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Naming Injustice, Reimagining Justice

How Victim-Survivors of Sexual Violence in Portugal Perceive Criminal Justice and its Alternatives

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Abstract

This thesis addresses the sexual violence justice gap in Portugal descriptively by questioning how victim-survivors of these crimes experience and/or perceive criminal justice, including those that have resorted to formal law and those that haven't. Normatively, it reflects on the justice needs of victim-survivors of sexual violence and connects these needs to the restorative justice movement - an umbrella term for non-carceral responses to sexual violence, including inputs from feminism, abolitionism and social harm theory. It thus aims to explore innovative survivor-centered justice models and draft policy recommendations specific to the Portuguese context.

The data was collected through 7 in-depth semi-structured interviews with female-identifying victim-survivors of sexual violence. Liz Kelly's continuum of sexual violence was used to describe the range of their experiences, namely as some overlapped with domestic violence situations. The theoretical framework centers on Bourdieu's theory of law's symbolic power, reflecting on how the juridical field and other social fields impact the victimological experience of sexual violence, namely focusing on the experience of recognising injustice. In this process, the law is seen, as in Bourdieu, as a constructor of social reality, but his analysis is expanded to include other powerful acts of naming relevant to victim-survivors' process of coming to terms with their victimization.

The research found that, in the Portuguese context, a lack of awareness of gender-based violence and patriarchal cultural norms contribute to the normalization of violence. It finds that the recognition of violence is hindered by this context, and that emphasis should be placed on understanding the barriers to this recognition. In crimes of sexual violence, it is found that law's symbolic power is eroded due to a widespread notion of their impunity, affecting law's legitimacy and thus its normativity. This is tied to a disbelief in punishment as a solution for crime, and to an interest in alternative, non-carceral justice models. The research finds that victim-survivors already fulfill some of their justice needs through means beyond the law, showing how these should be further investigated as models of survivor-centered justice.

Keywords: Sexual Violence; Restorative Justice; Criminal Justice; Gender-based Violence; Access to Justice.

“I have come to believe over and over again that what is most important to me must be spoken, made verbal and shared, even at the risk of having it bruised or misunderstood.

(...)

And it is never without fear - of visibility, of the harsh light of scrutiny and perhaps judgment, of pain, of death. But we have lived through all of those already, in silence, except death.

(...)

And where the words of women are crying to be heard, we must each of us recognize our responsibility to seek those words out, to read them and share them and examine them in their pertinence to our lives.

(...)

And there are so many silences to be broken.”

Audre Lorde in *Sister Outsider* (1984)

“Chegou o momento em que nossa semente gerou, nossa espiral de entrepalavras se alargou, e de cada uma de nós se vem tornando menos o que fica fora (...)”¹

Maria Isabel Barreno, Maria Velho da Costa & Maria Teresa Horta in *Novas Cartas Portuguesas* (1972)

¹ My translation: *The moment has come in which our seed has germinated, our spiral of words has widened, and of each of us what is left out becomes less (...).*

The *New Portuguese Letters* was a book written by 3 women during the Portuguese dictatorship, in 1972. They were prosecuted for its content, which addressed the situation of the Portuguese woman, eroticism, colonialism and other topics. Their prosecution led to an international feminist campaign reclaiming their freedom which seriously harmed the regime and contributed to its downfall in 1974.

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Abbreviations

APAV - Associação Portuguesa de Apoio à Vítima (*Portuguese Association of Victim Support*)

CJ - Criminal justice

DV - Domestic Violence

GBV - Gender-Based Violence

PPC - Portuguese Penal Code

PTSD - Post-Traumatic Stress Disorder

RJ - Restorative Justice

SV - Sexual Violence

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CHAPTER I - INTRODUCTION

This thesis aims to explore how victim-survivors of sexual violence in Portugal conceptualize justice beyond the criminal justice system, assessing both their current experience of the law and their perception of how it could be improved, reimagining justice solutions for SV. This will help to better address the sexual violence justice gap (McGlynn & Westmarland, 2018, p. 180) in the country, understanding if and why the dissatisfaction of victim-survivors with CJ remains despite decades of legal reform on the area of gender-based violence. This topic will expand on what is known about the justice experience of SV victim-survivors in Portugal and serve as a case study for the broader field of alternative justice theories, namely focusing on RJ as an umbrella term for alternative justice theories, including abolitionist, social harm and feminist perspectives. Understanding justice and injustice as normative experiences worthy of socio-legal analysis, making use of Bourdieu's (1987) reflections on injustice and law's symbolic power, this thesis will provide a platform for the often shamed and silenced voices of SV victim-survivors.

The sexual violence justice gap describes how, regardless of policy and legal interventions, studies continue to show that the current justice system is not satisfying for victim-survivors (McGlynn & Westmarland, 2018, p. 180), and that traditional models of justice fail female victims (Jülich & Thorburn, 2017, p. 41). This gap has led to an *accountability gap* for offenders (Keenan et al., 2016, p. 107), leaving victims *without a sense of justice* and often re-victimized (Jülich & Thorburn, 2017, p. 34), and encompasses well-known issues - the lack of reporting of SV crimes, high levels of offender impunity, low or inefficient convictions, among others.

This socio-legal research serves both a descriptive and a normative function. Firstly, through an external view of the law typical of socio-legal studies, the social practices in SV justice procedures will be described (Banakar, 2019, p. 2), assessing the current effectiveness of legal mechanisms in assisting these victims of crime. This type of research is common in feminist socio-legal studies, with many

emphasizing how law shows *limited ability to deliver justice in cases of gender-based violence* (Antonsdóttir, 2020, p. 17). It builds on survivor-centered justice scholarship, which goes beyond punitive measures to uncover holistic solutions to the societal issue of SV (Antonsdóttir, 2019, p. 719).

Secondly, this thesis will explore normative concepts of justice, by asking whether alternatives to CJ, namely those under the umbrella of RJ, are worth pursuing in the field of SV, according to these victim-survivors' expressed needs and experiences. By *decentering criminal law in the imaginative space of justice* (*ibid*, p. 22), truly revolutionary outcomes for how we, as a society, handle crime and harm are made possible. Banakar (2015) claims that Sociology of Law has often shied away from questions of justice, relegating it to the realms of legal philosophy and morality. However, justice is law's primary source of normativity, for it is the justice of law that deems it legitimate (*ibid*, p. 224), departing from a positivist conception of law that deems it separate from morality (*ibid*, p. 225). Any analysis of law that situates it in the context of social order thus necessarily raises questions of justice, as it is an integral part of the human community underlying the legal system (*ibid*, p. 236).

The data collection consisted of 7 semi-structured in-depth interviews with female victim-survivors of SV. Liz Kelly's concept of the continuum of sexual violence was adopted to emphasize that *sexual violence is a characteristic feature of all women's lives* (Kelly, 1991, p. 88), and how multiple forms of SV exist and affect subjects differently. This concept helps recognize *grey areas*, allows people to name their own experiences and provides a gendered analysis to SV (Boyle, 2018, p. 19, 31-32). These multiple forms of SV include the interaction with other forms of violence, in particular domestic violence, which is evident in the experience of these participants. The SV continuum is useful as an analytical category in showing how forms of violence are not impermeable, often overlapping, and how approaching them in isolation is an illusion, as their boundaries are ever-shifting (Kelly, 1991, p. 107). While I refer to the variety of victim-survivor experiences through the concept of *sexual violence*, I wish to emphasise that this often includes other forms of GBV and that these experiences are inseparable.

The sexual violence continuum also enables the research to look beyond the subject's relationship with formal law, meaning the participants can categorize the forms of SV they have experienced themselves (Antonsdóttir, 2020, p. 17), which can shed light on whether these experiences are encompassed by the law or not. The choice of the term victim-survivors similarly serves a double purpose. Firstly, it encompasses more than the procedural dimension underlying in *victim*, including those who are not victims in the formal legal sense. Secondly, feminist scholarship has pointed to the way terminology reflects issues of agency and empowerment in the face of victimization (Antonsdóttir, 2020, p. 15), with *survivor* emphasizing the ability to take control of one's own narrative.

Significance

Previous studies have found that conventional CJ does not encompass the complexity of the experience of victimization (McGlynn & Westmarland, 2018, p. 182) and that victims are dissatisfied with these processes (Mercer et al., 2015, p. 11). The impact of SV includes mental health issues such as PTSD, anxiety, depression, suicide (attempts), substance abuse; and physical health issues such as gastrointestinal and gynecological problems, sexually transmitted diseases and chronic pain. Emotional, psychological and economic consequences, as well as impacts on health, self-esteem and well-being that extend to victims, families and communities have been reported (Jülich & Thorburn, 2017, p. 34; Keenan et al., 2016, p. 89).

Decades of feminist advocating for legal reform, while heralding important victories, seem to have had limited effect in preventing the prevalence of SV (McGlynn et al., 2012, p. 239). McGlynn & Westmarland (2018, p. 180) state that understanding victim-survivor's justice interests is essential for addressing this justice gap - *only when we appreciate, and then act on, how victim-survivors themselves conceptualize justice will we begin to address the failings of current approaches and – most importantly – be able to envision new ways of securing justice.*

This poses the question as a socio-legal gap problem between the *is* and the *ought* for victim-survivors of SV in Portugal, the *is* being the justice they are currently offered and the *ought* being the justice they would wish to be granted. This topic will thus contribute towards the theorizing of RJ theories in Sociology of Law as normative theories, and towards reflecting on justice as a distinctly socio-legal topic. Socio-legal scholarship has often overemphasized its empirical mission, to the detriment of its role in theory-building on normativity (*ibid*, p. 235). Analyzing empirical material through the antagonism between theories of RJ and the hegemonic theory of CJ is a way in which Sociology of Law can contribute to this normative discussion.

Research Questions

This research aims to address the sexual violence justice gap in Portugal by understanding the experience of victimization in SV crimes, including the aspects in which victim-survivors interact with the CJ system and those in which they choose not to. It will thus evaluate the relation between these experiences and a set of alternative justice theories under the umbrella of RJ.

1. How do victim-survivors of sexual violence experience and/or perceive formal criminal justice in Portugal?
2. How do alternative justice theories relate to the expressed justice needs of victim-survivors of sexual violence?
3. How does the recognition of sexual violence victimhood relate to law's symbolic power of determining social reality?
 - a. How does this recognition take place within and beyond the juridical field?

Structure of Thesis

The thesis is divided into several chapters. Chapter II will introduce the background of SV reality in Portugal, including the current legal framework applicable in these cases and what is known on the sexual violence justice gap. Chapter III consists of the literature review, including 5 main topics. Chapter IV introduces the theoretical framework in interaction with the literature review. Chapter V describes the methodology of the thesis, including issues of ethics and reflexivity. Chapter VI consists of the presentation of results and analysis, commenting on their connection with the findings in the literature, as well as on how these results are interpreted in light of Bourdieu's theory. Finally, Chapter VII consists of the concluding remarks, in which specificities of the Portuguese context are highlighted and conclusions on justice for SV victim-survivors are drawn, including some context-specific policy recommendations.

CHAPTER II - BACKGROUND

The Portuguese Context – Prevalence and History

This thesis topic will contribute to the literature on sexual violence in Portugal and can be used to support evidence-based policies to fight it. SV is a serious issue in Portugal, more pressing due to the lack of systematic and comprehensive knowledge on it. Portugal has one of the lowest European report rates of the crime of rape (3 out of every 100.000 people), according to a survey by the EU Agency for Fundamental Rights¹ (2014). However, the same survey showed that Portuguese women are among those that most consider violence against women as very common, with 93% of those surveyed answering favorably.

It is impossible to know the exact dimension of the problem, especially in Portugal, as there have been no national victimization surveys, meaning that policy relies entirely on official crime statistics (Machado et al., 2018, p. 159). No studies have been conducted on the dark figures of crime, i. e. the actual occurrence of these crimes as opposed to their reported figures (APAV, 2019, p. 62). The most recent Annual Report on Internal Security (Relatório Anual de Segurança Interna, 2019) points towards a growing tendency in SV crime reporting in Portugal, with 431 rapes reported in 2019, compared to 335 in 2016, for example.

Data shared by APAV, the biggest Portuguese victim-support, on the victims they have supported shows the same tendency of increasing reporting of these crimes, with the number of overall SV crime victims resorting to APAV going from 506 in 2013 to 1167 in 2018. It is unclear whether this means an actual increase in the occurrence of crimes, or an increase in their report. Regarding the gender of those involved, in 2019, in the 431 reported crimes of rape, 99.3% of perpetrators were male and 91.9% of victims female. Regarding their previous relationship, only 26.4% of perpetrators were strangers to the victim (Segurança Interna, 2019, pp. 45-46).

¹ https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf

Illustrating the accountability gap in Portugal, in 2019 only 15.7% of the 431 rape reports actually lead to the opening of an investigation (Relatório Anual de Segurança Interna, 2019), either because the evidence was considered insufficient or because the victims chose to withdraw their report when the crime was reported *ex parte*. Data from the Ministry of Justice shows that in 2016, out of 335 rape investigations (Relatório Anual de Segurança Interna, 2016), only 106 perpetrators were convicted and only 62 of these served an actual prison sentence since their penalties were suspended (Oliveira, 2018). The suspension of penalties is foreseen in article 50º of the PPC for penalties under 5 years, and in cases of SV the high frequency of these has been tied to a historical devaluation of these crimes and to the unpreparedness of legal professionals for this topic (Oliveira, 2018).

The legal framework for SV crimes in Portugal has historically considered these as moral crimes since their criminalization in 1852, with the legal interest at stake considered the *general feelings of morality*² up until 1995. They are now considered crimes against the person, more specifically, *crimes against freedom and sexual self determination*³. In the 1995 reform we see a shift from an understanding of society and its patriarchal values as the victim in these crimes, towards seeing the individual - entitled to sexual freedom and autonomy - as the victim. The 1995 reform also expanded the concept of rape to include sexual acts other than vaginal penetration, but it was only in 1998 that the mention of the victim as female was removed from the law (Moreira, 2016, pp. 12-14), consequently criminalizing SV against men and SV in homosexual relationships. A recent reform in 2019 aimed at fulfilling the requirements of the Istanbul Convention, defining crimes of SV through the absence of consent, rather than through constraint (Law 101/2019⁴, issued on September 6th).

² My translation. Original: “Sentimentos gerais de moralidade sexual”.

