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No One Is Disposable: Towards Feminist Models of Transformative Justice

HANNAH BARRIE*

This article looks toward a future of prison abolition by arguing for feminist models of Transformative Justice (TJ), a strategy that responds to harm by aiming to transform the conditions that make violence possible. Autoethnographic reflections of the author's experience volunteering with Circles of Support and Accountability (COSA), a TJ initiative based on friendship and accountability working to reintegrate people incarcerated for perpetrating sexualized violence back into communities, are combined with a critical analysis of the existing literature about TJ principles and initiatives. Insights from the author's experience with COSA are examined for their potential use in a feminist TJ context. This article considers Philly Stands Up as an example of a more radical, grassroots TJ model, explores what examining this model in light of COSA's techniques might suggest for a sustainable feminist TJ framework, and proposes several small steps forward for TJ movements to work toward a future in which no one is disposable.

And remember

I have no existence apart from you

—Adrienne Rich, “Splittings”¹

How do we hold people accountable for wrongdoing and yet at the same time remain in touch with their humanity enough to believe in their capacity to be transformed?

—bell hooks²

“Nothing in nature is disposable,” writes Adrienne Maree Brown.³ In *Emergent Strategy*, Brown, an author, doula, and Black feminist activist, outlines the concept of emergence, or how small

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¹ Adrienne Rich, *The Dream of a Common Language: Poems 1974-1977*, 1st ed (New York, NY: WW Norton & Company Inc., 1978) at 10.

² Melvin McLeod, “There's No Place To Go But Up - bell hooks and Maya Angelou in conversation” (1 January 1998), online: *Lion's Roar* <www.lionsroar.com/theres-no-place-to-go-but-up/> [perma.cc/7HSX-7AWF].

³ Adrienne Maree Brown, *Emergent Strategy: Shaping Change, Changing Worlds* (Chico, CA: AK Press, 2017) at 131.

connections create complex systems, in order to look towards a future of collective liberation.⁴ She considers the natural world as a model for interdependence, discussing nature's resilience: even in moments of destruction, like a volcanic explosion, "the cycle of life ultimately makes use of everything."⁵ Brown writes that the natural world exemplifies the critical connections that humans have with each other, describing the interconnectedness of mycelium under the earth; the way that trees grow from a common root system, one life form growing tall in many bodies; how oak trees wrap roots around each other underground for stability.⁶ Rather than focusing on individualism and independence, Brown proposes leaning into our interdependence as humans, our mutual reliance on each other. As she writes, the self is not just composed of one's own complexity, "but everyone [one is] in relationship with, creating an abundance of connections, desires, interactions, and reactions."⁷

While Brown looks to nature to exemplify the interdependence of humans, philosopher and theorist Judith Butler looks to ethics, drawing on Emmanuel Levinas to critique liberal conceptions of individualism.⁸ She notes the inherent and inevitable ways in which people rely on each other: bodies are vulnerable in their very physical existence in the world; we depend on each other every day to preserve each other's lives. In this way, Butler complicates the idea of the self, writing: "I am already bound to you, and that is what it means to be the self that I am."⁹ The "I" is undone by its inextricable ties to others; the self is necessarily relational. We are fundamentally interdependent beings, displayed in the simplest of agreements: to not harm one another. As Butler states, then, "violence is, always, an exploitation of that primary tie, that primary way in which we are, as bodies, outside ourselves and for one another."¹⁰ She suggests that, instead, in the recognition and apprehension of a "common human vulnerability," we take up the political potential of this interdependence, aiming perhaps, toward a future of non-violence in which no one is disposable.¹¹

Transformative Justice (TJ) is a strategy of responding to conflict that aims for just such a future. It takes into account, prioritizes, and relies on the fundamental interdependence of humans. TJ works toward different conceptions of what it means to be an individual, recognizing the value of relationships and community to address harm in fundamentally different ways from the carceral system and retributive models of justice. As its name suggests, TJ endeavours to transform the conditions that make violence possible and seeks to address experiences of

⁴ *Ibid* at 3.

⁵ *Ibid* at 131.

⁶ *Ibid* at 85.

⁷ *Ibid* at 88.

⁸ Judith Butler, *Notes Toward a Performative Theory of Assembly* (Cambridge, MA: Harvard University Press, 2015) at 110 [Notes].

⁹ *Ibid*.

¹⁰ Judith Butler, *Precarious Life: The Powers of Mourning and Violence* (London, UK: Verso, 2004) at 27 [Precarious Life].

¹¹ *Ibid* at 30. Attributing "disposability" to a person, in this context, refers to the punishment, casting-out, or public shaming of a person for perpetrating abuse without any chance for redemption; working against disposability means working against false binaries of victim/abuser and holding space for plurality, change, and growth in a person. See Janaya Khan, "Abolition Culture: Moving Beyond Disposability in the Movement" (2 June 2017), online: *Medium* <medium.com/@janayakhan/abolition-culture-moving-beyond-disposability-in-the-movement-e303aa8310c0> [perma.cc/S39A-NDTS].

violence without relying on state systems such as incarceration.¹² Movements and organizations that use TJ focus on collective liberation, long-term healing, and accountability for perpetrators, survivors, and communities.

reflection 1

A few weeks ago, I went to a café downtown. I looked for the people I was meeting: two men and two women. I said hello, bought myself a tea, and joined them at the table, where they were talking about rent prices in Hamilton. I involved myself in the conversation, asking how one man's apartment search was coming along and offering suggestions about volunteering when the conversation shifted to hobbies and community involvement. Partway through the meeting, we arrived at the topic of reaching out to ask for help. Each person, including myself, shared how they feel about asking for help from others, noting the various ways that this can be challenging. As the meeting ended, two of the people decided to go for a meal together, and invited everyone else along with them.

While this meeting at a coffee shop involved an hour of mundane, casual conversation, this brief gathering is an example of a TJ model at work. One of the people at the table was a person previously incarcerated for enacting sexualized violence, called a “core member,” and the rest of us were volunteers with Circles of Support and Accountability (COSA), a TJ initiative based on friendship and accountability that helps reintegrate core members back into communities. I have volunteered with COSA since January 2019, participating in two circles, or groups of support for a core member, and attending the organization's biweekly Friday dinners.¹³ My autoethnographic reflections on this experience are interspersed throughout this article, providing a personal account of the emotional and complex experiences that TJ necessitates, in addition to the skills and techniques it requires.¹⁴ Each short reflection is a combination of several experiences, ensuring that the people I mention are composites rather than identifiable individuals, and, as per the method of autoethnography, I focus largely on a reflection and analysis of my subjective experience, emotions, and knowledge in each situation.¹⁵

This article combines these reflections with a critical analysis of the existing literature about TJ principles and initiatives, examining insights from my experience with COSA for their

¹² Generation FIVE, “Towards Transformative Justice: A Liberatory Approach to Child Sexual Abuse and Other Forms of Intimate and Community Violence” (June 2007), online: *Generation FIVE* <generation5.electricembers.net/resources/transformative-justice-documents/g5_toward_transformative_justice-document/> [perma.cc/SVN9-EM2W] at 1.

¹³ I began volunteering with COSA prior to my decision to incorporate my experience with the organization into a research project. The coordinator of the COSA site with which I am involved has approved the content about COSA that is included in this article and confirmed the anonymity of the content.

¹⁴ I use the term “autoethnographic” in this article in order to refer to an analysis of my own reflections about COSA; however, I acknowledge the contradictions in referencing ethnography, a method historically used as a colonial anthropological practice of study through observation, while prioritizing phenomenological interpretations of experience, relationality, and interdependence. The term autoethnographic is thus used here in a partial and limited way.

¹⁵ McMaster University did not require an ethics review for this research project due to the autoethnographic methodology and the anonymity of the composite reflections.

applicability in a feminist Transformative Justice context that attends to the critique and dismantling of systems of oppression.¹⁶ While the TJ insights presented here are broadly applicable for addressing harm, in light of COSA's focus on sexualized violence (including sexualized violence against children), my research is specific to this form of harm, which is often held up as the most difficult form of violence to address using non-carceral approaches to justice. But as Generation FIVE, a volunteer collective working within a TJ framework with the goal of ending child sexual abuse within five generations, states, sexualized violence, specifically against children, is "a good entry point for liberation work because it forces us to identify contradictions not only in the State but in our own families, around gender, survival strategies, arrangements of power, culture, and values."¹⁷ Working from the starting point of addressing child sexual abuse, Generation FIVE imagines TJ as "an adaptable model that can and will address myriad forms of violence and the systems of oppression that violence enables."¹⁸ Thus, in considering how sexualized violence and child sexual abuse are reflective of broader systems of oppression, the insights I present about TJ are relevant to addressing harm and oppression more generally.

I begin the article by discussing the need for fundamentally different approaches to harm in light of current carceral systems, and the difficulties that turning away from criminalization entails; next, I clarify the terminology used throughout, noting the complexity elided by typical categories of "perpetrator" and "victim," and the difficulty in neatly separating Transformative and Restorative Justice. I then detail the principles and values of TJ, and offer an overview of COSA, discussing its most effective strategies, as well as its limitations. Finally, I consider Philly Stands Up as an example of a more radical, grassroots TJ model, explore what examining this model in light of COSA's techniques might suggest for a sustainable feminist TJ framework, and propose several small steps forward for TJ movements. Kai Cheng Thom, a writer, performer, and social worker, argues that, in addressing harm, we must seek "safety for survivors, transformative justice for perpetrators, and real healing for all involved;"¹⁹ similarly, COSA's mandate is: "No More Victims; No One Is Disposable."²⁰ This research aims to further these ends.

I. DECONSTRUCTING CARCERAL APPROACHES

TJ's approach to harm is fundamentally different from that of the criminal legal system. Prisons and diffused forms of criminalization, or criminal legal interventions, are inherently violent,

¹⁶ The term "feminist" here refers to a critical intersectional understanding of multiple and overlapping forms of oppression that contribute to sexualized violence, including but not limited to sexism, racism, and homophobia. While such a definition is inherent in many grassroots TJ models, I feel the need to emphasize the term in light of COSA's limitations as a TJ model.

¹⁷ Generation FIVE, *supra* note 12 at 12.

¹⁸ *Ibid* at 26.

¹⁹ Kai Cheng Thom, "#NotYet: Why I Won't Publicly Name Abusers" (30 November 2017), online: *GUTS Magazine* <gutsmagazine.ca/notyet/> [perma.cc/6UK5-8N78].

