

**Justice for Women Who Experience Intimate Partner Violence:  
Reflections on restorative justice ideals and making social meaning**

Stephanie Ehret

Thesis submitted to the  
Faculty of Graduate and Postdoctoral Studies  
in partial fulfillment of the requirements  
for the Doctorate in Philosophy degree in Criminology

Department of Criminology  
Faculty of Social Sciences  
University of Ottawa

© Stephanie Ehret, Ottawa, Canada, 2016

## ABSTRACT

This is a deductive study testing Hudson's (2006; 2003) theory of social justice and, specifically, her delineation of three restorative justice principles (discursiveness, reflectiveness and relationalism) in order to explore how the principles might respond to the justice needs of women who have experienced abuse and violence by male intimate partners. Through in-depth and critically informed one-on-one interviews with twelve women who have experienced intimate partner violence in former relationships, it asks how abused women conceptualize justice and how justice might be done through restorative justice principles. The women offer social conceptualizations of justice and of doing justice that reconfigure the principles of restorative justice to prioritize protective solutions, and they locate them in domains outside of criminal justice where the complexities and dynamics of intimate partner violence are well understood and they demonstrate openness to support abused women. Their feedback about restorative justice principles suggests configurations in social service domains such as help lines, crisis centres, and shelters and, more broadly through policies enabling social responsibility in domains such as workplaces, media, and social media where there is the potential to create collaborations and protective solutions. Despite frustrations with the criminal justice system for its inability to provide long term protective solutions, given its ability to help some women in the short term, the women were not willing to jettison it.

## ACKNOWLEDGEMENTS

There are many persons who have helped to make this dissertation possible, and I thank each of them for their support on this journey. First, I would like to thank the twelve women for taking the time to speak with me about their experiences and for their generosity in sharing their ideas about justice and doing justice. This project would not have been possible without them.

This project also would not have been possible without the support and steady guidance of my supervisor, Dr. Holly Johnson. Holly, your depth of knowledge about intimate partner violence has been invaluable to my work, and your kindness and generosity of spirit inspire me. Thank you. I would also like to thank the other members of my committee, Colette Parent and Kathryn Campbell, for their support, wisdom and valuable insights throughout this project.

To the many friends with whom I've been fortunate to interact in the course of this project, thank you for the coffees, chats and heart-to-hearts. In particular, I would like to extend a special thank you to the two colleagues who did pilot interviews for this project. I would also like to thank Molly Dragiewicz, Walter DeKeseredy, Annmarie Barnes, and Daved Muttart for their knowledge, insights and encouragement during my times as their teaching assistant.

Most importantly, I would like to thank my family for their patience and support throughout this project. Mom and Dad, you are my rocks. Thank you for encouraging me to dream and for helping me to realize my dreams. Thank you to my partner and my son. Barry, you are my love and light, and the one who encouraged me to go back to school. Thank you. To my sweet boy, Benjamin, I love you, your gentle kindness, and the sparkle in your eyes.  
*Bon courage!*

## TABLE OF CONTENTS

ABSTRACT .....	ii
ACKNOWLEDGEMENTS .....	iii
TABLE OF CONTENTS .....	iv
<b>INTRODUCTION</b> .....	1
Defining intimate partner violence .....	4
Structure of the thesis .....	6
<b>CHAPTER 1 – JUSTICE FOR INTIMATE PARTNER VIOLENCE</b> .....	9
Part 1 - Justice for abused women .....	9
A plural conceptualization of justice for abused women.....	10
Navigating paths to justice amidst criminal justice reforms.....	25
Part 2 - Justice in criminal justice and the challenge of its reliance on punishment .....	29
The exclusions of criminal justice .....	30
The thorny matter of punitive responses .....	33
Part 3 - Can restorative justice engender justice for intimate partner violence? .....	38
Aspiring to engender justice through flexible, communitarian processes.....	40
Critiques of restorative justice for intimate partner violence: repudiations and cautions ..	42
Women’s experiences with restorative justice: mixed reviews and calls for further research .....	46
Feminist praxis in Family Group Decision Making .....	52
Chapter Summary .....	54
<b>CHAPTER 2 – THEORETICAL FRAMEWORK: CONCEPTUALIZATIONS OF DOING JUSTICE</b> ....	56
Part 1 - The punitive conceptualization of doing criminal justice.....	56
The universalist logic of law and criminal justice .....	56
The punitive modality and its reification of rational choice assumptions .....	60
Part 2 - The reparative conceptualization of doing justice .....	65
Reparation of harms as a modality of social control .....	65
False dichotomies and misapprehensions .....	68
Criminal justice as a source of leverage in the restorative justice context .....	69
Part 3 - A conceptualization aimed at doing social justice .....	73
Principles of justice: giving difference its due .....	76
Limitations and unresolved dilemmas .....	81
Part 4 – Research framework: Exploring a conceptualization of doing social justice .....	85
Chapter summary.....	88
<b>CHAPTER 3 – RESEARCH FOCUS AND METHOD</b> .....	89
Part 1 - A critical feminist lens .....	89
Beyond the text: critical reflexivity about truth claims .....	91
Part 2 - Research focus .....	93

Operationalization of three justice principles: discursiveness, reflectiveness and relationalism .....	94
Part 3 - Research method .....	98
Preparation .....	100
Sampling .....	105
The interview process: conducting the interviews .....	106
Part 4 - Reflections on my role as researcher .....	111
Part 5 - Data analysis and coding .....	114
First-cycle coding and analytical methods .....	117
Transition to second cycle: code mapping .....	123
Second-cycle coding: focused coding .....	123
Chapter summary .....	124
<b>CHAPTER 4 – MAKING MEANING OF JUSTICE AND GIVING DIFFERENCE ITS DUE .....</b>	<b>125</b>
Part 1 - How the women are socially situated .....	125
Part 2 –Making meaning of justice as survivors of abuse .....	133
Conceptualizing justice: “Well the real meaning of justice is...” .....	134
Complexities and messy realities: “Because I don’t feel that there’s a lot of justice...” .....	142
Justice as recognition .....	148
Part 3 – Reflections on social resources, criminal justice, and restorative justice .....	163
Social resources invaluable but insufficient to ensure justice .....	163
Experiencing criminal justice: helpful for some, re-victimizing for others.....	168
First impressions of restorative justice: “Too idealistic.” .....	174
Apprehensions about capacity of restorative justice to challenge male privilege .....	176
Troubling communitarian ideals in the context of intimate partner violence.....	181
Part 4 – Making social meaning of justice.....	186
The social ecology .....	187
Giving difference its due and making social meaning.....	192
Part 5 – Making social meaning of restorative justice principles .....	197
Discursiveness: Encourage social collaborations .....	198
Reflectiveness: Engage specificity to provide protective solutions .....	204
Relationalism: Encourage social responsibility and advance social supports .....	207
Chapter summary .....	213
<b>CHAPTER 5: CONCLUSION .....</b>	<b>214</b>
(Some) Abused women conceptualize justice socially, as recognition to prioritize solutions .....	216
Restorative justice ideals incorporate social responsibility but require reconfiguration ..	219
(Some) Abused women prefer restorative justice ideals configured to domains outside of justice contexts.....	222
Final thoughts .....	225
<b>APPENDICES .....</b>	<b>228</b>
Appendix 1 - Semi-structured interview guide.....	228
Appendix 2 - Organizations contacted .....	234
Appendix 3 - Study Information Sheet.....	235
Appendix 4 - Women’s Resource Bookmark and business card.....	237

Appendix 5 - Recruitment Text / Bulletin Board Advertisement.....239  
Appendix 6 - Presentation for Women’s Organizations.....241  
Appendix 7 - Informed Consent Form.....243  
**REFERENCES** .....246

“I don’t like the term ‘justice’. I don’t know why. And I can’t really even explain that. Because justice seems to imply someone being held responsible for something that they’ve done. In my mind, that’s sort of a definition of justice. And, you know, I don’t always like the term these days. Because I don’t feel that there’s a lot of justice.” (P2 2012)

## INTRODUCTION

The above statement demonstrates the complexity of how women who have experienced abuse and violence by male intimate partners view justice and justice responses. Indeed, the idea of justice is commonly associated with being held responsible, and closely connected to this is the conception of justice as a person who has done harm getting what they deserve (Sandel 2009; Sen 2009); these conceptualizations also hold a commonplace association with criminal justice. However, researchers and activists such as Dobash and Dobash (1992), Snider (1998c) and Stark (2007) debate the relative merits of searching for justice for intimate partner violence<sup>1</sup> within state institutions which officially express disapproval of it, and yet are neither designed nor equipped to address the needs of abused women or to alter the dynamics of intimate abuse, and in fact reinforce gendered, raced and

---

<sup>1</sup> Several terms have been used in reference to abuse and violence against women by their male intimate partners, including wife abuse, woman abuse, domestic violence, family violence and intimate partner violence. Each term has benefits as well as challenges, highlighting various elements of gender, abuse and violence to the exclusion of other elements (Dragiewicz 2011). For example, while the term ‘wife abuse’ highlights gender and the social institution of marriage, it narrows the focus to only those women who are in a legal state of marriage (Dobash and Dobash 1992, 39-40). Similarly, the term *intimate partner violence* has both benefits and challenges. Amongst the challenges of the term is its *gender-neutral language*, which obfuscates the gendered realities of intimate abuse and violence and the structural inequalities that reproduce male privilege (Minaker and Snider 2006).

While it is my preference to state the problem as ‘women who experience abuse and violence by male intimate partners’, this is cumbersome. Instead, I will primarily be using the term *intimate partner violence* because its focus on the intimate relationship is in keeping with the restorative justice processes examined in this research. Specifically, restorative justice aims to be responsive within the web of relationships, personal as well as social, in which the harm and wrong have occurred, and I use the term to emphasize the *intimate nature of the relationship involved*. I do not use the term ‘intimate partner violence’ to shift responsibility away from the abusive male partner, and I view this abuse and violence as *an asymmetrical issue of men’s violence against female partners*, where men’s violence is greater in terms of frequency, severity, and consequences, as well as the harm to the victim’s sense of safety and well-being (Dobash and Dobash 2004). Although the term intimate partner violence does not address the asymmetry of this problem, throughout the entirety of this project I use it with this asymmetry in mind.

classed power imbalances and structural inequalities. While criminal justice responses have been helpful to some women in some situations, they have many shortcomings and in fact leave some women worse off (see for example Landau 2004; Snider 1998b). Many abused women are dissatisfied with both the processes and outcomes achieved through conventional criminal justice responses to intimate partner violence (see discussions in Bumiller 1998; Dayton 2002/2003; Dobash and Dobash 1992) which do little to respond meaningfully to the social, personal and material needs of women who experience violence by male partners. By focusing on single incidents of violence, they de-politicize and de-contextualize the abuse and violence (Dragiewicz 2011) and fail to challenge the coercive and ongoing dynamics of intimate abuse and violence (Sheehy 2014). Thus, some researchers and activists, such as Pennell and Burford (2002; 1998) in their exploration of Family Group Decision Making, are examining restorative justice for intimate partner violence.

But why ask about restorative justice in particular? First of all, interest in restorative justice reflects, in part, disillusion with the punitive conceptualization of justice in the criminal justice system. That is, restorative justice is seen as an alternate modality of justice which de-emphasizes punishment in favour of the reparation of harms within a context of community support and accountability for both the person harmed and the wrongdoer. In addition to changing outcomes, Christie (1981; 1977) proposes a participatory justice so that both the person harmed and the wrongdoer can participate in the process of doing justice. In relation to intimate partner violence, when women are asked what they seek from a justice response, some are critical of what the institutions of criminal justice are able to offer and emphasize objectives that are consistent with restorative justice to an extent (for example, see Curtis-Fawley and Daly 2005; Coker 2006; Pennell and Burford 1998; 2002). As Presser and Gaarder (2000) argue, some women indicate they want choice and control in

justice processes so that both their agency and experiences of victimization are recognized along with the responsibility of a violent partner, while also de-emphasizing punishment and extending ownership of the problem to a concerned and supportive community. These objectives are reflected in restorative justice, at least in theory (Presser and Gaarder 2000).

Some researchers and advocates examining whether restorative justice might be appropriate for intimate partner violence from the perspective of feminist principles prioritize gender and oppose patriarchal criminal justice structures and practices (see for example Curtis-Fawley and Daly 2005; Morris and Gelsthorpe 2000; Pranis 2002). However, restorative justice is contentious amongst researchers, activists and those who provide community and legal services to women suffering intimate abuse and violence, and many feminists are opposed to its application, concerned particularly about its emphasis on apology and forgiveness (Curtis-Fawley and Daly 2005; Daly and Stubbs 2006; Stubbs 2004; 2007). Much research to date is aimed at fleshing out potential benefits and concerns and identifying requirements of the processes that would ensure safety and justice (for example, see Coker 2006; Daly 2006; Daly and Stubbs 2006; Wager 2015). In fact, Cameron (2006b) recommends a moratorium on all new restorative justice programming in Canada for intimate partner violence until further research demonstrates its efficacy.

Clearly, caution is needed and additional research is required before the appropriateness and effectiveness of restorative justice for intimate partner violence is known. What feminists can bring to these examinations of restorative justice is a prioritization of gender, insistence on engaging the lived realities of the women who experience the abuse and violence, and the women's conceptions of justice and objectives and aspirations when seeking a justice response (Ptacek 2010). A number of *hybrid responses*, those which engage both the community and service sectors along with the

criminal justice system, have emerged (Stark 2007; Stubbs 2004). There are few ‘pure’ restorative justice processes in practice, with most of them connected to the criminal justice system to some extent. This pairing of restorative justice with criminal justice may offer a promising shift in criminal justice approaches to intimate partner violence if the needs and safety concerns of abused women can be guaranteed. And thus, in the context of ongoing shortcomings of criminal justice responses, particularly the failures to provide safety and produce lasting change in the behaviour of violent men, some scholars and activists such as Ptacek (2010) and Wager (2015) ask what restorative justice might offer women seeking justice for violence in their intimate relationships, and many call for caution (see Cameron 2006b; Stubbs 2007; 1995). In this space of inquiry, this thesis explores views of abused women regarding the principles of restorative justice and how these principles might create, redefine and/or improve justice opportunities for intimate partner violence.

### **Defining intimate partner violence**

In Canada, intimate partner violence<sup>2</sup> has been recognized as a social problem since the late 1970s, with the genesis of this understanding in the women’s movement, through the work of researchers and activists such as Linda MacLeod (1980) who provided structural conceptualizations of the causes for intimate abuse and violence, and linking it to patriarchal institutions, social practices, politics, economics and ideologies, they advocated for

---

<sup>2</sup> Feminist literature engages a broad definition of intimate partner violence as an *asymmetrical issue* of men’s abuse and violence against their female partners, both in terms of frequency and the severity of the abuse and violence (Ansara and Hindin 2011; 2010; Dobash and Dobash 2004) that encompasses a vast range of types of abuse which can occur alongside the violence within the relationship, in what Dobash, Dobash, Cavanagh and Lewis (2000) have termed a ‘constellation of violence’. These constellations frequently include dynamics of coercive control, ranging from emotional, psychological, spiritual and financial abuse such as isolation, belittlement and not allowing access to a faith community or to bank accounts, as well as physical and sexual abuse and violence such as slapping, hitting, pushing, punching, choking, unwanted sexual touching or other types of physical or sexual violence (Bancroft 2002; Dobash and Dobash 1992; Johnson 1996; Johnson and Dawson 2011; Stark 2007).

concerted societal change. In the wake of the Montreal Massacre<sup>3</sup> in 1989, when governments in Canada came under pressure to invest in improvements to research, legislation, prevention and community responses to crimes of violence against women, the federal government funded the 1993 Violence Against Women Survey (VAWS) which estimated that 16% of all women had experienced dating violence and 29% of women had experienced an assault by a male marital partner (Johnson 1996). However, despite heightened public awareness and an expansion of aggressive policing and prosecution policies across the country, intimate partner violence continues to be one of the most common forms of violence against women, both in Canada and internationally (Sinha 2013, 4; Johnson, Ollus and Nevala 2008).

While feminists are in general agreement in their descriptions of the problem of intimate partner violence, there is diversity in the explanations for it<sup>4</sup>. Nonetheless, overall feminist theories emphasize gender and power dynamics, positioning the privileged status of men as well as the social, political, and legal structures and institutions that support this male entitlement as fundamental to the subordination of women and the abuse and violence they

---

<sup>3</sup> On December 6, 1989, Marc Lépine went on a shooting rampage at L'École Polytechnique in Montreal, Canada, targeting feminists and killing fourteen women before killing himself. Since then, women have linked the massacre to 'everyday' sexism and social values and attitudes of male privilege and misogyny, and the event is remembered through memorials and each year on December 6 through vigils and other social actions as a way of continuing to challenge and resist sexism, misogyny, and patriarchy. (The Cultural Memory Group 2006)

<sup>4</sup> For example, *liberal feminists* assume men and women are *essentially the same* and thereby abuse and violence are rooted in inequality and a lack of access to opportunities to achieve equality. In turn, liberal feminists *focus on inequality* in the public sphere rather than oppression and they advocate for equality and rights by engaging state power, such as tinkering with the law and criminal justice responses, but their focus on interpersonal relations has been criticized for lacking systemic analysis (Comack 2006; Masson 1999). In contrast, rather than inequality, *radical feminists* focus on *women's oppression* and how law renders women as outsiders and 'Other' (see discussions in Comack 2006; Smart 1989), with theorists such as Catharine MacKinnon (1982) arguing that the state is essentially male, and actions such as consciousness raising are required to challenge and subvert patriarchy. It has been criticized for being overly women-centred and thereby excluding men (Comack 2006). Meanwhile, *socialist feminists* focus on the separation of the *productive and reproductive spheres* in capitalist society into public and private realms (Comack 2006). In this view, law is seen as discourse (rather than the liberal view of law as ideology), and the law and the state reproduce unequal relations of re/production (Currie 1990).

experience (Bancroft 2002; Daly and Stubbs 2006; DeKeseredy 2011a; 2011b; Dobash and Dobash 1992; Parent and Coderre 2004; Pennell and Burford 2002). In turn, to ameliorate intimate abuse and violence against women they aim to empower women and to challenge the social structures and institutions which support male privilege (Bumiller 2008; Snider 1998a).

In recent decades, there have been calls for increasingly nuanced understandings of violence against women by male partners, incorporating intersectional understandings of women's social positionings and oppressions, such as those informed by race, culture, income, age, and ability (see Comack 2006). Intersectional understandings illuminate how abused women are socially situated, and how their social identities and contexts shape and influence their access to social and legal supports and resources (Hennessy 1993; Minaker 2001). Intersectional understandings also challenge the typification of abused women as helpless and incapable of rational decisions, highlighting their agency and negotiations of choice amidst options and resources which are fluid and vary by their social locations and situations (Minaker 2001).

### **Structure of the thesis**

The aim of this study is to explore how principles of restorative justice might respond to the justice needs of abused women. Rather than focusing on a specific restorative justice response or set of processes, instead, through in-depth and critically informed one-on-one interviews with women who have experienced intimate partner violence in former relationships, this research asks how abused women conceptualize and position justice and restorative justice principles in light of their experiences of abuse and violence. To this end, I begin by reviewing the literature on philosophical, social science and feminist conceptualizations of justice for intimate partner violence and I explore how the failures of

criminal justice have led to interest in restorative justice for intimate partner violence, presented in Chapter 1.

Chapter 2 provides a plural analytic conceptualization of doing justice, building on examinations of the punitive modalities and rationales of criminal justice and the reparative modalities and rationales of restorative justice, as well as Barbara Hudson's theory of justice which aims to enhance social justice (see Hudson 2006; 2003; 2002). Using this plural conceptualization, this research project seeks to elucidate how three justice principles, discursiveness, reflectiveness and relationalism, as delineated by Hudson (2006; 2003), might respond to the justice needs of abused women.

Chapter 3 examines the qualitative feminist perspective that underpins the methodology undertaken for this research project and how it informs the semi-structured, in-depth, qualitative interviews with twelve women who have experienced abuse by male intimate partners. It also demarcates how the restorative justice model of Family Group Decision Making (FGDM) designed and implemented in Newfoundland and Labrador in the mid-1990s by Joan Pennell and Gale Burford (2002; 1998) demonstrates Hudson's (2006; 2003) delineation of discursiveness, reflectiveness and relationalism, and how these principles were operationalized in the interviews.

Chapter 4 analyzes what the woman said about their conceptualizations of justice and their viewpoints about whether the ideals of restorative justice resonate with their justice needs in light of their own experiences, and then how these ideals might be shaped and situated in a justice response to meet justice needs of abused women. Chapter 5 presents the conclusions of this research project and, recognizing its limitations, explores what the findings offer to the conversations and debates about the principles underlying restorative justice responses and their applicability to intimate partner violence. Results show that some

abused women find promise in reframing the restorative justice principles toward social solutions in social spheres (such as strategies in shelters, workplaces etc.) and rather than justice within legal spheres (such as police and courts), and their insights add to the discussions about how restorative justice principles could be used to better meet the needs of abused women.

## **CHAPTER 1 – JUSTICE FOR INTIMATE PARTNER VIOLENCE**

This chapter reviews literature on the complexities and challenges of seeking justice for women who have been abused by male intimate partners. A considerable body of research outlines strategies put forward to support abused women and to challenge the social, political, and legal structures and the social norms and values that underpin gendered harms in intimate relationships which will not be repeated here (see for example Barata and Senn 2003; Braithwaite and Strang 2002; Cameron 2006; 2005; Comack 2006; 1993; Dobash and Dobash 1992; Landau 2004; Lewis 2004; MacLeod 1995). This review focuses on *how the limits and harms of criminal justice responses in the aftermath of abuse and violence against women by their male partners have lead to the exploration of restorative justice for intimate partner violence*. Central to this exploration of justice responses is how abused women see justice, and the first part examines a plural conceptualization of what justice means for them. Based on work of Holder (2013) and Hudson (2003), this examination embraces explications of justice with more extensive consideration of structural and institutional conditions than the narrow, distributive liberalist conceptions typically allow (Young 1990). The second part explores what differences justice responses make in the lives of abused women, examining tensions and debates surrounding criminal justice strategies put forward to respond to intimate abuse and violence. The third part summarizes the research literature on restorative justice for intimate partner violence, including analyses and critiques of approaches in Canada.

### **Part 1 - Justice for abused women**

What is justice? Conceptualizations of justice are complex, with extensive personal, social, and philosophical meanings, connections, and applications (Campbell 2010; Holder

2013, 6) stimulating deep and broad debates over the centuries. Ideas of justice are personal and diverse, and shaped by what one wants and needs in specific situations and social contexts, but they are also intertwined with social and legal constructs of justice (Holder 2013) which are shaped and framed by historical, social, and political ideas and norms of what is valued and what matters in a given social context (Sandel 2009) as well as structural and institutional conditions (Fraser and Honneth 2003). It is beyond the scope of this thesis to provide an in-depth examination of these conversations and debates about justice; instead, the focus here is on a small portion of the conversations, which is justice for women who have experienced abuse and violence by male intimate partners. This examination embraces a critical stance which questions the validity of justice as a singular concept and instead uses a plural conceptualization which sees strength in nuanced explications of justice that absorb divergent aspects (see for example Holder 2013; Hudson 2003; Sen 2009). I map out a plural conceptualization of justice to establish a conceptual basis for delving deeper into the complexities and meanings of justice principles for abused women, and to highlight my critical stance I ask who benefits and who is harmed (Hudson 2006; 2003). This mapping of justice is based on insights from feminist literature looking at justice from the perspective of women as victims/survivors of abuse, and it is also informed by other philosophical and social science literature on justice. I then examine literature on the experiences of abused women while they navigate social and legal paths to justice amidst reforms to law and the criminal justice system.

### **A plural conceptualization of justice for abused women**

A plural conceptualization of justice provides a lens through which to consider the varied and overlapping priorities abused women may bring to considerations of justice in the aftermath of male partner violence. Some of the conceptions can be connected to specific

social or legal institutions but like Holder (2013), I resist confining them exclusively to these domains, and my intent is to *flesh out conceptualizations of justice* while maintaining an open and fluid schematic of justice. In addition, even though the conceptions are provided as distinct categories, they have dynamic interplay and interconnections across and within them, and their meanings are personally, socially, and politically situated. That is, the conceptions of justice do not form an exhaustive list, and neither do they indicate fixed and mutually exclusive perspectives of justice for abused women. The complexities of how an abused woman conceptualizes justice are shaped by personal experiences as well as cultural, social, political, structural and normative contexts and pressures.

This plural conceptualization provides a lens for exploring justice responses for abused women by highlighting different spheres and aspects in how they envisage justice (Campbell 2010). But there are also tensions in this explication as the idea of justice can intersect or compete with other ideals such as liberty, utility and benevolence (Campbell 2010, 22), and in some cases justice responses can conflict with the needs of abused women and with potential solutions (Minaker 2001). Indeed, for an abused woman, a solution to the problem of abuse would attend to her needs, but not all solutions will be seen as justice (Parent and Coderre 2004). Holder (2013) suggests that focusing on needs in explorations of justice overemphasizes therapeutic arguments (43). On the other hand, Minaker (2001) argues that responses to intimate partner violence must prioritize the needs of abused women to survive and to cope and rebuild their lives through transformative strategies, rather than punishment and criminal justice interventions (106). While the focus of this study is justice and justice response, in keeping with Minaker (2001), the needs of abused women are seen as distinct and primary while also interconnected with solutions and ideas of justice.

In addition, some aspects of justice are more salient according to women's identities as well as they are socially situated, such as pressures from friends, family or a faith community to stay/leave (Hamby 2014), and elements of identity cannot simply be nuanced. Rather, identity is "both-and", with personal and contextual meanings, and with situations and relationships influencing the most salient aspects (Hudson 2006). Abused women are situated in a variety of social and political spaces, and their identities within these spaces are fluid and contextual. As Minaker (2001) argues, "there is a lot more at work than the master status 'victim of abuse' or 'abused woman' can capture" (83-84). Rather, their relations cannot be reduced to ones of oppression, and abused women do not identify foremost as victims but as workers, mothers, artists and so on, and they speak of the importance of effective solutions (Parent and Coderre 2004). In turn, justice is described by abused women by complex and multifaceted meanings, amongst others, sometimes emphasizing social terms (Herman 2005) and referring to substantive social and political options to challenge male privilege (Stark 2007), and at other times, emphasizing personal safety and "freedom" from their partners' intrusions, attempts to control their day-to-day lives, and violence (Westmarland and Kelly 2013, 1102-1103). Indeed, the social and political spaces people inhabit are fluid and dynamic rather than settled and discrete. In turn, the needs of abused women are dynamic and the meanings of justice are diverse, with each woman's own ideas of justice influenced by her identity and with whom she interacts as well as her values, beliefs, circumstances, and opportunities at a given point in time.

In this plural conceptualization of justice, the first four dimensions follow Holder's (2013) in-depth discussion of justice, whose qualitative research focuses on victims of violence who have had interactions with the criminal justice system, some of whom are women who have been victims of intimate partner violence. Using literature from political

philosophy and the social sciences, Holder (2013) demarcates six conceptual dimensions of justice, creating a framework by which to examine both victims' and professionals' conceptualizations of justice (18). Of the six dimensions, four were selected for their insights into dimensions of justice in broad terms:

- Justice as normative guide
- Justice as duty
- Justice as accountability
- Justice as fairness

The remaining two conceptions demarcated by Holder (2013) (justice as relational and justice as contextual) were not selected for inclusion in this discussion as while they extend to interpersonal violence, they are not specific to intimate partner violence. Given this thesis is focused exclusively on justice for women who have been abused by male intimate partners, I have instead included three additional dimensions in this plural conceptualization of justice which are specific to intimate partner violence and grounded in feminist literature from the social sciences, and based on what abused women say about justice and what they want and need in justice responses (see for example Herman 2005; Landau 2004; Minaker 2001; Parent and Coderre 2004). While ideas of justice are held relatively firmly by abused women, research also indicates that the dimensions of justice intertwine and/or compete with their needs and with solutions to the abuse and violence, which are dynamic and in flux within their relationships and social locations (Minaker 2001; Herman 2005). These dimensions include:

- Justice as safety
- Justice as social
- Justice as acknowledgement and validation

Each of these dimensions along with ways in which it interplays and interacts with intimate partner violence is explored below.

### *Justice as normative guide*

A normative conceptualization of justice articulates what justice *ought to be* (Sandel 2009; Holder 2013, 33). Holder (2013) argues it can be understood as a norm or standard, and it may or may not have a moral basis (33). Justice as normative guide grounds justice on norms and standards assumed by commanding, obliging, recommending or guiding (Korsgaard 1996 in Holder 2013, 34), and provides a referent and ideal for determining how things ought to be, and for “framing if not determining action” (or inactions) (Holder 2013, 34). However, Holder (2013) also argues that in reality, this conception of justice does not speak adequately to the complexities of determining the right thing to do in each specific case and situation. It does not indicate how ‘harms’ are defined and by whom, or what types of actions might be appropriate in response to these harms. As Campbell (2010) puts it:

Justice is also used to express perfectionist ideals about the best form of human relationships in the most utopian of societies which no actual state can be expected to achieve. (7)

A critical lens is needed to historically and socially contextualize reflections about the right thing to do, and to examine what behaviours have been constrained (or not) by social norms concerning intimate partner violence as well as how androcentric understandings of harms have informed legal norms and law (Smart 1998; 1989). Social norms are constructs and expectations shaped by social values and customs and they deem actions/inactions ‘appropriate’ or not in a given social context while legal norms are formalized in law and define actions/inactions as harms and they centre on whether individuals adhere to these laws. Alongside male entitlement in the home and taboos about the state interfering in this so-called man’s domain, gendered normative expectations have informed what is considered harmful and what is (un)just in law and legal domains (Smart 1998). In this way, legal and social norms are the nexus of justice as normative guide.

Social and legal norms are constructs imbued with values and expectations (Young 1990), and include gendered ideas about behaviour and the types of responses deemed normatively appropriate for victims of intimate abuse and violence, such as the social norm and expectation that she would leave if it was ‘really so bad’ (Comack 1993). The social expectation that an abused woman must leave an abusive relationship informs legal norms and law (Comack 1993) and as Hudson (2006) argues, since law reflects society, it “cannot be expected to remedy injustices legally before they are recognized as injustices socially” (30). Indeed, even though intimate partner violence is recognized as a social problem, ongoing challenges to find solutions and justice show that presumptions and prejudices continue to inform both social and legal norms (Hudson 2006, 32), including normative expectations about what abused women need in justice responses. Thus, while justice as a normative guide provides a way of thinking about how things ought to be, alone it is insufficient to consider how justice ought to be done and of what it ought to be comprised; rather, it provides a starting point for thinking about justice (Holder 2013, 34).

#### *Justice as duty*

It falls to the conception of justice as duty to indicate of what it ought to be comprised (Holder 2013, 34). This is an early conceptualization of justice which prioritizes doing what is *right* over doing what is good (Cohen 1985; Rawls 1971) and it speaks to the idea of people getting what is due to them (Sandel 2009). It is based in the Socratic notion of ‘doing one’s own’ duty without interfering with others. In this conception, justice prides itself on rigour and is connected to ideas of constraint, predictability, rationality and impartiality, speaking strongly to present ideas of *legal justice* (Holder 2013, 34).

In legal justice, duty assumes equality before the law, where the same punishment is meted out for the same offence, and in engaging justice as duty, legal institutions claim legitimacy and authority to mete out justice through their strong adherence to rules and standards. However, in isolation and without critical framing, this conception of justice can have troubling implications for disadvantaged social groups and more so in this work, for abused women who are disadvantaged by race, ethnicity, faith community, income etc. While conceptualizing justice as duty frames it as rightness being done with appropriate constraint, its strength lies in its claims to moral force. But if institutional adherence to the rules is prioritized over critical considerations of the inequities of domination and oppression (Young 1990) then pragmatic considerations which ask what difference it makes fade to the background (Cohen 1985). Indeed, while the criminal justice system claims justice as duty through the *equality* of all citizens before the law, a point of departure is evidenced in how law actually subordinates concerns of social disadvantage and difference (Naffine 1990; Hudson 2003). In turn, the moral force claimed through adherence to duty diminishes unless pragmatic considerations are included in ideas of justice as duty. For abused women, justice as duty requires a critical lens which asks what difference a course of action (particularly legal action) makes for them in their day-to-day lives (Dobash and Dobash 1992).

#### *Justice as accountability*

Justice as duty is connected to justice as accountability, which builds on the Aristotelian notion of ‘deserts’, and tasks justice with *rectifying* harms or wrongs, holding persons to account, and ending impunity (Holder 2013, 35). According to Holder (2013), “justice may generate effects that are retributive, punishing, restorative, rehabilitative, and that denounce and deter” (35), and these effects are closely connected with the rationales and

mandates of legal institutions. Bringing wrongdoers to account is a conception of justice in many settings and the idea of holding those who deserve it to account for their conduct is closely linked to the idea of *responsibility* (Holder 2013). Responsibility in the legal context is about the state-sanctioned redress of harms where the individual wrongdoer is held responsible. However, in the context of the “risk society” (Beck 1992) and its tendency to envisage crime prospectively and in aggregate terms (rather than retrospectively and individually), social and legal institutions are also viewed as responsible for preventing future harms (Garland 2001, 128).

For abused women, justice as accountability means that in a just world, their abusive partners would be held to account for the harms and wrongs they have done. If linked to a legal notion of justice, this conception of justice focuses on abusive partners being held responsible by legal institutions. However, if strategies intended to enhance the accountability of abusive men, such as mandatory charging and pro-prosecution policies, are emphasized at the expense of safety and security, abused women can in fact be endangered (Goodman and Epstein 2005, 480). By example, if the accountability of an abuser is pursued through inflexible justice policies such as mandatory arrest and pro-prosecution, they may override the efforts of an abused woman to regain control over her life and cause greater harms (Goodman and Epstein 2005, 481). As Goodman and Epstein (2005) put it, inflexibility:

thwarts a survivor’s efforts to regain control over her life, move past abusive experiences, and protect herself from future violence. Such a victim may also be far less likely to contact police or prosecutors in the future, ultimately leaving her more trapped than ever in her violent home. (481)

While it is critical to hold abusive men accountable for intimate abuse and violence and policies such as mandatory arrest provide an important ‘symbolic shift’ towards this,

considerations for accountability must be held in ‘tandem’ with considerations of the safety of abused women (Goodman and Epstein 2005, 483), and these considerations may or may not include the criminal justice system.

### *Justice as fairness*

The conception of justice as fairness was revived in the 20<sup>th</sup> Century through the work and writings of Rawls (1985; 1971). This conception commonly refers to allocations, procedures, and decision making, and is commonly part of discussions about the meanings and applications of justice (Holder 2013; 2008; Snider 1998a). Fairness is a common guide to consider what is just in a given situation, and it requires the moderation of self-interest while taking others into consideration (Holder 2013, 36).

Rawls (1985; 1971) presents a political conception of justice as fairness, articulating an art of governing which conceives of justice through a “thought experiment” (Sandel 2009, 141) which asks us by using the “veil of ignorance” to imagine that we do not know anything about our own social positionings or (dis)advantages. It invites moral arguments from a position of ‘equality’ or impartiality where one’s own identity (such as gender, race) and moral convictions are not known, and it intends for justness to be considered from a position where one’s own advantage or disadvantage is not known (Rawls 1985; 1971). Rawls stipulates that two principles emerge from this impartiality: everyone has the right to an adequate scheme of equal rights and liberties; and, social and economic inequities are only allowed if they advantage those who are least well off (Sandel 2009). Justice as fairness intends to reject and to remedy the complacency of privilege and it reminds us that “the way things are does not determine the way they ought to be” (Sandel 2009, 165). In this light, justice as fairness provides a critical lens for interpreting the flux and changes in

intimate relationships (Holder 2013) and women's personal experiences of intimate abuse and violence, as well as how social institutions deal with injustice.

*Justice as safety*

Justice as safety is a fluid and dynamic conception rather than a discrete one, in that safety can be at the forefront of the idea of justice and then shift as other needs embedded in one's daily life come to the fore (Minaker 2001), and it is linked to the interpersonal, social, and political spaces one inhabits. Justice as safety speaks to the need for physical safety as well as psycho-social safety which includes peace of mind and "freedom" (Westmarland and Kelly 2013). Described by Garland (1997), in contrast to agency, freedom is a matter of degree, as "a capacity to choose one's actions without external constraint ... it is the configured range of unconstrained choice in which agency can operate" (196–7). In their research about programming for abusive men, which included interviews with female partners/ex-partners, Westmarland and Kelly (2013) similarly describe freedom as abusive partners being "less obsessive and controlling" and they connect freedom to ideas of safety and "no longer living in fear" (1103).

Safety is integral for abused women and as a conception of justice can stand alone or it can coincide with other conceptions of justice, such as justice as accountability. However, while safety is paramount, its meaning can be fluid, and in a given circumstance it can instead be more about finding a solution for safety, such as safe shelter or means of staying/leaving safely, rather than about finding justice. Minaker (2001) argues that the meaning of safety is contextual and can be framed differently, such as security and freedom from an intimate partner throughout their personal and social spaces by ending the violence temporarily or permanently, or it can mean engaging institutions of criminal justice. Indeed,

the need for safety provides a clear example of how the complexities and interconnections across the needs of abused women and solutions can intertwine with or diverge from ideas of justice. As an example, in concrete situations and experiences of violence, abused women may negotiate choice (Minaker 2001) and safety through solutions which do not provide them with a sense of justice. The reach of abusive partners can be extensive into women's lives, particularly when men's sense of entitlement and opportunities to control their female partners are extended by new technologies such as mobile phones and social media (Southworth et al. 2007), and through policies that fail to provide safety and instead reproduce potentials for harms, such as child welfare policies and family courts requiring abused women to facilitate access for violent men to children (Koshan and Wiegers 2007; Strega and Janzen 2013, 58).

Justice as safety for intimate partner violence through legal domains can be nebulous and challenging, and abused women tend to use the police and courts as a final resort (Landau 2004; Minaker 2001, 85). In addition, in modern contexts there is currently a pre-occupation to create and maintain security by *mitigating vulnerabilities to risk* through scientific and rational strategies (Beck 1992; Hudson 2003; Rose 2001). That is, it has become routine to target safety through evaluations of whom and what is reasonable and safe (or unreasonable and risky) and to then manage the risks and those who are deemed risky. This risk management happens, in part, in legal domains. But in legal discourse, the androcentric bias disqualifies alternative world views, including those of abused women (Smart 1989) and it mis-conceptualizes intimate partner violence as discrete incidents (Sheehy 2014). While risk assessments in legal domains account for aspects of the 'constellation of violence' (Dobash and Dobash 1992) in intimate partner violence including controlling and coercive dynamics such as demeaning and belittling tactics (Stark 2007),

Hamby (2014) argues that they overlook alternate assessments of risk and of protective factors which can point to alternate outcomes such as staying in the relationship. The constellation of violence in intimate partner violence is qualitatively different from other forms of violence because the abuse can be ongoing and includes a pattern of intimidation, isolation and control and may or may not include physical or sexual assault (Stark 2007; 2006). The gender-neutral legal discourse obviates the gendered-ness and scope of the abuse (Minaker 2001), and it not only jeopardizes the safety of abused women by failing to understand the complexities of intimate partner violence but it also limits how the solutions and justice can be conceptualized. While legal institutions offer safety to some abused women, in light of these limitations abused women are most likely to engage the criminal justice system in moments of imminent risk and violence (Snider 1998c). Even though justice as safety is commonly associated with legal domains, they are neither designed nor intended to provide long-term safety and solutions.

#### *Justice as social*

Justice as social speaks to meeting justice needs socially, and while it includes ideas of equality and distributive fairness, it envisages an inclusive and participatory justice which confronts power inequalities and responds to the realities of day-to-day lives, engaging the entirety of situations, including socio-political locations and intersecting identities (Young 1990). Justice as social makes connections between personal troubles and social problems (Mills 1959) and the interplay throughout the various levels of the social ecology (Campbell, Dworkin, and Cabral 2009). Ideally, justice as social mobilizes social resources and tools to find solutions that acknowledge the interpersonal bonds and respect the choices of abused women, but there are many aspects of social inequality that cannot be

addressed in concrete situations of justice (Parent and Coderre 2004). Strategies aimed at providing social justice in both legal and social service domains can impose real and dire consequences rather than meeting the needs of abused women.

In explanation, the conception of justice as social is also one of *alterity*; it is a justice with openness to the Other (Levinas 1982; Hudson 2003), who is an ‘outsider’ identified, marginalized and subordinated by difference such as gender, race, income, ability, or affiliation with faith community. Hudson (2003) argues that in contrast to justice as fairness and its emphasis on procedure and distribution, a justice of alterity is “concerned with doing what is most appropriate in the particular case” (120) and it aims to give difference its due, meaning it gives substantive ethical attention to the Other (190). Intersections across dimensions of justice are evident here, for the preceding discussion of justice as safety and the androcentric bias in criminal justice could also apply in this context, as a means of explaining the Other-ing of abused women in the legal domain and lack of justice as alterity (further discussed in Part 2). However, considerations of alterity are elucidated in the conceptualization of justice as social outside of legal sites where social sites such as shelters and crisis centres aim to offer personal supports as well as social and political action for abused women and, ideally, they give difference its due (that is, they support those who have been Other-ed through violence and other forms of marginalization) by challenging power inequalities. Indeed, these social sites create spaces to seek safety through strategies tailored to the personal circumstances of abused women and to validate differences and commonalities as well as their agency while also offering support for them to move forward. But as a cautionary note, while shelters are also political spaces which challenge intimate partner violence and male privilege, they can also reproduce certain forms of domination (Tutty, Ogden and Weaver-Dunlop 2007; Tutty 2006) such as the white middle class

representations and control of the women's movement and its privileged ideas of choice (Masson 1999). By example, Indigenous women speak of discrimination in some shelters, and lesbian and trans women report being excluded from them (Tutty 2006; Walker 2015), and in this way they can reproduce challenges abused women face in legal sites where criminalization campaigns have primarily benefited white middle-income women (Snider 1998b).

Intersections of race, class and gender impact an abused woman's options and means for finding justice, and the conception of justice as social contextualizes the abuse and violence, and brings to the fore the dynamic interplays between identity, choice, and resources (Comack 2006; Hudson 2006). Framing justice and solutions by these complexities, Minaker (2001) articulates choice as a *negotiation* rather than simply a selection from a range of options, and she politicizes and contextualizes justice. Abused women navigate webs of personal, social, and political resources, discourses, values and norms, which inform and intersect with their negotiations of choice and resistance (Comack 1993; Smart 1989). By example, for Indigenous women, disempowering legacies of systemic discrimination and oppression, and the ongoing social disadvantages and widespread stereotypes shaped by these legacies intersect with legal discourse, by which their harms are minimized and they are responsabilized as choosing 'risky' lifestyles (Dell, Gardipy, Kirlin, Naytowhow and Nicol 2014; Razack 1998). Indeed, for Indigenous women, their own way of doing justice is set aside and they may not have the support of their communities if charges are laid (LaRoque 1997). The issue is complex, and in this context abused women may look for solutions which offer justice or they may seek peace of mind, negotiating choice where their needs seem most likely to be met (Minaker 2001).

*Justice as acknowledgement and validation*

Justice as acknowledgement and validation is a highly personal conception of justice, but it occurs in a social space. It stands apart from conceptions of justice which are rooted in notions of getting what one is due, and although it does engage rectification, it primarily does this outside of legal and political spheres, although it can be seen in the legal sphere through elements such as victim services and opportunities for victim testimony. It involves *exposure of the wrongdoer* in order to attain external validation and acknowledgement of the *harm as a social wrong* but it does not seek punishment through criminal justice (Herman 2005). Researchers and activists maintain that abused women often describe justice in *highly personal* terms, connecting it with a sense of validation or acknowledgement, although they may not conceptualize it exclusively in these terms (see for example Herman 2005; Stubbs 2007). Validation and acknowledgement create opportunities for vindication and community denunciation; some survivors of abuse are interested in exposing the abuser for the purpose of depriving him of honour and status, rather than criminalizing and depriving him of freedom (Herman 2005, 593). This deprivation of honour can be seen as a form of retribution, thereby intersecting with justice as accountability but not connected with or realized through the criminal justice system.

Being an abused woman can mean having aspects of one's social identity demeaned and stigmatized, which in turn requires one to engage in 'identity management' (Dunn 2010; Goffman 1963). Abused women negotiate justice as acknowledgement and validation within 'vocabularies of surviving', by which abused women and their activists and researchers fought hard to portray abused women as victims of cruel treatment but also as survivors so to create better understandings of the complex decisions abused women make to

stay, leave or to return to a violent relationships and to ensure that audiences care about women's experiences of intimate abuse and violence (Dunn 2010, 7). Finding justice as acknowledgement and validation also requires abused women to encounter and to then counter misconceptions and myths about intimate partner violence, some long-standing rooted in patriarchal stereotypes and others grounded in rights-based and equality arguments of the anti-feminist backlash, such as claims that women are as violent as men and therefore do not merit special treatment (Dragiewicz 2008; Minaker and Snider 2006). Discussed in the following section are dynamics of navigating paths to justice and/or to solutions as abused women.

### **Navigating paths to justice amidst criminal justice reforms**

Envisaging justice through a pluralist lens with a variety of potentially intersecting conceptions elucidates the range of social and legal paths through which abused women navigate and negotiate for justice, and there are more options now than several decades ago. Indeed, pressures from survivors and the battered women's movement resulted in a greater number of services available for women who experience intimate partner violence, including housing, social work and mental health services, with extensive attention paid to legal responses (Lewis 2004, 205). The responses of various social and legal services and institutions continue to evolve as more is learned about the extent of abuse and violence as well as the harms they cause (Johnson and Dawson 2011). In turn, negotiating for justice occurs through a variety of locations ranging from *legal strategies* (such as police, courts), to *civil strategies* (such as restraining orders), to *social service strategies* (such as crisis centres, shelters), and lastly to *private strategies* (such as counselling, faith community, family and friends). However, since criminal justice and legal reforms in the 1980s, there is an increasing and presumptive association between intimate partner violence and criminal

justice (Dobash and Dobash 1992; Ursel, Tutty and leMaistre 2008). That is, while abused women negotiate what they want and need within their socio-economic and cultural contexts they also negotiate within their political contexts and courses of action available, and there are normative expectations, perceptions and pressures that if it is ‘really serious’ she will engage the criminal justice system, which then deals with the problem as an individual one rather than a social one. This view is being challenged by some groups of women, such as immigrant women from collective societies who are concerned about becoming involved in the criminal justice system due to the stigma it would bring their communities (Hamby 2014).

If an abused woman’s idea of justice resonates with the common conception of the wrongdoer getting ‘what is due’ (Holder 2013; Lewis 2004) and she associates justice with a punitive response, she may prefer the ideals offered through criminal justice, and there are pressures to make this association. For these women, amongst other ideas, justice may mean *fairness* and bring to mind images of Lady Justice and legal ideals of impartiality, neutrality and objectivity (Comack 2006; Naffine 1990), as well as *accountability*. Certainly, criminal justice discourse claims the criminal justice system is equipped with the institutions and power to *mete out justice* for intimate partner violence, although the legitimacy of this claim is much debated (see for example Smart 1989; Snider 1998b). Contentions and the debate about criminal justice responses to intimate partner violence will be discussed further in Part 2 of this chapter.

Meanwhile, other women who consider justice as the wrongdoer getting ‘what is due’ may not look to criminal justice for justice, for many reasons including the fear of reprisal from her abusive partner or concerns of re-victimization of her or her partner by criminal justice actors and policies (Goodman and Epstein 2005). Abused women tend to

engage the criminal justice system in moments of crisis, when their overriding justice need is physical safety rather than with the aim of criminalizing their partners (Snider 1998b). But when acute incidents recede, women then consider what justice means for them in ongoing terms and they may seek solutions outside of formal justice, perhaps preferring to navigate other means such as shelters or other social service agencies, or to seek help from friends or family, if these are feasible and desirable.

In addition, apprehensions about seeking justice through legal institutions may be acute, particularly for those who are socially disadvantaged by race, colonization, immigrant status, or income (Hamby 2014; Razack 1998). They may be concerned that their partners could be treated harshly, and indeed they may be (Snider 1998b). These concerns may be at the fore particularly if either the women or their partners have had negative past experiences with the police and/or courts or if either one has already been criminalized, or if they are immigrants and their partners threaten them with deportation. By example, immigrant women may face complexities of not wanting to harm their communities when they challenge the abuse and violence. Yet with aggressive criminal justice policies, if police are called by a neighbour and the woman finds herself unable to drop the charges, she may be threatened by the community and unable to access an alternative response. Immigrant women from racialized and marginalized communities navigate and negotiate their identities and risk (Dunn 2010; Hamby 2014), as well as the social identities of their communities and the issue of how to hold violent men accountable while not opening their entire community or culture to be painted as 'anti-women'.

Abused women also navigate tensions about whether to stay or to leave, with some dealing with pressures from family or faith communities to stay or to not involve the criminal justice system (Hamby 2014). These pressures and expectations can add to the

complexity of women's decisions, particularly since there can be risk to her safety whether she stays or leaves the abusive relationship. In fact, in the case of men who use violence in a context of coercive control this risk can increase if women decide to leave (Bancroft and Patrissi 2011; Wilson and Daly 1994). Leaving the relationship is not the only protective strategy and it may not always be the best option (Hamby 2014; Wager 2015). Hamby (2014) argues it is a mistake for protective efforts to focus on women's risk of further violence at the expense of other types of risk she faces in other domains of her life affected by the violence. She argues that risks to a woman's "financial well-being, the stability and well-being of her children, her social status and her risk of being stigmatized, her psychological well-being and sense of self-worth, and her hopes and dreams for her future" can be greater than the risks of physical injury (Hamby 2014, 2), and yet she may also fear for her safety.

This research is informed by this plural conceptualization of justice and the challenges abused women navigate when negotiating choice and the complexities of their needs in decisions whether to seek justice, such as the immediacy of safety concerns, or whether solutions may not be connected with the idea of justice, such as peace of mind and "freedom" (Westmarland and Kelly 2013). To be sure, seeking justice through criminal justice institutions can be impeded by social, political and normative barriers, particularly if an abused woman is socially or economically disadvantaged or does not fit with the image of the 'ideal' victim, as one who is 'weak' and 'without possible blame', and is seen as less deserving of assistance (for discussions of the 'ideal victim', see Bumiller 1998; Christie 1986; Lamb 1999). Clearly, when planning how to 'move forward', abused women have much to navigate beyond the abuse, violence and batterer-induced risks such as financial and social constraints, the extent to which external relationships such as those in a workplace or

a faith community are supportive, and the needs of children and other family members (Hamby 2014).

## **Part 2 - Justice in criminal justice and the challenge of its reliance on punishment**

In Canada and internationally, over the past several decades, the battered woman's movement has worked to challenge intimate partner violence by confronting patriarchal social, legal, and economic structures while also providing support for abused women in their daily lives (Dobash and Dobash 1992; Minaker and Snider 2006; Parent and Coderre 2004). Since the 1980s, under pressure from women's groups and triggered by persuasive social science research in the United States that suggested some violent men could be deterred by arrest (Barata and Senn 2003; Berk, Campbell, Klap and Western 1992; Dunford, Huizinga, and Elliott 1990; Sherman and Berk 1984), Canadian governments engaged crime control responses for intimate partner violence, constructing the violence as a social problem for which a strong and consistent state-based response was needed (Currie 1990; Martin 1998; Masson 1999). In Canada, police responses to intimate partner violence shifted in 1983, when all jurisdictions adopted mandatory or pro-charge policies (Chewter 2003, 103). It was hoped that mandatory charging policies would better assist women by shifting responsibility for laying charges from abused women to the state (Dayton 2002/03), and was followed by a shift in court responses to pro-prosecution and domestic violence courts which entailed improved support for victims and procedural guidelines to ensure successful prosecution independent of the victim's wishes or cooperation (Ursel, Tutty and leMaistre 2008).

However, criminal justice has a troubled relationship with abused women, by times offering assistance to some while at other times re-victimizing and criminalizing others (Dobash and Dobash 1992; Snider 1998b), particularly those who are racialized, of lower

income or do not live up to the cultural feeling rule of the ‘ideal victim’ (Dunn 2010; Lamb 1999). In their examination of thirty-two court cases in Ontario, Canada, Johnson and McConnell (2014) find pro-prosecution policies are implemented aggressively and evidence that “judges construct recanting women as less deserving of state support when compared to women who co-operate with the prosecution” (132). The supporting ideals and principles of criminal justice will be discussed further in Chapter 2, in conjunction with ideas about rethinking criminal justice. The following section examines how the engagement of criminal justice institutions affects the lives of abused women, and the extent to which they create opportunities and/or obstacles in the search for justice.

### **The exclusions of criminal justice**

At issue here are areas of exclusion which diminish the potential effectiveness of criminal justice responses in challenging intimate partner violence. The first concerns the exclusion of some groups of women from influencing decisions by the battered women’s movement about how best to engage criminal justice (if at all), meaning not all women had voice and input into the formation of strategies promoted to tackle intimate partner violence. While some women have been able to have some influence into social change and legal reform, the views and positions of others have been silenced and excluded, and it was those with privilege and political voice who played an active role in the development of responses to violence in intimate relationships, including negotiations with the state. These dynamics of inclusion and exclusion determined who has represented and represents ‘women’ in terms of the state (Masson 1999, 13). Legal reform was a liberal feminist project, and its well-intentioned engagement with the state on the issues of intimate partner violence and women’s rights has been easily *co-opted* in a law-and-order agenda, where the lived realities of abused women are individualized, medicalized, and depoliticized (Comack 1993;

Dragiewicz 2011), requiring they fit into existing power structures and failing to alter gendered and raced social and legal structures and institutions. Indeed, while feminists have had input into legal reform, they do not have control or input into how reforms are implemented or subsumed into patriarchal and oppressive institutions. In turn, while there is broad agreement that intervention by criminal law is needed for intimate partner violence, the outcome has been a set of policies which neither adequately accounts for the agency of abused women (Johnson and McConnell 2014; Parent and Coderre 2004; Randall 2004) nor for the diversity of women and their experiences.

