice system.

ii. The Patriarchy Within: How Institutional Discrimination and Bias Perpetuate Gender Inequality in Sexual Violence Cases

The presence of institutional discrimination and bias, particularly for Indigenous and non-white female victims is a glaring problem that has led so many victims to make the decision to not report. Prochuk noted that "Canada's criminal justice system as an extension of colonial violence. Some perceive a glaring gap between the legal system's treatment of sexual assault committed against Indigenous women and girls and the understandings of these forms of violence in Indigenous law and by Indigenous communities."[489] In a 2008 study that focused on Indigenous women's experiences in the court process, many raised racism and bias with participants noting racism permeated their interactions with the legal system in various degrees depending on the judicial players.[490]

Prochuk noted that this fear of institutional discrimination and bias is not only experienced amongst Indigenous women but also non-Indigenous people of colour. Prochuk noted that victims are likely to "consider the track record of police and the courts when deciding whether to engage with the criminal justice system after experiencing sexual assault. They are often well aware of criticisms of police handling of crisis situations involving members of their communities."[491] In her research, Natasha Bakht stated that "Racialized and Aboriginal women are similarly caught between a rock and a hard place as they negotiate their positions in a world that conveniently erases colonial and racial aggression in its attempt to combat sexual violence."[492] As Elaine Craig argued, "The trial process, which is largely designed and operated by able-bodied white people, is even worse for disabled, racialized, and Indigenous complainants."[493] The criminal justice system was not created with the needs of women facing violence in mind, and it is even less prepared to protect women like Indigenous women, who experience violence from both intimate partners and the state.

For these women, the system can offer some protection, but it is also a source of surveillance, punishment, and discrimination. This often reinforces the same power structures that allow their victimization. Facing harm from both offenders and the state shows that the system's supposed neutrality actually hides deep colonial, racial, and gender biases. Because of this, Indigenous women often find that the justice system not only fails to support them but also increases their vulnerability, making real safety and accountability very difficult to achieve.

iii. The Weight of Bias: How Fear of Stereotyping in Court Deters Survivors from Seeking Justice

Stereotypes in sexual assault cases create an atmosphere of mistrust and judgment toward survivors and perpetuate harmful myths about how victims should behave, which causes survivors to fear being disbelieved or blamed.[494] The stigma attached to these biases encourages victims to stay silent, as they fear their character or actions will be unfairly scrutinized. Further, the risk of being retraumatized by the criminal justice system and the inherent biases within the system make the prospect of pursuing justice feel futile, silencing victims and perpetuating underreporting.

In her report, Prochuk noted that "when criminal justice system actors apply stereotypical or ethnocentric filters to their dealings with sexual assault complainants, significant unfairness can result. In sexual assault trials, judges may assess the credibility and reliability of witnesses (including sexual assault complainants) using so-called 'common sense,' a flawed approach when working with people whose worldview, culture, and life experience do not align with dominant Canadian norms."[495]

These stereotypes and common sense approach that is used in the criminal justice system in Canada often deters ethnically diverse women from reporting. For example, Prochuk commented that sometimes court regulations and procedures lack cultural safety for complainants. For instance, in 2012, the Supreme Court of Canada, in *R v N.S.,* held that it is up to the trial judge whether women who wear a niqab would be required to remove the niqab and reveal their whole face while testifying.[496] For women who wear a niqab, the uncertainty surrounding whether they would be required to remove it can be a significant factor when deciding whether to report. Specifically, Prochuk noted that "the demand that Muslim women wearing the niqab reveal their whole face to testify can make the already-stressful court process feel even more unsafe; such a requirement can be experienced as stigmatization and discrimination on the basis of religion and culture."[497]

The fear that, as a victim, they will be stereotyped or discriminated against during the court proceeding is another significant barrier women, particularly those with a disability, face. Prochuk noted that "the threat of being stereotyped and treated unfairly can also create barriers to reporting for other groups of women…Discrimination can also lead to unfair assessments of the credibility of women with disabilities, particularly those women whose disabilities affect their communication or cognition and who experience multiple layers of marginalization."[498]

The fear of being stereotyped and discriminated extends to the judiciary. Although judges have a duty to intervene to protect complainants from irrelevant cross-examination and the use of myths or stereotypes, there have been countless instances where judges have been sanctioned for permitting, using, and promoting the use of harmful myths and stereotypes.[499] For example, due to the complex and intricate nature of s.276 and s.278, trial judges struggle to consistently prohibit the illegitimate use of other sexual activity evidence of the victim.[500] In more extreme examples,

judges have explicitly blamed the victim for her sexual assault, such as Justice Camp who told the 19 year old victim that pain and sex sometimes go together and asked her why she didn't just keep her knees together.[501]

iv. The Harm of Indifference: How Crown Attorneys' Behavior Toward Victims Reinforces the Silence Around Sexual Violence

Poor communication with the justice system is a significant impediment to reporting sexual violence.[502] Participants in Prochuk's interviews stressed the importance of proactive communication with the justice system. Prochuk summarized their comments by stating "These women wished to be kept in the loop about the progress of their cases rather than having to devote significant time and energy to tracking down information themselves. They tended to agree that a lack of information can exacerbate the stress involved in reporting, contemplating reporting, or navigating the system"[503]

In a 2006 survey published by the Department of Justice, 112 victims were interviewed on their experiences with the criminal justice system.[504] Most victims interviewed experienced sexual assault, assault, assault causing bodily harm or uttering threats.[505] 75% of victims surveyed knew their accused with almost 40% of victims reporting that they had a current or former intimate relationship with the accused.[506] In this survey, victims were asked about what types of assistance they received, 53% reported receiving counselling and 36% reported that counselling was the most helpful assistance they received, as "victims believe that this support enabled them to get through the initial shock of the crime and to cope with the subsequent fear and trauma."[507] The survey also inquired about the information victims received about their role as a witness, the role of the Crown Attorney, and the criminal justice system process. 30% of victims were not aware of their role as a witness in the proceeding, 34% did not understand the role of the Crown Attorney, and 43% did

not understand how the criminal justice system process worked in general.[508] In addition, 40% of victims were not informed when the accused person pled guilty and only 50% of victims were informed of any plea agreement.[509] Of the 112 victims surveyed, only 13 had positive comments about the Crown Attorney. Of those that expressed dissatisfaction with the Crown's office noted that "they did not understand the court procedures and wanted more explanation from the Crown Attorney; they had several different Crown Attorneys; they wanted more contact with the Crown Attorney; or they felt that the Crown Attorney was unprepared."[510] Further, 20% of victims felt that the system overall does not treat victims with respect. Specifically, the surveyed victims reported that they "felt ignored by the system and believe that a lack of understanding and compassion permeates the criminal justice process. The words "respect" and "dignity" were often used when describing how victims wished they were treated. A few felt treated as if they were accused, or believed that the system judged them on the basis of their race or what they did for a living."[511]

Interestingly, in the same survey, justice system participants were also asked what their responsibilities to the victims are. See results in table below[512]:

TABLE 43: WHAT IS THE CROWN ATTORNEY'S RESPONSIBILITY TO VICTIMS?[20]	
Responsibility:	**Crown Attorneys (N=188)**
Inform victims of the status of their case	46%
Explain the criminal justice system	40%
Listen to or consider the victim's views	25%
Act in the public interest	15%
Treat victims with respect	14%
Obtain information from the victim	10%
Prepare victims for testimony	9%
Explain Crown Attorney decisions	8%
Convey the victim's views to the court	6%
Ensure victims are not re-victimized	5%
Other	3%
No response	11%
Note 1: Open-ended question. Note 2: Respondents could provide more than one response; total sums to more than 100%.	

The results of this survey highlight a troubling disconnect between how the justice system sees its role and the needs of victims. However, these results help explain why so many women report feeling silenced by the system. The fact that over half of Crown Attorneys surveyed did not view it as their responsibility to keep victims informed about their case reflects a lack of transparency and accountability, which can leave victims feeling powerless and excluded from the process.[513] Even more alarming is that 75% did not believe they needed to consider the victim's perspective, suggesting a systemic disregard for the victim's voice and what justice would mean for her.[514] Indigenous survivors expressed significant dissatisfaction with the information they received and their role in the criminal process.[515] The majority of Indigenous participants surveyed by Dylan et al. described a lack of information and a general sense of being uninformed with was often "compounded by being misinformed about both the justice system and support services. Many participants felt that a clear knowledge of the court process would have made the protracted course easier to endure."[516] It was found that many participants did not know how the judicial system worked or what support services were available to them. This lack of information is a "critical

issue that can precipitate feelings of powerlessness or lack of control over one's destiny, which can have serious implications for victim resolution and recovery."[517]

However, as noted at the beginning of this paper, the criminal justice system was not built to manage the idiosyncratic needs of every victim, nor was it designed to recognize the impact of colonialism on Indigenous survivors, so these results, in some respects, are not surprising. What is surprising is how surveyed Crown Attorneys lacked a basic understanding of taking a trauma-informed approach to such a personal violation as sexual and intimate partner violence. Further, the finding that 86% did not see treating victims with respect as part of their role underscores a broader culture of indifference or even hostility within the system.[518] These results underpin why so many women fear being ignored, disrespected, or retraumatized by the legal process. The attitudes portrayed in this survey reflect the reality that the criminal justice system feels inaccessible and unsafe for many survivors and reinforces the perception that reporting will not lead to justice, support, or healing.

