Book Review

Beyond the Monster Factory: 
Gender Violence, Race, and the Liberatory Potential of Restorative Justice


Reviewed by Angela P. Harris†

INTRODUCTION

Some years ago, Frank Zimring and Gordon Hawkins noted that American crime rates are similar to those of other industrialized nations in most categories of nonviolent crime – even lower, in some cases. Only when it comes to lethal violence does the United States outpace other Western nations, with homicide rates many, many times greater. Zimring and Hawkins concluded that in the United States, crime is not the problem—violence is.¹

Sunny Schwartz’s riveting book Dreams From the Monster Factory—part

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¹ FRANKLIN E. ZIMRING & GORDON HAWKINS, CRIME IS NOT THE PROBLEM: LETHAL VIOLENCE IN AMERICA (1999).
memoir, part case study of reform efforts in one San Francisco jail—takes its title from her belief that violence is the problem in the American prison system. Prison life reflects, perpetuates, and magnifies the violence that most inmates have experienced in their families, in their personal relationships, and in the state institutions that shape their day-to-day lives. Violence makes prison a “monster factory.” Schwartz, however, believes that violence is learned and can be unlearned, and that jails and prisons can become places where nonviolence is learned and practiced, both by inmates and corrections officials.

Schwartz is a believer in “restorative justice,” a movement that seeks to shift the goal of the criminal justice system from punishment to “making things right.” Because restorative justice advocates condemn the punitive mindset that has placed so many Americans under the control of the criminal justice state, their movement has much to offer the black and brown communities that have borne the brunt of America’s mass incarceration policy. Yet, surprisingly, restorative justice advocates have had little to say about systems of power and privilege. This absence has led theorists and grassroots activists to charge that restorative justice advocates aim to “restore” relationships infused with domination.

In this review essay, I argue that Schwartz’s reforms point toward a way of enriching restorative justice theory and practice with the insights of anti-subordination theory. Understanding the problems and possibilities of “making things right” in a world riddled with injustice makes possible an approach to crime and punishment that some grass-roots advocates call “transformative justice.” Transformative justice, I argue, is an ideal that both restorative justice advocates and anti-subordination theorists can support.

The book jacket of Dreams from the Monster Factory describes Schwartz as a “twenty-seven-year veteran of the criminal justice system.” The primary aim of her book is to describe the genesis and rationale of an innovative reform program, the Resolve to Stop the Violence Project (RSVP), which Schwartz inaugurated in the San Francisco jail system in 1997 under the direction of Sheriff Michael Hennessey. Schwartz observes that the existing criminal justice system is designed to hold the body of the accused, but has no interest in changing or even investigating his or her attitudes, ideas, or emotions.

Rehabilitation, to the extent that it ever was a major goal of criminal punishment, has been discredited in the United States since the 1980s, when conservatives aiming to “get tough” on crime formed a policy-making alliance with liberals worried about the seeming arbitrariness of punishment under indeterminate

2. For scholarly commentary on the point that the criminal justice system seeks to control offenders from the outside in rather than the inside out, see Jack Katz, Seductions of Crime (1990); see also David Gardner, The Culture of Control (2001).
sentencing systems. Schwartz argues forcefully, however, that rehabilitation is possible. Going beyond the usual programs providing educational opportunities and job training to prisoners, she is interested in undoing the psychological-cultural patterns that make violence seem a natural, even appropriate, response to conflict.

Before describing RSVP, however, Schwartz takes an apparent detour into personal memoir. She grew up on the south side of Chicago in a working-class Jewish family that was loving but troubled, seething with class resentment and disappointed dreams. Violence—verbal and physical—was a regular medium of communication and connection in her family. She describes the treatment she received from her two older brothers, Stevie and Jerry:

There were the names—Dumbass, Fat Pig, Loser and Chubs (Stevie gave me that 1st one; I had a spare tire at age eight). There were also the attacks—being pinned down and sat on while one or both slapped my face until I went nuts; them spitting in my butterscotch pudding; being locked out of the house in winter while I shivered and pleaded with them to open the door. But when Jerry wasn’t looking, Stevie would ask me what I was thinking. He sometimes even took my side against Jerry, and he taught me how to throw a curveball, too. When [Uncle] Harry started mumbling incoherently during the lighting of the candles, it was Stevie who got me laughing uncontrollably by mimicking it under his breath. I was always his best, easiest audience.

Schwartz’s relationship with her father was a similar uneasy mix of intimacy and violence. She concludes, “Truth be told, I didn’t feel safe in my house. Between my dad and the torment of my two brothers, I didn’t feel safe.” (pp. 15-16) The neighborhood in which the family lived provided no respite. Schwartz grew up “in Marionette Manor, in the shadow of the South Works steel plant on Chicago’s south side, in a roiling stew of working-class Jews and Catholics, Polish, Irish and African Americans.” (p. 11) In her account, she was regularly cornered at the church between her school and her house by the Pulaski brothers, kids around the same age as Schwartz and her brothers, who would taunt her, “You killed Jesus! You killed our god! You killed Jesus! Go home, you dirty Jew!” (p. 16) Schwartz’s brothers, in turn, taught her Polack jokes. And Schwartz learned to defend herself with violence.


4. Sunny Schwartz with David Boodel, *Dreams from the Monster Factory*: A Tale of Prison, Redemption, and One Woman’s Fight to Restore Justice to All 13 (2009). Subsequent references to page numbers will be made parenthetically in the body of the text.
When we first moved into the house, I was around four, and my next-door neighbor, a chain-smoking Irish Catholic with the remarkable name of Laverne Liberty encountered me in the yard.

“I heard this tiny voice screaming bloody murder.” Laverne would laugh as she recounted the story. “’Shit, goddamn, I’m gonna kick your ass!’ And I came out into the driveway and it was you howling at your brothers, who were sitting on top of you and pummeling you. Just another day at the Schwartz house.” (p. 16)

As a child, Schwartz soon became familiar with another form of violence: schools in which she constantly experienced failure, punitive treatment, and humiliation at the hands of teachers as well as other students. Put in remedial classes early on, she countered her shame with hostility:

I yelled at the teachers, learning how to fight like my father, never learning how to deal with school, with the shame and fear I had that I might be a complete loser. The teachers liked to mark me for “Citizenship Failure” at Luella Elementary. I was mouthy. I came to know the principal’s office intimately. Luella Elementary was two blocks from our house and every morning the walk felt like a death march. (p. 16)

After barely graduating from high school, Schwartz moved to California, came out as a lesbian, and, possessed with the desire to help people on the bottom, took community college classes. She finally entered law school at New College in San Francisco, despite being advised by the dean that she “couldn’t take [her] money in good conscience, because she knew [Sunny would] wash out.” (p. 26) But in the interim her brother Stevie was diagnosed with paranoid schizophrenia and he began to shuttle in and out of psychiatric facilities, many of which rejected him because of his “violent tendencies.” Sunny and Stevie remained enmeshed in love and anger:

He and I still talked. He still asked me what I thought. I still sought his approval. I still thought of him first when I wanted some family in my life, especially when I wanted to talk to somebody about law school. Sometimes he would cheer me on. “You can do it, Sunny. You are the only one in the family who will make it!” he’d say when his energy was peaking. But sometimes, if I caught him on the wrong day, he’d launch into a tirade. “You are such a loser,” he’d yell. “Are you crazy? You can’t pass shit. You were the worst student in high school. This is law school. You need a college degree for that but you were too dumb to get one.” I’d have to put the phone down and let the tears come. Even though I knew he was crazy, he was repeating my inner monologue, the one I’d carried with me from Chicago, which whispered, ever so cruelly, “Who the fuck do you think you are?” (pp. 27-28)