It is also not the aim of criminal justice to challenge the roots of intimate partner violence, which include structural inequality and male privilege in norms and institutions; it thereby fails to challenge deeper, gendered structural and systemic matters such as the persistence of male privilege within social, economic, religious and legal structures and institutions and fails to provide long-term solutions (Dobash and Dobash 1992; Dragiewicz 2011; Snider 1998b). Indeed, feminists have long been concerned about the potential of ‘selling out’ the goals of social change; changes to laws and policy soften the impetus for deeper systemic changes to the structures, perceptions and cultural practices of criminal justice (Dobash and Dobash 1992). Criminal justice is dismissive of women’s agency and experiences, particularly when they fall outside of the idealized image of the battered woman (Dunn 2010; Randall 2004), and many women find its approaches and policies to be aggressive, inflexible, disempowering, and racist (Holder 2008; Landau 2004; Snider 1998b). The narrow, legal representations of abused women as victims fail to accommodate the co-existence of their agency (Randall 2004, 109-110), constructing false dichotomies between victimhood and agency, and constructing abused women so narrowly under law and the implementation of law that unless they conform they fail to benefit. Randall (2004)

critiques how the typification of the battered woman medicalizes and disqualifies women's agency, finding that if an abused woman demonstrates 'too much agency', such as by recanting her testimony, she becomes an impediment to the smooth functioning of the system. But on the other hand, and as Randall (2004) argues, a woman who is deemed to demonstrate 'too little agency' and has 'learned helplessness' is also disqualified by legal discourse firstly, by dismissing how abused women are actively engaged and resisting and secondly, by overlooking the "social conditions of inequality" which often limit or prevent their means of help-seeking (121). As Minaker (2001) finds in her research with a group of fifteen marginalized women in Winnipeg, some of whom are racialized:

To paraphrase Karl Marx, our choices are not made under conditions of our own making. Given that social positioning influences the extent to which one exerts influence or power over 'choice', inevitably poor, non-white young women will confront considerable obstacles to meet their needs. (102)

Marginalized women have experienced significant negative consequences by failures of criminal justice institutions to respond, which increase their dangers (Dawson and Dinovitzer 2001) by means such as dual arrest and counter-charging, as well as retaliation by abusive partners and other batterer-related risks including stalking and constraints on financial and social resources (Hamby 2014; Minaker 2001, 102).

However, criminal justice strategies benefit some women in ways such as stopping the violence temporarily, and they are an important symbolic statement against social values, norms and institutions which promote male privilege (Dobash and Dobash 1992). In her study of data from male abusers and their female partners whose cases have been prosecuted and resulted in a conviction, Lewis (2004) finds that when women's agency is recognized through legal structures and strategies they can contribute to the well-being and sense of safety of abused women as well as their resistance to men's violence (220). Mindful of the

limits of law and that only a small number of abusive men are ever convicted, Lewis' (2004) study demonstrates that the criminal justice system can provide protection for abused women and challenge men when the women have active engagement and resistance within it and the men are located "in a nexus of control and supervision, together with support of women's agency" (220). Concretely, she finds rehabilitative sanctions such as interventions and programming for batterers can shape this nexus of control and supervision of abusive men more effectively than conventional legal sanctions such as jail and fines (Lewis 2004, 209). She also notes that all the men in her study were prosecuted and convicted, and thus the women may have experienced satisfaction and validation because they both sought and obtained legal consequences.

### **The thorny matter of punitive responses**

Feminist scholars and activists played a role in positioning intimate partner violence as a criminal justice issue, but even those who argued in favour of aggressive criminal justice responses were apprehensive about shifting power to the criminal justice system (see for example discussions in Currie 1990; Dayton 2002-2003; MacLeod 1987; Masson 1999). Indeed, many scholars and activists remain apprehensive, and debates continue about the course and extent of this engagement with the state, concerned about the benefits and limitations of exclusively punitive strategies and focusing on how best to ensure the interests and safety of abused women (Currie 1990; Dobash and Dobash 1992; Hudson 2002; Landau 2004; Lewis 2004; Snider 1998b; 1998c).

In criminal justice, the state takes ownership of the problem and is mandated to punish perpetrators in an effort to end the violence, claiming power to denounce the problem with the assumption that this will provide safety to abused women and their children. But criminal justice policies are criticized for failing to support and for sometimes harming

women, as they are paternalistic and extend the power of patriarchal legal institutions (see for example Landau 2004). When power is shifted from violent partners to the state this can further entrench women's disempowerment. Smart (1989) argues that law empowers phallocentrism and the 'psy' professions and that legal discourses reproduce reductionist constructions of female victims, 'explaining' their agency or lack thereof from an androcentric perspective (95-96). So-called 'experts' from the psy professions are brought in to 'explain' a woman's helplessness in the face of ongoing violence and terror in the rare occasion when the Battered Woman's Defence is used, or to explain her wish to withdraw from criminal proceedings that the chivalrous and benevolent criminal justice system has established for her protection (Randall 2004). In this way, criminal justice fails to respect the decisions of abused women and to provide information and support for alternate choices (Barrett, St Pierre and Vaillancourt 2011; Holder 2008, Lamb 1999; Marriner 2012).

It also fails to go deeper to promote systemic, structural reform and cultural change (Dobash and Dobash 1992). Overreliance on punitive responses has also lead to concerning and literal interpretations of police policies that encourage arrest, such as dual arrests and women's defensive actions being labelled as violence (Dragiewicz 2008, 129). The pursuit of punishment can produce a dangerous backlash from abusers towards the women (Dayton 2002/03; Goodman and Epstein 2005). What's more, not only is there concern with unintended consequences from relying on punitive responses, but there is concern that the policies are not being implemented consistently. Barrett, St. Pierre, and Vaillancourt (2011) find in their analysis of data from a subset of respondents to the General Social Survey (GSS) completed by Statistics Canada in 1999, of 383 women who had contact with the police as a result of violence by their male partners, only half indicate the police visited the scene, took a report and/or conducted an investigation. They also find that while women

who are from marginalized communities, particularly by race and income, were less likely to want their partners arrested or punished, their partners were more likely to be taken away by the police (Barrett et al. 2011, 54). These results echo Minaker's (2001) findings that police systematically fail to respond to marginalized women.

In turn, this adversarial approach removes opportunities for the issues to be resolved in a meaningful, long lasting way (Holder 2008; Snider 1998b) and it is debatable whether it succeeds in denouncing the violence or naming intimate partner violence a social wrong in many cases (Martin 1998). What's more, it continues to dismiss and disqualify the agency of abused women. And thus in terms of structural solutions, the crux of the debate about a criminal justice response to intimate partner violence is how to best shift from obsessions about punishment to questions about how to counter hegemonic masculinities (Snider 1998c) and to improve relations and interactions between criminal justice institutions and those who are marginalized and disadvantaged socially. But for individual women who have experienced abuse and violence by male intimate partners, the debate about criminal justice responses is complex and intersecting not only with the need for structural solutions but also meet their personal needs (Minaker 2001), how they conceptualize and prioritize justice, and whether they are able to negotiate or access solutions outside of criminal justice.

The debates about how to improve criminal justice strategies to ensure they respond to women's safety centre on what can be achieved through engaging criminal justice and at what costs (Currie 1990; Lewis 2004; Masson 1999), and they are complex with high stakes. Complicating the debate about criminal justice strategies is the co-optation of feminist discourses which in turn reinforces gendered and racialized relations of power rather than changing them (Comack 1993; Hannah-Moffat 2000). By example, domestic violence courts were developed in the last two decades to better address intimate partner violence, but

with mixed results. While they aim to consolidate matters and to provide an earlier, coordinated response to better support and protect victims, and to engage treatment for abusers (Johnson and McConnell 2014; Tutty et al. 2008; Ursel 2002), in jurisdictions such as Ontario, there are policies directing prosecution in spite of victim's wishes (Ursel, Tutty and leMaistre 2008; Johnson and McConnell 2014). In their assessment of a domestic violence court in Toronto, Canada, Dawson and Dinovitzer (2001) find victim cooperation is a significant determinant of prosecution and that a woman is less likely to be cooperative testifying in court proceedings when there is intimidation by the abusive partner and fear of reprisal. Pro-prosecution policies can benefit women with "strong agency and community support" who want their partners prosecuted (Johnson and McConnell 2014, 138). But in their analysis of decisions by judges in domestic violence courts covering a 15-year time frame in Ontario starting January 1995, findings by Johnson and McConnell (2014) suggest the pro-prosecution policies patronize and dis-empower abused women if prosecution presses forward "in the face of resistance from the women involved" (138).

Criminal justice strategies are inadequate to challenge structures and discourses of male privilege as they are neither positioned nor mandated to solve social problems that are created through domination, such as patriarchy and racism (Currie 1990; Parent and Coderre 2004; Smart 1989; Snider 1998a; 1998b 1998c). Given the complexity and fluidity of the justice needs for abused women and the challenges of confronting an abusive partner's use of coercive control, researchers such as Stark (2007) suggest integrated or hybrid strategies in what he terms a 'dance of justice' linking criminal justice institutions with social services for abused women, such as coordinated community responses (Pence and Paymar 1993). Indeed, while engagement with criminal justice has benefits, its shortcomings caution against overreliance upon it (Currie 1990; Dobash and Dobash 1992; Dragiewicz 2011;

Landau 2004; Minaker and Snider 2006; Snider 1998b; 1998c). There is general agreement amongst researchers and activists that in isolation from other strategies, the tools of criminal justice are inadequate to address abuse, coercive control, and violence in intimate relationships, and the structures of patriarchy which support these dynamics (see for example Currie 1990; Dobash and Dobash 1992; Martin 1998; Pence and Paymar 1993; Stark 2007).

While the symbolic message of criminal justice engagement is evident in the normative expectation to involve criminal justice institutions when a strong response is needed to provide safety and to counter intimate partner violence in a given situation, it is beneficial to adopt a critical approach which acknowledges its limitations and shifts away from the overreliance on and partiality of legal institutions and the criminal justice system (Parent and Coderre 2004). There are benefits to seeing engagement with criminal justice as a complex and negotiated choice (Minaker 2001) rather than a compulsory action. In turn, rather than re-moved, criminal justice responses to intimate partner violence need to be re-conceptualized and this ‘rethinking’ will be explored further in Chapter 2. In their examination of the effectiveness of two court-mandated abuser programs, Dobash, Dobash, Cavanagh and Lewis (2000) find the justice system plays both material and symbolic roles in challenging intimate partner violence, with material effects of surveillance, management and control and symbolic messages of right and wrong. The overreliance on criminal justice is a challenging quandary and ostensible catch-22<sup>5</sup> (Holder 2008) but few would be willing to jettison its safe and effective elements (Hudson 2002; Johnson and McConnell 2014).

---

<sup>5</sup> Joseph Heller’s novel *Catch-22* offers a satirical look at a no-win situation, a catch-22, where you are damned if you do, and damned if you don’t. Holder (2008) explores the ‘craziness’ and seeming catch-22 of criminal justice for many victims of intimate partner violence navigating the criminal justice system. However, in research with a small sample of abused women, she finds congruence when the system responds “to victims as citizens with a vested interest in the fair and effective administration of justice” (Holder 2008, 281).

Thus it is a dilemma that while criminal justice provides a symbolic message that intimate partner violence is a social wrong (Dobash, Dobash, Cavanagh and Lewis 2000; Lewis 2004; Snider 1998c) and its policies increase access to justice for some women (Goodman and Epstein 2005; Lewis 2004), its narrow logic excludes many abused women, its overreliance on punishment deters some women from accessing its resources, and it subordinates the agency of abused women. Its paternalistic assumptions to know best what is right for every woman and that prosecution is the best protective course of action fail to confront deeper structural and systemic underpinnings of intimate partner violence. In turn, it is a highly politicized but critical struggle with life and death consequences to challenge the exclusions of criminal justice and to lessen its overreliance on punishment without challenging or diminishing the symbolic denunciatory message criminal justice conveys.

### **Part 3 - Can restorative justice engender justice for intimate partner violence?**

Stemming from failures of criminal justice to incorporate a gendered discourse and to meaningfully challenge male privilege and entitlement over women, some scholars and activists are exploring restorative justice to address intimate partner violence (see for example Hudson 2002; 2006; Pennell and Burford 2002). In recent decades, restorative justice has been advanced as an alternative to conventional criminal justice, seeking to provide an alternative to the punitiveness of criminal justice practices and to improve outcomes, both for victims and offenders (Zehr 2005). While there is no agreement on a single definition of restorative justice, according to Zehr (2002), at a minimum, restorative justice requires the involvement of victims, offenders and communities in processes where the harms and needs experienced by victims are prioritized and offenders are *held accountable to put right those harms* (25, emphasis added). A discussion paper for the Law Commission of Canada emphasizes the satisfaction of stakeholders and maintains:

Restorative justice is a response to conflict that brings victims, wrongdoers and the community together to collectively repair harm that has been done in a manner that *satisfies their conception of justice*. (Cooley 1999, 25, emphasis added)

Meanwhile, other definitions of restorative justice emphasize stakeholder *input* rather than satisfaction, such as Braithwaite and Daly's (2002) definition of restorative justice as:

the most general meaning of restorative justice is a process where stakeholders affected by an injustice have an opportunity to communicate about the consequences of the injustice and what is to be done to right the wrong. (4)

Mediation, in which the victim and offender are prepared by a trained mediator and then meet face-to-face in a controlled setting, is described by some researchers such as Edwards and Haslett (2003) as restorative justice. However, Cameron (2005) argues that women are "likely to be re-victimized, intimidated and abused by the men" with whom they are in mediation, commonly due to a lack of training of the facilitators and the power imbalances in the relationship (46). It is not included here as there are extensive concerns about its application to intimate partner violence, and it has been criticized for mistakenly constructing the violence as a relationship difficulty and conflict rather than as abuse and violence with controlling and coercive tactics (Busch 2002; Hudson 2002; Presser and Gaarder 2000).

Here, this chapter explores the research literature on engaging restorative justice for intimate partner violence. The first section examines claims by proponents of restorative justice and the second section examines critiques of these claims and appeals for caution. Then, the third section examines empirical research on hybrid forms of restorative justice, circle sentencing and Family Group Decision Making (FGDM), for intimate partner violence in Canada, and the fourth section looks at the use of feminist praxis in FGDM (Pennell and Burford 2002). While neither of these processes is 'pure' restorative justice (Roach 2000) in that each one is to some extent connected with the criminal justice system (see discussions

of maximalist and ‘pure’ minimalist approaches in Boyes-Watson 2000; Walgrave 2002), they are included because they fit within definitions of restorative justice (Zehr 2005) and they are part of a range of measures that have been offered to abused women. The research offers insights into potential benefits and pitfalls of engaging restorative justice for intimate partner violence.

### **Aspiring to engender justice through flexible, communitarian processes**

It is in the context of failures of criminal justice strategies to provide justice for abused women that restorative justice advocates and practitioners are asking whether elements of restorative justice might offer promise for women seeking justice outside the conventional crime control response (Bazemore and Earle 2002; Braithwaite and Strang 2002; Morris 2002; Pennell and Burford 1998, 2002; Pranis 2002), and these queries have proven contentious. Intimate partner violence is a complex issue for justice responses for many reasons including the often entrenched and ongoing power dynamics in abusive intimate relationships.

The story of how the shortcomings of criminal justice have led to the exploration of restorative justice for intimate partner violence is similar to the stories for other types of crimes in the sense that the popularity of restorative justice<sup>6</sup> is rooted, in part, in frustrations with the failures of the criminal justice system to provide meaningful and long lasting redress as well as failures to challenge offender behaviour, and the oppressiveness of prison. Concerning intimate partner violence specifically, its exploration is also rooted in concerns about the failures of criminal justice institutions such as the police and prisons to challenge

---

<sup>6</sup> While some restorative justice practices occur in Indigenous communities, it is important to note that despite sharing similar theoretical or historical grounding, the Western restorative justice movement is not synonymous with Indigenous justice (Cameron 2005, 6). That is to say, Indigenous justice is unique from other justice traditions in spirituality and culture, and processes such as circle sentencing differ from traditional Indigenous healing circles (LaRocque 1997).

violent masculinities. Instead the way of thinking in restorative justice offers a comprehensive theory of justice which does not centre on punishment (Roach 2000) and aims to improve outcomes both for victims and offenders (Zehr 2005). In recent decades it has been advanced as a more humane way of thinking about justice, with its main objective as the *reparation of the harm caused by crime* (Bazemore and Walgrave 1999; Ptacek 2005; Zehr 2002).

Through a communitarian approach (to be further explored in Chapter 2), restorative justice frames injustice as a harm and aims to empower individuals and communities to exercise control over repairing the harm (Roach 2000). Restorative justice aims for a sense of responsibility for the offender as well as the reparation of harms for the victim and the prevention of future harms (MacLeod 1995). Joan Pennell and Gale Burford, researchers who adapted and explored the family group conferencing model, FGDM, in Newfoundland and Labrador in the mid-1990s, detail principles of restorative justice for intimate partner violence as: families can be the agents of their own healing; effective programs must be community-based and culturally appropriate; to stop the violence, the focus must extend beyond the violence and beyond only the nuclear family; and healing comes from community building (MacLeod 1995, 202). While some restorative justice advocates frame intimate partner violence in terms of conflict resolution (see discussion in Cameron 2005), proponents of restorative justice for intimate partner violence acknowledge the pitfalls of this framework, and instead they argue a *framework of healing* is more appropriate (Morris and Gelsthorpe 2000; Pranis 2002). Pranis (2002) suggests the healing offered through restorative processes may satisfy abused women's visions of justice by providing closure, and it may help them to regain a sense of power provided there is safety and vindication for

abused women, and constructive opportunities for abusive men to make internal changes (36-37).

In addition to opportunities for healing, some restorative justice advocates maintain that friends and family are better placed than legal authorities and other professionals to prevent the recurrence of violence (see for example Morris and Gelsthorpe 2000).

Advocates of restorative justice for intimate partner violence suggest its communicative and flexible processes offer opportunities for healing dialogue and they are more likely to create change at an earlier stage in a woman's experience of abuse and violence and to address harmful power imbalances (Curtis-Fawley and Daly 2005; Morris and Gelsthorpe 2000; Pranis 2002). While restorative justice could never be a panacea for intimate partner violence, some assessments of restorative justice suggest potential benefits including victim voice and participation, victim validation and offender responsibility, communicative and flexible environments, and relationship repair (if this is a goal of the participants) (Daly and Stubbs 2006, 18).

### **Critiques of restorative justice for intimate partner violence: repudiations and cautions**

Alternative approaches for confronting violence may appeal to restorative justice advocates given the challenges and struggles with the criminal justice strategies and the way criminal justice has "co-opted feminist visions of justice" (Ptacek 2010, 10); however, strong claims have been made in opposition to engaging restorative justice for intimate partner violence and for the need for in-depth evaluation to assess effectiveness (Cameron 2006b; Curtis-Fawley and Daly 2005; Daly and Stubbs 2006; Stubbs 2007), such as grave concerns about women's safety and whether there are adequate means of challenging the coercive and controlling power dynamics in intimate partner violence. Intimate partner violence is an area about which restorative justice advocates remain relatively poorly

informed even though it is one of the most developed areas of feminist scholarship concerning restorative justice (Daly and Stubbs 2006). Although still in its infancy, research on restorative justice approaches for intimate partner violence cautions that the processes may not be adequately equipped to meet the challenges of resisting men's use of abuse and violence against their female partners and there are concerns about the potential co-optation of the restorative justice programming aimed at ending it (Daly and Stubbs 2006; Ptacek 2010). However, while some of this research has been qualitative, consisting of one-on-one interviews or focus groups with abused women (Herman 2005; Pennell and Francis 2005) as well as those working in this area for their views (Coward 2000), very little research on restorative justice engages abused women directly. The most vocal and articulate critics, such as Daly and Stubbs (2006), start with critiques and add empirical research where relevant. Research on initiatives will be discussed in the next section.

Particularly emphasized by feminist researchers is the question of ensuring safety and decision-making power for women (Coker 2006; Coward 2000; Curtis-Fawley and Daly 2005; Herman 2005; Nancarrow 2006; Pennell and Francis 2005). There are also significant concerns about the role of apologies and forgiveness in restorative justice, as an apology is a tactic often used by abusers to put additional pressure on abused women to remain in the relationship and they are often broken (Busch 2002; Coker 2006; Daly 2006). Busch (2002) considers the 'culture of apology' espoused by restorative justice advocates too akin to the cycle of violence (Walker 1979) evident in some abusive relationships, and instead she advocates for a 'culture of safety' (Busch 2002, 247). Similarly, Stubbs (2002) stipulates that "ethical issues arise for practitioners who encourage victims of domestic violence to accept an apology at face value" (16). It should not be assumed that a woman's negotiations for choice are expanded by the involvement of family and/or friends; violent relationships

involve established power dynamics, and encouraging her to accept an apology might lead to false hopes and compromise her safety in the future (Stubbs 2002) and thus apology would need to be backed up by other measures ensuring the security of an abused woman. But false hopes are not confined to restorative justice and Herman (2005) finds some survivors of intimate partner violence wish “for a sincere apology and believed that this would be the most meaningful restitution the offender could give”, as long as it expresses sincere regret and for some, as long as it includes an offer to make amends (586).

Daly and Stubbs (2006) identify further concerns including: pressure on victims, difficulties with defining the role of the ‘community’, mixed loyalties amongst the support persons, and the symbolic implication of shifting away from the denunciation of conventional criminal justice responses (17). Examining the communitarian approach and the role of community in particular, they are concerned that community values and norms may reinforce rather than undermine male dominance and victim blaming, and these informal communities may not have adequate resources to offer meaningful and ongoing support (Daly and Stubbs, 17). Hudson (2003) is concerned that communitarian approaches promote and protect values “insofar as they serve the culture” (97) and she highlights two challenges to communitarianism salient to intimate partner violence. First, she questions how values are determined worthy or unworthy of support, which is of concern in the context of intimate partner violence for reasons including hegemonic masculinity and male privilege, and what values determine whether an identity is worthy of support (Snider 1998b). Secondly, in terms of membership, she asks how rival communities or sub-groups of a wider community are to be evaluated.

In response to significant safety concerns for intimate partner violence as well as questions about how to include legal safeguards such as due process, proportionality, and

equitable treatment (Hudson 2002), some restorative justice researchers and advocates maintain the legal system must participate in it (Pranis 2002) and they recommend pre-conference preparations such as gathering background knowledge to learn possible danger signals and triggers (MacLeod 1995), and protections against breaches of confidentiality (see discussion in Cameron 2005). For legal safeguards, restorative justice advocates such as Walgrave (2002) suggest the communitarian ideal should be merged with formal justice to safeguard rights and freedoms with a bottom-up approach (216). Nonetheless, despite these recommendations and assurances, many researchers and advocates for abused women remain sceptical about restorative justice for intimate partner violence because of issues such as power imbalances, pressures on victims, the role of the community, and the symbolic implications of shifting away from the criminal justice system (see for example Busch 2002; Daly and Stubbs 2006; Cameron 2006; LaRocque 1997; Stubbs 2004; 2002; 1995).

Clearly caution is needed and evaluative research is required before the appropriateness and effectiveness of restorative justice for intimate partner violence is known. Cameron (2006b) suggests that without further research, using justice models without clear evidence of their safety and effectiveness “is gambling with the lives and safety of Canadian women” (59). She contends that already gathered, existing data from major initiatives should be re-analyzed, so that further research can be done without risking the safety of women who experience abuse and violence. In going forward:

Research should examine factors such as offender’s manipulation of the process, emphasis on reconciliation, the resources available to violent men and to victims, and the presence or absence of feminist voices in planning, executing and evaluating these initiatives. (Cameron 2006b, 59-60)

## **Women's experiences with restorative justice: mixed reviews and calls for further research**

This first section summarizes research investigating two restorative justice initiatives in Canada: circle sentencing and FGDM. The research on these initiatives offers a range of views, with some researchers and practitioners claiming positive outcomes (Pennell and Burford 1998, 2002) while others are sceptical about the effectiveness of the initiatives for intimate partner violence, particularly about circle sentencing (Cameron 2006a; 2006b; Coward 2000; Goel 2010; 2000; LaRocque 1997). Many jurisdictions exclude intimate partner violence from restorative justice programming, and the small amount of evaluative research suggests mixed results (Ptacek 2010, 10). Despite these apprehensions and concerns, there are examples of restorative justice programming for intimate partner violence informed by Canadian experiences of circle sentencing in Australia, and of FGDM in the United Kingdom (UK) and in the United States (US) (Stubbs 2010). Outcomes from these jurisdictions are examined after looking at outcomes in Canada.

### *Circle Sentencing*

In Canada, circle sentencing is most commonly used in Indigenous communities and it has been used in cases with a variety of serious crimes, including intimate partner violence (Cameron 2005; Goel 2010). It is a mechanism used post-conviction in which the participants construct a sentencing plan together, and as such it is a hybrid process which combines criminal justice and restorative justice. The concept originated in Canada in 1992 for Indigenous offenders (Potas et al. 2003, 3) but should not be conflated with Indigenous justice (LaRocque 1997). It is a mechanism used post-conviction in which the participants, who include supporters of the victim and supporters of the perpetrator, construct a sentencing plan together, and as such it is a hybrid process which combines criminal justice

and restorative justice. While the circle process may claim some similarities and “roots” with traditional spirituality and culture of Indigenous justice, it does not reflect the traditional dispute resolution techniques of healing circles (LaRocque 1997). Rather, its provisions keep with the guidelines for cases of intimate partner violence in Canadian courts, including the protection of the public and deterrence, without adequate attention to the ongoing systemic and institutional discriminations experienced by Indigenous persons (Goel 2010; 2000, 319; LaRocque 1997).

Cameron (2006a) argues that the extent to which circle sentencing is restorative is irrelevant if both criminal and restorative justices “are premised on ideologies and practices that perpetuate women’s oppression” (510). Indeed, circle sentencing can create personal, social and political challenges for Indigenous persons and communities, perpetuating stereotypes and contexts of colonization and making it difficult to engage in contemporary rights debates. For Indigenous women, in many respects circle sentencing perpetuates oppressions of colonization (Cameron 2006a; Goel 2000; LaRocque 1997). In her examination of seven judicially convened sentencing circles in Canada, Cameron (2006a) finds dynamics of gendered power imbalances had a silencing effect in circles, where further violence or the threat of it compromised women’s willingness to report when further violence was done by the abuser (500-501). In all but one of the cases, the women had been battered by their partners, and in the one exceptional case, the woman’s partner had been abusive his previous partner and her child (Cameron 2006a, 501). Furthermore many of the survivors had been pressured into participating, and the judges were aware of these pressures and allowed them (Cameron 2006a, 503).

LaRocque (1997) argues that circle sentencing puts Indigenous women in the position of having to choose between their own interests and the interests of their community:

If people are silenced, they will abandon their homes and seek refuge in the mainstream society. How ironic it would be if after 500 years of having to protect ourselves from the prejudices of mainstream Canada, that we would have to run there for protection. Then colonization will have won. (96)

She argues that the interests and justice needs of the community should not be equated or conflated with those of abused women and their specific needs for justice and safety.

Similarly, Cameron (2006a) suggests that to move forward, input is needed from Indigenous women by having them in positions of leadership and decision-making, designing criminal justice processes (511).

Since 2002, circle sentencing has also been happening at Nowra in New South Wales (NSW), Australia, and was extended beyond Nowra to non-Indigenous communities in 2003 (Potas et al. 2003; Stubbs 2010, 114). According to Potas et al. (2003), while it most resembles the Canadian model, its design is also informed by other sources including a discussion paper on conferences for adult offenders, NSW young offender legislation (*Young Offenders Act 1997*, NSW), and guidelines for conducting Aboriginal Community Justice Groups and an Aboriginal Justice Advisory Council discussion paper on circle sentencing (3). A preliminary evaluation of the first 13 cases, of which 8 had progress reports analyzed by Potas et al. (2003), finds positive and meaningful outcomes with participant satisfaction and open discussions. However, similar to the Canadian experience, outcomes also suggest areas for improvement, including better preparation of abused women for the intensity of the process and “how draining it was”, as well as opportunities for debriefing for the representatives (Potas 2003, 40).

### *Family Group Decision Making*

In Canada, FGDM was developed in Newfoundland and Labrador in the mid 1990s in three sites: the provincial capital, a rural peninsula, and a northerly Labrador Inuit settlement (Pennell and Burford 2002, 116). It is a hybrid restorative justice model, combining elements of both criminal justice and restorative justice, and it was designed through feminist praxis to engage women's conceptions of justice by feminist researchers Joan Pennell and Gale Burford (2002). It is based on a child welfare model using family group conferencing (FGC), which aims to engage the wider family group, affirm cultural diversity, and engage with community-state partnerships (Hassall 1996 in Pennell and Burford 2002, 108). In FGCs, with the support of a facilitator, the family and their support persons (friends and/or family) meet to tell the story of the abuse and of what is needed, and then they put together a plan for how to repair the harm and to prevent future violence (MacLeod 1995).

For Pennell and Burford (1998), in FGDM, the process opens in a way which is comfortable for the family so that it they "own" it. For example, it might include an opening custom or prayer from their culture. Then there is a time for information sharing which includes presentations by family members as well as the authorities and/or by local agencies such as representatives from a shelter or crisis centre. These presentations help to ensure everyone knows what's happening and what resources are available in the area. After the presentations, the authorities leave the room and the family and their support persons develop a plan to deal with the abuse and violence. The authorities then return and must approve the plan and the resources needed to carry it out. Thus, the model combines formal and informal justice mechanisms, connecting the wider family group to both social service organizations and to legal authority and state control. (Pennell and Burford 2002; 1998)

For the purpose of developing a plan to address the concerns laid out in the information stage, private family time is designed into the process (Pennell and Burford 1998). Understandably, service providers and coordinators were concerned that during this time, “the family group would blame the survivors, exonerate the abusers, or conversely attack the perpetrators” (Pennell and Burford 2002, 119). In turn, to provide a safeguard, the designated support persons stayed in the room during the private family time, and the coordinator and professionals remained nearby in case they were needed (Pennell and Burford 1998, 29). Pennell and Burford (2002) found that rather than violence erupting, the private time was essential for the groups to reach a point where they could formulate their own plans (120), and women’s leadership in the form of female support persons who participated in the conference as well as the implementation of the plan proved to be essential (121-123). Even though the model is a decentralized approach, allowing plans to be made by the families, friends and other close supports, the state played four important regulatory functions: it set the stage for the family plans, it approved the plans, it authorized funding and resources, and it monitored the safety of family members (Pennell and Burford 2002, 125).

Pennell and Burford (2002) followed participating families for a one to two year period after their conferences, and the major findings from evaluations of FGDM include: a reduction in indicators of child abuse and intimate partner violence, an advancement in children’s development, and an extension of social supports (110). They acknowledge that future abuse and violence can be difficult to assess for reasons such as underreporting, and they used multiple outcome instruments including follow-up interviews with family members and reviews of Child Protective Services’ files (Pennell and Burford 2000, 142). The main area of concern was child self-harm which despite having low rates, when present,

rose slightly for families involved in FGDM (Pennell and Burford 2000, 150). In addition, while an association of abuse by a child against their mother was reduced for those who participated in FGDM, it continued. Pennell and Burford (2000) maintain “success depended on at least some family and services providers carrying out parts of the plan that related to keeping the family members safe” (152). While feminists are sceptical about restorative justice in general, the design of FGDM as conducted and evaluated by Pennell and Burford in Newfoundland and Labrador has been lauded by some as promising because unlike other restorative justice practices, it is based in praxis (see for example, Busch 2002; Cameron 2005; Stubbs 2004). However, state resources have not been made available to sustain it (Busch 2002).

Programming in both the UK and the US has been informed by the Canadian experience of FGDM from in Newfoundland and Labrador, where abused women and sometimes the abusive partners attend a family group conference with their child and supporters (Social Services Research and Information Unit 2003 in Stubbs 2010, 110-111). In the UK, the Daybreak DOVE Project began in 2001 with FGCs informed by the Canadian experience in which abused women, children and their supporters attend, and sometimes abusive men (Gavrielides and Artinopoulou 2013). An evaluation of the DOVE programme in 2003 found that of thirty referred cases, nine proceeded to the family group conference and only six agreed to participate in an evaluative research (Social Services Research and Information Unit 2003 in Stubbs 2010, 111). Of these six cases, at the one year mark four of the abused women rated it as a very good tool, but two did not (Social Services Research and Information Unit 2003 in Stubbs 2010, 111). In 2007, according to the Hampshire Constabulary, in a short time frame of 6 months following the project phase (April 2006 to March 2007) eleven of the fifteen (73%) families who participated did not have additional

contact with the police (in Liebmann and Wootton 2008, 19). However, because these findings are based on police statistics, they do not indicate conclusively whether the violence has decreased or whether the women are not reporting it.

In the US, family group conferencing is used as a model for safety planning in the North Carolina Family Group Conferencing Project (Pennell and Francis 2005). It creates a coordinated safety plan for women who are using shelters, and batterers may be included with careful planning (Pennell and Kim 2010; Pennell, Allan-Eckard, King, and Latz 2010). It is recommended when women are leaving the shelter and when men are in batterer programming (Pennell and Francis 2005, 681), and Pennell, Allan-Eckard, King, and Latz (2010) find that “engaging family groups generates plans that reflect their cultural and faith backgrounds, mobilizes family resources, and improves relationships with child welfare and the courts” (5).

### **Feminist praxis in Family Group Decision Making**

One aspect of FGDM in Newfoundland and Labrador that differentiates it from other restorative justice initiatives is its grounding in feminist praxis (Pennell and Burford 2002). Feminist praxis is a strategy for connecting theory to practice as it comes out of women’s lived experiences. Smart (1989) maintains that rather than essentializing grand theorizing, in order to ensure women’s voices are formative in the resulting discourse and practice, feminist theory ought to engage with praxis and to be connected directly to the experiences of women. That is to say, praxis is about connecting theory to the every day. Indeed, praxis is particularly concerned about gender identity, and it benefits explorations of strategies for intimate partner violence by enabling thought and action to reshape each other dialectically “through engagement in social change” (Pennell and Burford 2002, 111); it enables theory construction through the practical insights, and insights from theory to provide a politics of

action (Smart 1989). This relationship between theory and women's experiences is essential to work that aims to foster solutions which are both viable and responsive to what women want and need (Pennell and Burford 2002).

Feminist praxis was used in designing FGDM to respond to feminist concerns about restorative justice, particularly the concerns that bringing survivors and abusive partners together will inherently pressure women to accept apologies and forgive their abusive partners (Pennell and Burford 2002, 108-109) and fail to engage women's conceptions of justice. In response to these concerns, Pennell and Burford (2002) followed a set of principles and organizational strategies for using feminist praxis and designing FGDM which include: participatory co-leadership; diverse planners; multiple funding sources; firm principles that no one should be abused; families making and carrying out protective plans with solutions that make sense in the given contexts; direct referrals from protective authorities; and lastly, local ownership, which involved each site adapting policies to suit the local conditions and cultures (117). Through these strategies of feminist praxis, critically reflective action was built into the FGDM process to safeguard family members, to ensure it would generate *links* "within and outside the women's movement", and to *interrupt* pre-set assumptions, such as those about constructions of gender (Pennell and Burford 2002, 109 and 111). Thus, through its use of feminist praxis, FGDM is designed to engage the varied justice priorities of abused women, including those of justice as social, while also challenging the social discourse and structures that underpin male privilege.

A limitation of FGDM is its connection with communitarianism which emphasizes the general good rather than individual freedoms (Hudson 2003). In the framework of communitarianism, communities have moral value, rights and obligations much like individuals (Hudson 2003, 78). According to Hudson (2003), the politic underlying

communitarianism is that individuals have responsibilities to these communities, such as to not offend a reasonable community, but these obligations are mediated by blurred boundaries and extensions of control without well-defined limits (89). The community is seen as a moral resource (Young 1990) in both circle sentencing (Goel 2000; LaRocque 1997) and FGDM (Pennell and Burford 2002; 1998). Thus, debate about FGDM is not whether it is a model of restorative justice based on feminist principles but whether its design allows it to challenge male privilege in a way which responds to the justice needs of abused women.

### **Chapter Summary**

This chapter examined a plural explication of justice for abused women, presenting conceptions of justice as dynamic and fluid, and highlighted how the negotiations of choice and navigations of social and legal justice resources vary for abused women, and are dependant on the social locations of a woman and her abusive partner. While acknowledging that criminal justice strategies have symbolic import and some women are satisfied with the outcomes of their dealings with the police and courts, many scholars and women's advocates are deeply concerned by victims' experiences of dismissive and inadequate police responses (Holder 2008, 271) and by the failures of criminal justice strategies to provide protection to abused women, as well as the coercive aspects of mandatory arrest and pro-prosecution policies. These concerns have lead to explorations of restorative justice to provide safe and effective justice. But there are equally grave concerns about engagement with restorative justice for intimate partner violence, and those who are sceptical highlight many problem areas, particularly focusing on its use of apology and of community values and norms and gendered imbalances of power. However, others have noted the distinctions of FGDM from other restorative justice models and some have marked

it as promising due to its genesis in feminist praxis (see for example Busch 2002; Stubbs 2004). The next chapter will examine the conceptualizations of doing justice in criminal justice, restorative justice, and social justice. These examinations underpin the plural conceptualization of doing justice guiding and framing the exploration of restorative justice ideals in this thesis.

## **CHAPTER 2 – THEORETICAL FRAMEWORK: CONCEPTUALIZATIONS OF DOING JUSTICE**

Chapter 1 explored conceptualizations of justice for abused women, elucidating a plural explication of justice underpinned by the complexities of their justice needs. It then reviewed the research literature on criminal justice responses to intimate partner violence and the potential use of restorative justice to respond to shortcomings of criminal justice. This chapter takes up the task of examining three conceptualizations of doing justice. It examines the meanings and articulations of doing justice which underpin criminal justice and restorative justice as well as a third conceptualization articulated by Hudson (2006; 2003; 2002) that targets social justice. These examinations ground a plural conceptualization of doing justice which provides a framework through which to explore the views of abused women about principles of restorative justice as delineated by Hudson (2006; 2003).

### **Part 1 - The punitive conceptualization of doing criminal justice**

Through a critical lens from the perspective of justice needs of abused women, here the task is to examine the punitive conceptualization of doing justice in criminal justice. I first examine the universalist logic of law and criminal justice and its meanings in the context of intimate partner violence. I then examine how the punitive conceptualization in criminal justice reifies rational choice assumptions and fails to challenge the existing hegemonic male privilege that underpins women's experiences of intimate partner violence.

#### **The universalist logic of law and criminal justice**

Criminal justice is rooted in the Hobbesian view of the human condition, which maintains people are hedonistic and without a strong authority they will seek their own advantage (Vold and Bernard 1986). The official version of law assumes consensus and

claims “the institutional expression of the norms and values of the majority” (Comack 2006, 27). As norms and values change over time, what is defined as a crime evolves and changes. Crimes are fluid and dynamic social constructs that identify specific acts (or inactions) as social wrongs, and their construction is informed by cultural, social and political structures, norms and values. In naming acts (or inactions) social wrongs and exacting punishment on the wrongdoer, the state aims *to express disapproval* and *to deter future crime* (McGuire 2004) and it mandates that when an individual harms society, in breaking the social contract, punishment is required. Criminal justice claims that social order and control can be ascertained through punitive modalities of state-based responses.

In the liberalist tradition, the universalist logic of law claims impartiality, neutrality and objectivity (Comack 2006). However, while the punitive modalities of criminal justice reflect the deeply embedded and commonplace association between crime and punishment and the assumption that punishment will assure social order, this functionalist assumption is “an illusion” (McGuire 2004, 172). Critical theorists challenge the claims of this punitive conceptualization of doing justice and the relationship it touts between punishment and social control (see, for example, Christie 1977; Cohen 1985; Doob 2000). As Cohen (1985) puts it, these claims about social control shape euphemistic understandings of punishment, and while they give the impression of social change through “uneven progress”, deeper inequitable social structures remain (38). He argues that to critique law and criminal justice requires the critique of *occasions* for which the claims about punishment are produced and the *interests* of those who do the telling (Cohen 1985, 157). Indeed, naming intimate partner violence a social wrong and a crime expresses disapproval, but which specific acts are condemned and which are not? As we have seen in Chapter 1, criminal justice has proven a vexing road to finding justice for many abused women, particularly those who are

marginalized or socially disadvantaged or do not fit the image of the ideal victim (Christie 1986; Dunn 2010), if they find it there at all. Exploration of its rationales and logic offers insights into the significant challenges for abused women seeking justice through criminal justice, and these insights inform the plural analytic of justice later in this chapter.

The universalist logic of criminal justice claims *a universal standard of justice* derived from an emergent consensus, but in reality this standard is borne out of the liberal ‘logic of identity’, which Hudson (2006) describes as:

the logic by which justice will only be available if claims are based on being the same as the white, male, ‘reasonable person’ of law. (38-39)

While the official version of justice claims neutrality, impartiality, and objectivity (Comack 2006), ideals of the universalist logic are euphemistic, and an impossible and idealistic fiction (Young 1990) with its gendered and singular logic rooted in white monied male privileged representations (Naffine 1990). Although law claims an objective standard, its reasoning is situated in privileged hegemonic whiteness and maleness (Johnson A.G. 2006; Kimmel and Holler 2011). In turn, legal institutions and their underpinning social and legal structures both construct and reinforce gendered and raced differences and inequalities (Johnson A.G. 2006). As Young (1990) puts it, rather than difference and plurality (as well as feelings and commitments) ceasing in the logic of criminal justice “they lurk as inarticulate shadows, belying the claim to comprehensiveness of universalist reason” (103).

But what does the universalist logic mean for abused women who attempt to find justice through criminal justice? What are the ‘shadows’ that lurk? In short, because the reasoning and discourse of law is built on privileged identities, it will not determine or shape progressive arguments (Hudson 2006, 31; Kimmel and Holler 2011; Smart 1989). It is more difficult for women, particularly those who are marginalized and disadvantaged and/or do

not meet the image of the 'ideal' victim (see discussion in Chapter 1), to achieve justice when their experiences as Other do not readily fit the 'universalist logic' (Naffine 1990). The logic is rooted in androcentric bias (Smart 1989) and it constructs the idea of "a monied, educated, middle-class man who thrives in the competitive marketplace" (Naffine 1990, xi) as the referent for 'reasonableness'. In the criminal justice framework, women who experience violence by male partners are constructed as victims and as the Other who, as Hudson (2006) puts it, is "a linguistic, definitional necessity: the binary structure of our languages means that we can only recognize one thing by contrast with its opposite" (33).

Thus, in criminal justice, the universalist logic maintains a 'logic of identity', through which women are constructed as lesser subjects, lacking the qualities of liberal, reasoning males (Hudson 2006), and much of their lived realities (if not all) is thereby excluded and it sustains social misrepresentations of intimate partner violence (Frigon 2003; Sheehy 2014). The 'logic of identity' requires that justice "will only be available if claims are based on being the same as the white, male, 'reasonable person' of law" (Hudson 2006, 33-34). In recent decades critiques of criminal justice thinking have expanded to also question the import of other forms of difference, such as race and ethnicity, and of other life circumstances such as immigrant or refugee status, in its determinations (see, for example, Pratt 1995; Raj and Silverman 2002). Theorists who are critical of criminal justice discourse aim for the dissolution of the narrow, liberalist logic of identity (Hudson 2006) with some suggesting moving away from law (see for example Snider 1998c) and others suggesting it is irresponsible to encourage women to use law when it can be so harmful to them (Smart 1989). However, despite the strengths of these critiques, the empirical reality is that "women do and no doubt will continue to turn to the law in their struggle against domestic violence" (Lewis, Dobash, Dobash, and Cavanagh 2000, 183).

### **The punitive modality and its reification of rational choice assumptions**

While criminal justice is rooted in philosophical traditions that claim punishment is an effective and impartial form of social control, in reality, it is falling short on many of its promises. Before examining its modality and rationales in the context of intimate partner violence, it is instructive to first examine them in general terms. Theoretical rationales supporting the idea of punishment range from retribution and deterrence to rehabilitation. At present, the ideals of retribution, incapacitation, and deterrence are at the forefront (McGuire 2004). This is evident in Canada where, amongst other examples, increased reliance on incarceration through mandatory minimum sentences enacted by the former “opportunistic” government (Doob 2011, 280) paired with neo-liberal cutbacks to social programming reduce social safety nets (Minaker and Snider 2006). They shape and reinforce rational choice assumptions and ideas of inclusion/exclusion and who is deserving/undeserving of social support and/or punishment (Bumiller 2008). According to Hudson (2003), there are two supporting frameworks in present-day discussions of criminal justice, deontology (rooted in ideas of moral obligation) and utilitarianism (emphasizing utility). Although they have different perspectives about punishment, with the deontological holding a *retributivist* view *looking backward* to harm already done, and the utilitarian holding a *consequentialist* view *looking forward* to prevent and deter crime, both assume the principles of punishment are based in an emergent consensus (Hudson 2003; Roberts 1998).

Retributive justice is complex, imbued with ideas of censure and ‘just deserts’, as well as claims to uphold society’s values by providing a *punishment that fits the crime* (von Hirsch 1976). However, while retribution, to an extent, provides censure and expresses disapproval of social wrongs (Doob 2000), as an ideal, it is subject to instrumentalist confines where the focus is narrow and on means rather than social and institutional

structures and conditions, and its value-claims are mired by its concerns of deserts and proportionality (McGuire 2004; Young 1990). Closely connected with retribution and its use of punishment, the rationale of deterrence assumes that punishment (actual or potential) will deter crime. However, this underlying consequentialist assumption that punishment deters crime is flawed (Webster and Doob 2012) since, while naming an act (or inaction) as a crime expresses social disapproval, there is a dearth of evidence to demonstrate it deters crime (Doob and Cesaroni 2001; Webster and Doob 2012). Simply put, a minority of crimes are detected by police, fewer are prosecuted, and in general people who break the law do not think they are going to get caught.

As evidenced by the criticisms, the ideals of retribution and deterrence are euphemistic and shape false apprehensions about the extent to which punishment can be identified with social control (Cohen 1985). But what do the misapprehensions of punitive thinking mean for intimate partner violence? Looking at its retributivist assumptions, while they may resonate with some abused women's conceptions of justice, such as duty and accountability (Holder 2008), retributivism cannot accommodate social conceptions of justice. At the expense of flexibility and concreteness, it is bound by its instrumentality. For abused women, this means criminal justice does not respond to all the dimensions of the violence (Sheehy 2014), and the experiences of abused women are de-contextualized and de-politicized decisively (Dragiewicz 2011). Retributive justice struggles to offer justice to abused women, as it is designed to respond to discrete incidents of violence rather than ongoing dynamics or coercion and abuse, and violent men are not deterred by the threat or possibility of arrest.

Examining the rationale of deterrence, as noted in Chapter 1, despite legal reforms and criminal justice revisions, male privilege continues to be prevalent and pervasive and by

means such as denial, minimization, excuse and justification many abusive men may not consider what they are doing to be a social wrong and against the law (Dragiewicz 2011). Some scholars and activists such as Bancroft (2002) believe an abusive partner has to lose what he has been gaining before he will stop the abuse and violence, and this is at the heart of a rationale of deterrence for intimate partner violence. Indeed, there is credence to the “utility of protection and deterrence” (Holder 2008, 281) when its interventions are paired with rehabilitative programming (Lewis, Dobash, Dobash and Cavanagh 2000).

The ‘tough on crime’ reforms in recent years problematically concentrate on retribution and deterrence, diminishing sentencing flexibility and discretion (Roberts 1998), and they intend to reduce judicial discretion and institutional capacities for measured and contextualized responses. In an era where crime rates recorded by the police are declining, the reforms also fuel claims that punishment is an effective response to crime even though declines began prior to draconian reforms. But what does this ‘tough on crime’ atmosphere mean for intimate partner violence? It serves to reify its focus on individuals and to shift thinking away from social solutions, and it allows criminal justice to appropriate conflicts to the extent that *victims have a limited role* and the state is named the victim (Christie 1977; Snider 1998b). As Goodman and Epstein (2005) put it, reliance upon criminal justice has “largely sacrificed the contextualized, woman-centred focus from which the anti-domestic violence movement originated” (479). Thus, while criminal justice expressions of disapproval can be denunciatory symbolically and provide censure to an extent (Dobash and Dobash 1992; Snider 1998c), they fail to provide solutions and to capture its capacity for censure because the punitive conceptualization focuses on individuals rather than structural explanations and critiques of discursive practice in criminal justice (Currie 1990). In turn, Snider (1998c) argues that a critical understanding is needed of criminal justice and its

responses to intimate partner violence in order to eschew its overreliance and misidentifications of punishment with social control, and to capture its capacity for censure.

The underlying liberal ideals and functionalist assumptions of punishment have fluctuated over time with the rationales for punishment reflecting social, political and legal contexts; those most salient tend to shift according to shifting political rationalities. Particularly after Martinson's (1974) influential article maintaining that rehabilitation does not work, there has been is *a resurgence in rational choice assumptions* which place the blame for wrongdoing on individuals and their choices (Garland 2001; Tonry 2013). Both retributive and deterrence rationales for punishment target individuals and reinforce the idea that crime is a problem of individuals who lack a strong moral compass and simply make bad choices. By focusing on individuals, they responsabilize individuals to '*make the right choices*' in line with social norms and values, thus shifting the focus away from structural and systemic factors that constrain choice.

These rational choice assumptions expand in the current neo-liberal context and "risk society" (Beck 1992) and engagement with the punitive rationale for criminal justice now works to increase surveillance and scrutiny of abused women. For example, Bumiller (2008) frames criminal justice through a critique of neo-liberal 'technologies', suggesting that alignment with the state by engaging criminal justice now also means aligning with its neo-liberal projects, which in turn increases bureaucratic control, resulting in new technologies to 'treat' and 'assess', and in an expansion of sources of management and control of abused women (130). By example, concerning the children of abused women, she argues that:

as the state expands its domain over private lives, it asserts power through protecting child welfare, often in ways that directly challenge the authority of mothers. (130)

Similarly, in terms of Cohen's (1985) critique of 'community' and the soft side of criminal justice, while community programming may appear a benevolent replacement of criminal justice institutions, in fact criminal justice has strengthened its capacities for control and community programming supplement its institutions (36). Neo-liberal projects display new forms of control-talk operating in new ways and new contexts (Cohen 1985), albeit the normative expectations and pressures of these projects are not new in women's lives. Thus, while abused women continue to be resourceful and assertive, their negotiations for choice are challenged by the reification of rational choice assumptions in both social and legal structures and institutions (Minaker 2001; Strange 1995).

Despite limitations of state-based criminal justice institutions and the commonplace viewpoint of crime as a normal social fact (Garland 2001; McGuire 2004), the 'get tough on crime' thinking and rhetoric continues to exaggerate the capacities for social control through retribution. Indeed, it is not the role of the law and criminal justice to challenge or change the existing social order (Snider 1998c). Law and criminal justice reflect hegemonic values and norms within society, including the discriminations and oppressions, and its impact is felt to a greater extent by those who are marginalized in society (Snider 1998a). Feminist critiques of law argue that the logic and rationales of liberalist conceptualizations of intimate partner violence are narrow and they exclude broader understandings of the ongoing dynamics of intimate abuse and the complexities of the lived realities of abused women, such as those shaped by gender, race, and income (see for example, Naffine 1990; Hudson 2006).

However, punishment is not limited to retribution and some capacities for deterrence have benefited some abused women. While legal interventions alone are not enough, Lewis, Dobash, Dobash, and Cavanagh (2000) find that when the surveillance and managerial

capacities of criminal justice are engaged, rehabilitative and reintegrative initiatives (such as “pro-feminist re-education programmes”) improve its capacities and meaning as a justice strategy for intimate partner violence (202). In addition, because the law is a social construct, it is fluid and open to change and, in fact, it has been used by different groups and movements (such as Indigenous, anti-poverty and feminist) to target substantive social change (Comack 2006, 66) including those that benefit women, such as legislation criminalizing rape in marriage and laws and policies that aim to criminalize intimate partner violence (Johnson and Dawson 2011).

## **Part 2 - The reparative conceptualization of doing justice**

While there is not a singular conceptualization of doing justice in restorative justice, with divergent perspectives and explanations for how it works, there is consistency in its conceptualization that doing justice requires the reparation of harms and/or restoration of victims and offenders as well as their communities. Here, the task is to examine reparative conceptualizations of doing justice in restorative justice, and to examine from the perspective of the justice needs of abused women its claims as a more humane and less punitive conceptualization of doing justice. First, reparation of harms as a modality of social control will be examined, followed by examinations of false dichotomies between restorative justice and criminal justice, and of criminal justice as a source of leverage in restorative justice contexts.

### **Reparation of harms as a modality of social control**

There are debates about how restorative justice is best conceptualized, with three conceptions at the forefront of the discussions (Aerten 2013). For the purpose of

clarification, I briefly note the encounter and outcome perspectives, and then focus on the transformative one for its analytic importance in this research.

