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Gender Violence as Legacy: To Imagine New Approaches

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Gender Violence as Legacy: To Imagine New Approaches

Deborah M. Weissman*

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INTRODUCTION

Over the past several decades, advocates and scholars have challenged strategies of policing, prosecution, and incarceration as response to gender violence.¹ A paradigm shift in the making suggests new understandings:

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1. See Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241, 1257 (1991); Barbara Fedders, *Lobbying for Mandatory-Arrest Policies: Race, Class, and the Politics of the Battered Women’s Movement*, 23 N.Y.U. REV. L. & SOC. CHANGE 281, 287 (1997); Donna Coker, *Crime Control and Feminist Law Reform in Domestic Violence Law: A Critical Review*, 4 BUFF. CRIM. L. REV. 801, 852-54 (2001); MARIE GOTTSCHALK, *THE PRISON AND THE GALLOWS: THE POLITICS OF MASS INCARCERATION IN AMERICA* 78 (2006); Deborah M. Weissman, *The Personal Is Political-and Economic: Rethinking Domestic Violence*, 2007 BYU L. REV. 387, 401 (2007); MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* 47 (rev. ed. 2012); Radha Vishnuvajjala, *Insecure Communities: How an Immigration Enforcement Program Encourages Battered Women to Stay Silent*, 32 B.C. J.L. & SOC. JUST. 185, 208-09 (2012); Alexandra Grant, *Intersectional Discrimination in U Visa Certification Denials: An Irremediable Violation of*

that the criminal legal system in fact tends to produce and perpetuate patterns of harm, including racism and poverty. An expanding critique of carceral approaches to social problems has led many to question the efficacy of traditional criminal system responses, in efforts to seek alternative collaborative means of address social problems.²

This essay considers gender violence as a consequence of systemic problems rooted in patriarchal structures, transacted through poverty and inequality, and embedded in a historically conditioned political economy. It is informed by the scholarship that propounds the need to develop community responses independent of the carceral system as a means to address the systemic source factors that contribute to Intimate Partner Violence (“IPV”), with attention to restorative and transformative justice approaches (RJ/TJ). This essay advances anti-violence scholarship to suggest the need to reconceptualize gender discrimination, poverty, and inequality as cause and consequence of social ills, and, moreover, to contribute to social theories about harm. That is, to understand the political economy as the structural environment from which the social pathology of inequality originates—a factor inextricably related to IPV—as a legacy of colonialism and slavery.³ In sum, these matters are best considered in historical context and addressed through tools and approaches offered by RJ/TJ.

It is useful to contextualize the origins of social ills as outcomes of historical relationships associated with colonialism.⁴ Colonial systems summoned into existence racial hierarches and patriarchal forms through which they exerted power and have shaped the current political economic landscape, including the character of the harms endured by communities, families, and individuals. The consequences of wealth extraction, labor exploitation, and the attending ideological rationale contributed to the immiseration of vast numbers of people as a matter of racial and gender

Equal Protection?, 3 COLUM. J. RACE & L. 253, 262 (2013); Leigh Goodmark, *Should Domestic Violence Be Decriminalized?*, 40 HARV. J.L. & GENDER 53, 54-55 (2017).

2. See generally DANIELLE SERED, *UNTIL WE RECKON: VIOLENCE, MASS INCARCERATION, AND A ROAD TO REPAIR* (1st ed. 2019).

3. Colonialism is defined as “a form of temporally extended domination by people over other people and as such part of the historical universe of forms of intergroup domination, subjugation, oppression, and exploitation.” Patrick Ziltener & Daniel Künzler, *Impacts of Colonialism—A Research Survey*, 19 AM. SOCIO. ASS’N 290, 291 (2013). This essay acknowledges that there are many forms of colonialism; see Nancy Shoemaker, *A Typology of Colonialism*, PERSP. ON HIST. (Oct. 1, 2015), <https://www.historians.org/research-and-publications/perspectives-on-history/october-2015/a-typology-of-colonialism> [<https://perma.cc/MG9V-CSAU>]; see also Anaïs E. A. Goubert, *Slavery, Colonialism, and Ecological Imperialism: Insights from Stratification Economics*, 81 AM. J. ECON. & SOCIO., 537 (2022) (noting that “[t]he persistent racial wealth gap is a reflection of the racist history of the United States, especially the legacies of slavery and settler colonialism”); KHALIL GIBRAD MUHAMMAD, *Sugar*, in *THE 1619 PROJECT: A NEW ORIGIN STORY* 71, 74 (Hannah Nikole Jones, et al., eds., 2021).

4. HANNAH NIKOLE JONES, *Origins*, in *THE 1619 PROJECT: A NEW ORIGIN STORY*, xxii (Hannah Nikole Jones, et al., eds., 2021).

categories.⁵ Stratification economics debunks the notion that subordination is a consequence of individual or group failings or self-defeating behaviors and demonstrates the durability of the harms of the theft of wealth and resources in its many forms.⁶ William Darity explains that the “existence—indeed persistence—of income, but especially wealth [] inequalities” is “the central problem” that affects social disorders.⁷

An examination of the workings of colonialism has added a new understanding of oppressive gender hierarchies and the violence that may follow gender inequality. For instance, patriarchy derived from colonial invocations of the absolute authority of a monarchy created deep gender divisions manifested in the subordination of women.⁸ Colonialism shaped ideologies of masculinities to “produce[] a cultural consensus in which political and socio-economic dominance symbolizes the dominance of men and masculinity over women and femininity.”⁹ Colonialism also has resulted in “the enforcement of gendered and racial differences from the most intimate of circumstances—within households and families—to the most public.”¹⁰ Expansion of colonialism in the United States extended patriarchal norms on many indigenous communities through the imposition of “male dominance in societal arrangements”¹¹ Settler colonialism often disenfranchised Native American women from previously established matriarchal systems and practices that were demonstrated to mitigate IPV.¹²

The historical sources of inequality and the shaping of gender hierarchies traced to systems of colonialism suggest new ways for advocates to address the structural sources of these harms. RJ/TJ approaches are well-positioned to deploy historical analyses to address the systemic factors to which carceral responses ignore. RJ/TJ strategies can address the more immediate harms of IPV while seeking structural changes related to past harms.

5. See Alexander De Juan & Jan Henryk Pierskalla, *The Comparative Politics of Colonialism and Its Legacies: An Introduction*, 45 POL. & SOC'Y 159, 160 (2017) (noting that wealth extraction and exploitation are the foundations of current circumstances).

6. William A. Darity Jr., *Position and Possessions: Stratification Economics and Intergroup Inequality*, 60 J. ECON. LITERATURE 400, 401 (2022) (explaining the field of stratification economics as a general theory of intergroup inequality).

