

Restorative Justice or Colonial Compromise? Rethinking Responses to Family Violence in Aboriginal and Torres Strait Islander Communities

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This paper critically examines the application of restorative justice as a response to family violence in Aboriginal and Torres Strait Islander communities. Drawing on national and international literature, it identifies both the promise and the limits of restorative justice within settler-colonial contexts. While community-led, culturally grounded programs—such as those on Mornington Island and in Aurukun—demonstrate significant potential for healing, relational repair, and community self-determination, most initiatives remain constrained by inconsistent definitions, inadequate evaluation frameworks, and limited state support. Quantitative assessments often obscure culturally specific notions of success, overlooking the relational and political dimensions of justice. Indigenous and abolitionist scholars caution that restorative justice, when embedded within colonial institutions, risks becoming a reformist compromise that reproduces rather than dismantles carceral control. The paper argues for Indigenous-led, community-controlled justice systems grounded in sovereignty, care, and self-determination, positioning restorative justice not as a substitute for colonial justice, but as a site of resurgence toward Indigenous legal orders and collective healing.

Domestic violence (DV) is defined by the Australian Institute of Criminology as encompassing a broad spectrum of abusive behaviours: physical, sexual, emotional, psychological, economic, and non-physical, used to threaten, coerce, or control a family member or intimate partner (Lawler et al., 2025). However, Aboriginal and Torres Strait Islander peoples more accurately refer to this as *family violence* (FV), a term that reflects the extended kinship systems and relational obligations central to Indigenous life. As Blagg and colleagues (2022, p. 537) explain, FV captures “both the extended nature of Indigenous families and the kinship relationships within which a range of forms of Indigenous violence frequently occur.” This broader conceptualisation includes not only forms of interpersonal abuse but also lateral violence, family feuding, jealous fighting, Elder abuse, abuse of Indigenous community workers, child abuse, self-harm, suicide, substance misuse, gambling, ‘humbugging’ (financial coercion by relatives), and racialised insults (Blagg et al., 2022). In Indigenous contexts, FV is not an individualised problem confined to private space – it is a collective, intergenerational harm with deeply political foundations in colonial dispossession and violence.

Family violence was never a feature of Aboriginal or Torres Strait Islander cultures or family life; rather, it is a direct consequence of colonial invasion and the sustained imposition of settler systems (Cripps & Adams, 2014). As both a cause and outcome of intergenerational trauma, FV is perpetuated by colonial structures such as incarceration, child removal, and systemic racism, which continue to destabilise Aboriginal and Torres Strait Islander families and communities (Atkinson, 2002; Closing the Gap Clearinghouse, 2016). In this respect, healing in the context of FV must be understood not only as therapeutic but also as political and cultural, a means of repairing the damage caused by ongoing colonial violence. Healing programs that address trauma through culturally grounded, community-led approaches are therefore essential to responding to FV (Carlson et al., 2024). The literature overwhelmingly calls for non-carceral, trauma-informed responses that centre the needs and voices of those who have experienced FV, while also supporting the rehabilitation of those who have used violence, many of whom are themselves victims of structural and interpersonal harm. As Carlson and colleagues (2024, p. 19) emphasise, effective responses must “centre people who have experienced family violence and incorporate non-carceral responses for those who have perpetrated family violence who may also experience such violence, with a focus on rehabilitation and healing, rather than criminalisation and removal of the offender.”

Traditional criminal justice responses to FV are embedded in a complex network of institutions including police, courts, prisons, juvenile justice, and social welfare systems that operate primarily to control and punish individuals classified as “offenders.” These responses reflect a retributive, rather than reparative, approach to harm. For Aboriginal and Torres Strait Islander peoples, who are disproportionately impacted by both structural and interpersonal violence, such systems have consistently failed to deliver safety or justice (Cripps, 2023). Aboriginal and Torres Strait Islander adults are 32 times more likely to be hospitalised for FV than their non-Indigenous counterparts, and Indigenous women are 11 times more likely to die from assault (Australian Institute of Health and Welfare, 2019). Despite comprising just 3.2% of the national population, Aboriginal and Torres Strait Islander people account for 37% of the prison population as of March 2025, with incarceration rates across both men’s and women’s prisons continuing to rise (Australian Bureau of Statistics, 2025).