In the *encounter perspective*, the focus is on the engagement and mode of deliberation among stakeholders (see for example Marshall 1996; Elliott 2002). Elliott (2002), for example, contends that the normative engagement of restorative justice is rooted in the respectful, value-based encounter, where shared community values such as respect, equality and inclusion are modeled rather than imposed through the threat of punishment. On the other hand, others conceptualize restorative justice in terms of an *outcome-based perspective*, focusing on the objectives of reparation and/or restoration:

...at a minimum, restorative justice requires the involvement of victims, offenders and communities in processes where the harms and needs experienced by victims are prioritized and offenders are held accountable to put right those harms. (Zehr 2002, 25)

Lastly, the *transformative perspective* focuses on the obligations ensuing from the enablement of reparative social connections in the process and challenges to systems of oppression (Morris and Gelsthorpe 2000; Morris 2002). Those favouring restorative justice for intimate partner violence tend to focus on the transformative conceptualizations, hopeful about the potential for communities of care to deal with intimate partner violence decisively and effectively through change at the community level (Bazemore and Hugly Earle 2002; Morris 2002; Pranis 2002), although there are also others who have raised concerns about this conception. Coker (2002), for example, maintains that restorative justice advocates assume that the abusive man's community does not support his behaviour when in reality:

research with men who batter finds that friends and family often play important roles in supporting the batterer's view of himself as a victim rather than a victimizer. (139)

Two leading theorists in restorative justice, John Braithwaite and Howard Zehr, offer divergent views for conceptualizing restorative justice. For Braithwaite (1989), *shame* as a

modality of social control is central to restorative justice. He uncouples shame from punishment, arguing that when it is paired with reintegration, victims, offenders and communities as well as order can be restored. For Braithwaite, informal social control has the capacity to be more effective than formal institutions because the judgment of family and friends matters more to a wrongdoer than punishment or wider social disapproval. On the other hand, for Zehr (2005; 2002), restorative justice does justice through informal processes centred on harm rather than crime and he maintains that most cases in the criminal justice system could be addressed by reparation rather than punishment, although there are some exceptions. For Zehr (2002), restorative justice offers new principles for prioritizing reparation over punishment rather than offering the opposite of retribution or an alternative to prison (12-13).

For the purposes of this research and its interest in restorative justice principles as a potential means of providing a new framework for a justice response to intimate partner violence, Zehr's (2005) explication of restorative justice offers an instructive lens for framing it as reparation and transformation:

Crime is a violation of people and relationships. It creates obligations to make things right. Justice involves the victim, the offender, and the community in search for solutions which promote repair, reconciliation, and reassurance. (181)

The reparative conceptualization in restorative justice claims that social control is best achieved through decentralized, participatory and communitarian decision-making with reintegrative aspirations of informal dispute-settling mechanisms, enhanced social cohesion, and a sense of responsibility when people become participants in matters of importance to them (see, for example, Christie 1981; Zehr 2005). However, as with the previous examination of criminal justice, Cohen (1985) cautions there are euphemistic uses of control talk in both exclusionary and inclusionary sides of justice responses. While the shift to

‘community’ has public appeal because it claims a more humane and inclusive message, community is a nebulous and ill-defined term, and at the crux, it is still a form of social control by which the wrongdoer is seen as someone to be corrected, managed and surveilled (Cohen 1985). In particular, reforms claiming empowerment and a more humane approach such as restorative justice can create knowledges and capacities for surveillance (Hudson 2003; Stubbs 1995) or reinforce existing pressures and oppressions from the ‘community’ (Daly and Stubbs 2006) which get linked to and reinforce existing relations of power in an expanded range of informal contexts under neo-liberal governance (Hannah-Moffat 2000).

### **False dichotomies and misapprehensions**

While conceptualizations of doing justice in criminal justice and restorative justice are divergent, their modalities are not necessarily mutually exclusive; that is, restorative justice and retribution are not necessarily mutually exclusive (Daly and Stubbs 2006). Rather, restorative justice includes the notion of deserts, which is getting what one deserves, and thereby *it can include notions of retribution* but it does not require or presuppose them (Pranis 2002). As Zehr (2002) puts it, restorative justice is more focused on needs than on punishment. However, while it has the potential of not punishing, Daly and Stubbs (2006) argue that presenting restorative justice in contrast to retribution creates confusion, and the goal is not to remove retribution but to deploy its “positive and constructive elements in a restorative process” (15) rather than its negative and neutral ones. Specifically, they argue that while ‘negative’ retributive responses are “punitive, degrading and/or involve incarceration” and ‘neutral’ ones focus on means such as “censuring harms”, referring to work by Jean Hampton, they argue that a positive “‘well-crafted’ retributive response should be cognitive, to ‘provok[e] thought’ in the mind of the wrongdoer” (Hampton 1998, 43 in Daly and Stubbs 2006, 15). In turn, in order to engage the positive and constructive

elements of retribution, references to justice need to separate retribution from vengeance and vindictiveness while also keeping in mind that restorative justice does not have the symbolic power of criminal justice (Daly and Stubbs 2006).

Daly (2002) argues that at a minimum, the retributive functions of censure ought to be made explicitly part of restorative justice processes so that it is appreciated that the acts themselves create inequality. In other words, the inclusion of retribution in restorative justice is to uphold justice as accountability as well as justice as duty by doing what is *right* by requiring wrongdoers to accept responsibility and to make amends. In addition, restorative justice intends pragmatic considerations (Cohen 1985) in repairing harms, with all of the participants, including the victim, participating in and agreeing upon the outcome. While the inclusion of retribution in restorative justice can be seen as an advantage, as it eases the task of combining it with punitive justice (which is commonly done), it is also a warning that if the limitations of one modality are not confronted directly, then they may also exist the other as well as in models that combine the two. In addition, while criminal justice and restorative justice each operate by fundamentally different logics, the universalist logic and the communitarian approach respectively, neither has solidly harnessed and sustained a denunciatory force to challenge intimate partner violence. Indeed, given the pervasiveness and hegemony of male privilege in law, community and family settings, combined with its communitarian approach, there is the potential for restorative justice to structure the 'same old' pressures for abused women.

### **Criminal justice as a source of leverage in the restorative justice context**

While restorative justice advocates are in agreement in their focus on repairing harms caused by crime (Braithwaite 1989; Zehr 2005; 2002), views vary about how it ought to be positioned in relation to the criminal justice system. Those at one extreme present a

*minimalist, diversionist stance*, arguing the criminal justice system is necessary but that many cases can be withdrawn to a separate, parallel system with restorative processes (see, for example, Zehr 2005), emphasizing its voluntary nature. Restorative justice offers a “pure theory” of justice in that it offers “a comprehensive and coherent theory of justice” with the potential to create a paradigm shift (Roach 2000, 256). This *purist stance* presents a strong belief in the potential of local communities, advancing restorative justice as a value-based process where shared community values such as respect, equality and inclusion can be modeled rather than imposed through the threat of punishment (see for example Elliott 2002), but Christie (1981) recognizes that participatory justice will be limited by the reaction of the community population.

Meanwhile, others conceptualize criminal justice and restorative justice on a *continuum* (see for example Braithwaite 2000; Daly 2002; Zehr 2005) and these hybrid conceptions are instructive for their intention to mobilize both formal and informal resources (Pennell and Burford 2002; Ptacek 2010). Acknowledging that most restorative justice processes include criminal justice to some extent shakes assumptions that doing justice is conceptualized in dichotomous or mutually exclusive terms. Nonetheless, the extent to which a response is connected with the criminal justice system varies, and some function at the first offense without the threat of the criminal justice system. But in contrast to minimalist restorative justice approaches, in which the goal is to repair harm rather than to reduce recidivism (Morris 2002), hybrid approaches tend to include the reduction of recidivism within their goals (Ptacek 2010). Of the reparative initiatives targeting intimate partner violence in Canada (circle sentencing, FGDM, mediation), mediation is not connected directly with the criminal justice system and it is contested whether it even qualifies as restorative justice (Ptacek 2010; and as discussed in Chapter 1) or an appropriate

strategy for addressing intimate partner violence (Busch 2002; Cameron 2005; Hudson 2002; Presser and Gaarder 2000). On the other hand, FGDM is a hybrid approach, one which engages both informal and formal resources, including criminal justice institutions as needed and to approve the plan and monitor the follow-up. The legal system gives its informal, restorative processes much needed enforcement ‘teeth’ (Presser and Gaarder 2000, 187).

In contrast, circle sentencing is a post-sentencing process immersed in the criminal justice system. Rather than the minimalist or hybrid approaches, it more closely reflects the *maximalist stance* which argues that restorative justice should be *incorporated into the current justice system* (Bazemore and Walgrave 1999), to a “fully-fledged restorative criminal justice system” (Aertsen 2013, 3). Bazemore and Walgrave (1999) envision a maximalist position where restorative justice outcomes focus on the reparation of harm, as well as coercive sanctions when voluntary agreements are not possible. But they also emphasize the need for legal safeguards where the state would still be involved as the guardian of legal rights in any justice response (Bazemore and Walgrave 1999). Bazemore and Walgrave (1999) argue that reform should lead to a new function for the state and for its instruments; they argue state involvement is still needed, otherwise restorative justice may ‘deteriorate’ in its capacity to ‘do justice’ and to ensure feelings of equity, optimal satisfaction for all parties, and legal protections (53). Continuing this argument, Walgrave (2002) argues for a principle of “parsimony constraint” which would set “upper limits to possible intervention” (211). Doing justice would be about finding the best possible satisfaction for all parties and a feeling of equity within the confines of legal protections (Bazemore and Walgrave 1999, 53).

Restorative justice conceptualizations emphasize stakeholder involvement, including justice for victims and stress the importance of *all stakeholders* (see, for example, discussions in Bazemore and Walgrave 1999; Roach 2000). The power imbalances of intimate partner violence present a formidable challenge to the application of restorative justice practices as it is not merely a ‘conflict’ in need of resolution, but an intimate relationship in which there are dynamics of coercion, control and oftentimes attachment, and conceptualizations of doing justice need to take this into account (Stark 2007). Bazemore and Hugley Earle (2002) suggest that when core restorative justice principles conflict, priorities ought to be balanced towards the victim over the offender and community, and towards safety over accountability and reintegration while also emphasizing the importance of finding common ground between the victim, offender and community. For it is when this balancing occurs and common ground is found that there is opportunity for the meaningful repair of harms, and common ground will mitigate the programmatic focus and provide space and relational resources to transform problems of intimate partner violence to ownership and accountability in responses (Bazemore and Hugley Earle 2002). However, while aiming for balance is commendable, the inclusiveness of the process potentially reifies the power imbalances rather than challenging them if the ‘community of care’ condones the abuse and violence and male-dominated power structures in the family.

While Hudson (2006; 2002) is critical of criminal justice systems and particularly of the extent to which their mechanisms such as prisons are used in the ‘risk society’ (Beck 1992) to exclude persons who are Other (by income, race, ethnicity, ability, faith community etc.), she also emphasizes *retaining its safeguards and standards* such as due process, proportionality and equitable treatment. In turn, she suggests a type of model which combines safe and effective aspects of punitive and reparative ways of doing justice (Hudson

2002). To this end, Hudson (2002) argues that the wider the range of offences dealt with in restorative justice, including intimate partner violence, the more it might merge with formal justice:

If the aims and goals of restorative justice are integrated, with the targets of restorative justice (reintegration, empowerment of victims, reduction of offending, building of more peaceful, cohesive communities) being pursued within the constraints of due process safeguards and standards such as proportionality and equitable treatment, then a better justice will be possible. (631)

### **Part 3 - A conceptualization aimed at doing social justice**

Hudson (2003) offers a paradigm shift that rethinks liberalism radically to challenge the current hegemonic social context, the ‘risk society’ (see Beck 1992). In the risk society, risk is considered pervasive and the lens by which social problems are blurred with issues of ‘national emergency’, and the lens by which rights such as free speech and privacy are subordinated along with analyses of systemic causes of inequalities such as poverty in order to expanded interests of safety and security (Hudson 2003, 218). Terms such as ‘the war on crime’ or the ‘war on drugs’ blur the differences between social problems and emergencies (Hudson 2003, 218). Within these propensities to blur the lines between risk and systemic social inequalities, and in conjunction with normative expectations about the ‘ideal’ abused woman (Bumiller 1998; Dunn 2010), abused women who are deemed risky or ‘irresponsible’ (such as those who fail to leave an abusive relationship or fail to protect their children from the impacts of witnessing violence) because of systemic inequalities fall outside the status of good standing and thereby they are seen as less deserving of support.

In contrast, Hudson (2003) shifts the paradigm to one that prioritizes alterity, although she aims to retain the safe and effective aspects of punitive and reparative conceptualizations of doing justice. She argues that rather than excluding the ‘risky’ and ‘unreasonable’ (which include those outside the privileged logic of identity in legal

discourse), in “straining towards consensus” the discourse of justice needs to listen to all claims respectfully and to rule out the denial of wrongs (Hudson 2003, 224). Hudson (2003) builds on and reframes Habermas’ discourse ethics using Levinas’ (1982) ethics of alterity (part of the conception of justice as social discussed in Chapter 1). The ethics of alterity differs from an ethics of fairness in that it focuses substantive attention to the ‘Other’ rather than on procedural fairness, and has greater affinity to the conception of justice as social rather than to justice as fairness. To strengthen her discussion of discursive justice, which is an encounter based conception focused on processes of deliberation that aims to ensure all participants are heard, she adds reflective justice, so that judgments can be based on individual cases in light of universal aspirations of justice and the ethics of alterity (Hudson 2006; 2003). Alterity ensures *openness to difference*, since the function of language is to disclose the world, not simply to coordinate action or to provide an opportunity to speak (Hudson 2003, 173). Then, to this open and *reflective discursiveness*, she *adds relationalism* as a means to avoid the extremes of either individualism (where the victim or offender are dominated) or the potential repressiveness of communitarianism (Hudson 2003), which for intimate partner violence occurs when the community is seen as a moral resource (Young 1990) but imposes repressive patriarchal values and norms.

Arguably, Hudson (2002) holds a maximalist vision where safe and effective elements of restorative justice are incorporated into formal criminal justice proceedings. She argues that criminal justice could benefit from the *discursive approach* of restorative justice, as it does not engage the exclusionary liberal rationales and logic of identity in criminal justice and thereby provides the opportunity for “better calculations of culpability” (Hudson 2002, 631). She argues that the *reintegrative aspirations* of restorative justice could be incorporated into formal sentencing proceedings (Hudson 2002, 631). For Hudson (2002),

justice should be effective both instrumentally towards reducing reoffending and symbolically in applying strong censure to individuals, transmitting the message that the behaviour in the case is “beyond the bounds of social tolerance” (626).

To this end, Hudson (2003) proposes five justice principles as a means of moving beyond the rationales and exclusions of punitive or reparative conceptualizations of justice in the risk society. Based on insights from communitarian, feminist and postmodern critiques, she argues for a justice paradigm which accommodates the following:

- Relational – it must take account of relationships between individuals, groups and communities;
- Discursive – it must allow claims and counter-claims, critiques and defences of existing values to be weighed against each other in undominated discourse;
- Plurivocal – it must recognize and hear the different voices of plurality of identities and social groups that must have their claims met and find ways of living together, in radically pluralist contemporary societies;
- Rights regarding – justice involves defending the rights of individuals and of communities;
- Reflective – justice must flow from consideration of the particulars of the individual case rather than subsuming unique circumstances under general categories. (Hudson 2003; 206)

Of these five principles, she maintains that three *resonate most with restorative justice*, although all justice systems should embrace them (Hudson 2006). These justice principles are *discursiveness*, *reflectiveness* and *relationalism*, and their application in a justice process intends the standpoint of the concrete ‘Other’ rather than the generalized Other of universalist thinking. Indeed, for intimate partner violence, it seems that abused women would benefit from processes that are standardized but flexible (Goodman and Epstein 2005), and listen to the fullness of their concrete experiences (Sheehy 2014). Building on work by Lyotard (1988), Hudson (2003) maintains that these principles, along with the other two noted above, allow justice to patrol discursive boundaries. In doing this, justice guards

against domination and can “give difference its due” (Hudson 2003, 199) rather than be dismissed by a dominant discourse such as law.

### **Principles of justice: giving difference its due**

Hudson’s (2006; 2003) delineation of discursiveness, reflectiveness and relationalism frames this thesis, which is concerned with what the ideals of restorative justice might offer the justice needs of abused women, and so I outline the principles here. Daly and Stubbs (2006) see strength in Hudson’s approach because it asks:

to what degree does [restorative justice] meet these principles? At the same time, she gives passing reference to particular kinds of criminal justice policies and practices, including [restorative justice], and their implications for gender difference and women’s situation, or for feminist debates in these areas. (13)

The remainder of this section elaborates on the three principles of restorative justice, as delineated by Hudson (2006; 2003).

#### *Discursiveness as a justice principle*

Discursiveness as a justice principle refers to *increased and inclusive problem-solving and decision-making* in the justice context, and intends any topic can be raised by any participant (Hudson 2006). The discursiveness of conventional justice is narrow and excludes ‘outsiders’ whose identities are dissimilar to the characteristics of privilege in society, specifically persons with white and/or male identities (Curtis-Fawley and Daly 2005; Dragiewicz 2011; Smart 1989). By the adversarial nature of the criminal justice system victims and accused can only respond to specific questions posed by prosecutors and defence counsel, within the confines of its androcentric and liberalist logic and standards of admissibility. In the criminal justice context, victims and accused do not have the opportunity to tell their story in their own words in a way that is relevant or meaningful to them. In contrast, Hudson (2006) argues that as a principle, discursiveness ought to create

and shape opportunities for any participant to raise any topic, including those which have been considered off-limits because they belong to the private sphere or other justice spheres (35-36). This could include harms that women have suffered in domestic and other intimate contexts as well as topics currently considered out of bounds in criminal justice but integral to an abused woman's concerns, such as family law and child welfare matters. The discursiveness of restorative justice requires stakeholder involvement, emphasizes problem-solving, and engages inclusive decision-making (Bazemore and Hugley Earle 2002), which expands the 'discursive circle' to include identities and voices that are outside privilege and hegemonic discourse (Hudson 2006; Pennell and Burford 1998).

Hudson (2006) argues that restorative justice processes can go beyond Habermas' discourse ethics (in which multiple perspectives are heard) to embrace 'openness to Otherness' in order to move from conflict towards understanding each other's perspectives. The wrongness of harms is upheld in understandings reached by the participants. To move beyond the formal logic of identity and reshape justice processes to a more inclusive and respectful logic, Hudson (2006) presents *three strategies for widening the discursive circle*: openness to identity claims that are not based on similarity, allowing any topic to be raised provided it does not create or perpetuate oppression, and ensuring inclusive problem-solving.

#### *Reflectiveness as a justice principle*

Reflectiveness as a justice principle refers to the extent to which those involved and the particulars of their situations ground and shape the process. In criminal justice, reflectiveness is shaped by the universalist logic. In contrast, more in the spirit of restorative justice and building on the work of Benhabib (1992) and Young (1990), Hudson (2003)

argues that as a justice principle, reflectiveness *acknowledges the concrete 'Other'* in the justice decision, orients to the particulars of the situation, and grounds the process in a concrete and specific understanding of the persons involved and their social contexts. That is, she argues for a new paradigm of justice which contextualizes and thereby requires reference to a 'concrete Other', requiring:

that each case should be considered in terms of all its subjectivities, harms, wrongs and contexts, and then measured against concepts such as oppression, freedom, dignity and equality. (Hudson 2006, 39)

Contrasting with Ackerman's (1980) principle of conversational constraint which aims to make 'neutral' power talk through constraint, Hudson (2003) argues for openness to other identities, rather than the "liberal impartialist", including those that have been dominated and/or marginalized as an 'ethical stance' requires listening "attentively to the voice from somewhere very particular" (125). Through this engagement with the concrete other, participants may move from seeing only their own situation and claims, to appreciating the standpoint and claims of others (Hudson 2003, 127).

Restraint is needed though, because the social wrongs and harms must be *named*, and considerations of the circumstances must not be watered down by naming them. Hudson (2006) presents *three strategies for incorporating reflectiveness into justice decisions*: recognizing the orientation to the general is problematic, orienting the process to the concrete, and the importance of naming the abuse and violence as harms and social wrongs. For intimate partner violence, this means that the abuse and violence must first be understood as gendered social wrongs, and then located in the context of hegemonic masculinities in both the domestic and public spheres. By contextualizing the abuse and violence, this principle moves beyond a snapshot of the circumstances, and appreciates the abuse and violence within the full social ecology (Heise 1998) of the intimate relationship.

In turn, this principle resonates with understandings of women as social actors who are in abusive relationships which also have interpersonal bonds and thereby cannot be reduced simply to one of oppression (see, for example, discussions in Parent 2002; Parent and Coderre 2004), but aims to provide justice in response to the oppressions within it.

*Relationalism as a justice principle*

The third principle of justice examined is relationalism, which is about acknowledging the “complex web of relationships of responsibilities, opportunities and pressures” (Hudson 2003, 211) in which circumstances occur, recognizing that individuals are part of networks of relationships, including relationships with community and the state (Hudson 2006, 37). In turn, as a justice principle, relationalism is concerned with *how justice engages with ‘identity’ in the context of relationships*, rather than being about a particular relationship; in recognizing individuals as part of social networks, the principle of relationalism challenges the individualism of criminal justice by incorporating a framework of social responsibility and social justice. Thus, for the partners involved in intimate partner violence, victim and abuser are not their sole identities and to address the context of the violence, relationalism maintains that the web of relationships in which the abuse and violence occur must inform the solution.

Building on Young’s (1990) critiques of distributive justice, relationalism frames rights as part of discourse, where they safeguard against oppression, rather than being distributive (Hudson 2003). Rights are not simply a possession to be distributed but they are rules of conduct designed to regulate against oppression, meaning to refuse someone’s rights is to deny them justice (Hudson 2006, 37; Young 1990). Hudson (2006) presents *three strategies for relationalism*: the content of discourse should aim to redress oppression and

domination; the extent and limitations of choices, agency and freedom must be taken into consideration; and identity claims should be acknowledged as situationally and relationally contingent. She argues for uncoupling rights and responsibilities in justice (Hudson 2006). On the one hand, *rights are rules that limit behaviour* and they are for everyone, whether or not they are deemed 'risky', and they should only be suspended when there is an urgent and demonstrable need (Hudson 2006, 37). On the other hand, *responsibility* implies the person had the agency or desire to act as well as the capacity to choose to act (Hudson 2003, 219). Here, rights are not a possession as in liberal, distributive justice but a condition of discourse, and denying rights means to silence and to deny access. Similar to other critical theorists who raise concerns about whether the 'community' in a restorative justice process will oppose intimate partner violence (see for example Curtis-Fawley and Daly 2005; Presser and Gaarder 2000), Hudson (2003) is concerned to avoid the pitfalls of communitarianism where both rights and responsibility flow toward the community. In response, she argues that by uncoupling rights and responsibility while also respecting the ethics of alterity, rights are ensured even for those who are beyond our empathy and seemingly our responsibility.

However, for situations of intimate partner violence specifically, the closeness relationalism has with communitarianism is concerning, despite Hudson's efforts to differentiate them. While Hudson (2006; 2003) envisages enhanced social responsibility by a relational lens, it continues to construct justice responses aimed to individuals arguably at the expense of social solutions, although this relationalism is less individualistic than conceptualizations of doing justice in criminal justice. To its credit, its ethic of alterity is more constructive than Braithwaite's (1989) ideas of shaming, and she argues that in relationalism, culpability accounts for the extent a person is blameworthy, having both done

it and made a 'positive choice' to do so (Hudson 1999, 584). However, a broadened relationalism may open possibilities for additional coercion in communities and social networks that condone male privilege and control of women, and it is a mistake to assume that a woman's capacity to exercise choice is unconstrained in this context (Busch 2002) and that the community is without constraint able to provide genuine support for her and censure for him. The tensions highlighted between Hudson's (2003; 2006) delineation of relationalism and the concerns of critical theorists about the potential for 'communities' to further extend or enable the abuse and violence (see for example Busch 2002; Stubbs 2002; 2004) will be a focus of this research.

### **Limitations and unresolved dilemmas**

Hudson (2006) acknowledges that while restorative justice most closely incorporates discursiveness, reflectiveness and relationalism as she delineates them, unresolved dilemmas remain. Specifically, she suggests that their application can pose problems:

... with regard to meeting needs and expectations of participants, satisfying claims to justice, performing the symbolic function of law in conveying wrongness and censure, protecting participants from intimidation by others and deflecting responsibility from communities and states. (Hudson 2006, 40)

These potential concerns are salient to this research project which is situated in the ongoing debates about criminal justice and its failures to protect abused women and hold violent men accountable, and examinations of restorative justice.

Hudson (2006; 2003) discusses two further concerns to her delineation of justice and justice principles: relativism and universalism. The first of these concerns, *relativism* is the understanding that there is a plurality of truths without privileging one perspective. While Hudson's (2006; 2003) discussion of justice and justice principles is sweeping and deep, her explication of identity, difference, and alterity are relativistic and thus, nebulous. The 'ethic

of alterity' needs to be further unpacked, to make it clear which differences are to be included and which ones excluded. Specifically, in building her argument about the ethic of alterity in the "risk society" (Beck 1992), she offers Lyotard's (1988 in Hudson 2003) explication of justice:

its mandate is to patrol the discursive boundaries, guarding against domination, because to give difference its due depends upon allowing Otherness to speak its own language. (199)

But what if the language of Otherness does not guard against domination? By what standards should domination and injustice be determined? While Lyotard's idea of justice patrolling discursive boundaries is good in theory, in practice it is imprecise and it can reproduce certain forms of domination. That is, there is the potential for interpretations of domination and of oppression when normative agreement is sought in response to injustice.

In response to concerns about relativism, Hudson (2006) follows critical reflections on identity by Nancy Fraser (1997), arguing that issues of identity and difference have become over-dominant and too separate from issues of oppression and inequality.

Following Fraser (1997), Hudson (2006) argues that three types of difference provide a useful guide for thinking about the extent and limitations of discursiveness, differences consisting of:

...qualities which have been under-valued but which are desirable and should be generalized...Expressions of human diversity [that] should be supported and enjoyed ... [or] differences such as racism and violence that should be disapproved and suppressed. (41)

This framework offers difference as a conceptual tool for solving conflicts and competing claims. Rather than subscribing to the 'impartiality' of criminal justice or embracing all identities, the acknowledgement of harms and wrongs can be encouraged discursively (Mulcahy 2001, in Hudson 2006, 41). Indeed, to explain alterity, Hudson (2006) offers an

explication of difference which incorporates oppression and inequality as markers of injustice, but the idea of alterity remains open-ended and in turn, open to competing discourses and thereby vulnerable to interpretations of domination. Further clarification is needed concerning measures on which to base decisions about justice, alterity, and domination. Honneth (in Fraser and Honneth 2003) cautions that while it is right to recognize collective identities, some of whom are united by social struggles based in their difference and exclusions, arguments focused on identity can be reductionist (118) and social groups also have the potential to aggressively exclude ‘outsiders’:

The social movements today demanding recognition of their value convictions include not only peaceful groups like feminists or marginalized minorities, but also racist and nationalist groups such as Farrakhan’s Nation of Islam and German skinheads. (121)

In reality, there will always be competing discourses about difference and the markers of injustice, and there is no way to silence different types of discourse. However, through research and analyses, discourses such as racism and other well-known forms of oppression such as sexism and classism are recognized as a form of domination (see for example Johnson A.G. 2006; Kimmel and Holler 2011).

Concomitant with the problem of relativism is the dilemma of *universalism*, referring to the idea that there is a universal standard of justice. While the universalism of liberal justice is a gendered, raced, classed, and false one, to state universalism is not possible opens arguments of relativism. However, if universalism is possible, then sticky questions arise about what differences are to be validated and included (Hudson 2006, 42). Hudson (2006) is concerned because rights-based discourses are currently finding prominence and those who are Other are most likely to be denied rights-bearing status. In the neo-liberal context,

equality is assumed and some groups (such as father's rights groups) are using rights-based arguments from a position of privilege (Dragiewicz 2008). As Dragiewicz (2008) argues:

Although their power and privilege were invisible to them while they had it, because patriarchal relations are still the unremarkable norm, many [father's rights] activists experience their absence as discrimination. (133)

Concerning these rights-based debates, Hudson (2006) argues that discussions of social responsibility need to be applied to all and not conflated or mired in discussions of identity and rights. To ensure a lens of social responsibility, Hudson (2006, 42-43) suggests universalism follows Young's (1990, 9) plural explication of oppression and domination, and of redressing and eradicating five conditions of oppression and injustice: exploitation, marginalization, powerlessness, cultural imperialism and violence.

Hudson (2006; 2003) follows Young's (1990) focus on experiences and capacities and her recommendations to challenge five conditions of oppression. Firstly, to challenge exploitative labour structures and the unequal distribution of goods, justice requires the *reorganization of structures and institutions* (Young 1990, 53). Secondly, to challenge marginal identities and status such as those based on race, age, and gender, justice requires restructuring and ensuring *choice and respect along with access to social and legal resources* (Young 1990, 55). Thirdly, to challenge disempowerment based in the division of labour, such as the "lack of decision-making power", justice requires *workplace democracy* (Young 1990, 58, 224). Fourthly, to challenge privilege and cultural imperialism justice struggles for the oppressed group to define a *positive sense of difference* (Young 1990, 59, 61). Lastly, to challenge systematic violence and harassment, including race and gender based violence, justice *confronts the social context* which makes the violence "possible and even acceptable" (Young 1990, 61). Hudson (2006) argues that rather than the generalized Other, for more socially responsible justice principles to respond to these conditions of

oppression, universalism needs to acknowledge and safeguard against these facets of oppression. However, similar to her discussions of identity and of alterity, strategies to challenge oppression remain nebulous and in need of further specifics. While Hudson (2003) uncouples social responsibility from rights (215), she continues to locate social responsibility within legal domains and in turn, further exploration of structural and normative social changes is needed along with what she terms the “ethical voice” of justice (224). Even when attempts are made to challenge oppression through law, the legal system itself can re/produce ideas of risk that can become attached to certain groups. As Fraser (1997) argues, there are tensions between the recognition of oppression and ideals of redistribution, and the affirmation and recognition of cultural and identity differences “is no substitute for redistribution” (194). This is not to say that Hudson (2006; 2003) does not advance normative and redistributive social change outside of legal domains, but to say that they are under-represented in her discussions of justice. In illustration, the use of the battered woman syndrome in the legal sphere for cases of intimate partner violence “sidelines” the abuser and the dynamics of abuse as well as the social values and norms which condone violent masculinity, and instead it focuses on the ‘riskiness’ of the battered woman (Comack 1993, 45). In Hudson’s (2003) terms, it fails to include social responsibility and to explore structural and normative explanations.

#### **Part 4 – Research framework: Exploring a conceptualization of doing social justice**

This chapter has explored different conceptualizations and modalities of justice responses in order to develop an analytic to conceptualize doing justice in response to intimate partner violence against women. This analytic is informed by Hudson’s (2003; 2002) plural vision of social justice and of how we can rethink criminal justice and restorative justice with their safe and effective elements operating together.

The focus of this research project is abused women's perspectives of three justice principles as delineated by Hudson (2006; 2003)—discursiveness, reflectiveness, and relationalism—and my framework of justice is informed by the conceptualizations of justice by abused women, as well as critiques of both criminal justice and restorative justice. While there are commonalities in conceptualizations of justice (safety particularly) amongst abused women, they are also intertwined with their needs, and with solutions to those needs which are in flux and fluid for many women. Given this variability and fluidity, it would seem that it would benefit women by having justice responses available that are *flexible* as well as predictable and *structured* (Goodman and Esptein 2005), but to what extent? Do ideals of restorative justice resonate with what women are looking for in a justice response? Based on women's views of justice, the research literature on intimate partner violence highlights *nuanced understandings of justice* that go beyond just ending the violence (Herman 2005; Hamby 2014; Holder 2008; 2013; Westmarland and Kelly 2013). *Justice priorities* specifically, women's priorities for *safety* are well documented. But does it matter who is involved in a justice process, whether it is the state, community or family? Who do women want to have power and decision-making authority in the process?

The debate about criminal justice for intimate partner violence hinges on the extent to which it should be engaged and how. What's more, the punitive conceptualizations of doing justice in criminal justice problematically re-inscribe hegemonic notions of 'reasonable' and 'unreliable' women rather than information about the realities of abusive dynamics and methods for securing ongoing safety for abused women (Dawson and Dinovitzer 2001). Research to date has focused on restorative justice processes and elements such as apology. But there is a gap in the research concerning the views of abused women about the *justice principles* espoused in restorative justice. Thus, further research is needed to ask women

who experience abuse and violence in intimate relationships whether they consider the principles of restorative justice potentially beneficial and if so, *how they would like them to inform justice responses*.

Accordingly, this research project offers insights about abused women's views of justice principles, and specifically asks them to consider principles evidenced in restorative justice. I seek women's views of three justice principles typified in restorative justice: discursiveness, reflectiveness and relationalism (Hudson 2006; 2003). I do not assume these principles are restricted to restorative justice and I do not endeavour to place them into a specific domain of justice, such as criminal justice or restorative justice. Instead, I examine values and structural elements of the principles and ask women for their views about them in light of their own circumstances, *and how the principles might be constructed* in order to provide support to abused women. To this end, this thesis asks: "how might the ideals of restorative justice respond to the justice needs of women who have experienced abuse and violence by their male intimate partners?"

The purpose for exploring principles in restorative justice is not to promote it as a response to intimate partner violence. Research has already raised alarms and concerns about restorative justice processes and specific elements of it. Instead, my purpose is to explore the three justice principles as delineated by Hudson (2006; 2003). This research project is structured with deductive learning opportunities in its use of the feminist, post-structuralist framework of justice articulated by Hudson (2003; 2006) and its operationalization of the three justice principles. It is also structured with inductive learning opportunities through its openness to alternate understandings of justice offered by the women interviewed.

## **Chapter summary**

This chapter sets the stage for exploring a plural conceptualization of doing justice for intimate partner violence. The chapter first looked at (1) *punitive* and (2) *reparative* conceptualizations of doing justice. Then, building on these examinations, it explored Hudson's (2006; 2003; 2002) vision of (3) "*social*" justice, which engages multiple discourses of justice and allows for a schematic in the common ground between criminal and restorative justices. As such, Hudson's (2006; 2003; 2002) pluralist vision of justice challenges domination and oppression is instructive to this thesis for its critical framing of different ideas about justice. In the following chapter, I present the feminist qualitative method employed in this research project which is one-on-one interviews with women who have experienced intimate partner violence and I explain how FGDM is used as a tool to test Hudson's (2006; 2003) theory and to operationalize the three principles of restorative justice that she delineates.

### **CHAPTER 3 – RESEARCH FOCUS AND METHOD**

The previous chapter provided the plural conceptualization of doing justice guiding this thesis, which is a social one. This conceptualization builds on strengths from the modalities and rationales of criminal justice and restorative justice, as well as Hudson's (2003; 2006) theoretical explication of social justice. In this chapter, first the critical feminist epistemology (Hawkesworth 2007; 1999; 1990 1989) and research focus are detailed, including the operationalization of the three justice principles (discursiveness, reflectiveness and relationalism) delineated by Hudson and as they are expressed in FGDM (as designed by Pennell and Burford 2002 and discussed in Chapter 1). While FGDM is a hybrid model of justice which engages both criminal justice and restorative justice, each one is significantly different in this model than in their conventional forms. Lastly, this chapter details the methodological considerations for one-on-one interviews with women who have experienced abuse by former male partners, the research process, and the strategies for data analysis.

#### **Part 1 - A critical feminist lens**

In engaging a contextual and situated understanding of women's experiences of violence by intimate male partners, this research project adopts a critical feminist epistemological framework (Hawkesworth 1990; 1989). This critical lens focuses on the *process of knowing* and the critical and rational arguments leading to what is *known* by women, shifting the emphasis from the knower to the known (Hawkesworth 1990; 1989). This is not to say that the knower and her experiences are irrelevant, but that knowing is intertwined with and produced within regimes of truth (Foucault 1975), and the dynamic constellation of desires and fears of the knowing subject are intertwined and intersect with "conflicting linguistic, social, and political forces" (Hawkesworth 1989, 550-551).

The *process of knowing* is a socially constructed one, intertwined with discursive regimes and power, and an abused woman as a ‘knowing subject’ lives within the current social context which emphasizes criminal justice responses for intimate partner violence (Coker 2002) and de-contextualizes and de-politicizes other issues that are integral to abused women’s lives, choices and decision-making (Dragiewicz 2011). Discursive regimes of knowledge are complex, and normative ones about intimate abuse and violence inform the narrow, liberalist definitions of criminal justice which fail to take into account the perspectives and lived realities of abused women. While mainstream discourses (such as those represented in the news media, social media and entertainment etc.) about intimate partner violence have expanded, myths and misconceptions continue to be prominent. That is, while the ongoing dynamics of abuse and the lived realities of abused women are acknowledged to a greater extent in social discourse, discourses remain imbued with misconceptions and continue to reify ideas that an abused woman ‘ought to be’ demur, sober, bruised and beaten (Dunn 2010), *and* they presuppose that she would engage criminal justice and social options ‘if it was really that bad’. In turn, this thesis engages a reflexive understanding of knowing, allowing for examinations of social constructions and explications of gender, intimate relationships, abuse, violence and justice (Gannon and Davies 2007). It recognizes that women navigate misogynist and sexist discourses, and the extent of this depends on their social locations and specific web of relationships, and it is an ongoing challenge for abused women to negotiate choice (Minaker 2001) within discursive regimes of knowledge/power (Dragiewicz 2011; Foucault 1975).

This research shifts away from the framework of ‘group identity’ but is solidly feminist, first through its engagement of the points of view of abused women, that is those who are the subordinated Other, as a source of knowledge (Brooks 2007). Secondly, its

production of knowledge starts with the theoretical “inquiry into and opposition to the devaluation of ‘woman’ under patriarchy” (Hennessy 1993, 30). In addition, it is centred on the well-founded, feminist understanding of intimate partner violence as an asymmetrical issue of men’s violence against women supported by entrenched patriarchal power structures (Ansara and Hindin, 2010) and the entrenchment of an androcentric viewpoint in law (Smart 1989) which disqualifies their claims and precludes justice.

### **Beyond the text: critical reflexivity about truth claims**

Feminists are sceptical about the possibility of value-neutrality (Harding 1995; Satsangi 2013) and they urge researchers to be vigilant about the political implications of the epistemology they choose (Hawkesworth 1989). Feminist analyses are best able to challenge androcentric bias and hegemonic discourse when they recognize cognition as a socially constructed, human practice and they remain attuned to the ideological dimensions of knowledge:

Keenly aware of the complexity of all knowledge claims, it must defend the adoption of a minimalist standard of rationality that requires that belief be apportioned to evidence and that no assertion be immune from critical assessment. (Hawkesworth 1989, 556)

Thus, by engaging with the ideological and value-laden dimensions of knowledge, the critical feminist framework opens the discussion to dimensions of power (Hawkesworth 1989; 1990) and it creates space for diversity and intersectionalities of race, ethnicity, income, ability and faith community while avoiding slipping into the pitfalls of relativism when dealing with pluralities.

In engaging a critical feminist framework, I value the voices of individual women and their standpoint about their experiences, but rather than giving epistemic privilege to the knowledge simply because it is from the perspectives of a grouping of women (Brooks 2007;

Harding 1995), it allows me to engage reflexive analyses of their views of ‘justice’ and the discourses engaged by them. In an effort to avoid slipping into relativism, I juxtapose the competing accounts of women by seeking the consistency of any theoretical assumptions and standards of evidence as well as the representations provided (151). In other words, I engage the women’s narratives while also seeking to juxtapose and analyze competing claims in a deductive fashion of theory testing.

This research locates knowledge through the analytical techniques of basing belief on evidence, rational argument and critical assessment, and I engage a critical conceptualization of *knowing* as dynamic and fluid rather than static (Hawkesworth 1989), situating objectivity within multiple narratives and ‘truths’. In turn, this research seeks the viewpoints of a sampling of women and this critical lens allows me to presuppose that while there may be commonalities across the group, each woman will have a unique subjectivity and unique claims about justice needs and just outcomes, mediated by the various discursive regimes through their social locations, power positionings, and life experiences. Thus, this framework provides a means to embrace the participants’ conceptualizations of justice and how they frame their lived experiences as well as the ‘vocabularies’ (Dunn 2010) that they use when discussing their experiences and views. Not only will there be differences across the research participants but the women’s viewpoints will also be affected by when and where the violence occurred in relation to the interview, such as whether it occurred recently or many years ago, and whether they have had any experiences with the criminal justice system and/or social services.

This research is qualitative and consists of in-depth, one-on-one interviews, a method that provides an opportunity to glimpse these constructions and to thereby examine the *meanings* of the justice needs and just outcomes as presented by women who have

experienced intimate violence and to explore alternate constructions of justice within their responses (such as through what is being told or what a narrative is ‘doing’). Thus, this research connects with women who have experienced violence by male intimate partners and it asks them about their experiences with the criminal justice system (if any) and for their views of justice in general, as well as their thoughts on whether justice institutions should be more open to and engaged with social resources other than the criminal justice services available now. The viewpoints of the women are explored in terms of the justice needs and just outcomes they articulate, and aims to provide additional contextual understandings of the framework of justice provided by Hudson (2006; 2003).

## **Part 2 - Research focus**

This thesis aims to contribute to the ongoing work to develop and improve justice responses that challenges intimate partner violence as well as the male privilege that supports it. This research asks: How might the ideals of restorative justice respond to the justice needs of women who have experienced violence and abuse by male intimate partners? There are three sub-questions to the main research question, each based on one of the principles of justice delineated by Hudson (2006; 2003):

- Discursiveness: How do women view discursiveness in the restorative justice context for intimate partner violence, with its goal of *inclusive* problem-solving and *openness* to her identity claims?
- Reflectiveness: How do women view reflectiveness and its goal of orienting justice responses to *the context* and *the particulars* of her abusive situation?

- Relationalism: How might a justice response engage relationalism, responding to *the entirety* of women's relationships and their coinciding responsibilities, opportunities and pressures, when they are s in an abusive relationship?

This research frames these justice principles in a hybrid model of restorative justice and analyses the participant's views of justice and justice responses in light of the hybrid way of thinking about justice. Accordingly, this research asks a secondary set of questions about women's ideas and views about justice.

- How do women who have experienced violence and abuse by a past intimate partner view justice? That is, in what way(s) do they think about justice—punitively, reparative, socially, or another way?
- To what extent do they consider the punitive modality of criminal justice beneficial? How do they view its claims to censure and denounce intimate partner violence?
- What do women say they want and need in a justice response?
- In criminal justice, the experts become the interlocutors for the abused women, whereas in restorative justice abused women have a more participatory role with less interlocution. What do women think about interlocutors in a justice response, and who do they want to participate?

With careful consideration of three restorative justice principles, this research asks women who have experienced violence by male partners to consider these ideals in light of their lived experiences and of their conceptualizations of justice.

### **Operationalization of three justice principles: discursiveness, reflectiveness and relationalism**

This research is structured with deductive learning opportunities through its operationalization of Hudson's ideological framework of justice, and inductive learning

opportunities through its openness to alternate understandings of justice and will not presume whether or how the participants position punishment. Thus, this research is open to learning about and engaging with their ideas about justice even if these ideas diverge from Hudson's framework. This openness to alternate understandings of justice is aligned with the epistemological stance of this research (see Hawkesworth's 1989) and through its openness to alterity and to each woman's knowledge claims.

Specific questions (see questions 12 to 24 of the interview guide in Appendix 1) are designed to operationalize the principles of discursiveness, reflectiveness, and relationalism in clear, non-legalistic language in order to ensure they are unambiguous and accessible. According to Hudson (2006; 2003), *discursiveness* as a justice principle ought to refer to increased and inclusive problem-solving as well as decision-making in the justice context, where any topic can be raised by any participant. Questions about discursiveness focus on what types of communication, problem-solving and decision-making the women want and need in a justice response, including who they wanted involved in the process. These questions gauge whether the women want increased and inclusive problem-solving and decision-making in a justice context. The questions in the interview guide that target the principle of discursiveness ask:

Do you think the abusive partner should take part? What do you think of having family and friends come up with the plan on how to proceed? What if one group of family and friends dominates the discussion and the other one has little input?

It was anticipated that learning about women's views of discursiveness in justice responses would provide insight into how they view problem-solving options in a justice response.

For Hudson (2006), *reflectiveness* refers to contextualized decision-making in the justice context, accounting for the particulars of the situation with an understanding of the particulars and persons of the situation. Specifically, reflectiveness is about orienting to a

concrete justice logic rather a general one, mindful that the social wrong must be named. Reflectiveness is also about incorporating a framework of social responsibility and social justice, such as advancing the provision of material resources, into a justice response. By focusing on context, it takes what occurs between the incidents of violence into account in order to better understand the abuse and violence. When asking about reflectiveness, the questions focus on the women's views about incorporating context as well as a framework of social responsibility and social justice into a justice response. The questions in the interview guide which specifically target reflectiveness ask:

Do you think an informal process such as this one might help women who are abused to develop or to connect with a support network? What do you think of having the police or other officials there at the beginning and end of the process? Does the fact that the authorities have to approve the plan affect your answer?

It was anticipated that learning about women's views of increased reflectiveness in a justice response will provide insight into whether they would prefer a justice response to consider the context of the violence, including what occurs between violent episodes, or if this is not considered appropriate for a justice response.

Lastly, *relationalism* is about how justice engages with 'identity' in the context of relationships. Specifically, relationalism is about identity claims and how they relate to what one needs in a justice response, with the decision-making taking into consideration responsibilities, opportunities, pressures, and culpability, as well as rights and redressing oppression and domination. Relationalism is one of the most distinctive features of restorative justice and given its engagement of broader social networks in a context of rights and responsibilities, this research asks women's views about whether it holds potential for normative change for intimate partner violence. Learning about women's views of relationalism in a justice response will help to understand its appeal and potential.

The main goal of the questions about relationalism is to acknowledge the “complex web of relationships of responsibilities, opportunities and pressures” (Hudson 2003, 211) in which the woman and her abusive partner live and to ask about how justice might engage with ‘identity’ in the context of relationships and with ‘rights’ in order to safeguard against oppression (Hudson 2006, 37). This research particularly seeks women’s opinions about engaging relationalism in a justice response and whether they would prefer mandated authorities, such as the police, to be involved. In addition, it seeks women’s perspective about whether, in general, abusive partners might be willing to participate in such a process, as well as their preferences about whether a justice response ought to criminalize abusive and violent partners.

Relationalism is about acknowledging the web of relationships, opportunities and pressures in which it occurs (Hudson 2003, 211). For both partners involved in intimate partner violence, victim and abuser are not their sole identities and to address the context of the violence. Accordingly, the questions in the interview guide targeting relationalism ask:

Do you think women who are abused would want to participate in such a process? What do you think of its emphasis of friends, family and community resources rather than the courts? Are women who are abused too isolated to use such a process? How do you think such a process might help a couple? How do you think such a process might *not* help a couple? What kind of supports can family and friends provide? What might be some limitations of involving family and friends? Could it be too much to ask from friends or family?

Thus, this research project aims to learn whether women want an approach that includes the law, but where normative engagement rather than criminalization is central. In addition, it recognizes that ‘buy in’ from the abusive male partners is required for normative engagement because they must be cooperative and willing to participate in such a process in order for it to be successful. This research engaged women’s understandings about how appealing this is as well as how likely it is to occur in a restorative justice process.

### **Part 3 - Research method**

This research consists of semi-structured, in-depth, qualitative, one-on-one interviews with 12 women who are over 18 years of age, English-speaking, and experienced violence in an intimate relationship which is no longer intact. A semi-structured interview guide was used. The purpose of the interviews was to ask women who have been abused how they define and position justice in relation to their experiences of abuse and violence. This method is not without limitations, including the challenges of finding participants for such a sensitive topic. For this research project, it took approximately one year to conduct and complete interviews with twelve women who have been abused, including follow-up interviews when requested.

The one-on-one interview method and use of an interview guide and its pre-determined questions can be seen as both a strength and limitation. It is a strength that the pre-determined questions help to keep the interviews on topic and to create consistency across them. However, the interview setting is a contrived one and the pre-determined questions add to the sense that the ‘conversation’ is occurring in a contrived setting. Indeed, by times it is necessary to go ‘off script’ in order to follow the lead of the participant and to learn about what is most salient to her. The formality of the interview process challenged the ease and conversational style of the interviews. Further limitations of this approach are explored throughout this part, as they relate to the area discussed, as well as Part 4 where I discuss my role as the researcher and how my age, race, and educational status and privilege as a middle-aged white woman would have shaped the interviews in ways which I was aware and attempted to minimize (such as by dressing casually and using a casual comportment) but also in ways in which I was unaware.

As a researcher engaging with a vulnerable population, I prioritized the safety and well-being of the participants. The World Health Organization (WHO) (2001) provides guidelines regarding ethical and safety issues for research with women who have experienced intimate violence. For the research participants, the WHO emphasizes the importance of prioritizing safety, protecting confidentiality, and reducing and responding to any possible distress caused to the participants by the research. When conducting community-based research, Logan, Walker, Shannon, and Cole (2008) argue that input is required “from the target population, key agencies, [and] the community” (1249). Similarly, Mary Ellesberg and Lori Heise (2002) argue that at a minimum the researcher must make sure community collaboration occurs, benefits are provided to study participants (such as payment, transportation, and childcare), safety protocols are in place, and the participants are in a comfortable and safe location and meeting at a time which is convenient for them.

Following these recommendations, this research first engaged with local organizations and centres that offer services to women who experience violence in intimate relationships in order to establish an understanding of the local context, such as what is happening in the local courts (for example, whether or not the police are seen as understanding of intimate partner violence) and what social resources are available to women in the area. (See Appendix 2 for types of organizations contacted.) This information provided me with an understanding of what resources were available to the participants (provided they had experienced the abuse recently and in the local area) as well as what resources (such as counselling and housing) are available presently for referral purposes were women to become distressed during the interviews. This approach proved beneficial as one participant had been seeking information on counselling and I was able to provide this for her. The information was also useful for establishing safety protocols, such as knowing

what shelters are nearby, which were essential to have in place but these protocols did not need to be acted upon during or after the interviews. Lastly, knowing about resources (such as shelters and counselling) and what is happening in the courts and with the police (such as whether they are supportive to abused women) gave me a general, contextual understanding of the participants' experiences and resources available to them. However, the information about local resources was not as relevant for the interviews with women who had left their relationships many years ago, and I relied on their narratives about what was available to them at the time and what social and legal resources they accessed (if any).

### **Preparation**

A package consisting of an information sheet and a bookmark was developed and made available for everyone with whom I connected in relation to this research project. (See Appendices 3 and 4.) The information sheet provides details on the objectives of the study and the bookmark lists local help resources as well as help lines, such as the national Assaulted Women's Helpline. In the interest of safety and confidentiality, WHO (2001) advises that resource lists should be inconspicuous and either small enough to be hidden or include a range of services so a potential abuser is not alerted to the nature of the information. Accordingly, this bookmark lists a variety of local services in relation to healthcare as well as community resources such as the local library.

In order to learn about the local context of intimate partner violence and related help resources, first a range of information and materials from sources such as websites, pamphlets, and brochures was gathered from the local agencies or organizations and healthcare facilities where women who have experienced intimate violence might seek help. This process of gathering information provided an opportunity to introduce the project and to inquire whether there are persons connected with the agency or organization, by

employment or on a volunteer basis, who may be interested and willing to participate. For example, some organizations have advisory committees with members who might be willing to participate in an interview. The recruitment text advertising the research was also posted on bulletin boards at local organizations such as community centres and arenas as well as locations frequented by women such as laundromats. The information sheet was posted alongside the recruitment text. (See Appendices 4 and 5.)

In order to establish and ensure safety protocols, prior to conducting these interviews, I confirmed with local resources that they would be available to women who might wish to access them after the interview. These resources include local crisis centres and shelters where counselling is offered, as well as information on how to access the Assaulted Women's Helpline.

#### *Refining the interview guide through pilot interviews*

In order to revise and refine the semi-structured interview guide and to improve my interviewing skills, two pilot interviews were conducted. It was my objective to reduce the influence of my presuppositions as much as possible, and to create an open, non-judgmental dynamic with research participants. These pilot interviews proved valuable and provided helpful insights and feedback.

The pilot interviews were conducted with two women colleagues, both of whom are knowledgeable about intimate partner violence through their work, one as a lawyer and the other as a social worker. One of my goals for the interviews was to set and maintain a calm and non-judgmental tone, and the feedback from the two pilot interviews helped me to improve on this and to refine and make clarifications to the interview guide. Specifically, their feedback focused on four main elements of the interview guide. The first suggestion

was to make it more conversational by using language that was less academic. For example, it was suggested that I use phrasing such as, “Here’s where I’m coming from. I’d like to learn about your views and thoughts about it.” I was aware throughout the research process of my power and social status as a PhD candidate, and I wanted to emphasize and focus on the expertise of the women being interviewed and do what I could to create an atmosphere where they would feel comfortable sharing their thoughts and views.

The second suggestion was to consider removing questions about current transportation options, current marriage and children. After some deliberation, I agreed that these questions did not add value to my research and may in fact make the women uncomfortable, and so I removed them from the interview guide.