Stevie ultimately killed himself, an event that is described movingly in the
Despite her struggles to master the coursework and bar preparation, Schwartz was eventually admitted to the California bar, and after a short unsatisfying stint doing civil litigation found her calling in the criminal justice system. While a law student, Schwartz had worked for San Francisco Prisoner Legal Services, where she won the trust of key people in the San Francisco Sheriff’s Department. After quitting her civil litigation job and going through a period of soul-searching, Schwartz allowed herself to be recruited by Sheriff Michael Hennessey to overhaul all the programs in the new San Francisco jail. The sheriff’s office had a new vision that would be implemented by Michael Marcum, a former inmate now in charge of jail facilities. Schwartz quotes Marcum:

“I want prisoners to feel like they are living in a humane society here, same as deputies. So we’re watching everyone’s behavior. This doesn’t mean we’re going to be nice to the prisoners, you know that. But I sure would love it if the punishment was productive, that these men could come away from this experience having learned something.” Marcum then started ticking off his ideas. He wanted domestic violence prevention programs, new high school and college classes, as well as an array of counseling resources. (p. 72)

Given carte blanche to restructure San Francisco jail programs around the notion of “accountability,” Schwartz took over programs for County Jail 7. Her initial investigation into jail life found inmates listless and apathetic, with little to occupy their time. Her response was to establish a myriad of inmate programs and to push everyone to participate. She reports the result:

After a year, I could walk into a dorm and everyone was in a class, or doing work, or taking downtime. I rarely received grievances complaining about mandatory classes. Now the most frequent petition that inmates made was about classes they thought we should implement. Staff committees planned the music and TV schedule. During television period, from four P.M. to six P.M., we might play a National Geographic special, or Oprah, or reruns of The Cosby Show. The radio might be playing a Beethoven symphony. One prisoner, listening to a string quartet, yelled out, “Hey, what’s with the shoplifting music?” (p. 97)

Despite these reforms, however, and empirical confirmation that the rate of violent incidents had dropped in her unit, Schwartz felt frustrated, as if she were “missing something.” Then she attended a conference at which she received a packet called “Understanding Restorative Justice,” and the proverbial light bulb clicked on.

Schwartz quotes this passage, written by Kay Pranis, to summarize the restorative justice approach to crime: “Restorative Justice recognizes that crimes hurt everyone: victim, offender and the community and it creates an obligation to
make things right. The 3 principles of restorative justice are offender accountability, victim restoration and community involvement to heal the harm caused by crime.” (p. 126) Victim-offender mediation programs, in which victims of crime confront offenders and the offenders are encouraged to express remorse, are the best-known examples of restorative justice policies in the United States. As Schwartz quickly realized, however, victim-offender mediation is neither a panacea nor the core of restorative justice. Though inspired by the principles of restorative justice, Schwartz ultimately pioneered a different kind of program, one designed to dig up the roots of violence.

II.

The psychiatrist James Gilligan links violence, including the most horrific criminal violence, neither to moral evil (as the conservative view traditionally would have it) nor to socio-economic conditions (as the liberal view traditionally would have it), but to mind-body processes. Gilligan claims that at the heart of most violent acts, at least those committed by the prisoners with whom he works, is the emotion of shame.

Psychologists conventionally distinguish shame from guilt, its close cousin, by distinguishing the object of the emotion. A person who feels guilt experiences profound dislike, regret, and remorse for his or her actions (or intentions) and wishes the actions or intentions could be undone or un-felt. A person who feels shame, however, experiences profound dislike, even loathing, for his or her very self. Whereas guilt can inspire a person to engage with someone else to make things right, shame is a profoundly alienating emotion. The person who is ashamed turns away from other humans, feeling unworthy of interaction. Intense shame even turns the person against herself, filling her with self-hatred and self-loathing. Shame is thus experienced as a threat of annihilation.

Neuroscientists theorize that shame is processed through the amygdala, a part of the brain that is ancient in evolutionary terms and triggers powerful “fight-or-flight” hormonal reactions in the body. The amygdala causes physiological reactions in response to a perceived threat before the threat even reaches consciousness. Before the conscious mind has time to reflect on a perceived threat, the brain has already alerted the body by pumping the hormone

5. JAMES GILLIGAN, VIOLENCE: REFLECTIONS ON A NATIONAL EPIDEMIC 103-05 (1997).
cortisol through the bloodstream, elevating the pulse, preparing for immediate self-defense.

In between the event that causes shame and the body’s reaction, however, stands a mental process. Although the amygdala works ahead of conscious rumination, its perception of a threat may come not only from an immediate physical perception (like seeing a car barreling toward you) but also from the mind’s framing of a social exchange. Psychologists are familiar with the fact that emotions like anger are not triggered directly by another person (as we, when angry, tend to believe) but rather by our interpretations of the person’s behavior. If, while standing in line, we are shoved by a stranger behind us, anger will arise—or not—depending on our attribution of the other’s intentions. As the famous phrase goes, even a dog knows whether it has been stumbled over or it has been kicked. In this way, emotions, and the cascade of physical and mental reactions emotions represent, are intimately tied up with thoughts.

Mental processes shape emotional reactions in another way, as well. It is possible to use our thoughts to change more painful emotions into less painful ones. Gilligan and other psychologists argue, for example, that because shame attacks the very self, it is such a painful emotion that most people cannot bear feeling it for long. The person at risk for feeling shame quickly transforms shame into anger. I am not a bad person, the thought may go; you have done something unacceptable to me.

The mental processes that frame one’s interpretation of social interactions and the mental processes that turn a threatening emotion into a less threatening one are ignited rapidly, and they often remain subconscious. They can be made conscious, however. The field of cognitive-behavioral therapy is founded on the premise that people can be taught to become aware of the habitual, repetitive thoughts that dispose them toward fear, anger, shame, or anxiety and replace those thoughts with neutral or positive ones. Without this intervention, people may find themselves “stuck” in repetitive emotional interactions that are painful or counterproductive and yet somehow comfortable because they are familiar or easy to access. Schwartz provides an example from her own experience:

I’d been fighting with my girlfriend again. I fought with all my girlfriends. I fought and raged, and threw things until I hated myself and them. Even as it

8. See Oliver Wendell Holmes, The Common Law 3 (1881) (“[E]ven a dog distinguishes between being stumbled over and being kicked.”).
9. The field of cognitive-behavioral therapy is shifting away from a mechanistic focus on getting clients to identify, criticize, and reject unhelpful thoughts and feelings and toward the goal of having clients recognize and accept the fact that language itself contributes to emotional distress. In this emerging “third wave” of cognitive-behavioral therapy, clients are encouraged to recognize and accept negative thoughts and emotions without being swamped by or taken over by them. See Steven C. Hayes, Acceptance and Commitment Therapy, Relational Frame Therapy, and the Third Wave of Behavioral and Cognitive Therapies, 35 BEHAV. THERAPY 639, 658 (2004); Anna Samoilov & Marvin R. Goldfried, Role of Emotion in Cognitive-Behavior Therapy, 7 CLINICAL PSYCHOL.: SCI. & PRAC. 373, 381-82 (2000).
was happening, I knew I was imitating my father. I could stand back from the argument, and feel his shadow. “You don’t love me,” I’d yell, and I might as well have been saying it to him. I could feel the power of my anger as I let myself catch fire, that animal ferocity, and I felt addicted to it, and ashamed by it. (p. 58)

Gilligan adds another dimension to this focus on the role of cognition in producing emotions by arguing that patterns of framing thoughts are frequently first established in childhood. His research with violent criminals, particularly killers, reveals that most were extensively physically and/or verbally abused in childhood and subjected to frequent and intense shaming. Gilligan’s forensic patients lived on a hair trigger, ready to explode outward into violence should anyone appear to challenge them. Gilligan argues, however, that their violence was not prompted by moral evil, nor by self-aggrandizement, but by pride’s opposite: gnawing intimations of anxiety and shame that spurred them to attack before they could be attacked.