³ My translation. Original: “Crimes contra a liberdade e autodeterminação sexual”

⁴http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=3142&tabela=leis&ficha=1&pagina=1&so_miolo=

Legal Framework

In the matter of sexual violence and domestic violence, the Istanbul Convention⁵, issued by the Council of Europe on April 12th, 2011, is an important framework for fighting violence against women. It has been ratified by Portugal and transposed in Parliamentary Resolution nr. 4/2013⁶, issued on January 21st, and includes several legal rights of victims of gender-based violence. Victims of SV crimes are also granted the Statute of Victim in Portugal, according to Law nr. 130/2015⁷, issued on September 4th, which includes a variety of legal rights for victims of different types of crimes in accordance with EU legislation. These importantly include the principles of equality, confidentiality and consent (articles 3º, 6º and 7º), as well as the right to information, including legal support (article 11º).

They may furthermore be attributed the statute of *especially vulnerable victims*, which grants victims rights such as that of being heard by same-gender magistrates in the case of SV, measures to avoid contact between the victim and the alleged offender, among others (article 21º). However, this statute is granted on a casuistic basis - the initiative to grant it must depart from the legal professionals who receive the victim's report, according to article 20º, and no specific criteria is described, meaning applicability relies solely on the decision of these legal professionals.

In terms of the timeframe and the capacity for reporting SV crimes, it depends on the type of relationship the victim and the perpetrator have. If they have one of the relationships mentioned in article 152º of the PPC - (ex-)spouses; (ex-) boy/girlfriends (regardless of cohabitation); co-parents; particularly defenseless cohabiting person for reasons of age, disability, illness, pregnancy or economic dependence - any *sexual offenses* will be considered part of a DV situation. In this case, as well as when the victim is a minor, or when the victim dies or commits suicide as a result of the crime (according to article 178º of the PPC), the SV crimes

⁵ <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210>

⁶ http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1878&tabela=leis

⁷ https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?tabela=leis&nid=2394&pagina=1&ficha=1

are *public* which means they are prosecuted *ex officio* and anyone can report them. In the remaining cases, the crime is *semi-public* and so prosecuted *ex parte* - upon report by the victim - according to article 178°. Semi-public crimes are prosecuted *ex parte*, meaning the affected party must report the crime and do so within 6 months of the fact in order to timely lead to an investigation.

Public crimes can be reported by anyone until the crimes themselves prescribe, in 2, 5, 10 or 15 years depending on the severity of their penalties, in accordance with article 118° of the PPC. Public crimes will be automatically investigated, whereas semi-public crimes will only be investigated if the victim chooses to file a valid complaint, according to article 242° of the Portuguese Penal Process Code, nr. 3. Furthermore, the victim in semi-public crimes retains the right to desist, stopping the investigation, whereas that is not the case in public crimes. This short period during which the victim can report SV crimes if they are semi-public fosters the scarce number of reports and thus the accountability gap.

This thesis can contribute to a current discussion regarding who should be able to report these crimes and when. Political parties from different quadrants have presented bills that propose making the crimes of rape, sexual coercion and abuse of person incapable of resisting (articles 163° - 165° of the PPC), public, meaning: that these crimes would be investigated regardless of the victim's report; that anyone could report these crimes; and that the right to report them would not prescribe in 6 months. The Istanbul Convention states that the report of SV crimes should not rely solely on the victim's initiative (article 55°), implying that the enforcement of the Convention could be at stake.

An online petition⁸ with over 65.000 signatures asks for the speedy Parliamentary evaluation of the matter and bids the MPs to decide in favor of making the crime public, showing how civil society has been engaging with the issue of SV and the need to address the justice gap. In the past years, several feminist demonstrations have been held in reaction to sexist court decisions in cases of SV and DV, and GBV has increasingly been debated as a public priority. This

⁸ <https://peticaopublica.com/pview.aspx?pi=PT107082>

issue reflects the contrast between the public and private interests in justice that RJ and other alternative forms of justice reflect (Zinsstag & Keenan, 2019, p. 46), as well as on the effectiveness of carceral responses to SV. Therefore, the data collected may shed light on victim-survivors' justice interests, and on what benefits and risks are present in this legislative suggestion and other future discussions.

CHAPTER III - LITERATURE REVIEW

This chapter is divided into 5 thematic sections that aim to encompass the relevant fields interacting with the proposed research questions. In each section, a set of terms was inserted into Google Scholar and the most relevant papers were selected. Snowballing through the references of these articles led to reaching even more literature. The main findings are summarised as follows, and the research gap is presented in the end, highlighting what will be innovative about this research in relation to the existing literature (Hart, 1998, p. 109).

Restorative Justice and Alternative Justice Theories

In this section, the connection between restorative justice and other alternative justice theories and movements is explored, reflecting on its relation to State law and to traditional criminal justice. RJ does not have a single homogeneous definition (Keenan et al., 2016, p. 91), being an umbrella term for a set of policies that focus on repairing the harm done to all parties and their relationships in the aftermath of crime (Zinsstag & Keenan, 2019, p. 2; McGlyn et al., 2012, p. 215), rather than punishing those who commit a crime, as well as a set of core principles and values that propose to center victim-survivors' needs in justice proceedings (Wemmers, 2009, p. 400). It can also be seen as a social movement that disrupts traditional theories of justice (Zinsstag & Keenan, 2019, pp. 2-3). Since the 1970s, it arose from other grassroots social movements, and is, in this sense, a philosophy aiming to humanize justice for victims, offenders and communities (Zinsstag & Keenan, 2019, p. 4). It originated from concerns with the fair treatment of offenders but has arguably evolved towards a victim-centered philosophy.

The relationship between RJ and CJ is one defined by a struggle for hegemony and the power to determine the law, with RJ being a counter-hegemonic social movement (Woolford & Ratner, 2003, p. 188). RJ advocates are *outsiders within* (*ibid*, p. 177), as they on the one hand can be assimilated into the wider CJ system while carving space for reform of that same CJ system. The relationship of RJ with the CJ system reflects divergences in the RJ movement itself: some, aiming

for transformative, structural changes, criticize the co-optation of certain RJ processes, stating that these become spaces in which hegemonic consent for the wider legal system is manufactured, instead of actively opposing that system (*ibid*, pp. 189). Some point to the carceral co-optation in the RJ movement, serving to legitimize the aims of the carceral state (Kim, 2019, p. 311), and claim that the RJ movement is constantly at risk of disappearance and assimilation into the CJ system (*ibid*, p. 323).

To understand the overlapping theories which shape the identity of RJ and its relationship to criminal law, the analytical categories in Pali's (2019) integrative framework for addressing SV are helpful. She focuses on four critical criminology theories, highlighting the need to foster dialogue between these to develop restorative solutions for SV, acknowledging their limits and their strengths. These theories are not homogeneous and their boundaries are not rigid, as they interact and possess, within them, a multiplicity of particular standpoints (Pali, 2019, p. 28).

Firstly, feminist theories on SV are marked by a split between carceral and abolitionist feminism. Historically, feminist anti-SV advocating has focused on carceral solutions (Pali, 2019, p. 29; Kim, 2019, p. 220; McGlynn, 2011, pp. 825-826). This can be linked to the pivotal feminist debate regarding the public and private sphere, in which certain phenomena deemed as private, such as DV, domestic labor or SV, were established as matters of public interest, transforming the relationship between state, family and society (Fletcher, 2002, p. 154). The law was therefore important to acknowledge these issues as socially condemnable, serving a symbolic function (Pali, 2019, p. 29; McGlynn, 2011, p. 826). Carceral feminism is imbued with *legal optimism* – a strong belief in criminal law's ability to tackle social problems (Hansen et al., 2020, p. 43).

Some feminists, falling under the umbrella term of *abolitionist feminists*, criticize this overreliance on the symbolic function of law that overlooks the practical effects of neoliberal mass incarceration agendas that have co-opted the movement (Hudson, 1998; McGlynn, 2011, p. 837), with SV victims being instrumentalized for the prosecution of racist securitization policies (Pali, 2019, p. 30). Davis (2003, p. 63) shows how the prison system can be a site of SV itself,

reporting on her own experience of imprisonment and *state sexual assault*. Abolitionists are skeptical of the overreliance on criminal law and punishment for achieving social change and safety, emphasizing that CJ can overlook racial and ethnic minority group women (Daly & Stubbs, 2006, p. 14).

Abolitionist feminism calls upon notions of survivor-centered justice, as its critique of CJ is rooted in its failure in addressing victim-survivors' needs - secondary victimization, low rates of reporting, prosecution and conviction are stark illustrations, adding to the disproportionate incarceration of racialized men (Pali, 2019, p. 30). Many victim-survivors have expressed that they would rather their offenders were not incarcerated, especially if they are related to them (Hudson, 2002, pp. 621-622; McGlynn & Westmarland, 2018, p. 187). Victim-survivors in marginalized communities, in particular, may be aware of the inequalities of the prison system and not wish it upon their offender. As one black trans participant in Jordan et al. (2020, p. 539) puts it, *I don't want the system to eat up another brown trans person*.

Secondly, abolitionist theories propose ending the criminalization of SV, removing our justice system's focus on the punishment of offenders, placing these conflicts back in the lifeworld and the communities in which they occur (Pali, 2019, p. 31). Abolitionists argue that the CJ system ironically spends more resources on punishment than on prevention or victim support, and that punishment is ineffective as a detractor to crime (Hudson, 1998, p. 240). Moreover, they morally criticize punishment as legitimizing the state to provoke suffering in the offender, additional to the suffering already experienced by the victim (*ibid*, p. 254). They also note how those who get punished are predominantly the marginalized and the disempowered (*ibid*, p. 255; Davis, 2003). Abolitionism has been criticized for offering no analysis of the gendered nature of these crimes, and for overlooking the disregard these crimes still garner which could be heightened by decriminalization (Pali, 2019, p. 31).

Thirdly, social harm theories on SV propose that crimes are defined in a more overtly political manner that acknowledges the different types of harm - social, economic, psychological and environmental - caused by crime. Therefore,

immoral but not illegal acts, considering the harms they cause, are included in their analysis regardless of criminalization (Pali, 2019, p. 32). These focus less on replacing punishment than on identifying the harms in need of being addressed, in order to achieve social justice (*ibid*, p. 33).

Finally, Pali defines the restorative response as defining SV events as a disturbance of social relations, rather than a breach of legal norms (Pali, 2019, p. 33). RJ scholars such as, paradigmatically, Nils Christie have focused on how the conflict in the CJ system is seen as harm perpetrated on the state, *substituting the state for the individual as victim* (Hudson, 1998, p. 240), excluding the victim and even the offender from consideration (*ibid*; Christie, 1977). RJ alternatives thus propose collaborative community-based justice processes, focusing on the free and safe expression of those involved and on ways to repair harm, including but not limited to carceral punishment (*ibid*).

The Engagement of Victim-Survivors and Other Parties with Restorative Justice

Concrete restorative justice practices that have been used in cases of SV are face-to-face practices (Mercer et al., 2015, p. 39) – Victim-Offender Mediation, Conferencing and Family Group Conferences – and indirect methods (*ibid*, p. 42) – exchanging letters through a mediator, for example. Several scholars have conducted research on the use of RJ on cases of SV and its evaluation by victim-survivors and other stakeholders, both in practice and in theory. Feminist scholars and practitioners, in particular, have debated whether RJ would be useful in contexts of *partner, sexual or family violence*, as these are the areas in which women are most likely to come into contact with the justice system and in which gender is an important factor (Daly & Stubbs, 2006, p. 9).

Regarding victim-survivors, concerns have been raised on their safety, as these are informal processes (Daly & Stubbs, 2006, p. 17; Daly, 2013, p. 8). Furthermore, some argue that the dynamic of RJ may pressure them to accept entering the process, or that they may be coerced into accepting an apology from the offender (Daly & Stubbs, 2006, pp. 17 & 19; Herman, 2005, p. 587), and that

some victims may not be effective self-advocates (Mercer et al., 2015, p. 17; Daly, 2013, p. 8). Victims have expressed fearing re-victimization (Marsh & Wager, 2015, p. 354), while it should be noted that this is a risk in any justice activity (Daly, 2013, p. 17).

When balancing the interests of victim-survivors and offenders, feminists mostly focus on victim-survivors, whereas racial and ethnic minority groups focus on the treatment of suspects and offenders. Some claim that it leaves them unprotected (Hudson, 2002, p. 618), raising concerns for their due process rights (Keenan et al., 2016, p. 105). This is partly because the facilitator in RJ practices is not neutral (Marsh & Wager, 2015, p. 341), which proponents of RJ argue is essential to acknowledge power imbalances (Jülich & Thorburn, 2017, p. 40).

Others, on the contrary, claim that RJ shows offenders *too much compassion* (Acorn, *apud* Daly & Stubbs, 2006, p. 13-14), consisting of a soft mode of justice (McGlynn, 2011, p. 829) that may have little impact in offenders and leave their behavior unchanged (Daly & Stubbs, 2006, p. 17). Some claim that offenders can manipulate the process through blame shifting and trivializing victim-survivors' testimonies (Daly & Stubbs, 2006, p. 17). The adult victim-survivors of child sexual abuse in Jülich (2006)'s study emphasized the fear that RJ would not adequately address the power dynamics in such situations (*ibid*, p. 133) and that it would hardly be victim-centered (*ibid*, p. 135).

Some feminist critiques of RJ highlight that it does not address structural inequalities and may perpetuate coercive tactics intrinsic to gendered harm (Jülich & Thorburn, 2017, pp. 39-40). This is why it is important that facilitators are knowledgeable about gendered violence (Daly, 2013, p. 17; Marsh & Wager, 2015, p. 341; Mercer et al., 2015, p. 45), but often RJ advocates are poorly informed on its specificities (Daly & Stubbs, 2006, p. 9). The participants in Jülich (2006)'s study expressed fear that women in the community would bear the burden of both ensuring the safety of victims and reintegrating offenders (*ibid*, p. 134).

One of the particularities of RJ is its emphasis on the community, assuming that differences can be reconciled collectively. However, this assumes that a community shares core beliefs and values, and when that is not the case there is a

risk that some are othered in RJ (Daly & Stubbs, 2006, p. 14). Furthermore, community norms may actually strengthen male dominance and victim-blaming (Daly & Stubbs, 2006, p. 17; Daly, 2013, p. 8).

Another issue is that of mixed or conflicting loyalties - a community may want to support both victims and offenders (Daly & Stubbs, 2006, p. 17; Daly, 2013, p. 8; Mercer et al., 2015, p. 17), and participants in RJ processes may collude with the offender (Jülich & Thorburn, 2017, p. 41). Families or wider communities may passively tolerate the offender's actions or even actively excuse and protect them (Herman, 2005, p. 584). In particular, social justice movements and activist communities may present specific forms of resistance to the disclosure of violence, consisting of another form of violence (Downes, 2017, p. 37).