Originally, many questions relating to personal attributes of the women were at the end of the interview guide. A third suggestion was to move more of them to the beginning. Questions about ethnicity/racial background and disability were moved to the beginning so that I would better be able to situate the women early in the interview. It was also suggested that I add a question about faith background and this proved a beneficial addition.

The final suggestion related to questions about the women’s personal experiences of abuse and violence. It was suggested that I emphasize the inclusion of both abuse and violence in my definition of intimate partner violence, because there is very little in the way of a justice response, particularly criminal justice, to types of experiences that do not fall under the criminal code (such as coercive control). That definition accounts for violence as a constellation of acts that subordinate women in relationships which is qualitatively different from other forms of violence (Stark 2007; 2006; see discussion in Chapter 1). As one pilot participant noted, while neither the police nor family are ideal, it would be

interesting to know if the women thought family members might be better equipped than the police to deal with abuse. These reflections informed question #19 on the final version of the interview guide which asks, “What kind of supports can family and friends provide? What might be some limitations of involving family and friends?”

### *Refining the recruitment process*

For this research project, twelve one-on-one interviews occurred over the course of 11 months, from February 2012 to January 2013. Recruiting participants proved to be a greater challenge than anticipated. In the early stages of the interviewing process, several potential participants expressed an interest in participating in the research but then did not do so. Some did not return my phone messages, while others did not come to the confirmed location for the interview. They may have decided it was too emotionally difficult or that the abusive relationship is not far enough in the past to participate, or that there were other risks, or they might have decided that they were no longer interested. Initially, I had been posting flyers at community locations such as recreation centres, senior centres and laundromats, but due to the poor response rate, I decided to also post it at local shelters and women’s organizations. The number of no-shows declined when I expanded the locations where the flyer was posted.

Three modifications were made to the recruitment process with the hopes of increasing participation. The first modification was minor and it asked to expand the recruitment area, and required informal approval from the Research Ethics Board of the University of Ottawa (hereafter referred to as the REB). Since my project did not require a specific geographic location, I decided to expand my search for participants to include other

areas of Southern Ontario. This modification was reflected in the recruitment text by the removal of the original location from the wording.

The other two modifications required formal approval from the REB and this approval was sought and granted approximately half-way through the 11 months of interviewing. The first request was to increase the compensation to participants from \$20 to \$50. Since I was asking for up to two hours of their time, the compensation of \$20 might simply be considered too low. I did not request a sum higher than \$50 because I did not want the compensation to be a coercive factor.

This change was reflected in both the recruitment text and the informed consent form. In addition, in order to clarify that the participants would be compensated the full amount whether they incurred babysitting and/or transportation costs or not, the wording in the payment section was changed from "up to \$20 for the costs of babysitting and transportation will be reimbursed" to "\$50 for participation". Concerning the women who had already participated, I did not plan to initiate contact or phone them in order to let them know of the increase in compensation and offer the difference for reasons of safety and privacy. However, I requested permission to offer them the \$30 difference should I encounter some of the participants during my in my day-to-day activities, and this permission was granted. I encountered two participants at later dates and offered the additional sum, but neither one accepted it.

The second request for modification in the area of recruitment was for permission to do presentations about my project at shelters or other resource organizations for women. The presentation was short, approximately 5 to 10 minutes in length (See Appendix 6). The outline for the presentation was for my use only, and the only handout with the presentation

was the recruitment text. This request for modification was made before expanding the recruitment area so that in case I was asked to do one, I could be immediately available.

The REB approved both requests for modification and the response rate increased once the higher compensation amount of \$50 was advertised. While the REB also approved my presentation, none of the shelters or women's organizations that I contacted requested one, and so it was not needed.

### **Sampling**

As indicated, participants in the interviews were women over 18 years of age who spoke English and had experienced intimate violence in one or more past relationships. For reasons of safety for both participants and the researcher, the sample was limited to women who had left the abusive relationships. For participants who had left the abusive relationships many years prior to the interview, it is acknowledged that along with changes in social service resources such as shelters and criminal justice reforms, the salience of events and the participants' perspectives about their experiences may have shifted over the years. However, this altering is not detrimental to the purpose of this research, which seeks the participants' views about justice principles.

The strategy for contacting participants for this research project was twofold, first by posting the recruitment text in locations in which potential participants might see it, and second through a strategy of snowball sampling. In conjunction with the assertion by the WHO (2001) that study participants should be warned when a study contains questions about violence (including the nature of the questions), the recruitment text indicated that the study is about justice responses to violence against women by a male intimate partner. The phone number listed on the advertisement was for a cell phone dedicated to the research project. In the interest of confidentiality, the 'call history' was deleted from this phone upon

the completion of all phone calls regarding the study. Upon the completion of the interviews for this project, the cell phone number was cancelled.

The recruitment text was posted in two types of locations, at local organizations such as local rape crisis centres, shelters and other agencies which assist women who are or who have been in abusive relationships. In addition, similar to the recruitment strategies in other studies (for example Bowker 1983; DeKeseredy and Schwartz 2009; Minaker 2001), the recruitment text was distributed in approximately 15 local community locations including bus stops, laundromats, and coffee shops. One obstacle encountered at this stage was the refusal to post the text by the local libraries contacted. Library staff stated that only local information could be posted and despite the fact that the research was occurring in the area, the text could not be posted because it indicated that the researchers are from the University of Ottawa (which is a significant distance from the research location).

As indicated, the women were also contacted through a strategy of snowball sampling. According to Berg and Lune (2012), snowball sampling is essentially a chain of subjects created through referral and this technique has been described as a good strategy for locating subjects with specific characteristics when it is not easy to locate them through traditional sources. Happenstance conversations about the project with friends, acquaintances and community members also created opportunities to share information about the project and the recruitment text and, in turn, to recruit participants. In order to ensure that participation was voluntary, I relied on the recruitment text and snowball sampling, and waited for the women to contact me.

### **The interview process: conducting the interviews**

The in-depth, semi-structured, one-on-one interviews were conducted in face-to-face in private settings using an interview guide. Seven interviews were conducted in private

spaces at local libraries and shelters. Five were conducted in participants' homes and considered safe because violent relationships had ended, and with the permission and assistance of the REB, safety protocols were established and followed for these interviews. General safety protocols included: confirming with local women's organizations that participants would be able to contact them for support should it be needed after the interview; pre-screening potential participants to ensure the abusive relationship was no longer intact; and providing the participants with the bookmark with information about local resources at the beginning of each interview. For the interviews conducted in women's homes, I ensured that the participant and myself would be the only persons there, I informed my supervisor and my family about when the interview would be taking place and let them know when it was safely completed, and I ensured that I had a fully-charged and working cell phone at the interviews. The former abusive partners of two women were deceased at the time of the interviews, and both women stated that their partners' deaths increased their comfort with talking about their situations.

With the permission of the participants, audio-recordings were made of the sessions using a small digital recorder and none declined to have the interview recorded. The interviews were then transcribed verbatim, with identifying information such as names and locations altered in order to ensure confidentiality and anonymity. Importantly, even the application of punctuation may affect the readings and analyses of the transcriptions. As Riessman (2002) notes, "transcribing discourse, like photographing reality, is an interpretive practice" (226). For the purpose of integrity and in compliance with requirements set by the REB, complete and unaltered copies of the transcripts for the one-on-one interviews are being maintained in a secure location and they will be destroyed five years after the completion of the study.

In this thesis, FGDM is used as a tool for testing Hudson's theory. FGDM is close to Hudson's (2006; 2003; 2002) conceptualization of doing justice as it is on a continuum of criminal justice and restorative justice, and it also embraces a justice of alterity and exemplifies discursiveness, reflectiveness and relationalism as she delineates them. Criminal justice gives leverage to informal proceedings, and this leverage is evident in FGDM through the authorities being present at the beginning and end of the process, and requirements that they approve the plan. This research adds to conversation about justice for abused women by asking a small sample of women who have been abused about how they conceptualize justice and for their views about *principles of justice* as they are expressed in FGDM, in light of their own experiences. In order to ensure consistency in research participants' understand of a hybrid restorative justice process, three short excerpts from the video *Widening the Circle: The Family Group Decision Making Experience* (Cahill 1998)<sup>7</sup> were shown during each interview, a film that depicts the preparation and information sharing portions of the Family Group Decision Making (FGDM) process as well as an example of a family group plan (Pennell and Burford 2002). The video excerpts provided the participants with a practical sense of restorative justice ideals, illustrating one particular process and its dynamics. This thesis explores the notion of widening the discursive circle for intimate partner violence, asking abused women *how wide* they prefer the discursive circle in a justice process, and *who* they prefer to participate in it. FGDM is predicated on the idea of open and inclusive dialogue and decision-making through its information sharing time as well as the development of the plan by the family and its supports.

---

<sup>7</sup> In the early stages of this research project I purchased a copy of this video from the American Humane Association, <http://www.americanhumane.org>. However, to my knowledge, at the time of the completion of this thesis, it is no longer available there. It can be accessed through some university and public libraries.

Several of the objectives of FGDM process resonate with *discursiveness* including the beliefs that most families can make sound decisions to stop abuse and neglect, that the characteristics of close supports have knowledge of the family and appreciate their cultural values, that close supports will have a long-term commitment, and that it widens the circle of decision-makers (Pennell and Burford 1998, 5-6). FGDM also resonates with Hudson's (2006; 2003) vision of *reflectiveness* in its attempt to engage the particulars of the situation and the persons involved, and the harms and wrongs most salient in the view of the abused woman. The FGDM objective to form a plan which reflects the concrete and salient factors, including the cultural and social context of the abuse and violence, also resonates with reflectiveness as delineated.

Lastly, with its inclusion of responsibilities, opportunities and pressures, of the three justice principles, *relationalism* is also what most differentiates FGDM from conventional justice processes. In FGDM, identity claims and creating plans responsive to what a woman wants and needs are integral. In illustration, outcomes named for FGDM by Pennell and Burford (1998) include enhancing the cultural appropriateness of services were, improving safety and well-being of family members, and targeting ongoing advice from the community and staff so that it could be sensitive to cultures of the community (35, 40-41).

The video tells the story of one family, a mother, father and two daughters dealing with the father's alcohol abuse and violence. The father has been violent to the mother and the oldest daughter, and the case came to the attention of child welfare authorities when the daughter went to school with a black eye. The incident has been reported and with the assistance and support of a facilitator, they have decided to do a family group conference. The scenario in the video involves a violent male partner who is willing to participate in the

restorative justice process and who is open to attending programming, including an anger management program.

### *Relational ethics*

Throughout the research process and analyses, I endeavoured to be respectful of the participants and to ensure relational ethics, which Tracy (2010) describes as being related to an “ethic of care” and involving “an ethical self-consciousness in which researchers are mindful of their character, actions, and consequences on others (847). To minimize potential anxieties and concerns of the participants about the interviews, they were offered the opportunity to review and make changes their transcripts. Three of the women opted to review their transcripts and follow-up appointments were arranged with them for this purpose. Two others had indicated that they wished to do follow-up meetings but then changed their minds when I called to confirm a time and location. The purpose of the follow-up interviews was to provide an opportunity for the women to clarify or speak to anything they thought of after the initial interviews or to read and make any desired changes to the transcripts of the initial interviews. I was open to making changes to the transcripts of the first interview and, as advised by Norman Denzin (2002), I endeavoured to ensure that my interpretations are “understandable to the subjects” (364). I conducted any required follow-up interviews within one month from the initial interview.

To connect with participants for follow-up interviews, I provided a business card which contains my name and contact information but no material connecting it to the research and issues of intimate partner violence. For, while some researchers, such as Logan, Walker, Shannon, and Cole (2008), recommend a ‘locator protocol’ of gathering information for participant’s ‘contact parties’, such as family or friends, to increase the

likelihood of the researcher successfully connecting with the participant, this strategy still contains risk to the participants. For example, a participant's circumstances may change between the time of the two meetings and the contact party may no longer be a safe connection or it may no longer be safe for the woman to speak with the researcher. The business card provides a means for the participant to contact the researcher within a designated timeframe, if she chose to, without jeopardizing her safety or privacy.

*Anonymity, confidentiality, consent and voluntary participation*

Written, informed consent was obtained by all those who participated in this study. (See Appendix 7 for a copy of the informed consent form.) I assured confidentiality and anonymity for all persons and organizations by changing all identifying information on the transcripts, such as names of persons and geographic locations. All participants were offered the opportunity to provide their own 'aliases' or pseudonyms for the consent forms, but none chose to do this. Each of the participants is identified on the transcript of the interview by a number, such as P1, P2.

**Part 4 - Reflections on my role as researcher**

The interview is a situated conversation whose outcome is determined not only by the questions asked but by the interviewer's personal characteristics. All discourses are incomplete, partial and changing and the interview is a construct of a lived reality, jointly constructed. Recognizing the active role of the researcher in the construction of a critical lens and analyses, reflexivity is important. That is, as a researcher with my own history and context, I not only participate in constructing the understandings gained in the research but determine them through my establishment of the framework and direction of the conversation and questions to be asked, followed up and probed as well as what is to be

included and excluded in the analyses and findings. The ‘findings’ are not simply pure truths that emanate from the informants and data collected but they are a construction in which I play an active role. Accordingly, throughout this research I strove to be aware of the effect I have on the research process (and how it affects me) and how power may be exercised or minimised in the research process. This involves open acknowledgement by me of my assumptions, beliefs, sympathies and biases and how these position me in relation to those whom I am studying, and of my privilege as a researcher and my power to distort.

With this in mind, I maintained a journal throughout the interview stage of this research so that I could make note of personal thoughts and observations. There are three main areas where, upon reflection, my presuppositions and social positioning as a white, middle-income, educated woman affected the research. Throughout the research, I endeavoured to minimize this impact, but it is important to acknowledge its existence and potential import.

The first area is rooted in my presuppositions about how ‘justice’ can be defined. I entered this research with a broad definition of justice which included a variety of conceptualizations acquired through my personal experience, social position and academic training. In addition to a legal justice I embrace an ontological or existential sense of the term, meaning a sense of justice for the self, by which a woman has found a concrete sense of wellness and safety, as well as closure with what has happened. In other words, justice for some women might be achieved through the legal/criminal justice systems, but for others it might mean the abuse or violence being acknowledged or a sense of vindication. Meanwhile for others, it might mean that her partner changed and he is no longer abusive. In turn, some women have found justice through the means and resources available to them, while for others, these resources have failed them or justice simply seems unattainable.

The advertisement materials for the interviews were prepared with this broad conceptualization of justice in mind. However, upon reflection on the women's views and the issues they raised during the interviews, with many of them speaking about the shortcomings of the legal/criminal justice options available, the wording of the recruitment text / flyer may have skewed and narrowed my research toward views about legal/criminal justice. Specifically, the recruitment text / flyer stated:

“What is ‘justice’? There has been interest in whether justice responses other than the police and courts, such as restorative justice, might be helpful for women experiencing violence in intimate relationships. However, while it is known that some women want alternative justice processes to police and courts available to them, we don't know what would be most appropriate. Moreover, what is most appropriate may vary from one place to another or for women in different circumstances. (See Appendix 5.)

It might be that using terms such as “justice”, “police and courts” and “justice processes” may have attracted women to the project who had had negative experiences with these institutions. On the other hand, some of the women did use my broader definition of justice, highlighting conceptions such as vindication and validation. All perspectives and conceptualizations of justice were valuable and informative to my research, but for the purposes of clarification it might have been better to explicitly define ‘justice’ in the recruitment text. However, it was only through reflection during the interviewing process and on the interview texts, that I realized this clarification would have been helpful.

In this vein, the use of the term ‘justice’ may also have been a reason for why I had difficulties locating participants. Many women do not contact the justice system (Johnson and Dawson 2011) and for those who do, not all of them would want to talk about it. I do not know if the women who volunteered to participate in my research were more likely to do so because they wanted something in the legal/criminal justice systems to change due to personal experiences they did or did not have in this system.

Finally, I was aware of my status as an academic throughout the interviewing stage. I attempted to minimize any unease the women might feel by dressing casually, sitting in a casual, conversational manner, and emphasizing that I wanted to learn from them (see discussions in Berg and Lune 2012; Seidman 2006; Wolf 1996). However, at some points during the interviews, I sensed that the women may have wanted to provide answers they thought I might want. For example, when I asked for their first impressions about the video excerpts of FGDM, some were more candid after the digital recorder was turned off. However, I do not know whether this was a function of participants wanting to give what might seem like the ‘right’ answer or the fact that they felt more comfortable when not being recorded.

In addition, near the end of the interviews when I asked women about their educational background, I understood that some were self-conscious that they had not completed higher education. However, I do not know if their hesitations and statements such as “I only did ...” were due to experiences such as regret about missed opportunities to do more, or if they were self-conscious about my position as a researcher and graduate student.

## **Part 5 - Data analysis and coding**

The texts from the twelve transcribed interviews were organized and coded using the qualitative data analysis software MAXQDA 10, distributed by VERBI GmbH. Since this research was designed with both deductive and inductive learning opportunities, the analysis was structured with a combination of coding methods into a *two-cycle coding process* (Saldana 2013), described in the section below. That is, the texts were analyzed with two main research objectives in mind, the first being deductive and the second, inductive. The first objective was to present the three justice principles provided by Hudson (2006; 2003) in

a clear and accessible format to women who have experienced violence by former male partners, in order to learn their views about these principles. Learning their viewpoints allowed close examination of these principles as they relate to intimate partner violence, including the strengths, tensions and limitations. The second research objective was to be open to alternate understandings of justice presented by the women, whether they are related to the formal legal justice system or not.

This research engages an open, fluid and dynamic coding process, examining and constructions of justice needs and just outcomes expressed by the participants throughout the interviews, such as in the telling of their own personal stories and encounters with abuse and with justice. According to the Personal Narratives Group (1989), personal narratives provide windows into lives and glimpses of peoples' shifting and dynamic realities and truths and through personal narratives feminist strategies challenge and reconstruct traditional definitions of reality. With the goal of examining the meaning of justice needs and just outcomes as presented by the women, I interrogated the constructed ideas and practices through examinations of:

what is included and what is excluded, what is preferred and what is dominated, through deconstruction of meanings, present injustices can be made visible and become accessible to amelioration (173).

This deconstructive analysis allows me to explore and challenge the explanatory value of constructs of justice which are normative and androcentric, and to confront their meanings without seeking to abolish them. That is to say, recognizing the inevitable relationship between knowledge and power allows me to deconstruct discourses of justice and focus on what is known by the abused women about their justice needs and what they want in a justice response.

The *first-cycle coding* is divided into two overarching sections, the first one with theory-driven coding methods including *provisional* and *structural coding* (Saldana 2013) in order to explore the pre-determined justice principles and their formative elements based in the hybrid way of thinking about justice responses informing this thesis (Hudson 2006). The second section consisted of the text-driven methods of *open* and *in-vivo coding* (Saldana 2013). This latter section was done in order to discover and explore any justice concepts raised by the women, which are outside of the theory-driven codes. While the theory-driven coding was the starting point, I maintained a dialogue and fluidity between the two sections, and so at some points, the two sections were coded in concert. As it was not clear what the themes or categories might be from the open coding, for this part initially I simply created a large section of codes without concern about how many there were or what they may or may not have in common.

In order to organize the interview texts and begin to examine underlying themes, categories and ideas, tools available in MAXQDA 10 such as colour coding and memos were used. A *codebook* was also developed as a means of keeping track of the various coding methods and codes, and throughout the coding process, *analytic memos* were used for organizing various queries and insights (DeCuir-Gunby, Marshall and McCulloch 2011; Saldana 2013).

The *second-cycle coding* consisted of *focused coding* and it was done in order to explore subsets and groupings of text and the tensions and relationships between them. The transition from the first-cycle to the second-cycle of coding was done through *code mapping*, in order to organize and assemble the codes (Miles and Huberman 1994; Saldana 2013) so that regularities, patterns, explanations, possible configurations, causal flows and propositions were noted. This transition involved doing “iterations of analysis” (Saldana

2013, 194) where the theory-driven codes were condensed and clarified, and some text-driven codes were shifted to the theory-driven ones and others were organized into new code categories. In other words, rather than holding the deductive and inductive analyses as dichotomous and mutually exclusive, I strove to maintain a ‘feminist consciousness’ and derive my understandings of the concepts from the women’s experiences and their points of view (Stanley and Wise 1990).

In sum, eight forms of coding were used during the analysis, attribute, provisional, structural, subcoding, open, in-vivo, code-mapping, focused coding. Further details about each of the coding methods used are provided in the following sections.

### **First-cycle coding and analytical methods**

To begin the analysis, the first step was to carefully read the texts and highlight any statements which clearly and directly related to the justice principles delineated by Hudson (2006). In concert with the theory-driven coding, any concepts or ideas discussed by the women that did not directly line up with the theory-driven codes were coded in one ‘open’ category of codes. The in-vivo codes were primarily allocated to the open category but when appropriate a few were coded in the theory-driven codes.

#### *Attribute coding*

Attribute coding provided basic descriptive information about the women, such as demographics and relationship histories (Saldana 2013) so that I could better situate them in my understandings of intimate partner violence. That is to say, while the women all shared the common, gendered experience of having a former male partner who was abusive, they were all differently located socially, through their class, race, age, faith community affiliation or non-affiliation, and abilities/disabilities.

Recognizing how social location shapes their experiences as abused women, and their access to resources and the responsibilities, opportunities, and pressures they experience, it was necessary to engage both the commonality and diversity of the women's experiences in the analysis (Hudson 2006; Minaker 2001). Attribute information was collected about race, age, faith community affiliation, income and employment, disability, general living location (urban, rural etc.), type of relationship (dating, common-law, marital), help-seeking choices such as whether she told family/friends, went to a shelter or contacted the police, and lastly, whether her former partner had additional issues such as addictions, substance abuse and/or a mental health diagnosis.

### *Provisional Coding*

Provisional coding involves the use of a predetermined set of codes which are established prior to the fieldwork (Miles and Huberman 1994; Saldana 2013, 144), and in this research the provisional codes were formed and operationalized to create the interview guide and thus before the one-on-one interviews were conducted. These codes were theory-driven, developed they hybrid way of thinking about justice responses which informed this research (Hudson 2006; 2003). That is, the three justice principles, discursiveness, reflectiveness, and relationalism, were operationalized in the interview guide, and the provisional codes used to formulate the interview questions were also used to code the women's responses.

The justice principles are abstract concepts and were considered the parent codes or main categories, and based on Hudson's (2006) delineation of the principles/ categories each one had three subcodes. The objective of using provisional coding was to move from the abstract concepts in the theoretical framework to 'every day' language in both the interview

guide and coding in a manner which ensured reliability and confluence with the abstract, theoretical framework. Table 3.1 provides further detail about the provisional coding for each of the justice principles.

### *Structural coding*

Structural coding is based on content and concepts and it is a “question-based code” (Saldana 2013, 84) that becomes a device which allows quick access to relevant interview text. The structural codes in this research are theory-driven codes, informed by the same theoretical framework and set of justice principles as the provisional codes, but they are broader in scope and more general than the provisional code, asking about justice and reforms to the justice system. The structural codes were used as a way of indexing the responses to these broader questions, which were located in the last part of Section Three in the interview guide, questions # 21 to 24.

**Table 3.1 Provisional coding of justice principles**

Justice Principle / Parent code	Subcodes	Definition
Discursiveness	Inclusive problem-solving	Discursiveness refers to increased and inclusive problem-solving and decision-making in the justice context. In RJ this is seen in all participants (victim, offender, and community) being able to tell their stories in their own words (Hudson 2006, 34) and it differs from formal justice in that <i>the aim is to understand each other's perspectives</i> (Hudson 2006, 35)
	Any topic can be raised	Any topic can be raised by any participant, recognizing it is important that the <i>harms are named</i> . It also recognizes that regulatory rules are required to ensure the <i>dialogue is undominated</i> (Hudson 2006, 35).
	Open to her identity claims	The process is <i>open to difference</i> ; it is open to the voices and identities which have been suppressed and it is open to challenges to the identity of law. It also it scrutinizes the extent and limitations of difference from the most desirable to the least. Firstly, some difference is undervalued but desirable (such as the 'feminine nurturing'), secondly some expressions of diversity ought to be supported and enjoyed (such as sexuality, lifestyle and religion), and lastly other expressions of difference (such as racism and violence) are to be disapproved and repressed (Hudson 2006, 41).
Reflectiveness	Orientation to the concrete / particular	Reflectiveness refers to acknowledging and incorporating the <i>context</i> of the IPV into justice decision making. It is also about incorporating a framework of social responsibility and social justice into a justice response. The circumstances surrounding the abuse and violence should be considered in their uniqueness but also weighed against "broader horizons of justice" (Hudson 2006, 39) such as oppression, freedom, dignity and equality.
	Importance of naming the abuse / violence	The act must be <i>denounced</i> . This means reflectiveness must be constrained so that the wrongfulness of the act and the harm done are <i>not watered down</i> by considerations of differences (Hudson 2006, 40).
Relationalism	Rights and redressing oppression and domination, as guiding decisions about the content of discourse	Rights are not a possession as they would be seen in liberal, distributive justice. Rather, rights are <i>a condition of discourse</i> and to deny rights means to silence, to deny access, etcetera.
	Responsibilities, opportunities, and pressures as well as culpability	The realities of the woman's circumstances must be taken into consideration when addressing IPV. The extent and limitations of her <i>choices, agency and freedom</i> must be taken into consideration. The women do not lack agency as they are surviving every day, but they have a multitude of constraints and thereby lack freedom.
	Identity claims and how they relate to what she wants and needs in a justice response	Identity is situationally and relationally contingent. In other words, <i>identity is "both-and"</i> rather than simply being nuanced and it is the situation which provides which is most salient (Hudson 2006, 37). For example, how might a woman's identity as a both mother and a victim of abuse impact what she wants and needs in a justice response?

### *Subcoding*

Subcodes, also known as subsets or second-order codes, were created when appropriate in order to increase detail and nuance for the broad, structural codes. The structural code was thought of as the ‘parent’ code, and the subcodes as the children (Saldana 2013, 77). These subcodes are based on what the women said and were dynamic and fluid during the coding process, meaning they were held lightly until the coding was completed. The questions along with their structural codes and subcodes are listed below. The first two questions, numbers 21 and 22, have the same set of subcodes but the women’s responses within each set are qualitatively different.

- Interview question #21: When I say justice, what does this mean to you?
  - Code: “Justice is...”
  - Subcodes: diversity of options; education / prevention; personal justice; material justice; criminal justice
  
- Interview question #22: What do women need in a justice response?
  - Code: “What women need”
  - Subcodes: diversity of options; education / prevention; personal justice; material justice; criminal justice
  
- Interview question #23: Considering all the options, such as the police and courts or less formal processes, what do you think is the best way to get there?
  - Code: Social Conversations
  - Subcodes: increasing her freedom through financial support, choice and/or opportunities; educate / inform about how people can help; doing gender - when other men help;, support groups when leaving the relationship; easy access to information such as online resources
  
- Interview question #24: If you could change anything about the way the current criminal justice system deals with domestic violence, what would that be?
  - Code: Justice reform
  - Subcodes: increase sensitivity of policies within the system; increase financial support - including when she is also charged; sensitivity training for police officers, judges and other justice personnel; women's agency - increase opportunities for women's decision-making

### *Open coding*

Open coding is a form of text-driven coding which can be descriptive, conceptual and/or anything in between (Saldana 2013). It was done quickly and relatively spontaneously, with the codes consisting of sections of text as small as a few words or as long as a paragraph or two. At the beginning, the open codes were considered temporary and held tentatively, and consisted of sections of text which did not fit neatly into any of the pre-set provisional or structural codes. They were coded into one large category which was left un-named until all the interview text had been coded. They remained in this large, nebulous category until the coding transitioned to the second-cycle.

Memos were also used during the open coding to make note of salient discourse markers in the women's speech. For example, sometimes phrases such as "you know", "I mean" and "like" can be more than just a simple and or common turn of phrase. Rather, they can act as 'discourse markers' and signal that the upcoming text will provide something of increased importance, emotional or conceptual, for the speaker (D'arcy 2007). While doing the open coding, special attention was paid to the context and use of such expressions to help locate sections of increased salience for the women. Emotional cues, such as a long pause and sigh, also helped signal these moments in these interviews.

### *In-Vivo coding*

In-vivo coding simply means using the actual wording found in the qualitative text verbatim in the code (Saldana 2013, 91). When it was appropriate, the actual terms and words used by the participants were used as the name of the code. In order to ensure that these in-vivo codes stood out from the other codes, they were noted with quotation marks and in all capital letters. The in-vivo coding was most commonly used with the open coding, but it was also relatively frequent in two other sections, namely to question #12 which asked

for the women's first impression of FGDM and to questions 13, 15 and 19, and the women's responses associated with relationalism.

### **Transition to second cycle: code mapping**

Code mapping was used as a method of organizing and assembling the open codes into more succinct groupings and, eventually, categories. In this process, the open codes were moved to new groupings, and some were moved to already existing provisional or structural codes. Through what Saldana (2013) has referred to as "iterations of analysis" (194), the open codes were gradually moved to central themes and concepts. The first iteration consisted of the open codes, which were simply listed in the order in which they were created. Then they were shuffled and moved into groupings of related codes. When it was found that there was significant overlap with more than one code, they were condensed into one. Next, they were moved into small subcategories.

### **Second-cycle coding: focused coding**

Through focused coding, similarly coded qualitative text is "clustered together and reviewed to create tentative category names" (Saldana 2013, 214). Essentially, it meant sorting the more literal, open codes into either new and more abstract codes or the pre-set codes which also were more abstract. Hesse-Biber (2007) talks about using focused coding after the initial and open coding, where the goal is to create descriptive codes to help understand what respondents are saying.

Once the open codes had been condensed and categorized, they were re-assessed to see if they would best fit with one of the pre-set provisional or structural codes, or if they should stand alone. It was found that the majority of groupings fit into one of the pre-set codes. Unexpectedly, one new category based on FGDM and the women's impressions of it

was formed. A second new category, loosely termed ‘justice of alterity’ was also formed at this point in the analysis.

### **Chapter summary**

This chapter detailed how a critical feminist epistemology (Hawkesworth 1989; 1990; 1999; 2007) shapes the methodological choices for one-on-one interviews with women who have experienced abuse by former male partners, the research process, and the strategies for data analysis. The chapter also details the operationalization of the three justice principles (discursiveness, reflectiveness and relationalism) which form the basis of the deductive analysis (Hudson 2003; 2006). The following chapter presents the results of the qualitative interviews and reflects upon the women’s conceptualizations of about justice and their views about how justice is done, in order to analyze how the three ideals of restorative justice might respond to the justice needs of abused women.

## **CHAPTER 4 – MAKING MEANING OF JUSTICE AND GIVING DIFFERENCE ITS DUE**

The previous chapter detailed the critical feminist lens, methodology and qualitative method of this thesis. This chapter moves from inductive analyses of the participants' conceptualizations of justice and of doing justice, to deductive analyses about how three ideals of restorative justice, discursiveness, reflectiveness, and relationalism, might respond to the justice needs of women who have experienced abuse and violence by male intimate partners. This chapter is grounded in what the participants said about justice and ways of engendering justice in response to intimate partner violence, and it first demarcates and discusses how the participants are socially situated. Then Part 2 explores findings about how the participants conceptualized justice for abused women in light of their own social locations and experiences. The third part explores what the participants said about navigating and negotiating for justice through social resources (such as friends and family) and social service agencies (such as shelters) and criminal justice institutions. It also examines their impressions of restorative justice as shown in video excerpts of FGDM (Cahill 1998). Part 4 discusses how the participants envisage justice done socially. The chapter culminates in Part 5, which builds on findings and discussions in the first four parts, using them to explore how principles of restorative justice might respond to the justice needs of abused women.

### **Part 1 - How the women are socially situated**

This section demarcates the social situations of the participants to contextualize their feedback about justice and justice responses. Each of the twelve women interviewed had experienced emotional and psychological abuse from former male partners and some also experienced physical and/or sexual violence. Thus, while they share the common experience

of gendered abuse, their experiences also differed and were shaped by their *social positionings* in terms of race, age, (dis)ability and income. Of the twelve participants, several have marginalized identities, by race and/or disability. Of the racialized women, two had immigrated to Canada and one is Indigenous. Four participants identify as having a disability, two with physical disabilities and two with mental health concerns. For the participants who are marginalized by race and/or disability, their stories highlight how prejudice and stereotypes contour women's experiences of abuse and violence as well as the opportunities available to them, and this will be further explored throughout this chapter.

As a group, the participants were generally middle-aged ranging from 22 to 70 years with a mean age of 49 years. For two of the older women, their abusive relationships occurred several decades ago and so the number of resources available to them was significantly fewer than now. The participants predominantly had lower incomes, with eight of them living on less than \$25,000 per year. Five of the participants were employed, six were unemployed and one was retired. Some of the women also did volunteer work on a regular basis. Of the six participants who were unemployed, three were receiving financial assistance. Two of these women spoke of the emotional and financial challenges of leaving an abusive relationship with a disability and limited income. In terms of educational background, one woman had completed high-school only and the remaining eleven had completed high-school and acquired further education, including courses, certificates and degrees from trades school, college and/or university. Of the five women who were employed, one held a semi-skilled, lower-income position and four were in professional positions.

At the time of the interviews, all of the participants lived in southern Ontario. The number of resources available to women is often directly related to the area in which they

live, with the larger number of resources being available in the larger urban and suburban areas, and the fewest in rural areas, and this pattern is evident in this research. At the time of their abusive relationships, two of the participants lived in large urban centres, four lived in suburbs, three lived in small towns, and three lived in rural locations. More of the participants who lived in urban or suburban areas went to a shelter or women's resource organization than those who live in less densely populated and resourced areas.

All but one of the participants described themselves as socially connected with friends and/or family that they could go to if they needed help with a problem, but the majority also spoke of how their abusive partners had isolated them while they were in the relationships. A significant majority, eleven out of twelve, of the participants indicate that they are affiliated with either Protestant or Catholic faith communities to some extent. Counselling services are offered by these faith communities in some locations, and two of the women spoke of attending such counselling during their relationships in attempts to keep their relationships together. Neither one found the counselling helpful. In fact, they found them counterproductive and argued that the advice they received reinforced and extended the proprietary views and controlling tactics of their abusive partners. Both of the women attended counselling more than two decades ago, and in turn they had lived with the violence in a more conservative period and it is possible that the sexism and misconceptions about intimate partner violence that they encountered reflect this time.

The length of the relationships discussed varied from two to twenty years. Of the twelve participants, the majority had been in marital relationships with their former abusive partners, of which two were common law relationships. Four of the participants had experienced abuse in dating relationships. Nine of the participants spoke of their former partners having additional issues that exacerbated the abuse and violence. Alcohol was the

most common additional concern with five participants speaking of their partners having problems with alcohol, and the abuse and violence being worse when they were intoxicated. Drugs were also a concern, and four participants spoke of their partners using drugs, including two of the women who had also discussed alcohol. Two participants said their partners had introduced them to drugs and/or alcohol. Having partners with mental health concerns, including borderline personality disorder, were mentioned by three participants and only one of them did not also discuss alcohol and drugs as an issue. While previous research highlights deficiencies of externalizing and denying personal responsibility by ‘excusing’ the abuse and violence through explanations that link it to factors such as alcohol (Johnson 2001) or childhood abuse (Pence and Paymar 1993), they are included here because the participants indicated that they were important within their experiences of abuse; alcohol and childhood abuse do not cause intimate abuse and violence, but they might have facilitated the use of abuse and violence.

All of the participants had left their abusive and violent relationships, but each one had done so in a different manner. Seven of the women had told a friend and/or family member about the abuse and five of these women also went to a shelter. One other woman went to a shelter, meaning half of the women interviewed (six) had been to a shelter for help. All of the participants who had gone to a shelter had also been in contact with the police about the abuse and violence. In total, there were four women (one third) who did not have any formal contact with the police or legal system. However, two of these participants had asked friends who were police officers for help. Of the ten participants who had had some form of contact with the police (formally or informally), six had contacted the police themselves and for four participants, other persons including friends, neighbours and their partners, had contacted the police.

Making note of women's different social locations and the contexts of the abuse informs a grounded and contextualized understanding of their situations and helps inform how to improve resources (Hague, Mullender and Aris 2003; Wolf 1996). The participants came from a variety of backgrounds and even the ones who made similar decisions about seeking help had different experiences navigating the resources after they made these pivotal decisions. These integral negotiations and decisions are contoured by many variables, including the accessibility of resources, previous experiences she or her partner may have had with community resources and/or the police, her financial resources and whether her identity is privileged or marginalized (through race, age, and/or disability) as well as the extent to which her responsibilities, choices and opportunities provide her with the freedom to seek help, and whether or not she planned to leave the relationship.

In relaying experiences of intimate partner violence and of how they left the relationships, the participants spoke of many stressors and pressures from sources external to the relationship which intersected with and compounded their victimizations and at times frustrated their access to help and their sense of justice. The participants named a number of *intersections* which affected their negotiations for justice including: their partners' social status, financial abuse and dependency, the involvement of children, and identities marginalized by racialization and disability.

Most of the participants felt that income and social status profoundly influenced their options and choices about how to leave the abusive relationships. As P7 explained, she had been reluctant to tell friends that her partner was abusive as she was concerned that they would not believe her because it contradicted his strong social and economic standing:

No, he's really – he's a real jerk when you guys leave. People don't believe you. Because what they see; because the image of him. ... And then again, how can you go and tell people everything? All this. People are going to say, "Oh she's too bitter,

why is she staying with him? Do you know? So if she do it, if she talk to people, they'll say, "Well why don't you leave him?" (P7)

Social identities and advantage/ disadvantage affected their choices and opportunities, including access to social and legal resources. Amongst several participants, financial dependence on their abusive partners affected their decisions about leaving the abusive relationships. They had partners who had denied them access to the finances and not allowed them to be employed, and they knew that leaving would mean increased financial struggles for themselves and their children. Alongside financial dependence, their former partners had intertwined tactics of isolation, making it difficult for them to leave.

P11 explained:

And on top, if you're in a violent situation and you need to get out. (*Big exhale*) But at least there's some support around the finances with two people and if you have children, then you get a little bit more money. Do you know what I'm saying? ... It's no wonder women run out and find somebody with an income and cohabitate, just so they can live in our society and its demands! (P11)

Similarly, P8 said that her partner continued to wield financial abuse even after their relationship was no longer intact by refusing to pay child support:

I think there's no justice, really. At least for me, even now, I say it's not justice. My ex-husband is there, I'm with [the] kids ... But it's hard to be a single mother ... Just being a housewife and then suddenly finding myself ... Trying to make a living is pretty hard. And I was thinking, there is a court order - he has to support the kids - and not coming. Not a single penny. I think there is no justice. (P8)

In Canada, Federal Child Support Guidelines indicating how courts are to determine child support and related matters came into effect in 1997 (Sarlo 2014), a time when the relationship discussed was still intact and thereby the guidelines were in effect when she left the relationship. However, the participant did not offer further details about the child support arrangements in her circumstance. In the province of Ontario, the Family Responsibility Office (FRO) enforces the payments of child support by an ex-partner to pay

child support. However, in 2006, the Ontario Office of the Ombudsman noted problematic enforcement practices in some circumstances so that payments were not always enforced by the FRO (Marin 2006).

For the participants who are mothers, concerns about the well-being of their children were pivotal to their decisions about what to do and how to do it. As P5 explained, some abusive men will harm the children as well: *Men can use children. "I can always hit them instead of you." And often they do.* For many of the participants with children, while leaving the abusive relationship increased their financial challenges, the involvement of children also enhanced her access to resources, including the police. As women who were mothers and financially dependent on their partners, they better fit the image of the 'ideal victim' (Dunn 2010; Lamb 1999). By example, P8 described the police: *They were very, very helpful. They were very, very nice. They were very helpful to me.*

For some of the participants, pressures to be a 'good' mom and to stay in/leave an abusive relationship offer a glimpse of the personal and social stressors abused women face. Decisions whether to stay or to leave the abusive relationship are influenced by the knowledge that identity claims as an abused woman *and* a mother will shape what resources and options available to her, as will pressures ranging from advice from friends to social attitudes, and discourse. For P11, she found the court process insensitive to her needs as a new mother, and she recounted the challenges of determining supervision arrangements with her former abusive partner and how the stresses and pressures of the situation were heightened by having to make these decisions so close to the birth of her child:

And I ended up getting a woman to help me. But at that point, when [my child] was just a newborn, I had to do something. I got home from the hospital and I had a court date, to be in court. ... If he figures he can win, he'll take yah – he'll, he'll battle ya out. And because he thought he was mister big man .... Yah, yah, and fooling everybody. And so, I said to my lawyer, I said, "I'll agree to this as long (*taps the*

*table*) as it's supervised visits. And I choose. I have to be in agreement with who that supervised person will be." (P11)

The social identities of the participants affected their ideas about whether justice is available to them through legal institutions, or whether it would be best to seek solutions outside of the criminal justice system. Those who did not fit the typification of the 'ideal victim' and/or those who were socially marginalized by race were the most sceptical about the opportunities for abused women to obtain justice. Additionally, particularly for the participants who are socially disadvantaged, their partners used their social positionality in tactics of abuse within the relationship by wielding prejudices about social differences such as race and disability. As P7 explained, her former partner used her marginalized identity in tactics of control. Despite having left the relationship years ago, with the repetitive nature of the abuse about her identity, her sense of injustice remains acute as she also considered her identity to also be part of the reason criminal justice institutions were unlikely to help:

And he said, "Uh, well, do you know [we] are supposed to be better than this and better than that." That's what he said. ... and he thought he was superior to me. And I said, "No, you're not. We're equal, in many, many ways. Um, and I'm a very strong person myself, so I wasn't intimidated by him. But when you hear it all the time, and all the time, it gets to you. (P7)

Highlighting the social situations of the participants locates their feedback within broader social factors and social structures, such as identity, privilege, marginalization, and access to resources. It also highlights limitations of this research project. This research is not generalizable to the population of abused women and must be examined within its confines. All of the participants are English speaking, one of two official languages in Canada (although for some it is their second language), and the majority of them are of Caucasian ethnicity, and these identities give social privilege. However, there are also representations of disadvantage within the sample, by the racialized identities, lower

incomes, disability, and/or experiences with substance abuse of some participants. The majority of the women in this sample were affiliated with faith communities and had also been married to their abusive partners. Some of the participants shared that this combination affected their views of justice and justice responses, and what to do within their own circumstances. In particular these participants spoke of pressures by these communities to stay with their abusive partners, and when leaving their abusive relationships the participants had been concerned about breaking marital and religious vows (this will be further explored in Part 2). Several of the participants fit the image of the ‘ideal victim’ (Bumiller 1998; Lamb 1999) to an extent, in that they had had physical injuries, they had not personally experienced substance abuse, and/or they had left the relationships with children who were dependents. But others did not fit this image as they had experienced substance abuse and/or had physically fought back. Although the women interviewed for this research are not representative of all abused women, their responses provide important insights into views about justice and what it means for a group of diverse abused women. These insights ground the findings and discussions throughout the remainder of this chapter.

## **Part 2 –Making meaning of justice as survivors of abuse**

Although each of the participants had experienced intimate partner violence, they represent a variety of experiences, identities, and identity claims, and each one conceptualized justice in her own way. This part explores the meanings ascribed to justice by the participants in response to the question, “When I say justice, what does this mean to you?” as well as how they conceptualized justice in light of their own circumstances and experiences. This question initially caused several of the participants to pause, and then they indicated that justice for abused women is complex. As P8 said: *Justice is a big word. It is really a big word.* Each participant had her own ‘truth’ (Personal Narratives Group 1989)

about justice. But there were also commonalities across their conceptualizations of justice, and four dimensions of the plural conceptualization discussed in Chapter 1 were interwoven throughout them along with another conceptualization, which is justice as recognition. The first section in this part explores what the participants said about justice in light of the plural conceptualization offered in Chapter 1. Then, the second section examines what the women said about injustice, which they attributed in part to the disconnects between legal institutions and the lived realities of abused women as well as disconnects with social norms and ideas about intimate partner violence which continue to privilege male abusers. Resounding throughout the participants' conceptualizations was justice as recognition, and it is explored in the final section.

**Conceptualizing justice: “Well the *real* meaning of justice is...”**

The participants perceived justice in terms highlighted in the plural conceptualization offered in Chapter 1, with four of the dimensions salient in their conceptualizations of justice. After briefly highlighting the four dimensions, this section further explores what the participants said about each one. For the participants, *justice as accountability* through denunciation and constructive consequences was the most prominent conceptualization discussed. Alongside accountability the participants often discussed the importance of understanding and emotional support through *justice as acknowledgement and validation*. In addition, *safety* needs were interwoven in their conceptualizations of justice, but the extent to which the participants associated safety with justice fluctuated and its meaning also varied to a greater extent across participants. By times safety was spoken of by the participants in terms of solutions with meanings other than justice, particularly if it was found through means other than legal institutions. While *justice as social* was also prominent in how the participants' conceptualized justice, its meaning varied and was complex. Some of the

participants found social paths to solutions which allowed them to leave the relationships safely (such as help from friends, family or shelters) but others expressed frustration that their experiences had been minimized and/or invalidated by friends, family and co-workers. In addition, even those who found solutions through social means indicated that they did not feel that they had experienced justice.

The most prominent conception of justice expressed by the participants was *justice as accountability*. In line with its commonplace association with criminal justice, for the participants, justice meant getting what one is due. In the case of intimate partner violence, this meant consequences for the abuser. Most of the participants associated justice (at least in theory) with abusive men being held to account for their actions by legal institutions, with fair and appropriate consequences meted out. As explained by P10: *Justice would be served if he got his consequences, and she got the support that she needed*. P2 describes justice similarly: *Well the real meaning of justice is holding someone responsible for what they've done*. Meanwhile P5 spoke of accountability in terms of revenge with *him paying* for what he was done, and P6, who had been charged along with her partner for assault and been convicted, clarified that consequences should be assigned to the primary aggressor (Chewtor 2003), not for a woman defending herself: *Justice would be a fair resolution with consequences that were appropriate for the actions*. In this light, most of the participants maintained that justice requires consequences that matter for the abuser.

However, their conceptualizations of accountability did not strictly endorse the punitive conceptualization of doing justice, but rather emphasized a constructive accountability paired with denunciatory force. Commonly, the participants provided a nuanced view of accountability which de-emphasized punitive conceptions and focused on encouraging, requiring and enabling abusive men to re-think their attitudes and behaviour,

and to stop being abusive and violent. P11 explained that the *constructive capacities of consequences* and their potential to shape healthy processes of attitudinal and behavioural change could occur outside of punitive conceptions:

But, no, I don't think revenge - I believe in certain consequences. Consequences can be very healthy. Um and also give the person themselves a wakeup call. You know, um and they get on the right track because of it. It doesn't have to be the end of the world for them, um depending on how they look at that, right. You're getting a wakeup call, you need help. Now it's up to you. We'll provide the help, but you've got to be willing. (P11)

In terms of resources offering constructive accountability, research shows that while programming for batterers offers mixed results, it is more appropriate than couples counselling (Dobash, Dobash, Cavanagh and Lewis 2000; Gondolf 2012), reflecting the understanding that the man has to be ready and willing to change (Bancroft 2002). But both P9 and P11 argued that it is essential to challenge the abusive behaviour by addressing it earlier, when the abusive dynamics are starting in a relationship. The behaviours at that time would not necessarily fall under the umbrella of legal responses yet, but for the participants they suggest it is essential to find a means of challenging the controlling behaviours and power dynamics *before* they are entrenched, and they envisage this happening socially through constructive consequences and supports. Their views echo recommendations for early intervention, such as Towns and Adams' (2000) call for strategies to include critical assessments of "perfect-love discourses" which may be a part of the pressures for women, particularly young women, to stay in abusive relationships (583). However, the participants' views about early intervention also emphasize protection and they echo cautions by researchers such as Dobash and Dobash (1992) who argue that while state intervention cannot be rejected, some interventions are more constructive than others. The participants were also acutely aware and frustrated that just as law is not well-positioned to hold men

accountable, neither are shelters. Shelters provided some of them with solutions, including means of escaping violence and temporary respite, but none indicated they offered justice. Indeed, no response to intimate partner violence can insist on change to attitudes about male privilege (Bancroft 2002). In turn, while structural and sociological explanations are relevant, solutions need to consider not only the problem of abuse and violence but the effect that a solution will have on the lives of women (Parent and Coderre 2004). The participants also prioritized the conception of justice for abused women as getting the emotional, psychological and physical acknowledgement and validation that they need, and this is explored next.

Most of the participants also conceptualized at least to an extent *justice as acknowledgement and validation*, and this view intertwined with their conceptualizations of justice as accountability. P3 explained the significance of acknowledgement and validation to a survivor of intimate partner violence:

Acknowledgment for what they've gone through, that it's real. That acknowledging their feelings and the circumstances, and that there's a plan. And that it's going to be handled in a way that whatever happens will be resolved, and you know, learn from it. ... Acknowledgment that, oh how do you say it, that if I was helping a woman or a kid now, I think the most important thing I'd want to let them know is that they didn't do anything wrong. And not to feel ashamed about what has happened. That it's okay – it's okay to be honest, to tell the story. And that by doing, by telling the story, justice does happen because we are able to work this through and talk about this. (P3)

Similarly, P1 spoke of finding justice through validation, and she said that a book as well as programming for abused women provided it for her:

For me justice is about validation rather than revenge. It was about being validated by somebody. For me, this came from that book [...] and then from the [...] program. ... I think justice for me came when I learned enough about abuse that I could stop it. I could set my own boundaries and say, "I'm not going to live like this". (P1)

Several other participants also found validation, particularly through making new social connections with other survivors. As P5 explained, abused women need to hear that they can manage, and to be told: *You can do this. I have faith that you can do this. You have done all this, you have survived this. You can.* In fact, in light of their connections to faith communities, some of the participants offered, in retrospect, that they had stayed longer than they felt they should have out of devotion to their faith communities. However, they also spoke of finding strength and support within their faith communities while they were still in the relationships. For some, mainly those who were involved with faith communities, the support they experienced from family and friends lessened after they left their abusive partners.

These findings about justice as acknowledgement and validation resonate with research by Herman (2005) which finds that survivors seek exposure of abusers to deprive them of honour and status rather than to deprive them of freedom. That is, rather than punishment abused women want vindication so the community denounces what he has done (Herman 2005, 585). However, in contrast to Herman's (2005) findings, some of the participants in this research located forgiveness in validation, although they were careful to separate it from ideas of justice. Rather, they spoke of forgiveness as a way of meeting the need to move on from the relationship. By example, P5 explained that validation gives an abused woman permission to move on both physically and emotionally from the abusive relationship and, for her, forgiveness helped her do this:

There's a lot on the internet about forgiveness. And it means letting go. And you have to be able – to be able to put that in the past, behind, and say, "Okay, I forgive you. I don't want to think about it anymore. I don't love you. I don't want to love you. But I don't hate you either." Because hate is a very destroying emotion. ... Yes, you have to be able to forgive yourself. Because lots of people blame themselves. Well, he wouldn't have hit me if I didn't deserve it. You know, I've heard that. I didn't think I deserved it, but um, I've heard that. And um, so they

have to forgive themselves, forgive them, and if it doesn't work out, let it go away. Like, it's over. ... That's different from justice. (P5)

She also made it clear that forgiveness ought to be seen as separate from justice. Rather than providing her justice, she argued that when forgiveness was intertwined with validation it enabled her to 'let go' of the harms from the abuse and violence. Importantly, none of the participants coupled forgiveness with an apology from their abusive partners, and in their view an apology is not required for validation.

Closely linked to their conceptions of justice as acknowledgement and validation, the participants emphasized *justice as safety*. Each of the participants referred to safety, speaking of it in terms of physical safety, but also of emotional and psycho-social safety. The participants were acutely aware and frustrated that the police are the only state-based institution tasked with providing safety to abused women 24 hours a day, and that while it does this for some abused women temporarily (in some circumstances) it is woefully unprepared to do it long-term. As P12, explained despite feeling somewhat safer when she was able to force her abusive partner to leave: *So, getting him out of there I guess was justice*. However, this was a solution which she later indicated stopped meaning justice to her because once he was out of the house the criminal justice system let her down by having him incarcerated for only a few months: *I don't see any justice in that. And I get a restraining order, a piece of paper that tells me he's not going to bother me*. (P12)

Frustrations with legal institutions, like those experienced by P12, will be discussed further in Part 3. The participants' frustrations align with other research findings, such as Snider's (1998c) argument:

This, not the failure of police and judges to respond punitively enough, or the undeniable misogyny that underlies much discretionary decision making, is the most tragic consequence of feminist reliance on criminalization. (10)

Here, it is remarkable to note that only the two participants whose partners are deceased said they felt a sense of resolution. P6 explains the relief she felt when she realized that her former partner had died:

In fact, when he died, um, it was a case of – I'd heard from him the previous day. I knew that he was stoned and impaired. He had abuse issues. Um, I had – I thought something was off. I hadn't heard from him in 24 hours, which was extraordinarily rare, because he would phone me 13, 14 times a day. So I hadn't heard from him in 24 hours and I thought something was wrong. Phoned his home because I thought this isn't him. And I knew he'd been impaired. And I couldn't get an answer. I sent the police over to his house, and he'd passed away. (P6)

This participant's experiences of harassment by her abusive partner reflect findings in other research demonstrating the far-reaching extent that abusive men harass and stalk their female partners, keeping track of where they are and with whom they are interacting (Johnson 1996). In fact, new strategies and tactics of harassment are emerging with new forms of communication and social media, creating new fears and safety challenges for abused women (Southworth et al. 2007).