FV has become a key driver of this overincarceration, particularly for Indigenous women, whose pathways to prison are often shaped by cycles of violence, trauma, and systemic failure (PWC’s Indigenous Consulting, 2017). Aboriginal and Torres Strait Islander women in custody are significantly more likely than non-Indigenous women to have experienced FV and child removal, and many report using violence as a survival strategy, believing it to be a safer option than contacting authorities (Australian Human Rights Commission, 2020; Wilson et al., 2017). Yet instead of being offered

protection, they are frequently criminalised for defending themselves. It is common for Aboriginal and Torres Strait Islander women to be arrested when seeking help from police, highlighting the systemic discrimination embedded in current justice responses and exacerbating deep mistrust (McQuire, 2024). These patterns reveal not only the inadequacy of the criminal justice system but also its active role in reproducing harm.

Alternative responses therefore are those that work as alternatives, or adjuncts to traditional criminal justice systems/incarceration. These include restorative justice, circles of support, Indigenous sentencing courts, diversion, justice reinvestment, non-police first responders, transformative justice/abolition, and specialist perpetrator interventions such as behavioural change programs (Marchetti et al., 2023). Such responses typically aim to be harm-reduction based, voluntary, accessible, culturally appropriate, and community-based. Exploring the literature on these is complicated by overlaps in terminology and definitions, for example, “community justice groups” and “circle sentencing” are approaches which may include elements of restorative justice practices in implementation. Also, not all have been established for use in FV matters. This paper provides some thoughts on exploring restorative justice as an alternative response to FV in Aboriginal and Torres Strait Islander communities.

What is Restorative Justice?

Restorative justice is a process in which all parties affected by an offence or injustice are given the opportunity to come together to discuss the harm caused and determine how it might be repaired (AIHW, 2024). It emphasises accountability, healing, and active community involvement (Marchetti, 2017), and often requires that the person responsible has admitted guilt. Common characteristics proposed for restorative justice programs are emphases on accountability of the offender, an inclusive decision-making process with input from key participants and a victim voice, and a goal of putting right the harm that has been caused by the offence (Joudo-Larsen, 2014). Daly (2016, pp. 21, *italics in original*) defines restorative justice as “a *meeting*, (or a set of meetings) of affected individuals, facilitated by one or more impartial people.” Restorative justice offers diversion from the formal court system or processes that can be implemented alongside it - at various stages including pre-sentencing, post-conviction, or post-carceral release (Rossner & Taylor, 2024). Meetings can also take place pre-arrest as well as for offences and conflicts not reported to the police (Daly, 2016). It is thus best understood as a flexible justice mechanism operating both within and beyond traditional criminal justice institutions. It eschews the use of administrative forms of punishment, situating accountability rather in dialogue-driven forms of responsibility-taking by offenders and repair for victims. Common restorative justice practices include victim-offender mediation, conferencing, and circle or forum sentencing (AIHW, 2024). The principles underpinning restorative justice – such as reparation, inclusivity,

and relational accountability – are also said to align with broader social welfare aims, enabling responses that attend to the needs of both victims and offenders (S. Price et al., 2025).

While we recognise there is debate around the expanded definitions and inclusions within restorative justice, what they do share is a focus on dialogue-driven approaches as central in meeting victim needs and interests, and in promoting offender accountability (Daly, 2016; Joudo-Larsen, 2014). Disagreement arises especially around the inclusion of Indigenous sentencing courts. Agencies such as the AIHW (2024) classify sentencing circles, family group conferences, and Indigenous courts within restorative justice, whereas others remain critical of this conflation. For example, although the NSW Circle Sentencing Court – adapted from Canadian models – is often described as a restorative innovation led by Aboriginal communities (Marchetti et al., 2023), its incorporation of formal judicial authority raises important questions about whether it represents a truly restorative or community-controlled practice (Daly & Marchetti, 2012; Tauri, 2014). Although Australian Indigenous sentencing courts may be more culturally accommodating, decision-making remains with the magistrate and hence have been described as a type of “innovative justice mechanism”, alongside therapeutic jurisprudence and RJ (Daly, 2016).

Māori criminology scholar Juan Tauri (2014, 2018) offers a powerful critique of restorative justice, particularly its application to Indigenous peoples. Tauri argues that restorative justice, while often framed as culturally responsive or rooted in Indigenous traditions, has largely been co-opted by settler-colonial states to maintain control over Indigenous justice initiatives. He challenges the widely held assumption that practices such as Family Group Conferencing in Aotearoa New Zealand are authentically Māori in origin, instead asserting that they were policy innovations retrospectively framed in cultural terms to gain legitimacy (see also Moyle, 2014; Moyle & Tauri, 2016; Wood et al., 2024; Wood & Tauri, 2025). From this perspective, restorative justice becomes not a decolonising mechanism but a tool that neutralises Indigenous critique by offering the appearance of inclusion while preserving colonial authority. Tauri’s work underscores the importance of distinguishing between justice processes that are genuinely community-controlled and those that appropriate Indigenous concepts in the service of settler governance.