D. Conclusion

For victims that do report, the criminal justice system in Canada continues to fail victims of sexual and intimate partner violence through a combination of exclusionary policies, systemic delays, and a culture that routinely marginalizes survivors' voices. The rigid application of mandatory prosecution, the categorical denial of access to restorative or community-based alternatives, and the lack of consideration for victims' preferences underscore a paternalistic framework that deprives survivors of agency. Coupled with staggering levels of public distrust, particularly among

women, and procedural delays that can result in stayed proceedings, the system not only retraumatizes victims but also deters many from coming forward in the first place. This failure is compounded by the behavior of some Crown Attorneys, whose lack of communication, compassion, and respect further alienates survivors and diminishes faith in justice. What emerges is a picture of a justice system that prioritizes procedural formalism and retribution over trauma-informed, victim-centered approaches. To create a system that is genuinely responsive to the needs of survivors, reform must go beyond surface-level fixes and fundamentally reimagine justice in ways that restore dignity, promote healing, and respect the autonomy of those who have experienced harm. This is the focus of the following chapters.

Chapter 7:
The Root of Restorative Justice: An Overview of the Concept and History of Restorative Justice

A. Introduction

Restorative justice is an alternative approach to addressing the harm caused by patriarchal constructs of justice.[519] A restorative approach pivots the focus from the punitive sanctions found in the criminal justice system to goals of healing, community involvement, empowerment, and accountability.[520] This chapter will explore the meaning of restorative justice, delve into the history of restorative justice in Canada, and explore the legislation that has shaped the use of restorative justice in Canada. This chapter sheds light on restorative justice's potential uses and limitations in fostering meaningful resolutions for survivors, offenders, and communities.

B. Restorative Justice: Approaches to Accountability, Healing, and Repair

There is no single definition of restorative justice because what it is in theory and how it is conceptualized in practice are not straightforward.[521] Broadly speaking, it can be understood as "a process whereby parties with a stake in the specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future."[522] In reviewing the various iterations of the definition of restorative justice, key themes begin to emerge. The concept of responsibility and reparation of harm is present in the Government of Canada's iteration, which defines restorative justice as "an approach to justice that seeks to repair harm by providing an opportunity for those harmed and those who take responsibility for the harm to communicate about and address their needs in the aftermath of a crime."[523] Similarly, Community Justice Initiatives, focuses its conceptualization of restorative justice on addressing and repairing harm defining it as

"a way of addressing conflict and crime that enables the person who caused the harm, people who were affected by the harm, and the community to create a meaningful solution."[524] In their article, *Defining Justice: Restorative and Retributive Justice Goals Among Intimate Partner Violence Survivors,* Michele Decker et al. define restorative justice as a framework to repair harm and prioritize victims.[525] Decker et al. understand restorative justice as a process that is "centered on repairing harm; in doing so, it prioritizes victim needs while holding offenders accountable and can facilitate healing. Restorative justice models can involve formal and informal procedures meant to give voice to the victim and encourage reflection and rehabilitation for the offender."[526] The Canadian Resource Centre for Victims of Crime (CRCVC) includes the concepts of accountability and peace in their definition of restorative justice, which is envisioned as "a response to crime that focuses on restoring the losses suffered by victims, holding offenders accountable for the harm they have caused, and building peace within communities."[527] The CRCVC views restorative justice as an opportunity to create opportunities for victims, offenders and community members to discuss the crime, make amends and restore the fractured relationships within the community that were caused by the harm.[528] Howard Zehr, who is often thought of as the grandfather of modern restorative justice describes restorative justice as a process that helps

> "offenders to recognize the harm they have caused and encouraging them to repair the harm, to the extent it is possible. Rather than obsessing about whether offenders get what they deserve, restorative justice focuses on repairing the harm of crime and engaging individuals and community members in the process."[529]

These basic definitions and conceptualizations of restorative justice are important to understand when exploring the history of how restorative justice developed, how it is conceptually distinct from retributive justice, and how it can be used moving forward.

C. The Roots of Restorative Justice: A Look at its Historical Foundations and Evolution

According to Howard Zehr, restorative justice existed long before the emergence of the nation sate when "wrongdoing was primarily viewed in an interpersonal rather than a legal context. This era of community justice was far less systematic and generally had a restitutive character. The personal, customary and negotiated features of community justice were eventually replaced by a more institutionalized and centralized system of legal justice."[530]

In Canada, restorative justice processes are not a new concept to the justice sphere. Restorative justice practices grew its roots within early Indigenous practices that focused on the community as the centre for restorative justice.[531] Many Indigenous traditions believed that wrongdoings were communal problems to solve rather than legal issues and developed a system of "collective responsibility to respond to the harm caused by wrongdoing, involving a much wider web of relationships surrounding both offender and victim."[532] During early developments of restorative justice in Indigenous cultures, "restorative justice was primarily about opening the dominant system to greater citizen participation, especially for victims, and thereby moving criminal justice away from its hierarchical, adjudicative focus to a more balanced, participatory focus on resolving conflicts and restoring relationships."[533]

Restorative justice gained momentum in many First Nations communities as a direct response to their rejection of the mainstream retributive justice system.[534] Many Indigenous people view the current system as either disconnected from their cultural values and lived realities or actively harmful and overly harsh toward their communities.[535] Instead, restorative justice reflects the belief that justice can be better served when it's grounded in the community itself, using practices

that prioritize healing and restoration.[536] For many, community is at the heart of the restorative justice movement as it is believed that the community has tools and powers which the criminal justice system does not.[537] Further, the success of restorative justice is also centered within the community and is measured "by the degree to which they are truly grounded in the community, 'fit' with the culture of that community, and are effective at resolving conflict and encouraging greater peace and health in communities."[538]

According to the United Nations Office on Drugs and Crime, "one of the greatest harms perpetrated by European colonialism was replacing indigenous mechanisms of social regulation and belonging, with an abstract, law based system of state control and coercion."[539] The eradication of restorative justice practices during colonialism permitted common law traditions rooted in retributive practices to prevail in Canada, which removed any ability of restorative practices to take root in our legal landscape.

However, in 1974, the concept of modern restorative justice emerged in the rural town of Elmira, Ontario, when two probation workers who were assigned two youths responsible for a binge of vandalisms decided to bring the victims and offenders together to deal directly with the wrongdoing and discuss ways to repair the harm.[540] Following the success in Elmira, the Victim-Offender Reconciliation Program was established in 1978 and "provided the inspiration that led to other innovations in North America and beyond. As the program grew and developed over the following decades, it generated a new paradigm for thinking about a crime that eventually became known as 'restorative justice.'[541] According to Howard Zehr, for many Indigenous communities, the use of restorative justice "is a return to their original system of justice before colonization,

which ensured social stability while protecting and reinforcing values, integrity, and healing for the entire group."[542]

Restorative justice continued to gain traction through the late 1980s and 1990s. In 1996, the *Criminal Code of Canada* was amended to include section 717, which introduced alternative measures to divert matters away from traditional punitive sanctions. Alternative measures may "include Indigenous justice programs, restorative justice programs, family group conferencing, community accountability panels, and victim/offender reconciliation processes. Under these programs, an accused person accepts responsibility for the alleged criminal conduct and agrees to participate in and complete a course of action as an alternative to a criminal prosecution."[543]

However, in the 1990s Ontario, as well as several other provinces, implemented a moratorium on the use of restorative justice processes for sexual violence cases.[544] As restorative justice continued to gain popularity in the late 2010s, the government of Ontario announced in 2018, that "it was considering the use of restorative justice for cases of sexual assault, though no policy change was implemented."[545] Despite the lack of change to the moratorium, "the demand for restorative justice processes to respond to sexual and intimate partner violence continued to increase, with several cases publicly using RJ as an alternative method to the traditional criminal system. However, it was not easy for these victims to access RJ and often involved significant unwillingness on the Crown's part to agree to RJ."[546]

In 1999, the Nova Scotia Restorative Justice program was established to support restorative measures for youth in the criminal justice system.[547] However, in 2016, the program expanded to include adults as well. Unfortunately, since 2000, there has been a moratorium in place that

prohibits referrals to the program for cases involving intimate partner violence and sexual violence,[548] removing this as a viable option for victims across Nova Scotia. This moratorium was a result of a major study funded by the Status of Women Canada's Women's Program, which supported a number of women's groups which had concerns over the use of restorative justice for sexual and intimate partner violence.[549] Although there are concerns that applying restorative justice to cases of sexual and intimate partner violence could diminish victims' experiences, and not appropriately punish perpetrators, it is important to note that since moratoriums on such practices were introduced in the early 2000s, the criminal justice system has also failed to adequately respond to these issues, as demonstrated by the 0.3% conviction rates for sexual and intimate partner violence offences.[550] Interestingly, all other offences under the *Criminal Code* and the *Controlled Drugs and Substances Act* are eligible to be considered for referral except where otherwise barred by law. Even cases involving death, child abuse, and serious crimes against the administration of justice can be referred to this program in special circumstances.[551] It is interesting that the government can find circumstances appropriate to permit a child to engage in restorative justice with their abuser, but has determined writ large that a female victim of sexual and/or intimate partner violence should not be entitled to choose a restorative path.

In April 2015, the Canadian Victims Bill of Rights was assented to, which stated "every victim has the right, on request, to information about

> (a) The criminal justice system and the role of victims in it;
> (b) The services and programs available to them as a victim, including restorative justice programs; and
> (c) Their right to file a complaint for an infringement or denial of any of their rights under this Act.[552]

Interestingly, the Victims Bill of Rights did not provide victims the right to participate in restorative justice programs; it only provided information when they requested such information about restorative justice programs. However, as will be discussed later in this chapter, the legal system and the actors within the system do not fully understand restorative justice, when it can be used, and how it can apply, making this section of the Act superficially supportive of restorative justice.