While the participants had negotiated a sense of safety, none thought it meant they had found justice. That is, for the participants, while physical protection was clearly a priority, finding a solution which offered safety did not provide them with a sense of justice. As P5 explained, while protection is important, abused women also need emotional and psycho-social well-being:

And if it can't be worked out, then the wife and children have to be protected. That's not really justice, because you can't take away what they've suffered. But maybe they should learn about forgiveness, and the fact that it doesn't mean that you have to be with that person, you have to love that person. You have to let it go. It's over and done with. (P5)

In a way, P5 eschews the idea of justice as an impossibility for abused women and her position speaks to the complexities and tensions between needs, solutions and justice for them. Instead of seeking justice, for P5, she found a solution outside of the criminal justice

system which afforded her safety, and with time and support she was also able to find psycho-social wellness and peace-of-mind through forgiveness. While forgiveness may not be part of a solution for many abused women, her suggestion to focus on safety and then *a means of letting it go* has been found in other research with women who have experienced intimate partner violence (Westmarland and Kelly 2013).

The participants' conceptualizations of justice resonate with feminist perspectives to an extent (see for example Herman 2005; Minaker 2001), offering a view of justice where conceptions are frustrated by gendered institutions and power structures that fail to adequately support abused women and continue to perpetuate myths and misinformation about intimate abuse and violence. But their explanations of the abuse and violence also diverge from feminist analyses, as some of the participants medicalized their partners' abuse and others spoke of alcohol as causal, such as P5 who argued:

After a while, the alcohol did something to his mind. And he would no longer take a couple of drinks and be happy. He drank until it was gone. And if you said the wrong thing to him, it didn't matter if it was me or somebody else, he would get very violent. (P5)

Alcohol does not cause or explain the violence, but in some cases it does precipitate it. As this participant indicates, when her abusive partner was drinking, simply saying something that upset him would lead to violence. Importantly, the fact that her abusive partner was also violent towards men does not contradict feminist observations that violence against women is based on male privilege and the domination of men over women and other men. Bancroft (2002) argues abuse is a problem of values rather than psychology and an abuser with expressions of his anger, he will do his best to keep everyone focused on how he feels rather than how he thinks (75). Within the typology of abusive men offered by Bancroft (2002), an abuser who is also violent outside of the relationship might be a "Rambo" type of abuser

who is “aggressive with everybody”, enjoys intimidating people, and is disrespectful toward women (94-96).

Concerning alcohol consumption, P1 commented on the importance of also challenging alcohol abuse when addressing intimate partner violence: *But unless he really wants to deal with the drinking, I don't think that things are going to change.* Comments by P12 reflect similar views: *Yah, because they all had to, like, he's going to attend AA and anger management. And yah, that would be a necessity, to be part of the plan.* However, similar to feminist reflections on justice for abused women, this research finds that many of the participants sought social solutions to the intimate partner violence. Much like the comments by P5 who had given up on justice, they did not view these outcomes as justice. The following section further explores how the participants were frustrated by the dearth of justice in their own experiences both while they were in the abusive relationships and in the aftermath.

**Complexities and messy realities: “Because I don’t feel that there’s a lot of justice...”**

The participants’ conceptualizations of justice were frustrated by the messy realities of their attempts to find justice. In particular, while their conceptualizations of justice were imbued with the ‘commonsense’ and ‘official’ versions and constructs of law and justice (Comack 2006; Naffine 1990), these aspects were viewed with frustration and concern. Indeed, as the interview stage in this research project progressed, it became apparent that for some of the participants, it was a sense of injustice that had led them to volunteer for this research project. They wanted known their views of justice and their frustrations with experiences that they considered injustice. All of the participants spoke of frustrations with the criminal justice system, and these also shaped how they viewed justice. All who interacted with the criminal justice system indicated there were disconnections between what

they wanted it to provide and what they experienced when they engaged it, and yet the criminal justice system had also helped some of them. However, most of them also spoke with concern about how myths and misinformation continue to inform social and legal responses, and the adverse impact these can have on abused women in their day-to-day lives. Specifics of their experiences with both informal and formal justice responses will be addressed in Part 3, while this section focuses on their conceptualizations of injustice.

While most of the participants had engaged criminal justice and/or shelters at least once, the majority of them had also forged their own solutions when leaving their abusive relationships. They found solutions socially, such as through friends, family and/or co-workers; however, this did not provide them with a sense of justice. Indeed, for the participants in this study, social justice is complex and multifaceted. For the participants, *justice as social* is about more than formal and informal social resources. Rather, it is about confronting the male privilege which underpins the abuse as well as misinformation and misperceptions about intimate abuse and violence, such as the idea that an abused woman ought to have bruises or that she would leave it was ‘really so bad’. As P1 put it: *But you can't call the police when we're being emotionally and sexually and psychologically abused.* It is about challenging the social barriers abused women face in their day-to-day lives, such as by giving them more options from which to choose and creating greater understanding and validation about the lived realities of abused women. As P11 relayed her experience of facing misconceptions when seeking help:

Um, [I] tried to seek help. Um, and uh, the problem I found with treatment centres is they just want to deal with the person with the addiction. They'll say that it's a family oriented – No, it is not. Um, there's no real follow-up. Uh, when we went to see a counsellor at the hospital, like a psychologist, she um – I really felt he was able to manipulate her. He's good at that with women. Um, and she told me to basically get off his back about smoking pot, and that that was okay. ... So that just ended my

(*short pause*) trust level with her. So, I really have some issues with what we call 'treatment' out there. (P11)

Treatment in circumstances of intimate partner violence is complex, and for these reasons researchers such as Parent and Coderre (2004) emphasize the importance of solutions that respect women's choices and counsel protective strategies. There are many variables which come into play including the extent to which the abusive partner is willing to change his attitudes and behaviours, as well as the relationship between the therapist and the persons involved. It can be particularly challenging for an abused woman if during treatment the violence is constructed as a relationship conflict rather than dynamics of coercive control. In the case described above by P11, even though the partners were in need and sought help, it was not effective.

In this way, justice as social is about shifting away from myths and misconceptions of intimate partner violence and towards understanding the dynamics and nuances of it, including the fact that it occurs within an intimate relationship with interpersonal bonds (Parent and Coderre 2004) and additional pressures abused women may face, such as pressures from their social or faith communities to stay/leave (Hamby 2014). It is also about challenging power inequalities not just in the relationship but in the social interactions abused women encounter in their day-to-day lives. Some participants were frustrated that they would have been better supported by family/friends if they had fit the 'ideal' image of an abused woman (Dunn 2010). By example, P4 spoke of her family's support being contingent on her sobriety: *She says call me when you're sober. I'm like okay.* Her story highlights how identities and identity claims that do not fit the pre-set image of an abused woman can add obstacles and barriers to accessing support (Bumiller 1998; Dunn 2010).

Most of the participants in this study were acutely aware of being ‘outsiders’, such as those who did not fit the normative or ‘ideal image’ of an abused woman (Bumiller 1998; Dunn 2010). That is, they were aware of being Other within the criminal justice system as well as other social domains. As noted in Chapter 1, a person who is Other is an ‘outsider’ identified, marginalized and subordinated by difference such as gender, race, income, ability, or affiliation with faith community. Some of the participants knew in advance of calling the police (if they did call) that the legal system would not deal with the realities of their day-to-day lives, such as pressures from friends and family to stay/leave as well as commitments and other ties in her life circumstances and the relationship (Holder 2013; and see discussion in Chapter 1). As P6 explained, she was frustrated with the police and courts because they did not seem to appreciate her situation and frustrated with the lack of opportunities to find justice socially, particularly when leaving her abusive partner (since then deceased):

But do I think that’s the way to approach it? No. You know what? It’s like I said, (to him) “Don’t go away mad. Just go away. Just go away!” It’s like, I just wanted to move on. But a lot of people are like, “You’re entitled to half the house, half the...” - And I was like, “I just want it to go away.” I want to walk out with what I came in with. I don’t care about the house. It’s a liability as far as I’m concerned at this point. I just want him gone. (P6)

Later, she further explained:

Well, it’s the woman who loses everything. I lost my career, I lost circles of friends, I lost my head, I lost my pets. Like literally lost everything. Because you know what? The best response was to just walk away. And I had to start again. (P6)

Indeed, given that identity is more complex than the master status of ‘victim’ (Minaker 2001, 83-84), some participants’ negotiated leaving their relationships by severing personal and social ties as well as material resources rather than to try to find a sense of justice. Several of the participants spoke of the shame and the challenges of having to leave things and people precious to them behind, such as friends and belongings:

“And I want to get out.” And he can do whatever he wants, I don’t really care. I don’t want nothing. I don’t want no child support. ... No child support. No spousal support. ... I didn’t want anything. (P7)

But they had also hoped to find openness to their circumstances in social domains, in terms by Hudson (2003), they had hoped it would give their difference its due. However, the participants’ were exasperated that what is available to abused women socially, *doesn’t feel like it’s justice* (P2). As P6 explained, in her view, there are not any means of finding justice for abused women right now:

There isn’t one. There isn’t one. Because as far as I’m concerned, there is no justice. ... Getting away with murder. ... Yup, [the guys] get away. (P6)

Similarly, P2 said:

I don’t like the term ‘justice’. I don’t know why. And I can’t really even explain that. Because justice seems to imply someone being held responsible for something that they’ve done. In my mind, that’s sort of a definition of justice. And, you know, I don’t always like the term these days. Because I don’t feel that there’s a lot of justice. (P2)

While each of the participants, in part, conceptualized justice for abused women as accountability and as safety through criminal justice, none considered themselves to have found or received justice. However, some of the participants did find solutions socially, through means such as family, friends and shelters, when they negotiated protective strategies while in the abusive relationships (Hamby 2014) as well as when they left the relationships (which the participants in this research had done). Some of the participants sought protective legal strategies, such as restraining orders, while others sought protective strategies socially, knowing they would not meet the normative and legal expectations of abused women and/or because they did not want the punitive solutions which it may (or may not) have offered them.

The participants emphasized pragmatic considerations that question how justice responses might make a difference in the lives of abused women. Through these pragmatic considerations, the participants' gendered and politicized these conceptions of justice for abused women meaning it is insufficient to consider justice strictly in terms of the 'criminal activity' without taking into account the ongoing dynamics and lived realities of abused women (Minaker 2001). Rather than the obfuscating gender-neutral philosophical and legal language of justice, the participants shape understandings of justice that acknowledge and account for how intimate partner violence is gendered and how the idea of justice for intimate partner violence thereby also ought to be gendered and account for the lived realities of abused women and dynamics of abuse and violence by male intimate partners. A sense of injustice and failed accountability was particularly salient for the participants who interacted with criminal justice institutions and had been seen as 'undeserving' and their cases excluded because they did not fit the image of the 'ideal victim' (Christie 1984; Lamb 1999) and the abusive dynamics of their relationships fell outside the narrow parameters and confines of law and criminal justice. (This will be discussed further in Part 3.)

For the participants, physical and psycho-social safety for themselves and their children was paramount, but these safety needs intertwined and were complicated by diverse and multifaceted pressures due to identity (particularly for those who have marginalized identities), personal and social contexts (such as friends or family or members of faith communities who pressured the woman to stay or to leave), as well as criminalization or a lack of criminal justice options, and availability/lack of local resources (such as shelters). The participants also spoke of pressures from their partners due to isolation, financial dependency and other tactics that intersected and interfered with their justice needs, overshadowing them and making justice seem less achievable. Reverberating throughout the

participants' statements was the idea of 'buy in' or acknowledgement of the realities of intimate partner violence, which is to say that there needs to be social understanding and acknowledgement of the realities and complexities of the dynamics of abuse and violence within intimate relationships (Minaker 2001), as opposed to the normative expectation of the 'ideal' victim (Dunn 2010). These findings resonate with feminist discussions about the dynamics of abusive relationships and multifaceted tactics of coercion and control within them (see for example Stark 2007) as well as challenges and barriers created by intersections of social identities. In light of their negotiations for solutions, the participants emphasized the importance of structuring personal and material supports for abused women. The following section examines what the participants said about how their identities (such as racialized, disabled, or a member of a faith community) and social locations (such as lower income) affected their negotiations of choice and how they found solutions to their needs (Minaker 2001), as well as their navigations to find justice. Within these complexities, an additional conception, which is justice as recognition, threaded throughout their reflections, and it is examined in the next section.

### **Justice as recognition**

This final section explores a conceptualization of justice which emerged inductively through the participants sharing their viewpoints about justice in light of their experiences of intimate partner violence: justice as recognition. In particular, when the participants were asked, "What do women need in a justice response?" (see Appendix 1 for question #22 in the interview guide), in response they spoke of a range of needs reflecting the complexities of their experiences. Of note, this research question is relatively narrow and focuses on the needs of abused women specifically in relation to justice responses rather than their needs in general. Nonetheless, while some of the participants referred to the criminal justice system,

particularly when the threat to their safety was imminent, many of them also spoke of needs and solutions in social domains outside of criminal justice. Specifically, their ideas of justice envisage ‘cultural recognition’ (Honneth 2001) alongside ‘redistribution’ (Fraser 2001; 1997) finding solutions to the complexities of intimate partner violence, such as the material needs of abused women who are facing the challenges of socioeconomic disparities and inequalities.

Diversities within the participants’ ideas about justice as recognition reflect, in part, the complexities of the circumstances for abused women and their negotiations of choice (Minaker 2001) and their determinations of their needs and potential solutions at given points in time. When speaking about their abusive relationships, the participants spoke of victimization experiences but it was clear that the ‘victim identity’ alone was insufficient (Minaker 2001; Parent 2002). They were ‘social actors’ (Parent and Coderre 2004) with multiple social identities throughout the multiple social dimensions of their lives, such as mother, neighbour, friend, and co-worker, and while they had been victimized, they were also social actors struggling for solutions. In light of their own experiences, the participants suggested that rather than the totalizing and dichotomous category of victim (Parent 2002), or even of ‘survivor’ (Goldolf 1988), women who experience intimate abuse and violence have a multiplicity of social identities and they need justice as recognition located alongside the complexities and specifics of the intimate relationship as well as other dimensions of the women’s lives (Parent and Coderre 2004). Referring to her experiences several decades ago of finding help through an organization focused on helping women, P5 emphasized the importance of recognition opportunities throughout the social ecology:

I think that people [don’t] know that this help is available to them, isn’t well known. Yah. Like when I quit work, umm, I had to quit work because of my [medical condition]. I went on mother’s allowance in the beginning. Because you couldn’t be

a disabled mother at the time. You could be a disabled father, but you couldn't be a disabled mother. (P5)

Given the complexities in how the participants conceptualized justice as recognition, this research turns to the insights of two leading theorists, Axel Honneth and Nancy Fraser, whose theories on the idea of recognition in recent years have come to the fore in political philosophy. Of note, this project is not positioned to take a stance in their debate about recognition; rather, their theories and debates offer a framework for further exploring the participants' conceptualizations of justice as recognition. Honneth (2001) emphasizes 'cultural recognition' and drawing from Hegel's idea of 'reciprocal recognition', he argues that recognition enables the 'good life' with self-confidence, self-esteem and self-respect. It is about complex conditions of identity formation and how the meanings of social interactions determine whether or not one 'flourishes' (Honneth 2001). He argues that there are three types of misrecognition or disrespect, and three types of solutions respectively. First, misrecognition can be *physical humiliations* due to lack of "emotional attentiveness" for which the solution is *love* and recognition possesses "the character of affective acceptance and encouragement" (Honneth 2001, 48). Second, misrecognition can mean *social exclusion* due to "not being granted the moral rights and responsibilities of a full legal person within their own community" and the solution is *legal order* and "reciprocal recognition" meaning a person knows that others see them as bearers of rights (Honneth 2001, 49). Third, misrecognition can mean *devaluing* which means the "depreciation of the social value of forms of self-realization" and it deprives individuals of positive recognition related to self-esteem, for which the solution is *solidarity* and social regard for an individual's abilities (Honneth 2001, 49). For abused women, these forms of misrecognition mean that their day-to-day lives are contoured by failures of others to recognize the

dynamics of their experiences of victimization and their resiliencies throughout the social ecology (Campbell et al. 2009) as well as the complexities of their social identities (Parent and Coderre 2004). In particular, they speak to the need for solutions that offer social regard and solidarity (Honneth 2001) in their ways of life. Indeed, Honneth's demarcation of cultural recognition fits well with the social aspects of how the participants conceptualized justice, and the connections they made between justice and the cultural discourse, attitudes and assumptions which continue male entitlement and privilege (Dobash and Dobash 1992).

The participants also linked recognition with redistribution, but rather than Honneth's (2001) position that distributive inequalities are a by-product of misrecognition, they envisage redistribution in duality with recognition and like Fraser (2001; 1997), they see recognition and redistribution as simultaneously fundamental dimensions of justice for abused women. Beyond their frustrations with legal domains such as the criminal justice system, they made connections between misrecognition and the challenges of finding socioeconomic supports within social dimensions such as life choices and lifestyle. For Fraser (2001), recognition is connected to conditions of status rather than identity, and thereby participatory equality:

Conceiving misrecognition as status subordination, it locates the wrong in social relations, not in individual or interpersonal psychology (27)

In her view, justice as recognition intertwines with social structures and redistribution. In turn, she emphasizes that remedies must address both misrecognition and inequalities of distribution (Fraser 2001; 1997). In this light, Fraser gives complexity to the idea of recognition by requiring structural explanations alongside ones of misrecognition, and her idea of justice as recognition in duality with redistribution fits well with the participants' concerns.

This section is organized around the way in which the participants conceptualized justice as recognition with redistribution. First, it explores the participants' conceptualizations of justice as cultural recognition in line with Honneth's (2001) vision, that focusing on an *ethic of care and support* is essential to justice and to the complexities of identity formation and management. Then, the section explores how the majority of participants envisaged justice as recognition in duality with redistribution (Fraser 2001; 1997). Specifically, alongside recognition, most of the participants incorporated *pragmatic considerations* of redistribution that ask what difference an action or justice response makes in women's day-to-day lives (Dobash and Dobash 1992). In this way, recognition is linked with redistributive solutions such as a safe place to go, but it is also about emotional and psychological well-being, including reduced fear and programming that allows them access to financial means to live an independent life safely with their children, supporting healthy changes and new beginnings for abused women. Some abused women have access to these resources while others do not. While these pragmatic considerations can be connected to justice as duty and linked to legal domains, the participants mainly located them in social domains outside criminal justice. Thus, while there is overlap with justice as duty, the participants more closely linked recognition to justice as social (see discussion in Chapter 1).

First examining the conceptualizations of justice as recognition that align with Honneth's (2001) delineation of cultural recognition, some of the participants conceptualized justice through improved social awareness that challenges the discourse and normative expectations that perpetuate male privilege, and shapes better understandings of the diverse and ongoing dynamics of intimate partner violence and the lived realities of abused women. When referring to social norms and values, the participants highlighted the potential to shape

recognition in what may seem like insignificant types of day-to-day interactions, but in their view are essential. They emphasized solutions of social inclusion and solidarity such as encouraging persons outside of the relationship, and yet who might be aware of the abuse and violence, to offer assistance and if the woman requests it and it is safe to do so, to help. The participants did not mean that others should insert themselves into the situation or risk their own safety but rather, if they suspect a woman might be in an abusive situation, to ask and see if she needs and wants help. As P5 explained:

But, uh, you can't look the other way. If you see a woman with a black eye too many times. A sore arm, whether it's bruised or not, because it doesn't leave bruises. Um, if you see a child that is happier away from home than in the home, you want to wonder why they don't want to be home. (P5)

In this light, the participants also spoke about changing broader social communications and discourse about intimate partner violence, such as the discourse in entertainment and news media, suggesting more nuanced and realistic portrayals and discussions of intimate partner violence. Some participants also suggested public service announcements to explain how it is a social problem and not simply a dispute between individuals. Strategies such as public service announcements have been done, but in the view of some participants, they would be more inclusive and effective if these communications are coupled with discussions about male privilege and how abused women are 'devalued' (Honneth 2001) socially. P6 spoke of this type of social communication with the hope it would increase awareness and dialogue about the realities of intimate partner violence, which may in turn re-shape cultural understandings and normative expectations of abused women:

Yah. Reassuring the women that it's okay to talk about it because he's the one with the problem, not you. And you're no longer a victim because you're not there anymore. Right? You proved yourself not to be one because you refused to let it be anymore. And women don't get that message nearly clearly enough. (P6)

In addition to fostering better understandings of intimate partner violence, the participants spoke of cultural recognition in terms of improving prevention strategies, which aligns with how Honneth (2001) envisages justice through challenging patterns of social interaction that form relations of domination, misrecognition and disrespect. Specifically, the participants emphasized speaking to young people about healthy relationships, and including ideas about what women can do if they are being abused, and what men can do if they realize that they are abusive. As P1 explained:

What I've learned ... is I could have reacted differently to what was happening then. But we didn't know about abuse. Maybe if women learned about abuse. Maybe even high school, teach what abuse looks like. Relationships. And this is not okay. If he does this, this is not okay. You cannot accept this. (P1)

Similarly, P5 emphasized the benefits of teaching strategies about defusing situations and creating healthy boundaries and communication in relationships:

Strategies in ending conflict. Yah, like how do you calm him down without being submissive. Like, I really remember that time with ... and that because that's only time I went where the husband was there. And uh, and I just said, "You know" – He looked shocked when he saw me and I said, "Enough." You know, "Go take a walk." And uh, but he said, "You must think I'm an awful person." And I said, "I'm not here to judge you. I just came here for my friend. ... So they have to have means of de-stressing the situation. And dealing with it later. (P5)

The views of the participants reflect recommendations from researchers such as Wolfe, Crooks, Chiodo, Hughes, CAMH Centre for Prevention Science, and Jaffe (2005) who emphasize education and early intervention strategies that focus on healthy relationships.

For the participants, justice as recognition requires an ethic of care and support, both emotional and psychological support that is flexible and open. It requires flexibility and openness to difference in each circumstance rather than an inflexible set of policies, so long as it does not buttress misrecognition, domination or disrespect. In this way, flexibility is integrated into the cultural recognition of intimate partner violence and alongside the need to

recognize abused women as social actors who are dealing with problems for which they are seeking solutions; rather than narrow and negative evaluations of themselves and other women who face similar types of problems, they need support and solutions. At first glance, this idea of flexibility may seem to contradict formal obligations of justice and its requirements to standards and procedures, but as P2 explained, given the diversity of the circumstances, needs, and potential solutions in intimate partner violence, flexibility is needed:

I think they need open-mindedness to their situation. Ummm, because not everyone's situation is the same, and there's a lot of factors that fall into why they're there. Why they're in that situation. ... A not-judging open-mindedness. That's it, yah. ... I guess so that they feel that freedom to come forward and have the open-dialogue with people that can help them. No matter what that is for them. Because everybody's version of help is going to be different. (P2)

Thus, within the ethic of care and support, abused women need to interact with persons who are caring and supportive, as well as flexible and open-minded. P12 also emphasized that the meanings of the interactions and sense of justice are not driven solely by the outcome, but also by the extent to which the identity claims of abused women are recognized and they experience care and support:

Caring people. I um, I went to the shelter and they were very good. The people, they were very supportive and very good. I however didn't take advantage of any other service. And I think that was not good. I think that taking – getting counselling is a good idea, definitely. Because like now – I'm dealing with it now, ... years later. And it's like, now I'm getting help. Whereas I could have had it much sooner if I'd – and the police were very good. And this is another thing, the police do. They give you a list of everybody who can help you out. And they gave me all that information, I just didn't use it. But the police giving that information to the woman is very important, so that she knows what her helps are, and where she can go and who to talk to. (P12)

Similarly, P9 explained that abused women need people who believe them and who care:

They need someone to believe them. They need someone who (*short pause*) um, who is going to make them feel safe about coming forward. They need accessibility. And I think confidentiality. (P9)

In addition to the ethic of care and support, recognition also meant solutions of solidarity (Honneth 2001) for the participants. Solidarity is not intended here as a way of blurring difference. Rather, much like Honneth's (2001) argument that solidarity enables social relationships which incorporate "the principle of egalitarian difference" (50), the participants emphasized a sense of justice could come through communitarian solidarity, as long as the community understood the complexities and coercive dynamics of intimate abuse and violence. An example from one of the participants highlights how a collaborative effort within her workplace offered her solidarity. P5 explained how her workplace had supported her and bolstered her resistance to the abuse and violence so that she could be financially independent. P5's workplace was understanding of her situation and actually helped her to leave the relationship safely:

And work knew. Because he'd phoned, he'd made threatening phone calls that he was going to go down and clean out the place and beat my boss, and do all that. ... And so they screened my telephone calls for me. They were very good. ... And so I left [the relationship]. And he went around, he went to these friends who had helped me move. ... And they never said a thing, never gave me away. (P5)

However, her circumstance is also illustrative of the challenges of engaging social collaborations and of long-lasting cultural and social change. After she had left the abusive relationship, she lacked a sense of justice due to 'encouragements' and pressures from the same colleagues and family members to return to it:

And in fact, I left within a year, after the first time he hit me. And everybody thought I should go back to him. And I said, "Never." (P5)

Thus, while P5's experience in the workplace offers an illustration of solidarity, here, it also highlights the complexities of her experiences and offers a cautionary example of two types of stigma (Goffman 1963). First, she is a woman who has experienced intimate abuse and she is defined as a victim rather than a social actor who is dealing with a problem. Second,

she is stigmatized as a ‘bad woman’ who has left her partner. Importantly, this example is from a relationship which ended several decades ago when societal views about separation and divorce were more conservative, and so it is possible that in similar circumstances nowadays a woman may receive a more supportive reaction.

Of note, the participants define recognition in social terms with opportunities for resistance, rather than in instrumental terms such as Michael P. Johnson’s (2006) theory which defines a type of intimate partner violence as ‘violent resistance’, in which one partner (usually the woman) is violent in response to the other’s violence and controlling behaviour (usually the male). Two participants in this research project had been criminalized when they defended themselves against their abusive partners. However, they had been acting in defence and their circumstances speak to the exclusions and dis-empowerment of the criminal justice logic as they did not fit its typification of an abused woman (see discussion in Chapter 1). When situated in the legal domain, justice as recognition envisages criminal justice logic validating (rather than excluding) the complexities of intimate partner violence. The participants spoke frequently of the need for further support for abused women within criminal justice, for their safety but also for psycho-social well-being and “freedom” (Westmarland and Kelly 2013) and of the importance of these supports being structured into criminal justice institutions to challenge the misconceptions about intimate partner violence and indifference to abused women. As P11 explained, she wished that she’d had a support worker to help her: *Now the support worker? That’s excellent. I wish I had that at the time, where I had someone from the (organization) coming to court with me.*

The majority of the participants incorporated redistribution into their conceptualizations of justice as recognition. The remainder of this section examines how their views of justice reflect the duality of recognition and redistribution argued by Fraser

(2001; 1997), and the implications of including pragmatic socioeconomic considerations in conceptualizations of justice. As P5 put it:

They need to know that it's over. That they're safe - (*short pause*) - that they have hope for the future. (P5)

The participants associated justice with ensuring that an abused woman has a safe place to go, temporarily or permanently. As P11 explained:

They definitely need to know that there's a place to go. So the shelter is a very important, very important thing that needs to be in place. (P11)

Wrapped up and subsumed in this conceptualization of justice and its inclusion of redistribution is hope – hope to be free of abuse and the controlling dynamics. For the participants, hope is not Pollyannaish, and they argued that abused women need conceptualizations of justice to create hope and this requires pragmatic considerations. These ideas resonate with ideas of ‘means’ and ‘rebuilding’ discussed by Minaker (2001), and with a broader understanding of protective strategies in research by Hamby (2014), which can include strategies within as well as outside the relationship. It also resonates with ideas of health and psycho-social well being in research by Westmarland and Kelly (2013), who find that “freedom” is essential alongside safety for abused women to have space for action. Indeed, even if an abused woman feels safe, she may not feel free (Westmarland and Kelly 2013, 1103).

In addition to having a safe place to go, the participants spoke of the importance of distributive strategies offering realistic means for setting boundaries. They need options made available that would help them to create healthy changes in their day-to-day lives, including strategies for learning how to set boundaries safely. As P1 stated in response to hearing that the abused woman in the video (Cahill 1998) is going to attend Al Anon:

Yes, Al Anon not only teaches you to let the other person live their life, they teach you boundaries. ... I learned what I would accept and what I wouldn't accept. Even though I didn't have a drinker. But, in any relationship, they teach you that there are some things that you can accept and you get along with. But there are other things you cannot. So, in Al Anon, she's going to learn that she will not accept this behaviour. If it happens again, then she will have to make other plans. (P1)

Similarly, other participants emphasized material supports for abused women, ones that provide them with healthy options within the situation, including the needs of children or others that may be affected by the abuse and violence. Ideas for material supports included employment training, financial training, support groups with other women who have been in abusive relationships, as well as support and counselling for other family members who have been affected:

Now one of the huge problems for women, um, especially if they're in a family environment where you know the finances aren't too bad. They're living in a nice home. They've got used to that level of comfort. And – But now they're dealing with an abusive situation. They will not leave because they will - do not want to live in poverty. And they know that's where they're going. ... Their children may not be able to go to college. Um, there may not be enough food. And a lot of women will not go there. They would rather stay in the situation than have to go out there on their own and live in poverty. Huge, huge, huge. I can't say how huge that one is. (P11)

P11 also emphasized prevention work, and with a more systemic perspective she suggested the financial benefits of improving understandings of intimate partner violence should be emphasized. She suggested there would be fewer financial costs to society, such as fewer calls to police and lower health care costs, if intimate partner abuse is prevented. That is, she suggested creating social awareness so that society sees the benefits of investing in prevention strategies and early interventions. Fitting well within the current neo-liberal context and the increase in privatization and interests in cost savings, she suggested that conversations about intimate partner violence and prevention need to emphasize the financial benefits of early prevention:

Um and – see my idea is, and again this kind of thing here is after the fact. That’s why I think prevention work – just how much prevention work is going on? Um, we as a society, you know (sighs) we don’t want a lot of money going out um in these areas until – until somebody’s dead, somebody’s disabled, whatever. Um, oh then we’ll – then we have to do something about it, you know. Why not, if – if there is situations that are at-risk, and we know that by doing studies and stats, that we offer counselling and whatever’s needed to the family before this stuff gets to that point. Now the family has to be willing, of course. But I mean it seems to be that we don’t act until (*Short pause*) – You know there is a major issue in place, right. So I think a lot of prevention work needs to come into play. (P11)

The participants spoke extensively of justice in terms of material and emotional supports for abused women, in order to support resistance to abuse and violence within their immediate relational spheres as well as outside the relationship to social domains such as workplaces and faith communities. By example, P9’s statement reflects the views of the majority of participants about justice as recognition:

Yah. I think it just means fair, and equal protection and support. Yah. I don’t think you can protect someone or family, and not provide support at the same time. So I think justice to me is all-inclusive. I think it’s like social justice. I don’t think you can just go in and think that you’ve fixed someone physically and not fixed them emotionally. Fixed their whole situation. ... The rehabilitation. Yah, and um, yah. Yah. All parts. (P9)

Conceptualizing justice as recognition in duality with redistribution within criminal justice has challenges, as it would likely expand the ‘soft-side’ of criminal justice (Cohen 1985) created by neo-liberal shifts, with corresponding challenges of co-optation (Hannah-Moffat 2000; Ptacek 2010). In the neo-liberal context and its shifts from state-centred resources to bureaucratic and business-style strategies of risk management, approaches that increase ‘supports’ for abused women also risk being co-opted and creating opportunities to surveil and to ‘manage’ them (Bumiller 2008) as well as the men who have been abusive to them. In addition, previous strategies of legal reform have been counterproductive with concerns about backlash or co-optation unless the strategies challenge male privilege (Minaker and Snider 2006; Ptacek 2010). In fact, Minaker and Snider (2006) argue that the

widespread anti-feminist backlash is a result of “women’s successes and male economic, political, and ideological losses” (767). The participants were highly aware of the potential for abused women to be ‘managed’ rather than free when they access social and legal resources (Bumiller 2008; Rose 2001). In response, P6 emphasized that while seeking solutions and/or justice can mean encountering invasive experiences, it can also be helpful, as a wellness team had benefited her: *Like (name of organization) was fabulous. They were very supportive and they continue to be supportive of me.*

The participants expressed frustration that abused women are misrecognized in criminal justice institutions. While they debated the extent to which they were willing to be ‘managed’ in order to get some help through criminal justice, most of the participants expressed frustration that criminal justice had neither held their abusive partners accountable nor ‘managed’ them. The failure of criminal justice to oversee abusive men is illustrated well in P12’s circumstances. Her abusive partner had a restraining order and was required to check in with criminal justice authorities in the banned area:

And he had to come into [location] for um – oh what did he have to come in for? ... For something. He had to come into [location] once a month, I think. And so I was always afraid I was going to meet him in [location] too. I didn’t know what day he was coming in. So the legal system had him coming in for something, ... So I have – as far as women and abuse go - I have no faith in the justice system whatsoever. Absolutely none. (P12)

Rather than recognizing the fullness of the situation and creating safety for her, through the criminal justice processes there were additional stressors and fears with which she had to contend. At a minimum, further information about his appointments would have helped. For many of the participants, disappointments and frustrations with the criminal justice system meant that they sought solutions socially. In turn, when they spoke of justice, although they continued to locate it in criminal justice, they built in social ideas and

challenged it to recognize their social agency and to enhance their freedoms. Of note, Westmarland and Kelly (2013) argue that freedom for abused women should not necessarily be equated with leaving the relationship. While leaving the relationship may bring safety and possibly even freedom for some women, for others freedom may be found within the relationship through the reduction or the cessation of violence. As Westmarland and Kelly (2013) relay:

One woman's hope was that, by the end of the programme, they would be able to have a 'normal argument'. (1103)

When justice as recognition is conceptualized in a way that requires redistribution, it implies resistance and a power struggle to shift in normative expectations about intimate partner violence. In turn, Foucault's (1975; 1972) influential argument that power is productive, rather than a commodity which is exclusively repressive, offers a way of expressing how justice as recognition might be produced both within criminal justice as well as outside it. In this framework, power is "located in and through multiple sites, and these sites exist **in relation to the state**" (Comack 1993, 10, emphasis in original). In fact, if an abused woman engages criminal justice, the participants recommend the involvement of support persons (empathetic strangers) from agencies and organizations outside of criminal justice that support abused women. This extension of social agencies and organizations within criminal justice ideally would empower abused women and be a catalyst for it to include (rather than exclude) the realities and dynamics of intimate partner violence beyond the discrete incident about which the police were called.

In her research with women who are victims of violent crime, Herman (2005) found social justice is closer to what abused women want and need, rather than retributive or restorative justice. The participants in this research are similarly positioned by their

emphasis of justice as recognition and redistribution. Building on this understanding of how the participants conceptualized justice, the next part explores how the participants view responses including social responses, criminal justice, and restorative justice.

### **Part 3 – Reflections on social resources, criminal justice, and restorative justice**

Here, this chapter explores the participants' reflections on their experiences seeking justice through social resources and legal institutions and, in their view, whether or not they attained justice through them. It first looks at their impressions of searching for justice through social means such as family/ friends, counselling and shelters, and then it looks at experiences with criminal justice institutions. Of note, not all of the participants engaged social resources or legal institutions. P2 explained that she preferred not to access criminal justice resources because: *He was always very regretful after. And apologetic. And (short pause) - and I forgave him and moved on.* The final sections of this chapter explore the participants' impressions of restorative justice as exemplified in the video excerpts of FGDM and in light of their own experiences.

#### **Social resources invaluable but insufficient to ensure justice**

Several participants engaged social service resources such as counselling and shelters as well as seeking support from friends or family, some during their abusive relationships and some when they left them. While the participants describe social resources as invaluable and empowering, they also emphasize that social service options such as shelters do not hold abusive men accountable and thereby are not sufficient to provide justice. When the participants spoke about their decisions to leave the relationships, they emphasized weighing their options to see what would best provide a protective solution. Some of the participants engaged the police for help to leave safely and they were advised by police officers to seek

support from friends/family or to use a shelter. Others did not contact the police and instead engaged only social resources. P9 explained that she had intended to call the police, but in a moment of crisis the violence escalated and she instead called a family member:

So I went to go and call them. And say come and get me please. ... I don't know why I called [...] of all people [instead]. And I said, "Come get me." (P9)

On the other hand, P1 had contacted the police in a moment of crisis, and then the police advised her to leave and to stay at a shelter or with friends or family:

Anyway, umm, the police said, "You have to get out of here. Take your kids and get out of here. ..." I said, "I don't know where to go. I don't have any money." ... They said, "Well, look around." I said, "Oh, [...] are away. So I can go and stay [at their place]." So I went over there. And I stayed there – I don't know for how long – a couple of weeks. Just to defuse the situation. (P1)

However, while social resources were essential for many of the participants, helping them to leave their relationships safely and to find physical, emotional and psychological support, they gained only a partial sense of justice by them. That is, their conceptualizations of justice as social and as validation were borne out, but justice as safety was an ongoing struggle and none of them found justice as accountability.

Some of the participants who engaged social resources expressed that their experiences of abuse and violence were recognized, and they appreciated that their experiences and efforts were validated. They expressed appreciation that in social locations such as shelters or crisis centres, and for some with friends and family, they were recognized as resourceful and assertive social actors (Parent 2002) searching for solutions rather than only as victims. As P6 explained, she did her best to stay safe, and became conditioned to being on alert for his abuse. However, after her partner died, she experienced validation from his friends as well as the police:

But when he passed away, an officer who responded was one that I knew. And he said to me, he said, "When I went back through the file, when I responded that day, I

saw the stuff.” And he said, “You know, if I was going to it, I wouldn’t charge you.” ... I was like, “That’s so nice to know!” Right, it was like, somebody got it. In fact, over time – over time I discovered that even most of his friends got it. His so-called friends. They were like, we didn’t understand why you were still there. He was an idiot. These are his friends. I was like, okay! (P6)

And when P6 asked his friends why they had not confronted him about abusing her, they said that they had not thought it would matter:

I was like (*big sigh*), you didn’t talk to him? And they were like, because he wouldn’t listen. They said there really wasn’t a point. But they were concerned. As I found out, I probably could’ve gone to any of them and gotten assistance. (P6)

The majority of participants spoke about how their partners had isolated them to keep them from accessing friends, family and other potential resources and sources of validation and support. Particularly for the women who were in marital relationships, their partners’ isolation tactics were far-reaching in that not only did they try to control with whom they got together, but their partners also attempted to undermine the women’s reputations and opportunities for validation. Most of the participants spoke of this isolation as a continuous source of stress and they constantly had to manage the misinformation and pressures from family and friends. As P1 described:

Yah. And I think what he wanted to just keep me away from everyone else. He wanted – I realize now after having a lot of counselling and reading a lot of books and healing over many, many years – that he was afraid that he would lose me. (P1)

The role of counselling received mixed reviews amongst the participants. On the whole, it was recommended and described as extremely helpful when done after exiting an abusive relationship. Several women emphasized the importance of going to counselling as soon as possible after leaving. P9 explained that she had found it beneficial and she regretted the delay in starting it:

I think one that seems to be missed a lot - and you sort of have to deal with it after - is just like, emotional therapy. I don’t think that people have enough access. And I think that if that was made more accessible (*short pause*) ... But I think that if a

woman has been hurt so badly and then she's just expected to deal with the emotional on her own. And I think that's huge. And I think it's something that needs to be addressed. (P9)

However, for participants who went to counselling for couples during their abusive relationships, they stated that it was not helpful. Of note, within this group of participants, those who accessed counselling during their relationships had gone to resources affiliated with their faith communities. These counselling resources had emphasized the importance of staying the relationship for the sanctity of their marital vows but failed to hold the abusive men to account and to provide the women with means and resources which could support them to do this safely. For P1, the counselling intersected with her faith community and she argued that it made things worse. She had attended a faith community with her partner, and they had decided to go to a counsellor as a couple. The counsellor had 'encouraged her' to become a 'better wife':

We went to a counsellor who happened to be – ummm, oh what's the word – he, he was a guy who believed that the men are right and the women are wrong. There's a word for it – chauvinist, I guess. ... But he would not talk to us separately. ... So there were a lot of things I couldn't say in the counselling. We went week after week. ... I would go [...] with my husband, and I would come back ... crying my eyes out. ... And it made no difference whatsoever. (P1)

Clearly, couples counselling was not a solution for this participant and the counsellor held a traditional conception of marriage and of relationships between a man and a woman. In this case, she was not recognized socially as an equal partner and despite attending counselling for a year, she continued to be afraid. Her experiences echo concerns from researchers such as Busch (2002) and Hudson (2002) about mediation, who emphasize that addressing the underlying dynamics of coercion and control in cases of intimate partner violence must be linked to overall strategies of prevention (Faget 2004). As noted, P1 also voiced frustrations that the counsellor would not meet with them separately, and similarly, beyond concerns

with standard mediation approaches, researchers such as Busch (2002) argue that approaches such as ‘shuttle mediation’ (in which separate meetings are held first) can be extremely difficult for a facilitator to navigate if the abuser threatens his partner.

The most common social service resource that the women accessed is a shelter for women and the length of time for which they stayed ranged from a few days to several months. All of the women who accessed shelters found them helpful places of respite, and spots where they could be safe and regroup. As P10 said about her time in a shelter:

Just because it’s like, the support systems. Like I know being in the shelter, like the support is keeping me away. Like it’s, it’s pushing me to go forward instead of back. (P10)

To an extent, this echoes their conceptualizations of justice as social, offering a structural response (Beaudry 1985) which also offers safety and validation. Indeed, in the view of the majority of the participants, shelters offer the response closest to their conceptions of justice, particularly of justice as social and of justice as recognition (Fraser 2001; 1997). However, again the women spoke of finding only a partial sense of justice because their abusive partners were not held accountable through them.

The participants did not name social resources as avenues or platforms for justice because while they were helpful, these resources could not demand their partners stop the abuse and violence. Nonetheless, social resources did offer solutions for some of the participants. For the women who went to shelters, they found support and a time of respite in which to decide whether or not to seek justice through legal domains. This speaks to the complexities of finding justice for abused women, and the multifaceted approach that is needed (Stark 2007), and that when women are recognized as social actors and there are possibilities for initiatives to resolve their problem if supported. The women spoke of the importance of collaborations and their conception of justice as social demand social

responsibility and solutions through changes to social structures. Most of the participants in this research accessed criminal justice to address immediate safety needs, and a few hoped to find justice in the form of accountability there. None of the participants saw criminal justice as able to provide justice or solutions on a long-term basis and in a way that is meaningful in their day-to-day lives. The following section looks at their experiences within criminal justice, exploring both what was helpful as well as what was tantamount to re-victimization.

### **Experiencing criminal justice: helpful for some, re-victimizing for others**

This section presents and explores findings about the participants' views of criminal justice responses. Most of the participants engaged criminal justice to some extent and a small number found it helpful, at least in the short-term. However, more of the participants had negative experiences with criminal justice institutions, including denial, minimization, re-victimization and criminalization when they contacted the police. Those who were best supported fit well with the 'ideal image' of an abused women who is demur and 'blameless' (such as caring for children, not intoxicated) (see discussion in Chapter 1). Many of the participants associated the idea of justice with *legal domains* of punitive justice (Comack 2006; Naffine 1990), and most commonly with criminal justice. This association is not surprising given the commonplace and 'intuitive' association between justice and legal institutions, and in particular, criminal justice (Martin 2007). However, the women were frustrated by the exclusions and failures of criminal justice institutions in their situations, and indeed previous research highlights troublesome de-gendering, de-contextualization and de-politicization of problems of violence against women within legal and criminal justice institutions (Dragiewicz 2011; Smart 1989).

Some of the participants were concerned about the presumptive and automatic assumption that legal institutions and their consequences offer solutions (resonating with

research by Parent and Coderre 2004). Most of the participants did not consider legal institutions adequately committed to providing consequences that matter, and some were exasperated with the assumption that police and courts are the strongest response possible. As P6 explained, abusive partners need consequences: *So that they know, bottom line, that there's consequences for your actions. And they have to be consequences that matter.* They were also irritated about lack of non-legal options to create accountability for the abuse. P7 explained that to her, consequences are essential for justice and she is cynical about the possibilities of justice for abused women through legal institutions, but she thinks abusive men ought to get consequences socially, if not legally:

Justice for me doesn't involve the justice system. It's just what you get for being good, or bad. Eventually it, you know, will come out to you. Like I'm not talking bad, like eventually you will get what you deserve. If you get out of it any kind of justice. (P7)

The participants who are socially disadvantaged and hold marginalized identities, particularly by disability, race, and/or income, were to a greater extent excluded from legal options and not surprisingly they were more sceptical about whether justice could be done through legal institutions. Indeed, they were quick to point out that the protections and resources offered by criminal justice institutions are, in part, dependent on the woman's identity claims, her privilege, and how well she fits with the normative expectations of an abused woman. Indeed, the marginalized participants had fewer and less reliable justice options available than those with social privilege. This finding resonates with research on how identity continues to effect what justice options are available to abused women (Parent 2002; Pratt 1995), despite initiatives such as mandatory arrest and pro-prosecution policies. That is, in the legal domain, despite liberalist claims to impartiality, identity can negatively

or positively effect the availability of resources, depending on whether one is identified as ‘Other’ (Hudson 2006).

While the participants had been reticent to involve criminal justice institutions, the majority of them had some form of contact with at least the police. Several contacted the police because they needed immediate help to stop the violence. However, the nature of this contact varied as did their impressions of the police and courts, and how they addressed the participants’ situations. Indeed, criminal justice denounces only a fraction of the violence against women (Johnson 2012), and in light of their own experiences, most of the participants were *sceptical whether justice as accountability exists* for abused women through criminal justice. This was evident in P7’s situation and she expressed anger and frustration about the requirements in the legal system to *prove* the sexual violence by her partner:

The police wasn’t going to do anything. ... Yah, like to – what are they going to do? Are they going to get a case against him raping me? And then you have to go through the whole thing. And my kid was going to get involved. And then, what for? ... Then it was – it was not worth it for me. (P7)

Her circumstances evince a difficult and far too common reality for abused women. Despite legal reforms that make sexual assault in spousal and other intimate relationships a criminal offence, it is extremely difficult to bring these abuses to the criminal justice system. That is, the practical likelihood of conviction for sexual assault, especially by a partner, is extremely low when misconceptions about consent and about responsibility for sexual assault continue to thrive both within the legal system and without (Randall 2008). In addition, as Randall (2008) argues, judges still use ‘continuous consent’ (an assumption that a spousal or similar intimate relationship implies ongoing rights of sexual access) to disqualify sexual assault in intimate relationships (an incorrect application of the law) and police will not lay charges if

they are difficult to prove within the narrow confines of the rules of evidence which focus on single incidents (Dragiewicz 2011) and thereby they are not supported by the Crown.

Other participants were also hesitant to engage the criminal justice system as they were sceptical about would happen. P10 said she did not think the police could help her, and she had been concerned that their presence would make the situation worse. P10's neighbours called the police many times when they heard the abuse and she described being scared about having the police officers there. She had decided not to talk to the police because they did not have enough power over him to make the violence stop, and she knew that when they left, she would *get it* from him (P10). Their situations exemplify that for the participants who spoke about justice in terms of criminal justice, the overwhelming sense is that its institutions are neither structured nor designed to provide justice for intimate partner violence. Even among three of the participants whose abusive partners were incarcerated as a direct result of the violence against them, none of them considered their abusive partners to have been adequately held accountable for the abuse and violence. P3 expressed aggravation about the lack of justice:

Uh, the word [justice] mean to me. I don't know, when I think of the word I don't actually think of it as a meaning. I actually see it as a visual. Maybe that's just the way I think. But when I think of it, I'm thinking of a building, I'm thinking of, you know, the pillars. The weights of the justice. And it's more, it seems – I guess it doesn't seem real. ... it's just an idea. It doesn't really – I don't have any real connection to what I think about justice. You know, it doesn't seem real. (P3)

For her, the symbolic 'scales of justice' do not get translated into real life; for abused women, they are an idea and an ideal, nothing more. In clarification, for P3, while the police were supportive, she found the court process insensitive and harmful:

Because yes the police may have to get involved, and maybe the police is important because something, something wrong has happened and we need that authority. But then, you know, the whole court system is so drawn out and difficult, and there's not support for people, you know, when you have to go testify and you're cross-

examined and all these things, it opens up wounds and you don't have anywhere to go. You're open and raw, and having to live that experience again. And it's not good. There's no solution. (P3)

In the other two instances where the abusive partner was incarcerated, the participants were mothers with young children and the police had been able to provide protection and support. However, the women were frustrated that the support had been temporary and they did not gain a sense of justice by it. Such frustrations have been documented in other research examining legal responses to intimate partner violence and research has brought to light the persistence of myths and misconceptions about intimate partner violence within legal responses with few indicators of success (see for example Landau 2004; Vandervort 2012). In response to such concerns, some researchers suggest shifting away from criminal justice (see for example Snider 1998b). But for the participants in this research, despite their dissatisfaction and apprehensions about criminal justice, they indicate that they would *not* be comfortable with such a change.

Instead, they prefer careful systemic change within criminal justice (Lewis 2004; Vandervort 2012), with active mindfulness and caution to any gendered or marginalizing assumptions of those who offer support or of the decision-making authorities. But, it is not enough to simply add gender and stir (Leavy 2007). P12's story illustrates this message well, as she told of being interviewed by an insensitive female police officer. Her story highlights the importance of not making gendered assumptions in the legal system, such as assuming that female personnel will automatically be more sensitive to the needs of an abused woman. She was interviewed by two police officers, one male and one female, and it was the female officer who made the insensitive remark:

The police took me into the police station for an interview and one of the police was a woman. And she listened to my story about how things had happened. And uh, you know what she said? She said, "I wouldn't let him do that to me." ... That's

what she said to me! ... In the interview. And like, I couldn't believe it. ... I didn't say anything. ... It hurt so bad. To hear her say that. Like they're supposed to be there to support you. ... What a terrible thing to say to somebody. (P12)

She would still recommend having female police officers doing the interviewing whenever possible, but also recommends that they are given sensitivity training.

The victim/offender binary of criminal law is challenging for many reasons, including how it de-contextualizes and de-politicizes intimate partner violence (Smart 1989; Hudson 2006), and this was particularly salient for two of the participants who had fought back physically against their abusive partners (Dragiewicz 2008; Minaker and Snider 2006), as they were also charged with assault and criminalized. Both of them had mixed feelings about their interactions with the police and their frustrations were exasperated by a system that criminalized them for defending themselves. As P6 explained, some of the officers were helpful and she described them as *getting it* but their *hands were tied* by the policies of the justice system:

Like really, personally, they got it. ... The system is insensitive as hell. Um, I was fortunate. I got a judge who was fabulous. I got a judge who was very good. Um, the assault charge was basically, you know, they said we'll throw the charge out if you go to counselling. I said, "Okay, fine. No big deal." (P6)

In sum, the participants provide a critical but nuanced view of criminal justice. They are sceptical about the way the criminal justice system does justice and exasperated by its exclusionary framework and narrow logic of identity (Hudson 2006). On the other hand, they see it as relevant to ending intimate partner violence and view access to the police as beneficial and valuable, at least in the short term for abused women. However, they see it as unable to confront what is in fact a social problem in the long-term (resonating with research by Lewis 2004). The following section examines the participants' feedback and impressions of restorative justice as shown in the video excerpts of FGDM.

### **First impressions of restorative justice: “Too idealistic.”**

It is clear that restorative justice is not appropriate for all situations of intimate partner violence and that in advance of any proceedings for a specific case that it has to be determined whether or not it would be appropriate. According to Pennell and Burford (1998), there are two critical questions that should be answered before families are referred to FGDM: first, “has the investigation and/or assessment been completed?” and second, “are there clear and urgent issues to be resolved?” as this will be needed for motivation (11). Critical determinations also underpin these questions prior to the conference, including: the referral has come from a mandated authority such as child welfare or police, screening for safety and the readiness of the abusive partner change (Pennell and Burford 1998, 9-10). Then, before determining whether or not to hold the conferences, the facilitator must consult with the abused women and other family members (Pennell and Burford 1998) to see if they all agree to it. If it is deemed appropriate to proceed, significant planning and preparation occur beforehand.

In the interviews for this research, after each participant watched three excerpts from the video *Widening the Circle: the family group decision making experience* (Cahill 1998) about FGDM, totalling approximately 10 minutes, she was asked for her first impressions of the process shown in the video. The overwhelming response from the women was that they thought the process was too idealistic and seemed too easy, with P6 even describing it as: *fiction*. Eight of the women stated “No way!” or something of similar meaning outright, meaning this type of process would not be helpful or effective. As P5 said:

All too easy. ... It doesn't work like that. ... Too idealistic. Umm (*short pause*) my husband refused that he had a problem. He refused to admit it. First you have to get them to admit it. Even that he was an alcoholic. He never admitted that until the day he died. He'd never admit that he hit anybody. Though, you know, he apologized to me at the time. But after awhile he didn't. (P5)

Of note, while the participants in this research project watched a short video excerpt of the preparation process, in the interest of time, they did not see the full extent of preparations shown in the video. In addition, the FGDM process was not offered to any of the participants in this research and thus, there is nothing to indicate that the participants' circumstances would have been appropriate for FGDM. These acknowledgments are relevant here, given the participants' quick conclusions that FGDM would not be appropriate in their own circumstances, and that it would not, in general, be beneficial to abused women.

Other reasons for why the women said “no” included that the abusive partner in the video appears to be dishonest, *like he's locked in on everything* (P4) and the fact that the woman who had experienced abuse (in the video) seems focused on keeping the family together. However, several of the participants also asked for further information about the referral process and the extent to which the family was prepared in advance of the conferences. In these instances, further information was relayed about the preparations. While this did not change the opinions of the participants about FGDM, it did shift the emphasis on some of their feedback.