7. *Id.* at 400.

8. GURMINDER K. BHAMBRA & JOHN HOLMWOOD, *COLONIALISM AND MODERN SOCIAL THEORY* 25, 27 (1st ed. 2021).

9. FRANZ FANON, *BLACK SKINS WHITE MASKS: THE EXPERIENCES OF A BLACK MAN IN A WHITE WORLD* 4 (Charles Lam Markmann trans., 1st ed. 1967).

10. Durba Ghosh, *Gender and Colonialism: Expansion or Marginalization?*, 47 HIST. J. 737, 745 (2004).

11. See Virginia H. Murray, *A Comparative Survey of the Historic Civil, Common, and American Indian Tribal Law Responses to Domestic Violence*, 23 OKLA. CITY U.L. REV. 433, 444 (1998).

12. *Id.* at 444-56.

Part I begins with an overview of the explanations of RJ/TJ approaches and identifies the challenges of defining and implementing these processes. Part II provides an overview of the concerns related to carceral approaches to IPV and further describes the political economic factors that contribute to gender violence. This further contextualizes the rationale for the turn to RJ/TJ. Part III argues that the inequality intrinsic to social problems—including IPV—is derived from economic structures, social relationships, and racial hierarchies with origins in historic wealth extraction and colonial exploitation—an explanation that promises a more robust understanding of the problems to be addressed. Part IV suggests that the relational and structural approaches associated with RJ/TJ are well-suited to address the need for personal healing and the systemic changes by which social ills might be mitigated.

PART I. DEFINING RJ/TJ AND IDENTIFYING THE CHALLENGES

A. *Restorative Justice (“RJ”)*

RJ is most often understood as “a response to ‘specific wrongful acts or existing states of injustice’” that invites those impacted by the harm to pursue non-punitive processes to obtain accountability and healing.¹³ RJ’s axioms are often characterized by posing three principal questions: (1) who has been harmed; (2) what are their needs; and (3) whose obligation is it to meet those needs?¹⁴ Voluntariness, that is, a willingness to engage in the process,¹⁵ Harmful acts are understood to occur “within a broader social and cultural context,” best mitigated through processes based upon community participation and collective.¹⁶ RJ promotes reparation and reintegration in contrast with carceral methods.¹⁷ Many advocates within the RJ movement have recognized the importance of addressing racial justice and

13. Donna Coker, *Restorative Approaches to Intimate Partner Violence and Sexual Harm*, 36 OHIO J. ON DISP. RESOL. 591, 601-02 (2021).

14. Howard Zehr, *Restorative or Transformative Justice*, EMU ZEHR INST. FOR RESTORATIVE JUST. [BLOG], (Mar. 10, 2011), <https://emu.edu/now/restorative-justice/2011/03/10/restorative-or-transformative-justice/> [<https://perma.cc/H7NE-BD8X>].

15. Steve Kirkwood, *A Practice Framework for Restorative Justice*, 63 AGGRESSION & VIOLENT BEHAV. 1, 1 (2022).

16. Alletta Brenner, *Resisting Simple Dichotomies: Critiquing Narratives of Victims, Perpetrators, and Harm in Feminist Theories of Rape*, 36 HARV. J.L. & GENDER 503, 561 (2013) (RJ is often described as having “roots in indigenous communities”); *see also* Mimi E. Kim, *Shifting the Lens: An Implementation Study of a Community-Based and Social Network Intervention to Gender-Based Violence*, 27 VIOLENCE AGAINST WOMEN 222, 227 (2021).

17. *See* Kirkwood, *supra* note 15, at 2.

structural inequality as critical to mitigate the injustices of the carceral system.¹⁸

The principles of RJ offer commanding challenges. These approaches have emerged from the recognition that the criminal legal system has proven to be an ineffective response to harm, including IPV, and indeed has often contributed to greater harm.¹⁹ Notwithstanding this recognition, RJ is often relegated to an “adjunct” to criminal prosecution.²⁰ When integrated into the premise of carceral systems, RJ deviates from its intended purposes and results in precisely the shame-based and punitive responses that it was designed to avoid.²¹ That the recent reauthorization of the Violence Against Women Act included an allocation of funds for restorative practices within the Department of Justice—“the very institution at the center of the carceral system in the United States”—has given rise to concerns that RJ will “devolve into some form that would accommodate the criminal legal system.”²² Furthermore, some RJ practices incorporate forms of professionalism that act to undermine community accountability practices.²³ Moreover, anti-domestic violence advocates who engage in RJ face challenges from carceral system actors. For example, domestic violence shelter personnel who engage in RJ as an alternative to relying on law enforcement have found themselves threatened with loss of program funding.²⁴

B. *Transformative Justice (“TJ”)*

Related but distinct from RJ, TJ offers a political framework to address violence, harm, and abuse.²⁵ TJ relies on community-based solutions to

18. Coker, *supra* note 13, at 599; *see also* Cameron Rasmussen & Sonya Shah, *Growing Justice*, INQUEST (Sept. 9, 2022), <https://inquest.org/growing-restorative-transformative-justice/> [<https://perma.cc/SA7F-XXPY>].

19. Coker, *supra* note 13, at 593. It is important to recognize that restorative justice approaches derive from varied genealogies, including but not limited to Navajo peace making processes and Canadian First Nation models; *see also* Amy J. Cohen, *Moral Restorative Justice: A Political Genealogy of Activism and Neoliberalism in the United States*, 104 MINN. L. REV. 889, 950 (2019); Aparna Polavarapu, *Global Carceral Feminism and Domestic Violence: What the West Can Learn from Reconciliation in Uganda*, 42 HARV. J.L. & GENDER 123, 138 (2019) (“Restorative justice practices and theories in the West often draw inspiration from “traditional” forms of justice seen in local indigenous populations and throughout sub-Saharan Africa and Asia.”).

20. Coker, *supra* note 13, at 603.

21. *See* Mimi E. Kim & V. Kalei Kanuha, *Restorative Justice and the Dance with the Devil*, 37 AFFILIA: FEMINIST INQUIRY IN SOC. WORK 189, 190 (2022).

22. Consolidated Appropriations Act of 2022, Pub. L. No. 117-103, 136 Stat. 50; Kim and Kanuha, *supra* note 21, at 191.

23. Rasmussen & Shah, *supra* note 18; Kim, *supra* note 16, at 227.

24. *See* Meg Stone, *Who Is Serving and Protecting Assault Victims?*, DAME (Apr. 14, 2021), <https://www.damemagazine.com/2021/04/14/who-is-serving-and-protecting-assault-victims/> [<https://perma.cc/NB3C-MRJQ>].

