ARTICLE

Restorative justice in cases of gender-based violence against women: perspectives on shame, symbolic interactionism and agency

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Abstract

This article addresses the debated issue of the appropriateness of restorative justice programmes in cases of gender-based violence against women perpetrated by men. After brief references to the literature on the topic, a few points for reflection will be offered combining different perspectives. Some concern the role of shame, from the victim blaming phenomenon – which often affects women victims of gender-based violence – to the so-called 'reintegrative shaming' of the offender theorised by Braithwaite. Others are drawn from symbolic interactionism, applied to restorative processes involving these types of crime. Finally, the importance of agency – a key point in restorative practices – is emphasised as it fosters the self-esteem of the victim and the rehabilitation of the perpetrator. These perspectives support the conclusion that there are no valid reasons to exclude restorative justice in cases of gender-based violence against women.

Keywords: restorative justice, gender-based violence against women, shame, symbolic interactionism, agency.

1   Introduction

The appropriateness of restorative justice to address gender-based violence crimes against women, such as domestic violence and sexual assault, has always been and still is the subject of vigorous debate. The following two sections will provide brief references to the major issues on the topic. A few points for reflection will then be offered, combining different perspectives.

As a preliminary remark, it is worth emphasising that gender-based violence is an 'umbrella concept' that includes any harms 'indicative of sex/gender power relations' (Daly, 2002: 67). As such, it does not necessarily involve male offenders and/or female victims, as it can embrace, for example, assaults on boys or men that reflect homophobia. This article, however, will focus exclusively on gender-based violence against women perpetrated by men (partners, ex-partners, family members or strangers). In this regard, we can take as a benchmark the definition of 'violence against women' contained in the Istanbul Convention, which refers to 'a violation of human rights and a form of discrimination against women' that comprises 'all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life' (Art. 3).

It should also be noted that gender-based violence may take several forms, including domestic violence and sexual assault and that sexual assault itself might consist in either ongoing or incident-based behaviour: the former is more likely to be perpetrated by a partner and the latter by acquaintances or strangers. Domestic violence is generally not episodic, but repeated and continuous, often over many years. As explained by scholars (Edwards & Sharp, 2004; Johnson, 2006), domestic violence against women manifests itself as an escalation of violent acts (sometimes including sexual assaults) accompanied by the exercise of power and control: the victim is isolated and lives in permanent fear. Particularly, as explained in the 'battered woman syndrome' theory (Walker, 1995), intimate partner violence takes place on a continuum, or, more precisely, in a sort of cycle with repeated phases.

In any event, gender-based violence against women has serious and long-lasting implications and consequences, affecting the victim's personal identity and beliefs, job and career prospects, economic independence and social relationships (Coker, 1999).

The foregoing distinctions and characteristics are crucial for a proper understanding of the relationship between restorative justice and gender-based violence crimes, with 'restorative justice' being understood as 'any process in which the victim and the offender, and, where appropriate, any other individuals or community members affected by a crime, participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator' (ECOSOC, *Basic principles on the use of restorative justice programmes in criminal matters* – Resolution 2002/12).

2 The alleged risks of restorative justice practices in cases of gender-based violence

As already mentioned, the applicability of restorative justice to gender-based violence is highly debated (see e.g. Edwards & Sharp, 2004; Shagufta, 2010; Stubbs, 2002, 2007).

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Among the factors that have inhibited restorative justice programmes in this field are the power imbalances often associated with this kind of crime, which commonly arise from relational bounds between victims and offenders. There are concerns that the power imbalances between the parties may be perpetuated and worsened during restorative encounters and that the patterns of abuse might be strengthened (Acorn, 2004; Shagufta, 2010; Stubbs, 2002).

Connected with this alleged obstacle is the particular vulnerability of victims, who frequently suffer from learned helplessness and show symptoms of post-traumatic stress disorder. A face-to-face encounter with the offender often triggers strong emotions in the victim: anxiety, tension, mild distress and also emotions associated with the violence experienced, with the risk of re-traumatisation, namely to relive the situation and dynamic of the violence and the ensuing reactions and traumatic feelings (see Mercer, Sten Madsen, Keenan & Zinsstag, 2015).

Moreover, some victims may not be effective advocates for themselves and may feel strong pressure to accept certain outcomes – such as an apology (even if it is felt to be insincere) – or to take the aggressor back into their home (Daly & Stubbs, 2007). After all, apologising after an outbreak of violence is part of the well-known cycle of violence: tension, outbreak, apology, honeymoon period, tension, etc. (Walker, 1995). Some authors believe that this cycle could be enhanced in restorative encounters and emphasise the issues of apology by labelling it 'the cheap justice problem' (Stubbs, 2002: 18).

Another aspect of this problem is the risk of manipulation of the restorative justice process by offenders. As a strong party in the relationship, they might use their position/power to minimise, diminish or disclaim responsibility for the crime or even trivialise the abuse or shift the blame onto the victim. Women feel that their emotions are belittled or perceive that certain behaviours are not recognised as abusive, thus undergoing a form of re-victimisation (Edwards & Sharp, 2004; Frederick & Lizdas, 2010; Ptacek, 2010).