Culture provides a crucial additional layer of complexity to this account of the production and effect of the emotions. Human emotions themselves are universal and innate. Across all cultures, for example, people feel certain “basic emotions,” including contentment, anger, embarrassment, disgust, and shame.

At an individual level, each person has a different life history, a different level of sensitivity, and a unique biochemical makeup, all of which determine what

10. See Gilligan, supra note 5, at 132-36.
11. Gilligan’s theory is a close cousin of Judith Herman’s theory of trauma. See Judith Herman, Trauma and Recovery: The Aftermath of Violence—From Domestic Abuse to Political Terror (1997). Herman argues that victims of chronic violence exhibit long-term changes in their biological and psychological functioning, which she names “trauma.” Herman’s work focuses on traumatized people as the victims rather than perpetrators of violence. Her work, however, has helped popularize the concept of post-traumatic stress as a “syndrome,” which has been applied to those, such as Gilligan’s inmates, who exhibit disproportionate reactions, including violent reactions, to minor stresses. Id. at 27. The narrower term “posttraumatic stress disorder” is recognized by the psychiatric profession and is defined in adults in this way:
   • the person has “experienced, witnessed, or was confronted with an event or events that involved actual or threatened death or serious injury, or a threat to the physical integrity of self or others”
   • the person thus exposed to a traumatic event responds with “intense fear, helplessness, or horror”
   • the person thus exposed suffers persistent “reexperience,” “avoidance,” and “symptoms of increased arousal”
   • the experienced symptoms “cause clinically significant distress or impairment” in functioning

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makes her angry or sad and how easily. In between the universal and the personal, however, lies the cultural. Children are taught by their parents, their peers, and media such as literature, television, music, and art that some emotions are acceptable to express and some are not, and also that certain kinds of emotional expressions are appropriate for some kinds of people and not others. This is where gender enters the picture.

Schwartz recounts a conversation with Marcum in which she pointed out to him the familiar fact that the violent offenders in the jail population are nearly all men.

“All these men are at war. They’re angry and ashamed, and is getting them off drugs, or teaching them how to read really going to do anything?”
“What are you talking about, Sun?”
“How are they going to stop being violent?”
We both sat there. Neither of us had an answer. (p. 121)

Schwartz had put her finger on the link between emotions, masculine identity, and certain kinds of violence. As I have argued elsewhere, a significant amount of the violence addressed by the criminal justice system is “gender violence”: violence motivated by the desire to protect, defend, or enhance the actor’s gender identity, typically masculinity. From road rage to bar fights to domestic violence to sexual assault to “heat of passion” manslaughter, violent crimes committed by men are frequently crimes of masculinity. Schwartz gives these examples:

Ask any inmate, particularly any violent inmate, why they are in prison, or why they beat their wife, or why they got into a fight, and you are likely to get a version of this answer: “He/she/they disrespected me,” which is then

13. Research with children indicates, for instance, that temperament—a person’s tendency to withdraw or to move forward when presented with an unfamiliar situation—is inborn and stable over time, and is related to emotional volatility. See Klaus R. Scherer & Tobias Brosch, Culture-Specific Appraisal Biases Contribute to Emotion Dispositions, 23 EUR. J. PERS. 265, 271 (2009), http://www.interscience.wiley.com/doi:10.1002/per.714.

14. Angela P. Harris, Gender Violence, Race, and Criminal Justice, 52 STAN. L. REV. 777, 780 (2000). I argue that gender violence committed by women against men is for all intents and purposes nonexistent because masculine identity, unlike feminine identity, is extremely fragile and unstable. Although women as well as men worry about performing to gender ideals, failures to appear adequately feminine do not threaten a woman’s sense of self. This may be because female gender identity is consolidated much later in the typical individual’s psychological development than male gender identity. The striking gender difference may also be due to the fact that female gender permits more emotions to be felt and encourages articulation of those emotions, whereas male gender privileges the “Marlboro Man” who experiences only a narrow range of feelings and is not inclined to express or share them. Schwartz, interestingly, observes that although women make up a tiny proportion of inmates in the San Francisco jails, they have traditionally been considered much harder to deal with by the deputy sheriffs. She speculates that this is because women are constantly expressing and acting out their negative emotions, whereas men are trained to repress them. Female units are therefore cauldrons of constant low-level strife, as opposed to male units that alternate relative calm with sudden dramatic explosions (p. 106).
followed by any one of the following: “He got all up in my grill, you know, a
man can only take so much.” “I didn’t want to beat her but what’s a man
supposed to do? She disrespected me.” And finally, “There was no way I could
let that pass. I ain’t no punk.” (p. 146)

Schwartz’s second wave of jail innovation focused on getting inmates to
recognize, and intervene in, gender violence. Her vehicle was a curriculum
called Manalive, pioneered by a former community organizer named Hamish
Sinclair (p. 145). Schwartz’s description of Manalive is worth quoting at some
length.

The Manalive curriculum teaches that violent men are raised with a “male role
belief system” that says they are superior to everyone around them. These male
role beliefs say that feelings like shame and sadness show weakness and are to
be avoided. Any time men experience these weak emotions, this is a loss of
control for them, and their male role belief system insists that they reassert
control by any means necessary. This could mean verbal violence or physical
violence.

RSVP tries to correct this kind of thinking. One of the ways we do this is by
creating an environment that requires the men to confront the results of their
violence through our victim impact class. Violent men have a diminished
capacity to consider their victims’ feelings. In fact, they resent and dismiss
them. There are many reasons for this. First and foremost, their own
childhoods were usually filled with pain and humiliation. This numbs them to
feelings of any kind, their own or anyone else’s. Then, during their trials, the
offenders are kept away from the people they’ve hurt. This is commonsensical
but it perpetuates the criminal’s view that their victim is the enemy, whom
they have to vanquish in court. In victim impact statements, we try to change
that thinking, get the men to feel what they’ve done, to see that their victims
are human beings just like them. (pp. 146-47)

As Schwartz indicates here, one aspect of the RSVP curriculum involves
bringing crime victims into the jail to speak to the men, encouraging the men to
identify with the suffering of victims and to take responsibility for having caused
that suffering. The second, more innovative, aspect involves encouraging the
men to recognize the part that their upbringing as men plays in preparing them
for violence. As in cognitive-behavioral therapy, RSVP trains the men to
recognize and disrupt their own individual emotional responses by analyzing,
step by step, the chain by which they come to understand another person’s
behavior as a threat to the self and thus to respond to it with violence.