²⁰ Circles of Support and Accountability Canada (COSA), "Who We Are," online: *Circles of Support and Accountability Canada* <cosacanada.com/> [perma.cc/2DAC-4JVN].

causing harm at the level of state systems.²¹ Carceral systems target vulnerable and marginalized people, caging them in institutions “marked by authoritarian regimes, violence, disease, and technologies of seclusion that produce severe mental instability.”²² Incarceration perpetuates cycles of violence and abuse; currently, half of the people incarcerated in Canada experienced abuse in childhood.²³ Survivors of violence often become incarcerated for reasons of self-defense and survival, while those survivors who choose to go to the criminal legal system for retributive justice are often retraumatized through the adversarial nature of a criminal trial.²⁴ Within carceral institutions, sexualized violence is rampant and normalized.²⁵ Furthermore, as Alta Viscomi, a law student at the University of Richmond, notes, “mandatory state intervention [in sexualized and domestic violence] and the re-shaping of organizations in the state’s carceral and punitive images perpetuates sexual violence” through maintaining structural marginalization and inequality.²⁶ Thus, the cycles of violence continue.²⁷

Imprisonment is further a form of racialized violence, evidenced by the overrepresentation of Black and Latinx people in American prisons, while in Canada, Indigenous incarceration rates have been surging over the past decade and massive race disparities, especially for Black people, exist in Canadian prison and bail systems.²⁸

Criminalization is also colonial violence. As Sarah Hunt, Kwagw’ł writer and educator writes, the criminal legal system is set up to oppress, rather than help, Indigenous communities: the colonial mentality that “created the Indian Act to privilege the rights of men over women,

²¹ Pooja Gehi & Soniya Munshi, “Connecting State Violence and Anti-Violence: An Examination of the Impact of VAWA and Hate Crimes Legislation on Asian American Communities” (2015) 21:1 *Asian Am LJ* 5 at 31; Generation FIVE, *supra* note 12 at 12.

²² Angela Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003) at 10.

²³ Claire Bodkin et al, “History of Childhood Abuse in Populations Incarcerated in Canada: A Systematic Review and Meta-Analysis” (2019) 109:3 *Am J Pub Health* 1.

²⁴ See The Next System Project, “Towards the Horizon of Abolition: A Conversation with Mariame Kaba” (9 November 2017), online: *The Next System Project* <thenextsystem.org/learn/stories/towards-horizon-abolition-conversation-mariame-kaba> [perma.cc/ZVV8-DH36]; Survived & Punished, “Research Across the Walls: A Guide to Participatory Research Projects & Partnerships to Free Criminalized Survivors” (January 2019), online: *SurvivedandPunished* <survivedandpunished.org/research-across-the-walls-guide/> [perma.cc/D77X-RKH4]; Melanie Randall, “Restorative Justice and Gendered Violence; From Vaguely Hostile Skeptic to Cautious Convert: Why Feminists Should Critically Engage with Restorative Approaches to Law Restorative Justice” (2013) 36:2 *Dal LJ* 461 at 469.

²⁵ El Jones & Ardath Whynacht, “Tender Places: On the Intersection of Anti-Rape Activism and Prison Abolitionism,” in KelleyAnne Malinen, ed, *Dis/Content: Perspectives on Sexual Consent and Sexual Violence* (Black Point, NS: Fernwood Publishing, 2019) at 144.

²⁶ Alta Viscomi, “System Accountability and Sexual Assault: The Past and Future of the Criminal Justice System” (2019) 22:2 *Rich Pub Int L Rev* 173 at 190.

²⁷ *Ibid.*

²⁸ See Davis, *supra* note 22 at 19; Dean Spade, “The Only Way to End Racialized Gender Violence in Prisons is to End Prisons: A Response to Russell Robinson’s ‘Masculinity as Prison’” (2012) 3 *Cal L Rev Circuit* 184; Nancy Macdonald, “Canada’s Prisons Are the ‘New Residential Schools’” (18 February 2016), online: *Macleans*’s <www.macleans.ca/news/canada/canadas-prisons-are-the-new-residential-schools/> [perma.cc/P92F-MQZ5]; Anna Mehler Paperny, “Exclusive: New Data Shows Race Disparities in Canada’s Bail System” (19 October 2017), online: *Reuters* <www.reuters.com/article/us-canada-jails-race-exclusive/exclusive-new-data-shows-race-disparities-in-canadas-bail-system-idUSKBN1CO2RD> [perma.cc/THY6-L45S]; Bryan Warde, “Black Male Disproportionality in the Criminal Justice Systems of the USA, Canada, and England: A Comparative Analysis of Incarceration,” (2013) 14:4 *J Afr-Am Stud* 461.

and instituted residential schools to break down [Indigenous] family systems, serves as the foundation for the Canadian legal system.”²⁹

The list goes on: transgender people are disproportionately incarcerated in comparison to cisgender people, and, as Eric Stanley, a professor of critical prison studies at UC Berkeley, argues, the logics of the prison industrial complex also serve to perpetuate anti-trans/queer violence and reproduce normative genders.³⁰ Prisons are sites of eugenic, sanist, ableist oppression. This is evidenced by histories of coerced sterilization in state institutions across North America and the continued practice of the deportation of people experiencing the confluence of mental health, criminal justice, and immigration systems in Canada.³¹ Abolition activist Mariame Kaba sums up the prison industrial complex concisely: it is a “racialized gendered classed heteronormative project” that criminalizes people who often need the most support.³²

Despite the fundamental injustices enforced by the very systems that purport to bring about justice, prisons and police are naturalized in society. As Kaba writes, the narrative of security—that police and prisons protect everyday citizens from dangerous and evil people—is “naturalized in a way that makes it almost impossible for folks to step back and think that it wasn’t always like this.”³³ Angela Davis, prominent activist, educator, and prison abolitionist, writes about the difficulty of imagining other approaches to harm in *Are Prisons Obsolete?* She notes the prison’s simultaneous presence and absence in the collective imagination: it “functions as an abstract site into which undesirables are deposited, relieving us of the responsibility of thinking about the real issues afflicting those communities from which prisoners are drawn in such disproportionate numbers.”³⁴ Prisons are considered inevitable and permanent; it is easy to forget their violence, yet difficult to imagine a world without them.

Even in activist communities, a prevalent feminist response to abuse—advocating for abusers to be isolated or imprisoned—relies on carceral systems.³⁵ Legislative efforts to address sexualized violence, such as the *Violence Against Women Act*, passed in the United States in

²⁹ Sarah Hunt, “More Than a Poster Campaign: Redefining Colonial Violence,” in The Kino-nda-niimi Collective, ed, *The Winter We Danced: Voices from the Past, the Future, and the Idle No More Movement* (Winnipeg, MB: ARP Books, 2014) at 191.

³⁰ Eric A Stanley, “Introduction: Fugitive Flesh: Gender Self-Determination, Queer Abolition, and Trans Resistance,” in Eric A Stanley & Nat Smith, eds, *Captive Genders: Trans Embodiment and the Prison Industrial Complex* (Chico, CA: AK Press, 2011) at 6.

³¹ Randall Hansen & Desmond King, *Sterilized by the State: Eugenics, Race, and the Population Scare in Twentieth-Century North America* (New York: Cambridge University Press, 2013); Ameil Joseph, “Beyond Intersectionalities of Identity or Interlocking Analyses of Difference: Confluence and the Problematic of ‘Anti’-oppression” (2015) 4:1 *Intersectionalities: A Global Journal of Social Work Analysis, Research, Polity, & Practice* 15.

³² The Next System Project, *supra* note 24.

³³ *Ibid.*

³⁴ Davis, *supra* note 22 at 16.

³⁵ Carceral feminism: feminist discourse that advocates for criminalization as a retributive approach to violence. See Mimi E Kim, “From Carceral Feminism to Transformative Justice: Women-of-Color Feminism and Alternatives to Incarceration” (2018) 27:3 *J Ethnic & Cult Diversity in Social Work* 219 [“From Carceral Feminism”]; Aparna Polavarapu, “Global Carceral Feminism and Domestic Violence: What the West Can Learn from Reconciliation in Uganda” (2019) 42:1 *Harv JL & Gender* 123; Elizabeth Whalley & Colleen Hackett, “Carceral Feminisms: The Abolitionist Project and Undoing Dominant Feminisms” (2017) 20:4 *Contemp J Rev* 456.

1994, are often presented as desirable solutions to abuse, despite their actual effect of expanding the violent state apparatus of incarceration.³⁶ It is hard to escape the idea that perpetrators deserve punishment. But while the safety of survivors is essential, the urge to incarcerate perpetrators or cut them out of communities does not ultimately address the conditions that make this violence possible. Thom writes that social movements such as #MeToo that rely on the carceral system cannot offer her what she wants from her abusers: she does not want to be interrogated about the details, hoping that her story will be believed, resulting in a punishment she did not choose; rather, she wants “to know they understand ... how [she] felt under their hands,” and will choose not to hurt her ever again.³⁷ This, she writes, is a better and truer safety.³⁸

Ashwini Tambe, a professor at the University of Maryland, further critiques the carceral politics of the #MeToo movement through the lens of critical race feminism. A common criticism of the movement suggests that #MeToo largely benefits cisgender, straight, white women.³⁹ Tambe further points to the movement’s primary, exclusionary tools of public shaming and criminalization, noting that this problem is already too familiar to Black men: “[w]e know the history of how Black men have been lynched based on unfounded allegations that they sexually violated white women ... Maybe some Black women want no part of this dynamic.”⁴⁰ Similarly, Lindsay Nixon, a Cree-Métis-Saulteaux curator, editor, and writer, describes their feelings toward their abusive ex-partner: “I don’t want them punished. I don’t want them isolated. I don’t want to enact carceral cultures, make myself a cop, judge, and executioner. ... I don’t want to ‘name my abuser’ just to see them dragged through narrowly defined accountability processes that might kill them.”⁴¹ But, they add, they do not want this person near them or in their life ever again. These are highly challenging situations that, for the most part, there are not widespread processes to adequately handle. As Nixon notes, “[i]t’s an uncomfortable truth: we can’t abolish prisons and not have a plan for ensuring restorative and transformative community process for those who have hurt.”⁴² Without other systems in place, it is difficult to know how to move forward. This is especially challenging when thinking about solutions for people who are often the most despised and feared by society: those who perpetrate sexualized violence, sexually abuse children, or enact other forms of violent abuse.

reflection 2

I receive emails from a core member specifying an address that I don’t know. We’re supposed to meet at the office nearby so I shrug it off. Twenty minutes before the meeting, I get a call from the coordinator, confirming that the group is now not meeting at the office but meeting at the core member’s house, at the core member’s request. He lives near the office so that’s fine, I can get there in time. But when I

³⁶ Gehi & Munshi, *supra* note 21 at 5.

³⁷ Thom, *supra* note 19.

³⁸ *Ibid.*

³⁹ Lesley Wexler, Jennifer K Robbennolt & Colleen Murphy, “#MeToo, Time’s Up, and Theories of Justice” (2019) 1 U Ill L Rev 45 at 54.