A further concern is related to the social and cultural roots of gender-based violence. The harms of these crimes are shaped and mediated by society, its machismo and principles of patriarchy (Hopkins, Koss & Bachar, 2004). In particular, the cycle of domestic violence abuse – which can escalate in its frequency, severity and consequences – is an expression of power and control (Stubbs, 2007), shaped by cultural and social norms, sexist and prejudiced ideologies, gender-role stereotypes and patriarchal conception of the family (Coker, 1999). In sexual crimes, the same prejudices and macho ideology are often at the origin of both the assault and the so-called 'secondary victimisation' of the victim, directly or indirectly blamed for the incident (George & Martinez, 2016). According to some feminist approaches, the confidentiality element of restorative justice, as opposed to the publicity of the criminal justice system, is a limitation in the fight against silence about the problem and gender-role stereotypes (Daly & Stubbs, 2006). From this perspective, the highly confidential settings of restorative encounters might negatively affect the efforts of feminist movements to take violence against women out of their private lives, thereby generating public debate about the phenomenon.

Certain authors (Goel, 2000; Presser & Gaarder, 2000) are also worried that restorative justice programmes could be used in the interest of offenders rather than victims (see Keenan, 2014). Others believe that the broad principles of restorative justice do not offer sufficient guidance to ensure restorative justice facilitators respond to this kind of violence adequately and safely (Stubbs, 2007). In this context, it has been observed that the considerable heterogeneity of gender-based violence cases prevents an assessment of adequacy in the abstract, which should be replaced by a case-by-case approach (Daly, 2006). It has also been pointed out that it is impossible to monitor the long-term outcomes of restorative justice programmes, so its long-run benefits would remain uncertain (Ptacek, 2010).

Despite the aforementioned concerns about the use of restorative justice to address gender-based violence, even feminist scholars and activists (Martin, 1998; Snider, 1998) have long recognised that toughening penalties and incarcerating violent men are unlikely to lead to safer societies. Data shows that prison and affliction do not promote the psychosocial rehabilitation of offenders (Keenan, 2017). Similarly, several studies demonstrate that criminal justice system has failed to respond to the needs of justice, care and protection of victims of gender-based violence, who desire meaningful results and accountability measures for perpetrators (Hansen, Stefansen & Skilbrei, 2021; Lessard, 2017). Instead of helping, involvement in the criminal justice system is often difficult for victims (Boskovic & Misev, 2022; Campbell & Raja, 1999; Laing, 2017; Pali & Madsen, 2011), who feel victimised all over again (i.e. secondary victimisation).

3   The proven benefits of restorative justice for victims, perpetrators and society

As many studies attest (Angel, 2006; Koss, 2013; McGlynn, Westmarland & Godden, 2012), the application of restorative justice in cases of gender-based violence should be appreciated in terms of rehabilitation of victims and perpetrators and of special and general deterrence.

First of all, the victim can be empowered by having her voice heard by the aggressor. This face-to-face confrontation, if carefully handled, can compensate for any power imbalance (Madsen, 2004; Morris, 2002). Restorative justice encounters create the condition for a non-judgmental environment where an open dialogue and a healing process can take place for the victim and the offender (Kingi, Paulin & Porima, 2008; Liebmann & Wootton, 2010). They could play a key role in meeting some of the needs and expectations of victims, not only by giving them a voice to talk about the harm they have suffered but also by ensuring that their traumatic experience is treated with seriousness and respect, as opposed to minimising and trivialising behaviour held by offenders that is still widespread in society. In the best of cases, hearing the perpetrator acknowledge the injustice of what happened really empowers the victim and restores 'a sense of justice' (Bolitho, 2015; Keenan & Griffith, 2021; Richards, Death & Ronken, 2020).

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The criminal justice system tends to separate victims and perpetrators (Mazzucato, 2010). In this regard, it is worth recalling that gender-based crimes often occur in a relational context. In most cases, there is some form of past and possibly present relationship between the victim and the offender, and even the prospect of a future relationship (they could be a couple with children, for instance). Restoring a safer and positive relationship is one of the main concerns of victims and others indirectly affected by these kinds of violence. This is why a system that claims to avoid all contact between the parties forever is not ideal (Forti, 2015). Although such a system may appear the most protective, it is often not sustainable, or even desirable, for the victim herself. Consequently, also from this point of view, the philosophy and methodology of restorative justice, focused on treating and curing the 'insane' relationship, might be a beneficial option (Mercer et al., 2015).

Restorative practices also stimulate perpetrators to take responsibility for their behaviour (Keenan, 2014). Indeed, the encounters give them the opportunity to listen to the victim's feelings (at best experiencing empathy), to offer reparation for their actions and, finally, to decide to abstain from reoffending (Bouffard, Cooper & Bergseth, 2017; Keenan, 2018; Loeffler, Prelog, Unnithan & Pogrebin, 2010; Van Dijk, Zebel, Claessen & Nelen, 2020). In so doing, restorative justice techniques can contribute to the rehabilitation of domestic violence perpetrators and sex offenders by encouraging a genuine acceptance of responsibility, a sincere expression of remorse and a personal path of change. This approach is also consistent with the so-called Good lives model (Walgrave, Ward & Zinsstag, 2019; Ward & Gannon, 2006; Ward & Stewart, 2003), which has become increasingly popular in sexual offending treatment programmes (McGrath, Cumming, Burchard, Zeoli & Ellerby, 2010). The model is based on a strengths-based rehabilitation theory that seeks to help individuals develop and implement meaningful life plans incompatible with future offending.