Manalive came with a specific vocabulary that most of the old-timers had
embraced. Inmates were taught that in the male role belief system, they
developed their own inner “hit man” who used violence to assert their control
over chaotic situations and protect the men from feelings of shame and fear. Men gave their personal hit man names, like “cold-blooded killer,” or “silent, impatient bully,” or “raging, slick con man.” They called the moment when they found themselves about to do violence “fatal peril.” The theory was that fatal peril was when your male role belief system was challenged and you called upon your inner hit man to reassert control. (p. 157)

We taught the men to physically demonstrate the idea of “fatal peril.” It was a mnemonic device. When they felt confronted, what we called a “challenge to their male-role belief system,” and felt like they might turn to violence, they put their hands out in front of their faces, palms up. The action represented their choice. They could either turn their open hands into fists or put their hands down again. The action forced the men to think before they acted, to actually make the choice not to be violent. (p. 161)

As Schwartz’s own story indicates, not all violence is gender violence. But an important factor in the etiology of violence is the ideology of male domination. When deeply embedded in family life—through battering; through rigid gender training that teaches little boys not to acknowledge their vulnerable feelings or express caring but to dominate others instead; through sexual, physical, and verbal abuse that imposes fear, shame, and the experience of intolerable powerlessness—masculine gender identity, especially when kindled by the trauma of abuse, plays an important role in shaping a disposition toward violence. RSVP is meant to critically interrogate and undermine this disposition.

Schwartz insists that RSVP is not only theoretically sound, but that its effects are positive, measurable, and economically achievable:

Dr. James Gilligan, who studied our program, found dramatic reductions in violent rearrests after just four months in RSVP. Four months can change behavior! This is revolutionary, and it didn’t take an arm and leg to do it. A healthy budget for RSVP, which includes postrelease programs such as job training, therapy, life skills and housing (critical to the program’s effectiveness) is forty-four dollars per prisoner per day on top of the ninety-six dollars we now spend in San Francisco County to house and feed them. The money actually saved by society in court costs and medical bills and everything related to crime, not to mention the reduction of trauma for

15. It is important to recognize that gender violence, and the masculine identity from which it springs and is identified, is strongly influenced by class and race as well. As I discuss in more detail in my other article, working-class African American men, for example, are identified with by others, and sometimes identify themselves with, a different sort of “masculinity”—associated with physical strength and emotional inexpressivity—than are upper-class white men in the United States. Harris, supra note 14, at 784. In a presentation in a seminar on Restorative Justice taught by Mary Louise Frampton and me in the spring of 2008, one of the trainers from the RSVP program discussed the intertwining of masculine gender identity and racial pride using the example of Latino conceptions of manhood.
generations, would be astronomical. This isn’t a money issue; it’s a perception issue. What’s needed is leadership. (p. 195)

Interestingly, by the end of her book, Schwartz has also gained at least partial control over her own violent demons and has established healthier relationships with her partner and her surviving brother. She reports:

Recovery from the habits of my childhood is an everyday activity, but my partner, Lauren, keeps me honest. I promised Ella, our daughter, when she was born that wherever she went, I would always be there for her. . . .

It’s taken twenty-five years for my brother [Jerry] and me to get to this point, but we aren’t locked into the roles we had as children. He has broken from his shell, and I have broken from mine. People can change, hard-core criminals, aloof older brothers and loud-mouthed sisters alike. (p. 196)

III.

Restorative justice theorists and practitioners have been slow to make the leap that Schwartz made from their vision of “making things right” to undoing gender violence. Indeed, from an anti-subordination perspective, the very name of the movement is problematic. The term “restoration,” like the term “rehabilitation,” suggests a return to a prior state of wholeness. In contrast, critical race scholars and feminist theorists center their work on the assumption that domination—on the basis of gender, race, sexuality, class, and disability, for starters—is pervasive in the primary institutions of the market, the state, and civil society. For committed anti-subordination scholars, the prison abolition movement, which argues that the existing criminal justice system is racist to its core, may be a more appealing fit.

For example, critical race feminist Dorothy Roberts argues that the criminal justice system constitutes a form of repressive law directed at black and brown communities and descended directly from slavery. Given this premise:

The goals of an abolitionist movement would be: to drastically reduce the prison population by seeking state and federal moratoriums on new prison constructions, amnesty for most prisoners convicted of nonviolent crimes, and repeal of excessive, mandatory sentences for drug offenses; to abolish capital punishment; and to implement new procedures to identify and punish patterns of police abuse. . . .

Abolishing these institutions should be accompanied by a redirection of criminal justice spending to rebuild the neighborhoods that they have devastated. There should be a massive infusion of resources to poor and low-income neighborhoods to help residents build local institutions, support social networks, and create social citizenship. Abolishing them will also force us to envision a radically different approach to crime disengaged from the racist
logic of black enslavement and white supremacy. An abolitionist movement opens the possibility of creating alternatives to prison as the dominant means of punishment, as well as alternatives to criminal punishment as a dominant means of addressing social inequities.16

Yet restorative justice also seeks the end of prison as a scene of punishment and a return of power to families and communities. Restorative justice philosophy envisions a partnership among state institutions, civil society, and the individuals affected by crime to work for accountability and healing, a vision that should be appealing to communities ravaged by the current state-driven and punitive approach of criminal justice.17 Moreover, restorative justice, as Schwartz’s work indicates, offers a path toward change that is more easily and quickly implemented than prison abolition. However, I argue that in Schwartz’s RSVP lies the potential of a fruitful collaboration between restorative justice and the anti-subordination work of critical race feminists and grassroots advocates. Following the lead of activists in this area, I call the resultant ideal “transformative justice.”18

Like restorative justice, transformative justice seeks to address violence both at the institutional and interpersonal levels, integrating the psychological literature on “trauma” and cognitive-behavioral theory with critical perspectives on traditional criminal justice. Like restorative justice, transformative justice eschews punishment as the purpose of criminal justice and is concerned instead with accountability and “making things right.” Where transformative justice differs from restorative justice is in its recognition that pervasive group inequality makes impossible a simple “restoration” of harmony through the


Critical Resistance seeks to build an international movement to end the Prison Industrial Complex by challenging the belief that caging and controlling people makes us safe. We believe that basic necessities such as food, shelter, and freedom are what really make our communities secure. As such, our work is part of global struggles against inequality and powerlessness. The success of the movement requires that it reflect communities most affected by the PIC. Because we seek to abolish the PIC, we cannot support any work that extends its life or scope.


17. Thus, for example, Tony Marshall argues that restorative justice is based on the assumptions that “crime has its origins in social conditions and relationships in the community,” and that “crime prevention is dependent on communities taking some responsibility (along with local and central governments’ responsibility for general social policy) for remedying those conditions that cause crime.” He also identifies a primary objective of restorative justice “to recreate a working community that supports the rehabilitation of offenders and victims and is active in preventing crime.” Tony F. Marshall, Restorative Justice: An Overview, in A Restorative Justice Reader 28, 30 (Gerry Johnstone ed., 2003).

18. See generally generationFIVE, Toward Transformative Justice: A Liberatory Approach to Child Sexual Abuse and other forms of Intimate and Community Violence; A Call to Action for the Left and the Sexual and Domestic Violence Sectors (June 2007) (unpublished pamphlet, on file with the author).
actions of individual offenders and victims.