Aboriginal and Torres Strait Islander Restorative Justice Programs

Despite ongoing debate about the definition and scope of restorative justice, several Aboriginal and Torres Strait Islander initiatives have been described as restorative in nature, particularly where they respond to community-identified needs and embed culturally grounded processes. Programs such as the Mornington Island and Aurukun Restorative Justice Projects were specifically developed in response to local concerns and are guided by

community priorities and Indigenous leadership (Brunton, 2014; Limerick, 2017; S. Price et al., 2025). These initiatives reflect principles of cultural legitimacy, collective accountability, and relational repair, and are often cited as more appropriate and effective than externally imposed models.

The Mornington Island Restorative Justice project was introduced in response to continuing overrepresentation of Aboriginal and Torres Strait Islander adults in Queensland prisons, despite the Beattie government having signed the Aboriginal and Torres Strait Islander Justice Agreement, advocating for improved access to diversionary strategies. Mornington Island, located in the Gulf of Carpentaria, is home of the Lardil people, who share it with the Kaiadilt people of Bentinck Island, the Yungkal people of islands to the south and the “Historical people”¹ who were forcibly removed from the mainland (Venables, 2012). Venables (2012) described the ground-up approach of the Mornington Island restorative justice project, as the project manager consulted widely and engaged Elders and community members from all family groups. Responding to their concerns of the reliance placed on the criminal justice system to deal with offenders, and its inability to reduce recidivism or community conflict resolution, a community-owned mediation model was proposed and developed. After not meeting for many years, Elders resumed Moyenda² meetings to discuss how mediation should work.

Cultural advisors and mediators assisted in implementing the model, known as “Kinship consultation mediation”, which observed kinship and cultural processes, involved consultation and “shuttle diplomacy”³ and conflict coaching⁴ between families planning mediation, and steps or “rules” established by the Elders. In the final analysis of the Morning Island Restorative Justice project, the role of Elders, even their presence often without speaking, was the factor most critical to success (Venables, 2012).

The Mornington Island project was evaluated during development, implementation and prior to its transition to community management by the Junkuri Laka Justice Association (Browning, 2011; Brunton, 2014; Venables, 2012). Qualitative findings included in the interim report by Browning (2011) concluded that there was a strongly held community perception that the project had reduced family conflict, prevented the escalation of violence and diverted offenders from the justice system. Analysis of the final phase

1 People were sent from the mainland to Mornington Island with children going into the dormitory. They and their descendants are referred to as Historical People.

2 Respected Elders.

3 Shuttle diplomacy is defined in the report as when a mediator works as intermediary between families and is used to reduce anxiety about attending mediation. It is also used when parties are unwilling to attend mediation, or if bringing parties together when there is serious conflict.

4 Conflict coaching is working with individuals or families in conflict to express their feelings, think through the issue and consequences of their responses and to develop strategies to manage the situation. It is often used with shuttle diplomacy and is also used to prepare people for mediation or where mediation cannot be held.

of implementation (Venables, 2012) reported that of the 157 mediations between October 2009 and June 2012, 149 (95%) achieved successful outcomes: being resolved upon intake or reaching a settlement or complete reconciliation between parties. Also, that 53 referrals could have prevented contact with the criminal justice system, with four cases reportedly resulting in diversion from a custodial sentence.

Brunton (2014) employed mixed methods (qualitative discussions, review of mediation, administrative and Police incident data, performance reports, fieldwork and community workshop feedback) in the evaluation final report. Due to the absence of any pre-implementation or benchmark survey data before the service commenced, empirical evidence of outcomes was limited. However, the overall findings were that the project enhanced the capacity of the community to manage its own disputes through formal mediation, reduced people's contact with the formal criminal justice system, encouraged community ownership of the program, improved the justice system's responsiveness to the community's needs, and increased victims', offenders', families' and the broader community's satisfaction with the justice system. "Person on person" crime (from the Queensland police dataset) was reduced; however, this did not disaggregate "sexual" assault. Other offences, such as alcohol and drug use trended upwards. The large spike in alcohol-related offences resulted from the introduction of restrictions introduced in 2009 (Brunton, 2014). It was recognised that the overall number of court appearances were not reduced because the majority were for alcohol-related offences, which were not resolvable through mediation (S. Price et al., 2025).