Concerning the criticisms that restorative justice favours the 'reprivatisation' of conflict, thus undermining the public debate on gender-based violence, a clarification needs to be made. Bringing conflict into restorative encounters does not mean saving violence from public condemnation, but allowing the parties to dialogue in a non-judgmental environment. Furthermore, perpetrators' accountability, promoted by restorative justice, plays a significant role in terms of not only special but also general prevention. Besides encouraging offenders' spontaneous adherence to non-violent patterns of behaviour, it induces them to reflect on the violated norms and the underlying values, which may increase the general level of acceptance of the legal system (Corti, 2018; Lorenzetti & Ribon, 2017).

All this does not mean that concerns for the safety of victims should not be taken seriously.

For a start, considering the type of offences involved, it is fundamental to ensure that the basic principles of restorative justice are respected. Victims and perpetrators should never be forced to take part in restorative encounters, should not be prevented from participating if they wish, and should always receive comprehensive information on restorative justice programmes, together with the necessary support during the whole process.

Moreover, certain scholars (e.g. Lopez & Koss, 2018; Keenan, 2018) suggest the need for additional specialised training to manage restorative justice practices in cases of gender-based violence, owing to the delicate relational dynamics, the power imbalances between the parties, and the highly charged emotional response that these types of crimes provoke in civil society. These cases entail serious therapeutic, ethical and legal issues. Specialised training that helps practitioners to identify the risks of re-victimisation and re-traumatisation and to address them safely and competently therefore seems desirable. It is also important to learn how to prevent power imbalances from arising during the restorative justice process itself. Accordingly, the training of practitioners should pay special attention to protecting the psychological and emotional needs of victims and perpetrators of gender-based violence. Towards this end, an international framework on specialised advanced training for the management of restorative justice programmes on gender-based violence could be useful (Coker, 2018; European Forum for Restorative Justice, Gender Based Violence Working Group, 2021).

Another important issue is that gender-based violence often arouses strong feelings in all those affected by the incident and in the victim's 'significant others' (family, friends, peer group), who might disapprove of the decision to meet the perpetrator. For this reason, it is crucial to involve the victim's relatives and friends in the preparation process and in restorative encounters, if the victim so wishes (Miller, 2011). Indeed, disapproval and lack of support may jeopardise the success of the programme or greatly reduce its benefits. The victim risks being exposed to contradictory emotions and feeling a sense of isolation. The same applies to the offender (Mercer et al., 2015).

In conclusion, as most scholars today believe (Daly, 2022; Pali, 2017; Zinsstag & Keenan, 2022), there is no compelling reason to exclude restorative justice in cases of gender-based violence, insofar as the necessary precautions are taken and a culturally responsive, trauma-informed and evidence-based approach is adopted (Sardina & Ackerman, 2022). After all, the Basic Principles on Restorative Justice and the most recent Recommendation 2018(8) of the Council of Europe expressly provide that there should be no preclusion as to the type and seriousness of the crime. Moreover, as known, the Istanbul Convention prohibits only the 'mandatory' forms of 'mediation and conciliation' (Art. 48).

The following sections offer a few points for reflection, drawn from different perspectives, that support this conclusion and confirm the potential of restorative justice programmes in such cases.

4   Changing the role of shame: victim blaming versus reintegrative shaming

Shame plays a significant role in the gender-based victimisation experience. The victim's short-term reactions include fear and shame, emotions that may prevent her from reporting (Wemmers, Parent & Lachance Quirion, 2022: 2-6). Long-term effects include low self-esteem, lack of self-confidence and – especially in cases of sexual offences – identity confusion, difficulties in interpersonal relationships, feelings of guilt and shame and, occasionally, post-traumatic stress disorder

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(Langton & Truman, 2014; Osman & Merwin, 2020; Shapland & Hall, 2007; Ullman & Peter-Hagen, 2016). Self-esteem is considered a basic human need, essential for an individual's well-being (Staub, 2003; Ten Boom & Kuijpers, 2012) and for the success of one's interpersonal relationships. How we feel about ourselves often determines how we interact with others (Oney & Oksuzoglu-Guven, 2015) and how we can recover from trauma. Gender-based violence is often a lasting and repeated form of violence. It exposes victims to prolonged painful experiences, leading them to think that traumatic events are inevitable and that they are powerless or – worse – guilty, thus developing feelings of self-blame. Research on rape victims (Hansen et al., 2021) reveals that self-blame mechanisms are also common because they might reassure victims: they induce victims to feel that they had a role in what happened and therefore retain control over future happenings. Conversely, seeing violence as a random event can be much more frightening.

Paradoxically, when victims come to the police in search of recognition and validation of their victimisation and suffering, their feelings of self-blame are likely to be enhanced. In particular, the term 'secondary victimisation' refers to the set of negative psychological consequences that result from the way institutions and other individuals working in the criminal justice system (mainly police officers, prosecutors, judges and lawyers) treat the victim (Forti, 2000: 268-269). Lack of sensitivity and proper training present obstacles to an emphatic and unprejudiced listening. The victim may be asked inappropriate questions about her lifestyle or attitude, suggesting she had some responsibility in her victimisation, and, more generally, provoking a sense of judgment (Boskovic & Misev, 2022; Laing, 2017). In addition, the victim's stress and exasperation are exacerbated by factors such as repeated questioning (including cross-examination) about the same facts, lack of information about the progress of police investigations and the length and technicalities of the trial. Consequently, criminal proceedings can have an adverse impact not only on the victim's trust in the legal system but also on her self-esteem and confidence in the future (Cluss, Boughton, Frank, Stewart & West, 1983; Herman, 2003; Parsons & Bergin, 2010; Wemmers, 2013). In contrast, as some studies show, when victims feel that they are treated fairly, their trust in the police increases, along with their willingness to report crimes and their self-esteem (Koster, 2018; Wemmers, 1996).