In November 2015, the Government of Manitoba went further than the Federal Government did with the Victims Bill of Rights and enacted *The Restorative Justice Act.*[553] This Act authorized the use of alternative measures or extrajudicial sanctions in specified circumstances to deal with persons who have accepted responsibility for their conduct.[554] *The Restorative Justice Act* is the first provincial act to promote restorative justice and specifically outline the steps an offender may be required to participate in to be successful in the restorative justice program. For example, section 2(3) of the *Act* provides that "when an offender participates in a restorative justice program, he or she may be required to take steps to repair the harm caused by his or her unlawful conduct or to prevent future unlawful conduct, such as:

(a) Apologizing to the victim or other affected members of the community;
(b) Participating in mediation or reconciliation;
(c) Paying restitution;
(d) Engaging in community service work; or
(e) Participating in counselling, education, or treatment programs."[555]

D. The Restorative Justice Model: A Collaborative Approach to Justice and Healing

According to Howard Zehr, a leading restorative justice advocate, key assumptions behind restorative justice must be understood. According to Zehr, these assumptions are that crime

violates people and the relationship between people, that the objective of restorative justice is to identify the needs and obligations of those who cause crime and those who experience crime, that the way crime is addressed must be done in a manner that encourages dialogue and mutual agreement among parties; that the objective of this dialogue and agreement is to make things right; that the process gives victims and offenders central roles in the process; and that the success of the restorative process be judged by the extent to which responsibilities are assumed, needs are met, and healing, both of the individual and the relationships, is encouraged.[556]

In 2019, the Department of Justice released a Report on "Crime Victims' Experiences of Restorative Justice: A Listening Project."[557] While the researchers originally called for cases that involved intimate partner violence or sexual assault, most programs had never dealt with such a case or were no longer in contact with victims making data unavailable.[558] Despite lacking the perspectives from victims of sexual or intimate partner violence, the findings of this project are helpful to understand what victims value in a justice process.

The Report found that participants largely had needs that were not easily attainable in the criminal justice system, answers,[559] support and acknowledgement,[560] validation,[561] pro-social outcomes,[562] trust,[563] and having a voice.[564] The needs identified by participants closely align with Zehr's model for restorative justice. One of the major themes identified by participants in the Department of Justice report was the ability to choose. The Report noted that

> "Participants emphasized the need to be involved, included and given choices in the justice process concerning the crime against them, rather than having processes dictated to them by others… restorative justice programs were strongly and favourably contrasted with other parts of the criminal justice system, which were often perceived to decide "for" victims what they may or may not need…. Participants also reported

> regaining control by having a choice over bringing a support person to the facilitated dialogue… Process flexibility was strongly valued by participants."[565]

In 2022, Michele Decker et al. published an article "Defining Justice: Restorative and Retributive Justice Goals Among Intimate Partner Violence Survivors."[566] In this research, Decker et al. focused on exploring victim's justice preferences and recommendations through in-depth interviews of women who experienced intimate partner violence. Decker et al. found that a pivotal piece missing in the retributive framework is actually understanding what survivors want, which is essential to understand the "frustrations that stem from points of discord between survivors' own justice priorities and that of the underlying system."[567]

The ability to choose their justice process is essential for victims, especially for victims of sexual and intimate partner violence, which are deeply personal and complicated offences.[568] Zehr's assumptions of the restorative justice process and the needs outlined by participants in the Department of Justice study are the foundational building blocks of the framework proposed in this research. To further understand Zehr's assumptions, how they align with the needs identified by the Department of Justice study, and how they can apply to the use of restorative justice in the context of sexual and intimate partner violence, the following subsection explores the five R model developed by the Conflict Center: relationship, respect, responsibility, repair, and reintegration.[569]

i. Building Bridges: The Central Role of Relationships in Restorative Justice

Relationships are at the root of all social interactions; they are how we form attachments to people and communicate with one another. Relationships are how we exist in society. However, when a woman experiences sexual and/or intimate partner violence, the relationships around her are

fractured, not just with the perpetrator but also her relationship with the system, other relationships of trust, and her relationship with herself. These damaged relationships are at the heart of the restorative justice process.[570] By employing restorative practices, these relationships can be mended through dialogue and mutual agreement, as suggested by Zehr. Once the person who caused the harm can take accountability for their actions, these fractured relationships can begin the healing process.[571]

The Department of Justice found that support and acknowledgement was extremely important for victims reestablishing or building relationships through the restorative process.[572] Several participants noted feeling disappointment from other professionalized supports and appreciated the personalized support and connection provided by the restorative justice practitioner. Specifically, one participant noted that

> "receiving an initial contact from the restorative justice program as the first time in the justice process that someone seemed to express care about her experience of victimization and a desire to know how she had been impacted. The need for support was often experienced as an independent benefit of the restorative justice process, sometimes surpassing any outcomes (positive or negative) of the encounter with the offender."[573]

Further, the Department of Justice study found that participants chose to engage in the restorative justice process because they wanted the offender and/or others to listen to the impact the offence had on the victim. Specifically, the Report noted that story telling and expressing emotion, key elements of building relationships, were flagged as a benefit by participants.[574] There is little opportunity in the criminal justice system to express emotion, apart from victim impact statements. Specifically, participants noted,

> "the opportunity to have this emotion and experience heard in a meaningful way was perceived as limited—there was little trust that talking about the impact would be appreciated by justice stakeholders

> within the mainstream justice system, and additionally there was little confidence from participants that they would be adequately heard by those close to them."

ii. Respect in Restorative Justice: Fostering Healing and Understanding

There cannot be restoration without respect: respect for the process, respect for the individual harmed, for the individual who caused the harm, and for the community.[575] Parties involved in a restorative process must respect themselves and everyone else at all stages of the process. It is imperative to have respect during the process for restorative justice to be effective.[576] Even if disagreement exists, participants must respect one another, try to understand their perspective, and focus on the goal of restoration by ensuring the process remains safe.[577]

A dominant theme that emerged through the Department of Justice Report was a victim's need for information to understand why the harm occurred. Understanding why the harm occurred and an offenders ability to respect a victim's need to receive answers for their questions is an important element of a restorative justice model. The Report stated that "many participants became interested in restorative justice, even if initially reluctant, because of a desire for information and answers to questions."[578] Victims wanted to know why the person committed the crime and why they were chosen as the victim[579] and gravitated to restorative justice because of the answers they could not obtain from the criminal justice process. The Report found that "Low trust was generally placed in the criminal justice system as a means to gain this type of information. As one participant reflected, "I knew I was unlikely to learn anything [about the offender] through the criminal justice system."[580] Questions about why someone committed a crime is often not directly answered in a criminal trial. Even if the accused is found guilty, victims are likely never to understand the <u>why</u> which can be essential for healing from the trauma.

To ensure respect is carried out throughout the restorative justice process, facilitators and community members have a special responsibility to support all parties in the process, even at times of disagreement, to remind why they engaged in the process, and realign parties on the mutual agreements and goals they have identified.[581]

iii. Owning the Harm: The Role of Responsibility in Restorative Justice

One of the primary objectives of the restorative process is responsibility.[582] According to the Conflict Center, for effective restorative justice to be possible:

> "Everyone must grapple with their own personal responsibility … everyone is honest with themselves and searches deeply in their hearts to discover how they might have had a hand in the matter. Even if the harm was unintentional, the person who caused harm needs to take responsibility for their actions. Ultimately, taking responsibility needs to be a personal choice and cannot be imposed on someone unwillingly."[583]

Responsibility is a crucial element of the restorative justice framework. As noted by the Conflict Center, even if the harm caused was unintentional, that unintentionality does not diminish the harm caused or the collective feelings of the community in which the harm was caused.[584] It is challenging for many to accept responsibility for unintended harm, as it is often easier to blame the person who experienced it.

The Department of Justice Report found that validation and encouraging offenders to take responsibility was an important motivation for victims to engage in a restorative justice process. Specifically, the Report found that:

> "Participants expressed an unequivocal need to experience the recognition of others that what happened to them mattered and were disillusioned

> where this did not occur. For some this included a deeply unsatisfying police response, and for others the perceptions of a "revolving door" quality of the justice system that did not adequately hold offenders accountable to change their behaviour.
> …
> Many participants alluded to experiencing a sense of meaningful justice from their participation in restorative justice. One participant reported having the opportunity to express strong emotions, including anger, during the dialogue with the offender; to challenge the offender's responses, "which freed me and gave me a sense of security. I liked being able to ask those hard questions." Another participant reported satisfaction at being able to "to look them in the eye and try to make them accountable for what they did." For many if not all participants, the need for vindication was linked more to themes of reparation than to themes of punishment: e.g., "I want justice; pay for what they damaged and that's it. I don't want them to go to jail." Some participants said that without the restorative justice program they would have received "nothing" from the system with respect to the crime against them."[585]

Accepting responsibility may be particularly challenging in the context of intimate partner violence when the perpetrator may not recognize how his actions have caused harm to the victim and feels as if he is blamed for her reactions. In the IPV context, this recognition and responsibility often require deep work from all participants but are fundamental components of the restorative framework.

iv. From Harm to Healing: The Role of Repair in Restorative Justice

Once respect has been established and the person who has caused harm has taken responsibility for the harm, the next step in the restorative process is repairing. According to the Conflict Center this means that:

> "The person who caused harm is expected to repair the harm that they did to the fullest extent possible, knowing well that not all of the harm can be repaired. The repair principle replaces thoughts of revenge and punishment, instead focusing on moving forward in a more positive direction. It is through working to repair the situation that the person who caused harm is able to regain their self-respect and respect for others."[586]

Rebuilding and repairing trust and relationships was a key theme raised by participants in the Department of Justice Report. Many described feelings of trust and safety within their community being destroyed as a result of the crime. A handful of participants described

> "feeling betrayed by bystanders' lack of response during the crime. Sometimes the decision to participate in restorative justice was motivated by attempts to restore a more trusting relationship toward the community. Some participants spoke of an underlying desire to relieve their isolation and to feel connection with others and community… For others, loss of trust was more specific to the offender, and restorative justice represented an attempt to resolve lingering concerns about the offender's intentions."[587]

Further, in her research, Decker et al. found that many women flagged healing as a desired outcome. Decker found that the desire for healing was often characterized as needing change or transformation, whether it was a shift in the perpetrator's behavior, a healthier relationship with their partners, personal growth and independence, or breaking the cycle of violence in society. These conversations highlighted the survivors' unwavering optimism for change.[588]

v. The Path to Reintegration: Restorative Justice to Reconnect and Restore

The final step in the restorative process is reintegration. According to the Conflict Center,

> "Reintegration encourages collaboration of the community and the person who caused harm rather than turning toward coercion and isolation. This process recognizes the assets the person who caused harm brings to the table and what they have learned through the process. By accepting responsibility and agreeing to repair the harm, the person who caused harm creates space and trust to be reintegrated into the community."[589]

Reintegration in a restorative justice process can take many forms, depending on the harm caused. However, meaningful reintegration must focus on supporting the person who caused harm and the affected individuals in rejoining their communities meaningfully and constructively. Rather than isolating or stigmatizing those involved, which often occurs in the retributive process, restorative justice may include community support, counseling, skill-building programs, and opportunities for making amends.