⁴⁰ Ashwini Tambe, “Reckoning with the Silences of #MeToo” (2018) 44:1 Fem Stud 197 at 200.

⁴¹ Lindsay Nixon, *nîtisânak* (Montreal, QC: Metonymy Press, 2018) at 110.

⁴² *Ibid* at 91.

hang up, anxious thoughts materialize. Why does he want to meet at his house? Why were some emails only to me? Why the change in plans when the office is so close by? Why do we need to meet in private, in his space?

I feel fear and anxiety wash over me, and almost decide to not show up, to give over to this fear. Followed closely by guilt: Where is my trust? Where is my accountability? Where is my belief that this is a person who deserves support and community? Accountable relationships are formed by trust; this is what I have been learning. This trust needs to go both ways. How did my trust in this person disappear so quickly, replaced by fear? Fear of what?

I walk to the house, still a bit nervous; despite my values, research, and experience, I'm unable to shake the intrusive thoughts that this is a bad person who was in prison for a bad act, that I am walking into the private living space of a person I should fear. I meet the coordinator and rest of the group at the door and the core member comes to let us in. He checks his mail, greets a neighbour. We walk inside, sit down in his kitchen. He has just moved in. He is excited to show us a space that is his, a space that he is not surveilled in. We talk about moving, about the weather, about work. Then he suddenly brings up his news: a close family member of his has died. It happened without warning a few days ago. He wants to share this shock and grief with us, process it in the safe space of his home.

I feel guilt and compassion and a deep sadness. I am thankful that I showed up today when I was needed. I feel shame and sorrow about how I have been conditioned to fear people that society has condemned, how even after listening to podcasts on transformative justice all day, I had this kneejerk reaction to a request to meet in this person's new home. It is hard to unlearn these thought processes. I am working on it.

Finding alternative approaches to harm involves changing thought processes about perpetrators, prisons, and the carceral system, exposing how these processes are naturalized, and working hard to reconfigure visions of justice in order to turn away from state systems of retributive justice. In *Strange Encounters*, Sara Ahmed's discussion of "the stranger" exposes the social conditioning of such thought processes and affective reactions to the figure of the stranger, the criminal, a person labelled dangerous by society. Ahmed analyzes the discourse of "stranger danger" to consider how the stranger, often racialized as Other, comes to embody all that is unknowable, all that must be expelled from the purified or good community.⁴³ The figure of the stranger serves to naturalize carceral systems and thought processes; as Ahmed suggests, the model of the good citizen, created by labelling another person as the stranger, "watches (out for) suspicious persons and strangers, and who in that very act, becomes aligned, not only with the police (and hence the Law), but with the imagined community itself."⁴⁴ The binary opposition of

⁴³ Sara Ahmed, *Strange Encounters: Embodied Others in Post-Coloniality* (New York: Routledge, 2000) at 22.

⁴⁴ *Ibid* at 29.

the stranger and the good citizen reinforces individualized portrayals of crime, carceral frameworks of surveillance, and the legitimation of social exclusion.⁴⁵

Instead of falling into the socially conditioned reaction to a person labelled as “dangerous” or “the stranger,” TJ interrupts carceral thought processes and reframes what it means to be an individual living in community. Ideally, then, TJ, in its prioritization of interdependence, can change the ways that we exist as individuals in community. In her essay, “i hope we choose love,” Thom calls on readers to ask these hard but necessary questions after a harmful or violent act has occurred: “*why* has harm occurred? *who* is responsible, beyond the individual perpetrator—as in, how is community implicated? *how* can this harm be prevented in future?”⁴⁶ In changing how we, as communities and societies, think about harm, and in looking at the systemic issues at play instead of the individual figure or act, we can create and maintain systems that repair and transform harm rather than perpetuate it.

II. TERMINOLOGY

A. BEYOND BINARIES

Considering harm transformatively requires a shift away from carceral terminology. TJ allows for complexity in language instead of relying on the limited binary of perpetrator/victim. These terms are narrow and static, sometimes locking a person into an identity even when they grow beyond it or fall into more than one category. Social justice lawyer Pooja Gehi and writer and activist Soniya Munshi argue that “the logics of criminalization necessitate a binary relationship between a victim and a perpetrator in which the best, most effective solutions require the two to be separated from one another.”⁴⁷ As Ahmed’s discussion of “the stranger” reveals, criminalization “shapes cultural ideas about good cooperative victims and monstrous criminals who enact violence, unlike ‘respectable citizens.’”⁴⁸ Instead, employing a constructionist analysis demonstrates the unstable nature of categories and labels; terms such as “‘victim’ [are] shifting, changing frequently.”⁴⁹ Terms are products of “social relations, culture, and language.”⁵⁰ They are embedded in cultural constructions and can at times confer a false or limited significance onto a person. Mariame Kaba further discusses the false binary of the terms perpetrator/victim, explaining that transformative justice “calls on us to shatter binaries of all different types,” and that most people in prisons have both been harmed by, and harmed, other people.⁵¹ These terms apply only to a single moment in time, Kaba says, because often, “the very

⁴⁵ *Ibid.*

⁴⁶ Kai Cheng, “i hope we choose love: notes on the application of justice” (5 May 2018), online: *Medium* <medium.com/@ladysinrayda/notes-on-the-application-of-justice-5a058a209599> [perma.cc/SHV7-UXJY].

⁴⁷ Gehi & Munshi, *supra* note 21 at 32.

⁴⁸ *Ibid.*; Ahmed, *supra* note 43 at 29.

⁴⁹ Sharon Lamb, *New Versions of Victims: Feminists Struggle with the Concept* (New York: New York University Press, 1999) at 3.

⁵⁰ *Ibid.*

⁵¹ The Appeal, “Episode 20: Mariame Kaba and Prison Abolition” (20 March 2019) at 00h:33m:41s, online (podcast): *Justice in America* <player.fm/series/justice-in-america/episode-20-mariame-kaba-and-prison-abolition> [perma.cc/7G6A-68QR].

same people who are victimized in one context have perpetrated in another.”⁵² This binary also reinforces a conventional legislative understanding of safety, in which the separation of “victim” and “perpetrator” “becomes prioritized above all other factors such as emotional attachment and economic needs,” which is often unrealistic and unhelpful.⁵³ While the carceral state obfuscates “structural and systemic violence and turns all violence into individual failing,” TJ approaches aim to “illuminate the structural and systemic violence and ... elevate violence beyond just ‘the individual,’” thus necessitating language that reflects this approach.⁵⁴

With this understanding, terms are still required to address violence and label experiences, while maintaining nuance, overlap, and room for growth. In this article, while acknowledging the limitations of such linguistic categories, I use the terms “perpetrator,” “abuser,” and “survivor” with the understanding that a person cannot be reduced to a single act or experience.⁵⁵ In accordance with the Underground Scholars Initiative’s “Language Guide for Communicating About Those Involved in the Carceral System,” I avoid carceral language such as “offender” and “offence.”⁵⁶ These decisions ideally reflect TJ’s acknowledgement that harm is broader than each individual context, thus permitting complexity and room for change.

B. RESTORATIVE JUSTICE AND TRANSFORMATIVE JUSTICE

Clarifying the concept of Transformative Justice, and how it differs from Restorative Justice (RJ), is also necessary at this point. Often, people turn to RJ rather than TJ as a non-carceral framework to address harm, or they consider RJ and TJ to be interchangeable. Each term can refer to multiple possible definitions and practices in both legal scholarship and grassroots contexts. Here, I engage with scholarly sources, as well as community documents, in order to differentiate RJ and TJ and to offer an analysis of COSA as an example of TJ.

RJ, an alternative to retributive justice, focuses on the restoration of individual interpersonal relationships. As Kaba explains, “the unit of concern [at the base of restorative justice] is the broken relationship and the harm.”⁵⁷ RJ seeks to address the part of the relationship that was broken as a result of violence and harm, considering questions such as: “What are the obligations here? What are the needs that emerge from that hurt? And ... whose job is it to actually address the harm?”⁵⁸ According to legal scholar and professor Melanie Randall, in contrast to retributive models of justice that aim towards individual punishment, “restorative approaches take a broader view of possible solutions to crime, focusing not only on holding the [perpetrator] responsible, but also requiring the [perpetrator’s] active participation in

⁵² *Ibid.*

⁵³ Gehi & Munshi, *supra* note 21 at 32.

⁵⁴ The Appeal, *supra* note 51.

⁵⁵ See Timothy Colman, Esteban Kelly & Em Squires, “Philly’s Pissed & Philly Stands Up: Collected Materials” (Los Angeles, CA: The Journal of Aesthetics and Protest, 2008), online: <inthemiddleofthewhirlwind.wordpress.com/philly%E2%80%99s-pissed-philly-stands-up-collected-materials> [perma.cc/B928-R6EL] at 2.

⁵⁶ Underground Scholars Initiative, “Language Guide for Communicating About Those Involved in The Carceral System” (6 March 2019), online: *Berkeley Underground Scholars* <undergroundscholars.berkeley.edu/news/2019/3/6/language-guide-for-communicating-about-those-involved-in-the-carceral-system> [perma.cc/E8GC-WSM8].

⁵⁷ The Appeal, *supra* note 51 at 00h:10m:03s.

⁵⁸ *Ibid.*

constructing a remedy to address the harms caused.”⁵⁹ Rather than punishing a perpetrator, the goal is to work collaboratively to repair the harm.⁶⁰ RJ processes elevate the voice of the survivor, recognize the impact of violence on communities, and allow the perpetrator to understand the levels of impact.⁶¹ Anti-violence advocate and law professor Leigh Goodmark adds that RJ is noteworthy for its centralizing of the needs and goals of survivors—as a result, “research finds high levels of [survivor] satisfaction with restorative justice, with [survivors] reporting decreased fear and anxiety and increased feelings of dignity, self-respect, and self-confidence.”⁶² As Mimi Kim, a TJ activist and social work professor, states, “[u]nlike the retributive criminal justice system, the aim [of RJ] is not punishment but restoration, rehabilitation, and the healthy reintegration of all parties back into the community.”⁶³

RJ has essential historical and contemporary connections to various Indigenous justice practices. Sentencing circles, releasing circles, and healing circles are forms of RJ that draw from the legal processes and legal orders of certain Indigenous nations.⁶⁴ Indigenous legal traditions, which differ nation to nation, often contain principles and practices that inform central aspects of RJ, such as reintegration of a perpetrator, community healing, reconciliation, and maintaining interpersonal relationships.⁶⁵ However, there are key differences between RJ and Indigenous justice practices; for example, in Indigenous legal traditions, maintaining kinship networks extends beyond interpersonal relationships to the natural world.⁶⁶ Despite the historical origins and overlap in principles, RJ in contemporary contexts is often practised by Canadian federal and provincial governments and courts offering criminal justice programs for Indigenous people in conflict with the law.⁶⁷ Such programs allow for various degrees of participation and control for Indigenous communities, but are typically unrelated to the laws and legal orders of the local Indigenous people.⁶⁸ The connections and differences between RJ and Indigenous justice practices continue to evolve, but it is important to note that Indigenous communities have always been and continue to be a primary context for anti-carceral discourse and justice practices.