From the report's qualitative feedback, mediation was felt to be appropriate for minor civil-type disputes and minor assaults with more serious offences, including sexual and domestic violence, better dealt with by Police and courts (Brunton, 2014). However, included in "long-term outcomes" in the same evaluation, it was noted that there has been a reduction in "harmful behaviours e.g. youth suicide, antisocial, alcohol/drugs, domestic and family violence" Brunton, 2014, p. 25).

Based on positive evaluations of the Mornington Island project, the Aurukun Restorative Justice project was conceived in late 2013. This was in response to requests from the Aurukun community for a peacemaking program to help mediate ongoing conflict between families and individuals. Aurukun is an Indigenous community of about 1300 residents on the west coast of Cape York Peninsula in far north Queensland, drawn from five clan groups from the region. Aurukun was reported as having the highest rates of contact with the justice system in Queensland in 2015 (Limerick, 2016). Unlike the Mornington Island Restorative Justice project, the planned phase of community consultation and engagement did not eventuate and impacted on the development of a community-owned mediation model to the same degree. Additionally, the Aurukun project manager had ongoing

commitments elsewhere. The limited codesign phase was deemed to have contributed to implementation challenges such as the difficulty in engaging community mediators, lack of formalised referral systems, both process design and delivery, and divergent views in the community as to whether the mediation should be arbitratative (and impose sanctions) or facilitative in nature (Limerick, 2016).

The final evaluation of the Aurukun project reported that 64% of the 270 dispute resolution processes had been conducted over 3 years had a “successful” outcome: 44% resulted in settlement of the dispute and 12% achieved a deeper reconciliation between parties. Surveyed participants reported that mediation had resulted in an overall reduction in physical conflict between parties for approximately two-weeks following mediation, regardless of the outcome and stakeholders reported a reduction in violence and property damage between families engaged in the project (Limerick, 2017). In evaluating the project implementation, Limerick (2016) noted that the project was more a “peacemaking” and “mediation” model rather than restorative justice, as the latter implies an offence has been committed. In the final analysis, only 8% (n=23) of referrals were through court-ordered victim-offender mediation, with 13 of these engaging in the dispute resolution process. Limerick (2017) suggested that a lack of coordination and communication between court stakeholders had limited the scope for referrals.

Other schemes, such as Phase Three of the ACT Restorative Justice Scheme, include Aboriginal and Torres Strait Islander participants but were not co-designed by community and remain structurally embedded within mainstream justice systems (Lawler et al., 2025). Evaluations of such programs consistently highlight the importance of cultural appropriateness, community ownership, and the involvement of Elders as critical success factors (Brunton, 2014; Limerick, 2017; S. Price et al., 2025). Where these elements are absent – as in programs lacking meaningful co-design – legitimacy, trust, and effectiveness are often significantly diminished (Lawler et al., 2025). These comparisons underscore that not all restorative justice programs are created equal; their legitimacy and impact depend on the extent to which they centre Indigenous governance, community control, and culturally safe practices.

But how appropriate have evaluations of restorative justice programs for Aboriginal and Torres Strait Islander peoples been? Given the definitional ambiguity surrounding restorative justice, evaluating its effectiveness, particularly in Aboriginal and Torres Strait Islander contexts, is inherently complex. Many programs are heterogeneous in design, intent, and cultural grounding, which complicates the development of standardised evaluation frameworks. Nevertheless, most existing evaluations have relied heavily on quantitative measures such as recidivism rates, producing mixed or

inconclusive results. There are limited studies that look either directly or indirectly at the rates of reoffending by Aboriginal and Torres Strait Islander Peoples using restorative justice compared to conventional court sanctions, or when outcomes are compared for a single restorative justice group (known as variation studies). Some report no change or even increases in recidivism (Fitzgerald, 2008; Hayes & Daly, 2003, 2004; Jones, 2009; Little et al., 2018; Marchetti & Daly, 2007, 2017; Piggott & Wood, 2018; S. Price et al., 2025; Stewart et al., 2008, p. 2020; Strang, 2017; Strang & Sherman, 2015), with few demonstrating reductions in reoffending (Hayes & Daly, 2004; Luke & Lind, 2002; Yeong & Moore, 2020).