25. *See* Mia Mingus, *Transformative Justice: A Brief Description*, LEAVING EVIDENCE (Jan. 9, 2019), <https://leavingevidence.wordpress.com/2019/01/09/transformative-justice-a->

conditions that contribute to transgressive acts and to advance collective progress toward political, social, and economic equality through responses outside of the carceral system.²⁶ TJ approaches align with abolitionist systems seeking to dismantle the structures of a neoliberal/capitalist state.²⁷ Importantly, Angela Harris writes, transformative justice recognizes that “pervasive group inequality makes impossible a simple ‘restoration’ of harmony.”²⁸ Harris notes, TJ practitioners promote “an ideal that resembles restorative justice infused by the anti-subordination concerns of critical race feminism.”²⁹ TJ approaches consider the broader context that facilitates harm and seeks to change these conditions.³⁰

The challenges to applying TJ practices derive in part from the difficulties of sustaining the TJ entities that undertake these strategies. Because TJ networks have largely developed in marginalized communities with limited funding, they remain precarious in terms of capacity and continuity.³¹ Moreover, there are a number of cautionary tales that illustrate the State’s refusal to tolerate efforts to undertake radical and transformative change as policies that challenge the structural sources of the neoliberal economy.³²

The substantive and/or procedural differences between RJ and TJ is an issue subject to debate.³³ In a recent essay, Cameron Rasmussen and Sonya Shah suggest that RJ and TJ, while both “justice paradigms” are distinct and intersecting, but should not be conflated.³⁴ They identify the strengths

brief-description/ [https://perma.cc/9JYB-TZ58] (noting that TJ derives from indigenous community practices and serves marginalized communities); *see also* Candace Smith, *Restorative Justice and Transformative Justice: Definitions and Debates*, *Sociology Lens*, WILEY (Mar. 5, 2013), <https://www.sociologylens.net/topics/crime-and-deviance/restorative-justice-and-transformative-justice-definitions-and-debates/11521> [https://perma.cc/7UY6-F7TR].

26. GENERATIONFIVE, TOWARD TRANSFORMATIVE JUSTICE 5 (2007).

27. Amy J. Cohen, *The Rise and Fall and Rise Again of Informal Justice and the Death of ADR*, 54 CONN. L. REV. 197, 225 (2022).

28. Angela P. Harris, *Beyond the Monster Factory: Gender Violence, Race, and the Liberatory Potential of Restorative Justice Dreams from the Monster Factory: A Tale of Prison, Redemption, and One Woman’s Fight to Restore Justice to All*, 25 BERKELEY J. GENDER L. & JUST. 199, 211-12 (2010).

29. Harris, *supra* note 28 at 213.

30. MARIAME KABA, WE DO THIS TIL WE FREE US: ABOLITIONIST ORGANIZING AND TRANSFORMING JUSTICE 59 (2021).

31. *See* Mimi E. Kim, *Anti-Carceral Feminism: The Contradictions of Progress and the Possibilities of Counter-Hegemonic Struggle*, 35 AFFILIA: J. WOMEN & SOC. WORK 309, 319 (2020).

32. *See* Deborah M. Weissman, *Who Needs the State? We Do (Maybe)*, forthcoming N.C. L. REV. 2022 (reviewing repressive tactics used against certain mutual aid networks).

33. *See* Smith, *supra* note 25 (defining restorative justice); Zehr, *supra* note 14 (questioning whether “restorative justice” should, instead, be referred to as “transformative justice”).

34. Rasmussen & Shah, *supra* note 18.

and weaknesses of these approaches, each of which creates opportunities to address harms in ways that build relationships at multiple levels and avoid the punitive response of the state:

RJ has offered us a philosophy of justice that prioritizes relationships, healing, and care, and TJ has helped us to understand that addressing interpersonal harm without addressing systemic harm will always be insufficient. RJ has offered clearer tools to address harm — the “how do you do it” from a practical perspective — that are used by many TJ practitioners, while TJ has helped to root justice practices in the organizing efforts against root causes of violence. From our respective RJ and TJ efforts, we strongly believe that the work of supporting right relationships between people and communities is only effective when done in connection with larger social movements struggling for a society in which these relationships and communities can flourish.³⁵

PART II. FROM CARCERAL RESPONSES TO ADDRESSING THE POLITICAL ECONOMY OF IPV

The turn to RJ/TJ by anti-violence advocates first requires understanding the need to consider the theoretical developments that have identified the contributing sources of IPV and the failure of the dominant criminal legal responses to the harm it causes. Over the past thirty years, a significant body of scholarship has demonstrated that criminal justice strategies have failed to respond effectively to the problem of IPV.³⁶ As the issue of violence against women moved from private spheres to public concerns, demands for “solutions” were subsumed into the law-and-order agenda of the 1970s and 1980s, thereupon to evolve into a movement calling for hyper-incarceration and the expansion of the apparatus of the punitive state.³⁷ Increasingly, however, survivors have identified many concerns with the

35. Rasmussen & Shah, *supra* note 18.

36. For articles and books that discuss the harm occasioned by criminal justice system responses to gender violence, see generally ALEXANDER, *supra* note 1; BETH E. RICHIE, *ARRESTED JUSTICE: BLACK WOMEN, VIOLENCE, AND AMERICA'S PRISON NATION* 163 (2012); GOTTSCHALK, *supra* note 1, at 78; LEIGH GOODMARK, *DECRIMINALIZING DOMESTIC VIOLENCE: A BALANCED POLICY APPROACH TO INTIMATE PARTNER VIOLENCE* (2018); MARIAME KABA & ANDREA J. RITCHIE, *NO MORE POLICE* (2022); Crenshaw, *supra* note 1, at 1257; Fedders, *supra* note 1, at 287; Aya Gruber, *Equal Protection Under the Carceral State*, 112 NW. UNIV. L. REV. 1337, 1365–66 (2018); Vishnuvajjala, *supra* note 1, at 208–09; Weissman, *supra* note 1, at 401; Donna Coker & Ahjané D. Macquoid, *Why Opposing Hyper-Incarceration Should Be Central to the Work of the Anti-Domestic Violence Movement*, 5 U. MIA. RACE & SOC. JUST. L. REV. 585, 591–92 (2015). This is by no means a complete list of articles and books on this issue; the literature on this topic is vast and cannot be captured in a footnote.