From a transformative justice perspective, restorative justice advocates are too complacent about two key social institutions: the state and the family. Grassroots transformative justice advocates argue that the state and the family are places where subordination is reproduced and reinforced. To truly restore justice means “making right” not only the wrongs of individual offenders, but also the social institutions that facilitate, reflect, and/or contribute to particular offenses. If gender violence is facilitated by cultural ideals of masculinity, then masculinity as it is taught and reinforced in families and in the criminal justice state must be challenged. And if the violence of prisons facilitates and reflects what Paul Butler calls the “democratic domination” of black and brown American communities, then it is questionable whether reforms led by state actors, however well intentioned, can fully achieve justice.

In this section, I retrace the steps of a critical analysis of restorative justice that has been developed by grassroots anti-violence and anti-prison organizations. The insights of these activists, I contend, are consonant with the insights of critical race feminism. My suggestion is that transformative justice advocates and critical race feminists are in accord about the promise and the failings of restorative justice. Part A examines the transformative justice critique of the state and Part B examines the transformative justice critique of the family.

A.

The philosophy of restorative justice defines crimes not as offenses against the state, but rather as harms to social relationships that must be healed. Restorative justice also insists that families and civil society work alongside state actors, victims, and perpetrators to “make things right.” As Schwartz noted, restorative justice is therefore motivated not by the desire to punish but rather by the desire to make people accountable for their actions. This is an important move, and one to be applauded from an anti-violence perspective.

Schwartz’s attempt to ameliorate violence from within the monster factory itself, however, is incomplete from a transformative justice perspective, for it fails to recognize the possibility that the state is deeply implicated in preserving violence-producing relations of domination. A grassroots group that does recognize this possibility is generationFIVE, an organization based in Atlanta, Georgia and Oakland, California, which seeks to end child sexual abuse within five generations. In a 2007 position paper, the staff of generationFIVE set out their critique of restorative justice as a response to child sexual abuse:

Outside of [indigenous] communities, the Restorative Justice approach has largely been co-opted by the State for use in coercive contexts in which the

integrity of such a model is put into question. Some faith-based Restorative Justice projects have partnered with the State and become service providers in tandem with State-based systems of accountability. Other Restorative Justice models are offered as post-incarceration rehabilitation programs intended to “restore” the community standing of the person or people that are abusive. To a greater or lesser extent, these models do expand the possibilities of accountability and transformation through engaging and educating members of the intimate and/or community networks in which the abuse occurs. But such models have been appropriated by the criminal legal system as a way to involve the community in punishing the person that has been violent and then “restoring” the conditions that already existed when the abuse originally took place.

Across the different communities applying the Restorative Justice approach, we question the degree to which this approach allows for challenges to dominant power hierarchies within any given community. Shared, collective values that perpetuate violence may go unchallenged. Restorative Justice models have been critiqued for paying insufficient attention to:

- Family and community power relations;
- The subordination of survivor needs and agency for the sake of “the restoration of the community”;
- Shared values that may be sexist and homophobic; and
- Patterns of racial or economic disempowerment within a community.20

Rather than restorative justice, then, generationFIVE argues for transformative justice, an ideal that resembles restorative justice infused by the anti-subordination concerns of critical race feminism.

Violence is indeed endemic to the criminal justice system, and not only the violence that has landed some offenders under its control. As Schwartz observes, inmates live day to day under a constant and unrelenting threat of violence.21 Prison overcrowding, longstanding and severe in many jurisdictions, makes conflict nearly inevitable. As individuals, inmates must be seen as ever ready and effective at using force to protect themselves, or they will be victimized. Thus, smaller, less physically adept, and/or less aggressive inmates are at the mercy of the stronger and more violent. Racial violence, now deemed an aberration in the outside world, is common: prison gangs are commonly organized by race, and inmates are vulnerable if they do not join a gang (the membership in which is frequently determined by race). And sexual violence in prisons is an ever-present

20. generationFIVE, supra note 18, at 40.
The violence of carceral institutions is not limited to threats from other inmates. Correctional officers rely on coercion and the threat of coercion to obtain compliance. Disrespect, deliberate intrusions into privacy, and verbal abuse are often part of the correctional officer-inmate relationship. Reports abound of prisoner abuse by officers, such as guards making inmates fight one another and guards assaulting, and sexually harassing, inmates. The very atmosphere of most jails and prisons is assaultive. Loïc Wacquant, visiting the Men’s Central Jail in Los Angeles, notes that the first thing one notices in the building is the noise; the second is the “filth”; and the third is the “total absence of natural light.” The notorious “supermax” prisons boast the capacity for high-security “segregation,” involving conditions known to produce psychological trauma and exacerbate mental illness. This is not to mention the ultimate violence of the death penalty, or the psychological violence imposed by living on death row.

Although, as Wacquant notes, public access to and therefore knowledge of prison conditions is stringently limited by prison officials, the violence of the prison experience is extensively documented in hip-hop culture. Paul Butler, a former prosecutor turned law professor, writes:

The experiences of the two million people now incarcerated in the United States have been documented more in hip-hop than in any other medium. The portrait is ugly. To Nas, prison is “the belly of the beast” and “the beast love to eat black meat/ And got us niggaz from the hood, hangin’ off his teeth.”

The virtually universal view in the hip-hop nation is that punishing people by locking them in cages for years is a miserable public policy. Incarceration is cruel because it is dehumanizing. It is counterproductive because . . . it has been used so promiscuously in minority communities that it has lost its value as deterrence. The scholar Robin Kelley summarizes the hip-hop perspective as follows: “Prisons are not designed to discipline but to corral bodies labeled menaces to society; policing is not designed to stop or reduce crime in inner-city communities but to manage it.”

The artists put it more eloquently: In the words of Beanie Sigel, “I know what it’s like in hell/ I did a stretch in a triflin’ cell. . . . [L]ocked down all day,

22. For a critical race feminist examination of sexual violence in prison, see Kim Shayo Buchanan, Our Prisons Ourselves, 28 YALE L. & POL’Y REV. (forthcoming 2010). See also David Kaiser & Lovisa Stannow, The Rape of American Prisoners, NEW YORK REVIEW OF BOOKS, Mar. 11, 2010 (discussing a Bureau of Justice Statistics report’s findings with respect to juvenile offenders, who suffer from astounding levels of sexual violence, mostly perpetrated by staff).


underground, neva seein’ the sun/ Vision stripped from you, neva seein’ your son.” Immortal Technique says “sleeping on the floor in cages starts to fuck with your brain/ The system ain’t reformatory, it’s only purgatory.” DMX describes “the frustration, rage, trapped inside a cage.”