Reliance on quantitative metrics has well-documented limitations. Evaluations often suffer from a lack of baseline and benchmarking data, small sample sizes, or selection bias (Piggott & Wood, 2018). In Queensland, for example, some evaluations included alcohol-related offences that are not suitable for mediation-based interventions, further distorting results (Brunton, 2014; Limerick, 2017; Piggott & Wood, 2018; S. Price et al., 2025). More fundamentally, relying on recidivism as a singular metric obscures the complex and non-linear nature of behavioural change. Marchetti and Daly (2017) instead propose a “desistance framework”, one that views the journey away from offending as a gradual and iterative process. From this perspective, temporary reoffending or “relapse” does not indicate failure but may be part of a longer trajectory toward change. Desistance may take years to solidify, requiring multiple supports and sometimes both internal and external catalysts. Suzuki (2025) alludes to the conceptual and theoretical interconnection between restorative justice and desistance. To examine juvenile evidence of restorative justice conferencing coinciding or overlapping with the desistance process, the South Australian Juvenile Justice dataset was investigated to determine offender trajectories over one and five years. Three distinct journeys were found: optimal (where offender completely ceased crime), changing (when, despite positive restorative justice experience, offenders faced challenges in remaining crime-free) and difficult (when offending escalated after restorative justice conferencing). Suzuki (2025) concludes that although restorative justice conferencing may assist change toward desistance among situational or occasional young offenders, this may not be the same for persistent young offenders, and that a nuanced understanding of desistance trajectories through restorative justice conferencing is required.

The body of research raises important questions about what counts as “success” in restorative justice, and who gets to define it. Evaluations that fail to consider cultural legitimacy, community wellbeing, and relational repair may undervalue the transformative potential of Indigenous-led justice initiatives (Cram, 2018; M. Price et al., 2012). Qualitative evaluations of restorative justice programs provide a more nuanced and culturally attuned picture of their effectiveness within Aboriginal and Torres Strait Islander

communities. These studies suggest positive shifts in attitudes, relationships, community engagement, and local capacity, with noted impacts on strengthening informal social controls and relational accountability (Brunton, 2014; Venables, 2012). Community-led models, in particular, are consistently associated with success, with researchers highlighting the importance of cultural legitimacy, community ownership, and the active involvement of Elders in both process design and delivery, and importantly, as demonstrated through the Aurukun model, without omitting all of the necessary steps (Brunton, 2014; Limerick, 2017).

Participants in these programs often express a strong preference for Indigenous sentencing courts over mainstream judicial processes, citing their cultural relevance, personal engagement, and the sense of being seen and heard, qualities often absent in conventional courts (Aboriginal Family Legal Service WA, 2024; Marchetti & Daly, 2017). In contrast, traditional criminal justice mechanisms are commonly described as punitive, alienating, and ineffective in fostering behavioural change or healing (Cunneen & Porter, 2017; Marchetti & Daly, 2017). This divergence between quantitative and qualitative findings underscores a fundamental problem: standard criminal justice metrics, especially recidivism (Robinson & Shapland, 2008), fail to capture the relational, cultural, and healing dimensions that are central to Indigenous justice. These evaluations reveal that when programs are designed and led by community, they not only disrupt cycles of violence but also restore collective agency and embed justice within cultural frameworks. Such outcomes challenge the dominance of state-centric evaluation tools and call for broader, more context-sensitive measures of success.

Yuin criminological scholar Amanda Porter's work offers an important decolonial critique of justice approaches framed as restorative or alternative. Rather than focusing solely on outcomes such as recidivism, Porter highlights the need to centre Indigenous governance and self-determination in the design and evaluation of justice mechanisms. Her research demonstrates how Aboriginal community patrols and non-state safety initiatives resist colonial policing logics and enact community-based forms of justice rooted in cultural authority and care (Porter, 2016). She argues that mainstream evaluations often miss these dynamics, measuring success through state-centred metrics rather than relational accountability, cultural legitimacy, or community-defined outcomes. Porter's contribution underscores the political stakes of evaluation, whose standards are being applied, and to what end, and reinforces calls for Indigenous-led, community-controlled justice systems grounded in sovereignty rather than assimilation (Porter et al., 2022; Porter & Cunneen, 2020). Porter and colleagues (2022) further caution that carceral feminism, dominant within many mainstream responses to violence, can inadvertently reinforce punitive and racialised outcomes for Aboriginal and Torres Strait Islander women. They warn that without a decolonial and intersectional approach, restorative or therapeutic frameworks risk being co-

opted by the same carceral logics they claim to resist. Further, Porter and colleagues (2022) argue that statistical constructs of criminality, often used to justify increased policing or to deny access to diversion, are themselves shaped by racialised and colonial assumptions. They expose how “evidence-based” risk assessments and evaluation criteria often obscure the structural violence Indigenous communities experience and instead reinforce exclusionary decisions about who is considered appropriate or eligible for restorative justice programs.