37. Coker & MacQuoid, *supra* note 36 at 591–92.

criminal legal system.³⁸ In one survey, many respondents indicated that police bias against particular groups of people, or disregard for or uninterest in the issue of gender violence, created problems for their community.³⁹ Another study revealed that approximately ninety percent of survivors of violent crimes would have preferred restorative justice practices in lieu of carceral responses as a way to deal with the offense.⁴⁰

The turn away from criminal punishment has been accompanied by increasing attention to the relevance of political economic character of domestic violence.⁴¹ The lack of sufficient economic stability render many more vulnerable to IPV than those with resources.⁴² Remedies that address the well-established economic consequences of domestic violence ignore neoliberal structures of a political economy that offer survivors meager economic support—or worse: that burdens survivors with the costs of their

38. *Responses from the Field: Sexual Assault, Domestic Violence, and Policing*, AM. CIV. LIBERTIES UNION 29 (2015), https://www.aclu.org/sites/default/files/fielddocument/2015.10.20_report_-_responses_from_the_field.pdf [<https://perma.cc/PK7D-F7F2>]; see also Danielle Sered, *Accounting for Violence: How to Increase Safety and Break Our Failed Reliance on Mass Incarceration*, VERA INST. OF JUST. 9, 12, 17, 22 (2017), <https://www.vera.org/downloads/publications/accounting-for-violence.pdf> [<https://perma.cc/JA7A-84EA>] (discussing crime victims' distrust of and lack of faith in police).

39. *Responses from the Field: Sexual Assault, Domestic Violence, and Policing*, *supra* note 38, at 12-14.

40. Michelle Alexander, *Reckoning with Violence*, N.Y. TIMES (Mar. 3, 2019), <https://www.nytimes.com/2019/03/03/opinion/violence-criminal-justice.html> [<https://perma.cc/G3VP-776K>].

41. See Rebecca Miles-Doan, *Violence Between Spouses and Intimates: Does Neighborhood Context Matter?*, 77 SOC. FORCES 623, 623-25 (1998); see also Michael L. Benson et al., *Violence in Families: The Intersection of Race, Poverty, and Community Context*, in 2 FAMILIES, CRIME, AND CRIMINAL JUSTICE: CHARTING THE LINKAGES 91, 91 (Greer Litton Fox & Michael L. Benson eds., 2000); Gary L. Bowen et al., *Neighborhood Characteristics and Supportive Parenting Among Single Mothers*, in 2 FAMILIES, CRIME, AND CRIMINAL JUSTICE: CHARTING THE LINKAGES 183, 184-85 (Greer Litton Fox & Michael L. Benson eds., 2000); Judy A. Van Wyk et al., *Detangling Individual-, Partner-, and Community-Level Correlates of Partner Violence*, 49 CRIME & DELINQ. 412, 413-14 (2003). A National Institute of Justice study demonstrated the role that different neighborhood conditions (particularly those conditions that relate to poverty and economic stress) play in producing domestic violence. See Greer Litton Fox & Michael Benson, *Household and Neighborhood Contexts of Intimate Partner Violence*, 121 PUB. HEALTH REP. 419, 426 (2006); Greer Litton Fox & Michael Benson, *When Violence Hits Home: How Economics and Neighborhood Play A Role*, 1-6 (Sept. 2004), <https://www.ncjrs.gov/pdffiles1/nij/205004.pdf> [<https://perma.cc/ZM7U-FKD7>]; Jacquelyn Campbell et al., *Risk Factors for Femicide in Abusive Relationships: Results from a Multi-site Case Control Study*, 93 AM. J. PUB. HEALTH 1089, 1092 (2003) (finding that an offender's unemployment status was the most significant demographic risk factor related to IPV); see also Deborah M. Weissman, *Gender Violence as a Penalty of Poverty*, U. MIA. INTER-AM. L. REV. (forthcoming 2022).

42. LISA D. BRUSH, *POVERTY, BATTERED WOMEN, AND WORK IN U.S. PUBLIC POLICY* 69 (2011) (observing in the context of poverty and domestic violence, "as economists are the first to point out, violence affects income at least as much as income affects violence").

remediation through strategies often designed more to benefit financial markets than victims.⁴³

IPV can no longer be explained in terms of patriarchy or as idiosyncratic, criminogenic behaviors independent of social structures. A political economy that produces racial animus and economic inequality, that accommodates insufficient employment opportunities and deficits in health care, that turns a blind eye to inadequate housing opportunities, environmental degradation, and devastated neighborhoods must be considered as a major contributing factor to conditions of increased violence and rising crime rates.⁴⁴ In these circumstances, survivors identify the lack of access to basic needs as the principal barrier to safety.⁴⁵ These are the factors that often provoke family crises and instability, including IPV.⁴⁶

As explained further below, IPV is experienced as individual and collective harm within political economic systems shaped by historical conditions.⁴⁷ Yet the origin of these systems are often omitted from the discourse that considers the destructive consequences of the U.S. history of wealth extraction, colonialism, persistent racism and inequality. To the point of this essay: the political economic factors that often drive IPV and family dysfunction must be considered as conditions that are derived from “the

43. Deborah M. Weissman, *In Pursuit of Economic Justice: The Political Economy of Domestic Violence Laws and Policies*, 2020 UTAH L. REV. 1, 6 (2020) (for example personal financial literacy programs that disregard the structural dimensions of poverty and debt).

44. See BRIAN PHILLIPS, *GLOBAL PRODUCTION AND DOMESTIC DECAY*, at xxii, 43, 45 (1998) (noting that the decline in manufacturing employment since the 1950s has produced unemployment, reduction in wages, and relocation of workers and their families, and an increase in crime); John Gaventa, *From the Mountains to the Maquiladoras: A Case Study of Capital Flight and Its Impact on Workers*, in *COMMUNITIES IN ECON. CRISIS: APPALACHIA AND THE SOUTH* 85, 85-94 (John Gaventa et al. eds., 1989); John Russo & Sherry Lee Linkon, *Collateral Damage*, in *BEYOND THE RUINS* 201, 202, 210-11 (Jefferson Cowie & Joseph Heathcott eds., 2003) (studying the collapse of Youngstown, Ohio in the late 1970s through 1980s when it experienced what was called a homicide epidemic and became known as the “murder capital” in the 1990s following the closing of steel plants).

45. *A Virtual Summit: The Economic Impact of COVID-19 on Survivors of Domestic/Sexual Violence Findings from a Survey of Service Providers*, CTR. FOR SURVIVOR AGENCY AND JUST. 45 (Dec. 17, 2020) <https://csaj.org/wp-content/uploads/2021/10/Covid-Summit-FINAL-20-12-17.pdf> [<https://perma.cc/A3LP-WBE>] (noting a failure of all systems for survivors).