Many participants in the Department of Justice Report were motivated to engage in the restorative justice process because they wanted to contribute to a pro-social outcome for the person who caused harm. Many participants

> "expressed a desire to see offenders (especially youth) "turn their lives around" and wanted to contribute to that person making better choices. One participant recalled thinking, "I wanted him to be transformed, not punished." Another said simply, "I felt an instinct to help the offender." Some participants expressed gratitude that offenders had a chance to stay out of the more formal system, be accountable and possibly have a chance to make better decisions moving forward. Rehabilitation and reintegration goals were emphasized especially in discussions around Indigenous and marginalized communities, in light of the over-incarceration of these populations in Canada."[590]

Decker et al. found that survivors often felt that their desire for rehabilitation for the perpetrator did not always mean incarceration, as many participants in Decker's study noted, "jail itself is not conducive to achieving remorse or regret for actions, nor does it afford rehabilitation to support new, healthy means of interaction post-incarceration."[591]

By fostering understanding and providing pathways for growth, reintegration helps prevent further harm, encourages personal transformation, and strengthens community relationships.

E. Conclusion

Restorative justice is rooted in ancient Indigenous practices of community-based conflict resolution. Unlike the criminal justice system, restorative justice emphasizes healing, dialogue, and the active involvement of victims, offenders, and the community. Restorative justice focuses on repairing relationships and addressing the root causes of wrongdoing, creating a more inclusive and empathetic justice system. Over time, restorative justice has gained prominence, demonstrating its potential to rebuild trust, reduce recidivism, and promote social harmony.

Rooted in the foundational assumptions articulated by Howard Zehr and further supported by findings from the Department of Justice's Listening Project and Decker et al.'s study, the restorative justice model recognizes that crime causes harm not only to individuals but also to relationships and communities. Victims in both studies consistently identified the need for voice, choice, support, and pro-social outcomes, needs which are often silenced by the traditional criminal justice system. Restorative justice provides an opportunity for those affected by harm to meaningfully participate in the justice process, to be heard, allowing for emotional expression, validation, and answers that are absent in retributive models.

The five R model developed by Zehr, encapsulates how restorative justice can more effectively respond to complex and deeply personal harms such as sexual and intimate partner violence. It focuses not only on acknowledging and addressing the harm done, but also on rebuilding broken connections. Reintegration in particular allows for transformation rather than isolation and punishment, supporting the person who caused harm in rejoining the community in a pro-social way. Ultimately, restorative justice has proven to be a more responsive system, one that aligns more closely with what survivors say they truly need in the aftermath of harm.

However, given the moratoriums on the use of restorative justice for cases involving sexual and intimate partner violence, there are still significant barriers to the use of restorative justice in Ontario. The moratoriums are indicative of the patriarchal desire to silence the violence of women and stymie their healing by repeatedly ignoring victims' demands for other options in a justice system that systematically continues to fail them.

What restorative justice looks like in concrete terms in the context of sexual and intimate partner violence will be explored next.

Chapter 8: Restorative Justice: A New Framework Forward

"Restorative justice is not simply a way of reforming the criminal justice system, it is a way of transforming the entire legal system, our family lives, … our practice of politics… (and) the way we do justice in the world" – John Braithwaite[592]

A. Introduction

Restorative justice offers a transformative approach to addressing sexual and intimate partner violence. Unlike the criminal justice system that silences victims and leaves perpetrators largely unaccountable, restorative justice emphasizes dialogue, mutual understanding, and the repair of harm. This approach centers on the survivor's needs, offering them a voice while encouraging offenders to take meaningful responsibility for their actions.[593] Restorative justice creates opportunities for reconciliation and long-term societal change by addressing the root causes of violence and meaningfully addressing the barriers to reporting, making it a compelling path forward to eliminate the profoundly ingrained patriarchal forms of harm. This chapter explore the debates surrounding the appropriateness of restorative justice for sexual and intimate partner violence and the different forms of restorative justice that can be utilized in addressing sexual and intimate partner violence in rural Ontario by outlining why restorative justice is the framework that should be focused on and outlining the different formats of restorative justice that could work for the individual needs of each victim.

B. The Debate Surrounding Restorative Justice

The appropriateness of using restorative justice as an option for victims of sexual and intimate partner violence has been the topic of much debate, on both sides. The first section of this chapter will explore either side of the conversation.

i. Uncertainty Surrounding What Restorative Justice is and How to Apply it

One of the persistent concerns surrounding the use of restorative justice in cases of sexual and intimate partner violence is the ambiguity about what restorative justice actually is and the principles that underpin it.[594] Unlike the retributive system, which is firmly entrenched and widely understood, restorative justice is more fluid, taking different forms depending on the individuals, communities, and contexts involved. As Melanie Randall observes, this lack of clarity has contributed to "significant confusion and less receptivity to restorative justice in the feminist community than might otherwise exist."[595] This uncertainty, however, should not stymie further exploration of the usefulness of restorative justice. Greater education about what restorative justice entails, as well as the range of practices it encompasses, could help mitigate these concerns. Although restorative justice has deep historical roots, its mainstream use, particularly in responding to gender-based violence, is relatively new. Skepticism from both the public and the feminist community is, therefore, unsurprising. However, a lack of understanding alone should not foreclose exploration of restorative justice as a potential avenue for addressing the limitations of the retributive model.

There is also uncertainty about how restorative justice would be applied and in which cases it would be appropriate to employ such a framework.[596] This concern is valid: restorative justice may not be suitable in every situation. However, a benefit of restorative justice is that it is a flexible approach that can take different shapes depending on the needs of the individuals and the community involved. However, its limited use in the context of sexual and intimate partner violence is primarily the result of moratoriums on its application, rather than evidence of its

inadequacy. While it is reasonable to question when and how restorative justice should be used, these questions should not foreclose its exploration as an option for survivors. Like any major reform, restorative justice requires careful, incremental implementation, beginning in smaller settings where its capacity to address such offences can be evaluated and refined, as is proposed in this research.

ii. Diminishing the Seriousness of the Crime

Several opponents for the use of restorative justice for sexual and intimate partner violence argue that promoting restorative justice would decrease the perception of the seriousness of these offences. [597] Specifically, by diverting sexual violence away from the retributive justice system, this decision could be perceived as "a lenient or soft option to the punishment of offenders."[598] Further the idea of using restorative justice for sexual and intimate partner violence has been criticized as a gamble with women's lives.[599] These arguments raises several interesting points. First, it implies that if the perceived consequences for these offences are viewed as lenient, then men will commit these offences more. Interestingly, as outlined in the data in the preceding chapters, specifically the rates of conviction for sexual assault, men are not taking the current retributive consequences seriously and are not deterred by them. The thought that softer sanctions would cause the proliferation of sexual violence is alarming because how do we have a society where the only thing deterring a man from assaulting a woman is the risk of jail? Such an argument is rooted in patriarchal thought that it is almost instinctual for men to abuse and dominate women, and the only way to save and protect women is through paternalistic policies and sanctions to deter these inherent aggressors.

Some critics argue that promoting the use of restorative justice in cases of sexual violence would represent a step backwards for the feminist movement, undermining decades of work to bring sexual violence into the political and public spotlight.[600] Respectfully, this position misconstrues the essence of feminism. Feminism is not about preserving one rigid response to gendered violence; it is about moving forward, listening to women, and centering their voices.[601] Women are speaking out and saying, unequivocally, that the current system is not working. Sexual violence is already on the public and political radar, yet the prevailing retributive framework has proven limited in its effectiveness. Rates of sexual and intimate partner violence are not declining, and survivors continue to be re-traumatized by the very system created to protect them. To dismiss restorative justice as a "step backwards" is to silence those who are demanding alternatives and to ignore the feminist imperative of choice, autonomy, and responsiveness to women's lived experiences. Providing restorative justice as an option does not betray feminism; it embodies its core values.[602]

iii. Revictimizing Women and Power Imbalances

A second concern raised against the use of restorative justice is the risk that it may revictimize the very women it seeks to empower.[603] Critics warn of potential power imbalances between victim and offender, risks to the survivor's safety or that of future victims, [604] and the danger that survivors could feel pressured into a process they do not want or into accepting an outcome with which they are dissatisfied. These are serious concerns that cannot be ignored. [605] Interestingly, the Canadian Aboriginal Women's Action Network strongly opposes the use of restorative justice in cases of violence against Indigenous women because of the lack of emphasis in current restorative justice models on the legacy of colonialism, racism, sexism, poverty, and violence.[606] Surveyed

participants questioned the capacity of restorative justice to address entrenched power imbalances resulting from community oppression. Participants observed that alternative justice approaches frequently assume the existence of a "healed community."[607] They identified deficiencies in current models, including inadequate accountability, insufficient structure, and a lack of follow-up with offenders, all of which may exacerbate victimization. Additional concerns included the use of diversion, the disproportionate allocation of resources favoring offenders, the potential for victim-blaming, and threats to the safety of women and children within both communities and restorative processes.[608] However, in a study conducted by Curtis-Fawley and Daly, participants believed that restorative justice had something positive to offer victims, especially when compared to the criminal justice system.[609]

At the same time, a fundamental tenet of restorative justice, particularly when applied within a feminist framework, is the concept of choice. Restorative justice is not mandatory; participation must always be voluntary.[610] When properly designed, restorative processes would incorporate checks and balances to minimize power imbalances and to safeguard participants. It would be naïve to suggest that restorative justice can eliminate all power differentials, but the same is true of the retributive system. The opponents to restorative justice in this context seem to forget that the retributive framework is structured on power imbalances: the state decides whether to prosecute, when and how a victim may speak, and what evidence is admissible, while accused persons may seek access to private records or use cross-examination to undermine a survivor's credibility and emotional integrity. That is hardly a system of equality.