The debate on the potential of RJ is dominated by a lack of empirical evidence (McGlynn, 2011, p. 829), occurring in an *empirical vacuum* (McGlynn et al., 2012, p. 218). There are very few jurisdictions that use RJ for SV, placing the debate on the theoretical and ideological level, on the grounds of principles (Daly, 2013, p. 7; Jülich & Thorburn, 2017, p. 41). A notable exception is Koss (2013)'s evaluation of project RESTORE, in New Zealand. This program used conferencing for adult sexual assault cases. In the 22 cases assessing the conferencing experience, the participants most satisfied were actually the victim-survivors, in line with literature claiming that conferences may be more beneficial to them than courts (*ibid*, p. 1654). The offenders were mostly successful in handling the process and fulfilling the supervision requirements and re-dress plans issued (*ibid*).

The several potential benefits in endorsing RJ, often linked to how it differs from CJ, are worth exploring. Proponents of RJ emphasize its potential for including victim-survivors' voices and fostering their participation in decision-making, promoting the validation of their narrative and the responsibility of offenders. RJ creates a flexible and communicative environment that is responsive to individual needs, including the possible desire for victims to maintain a relationship with the offender (Daly & Stubbs, 2006, p. 22; Daly, 2013, p. 8), which is particularly relevant, as often offenders of SV have some kind of relationship with the victim (Mercer et al., 2015, p. 12).

This grants victim-survivors control over their narrative and honors their experience (McGlynn et al., 2012, p. 234). The matter of control is particularly dear to SV victim-survivors (Herman, 2005, p. 574; Regehr & Alaggia, 2006, p. 40), since the experience of SV is in itself disempowering (Jülich & Thorburn, 2017, p. 35), as well as the court experience - in CJ proceedings, victim-survivors can be ignored by the offender, may not be able to tell their story in their own words and constantly see their experience translated into the foreign legal language (Hudson, 2002, p. 624).

Importantly, RJ practices require acknowledgment of responsibility by the offender - contrarily to CJ, *there is no fact-finding* (McGlynn, 2011, p. 829) as the roles of victim and offender are clearly established (McGlynn et al., 2012, p. 216). This is particularly important in SV, as offenders typically use denial as their defense strategy in court, leading to re-traumatization of victim-survivors and emotionally challenging court procedures, which can be exacerbated by a *not guilty* verdict (Jülich & Thorburn, 2017, p. 40). RJ processes can also foster the rehabilitation of offenders through genuine accountability (Mercer et al., 2015, p. 12).

In this respect, Hudson (2002, p. 622) cautions for the difficulty in reaching consensus between such different views as that of offender and victim, but ideally RJ promotes dialogue and interaction in ways that do not minimize the harm done to victim-survivors and that challenge offenders' denial of victim-survivors' narratives (Daly, 2013, p. 8), enabling victims and not verdicts to name their own experiences (McGlynn et al., 2012, p. 214). The procedural flexibility in RJ provides care and support to victims (Marsh & Wager, 2015, p. 339), resulting in closure and therapeutic benefits that some argue should not be seen as separate from societal ideals of justice as they are in CJ (McGlynn, 2011, p. 835). In sum, RJ processes may foster autonomy and the overall regaining of victim-survivors' power (McGlynn, 2011, p. 828; Marsh & Wager, 2015, p. 339), which may increase victim satisfaction and participation in justice proceedings (Marsh & Wager, 2015, p. 339).

In terms of the extended *community of care* (the friends and relatives of victim-survivors and offenders), RJ involves re-educative effects (Hudson, 2002, p. 627). This is important because their reaction and the support they (do not) provide can highly impact family relations and the social life of victim-survivors (Mercer et al., 2015, p. 16). It provides justice that, unlike CJ, is not dichotomous - *you either get it or you don't* (Glynn & Westmarland, 2019, p. 181). Whereas in CJ victims without a conviction are left with no sort of justice, feeling abandoned, discontent and traumatized at times (Regehr & Alaggia, 2006, p. 41), RJ provides additional and nuanced possibilities of justice.

The Engagement of Victim-survivors with the Criminal Justice System

The literature on SV victim-survivors' (often negative) engagement with CJ is far-reaching, with the discontentment with CJ lying at the heart of the search for justice alternatives such as RJ. While secondary victimization is not exclusive to SV, referring to *the negative societal reactions that victims may experience in the aftermath of a crime* (Montada, *apud* Antonsdóttir, 2018, p. 308) it has been especially linked to these crimes. Secondary victimization can lead to a decrease in psychological functioning, feelings of self-blame and PTSD, among others (*ibid*). It is partly caused by myths that are pervasive both in legal actors and across society (Julich & Thorburn, 2017, p. 40) and may lead victims to fear not being believed (Keenan et al., 2016, p. 90).

Nils Christie's paradigmatic concept of the *ideal victim* (Christie, 1986) helps enunciate some of these myths and their effects, describing how legislation on SV crimes creates hierarchies of victims, reinforcing stereotypes on male and female sexuality - such as that offenders are male and powerful and that victims are female and vulnerable - according to Smart (*apud* Hudson, 2002, p. 623). Some of the characteristics of the ideal victim have been described as being sober, asexual, virgin, married, religious, modest, non-provocative, among others (Pali, 2019, p. 30).

Thus, law is unable to acknowledge the variety of victim-survivors' experiences and the different ways in which they can be harmed (Hudson, 2002, p. 623). Furthermore, laws across the world have only recently extended to recognize female-to-male SV in heterosexual relationships (Turchik et al., 2015, p. 134) and male-on-male rape was historically classified as sodomy and punishable regardless of consent. While this type of SV has recently been criminalized in many countries, it may still carry different legal implications (Turchik & Edwards, 2012, pp. 216-217).

The detraction of victim-survivors from the CJ system that the pervasiveness of SV myths partly justifies results in the sexual violence justice gap, describing how crimes of SV and DV are *crimes of impunity* (Herman, 2005, p. 574). In terms of CJ's success in preventing SV as a societal phenomenon, there is very little evidence that legal recognition has impacted it (McGlynn, 2011, p. 836). Several barriers to reporting crimes of SV exist and are dependent on social context (Hansen et al., 2020). Literature on rape, for example, shows that shame and social stigma impact this decision (*ibid*, p. 44).

Even when victim-survivors resort to the CJ system, legal and social services practitioners in Regehr & Alaggia (2006)'s study were unanimous that victims expected to feel better after a justice procedure, but in reality didn't, leaving them disappointed (*ibid*, p. 39). Victims' peripheral role (Herman, 2005, p. 581) and lack of information about criminal proceedings can be disempowering (Keenan et al., 2016, p. 90), leaving victims feeling alienated, unimportant to the procedure and devoid of rights (Holder, 2014, p. 189). This is thoroughly illustrated by Antonsdóttir (2018), showing how the limited procedural rights of victims in some jurisdictions that ascribe them the role of *witness* provoke anxiety, misinformation and re-traumatization.

Regarding the potential benefits for victim-survivors in engaging with CJ, procedural justice has been shown to be important for some victims (McGlynn, 2011, p. 834). This is tied to CJ's symbolic power, as the courts and other legal institutions confer seriousness to crimes of SV. One benefit of CJ is that it condemns the class of behaviors in which the victim-survivors' experience can be

contextualized and, as Hudson (2002, p. 629) puts it, *the ceremony of law matters*. Many victims do wish for the punishment of offenders, and some argue that the judicial system was never meant to provide healing or handle the psychological consequences of victimization (Regehr & Alaggia, 2006, pp. 39-40), meaning issues related to that may be addressed through strengthening social services.

Much due to feminist organizing on the issue of SV and its impunity, several countries have introduced reforms to prevent secondary victimization, such as forbidding evidence relating to the victim's sexual history, expanding criminalized behaviors (such as criminalizing marital rape) and introducing victim impact statements (Keenan et al., 2016, p. 90). Special police units for investigation, specific courts, victim liaison officers are other examples (*ibid*) of an overall increased recognition of victim's rights and needs in the CJ system (Regehr & Alaggia, 2006, p. 35).

Victim-survivors' Perceptions of Justice

Survivor-centered justice has been approached by several authors attempting to understand how victim-survivors of sexual violence conceptualize justice, mainly through in-depth interviews with victim-survivors that have or haven't resorted to the CJ system. Above all, this literature emphasizes the variety of women's experiences of SV and of their expectations from justice (McGlynn et al., 2012, p. 234). Indeed, *because there is no one way to experience sexual violence, there can be no singular justice solution* (McGlynn & Westmarland, 2019, p. 196).

Kaleidoscopic justice (McGlynn & Westmarland, 2018) encompasses a set of justice themes for victim-survivors that I will use as a framework to describe the main findings of this theme:

Consequences: This has been likened to the notion of *accountability*, such as in Jülich (2006, pp. 129-120) and Herman (2005, p. 589). Participants in many studies express that there must be an effect on the offender, which includes but goes beyond punishment through a prison sentence. Some wished for priority in joining community or family events when both offender and victim-survivor share a space

or community, for example (*ibid*). They also wished for safety for themselves and the community through limiting the offender's freedom using different means, with arrest as a last resort (*ibid*), preferring informal means of social control when possible (*ibid*, p. 596).

These consequences include a wider, holistic sense of responsibility of offenders through meaningful consequences (McGlynn & Westmarland, 2018, p. 186), including, for some, a prison sentence. Many, however, denounced CJ's limited ability to bring forth meaningful consequences and mentioned other priorities such as exposure of the offender and loss of their social status in the community (Herman, 2005, p. 594), an admission of guilt or the need to undergo counseling to prevent reoffending. Regarding public exposure, participants in Regehr & Alaggia (2006, p. 38)'s study, including therapists and victim advocates, noted how the courts can serve this purpose.

Recognition: Participants wanted their victimization and their harm to be recognized as true, to be believed by offenders and communities that should acknowledge the significance of the experience, and of the victim-survivor as a person. Some participants wished to show offenders how the violence impacted them and hear them recognize that what they did was wrong (McGlynn & Westmarland, 2018, p. 188). Herman (2005, p. 585) mentions validation as the most important need for victim-survivors, including confession by the offender, as well as the belief of by-standers, family or legal authorities (similarly, Jülich, 2006, p. 130). Vindication, furthermore, meant communities taking a stance in condemning the offense and holding the offender accountable, as well as the restoration of their relationship with the community (Herman, 2005, pp. 585-586). Participants also valued the potential of sincere apologies that took responsibility for and acknowledged the harm done (*ibid*, p. 586).

Dignity: replacing procedural justice, it is an extension of recognition, meaning that the victim-survivor is treated with respect and dignity for their personhood. This includes keeping her informed, treating her as a subject and respecting her will (McGlynn & Westmarland, 2018, pp. 190-191). This would

imply allowing victim-survivors to be more involved in the process of justice, rather than being a mere witness (Jülich, 2006, p. 131).

Voice: beyond the ability to tell their story in a safe forum (*ibid*, p. 129; McGlynn & Westmarland, 2018, p. 191), justice as voice includes victim-survivors' possibility to impact decision-making and the direction of the justice process, as well as the opportunity to make sense of their experience and share that with the offender and the community. This responds to claims that CJ treats victim-survivors as evidence and does not foster dialogue or the opportunity for the victim to express her views (Jülich, 2006, p. 129), and allows the victim to become a survivor by re-narrating her life story (Mercer et al., 2015, p. 12). Exercising this is however not suitable for all victim-survivors, and will depend on their stage of healing and their support systems, for example (McGlynn & Westmarland, 2018, pp. 191-192).

Prevention: the prevention of SV was essential for all participants, suggesting means such as media campaigns, school interventions and conduction of research on the issue (*ibid*, p. 193). This need calls upon broader notions of transformative justice to enact profound social change (*ibid*, p. 194), understanding personal violence as part of larger contexts of structural violence (*ibid*, p. 196).

Connectedness: Ultimately, justice for victim-survivors is about healing and the possibility to lead a normal life, belonging to a society in which they have a voice and are treated with dignity. This might mean justice as aiding victims in rebuilding their lives materially - through compensation, housing, employment, health or legal aid, stressing the importance of constant and caring support services (*ibid*, pp. 194-195). This is both a means and an end - these survival services are means to enable victim-survivors' voices to be heard, but they also are ends in themselves by recognizing their personal dignity, representing an embodied sense of justice (*ibid*).

To conclude, neither RJ nor CJ are a perfect fit for any and all victim-survivors. Herman (2005) found that participant's views of justice were neither fully restorative nor fully retributive. CJ's aims of deterrence, retribution, incapacitation and rehabilitation were mostly not endorsed by the participants in her study, with incapacitation being the only prevailing one (*ibid*, p. 597). Similarly,

in her study with DV victims, Holder found that conventional theories of justice did not adequately capture the complexity of these victim's notions of justice (*apud* McGlynn & Westmarland, 2018, p. 182). McGlynn & Westmarland summarise the existing literature on victim's justice interests as denoting complexity, nuance, variability of interests and the dispelling of the assumption that victim-survivors seek punitive outcomes and personal rather than communal justice (*ibid*).

The Portuguese Context of Sexual Violence and Justice Research

In terms of the significance of the issue, the World Mental Health Survey found that rape was the type of event that presented the highest conditional risk of PTSD in Portugal, with 68.7% of the people who reported having been raped experiencing PTSD, as opposed to 19% in the overall results of the 24 countries surveyed (Cardoso et al., 2020, p. 3). They consider sexual violence a low prevalence cluster of events associated with a high risk of PTSD (*ibid*, p. 4) but go on to consider that these events may be under-reported. This alone warrants making the prevention of SV and its consequences a national public health priority (*ibid*, p. 6).

Regarding rape myths in Portugal, Isabel Ventura's (2021) seminal work *Medusa In the Palace of Justice, or a History of Rape*⁹ is the first thorough analysis of how Portuguese law has, historically, contributed towards the strengthening of rape myths, demonstrating how this background relates to today's still present prejudice in the courts, the law and society. Furthermore, Martins et al. (2012) developed a Sexual Violence Beliefs Scale¹⁰ that measured the degree of tolerance to SV of 1000 Portuguese university students. A limitation of this study is, besides having been assessed only among university students, that these 29 items were built according to the prototype of female victims and male offenders (*ibid*, p. 178).