Another source of self-blame is the attitude that perpetrators and society often take towards victims of gender-based violence.

Victim blaming is a universal phenomenon that may originate in a deep-seated need to believe that the world is a good and just place. Considering crime victims to some extent guilty for what happened to them comforts us and lets us maintain a rosy worldview. Indeed, if anyone, without any responsibility, could really be a victim of rape, assault, robbery or attack, we would all feel endangered (Feldman, 2018).

Although blaming also affects male victims, research shows that blaming female victims of gender-based violence is strongly tied to gender biases (Whitlow, 2020). Only female victims are expected to change their daily routines to avoid an incident, and their gender is the very reason for this expectation. This does not

happen with men exposed to crime. Indeed, in the case of gender-based violence, and especially sex assault or non-consensual pornography, victim blaming is strongly related to sexism and moral evaluation of purity. These lead to condemnation of women who do not adhere to traditional gender norms, including deeply rooted ideals of female purity (Glick & Fiske, 1997; Niemi & Young, 2014). Therefore, women who experience violence sometimes get blamed for the crime suffered on the basis of situational and intrinsic variables, including appearance, behaviour, personality and relationship with the perpetrator (Rye, Greatrix & Enright, 2006).

Perpetrators and society, especially men who express traditional gender ideology, generally assign more blame to victims of rape than to victims of other forms of gender-based violence and more blame to victims of rape perpetrated by the partner or ex-partner than by a stranger (Angelone, Mitchell & Smith, 2018). In this regard, it should be noted that the term 'rape culture' describes the cultural association between violence and sexuality and is intended to stigmatise the relentless blaming of women and girls for their sexual victimisation. This blaming attitude stems from the persistent prejudice that victims of sexual violence bear partial responsibility if they 'flirted heavily' or were not demure and careful enough. Rape culture has also proven to be a useful concept for understanding the normalisation and trivialisation of various forms of sexual offences in digital society, including non-consensual pornography (Sugiura & Smith, 2020). According to some studies, victims of non-sexual intimate partner violence have reported rates of blame that depend on situational variables (Eigenberg & Policastro, 2016). For example, this rate is higher when a woman has been in a physically abusive relationship for a long time where the violence was predictable, as if she has shown acceptance of the abuse or as if she allegedly provoked the aggressor with flirtatious attitudes.

Self-blaming, or the worry to be blamed or disbelieved, afflicts and silences victims. This causes secondary victimisation and undermines the institutional response to the crimes committed.

Restorative justice programmes have the potential to effectively address the problem of victim blaming and victim self-blaming and drastically change the role of shame.

As confirmed by a recent study on victims of sexual violence (Wemmers et al., 2022), restorative justice encounters may enable victims to regain confidence in themselves and in others. The encounter with the perpetrator might prove to be a validation of their suffering and empower their voice and self-esteem (Keenan & Griffith, 2021; Madsen, 2004). If proper precautions are taken, victims enter the dialogue with the offender in a position of strength since they are believed and supported. Usually, what happened to them is not doubted or questioned, and the perpetrator acknowledges his wrongdoing and does not shift blame onto the victim. In addition, restorative justice gives victims control over their participation, which is instrumental in rebuilding their self-confidence and sense of control over their lives (O'Mahony & Doak, 2017).

Besides being a tool to support the victim and counter her tendency towards self-blaming, restorative justice also offers offenders the chance to take

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responsibility for their behaviour. In particular, it provides the opportunity to move from external blaming – the victim blaming – to an 'internal blaming' – the so-called 'reintegrative shaming'. It was John Braithwaite (Braithwaite, 1989) – one of the main theorists of restorative justice – who brought the concept of shame to the core of the criminological theory regarding rehabilitation after crime. He distinguishes between a 'good' (reintegrative) and a 'bad' (stigmatising) form of shaming. The former comes from the cognitive dissonance between the offender's actions and his authentic values assimilated throughout his lifetime. This is a 'beneficial' shame that stimulates the reflection on one's conduct and the assumption of responsibility. The latter is toxic and consists in the mere social stigmatisation of the offender, as if he were an outsider to society, thus reinforcing his 'criminal label'. This form of shame-stigmatisation, precisely as victim blaming (which, as discussed, makes victims of gender-based violence feel ashamed), is detrimental to victims, perpetrators and even to society.

In the words of some authors (Maruna & Pali, 2020: 42-43), restorative justice 'can be understood, at its heart, as a movement against the "false shame" of victim blaming' – as well as against the sterile stigmatisation of the offender – which can promote a reintegrative shaming in perpetrators of gender-based violence. As the same scholars add, 'the struggle against victim blaming and the real need for the deflection of shame away from victims could descend into stigmatisation and punitiveness (sometimes called "carceral feminism") or could become an opportunity for genuine social dialogue and transformation'.