Restorative justice, while imperfect, offers something the current system does not: the possibility of giving survivors a voice, choice, and greater control over the process.[611] Curtis-Fawley and Daly noted that a prominent theme throughout participants in their study was the importance of the victim's voice and the opportunity to be heard in a way that the criminal justice system does not permit.[612] With proper safeguards, restorative justice can identify and mitigate the inevitable imbalances of power, rather than conceal or exacerbate them. It is not a flawless response to sexual and intimate partner violence, but neither is the system we have now.

iv. Insincere Motivations and Unintended Consequences

Another concern is that offenders may offer insincere apologies or superficial gestures of repair simply to comply with the process, thereby creating yet another opportunity to manipulate the survivor. [613] This risk is premised on the "assumption that restorative practices only divert cases away from the conventional justice system, thereby foreclosing any possibility of a conviction and conventional punishment."[614] If an offender's sole motivation is to avoid penal sanctions, restorative justice could be misused and cause further harm. However, restorative justice should be, and often is, used at many stages of the criminal justice system[615] and should be offered as an option alongside the retributive system. If restorative processes fail, because an offender proves insincere or unwilling to engage meaningfully, the matter must be returned to the retributive framework.[616]

Yet it is essential to shift the focus of this critique. Too often, arguments against restorative justice center the offender, rather than the survivor. Not all survivors want or need a formal apology; some simply want to be heard, to tell their story directly, or to see the offender engage in counselling or acknowledge the harm in a concrete way. For others, a sincere apology may be critical. The point

is that these needs differ, and restorative justice is designed to be individualized. Survivors' goals must be assessed at the outset, and if an apology is central but the offender is unable or unwilling to provide one, that will emerge during the intake stages, long before a formal process proceeds. Ultimately, restorative justice requires asking survivors what they need to heal, not presuming their needs in advance. At the same time, offenders must also be asked what they are prepared to contribute honestly and concerns that offenders will not authentically engage have often been overexaggerated.[617] Restorative justice does not erase the risk of manipulation, but it provides mechanisms to identify and respond to it, while also giving voice and choice to survivors in ways that the criminal justice system rarely does. Another con of restorative justice is that "the dynamics within conferencing which are ordinarily assumed to promote positive change for both parties may not be effective in the case of sexual assault. Some argue that sex offenders may experience inappropriate excitement on hearing their victim tell of the distress, which might reinforce their pro-offending attitudes."[618]

v. Resource Restrictions

There is concern with respect to the feasibility of restorative justice is the significant time and resources it requires. In cases of sexual violence, extensive preparation and ongoing supports for survivors, offenders, and their families would be essential. Facilitators would also require specialized training, which could increase fees and make the process prohibitively expensive. As one scholar cautions, "this might result in either the development of a system which is inadequately resourced to serve both the victims' and the offenders' needs, or that valuable and scarce resources will be diverted away from established victim services in order to support restorative justice initiatives."[619]

While these concerns are valid, it is important to recognize that the current retributive system is also resource intensive. A 2009 Department of Justice report estimated that justice system costs associated with sexual victimization of adults by non-spousal offenders amounted to $137.7 million.[620] In 2015, Public Safety Canada estimated that the average sexual assault prosecution cost between $136,000 and $164,000.[621] While some of these expenses would remain under a restorative framework, many would not. The use of a single facilitator, upfront counselling supports, and community-based spaces is likely to be less costly than the full apparatus of a criminal prosecution. Moreover, restorative processes demand far fewer judicial and staffing resources, making them potentially more cost-effective while offering survivors a process better tailored to their needs.

However, while a restorative justice model may hold significant promise for victims to be heard and to heal, it is equally important to be clear-eyed about the potential limitations of such a framework that critics have raised. Restorative processes can risk re-traumatizing survivors if not carefully facilitated, and they rely on the offender's genuine willingness to take accountability, which cannot always be guaranteed. Further, power imbalances, particularly in cases involving coercive control, may be difficult to address adequately, and maintaining confidentiality and safety can be especially challenging in rural communities. This chapter explores the different forms of restorative justice that can be utilized in addressing sexual and intimate partner violence in rural Ontario by outlining why restorative justice is the framework that should be focused on and detailing the different formats that could work for the individual needs of each victim, while remaining attentive to both the opportunities and constraints of this approach.

C. Why Restorative Justice is the Framework to Focus On

As outlined in previous chapters, using the current retributive framework to respond to sexual and intimate partner violence is not working. According to Statistics Canada, the reporting rate for sexual assault is low, with 6% of sexual assaults being reported to police and only 36% of sexual assaults reported to police resulting in charges, 61% of those proceeding to court, and once in court only 48% resulted in a guilty verdict. Even more disappointing for victims, only 50% of guilty verdicts resulted in a custodial sentence.[622] For any reader who is thinking that these statistics are not terrible, consider this, based on the above data from Statistics Canada, for every 1000 sexual assaults in Canada, 60 are reported to police. Of those, only 21.6 perpetrators are charged and of those charged, only 13 proceed to court. Of the 13 that proceed to court, 6 are found guilty, and of the 6 that are found guilty, 3 receive a custodial sentence. So for every 1,000 sexual assaults that occur in Canada, 6 are found guilty and only three are incarcerated.

If an investment had a 0.3% chance of profit, no one would invest. If a medical procedure had a .3% of success, how many people would choose to receive that procedure? Continuing to prioritize the use of a retributive framework to deal with sexual and intimate partner violence in Canada is a futile exercise that is leading to more victims choosing not to report, to more trauma for victims who do report, and to an erosion of trust and confidence in the system that is designed to hold perpetrators accountable.

Sexual and intimate partner violence is a gendered crime, yet the response to dealing with sexual and intimate partner violence does not take a gendered approach to addressing the problem. Retributive justice stymies reporting, focuses on the perpetrator, all while silencing the victim, the

main person the system should be listening to. According to the report published by LEAF, "given these myriad of reasons, as well as the failure of the state to respond adequately to sexual violence and the lack of trust the state has cultivated with certain groups of people, there is a demand for more options to address sexual assault."[623]

The focus of a sexual violence response should not be solely on the perpetrator; any response must take a holistic approach to healing, healing the perpetrator, the victim, and the community. This is what restorative justice aims to do and what retributive justice cannot do: heal. Rather than placing the parties in opposition, restorative and transformative justice processes bring together the person who was harmed and the individual who caused the harm. In addressing the impacts of sexual violence through restorative and transformative justice, the response can extend far beyond the approaches taken in the courts. The goal is to address the needs of those involved, and unlike criminal law, where survivors are merely witnesses, restorative and transformative justice focuses less on punishment and more on healing and accountability.[624]

For restorative justice to be effective, there must be investments in social programs outside the restorative justice context to make a change in approach viable. First, there must be increased government funding to expand the availability of free counselling services for both victims and offenders. Counselling is a prerequisite for engaging in many restorative justice pathways and it is necessary for both parties to do some upfront work so that neither party is retraumatized during the restorative process. In rural Ontario, the availability of free counselling services is severely limited and the services that do exist are often plagued by untenable waitlists. There needs to be a

specific investment into counselling in general and counselling for participants in the restorative justice process.

Further, there needs to be increased education and awareness about the value of restorative justice, with a particular emphasis on educating rural communities. Anecdotally, when I first began discussing my thesis topic with people in my rural community, I was met with a lot of resistance that voiced traditional views on the value that the criminal justice system has. While I would never say that the criminal justice system is not valuable, for sexual and intimate partner violence it just isn't the right system. It was only when I began explaining how severely underreported sexual and intimate partner violence is and the low conviction and incarceration rates, that people began understanding that the current system is failing victims. But this is not surprising, average rural citizens are not researching sexual violence statistics, they are not immersed in the barriers victims face, they do not understand the legal system, even many lawyers do not understand these issues. For restorative justice to be successful in rural communities' significant public awareness and education must be done. This is a key recommendation of my research, discussed in the next chapter.

Third, there needs to be increased funding and support for women's shelters in rural Ontario and a buy in from the Government of Ontario that rural women's shelters need support. As outlined in previous chapters, women are continually turned away from safe shelter and forced to return to an abusive environment due to a lack of better options. Increased capacity at these shelters, which requires physical capacity but also funding for staff and programs, is required. Women must feel safe before they can even begin to think about how they want to address the violence.

Unfortunately, funding for the women's sector continues to drop. In August 2024, the Government of Ontario released a call for proposals for approximately $100 million in funding to prevent and reduce gender-based violence.[625] To be eligible for this funding the government required applicants to identify one or more priority populations that their project is designed to target, with rural and remote communities being the second type of priority population.[626] However, the call for proposals was not limited to organizations in the women's sector, it was open to everyone, including for profit corporations, police services etc.[627] While not all the final decision letters have been sent out, not a single rural women's shelter in Southwestern Ontario received **any** of this funding.[628] This failure to invest directly in rural women's shelters highlights a deep and ongoing gap between government commitments to ending gender-based violence and the tangible support survivors in rural communities urgently need. Therefore, before there is an increase in funding for rural supports for women, there must be increased recognition from the government that these organizations matter to the safety of women.