⁹ My translation. Original: *Medusa no Palácio da Justiça ou Uma História da Violação Sexual*

¹⁰ Original: *Escala de Crenças sobre Violência Sexual*

This SV Beliefs Scale was further applied to a sample of 400 Portuguese police officers in Fávero et al.'s 2020 study, since these play an important role in *preventing the retraumatization of victims and in their ability to actively participate fully in the legal process* (*ibid*, p. 13). The officers were mostly male (94.3%), and the study found positive correlations between tolerance to SV and age, gender, as well as time of service (*ibid*, p. 11); and negative correlations between education levels and beliefs on SV (*ibid*, p. 12). Older police officers were found to be more likely to legitimize SV, considering the victim to have somehow provoked the perpetrator, something they based on victims' alcohol consumption, their exposure to risks or their *promiscuity* (*ibid*). The older the officers, the more likely they were to believe in the myth of perpetrators being strangers and imagining victims and perpetrators as having a set of peculiar characteristics. Officers were also strongly accepting of the myth of false allegations (*ibid*).

Research gap

Considering this literature review, certain gaps are evident and demonstrate the significance of this research.. The research on secondary victimization in justice procedures is scarce in Portugal, meaning that little is known on victim-survivor's experiences of formal justice. Since the dark figures of these crimes have also not been the target of systematic and comprehensive studies, the experience of those that have not resorted to the CJ system is even more unknown.

Regarding alternative justice theories in Portugal, not only is survivor-centered justice research non-existent to my knowledge, but RJ practice is as of yet not allowed in the case of SV crimes - penal mediation is excluded for these crimes according to article 2º, nr. 3, section b) of Law 21/2007¹¹, issued on June 12th, regulating Penal Mediation; and RJ social initiatives for victim-survivors of SV are, to my knowledge, non-existent. Strengthening knowledge on the feasibility of alternatives to CJ under the umbrella of RJ is thus important for developing informed policies to address the sexual violence justice gap.

Overall, this research topic can contribute to the growing body of literature on how victim-survivors conceptualize justice and on how their experience of it can be improved. It will also contribute to a socio-legal analysis of RJ's claim to normativity and the way in which it relates to the hegemonic CJ system.

¹¹https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1459&tabela=leis&ficha=1&pagina=1

CHAPTER IV - THEORETICAL FRAMEWORK

This research topic will be approached by integrating Bourdieu's theory of law's symbolic power and survivor-centered literature on the field of restorative justice. The literature review is thus essential for understanding previous findings on how the sexual violence justice gap can be approached, and Bourdieu's socio-legal theory provides a framework for how (criminal) law impacts lay people, namely through law's power to define their experiences in the juridical realm. A reflection on justice and injustice as distinct normative experiences ties this framework to the sexual violence victimological experience.

Law's Symbolic Power and the Search for Justice

The relationship between criminal justice and alternative normative theories will be analysed through Bourdieu's theory of law's symbolic power. Indeed, any study of normativity must bear in mind that the normative force of law, i.e. the reasons it provides to follow its set of rules, is like no other type of normativity (Banakar, 2015, p. 219), due to the socio-historical context of its institutions (*ibid*, p. 220). Law holds the monopoly of legitimized symbolic violence through the penalties enforced by the CJ system (Bourdieu, 1987, p. 838), with its authority being upheld by a complex apparatus of institutions, including law enforcement agencies. This particular type of normativity constitutes law's symbolic power, which means questioning the CJ system implies entering an uneven field, as alternatives to CJ do not possess this symbolic power.

According to Bourdieu, society is divided into fields in which different agents fight for domination by accumulating different types of capital (Bourdieu, 1987), with different fields interacting among them to shape the content of each field relationally. The juridical field takes particular autonomy and importance, as power relations become particularly evident in the struggle to define it (*ibid*, p. 850). The capital that agents retain in this field thus depends on their position in the broader field of power, with dominated and dominating social groups competing for the right to determine law (*ibid*, p. 852). Capital goes beyond the Marxist sense

to encompass cultural, social, economical and symbolic forms of capital, among others (Dezalay & Madsen, 2012, p. 441).

The particular normativity of law is produced, according to Bourdieu, by the miscognition effect resulting from the (re)production of a specific professional ideology in the juridical field (Banakar, 2014, pp. 222). Therefore, legal professionals distinguish themselves from lay people as those who can legitimately interpret laws, with stable legal interpretations developing into *habitus* (Bourdieu, 1987, pp. 818), i. e. the internalized schemes which guide each agent's behaviour, taking into account their position in the field (Dezalay & Madsen, 2012, p. 442). This normativity of law becomes *doxa*, normalized and unquestionable (*ibid*, p. 848), contributing to the hegemony of CJ solutions to SV – namely in carceral feminist advocacy. *Doxa* is useful in understanding the relationship between CJ and its alternatives in the perspective of both laypeople and legal professionals.

Miscognition is the process of legitimizing power relations, making them acceptable to those dominated by them. Therefore, the holders of power are able to determine the actions and languages of those dominated (*ibid*, p. 813). In the context of this research problem, the acknowledgement of the sexual violence justice gap as an urgent problem depends on how it is portrayed in the legal field and in other fields. The language of those dominated, namely in understanding their experiences of SV, depends on the legitimacy that the juridical realm assigns the matter. Miscognition thus creates the complicity of subjects to a legal realm that perpetuates and neutralizes power relations inherent to SV.

Law holds *the quintessential form of the symbolic power of naming that creates the things named* (*ibid*, p. 838) and thus constitutes social reality, using its symbolic power to confer reality to preexisting social contexts. This is tied to the effect of recognition, which represents how juridical acts confer reality to a claim – something can be acknowledged universally as a fact once the law confers it legitimacy, paradigmatically through a trial, but not limited to that legal act (*ibid*, p. 837).

A consequence of law's symbolic power is its ability to exert symbolic violence - this concept emphasises law's ability to exert violence through its

particular power of naming of social reality. Including or excluding agents from its power to determine the reality and legitimacy of rights (*ibid*, p. 850), as well as naming or not naming experiences as real in the juridical sense, law exerts the violence of defining itself as the legitimate constructor of social reality, precluding other realities and other forms of naming. In a sense particularly relevant for SV, the acknowledgment of SV as a social reality by the law or, on the contrary, its invisibility in the face of the law, are relevant experiences with impact on victim-survivors, communities of care and society.

Sexual Violence and the Experience of Injustice

Justice can be conceptualized dialectically through the concept of injustice, but whereas debates on justice are often theoretical and abstract, injustice is commonly communicated through people's lived experience of the world. Injustice is however more than the opposite of justice, and justice more than the response to injustice, according to philosopher Judith Shklar: the first is an *emotional, embodied, particular, idiosyncratic* experience, rooted in a particular context (Pemberton et al., 2018, p. 12), worth exploring on its own.

It is furthermore an experience that encompasses more than the legal dimension, as the victimization experience and the justice procedure cannot be separated (*ibid*, p. 13), something that in fact becomes evident in the re-victimization of victim-survivors through justice procedures. The inseparability of these harms is captured by the concept of the continuum of injustice (Antonsdóttir, 2019, p. 22), which encompasses both the SV experienced and the *mundane legal and social injustices* encountered by victim-survivors.

This can be read alongside McGlynn & Westmarland's (2018) concept of kaleidoscopic justice - representing victim-survivors' multifaceted lived experiences and the fluidity of justice, including the variation of justice interests through time that participants manifested (p. 187), it means *justice as a constantly shifting pattern, justice constantly refracted through new experiences or understandings; an ever-evolving, lived experience (ibid, p. 180).*

Reflecting on injustice shows a political commitment to how society ought to function (Banakar, 2015, p. 231). Injustice is, according to Bourdieu, an experience mediated by the law and legal professionals that is socially contingent. An unperceived harm becomes perceived as such and is named as injustice through the law, thus acting as a constructor of social reality (Bourdieu, 1987, p. 833). The law thus serves the symbolic function of naming injustices as such - a court judgment, for example, establishes something as fact and truth, consisting of an act of naming, of constituting social reality (Bourdieu, 1987, p. 838). Therefore legal professionals reveal rights and, by doing so, name experiences of injustice, meaning the feeling of injustice presupposes that one believes one has a right that has been violated (*ibid*). Recognition of harm is thus tied to and affects the experience of injustice, by determining its social reality.

CHAPTER V- METHODOLOGY

This socio-legal study will collect empirical data to assess the justice experience of victim-survivors of SV in Portugal, as well as their normative perceptions of justice. Qualitative research enables me to explore the construction of discourses on justice, capturing complexity, difference, contradiction and nuance in personal narratives. The data in qualitative research consists of words, whose meaning is contested in the analysis, seeking patterns between participants that relate to the research's theoretical framework (Braun & Clarke, 2013, p. 4). Qualitative research thus requires us to reflect on how words can be interpreted, how meaning is constructed, developing a *double-consciousness* that both listens and critically reflects on what is heard (*ibid*, p. 9).

Data Collection

The data was collected through 7 semi-structured in-depth interviews. Interviews are the most common qualitative method of data collection (Braun & Clarke, 2013, p. 77) and are typical for understanding the experience of participants through their own words, as they have some personal stake regarding the topic (*ibid*, p. 81). The advantages of in-depth interviews include allowing participants to manifest what is important to them, the co-construction of meaning and the participant's power in shaping the course of the interview (*ibid*, p. 79). The disadvantages of in-depth interviews, namely in sensitive topics, are the traumatization of the researcher by the collection of detailed data; as well as the possibility that the participant's narrative is misinterpreted by the researcher, as she simplifies in a few words something that has been extensively detailed (*ibid*, p. 64).

Epistemologically, including the voice of victim-survivors in justice discussions does not equate to the subjectivity of results, but is rather a means of *securing recognition of harm and of bringing about social and cultural change, including prevention, through a better understanding of sexual violence* (McGlynn & Westmarland, 2018, pp. 192-193). Moreover, understanding victim-survivors as *victim-citizens* - social agents possessing privileged knowledge on the SV

phenomenon, critically informed on the decisions at stake - democratizes the social justice debate on SV (*ibid*, pp. 191-192; Holder, 2014, p. 204).

Semi-structured interviews include the preparation of a guide or script, but the precise wording, the order of questions and the themes approached can be changed to respond to the context and dynamic of each interview (*ibid*, p. 78). I prepared an interview script split into 4 sections (experience of violence; disclosure and aftermath; consequences of violence; thoughts on justice), informed by the literature review. The literature review was essential for understanding the common characteristics of SV situations, as well as for knowing the typical justice needs victim-survivors have expressed in previous studies. Probes and prompts for topics were also included, and open-ended questions helped me learn what was important to the participants (*ibid*, p. 79). The order, exact phrasing and content of these topics varied between interviews, allowing the participants to be active in deciding the route of the interview.

These interviews were conducted online, through my LU Zoom account, and recorded. Some of the advantages of online interviewing are that they can be conducted in a space in which the participants are comfortable and do not require them to leave their home, which may in turn make it easier to disclose sensitive information (*ibid*, p. 2). This promotes increased control over time and location (*ibid*, p. 8; Braun & Clarke, 2013, p. 98), and makes participation accessible and not limited by geography (*ibid*). Being a synchronous method increases the honesty of the responses (Sipes et al., 2019, p. 3) and ensures safety (*ibid*, p. 5). They can be ideal for sensitive topics, as disclosure in a virtual setting may be easier (Braun & Clarke, 2013, p. 98).

The disadvantages of online interviews include trouble establishing rapport, as verbal and nonverbal cues of discomfort may be harder to notice (*ibid*, pp. 2 & 10) and technical problems, such as internet access (*ibid*, p. 5). Regarding data protection, privacy, anonymity and confidentiality are particularly relevant in sensitive studies (Lee & Renzetti, 1990, p. 517). The interviews were recorded and

downloaded upon completion, erasing the video files immediately. Some participants chose to have their cameras off, and they were all ensured that recording was optional, despite none having refused recording. The audio files were then stored in a USB Pen Drive in a locked cupboard of my responsibility, and transcribed into Word documents, anonymizing their content. During the transcription process, I used an offline computer and, once the transcription was over, I erased the audio files.

Two of the participants were accompanied by their psychologist during the interview, others had scheduled appointments with their psychologist so that they could discuss what they felt after the interview, and others still were asked, in the end, if they required any immediate psychological help. For that purpose, I prepared a support package with relevant phone numbers, such as mental health hotlines and specific victim support services, which no participant required.

Participants

The participants consisted of 7 women who identified as victim-survivors of SV, following a purposive sampling strategy that does not aim for generalizability, but rather for providing rich contextual information (Braun & Clarke, 2013, p. 56). Convenience sampling was used (*ibid*, p. 57), with 2 of the participants recruited through APAV; 3 recruited through sharing a post on the study in a feminist Instagram account; and 2 recruited through an acquaintance.

This population was both vulnerable, given the sensitivity of the topic, and hard to reach (*ibid*, p. 58), considering that people do not frequently publicly identify themselves as victim-survivors of SV. The size of the sample is partly justified by these challenges in accessing the study population, as well as by the work involved in each of these interviews - lasting on average 1 hour and 38 minutes and exploring the victimization experience in-depth, the data collected was extremely rich. The conclusions from this sample are thus often not enough to denote patterns between the data, but variation is emphasized and the structural

aspects that inform these experiences, namely the way in which they relate to the societal normalization of GBV through a feminist understanding, are highlighted.

This sample has some limitations that should inform the interpretation of these results and their analysis, namely that all the participants were cisgender young able-bodied women with/undergoing college education. There is reason to believe that the male experience of justice, for example, may significantly differ from that of women - male victims are less likely to report experiences of SV and to resort to support services or the police (*ibid*, p. 134; Quebrar o Silêncio, 2019, p. 7).

Furthermore, there is evidence that rates of victimization in understudied trans populations are higher (Turchik et al., 2015, p. 133). Trans communities experience increased situational vulnerability to sexual and domestic violence due to social and structural inequalities (for example, housing instability and the frequent resorting to sex work). These are mere examples of how the results of this study are not representative, and how an intersectional approach to SV is necessary to understand how different factors affect victim-survivors. Furthering knowledge on how different people experience SV, rather than portraying victim-survivors as a monolithic category, will benefit future research on this area.

Another limitation of this exploration of alternative justice theories is that it only includes the perspective of victim-survivors. The abolitionist movement and, for example, the recent critique of the structural racism present in law enforcement and the prison system ignited by the Black Lives Matter Movement, should incite us to consider that knowing the offender's position is important in a system that criminalizes certain bodies over others, and in which punishment is reserved for the least powerful.

Thematic Analysis

The data was analyzed using thematic analysis, following the six phases described in Braun & Clarke (2006, pp. 87-93). The first phase consisted of familiarizing myself with the data - transcribing the interviews, anonymizing them, erasing the original audio files once completed, and reading the finished transcripts. The second phase consisted of generating initial codes for classifying the data, considering the research questions, manually dividing the transcripts into excerpts and manually coding each extract. The third phase was the search for themes, identifying each coded extract of data with a theme or sub-theme, or under *miscellaneous* if no theme was evident at first.