⁵⁹ Randall, *supra* note 24 at 472.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² Leigh Goodmark, “Law and Justice Are Not Always the Same: Creating Community-Based Justice Forums for People Subjected to Intimate Partner Abuse” (2015) 42:3 Fla St UL Rev 707 at 722.

⁶³ *Ibid.*

⁶⁴ Department of Justice, *A Report on the Relationship between Restorative Justice and Indigenous Legal Traditions in Canada, 2016*, by Larry Chartrand & Kanatase Horn (Ottawa: Department of Justice, October 2016) at 5; Howard Zehr, “Doing Justice, Healing Trauma: The Role of Restorative Justice in Peacebuilding” (2008) 1:1 S Asian J of Peacebuilding 3; Kim, “From Carceral Feminism” *supra* note 35 at 225, citing Harry Blagg, “Restorative Justice and Aboriginal Family Violence: Opening a Space for Healing,” in Heather Strang & John Braithwaite, eds, *Restorative Justice and Family Violence* (Cambridge, UK: Cambridge University Press, 2002).

⁶⁵ Department of Justice, *supra* note 64 at 3.

⁶⁶ *Ibid.* at 7.

⁶⁷ Val Napoleon et al, “Where is the Law in Restorative Justice?” in Yale D Belanger, ed, *Aboriginal Self-Government in Canada: Current Trends and Issues*, 3rd ed (Saskatoon, SK: Purich Publishing, 2008) at 350.

⁶⁸ *Ibid.*

As RJ is often practised within and sanctioned by the criminal legal system, it is linked to the carceral state which limits its potential for structural change in these contexts.⁶⁹ It also, as Kaba argues, focuses on individual harm and thus makes its intervention about the individual, rather than considering the societal context in which the harm occurred.⁷⁰ RJ's goal of restoration is often not helpful, as the situation prior to the harm may have itself been unhealthy or harmful.⁷¹ As Rebecca Howe notes, particularly in cases of sexualized or domestic violence, "restoring' relationships often perpetuates harm."⁷² Transformative Justice grew from such critiques of Restorative Justice practices. While RJ fails "to address pre-existing power imbalances," TJ considers the interaction of modes of domination to "place individual acts of violence in a larger context of structural violence."⁷³

TJ seeks not to restore relationships, but to transform them and the social conditions within which they operate.⁷⁴ Its scope encompasses collective, rather than individual, liberation. Practitioners of TJ want to change the conditions underlying the harm.⁷⁵ As Kim notes, TJ "explicitly recognizes that interpersonal forms of violence take place within the context of structural conditions including poverty, racism, sexism, homophobia, ableism, and other systemic forms of violence."⁷⁶ TJ is aligned with the politics of prison abolition, rejects the criminal legal system, and often relies upon the leadership and interests of marginalized communities.⁷⁷ Rather than focusing on individual relationships, TJ extends the focus to wider structures and systems that impact entire communities. Goodmark writes that TJ practices create and empower communities, arguing that TJ "recognizes that communities share accountability for intimate partner abuse when they fail to prevent harm from occurring or when they promote harm, but it focuses on the community's capacity to safeguard those who experience intimate partner abuse."⁷⁸ TJ aims to transform relationships, communities, and systems: it "seeks to improve the community's ability to respond to intimate partner abuse," and "provide community members with the skills to address intimate partner abuse and assess accountability on both the individual and the community levels."⁷⁹ Finally, TJ is a fluid and flexible practice, recognizing "that no one vision of security will address the needs of all who suffer harm."⁸⁰

COSA does not fall neatly into either category. While the organization refers to itself as "a restorative justice program," I believe that its scope and focus extend far beyond restoring individual relationships and offering reparations for harm.⁸¹ Its ties to the criminal legal system

⁶⁹ Kim, "From Carceral Feminism" *supra* note 35 at 227. For a thorough account of RJ in the state context, see Bruce Archibald & Jennifer Llewellyn, "The Challenges of Institutionalizing Comprehensive Restorative Justice: Theory and Practice in Nova Scotia" (2006) 29:2 Dal LJ 297.

⁷⁰ The Appeal, *supra* note 51 at 00h:10m:03s.

⁷¹ *Ibid.*

⁷² Rebecca Howe, "Community-Led Sexual Violence and Prevention Work: Utilising a Transformative Justice Framework" (2018) 1 (no 001) Social Work & Policy Studies: Social Justice, Practice & Theory at 12.

⁷³ Viscomi, *supra* note 26 at 194.

⁷⁴ Howe, *supra* note 72 at 12.

⁷⁵ The Appeal, *supra* note 51 at 00h:10m:03s.

⁷⁶ Kim, "From Carceral Feminism" *supra* note 35 at 227.

⁷⁷ *Ibid* at 226.

⁷⁸ Goodmark, *supra* note 62 at 724.

⁷⁹ *Ibid* at 725.

⁸⁰ *Ibid* at 724.

⁸¹ COSA, *supra* note 20.

and lack of structural analysis align more with principles of RJ than TJ, yet its ability to create, sustain, and empower communities surpasses typical RJ practices and fulfills key tenets of TJ. Rather than restoring the peace between a perpetrator and survivor, COSA focuses on community support, provides an adaptable accountability process, and invites transformation from all of its members.⁸² While I have found that COSA cannot be precisely classified as RJ or TJ, I choose to engage with it as a TJ model in this article because my experience with the organization aligns far more with its transformative rather than restorative effects, and I believe that its methods are useful for study and comparison in a TJ context. Community groups such as Generation FIVE seem to have come to a similar conclusion: COSA is discussed in Generation FIVE's "Transformative Justice Handbook" as an "inspiring model for supporting the accountability and transformation of people who have caused harm."⁸³ In Lewis Wallace and Micah Bazant's TJ zine *Miklat Miklat*, the authors list COSA as a TJ model, noting: "[a]lthough this particular model deals with people who have already been in and out of the criminal legal system, it has potential for replication in various types of communities and situations. It is driven by a supportive and humanizing approach towards the person committing the violence and a belief that it is possible to transform."⁸⁴ Sections V and VI will delve further into COSA's potential and limitations as a TJ model.

C. COMMUNITY

The term "community" is also worth defining clearly. In an article discussing community-building in communities of colour, Joseph Erasto Jaramillo defines community in two distinct ways: "an abstract description of a shared feeling among people" and "a tangible description of a shared geographic and cultural location."⁸⁵ In this article, the term "community" encompasses either/both of these definitions. Accountability processes like RJ and TJ can happen in any form of community, regardless of whether people are brought together by a shared feeling, identity, geographic location, cultural location, or other point of connection. While some TJ practices occur organically in tightknit communities, Shailly Agnihotri and Cassie Veach argue against the notion that RJ and TJ rely on a singular definition of community as familiar and intimate, with pre-existing connections of care. As they write, "[c]ritics argue that prior to the State monopoly on crime, communities that relied on practices that would now be termed restorative justice were small and tightknit. The realities of post-industrialization have rendered communities segregated and diffuse."⁸⁶ Now, people often rely on professionals rather than community members to deal with conflict, and know people as roles rather than as full human beings. But Agnihotri and Veach argue that returning conflicts to communities "can be a source of revitalization for communities where the connections among people are weakened or absent."⁸⁷ Community-based RJ and TJ are thus a "recursive process that relies on communities to address conflict and

⁸² See *reflection 5* for an example of my experience of COSA's transformative impact.

⁸³ Generation FIVE, *supra* note 12 at 24.

⁸⁴ Lewis Wallace & Micah Bazant, "Miklat Miklat: A Transformative Justice Zine" (2012), online: Micah Bazant <www.micahbazant.com/s/-miklat-zine.pdf> [perma.cc/P9GW-RHUW].

⁸⁵ Joseph Erasto Jaramillo, "The Community-Building Project: Racial Justice through Class Solidarity within Communities of Color" (1996) 9:2 La Raza LJ 195 at 226.

⁸⁶ Shailly Agnihotri & Cassie Veach, "Reclaiming Restorative Justice: An Alternate Paradigm for Justice" (2017) 20 CUNY L Rev 323 at 348.

⁸⁷ *Ibid.*

strengthens community ties in the process. In some instances, a community may exist prior to the commencement of an RJ [or TJ] process; in others, a community may converge and develop during the process.”⁸⁸ The primary examples of community that I discuss here, COSA and Philly Stands Up (PSU), are representative of these different types of community; COSA is a form of intentional community created by the TJ process, while PSU formed out of pre-existing networks of friendship and care. I argue that all types of community can viably and usefully participate in a TJ process. Perhaps each version of community begins at a different starting point in the TJ process, but the process itself creates intentional, accountable relationships, creating and/or revitalizing communities.

III. PRINCIPLES OF TRANSFORMATIVE JUSTICE

As discussed in Section I, despite its prominence in society as the solution to sexualized violence, the criminal legal system rarely provides healing for survivors. According to Ruth Morris’ book *Stories of Transformative Justice*, the literature on survivors shows that they have five core needs: “the need for answers, for recognition of their wrong, for safety, for restitution, and to find significance or meaning from their tragedy.”⁸⁹ Kaba similarly explains that survivors typically want answers, recognition, some form of repair, restitution of their agency, and assurance that this will not happen to another person.⁹⁰ Instead of retributive justice systems that focus on “punishment, deterrence, incapacitation, and rehabilitation” of the perpetrator,⁹¹ TJ aims to satisfy the core needs of survivors and additionally works to address the needs of the friends, family, and community of both the survivor and perpetrator, who are often involved in and impacted by the process but ignored by retributive justice systems.⁹² Rather than offering the superficial sense of closure or revenge provided by incarceration, TJ regards healing as a challenging, ongoing process.⁹³

From its foundations in RJ, TJ in its current form emerged from the intersection of the abolition movement and activism around intimate partner and sexualized violence.⁹⁴ It was largely developed by radical women and trans people of colour in the early 2000s, such as the group *Incite! Women and Trans People of Color Against Violence*, who were working within their communities to address intimate partner and interpersonal violence.⁹⁵ As Generation FIVE states in their collective document, “Towards Transformative Justice,” TJ movements are “premised on the idea that individual justice and collective liberation are equally important,

⁸⁸ *Ibid.*

⁸⁹ Ruth Morris, *Stories of Transformative Justice* (Toronto, ON: Canadian Scholars’ Press, 2000) at 248.