D. Restorative Justice and Seriousness Concerns

No, restorative justice does not minimize the seriousness of sexual and intimate partner violence by taking the process out of the court system and placing it into a restorative framework. Frankly, the retributive framework does not take sexual and intimate partner violence seriously. With only 6% of sexual assault cases being reported[629], victims have seemingly agreed that retributive justice has minimized the seriousness of their trauma and chosen not to participate. Further, with only 0.6% of cases leading to a conviction[630], the criminal justice system also appears to be minimizing the seriousness of sexual and intimate partner violence.

As outlined in previous chapters, which explored the personal and systemic barrier to reporting sexual and intimate partner violence, if the retributive framework took sexual violence seriously and treated it like the gendered crime it is, women would have more confidence in the system. If the retributive framework listened to victims when they raised their choice, that they want a voice in how their trauma is handled, more women would choose retributive justice over no justice at all.

While it can be uncomfortable to suggest that perpetrators do not face penal sanctions as a result of physically violating a victim most intimately, the research makes it clear that justice for many victims does not come in the shape of a prison cell; it comes from healing, counselling, dialogue, and reparation.

E. The Intersection of Restorative and Retributive Justice in Practice

Before delving into those options, it is important to conceptualize how the current retributive framework could reach a place where victims are offered these choices. Ideally, victims would report sexual and intimate partner violence to an entirely separate reporting framework outside the gambit of police services. That would be the ultimate goal, to have a reporting system made up of social workers and/or feminist first responders where victims could disclose and/or report their assaults. Ideally, this reporting system would be built into the current 911 operator system, where victims, when they dial 911, are given the option of fire, ambulance, police, or sexual and intimate partner violence; that way, a further onus is not placed on victims to locate a new number to call, and there would not be a need to create a public education campaign around a new three-digit number.

Once victims call 911 and select the sexual and intimate partner violence option, they will be connected to trauma-informed. Ideally, feminist-trained social workers will take the information from the victim and arrange for a formal statement to be taken by a trauma-informed, feminist-trained sexual and intimate partner violence unit of the police. Ideally, the police would not be involved in the process of taking the statements because of the barriers women have identified by reporting to the police. However, formal statements must be taken under oath, with the consequence of not telling the truth raised to the victim in case the matter proceeds through the traditional criminal justice system. To reconcile the issues raised by victims with reporting to police and the importance of some of the key functions police officers do, this research proposes a compromise of creating a specialized unit within all police units to satisfy these issues.

Once a formal statement is taken and charges are laid against the accused, the Crown must review the file before the first court date and determine whether it would be appropriate to divert to the restorative justice system.[631] It is acknowledged that there may be situations where restorative justice may not be feasible, for example, if the matter involves a minor, bodily harm, a weapon, or if it involves a stranger.

Once the Crown conducts this initial screening process, the Crown flags on the Charge Screening Form whether the matter has the potential to be diverted to the restorative framework. The Crown should meet with the victim, ideally before the first court date, to outline the retributive and restorative options available to the victim and allow the victim to choose how she wishes her matter to proceed. The victim should be given time to consider these options and access to free legal

advice on the pros and cons of these options, and if she wishes to proceed with the restorative framework, she should be given information and advice on the different.[632]

By the second court date, the Crown should be able to offer the accused the option of proceeding with restorative justice. It will be up to the accused whether he also wishes to proceed through the restorative process. By this time, the accused should have had the opportunity to retain legal counsel to discuss the pros and cons of this option.

If restorative justice is chosen by the victim and accused, both parties should then undergo a pre-determined number of counselling sessions prior to engaging in the restorative justice process and select which form of restorative justice with which they wish to proceed.[633] Once a form is chosen and a facilitator is assigned, the facilitator would meet with each party separately to discuss their goals, accommodations, and limitations of the process.[634]

After the parties engaged in the restorative justice process, the facilitator should provide a completion report to the Crown's office outlining whether restorative justice was successful.[635] After receipt of this report, the Crown should request that the accused enter into a Common Law Peace Bond as a preventative measure against potential future harm and withdraw the criminal charges against him. The Peace Bond would be used as a protective measure for the victim to ensure there are safety mechanisms in place to avoid contact and communication with the accused. If the victim chooses to be in contact or communicate with the accused, there can be conditions for written and revocable consent within the Peace Bond.

F. Conclusion

Restorative justice offers a transformative alternative to the retributive framework by centering survivors' needs and prioritizing healing over punishment. The current criminal justice system has failed victims of sexual and intimate partner violence, as shown by low reporting rates, minimal convictions, and inadequate sentencing. In contrast, restorative justice gives survivors more choice, voice, and agency, allowing them to define accountability for offenders. Although challenges remain, such as risks of revictimization, limited resources, and the need for skilled facilitation, restorative justice can address structural and systemic deficiencies of the current model, especially in rural communities where specialized support is often lacking.

Implementing restorative justice requires a survivor-centered approach that balances opportunities for offender accountability with strong safeguards against harm. Comprehensive preparation, including counseling and individualized planning, is essential to ensure survivors receive support and protection throughout the process. When done well, restorative justice can complement rather than replace the retributive system, offering options that empower survivors while upholding public safety. This approach recognizes that justice goes beyond punishment, emphasizing repairing harm and building understanding within the community.

Restorative justice is a necessary evolution in addressing sexual and intimate partner violence. This approach challenges entrenched power imbalances, recognizes the limits of conventional responses, and creates a framework for survivors to reclaim agency over their experiences. Investment in education, community support, and the infrastructure for effective restorative

processes allows the legal system to move toward a model of justice that is fairer, more responsive, and more transformative for survivors, offenders, and communities.

Chapter 9:
Restorative Options for Survivors

"To tread a path to a better future, all actors in the judicial system must be able to walk in the shoes of women, must come to understand the real lives of women" – The Honourable Claire L'Heureux-Dubé

A. Restorative Justice Options Available to Victims

Healing is not a uniform process, and how victims and perpetrators engage in the restorative process should not be either. Each case requires its unique process, tailored to the specific needs and goals of the parties involved and what each party is willing to do to achieve those goals.

Restorative justice, therefore, can and should take many forms. Of those forms that exist, this research identifies eight structures of restorative justice that could be conceptualized in practice, which have been supported in other research on restorative justice options for victims of sexual and intimate partner violence.[636] This section will explore each of these options individually.

i. Victim Offender Mediation

The first option available to victims and offenders in the restorative framework is victim-offender mediation.[637] This is a restorative justice process that facilitates a structured, voluntary dialogue between a victim and the offender who caused harm. In Canada, victim-offender mediation programs started approximately 28 years ago, "and have proven extremely beneficial in assisting victims and offenders in finding a sense of satisfaction, closure and healing in the aftermath of crime."[638]

Victim offender mediation is the most researched and widely used form of restorative justice.[639] According to the Department of Justice,

> "The tangible benefits of victim-offender mediation have been demonstrated extensively and have been found "across sites, cultures and seriousness of offenses". Moreover, as was noted in the 2001 report, victims tend to be more satisfied with mediation than traditional criminal justice processes:
>
> Restorative justice has been found to be an effective mechanism for addressing crime and wrongdoing. Typically, crime victims report being satisfied with victim-offender mediation more than 80% of the time and nine out of ten state that they would recommend mediation to a friend. This compares favorably to satisfaction with traditional court processes, where victims report satisfaction rates of 42–79%. Furthermore, commonly over 80% of the time victims report being satisfied with mediation outcomes. In several studies, victims indicated over 80% of the time that they found the mediation process and any resulting agreements fair, compared to 37–56% of those who attended court processes."[640]

Guided by a trained mediator, the process provides a safe environment for both parties to share their perspectives, address the emotional and practical impacts of the offense, and collaboratively explore ways to repair the harm. [641] During these meetings,

> "victims tell the offender about the crime's physical, emotional, and financial impact on their lives, receive answers to lingering questions about the crime and the offender and participate directly in developing options for trying to make things right. The offender is afforded opportunities to make apologies, provide information, and develop reparative plans and gain insight for personal growth. These processes are sometimes prepared for and/or facilitated using written or video correspondence. In the last decade, new expertise has been developed in mediating cases of serious crime."[642]

Unlike traditional punitive justice systems, victim-offender mediation focuses on accountability, healing, and mutual understanding, empowering participants to resolve the conflict. It is commonly used in cases ranging from minor disputes to more serious offences to promote a sense of closure and restore relationships.[643]

Decker et al. noted in their research that this type of restorative justice can be quite valuable for victims of intimate partner violence as well as for victims of "of acquaintance-perpetrated SV, for whom ties within the survivor-offender dyad are maintained via ongoing relationships, shared peers, and community members, shared custody of children, joint financial commitments, and other factors."[644] Further, Decker found that interest in this type of restorative justice is often most prevalent among victims and offenders who are likely to have ongoing relationships and lower levels of fear.[645]

ii. Community Justice Committees

The second option available to victims and offenders in the restorative framework is Community Justice Committees, which are grassroots organizations designed to involve local communities in addressing crime, conflict, and social issues.[646] Community Justice Committee's are rooted in Indigenous traditions and according to the Cree Nation Government, these committees "exists to improve judicial outcomes and community safety for all people in the community. It assists in the administration of justice at the community level, by helping youth and adult offenders take responsibility for their actions and repair harm and reducing crime and victimization."[647]

Community Justice Committees focuses on restorative principles rather than punitive measures. These Committees typically comprise volunteers, community leaders, and sometimes victims and offenders, who work together to find solutions that repair harm, rebuild relationships, and promote accountability. Their activities often include mediation, supporting rehabilitation programs, and creating strategies to prevent reoffending. Community Justice Committees empower communities to actively foster safety, fairness, and harmony.