Four participants did not say ‘no’ outright, and instead said, “Yes, but”, meaning there were elements of the process which looked promising but could not happen as shown. Specifically, they suggested further criminal justice presence is needed, and the abusive partner has to deal with a lot of emotional issues beforehand or else he should not be there:

The process seems like it would work. My only concern with the whole thing would be the parties being able to let go of their emotional issues – to actually do that. ... Yah, to actually do the process. ... Well, umm - being a partner that has been hurt in an abusive relationship, your emotions are really at a high level. And to actually sit down and do some of that planning to get to that point – could – is not easy. (P2)

Specifically, some of the participants then indicated that while it would not have been appropriate for them, it may have been for the scenario in the video as the woman is planning to stay with her partner, which none of them had done. They indicated the family would need extensive preparations and some of conferences ought to occur without the abusive partner:

I think there could be two meetings. And one could be to confront him and say, “Just so you know, we know what’s happening. Just so you know you’re not hiding this from people. And this is happening. And have a second meeting without him there, to say, “Okay, this is how we’re going to support you. And this is your emergency backup system, or whatever.” (P9)

When considering FGDM in light of their own circumstances, all of the women said that *it would not have worked* in their situations. But for most of them, it was the first time they had heard of restorative justice, and so it is possible that it did not seem realistic to apply it to their own cases given the newness of the idea.

### **Apprehensions about capacity of restorative justice to challenge male privilege**

This section explores participants’ apprehensions about the capacity of restorative justice to challenge male privilege, focusing on its encouragement of apology and forgiveness, involvement of the abusive men, and the structure and length of the process. P10 explained that the abusive man would have to lose what he was gaining through the abuse and violence:

Yah, if he was really willing to change. If not then I could just see her going back. Because it all, it all depends on the, on the man too. Because like I know women and children like, we want, we want to believe that there’s like, a change. Like, we love them, we want to believe that. But it’s all up to them. Like, some – some men can’t change. Like, they just can’t. ... Like, they try. And they just – they’re just so like, revolved around and accustomed to how they are. So like, it’s difficult to change. Some don’t adapt to change very well. Yah, so it also depends on the man. (P10)

Other participants were similarly sceptical about abusive men being able to change through a justice process, even if it intends reparation and healing, saying that the best thing they did was to just walk away and cut ties with their partners. As P7 explained:

I said, “Money, (*shakes her head*) I can always work and I can always make it. What good is it to have money when you are not happy, when you are abused?” I said, “I don’t care” like – and the money he made was all on him anyways. Because he was the one, ... “Oh, I need this. I need everything”. So I said, “Well I’m the one for my kid.” “And I’m going to be a single lady - than be with a – with a person like you?” (*shakes head ‘no’*) I didn’t say “person”, I said all the nasty words (*laughs*). (P7)

Abuse and violence often occur in a web of manipulation, with various power and control tactics (Bancroft 2002; Johnson 1996; Pence and Paymar 1993) and the participants were concerned about the emphasis of apology and forgiveness in restorative justice (also see discussion in Busch 2002; Stubbs 2004), and that the abusive man’s manipulation tactics would continue throughout the restorative justice process and the implementation of the plan. They were wary of power dynamics and expressed concerns that having family there might exacerbate rather than mitigate these dynamics, particularly if the family condoned the abuse or violence, explicitly or implicitly. As P9 explained:

Yah. I think it could be fair. But I think that if someone beats their children, I think that if someone shows no remorse, I think that if someone has a drug problem and seeks treatment and actively – like things like that. If they actively seek to solve whatever it is, then yes, I think there can be fair situations. I think that if someone is just (*short pause*) manipulative and does it because that’s who they are, then I don’t think that there could be something that is working for both. I think that the protection of the – you know, her and the children needs to be (*short pause*) – priority, yah. (P9)

Researchers of restorative justice also highlight concerns about power dynamics, and in response, some argue that at the very least, abused women would have to be reassured that the facilitators could guarantee equality in the process, be able to see manipulative moves, and adequate infrastructure and resources must be available (Stubbs 2002). When looking at their own situations, even if there were such assurances, the participants indicated that they

would not have wanted to problem-solve with their family and friends in a justice process.

As P3 explained:

But in a lot of families there's dysfunction and he hates her and they hate them. And there's just, it wouldn't happen. ... But it would be very, very difficult. Very difficult. Uh, there would be a huge fear in trusting the whole process, number one. And let alone trusting that by opening up and by being willing to work with the, you know, abuser is – it would be almost impossible. You know, not having the skills and the reason to support. Then there would be - no way. Well, I can't say 'no way', but it would take - it would be very – I would be very surprised that they would be successful. (P3)

The inclusion of abusive men in a process was also a thorny issue for the participants. Some of the women thought FGDM might be appropriate if an abused woman was planning to stay in the relationship, but the initial meetings would have to be held without him and he would first have to work through other issues, such as substance abuse.<sup>8</sup>

As P5 suggested:

I think if he can, he should be there. Because he has to acknowledge what he has done. And up to that point, he probably hasn't. But with all these people there, and he's got to say, "Yes, I hit her. You know, I didn't mean to. I was angry. I was drunk." I don't care his reason. (P5)

P12 also suggested an abusive partner could be there, but she was more sceptical about the effect of power dynamics if family members were also there:

Yah, if she could do it. But uh, in that case, maybe just meeting with the family first, without the spouse or partner being there. ... And then doing it with him there. Because it would be hard enough dealing with the family let alone having to deal with him at the same time. (P12)

However, most of the participants indicated that in their own situations, they would *not* have wanted their partners involved in problem-solving and strategizing, particularly when they were planning to leave. In terms of conditions for the process, restorative justice processes

---

<sup>8</sup> The FGDM process designed by Pennell and Burford (1998) included preliminary meetings but in the interest of keeping the interviews under two hours, the women in this research were not shown the full extent of the preparations.

for intimate partner violence tend to include both the abusive man and abused woman (see for example LaRocque 1997; Pennell and Burford 1998). One exception explored by Joan Pennell and Stephanie Francis (2005) is Safety Conferencing, a decision making forum for abused women which includes supports such as family and friends. Pennell and Francis (2005) find conditions for the conference when the women are leaving the shelter ought to include: the abusive men are in a batterer program, abusers are seeing their children at a visitation centre, and it is held in a location that does not disclose the women's current residence (680-681). The participants noted that there is a significant amount of responsibility for the facilitators to know whether it would be safe for all participants, and they were sceptical about the process. This scepticism increased with the likelihood of additional dysfunctional dynamics within the families:

Yes, it was quite fresh. But they were really, I mean it was – they were very *nice* to each other. (*laughs*) ... Yah, I mean she wasn't really angry at her husband. I mean the kids weren't really that – it was uh – ... Yah, there was no psychological dynamics with the children. With a teenager, you know, "I'm not going", and "I hate him", and "I hate you". (P3)

The participants also indicated that the FGDM process is not long enough, particularly if an abusive partner is there, because in reality it might take years to confront and change abusive attitudes and behaviour. However, while the participants were informed that the father had been violent to the mother and the oldest daughter, and the case came to the attention of child welfare authorities when the daughter went to school with a black eye, they were not given a length of time in which this might have taken place. What's more if there are additional issues, such as addictions or untreated mental health concerns, several participants argued that these issues ought to be addressed first. P11 emphasized it would take an extraordinary amount of time to challenge an abusive man's attitude and behaviour:

Um, and they don't know how to cope with you know, the complexities of a relationship. And I do believe in – and I think with my Christian beliefs too – I really do believe in um, if two people um (*short pause*) want to try and save their relationship, even if it's been through some really bad things, there is hope. There still is hope. Um, but a lot of intervention is needed. And that may mean, you know, you have to stay apart physically for some time before – you know, depending on what's gone on – what kind of help one needs, and then the other, right. But there is hope and there needs to be a way – or even coming into a situation where you start to see some abusive things like emotional and controlling *before* it gets to the physical. (P11)

Most of the women commented on how, in the video, the couple was planning to stay together and some thought this speaks to a gap in services available, with few programmes offering support or programming for women who want to stay in their relationships. And yet there are many reasons why a woman might select to stay in a relationship (Hamby 2014), including children or increased risks to their safety, or as P11 explained, the reality that for many women leaving the relationship means choosing a life of poverty and all of the obstacles and hardships that entails.

However, all of the participants had left their abusive partners. While the majority of them did not want ongoing contact with their former, abusive partners, two participants indicated they would have been interested in maintaining ongoing contact if they had been able to do so safely. They were also the ones most interested in FGDM as a potential platform to structure a process whereby the men and women could maintain ongoing contact safely.

As P11 explained:

Yes, yes. Yes, that could happen. Um (*Long pause*) But for women that want – are – are holding onto hope that maybe it's possible – for my spouse to get, my partner to get help. And I'm basically agreeing to however long it takes. I'm in. (*Short pause*) Meaning we don't go under the same roof until all these things have been in place. Maybe there's been five years of work – five years isn't really that long – Separation. Separation so he can work on himself, she gets what she needs. The kids get what they need. Hm-mmm. Uh, a lot of these kinds of problems have gone on for like forty years. You're going to fix that in one year? (P11)

To be clear, these two participants were not suggesting the removal of existing resources that assist women to leave abusive relationships, as the current resources have saved the lives of many women and children. But they thought it would be more empowering for women to have several options and potential types of outcomes from which to choose. In her exploration of restorative justice, Wager (2015) argues that the definition of ‘success’ as an end to the relationship is at odds with ideas of freedom and should not necessarily be equated with violence-free.

The apprehensions raised by the participants in this research echo doubts and concerns raised in other research on restorative justice, such as the concerns that an abusive partner would resist changing his attitude and behaviour, and in turn he might increase coercive tactics throughout the process and afterwards (see for example Busch 2002; Stubbs 2004). Abusive men’s resistance to change is well-documented (see for example Dobash and Dobash 1992; Stark 2007), with debates continuing about the success of programming for men, such as whether court-mandated or voluntary programming is more effective (Dobash, Dobash, Cavanagh and Lewis 2000). Building on this examination of the participants’ apprehensions about restorative justice, the following section focuses on one source of apprehension resonating throughout their feedback, their concerns about its utilization of communitarian ideals.

### **Troubling communitarian ideals in the context of intimate partner violence**

This section explores the participants’ apprehensions about the communitarian ideals espoused in restorative justice, and their concerns about *who* was participating in the process. Not only were the participants concerned about having abusive partners involved in the process, but they were also wary of involving a ‘community’ of family and friends in any justice response to intimate partner violence because of histories of abuse and violence

within their families, as well as ongoing dysfunctional relationships. Rather, for such a process to work, they indicated the family members would have to be healthy and functioning well together beforehand, and to have healthy relationships with the man, woman and children involved. The participants thought this would be a rare commodity in families where there is a history of abuse and violence and/or ongoing dysfunctional relationships. Involving friends was less problematic for some of them, but the participants emphasized it would be important to know where their friends and family stood on issues relating to abuse, such as gender roles and male privilege, beforehand and even then they would hesitate to involve them.

The participants were apprehensive about problem-solving with friends and family through an informal justice process, concerned that the dynamics would likely be oppressive, and perhaps the abuse and violence would continue or even escalate. They were concerned about opportunities for creating safety and that the women should have decision-making power in a justice response (see for example Coker 2006; Curtis-Fawley and Daly 2005) and that an abusive partner would strive to maintain his image and identity, particularly with family and friends. In fact, rather than influencing him to admit to the abuse and violence and accept responsibility for the harm he has done, the participants were concerned that he might refuse to acknowledge it and do his utmost to maintain his image. Thus, a justice process that involves friends and family could fail to condemn the abuse and violence and could be counter-productive. As P1 explained:

But in my situation, there is no way that he would have accepted any kind of counselling or any kind of group thing with anyone else. Because he had this image of him being this really good guy. And he wasn't going to chip away at that image and let anyone know what was really going on. (P1)

While advocates for restorative justice might rebut that such a case would be screened out of a restorative justice process because in order for the process to proceed (see for example Pennell and Burford 1998), the abuser would be required to accept responsibility, the participants were sceptical whether this is realistic. P6 notes that men learn to work the system:

But you know, I went from the house, I did all this stuff, he did nothing. The court system literally – he wiggled and waggled his way through – his disability – “Oh, I struggle with transportation. I live in the middle of nowhere.” Every excuse known to man, and the judges would buy it. (P6)

Hudson (2003) and Young (1990) raise concerns about communitarian approaches promoting and protecting values of a culture rather than the values for their own sake. Indeed, of concern with communitarian approaches is how values are determined worthy or unworthy of support (Young 1990). In this research, the participants were concerned about having friends and family come up with the plan. In particular, for the participants who neither saw any possibility of change for the abusive men nor of support from family and friends, they were concerned that restorative justice may reinforce his abusive attitudes and entitlements rather than dismantle them. As P5 explained, there would be limitations in what could be expected from family and friends:

There are limitations. Cause I just told you the double-reaction I got. My friends supported me, my sister didn't. Because she was living in that situation. My brother-in-law felt that if I made a life for myself without a man, she might decide that she could too. (P5)

Similarly, P6 was sceptical about the ability of a group of family and friends to overcome entrenched cultural values and ways of interacting. While the experience she related to FGDM is about counselling, it is relevant to the discussion about the involvement of friends in a process where there are cultural values which may condone the behaviour:

Like, I can already say upfront - when I was sent for counselling, I was sent for individual counselling. Right. Sent by the court. So what the court was going to do with him was send him for group counselling. And I'm like, (*in a dramatic/sarcastic voice*) oh that's productive. Send an assaultive man into a room of other assaultive men where they can basically go, (*in a mocking, deep voice*) "Yah, they don't know what they're talking about. Duh duh duh duh duh" And they do. ... And it's like, yah, and they go out the door and they still do it anyway. They're just doing it lip service, just so you know. (P6)

Shortly thereafter, about the abusive man when the conference is taking place in the video, she added:

Because he's uncomfortable as all get out, because they're talking about him and his bad behaviour. It's not the best approach. (P6)

Most of the women discussed how other relationships in abusive families are sometimes dysfunctional and/or abusive, and they had concerns about the ability of the families to work together in a healthy and constructive manner. Previous research indicates concerns about dealing with 'communities' about intimate partner violence (see for example Cheon and Regehr 2006; Coker 2002), particularly about the community as a potentially repressive moral resource that protects values, including patriarchal ones (Hudson 2003). Similarly, the participants in this research were concerned that such a process could increase her isolation rather than provide support. As P2 explained, she avoided her family as a potential source of help because she knew they would be upset with her for not telling them sooner:

Because some of them, they're supporting yet they're so angry that they've stayed in that relationship for so long. Do you know what I mean? They almost add fuel to the fire. ... They're angry that the woman has been in that situation for so long and sometimes they just, you know, "He doesn't deserve you. He doesn't". That kind of thing. ... Or sometimes they're just frustrated with the actual person who's in the abusive relationship as well, you just need to get out. (P2)

P10 was similarly concerned about her family becoming involved because she thought her partner would have become increasingly abusive if he knew that she told friends or family about it:

And uh, [my family] pretty much made me choose – and my ex wouldn't let me leave. So I lost contact with my family. ... Cause they wanted me to be safe. They wanted me to come home. And they said, "It's either him or us." You know, and I was an idiot, and I chose him. Because I was afraid to leave. ... I – I decided to stay. And I stayed for two years. And then, and then I decided that it was enough for me, that I couldn't do it anymore. (P10)

Thus, the women would have to be certain that the community understands the dynamics of intimate partner violence. However, they did have some suggestions for what would be needed in order for it to work. In order for the families to be able to come up with a plan, P2 advised that they would need to do lots of 'prep work' and: *there'd need to be a lot of counselling between those two stages*. P1 advised: *So in that situation, I think it helped. And the supports that they put in place so that abuse couldn't happen*, and similarly, P3 said: *there would have to be a lot of love and forgiving*.

Significantly, the women were not averse to seeking support and assistance from friends and family. It is estimated that the majority of abused women turn to friends and family for help at some point (Goodkind, Gillman, Bybee and Sullivan 2003), and the participants of this research were no exception. Of the women who contacted friends or family for support, they went to a close friend or extended family, such as an aunt, who was already aware of the abuse and violence and had been supportive to their needs, emotionally and sometimes also financially. At first glance, willingness to go to friends and family may seem to contradict the women's concerns about FGDM, but upon closer inspection, it does not. Rather, they are withdrawing from the whole FGDM process, including its use of community as a moral resource (Young 1990). The participants were concerned about how

their friends and family could not adequately challenge his male privilege and sense of entitlement, and yet involving them could heighten pressures on them to stay/leave.

If they were going to involve friends and family, they preferred to do so when the friends and family did not have the authority to pressure them to make specific decisions, but instead offer support and assistance *as requested*. As P8 explained:

Yes, I talked to a friend of mine who knew my situation, and she even gave me a bit of money and told me if this happens again – just keep the money for you, and if this happens again, you take a taxi and go to a shelter. But she didn't push me to call to the police. (P8)

It is interesting that the women view the pressure to make decisions as being on them rather than on the aggressor. It is also interesting that the women could not see themselves in this procedure and reacted as though they would be forced to accept it, and to then feel the pressure. Support from friends and family was appreciated and helpful when it was *without pressure* and *flexible*, where the women had agency and control over the strategy and response. In light of the participants' feedback about how they conceptualize justice socially and as accountability and safety, as well as their impressions of social, criminal justice and restorative justice responses, the following part explores making social meaning of justice and of giving difference its due.

#### **Part 4 – Making social meaning of justice**

The first three Parts of this chapter situated the participants and inductively explored their conceptualizations of justice and feedback about justice responses. Thus far, this research finds the participants envisage justice for abused women socially rather than punitively or reparatively, and yet they locate it within the institutions and discursive domains of criminal justice. This social conceptualization of doing justice suggested by the participants obligates the involvement of social service institutions such as crisis centres,

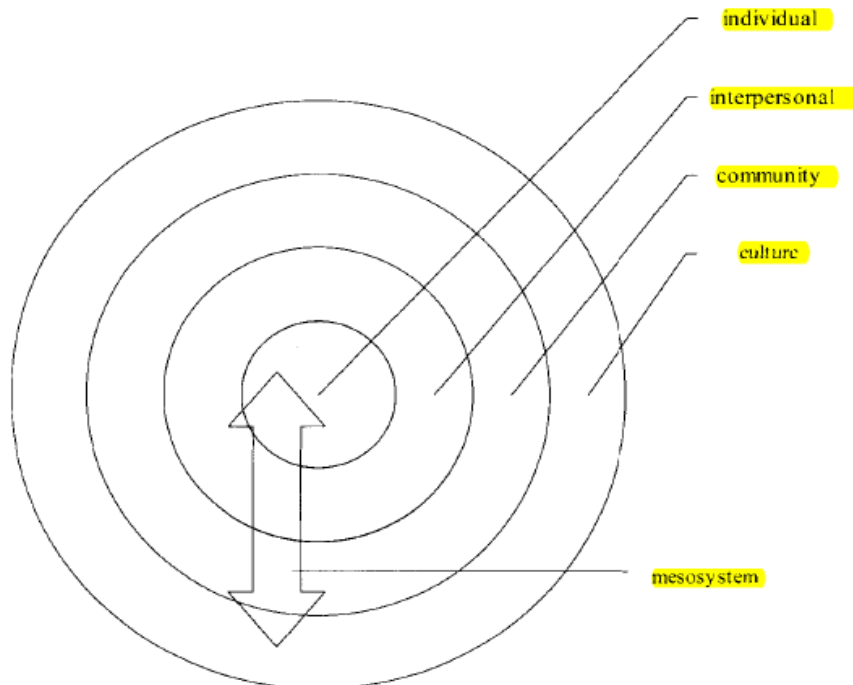
shelters and other agencies/ organizations that support abused women, but it also prioritizes justice as accountability and the engagement of criminal justice. This part locates and explores the participants' feedback about justice and justice responses within feminist literature on intimate partner violence and the feminist paradigm of addressing intimate partner violence through mechanisms that challenge male privilege to effect social change (Dobash and Dobash 1992). The first section frames the participants' feedback about doing justice socially within literature on the social ecology of intimate partner violence (Heise 1998). The second section examines the participants' recommendations for criminal justice within their conceptions of doing justice socially (Hudson 2003) and their suggestions reflect, in part, the general social and political environment where there is scepticism about criminal justice and yet it is one of the primary 'go to' responses for addressing social problems (Garland 1997; McGuire 2004).

### **The social ecology**

As discussed in Chapter 1, intimate partner violence is a complex and multi-faceted problem linked to male privilege. Building on feedback from the participants about conceptualizations of justice as social, this section uses Heise's (1998) adoption of an ecological model and its explanation of the "interplay among personal, situational and socio-cultural factors" (262) to explore the participants' social conceptualizations of justice and of doing justice for intimate partner violence. Heise's (1998) model offers a means for explaining human behaviour, such as why some men are violent while others are not (Dragiewicz 2011), and it clarifies how male privilege permeates society, in interactions with friends and family and within community and social contexts as well as cultural, social and normative discourses. In this ecological framework (Heise 1998) abusive relationships are interconnected with family and friends, as well as neighbours, co-workers, staff at

hospitals and shelters, and representatives of social and legal institutions such as the police etc. In addition it is influenced by broader, social and normative attitudes and discourses of male privilege. This research uses the ecological model of violence, provided in Figure 4.1 below, to locate patriarchy “in a system of social structures and practices in which men dominate, oppress, and exploit women” (Walby 1990, 20 in Dragiewicz 2011, 18).

**Figure 4.2: Ecological model for violence causation and prevention**



Source: Dragiewicz (2011, 19)

The remainder of this section provides examples from the participants locating dynamics of intimate partner violence as well as the potential for social change in the various levels of the social ecology. Following Dragiewicz’s (2011) integration of Bronfenbrenner’s (1979) ecological model in her research about father’s rights groups in the United States, this research integrates the model in light of the participants’ reflections on justice and justice responses. This section offers snapshots into the complexities of the dynamic interplay amongst the factors related to intimate abuse and violence and the responses of others,

particularly the power of unexpected negative reactions, as well as the decision-making of abused women about what to do (Campbell et al. 2009). This ecological framework provides a foundation for exploring the justice principles as strategies for addressing intimate partner violence within and without criminal justice (discussed in Part 5 of this chapter). This ecological framework resonates with what the participants said about doing justice socially. While intimate partner violence may occur ‘behind closed doors’, it does not occur in a social vacuum and the ecological lens offers a means for framing its occurrences in social contexts that condone male privilege and iterate messages of victim-blaming and responsabilization (Campbell et al. 2009).

At the centre of the model is *the individual*, and all abused women and the persons who interact with them are situated in interacting contexts. Next is the *interpersonal level*, consisting of the individual’s immediate contexts and settings, including relationships with intimate partners, family, friends, and co-workers. When the participants referred to justice in the contexts at this level, they were most concerned about safety and stopping the abuse, the tendency for abusive partners to deny and minimize the violence, the tendency for their abusive partners to gradually increase their isolation. P1 explained how she also had to ‘keep her partner happy’ in order to avoid further abuse and violence, and to minimize the extent to which he isolated her:

I think that the first part of it was that he didn’t want me to do anything but go to work – he wanted me to get my paycheque - but stay at home and look after the kids. But he had to come first. Like, if dinner wasn’t ready when he walked in – even if I’d worked ... and looked after the kids – the dinner had to be ready. And as I said, I don’t know how I accepted that. But I just thought, well I’ll do what I can to make him happy. ... But over the years it got so that if dinner wasn’t ready, he would take what I had cooked and throw it in the garbage. (P1)

The *community* is the next level of the social ecology, and it includes the larger context in which an individual interacts, and even though these interactions are not direct,

they have a cumulative effect (Dragiewicz 2011). It includes factors such a media representations of intimate partner violence, legislation, and court practices. P5 discussed the skewed representations of intimate abuse throughout the media, and she wished that they would provide a more realistic view:

That you'd see more about it on TV. Like, they have the helpline for kids. They don't keep it up all the time. But they should. Yes. "If this is you" - And they have it for abused seniors. You see, um - The public awareness [campaigns]. Yes. (P5)

P9 also discussed the effect that the media had had on her experience, wishing she had realized sooner that she was in an abusive relationship and she thought it would have been easier to deal with then:

Yah, yah I think that even just some things - I really, yah - I don't know. Like, I wish that I had known about it. You know, I wish that there had - yah, I wish that - I don't know. Maybe I'm just wishing for something that couldn't have existed. ... I think that there's the lifetime TV version of abuse, and then I think there's the actual version of abuse. And they're very different things. ... Right, I think that some women don't understand that they are in - I think that that needs to be (*long pause*) um. Like, I got shoved into - I got sucked into drugs, right. And that's just as abusive. I think feeding someone ecstasy and cocaine is just as abusive as hitting someone. To be honest, I think, yah, like there - there are other forms of abuse than what people see on TV. (P9)

The next level of the social ecology is the *cultural context*, which includes the structural and ideological 'blueprints' for the culture (Bronfenbrenner 1979; Dragiewicz 2011, 20). These blueprints and expectations are normative and pervasive, but they can be questioned and destabilized, and they can shift as values and ideals change. In this level, social and normative expectations are powerful, such as discourses about masculinity that reify and preserve male entitlement (Dragiewicz 2011) that a 'real man' keeps 'his woman' in line, or a 'real man' is the boss. Comments from P11 reflect one normative expectation that an abused woman ought to leave and seek a divorce, and she suggests that if a process

could be flexible and even offer an alternate outcome, it would also challenge this social and legal norm:

Well, um, its sounds like this was – I mean, to me, first impressions, maybe I’m wrong, that this was um – that this approach was taken to, to try and maybe find a way to keep the family together. Um, instead of what usually, traditionally happens, where the family gets split up. There’s divorce and the children have to go through that kind of trauma. Where that may not necessarily have to happen, in certain situations. (P11)

In addition to the levels noted in Figure 4.2 is the *chronosystem*, and it refers to the temporal context and changes that occur over time and personal, social and cultural histories (Bronfenbrenner 1979; Dragiewicz 2011, 20). How intimate partner violence is constructed has changed over time, with some patterns being problematized and others not. By example, P5 commented on how perspectives about what abused women should do have evolved over the past several decades. Her abusive relationship occurred decades ago, and she noted how it was neither as common nor as accepted for women to leave abusive relationships. Of shelters specifically, she said they have helped many abused women and they have been part of a process of normative change so that they can leave abusive relationships:

They didn’t have those things in those times. We’re talking fifty years ago, no, forty years ago – forty-five years ago. They weren’t there then. ... It wasn’t an option. (P5)

In a way, expectations about what abused women ‘should do’ have expanded and changed since then, with structural and institutional changes such as shelters for women and law reforms. Nonetheless, abused women continue to experience pressures from their communities to stay/leave; in some communities it is expected that an abused woman should leave and the extent and severity of the abuse is questioned if she does not, while in others there may be pressures and expectations for her to stay (Hamby 2014).

The final level, and perhaps the most important, is the *mesosystem* and it “describes the interaction between the other levels of the social ecology” (Dragiewicz 2011, 20), and the cumulative effect this will have on an individual. It is this level which would capture personal histories of abuse and other factors such as access to social resources that shape how one interprets what is thinkable and doable. As an example, P9 spoke of regret that someone had not told her what she was experiencing was abuse, and she argued that it played a role in her not seeking help sooner:

I think somebody (*short pause*) – I don’t know – it took [years] – just from that abuse, just from my relationship with my abusive partner. ... I know that it takes someone from the outside to like say, “That’s what happened. That’s what happened to you. That’s what’s happening”. And not to necessarily say it in that situation, but to be able to like, “Here’s my card. Come and talk to me.” (P9)

In the cultural context of male privilege (Dragiewicz 2011) and normative expectations about abused women and violent men, the ecological lens highlights the extensiveness and pervasiveness of victim-blaming (Campbell et al. 2009) and of being ‘Other’ as abused women. It also highlights the extent to which their experiences of the abuse and violence interplay with dynamics and interactions outside the relationship, in social interactions and encounters throughout day-to-day living. This ecological lens resonates with their conceptualization of justice as recognition and its challenge to social indifference. Indeed, for the participants, social reactions are powerful in the context of intimate partner violence, both to validate when positive, and when negative, they are powerful to invalidate and isolate (Campbell et al. 2009).

### **Giving difference its due and making social meaning**

This section explores the participants’ recommendations about how to best support abused women by giving their difference its due and making social meaning of justice (Hudson 2006). While most of the participants associated the idea of justice with the

criminal justice system at least to an extent, they also ascribed social meanings and articulations to justice that prioritize protective and pragmatic solutions for what abused women need in their day-to-day lives (Hamby 2014) and outside of criminal justice. In particular, in response to question #23 in the interview guide (see Appendix 1), “Considering all the options, such as the police and courts or less formal processes, what do you think is the best way to get there?” some of participants offered recommendations to improve criminal justice responses while others emphasized social solutions. However, even the recommendations directed towards criminal justice engage social aspects that would create points of resistance through justice as recognition (as explored in Part 2) *outside* of criminal justice, and they are explored here.

The participants were sceptical about the potential of resistance within criminal justice and, in turn, envisaged a social conceptualization of justice that recognizes abused women as social actors (Parent and Coderre 2004) who interact in multiple social domains throughout the social ecology (Campbell et al. 2009). Foucault’s (1975) argument that power produces offers a way for thinking about resistance to the injustice of intimate abuse and violence through social means. Specifically, Foucault (1975; 1972) argues that resistance emerges through the voicing of the ‘Other’ and to undermine “power’s claim to ‘truth’” (Marques 2014, 94). While the criminal justice system is commonly associated with the idea of justice, the participants were not hopeful in its capacity to provide justice for all that abused women need to address intimate partner violence. Indeed, the criminal justice system has strict rules that leave little place for the differences and discourses of abused women (Randall 2008; 2004), and so it does not appear a good site for resistance. The participants were critical of the criminal justice system, with most of them who had contact arguing it is patronizing and preferring responses which are open and flexible:

To come alongside them and to just, you know, “You don’t have to be in that situation.” ... And make them feel comfortable opening a dialogue so that they have some sort of support. ... And because right now, the onus is on the woman to get herself somewhere, or get herself some help. ... You know, as opposed to a person coming alongside them and saying, “Do you want me to get that help for you?” You know, the willingness to be somewhat involved, without stepping on her rights, you know, to make her own choices. (P2)

To improve criminal justice responses, the participants provided several recommendations grounded in the complexities and interplay of intimate abuse and violence throughout the social ecology (Campbell et al. 2009). First, the participants suggested the inclusion of *knowledgeable and empathetic strangers*, such as workers from a crisis centre or shelter in the process as they would have a clear understanding of the violence and they would be sensitive to the dynamics and tactics of abuse and to the needs of abused women. As P2 said: *It was actually easier to discuss with a stranger than it was to discuss with family*. This sentiment is echoed by P3’s reflections on making social meaning in a justice process by enhancing support and counselling opportunities for all of the persons involved in the intimate partner violence:

I would change the process and I would (short pause) just, I guess, to educate or provide resources, um counselling for all parties. And insight, like where do you go now, from here? You know, does the family work together or, you know, does the family, you know, end. And then, you know, one person goes on their own. Like where do you go from there? Like having a plan rather than just, you know, opening up the can of worms and leaving the can open, basically. You know, leaving everyone to fend for themselves after. (P3)

In the capacity envisaged, these strangers would not assume the role of an ‘expert’ who speaks to problems from their own knowledge base (Randall 2004), but ideally they would dialogue with abused women throughout the justice processes and engage the complexities of abuse and violence and of the women’s circumstances as social actors (Parent 2002) who are trying to solve a problem.

In conjunction with adding ‘players’ who are sensitive and knowledgeable about the complexities of intimate partner violence, the majority of participants recommended that criminal justice personnel, including police, lawyers and judges, be required to take *sensitivity training*, so they are knowledgeable about the complexities of abuse and the circumstances of abused women (Vandervort 2012). In their view, ensuring criminal justice representatives understand the dynamics of intimate partner violence might work towards destabilizing misconceptions about intimate partner violence, such as the symmetry argument that women are as violent as men which can lead to problematic outcomes such as dual charging (Poon, Dawson and Morton 2014). P6 explained that justice responses based on misguided understandings about the dynamics of intimate partner violence can further increase the dangers to an abused woman:

And now, it’s somewhat getting worse. Because now what they’re doing is uh dual – dual charging. ... Okay, so it’s her word against his. And sometimes what it’s about is whoever made the phone call. ... And men are picking up on what the rules are, the, the laws. So, they know if they pick the phone – if they get to the phone first, then it could be a dual charge for both, um or just her and not him. There’s these little games that are played because they get smart. And they get to know what the laws are. And you’ve got dual charging going on. (P6)

Sensitivity training for criminal justice personnel is recommended in conjunction with consequences for officers when their conduct is inappropriate. By example, P11 explained how the police had harassed her, but she did not have a means of recourse:

And I – also when I was dealing with the police back then, and I know this stuff still goes on, one police officer uh thought that he might have a – oh yah - Like come over – like visit at night time ... Yes, he hit on me, yes. So I’ve had, yah – and I want those things in your, in your report. Hm-mmm. Because these kind of things go on. They – they take, you know, they take advantage of a person’s situation, her vulnerability. (P11)

Thus, in conjunction with sensitive training and a broader social lens, the participants also recommended changes to mandatory charging policies. Over the last two decades,

abused women have problematized mandatory charging policies because while the policies are well-intentioned, they tend to infantilize and reduce decision-making opportunities for women who have experienced abuse and violence (Bumiller 2008; Johnson and McConnell 2014). Additionally, in their study of sole and dual charging that examined court cases from a small city in Ontario, Poon, Dawson and Morton (2014) find that socio-demographic characteristics such as being located in a rural area, or situational characteristics such as being younger than the man, minor injuries, use of a weapon, and if someone outside the relationship reports the violence, are more likely to result in a woman being charged than a man (1460). They also find that women are less likely to be charged when there are serious injuries (Poon et al. 2014, 1460). However, P6 described her experiences of being charged after she had been severely injured and then defended herself, highlighting the implications of well-intentioned policies when they are guided by a narrow and legalistic framework rather than a flexible one with a clear social understanding of the gendered dynamics of intimate partner violence:

Um, absolutely every area should identify primary aggressors. ... Because there is a big difference between: the woman is beaten to a pulp and the guy who has one bruise. ... But because nobody witnessed the altercation, you're co-charged. (P6)

Overreliance on criminal justice responses and policies which encourage the arrest of abusive partners has led to unintended consequences including dual arrests, when abused women who fight back are designated to 'batterer categories' (Dragiewicz 2008, 129). Thus, even when officers are sensitive to the needs of abused women, the criminalization of women through mandatory charging policies creates additional victimization, further excluding them from justice and social supports when they fight back. The criminalization of women for defending themselves highlights the need for systemic change:

Right? And the justice system? A lot of sensitivity training. You know, it is the system. It's not the officers. The officers were fabulous. Like I said, officers who know us would have handled it a little differently. The officer I had was a young guy and, even with the criminal charge, the officers were considerate. They literally – they arrested me, I was released within an hour with a promise to appear. ... Right? Like, they *got* the scenario. They were like, “We get why this happened.” ... And their individual responses were amazing. The system's responses were horrific. (P6)

While the participants were convinced that criminal justice could not be abandoned, they were sceptical of its narrow conception of intimate partner violence and its inability to provide long term protective solutions for women. In turn, they prioritized engendering social ways of thinking about justice and protective solutions, to create openness to alterity, to de-emphasize punishment, and to challenge discourses of male privilege. The dilemma lies in finding the support necessary for abused women while also maintaining goals of social change (Dobash and Dobash 1992), and to this end the next part explores their feedback about making social meaning of the restorative justice principles vis-à-vis configurations in social domains apart from the criminal justice system.

### **Part 5 – Making social meaning of restorative justice principles**

Building on the findings and discussions from the first four parts of this chapter, this part examines how three principles of restorative justice delineated by Hudson (2006; 2003) might respond to the justice needs of abused women. The findings show that the participants think about justice socially, and their conceptualization of justice as recognition in duality with redistribution (Fraser and Honneth 2003) suggests configuring the three restorative justice principles to pragmatic and protective solutions in social domains outside of criminal justice. That is, the participants offer meanings and articulations of justice that prioritize social solutions that recognize abused women as social actors who daily navigate the complexities of their experiences of abuse and violence throughout the social ecology. There are three crucial findings about the principles of discursiveness, reflectiveness and

relationalism respectively, and they reconfigure the delineation by Hudson (2006; 2003) to prioritize mechanisms to effect social change and protective solutions for abused women:

- Discursiveness - encourage social collaborations
- Reflectiveness – engage specificity to provide protective solutions
- Relationalism - encourage social responsibility and advance social supports

**Discursiveness: Encourage social collaborations**

Hudson (2006; 2003) argues that discursiveness in the justice context should *widen the discursive circle* by establishing openness to identity claims so that any topic can be raised, and for inclusive problem-solving. However, the participants were concerned about the unwarranted scrutiny of abused women in justice processes, and in turn they were sceptical about widening the discursive circle and ‘adding more players’ unless there is clear direction about the players’ roles and their knowledge of intimate partner violence. Rather than inclusiveness, they prefer an alternate construction of discursiveness, with collaborations in domains outside of criminal justice that focus on problem-solving and involve persons who are knowledgeable about the dynamics of abuse and who work within a gendered framework. Indeed, Young’s (1990) critique of communitarianism as “wildly utopian” (233) is apt to their concerns. Instead of the criminal justice context, the participants’ preferred opportunities for problem-solving in social domains that have a clear understanding of the dynamics of intimate partner violence, in line with programming such as Safety Conferencing explored by Joan Pennell and Stephanie Francis (2005), that is a “decision-making forum” operating through a shelter setting (666).

The participants are sceptical about whether openness to their identity claims in a justice context is possible, especially if an abused woman does not fit normative expectations (Bumiller 1998; Dunn 2010). They recommended improving openness to

abused women by challenging the identity claims of an abusive partner in a manner that gives opportunities to challenge male privilege. Unless widening the discursive circle in a justice context could ensure an abused woman will receive the support needed, whether it is emotional, physical or financial, the participants were concerned that abused women might become open to further scrutiny and control. This concern is particularly apt in the backlash against women's rights and the debates instigated by father's rights groups (Dragiewicz 2008; Minaker and Snider 2006). Thus for the participants, discursiveness as a justice principle must be structured to create safe opportunities to support abused women and for them to find justice as recognition (as explored in Part 2) and in their view, this was more likely to occur socially.

Given the numerous misconceptions about intimate partner violence and the pervasiveness of violent masculinities, the participants maintained that openness would have to be structured directly into a process to support each of the persons involved in the relationship, and this seemed most likely to occur socially. Indeed, most of the women said that they would want assurance that they would be believed, and they were sceptical about how this could be done through a 'wider' discursive circle. Rather, for the women, openness to their identity claims is about specificity, meaning it is about connecting with a support network that, through its understanding of the dynamics of intimate partner violence, will acknowledge their claims and offer recognition and support. Moreover, many of the abusive partners described by the participants denied the abuse and harm that they did, which is common (Dobash, Dobash, Cavanagh and Lewis 2000). If the man denies the abuse and violence, according to the participants, for the abuse and violence to stop, *his* identity claims will need to be challenged:

It's all about how he is. The majority of women want to believe that they're – like that it's going to work. But sometimes it's just, it depends on him. It doesn't matter how hard the women push for it to get better, it's not gonna get better if he's not pushing just as much. So it could go either – like – it's like a balance beam. You never know which way it's going to go. One could be way heavier than the other. (P10)

For them, openness to the identity claims of an abused woman is about challenging norms and values that condone and reify male privilege. With this feedback, they challenged the idea that openness alone can easily engender cultural recognition of intimate partner violence and they emphasize the need to structure opportunities to challenge male privilege.

Hudson (2006) also argues that discursiveness must *allow claims and counter-claims*, critiques and defences of existing values to be weighed against each other in 'undominated' discourse, although she acknowledges that "there are also differences such as racism and violence that should be disapproved and suppressed" (41). However, it was not clear for the participants in a practical sense *how* this might be structured into a justice process. As noted, the participants did not consider undominated discourse possible if the abusive partner participated in a justice process. After watching the excerpts of the video (Cahill 1998) about FGDM, P4 explained:

He's not going to be open. You saw his hands locked together like this (*shows hands clasped together in front*). He's not going to be open. ... See, he's still holding his hands. He's not going to let loose on what he really feels. He's still locked in. Look at his hands. (P4)

Instead, they emphasized that it is necessary to have structure and rules about who is able to participate as well as what topics and conversations are allowed in a justice response to intimate partner violence, no matter how informal the response. The women explained that through his use of manipulation and control tactics, he would dominate conversations and problem-solving, and then later use the process against her:

There's a lot of fear. Fear of talking about it in front of him because you that when you talk about it in front of him, which I was *never* able to do, that you would pay later. So the first time he gets drunk, if he hears that his kids and his wife are saying, "You know my dad hit me." He's going to hit them again. I can't judge for that situation, but in my situation – that what – maybe he wasn't hitting me, but I know the abuse would escalate – escalate if I talked about it with anyone that he knew. (P1)

Holder's (2013) finds that victims of violence are primarily interested in participatory opportunities in a justice context, such as victim impact statement, after the abusive man has admitted to his responsibility and been found guilty (236). While the ideal of undominated discourse is good in theory, the participants were concerned that inclusivity and space for claims and counter-claims could not happen in a justice context; they were concerned about dominating discourses silencing abused women. These concerns reflect findings from other research, such as findings from Maxwell and Morris (1993) in research of Family Group Conferences where over one-third of the victims indicated dissatisfaction after participating (in Busch 2002, 234). Maxwell and Morris (1993) linked the victims' experiences of dissatisfaction (such as feelings of depression, fear and anger) most commonly to the abuser or his family lacking true remorse (in Busch 2002, 234).

The issue of raising topics and whether the discourse could be undominated was at the forefront when the participants discussed how or whether their partner was present when they sought help as well as their views of the involvement of an abuser in a justice process. They perceived power dynamics could be an obstacle to having undominated discourse in situations of intimate partner violence. The participants' statements are in agreement with Hudson's (2006; 2002) emphasis of constraints and safeguards. Resistance is also needed to ensure discourse of the powerful anti-feminist backlash does not seep in (Minaker and Snider 2006). The participants argued that understanding the coercive, controlling and

abusive dynamics of intimate partner violence is needed, but broader conversations and dialogue about the women's situations will not guarantee this specificity.

While *inclusive problem-solving* sounded promising, in theory, as a means of finding *support*, most of the participants suggested that abused women would be reticent to do this in a *justice context*. Some of the participants viewed problem-solving *outside of the justice context* with family and friends more favourably, although a few said it would be beneficial if the police were involved with safety planning. P6 said she would be comfortable problem-solving with friends and family to make a safety plan, but her partner could not be there and neither could the police:

Oh yah. Absolutely. Because then you would know where people stood. You would know what resources you had, even if they're willing to say, "You know what, come here initially and then move on." Right. Like, "We will give you a drive. We will do this." It's more a case of you having the information you need to make a thorough safety plan. But he can't be there, there's no way. (P6)

The majority of the women indicated that they would rather do problem-solving outside of the justice context, either through a community resource such as a shelter or through friends or family on an as-needed basis:

No, I don't like the police. So – they haven't – they haven't done anything to help my circumstances. So, it's just – Having them there means absolutely nothing to me. (P10)

For the few participants who indicated an abused woman may want the police involved in problem solving, they said this would be more likely if the police have already been involved in the situation. As P8 said, the police had helped her, and she thought abused women might want the police to be involved in problem-solving:

Ah, I like that. I like that. I don't know, because – it's just, talking about myself, not in general. The police officers in here, with me, in my case – they were helpful ... very much protective and very much caring. (P8)

When the participants spoke about problem-solving, their responses tended to shift away from ‘justice’ responses to strategizing about when, where and how to find *solutions*. Problem-solving for intimate partner violence was not easily connected to a justice for abused women. The participants acknowledged that criminal justice responses are able to provide some tools for problem-solving, such as restraining orders and victim-impact statements, but in their experience the influence and effectiveness of these resources is minimal.

In sum, discursiveness as delineated by Hudson (2006) did not resonate with what participants indicate is workable or possible in a justice context, and in light of their own experiences they preferred shifting problem-solving to social domains where there could be assurances that the persons involved viewed them as social actors (Parent 2002) dealing with a problem and had a clear understanding about the complexities and dynamics of intimate partner violence. Thus, rather than concerns with the idea of inclusive problem-solving *per se*, the participants associated it with solutions rather than with justice and justice modalities. They preferred to problem-solve with friends or family on an as-needed, informal basis or with informed strangers, such as workers at shelters or crisis centres, who are both knowledgeable about the dynamics of intimate partner violence and able to provide emotional, psychological and material (such as shelter and food) support. However, some of the participants who had found the police helpful thought an abused woman might want the police involved in problem-solving. Thus, they are in agreement with Hudson (2006; 2003) about the need for openness and better understanding of the particulars of a case. But in contrast, the participants prefer collaborations in domains outside of the criminal justice system and with ‘knowledgeable strangers’ as means of enhancing recognition of the complexities and dynamics of intimate partner violence.

**Reflectiveness: Engage specificity to provide protective solutions**

In her delineation of reflectiveness, Hudson (2006; 2003) argues that a context-focused justice approach would be better equipped to denounce crime than the narrow liberalist lens of criminal justice. That is, focusing on the specifics of the case would better denounce intimate partner violence in the justice context. However the participants were again concerned that a context-focused approach in a justice setting would give opportunity for further scrutiny of abused women. Nonetheless, they were interested in how it might offer insights for creating solutions in social domains.

Concerning the criminal justice context specifically, while some of the participants challenged the logic of identity and voiced frustrations with how the identities of abused women are dismissed, they were not convinced that a context-focused, concrete justice logic would be an improvement. They were concerned about the potential for further scrutiny of abused women in a justice process. In their view, rather than a concrete one, the lens ought to focus on how best to structure recognition and to resist victim-blaming and misogynist values and norms, and this seemed more likely to succeed in domains outside of criminal justice. Theirs is a political vision of reflectiveness, envisaging structural opportunities for resistance intending justice *as recognition*, as well as validation and as social. As P3 explained, abused women need acknowledgement in a justice response, not further scrutiny:

Acknowledgment for what they've gone through, that it's real. That acknowledging their feelings and the circumstances, and that there's a plan. And that it's going to be handled in a way that whatever happens will be resolved, and you know, learn from it. ... Yah, I guess it's acknowledgement. Acknowledgment that, oh how do you say it, that if I was helping a woman or a kid now, I think the most important thing I'd want to let them know is that they didn't do anything wrong. And not to feel ashamed about what has happened. That it's okay – it's okay to be honest, to tell the story. And that by doing, by telling the story, justice does happen because we are able to work this through and talk about this. (P3)

The participants were sceptical with the reparative modality of FGDM and its connections with communitarianism, and how its strategies are based on the social values of the group participating. The women were sceptical whether a response that looks at the specifics of the circumstances would be sufficient to ensure a social lens and solutions for women. Even if each case is considered in its particularity, in terms of the harms, wrongs and contexts and then “measured against concepts such as oppression, freedom, dignity and equality” (Hudson 2006, 39), the participants were sceptical. The opportunity to speak to harms done exists in criminal justice processes as the voices of abused women can be heard through tools such as victim impact statements, and about these statements P12 said:

Yes, the victim impact statement is a powerful thing. If you can do it. Not everybody can do it, obviously. Like I was able to face him and – he was there, right. And do it. I understand not everybody can do that. (P12)

However, while victim impact statements can be a useful tool providing a means for abused women to voice harms in their own terms rather than those of the dominant group, they are not positioned to establish momentum for change (Fattah 2000; Hudson 2006). Simply because the process is examining the particulars of the situation does not mean they are going to challenge normative expectations, and for the participants, these expectations must be challenged in order to provide abused women with solutions throughout the social ecology (Campbell et al. 2009):

I think you have to be satisfied with whatever people are willing to give. Yah, like I think you can't expect them to stretch their limits. You need to say, “We're not asking you to do anything except be aware. We're not asking you to do anything except, you know what, if you want to be part of this process and he comes to you. You can say, “You know what, I've already participated in this process and I don't like what you do.” And maybe that's as much as they need to say. If that's what they're willing to do. Like you don't need them to physically do something. Because part of the problem to is that (*short pause*) some men are nasty enough to hunt down your family members. (P6)

In short, they argued that a ‘concrete justice logic’ alone would be insufficient to improve access to justice for the abused women; ensuring a contextual understanding of the abuse and violence is not sufficient to construct and ensure denunciation, particularly for women who plan to stay in the relationship and require protective solutions (Hamby 2014).

Similar to research findings by Herman (2005), the participants’ views of justice objectives did not line up with either retributive justice or restorative justice. However, the majority of participants endorsed the retributive sentencing objective of incapacitation. The women appreciate the incapacitating mechanisms and resources of the criminal justice system at least in the short term, but the majority were frustrated by its inability to deter the abusive attitudes and behaviours of abusive men and to provide meaningful solutions in the long term. Thus, they were sceptical whether a concrete lens would increase the capacity of a justice response to bring about long term change and safety for an abused woman, and preferred this approach located in other social domains. Simply because a justice process allows for the engagement of the concreteness and fullness of the situation, in theory at least, it cannot be assumed that it will establish the momentum for change. While this momentum for change is arguably evident in the criminal justice ideal of rehabilitation, this sentencing rationale is not at the forefront of present day ‘tough on crime’ criminal justice strategies and thus would be challenging to engage. For the participants, long term change and safety solutions in response to intimate partner violence intertwine with the idea of justice as recognition and solutions, which they perceive to have greater potential through domains outside of criminal justice. Thus, it is an immense dilemma with far-reaching and grave implications that the legal institutions most associated with justice, those within the criminal justice system, are neither equipped nor designed to bring about long-term solutions, safety and change for abused women.

In the view of the participants, the crux of reflectiveness lies in improving understandings of the coercive dynamics of intimate partner violence and naming both abuse and violence, and this requires shifting the focus to criticisms of the social values and norms that condone it. Returning to the idea of the knowledgeable stranger and the participants' comfort with professionals, understandings of the dynamics of intimate partner violence, they suggested reflectiveness ought to create space and opportunities for discourses of resistance, to challenge the social values and norms that condone male privilege. For this shift, the ecological framework (Campbell et al. 2009) offers a different focus and politic for contextualizing and gendering abuse and violence. Namely, this construct of reflectiveness focuses on the mesosystem, its interconnections, and thereby social responsibility (Hudson 2006; 2003), rather than focusing exclusively on the individuals.

In light of legal reforms and changes to social resources made in recent decades, it must be asked whether a concrete justice logic would challenge “traditional perceptions of female victims and the culture of indifference” (Dobash and Dobash 1992, 173). Concerning whether a concrete lens focusing on the particulars might improve a response in a justice context by better naming the injustice, the participants offered a resounding ‘no’. Instead, in their view, the concrete reflectiveness is most likely to benefit abused women in social domains where the complexities and dynamics of intimate partner violence are already well understood and where they would aim for realistic and pragmatic solutions that respond to abused women as social actors (Parent 2002) seeking solutions in various aspects of the social ecology.

**Relationalism: Encourage social responsibility and advance social supports**

Hudson (2003) argues that relationalism is about acknowledging the “complex web of relationships of responsibilities, opportunities and pressures” (211). In relationalism,

rights are viewed as relational concepts rather than distributive, and identity is also a relational concept. In addition, she provides that responsibility and culpability are relational concepts (Hudson 2006, 37). This delineation appealed to the participants' conceptions of justice, in particular *justice as social* and *as recognition*, although their demarcation of recognition highlights distributive as well as relational and aspects (Fraser 2001; 1997). When they had been in abusive relationships, most of the participants sought supportive social connections that would accept their identity claims as abused women, and these were most commonly found through extended family or a close friend. Relationalism resonated with the participants when they spoke of tensions they experienced in seeking recognition/dignity for their own identity claims as victims/survivors of abuse. P8 explained:

But yes, I do realize that at least with me – I don't know with other women who went through the same – I tried to look that I was fine. I tried to look that our relationship, our marriage was fine. ... You know, when people came to my house, to our home, and I tried to pretend that everything was fine. ... But I *knew* it wasn't fine. (P8)

For some of the participants, connecting with these supports was enough for them to find a solution in order to leave safely.