And yet, as Schwartz observes, all of this violence is expected and approved of by the voting public. Overcrowded accommodations, substandard food, limited opportunities to exercise mind or body, and inadequate health care are endemic to jails and prisons. Additionally, the constitutional doctrines that limit the extent to which prisoners can be made to suffer are interpreted narrowly by the courts, resisted by legislatures, and only weakly supported, if at all, by the public. As Schwartz writes:

Most people, I think, believe that prison or jail should be a horrible experience. People don’t think of it as a deterrent so much as just deserts. “They” hurt “us,” therefore “we” should hurt “them.” For years, politicians have won elections by promising to take away cable television and weight rooms and anything seen to make prison cushy. We have a culture where jokes about prison rape are made out in the open. The prevailing wisdom is that prisoners deserve to be treated like animals; they should fear prison and suffer while they are there. Anyone who has spent time working with prisoners knows this has largely come to pass. (p. 127)

All this institutionally imposed violence might be merely regrettable if it “worked”—that is, if it made society safer. But there is no evidence that the worse we treat inmates, the better people they become. The maltreatment of prisoners must satisfy some other desire. Political theorist William Connolly argues that the benefit to the public of a punitive regime is permission to feel and vent resentment: “criminals” generally, like “pedophiles” in particular, are a social scapegoat upon which we can vent our collective feelings of rage generated by the shames and humiliations of modern life. Social theorist Jonathan Simon argues that the posture of “tough on crime/tough on criminals” carries many pragmatic benefits for politicians, policymakers, legislators, and ideologues who use crime and the fear of crime to win elections and impose draconian social control. Even more pragmatically, complex institutions such as the criminal justice state, once created, are self-perpetuating. The existing criminal justice system provides jobs for correctional officers, wealth for the owners of private prisons, and economic development for poor rural communities. Prison abolitionist advocates speak of the “prison-industrial

27. JONATHAN SIMON, GOVERNING THROUGH CRIME (2007).
complex” as a network of private and public institutions that together have a vested interest in maintaining the status quo, no matter how ineffective the current system is at addressing crime in a humane and cost-effective way.28

How can this extensive and seemingly politically popular regime of state-sponsored violence be challenged? Schwartz’s reforms in County Jail 7 began by introducing elements of consent and mutual respect into the inmate-guard relationship. She and Marcum began by restructuring relationships within the jail. Marcum had already drafted a “contract” to be signed by all inmates, listing their rights and responsibilities. This contract was accompanied by an orientation process for inmates introducing them to the rules of the institution. Together, Schwartz and Marcum imposed similar standards of behavior on staff and inmates alike, including a no-swearing rule. They also abolished the trustee system under which inmates were recruited to keep tabs on other inmates. Inmates were to be treated as people, not as animals or human garbage.

Even before the initiation of RSVP, Schwartz reports, these and similar reforms lowered the incidence of violence in the jail. They also, perhaps surprisingly, improved the lives of guards. Schwartz reports a conversation with a long-term guard who was initially deeply skeptical of the value of her reforms:

“I gotta give you some credit, Sunny. In the old jail, all I did was yell and curse at people all day. Then, I would go home and sit on the couch, drink beer and not talk to anyone. Last week, I talked to my wife, if you can believe it. I had a goddamn conversation with my wife. . . . And you know what, Sunny, deputies don’t live into their retirement. I just found this out during salary negotiations. The union rep told me we all keel over from a heart attack before we ever get to sixty-five. . . . I can’t believe I’m saying this, but it’s true. If this keeps up, I’m going to live longer working here. I’m switching back to the day shift.” (p. 96)

From the perspective of transformative justice, however, these day-to-day reforms, although important, do not address the alliance of the criminal justice state with systemic racism and sexism. If the prison state reflects and entrenches both society-wide violence against people of color and gender violence, better inmate-guard relations are insufficient.

Restorative justice advocates have had surprisingly little to say about racial subordination. For example, Dennis Sullivan and Larry Tifft argue that restorative justice should be concerned not only with interpersonal violence but also with “social-structural violence.”29 They note that “young men who live in the ghettos or barrios of the U.S. find few legitimate jobs available to them and most of these jobs pay low wages, do not include benefit packages, are

sometimes dangerous, and are frequently temporary.” They also take note of ideological violence, observing that social hierarchies are justified by naming persons at the bottom as less valuable than those at the top. Though their use of the terms “ghettos” and “barrios” hints at its presence, Sullivan and Tifft never name or analyze racism as a category of social-structural violence.

Nor does Schwartz say very much about racial subordination in her portrait of the San Francisco jail system. She tells a story about two prisoners, one African American and one white, who embrace uncompromising racial identities—the “ebony and ivory of hate,” as the deputies joke. By the end of the RSVP program, the young white inmate has learned to set aside his self-protective but unexamined white supremacist ideology, and has become friends with the black “race man.” This story, although heartening, has little to say about the dynamics of racial subordination and the criminal justice system.

Prison population numbers are not only intensely gendered but also intensely racialized. Using Bureau of Justice Statistics numbers from 2008, at the end of the year the imprisonment rate for white men (defined as 18 or older) was 487 per 100,000 persons, but for “Hispanic” men it was 1,200 per 100,000, and for African American men it was 3,161. These numbers represent a political and social crisis in impoverished black and brown communities, a crisis visible not only in the numbers of those incarcerated but in the ripple effects of having so many men locked away. In a recent article, Dorothy Roberts chronicles the

30. Id. at 121.

31. They write:

\begin{quote}
When we live and force others to live according to the specifications of power-based existence, we fix their identities, giving them a master status or radically different character or human nature than ourselves. They thus become “muggers,” “rapists,” “murderers,” “batterers,” “addicts,” and “workers”—moral inferiors, people highly different from you and us. As we set boundaries around the kind of persons they are permitted to become, we imprison their self-potential. We force them to accept a definition of self, of personhood, of what it means to be human that is—unless they have fully accepted these “other” identities—radically different from how they down deep know themselves to be.
\end{quote}

Id. at 123.


33. African American and Latina/o communities are similarly situated with respect to both proportions incarcerated and the effect of mass incarceration on families and neighborhoods. My conviction, moreover, is that Latina/o communities would similarly benefit from “transformative justice” as I describe it in this essay. However, they face challenges that most black communities do not. Latina/o communities are struggling with the increasing convergence of immigration law with criminal law. Recent public and private attempts to “get tough” on immigration law have resulted in stepped-up, stripped-down deportation proceedings for undocumented immigrants in the United States, and harsher enforcement at the U.S.-Mexico border. In addition, domestic criminal justice authorities are increasingly being called in to supplement the work of U.S. Immigration and Customs Enforcement (ICE). Finally, Latina/o communities in the United States may have different family and community resources and challenges. For example, they are more likely to include transnational families, and thus take part in transnational communities, which pose a unique array of complex dynamics and challenges. For these reasons, as well as my personal identifications, I have decided in this article to focus on African American, non-immigrant
social cost of mass incarceration policy for African American communities. \( ^{34} \) As she notes, the effects of this policy are not evenly geographically spread: certain neighborhoods, primarily under-resourced minority neighborhoods, feel the impact of mass incarceration especially acutely. \( ^{35} \) In these neighborhoods, mass incarceration has intense negative effects: damage to social networks, distortion of social norms, and the destruction of social citizenship through policies such as felony disenfranchisement, labor market exclusion, and civic isolation. \( ^{36} \) Paul Butler argues that the mass incarceration policy of the United States represents a failure of democracy: African Americans, a despised minority, are locked out of the political system and are unable to make inroads on the criminal justice system practices that have left so many black and brown communities devastated. \( ^{37} \) Under these conditions, the existing criminal justice system is politically illegitimate.