The Cree Nation notes that for their Justice Committee, this approach recognizes that crime and conflict cause harm, and those responsible must take accountability by working to repair that harm.[648] Conflict resolution offers learning and growth opportunities, allowing all involved, including victims, offenders, and other stakeholders, to have their voices heard, their needs met, and their solutions considered. In this sense, a Justice Committee goes beyond the traditional legal system's focus on law enforcement and procedure. It incorporates healing, equity, and peacemaking, ultimately strengthening community safety and harmony for its population.[649]

iii. Victim-Offender Panels / Surrogate Restorative Justice

The third option available to victims and offenders in the restorative framework is through a victim-offender panel.[650] In this option, instead of meeting with the specific person involved in their case, victims and offenders may opt to meet with someone who committed a similar offense or who experienced similar victimization. These surrogate dialogues offer a restorative experience for victims who are unable or unwilling to meet their actual offender or for offenders who are initially unwilling to engage in dialogue with the specific person to whom they caused harm. They can also help prepare both parties for a potential future meeting or allow offenders to engage when the victim chooses not to participate.[651]

iv. Restorative Conferencing

The fourth option available to victims and offenders in the restorative framework is through restorative conferencing. This process, includes not only the survivor and the person who caused the harm, but also their supporters who all work towards reparation.[652]

Restorative conferencing is rooted in the Maori culture of New Zealand and "directly involves the offender's family in the process of holding the offender accountable, teaching individual responsibility and addressing the harm done."[653]

The Canadian Resource Centre for Victims of Crime notes that the Maori model in Canada

> "has been adapted to include not only the notion of family involvement but also the participation of both the offender's and the victim's supporters who may or may not be family. The focus of conferencing circles is to repair the harm done by an offence and to minimize the likelihood of future harm. This is accomplished through dialogue geared to increasing understanding between participants and is conducted in a structured circle setting guided by a trained facilitator or convener."[654]

v. Healing Circles

The fifth option available to victims and offenders in the restorative framework is through healing circles. Healing circles rooted in Indigenous legal traditions and cultural practices and are led by a circle keeper.[655] Healing circles are "ceremonies intended to bring the conflict to a close, allow the participants to express their feelings, and indicate that the offender and victim have undergone personal healing."[656]

According to Restoring Justice, a non-profit organization that provides holistic representation to marginalized members of the community facing criminal charges, healing circles are an excellent method to engage in restorative justice.[657] Restoring Justice stated that,

> "By encouraging participants to speak their truths openly and without judgment, Healing Circles create an environment conducive to empathy, understanding, and mutual support. As diverse perspectives intertwine within the circle, a profound exchange of thoughts and emotions occurs, facilitating genuine connections among participants. Through this

> empathetic exchange, meaningful communication transcends differences and creates a space for shared experiences and insights. As hearts and minds engage in this transformative dialogue, individuals become receptive to new ideas and perspectives, leading to a potential shift in attitudes and beliefs."[658]

Restoring justice explains that Healing Circles create space for genuine connections and empathy driven conversations, promoting personal growth and community healing. By sharing experiences and engaging in open dialogue, participants strengthen bonds and contribute to positive change both individually and collectively.[659]

vi. Victim Impact Panels

The sixth option available to victims and offenders in the restorative framework is engaging in a victim impact panel. While similar to the victim/offender panels, victim impact panels are directional; the purpose of these panels is to allow victims to speak and for perpetrators to listen rather than engage in a back-and-forth dialogue as offered by other forms of restorative justice. [660]

Victim impact panels were first implemented in 1982 by Mothers Against Drunk Driving, which felt that it was critical to change the accepted attitude that drinking and driving was an accident rather than a crime.[661]

These panels provide a safe, non-judgmental, and non-blaming forum for victims of sexual and intimate partner violence to tell a perpetrator how a similar offence impacted them. Further, these panels can be advantageous if the victim cannot, or does not want, to engage directly with the perpetrator but still wishes that the perpetrator listen to how he caused her harm.

vii. Sentencing Circles

In the restorative framework, the seventh option for victims and offenders is sentencing circles. While this option exists within the Canadian retributive framework and occurs after an accused has proceeded through the retributive justice system and has pled or been found guilty, sentencing circles offer a valuable opportunity for victims and perpetrators to have meaningful dialogue.

Sentencing circles are again rooted in Indigenous tradition and can be an excellent option to choose when a victim wishes to pursue a retributive path for responsibility but a restorative path for repair and reconciliation.

In sentencing circles, all parties, including the victim, offender, as well as family and community members, meet with a judge, lawyers, and law enforcement to "recommend to the judge what type of sentence an offender should receive. The victim and the community have the opportunity to express themselves, address the offender, and may also take part in developing and implementing a plan relating to the offender's sentence."[662]

viii. Pod Systems of Accountability

The final restorative justice option available for victims and perpetrators of sexual and intimate partner violence is the pod system of accountability. This option organizes small groups of support for both the survivor and the person responsible for causing harm to help their health individually and work towards restoring the harm caused.[663] Circles of support and accountability have been found to be particularly beneficial in reintegrating sex offenders and could assist with supporting not only survivors but also persons responsible for causing harm within the community.[664]

Mia Mingus, the founder of SOIL, a transformative justice project, notes that Pods serve as a support system to prevent and address harm, violence, crises, or emergencies. They consist of trusted individuals who have agreed to provide help, whether for specific needs or general support, offering a reliable network in times of need.[665]

Mingus explains that pods can be an essential aspect to restorative justice because they are a

> "critical building block for creating caring and accountable communities. They are an incredibly effective community condition that, when practiced en masse, could help to significantly bring rates of harm, isolation, punishment, fear and violence down, while concretely putting into practice many of the values we hold most dear: connection, courage, trust, care, compassion, healing, accountability, love and belonging."[666]

Further, Mingus notes that pods build on existing support networks by recognizing the trusted individuals people already turn to in times of violence, even if it is just one person. Instead of creating superficial connections, this approach strengthens authentic relationships by fostering a shared understanding of harm, violence, and systemic issues like oppression. By reinforcing these bonds, pods not only improve the effectiveness of transformative justice responses but also increase the likelihood that people will take action when violence occurs.[667]

Additionally, Mingus addresses the importance of creating a pod and how a pod-based model to restorative justice can

> "help us to more effectively practice accountability in our everyday lives or in acute instances of harm. Typically, people have less people in their lives they can call on to take accountability for harm they've done than harm that happened to them. This is common because of the punitive culture we live in, which teaches us that only "bad people do bad things," so if someone does something harmful they must be a bad person who is incapable of change. In addition, harm makes us uncomfortable because it often kicks up the places inside of us that we do not want to face or address. And because of that we genuinely don't know what to do when harm

> happens, so we distance ourselves from the situations and people we deem harmful, toxic or just plain uncomfortable."[668]

Mingus explains that two pods can be developed in the context of harm and violence: a survivor pod and a harmer pod. The survivor pod is a support system consisting of people committed to the victim's healing, safety, and resilience as a survivor of harm or violence. They may help the victim navigate leaving an abusive situation, find a therapist, or access medical care. The survivor pod can take many forms, from ensuring the victim attends appointments to staying with her at night so she is not alone. They might bring food during difficult times or actively participate in the transformative justice process. Above all, they recognize the victim's humanity and support her healing ability.[669]

The harmer pod comprises individuals dedicated to holding the perpetrator accountable for the harm they have caused, helping the perpetrator understand the meaning of accountability, recognizing the impact of their actions, and working toward genuine repair and amends. The members of the harmer pod challenge and encourage the perpetrator to grow with firm but compassionate guidance, without resorting to punishment. They may share their own experiences with accountability and support the perpetrator in changing their behavior to prevent future harm. Some members of the harmer pod may also stand with the perpetrator through a transformative justice process. Individuals in the harmer pod acknowledge the harm caused and its consequences. However, they are also committed to the harmer's well-being and encourage them to become a better version of themselves.[670]

B. What May Work Best for Victims in Rural Ontario

As outlined above, there are numerous options available for a victim who chooses to engage with restorative justice, and that is the point. Victims have consistently demanded the right to choose how their experiences of violence are addressed. All of these options are valuable and should be accessible to victims in both rural and urban settings. However, as noted throughout this research, living rurally presents a number of challenges to victims, with one potentially being the feasibility of some of these options. For example, there may not be enough willing participants to sit on victim impact or victim-offender panels, making surrogate restorative justice a challenge to implement in rural communities. Further, Community Justice Committees may also face challenges with implementation in rural communities due to funding and human resource constraints.

In rural Ontario the most feasible options for restorative justice are likely victim offender mediation, restorative conferencing, healing and sentencing circles, and pod systems of accountability. It is recommended that these options may work best because they can adapt to the realities of rural life, where isolation, limited access to services, and close-knit community dynamics can complicate traditional justice responses. Victim-offender mediation and restorative conferencing offer structured but flexible spaces for victims to engage in safe and semi-structured dialogue with the person who caused harm but also allow space for support people for either party to be present. Additionally, victim offender mediation is the most wildly used form of restorative justice and may be more easily accepted by members of rural communities as a legitimate alternative to the criminal justice system. Further, because rural communities are often close-knit, with the impact of violence often being felt by the community at large, healing and sentencing circles, build on that community structure and emphasize collective accountability and healing.

Pod systems of accountability are also particularly well-suited for rural Ontario because they allow survivors and offenders to lean on personal networks that already exist in their communities in a structured way, building safety and accountability for both parties. Given resource constraints and the potential challenges associated with implementing other restorative justice options, it is recommended that these approaches are the most practical and effective for rural Ontario.