The role and importance of these themes were then reviewed in the fourth stage, separating, creating or eliminating themes according to the backing they had in the data. This implied rereading all the data, first by separate themes, and then as a whole, in order to redefine the themes relationally. Phase five implied redefining the themes and naming them, determining which ones were relevant for the analysis. The sixth and final phase consisted of writing the analysis through a coherent analytic narrative that highlights the evidence for its claims and is in dialogue with theory. Some extracts were included as illustrations of the theoretical arguments (*ibid*, p. 94).

Ethical Considerations

The Swedish Research Council (2017) guidelines on research ethics emphasize the need to protect individuals participating in research from harm (*ibid*, p. 13). This thesis can be considered a *socially sensitive research*, according to Sieber and Stanley (apud Lee & Renzetti, 1990, p. 510), as it carries potential implications for the participants of the study and for the group they represent, making the matter of harm prevention particularly pressing. Participation may cause emotional or psychological distress to both the participants and the researcher (Sipes et al., 2019, p. 1), as well as psychic costs such as shame, guilt or

embarrassment (Lee & Renzetti, 1990, p. 510), as these have been shown to be associated with SV victimization (*ibid*, p. 512).

One way in which harm is prevented is transparency. Informed consent was sought by sending the participants an informed consent form, including the study description and main topics, the researcher's contact and biography and the aims of the study; and by encouraging participants to ask questions. They were informed that they could withdraw from the study at any moment and that they did not have to answer any question they did not wish to. They were asked if they wanted the transcripts to be sent over to them and were informed that the research will be published with open access on LUP, as well as given the option to receive the thesis when finished.

In order to understand the impact of this type of research on victim-survivors, Campbell et al. (2009, b) conducted a study on the impact of feminist interviewing methods on research with rape victim-survivors, with the participants overall reporting positive experiences. Several such meta-studies have been conducted in the past years, as this has been a key concern for trauma researchers, and mostly have found that this type of research is rarely harmful, and is rather often beneficial for victim-survivors (*ibid*, p. 61).

They found that the main risk is that these interviews may remind people of their memories of victimization, with victim-survivors experiencing PTSD finding their participation more emotional and upsetting. Even so, most victim-survivors do not regret participating in research, reporting higher benefits in interviews than surveys, as they can discuss their traumatic experiences with an interested listener (*ibid*, pp. 61-62). Reported benefits included decreased self-blame, more clarity on what had happened to them, reinterpretation of their post-assault negative experiences (like disclosure or contact with the legal system), among others (*ibid*, p. 71).

Campbell et al. (2009a, p. 596) note the importance for SV researchers of being knowledgeable of the reality of SV, including its causes, myths, community

resources and support, and the impact it has on victims' lives (*ibid*, p. 603), and of ethically responsible preparation on interview techniques (*ibid*, p. 608). They should provide information to their participants that helps normalize their experiences (Campbell et al., 2009b, p. 62), taking a non-judgmental stance. Confirming the *pathology of the normal* (Gorelick, *apud ibid*) - that what they have experienced is wrong but common - helps tackle their feelings of self-doubt and self-blame. The researcher should demonstrate interest but keep boundaries, refraining from sharing personal experiences or making judgments (Braun & Clarke, 2013, p. 96).

Furthermore, they find victims of SV have 4 main expectations from interviewers (Campbell et al., 2009a, p. 604): that they recognize that SV happens to a variety of people and in a variety of circumstances; that they understand that their recovery process is long and different participants may be at different stages; that academic knowledge is not the same as having experienced the same as they have, so they should recognize this *knowledge gap*; that they above all listen with patience and without judgment. Researchers should reflect their knowledge on SV on their attitudes, by being sensitive and recognizing the diversity in victim-survivor experiences (*ibid*, p. 608).

Feminist Methodology and Power

While qualitative in-depth interviews have often been associated with the feminist focus on experience and subjectivity, they have the potential to be exploitative. Their material and symbolic benefits are reserved for the researcher under the guise of democratic co-creation of knowledge and reciprocity (Kvale, 2006, pp. 481-482). The researcher maintains the *monopoly of interpretation* and acts in pursuit of an agenda (*ibid*, p. 484), with interviews often seen as hierarchical and the researcher in control (Braun & Clarke, 2013, p. 88). In their reflection on *failed interviews*, Jacobsson and Åkerström (2012) recognize these power dynamics in interviews, emphasizing however that interviewees have their own agenda and motivation (*ibid*, p. 718) and that, despite most literature identifying the researcher as the most powerful one, this may not be the case (*ibid*, p. 727).

Feminist interview methodologies take these power imbalances into account and attempt to reduce hierarchies between interviewer and interviewee, endorsing mutual dialogue and transparency (Campbell et al., 2009 b, p. 62). This is important for trauma survivors, as regaining control is integral to their recovery. Campbell et al. (*ibid*, p. 72) highlight three main principles in feminist interviewing: reducing hierarchies, by ensuring interviewees are in control of what they share or not; providing resources and information that normalize their experiences; addressing emotionality by communicating warmth and respect, instead of denying or excluding emotions from the interview setting.

Reflexivity

Reflexivity means, broadly, the *critical reflection on the research process and one's own role as a researcher* (Braun & Clarke, 2013, p. 10). I, as a researcher, must analyze and be transparent about my own agenda: I am critical of the CJ system's ability to provide justice in cases of SV, and wish to explore alternatives to it. This transparency may present the added value that readers, as well as participants, are encouraged to position themselves on these political stances and may thus generate public discussion (Kvale, 2006, p. 497). It implies, in practice, that I have made this clear at the start of the interviews. I am also not neutral when it comes to SV: my research is socially and politically engaged towards understanding and fighting SV. This may be an added value for participants, as they may themselves be engaged in advocacy. Throughout the research process, I will be reflexive of these issues, keeping a thesis diary to reflect on these questions.

In terms of my own well being as a researcher, the Sexual Violence Research Initiative (2015) Guidelines extend the concept of *vicarious trauma* to researchers of SV, a concept typically used to describe caregivers' trauma response to bearing witness and engaging with survivors' stories repeatedly (*ibid*, p. 3). Its effects include PTSD, increased sensitivity to violence, social withdrawal, inability to empathize with others, among others (*ibid*, p. 4). These risks were tackled through embracing protective factors, namely debriefing with my supervisor,

friends and colleagues, spacing interviews - never having more than one interview per day - and others.

CHAPTER VI - ANALYSIS AND EMPIRICAL RESULTS

Presentation of Empirical Results

The 7 in-depth interviews conducted enabled me to gather extensive data on the participants' experience of victimization and their perceptions of justice, hereby presented in 4 main themes. Annex I displays the relevant characteristics of these victim-survivors, their offenders and their experience of sexual violence (often involving a domestic violence situation). Adília and Matilde were abused by the same offender, meaning their stories sometimes overlap, and all the participants' names have been changed. In this presentation of results, I attempt to bridge their personal stories to the structural conditionings that inform their experience. They too navigate their identity as victim-survivors of SV by combining their personal experience, the experience of friends, their awareness of SV as a structural injustice and their awareness of other people, particularly other women's experiences. While no SV experience is the same, much can be learned from understanding what is particular and what is structural in their narratives. Their narrative is often negative, but the agency they displayed in surviving is a great part of these results.

The themes reflect the participants' process of coming to terms with the injustice they have experienced, demonstrating the connections they make between their private experience and the social injustice of SV. The first theme explores how GBV, namely SV, is often not acknowledged as harmful by communities and even victims, as it is not sufficiently recognised as a social injustice. The second theme reflects on the ways the participants processed the naming of their injustice. The third theme reflects on how the CJ system in particular names injustice, countering a monolithic idea of law's symbolic power, focusing on how the distrust in CJ and the victim-survivors' sense of impunity contrasts this power. The fourth theme reflects on the participants' perceptions of justice and shows how they overall manifest a desire for structural change that goes beyond punitive individualist measures.

The Invisibility of Gender-based Violence as Social Injustice

The normalization of GBV can be connected to a diminished ability to recognize victimization. It is a form of miscognition, in the sense that the power relations inherent to GBV are invisibilized and thus those dominated by them are less able to acknowledge them. This normalization of violence takes place at several social levels. For many, violence against women was first normalized in their family and upbringing. Adriana recalls witnessing or hearing about episodes of violence towards women in her family, as well as having her brother constantly be violent towards her, to the inaction of her parents. She says *I think that is exactly why I internalized that it was normal for someone to do whatever they wanted to me, and that I just had to put up with it*. Similarly, Adília believes the abusive relationship with her family made her less able to know and enforce her boundaries.

Disclosure of their victimization to family was sometimes met with denial and dismissal of their claims. Adriana's mother dismissed her disclosure of certain episodes of violence, which she attributes to her mother having grown up witnessing her father be abusive to her mother, as well as to a defense mechanism, since it's hard to admit your daughter has been a victim of violence. Similarly, Ursula's mother first dismissed it, which she attributes both to this self-protective denial and to her having had a similar experience of SV in her youth, which she never considered as SV but simply normalized.

Five of the participants had been in long-term relationships with the offenders, with SV being a part of a wider DV situation, and with multiple types of violence present. Matilde and Adriana agree that the feelings for the offender can make the awareness of violence harder. In this context, both Adriana and Maria dismissed the first episodes of violence. Adriana believed this was both because of her history of enduring violence by other men and because society told her this is what men do, which is reminiscent of Boyle's (2018, p. 29) concept of the continuum of aggression and the way forms of abuse are sanctioned as hegemonic masculinity. Maria also ignored the first episodes of violence because she partly blamed herself for some of the violence, namely when the SV occurred in the context of a night out and drinking.

Some of the participants manifested difficulty with the word *victim* and with describing themselves as such. Ângela says *I was a victim then, but I'm fighting not to be one anymore*, wishing not to be defined by it. Similarly, Clarice doesn't disclose her victimization to most people, fearing they will define her as *the victim*, and that future partners may be ashamed of this. Ursula describes the process of being able to describe her experience as SV as arduous. The notion of justice as recognition addresses the issues of *humiliation, lack of respect, moral injury* that CJ is often oblivious to (McGlynn & Westmarland, 2018, p. 189), and that may be lying under this difficulty with socially embracing the category of victim. These show a social failure in acknowledging the harm done to victims and supporting them.

Contrasting the invisibility of injustice is the variety and severity of consequences in the lives of the participants related to their victimization, illustrating the continuum of injustice in the aftermath of crime (Antonsdóttir, 2019, pp. 21-22). The psychological consequences were many, with all but one participant being accompanied by a psychologist to this day. Most of the participants were diagnosed with one or more of the following: depression, anxiety disorder, obsessive-compulsive disorder, PTSD, panic attacks and nervous breakdown. At least three of them had suicidal thoughts and one of them self-mutilated, with two of them requiring medication. The experience impacted their self-perception, with three of them experiencing body image or self-esteem issues, and most of them experiencing shame. For Adília, these make her feel more vulnerable to violence: *It's as if my scale of what I should accept or shouldn't is completely off balance.*

The experience often caused the participants to limit their actions. Ângela stopped going out at night and drinking, with even the reference to drinking upsetting her. Clarice fears leaving the house, and many have not returned to certain places, either in fear of seeing the offender or of further violence. Matilde and Adília, who belonged to the same activist community as their offender, were limited in their activism. Like the participants in Antonsdóttir (2019, p. 9), the participants showed a great aversion to the thought of a physical encounter with their offender and adapted their behavior. All of the participants were students at the time of the

violence, and all of them were affected in their studies, in the case of Adriana partly because going to campus became difficult in fear of meeting her offender.

While the societal normalization of violence, invisibilizing it as a social injustice, often made it harder for the participants to recognize that they were experiencing SV and/or DV, due to this miscognition effect, a consequence of eventually coming to terms with this was, on the contrary, a hyper-awareness of violence. Ângela became aware of how SV is pervasive in society, and began to feel rage about constant episodes she and her friend endured. She had a heated discussion with a group of men who harassed her friends in a club, and is upset that women pay less to enter a club so that men go there to *watch them*, for example. She became more aware when men are behind her in the street and/or follow her and catcall her. Similarly, Adriana finds experiences of harassment more disturbing because of her history with SV.

This hyper-awareness can positively be used in identifying violence in other women - Adriana defends other women more now, telling friends they are experiencing abuse when they come to her with their experiences. Ursula says most of her friends have had an experience of SV, many of them perpetrated by relatives when they were minors, despite only one of them having formally reported the crime. She says that, by calling out these friends' experiences as abuse and helping them acknowledge what they have lived, *I have reached part of my liberation through their liberation, by working together to conquer and beat these trauma* .

Antonsdóttir (2019, p. 4) claims *women's fear in public spaces is informed by their experiences of physical and sexual violence in private spaces perpetrated by men they know*. This is a good explanation of how the participants' experiences of SV resulted in a fear that excluded them from public spaces - as Adriana puts it, *I have had many of these experiences with men: I've had two abusive relationships, I am constantly harassed in the street, I had this subway episode, I just don't feel safe in the street*. She also tries to never be alone with a man she doesn't know, never going to male doctors, for example.

For Ângela, fear was the biggest consequence of her assault, mostly the fear of seeing her offender, as they lived in the same city. She began reassessing her past

behaviors and was shocked about how unaware she was of what could happen to her. She doesn't dance outside her room anymore - when out with friends, *I try not to move parts of my body that could be misinterpreted, or dance... (...) I limit myself, because I'm scared, and that is sad. Because it reminds me I used to be free.*

These are examples of avoidant coping strategies resulting from their perception of SV risk (*ibid*, p. 4). This and other examples in this theme illustrate how the acknowledgement that one has experienced injustice, i. e., the process of becoming aware of the *entitlement* to rights (Bourdieu, 1987, p. 833), is connected to the societal context of GBV in Portugal and is, therefore, not immediate and straightforward. This context determines people's capacity to identify violence when it occurs, and thus is related to the importance of recognition of harm for victim-survivors.

The Power of Naming Injustice

Having considered the way in which the societal normalization of sexual violence affects the recognizing of injustice, this second theme reflects on the experience of effectively naming their experience as injustice and as SV. This is something that necessarily precedes interactions with the CJ system, as only when injustice is acknowledged can that become a possibility, and so expands Bourdieu's concept of recognition to approach it in the wider social field and not just the juridical field, in line with McGlynn & Westmarland's (2018) notion of justice as recognition.