Many evaluations of restorative justice programs employed in an Aboriginal and Torres Strait Islander context are from 10 years ago or more, and it was difficult for us to now determine exactly which of these are continuing in the format they were evaluated. The NSW circle courts appear to be the most recently evaluated using quantitative analysis and showed a reduction in both recidivism and rates of incarceration compared to those who did not participate (Yeong & Moore, 2020). However, the evaluation is difficult for us to understand completely as, despite there being exclusion criteria that encompassed domestic violence (DV), domestic and family violence (DFV) appeared to be included in the analysis without any apparent explanation of disparity.

Tensions and Limits in Restorative Justice Responses

The application of restorative justice as an alternative or complementary justice pathway in cases of FV within Aboriginal and Torres Strait Islander communities remains highly contested. While various pilot programs for both youth and adults have been trialled, their implementation has been inconsistent and often marginal in scope. As Price and colleagues (2025) note in their review of Queensland programs, these initiatives have operated in a significantly limited capacity, hampered by a lack of political will and inadequate system-wide integration. Crucially, successive governments have failed to act on the recommendations of prior evaluations, resulting in stalled reforms and minimal impact on the structural drivers of harm.

The literature also reveals that the sustainability of restorative justice programs is closely tied to political cycles. Funding commitments and withdrawals often fluctuate depending on which party is in power, with Labor governments generally more inclined to support such initiatives. This instability undermines long-term planning, community trust, and the ability of programs to address the broader social and welfare issues such as housing insecurity, intergenerational trauma, and service accessibility that shape both victimisation and offending. As a result, restorative justice remains underutilised, and its transformative potential unrealised, in responding to FV in Indigenous contexts.

Brookes (2019) cautions that conventionally practised restorative justice is often ill-suited to cases of DFV, warning that it may not be sufficiently safe or effective in its standard form. One of the core concerns is that RJ processes typically address isolated incidents of harm, whereas DFV involves cumulative, patterned abuse that unfolds over time. Practices such as encouraging an apology, often seen as a strength of restorative justice, can be deeply problematic in DFV contexts, where apologies are frequently weaponised by perpetrators as tools of manipulation and control (Emerick et al., 2023; Jeffries et al., 2021). Furthermore, restorative justice is generally designed for cases where the parties are no longer in an ongoing relationship, which is rarely the case in DFV situations. Another critical issue is the involvement of community members who may lack adequate training in understanding coercive control, trauma, and the dynamics of DFV.

Despite these concerns, Brookes (2019) acknowledges that some international programs have demonstrated success, particularly when they are co-designed and implemented with the communities they aim to serve. Programs that integrate feminist frameworks and are tailored to the specific needs of marginalised groups, such as Indigenous communities and LGBTQ+ individuals, are identified as more promising. The classic example in Indigenous communities is Hollow Water community healing circles (Bushie, 1999; Couture et al., 2001). These models foreground safety, cultural responsiveness, and survivor autonomy, offering more ethically and politically attuned possibilities for restorative justice in the context of DFV.

In response to disparate findings from two Australian taskforce investigations considering the suitability of restorative justice for DV and FV, Nancarrow (2006) analysed interviews with members of each of the taskforce and additional women, to determine views from Indigenous and non-Indigenous perspectives. The study confirmed racialised perspectives with the Indigenous women rejecting the criminal justice system, viewing it as ineffective and harmful to communities, exacerbating violence and reinforcing state control and community division, unlike the non-Indigenous women, who supported the criminal justice system as the primary response, despite acknowledging its limitations. The Indigenous women advocated for restorative justice, conditional on the processes being community-controlled, healing-focused, and centred on the victim's wishes, reinforcing the previous findings of from the Aurukun project (Limerick, 2016, 2017) and the Adult Restorative Justice Conferencing in Queensland (Rossner et al., 2024).