46. See Shelley D. Golden et al., *Troubled Times, Troubled Relationships: How Economic Resources, Gender Beliefs, and Neighborhood Disadvantage Influence Intimate Partner Violence*, 28 J. INTERPERSONAL VIOLENCE 2134, 2142 (2013); Michael L Benson et al., *The Correlation Between Race and Domestic Violence is Confounded with Community Context*, 51 SOC. PROBS. 326, 334-336 (2004); Lisa A. Goodman et al., *When Crises Collide: How Intimate Partner Violence and Poverty Intersect to Shape Women’s Mental Health and Coping?*, 10 TRAUMA, VIOLENCE, & ABUSE 306, 308-09 (2009); see also Phillips, *supra* note 44, at 107-08, (noting the strain on workers’ marriages and families); Gaventa, *supra* note 44, at 49-50; Laurie Mercier, *Remembering and Redefining Deindustrialized Youngstown*, 55 AM. Q. 315, 320 (2003) (noting that domestic violence rates rose in Youngstown after the demise of steel plants).

47. See *infra* Part III.

past [which] is not prologue but rather shapes how history lives in the present.”⁴⁸

PART III. THE TURN TO HISTORY

The proposition that IPV is a social problem in large measure shaped by historic conditions sets the stage for this Part. This part asserts that the inequality that pervades social problems is entrenched as inequities derived from wealth extraction and colonial exploitation.⁴⁹ It is necessary to turn to history, as William Davies has observed, “to narrate and contextualise the conflicts of the present.”⁵⁰ Proceeding from such a vantage point provides greater opportunities to address social harms.

A turn to history encourages an awareness of socio-economic inequality as a condition with antecedents in the exploitation of resources and the exploitation of labor to the benefit of expropriators.⁵¹ It directs attention to the enduring consequences of historical damage, including the impact of imperialism and colonialism, directly linked to “the exploitation and oppression experienced by Asian, Black and Indigenous peoples.”⁵² Similarly, consideration of the past also illuminates on the ways that Latinos’ lived experiences have been shaped and informed by U.S. colonialism.⁵³ Attention to the experiences of colonized peoples, moreover, illustrates the divisions that weaken social justice initiatives. Natsu Saito writes that “colonialism inevitably creates and feeds off a dynamic of difference.”⁵⁴ She further explains:

in the United States such difference has been constructed to facilitate the appropriation of lands and resources, to impose structures of law and governance, to exploit labor, and to enrich the

48. Anthony Bagues, *Working Through Injustice*, PERSP. ON HIST. (Oct. 17, 2022), <https://www.historians.org/research-and-publications/perspectives-on-history/november-2022/working-through-injustice-historical-catastrophe-living-history-and-righting-wrongs-at-brown-university> [<https://perma.cc/Q5Y5-TRSS>].

49. See Darity, *supra* note 6 at 400 (exploring how stratification economics developed in response to explanations for interracial/ethnic/gender inequality).

50. William Davies, *Destination Unknown*, 44 LONDON REV. BOOKS (June 9, 2022), <https://www.lrb.co.uk/the-paper/v44/n11/william-davies/destination-unknown> [<https://perma.cc/SPS5-N5DA>].

51. THOMAS PIKETTY, A BRIEF HISTORY OF EQUALITY 13 (2002) (noting the importance of an understanding of history to counter inequality and discrimination).

52. Hazel V. Darby, *We Must Burn Them*, 44 LONDON REV. OF BOOKS (May 26, 2022) (citing ANNA JULIA COOPER, A VOICE FROM THE SOUTH BY A BLACK WOMAN OF THE SOUTH (1892)), <https://www.lrb.co.uk/the-paper/v44/n10/hazel-v.-carby/we-must-burn-them> [<https://perma.cc/VP6U-7BUF>]; see also Murray, *supra* note 11, at 444-45.

53. Erika Soto, *Jorge Garcia’s Argument for Hispanic/Latino Identity: A Critique*, 16 THE CLR JAMES J. 228, 228 (2010).

54. Natsu Saito, *Different Paths: Colonization is More than Exploitation*, THE LPE PROJECT (Oct. 10, 2020) (citing Anthony Anghie), <https://lpeproject.org/blog/different-paths-colonization-is-more-than-exploitation/> [<https://perma.cc/LF79-QBGB>].

colonizers. The primary markers of identity used to oppress people in this society—including race, national origin or immigration status, gender or sexual identity, and economic class—are the product of both constitutive and ongoing colonial relations.⁵⁵

A hierarchy of “values” through which to sustain exploitation, along with centuries of expropriation of wealth and the enslavement of people, endure as all forms of socioeconomic inequality today, and at the same time creates obstacles to overcoming discrimination.⁵⁶ The institution of slavery and the attending ideology of racism through which social hierarchies have been sustained endure as discriminatory laws and policies to disadvantage Black people. Black workers previously excluded from many social safety net programs continue to suffer discriminatory practices that diminish the economic benefits otherwise offered to whites—all contributing to economic strain that may give rise to socially harmful behavior.⁵⁷ People of color, whether survivors or offenders, are victims of discriminatory criminal legal systems whose purpose originated with the need to maintain practices of systems of repression.⁵⁸

As with social harms generally, IPV also derives from similar historical processes.⁵⁹ The history of inequality institutionalized in colonialism and slavery established hierarchical categories in which marginalized minorities, including and especially poor women and women of color were denied access to opportunity.⁶⁰ Wealth extraction created conditions of inequality resulting in a significant diminished status for women.⁶¹ Family stress and divorce rates are higher in localities with greater rates of inequality.⁶² Similarly, acts of violence are attributed to the experience of humiliation—particularly for males—that accompanies unequal status.⁶³

Gender violence is steeped in the history of inequality, inequity, and injustice, and includes the enslavement, subjugation, and rape of women—

55. *Id.*

56. Davies, *supra* note 50 (“modern wealth is no longer independent of old wealth”).

57. Robert Kuttner, *Dividends of a Just Economy, What is Keeping the Government From Acting on Behalf of Its Citizens?*, N.Y. REV. OF BOOKS (Apr. 29, 2021), <https://www.nybooks.com/articles/2021/04/29/dividends-of-a-just-economy/> [<https://perma.cc/XC9P-6G3J>] (describing New Deal legislation as “hobbled by racism”); see e.g. Dwayne Fatherree, *Fighting to Grow: Black Farmers Continue to Battle Systemic Discrimination*, THE S. POVERTY L. CTR. (Feb. 18, 2022), <https://www.splcenter.org/news/2022/02/18/fighting-grow-black-farmers-continue-battle-systemic-discrimination> [<https://perma.cc/FUQ2-4M4E>].

58. Dorothy E. Roberts, *Foreword: Abolition Constitutionalism*, 133 HARV. L. REV. 1, 4 (2019); Amna A. Akbar, *An Abolitionist Horizon for (Police) Reform*, 108 CAL. L. REV. 1781, 1812–13 (2020).