In general, restorative justice programmes begin with the narration of the facts and, passing through the emotions felt by the parties, reach the level of the values protected by the violated rules (Mazzucato, 2010: 107). This may stimulate in the offender a sense of 'genuine' shame that stems from the 'cognitive dissonance' between his own actions and the values in which he realises he still believes. In the non-stigmatising environment of restorative encounters, perpetrators can articulate their sense of shame, focusing on reintegration and reparation instead of being hit by further marginalisation and 'labelling' (Mercer et al., 2015).

The role of shame also deserves to be considered from another point of view. If victim blaming and victim self-blaming should be countered because they result in secondary victimisation and fear of reporting, the shame felt by victims (there is often an intense sense of shame associated with gender-based abuses and sex assaults) can be a fundamental part of the restorative justice process, which starts from the premise that doing justice does not mean returning victims and offenders to the situation before the crime. Victims of gender-based violence will never return to their previous life: they cannot become un-raped or un-abused women. Restorative practices succeed if they help the parties to restore their lives, to share a narrative that includes the responsibility of the perpetrator, the suffering of the victim and the sense of shame of both, without the expectation of denying this experience. In this perspective, shame is the starting point for the transformation of the identity of all those involved (Pemberton, 2019b. On the role of shame in restorative processes, see also Scheuerman & Keith, 2022 and Wilson, 2022).

As reported in the psychological literature, 'in the emotional and relational dynamics of restorative conferencing, emotions like empathy, remorse and guilt

become merged with feelings of shame and it is ultimately the successful management and resolution of these emotions that is critical for successful restorative interventions' (McAlinden, 2007: 46). In this respect, scholars emphasise the 'profound transformative effect' of restorative justice 'on the experience of shame' for victims of sexual violence, offenders and their families. 'Properly applied, restorative processes enable the articulation of the intense sense of shame in a rehabilitative and non-stigmatising manner which can be part of a process of personal transformation' (Mercer et al., 2015: 13).

5 Narration as the opposite of violence

Victimisation, and gender-based victimisation in particular, can be conceptualised as an 'ontological assault', meaning 'damage, diminishment or even destruction of the way people normally and unreflectively exist in the world' (Pemberton, 2019a: 15). The effects of this assault include narrative foreclosure and radical loneliness. It is therefore clear that dialogue and storytelling are vitally important (Miller, 2011: 159-184). Victims who have undergone particularly traumatic and stigmatising experiences, such as domestic or sexual violence, have a strong need to be heard and understood (Godden-Rasul, 2017). As already noted, unlike the criminal justice system, restorative justice programmes offer victims the chance to reclaim their voice (Madsen, 2004). While it is true that restorative justice cannot erase victims' suffering, the focus on the reality of the crime and on the aftermath of victimisation, through the dialogue with the 'difficult other' (expression coined by Mazzucato, 2015: 251-303), could help them to cope with this suffering (Pemberton, 2019a). Furthermore, re-narrating their stories, victims challenge the perception that their lives have been ruined, which is helpful in writing a new page (Mercer et al., 2015).

Not only can the storytelling play a strategic role in the treatment and 'restarting' of the victim, but it can also prove essential in terms of rehabilitation and resocialisation of the offender, as well as, more generally, to counter gender-based violence against women (Bouffard et al., 2017; Van Dijk et al., 2020).

According to certain studies (Babcock, Graham, Canady & Ross, 2011; Feldman & Ridley, 2000; Holtzworth-Munroe, Bates, Smutzler & Sandin, 1997), violence arises from perpetrators' inability to verbalise their frustration. Clinical psychopathological experience, acquired by studying cases of domestic violence (Hocker & Wilmot, 2014; Ronan, Dreer, Dollard & Ronan, 2004), reports that perpetrators of violence very frequently suffer from a deficit – even a serious one – of expressive capacity. Violence seems a way to compensate for this deficit. In modern western democracies, violent men do not often embody the stereotype of the possessive husband. They can be the weakest part of the couple in terms of communication and negotiation skills, with difficulties in articulating their thoughts, in arguing, in reaching an agreement. In these cases, violence seems to be the male reaction to this kind of asymmetry and, in general, a reaction to female emancipation. In the past, gender-based violence simply reflected the traditional gender hierarchy that postulated the superiority of man (the so-called *pater*

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familias) over woman. Today, however, at least in certain contexts, such violence can be seen, more precisely, as a desperate attempt by men to restore that hierarchy, which is gradually being overcome (Forti, 2015).

Thus, if it is true that violence often arises 'from the death of thought, from the denial of mental pain, from the inability to express and share one's emotions' (Vegetti Finzi, 2013: 2-3), restorative techniques – as they are based on narration and storytelling (potentially in combination with individual therapeutic interventions) – can propose something radically different from violence, which is the best response to violence itself. Restoring the offender's ability to verbalise his emotional distress can gradually distance him from the idea that resorting to violence is a viable way to recover the lost balance between family roles or to reassert his dominance over the partner (Forti, 2015).

As discussed, the criminal justice system tends to separate victims and perpetrators, even when they were or are in a relationship. However, sometimes this relationship is intended to continue in real life, for instance if they are a couple with children. In such cases, the 'separative approach', while seeming the safest, may end up exacerbating the elements of tension, being dangerous, unsustainable or undesirable for the victim herself. Also, the Istanbul Convention (Art. 18, co. 3) recommends taking measures on the basis of 'an integrated approach which takes into account the relationship between victims, perpetrators, children and their wider social environment'. From this perspective, restorative encounters, by promoting the dialogical confrontation between the parties, help perpetrators to learn a non-violent way to express their frustration and work on the relationship in order to restore it or at least to alleviate tensions, ultimately making the relationship a safer place for victims and for the others indirectly affected by these kinds of violence (Mercer et al., 2015).