Despite the concerns outlined by Brookes (2019), restorative justice has been cautiously extended to cases involving DFV. In Queensland, the Adult Restorative Justice Conferencing (ARJC) employs senior personnel who support staff involved in sensitive cases such as sexual and domestic violence (Rossner et al., 2024). A 2024 qualitative evaluation of interviews with staff, stakeholders, and service providers who support Aboriginal and Torres

Strait Islander victim-survivors and offenders provided a summary of findings on the specialised service delivery in these cases. The key findings were that although there was a recognition of potential benefits of restorative justice over traditional responses, concerns were expressed about its safety and effectiveness in addressing power imbalances and meaningful accountability. Specialised training and service delivery, such as in trauma-informed practices, was viewed as ways by which these concerns could be addressed. Additionally, there was a recommendation to examine concerns that defamation claims may deter victim-survivors from reporting sexual violence in the first place (Rossner et al., 2024).

There were several suggestions offered by participants to improve expansion and of restorative justice programs and access for more Aboriginal and Torres Strait Islanders communities: having locally based practitioners, consistent and thorough community engagement and rapport building to codesign restorative justice processes and the need for culturally sensitive approaches, focussed on each community's specific needs. Similar to the findings from the Aurukun project (Limerick, 2016, 2017), the ARJP had significant challenges in engendering community consultation, concluding that "Governments must avoid using a one-size-fits-all approach to restorative justice" (Rossner et al., 2024, p. 49).

Another example is the ACT Restorative Justice Scheme, which in 2018 expanded to include domestic and sexual violence matters, incorporating adaptations to enhance participant safety and cultural relevance (Lawler et al., 2025). While the expansion was informed by consultations with Aboriginal and Torres Strait Islander representative organisations, the Scheme's evaluation revealed that referrals of Aboriginal and Torres Strait Islander participants were disproportionately low compared to their population in the ACT (Lawler et al., 2025). Several factors were identified: perceptions of the program as a "soft option", practitioner discretion influencing inconsistent referral practices, and systemic under-reporting of DFV offences in Aboriginal and Torres Strait Islander communities due to widespread distrust of authorities.

Importantly, the evaluation also noted the cultural inappropriateness of holding restorative conferences in correctional settings, which further deterred Indigenous participation. A lack of culturally and linguistically appropriate processes during hearings was cited as a significant barrier. In contrast, Indigenous sentencing courts, such as Circle Courts, are typically held in culturally significant places and organised to reflect relational equality, with all participants seated in a circle at the same level (Barnes et al., 2019). Similarly, the evaluation of the Aurukun Restorative Justice Project in Queensland reported positive outcomes, including community satisfaction

and increased engagement, particularly due to the use of local language (Wik Mungkan) in mediation processes, highlighting the importance of cultural and linguistic safety in program design and delivery (Limerick, 2017).

Another concerning explanation for the low number of Aboriginal and Torres Strait Islander referrals to the ACT Restorative Justice Scheme relates to systemic over-policing and racialised perceptions of risk. Lawler et al. (2025) note the possibility that Aboriginal and Torres Strait Islander individuals, because they are more likely to be criminalised, may also be more likely to be deemed unsuitable for restorative justice due to a presumed higher risk of recidivism. This reflects deeper structural biases in the criminal justice system. Cunneen, Russell and Schwartz (2021) point to a substantial body of Australian research showing that police discretion is often exercised adversely toward Aboriginal and Torres Strait Islander peoples, with young people in particular less likely to be offered diversionary options and more likely to be arrested (Hopkins, 2023). These dynamics raise serious questions about equity, eligibility, and the extent to which “alternative” justice schemes are truly accessible to the communities most affected by criminalisation and state violence.

There is limited documentation in the literature of restorative justice programs that specifically receive referrals from Aboriginal and Torres Strait Islander communities for FV matters. This absence may, in part, reflect definitional challenges surrounding the term “family violence” itself, which can influence both program reporting and evaluation outcomes. As we mentioned, in the evaluation of the Mornington Island Restorative Justice Project, Brunton (2014) noted that community feedback indicated mediation was viewed as appropriate for minor civil disputes and low-level assaults, whereas more serious offences, including sexual and domestic violence, were seen as matters best addressed by police and the courts. However, this community caution appeared to contrast with the evaluation’s quantitative findings, which concluded that the program had contributed to a reduction in “harmful behaviours”, including youth suicide, substance misuse, and DFV (Brunton, 2014, p. 25).