59. BHAMBRA & HOLMWOOD, *supra* note 8, at 208.

60. MIKE SAVAGE, *THE RETURN TO INEQUALITY: SOCIAL CHANGE AND THE WEIGHT OF THE PAST*, 181 (2021).

61. RICHARD WILKERSON & KATE PICKETT, *THE SPIRIT LEVEL* 58–59 (2010).

62. *Id.* at 111.

63. *Id.* at 140–41.

systemic harms that have a long history of legal sanction and political “authorization.”⁶⁴ Colonialism often implied a loss of status and formal rights for women.⁶⁵ State violence against women was practiced as a facet integral to colonial expansion and instantiated gender inequalities as well as traumatic experiences of entire communities in ways that have contributed to IPV.⁶⁶ Chattel slavery and Jim Crow laws legalized all forms of abuse of Black women.⁶⁷ Institutions of slavery subjected Black women to abusive policing including sexual violence—abuses that continue in present day.⁶⁸ Notably, one study found that “[t]he importance of colonialism in contributing to high rates of IPV is hugely under-acknowledged.”⁶⁹

The recurrent policy narratives to rescue women as a means to justify colonialism persists. These tropes are manifested in criminal legal strategies including mandatory arrest, mandatory reporting, and “no drop” prosecution policies as the preferred means of the state to address gender violence.⁷⁰ Recent efforts to expand criminal legal strategies, for example, proposals to criminalize “coercive control,”⁷¹ is yet another example of the State’s interest in further solidifying carceral institutions at the expense of victim agency.⁷² Prosecutors used the issue of domestic violence and the need to keep women “safe” as justification to oppose reforms to the

64. See Catherine Burnette, *Historical Oppression and Intimate Partner Violence Experienced by Indigenous Women in the United States: Understanding Connections*, 89 SOC. SERV. REV. 531, 534, 558 (2015) (discussing this issue as it relates to indigenous women, specifically).

65. See Deborah M. Weissman, *The Human Rights Dilemma: Rethinking the Humanitarian Project*, 35 COLUM. HUM. RTS. L. REV. 259, 272 (2004) (describing, for example, the denial of suffrage and introduction of the law of coverture affecting Puerto Rican and Hawaiian women).

66. Jenevieve Mannell, *How Colonialism is a Major Cause of Domestic Abuse Against Women Around the World*, THE CONVERSATION (Aug. 25, 2022), <https://theconversation.com/how-colonialism-is-a-major-cause-of-domestic-abuse-against-women-around-the-world-179257> [<https://perma.cc/K8M9-DD4A>].

67. Jasmine Sankofa, *Mapping the Blank: Centering Black Women’s Vulnerability to Police Sexual Violence to Upend Mainstream Police Reform*, 59 HOW. L.J. 651, 673-75 (2016).

68. Teri A. McMurtry-Chubb, *#sayhername #blackwomenslivesmatter: State Violence in Policing the Black Female Body*, 67 MERCER L. REV. 651, 653 (2016); Deborah M. Weissman, *Gender Violence, the Carceral State, and the Politics of Solidarity*, 55 U.C. DAVIS L. REV. 801, 810 (2011).

69. Laura J. Brown, et al., *High-Risk Contexts for Violence Against Women: Using Latent Class Analysis to Understand Structural and Contextual Drivers of Intimate Partner Violence at the National Level*, 38 J. INTERPERSONAL VIOLENCE 1007, 1024 (2022).

70. David Hirschel et al., *Domestic Violence and Mandatory Arrest Laws: To What Extent Do They Influence Police Arrest Decisions?*, 98 J. CRIM. L. & CRIMINOLOGY 255, 292 (2007); see Aya Gruber, *Rape, Feminism, and the War on Crime*, 84 WASH. L. REV. 581, 649 (2009).

71. EVAN STARK, *COERCIVE CONTROL: HOW MEN ENTRAP WOMEN IN PERSONAL LIFE* 15 (2007) (defining coercive control as “a malevolent course of conduct that subordinates women” that includes physical and non-physical forms of violence and denial of resources).

72. Courtney K. Cross, *Coercive Control and the Limits of Criminal Law*, 56 U.C. DAVIS L. REV. 195, 200-01 (2022).

criminal legal system.⁷³ These policies are justified by the notion of the alleged diminished capacity of women who, as victims, cannot exercise proper agency.⁷⁴ IPV survivors who act outside the role of the victim dependent on the state as savior are often given little consideration in determining their worth as a victim in need of support. Those who choose to forego legal remedies, often in order to avoid the violence that women experience in the legal system, may be unable to obtain victim compensation funds for failure to cooperate with carceral strategies.⁷⁵ Indeed, survivors of gender violence have objected to the ways the harms they have suffered have been used to enhance criminal justice responses against their wishes.⁷⁶

Addressing the social harms that emanate in these circumstances relegates many to the “bottom” while perpetuating the wealth of the few based upon unearned wealth “either inherited or extracted from property as rent,” requiring consideration of a shift in focus and strategies to mitigate such harms.⁷⁷ Indeed, some progressive movements have identified baneful historic practices, including slavery, empire, and settler colonialism, to understand and address present day ills.⁷⁸ Some scholars too have led the way in the efforts to address gender violence from the vantage of the surviving harms of colonialism.⁷⁹ Addressing the historic determinants of inequality

73. See Zoë Carpenter, *Will Concerns About Domestic Violence Derail Sentencing Reform in Oklahoma?*, NATION (Oct. 30, 2020), <https://www.thenation.com/article/society/oklahoma-domestic-violence-state-question-805/> [<https://perma.cc/M2BX-GGE6>].

74. See Donna Wills, *Domestic Violence: The Case for Aggressive Prosecution*, 7 UCLA WOMEN’S L.J. 173, 177 (1997) (stating that most domestic violence victims “have neither the will nor the courage to assist prosecutors in holding the abusers criminally responsible.”); Leigh Goodmark, *Autonomy Feminism: An Anti-Essentialist Critique of Mandatory Interventions in Domestic Violence Cases*, 37 FLA. ST. U. L. REV. 1, 23 (2009).

75. See 34 U.S.C.A. § 20102 (requiring crime victims to cooperate with “reasonable requests of law enforcement authorities . . .”).

76. See Alison Turkos & Shivana Jorawar, *We Survived Rape. Don’t Use Us to Support the Police.*, COSMOPOLITAN (July 8, 2020), <https://www.cosmopolitan.com/politics/a33216997/sexual-assault-survivors-police-abolition/> [<https://perma.cc/5WCZ-5VCJ>].

77. See Davies, *supra* note 50; see e.g., SAVAGE, *supra* note 60, at 5 (reviewing scholars who advocate switching to challenges to the superrich as opposed to a focus on those without economic means).