After all, the traditional conceptualisation of crime as a breach of a legal code instead of a disruption of social relations and as wrong against the state rather than wrong against the victim has prevented the latter from assuming a central role, together with the offender, in dealing with the consequences of the harm (Zehr, 2002). Besides being potentially useful to avoid or mitigate the escalation of violence, narration – as a key tool of restorative justice to tackle 'relationship breakdown' – is fundamental for the rehabilitation pathway of perpetrators. By telling their difficult story in a non-judgmental context, not only victims but also offenders find fertile ground to write a new, different story (Ceretti & Natali, 2022: 46).

6   The perspective of symbolic interactionism

'The possibility for people to change' is 'the premiss, the principle' of restorative justice – as Desmond Tutu, member of South African TRC, explained (Tutu, 2012). Indeed, criminological studies evidence the link between, on the one hand, the possibility that crime perpetrators, especially violent offenders, change their minds and lives, and, on the other hand, the opportunities offered by restorative practices in this perspective.

An interesting theoretical approach to violence is offered by the symbolic interactionism. According to this school of thought, violent action arises from a symbolic interaction between the violent actor and his victim (together with other significant individuals such as relatives, friends, colleagues): in other words, from an interpretative process consisting in the assumption of other people's attitudes and behaviours to which a meaning is attributed. In this dialogue with himself in relation to the other, the individual attributes a 'threatening', 'frustrating', 'evil' or 'frustrating-evil' meaning to the victim, thereby legitimising his violent action in his own eyes (see Ceretti & Natali, 2009: 187-209).

One of the leading interactionist scholars is Lonnie Athens. In his view, violent behaviour is the result of an interpretative and symbolic process whereby the reaction to the external stimulus is mediated by the 'Self', understood as a symbolic filter of reality (Athens, 1984, 1997, 2005). This is not the place to deepen the tenets of interactionist theories, such as 'Self', 'reflexivity', 'self-image', 'interpretation of the situation', 'assumption of the attitude of others' and 'social interaction', which occurs through repeated 'role-taking processes'. For the present purposes, it is sufficient to recall that – according to this sociological approach – the individual enters into a relationship with the social world through an incessant 'inner conversation'/'soliloquy'. It is a constant flux between two 'shores': the 'I' and the 'Me' – where the 'I' constitutes the 'impulse to act', while the 'Me' represents that very general set of societal expectations coming from repeated 'assumptions of others' attitudes' (see Mead, 1934). Within this framework, Athens then introduced the concept of 'phantom community' to indicate a sort of inner parliament where the subject virtually dialogues with his 'significant others', i.e. the most important people whose opinions and worldviews are internalised and who constitute, as a whole, the subject's privileged interlocutors (Athens, 1998).

It is assumed that 'violent actors' have a 'phantom community' that dispenses moral support for violent responses and that can be called 'violent cosmology' (Ceretti & Natali, 2013). In this perspective, human beings are self-created 'cosmos' that produce meaning, and 'reflexive deliberations' are 'activities' in which the internalised judgments, opinions, praises, admonitions of 'significant others' play a role by suggesting/ordering how to translate this meaning into (violent) acts. It is this incessant conversation with oneself that provides the plot for the construction and continuous updating of a personal 'cosmology', understood as an 'organised set of perspectives' through which to look at and interpret the world (Ceretti & Natali, 2009).

In cases of gender-based violence against women, the others' attitudes and behaviour internalised by violent men include male chauvinism prejudices and principles of patriarchy (Allen-Collinson, 2011; Anderson & Rouse, 1988; Hannem, 2021). Gender biases and ideal models of pure and submissive women, perpetuated by the phantom community, are part of the perpetrator's cosmology. More specifically – as Ceretti and Natali explain (2009, 199-209) – the perpetrator of sexual violence often gives the victim a 'frustrating meaning' by interpreting her as an obstacle because she is resisting or because he thinks she would resist his plan of action. Anger, arising from the frustration of such a plan is the feeling that dominates this interpretation. In cases of mistreatment of women by their partners

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or other family members, another kind of interpretation, the 'evil' one, is recurring. The victim's attitude is understood as a mockery or belittling of the agent. So the victim is considered malicious, for example because she does not respond to the ideal of purity and submission conveyed by gender stereotypes. The feeling accompanying this interpretation is hatred, which, when directed at women, takes the form of misogyny. In both cases, the interpretation can also be 'frustrating-evil': in the eyes of the agent, the victim not only represents an obstacle to his own attempt at domination but is also regarded as particularly hateful. The initial feeling of anger is compounded by hatred.