⁹⁰ The Appeal, *supra* note 51 at 00h:40m:23s. See also Clare McGlynn & Nicole Westmarland, “Kaleidoscopic Justice: Sexual Violence and Victim-Survivors’ Perceptions of Justice” (2019) 28:2 Soc & Leg Stud 179 at 197. They conclude that consequences, recognition, dignity, voice, prevention, and connectedness are themes that emerge in an examination of the justice perspectives of survivors of sexualized violence.

⁹¹ Morris, *supra* note 92 at 248.

⁹² Centre For Constitutional Rights, “Transformative Justice in an Era of Mass Criminalization” (14 March 2019) at 00h:32m:48s, online (podcast): The Activist Files <ccrjustice.org/home/get-involved/tools-resources/podcasts/episode-12-transformative-justice-era-mass> [perma.cc/8XJJ-5DPA].

⁹³ Jones & Whynacht, *supra* note 25 at 153.

⁹⁴ Centre For Constitutional Rights, *supra* note 92 at 00h:38m:00s.

⁹⁵ *Ibid*; Kim, “From Carceral Feminism” *supra* note 35.

mutually supportive, and fundamentally intertwined.”⁹⁶ TJ involves engaging deeply with community, combining accountability and compassion, and acknowledging the reality of state harm.⁹⁷

Key principles of TJ include liberation, shifting power, safety, accountability, collective action, honouring diversity, and sustainability—these are its foundation.⁹⁸ With these principles as its starting point, TJ can exist in many forms. As Victoria Law, an anarchist activist and writer, states, unlike prison, TJ is not one-size-fits-all. Law explains that the myriad forms of harm cannot be addressed with just one solution, “but this reliance on prison that has developed over decades has stripped us of the idea that communities can come together to do something ... other than picking up the phone and calling 911.”⁹⁹ Rather than turning to the blanket solution of locking people up, TJ is multifaceted and addresses the complexity of harm depending on the needs of those involved. A common misconception about TJ is that survivors are required to be a part of the accountability process; this assumption often closes people off to TJ.¹⁰⁰ Survivors might wonder how they could ever confront their abuser, how they could sit in a room with them and forgive them. Such a portrayal of TJ is understandably challenging to come to terms with—but in reality, TJ models are designed according to the needs of the people who are involved.¹⁰¹ They are tailored to each individual situation. Kaba states: “I’m not going to sit here and say you have to hold hands with your rapist. ... Restorative and transformative justice is not about forgiveness. No, you don’t have to forgive.”¹⁰² She explains that she has facilitated accountability processes at times with only the person who caused harm, or with only the survivor. COSA works solely with perpetrators rather than survivors, and designs each circle according to the needs of the core member; sometimes people who are avoiding accountability need to process the harm they caused in depth, while at other times, people need more logistical support, such as help finding employment or an apartment in order to set themselves up for a harm-free future.¹⁰³ The processes depend on the specific situation, ideally allowing for whole-

⁹⁶ Generation FIVE, *supra* note 12 at 1.

⁹⁷ *Ibid* at 25; Brown, *supra* note 3 at 135.

⁹⁸ For an in-depth explanation of these principles, see Generation FIVE, *supra* note 12 at 26. Briefly, these principles are: *liberation* from intergenerational legacies of violence and colonization; *shifting power* from individuals/institutions/systems that maintain oppression towards survivors, allies, and collectives that support liberation; developing practices that ensure *safety* for individuals, communities, and inter-community relationships, while recognizing that absolute safety can never be guaranteed; *accountability* through acknowledging harm, the negative impact of this harm on individuals and the community, making appropriate reparations, transforming behaviours to prevent further harm and work toward liberation, and, more broadly, building movements that work towards these goals and hold the state accountable for its violence (accountability is not solely for perpetrators, but for all individuals and collectives practicing TJ); *collective action* to interrupt the isolation that abuse frequently creates, and embrace community and interdependence to address harm, ultimately building powerful movements with the capacity to challenge state violence; *honouring diversity* through TJ approaches that respond to the “historic, cultural, geographic, or population-specific experiences and needs of the community in which they are implemented” without falling into cultural relativism; and creating intervention and prevention strategies that are *sustainable* over time.

⁹⁹ Centre For Constitutional Rights, *supra* note 92 at 00h:24m:36s.

¹⁰⁰ This misconception exists about RJ as well as TJ.

¹⁰¹ The Appeal, *supra* note 51 at 00h:42m:35s.

¹⁰² *Ibid*.

¹⁰³ This accountability occurs through acknowledging the avoidance and aiming to facilitate extended, focused conversations on the person’s current feelings about their act of harm. The circle would endeavour to bring up

group healing and for communities to build a greater capacity to support their members through harm.¹⁰⁴

IV. CIRCLES OF SUPPORT AND ACCOUNTABILITY (COSA)

COSA, as an organization, began in Hamilton in 1994, when a man named Charlie, who had been incarcerated for multiple acts of sexualized violence involving children, was released from an Ontario prison.¹⁰⁵ Although Charlie had reached the end of his sentence, his risk rating of re-abusing within seven years was evaluated as a probability of 100 per cent.¹⁰⁶ A circle of community volunteers from the Mennonite church came together to support Charlie in his release, welcoming him into their community and creating the first Circle of Support and Accountability.¹⁰⁷ With this help from the community, Charlie did not re-engage in violent behaviour. The COSA model has now spread across Canada and into the United States, the United Kingdom, Australia, and the Netherlands.

A circle involves the core member and four to six community volunteers, who all meet weekly or bi-weekly to provide consistent social, emotional, or logistical support for the core member.¹⁰⁸ A 2009 study shows that abusers who participate in COSA have an eighty-three per cent reduction in sexual recidivism, a 73 per cent reduction in all types of violent recidivism, and an overall reduction of 71 per cent in all types of recidivism, compared to those who have perpetrated similar abuse and do not participate in COSA.¹⁰⁹ In my twelve months of experience with COSA, I have found the program to be fulfilling, well-organized, and effective for those involved. My perception of COSA's strategies that may contribute to such an effective program are presented below.

V. COSA'S STRATEGIES

reflection 3

I sit in a circle of COSA volunteers, core members, and facilitators. A research team is conducting a workshop to determine, through narratives and discussion, what makes COSA so effective. We read stories from the interviews aloud and rank them based on our perception of their support and accountability.

such a focus organically in weekly circle meetings and discuss this topic in the same whole-group manner as other circle meetings.

¹⁰⁴ Bench Ansfield & Timothy Colman, "Confronting Sexual Assault: Transformative Justice on the Ground in Philadelphia" (2012) 27:1 Tikkun 41 at 43.

¹⁰⁵ COSA, "History," online: *Circles of Support and Accountability Canada* <cosacanada.com/history-of-cosacanada/> [perma.cc/V79F-JD9Z].

¹⁰⁶ Robin J Wilson, Franca Cortoni & Andrew J McWhinnie, "Circles of Support & Accountability: A Canadian National Replication of Outcome Findings" (2009) 21:4 Sexual Abuse 412 at 414.

¹⁰⁷ COSA, *supra* note 105.

¹⁰⁸ Examples include helping in a housing search, meeting for casual social encounters, meeting for more in-depth emotional support, sharing one's own stories, and reflecting alongside the core member—it all depends on the needs of the core member.

¹⁰⁹ Recidivism: having a charge/conviction for a new act of violence. See Wilson, Cortoni & McWhinnie, *supra* note 106 at 412.

Accountability quickly becomes a bit murky; my group ranks most stories high on support, but it is hard to measure accountability in these stories, hard to see what a specific act of holding someone accountable looks like. In the larger group discussion at the end of the workshop, some of the most experienced volunteers express this impossibility of parsing out support from accountability. *When you're the most supported, you're held the most accountable*, someone says. *If you build a relationship of trust, accountability is a given*, someone else adds. We build accountable relationships to each other and the accountability spreads, externally, from there. Support and accountability are inseparable.

This starts to reframe the way I think about the weekly, mundane circle meetings. Often, there is little to no mention in a meeting about the core member's abusive acts. At the first few meetings I attended, I was surprised that we didn't delve into the violence, the abuse, the feelings surrounding the act—I thought that holding someone accountable for their actions would always mean working through the abuse, how it happened, the aftermath, the survivor(s). But accountability can look different; it can look like showing up every week so that someone knows they are cared for, understood, seen, and supported. Support that creates a relationship of trust, ensuring that core members want to keep the relationship intact and sustain it into the future.

COSA regards support as accountability and vice versa. Trust and intentional friendship are necessary for accountability—this notion might come as a surprise to some in light of the carceral attitudes prevalent in society, but we often model this on a smaller scale in our daily lives with those we are in relationship with, having difficult conversations to address conflict with a parent, child, or loved one rather than casting them out of our lives. COSA also demonstrates the value of mundane social interactions like simple, conversational meetings in public spaces. Meetings occur alternately at a public coffee shop space and at a private office, offering opportunities for regular, casual, social check-ins as well as more in-depth conversations about abuse or incarceration. The COSA site with which I am involved, as well as several other Ontario sites, offer an additional component to the typical COSA program: a biweekly Friday evening meal called the Dismas Fellowship.

reflection 4

After a meal of chili, I sit in a large circle of chairs with all of the other COSA volunteers and core members. A long-time volunteer talks about love, introducing a group exercise with the simple statement of “You are loved.” It is January and the exercise is about renaming; we each consider an intention, word, or name to focus on, write it on a small stone, and then share (or not) with others in the circle. My field notes after this gathering say: vulnerability is powerful. After a supper, songs, and sharing personal thoughts, there is a real intimacy and sense of community even though it is only my second time at COSA.

At the end of the evening, I overhear a core member who has been with COSA for a long time and is now in a position of leadership offering his phone number and support to a new core member who is struggling with isolation.

Throughout the next months, when I hear other volunteers talk about what makes COSA special, the aspect they often highlight as most important is the Dismas Fellowship.

In addition to regular Circle meetings, COSA creates intentional community and friendship through these Dismas Fellowship evenings. For core members who are often isolated from friends and family, a Friday evening meal and social gathering allows for friendly and supportive interaction, while simultaneously providing an opportunity to check in and maintain accountable relationships.

The longevity of relationships is essential to COSA and other TJ initiatives. Long-term support and accountability are necessary for transformative change.¹¹⁰ Sometimes when a core member has finished their parole, the lack of consistent meetings with a parole officer and social worker might feel intimidating and isolating if the person relied intensively on the support of these workers. Alternately, the carceral surveillance of parole and the conditions it requires might interfere with a person's ability to reintegrate into the community to the best of their ability while completing their parole. Parole completion is an arbitrary date set by the court; it does not necessarily correspond to a person's goals or needs. COSA is helpful in its flexible provision of support for as long as the core member needs or wants. In my experience with COSA, this longevity happens largely through faith—most meetings occur in a church, and many volunteers are connected to the church.¹¹¹ Most volunteers are also older and have a stable foundation in Hamilton or the surrounding area, contributing to their ability to be reliable, long-term supports for core members. In a study of volunteers in community-based RJ programs, Karen Souza and Mandeep Dhami found that the majority of RJ volunteers were white women, with an average age of 52.49 years, and that more than half of the volunteers practised a religion; these findings reflect my own experiences with COSA.¹¹² The privilege inherent in such lived experiences perhaps contributes to the stability and long-term nature of COSA's relationships.