Maria blames herself for having *allowed* the relationship with her offender to go on. To her, this is depersonalizing, alienating and shameful, because the image she had of herself - feminist, independent, strongwilled - does not match with that of a victim. As she puts it, *society has an image of the type of women that puts up with these things*. Similarly, Matilde did not picture herself as someone who could be victimized and often wondered why people didn't just leave abusive relationships. On the other hand, several of the participants were clear that they could recognize victimization in others with much more ease than in themselves.

These examples reflect the influence of certain archetypes of victims, resonating with Christie's (1986) notion of ideal victim.

Other people can be essential in pointing out injustice to victim-survivors, as validation of their narratives is an important need of victim-survivors (Herman, 2005). When a friend saw bruises in Matilde's neck, her reaction was enough for a *psychological breakthrough* which felt like a *shattering glass*. Adília also first recognized the severity of what she had lived through when she verbalized it to two long-time friends. Online communities can be important as well - Adriana and Ursula were first able to name their experiences as violence through online resources, in Adriana's case, APAV's website; in Ursula's case, Tumblr posts of other young women, girls whose lives she could relate to.

Since they labeled their experiences as violence, some of the participants also became aware of how generalized this type of violence was, becoming committed to social justice and being able to name injustice happening to others. Matilde continues to be an LGBT+ and feminist activist, claiming her experience has inspired her to help others. Ursula similarly finds joy in being a safe haven for her friends. Maria and Ursula both participate in this research, in part, because of this commitment to social justice. Adriana has also become more involved with women's rights, channeling her energies towards societal change. Feminism, she claims, has helped her make sense of her experience and to see how pervasive sexism is. The feminist gendered understanding of SV as resulting from patriarchy (Pali, 2019, p. 29) was present in most of the participant's understanding of their experience.

This is not always successful: while friends and family told Maria her dynamic with her offender was not normal, she defended him and portrayed them as the enemy. This is why Adília and Matilde recognized the importance of *satellite friends* (Matilde's terminology) - friends who stayed close by, ready to intervene when needed, because they could only do so if the victims were willing to accept their help. This is important because isolating victim-survivors is a common strategy of offenders, which Maria, Matilde and Adília described.

When other people deny the victimization or minimize it, this double reality and denial of recognition can be a form of harm in itself. For Adriana, the fact that her offender was only abusive when they were home alone made people portray her as *the mean one*. She told people *You don't know what goes on inside our house*, but they never asked about it. For Ursula, the fact that her offender has always kept a likable, charismatic, not violent public persona makes her believe he will never be punished - he leaves no trace behind. The lack of community support can be very isolating - as Adriana puts it, *I had such a great need of talking to someone who actually listened and validated the things I had to say, and that valued the fact that I had been through all of that and I was still standing*.

This double reality can be reinforced by the CJ system when an offender is absolved, as the juridical system displays a denial of recognition that constitutes a form of symbolic violence. This establishment of their reality as judicially false may be experienced differently by victim-survivors. Ângela, undergoing a judicial process, fears that *people will more likely believe him* if this is the case. She wishes she didn't need a conviction for people to believe her. Adília, on the other hand, believes even an acquittal can serve some purpose - she was aware, when reporting the crime, that it would likely lead to nothing, but if the offender harms other people, the existence of this process against her may strengthen this potential future victim-survivor's claim.

Law's Symbolic Power of Naming and the Sense of Impunity

In this theme, I will reflect on the symbolic power of naming injustice held by the criminal justice system, and on how the sense of impunity and disbelief in CJ felt by most participants and overall society relates to it. The denial or acknowledgment of responsibility by the offender was discussed, as some of the participants in McGlynn & Westmarland (2018, p. 188) manifested this as important for victim-survivors in both CJ and alternatives. Clarice and Matilde were explicit that an admission of guilt by the offenders would be very important to them - fulfilling a need for validation of their victimhood and personhood (Herman, 2005, p. 585). Ângela would appreciate it, but it would be meaningless if he did not

change his attitudes. In communication with their offenders, both Matilde and Adriana felt like their apologies were not genuine, so they doubt the possibility of an honest apology. As the literature shows, *contrite apologies* are typical of violent abusers (Daly & Stubbs, 2006, p. 22; Daly, 2013, p. 8), and may not lead to effective behavioral change (Regehr & Alaggia, 2006, p. 41).

None of the offenders of these participants were (yet) convicted, so we discussed this hypothetically. Clarice believes a conviction would make her feel less shame and more ease in disclosing her experience. Similarly, Adília, whose offender was acquitted, believes her *internal process would have been much simpler* with a conviction, because *much of that process is about acknowledging yourself as a victim (...), and these are people whose scale of what is normal has been recalibrated, right? Whose capacity for agency and action (...) has been taken from them.* She adds that an acquittal emboldens others to doubt the victim-survivor: *You find yourself in this... constant spinning wheel in which you have to prove (...) to several people, including yourself, that what you're saying is true.* This example shows how the establishment of social reality by legal institutions impacts the victim-survivor's ability to assert their narrative, as the law holds a strong claim to this capacity to determine reality through its symbolic power of legitimation and even naturalization (*ibid*, p. 840).

Adília and Matilde experienced yet another form in which the CJ system may collide with victim-survivors' narratives. Adília pressed charges of DV against her offender, and Matilde was a witness in that case because of her own experience of violence with that same person. Parallely, they publicly denounced their offender in their activist communities through an online petition. The offender filed a counterclaim, accusing both of them of defamation and DV, as backlash to their public call out, they claim.

Reading this counterclaim was *surreal and horrible psychologically* for Matilde, especially because it included a report from a victim support association attesting to the offender's alleged victimhood. She not only had to relive traumatic moments, but she was confronted with the ease this person had to manipulate the narrative of what had happened. For Adília, seeing her offender play the role of

victim disturbed her internal process of believing her own narrative, and she felt *cheated by the system that allowed it*. This shows that certain critiques directed at RJ - such as that it ignores existing power imbalances (Daly, 2013, p. 8), particularly when victim and offender have a personal relationship (Marsh & Wager, 2015, p. 340; Mercer et al., 2015, p. 13) are present in the CJ system already.

Regarding the role of witness in someone else's trial, Matilde felt ill-informed and she blamed herself for not being the one to report, despite feeling great admiration for her friend Adília. The need for information reflects the justice need of dignity (McGlynn & Westmarland, 2018, p. 190-191), and the position of witnesses who may be victim-survivors themselves should be considered. This combination of admiration for those who report and self-blame was also present in Adriana. Maria also considers herself not brave enough to report, but hopes that someone else does if her offender is abusive again, and would be willing to be a witness in that case. This, she says, would be easier because she would not be alone against the offender, she would have another victim standing by her.

The CJ system may not acknowledge that recognizing the existence of violence is a non-linear process for victim-survivors, such as when Matilde was questioned by public investigators¹² and felt they had no particular sensitivity for her position, reminiscent of Hudson's (2002, p. 624) remark that the translation of victim-survivors' experience to a foreign legal language can be disempowering, and of Bourdieu's (1987, p. 820) analysis of legal language's neutralizing and universalizing effects, which remove subjectivity from the situation at stake. Their cold and systematic questioning ignored how victim-survivors take time to feel certain of their narrative, and she felt it was not trauma-informed.

Both Adriana and Adília said they used to frequently wonder *Did I make all of this up?*. The CJ system's expectation that victims and witnesses have a coherent unemotional narrative is thus experienced as alienating and incoherent with victim-survivors' internal process. The *habitus* of legal professionals which serves to distinguish them from lay people may create this detachedness between what

¹² Magistrados do Ministério Público

victim-survivors expect from those interacting with them and the communication they effectively receive.

Some of the participants had a previous distrust of the CJ system and/or law enforcement. A negative previous experience with law enforcement dissuaded Matilde from reporting her victimization, as they did not assist her when she was being persistently stalked by a man. Adriana also recalls being harassed by a car full of policemen as a negative experience with justice, showing how law enforcement can, as explained by Davis (2003), be the perpetrators of SV themselves.

Ângela and Clarice had positive experiences with law enforcement, with Ângela feeling like they were patient and understanding. Clarice valued being received by a female police officer. Regarding the gender of officers, Adriana also mentioned the idea of going into a police office full of men was intimidating, as they do not understand *what we go through*. Adflia was also startled by entering a police station full of men when she first tried to report her situation.

Ursula told me of the time in which she assisted a client at her work that had suffered an attempted rape by a man who identified himself as a police officer. When she called the police, 6 muscular male cops came and were more concerned about the accusation towards a potential co-worker than the attempted rape, showing little care for the victim. Ursula has always had a complicated relationship with authority and law enforcement - she was detained by heavily armed police in an episode that caused her to develop PTSD symptoms and, as an anarchist, she sees the police as *a bourgeois and sexist structure*. She does not ask for justice from a system she doesn't believe in, and adds that *power, justice, will always be in favor of the powerful, and we know that in a relationship between man and woman the powerful will always be the man*.

The participants portray their experiences of victimization as ones of impunity, in line with the wider consensus of advocates and scholars (Herman, 2005, p. 574). Matilde feels a great sense of powerlessness, especially since she has heard of subsequent victims of her offender, and is still slandered by her on social media. Maria feels like nothing comes out of these processes, and that in her case

of SV by a partner, they would possibly dismiss it. Similarly, Ângela fears being questioned and disbelieved when and if she goes to trial, but she understands this as necessary for the defense of the offender - she dislikes that in RJ processes the offender has to immediately plead guilty, as she believes it is the victim's role to prove she is speaking the truth. She demonstrates a concern with the offender's procedural rights shared by some critics of RJ (Keenan et al., 2016, p. 105), as well as an importance attributed to the symbolic power of CJ's procedural aspect (McGlynn, 2011, p. 834). It shows that RJ's policy of *no fact-finding* (McGlynn, 2011, p. 829) may not be empowering for victim-survivors who wish to ascertain their narrative through the CJ system, conferring legitimacy to its symbolic power.

In this context, the participants explained their decision process that led them to (not) report the crimes they were victims of. Non-reporting is not a form of passive inaction, but rather a culturally informed action worth exploring (Hansen et al., 2020, p. 44). Ursula is the only one who never contemplated reporting. What stands out is that there is much to consider in the decision to report, and that time is required for this process. Clarice and Ângela decided to report the crime immediately, advised by health professionals and a victim support service, respectively. Ângela was driven by a feeling of rage, and Clarice by fear that he would harm her again. Adília debated the idea for months until she decided to report. Adriana still ponders the idea, and the time she took to actually acknowledge her experience as violence contributed to this not being a thought initially, as well as having received an apology from her offender's father.

Matilde did not report her crime, despite later having been a witness in Adília's process, motivated by fear of being misunderstood and discriminated against, especially since her offender was a woman. Adriana, Maria and Ursula were discouraged by the difficulty of proving SV crimes. Maria considered it briefly when her offender was stalking her, feeling she could be in immediate danger, but found other ways to make his behavior cease. She also felt like knowing him for so long made it harder for her to want to expose him in front of everyone, in line with literature claiming that when there is a pre-existing relationship, the victim-survivor is less likely to report the crime (Hansen et al., 2020, p. 44). She and Adriana

mentioned the lack of legal information as problems, and Adriana adds she had no financial capacity. The risk of a negative outcome was important for Adriana, and the idea of an exhausting process was mentioned by Ursula and Maria. The distrust in the police or the CJ system (*ibid*) underlies some of the reasons provided, showing an erosion of law's legitimacy and symbolic power.

In sum, this process requires considering, among many other factors, the importance attributed to law's symbolic power of naming and thus the legitimacy attributed to CJ, which was not uniform, as many shared in a sense of impunity, disbelief and even consideration of CJ as an enforcer of patriarchy. This theme reflects on the CJ system's particular mode of naming injustice, arguably holding *the quintessential form of the symbolic power of naming* (Bourdieu, 1987, p. 838), of constituting social reality, and on how the portrayal of GBV crimes as ones of impunity lessens that power. This break in legitimacy provides fertile ground for exploring alternative justice theories.

Beyond Punishment, Structural Change

This theme shows the participants' reflections on different alternative justice solutions, departing from hegemonic carceral solutions to sexual violence. Importantly, the participants described several ways in which women and extended communities already support each other in preventing or addressing SV, which could be described as a form of justice as connectedness (McGlynn & Westmarland, 2018, pp. 194-195). Adriana, for example, mentions how an aunt of her offender advised her to have a room of her own in their shared house, which she was later thankful for. Ursula was informed of the offenders' behavior by previous girlfriends and has become great friends with one of these women.

Matilde tried to warn a friend who went on to date her offender. Ursula also recalled dearly a moment in which she and a bunch of female friends who lived in the same city had a candid informal talk about their sexual experiences and identified which men were dangerous and abusive, and which were not. She also notes how women pass down a series of defense strategies, but that this is problematic, since not all women will be able to defend themselves, and it doesn't

tackle the root of the problem - *because no one teaches us to defend ourselves from the monsters at home.*

Excluding the offender from common spaces or communities was often referred to as either having happened or as a wish, in line with Antonsdóttir's (2019, p. 19) observation that victim-survivors often negotiate the habiting of these spaces. Ângela was able to communicate her situation to university staff, who made sure her offender would never return to campus, and did so discreetly. This and the support of trusted colleagues enabled her to peacefully return to classes. Ursula kicked out harassers from university parties to keep other students safe. In a more public manner, Matilde and Adília's petition was successful in removing their offender from LGBT+ activist associations. Their motivation was twofold: they feared she could have access to more vulnerable people; and they found it hurtful to see this person defending inclusion and anti-violence publicly and perpetuating violence privately. The process was nonetheless exhausting and not everyone in the community supported them.

Indeed, sometimes the loyalty of communities is conflicted - a community may be unsure whether to support victims or offenders (Daly & Stubbs, 2006, p. 17; Daly, 2013, p. 8; Mercer et al., 2015, p. 17). Before their public petition, Matilde and Adília were ignored by their LGBT+ association, who according to Adília was trying to protect the image of the movement. Matilde believes the community tries to minimize cases of abuse to ease social acceptance of LBGT+ people, and that this is common, especially with powerful activists such as their offender.

Adília noted the hypocrisy of these people defending anti-violence publicly, but acting like her experience and Matilde's were *personal* and should be handled by the police, refusing to get involved, telling her that she should be quiet *for the greater good*. She was furthermore surprised to see, after accusing her offender in the CJ system, that some of the people she had called as witnesses were also in her offender's list of witnesses. This experience can be described as one of additional violence, according to Downes (2017), who described the specific silencing techniques of activist communities, namely, in their case, the questioning of the

legitimacy of their claims, to the point of victimizing the more powerful offender (*ibid*, p. 47).