Of the three justice principles discussed, for the participants, relationalism has the most potential to meet the justice needs of abused women and to increase reciprocal recognition, but like the other restorative justice principles, the participants preferred them utilized in domains other than justice contexts. While in their abusive relationships, the participants did not lack agency as they were proactive and surviving every day, but they faced multiple constraints (Minaker 2001) and, in turn, they lacked the sense of *resolution* (P2). The participants were not suggesting that the responsibilities of abused women should

be removed. Rather, they were suggesting that relational opportunities and options are needed to deal with the abuse and violence. As P1 explained:

And I'd thought I couldn't tell them because I thought they'd be disappointed in me, that I couldn't make my marriage work. And so some input might have been really helpful – from someone, from anyone. My [family] obviously could see something because they saw that I was unhappy. (P1)

P11 was also concerned about financial constraints, and how decisions to leave an abusive relationship can mean taking on the financial and social challenges of being a single-mother, but in contrast to P1, her political positioning used a middle-income lens:

So, you know what? Our government needs to step up and – and this is the reality – and provide. So that if a woman *really* feels that she has the freedom to make a proper choice, that she's gonna have, um she may not have exactly what she's accustomed to, but she's not going out into something she's not sure she can – she can do. [Like make ends meet.] ... Like they also think, “Well, my kids are in hockey.” This and that. That's all gone. History. And depending on what he makes – And if she has to go – if she's not working herself, then what happens is her support payments are – are taken dollar for dollar, off her welfare. (P11)

The engagement of social responsibility in relationalism (Hudson 2006; 2003) was appealing for the participants largely because of its focus on creating opportunities for reciprocal recognition (Honneth 2001) and for pragmatic solutions. However, they were concerned that unless cultural entrenchment of male privilege changes, relational thinking might add more responsibilities and pressures on abused women than it alleviates, particularly in a justice context where uneven power dynamics and misconceptions about intimate partner violence persist. For Hudson (2006), rights ought to be a condition of discourse to safeguard against oppression rather than a possession to be distributed by justice, so that denying rights means to silence and to deny dignity:

For feminist and post-colonial theorists, rights are, above all, to do with conditions of discourse: denial of rights means silencing of the Other; denying her pain and exclusion; refusing her membership, her freedom and her identity. (37)

Indeed, those participants who are marginalized by identity claims including those related to race, income, and/or physical ability argued that they had been silenced in criminal justice responses to intimate partner violence; those for whom criminal justice policy is meant to empower are often silenced by it (Dayton 2002/03; Landau 2004).

Feedback from the participants indicates that they agree that rights ought to position justice discourse to hear and engage the voices and stories of those who have been victimized. But they also emphasize that it is important to go beyond opportunities for voices to be heard, to recognizing abused women as social actors as well as their material needs (see for example Parent and Coderre 2004), and they argued that redistributive needs are more likely to be met through social domains. As P1 explained after watching the video excerpts about FGDM, it is a positive aspect of restorative justice that listening to the stories of women is structured into a process aimed at creating a plan that validates an abused woman's identity claims while constraining the claims of the abusive partner:

But in that case, maybe it worked. Like the husband didn't really want to go, but when he heard what it was and he would have his friend there, it was good. And maybe it was good for his friend to hear what had been going on and to help him come up with a plan. But unless he really wants to deal with the drinking, I don't think that things are going to change. But at least the family will be safe. And they needed the family there to make a plan. They could have done that without him probably, if they had to. (P1)

In this vein, the participants provided practical suggestions for establishing and engaging discursive rules and rights to improve opportunities for social responsibility. While a subtle addition, it is noteworthy that they want the rules to do more than safeguard as Hudson (2006) recommends. Additionally, the rights and rules ought to *construct momentum* for long term change, recognizing that the abuse and violence sometimes resume. The participants' first recommendation focuses on the process, and they advise that approaches ought to ensure *support is structured throughout the process*, in a manner that is both

predictable and adaptable to the particulars of the circumstances. In this respect, the relational priorities of restorative justice address a gap; they acknowledge a need for support and counselling, and they structure opportunities for this support throughout the process (Hudson 2006). Structuring these opportunities is particularly important when an abused woman's statements challenge existing or normative expectations about what she will need:

So a lot of things people – you know, there's a real gap between people that are living this reality, and – And I'm not to insult you, but people in positions of power and authority over uh, that are supposed to be there to support us – There's this real gap of understanding, of what we're really living with and in, yah. (P11)

It is understood that some women who have experienced abuse and violence are frustrated when criminal justice responses to intimate partner violence are out of touch with their lived realities of the abuse and violence (Dayton 2002-03). The feedback from the participants suggests that structuring opportunities for support will improve their sense of relational justice.

Support which is sensitive and understanding to the dynamics of intimate partner violence is possible, and there has been a real effort to train those who work in the criminal justice system about the dynamics of intimate partner violence (such as police, prosecutors and judges) and to provide knowledgeable services, such as police-based and court-based victim services (such as the Victim/Witness Assistance Program in Ontario). Sensitivity training also already exists outside the criminal justice context, as a condition of some non-legal resources for women such as through crisis and counselling centres as well as shelters, and for men through counselling and other resources, such as Partner Assault Response (PAR) programming (Bancroft 2002), but the participants indicate more is needed to challenge pervasive misconceptions about intimate partner violence. P3 compared the narrowness of criminal justice to the open process of FGDM, and she suggested it would be

beneficial to incorporate opportunities for dialogue amongst persons with social proximity to the abusive relationship, provided there are assurances of protective strategies and solutions:

In the court system, and how, you know, usually it's only the victim who gets support, not always the person who is charged, the accused. And families don't really have that network or support either. So nobody really knows what's going on. So this is another thing, that the communication is excellent. You know, the parole person coming, the counsellor coming, everybody is giving their ... Yah, they're all in the same room. They're all giving their per[spective], so there is an opportunity for healing. Because you're actually talking about it and putting it out there. And everyone's – so you're not just letting it go under the carpet, forgetting about it. Or all these things. It's being dealt with. Yah, in a good way. It would be very good. (P3)

Similarly, P9 suggested, emotional support as a right for women who have experienced intimate partner violence, if they choose to access it, would be helpful:

Yah. I think one that seems to be missed a lot - and you sort of have to deal with it after - is just like, emotional therapy. I don't think that people have enough access. And I think that if that was made more accessible (*short pause*) ... Yah, I think that if access to some form of behavioural or psychotherapy, whatever. I think that – I was very blessed in that I have very good benefits, and I have a good job, and I can afford to go and deal with everything. And deal with the layers, and deal with all of my damage. But I think that if a woman has been hurt so badly and then she's just expected to deal with the emotional on her own. And I think that's huge. And I think it's something that needs to be addressed. (P9)

In addition to structuring emotional support into the process, the women spoke of the importance of providing programming for daily living. Similar to Hamby's (2014) findings that alternate assessments of risk and of protective factors can point to wider range of potential outcomes. including staying in the relationship, P5 spoke of the long-term benefits of programming that addresses practical and relational needs of the women who have been abused:

Yah, women need that opportunity, to go back and be a person in their own right. And so for every person ... Women need, not just to be taken out of that thing at the time. If it doesn't work out, or even if it does, maybe they need to believe that they don't deserve this. (P5)

Sensitivity training about the dynamics and complexities of intimate partner violence exist both within and outside the criminal justice system. However, the criminal justice system, by its design and processes, continues to individualize intimate partner violence rather than to incorporate systemically greater sensitivity to the dynamics of intimate partner violence. Thus, these findings suggest that for intimate partner violence, the participants would be uncomfortable with Hudson's (2002) call for aspects of restorative justice to be incorporated into formal justice because in their view, the restorative justice principles offer better hope of protective solutions and mechanisms to effect social change if configured in domains separate from the criminal justice system.

### **Chapter summary**

This chapter explored how the participants conceptualized justice in light of their experiences of intimate partner violence alongside their views of various social and justice responses available to abused women, finding that they mainly conceptualize justice socially, as recognition (Honneth 2001) in duality with redistribution (Fraser 2001; 1997), and prioritize social mechanisms to effect social change and protective solutions. While the participants' views of restorative justice ideals diverge, in part, from Hudson's (2006; 2003) delineation of discursiveness and reflectiveness, suggesting alternate configurations to address concerns about opening abused women to further unwarranted scrutiny, her delineation of relationalism resonates, and the women preferred reconfiguring the three restorative justice ideals to social domains outside of criminal justice. While they were dissatisfied with the criminal justice system and acutely aware of its failures to help many abused women, nonetheless they did not eschew it entirely and they saw it as valuable for helping some women, particularly in moments of immediate crisis and in the short term.

## CHAPTER 5: CONCLUSION

This research explored how women who have experienced abuse and violence by male intimate partners conceptualize justice and how they view social and justice responses for abused women. It sought feedback from twelve women who have experienced intimate partner violence about three principles of restorative justice as delineated by Hudson (2006; 2003): discursiveness, reflectiveness and relationalism. I was drawn to this research project in part, because of the contentiousness of restorative justice for intimate partner violence. Many cautions and alarms have been raised about restorative justice processes, and yet I wondered whether it still might offer something to the conversations about justice responses for intimate partner violence. Dragiewicz (2011) and Snider (1998b) both raise concerns about the over-reliance on punishment in criminal justice approaches for issues of violence against women, and restorative justice shifts away from this over-reliance. The focus in restorative justice processes on stakeholder involvement and the reparation of harms seems to align with calls by abused women for social justice (Pranis 2002). However, restorative justice has risen in popularity in the “risk society” (Beck 1992) and its burgeoning use of neo-liberal strategies (Bumiller 2008; Minaker and Snider 2006), and the de-emphasis of punishment in restorative justice must not be romanticized in contrast to criminal justice (Cameron 2006b; Hudson 2002; 2003)

In exploring the literature on restorative justice and intimate partner violence, I found that there was a gap concerning the views of abused women about the principles of restorative justice, highlighted by Daly and Stubbs (2006). I determined to ask women who have experienced intimate partner violence, as these women are the true ‘experts’ about it,

for their views on ideals of restorative justice and how they might meet the needs of abused women.

FGDM stood out as the restorative justice approach most respected amongst researchers and activists in the area of intimate partner violence (see for example Busch 2002; Cameron 2005; Stubbs 2004). In addition, FGDM reflects Hudson's (2006; 2003) delineation of discursiveness, reflectiveness and relationalism. I was excited by Hudson's (2006; 2003) delineation of these three principles because, as explored in Chapter 2, and it offered a deductive framework to explore the participants' views of restorative justice principles. Chapter 3 detailed how FGDM exemplifies Hudson's delineation of these principles well and in the interest of safety, efficiency and cost-effectiveness and in the midst the concerns about restorative justice, excerpts from a film of FGDM (as designed and implemented by Pennell and Burford (2002) in the mid-1990s in Newfoundland and Labrador) was chosen for this exploration.

Using excerpts from a film (Cahill 1998) offers a safe, inexpensive and consistent means of relaying the FGDM process to research participants in one-on-one interviews. But this research method has limitations. In the interest of keeping the interviews under two hours, the participants were shown only three excerpts totalling approximately 10 minutes of the 43 minute film. I realized part way through the interview stage that it would have been beneficial to show more of the film, and in particular the preparation processes to the participants, as they were curious and asked about them. Even though the participants did not seem to change their views when the preparation processes were explained to them, it would have been interesting nonetheless to hear their ideas after seeing more of the preparations as depicted in the film. In addition, while the film excerpts offered a practical and accessible portrayal of Hudson's (2006; 2003) abstract delineation of justice principles

‘in action’, not all of the nuances and variations of the principles could be explored through one film, as it offered only one illustration. However, in keeping with feminist principles that the research should be accessible, it was determined that the film provides a clear, effective and efficient means of portraying the principles in a manner that is accessible to participants and does not assume any kind of background knowledge or experience of restorative justice. Indeed, the participants in this research seemed at ease with critiquing what they saw in the film excerpts, and responding to the questions which operationalized the restorative justice principles.

There are three main findings of this research: (1) (Some) Abused women conceptualize justice socially, as recognition to prioritize protective solutions; (2) Restorative justice ideals incorporate social responsibility but require reconfiguration to meet the needs of abused women; (3) (Some) Abused women prefer restorative justice ideals configured to domains outside of justice contexts. It was found that the majority of participants suggest alternate configurations to Hudson’s (2006; 2003) delineation of discursiveness and reflectiveness, in particular, preferring controlled inclusiveness in the problem-solving process to prioritize protective solutions. However, her delineation of relationalism aligns with their conceptualization of justice as recognition (Fraser and Honneth 2003) and of doing justice socially; they appreciated its relational focus and its prioritization of social support and social responsibility, reflecting other research that stresses mechanisms to effect social change (Dobash and Dobash 1992).

### **(Some) Abused women conceptualize justice socially, as recognition to prioritize solutions**

Much has been written about the challenges and obstacles that abused women face when attempting to find justice in response to intimate partner violence. Indeed, justice for

abused women is complex and multifaceted, and this research finds that they envisage it socially, in terms of recognition and redistribution (Fraser and Honneth 2003) to prioritize protective solutions. The participants suggested that protective solutions should engage constructive accountability to spur abusive partners to re-think their abusive attitudes and behaviours. While deserts are part of how they envisaged justice, they were not prioritized, and resonating with research by Snider (1998c) the majority of the participants indicated that while they wanted their partners held accountable, they did not necessarily want them criminalized. Criminal justice responses can backfire on abused women, and indeed two women in this research were criminalized for defending themselves. Abused women experience pressures throughout the social ecology, ranging from the pervasive misconceptions about intimate partner violence and the prevalent violent male masculinities to pressures to stay/leave the relationship. The participants relayed many instances where instead of finding understanding and justice, they encountered misconceptions of intimate partner violence and they were blamed and/or silenced for reasons such as drinking, for fighting back, for not recognizing it as abuse sooner, and for not having ‘evidence’ of sexual abuse.

Hudson’s (2006) argument that law reflects society and it “cannot be expected to remedy injustices legally before they are recognized as injustices socially” (30) reflects the participants’ social conceptualization of justice. In their view, justice for intimate partner violence requires understandings of the complexities and dynamics of intimate partner violence (Minaker 2001; Randall 2004) and for abused women to be seen as social actors in the many social dimensions of their lives throughout the social ecology (Parent and Coderre 2004). The majority of participants expressed frustrations about social images and discourses that continue to blame abused women, how frequently they had been silenced by

them, and how the criminal justice system is informed by them. Through social interactions and communications that shape, relay and perpetuate social values and norms of male privilege, such as news media as well as entertainment and social media, or conversations with persons such as family, friends or co-workers, abused women are frustrated and silenced by failures to recognize and to challenge the connections between male privilege and intimate partner violence. Several participants challenged these discourses, confronting the truth-claims of sensationalist stories in the media that blamed the victim or reinforced stereotypes, or depictions in television shows and movies which misrepresent or oversimplify the dynamics and interpersonal complexities of abuse and violence. The participants spoke of the damaging effects these minimizing and de-contextualizing so-called ‘truths’ had on their own experiences of abuse and violence and some of them indicated that they would have sought justice or solutions sooner had they not encountered them. Thus, justice for abused women is predicated on improving cultural recognition (Honneth 2001) of the complex social bonds abused women navigate, the realities of choices they negotiate (Minaker 2001) and the coercive dynamics of intimate abuse and violence (Stark 2007).

In this light, Hudson’s (2003) explication of alterity as part of justice, whereby difference is given its due, is apt to their conceptualization of justice as recognition (see Part 2 of Chapter 4). Despite improved understandings of intimate partner violence over the past several decades, myths and misconceptions continue and abused women who do not fit normative expectations (Comack 1993) are Other-ed (see discussion of the Other in justice as social in Chapter 1). Giving their difference its due—such as by challenging the victim-blaming and silencing—is integral to justice for abused women. Resonating with research by Herman (2005), the participants’ views of justice do not fit well with either retributive or

restorative ideas of justice but instead they are socially based. To an extent, they held retributive ideals of justice such as the desire for their abusive partners to be held accountable, but they de-emphasized punishment for vindication and instead emphasized its constructive capacities so that abused women *feel that freedom to come forward and have the open-dialogue with people that can help them* (P2, in Chapter 4).

Conceptualizations of justice are multifaceted and they can be further complicated by how they can both *intertwine with* and *be in tension with* the needs of abused women and the solutions available to them at a given point in time. In addition, what is ‘available’ to them required negotiations of choice (Minaker 2001) and navigating their identities, identity-claims, and status (social dis/advantage) throughout the social ecology. Some of the participants expressed frustrations about occasions in which they had to ‘give up’ on justice so that they could find protective solutions. For reasons such as identities marginalized by race and/or disability or because of the type of violence they had experienced (such as sexual violence), they had doubted whether the criminal justice system would be able to help them. For some of the participants, the solutions that they found offered a ‘partial sense of justice’ by meeting their needs and offering recognition to an extent. However, despite finding solutions in their own circumstances and negotiating choices to meet their needs, a sense of frustration and injustice permeated their discussions of justice for intimate partner violence.

### **Restorative justice ideals incorporate social responsibility but require reconfiguration**

There are ideals of discursiveness, reflectiveness and relationalism in all conceptualizations of doing justice, and the delineations of these principles are diverse across modalities of justice. In general, the principle of discursiveness concerns what topics are seen to matter and can be raised in a given justice process, as well as who participates and makes decisions throughout (Hudson 2003). The principle of reflectiveness concerns

what aspects of the persons and situation count in the decision-making including the extent that context is considered. Lastly, the principle of relationalism is about how justice engages with rights and with identity, and with the relationships between individuals, communities and the state (Hudson 2003). As discussed in Chapter 2, the demarcation of these principles varies across punitive, reparative and social conceptualizations of doing justice and their modalities. In exploring Hudson's (2006; 2003) delineation of these principles in restorative justice and how these ideals might respond to the justice needs of abused women, this research finds mixed reviews. Specifically, in the view of the participants, it is a positive aspect of restorative justice that the principles do justice socially and incorporate ideas of social responsibility, however they were concerned about its basis in communitarianism (Hudson 2003; Young 1990) and recommended new configurations to the principles to help ensure misconceptions and minimizing discourses about intimate partner violence are not part of the processes.

Some concerns are specific to the delineation of the principles within restorative justice processes, while other concerns challenge broader apprehensions about the persistence of male privilege in society. The majority of participants did not like the process of FGDM, and they were apprehensive about its discursive ideals, particularly the inclusive problem-solving and that family and friends participated in the process. Like Hudson (2003), the participants were wary of communitarianism and they argued that the 'community' involved would have to have a full understanding of the complexities of intimate partner violence and the challenges that abused women face to find solutions. Similar to Hudson (2003; 2002), they argue that safeguards specific to intimate partner violence are needed but in contrast, they consider the inclusive approach in which any topic can be raised problematic for intimate partner violence because of the risk that prominent

myths and misconceptions about intimate partner violence will dominate. In turn, they recommended reconfiguring discursiveness to focus on problem-solving and finding solutions and they de-emphasized inclusiveness. To this end, the participants suggest collaborations with empathetic strangers (such as representatives from shelters or crisis centres, or with sympathetic co-workers or members of a faith community). They hoped that these types of collaborations might allow flexibility but within distinct and pre-determined parameters to ensure safety.

For Hudson (2006; 2003) the ideal of reflectiveness in restorative justice is about acknowledging and incorporating *context* into justice decision making. It is also about incorporating a framework of social responsibility and social justice into a justice response. While the participants appreciated the contrast of this context-based reflectiveness with criminal justice and its focus on a snapshot and discrete incident, they were concerned that without specific and pre-determined parameters about the issues to be discussed, the reflectiveness of restorative justice would open abused women to further scrutiny and victimization. Their concerns about restorative justice are similar to concerns raised about criminal trials, where despite attempts to challenge male violence against women, its phallogocentric lens disqualifies the complexities and lived realities of women's experiences of gender-based violence (Randall 2008; Smart 1989).

On the other hand, the relationalism of restorative justice seemed to offer promising insights into doing justice for intimate partner violence. Hudson (2003) argues that as a justice principle, relationalism should be about acknowledging the "complex web of relationships of responsibilities, opportunities and pressures" (211), and she is careful to clarify that this principle does not intend that the responsibility of social problems should be shifted to individuals. This research finds that Hudson's (2003) web analogy is apt and in

particular it resonates with the participants' conceptualization of justice as recognition. The group of participants in this research were emphatic that the complexities of intimate partner violence require engagement throughout the social ecology (Campbell et al 2009) for abused women to be recognized as social actors who are seeking solutions (Parent and Coderre 2004). They appreciated how relationalism accounted for tensions between the identity claims of abused women and their needs, as well as the aim in restorative justice to structure processes that allow for plans that are designed to broaden and strengthen social opportunities and 'freedom' (Westmarland and Kelly 2013) for abused women. They appreciated how it aims to prioritize and increase the freedom of abused women through the acknowledgement of their agency and the alleviation of constraints. At least in theory, the relationalism of restorative justice and its engagement throughout the social ecology (Campbell et al. 2009) seems a good fit for intimate partner violence. However, in light of their own experiences, the participants continued to be concerned about abused women being blamed and silenced in justice responses. They appreciated its emphasis of social responsibility; although they were concerned to what extent its use of 'communities' of families and friends could challenge abusive attitudes and behaviour unless myths, misconceptions, and damaging normative expectations are challenged socially.

**(Some) Abused women prefer restorative justice ideals configured to domains outside of justice contexts**

After listening to the views of the participants about justice responses, it is evident that as a group they found criminal justice responses woefully ill-equipped to support abused women and to challenge the dynamics and complexities of intimate partner violence, with some stating that justice for abused women simply does not exist. Despite deep frustrations and exasperations, the participants were unwilling to jettison legal and criminal justice

domains, the majority of participants hoped reforms to criminal justice strategies would create meaningful consequences for abusive men. Lewis, Dobash, Dobash and Cavanagh (2000) argue the reality is that in times of immediate need abused women will continue to contact the police for help. However, for the participants, the configuration of discursiveness, reflectiveness and relationalism in restorative justice is better suited outside of the criminal justice system than within it. Much like other research on criminal justice responses to intimate partner violence, the participants emphasized that justice for abused women must start socially through social change that challenges to male privilege (see for example Dobash and Dobash 1992).

Social changes are needed to inform and reform how criminal justice institutions deal with intimate partner violence. None of the participants considered it likely for the reverse to occur, where criminal justice denounces intimate partner violence and thereby creates social change. Restorative justice was similarly criticized for seeming to presume that a justice response could inform deep social change through ‘communities’ of family and friends. Instead, they conceptualized doing justice in a deep, social, and constructive light. For them, doing justice is about creating long-term capacities to challenge abusive attitudes and behaviour, and to create meaningful solutions for abused women as social actors (Parent and Coderre 2004) throughout the social ecology. Each of the participants was frustrated by the lack of meaningful, long-term solutions through criminal justice strategies. Echoing Bancroft (2002), the participants emphasized that abusive men have to lose what they are gaining before they will change their attitudes and behaviour. In addition, for abused women, doing justice also requires open-mindedness and flexibility (Goodman and Epstein 2005) and not having notions of ‘success’ or expectations about what they ‘ought to do’ imposed on them (Wager 2015; Westmarland and Kelly 2013).

In light of their own experiences, the participants argued that for abused women, justice is about cultural recognition (Honneth 2001) and redistribution (Fraser 2001; 1997), and doing justice is about determining protective solutions throughout the social ecology. While social locations that offer safety and longer-term solutions, such as shelters and housing, do not claim to be justice responses, they are closer to how abused women conceptualize justice socially. Indeed, some of the participants indicated that the criminal justice system might be involved in a restorative justice process if they were already involved in the situation, and the findings of this research suggest criminal justice might enhance its capacities to ‘do justice’ by engaging in collaborations and partnering with social organizations where long-term solutions is their focus, and where they understand the dynamics and complexities of intimate partner violence. However, caution is also needed here: given experiences of co-optation of progressive initiatives in the past (see for example Hannah-Moffat 2000; Ptacek 2010).

In conclusion, this research project illuminates meanings of justice for abused women, finding that they conceptualize justice as recognition in duality with redistribution, and envisage justice done socially. For abused women, recognition is about not being afraid of an abusive partner. While this means justice as acknowledgement and validation (Herman 2005) it also goes beyond this conceptualization to one that asks for action throughout the social ecology, moving from acknowledgement to cultural recognition, and from validation to redistribution. Feedback of the participants about restorative justice ideals offers suggestions for *how* and *where* the restorative justice principles might benefit abused women socially and in domains outside the criminal justice system. Adding to the conversation about restorative justice and intimate partner violence, the participants’ feedback the principles offer insights into how they might be configured outside of the

criminal justice system. In particular, relationalism engages social responsibility and offers a framework for its configuration in domains throughout the social ecology.

### **Final thoughts**

I began this project with my own set of biases and presuppositions and, focusing on FGDM and hybrid responses that engaged both restorative justice and criminal justice, in keeping with arguments by Hudson (2002) I had assumed that the participants would suggest how restorative justice might be configured within the criminal justice system to better support abused women. It was unexpected that the participants' criticisms of the ideals in restorative justice would lead to recommendations to reconfigure the principles outside of the criminal justice system. Indeed, the unexpectedness of these recommendations speaks to my own presuppositions as a researcher and my assumption that participants would not shift the principles away from the symbolic power of criminal justice and that they would prefer them configured in hybrid contexts that engage both criminal justice and restorative justice. Instead, the participants conceptualized justice socially, and their conceptualization of justice as recognition reflects a lack of hope in the capacity of the criminal justice system to provide meaningful long term change. While their conceptualizations of doing justice do not eschew criminal justice entirely, they envisage protective long term solutions for abused women in other domains of the social ecology.

At the end of this project, I find myself considering further questions. I find myself wondering about the influence of the sample and its representations of race and faith communities. I also find myself wondering about the affects of using the term 'justice' instead of 'solutions' in the interviews, as all of the participants in this study who had engaged the criminal justice system had been frustrated by their experiences there. In response, it is suggested that future research explore the views of abused women about

principles of doing justice socially. Given that the participants prioritized protective solutions in social domains and conceptualized justice as recognition in duality with redistribution, future research could explore domains throughout the social ecology for the potential to ‘do justice’ socially through protective solutions. Social service domains such as help lines, crisis centres, and shelters and, more broadly, workplaces, media, and social media, may be social locations where there is potential to create collaborations and protective solutions through configurations of the principles of restorative justice, and to encourage and enable the cultural recognition of abused women as social actors in webs of relations throughout the social ecology. In keeping with Cameron’s (2006b) cautions that research about restorative justice ought to utilize data that already exists from restorative justice programming before further programming is pursued, explorations of conceptions of doing social justice in social domains should also be cautious. Caution is needed in the present “risk society” (Beck 1992) and its neo-liberal projects that create opportunities for further surveillance and management of abused women (Bumiller 2008). Even programming designed with good intentions can create new stressors and pressures, particularly in a time when rights-based and equality arguments of the anti-feminist backlash make claims that women are as violent as men (Dragiewicz 2008; Minaker and Snider 2006) and misconceptions about intimate partner violence persist.

Holder’s (2013) description of conceptions of *justice* as “a prism through which to see, understand and engage the world” (39) is apt to the participants plural conceptualizations of justice. Based on feedback from the participants, conceptions of *doing justice* can also be seen as a prism through which to see domains throughout the social ecology with opportunities for protective solutions for abused women. While their conceptions of justice were relatively stable and fixed, the participants’ ideas about what

solutions are available in what personal, social or legal domains were dynamic and fluctuated as circumstances changed, and they were affected by personal, social and political values and norms, social structures and institutions, and opportunities and barriers. As light through a prism creates a spectrum of colours, prisms of identity claims, social privilege and disadvantage, and social values and norms had bearing on the participants' conceptualizations of justice and of doing justice for intimate partner violence.

## APPENDICES

### Appendix 1 - Semi-structured interview guide

#### Section One: Background information

First, I would like to ask you on tape if you have read the consent form that I have given you explaining the study and your potential participation in it.

Did you read the consent form?

Do you consent to doing the interview?

And do I have your permission to tape the interview?

OK.

I'd like to start by getting to know a bit more about you by asking some general background questions. This information helps me to understand how different circumstances affect women's experiences and decisions. Again, I'd like to emphasize that everything you tell me will be kept completely confidential and no one will be able to identify you with what you tell me.

I want to emphasize that there are no right or wrong answers, I'm interested in the decisions women make around their experiences of violence. You don't have to answer any questions that you are not comfortable answering. You can just say 'pass' and we will go on to the next question with no questions asked.

1. I realize that I may have asked you this already, but I would like to ensure I have the right information. How did you find out about this study?
2. Without giving me your address, whereabouts do you live? (*Probe: For example, are you in a city, town, small community or the country?*)
3. Do you consider yourself as belonging to any particular ethnic or racial group? (*Probe if she says 'yes': Ask which group she belongs to.*)
4. Do you consider yourself as belonging to a particular religious group or faith community? (*Probe if she says 'yes': Ask which group she belongs to.*)
5. Do you identify yourself as a person with a disability? (*Probe: If yes, what type of disability?*)

#### *Social Network*

The next questions are designed for me to learn about your connections with relatives, neighbours, friends and other members of your community.

6. Do you have the opportunity to get together with relatives or friends? (*Probe: How often? Are they nearby?*)

7. Could you count on your relatives, friends or neighbours to help you with personal problems? (*Probe: Have they done so in the past?*)

### *Experiences of violence*

To make sure we're on the same page, when I speak of violence in intimate relationships, I'm referring to a woman experiencing violence by a male partner, and this could be a husband, common-law partner or a boyfriend.

The definition of intimate partner violence I'm working from includes all forms of abuse and violence against a woman by a male partner, including emotional, psychological, and financial abuse as well as physical and sexual abuse and violence. For example, this includes a male partner belittling her, using controlling tactics and behaviour, and not allowing access to bank accounts as well as a woman being slapped, hit, pushed, punched, choked, and experiencing unwanted sexual touching or other types of physical or sexual violence by him.

Women who have experienced violence by male intimate partners come from all backgrounds and make a range of different decisions in response to the violence. Some women decide to contact the police, some go to shelters, some ask for help from family or friends, and some do not talk to anyone about the violence.

I realize that it may be difficult to discuss experiences of violence, but if I may, I would like to ask you some questions about your experiences and for your views about justice and how women who have experienced violence might be helped to be safe. Please feel free to stop me at any time, and if you feel uncomfortable with a question, please let me know.

8. At any time in your life, have you ever experienced violence by a male intimate partner (such as a husband, male live-in partner or dating partner)? (*Probes: What did he do? When did it happen? How often did it happen? How long had you known him/them?*)

### *Section Two: Help-seeking experiences and views about criminal justice*

Now I'm going to ask you some questions about telling other people about the violence. Many women find it difficult to tell anyone and many never do, or they don't tell anyone until years later. I want to understand more about what helps women to tell other people, or what stops them from telling.

Again, I want to emphasize that there are no right or wrong answers. I'm interested in the decisions women make around their experiences of violence. Are you okay about going on?

9. Have you told any friends or family about the violence? (*Probe if 'yes': Who? Were they able to help you?*) (*Probe if 'no': What do you think played into your decision not to tell any friends or family about the violence?*)
10. Have you ever sought help from a community resource, such as a shelter or crisis centre? (*Probe if 'yes': What type of resource was it? Was it helpful?*) (*Probe if*

*'no': What do you think played into your decision not to seek help from a community resource?)*

11. a) Have you ever contacted the police for help about the violence?

(At this point, the interview guide branches into two sections, based on whether the participant has contacted the police about the violence.)

	<b>Those who have contacted the police</b>	<b>Those who have NOT contacted the police</b>
11. b)	What happened after you contacted the police? <i>(Probes: Did it go to court? Was your ex/partner ordered to do anything, such as treatment or time in prison?)</i>	What do you think played into your decision not to contact the police? <i>(Probes: Did getting help from other places play into your decision?)</i>

There has been recent research interest in whether responses other than the police and courts might provide justice and be helpful for women experiencing violence in intimate relationships. And while it is known that some women want alternatives to police and courts and, indeed, there are other options available (such as shelters and intervention programming), we would like to learn more about what else might be done. For one thing, what is best may vary from one place to another and for different women, depending on their circumstances.

If you're comfortable continuing, I am going to show you a short clip from a video called *Widening the Circle: The Family Group Decision Making Experience*. This video is about an informal process called Family Group Decision Making. It is an informal process which includes family and/or friends of the man and woman as well as workers from shelters or crisis centres, but it still involves the law.

I'll just provide a bit more detail about Family Group Decision Making before showing the video clip. In Family Group Decision Making, what happens is that a coordinator arranges what's called a "family group conference" with the family and its support persons; these could be family members or close friends. Authorities are also involved; these could be the police, parole or probation officers, social workers etc, depending on who is already involved with the family.

The "family group conference" **opens** in a way which is comfortable for the family; that is to say, it opens in the culture of the family so that it they "own" it (for example, it might include an opening custom or prayer from their culture). Then there is a time **for information sharing** which includes presentations by family members as well as the authorities and/or by local agencies such as representative from a shelter or crisis centre. These presentations help to ensure everyone knows what's happening and what resources are available in the area. After the presentations, the authorities leave the room and the family and their support persons develop **a plan** to deal with the abuse and violence. The authorities then come back and they must **approve the plan** and the resources needed to carry it out.

We're going to watch a clip from a video which tells the story of one family, a mother, father and two daughters dealing with the father's alcohol abuse and violence. The father has been violent to the mother and the oldest daughter, and the case came to the attention of child welfare authorities when the daughter went to school with a black eye. The incident has been reported and they have decided to do a family group conference. It should be noted that the scenario in the video is focused on the children's welfare, but the man is also abusive to his partner.

There are three different sections in the video clip that we're going to watch. The first section shows the conference preparation, the next section shows part of the information sharing time, and the last section shows an overview of the plan that the family made at the end of conference

After we have watched the video, I would appreciate hearing your thoughts and impressions about it.

*Show video.*

*Widening the Circle: The Family Group Decision Making Experience*

11:55 to 17:48 depicts conference preparation

19:58 to 23:07 depicts conference, first phase, information sharing

38:00 to 39:15 depicts overview of Family Plan at end of conference

*Section Three: Family Group Decision Making and views about justice*

12. What are your first impressions of the process shown in the video?

13. Do you think women who are abused would want to participate in such a process? (*Probes: Why or why not? What do you think of its emphasis of friends, family and community resources rather than the courts? Are women who are abused too isolated to use such a process? Could you tell me a bit more about that?*) (This question aims to learn about **relationalism**.)

14. Do you think an informal process such as this one might help women who are abused to develop or to connect with a support network? (*Probe: Why or why not? Could you tell me a bit more about that?*) (This question aims to learn about **reflectiveness**.)

15. How do you think such a process might help a couple? How do you think such a process might *not* help a couple? (*Probe: What if she is planning to leave? Could a process like this help a woman to create a safety plan? What if she is not planning to leave the relationship? Could you tell me a bit more about that?*) (This question aims to learn about **relationalism**.)

16. Do you think the abusive partner should take part? (*Probe: How might his presence/absence affect the chances for problem-solving? How might his presence / absence affect the final decision? Would it make a difference whether the abusive partner's participation was voluntary or if it was required by the courts?*) (This question aims to learn about **discursiveness**.)
17. What do you think of having the police or other officials there at the beginning and end of the process? (*Probe: Does the fact that the authorities have to approve the plan affect your answer? Why or why not? Could you tell me a bit more about that?*) (This question aims to learn about **reflectiveness**.)
18. What do you think of having family and friends come up with the plan on how to proceed? (*Probe: What if one group of family and friends dominates the discussion and the other one has little input? Could you tell me a bit more about that?*) (This question aims to learn about **discursiveness**.)
19. What kind of supports can family and friends provide? What might be some limitations of involving family and friends? (*Probe: Could it be too much to ask from friends or family? Could you tell me a bit more about that?*) (\*This question aims to learn about **relationalism**.)
20. Do you think a process such as family group decision making can come to a conclusion which is fair? (*Probe: Why or why not? Could you tell me a bit more about that?*)

I would like to ask four open-ended questions. Just as with the questions up until this point, there are no right or wrong answers. Please feel free to say as much or as little as you would like.

21. When I say justice, what does this mean to you?
22. What do women need in a justice response?
23. Considering all the options, such as the police and courts or less formal processes, what do you think is the best way to get there? (*Probes: education, treatment programs, shelters, support by family and friends, prison, punishment?*)
24. If you could change anything about the way the current criminal justice system deals with domestic violence, what would that be?

Lastly, if you don't mind, I'd like to ask just a few more questions about yourself.

25. What education have you completed?
26. How old are you?
27. Are you employed?

28. I'm going to provide a few ranges and I'm wondering if you could tell me approximately how much money you lived on last year? Was it:

- 0-\$25,000
- \$25,000-\$50,000
- \$50-\$75,000
- +\$75,000

That's all I have to ask you. Is there anything I haven't asked about that you think I should know? Thanks for taking the time to talk to me today. Hearing about your experiences and point of view helps me to understand these issues better. Remember that there are counsellors available for you if the interview has brought up anything you need to talk to them about.

## **Appendix 2 - Organizations contacted**

### **Summary of recruitment locations**

- Local organizations and resource centres for women who have experienced domestic violence
- Local shelters
- bus stops, Laundromats, grocery stores, libraries, coffee shops, and bookstores
- Community centres, recreation centres and sports arenas
- Senior centres
- Newspaper advertisements (listed on application but I did not advertise in any newspapers).

### **Additional recruitment locations**

- Expand to similar types of locations in beyond local area
  - Types of locations: Laundromats, grocery stores, libraries, coffee shops, bookstores, Community centres, recreation centres, sports arenas, and senior centres
  - Resource Centres and shelters for women who have experienced domestic violence

### **Appendix 3 - Study Information Sheet**

*\*to be included/posted with the advertisement*

**Initial version of the study information sheet:**

## **VIOLENCE AGAINST WOMEN RESEARCH PROJECT**

### **What is 'justice'?**

There has been interest in whether justice responses other than the police and courts, such as restorative justice, might be helpful for women experiencing violence in intimate relationships. However, while it is known that some women want alternative justice processes to police and courts available to them, we don't know what would be most appropriate. Moreover, what is most appropriate may vary from one place to another or for women in different circumstances.

**Who?** This research is centred on the views and ideas of women who have experienced violence by a past male partner. It seeks the views of women who have been in violent relationships.

**Why?** This research seeks women's views and ideas about justice, including any experiences they may have had with the police and courts, shelters, or crisis centres etc., in order to help make women safer from violence in intimate relationships.

**When?** The interview will take place during the day at a time which is convenient for the participant. The interview will last approximately 1 to 2 hours.

**Where?** We will arrange to talk in a safe place at a time that you choose.

**Payment:** Up to \$20 for the costs of babysitting and transportation will be reimbursed.

**To participate, please call Stephanie at (XXX) XXX-XXXX.**

*The researchers for this project are from the University of Ottawa.*

Revised study information sheet:

## **VIOLENCE AGAINST WOMEN RESEARCH PROJECT**

### **What is 'justice'?**

There has been interest in whether justice responses other than the police and courts, such as restorative justice, might be helpful for women experiencing violence in intimate relationships. However, while it is known that some women want alternative justice processes to police and courts available to them, we don't know what would be most appropriate. Moreover, what is most appropriate may vary from one place to another or for women in different circumstances.

**Who?** This research is centred on the views and ideas of women who have experienced violence by a past male partner. It seeks the views of women who have been in violent relationships.

**Why?** This research seeks women's views and ideas about justice, including any experiences they may have had with the police and courts, shelters, or crisis centres etc., in order to help make women safer from violence in intimate relationships.

**When?** The interview will take place during the day at a time which is convenient for the participant. The interview will last approximately 1 to 2 hours.

**Where?** We will arrange to talk in a safe place at a time that you choose.

**Payment:** \$50 for participation.

**To participate, please call Stephanie at (XXX) XXX-XXXX.**

*The researchers for this project are from the University of Ottawa.*

## Appendix 4 - Women's Resource Bookmark and business card

### Resource bookmark

#### Front

##### Crisis Support

911	Police, Fire Department, or Ambulance
XXX.XXX.XXXX	Distress Centre
XXX.XXX.XXXX (emergency)	Crisis / Care Centre
XXX.XXX.XXXX (counselling)	
XXX.XXX.XXXX	Shelter
XXX.XXX.XXXX	Shelter
XXX.XXX.XXXX	Shelter
XXX.XXX.XXXX	Assaulted Women's Help Line
TTY XXX.XXX.XXXX	
XXX.XXX.XXXX	Kids Helpline

##### Food

XXX.XXX.XXXX	Food Bank
XXX.XXX.XXXX	Food Bank
XXX.XXX.XXXX	Food Bank
XXX.XXX.XXXX	Food Bank

##### Support Services

XXX.XXX.XXXX	Resource Centre
XXX.XXX.XXXX	Social Services
XXX.XXX.XXXX	Employment Centre
XXX.XXX.XXXX	Legal Aid
XXX.XXX.XXXX	Family Court

#### Back



**Resources for Women in XXXX**

## Business Card



## **Appendix 5 - Recruitment Text / Bulletin Board Advertisement**

**Initial version of the recruitment text:**

### **Call for women to participate in a Violence Against Women research project**

We are looking to better understand decisions women make when they experience violence (such as slapping, hitting, pushing, or physical or sexual assault) by male partners.

#### **HAVE YOU EVER BEEN HURT BY A PAST MALE PARTNER?**

If you are 18 years old or older, we would greatly appreciate your participation in a **confidential interview**. Your name will not be given to anyone and the information you provide will be used only for research purposes. The goal of the research is to help make women safer from violence in intimate relationships.

We will arrange to talk in a safe place at a time that you choose. Up to \$20 for the costs of babysitting and transportation will be reimbursed.

**If you would like to participate,  
please call Stephanie at (XXX) XXX-XXXX.**

*The researchers for this project are from the University of Ottawa.*

Revised recruitment text:

**Call for women to participate in a  
Violence Against Women research project**

We are looking to better understand decisions women make when they experience violence (such as slapping, hitting, pushing, or physical or sexual assault) by male partners.

**HAVE YOU EVER BEEN HURT BY A PAST MALE  
PARTNER?**

If you are 18 years old or older, we would greatly appreciate your participation in a **confidential interview**. Your name will not be given to anyone and the information you provide will be used only for research purposes. The goal of the research is to help make women safer from violence in intimate relationships.

We will arrange to talk in a safe place at a time that you choose and you will be paid \$50 for participating.

**If you would like to participate,  
please call Stephanie at (XXX) XXX-XXXX.**

*The researchers for this project are from the University of  
Ottawa.*

## **Appendix 6 - Presentation for Women's Organizations**

### **Purpose of Research**

This research is about the needs and wishes of women who experience violence by male intimate partners. It aims to learn about women's experiences with criminal justice responses, such as protective orders and the police and courts, (if they have had any experiences) and their views of restorative justice ideals. I'm asking women for their opinions and feedback about a justice response which involves friends and family in the decision-making process and aims to address the complexity of the situation, recognizing the complex web of relationships and responsibilities in which the violence is occurring.

Family Group Decision Making is the restorative justice process discussed because it has demonstrated successes with family violence and it reflects the restorative justice ideals that I am examining.

### **Method**

I am conducting one-on-one interviews with women who are over 18 years of age, English speaking, and have experienced violence by a former male intimate partner with whom they no longer have contact. In the interviews, the women are asked a few questions about their background and their experiences of violence, about their experiences with the criminal justice system (if any), and they are given the opportunity to talk about whatever they are comfortable sharing. Next they watch a short video of a Family Group Decision Making process and they are asked for feedback about it.

The interviews are between one and two hours long and they take place at times which are convenient for the participants, in private settings at public locations (such as a shelter or resource centre for women, or a library) or in an exceptional case, in a home. The participants will be paid \$50. This payment is meant to cover costs they may have incurred in doing the interview, such as childcare and transportation costs.

With the permission of participants, I will be recording the interviews and I will then offer access to the transcripts of the interviews at a follow-up meeting. This follow-up opportunity is meant to provide a chance for the women to clarify or speak to anything they thought of after the initial interviews and to read and make any desired changes to the transcripts of the initial interviews.

### **Further details about the research (description and objectives)**

To provide a more detail about the research itself, when I speak of violence in intimate relationships, I'm referring to a woman experiencing violence by a male partner, and this could be a husband, common-law partner or a boyfriend.

The definition of intimate partner violence I'm working from includes all forms of abuse and violence against a woman by a male partner, including emotional, psychological, and financial abuse as well as physical and sexual abuse and violence. For example, this includes a male partner belittling her, using controlling tactics and behaviour, and not allowing access to bank accounts as well as a woman being slapped, hit, pushed, punched,

choked, and experiencing unwanted sexual touching or other types of physical or sexual violence by him.

In recent decades, intimate partner violence has become recognized as a social problem and progress has been made in and through criminal justice responses. For example, protective orders, and police and court responses have provided safety to some women. However, there are also problems with these responses such as the increasing frequency with which women are arrested when the police are called.

Keeping in mind both the achievements and concerns with current criminal justice responses to intimate partner violence, I am looking at whether there are elements of restorative justice which might offer promise for women seeking support through a justice response. But why look at restorative justice?

I am looking at restorative justice because it is different from conventional criminal justice in both its philosophy and approaches. It focuses on the harm done and it aims to improve outcomes through increased problem-solving opportunities, both for victims and offenders. Many restorative justice approaches, including the one I'm looking at, Family Group Decision Making, involve friends and/or family. Most importantly for this research, it focuses on the harm done to the victim, holding offenders accountable to put right those harms, and it considers the victim's needs (including practical ones such as housing etc), connecting her with a support network during the justice process.

### **Anticipated contribution**

This research project seeks a greater understanding of what justice ideals women prioritize in response to intimate violence. While it is beyond the scope of this project to answer whether restorative justice ideals can create safety and effective justice for women who have experienced intimate violence, this research aims to shed more light on women's views concerning justice principles and processes.

Lastly, restorative justice is sometimes argued to have potential to create broad, positive changes in society, beyond just the individual case and situation being addressed. In turn, a further anticipated contribution of this research is to learn about women's opinions about seeking broader change towards the end of intimate partner violence through justice responses.

## Appendix 7 - Informed Consent Form

*\*on University of Ottawa letterhead*

### Research study:

### ***Women's views of justice for intimate partner violence***

**Stephanie Ehret, PhD Candidate**

**Principal Researcher**

University of Ottawa

Department of Criminology

Faculty of Social Science

E-mail address

XXX-XXX-XXXX

Dr. Holly Johnson

Thesis Supervisor

University of Ottawa

Department of Criminology

Faculty of Social Science

E-mail address

XXX-XXX-XXXX, ext. XXXX

**Invitation to Participate:** I am invited to participate in the above mentioned research study conducted by Stephanie Ehret, and supervised by Dr. Holly Johnson.

**Purpose of the Study:** This research is centred on the needs and wishes of women in Canada who experience violence by male intimate partners. It seeks to achieve a greater understanding of women's views of justice principles and processes.

**Participation:** My participation will consist of a confidential interview with the researcher which will be one to two hours long. I will be asked specifically about my experiences of violence by a previous male intimate partner, about my experiences with the police and courts (only if I have contacted them in the past), and about my views on what an ideal justice response to intimate partner violence would include.

**Risks:** My participation in this study involves talking about my experiences and opinions. This may cause me to feel uncomfortable or experience emotional stress. I have received assurance from the researcher that every effort will be made to minimize these risks and that I can refuse to answer questions and/or withdraw my participation at any time. Ms. Ehret has informed me of some resources available to help me deal with these stresses should I need them.

**Benefits:** My participation in this study will provide valuable insights into how women view informal responses to violence by their husbands or male live-in partners. The results of this study will enhance our understanding of women's views of informal responses to violence by their male intimate partners.

**Confidentiality and anonymity:** I have received assurance from the researcher that the information I will share will remain strictly confidential and any quotations from the interview will remove any identifying information. I understand that the contents will be used only for research purposes and that my confidentiality will be protected. This will be done through secure storage of the information that I provide, the limited people who have access to this information (Ms. Ehret and Dr. Johnson), and the fact that the interview is taking place in a quiet, private space with no outside recording devices aside from the interviewer's recorder.

I am aware that the researcher has a duty to report any current child abuse that I disclose. I am aware that the researcher also has a duty to report if children are currently exposed to spousal violence. I am also aware that if I disclose information regarding the imminent harm to myself or another person, this confidentiality would be broken only insofar that information regarding the specific harm would be shared with a counsellor at the crisis centre. Everything else that I have contributed would remain confidential. **Anonymity** will also be protected. I will not be asked to provide any specific information during the interview that could be used to identify me. I will provide a pseudonym for the interview. My real name will not be revealed in any documentation, transcripts, or publications connected to this research, and pseudonyms will be used in any reference to my specific contributions.

Initial

**Conservation of data:** All data collected will be secured in a locked filing cabinet for five (5) years following the conclusion of the research. The electronic data collected (including audio recordings of this interview, transcripts, and any notes or documentation arising from this interview) will be stored on a USB drive and the files will be protected by a password available only to Ms. Ehret and Dr. Johnson. Any hard copy documents (including consent forms, interview notes and other documentation) will be kept in a locked filing cabinet, and only accessible to Ms. Ehret and Dr. Johnson. A copy of the data and documentation collected will be stored in an alarmed office on the University of Ottawa campus.

**Voluntary Participation:** I am under no obligation to participate and if I choose to participate, I can withdraw from the study at any time and/or refuse to answer any questions, without suffering any negative consequences. Even if I withdraw from the study, I will be reimbursed up to \$20 for babysitting and transportation expenses incurred. If I choose to withdraw, all data gathered until the time of withdrawal will be held confidential by Ms. Ehret, and not used in the research.

If I choose, I may meet with Ms. Ehret again in order to review the transcript (written copy) of this interview and make changes to any of my comments and/or remove any of my comments.

I *do not* want to review the transcript (written copy) of this interview.

I want to review the transcript (written copy) of this interview.

I will contact Stephanie Ehret by \_\_\_\_\_ (this date is one month from this interview) in order to arrange a time to review the transcript.

I wish to be informed by phone when the transcript is ready for my review. I can be contacted at \_\_\_\_\_ (insert phone number).

**Acceptance:** I, \_\_\_\_\_ (*name or pseudonym*) agree to participate in the above research study conducted by Stephanie Ehret of the Department of Criminology at the University of Ottawa, and which is conducted under the supervision of Dr. Holly Johnson.

If I have any questions about the study, I may contact the researcher or her supervisor.

If I have any questions regarding the ethical conduct of this study, I may contact:

Protocol Officer for Ethics in Research

University of Ottawa, Tabaret Hall,

550 Cumberland Street, Room 154

Ottawa, ON K1N 6N5

Tel.: (XXX) XXX-XXXX

Email

There are two copies of the consent form, one of which is mine to keep.

Participant's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Researcher's signature: \_\_\_\_\_ Date: \_\_\_\_\_

## REFERENCES

Ackerman, Bruce A. (1980) *Social Justice in the Liberal State*, New Haven, Connecticut: Yale University Press.

Aertsen, Ivo, Stephan Parmentier, Inge Vanfraechem, Lode Walgrave and Estelle Zinsstag (2013) "An adventure is taking off. Why Restorative Justice: An International Journal?", *Restorative Justice: An International Journal Vol. 1, No. 1.*, pp. 1-14.

Ansara, Donna L. and Michelle J. Hindin (2011) "Psychosocial Consequences of Intimate Partner Violence for Women and Men in Canada", *Journal of Interpersonal Violence, Vol. 26, No.8*, pp. 1628-1645.

\_\_\_\_\_, (2010) "Exploring gender differences in the patterns of intimate partner violence in Canada: a latent class approach", *Journal of Epidemiology and Community Health, Vol. 64, No. 10*, pp. 849-854.

Balfour, Gillian (2006) "Re-imagining a Feminist Criminology", *Canadian Journal of Criminology and Criminal Justice Vol. 48, No. 5*, pp. 735-752.

Bancroft, Lundy (2002) *Why does he do that? : inside the minds of angry and controlling men*, New York, USA: Penguin Group (USA) Inc., The Berkley Publishing Group.

Bancroft, Lundy and Jac Patrissi (2011) *Should I stay or should I go? : a guide to knowing if your relationship can – and should – be saved*, New York, USA: Penguin Group (USA) Inc., The Berkley Publishing Group.

Barata, Paula and Charlene Y. Senn (2003) "When Two Fields Collide: An Examination of the Assumptions of Social Science Research and Law Within the Domain of Domestic Violence", *Trauma, Violence, & Abuse: A Review Journal, Vol. 4, No. 1*, pp. 3-21.

Barrett, Betty Jo, Melissa St. Pierre, and Nadine Vaillancourt (2011) "Police Response to Intimate Partner Violence in Canada: Do Victim Characteristics Matter?", *Women & Criminal Justice, Vol. 21, No. 1*, pp. 38–62.

Bazemore, Gordon and Lode Walgrave (1999) "Restorative juvenile justice: In search of fundamentals and an outline for systemic reform." in *Restorative juvenile justice: Repairing the harm of youth crime*, Gordon Bazemore and Lode Walgrave (eds), Monsey, NY: Criminal Justice Press, pp. 45-74.

Bazemore, Gordon and Twila Hugley Earle (2002) "Balance in the Response to Family Violence: Challenging Restorative Principles", in *Restorative Justice and Family Violence*, John Braithwaite & Heather Strang (eds.), Cambridge U.K.: Cambridge University Press, pp. 153-177.

Beaudry, Micheline (1985) *Battered Women*, translated by Lorne Huston & Margaret Heap, Black Rose Books: Montreal and Buffalo.

Beck, Ulrich (1992) *Risk Society: towards a New Modernity*, translated by Mark Ritter, New Delhi: Sage Publications. Originally published as *Risikogesellschaft Auf dem Weg in eine andere Moderne*, 1986.

Benhabib, Seyla (1992) *Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics*, Cambridge: Polity Press.

Berg, Bruce L. and Howard Lune (2012) *Qualitative Research Methods for the Social Sciences: Eighth Edition*, Boston, MA: Pearson Education, Inc.

Berk, Richard A., Alex Campbell, Ruth Klap, and Bruce Western (1992) "The Deterrent Effect of Arrest in Incidents of Domestic Violence: A Bayesian Analysis of Four Field Experiments", *American Sociological Review Vol. 57, No. 5*, pp. 698-708.

Berns, Nancy (2001) "Degendering the problem and gendering the blame: Political discourse on women and violence" *Gender and Society, Vol. 15, No. 2*, pp. 262-281.

Bertrand, Jane T, Judith E. Brown & Victoria M. Ward (1992) "Techniques for Analyzing Focus Group Data", *Evaluation Review Vol. 16, No. 2*, pp. 198-209.