Another compelling aspect of COSA's model is the support and leadership from core members who have previously gone through the COSA program, shifting cycles of abuse into cycles of healing. Previous core members cook meals for the Dismas Fellowship, attend circle meetings for others, and are able to support new core members with knowledge and lived

¹¹⁰ Esteban Lance Kelly, "Philly Stands Up: Inside the Politics and Poetics of Transformative Justice and Community Accountability in Sexual Assault Situations" (2011) 37:4 Soc Just 44 at 52.

¹¹¹ While the longevity of relationships that faith brings to the organization is helpful in maintaining connections with volunteers and core members, the faith-based nature of the group affects the experience of core members. This has the potential to allow Christian core members to experience a more supportive environment than non-Christian core members and/or for Christian members to self-select for joining COSA.

¹¹² Karen A Souza & Mandeep K Dhami, "A Study of Volunteers in Community-Based Restorative Justice Programs" (2008) 50:1 Can J Corr 31 at 42.

experience that the other volunteers might not possess. A final important facet of COSA is the potential of reflection and transformation for everyone involved in a circle; this is a highly effective strategy for community healing, whole-group learning, and growth.

reflection 5

A recent meeting feels particularly transformative. In this meeting, each person in the circle reflects on a given topic; on this day, it is self-acceptance. One person gives the prompt, some kind of quote or small thoughtful remark, and the others take turns sharing their feelings and thoughts in relation to the topic. The whole-group sharing allows for vulnerability, openness, and learning from each circle member, not just the core member, and we note this in our conversation. It is a relationship of trust and reflection for all people involved.

Without prompting, in this meeting, this technique allows the core member to reflect openly on the lifelong impact abuse has on survivors. This person rarely brings up their past actions so bluntly, and the trust and support of this circle feels like what has allowed them to reflect on the weight and longevity of their past actions.

The conversation shifts to shame, as it often does, and I find it hard to share; shame is such a silencing emotion. But a few days later, I am thinking back to our conversation in the circle and some deep-seated feelings come up, about myself and my own self-acceptance and shame. Reflecting on several contributions to the circle discussion lets me process these feelings differently, lets me think through them in new ways that echo back to what was shared, and I feel the meeting's transformative effect not only for the core member, but also for myself.

In considering my subjective experience of COSA's methods as well as the statistics on recidivism for core members, I feel strongly that COSA is particularly effective in its goal of preventing further harm and supporting previously incarcerated people in their transition into community.¹¹³

VI. COSA'S LIMITATIONS

As mentioned in the discussion of RJ and TJ in section II, it is important to explore the COSA model's essential conflicts with certain TJ principles. The program supports only those who have already been incarcerated, necessitating state involvement prior to the circle; it works in partnership with parole officers and police officers, at times involving them in meetings; and it is further tied to the carceral state through the funding it receives from the federal government. As Andrea Smith articulates in the introduction to *The Revolution Will Not Be Funded*, state and

¹¹³ Wilson, Cortoni & McWhinnie, *supra* note 106 at 412.

foundation funding allows for social justice-oriented work to be monitored, controlled, and modelled after capitalist structures, limiting the transformative potential of government-funded organizations.¹¹⁴ Receiving funds from the state ensures that the state has input in COSA's format and mission; Smith gives the example, in an American context, of the antiviolence movement receiving government funding from the Department of Justice. As a result, Smith writes, "antiviolence organizations have focused primarily on criminal justice solutions to ending violence that reinforce the prison industrial complex; in fact, many antiviolence organizations are now located within police departments."¹¹⁵ COSA's federal funding renders the organization at least partially co-opted by and beholden to state systems, lessening its capacity to truly transform systemic violence. For people who have already experienced violence at the hands of the state or for marginalized communities more likely to experience state violence, these links to the state may act as barriers to their involvement with COSA. Such tensions and limitations contribute to my desire to learn from COSA while also moving beyond it to a feminist model of TJ that works with an understanding of systemic oppression.

reflection 6

I enter the office where the meeting will be held today. Three police detectives are present for this session—they're here to educate volunteers without core members present. I learn about specific legal processes, parole conditions, details about the relationship between COSA and the criminal legal system. These detectives often refer people incarcerated for sexually abusing children to COSA upon their release.

This meeting reveals key conflicts between COSA and TJ: clearly, COSA has intimate connections with carceral systems. The discussion reveals a mindset of "crime" as individualized; I learn about assumptions that some people are just genetically prone to violence, to abusing, to being a bad person, and that some people need to be locked up, at least for a time. I learn about a fairly generous outlook towards the prison system—prisons are necessary; sometimes people don't want to leave prison, so it can't be that bad; people can improve themselves in prison, finding help and resources if they have the right attitude.

All of this is contextualized within a conversation that is expressing a desire to support previously incarcerated abusers by creating relationships of trust.

By involving the police and working closely with law enforcement, COSA risks losing the trust of marginalized individuals who want to participate in its community accountability processes. Marginalized communities have long been targets of police violence. RJ or TJ models

¹¹⁴ Andrea Smith, "Introduction" in INCITE! Women of Color Against Violence, eds, *The Revolution Will Not Be Funded: Beyond the Non-Profit Industrial Complex* (Cambridge, MA: South End Press, 2007) at 3.

¹¹⁵ *Ibid* at 11.

that collaborate with law enforcement thus may not be safe, accessible, and useful for marginalized communities, and are limited in the scope of their transformative potential.

Another perceived limitation of COSA involves a seeming lack of consideration of larger power structures that contribute to sexualized violence. TJ approaches to sexualized violence necessitate attending to intersecting structures of oppression that inform individual acts of harm.¹¹⁶ Without a feminist analysis of rape culture and its links to criminalization, and without probing into the complexity of factors that sexualized violence involves, the COSA model cannot work toward abolishing systemic violence.¹¹⁷ Instead, the organization seems to largely understand each offence as an individual occurrence, and offer support and accountability accordingly. While COSA allows for a kind of collective liberation in its strong focus on community, it does not effectively challenge structural violence on a larger level, thus exemplifying the tension in labelling it a model of TJ, as mentioned in section III. Similarly, some volunteers seem to show an absolute acceptance of core members, offering general positive support rather than attempting to delve into the complexity of gender norms, structural inequalities, cultural expectations, or other societal factors that may have contributed to a core member's act of violence or harm.¹¹⁸

The COSA group with which I am involved is predominantly white, with no acknowledgement or discussion of why this might be the case.¹¹⁹ Its ties to law enforcement perhaps help explain this lack of diversity. As Robyn Maynard articulates in the third chapter of her book *Policing Black Lives: State Violence in Canada from Slavery to the Present*, the Canadian criminal legal system has racialized crime itself through pathologizing Blackness; policing in Canada is decidedly anti-Black.¹²⁰ Therefore the police detectives who often refer people finishing their prison sentence to COSA may play a role in the organization's whiteness, as might its origins in the Mennonite church.¹²¹ This unacknowledged whiteness then serves to limit the potential benefit, comfort, or safety for racialized core members or volunteers who might wish to participate in COSA.

Heteronormativity is often the default when discussing healthy relationships for core members. Relationships are frequently a priority for core members—a marker of successful return to a normal life—but in my experience with COSA, queer relationships are rarely mentioned or considered.¹²² Jack Halberstam's discussion of the queer art of failure illuminates COSA's implicit prioritization of heterosexual relationships as a neoliberal success narrative: “[h]eteronormative common sense leads to the equation of success with advancement, capital accumulation, family, ethical conduct, and hope.”¹²³ In a faith-based, state-affiliated context, a

¹¹⁶ Jones & Whynacht, *supra* note 25 at 145.

¹¹⁷ See Randall, *supra* note 24 for a discussion of the need for feminist RJ as a response to gendered violence; Whalley & Hackett *supra* note 35 for a discussion of how RJ methods often under-theorize sexualized violence and individualize the role of structural violence.

¹¹⁸ See Whalley & Hackett, *supra* note 35 at 468.

¹¹⁹ My experience of COSA is limited to one site. Other sites might differ in their racial diversity, though Souza & Dhimi *supra* note 112 at 41 supports my experience. Their 2008 study of volunteers in RJ programs found that nearly all volunteers described themselves as white.

¹²⁰ Robyn Maynard, *Policing Black Lives: State Violence in Canada from Slavery to the Present* (Black Point, NS: Fernwood Publishing, 2017).

¹²¹ See Souza & Dhimi *supra* note 112 at 49 for further reading on COSA volunteers' ties to religion.

¹²² Again, my experience of COSA is limited to one site.

¹²³ Jack Halberstam, *The Queer Art of Failure* (Durham, NC: Duke University Press, 2011) at 89.

productive heterosexual relationship leading to normative family life may be an indicator of successful reintegration into society. This idea of the normative “good life” is taken up by Lauren Berlant in *Cruel Optimism*, in which Berlant analyzes the impossibility of such a good life, exploring the ways in which attachments to this desire can ultimately be self-destructive or harmful.¹²⁴ Queer or counterhegemonic modes of being do not conform to such models of success or productivity, and are thus erased or less valued, despite potentially offering a useful disruption to the impossible fantasy of the successful good life.¹²⁵

These limitations cannot be understated; fostering connections with carceral systems and failing to critically analyze the structural oppression underlying gendered violence, race disparities within the organization, and heteronormative values of success undermine essential TJ principles. But in explicating these tensions, it is clear that there is potential for COSA’s transformative methods in other contexts. COSA is worthy of study because, in addition to its proven efficacy and impressive support for those it serves, the organization works with those who are very likely to enact sexualized violence again and experience re-incarceration. COSA supports and holds these people accountable through community with the goal of ending their cycle of abuse, thus exemplifying, to some degree, a realization of the intertwined nature of individual and collective liberation. Supporting a perpetrator in this way aims to ensure both that no further acts of individual violence are perpetrated and that state violence in the form of incarceration is eliminated. While COSA’s links to state systems do not align with TJ values, its success in reintegrating people who have been incarcerated for sexual abuse or assault into communities underscores the need to study its methods for translation into a feminist TJ context.

VII. ‘PHILLY STANDS UP’ AND A REVIEW OF TJ PRACTICES

In contrast to COSA, TJ is practised in more radical, leftist, grassroots contexts that refuse state-affiliation.¹²⁶ In addition to the examples listed in footnote 126, I offer a comparison of COSA to

¹²⁴ Lauren Berlant, *Cruel Optimism* (Durham, NC: Duke University Press, 2011).