Ângela was also disturbed by some acquaintances and friends' decision to remain friends with the offender, especially when she saw one of her witnesses, who had accompanied her to the hospital after the violence happened, talking with the offender - *I can't understand how someone that saw my family, that saw me at the hospital because of this, could be walking around with this person*. Ursula remembers an occasion in which she herself found it hard to decide who she should support publicly, as one woman claimed one of her friends had abused her. Unable to determine the truth, she cut ties with him but took no further action - *because I didn't want to be the judge, the jury and the executor*.

The exposure of offenders, mentioned by many survivor-centered justice authors (Herman, 2005, p. 594; McGlynn & Westmarland, 2018, p. 186), was brought up by many of the participants, such as Ângela regarding these acquaintances who sided with the offender. Maria feared this could be childish or vindictive, but she would like his family and friends to *take down the image they have of him*, especially because she finds it important that *this kind of men are unmasked*. Adília claims communities should immediately reorganize towards the victim-survivor, instead of whitewashing the offenses and insisting on the presumption of innocence of offenders alone. This goes in line with survivor-centered justice's focus on vindication and the way in which accountability for the offender relates to the victim-survivor's position in the community (Herman, 2005, pp. 585-586). On the contrary, Downes (2017, p. 42) describes how anti-violence activist communities may, as in this case, *counter-organise* to discredit victim-survivors.

There are many other ways of community support important for victim-survivors' material and emotional needs and so for justice as connectedness and the rebuilding of victim-survivors' lives (McGlynn & Westmarland, 2018, pp. 194-195), which show victim-survivors that they are the ones who belong in those spaces (Antonsdóttir, 2019, p. 6). Ângela's friends supported her in tackling her fear of going out, at night and in general, accompanying her on supermarket trips

or to her first night in a club after her experience of SV. The constant emotional support of her family, and the time she could take off to just be in their home, calm down and find strength were essential.

Clarice and Adília were accompanied by friends when they went to the police station to report their situation. Adília was provided a place to stay by friends at the time, and Matilde was provided a place to stay when she left her abusive relationship. Matilde said: *having that support network around me again, having people I could talk to, gave me the boost I needed to feel like I was supported, like if I left that situation she couldn't harm me, because now I have people who will protect me.* This justice as connectedness resonates with the notion of *just spaces*, in which the continuum of injustice is disrupted through recognition and solidarity (Antonsdóttir, 2019, p. 21).

Adília feels police officers are not educated on DV enough, especially when it occurs among two women, as the ones that received her complaint displayed confusion when she reported her situation. Despite having been sent to a specialized police station for DV situations, this did not improve - they were inflexible towards her needs, refusing her previously written statement and demanding she describe everything verbally; they misinterpreted her, portraying her as the offender; they expressed that her complaint was pointless, saying things such as *You know this will lead to nothing, maybe it would be best not to report it. This will be so much work for you. Why didn't you come sooner? Why did you wait 4 years?*, in an instance of excessive scrutinizing as described in the literature (Keenan et al., 2016, p. 90). This stresses the importance of police officers in preventing secondary victimization (Fávero et al., 2020, p. 13), and the need for a more clear determination of the rights of victims of SV and DV. The statute of *especially vulnerable victim*, for example, encompasses a set of measures which could address some of these concerns.

Specialized mental health professionals were essential for most of the participants. 3 of the participants changed therapists because they did not feel understood by them. Ângela felt as if her therapist treated her post-assault fear as any regular phobia, and a specialized therapist was able to reassure her that she was experiencing a normal reaction to SV, and not just something she should get over

with. Matilde's first therapist displayed homophobic attitudes, and Maria felt like her first therapist did not understand why she stayed in her abusive relationship, which shows a lack of understanding of manipulation in DV situations and a victim-blaming mindset. Fortunately, all 6 participants followed by a therapist were now satisfied with their support.

Regarding material compensation, their opinions varied. Ângela enthusiastically said she believed the offender owed her compensation, and that she had filed for this in her legal claim. For Clarice, this was secondary to *justice being made*, despite also having filed for this. Adriana found it hard to separate the consequences from that abusive relationship in her life from other circumstances, and Adília finds it impossible to quantify these damages. She also feels that these claims may make the victim lose credibility, and mentions a mediatic case in which the victim was accused of being after money, seeing this as common. In general, the participants had to find other ways to tackle their material needs, namely through their communities.

Regarding restorative solutions, Clarice and Maria found the possibility of mediation with an offender of the same type of crime, but not their offender, interesting. They both based this on being able to express the harm they felt. Maria also finds it interesting that RJ processes can involve families, because she feels her family and her offender's family were very affected by their relationship, in line with RJ's focus with the extended *community of care* (Hudson, 2002, p. 627) and its handling of SV. Regarding victim-offender mediation, Ângela gives precedence to the CJ system and thinks she will only be able to answer this after her legal process is finished.

At the moment, Clarice, Ursula and Adília have absolutely no will to meet the offender. Ursula believes he could feel a sense of power over her if he knew the harm he has done, and Adília fears developing empathy towards her offender, and that she could risk all her work of acknowledging her victimization. Maria feels like it would be pointless, since he would not listen or recognize the harm done. Adriana similarly doubts that he would ever admit to his deeds and their consequences, but would find it positive for closure if it were possible. Despite some literature

highlighting how RJ processes are flexible to those who wish to maintain a relationship with their offender (Daly & Stubbs, 2006, p. 22; Daly, 2013, p. 8; Mercer et al., 2015, p. 12), their applicability shows to be limited in cases of DV, and cases in which DV and SV overlap should not be considered as exceptional.

Some participants point to the fact that some offenders are not suitable for RJ processes. Some offenders, especially in long-term DV relationships, use manipulation and coercion as a common tactic, as referred by Matilde, Maria and Ursula. Matilde fears that offenders can manipulate even specialized technicians, but she fears it in the CJ system as well. Ursula is concerned with the possibility of pressure for forgiveness. Some of the needs they expressed for these processes were remaining anonymous, physical distance and the company of friends.

Regarding punishment, the importance participants attributed to a prison sentence varied. Ângela saw prison as an injustice and a place where further harm was caused, which might make the offender feel like a victim, and believed *the more harm one feels, the more harm one wishes to do* - as present in the literature, some victims see this additional suffering as futile (Hudson, 1998, p. 254). Adriana would feel bad if her offender went to jail because of her, since he was an important person in her life regardless of what happened and she wishes him no harm, confirming that victim-survivors' proximity to their offender may detract them from considering carceral justice options (McGlynn & Westmarland, 2018, p. 187). Clarice is skeptical that prison will serve her main wish: that he does not repeat his actions. Overall, punishment was not deemed effective in attaining justice.

Ursula and Adília were ambiguous about this, experiencing a split between their emotions and their political beliefs. Ursula said: *I don't believe in the judicial system, in the punitive system, in the prison system, (...) [but] then I think, should a guy like [my offender] be able to interact with women, to cause them this type of harm?* She understands that these men are the product of a sexist society, but she doesn't want them near her friends or other women. Adília shares that *a visceral part of me wants punishment but that rationally, I don't believe in the prison system.* She doesn't believe that it actually rehabilitates people, and claims *what they do in there isn't right.*

Regarding rehabilitation, some of the participants have limited belief in it. Matilde believes some people are inherently bad, and that people who continuously abuse others, for example, cannot be rehabilitated. Adília also believes her offender is profoundly evil and conscious of the harm she causes, so she sees no room for change. Ursula also believes SV offenders are hopeless, because *these are men who were trained in a patriarchal society to believe that women's bodies are things at their disposal.*

Prevention was, without a doubt, the priority among the participants, something captured by McGlynn & Westmarland (2018, p. 194) - *in essence, many victim-survivors will only feel a sense of justice when we live in a more just society (ibid, p. 194).* The wish that no other women were harmed by their offender was the motivation for Matilde and Adília to report their offender. Clarice and Ângela both hope most of all that their offender harms no more women. Maria fears this and hopes there was some way to warn the women in her offender's life. For Ursula, the fact that her offender has not been stopped, and that she learned of subsequent victims, is a motive for rage - *My pain, I can handle. What I can't handle is knowing he keeps on hurting girls and women.*

Discussion

Regarding the invisibility of gender-based violence as social injustice, it contrasts the multiple consequences felt by sexual violence victim-survivors, and can partly be explained by the historical neglect of SV victimization by legal institutions, highlighted by feminist movements (Pali, 2019, p. 38). The material, psychological, relational, professional/educational and social consequences experienced by victim-survivors, among others, compose different forms of harm that SV provokes, which the CJ system mostly does not acknowledge. Following the social harm perspective, it is relevant to consider this array of consequences when imagining justice solutions to SV, as effective social justice requires all of these to be addressed (Pali, 2019, p. 33). The juridical field denies recognition to the plurality of these harms, which constitutes a form of symbolic violence over victim-survivors.

Occurring at the familial, the relational, the communal and the social levels, this normalization of GBV is in line with the feminist critique of SV's relegation to the private domain. The data suggests that SV in Portugal still needs to be politicized and established as a pressing public issue, reframing this historically private matter (*ibid*, p. 29). Since context-dependent strategies are required for addressing SV (*ibid*, p. 37), this might mean that in Portugal decriminalization or a halt of carceral solutions may be detrimental at this point, and that public condemnation of SV is necessary (*ibid*, p. 38).

Some feminist theories on SV see it as a producer of women's oppression and a form of patriarchal control of all women (*ibid*, p. 17), meaning its harm goes beyond the individual assaulted and extends to women in general. These are relevant in explaining the post-assault fear that was felt by the participants, mostly relating to public spaces. The causal relation between victimization in a private setting (including in a DV relationship) and fear that extends to public spaces and to other types of behavior denotes that SV is a powerful form of control in women's lives and actions (Antonsdóttir, 2019, p. 4).

The experience of the participants denotes that different types of violence are interconnected, meaning watertight legal categories may not accurately describe

their SV experience. Furthermore, SV should be considered in relation to other types of violence, as is clear by the overlap of DV and SV relationships, in which coercion is used by the offenders in multiple occasions, which include but are not limited to SV. Thus, the concept of the sexual violence continuum (Kelly, 1991) has shown to be relevant, as it helps describe how violence is present in women's lives in many ways and how avoiding fixed analytical categories is beneficial.

Considering these different types of violence and how they interrelate in women's lives through social harm theories also shows how focusing on criminalised behaviors alone compartmentalizes and erases the lived experience of injustice. The fact that certain types of violence are not criminalised does not mean they are not harmful (*ibid*, p. 32), including in the way they enable other types of violence to be normalized. The CJ system's sole focus on crime, therefore, fails to structurally analyze violence, and SV in particular.

The participants' post-assault hyper-awareness of SV seems to denote the creation of an awareness of the structural injustice of SV, and of violence against women in general. Their embodied experience of injustice resulted, in some cases, in their commitment to social justice (Banakar, 2015, p. 231). The politicization of some of the participants, getting involved in feminist communities and advocacy, relates to this increasing awareness. Connecting their personal experience of SV to SV as a societal phenomenon, mostly through feminist theory and praxis, is a means of meaning-making of their experience, by placing it in a wider pattern of events.

Naming their experiences as injustice and as crime was difficult for most participants. This denotes, on the one hand, how influential images of ideal victims (Christie, 1986) are, and how these normative expectations of what a victim is clash with victim-survivors' personal experience. Victimhood is ontologically uncertain, it is othered, abstracted, with the participants being able to recognize it in others, but not themselves. Extending Christie's concept of the ideal victim, it is worth noting that some ideal features of offenders are also pervasive in the participants' narratives. Perhaps one of the most relevant is the paradox of intimate relationships: it is harder to recognize violence when in a close relationship with the offender, despite violence being most likely to occur in these intimate settings, as the

literature shows. These results show that stereotypes regarding victims may impair victim-survivors' capacity to recognize violence, and that the myth that SV is committed by strangers is pervasive as well. Further exploration on the barriers to recognizing injustice will thus be beneficial for tackling SV.

Considering the ways in which the participants acknowledged that they were victims of SV, while the CJ system plays a role in this, Bourdieu's theory of law as revealer of injustice by revealing the existence of rights, does not sufficiently account for these. The results show that the intervention of others, such as friends and family, can trigger the realization that one is experiencing SV or DV. *The power of naming* that Bourdieu (1987, p. 838) attributes to law finds parallel in other powerful acts of naming, that should not be overshadowed by law's claim to the monopoly of the right to determine social reality.

Furthermore, law's power of naming is necessarily preceded by the acknowledgment that one has been the victim of injustice, a process that ought to receive more attention in these crimes of impunity. Focusing on law as the revealer of rights thus eclipses the process of acknowledging one's rights that must take place before recurring to the law. The victimological experience should be explored through recognition in a wider sense, in line with McGlynn & Westmarland (2018).

This extension of the modes of naming injustice can be an argument for non-carceral justice solutions, as it denotes the importance of continuous community intervention and support. However, the results show the potential harm of victim-survivors' double reality when the violence they experience is not acknowledged, as communities may not be prepared to identify it. This may cause the victim-survivor the further violence of being denied their social recognition of injustice. The results also show that the internal recognition of injustice is not linear, is tied to the social recognition, and can be timely. The effect of recognition is thus usefully expanded beyond the legal realm as one central to the victimological experience – both the recognition of harm, and the denial of recognition, the latter constituting an additional form of harm that, when perpetrated by the legal system, constitutes a manifestation of its symbolic violence.

Bourdieu (1987)'s theory on the force of law sees injustice as the revelation that one is entitled to rights (*ibid*, p. 833). However, when deciding to report the crime or not, the participants did not merely consider whether they had rights or not. In fact, while all of the participants could eventually identify what they experienced as criminal, and thus knew they could report these crimes, most of them chose not to. The disillusion of participants with the CJ system means that they encounter another injustice - that of learning that while they have formal rights, these are not effective, leading to a sense of impunity and delegitimization of CJ.

Regarding the participant's distrust in CJ and its symbolic power, most of the participants doubted the efficacy of the CJ system in cases of SV, which can be understood as denoting an erosion of CJ's claim to normativity. As SV crimes remain *crimes of impunity* (Herman, 2005, p. 574), this makes it harder for law to claim justice, and considering it as the main source of law's normativity, its normative power is affected by this generalized disbelief. The *doxa* of law thus does not accurately describe these crimes in which impunity is overall recognised, and so both law's symbolic power and its claim to legitimacy are affected. As law's symbolic power is one of carceral feminism's main arguments, its relevance should be reassessed taking into account how crimes of SV hold a specific position in which law's legitimacy is fragilized.