Despite this ambiguity, the project was found to have significantly enhanced the community’s capacity to manage disputes through formal mediation, fostered greater community ownership, reduced reliance on the formal justice system, improved system responsiveness to community needs, and increased satisfaction among victims, offenders, and families (Brunton, 2014). The program later transitioned to full community control through the Junkuri Laka Justice Association and was recognised in 2015 with the Australian Crime and Violence Prevention Award. The award citation highlighted the program’s culturally grounded mediation model, which integrates kinship systems and cultural protocols while still aligning with criminal justice system requirements. As noted by the Mornington Shire Council (2015, para 1),

the project exemplifies how communities, with appropriate support, can effectively resolve conflicts in ways that reflect cultural legitimacy and community-defined justice (Mornington Shire Council, 2015).

Another illustrative example is the Barndimalgu Aboriginal Family Violence Court in Geraldton, Western Australia (WA). In its 2024 submission to the Australian Law Reform Commission's (ALRC) inquiry into justice responses to sexual violence, the Aboriginal Family Legal Service WA described Barndimalgu – WA's only specialist Aboriginal FV court – as a culturally grounded, therapeutic model that incorporates local Aboriginal community members into the court-based case management process. While Barndimalgu is often cited as a more appropriate alternative to conventional justice responses, the submission raised important concerns about the application of restorative justice practices in FV cases, particularly regarding their impacts on those who have experienced harm. It noted evaluation findings indicating that some Aboriginal women continued to experience shame, discomfort, and even feelings of being “punished” by participating in restorative processes (Aboriginal Family Legal Service WA, 2024). These reflections underscore the risk of re-traumatisation in the absence of adequate support systems and culturally safe practices. Despite these concerns, Barndimalgu was recognised for reducing reoffending rates among those who participated, compared to mainstream court processes. These varied findings highlight the need for caution, as well as the importance of proper design, resourcing, and victim support when implementing such programs. In its 2025 report, the ALRC, which received 220 submissions, recommended that Commonwealth, state, and territory governments adopt legislation to make restorative justice available in sexual violence cases, and jointly fund Aboriginal and Torres Strait Islander programs (ALRC, 2025).

These recommendations align with broader calls for justice reinvestment and diversion. Notably, they coincide with those made during the 2025 Kumanjayi Walker coronial inquest, which advocated for an expansion of diversionary programs for Aboriginal and Torres Strait Islander youth (Armitage, 2025). However, this momentum sits uneasily alongside recent developments in the Northern Territory, where the government has announced changes to youth justice regulations that will reclassify a range of offences, including assaulting police and car theft, as “serious.” This change will render affected youth ineligible for diversion, forcing them into the formal court system and undercutting commitments to non-carceral, community-led justice approaches (Ferguson, 2025).

Conclusion

Our exploration of the literature on restorative justice as a response to family violence in Aboriginal and Torres Strait Islander communities has highlighted significant limitations. These include inconsistent definitions of restorative justice, narrow and often inappropriate evaluation methods, and variability in

the extent of Aboriginal and Torres Strait Islander community involvement, leadership, and grounding in cultural knowledge. While restorative justice holds potential as a holistic, culturally grounded, and healing-focused approach, offering possibilities for community ownership, strengthened informal justice, and pathways toward lasting change, it remains constrained by the ongoing legacies of colonialism. These constraints are evident in inconsistent political will, insecure funding models, and a persistent reliance on state-led frameworks that often marginalise Indigenous governance and epistemologies.

For further consideration, Indigenous abolitionist scholars caution that restorative justice, when embedded within settler institutions, can act as a mechanism of co-optation rather than transformation. Indigenous scholars such as Alison Whittaker (see Longman & Whittaker, 2023), Latoya Rule (see Rule & Jarldorn, 2024), Tabatha Lean (2021) and Amanda Porter (2016; see also Gregoire, 2023) argue that reformist logics, including restorative and therapeutic alternatives, may reinforce colonial structures when they fail to centre Indigenous sovereignty and self-determination. As Tuck and Yang (2012, p. 1) contend, such reforms risk becoming “settler moves to innocence,” offering the appearance of justice while leaving the colonial scaffolding intact. Indigenous abolitionist perspectives thus urge a radical reimagining of justice, one that is not grounded in the logic of punishment or reconciliation with the settler state, but in the resurgence of Indigenous legal orders, accountability, and care.

The challenge remains to support Aboriginal and Torres Strait Islander communities not only in delivering restorative justice programs, but in determining the very terms of justice themselves (Cunneen et al., 2023; Cunneen & Tauri, 2019). This requires shifting power, investing in long-term community-led infrastructure, and moving beyond assimilationist reforms toward genuine Indigenous self-governance in matters of justice and healing.

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