C. Conclusion

As outlined in this chapter, there are a variety of ways restorative justice can be tailored to the idiosyncratic needs of the victim and the person that caused harm. Victim-offender dialogues, restorative circles, and Community Justice Committees provide opportunities for survivors to voice their experiences, receive acknowledgment of harm, and potentially achieve a sense of justice outside the criminal justice system. These approaches to restorative justice emphasize accountability, empathy, and repair, fostering healing for survivors while encouraging offenders to understand the impact of their actions and commit to change. The success of restorative justice in these contexts depends on careful facilitation, informed consent, and a focus on the safety and empowerment of survivors. When used as a complement, or alternative, to conventional justice system, restorative justice can contribute to individual healing and broader cultural shifts toward repair and reconciliation.

Chapter 10:
Conclusion

A. Introduction

Sexual violence is a crime like no other in the *Criminal Code of Canada*. It involves the sexual and emotional violation of a victim who is then forced to justify her experience and trauma over and over again while receiving little to no support. Further, intimate partner violence is not explicitly identified as an offence within the *Criminal Code* but can manifest itself through offences such as assault or utter threats. Despite how deeply personal the violation is to each victim, the current retributive system designed to respond to these offences is so focused on the perpetrator that the idiosyncratic needs of the victims are largely ignored. This research does not argue that the retributive system needs to tailor itself to the needs of each victim, as that would likely cause the entire criminal justice system to come to a screeching halt. Instead, this research proposes that the majority of sexual and intimate partner violence should be handled in a completely different system, a restorative system. It is clear from the research in previous chapters that the hyper-fixation of the perpetrator in the retributive system leads to victims underreporting, a lack of confidence in the system, and poor conviction rates for those cases that are reported. So why do we continue trying to fit these offences into a framework they were not meant to be part of? Why do we continue to silence and minimize input from victims who are saying this system does not work for them?

B. Summary of Findings and Conclusion

This research found that there are a variety of barriers to why victims decide not to report sexual and intimate partner violence to the police. Many of these barriers stem from distrust, colonialism,

or a lack of confidence, in the criminal justice system, a system which continually fails to provide justice to victims through low reporting rates, low conviction rates for reported cases, court backlogs staying cases over delays, and the provincial moratorium that prohibits victims from accessing alternative forms of justice.

Through detailed surveys and studies, researchers have consistently found that victims want to choose how their matter proceeds, and many victims highlight different desired outcomes, many of which are not provided for in the retributive framework. Many of the desired outcomes flagged by victims are supported in a restorative framework, which, as outlined in previous chapters, can be adapted to fit the individual goals of the victim.

C. Recommendations

This research proposes the following recommendations:

i. Remove the Moratorium on the use of Restorative Justice in Ontario;

The moratoriums on the use of restorative justice for sexual assault cases in Ontario should be removed because they limit survivors' access to alternative justice options that may better meet their needs. The current criminal justice system often fails to provide meaningful accountability, healing, or closure for survivors, many of whom do not report assaults due to fear of re-traumatization, disbelief, or lack of control over the process. When survivor-centered and conducted with appropriate safeguards, restorative justice can offer a space where survivors are heard, acknowledged, and empowered in determining meaningful resolutions. Additionally, it can hold perpetrators accountable in ways that foster genuine understanding, behavioral change, and harm repair—outcomes that punitive systems frequently fail to achieve. Removing the provincial

moratorium would allow carefully structured restorative justice programs to be developed, which would prioritize survivors' voices and women's autonomy to choose their path to justice beyond the criminal justice system's limitations.

ii. Select a Rural Jurisdiction in Ontario for Restorative Justice Pilot Program:

A jurisdiction in rural Ontario would be ideal for a restorative justice pilot program because of the unique challenges presented in these jurisdictions. Further, individuals in rural areas often have closer relationships and more interconnected social networks, which can lead to a more profound sense of accountability and community healing. Additionally, because of the barriers rural survivors face in accessing traditional justice systems, such as long travel distances and limited resources, a restorative justice pilot could provide a more accessible and supportive alternative, offering survivors a more personalized and healing-centered approach. Additionally, implementing such a program in a rural jurisdiction would allow for an exploration of how restorative justice can be adapted to fit the specific needs of smaller, tight-knit communities while testing its potential to strengthen community safety, reduce recidivism, and restore harmony in ways that traditional justice systems often fail to achieve.

iii. Create a Committee in the Rural Jurisdiction to Explore the Feasibility of the Restorative Justice Pilot Program:

A committee made up of a judge, crown prosecutor, defense lawyer, police liaison, victim, social service worker, and restorative justice facilitator should be formed to explore the feasibility of restorative justice in a rural jurisdiction because it ensures a comprehensive, multi-perspective approach to evaluating the potential benefits and challenges of such a program. While all stakeholders have a key role on this committee, the victim's voice is crucial to ensure that

restorative justice is survivor-centered, and the restorative justice facilitator can guide the group through the principles and practices of restorative justice. By including all these key stakeholders, the committee can better assess whether restorative justice is a viable and effective alternative for the community, addressing the complexities of crime, justice, and healing in rural settings.

The committee's mandate would be to explore the feasibility and implementation of restorative justice in the region. The Committee should develop a comprehensive training plan for justice actors in the area, ensuring that all stakeholders have the knowledge and skills necessary to facilitate restorative justice processes. The Committee should establish a robust framework to screen cases to ensure only cases where restorative justice is appropriate are considered based on the offence's nature and the parties' willingness. Additionally, the Committee should create a campaign to educate the community about restorative justice, the benefits, and how restorative justice can be an alternative to traditional punitive measures. Finally, the Committee would select a small number of cases currently in the justice system where restorative justice could be implemented and, with all parties' consent, draft a detailed report on the outcomes and challenges of applying restorative justice in those cases. This structured approach ensures the pilot program is carefully designed, evidence-based, and inclusive of all relevant stakeholders.

D. Limitations

The implementation of a restorative framework to handle sexual and intimate partner violence cases in Rural Ontario has several limitations.

First, this framework would require significant restructuring of how the Crown Attorney's office initially screens cases. This requires significant upfront work in the already overworked and overburdened Crown's office, as well as a willingness by the Ministry of the Attorney General to "buy in" to the benefits of the proposed framework.

Second, increased education on restorative justice would be required, not just for the courts, the Crown, police, and defence lawyers, but also for the public. Restorative justice is not widely understood, and a concern of proceeding with this framework would be the public perception that sexual and intimate partner violence is not being taken seriously by the government. Increased education would also be required to explain the different restorative justice options to victims.

Third, there would need to be an increase in the number of professionals trained to provide restorative justice, such as mediators and facilitators. Programming and training would have to be developed to ensure that the mediators and facilitators conduct restorative justice in a trauma-informed manner and can interact with all parties in the justice system appropriately.

Fourth, the restorative justice model would require funding from the government to provide the victims with legal advice, fund mediators and facilitators, training, and public education. In the current "tough on crime" climate, the willingness of the government to fund such a project and divert cases away from the retributive system may be a challenge and would be a significant impediment to the implementation of this framework.

E. Self-Reflection

Proposing a significant and detailed overhaul of the criminal justice system cannot be adequately achieved within 150 pages of research. Such an overhaul requires consultation with actors in the criminal justice system, victims, feminist support services, and experts in restorative justice. However, it is important to have this conversation and engage in this research to show the involved actors that there is a way forward, address the backlog in courts, and recognize the voices of victims who continually raise the issue that the current system is not working.

Before embarking on this research and becoming a criminal defence lawyer, I thought it was simple: the old system does not work so change it. While the research in previous chapters supports that conclusion, the intricacies of implementing that change are much more extensive, require significant support from the government, and will take years to implement in a meaningful way. However, these intricacies open the door for further research to sort out how to implement such a change practically.

In reflecting on what I learned during this research process, I think back to why I decided to embark on this project in the first place. The first reason is my own experience of violence, which I shared at the start of this journey. The second reason was my sister.

A few years ago, my sister was in an abusive relationship. Her partner at the time was not a bad person, he had his own life struggles and was not able to cope appropriately. My sister had called the cops before to have him removed from her home, not to be charged, just to remove him before the situation became physically violent. One night, she called the police after receiving threatening

messages, and when giving her name, the dispatch officer, recognizing her name from a previous call months before, stated “Girl, you again? When are you going to learn? We can’t keep doing this”. That comment not only shamed my sister for calling the police but ensured that she never called again. She felt humiliated by the dispatch officer and having to justify why she was calling felt worse than the situation she was trying to de-escalate. How dare an officer make my sister feel humiliated for being a victim of intimate partner violence. In that moment, I reflected on our past experiences, my decision to not report, her decision to report, and thought how broken this system is, it must be changed.

I share these stories because I approached this research from a unique perspective; not only am I a victim, but I also have a full-time practice as a criminal defence lawyer, with the majority of my files being sexual or intimate partner violence. I represent Complainants in s.276 and s.278 pre-trial applications and chair the board of directors for a local women’s shelter. Through these experiences, I have learned a great deal about the practicalities of the retributive system and the potential for positive change with a restorative framework. I witnessed firsthand the lack of training officers receive, the impact of mandatory charging policies, and the effects of resource constraints in the Crown’s office. This research is not to blame the individual parties in the system; the blame sits squarely on the shoulders of the system itself.

F. Opportunity for Further Research

Further research is needed to dig deeper into the practical realities of creating a new restorative framework. Additional research is needed to source funding for this framework, to enact a Committee to explore the potential use of restorative justice, and to determine the success or failure

of this model in practice. As suggested in the recommendation section of this chapter, further research could be undertaken, or at least facilitated, by a pilot program committee before a restorative framework is rolled out provincially or nationally.

Chapter 1

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Chapter 2

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Chapter 3

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[665] SOIL Transformative Justice Project, "PODS" (16 March 2023), online: https://www.soiltjp.org/our-work/resources/pods [SOIL]; *Mingus, supra* note 663 at 119.

[666] *SOIL, supra* note 665.

[667]*Ibid.*

[668] *Ibid.*

[669] *Ibid; Mingus, supra* note 665 at 119.

[670] *SOIL, supra* note 665.