Restorative justice can contribute to reshaping the perpetrator's 'cosmos' and promote a change in his mind and behaviour, hopefully accompanied by individual therapeutic interventions. The psychosocial pathways that lead individuals to act violently are indeed, at least partially, 'narratable' from their perspective, by virtue of interlocutors capable of sustaining the complexity and symbolic meanings that characterise each narrative. Interlocutors are capable of analysing the polyphonic dimension of a violent cosmology in order to identify the deep links that exist between the agent's Self and his social worlds (Ceretti & Natali, 2022: 42 ff.). Research (Ishoy & Kruis, 2019) has pointed out that violent actors are able to critically rework their own narratives and transform their cosmology by abandoning this kind of interpretation of others' behaviours and those inner voices that led them to violence. Those voices can stop resonating more significantly than others. Only through this listening can an alternative path be opened. 'One's own story, told and recognised without being judged, can represent the beginning of a process of change to claim a more autonomous existence from relationships based on violent domination' (Ceretti & Natali, 2022: 46).

As Jacqueline Morineau puts it, 'the specificity of mediation is to welcome disorder' (Morineau, 2016: 56), i.e. the set of feelings, emotions and suffering experienced by the subjects during conflicts. Restorative justice affords a voice to the parties, by giving them the opportunity to express, communicate and shape this 'chaos'. Facilitators help the parties to refresh their memories blocked by the inflicted and suffered pain and to open a new scenario of listening, silence and respect, where recognition becomes possible. The feeling that is exercised in restorative processes is, above, all a feeling of value, a perception of the positive or negative quality of things (De Monticelli, 2003). Restorative encounters are a privileged place of investigation of the 'emotional, symbolic and axiological worlds of the parties, after probing their emotions' (Ceretti & Natali, 2022: 361). In this perspective, restorative justice creates a non-judgmental environment where violent men can analyse and understand their violent cosmology and its cultural roots and uncover gender biases.

In psychiatry (Borgna, 2017: 55) it is highlighted how restorative encounters should have, as a premise, the 'right' distance between the parties, avoiding both 'an overwhelming closeness and a devouring empathy' and 'an abstract distance that would be perceived as glacial indifference'. This right distance depends on the willingness to find the words for one's own story and to welcome and listen to the other's words. And through those words, the words told and heard in the victim-offender encounter, with all due precautions, the parties – and foremost

violent actors – have the opportunity to remodel their own symbolic, emotional and axiological universe; to perceive themselves as 'possible others', albeit 'difficult', and to discover new meaningful languages to give voice to their conflicts. Only in this way, by fostering the offender's assumption of a 'reflexive' responsibility, is it possible to pave the way to significant changes in the management of relationships and conflicts, abandoning the logic of violence (Ceretti & Natali, 2022).

Restorative justice and symbolic interactionism reject 'categorisations', 'both clinical and judicial', in favour of an individuality-centred perspective. In this way, they allow parties to look into themselves and at each other, discovering their freedom in their diversity and thus their 'potential for endless metamorphosis' (Forti, 2012: 35).

7   Agency as key point of restorative justice

The power and freedom of the parties is one of the key points of restorative justice. During restorative encounters, the 'agency' of both victim and offender is emphasised: they decide the if and when; they co-create the timing and content of the programme.

By 'agency' scholars refer to 'the empowerment of individual actors through increasing their autonomous capacity to make effective choices and maximising their involvement throughout the process' (O' Mahony & Doak, 2017: 20). The conventional criminal justice system does not promote the agency of victims and perpetrators in the decision-making process, tending to disempower them and limit their ability to make autonomous choices. On the contrary, restorative techniques give participants voice and encourage their capacity to seek a response to their needs. As scholars point out, the priority afforded to agency within restorative justice 'stands in sharp contrast to the disempowering impacts that traditional criminal justice practice has on victims and offenders' (O' Mahony & Doak, 2017: 70). In fact, in the modern criminal trial, parties are represented by professional lawyers, who speak for them and decide which legal and factual elements are relevant and useful for their case. The defendant's lawyer might also decide that it is better for his client to avail himself of the right to remain silent. If convicted, the offender is sent to prison, which is the 'place of passivity', where one cannot even decide what time to eat and what time to take a shower (Mazzucato, 2010). At the same time, the victim often has needs that the criminal justice system is unable to meet, such as the need to be known by the perpetrator, to be looked in the eyes, to be heard, to tell him the consequences of his behaviour, its impact on her life (Keenan & Griffith, 2021).

Restorative justice offers the parties the power and freedom to decide whether and when to meet their 'difficult other', to tell his/her story, to listen to the other's narrative. The victim can ask questions and choose whether or not to accept what the perpetrator says and proposes. Precluding victims of gender-based violence from participating in restorative programmes, even if they wish to do so, does not protect them, but rather disempowers them, deprives them of an opportunity, cripples their ability to decide for themselves and to take action to satisfy their

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needs (Madsen, 2004). On the other hand, the perpetrator has the power and freedom to take responsibility for his actions and towards the victim (Bouffard et al., 2017; Keenan, 2017; McGlynn et al., 2012). On a closer look, indeed, accountability is a form of agency because it is focused on the offender's freedom to assume obligations and commitments, as opposed to having them imposed from above, 'through a retributive state-led sentencing process' (O'Mahony & Doak, 2017: 20). To put it otherwise, whereas in the criminal justice system offenders are held accountable for their action, restorative justice aims to create a space where individuals render themselves accountable by taking active responsibility for the consequences of their actions. Moreover, this accountability process operates in the opposite direction to what Sykes and Matza (1957) describe as 'techniques of neutralisation' and Bandura (2015) as 'moral disengagement mechanisms', whereby offenders justify their behaviour by denying that it caused any real harm or mitigate their individual responsibility by blaming the victim or by invoking their alcohol or drugs addiction.