Prison abolitionists argue that the real point of prisons is to “generate huge profits from processes of social destruction.” \( ^{38} \) For prison abolitionists, moreover, this industry is fundamentally corrupt because it is racist. They argue that the prison industrial complex—a network of alliances among corporate and financial interests, government institutions, prison guard unions, and mass media—feeds on and promotes the exploitation and marginalization of poor and minority populations. \( ^{39} \) For some abolitionists, the prison industrial complex is a direct outgrowth of, and substitute for, black slavery. \( ^{40} \) For others, the prison


35. Roberts notes:

Because poor black men and women tend to live in racially and economically segregated neighborhoods, these neighborhoods feel the brunt of the staggering prison figures. Research in several cities reveals that the exit and reentry of inmates is geographically concentrated in the poorest, minority neighborhoods. As many as 1 in 8 of the adult male residents of these urban areas is sent to prison each year and 1 in 4 is behind bars on any given day. A 1992 study, for example, showed that 72% of all of New York State’s prisoners came from only 7 of New York City’s 55 community board districts. Similarly, 53% of Illinois prisoners released in 2001 returned to Chicago, and 34% of those releases were concentrated in 6 of 77 Chicago communities. Prisoners typically return to the same communities where they lived prior to incarceration.

*Id.*; see also John Hagan and Ronit Dinovitzer, *Collateral Consequences of Imprisonment for Children, Communities, and Prisoners*, 26 CRIME & JUST. 121 (1999).


39. *Id.* at 84-86. The term, first used by Mike Davis, is a play on the “military industrial complex” famously identified by President Dwight D. Eisenhower at the close of his presidency.

40. Roberts, *supra* note 16 (joining with the “abolitionist” movement to argue that current
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industrial complex incarcerates on the basis of both nonwhite status and poverty. Angela Davis, for example, argues:

[I]f we are willing to take seriously the consequences of a racist and class-biased justice system, we will reach the conclusion that enormous numbers of people are in prison simply because they are, for example, black, Chicano, Vietnamese, Native American or poor, regardless of their ethnic background. They are sent to prison, not so much because of the crimes they may have indeed committed, but largely because their communities have been criminalized.

From a transformative justice point of view, then, achieving justice requires more than more civil relations between inmates and guards; it necessitates action to challenge racism in the broader society.

A 1997 report written by prisoners at Greenhaven Prison in upstate New York attempts to infuse restorative justice philosophy with anti-racist concerns. Entitled “The Non-Traditional Approach to Criminal and Social Justice,” the report states that “[i]t is time that state prisoners participate in solving the critical problems that affect their own community.” The Greenhaven report is centered on the concept of “reconciliation” rather than “restoration,” but its understanding of “Empowerment Theory” is clearly in line with restorative justice principles. Like restorative justice advocates, the Greenhaven report stresses the importance of individual prisoner accountability and the responsibility to make things right. The group:

maintains that in addition to employment and family care, once the prisoner re-enters the community (indeed while he or she is still in prison) they must be responsive to and responsible for civic duties. This involves being taught about the socio-economic conditions and how the crime generative factors impact on their lives. It also involves devoting a specific number of hours per week, while in prison and once in the community, towards community, civic or organizational activities.

Making things right, however, does not end there for the Greenhaven prisoners. Inmates must also be educated about the history and politics of racial domination in order to identify their greater political struggle to make the whole society right. The report identifies caste domination as an important reason for why so many black and Latino men are imprisoned, and argues that prisoners

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41. DAVIS, supra note 28, at 113.
43. The report identifies three characteristics of most black and Latino prisoners:
   1. “Crime generative attitudes” from which self destructive value systems are
must rejoin their communities to struggle with them against that domination.

Transformative justice advocates are skeptical of the state’s involvement in leading the way toward reform for another reason: the criminal justice system’s evident commitment to gender hierarchy and the very model of masculine gender identity that generates gender violence. Kim Buchanan makes the argument:

[M]any prisons adopt a practice of institutional governance under which, rather than enforce laws and prison rules that ban sexual violence, guards and administrators enforce the rules of masculinity instead. Guards require prisoners to prove their manhood on hypermasculine terms that read masculinity as dominance. They routinely refuse to protect prisoners against sexual abuse. Instead, they often tell prisoners to “Be a man. Stand up and fight”—or, more crudely, to “Fight or fuck.” If a prisoner cannot protect himself by fighting, he is often told that he is “gay,” therefore “liked it,” and does not deserve protection. These rules permit manly men to sexually abuse weaker men, who deserve what they get for having failed as men.44

According to Buchanan, moreover, the problem of sexual violence is avoided in policy-making circles by casting it as a racial problem in which white men are the victims of black male rapists.45 Race and gender hierarchy are thus both entrenched and mutually reinforcing in the American prison system.

What are the implications of recognizing the state as having an interest in thwarting the transformative project? One response might be to take the abolitionist position: because the criminal justice state is so committed to racial and sexual subordination, it is irredeemably corrupt. GenerationFIVE thus calls for its allies to work outside the state entirely for three reasons: what it calls “the violent nature of the modern State,” the violence in currently existing state institutions and practices, and the consistent failure of state institutions and actors to fulfill their violence prevention and intervention mandates.46 Another response might be to endorse the restorative justice vision of a reduced role for

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44. Buchanan, supra note 22.
45. Id.
46. generationFIVE, supra note 18, at 18.
the state, but to look to civil society rather than the state to lead the struggle. In
either case, reforms like Schwartz’s are both necessary and insufficient.

B.

A second criticism of restorative justice is that its advocates accept existing
“private” interpersonal relations in families and communities without adequate
critique. Restorative justice advocates celebrate the role of the victims’ and
offenders’ families and “the community” in facilitating the process of making
things right. But if systematic domination characterizes family structures in the
United States, “restoration,” again, is a questionable goal.

In contrast with the issue of racial justice, which seldom arises at all in the
restorative justice literature, the problem of gender domination within the family
has been frequently voiced and addressed.47 For example, restorative justice
advocates have endorsed family conferencing and mediation as tools for healing
the wounds caused by criminal behavior. But when the crime involves intimate
violence, critical scholars argue that expecting either traditional mediation or
“circles of care” involving family and friends to bring about healing is naive at
best, and dangerous at worst. 48 As feminist theorists have long pointed out, men
who beat and abuse women and children with whom they have an intimate
relationship often do not simply lack anger management skills; they seek total
power and control over the people in their lives that they see as subordinates. In
relationships characterized by control and coercion, there is no level playing
field on which abuser and abused can meet and agree to get along in the future.
Nor does the abuser perceive himself as having done anything wrong. The
problem is not conflict—which mediation can resolve—but rather domination.

From this perspective, Schwartz’s RSVP program is more promising than
the standard restorative justice toolkit. According to feminist theory, masculine
gender identity facilitates, perpetuates, and justifies male violence in
heterosexual couplings characterized by researchers as relationships of “coercive
controlling violence.” 49 Feminist activists have thus initiated domestic violence

47. For example, John Braithwaite, one of the best-known theorists and popularizers
of restorative justice, identifies the domination of women and children in restorative processes
as a possibility that must be actively resisted. John Braithwaite, Principles of Restorative
Justice, in RESTORATIVE JUSTICE AND CRIMINAL JUSTICE: COMPETING OR RECONCILABLE
PARADIGMS? 1, 9 (Andrew von Hirsch, Julian V. Roberts, Anthony Bottoms, and Kent
Roach & Mara Schiff eds., 2003).