78. See Davies, *supra* note 50 (noting especially the turn to history by anti-racist groups); BHAMBRA AND HOLMWOOD, *supra* note 11, at 20 (noting the use of theories of colonialism by African American writers to understand circumstances of race and “articulate a new Black Power movement”).

79. See Beth E. Richie, *Keynote Reimagining the Movement to End Gender Violence: Anti-racism, Prison Abolition, Women of Color Feminisms, and Other Radical Visions of Justice*, 5 UNIV. MIA. RACE SOC. JUST. L. REV. 257, 263-64 (2015) (articulating the relationship between white supremacy and gender violence); Mimi E. Kim, *Transformative justice and restorative justice: Gender-based violence and alternative visions of justice in the United States*, 27 INT’L REV. VICTIMOLOGY 162, 163 (2021) (identifying the consequences of settler colonialism). See also Rashmi Goel, *No Women at the Center: The Use of the Canadian Sentencing Circles*, 15 WIS. WOMEN’S L.J. 293, 294, 299 (2000); SHERENE RAZACK, *LOOKING WHITE PEOPLE IN THE EYE: GENDER, RACE AND CULTURE IN COURTROOMS AND CLASSROOMS*, 19-20 (1998). Donna Coker, *Enhancing Autonomy for Battered Women: Lessons from Navajo Peacemaking*, 47 UCLA L. REV. 1, 53-54 (1999).

and social harm offers an opportunity to create a “pathbreaking agenda that speaks to the broader ills of our time.”⁸⁰ As the next part demonstrates, RJ/TJ approaches provide a means to implement this agenda by engaging historical wrongs that are reproduced as part of history’s “cycle of continuity.”⁸¹

PART IV. RESTORATIVE AND TRANSFORMATIVE JUSTICE: MATTERS OF PRAXIS AND PROTRACTED EFFORTS

This Part addresses the ways in which restorative and transformative approaches—distinct from interacting—can assist anti-violence advocates to engage with “the weight of the past” as a means to mitigate social harms including IPV, experienced as personal and collective harm.⁸² RJ/TJ offers strategies to reorient an understanding of IPV as a phenomenon produced through a history of capitalist exploitation often manifested through racist practices.⁸³ Mitigation must include practices that promote relational and structural transformation. RJ/TJ has the potential to do both. RJ and TJ strategies both provide opportunities to “use[] micro-level conflict as a critical framework through which to analyze [and achieve] macro-level transformations.”⁸⁴

RJ/TJ offer the possibility of repair deemed necessary to address IPV. William Darity’s and A. Kirsten Mullen’s commentary on reparations for Black Americans is instructive here.⁸⁵ They observe that:

For articles that address the need to attend to historical harms, *see e.g.*, James H. Sweet, *Abstract of The Presidential Address at the 2023 Annual Meeting*, PERSPS. ON HIST. (Oct. 6, 2022), <https://www.historians.org/research-and-publications/perspectives-on-history/november-2022/abstract-of-the-presidential-address-at-the-2023-annual-meeting> [<https://perma.cc/VQT9-AE5Z>](describing the urgency of addressing these issues); Lorenzo Kamel, *The Anthropocene History and Legacy of the Colonial Mindset*, PERSPS. ON HIST. (Aug. 16, 2022), <https://www.historians.org/research-and-publications/perspectives-on-history/september-2022/the-anthropocene-history-and-legacy-of-the-colonial-mindset> [<https://perma.cc/W7KD-P8KZ>] (writing about colonialism and planetary destruction).

80. SAVAGE, *supra* note 60, at 2. *See also* WILKERSON AND PICKETT, *supra* note 61, at x, 31 (noting that inequality is “socially corrosive” and identifying the various ways that inequality produces a range of social ills).

81. Elena Ruiz & Nora Berenstain, *Gender-Based Administrative Violence as Colonial Strategy*, 46 PHIL. TOPICS 209, 214 (2018).

82. *See* SAVAGE, *supra* note 60 at 169, 201, 309 (warning against the fragmentation of related harms as consequence of historical harms).

83. Sameer Ashar, *et al.*, *Law Clinics and Racial Capitalism*, THE LPE PROJECT (Nov. 7, 2022), <https://lpeproject.org/blog/law-clinics-and-racial-capitalism/> [<https://perma.cc/7R79-NYW8>] (statement of Ruth Wilson Gilmore) (“[C]apitalism requires inequality and racism enshrines it.”). *See also* Roberts, *supra* note 58, at 45 n. 267.

84. Cohen, *supra* note 2727, at 197.

85. WILLIAM DARITY & A. KIRSTEN MULLEN, *FROM HERE TO EQUALITY: REPARATIONS FOR BLACK AMERICANS IN THE TWENTY-FIRST CENTURY 1* (Univ. N. Carolina Press, 2020).

[r]edress potentially can take two forms, not necessarily mutually exclusive: *restitution* or *atonement*. Restitution is the restoration of survivors to their condition before the injustice occurred or to a condition they might have attained had the injustice not taken place. . . . Atonement, as an alternative form of redress, occurs when perpetrators or beneficiaries meet conditions of forgiveness that are acceptable to the victims.⁸⁶

RJ/TJ tracks these forms of redress.

A. *Restorative Justice: Relational and Temporal*

The processes of addressing the harms of the past implicated in injustices of the present are painstaking and measured. Yet, the nature of the harm caused by IPV requires a coherent protocol that can respond in a timely manner. RJ, through its emphasis on extant needs, addresses individual trauma and other emotional concerns as well as the day-to-day needs of survivors and offenders.⁸⁷ RJ offers a more immediate form of intervention that may include ethical principles and values designed to enhance reparation, trust, reintegration, desistance, and may include forgiveness.⁸⁸ RJ focuses on how those persons with “a stake in the specific offense” work with others to move forward and heal.⁸⁹ Moreover, RJ generates opportunities to obtain the quotidian stories to illustrate the ways that the histories of past exploitation contribute to social harm.⁹⁰ The conversations obtained through RJ processes may foster the kind of dialogues that serves both to reverse the legacies of history and establish “the very possibility of communicating effectively across differences.”⁹¹

B. *Transformative Justice: Structural and Proactive*

TJ intersects with RJ’s relational practices with the latter implemented in a comparatively shorter period of time. As a social movement, TJ is situated within a political framework over a protracted length of time to address the systemic and intergenerational conditions that contribute to

86. *Id.* at 34.

87. Chanda Daniels, *VAWA’s Solution to Fund the Police Harms Us All, Especially Women*, COMMON JUST. (Sept. 20, 2022), <https://blog.commonjustice.org/blog/vawas-solution-to-fund-the-police-harms-us-all-especially-women> [<https://perma.cc/V52K-ED6D>].