One of the main needs arising from the injustice committed or suffered is to be seen by the 'difficult other' and to see him/her as a human being. Most violent crimes are the product of a failure to recognise the victim as a human being or of processes of dehumanisation of the victim and lead the victim to conceptualise the perpetrator as a 'monster'. Specifically, in these kinds of crime, there is often a 'selective dehumanisation process' conditioned by culture (gender biases), society and also situational contexts (drugs, stress, unemployment, fights...). Bandura labels this 'selective moral disengagement' (Bandura, 2002). Anyway, during restorative encounters the parties may recognise the other as a person and discover their common humanity and vulnerability. In so doing, restorative justice can contribute to rehumanising their relationship. Throughout the process, on the one hand, the offender usually gives consideration to the victim, her story and emotional trauma, while, on the other hand, the victim takes the perpetrator into account by listening to his voice and explaining to him the consequences of his actions (Keenan & Griffith, 2021).

Restorative justice practices assume – and in the meantime demonstrate – that the offender and the victim can do something important for each other. As certain studies show (Campbell et al., 2006; Doak & O'Mahony, 2006; Shapland et al., 2006), victims generally do not choose to meet the offender to vent their anger or seek revenge. On the contrary, victims may be driven to the encounter by the quest for recognition or the need to feel safe(r) again and to ensure protection for their children. Their motivation might also lie in reasons that could be called 'altruistic': sometimes they sincerely wish to help the offender by making him understand the consequences of his actions so that he will desist from reoffending in the future and become a better person. Indeed, thanks to the victim, the perpetrator can shed the label of 'monster' and believe in his own ability to be better. At the same time, the offender, by opening up to the victim, revealing to her his humanity and vulnerability, helps her to overcome her own trauma and fears. In this way, both parties feel that they can contribute positively to the restorative process, thus gaining a 'sense of agency' (see Miller, 2011).

In this context, it is crucial that perpetrators are not forced to apologise against their will and, similarly, that victims are not pressed to forgive. Apology and forgiveness might (or might not) come immediately or in the weeks or months following the encounters (see Daly, 2022: 199-201). For agency and accountability to be exercised, the safety of all parties is paramount, and the strength of victims should never be overestimated. Facilitators dealing with cases of gender-based violence against women must be aware of the risks and be able to identify fragilities – in order to provide the necessary level of support before, during and after the restorative process – and strengths – in order to avoid patronising victims and offenders.

8   Conclusions

The relationship between restorative justice and gender-based violence against women has been and still is a debated issue. Some scholars fear that restorative practices may reinforce the power imbalances that often exist between the parties; that they may be exploited by the offender to diminish or trivialise his responsibility; that they may exacerbate the psychological consequences of the abuse, thereby working only in the interest of the perpetrator and not in the victim's and that they may result in a 'reprivatisation' of this kind of violence, removing it from public debate. However, as serious as they are, these and other concerns can be safely mitigated by a scrupulous management of restorative encounters and by specialised training for facilitators. It is also essential to fully respect, at all stages, the free will of the parties, to carefully avoid any form of instrumentalisation of victims and offenders, and to provide real support for both of them (including therapeutic and financial resources), if needed, before and after the invitation to restorative encounters. Under these conditions, it is submitted that there is no compelling reason to deny victims and offenders of these crimes access to restorative justice, which can offer significant opportunities.

Also from a criminological point of view, restorative programmes are a resource that should not be set aside in this field. As several studies report, restorative techniques can promote offender's accountability, shifting his mindset from victim blaming (in this field reinforced by male chauvinist legacies) to so-called reintegrative shaming, which may stem from the perception of the abysmal distance between his actions and what is right. In addition, some psychopathological studies attest that violent men are often unable to verbalise their frustrations, thus resorting to violence. Restorative techniques, by encouraging dialogue and telling of one's own story and emotions, might be strategic in this perspective, too.

The conceptualisation of violence proposed by symbolic interactionism also provides useful insights. According to Athens' theory, violence arises from a kind of soliloquy between the offender and his 'phantom community', i.e. the set of judgments and behaviours of significant persons that he has internalised and that support the recourse to violence. In the so-called cosmology (see Ceretti & Natali, 2009) of the perpetrator of gender-based violence, male stereotypes seem to play an important role. This cosmology, however, is not immutable. Thanks to

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facilitators, it may become 'narratable' and thus susceptible to change. This shows that – as restorative justice assumes – change is possible for any individual, including violent actors (on the understanding that the perpetrators of these types of crimes often also need specific socio-educative treatment and accompaniment to fully change their macho ideologies).

Furthermore, restorative practices may promote the parties' 'sense of agency', emphasising their power and freedom to meet the 'difficult other', to tell their story, to ask questions and to accept or not accept what the other says. Perpetrators have the power and freedom to take responsibility for their actions together with restorative commitments, and victims can act to satisfy their needs, including that of being heard and recognised by the offender.

In conclusion, as demonstrated by the proposed perspectives, restorative justice has considerable potential in cases of gender-based violence against women in terms of responding to victims' needs and rehabilitating perpetrators. With proper precautions taken, restorative programmes may not only be safe for victims (who wish to meet their 'difficult other') and offer them a justice response but can also seriously contribute to preventing and countering these kinds of crimes.

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