¹²⁵ Halberstam, *supra* note 123 at 89.

¹²⁶ Examples of these collectives/projects/organizations include: the Third Eye Collective, a Montreal-based grassroots collective led by women of Black/African origins for survivors of intimate partner/state/institutional violence; the Safe OUTside the System Collective, an anti-violence program devoted to challenging hate and police violence using community based strategies, led by and for lesbian, gay, bisexual, two spirit, trans, and gender non-conforming people of colour in Brooklyn, NY as part of the Audre Lorde Project; the Bay Area Transformative Justice Collective, an Oakland, CA-based community collective working to build and support TJ responses to child sexual abuse; Creative Interventions, a resource centre aiming to create and promote community-based responses to interpersonal violence (see Mimi E Kim, “Moving Beyond Critique,” *infra* note 137 for more information on this initiative); INCITE! Women and Trans People of Colour Against Violence, a network of radical feminists of colour organizing to end both personal and state violence; and the Challenging Male Supremacy Project (CMS), a grassroots collective in NYC comprised of men working to strengthen the capacities of men and masculine-identified people to challenge male supremacist practices in order to end gender-based violence. CMS prioritizes structured education and Study-into-Action sessions in their practice, and holds collaborative accountability circles to address harm.

Some organizations of note that, similar to COSA, have some ties to the state (through funding or explicit cooperation) are the Bear Clan Patrol and the Vancouver Aboriginal Transformative Justice Services Society.

While these are some key examples of grassroots TJ models, this list is not comprehensive and does not include the numerous communities and networks that use TJ principles to address harm and violence in a less formal sense. Ana Clarissa Rojas Durazo’s article, “In Our Hands: Community Accountability as Pedagogical

Philly Stands Up (PSU), a Philadelphia-based volunteer collective creating community-based responses to sexual assault.¹²⁷ PSU exemplifies a community accountability initiative that aligns wholly with TJ values and, read alongside a critical analysis of the literature on TJ initiatives, reveals various essential or compelling aspects of TJ movements.

PSU, which no longer appears to be an active collective, emerged in 2004 in response to a series of sexual assaults in Philadelphia's anarcho-punk community. It was an unincorporated grassroots volunteer collective that sought to create community-based responses to sexual assault through direct involvement with those who caused harm.¹²⁸ The collective was comprised of four to eight members at any given time, who were all connected to queer, trans, and gender non-conforming communities.¹²⁹ A small TJ collective allows for easier communication and shared values; scaling up can be more difficult, with the need for adequate training, potential hierarchies or authority figures, and a model that is necessarily broadly applicable.¹³⁰ COSA, which operates on a national and international scale, employs a coordinator who anchors each location and who is paid to interview and train volunteers.

PSU met face-to-face with people who caused harm and worked with them in a TJ framework to try to understand and change their behaviour.¹³¹ They were also dedicated to public education with the aim of preventing future assaults, fostering a culture of sexual responsibility, and cooperating with efforts to abolish prisons.¹³² Structured education (such as devoting certain meetings or part of each meeting to expanding a group's knowledge on chosen topics), while not an aspect of COSA's model, is also an essential aspect of other TJ collectives such as the Challenging Male Supremacy Project (CMS).¹³³

PSU created explicit points of unity, which were "principles to which all members agreed and that spelled out the commitments that grounded their work."¹³⁴ Esteban Kelly notes that these were constantly amended and that these "living documents" were a critical reason for the endurance of the group.¹³⁵ COSA likewise has a set of principles, though in my experience they

Strategy" offers an account of a spontaneous community accountability process in a university classroom, illuminating the potential of any space to be a site of transforming violence through community accountability. See Ana Clarissa Rojas Durazo, "In Our Hands: Community Accountability as Pedagogical Strategy" (2000) 37:4 Soc Just 76 at 100.

¹²⁷ PSU was chosen for comparison due to its longevity and apparent success as an evolving grassroots TJ collective, as well as for the abundance of information publicly available about its history, principles, and practices.

¹²⁸ Kelly, *supra* note 110 at 47; Ansfield & Colman, *supra* note 104 at 42.

¹²⁹ Kelly, *supra* note 110 at 47.

¹³⁰ See Souza & Dhimi *supra* note 112 at 46 for further reading on the need for volunteer training in RJ contexts.

¹³¹ Kelly, *supra* note 110 at 47.

¹³² *Ibid* at 48; Colman, Kelly & Squires, *supra* note 55 at 11.

¹³³ Gaurav Jashnani, RJ Macchani & Alan Greig, "What Does It Feel Like When Change Finally Comes: Male Supremacy, Accountability and Transformative Justice," in Ching-In Chen, Jai Dulani & Leah Lakshmi Piepzna-Samarasinha, eds, *The Revolution Starts at Home: Confronting Intimate Violence in Activist Communities* (Cambridge, MA: South End Press, 2011). For further reading on the role of "critical literacy" in transformative justice practices, see Robert Carl Schehr, "From Restoration to Transformation: Victim-Offender Mediation as Transformative Justice Practice" (2000) 18:2 Mediation Q 151.

¹³⁴ Kelly, *supra* note 110 at 46; see Colman, Kelly & Squires, *supra* note 55 at 18 for PSU's Points of Unity in 2008.

¹³⁵ Kelly, *supra* note 110 at 46.

are not constantly amended. The creation of living documents seems essential for a group that seeks continual learning and growth.

The PSU TJ process involved a list of demands, or necessary outcomes for the process, generated by the survivor.¹³⁶ CMS, Creative Interventions, and several other TJ collectives likewise begin a process with a list of the needs or requests of the survivor, though in the Creative Interventions framework, these goals are specifically collectively negotiated.¹³⁷ Groups then typically facilitate the perpetrator's commitment to honouring these needs and create a plan of support to allow them to fulfill the requests.¹³⁸

PSU designed the accountability process with the person who caused harm, cooperatively deciding on the best methods and tools to address the survivor's requested outcomes; examples included reading, images, walking while talking, using activities, storytelling, writing, role-playing, and more, depending on the learning style and preferences of the perpetrator.¹³⁹ The accountability process was tailored cooperatively and specifically to the needs of those involved. They also offered check-ins at the start of each meeting and used meetings to model behaviour exemplifying respect, boundaries, communication, empathy, and honesty.¹⁴⁰ This structure did not require survivors to be present and gave them distance from those who had caused them harm.¹⁴¹

Nobody in the PSU collective was paid. Groups differ on the importance of funding; as discussed previously, COSA is federally funded, compromising its TJ values through affiliation with the state, but only its coordinator is paid. The remainder of the funds, to the best of my knowledge, go to materials, food, the location in which meetings are held, and programming. Volunteers have expressed the importance of not being paid, noting that an organization premised, in part, on friendship, would feel immensely different if the volunteer "friends" were paid. But payment has the potential to make involvement in such an initiative more accessible for those who cannot afford to volunteer, which, in turn, could allow for a more diverse network of volunteers; additionally, it could provide resources or support for volunteers often dealing with traumatic topics. Kaba notes that the idea that funding or payment lessens the value of the work is flawed—she asks: "Who is giving out money that is free from corruption? Who is not corrupted by this system?"¹⁴² However, as expressed in *The Revolution Will Not Be Funded*, grassroots organizations that become funded non-profit organizations can be forced to compromise their principles, leading to the professionalization of activism that collaborates with state power rather than grassroots activism that challenges it.¹⁴³ The question of funding has no easy answers; it is perhaps better decided on a case-by-case basis than as a general principle.

PSU's model involved a stable core of five to six people who received support from concentric circles of ex-members, interns, and allies in the form of childcare, information

¹³⁶ *Ibid* at 55; Ansfield & Colman, *supra* note 109 at 42; Colman, Kelly & Squires, *supra* note 56 at 6.

¹³⁷ Mimi E Kim, "Moving Beyond Critique: Creative Interventions and Reconstructions of Community Accountability" (2011) 37:4 Soc Just 14 at 21 ["Moving Beyond Critique"].

¹³⁸ Ansfield & Colman, *supra* note 104 at 42.

¹³⁹ Kelly, *supra* note 110 at 56; Ansfield & Colman, *supra* note 104 at 44.

¹⁴⁰ Kelly, *supra* note 110 at 56.

¹⁴¹ *Ibid* at 47.

¹⁴² The Appeal, *supra* note 51.

¹⁴³ Paula X Rojas, "Are the Cops in our Heads and Hearts?" in INCITE! Women of Color Against Violence, eds, *The Revolution Will Not Be Funded: Beyond the Non-Profit Industrial Complex* (Cambridge, MA: South End Press, 2007) at 206.

technology, or direct work with people who had caused harm. This, Kelly states, was invaluable to sustaining PSU.¹⁴⁴ Support, community, and friendship are integral to TJ; PSU began as a grassroots movement of close friends who held others in their scene accountable, while COSA creates community through the Dismas Fellowship, faith, and intentional friendships between core members and volunteers.

The PSU group met weekly for two hours and involved self-education as a part of their TJ routine. They also employed a politics of care, encouraging a culture of asking for assistance and ensuring that the group only took on a sustainable level of activity.¹⁴⁵ Members stayed active in projects outside PSU to nourish a strong sense of self and avoid being consumed by the work.¹⁴⁶ Avoiding burnout is an essential factor in maintaining long-term TJ initiatives. PSU's concentric circles of support, boundaries around meeting times, and nourishment of a strong sense of self for individual members are helpful examples of methods that kept the collective sustainable. PSU also offered options to support their initiative at various levels of involvement.

Finally, as Kelly writes, PSU understood that transformation cannot happen overnight: “[r]eal and lasting change requires patience and a long-term view.”¹⁴⁷ Timothy Colman, of PSU, states: “[r]evolution through trial and error’ is a good way to describe our approach.”¹⁴⁸ CMS similarly prioritizes an understanding of accountability processes as not ends in themselves. Lena Palacios, a professor in Gender, Women & Sexuality Studies at the University of Minnesota, articulates this impossibility of finality or closure: “[l]ocating transformative justice feminism as process or praxis, rather than as something already existing or accomplished, allows it to remain a contradictory, unfinished, and ambiguous political project that rejects final solutions and ideological purity.”¹⁴⁹ Alexis Shotwell’s book, *Against Purity: Living Ethically in Compromised Times*, offers a similar call for complexity and impurity. Shotwell argues for an understanding of our own complicity in what we often think of as “bad,” whether in the colonial histories we inherit, the toxins in our environment, or the sexualized violence in our communities.¹⁵⁰ TJ processes refuse a narrative of purity. They are not easy, not perfect, and not final—they recognize our complicity in violence, requiring a complex understanding of harm, long-term commitment, and an ability to adapt.¹⁵¹

¹⁴⁴ Kelly, *supra* note 110 at 48.