48. For a classic feminist critique of mediation from this perspective, see Trina Grillo, The

49. See Joan B. Kelly & Michael P. Johnson, Differentiation Among Types of Intimate Partner
Violence: Research Update and Implications for Interventions, 46 FAM. CT. REV. 476, 481-
88 (2008) (naming and defining four categories of intimate violence). The kind of violence
associated with acceptance of conventional masculine gender ideology—named “coercive
controlling violence” by Kelly & Johnson—is the most likely to be perpetrated by men
against women, and also the most likely to be severe and frequent. Id. at 482 (“In
heterosexual relationships, Coercive Controlling Violence is perpetrated primarily by
men. . . . Although Coercive Controlling Violence does not always involve frequent and/or
intervention programs for batterers that, like RSVP, seek directly to challenge the ideology of male domination. In RSVP, men are encouraged to look at their own childhoods and to see the role that male gender identity has played in making violence a permissible, even admirable, tool for dealing with conflict or negative emotional states. They are then encouraged to intervene in their own thought and action cascades, to check their impulses toward violence, and to subject their thoughts, feelings, and reactions to rigorous criticism. Schwartz, unlike most restorative justice advocates, thus identifies masculine gender identity as a key to gender violence.

Schwartz’s RSVP program and the rules of civility and respect she enforces on staff and inmates alike also move toward rooting out the criminal justice system’s enforcement of “the rules of masculinity.” As critics of the existing prison system note, preventing sexual violence and harassment in prisons and jails is not rocket science; the problem is not ignorance but lack of will. Restricting the power of staff over inmates, and creating an atmosphere of respect and tolerance for many different gender identities, will go a long way toward reducing levels of violence in prison. Schwartz’s reforms are on the right track.

Schwartz’s book also takes another step familiar to feminist theory and practice. By weaving together her personal attempts to come to terms with a violent family history and her attempts to rehabilitate violent offenders, she recognizes that transformation is required not only of the jail inmate, but also of those who attempt to reform him or her. In good feminist practice, Schwartz recognizes that the personal is political. Grassroots advocates have similarly sought to identify trauma in their own lives as part of a larger campaign against violence, a necessary step in the transformative justice agenda. GenerationFIVE advocates, for example, concerned with child sexual abuse, call on themselves individually and on their allies in other progressive social change organizations to investigate and address the effects of child sexual abuse in their lives and work. Defining “trauma” as “harmful experiences that persist long after an immediate threat or abusive experience is over,” they argue that trauma from past violence can immobilize or hamper efforts to combat violence and injustice in the present. Individuals and groups involved in progressive social change need to recognize the mark of trauma in themselves and to cultivate “resilience,” defined as:

the ability to holistically (mind, body, spirit and relationship) respond to and renew ourselves during and after trauma. It is the ability to shift ourselves from severe violence, on average its violence is more frequent and severe than other types of intimate partner violence.”)

50. It is not clear, however, how successful these programs are. See id. at 490-91. A feminist response might be that low success rates are to be expected when the culture as a whole is saturated with misogyny.

51. See Gibbons & Katzenbach, supra note 21, at 21-23; Kaiser & Stannow, supra note 22.
automatic survival responses – some of which may be useful, some of which may have undesired consequences – to a more calm, connected and cohesive place.\textsuperscript{52}

GenerationFIVE activists thus stress the need to undergo the personal transformation of trauma into resilience as inseparable from a broader agenda of collective change:

Our historical and current relationships to all forms of violence create limitations to building social movements; violence and trauma have huge impacts on how we “be” in our social movements, what visions we are able to imagine, and our ability to build power. This means that our experiences of violence also create limitations within existing social movements. It is important to have processes in our organizing through which we can practice Transformative Justice. By doing so, we become more able to transform our own relationships of power in a way that holds people accountable, equalizes power, and allows for transformation. By not doing this work, we imply that the power inequalities that happen between us as individuals will somehow transform themselves through our challenging of the violence out in the world.\textsuperscript{53}

Again, Schwartz’s RSVP program and other reforms are both necessary and insufficient to root out gender violence. GenerationFIVE draws on feminist and queer struggles to argue that families themselves must be transformed and that restorative justice’s unquestioning trust in “the community” may also be problematic. For example, generationFIVE advocates observe that a frequent response of family and friends to alleged or discovered child sexual abuse is “vigilante violence” against the suspected abuser. Yet, as they point out:

Vigilante violence is an act of punishment out of an emotional response, usually with no intention of transforming people or shifting the conditions – of which bystanders are a part – that allow for violence to occur. Vigilante violence is most easily directed at members of the community who are already socially or otherwise vulnerable; rarely does vigilante violence touch those who collude with the violence in families, networks and communities or the public systems and institutions that allow the violence to continue.\textsuperscript{54}

More broadly, they contend, “Whether because of vested interests, conservatism, or the legacy of oppression suffered by the community, communities often struggle to come up with transformative responses to violence or even responses that are less repressive and violent than those of the State.”\textsuperscript{55}

\textsuperscript{52} generationFIVE, \textit{supra} note 18, at 45.
\textsuperscript{53} \textit{Id.} at 43.
\textsuperscript{54} \textit{Id.} at 14.
\textsuperscript{55} \textit{Id.} at 41.
Their conclusion is that “As the Left, it is our responsibility to provide people with alternative options, resources and processes for securing liberation from violence, in the face of the failure of the State.”\(^{56}\) As a long-term strategy, generationFIVE advocates envision:

alternative institutions of justice that would invest larger segments of the public as they became increasingly viable. This might be maintained through the building of an interconnected system of alternative institutions that, theoretically, could one day transform the State itself. In the same way that we challenge the Left to view individual transformation and social justice as fundamentally connected, we challenge the sexual and domestic violence sectors to expand their work to include transforming the conditions that allow violence to occur and to explicitly challenge State violence.\(^{57}\)

Thus, while restorative justice advocates tend to view existing family and community relationships solely as sources of healing and accountability, transformative justice advocates see the need to transform those relationships as well.

**CONCLUSION**

Although grassroots advocates of transformative justice such as generationFIVE have rejected restorative justice and reform work involving the existing criminal justice state in favor of adopting an abolitionist stance, in my view Sunny Schwartz’s work should be of great interest to anti-subordination theorists and activists. Schwartz’s efforts to infuse traditional restorative justice work with critical consciousness-raising of the link between masculine gender identity and gender violence point toward the possibility of other productive collaborations between restorative justice advocates and anti-subordination advocates. From their side, restorative justice advocates should see Schwartz’s reforms as a model for infusing restorative justice practices and theory with a wider vision of subordination, a vision that critical race feminists and grassroots advocates of transformative justice bring to their own work.

Long ago, critical race feminist Kimberlé Crenshaw wrote about the conflict between “reform” and “revolution” faced by progressive activists and theorists.\(^{58}\) Rather than assuming that there is a stark choice between allying with the restorative justice movement and ignoring questions of structural domination, or allying with the abolitionist movement and ignoring the “how do we get there?” problem, further conversation between restorative justice advocates and transformative justice advocates—especially about the risks and

\(^{56}\) *Id.* at 17.

\(^{57}\) *Id.* at 47.

dangers of working within the criminal justice state—may produce a useful alliance between the two groups. Reform and revolution need not be antithetical. Profound social change can occur on many different fronts at once. The need for transforming the American criminal justice system, and the violence that pervades it, is pressing, and the time to act is now.