Bowker, Lee H. (1983) *Beating Wife-Beating*, Canada and U.S.: D.C. Heath and Company.

Boyes-Watson, Carolyn (2000) "Reflections on the purist and maximalist models of restorative justice", *Contemporary Justice Review Vol. 3(4)*, pp. 441-450.

Braithwaite, John (2003) "Principles of Restorative Justice", in *Restorative Justice & Criminal Justice: Competing or Reconcilable Concepts?*, Andrew Von Hirsch, Julian Roberts, Anthony Bottoms and Kent Roach, Maria Schiff (eds.), Oregon: Hart Publishing: Oxford and Portland, pp. 1-20.

\_\_\_\_\_, (2000) "Shame and criminal justice", *Canadian Journal of Criminology Vol. 42 No. 3*, pp. 281-298.

\_\_\_\_\_, (1989) *Crime, Shame and Reintegration*, Cambridge University Press: New York, NY.

Braithwaite, John and Kathleen Daly (1994) "Masculinities, violence and communitarian control", *Just Boys Doing Business? Men, masculinities and crime*, Tim Newburn and Elizabeth A. Stanko (eds.) London: Routledge, pp. 189-213.

Brooks, Abigail (2007) "Feminist Standpoint Epistemology: Building Knowledge and Empowerment Through Women's Lived Experience" in *Feminist Research Practice: A Primer*, Sharlene Nagy Hesse-Biber and Patricia Lina Leavy (eds.), U.S.: Sage Publications, pp. 53-82.

Bronfenbrenner, Urie (1979) *The Ecology of Human Development: Experiments by Nature and Design*, Cambridge, Massachusetts and London, England: Harvard University Press.

Bumiller, Kristen (2008) *In an Abusive State: How neoliberalism appropriated the feminist movement against sexual violence*, USA: Duke University Press.

\_\_\_\_\_, (1998) "Fallen Angels: The Representation of Violence Against Women in Legal Culture", *Criminology at the Crossroads: Feminist Readings in Crime and Justice*, Daly, Kathleen and Lisa Maher (eds), New York, NY: Oxford University Press, pp. 37-53.

Busch, Ruth (2002) "Domestic Violence and Restorative Justice Initiatives: Who Pays if We Get it Wrong?" in *Restorative Justice and Family Violence*, John Braithwaite & Heather Strang (eds.), Cambridge U.K., Cambridge University Press, pp. 223-248.

Cahill, Brian (Producer) and Gale Burford and Joan Pennell (Directors) (1998) *Widening the Circle: The Family Group Decision Making Experience*, [Motion picture] School of Continuing Education, Memorial University of Newfoundland.

Cameron, Angela (2006a) "Sentencing Circles and Intimate Violence: A Canadian Feminist Perspective", *Canadian Journal of Women and the Law*, Vol. 18, No. 2, pp. 479-512.

\_\_\_\_\_, (2006b) "Stopping the violence: Canadian feminist debates on restorative justice and intimate violence", *Theoretical Criminology*, Vol. 10, No. 1, pp. 49-66.

\_\_\_\_\_, (April, 2005) "Restorative Justice: A Literature Review", Vancouver, BC, Canada: The British Columbia Institute Against Family Violence, Retrieved November 2006 from: [http://www.bcifv.org/pubs/Restorative\\_Justice\\_Lit\\_Review.pdf](http://www.bcifv.org/pubs/Restorative_Justice_Lit_Review.pdf).

Campbell, R., E. Dworkin, and G. Cabral (2009) "An ecological model of the impact of sexual assault on women's mental health", *Trauma, Violence, & Abuse*, Vol. 10, No. 3, pp. 225-246.

Campbell, Tom (2010) *Justice*, London: Palgrave Macmillan.

Chan Wendy and Dorothy Chunn (2015) *Racialization, Crime, and Criminal Justice in Canada*, University of Toronto Press: Toronto.

Cheon, Aileen & Cheryl Regehr (2006) "Restorative Justice Models in Cases of Intimate Partner Violence: Reviewing the Evidence", *Victims and Offenders*, 1, Taylor & Francis Group, LLC, pp. 369-394.

Chewter, Cynthia L. (2003) "Violence against women and children: Some legal issues", *Canadian Journal of Family Law*, Vol. 20, pp. 99-178.

Christie, Nils (1986) "The ideal victim", in *From Crime Policy to Victim Policy: Reorienting the Justice System*, E. Fattah (ed.), London, UK: MacMillan Press, pp. 17-30.

\_\_\_\_\_, (1981) *Limits to Pain: The Role of Punishment in Penal Policy*, Universitetsforlaget, re-published 2007 with forward by Howard Zehr, Wipf and Stock Publishers.

\_\_\_\_\_, (1977) "Conflicts as Property", *The British Journal of Criminology Vol. 17, No. 1*, pp. 1-15.

Cohen, Stanley (1985) *Visions of Social Control*, Cambridge, UK: Polity Press.

Coker, Donna (2006) "RJ, Navajo Peacemaking and domestic violence", *Theoretical Criminology Vol. 10 No. 1*, pp. 67-85.

\_\_\_\_\_, (2004) "Race, Poverty and the Crime-Centred Response to Domestic Violence", *Violence Against Women Vol. 10, No. 11*, pp. 1331-1353.

\_\_\_\_\_, (2002) "Transformative Justice: Anti-subordination Processes in Cases of Domestic Violence" in *Restorative Justice and Family Violence*, John Braithwaite & Heather Strang (eds.), Cambridge UK: Cambridge University Press, pp. 128-152.

Comack, Elizabeth (2006) "Theoretical Approaches In The Sociology of Law: Theoretical Excursions" in *Locating Law*, Elizabeth Comack (ed.) Canada: Fernwood Publishing, pp. 18-67.

\_\_\_\_\_, (1993) "Feminist Engagement with the Law: the legal recognition of the Battered Woman Syndrome", The CRIAW Papers, No. 31.

Comack, Elizabeth and Gillian Balfour (2004) *The power to criminalize: violence, inequality and the law*, Fernwood Publishing.

Connolly, Julie (2010) "Love in the private: Axel Honneth, feminism and the politics of recognition", *Contemporary Political Theory Vol. 9, No. 4*, pp. 414-433.

Cooley, Dennis (1999) "From Restorative Justice to Transformative Justice: A Discussion Paper", Ottawa: Law Commission of Canada.

Coward, Stephanie (2000) "RJ in Cases of Domestic and Sexual Violence: Healing Justice?", Directed Interdisciplinary Studies, University of Ottawa: Ottawa, Retrieved March 2007 from: <http://www.hotpeachpages.net/canada/air/rjStephanie.pdf>.

Curtis-Fawley, Sarah and Kathleen Daly (2005) "Gendered Violence and Restorative Justice: The Views of Victim Advocates", *Violence Against Women, Vol. 11, No. 5*, pp. 603-638.

Daly, Kathleen, (2009) "Book Review: Kristen Bumiller In An Abusive State: How Neoliberalism Appropriated the Feminist Movement against Sexual Violence", *Theoretical Criminology, Vol. 13, No. 2*, pp. 269-271.

\_\_\_\_\_, (2006) "Restorative Justice and Sexual Assault: An Archival Study of Court and Conference", *British Journal of Criminology*, Vol. 46, No. 2, pp. 334-356.

\_\_\_\_\_, (2002) "Sexual Assault and RJ" in *Restorative Justice and Family Violence*, John Braithwaite and Heather Strang (eds.), Cambridge UK: Cambridge University Press, pp. 62-88.

Daly, Kathleen and Lisa Maher (1998) "Crossroads and Intersections: Building from Feminist Critique" in *Criminology at the Crossroads: Feminist Readings in Crime and Justice*, Daly, Kathleen and Lisa Maher (eds.), New York, NY: Oxford University Press, pp. 1-17.

Daly, Kathleen and Julie Stubbs (2006) "Feminist engagement with restorative justice", *Theoretical Criminology* Vol. 10 No. 1, pp. 9-28.

Dawson, Myrna and Ronit Dinovitzer (2001) "Victim Cooperation and the Prosecution of Domestic Violence in a Specialized Court" *Justice Quarterly* Vol. 18, No. 3, pp. 593-622.

Dayton, J. (2002/03) "The silencing of a woman's choice: Mandatory arrest and no drop prosecution policies in domestic violence cases", *Cardozo Women's Law Journal*, 9, 281-297.

DeKeseredy, Walter S. (2011a) "Feminist contributions to understanding woman abuse: Myths, controversies, and realities", *Aggression and Violent Behaviour*, Vol. 16, pp. 297-302.

\_\_\_\_\_, (2011b) *Contemporary Critical Criminology*, London and New York: Routledge Taylor & Francis Group.

DeKeseredy, Walter S. & Molly Dragiewicz (2007) "Understanding the Complexities of Feminist Perspectives on Woman Abuse", *Violence Against Women*, Vol. 13, No. 8, pp. 874-884.

DeKeseredy, Walter S. and Martin D. Schwartz (2009) *Dangerous Exits: Escaping Abusive Relationships in Rural America*, New Brunswick, New Jersey and London: Rutgers University Press.

Dell, Colleen Anne, Jenny Gardipy, Nicki Kirilin, Violet Naytowhow and Jennifer J. Nicol (2014) "Enhancing the Well-Being of Criminalized Indigenous Women: A Contemporary Take on a Traditional Cultural Knowledge Form" in *Criminalizing Women: gender and (In)justice in Neo-Liberal Times*, Gillian Balfour and Elizabeth Comack (eds.), Nova Scotia and Manitoba, Canada: Fernwood Publishing, pp. 314-329.

Denzin, Norman K. (2002) "The Interpretive Process" in *The Qualitative Researcher's Companion*, A. Michael Huberman & Matthew B. Miles (eds.), USA, United Kingdom & India: Sage Publications, pp. 349-366.

Dobash, R. Emerson, Russell P. Dobash, Kate Cavanagh & Ruth Lewis (2000) *Changing Violent Men*, Sage Publications, Inc., Thousand Oaks, London & New Delhi.

\_\_\_\_\_, (1992) *Women, Violence and Social Change*, London: Routledge.

Dobash, Russell P. and R. Emerson Dobash (2004) "Women's Violence to Men in Intimate Relationships - Working on a Puzzle", *British Journal of Criminology*, Vol. 44, No. 3, pp. 324-349.

\_\_\_\_\_, (1979) *Violence Against Wives*, London, UK: Routledge.

Doob, Anthony N. (2011) "The Unfinished Work of the Canadian Sentencing Commission" *Canadian Journal of Criminology and Criminal Justice* Vol. 53, No. 3, pp. 279-297.

\_\_\_\_\_, (2000) "Transforming the punishment environment: Understanding public views of what should be accomplished at sentencing," *Canadian Journal of Criminology* Vol. 42 No. 3, pp. 323-340.

Doob, Anthony N. and Carla Cesaroni (2001) "The Political Attractiveness of Mandatory Minimum Sentences", *Osgoode Hall Law Journal* Vol. 39, No. 2/3, pp. 287-304.

Dragiewicz, Molly (2011) *Equality with a Vengeance: Men's Rights Groups, Battered Women, and Antifeminist Backlash*, Boston: Northeastern University Press.

\_\_\_\_\_, (2008) "Patriarchy Reasserted: Father's Rights and Anti-VAWA Activism", *Feminist Criminology* Vol. 3, No. 2, Sage Publications, pp. 121-144.

Duff, Antony (2013) "Legal Punishment", *The Stanford Encyclopedia of Philosophy (Summer 2013 Edition)*, Edward N. Zalta (ed.), Retrieved July 9 2014 from: <http://plato.stanford.edu/archives/sum2013/entries/legal-punishment/>.

Dunford, Franklyn W., David Huizinga, and Delbert S. Elliott (1990) "The role of arrest in domestic assault: The Omaha police experiment", *Criminology* Vol. 28, No. 2, pp. 183-206.

Dunn, Jennifer L. (2010) *Judging Victims: Why We Stigmatize Survivors and How They Reclaim Respect*, United States: Lynne Rienner Publishers, Inc.

\_\_\_\_\_, (2005) "'Victims' and 'Survivors': Emerging Vocabularies of Motive for 'Battered Women Who Stay'", *Sociological Inquiry* Vol. 75, No. 1, pp. 1-30.

Dutton, Donald G. (2006) *Rethinking domestic violence*, Vancouver, BC: UBC Press.

Edwards, Alan and Jennifer Haslett (2003) *Domestic Violence and Restorative Justice: Advancing the Dialogue*, Paper presented to 6th International Conference on Restorative Justice: Retrieved online July 2008 from <http://www.sfu.ca/cfrj/fulltext/haslett.pdf>.

Ellesberg, Mary and Lori Heise (2002) "Bearing witness: ethics in domestic violence research", *The Lancet* Vol. 359, pp. 1599-1604.

Elliott, Liz (2002) "Con Game and restorative justice: Inventing the truth about Canada's prisons", *Canadian Journal of Criminology*, Vol. 44, No. 4, pp. 459-474.

Faget, Jacques (2004) "Méditation et violences conjugales", *Champ pénal* Vol. 1.

Fischer, Constance T. & Fredrick J. Wertz (2002) "Empirical Phenomenological Analyses of Being Criminally Victimized" in *The Qualitative Researcher's Companion*, A. Michael Huberman & Matthew B. Miles (eds.), USA, United Kingdom & India: Sage Publications, pp. 275-304.

Foucault, Michel (1977) *Discipline and Punish. The Birth of the Prison*. Translated by A. Sheridan. New York: Vintage Books. Originally published as *Surveiller et Punir: Naissance de la prison*, 1975.

\_\_\_\_\_, (1972) *The Archaeology of Knowledge and the Discourse on Language*, New York: Pantheon.

Fraser, Nancy (2001) "Recognition without Ethics?" *Theory, Culture & Society*, Vol. 18, No. 2-3, pp. 21-42.

\_\_\_\_\_, (1997) "From Redistribution to Recognition? Dilemmas of Justice in a "Postsocialist" Age", in *Justice Interruptus: Critical Reflections on the Post-Socialist Condition*, New York: Routledge, pp. 11-39.

Fraser, Nancy and Axel Honneth (2003), *Redistribution or Recognition? A Political-Philosophical Exchange*, London and New York: Verso.

Frigon, Sylvie (2003) *L'homicide conjugal au féminin: d'hier à aujourd'hui*, Montréal, Québec : Les Éditions du remue-ménage.

Gannon, Susanne and Bronwyn Davies (2007) "Postmodern, poststructural, and critical theories", in *Handbook of Feminist Research: Theory and Praxis*, Sharlene Nagy Hess-Biber (ed.), United States: Sage Publications Inc., pp. 71-106.

Garland, David, (2001) *The Culture of Control: Crime and social order in contemporary society*, University of Chicago Press: United States of America.

\_\_\_\_\_, (1997) "'Governmentality' and the Problem of Crime: Foucault, Criminology, Sociology", *Theoretical Criminology* Vol. 1, No. 2, pp. 173-214.

Garvin, Meg (2012) "Harmony or Discord between Victim Agency and the Criminal Justice System: A comment on DePrince, Belknap, Labus, Buckingham and Gover", *Violence Against Women*, Vol. 18, No. 8, pp. 889-896.

- Gelles, Richard J. (1997) *Intimate Violence in Families*, Third Edition, Thousand Oaks, London & New Delhi: Sage Publications, Inc.
- Goffman, Erving (1963) *Stigma: Notes on the Management of Spoiled Identity*, New York: Simon and Schuster.
- Goel, Rashmi (2010) “Aboriginal women and political pursuit in Canadian sentencing circles: At Cross Roads or Cross Purposes?”, in *Restorative Justice and Violence Against Women*, James Ptacek (ed.), New York: Oxford University Press, pp. 60-78.
- \_\_\_\_\_, (2000) “No Women at the Centre: The Use of the Canadian Sentencing Circle in Domestic Violence Cases”, *Wisconsin Women’s Law Journal Vol. 15*, pp. 293-334.
- Gondolf, Edward W. (2012) “Physical Tactics of Female Partners Against Male Batterer Program Participants”, *Violence Against Women Vol. 18, No. 9*, pp. 1027-1044.
- Gondolf, Edward W. & Ellen R. Fisher (1988) *Battered Women as Survivors*, Canada and United States of America: Lexington Books.
- Goodkind, Jessica R., Tameka Gillum, Deborah I. Bybee, and Chris M. Sullivan (2003) “The impact of family and friends’ reactions on the well-being of women with abusive partners”, *Violence Against Women Vol. 9 No. 3*, pp. 347-373.
- Goodman, Lisa & Deborah Epstein (2005) “Refocusing on Women: A New Direction for Policy and Research on Intimate Partner Violence”, *Journal of Interpersonal Violence, Vol. 20 No. 4*, pp. 479-487.
- Grubb, Amy and Emily Turner (2012) “Attribution of blame in rape cases: A review of the impact of rape myth acceptance, gender role conformity and substance use on victim-blaming”, *Aggression and Violent Behavior, Vol. 17*, pp. 443-452.
- Haggerty, Kevin D. and Richard V. Ericson (2000) “The Surveillant Assemblage” *The British Journal of Sociology, Vol. 51, No. 4*, pp. 605-22.
- Hague, Gill, Audrey Mullender and Rosemary Aris (2003) *Is Anyone Listening? Accountability and women survivors of domestic violence*, London, USA & Canada: Routledge.
- Hamby, Sherry (2014) *Battered women’s protective strategies: Stronger than you know*, Oxford Press: New York, NY.
- Hannah-Moffat, Kelly (2000) “Prisons That Empower: Neo-liberal Governance in Canadian Women's Prisons”, *British Journal of Criminology, Vol. 40*, pp. 510-531.
- Harding, Sandra (1995) “‘Strong Objectivity’: A Response to the New Objectivity Question”, *Synthese, Vol. 104, No. 3*, Kluwer Academic Publishers, pp. 331-349.

Hawkesworth, Mary (2007) "Truth and Truths in Feminist Knowledge Production", *Handbook of Feminist Research: Theory and Praxis*, Sharlene Nagy Hess-Biber (ed.), United States: Sage Publications Inc., pp. 469-491.

\_\_\_\_\_, (1999) "Analyzing Backlash: Feminist Standpoint Theory As Analytical Tool", *Women's Studies International Forum*, Vol. 22, No. 2, pp. 135-155.

\_\_\_\_\_, (1990) "Reply to Hekman", *Signs: Journal of Women in culture and Society*, Vol. 15, No. 2, pp. 420-423.

\_\_\_\_\_, (1989) "Knowers, Knowing, Known: Feminist Theory and Claims of Truth", *Signs: Journal of Women in Culture and Society*, Vol. 14, No. 3, pp. 533-557.

Heise, Lori L. (1998) "Violence Against Women – An Integrated, Ecological Framework", *Violence Against Women*, Vol. 4, No. 3, pp. 262-290.

Hennessy, Rosemary (1993) "Women's Lives/Feminist Knowledge: Feminist Standpoint as Ideology Critique", *Hypatia* Vol. 8, No. 1, pp. 14-34.

Herman, Judith Lewis (2005) "Justice From the Victim's Perspective", *Violence Against Women*, Vol. 11, No. 5, pp. 571-602.

Hesse-Biber, Sharlene Nagy (2007) "The practice of feminist in-depth interviewing", in *Feminist Research Practice: A Primer*, Sharlene Nagy Hesse-Biber and Patricia Lina Leavy (eds), U.S.: Sage Publications, pp. 111-148.

\_\_\_\_\_, (2007) "Putting it Together: Feminist Research Praxis", in *Feminist Research Practice: A Primer*, Sharlene Nagy Hesse-Biber and Patricia Lina Leavy (eds), U.S.: Sage Publications, pp. 329-349.

Holder, Robyn Lea (2013) "Just Interests: Victims, citizens, and the potential for justice", PhD diss., The Australian National University. Dissertation retrieved April 22, 2014 from <http://hdl.handle.net/1885/11464>.

\_\_\_\_\_, (2008) "Catch - 22: Exploring Victim Interests in a Specialist Family Violence Jurisdiction", *International Journal of Comparative and Applied Criminal Justice*, Vol. 32, No. 2, pp. 265-290.

Honneth, Axel (2004) "Recognition and Justice: Outline of a Plural Theory of Justice", *Acta Sociologica*, Vol. 47, No. 4, pp. 351-364.

\_\_\_\_\_, (2001) "Recognition or Redistribution? Changing Perspectives on the Moral Order of Society", *Culture & Society*, Vol. 18, No. 2-3, pp. 43-55.

Hudson, Barbara (2006) "Beyond white man's justice: Race, gender and justice in late modernity", *Theoretical Criminology* Vol.10, No. 1, pp. 29-47.

\_\_\_\_\_, (2003) *Justice in the Risk Society*, US, UK, New Delhi, and Singapore: Sage Publications.

\_\_\_\_\_, (2002) “Restorative Justice and Gendered Violence: Diversion or Effective Justice?” *The British Journal of Criminology* Vol. 42, No. 3, pp. 616-634.

\_\_\_\_\_, (1999) “Punishment, Poverty and Responsibility: The Case for a Hardship Defence”, *Social and Legal Studies*, Vol. 8, No.4, pp. 583-591.

Johnson, Allan G. (2006) *Privilege, Power and Difference*, 2<sup>nd</sup> ed. Toronto: McGraw Hill.

Johnson, Holly (2012) “Limits of a Criminal Justice Response: Trends in Police and Court Processing of Sexual Assault”, in *Sexual assault in Canada: law, legal practice and women’s activism*, Elizabeth A. Sheehy (ed.), The University of Ottawa Press, pp. 613-634.

\_\_\_\_\_, (2007) “Preventing Violence Against Women: Progress and Challenges”, *IPC Review* Vol. 1, Institute for the Prevention of Crime, pp. 69-88.

\_\_\_\_\_, (2006) *Measuring Violence Against Women: Statistical Trends*, Minister of Industry: Statistics Canada, Catalogue no. 85-570-XIE.

\_\_\_\_\_, (1996) *Dangerous Domains: Violence Against Women in Canada*, Toronto: Nelson Canada.

Johnson, Holly and Myrna Dawson (2011) *Violence Against Women in Canada: Research and Policy Perspectives*, Don Mills, Ontario: Oxford University Press Canada.

Johnson, Holly, and Ashley McConnell (2014) “Agency and Choice: Gendered Constructions of Victim Worthiness in Domestic Violence Court”, in *Within the Confines: Women and the Law in Canada*, Jennifer M. Kilty (ed.), Toronto, Canada: Women’s Press, an imprint of Canadian Scholar’s Press Inc., pp. 118-143.

Johnson, Holly, Natalia Ollus, and Sami Nevala (2008) *Violence Against Women: An International Perspective*, New York, N.Y: Springer Science + Business Media, LLC.

Johnson, Michael P. (2006), “Conflict and Control: Gender Symmetry and Asymmetry in Domestic Violence”, *Violence Against Women*, Vol. 12, No. 11, pp. 1003-1018.

Kimmel, Michael S. and Jacqueline Holler (2011) *The Gendered Society: Canadian Edition*, Oxford University Press.

Koshan, Jennifer and Wanda Wieggers (2007) “Theorizing Civil Domestic Violence Legislation in the Context of Restructuring: A Tale of Two Provinces”, *Canadian Journal of Women and the Law*, Vol. 19, No. 1, pp. 145-178.

Lamb, Sharon (1999) "Constructing the Victim: Popular Images and Lasting Labels", in *New Versions of Victims*, Sharon Lamb (ed.), New York and London: New York University Press, pp. 108-138.

Langhinrichsen-Rohling, Jennifer (2005) "Top 10 Greatest "Hits" - Important Findings and Future Directions for Intimate Partner Violence Research", *Journal of Interpersonal Violence*, Vol. 20 No. 1, pp. 108-118.

Landau, Tammy C (2004) "Women's Experiences with Mandatory Charging for Wife Assault in Ontario, Canada: A Case against the Prosecution", *Feminisms and Womanisms: A Women's Studies Reader*, Althea Prince and Susan Silva-Wayne with the assistance of Christian Vernon (eds.), Toronto, Canada: Women's Press, an imprint of Canadian Scholars' Press Inc., pp. 501-513.

LaRocque, Emma (1997) "Re-examining culturally appropriate models in criminal justice applications" in *Aboriginal and Treaty Rights in Canada: Essays on Law, Equity, and Respect for Difference*, Michael Asch (ed.), Vancouver: UBC Press, pp. 75-96.

Leavy, Patricia Lina (2007) "Feminist Postmodernism and Poststructuralism" in *Feminist Research Practice: A Primer*, Sharlene Nagy Hesse-Biber and Patricia Lina Leavy (eds), U.S.: Sage Publications, pp. 83-108.

Levinas, Emmanuel (1982) *Ethics and Infinity*, Pennsylvania: Duquesne University Press.

Lewis, Ruth (2004) "Making Justice Work: Effective Legal Interventions for Domestic Violence", *British Journal of Criminology*, Vol. 44, No. 2, pp. 204-224.

Lewis, Ruth, Russell P. Dobash, Rebecca Emerson Dobash, and Kate Cavanagh (2000) "Protection, prevention, rehabilitation or justice? Women's use of the law to challenge domestic violence", *International Review of Victimology* Vol. 7, No. 1/2/3, pp. 179-205.

Liebmann, Marian and Lindy Wootton (2010) *Restorative Justice and Domestic Violence/ Abuse: A report commissioned by HMP Cardiff. Funded by The Home Office Crime Reduction Unit for Wales. August 2008. Updated April 2010*, retrieved September 25, 2015 online from <http://rjc.whitefouseuat.co.uk/sites/default/files/resources/files/Restorative%20Justice%20and%20Domestic%20Violence%20and%20Abuse.pdf>.

Lievore, Denise (2005) *No Longer Silent: A study of women's help-seeking decisions and service responses to sexual assault*, Department of Family and Community Services, Australian Government, retrieved August 30, 2010 online from: <http://www.aic.gov.au/documents/D/0/1/%7BD01B3CD6-3C29-4B6C-B221-C8A31F6F84BB%7D2005-06-noLongerSilent.pdf>.

Logan, TK, Robert Walker, Lisa Shannon, and Jennifer Cole (2008) "Combining Ethical Considerations With Recruitment and Follow-Up Strategies for Partner Violence Victimization Research", *Violence Against Women*, Vol. 14, No. 11, pp. 1226-1251.

\_\_\_\_\_, (1987) *Battered but not beaten: Preventing Wife Battering in Canada*, Ottawa: Ministry of Supply and Services,

Lyotard, JF (1988) *The Différend: Phrases in Dispute*, Translated by Georges Van Den Abbeele, Manchester: Manchester University Press. Originally published as *Le Différend*, 1983.

MacKinnon, Catharine (1982) "Feminism, Marxism, method, and the state: an agenda for theory", *Signs Vol. 7, No. 3*, pp. 515-44.

Macleod, Catriona and Kevin Durrheim, (2002) "Foucauldian Feminism: the Implications of Governmentality", *Journal for the Theory of Social Behaviour, Vol. 32, No. 1*, pp. 41-60.

MacLeod, Linda (1995) "Family Group Conferencing: A Community-Based Model For Stopping Family Violence", *Wife Assault and the Canadian Criminal Justice System: Issues and Policies*, Mariana Valverde, Linda MacLeod & Kirsten Johnson (eds.), Toronto: Centre of Criminology, University of Toronto, pp. 198-204.

\_\_\_\_\_, (1980) *Wife Battering in Canada: The Vicious Circle*, Ottawa: Canadian Advisory Council on the Status of Women.

Macmillan, Ross and Rosemary Gartner (1999), "When She Brings Home the Bacon: Labor-Force Participation and the Risk of Spousal Violence Against Women", *Journal of Marriage and Family, Vol. 61*, pp. 947-958.

Maidment, M. R. (2006) "Transgressing boundaries: Feminist perspectives in criminology", in W. S. DeKeseredy, & B. Perry (Eds.), *Advancing critical criminology: Theory and application*, Lanham, MD: Lexington Books, pp. 43-62.

Marin, André, Ombudsman of Ontario (2006) *It's all in the name: investigation into complaint of the Family Responsibility Office's ineffective enforcement using a writ of seizure and sale*, Ontario, Canada: Office of the Ombudsman.

Marques, Olga (2014) "Women's Use of Sexually Explicit Materials: Making Meaning, Negotiating Contradictions and Framing Resistance", PhD diss., University of Ottawa. Dissertation retrieved October 15, 2014 from [https://www.ruor.uottawa.ca/bitstream/10393/30721/1/Marques\\_Olga\\_2014\\_thesis.pdf](https://www.ruor.uottawa.ca/bitstream/10393/30721/1/Marques_Olga_2014_thesis.pdf)

Marriner, Sunny (2012) "Questioning "Expert" Knowledges", in *Sexual assault in Canada: law, legal practice and women's activism*, Elizabeth A. Sheehy (ed.), The University of Ottawa Press, pp. 409-450.

Marshall, Tony F. (1996) "The evolution of restorative justice in Britain", *European Journal on Criminal Policy and Research, Vol. 4, No. 4*, pp. 21-43.

Martin, Del (2001) "A Letter from a Battered Wife", *Woman Battering in the United States: Till Death Do Us Part*, Waveland: Prospect Heights, Illinois, pp. 52-55.

Martin, Dianne L. (2007) "Legal sites of executive-police relations: Core principles in a Canadian context", Research paper commissioned for the Ipperwash Inquiry, retrieved online September 2014 from [http://www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/policy\\_part/meetings/pdf/Martin.pdf](http://www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/policy_part/meetings/pdf/Martin.pdf)

\_\_\_\_\_, (1998) "Retribution Revisited: A Reconsideration of Feminist Criminal Law Reform Strategies", *Osgoode Hall Law Journal*, Vol. 36, No. 1, pp. 151-188.

Martin, Kimberly, Lynne M. Vieraitis and Sarah Britto (2006) "Gender Equality and Women's Absolute Status", *Violence Against Women*, Vol. 12, No. 4, pp. 321-339.

Martin, Margaret E. (1997), Double your trouble: Dual arrest in family violence. *Journal of Family Violence*, Vol. 12, No. 2, pp. 139-157.

Martinson, Robert (1974) "What Works? - Questions and Answers About Prison Reform", *The Public Interest* Vol. 35, pp. 22-54

Masson, Dominique (1999) « Repenser l'État : Nouvelles perspectives féministes », *Recherches féministes*, Vol. 12, No. 1, pp. 5-24.

Mazowita, Benjamin and Marta Burczykca (2014) "Canada's shelters for abused women, 2012", *Juristat: Canadian Centre for Justice Statistics*, Vol. 34 No. 1. Retrieved online May 14, 2014 from <http://www.statcan.gc.ca/pub/85-002-x/2014001/article/11906-eng.htm>.

McGuire, James (2004) *Understanding Psychology and Crime: Perspectives on theory and action*, England: Open University Press.

Miles, Matthew B. & A. Michael Huberman (1994) *An Expanded Sourcebook: Qualitative Data Analysis, Second Edition*, Thousand Oaks, London & New Delhi: Sage Publications.

Mills, C. Wright, (1959) *The Sociological Imagination*, New York: Oxford University Press, Inc.

Minaker, Joanne C. (2001) "Evaluating Criminal Justice Responses to Intimate Abuse through the Lens of Women's Needs", *Canadian Journal of Women and the Law* Vol. 13, pp. 74-106.

Minaker, Joanne C. and Lauren Snider (2006) "Husband Abuse: Equality with a Vengeance?", *Canadian Journal of Criminology and Criminal Justice* Vol. 48, No. 5, pp. 753-780.

Morris, Allison (2002) "Children and Family Violence: Restorative Messages from New Zealand", *Restorative Justice and Family Violence*, John Braithwaite & Heather Strang (eds), Cambridge University Press: Cambridge U.K., pp. 89-107.

Morris, Allison and Loraine Gelsthorpe (2000) "Re-Visioning Men's Violence Against Female Partners", *Howard Journal of Criminal Justice Vol. 39, No. 4*, pp. 412-28.

Naffine, Ngaire (1990) *Law & the Sexes: Explorations in feminist jurisprudence*, Sydney, Australia: Allen & Unwin Pty Ltd.

Nancarrow, Heather (2006) "In search for justice for domestic and family violence: Indigenous and non-Indigenous Australian women's perspectives", *Theoretical Criminology Vol. 10 No. 1*, pp. 87-106.

Parent, Colette (2002) « Face à l'insoutenable de la violence contre les conjointes : les femmes comme actrices sociales », Christian Debuyst, Francois Digneffe, Dan Kaminski, Colette Parent (eds.), *Essais sur le tragique et la rationalité pénale, Perspectives Criminologiques*, De Boeck Université, pp. 83-103.

Parent, Colette & Cécile Coderre (2004) « Paradoxes des théories féministes sur la violence contre les conjointes », *La Revue nouvelle, novembre 2004/tome 118*, pp. 36-45.

Pence, Ellen & Michael Paymar (1993), *Education groups for men who batter: the Duluth model*, New York: Springer Publishing Company, Inc.

Pennell, Joan and Gale Burford (2002) "Feminist Praxis: Making Group Conferencing Work" in *Restorative Justice and Family Violence*, John Braithwaite & Heather Strang (eds.), Cambridge U.K.: Cambridge University Press, pp. 108-127.

\_\_\_\_\_, (2000) "Family Group Decision Making: Protecting children and women", *Child Welfare Vol. 79, No. 2*, pp. 131-158.

\_\_\_\_\_, (1998) *Family Group Decision Making: Communities Stopping Family Violence - Questions and Answers*, Public Health Agency of Canada, Minister of Public Works and Government Services, Canada: National Clearinghouse on Family Violence.

Pennell, Joan & Kara Allan-Eckard, Jenny King, Marianne Latz (2010), *North Carolina Family Centred Meetings Project: Annual report to the North Carolina division of social services Fiscal year 2009-2010*, Center for Family and Community Engagement: North Carolina State University, retrieved April 2015 from [http://www.cfface.org/documents/09-10\\_NCFCMP\\_Summary\\_report-web.pdf](http://www.cfface.org/documents/09-10_NCFCMP_Summary_report-web.pdf)

Pennell, Joan & Stephanie Francis (2005) "Safety Conferencing: Toward a Coordinated and Inclusive Response to Safeguard Women and Children", *Violence Against Women, Vol. 11, No. 5*, pp. 666-692.

Pennell, Joan and Mimi Kim (2010) "Opening conversations across cultural, gender, and generational divides: Family and Community Engagement to Stop Violence Against Women and Children", in *Restorative Justice and Violence Against Women*, James Ptacek (ed.), New York: Oxford University Press, pp. 177-192.

Personal Narratives Group (1989) "Truths" in Personal Narratives Group (Eds), *Interpreting Women's Lives*, Bloomington, Indiana: University Press, pp. 261-265.

Poon, Julie, Myrna Dawson, and Mavis Morton (2014) "Factors Increasing the Likelihood of Sole and Dual Charging of Women for Intimate Partner Violence", *Violence Against Women*, Vol. 20, No. 12, pp. 1447-1472.

Potas, Ivan, Jane Smart, Georgina Brignell, Brendan Thomas, and Rowena Lawrie (2003) "Circle sentencing in New South Wales: A review and an evaluation", Judicial Commission of New South Wales; Aboriginal Justice Advisory Council (New South Wales), retrieved April 2015 from <http://www.judcom.nsw.gov.au/publications/research-monographs-1/monograph22/circle.pdf>.

Pranis, Kay (2002) "Restorative Values and Confronting Family Violence", in *Restorative Justice and Family Violence*, John Braithwaite & Heather Strang (eds.), Cambridge U.K.: Cambridge University Press, pp. 23-41.

Pratt, Anna (1995) "New Immigrant and Refugee Battered Women: The Intersection of Immigration and Criminal Justice Policy", in *Wife Assault and the Canadian Criminal Justice System: Issues and Policies*, Mariana Valverde, Linda MacLeod & Kirsten Johnson (eds.), Toronto: Centre of Criminology, University of Toronto, pp. 84-103.

Presser, Lois & Emily Gaarder (2000) "Can Restorative Justice Reduce Battering? Some Preliminary Considerations", *Social Justice Vol. 27, No. 1*, pp. 175-95.

Ptacek, James (2010) "Resisting Co-optation: Three Feminist Challenges to Antiviolence Work", in *Restorative Justice and Violence Against Women*, James Ptacek (ed.), New York: Oxford University Press, pp. 5-36.

\_\_\_\_\_, (2005) "Guest Editor's Introduction", *Violence Against Women*, Vol. 11, No. 5, pp. 564-570.

Randall, Melanie (2008) "Sexual Assault in Spousal Relationships, "Continuous Consent", and the Law: Honest But Mistaken Judicial Beliefs. *Manitoba Law Journal Vol. 32*, pp. 144-181.

\_\_\_\_\_, (2004) "Domestic violence and the construction of 'ideal victims': assaulted women's 'image problems' in law", *Saint Louise University Public Law Review Vol. 23*, pp. 107-154.

Raj, Anita and Jay Silverman (2002) "Violence against immigrant women: The roles of culture, context and legal immigrant status on intimate partner violence", *Violence Against Women Vol. 8, No. 3*, pp. 367-98

Rawls, John (1985) "Justice as Fairness: Political not Metaphysical", *Philosophy & Public Affairs Vol. 14, No. 3*, pp. 223-251.

\_\_\_\_\_, (1971) *A Theory of Justice*, Cambridge, Massachusetts: The Belknap Press of Harvard University of Press.

Razack, Sherene (1998) "What Is to Be Gained by Looking White People in the Eye?: Culture, Race, and Gender in Cases of Sexual Violence", *Criminology at the Crossroads: Feminist Readings in Crime and Justice*, Daly, Kathleen and Lisa Maher (eds), New York, NY: Oxford University Press, pp. 225-245.

Riessman, Catherine Kohler (2002) "Narrative Analysis", in *The Qualitative Researcher's Companion*, A. Michael Huberman & Matthew B. Miles (eds.), USA, United Kingdom, and India: Sage Publications, pp. 217-270.

Rivera, Lauren A. (2012) "Hiring as Cultural Matching: The Case of Elite Professional Service Firms", *American Sociological Review Vol. 77, No. 6*, pp. 999-1022.

Roach, Kent (2000) "Changing punishment at the turn of the century: Restorative justice on the rise", *Canadian Journal of Criminology Vol. 42 No. 3*, pp. 249-280.

Robinson, Amanda and Dee Cook (2006) "Understanding Victim Retraction in Cases of Domestic Violence: Specialist Courts, Government Policy and Victim-Centred Justice" *Contemporary Justice Review, Vol. 9, No. 2*, pp 189-213.

Roberts, Julian (1998) "The Evolution of Penal Policy in Canada", *Social Policy & Administration, Vol. 32, No. 4*, pp. 420-437.

Rose, Nikolas (2001) "The Politics of Life Itself", *Theory, Culture and Society, Vol. 18, No. 6*, pp. 1-30.

Saldana, Johnny (2013) *The Coding Manual for Qualitative Researchers*, London, California, New Delhi, and Singapore: Sage Publications.

Sandel, Michael J. (2009) *Justice: what's the right thing to do?*, New York: Farrar, Straus and Giroux.

Sarlo, Christopher (2014) *An Assessment of the Federal Child Support Guidelines*, Beaconsfield, Quebec : Canadian Electronic Library.

Satsangi, Madhu (2013) "Synthesizing feminist and critical realist approaches to housing studies", *Housing, Theory and Society Vol. 30, No. 2*, pp. 193-207.

Schwandt, Thomas A. (2007) *The Sage Dictionary of Qualitative Inquiry*, Sage Publications: USA, New Delhi, UK and Singapore.

Seidman, Irving (2006) *Interviewing as Qualitative Research: A Guide for Researchers in Education and the Social Sciences*, Columbia University, U.S.A: Teachers College Press.

Sen, Amartya (2009) *The Idea of Justice*, Cambridge, Mass: The Belknap Press of Harvard University Press.

Sherman, Lawrence and Richard Berk (1984) "The Specific Deterrent Effects of Arrest for Domestic Assault", *American Sociological Review Vol. 49*, pp. 261-272.

Sheehy, Elizabeth A. (2014) *Defending battered women on trial: lessons from the transcripts*, Vancouver, Canada: UBC Press.

Sinha, Maire (2013) *Measuring Violence Against Women: Statistical Trends*, Catalogue No. 85-002-X. Ottawa: Statistics Canada.

Skinner, Tina, Marianne Hester & Ellen Malos (2005) "Methodology, feminism and gender violence" in *Researching Gender Violence: Feminist methodology in action*, Tina Skinner, Marianne Hester & Ellen Malos (eds.), Devon, UK & Oregon, USA: Willan Publishing, pp. 1-22.

Smart, Carol (1998) "The Woman of Legal Discourse", *Criminology at the Crossroads: Feminist Readings in Crime and Justice*, Daly, Kathleen and Lisa Maher (eds.), Oxford University Press: New York, NY, pp. 21-36.

\_\_\_\_\_, (1989) *Feminism and the Power of Law*, London and New York: Routledge.

Snider, Laureen (2008) "Criminalising violence against women: solution or dead end?" *Criminal Justice Matters, Vol. 74. No.1*, pp. 38-39.

\_\_\_\_\_, (1998a) "Feminism, Punishment, and the Potential of Empowerment", *Criminology at the Crossroads: Feminist Readings in Crime and Justice*, Daly, Kathleen and Lisa Maher (eds), New York, NY: Oxford University Press, pp. 246-261.

\_\_\_\_\_, (1998b) "Struggles for Social Justice: Criminalization and Alternatives" in *Unsettling Truths: Battered Women, Policy, Politics, and Contemporary Research in Canada*, Bonnycastle, Kevin D. and George S. Rigakos (eds.), British Columbia, Canada: Collective Press, pp. 145-154.

\_\_\_\_\_, (1998c) "Towards Safer Societies: Punishment, Masculinities and Violence Against Women" *The British Journal of Criminology, Vol. 38, No. 1*, pp. 1-39.

Solomon, Robert C. and Mark C. Murphy eds. (2000) *What Is Justice? Classic and Contemporary Readings, Second Edition*, New York, N.Y.: Oxford University Press, Inc.

Southworth, Cynthia, Jerry Finn, Shawndell Dawson, Cynthia Fraser and Sarah Tucker (2007) "Intimate Partner Violence and Stalking", *Violence Against Women, Vol. 13, No.8*, pp. 842-856.

Stanley, Liz & Sue Wise (1990) "Method, methodology and epistemology in feminist research processes" in *Feminist Praxis*, Liz Stanley (ed.) London & New York: Routledge, pp. 20-45.

Stark, Evan (2007) *Coercive Control: The entrapment of women in personal life*, Oxford; New York: Oxford University Press.

\_\_\_\_\_, (2006) "Commentary on Johnson's "Conflict and Control: Gender Symmetry and Asymmetry in Domestic Violence"", *Violence Against Women, Vol. 12, No. 11*, pp. 1019-1025.

Steinmetz, Suzanne K. (1977), "The Battered Husband Syndrome", *Victimology: An International Journal, Vol. 2, No. 3-4*, pp. 499-509.

Strange, Carolyn (1995) "Historical Perspectives on Wife Assault", *Wife Assault and the Canadian Criminal Justice System: Issues and Policies*, Mariana Valverde, Linda MacLeod & Kirsten Johnson, Toronto: Centre of Criminology, University of Toronto, pp. 293-304.

Strategies for Healthy Youth Relationships n.d., retrieved November 3, 2013 online from <http://www.youthrelationships.org/index.html>.

Straus, Murray A. (2006) "Future Research on Gender Symmetry in Physical Assaults on Partners", *Violence Against Women, Vol. 12, No. 11*, pp. 1087-1097.

\_\_\_\_\_, (1979) "Measuring intrafamily conflict and violence: The Conflict Tactics (CT) Scales", *Journal of Marriage and the Family, Vol. 41, No. 1*, 75-88.

Strega, Susan and Caitlin Janzen (2013) "Asking the Impossible of Mothers: Child Protection Systems and Intimate Partner Violence" in *Failure to protect: moving beyond gendered responses*, Susan Strega, Julia Krane, Simon Lapierre, Rosemary Carlton, and Cathy Richardson (eds.), Halifax and Winnipeg: Fernwood Publishing, pp. 49-76.

Stubbs, Julie (2010) "Restorative justice, gendered violence, and indigenous women", in *Restorative Justice and Violence Against Women*, James Ptacek (ed.), New York: Oxford University Press, pp. 103-122.

\_\_\_\_\_, (2007) "Beyond apology? Domestic violence and critical questions for restorative justice", *Criminology & Criminal Justice Vol. 7, No. 2*, pp. 169-187.

\_\_\_\_\_, (2004) "Restorative Justice, Domestic Violence and Family Violence", *Australian Domestic and Family Violence Clearinghouse, Issues Paper 9*, pp. 1-23.

\_\_\_\_\_, (2002) “Domestic Violence and Women’s Safety: Feminist Challenges to Restorative Justice” in *Restorative Justice and Family Violence*, John Braithwaite and Heather Strang (eds.), Cambridge U.K.: Cambridge University Press, pp. 42-61.

\_\_\_\_\_, (1995) “Communitarian Conferencing and Violence against Women: A Cautionary Note”, in *Wife Assault and the Canadian Criminal Justice System: Issues and Policies*, M. Valverde, L. MacLeod and K. Johnson (eds), Toronto: Centre of Criminology, University of Toronto, pp. 260–89.

Swift, Karen J. and Henry Parada (2004) “Child Welfare Reform: Protecting the Child or Policing the Poor?”, *Journal of Law and Social Policy*, Vol. 19, No. 1, pp. 1-17.

The Cultural Memory Group (2006), *Remembering women murdered by men: memorials across Canada*, Toronto, Canada: Sumach Press.

Tonry, Michael (2013) ““Nothing” Works: Sentencing “Reform” in Canada and the United States”, *Canadian Journal of Criminology and Criminal Justice*, Vol. 55, No. 4, pp. 465-480.

Towns, Alison & Peter Adams (2000) “If I really Loved Him Enough, He Would Be Okay – Women’s Accounts of Male Partner Violence”, *Violence Against Women*, Vol. 6, pp. 558-585.

Tracy, Sarah J. (2010), “Qualitative Quality: Eight “Big-Tent” Criteria for Excellent Qualitative Research”, *Qualitative Inquiry* Vol. 16, No. 10, pp. 837-851.

Turquet, Laura (2011) *Progress of the World’s Women: In Pursuit of Justice 2011-2012*, UN Women Headquarters.

Tutty, Leslie, Karen Wyllie, Paige Abbott, Jennifer Mackenzie, E. Jane Ursel, and Jennifer M. Koshan (2008) *The Justice Response to Domestic Violence: A Literature Review*, RESOLVE, retrieved March 2014 from <http://www.ucalgary.ca/resolve-static/reports/2008/2008-01.pdf>.

Tutty, Leslie, Cindy Ogden, and Gillian Weaver-Dunlop (2007) *Feasibility Study for a National Network of Women’s Shelters and Transition Homes*, RESOLVE, retrieved July 2015 from <http://www.ucalgary.ca/resolve-static/reports/2007/2007-01.pdf>.

Tutty, Leslie (2006) *A Turning Point for Women, Effective Practices in Sheltering Women: Leaving Violence in Intimate Relationships*, prepared for YWCA Canada, retrieved online June 2015 from <http://ywcacanada.ca/data/publications/00000013.pdf>.

United Nations General Assembly. 1993. Declaration on the Elimination of Violence Against Women. A/RES/48/104.

Ursel, Jane, Leslie Tutty and Janice leMaistre (eds.) (2008) *What’s Law Got to Do With It?: the law, specialized courts and domestic violence in Canada*, Toronto, Canada: Cormorant Books Inc.

Ursel, Jane (2002) "His sentence is my freedom": Processing domestic violence cases in the Winnipeg Family Violence Court. In L. Tutty & C. Goard (Eds.), *Reclaiming self: Issues and resources for women abused by intimate partners*, Halifax, NS: Fernwood, pp. 43-63.

Valverde, Mariana (1996) "'Despotism' and ethical liberal governance", *Economy and Society Vol. 25, No. 3*, pp. 357-372.

Vandervort, Lucinda (2012) "Lawful Subversion of the Criminal Justice Process? Judicial, Prosecutorial, and Police Discretion in Edmondson, Kindrat, and Brown" in *Sexual assault in Canada: law, legal practice and women's activism*, Elizabeth A. Sheehy (ed.), The University of Ottawa Press, pp. 111-150.

Vold, George B. and Thomas J. Bernard (1986) *Theoretical Criminology*, Third Edition, New York, Oxford: Oxford University Press.

Von Hirsch, Andrew (1976) *Doing Justice: The Choice of Punishments, Report of the Committee for the Study of Incarceration*, New York: Hill and Wang.

Wager, Nadia (2015) "Restorative Justice and Domestic Violence: A view from a positive victimological perspective" (Pre-Publication Draft), in N. Ronel and D. Segev (eds.) *Positive Criminology*. London: Routledge, retrieved May 27, 2015 from: [http://www.researchgate.net/profile/Nadia\\_Wager/publication/263966146\\_N.\\_Wager\\_%282015%29\\_Restorative\\_Justice\\_and\\_Domestic\\_Violence\\_A\\_view\\_from\\_a\\_positive\\_victimological\\_perspective.\\_In\\_N.\\_Ronel\\_D.\\_Segev\\_%28Ed.%29\\_Positive\\_Criminology.\\_London\\_Routledge/links/5554471508ae6943a86f47ed.pdf?utm\\_source=ANROWS+Newsletter&utm\\_campaign=4e0704c2b8-Notepad\\_Edition\\_Fourteen\\_27\\_05\\_15&utm\\_medium=email&utm\\_term=0\\_ac2f28d0aa-4e0704c2b8-210962913](http://www.researchgate.net/profile/Nadia_Wager/publication/263966146_N._Wager_%282015%29_Restorative_Justice_and_Domestic_Violence_A_view_from_a_positive_victimological_perspective._In_N._Ronel_D._Segev_%28Ed.%29_Positive_Criminology._London_Routledge/links/5554471508ae6943a86f47ed.pdf?utm_source=ANROWS+Newsletter&utm_campaign=4e0704c2b8-Notepad_Edition_Fourteen_27_05_15&utm_medium=email&utm_term=0_ac2f28d0aa-4e0704c2b8-210962913).

Walgrave, Lode (2002) "Restorative justice and the law: socio-ethical and juridical foundations for a systemic approach", in *Restorative Justice and the Law*, Jode Walgrave (ed.), UK: Willan Publishing, pp. 191-218.

Walker, Julie K. (2015) "Investigating Trans People's Vulnerabilities to Intimate Partner Violence/Abuse" *Partner Abuse, Vol. 6, No. 1*, pp. 107-125.

Walker, Lenore (1979) *The Battered Woman*, New York, Hagerstown, San Francisco, London: Harper & Row, Publishers.

Webster, Cheryl Marie and Anthony N. Doob (2012) "Searching for Sasquatch: Deterrence of Crime Through Sentence Severity" in *The Oxford Handbook of Sentencing and Corrections*, Joan Petersilia and Kevin R. Reitz (eds), DOI: 10.1093/oxfordhb/9780199730148.013.0007.

Weedon, Chris (1999) *feminism, theory and the politics of difference*, UK, USA: Blackwell Publishers.

Westmarland, Nicole, and Liz Kelly (2013) "Why Extending Measurements of 'Success' in Domestic Violence Perpetrator Programmes Matters for Social Work", *British Journal of Social Work* Vol. 43, pp. 1093-1110.

World Health Organization, Department of Gender and Women's Health Family and Community Health (2001) *Putting Women First: Ethical and Safety Recommendations for Research on Domestic Violence Against Women*, Geneva, Switzerland.

William, Arsani (2010) "An Unjust Doctrine of Civil Arbitration: Sharia Courts in Canada and England", *Stanford Journal of International Relations* Vol. 11 No. 2, pp. 40-47, retrieved online June 28, 2015 from [http://web.stanford.edu/group/sjir/pdf/Sharia\\_11.2.pdf](http://web.stanford.edu/group/sjir/pdf/Sharia_11.2.pdf).

Wilson, Margo and Martin Daly (1994) "Spousal Homicide", *Juristat Service Bulletin* Vol. 14 No. 8.

Wolfe, David A., Claire Crooks, Debbie Chiodo, Ray Hughes, CAMH Centre for Prevention Science, and Peter Jaffe (2005) *The Fourth R Interim Evaluation Report (September, 2005): Impact of a Comprehensive School-based Prevention Program: Changes in Adolescents' Knowledge, Attitudes and Behaviour related to Violence, Sexual Behaviour and Substance Use*, retrieved November 2006 from <http://www.thefourthr.ca/resources/Interim%20findings%20Full%20report%20jan%2021.pdf>.

Wolf, Diane L. (1996) "Situating Feminist Dilemmas in Fieldwork", *Feminist dilemmas in fieldwork*, Diane Wolf (ed.), Boulder, Colorado: Westview Press, pp. 1-41.

Wood, William R. (2011) "Restorative Justice" in Chambliss, William J. (ed.), *Courts, law and justice*, Sage Publications: electronic resource: DOI: <http://dx.doi.org.uproxy.library.dcuoit.ca/10.4135/9781412994125.n16>.

Young, Iris Marion (1990) *Justice and the Politics of Difference*, Princeton, New Jersey: Princeton University Press.

Zehr, Howard (2005) *Changing Lenses: A New Focus for Crime and Justice, Third Edition*, Scottsdale, PA & Waterloo, ON: Herald Press.

\_\_\_\_\_, (2002) *The Little Book of Restorative Justice*, Intercourse, PA: Good Books.