¹⁴⁵ *Ibid* at 51.

¹⁴⁶ Colman, Kelly & Squires, *supra* note 55 at 15.

¹⁴⁷ Kelly, *supra* note 110 at 52.

¹⁴⁸ Colman, Kelly & Squires, *supra* note 55 at 7.

¹⁴⁹ Lena Palacios, “‘Something Else to Be:’ A Chicana Survivor’s Journey from Vigilante Justice to Transformative Justice” (2016) 6:1 *Queer, Trans, & Fem Responses to the Prison Nation* 93 at 95.

¹⁵⁰ Alexis Shotwell, *Against Purity: Living Ethically in Compromised Times* (Minneapolis, MN: University of Minnesota Press, 2016).

¹⁵¹For further reading on the iterative nature of TJ, see Talia Gruber, “Transformation Takes Practice,” *Briarpatch Magazine* January/February 2020 (23 December 2019), online: *Briarpatch Magazine* <briarpatchmagazine.com/articles/view/transformation-takes-practice> [perma.cc/GM2J-5EF3]. Additional factors not mentioned by PSU that contribute to sustainable TJ initiatives include: an understanding of trauma and the embodied experience of abuse, explicitly noted in Generation FIVE’s TJ collective document (see Generation FIVE, *supra* note 12 at 24), and the technique of cyclical healing, or the leadership of people who previously perpetrated harm in accountability and healing processes, which is employed by COSA as well as by Creative Interventions (see Kim, “Moving Beyond Critique” *supra* note 137 at 19).

VIII. STEPS FORWARD

Considering these various practices of TJ, each with their own specific histories and priorities, is helpful in looking towards an ultimate goal of implementing strategies from COSA and other TJ initiatives into a feminist TJ model that attends to the complexity of structural oppression. Such a model would prioritize interdependence, take into account systemic state violence against marginalized groups, provide a critical analysis of harm, advocate for prison abolition, and continue to educate its members and the broader community about the realities of interpersonal and state violence.

But in picturing such a model, it becomes clear that this may be a distant goal. TJ challenges dominant worldviews, including systems of retributive punishment, yet settler colonial Canada appears to be set in its carceral ways. In this context, survivors and marginalized communities often advocate for increased incarceration—so what happens when addressing harm according to the needs of those involved comes up against demands for incarceration from those very people?¹⁵²

On 3 June 2019, the final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls was published. The report detailed 231 essential Calls for Justice to end the genocide against Indigenous women and girls in Canada. Section 5, “Justice,” includes calls for more serious sentences and greater criminalization for those who perpetrate violence against Indigenous, women, girls, and 2SLGBTQQIA people; for example, Call 5.2 states, “[w]e call upon the federal government to review and amend the *Criminal Code* to eliminate definitions of offences that minimize the culpability of the offender.”¹⁵³ Additional calls include demands for increased funding for Indigenous policing, though it is worth mentioning that the final report does not necessarily encompass all Indigenous people’s perspectives, and various nations, communities, and individuals may feel differently. Given the limited reach of TJ options in the present and the criminal legal system’s place in society as the only solution to violence, it is understandable that those upon whom the system enacts greater violence call for improvements and increased justice within it. In *A Mind Spread Out on the Ground*, the recent book by Alicia Elliott, a Tuscarora writer from Six Nations of the Grand River, Elliott articulates

¹⁵² Alternately, what happens when those who enact harm refuse accountability or TJ practices? Part of the transformative capacity of TJ stems from its voluntary, cooperative nature. If a perpetrator refuses to acknowledge the harm that they have caused and its effects, or declines to participate in a TJ process, it seems that TJ has reached its limits. Building a greater understanding and capacity of TJ would contribute to people, including perpetrators, turning to TJ as a viable justice process. The Bay Area Transformative Justice Collective’s “Pods and Pod Mapping Worksheet” is a helpful resource here (see Mia Mingus, “Pods and Pod Mapping Worksheet” (June 2016), online: <batjc.wordpress.com/pods-and-pod-mapping-worksheet/> [perma.cc/F9LB-LFRU]). The Collective offers this resource to prompt people to consider what TJ could look like in their pre-existing relationships. Mingus writes, “[y]our pod is made up of the people that you would call on if violence, harm or abuse happened to you; or the people that you would call on if you wanted support in taking accountability for violence, harm or abuse that you’ve done.” Beginning with an acknowledgement that each of us has the potential to perpetrate harm, and concretely considering the role that trusted people in our lives could play in both supporting us through experiencing harm as a survivor and supporting our accountability as a perpetrator, would be a small step towards a future in which more people are ready to accept accountability for their actions.

¹⁵³ *Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls: Calls for Justice* (Ottawa: National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019), online: <www.mmiwg-ffada.ca/final-report/> [perma.cc/B56P-RGLT] at 12.

the pain she felt after Gerald Stanley was cleared of all charges related to his killing of Colten Boushie.¹⁵⁴ “I felt like I was going to vomit,” she writes; “My body was sharp glass I dutifully held together.”¹⁵⁵ In situations like Colten Boushie’s death, it does not feel like a victory that one less person is in prison—it feels deeply unjust. When the criminal legal system is the only option provided to address harm, and this system continues to perpetuate inequality and genocide, it makes sense to grieve its injustice, to call for greater justice, to try to reform its racism, all while knowing that reform cannot lead to transformation. I argue that, for now, we need to work both within the system and outside it, improving the options currently available for justice while expanding non-carceral approaches to harm and working towards prison abolition.¹⁵⁶ If immediate safety is required, sometimes even people who believe in TJ and abolition have to turn to the criminal legal system, and I do not place judgement on their situations. But it is urgent that, at the same time, we critique and look outside the carceral system that is founded on racism and colonial violence, and build the capacity of other frameworks to address harm.

Rather than reforming the colonial carceral system, TJ movements rethink the meanings of justice, community, and the self. Through acknowledging and prioritizing interdependence, our shared vulnerability, and our ties to each other, TJ refuses disposability and reframes what it means to be a person in community and in the world. In contrast to colonial frameworks of liberal individualism, Indigenous nations have always understood humans, all living beings, and the natural world as fundamentally interconnected—TJ movements envision a present and a future in which this knowledge that the self is necessarily relational leads to transformative approaches to harm.¹⁵⁷

Such a vision might seem out of reach in contemporary colonial Canada, but as Brown writes:

While we often put our attention on the state and demand transformative and restorative justice, it is important that individuals begin practicing in our personal, familial, and communal lives—we can reach the people we need to reach, and measure our work by the way the relationships feel. It is hard work, but it is accessible to anyone, anywhere, at any scale.¹⁵⁸

Taking small steps toward TJ, even just in a relationship with oneself, friends, or family, can lead to larger movements for change. Identifying and challenging carceral attitudes in one’s own thought processes is another small change that can build to a larger scale, allowing for increased TJ collectives in communities throughout the world.

¹⁵⁴ Colten Boushie was a twenty-two year old Indigenous man from the Cree Red Pheasant First Nation who was killed by Gerald Stanley on 9 August 2016. Stanley was acquitted of the charges of second-degree murder and manslaughter by an all-white jury.

¹⁵⁵ Alicia Elliott, *A Mind Spread Out on the Ground* (Toronto, ON: Penguin Random House, 2019) at 57.

¹⁵⁶ Randall, *supra* note 24 at 465.

¹⁵⁷ Vanessa Watts, “Indigenous Place-Thought and Agency Amongst Humans and Non Humans (First Woman and Sky Woman Go On a European World Tour!)” (2013) 2:1 *Decolonization: Indigeneity, Education, & Soc’y* 20.

¹⁵⁸ Brown, *supra* note 3 at 133.

Forming coalitions between existing TJ initiatives might be another small step towards feminist models of TJ.¹⁵⁹ What would happen if COSA partnered with the Challenging Male Supremacy Project or the Third Eye Collective? What learning might come about through engaging in conversation? Chandra Mohanty, a postcolonial and transnational feminist theorist, discusses Bernice Johnson Reagon's arguments for feminist coalition, noting that strong coalitions foreground individuals' specific differences in experience and location rather than sameness in community.¹⁶⁰ A coalition is stronger when it can ground itself in difference and acknowledge the value of various subject positions. If the diversity of various organizations and collectives that practice TJ could discuss their values, techniques, challenges, and goals, they might challenge one another productively, and ultimately grow to form a feminist coalitional network of differing TJ practices, offering support and accountability suited to different needs, building a viable alternative to policing and prisons.

Visions of prison abolition are important.¹⁶¹ Even when working within carceral systems to improve them, holding a vision of a desired future will help to propel change right now. Studying and engaging in TJ, whether with COSA, a grassroots collective, or in our own interpersonal relationships, will build to larger movements for change and liberation. Finally, as Kaba notes, TJ work can happen outside of these accountability processes as well; a multitude of initiatives contribute to transformative justice. Activism for mental health care, for education, for environmental justice, for living wages—"all of these things. ... It's one thing. It's connected."¹⁶² Hope for the future is in the way we engage with these causes, the way we refuse oppressive systems.¹⁶³ There is hope in the way we engage with each other; as Butler tells us, we are necessarily bound up with, undone by each other.¹⁶⁴ Where will we choose to go from here?

I ask myself and you, which of our visions will claim us
which will we claim
how will we go on living
how will we touch, what will we know
what will we say to each other.
—Adrienne Rich, "Nights and Days"¹⁶⁵

¹⁵⁹ See Whalley & Hackett, *supra* note 35 at 469 for a discussion of intersectionality as global connections in social movements; see also Kim, "From Carceral Feminism" *supra* note 35 at 228 for the importance of frequent communication among proponents of TJ.

¹⁶⁰ Chandra Talpade Mohanty, *Feminism Without Borders: Decolonizing Theory, Practicing Solidarity* (Durham, NC: Duke University Press, 2003) at 117.

¹⁶¹ For a nuanced discussion of a prison abolitionist framework and how visions/aspirations of abolition can orient legal, ethical, and institutional transformation, see Allegra M McLeod, "Prison Abolition and Grounded Justice" (2015) 62:5 UCLA L Rev 1156.

¹⁶² Centre For Constitutional Rights, *supra* note 92 at 00h:47m:36s. For a discussion of the necessarily multifaceted nature of TJ and abolition, see Whalley & Hackett, *supra* note 35 at 469.

¹⁶³ Centre For Constitutional Rights, *supra* note 92 at 00h:45m:23s.

¹⁶⁴ Butler, *Precarious Life* *supra* note 10 at 23.

¹⁶⁵ Adrienne Rich, *The Dream of a Common Language: Poems 1974-1977*, 1st ed (New York, NY: WW Norton & Company Inc, 1978) at 45.