88. See Kirkwood, *supra* note 15, at 3 (stating that RJ does not necessarily require forgiveness but does aspire to promote dignity and respect for the person harmed and the person responsible for the harm, as well as mutual understanding); see also Coker, *supra* note 13, at 620 (identifying the varied components of a reparative plan that can be developed within RJ’s relational view of justice).

89. Kirkwood, *supra* note 15, at 3.

90. See K-Sue Park, *This Land Is Not Our Land*, 87 U. CHI. L. REV. 1977, 1992 (2020).

91. *Id.* at 2005.

IPV.⁹² In this context, TJ acts to recast the issue from an idiosyncratic and private dysfunction to the consequences of disproportionate accumulation of wealth and power as a legacy of colonialism and exploitation.⁹³ TJ can serve as “radical politics [to] address the politics of abundance through ‘holding capital to account.’”⁹⁴

No less important, TJ approaches offer advocates the possibility to advance synergistically an anti-gender violence agenda with other social justice movements.⁹⁵ TJ interventions offer community-building capacities to address IPV to support survivor healing and to accept community responsibility for complicity in the harm.⁹⁶ Such a focus on community building strengthens demands to redistribute resources owed to disenfranchised communities to mitigate racial wealth gaps and poverty. TJ groups, for example, could support recommendations related to reparations such as the formation of trust funds for grants for homeownership, education, and entrepreneurial opportunities.⁹⁷ Organizing around tax reform and strengthening the welfare state fall within the province of TJ undertakings.⁹⁸ Similarly, TJ organizations can strengthen advocacy for gender equity in labor and wages, reproductive justice, and other issues to diminish gender equality.

RJ/TJ approaches serve to acknowledge the need for harm doers to accept responsibility while advocating for a form of accountability that transcends the individual and includes a broader recognition of responsibility visited upon communities by legacies of the past.⁹⁹ Ezra Rosser writes with regard to the impact of settler colonialism, “a just transition involves both correcting for past wrongs and creating the conditions for Diné (the word in the Navajo language for members of the tribe, which means “the people”).”¹⁰⁰ Cameron Rasmussen and Sonya Shah explain the benefits of RJ and TJ approaches:

92. Rasmussen & Shah, *supra* note 18; Mingus, *supra* note 25.

93. SAVAGE, *supra* note 60, at 318 (arguing for moving from an approach that focuses on a “personalized criticism of specific individuals (noting that at times it can certainly be this) to a wider critique of the structural arrangements that allow elite power to flourish.”).

94. *Id.* at 319. 60

95. Davies, *supra* note 50 (noting that social movements seek to address the “economic legacy of historical injustices”); Mingus, *supra* note 25; Weissman, *supra* note 67, at 881.

96. Rasmussen and Shah, *supra* note 18.

97. DARITY & MULLEN, *supra* note 85, at 265 (noting historic examples of restitution, including from the German government to Holocaust victims).

98. Piketty, *supra* note 51, at 13.

99. Davies, *supra* note 50.

100. Ezra Rosser, *A Nation Within: Navajo Land and Economic Development*, LPE PROJECT (Dec. 6, 2022), <https://lpeproject.org/blog/a-nation-within-navajo-land-economic-development/> [https://perma.cc/D9F6-37FK].

A colleague recently shared how she understood RJ and TJ in her work: “RJ gave me the tools and TJ gave me the politics.” We would add that RJ has offered us a philosophy of justice that prioritizes relationships, healing, and care, and TJ has helped us to understand that addressing interpersonal harm without addressing systemic harm will always be insufficient. RJ has offered clearer tools to address harm — the “how do you do it” from a practical perspective — that are used by many TJ practitioners, while TJ has helped to root justice practices in the organizing efforts against root causes of violence. From our respective RJ and TJ efforts, we strongly believe that the work of supporting right relationships between people and communities is only effective when done in connection with larger social movements struggling for a society in which these relationships and communities can flourish.¹⁰¹

RJ focuses on the need for an offender to accept responsibility for the harm caused and to undertake obligations to repair such harm to a victim and the community while TJ is well-positioned to broaden perspectives, and as Mimi Kim has observed, may support the “expansion of liberatory possibilities in the United States.”¹⁰²

CONCLUSION

This essay subscribes to the theoretical and practical work that seeks to address IPV as a function of a political economic environment with antecedents in the violence and subjugation attending colonial expansion. It argues that current conditions of socio-economic inequality that contribute to IPV are products of the “accumulating force of the weight of history.”¹⁰³ Mike Savage has described the need to confront the “historical residues” that drive inequalities along with the obligation to rethink our intellectual framework and the praxis that follows.¹⁰⁴

Acknowledging the injustices derived from wealth theft and legacies of institutionalized racism provides a fuller explanation of the circumstances of survivors and offenders. It points to new strategies to mitigate harmful behaviors, enhance healing, and contribute to social justice movements as ways to compensate communities for historic exploitation. “What are the main lessons that can be drawn from this new economic and social history?” Thomas Piketty asks.¹⁰⁵ “The most obvious is no doubt the following: inequality is first of all a social, historical, and political construction.”¹⁰⁶ He continues, and notes that “we are all responsible for the way in

101. Rasmussen & Shah, *supra* note 18.

102. Kim, *supra* note 79.

103. SAVAGE, *supra* note 60, at 309.

104. *Id.*

105. PIKETTY, *supra* note 51, at 8.

106. *Id.*

which we choose or fail to take it into account in analyzing the world economic system, its injustices, and the need for change.”¹⁰⁷

These obligations require attention to the restoration of well-being of victims and their communities similarly harmed by acts of violence. This process of restoration is not only “due” to survivors, but it may also help to strengthen the social fabric of community and thus enable efforts to enact transformative justice—including forms of reparations meant to mend and strengthen social groups most harmed by historical practices of exploitation. Nor are the arguments and recommendations in this essay fanciful. There are examples of reparation efforts that have been undertaken to address the consequences of colonialism and institutions of slavery. The discourse about the importance – indeed the necessity—of reparations has persisted.¹⁰⁸

RJ/TJ approaches may lead to a more profound political economic transformation. They address the historical circumstances that contribute to IPV in ways that are temporally expedient while establishing the foundation for protracted efforts. The philosophies and practices associated with RJ/TJ provide opportunities for individual accountability, healing, and constructive (re)integration within communities.

107. *Id.* at 49.

108. DARITY & MULLEN, *supra* note 85, at 1-2; Robin D.G. Kelley, *Twenty Years of Freedom Dreams*, BOS. REV. (Aug. 1, 2022), <https://www.bostonreview.net/articles/twenty-years-of-freedom-dreams/> [<https://perma.cc/H5WJ-GDHC>].