Bourdieu (1987, p. 837) considers a trial a *monopoly of the power to impose a universally recognized principle of knowledge of the social world*, i. e. a trial establishes its decision as reality. Justice in this sense is binary, as the facts of the accusation are either established as truthful or false, in an act of construction of social reality. This may be extremely violent for victim-survivors, as illustrated by the two participants whose case was archived, as well as by the counterclaim they received from their offender. In sum, the CJ system both denied their victimization and enabled their offender to use its symbolic power to portray herself as a victim.

The participants' disinterest in punitive solutions and call for structural changes in society reflect the social harm theories' understanding that criminalization is not enough to encompass all the aims of social justice in the matter of SV (Pali, 2019, p. 32). It also reflects the feminist analysis of SV as a

gender-based structural phenomenon (*ibid.*, p. 30), and the flexibility and variety in their responses is reminiscent of the concept of kaleidoscopic justice (McGlynn & Westmarland, 2018).

The participants' narratives highlight a series of solutions beyond the CJ system that already exist, reminiscent of justice as connectedness (McGlynn & Westmarland, 2018). The several informal ways in which women help other women prevent SV demonstrate how law enforcement is not necessarily the one ensuring the prevention of GBV. One of the victim-survivors' most pressing desires - that offenders are exposed and/or excluded from communities - can, indeed, be accomplished by the CJ system, but the participants described non-carceral ways in which this was accomplished as well.

The (in)existence of specialized knowledge on SV and DV by different agents was an important aspect of the participants' experiences, which validates the feminist emphasis in analyzing the structural origin of SV and locating it in patriarchal modes of control. Legal agents with no specialized knowledge of the victimological experience, such as lawyers and public investigators, were common. The data curiously shows that victim support services, considered specialized, are not immune to replicating the problems of non-specialized services. This is a danger that ought to be considered in any justice model - regardless of training, practitioners will not always recognize injustice and the complex dynamics at play in SV and DV cases. The participants stressed the importance of specialized mental health professionals that can confirm the *pathology of the normal* (Gorelick, *apud* Campbell et al., 2009b, p. 62) and not stigmatize or misunderstand their experience.

Regarding law enforcement in particular, many doubted their legitimacy and, in particular, were uncomfortable with how masculine it is - law enforcement can be seen as a symbol of male aggression, considering some of the participants' testimonies, rather than as a form of defense from male aggression. Their mistrust of male officers is not unfounded, as Fávero et al. (2020, p. 12) found a positive correlation between the male gender of officers and their tolerance to SV in Portugal. This strengthens the abolitionist position, as the power inherent in law enforcement, which helps maintain the state's *monopoly of legitimized symbolic*

violence (Bourdieu, 1987, p. 838), seems to protect those most powerful in society, thus reflecting the patriarchal power imbalance between men and women.

Restorative solutions were appreciated by some for their emphasis on recognizing the harm to extended communities, thus attempting to focus on the social relations underlying in a violence situation (Pali, 2019, p. 33). Considering the potential restoration of relations, rehabilitation of the offender was discussed, and most participants, despite hoping for this outcome which goes in line with restorative aims (*ibid*, p. 36), were skeptical of the possibility of offenders ever being rehabilitated.

Punishment was seen as a further injustice by some of the participants, creating more harm and suffering while doing nothing to address the suffering of the victim-survivor. None of the participants believed in the efficacy of punishment, and none of the participants prioritized punishment or believed it could lead to the accomplishment of effective priorities like prevention or rehabilitation. This is very much in line with the abolitionist, the social harm and the restorative critiques of the CJ system (*ibid*, p. 36). One cannot claim that carceral solutions are *doxa* or unquestionable.

However, and because the injustice experience is, as Shklar puts it, emotional and embodied (Pemberton et al., 2018, p. 12), and because it is complex, some of the participants showed ambiguous feelings towards punishment. Emotionally, they wished for their offenders, and perhaps offenders in general, to be punished, but politically they did not consider punishment effective or fair. This is an example of how the experience of injustice is one where the personal and the political intertwine - this dispels the myth that victims are purely emotional, purely vengeful or purely interested in their retribution (Herman, 2005).

Finally, prevention is overwhelmingly the priority for these participants, with all of them referring both that they wish no more women to be harmed by their offender and the realization that more women likely will be, and that this is beyond their control. This increases their sense of impunity and disbelief in the CJ system, as it fails one of its most important functions. It also increases their self-blame, particularly, if deciding not to report their crime. While prevention is in theory one

of the aims of CJ, the abolitionist critique is right in highlighting how much of the CJ's resources are spent on punishment rather than prevention (Hudson, 1998, p. 240). As seen by the distrust in law enforcement, who ought to enforce the prevention of SV, there is a disbelief in this system's capacity to protect more women from being victimized, or even to protect those who already have been from further harm.

Prevention is thus seen as an essential and holistic justice need, in line with kaleidoscopic justice (McGlynn & Westmarland, 2018, p. 193). Most of the participants were thankful for this research and believed gathering information on the issue and making it more visible were ways to tackle it. Ursula considers that education on ways to identify violence is essential and Ângela believes education on rights and duties, as well as on the functioning of the law, are important, but that wider societal change is needed, calling upon the notion of transformative justice - *I wish everything changed.*

CHAPTER VII - CONCLUDING REMARKS

This research has established the importance of exploring the experience of victim-survivors of sexual violence, even if they have not resorted to formal criminal justice, recognising the decision not to report these crimes as one of socio-legal interest. It has found that the impunity that is characteristic of SV has delegitimized criminal law and eroded law's symbolic power, strengthening the dissenting voices of alternative justice theories. It has shown the detachment of victim-survivors from the criminal justice system and their wish for transformative societal change, moving away from the emphasis on punishment, in line with previous literature on survivor-centered justice. It has furthermore emphasised the importance of focusing not only on the legal recognition of SV, but on its recognition at many levels in society. Finally, it has found that societal change that tackles the power relations underlying gender-based violence is necessary for preventing SV, and that the law alone cannot provide this.

Further studies would benefit from focusing on victim-survivor's process of recognizing injustice beyond the legal sense, as well as of their post-assault actions and coping mechanisms besides taking legal action. These are ways in which they address their justice needs outside formal law, and so pave the way for envisioning a non-carceral survivor-centered form of justice. While qualitative methodology enabled me to gain in-depth access into the victimological experience, quantitative studies on the matter in the Portuguese context would benefit our understanding of the significance of the sexual violence justice gap, which I have merely grasped at. In that case, strategies for finding participants – especially those who have not resorted to formal criminal justice – will have to be explored more in-depth. The research problem would also benefit from being addressed through a multidisciplinary lens, namely with insights from psychology, philosophy, and other fields.

Policy recommendations

I believe some important information stands out from the collected data, which can be used for improving policies on sexual violence in Portugal. The results show that no one justice solution fits the needs of justice-survivors, which I believe means we must work on two fronts in terms of policy: on the one hand, improving the current criminal policies, providing whatever immediate improvement is possible; most importantly, working on structural changes to the criminal justice system and creating its alternatives. Regarding the first front, in terms of victim's rights, a more clear definition of the criteria for applying the statute of *especially vulnerable victim* (article 21º of Law nr. 130/2015) in cases of GBV appears to be needed, as those rights would potentially benefit most victim-survivors of SV.

Secondly, the 6 months the victim-survivor of SV has to report a crime are manifestly insufficient. The research has shown that the recognition of SV as an injustice is a non-linear and often long process, in part due to society's normalization of violence which leads many to dismiss their own victimization. This legal disposition is shockingly ill-informed in the manner in which victim-survivors react to trauma and on the patriarchal invisibilization of GBV.

However, these crimes should not necessarily be public crimes, as this would imply disempowering victim-survivors in their process of acknowledging their victimization. Furthermore, beyond acknowledgment, victim-survivors should be given the option to not resort to CJ, as is seen by the variety of reasons they demonstrated for not doing it, including that they see punishment as ineffective, useless or harmful to the offender. Being a public crime transforms report into a matter of social responsibility and not of repairing past harms (Hansen et al., 2020, p. 43), which obliterates the victim-survivor in these procedures, instrumentalizing her/him for social justice.

In terms of the second front, in the Portuguese context, the social awareness of SV as social injustice seems, from the collected data, to be severely underdeveloped. This carries severe consequences in terms of the victim-survivors' healing processes, leading them to normalize or dismiss violence in themselves or others for long and contributing to offenders' lack of meaningful accountability. It

is important that this is addressed through more than carceral reforms which merely criminalize certain individuals. Only confronting the patriarchal nature of Portuguese society will lead to meaningful, transformative changes and to the effective prevention of SV, something that most consensually is a principal aim of victim-survivors, the CJ system, policymakers and researchers like me. Alternative justice models must furthermore be developed, providing alternatives to victim-survivors and dismantling a system that multiplies harm rather than addresses it.

Conclusions

One of the conclusions of this research is that, in line with the literature (McGlynn & Westmarland, 2018; Herman, 2005; Holder, 2014, p. 195) no justice solution is consensual and different victim-survivors manifest different justice needs. Restorative justice was likewise not consensually appreciated and the particular dynamic in domestic violence ought to be more extensively considered in these processes. An important conclusion is that the notion of justice as recognition (McGlynn & Westmarland, 2018) is extremely important - the recognition, by the own victim-survivor, by their communities and by society, that they have experienced a serious injustice, including by taking gender-based violence seriously, was influential in their experiences of naming and overcoming their victimization experience. This can be read alongside and expanding Bourdieu's notion of law's power of recognition, emphasising how recognition in other social fields is relevant in the construction of this subjective feeling of entitlement to rights, and thus of injustice.

This research helps establish the existence of a sexual violence justice gap in Portugal, as portrayed by the participants' sense of impunity. Furthermore, it shows that legal acknowledgment of SV and carceral solutions are insufficient without the recognition of SV as a social injustice, as highlighted by feminist advocating on SV (Pali, 2019, p. 30). As Herman (2005, p. 598) puts it, *community standards are the standards of patriarchy*, and as long as this is not changed, the legal system alone will not tackle SV adequately. The alternative justice theories

approached have shown to be relevant in their critique of CJ's erasure of this necessity to tackle SV as a structural issue.

The research revealed that CJ does not address many of victim-survivors' justice needs, but shows that communities and victim-survivors have developed inventive ways to tackle these needs. These should not be overlooked, but should rather be more studied, comprehended and improved, as it is because of community assistance, mental health services, family support, the sorority between women, among others, that these participants have survived their experience. We should thus look beyond the CJ to see what is already assisting these victim-survivors, as the importance of justice as connectedness (McGlynn & Westmarland, 2018) should be emphasized.

Lastly, the importance of teaching people how to recognize violence, either in their own lives or as bystanders, cannot be overstated. We have seen the impact that the recognition of injustice had in the participants' lives and in their healing process, and how for some this recognition enabled them to leave DV situations and stop the harm being done unto them. The power of naming is not exclusive of the CJ system, and we must become better, as communities, at identifying the signs of violence when we see them, including in ourselves, and to confront, as Ursula put it, *the monsters at home*.

ANNEXES

ANNEX I - Participant Data

Name	Age	Offender - Gender	Offender - Relationship	Age when SV took place	Frequency of SV	Legal action
Ângela	21	Male	Acquaintance	20	Singular event	Undergoing Process
Matilde	35	Female	Girlfriend (partly cohabiting)	20 - 22	Around 2 years (DV)	Witness in archived case
Clarice	24	Male	Acquaintance	23	Singular event	Undergoing Process
Adriana	24	Male	Ex-boyfriend (cohabiting)	19 - 21	Around 2 years (DV)	No report
Ursula	26	Male	Boyfriend	14	Around 1 year	No report
Adília	28	Female	Girlfriend (Cohabiting)	18 - 22	Around 4 years (DV)	Archived case
Maria	21	Male	Boyfriend (partly cohabiting)	18 - 19	Around 1.5 years (DV)	No report

REFERENCES

- Antonsdóttir, H. F. (2018). 'A Witness in My Own Case': Victim-Survivors' Views on the Criminal Justice Process in Iceland. *Feminist Legal Studies*, 26(3), 307–330
- Antonsdóttir, H. F. (2019). Injustice Disrupted: Experiences of Just Spaces by Victim-Survivors of Sexual Violence. *Social & Legal Studies*, 29(5), 718–744.
- Antonsdóttir, H. F. (2020). Decentring Criminal Law: Understandings of Justice by Victim-Survivors of Sexual Violence and their Implications for Different Justice Strategies. Lund University.
- Banakar, R. (2015). Norms and Normativity in Socio-Legal Research. In R. Banakar (Ed.), *Normativity in Legal Sociology : Methodological Reflections on Law and Regulation in Late Modernity* (pp. 215–239). Springer International Publishing.
- Banakar, R. (2019). On Socio-Legal Design. Lund University. https://portal.research.lu.se/portal/files/65005127/10_aaaSocio_legal_methodology_v_10.pdf
- Bourdieu, P. (1987). The force of law: Toward a sociology of the juridical field. *The Hastings Law Journal*, 38(5), 805–854.
- Boyle, K. (2018). What's in a name? Theorising the Inter-relationships of gender and violence. *Feminist Theory*, 20(1), 19–36.
- Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3(2), 77–101
- Braun, V., & Clarke, V. (2013). *Successful Qualitative Research: A Practical Guide for Beginners* (1st ed.). SAGE Publications Ltd.

- Campbell, R., Adams, A. E., Wasco, S. M., Ahrens, C. E., & Sefl, T. (2009a). Training Interviewers for Research on Sexual Violence. *Violence against Women, 15*(5), 595–617.
- Campbell, R., Adams, A. E., Wasco, S. M., Ahrens, C. E., & Sefl, T. (2009b). “What Has It Been Like for You to Talk With Me Today?”: The Impact of Participating in Interview Research on Rape Survivors. *Violence Against Women, 16*(1), 60–83
- Cardoso, G., Antunes, A., Silva, M., Azeredo-Lopes, S., Xavier, M., Koenen, K., & Caldas-de-Almeida, J. M. (2020). Trauma exposure and PTSD in portugal: Findings from the world mental health survey initiative. *Psychiatry Research, 284*, 112644
- Christie, N. (1977). Conflicts as Property. *The British Journal of Criminology, 17*(1).
- Christie, N. (1986). The Ideal Victim. In Fattah, E. A. (ed.). *From Crime Policy to Victim Policy: Reorienting the Justice System* (1st ed. 1986 ed.). Palgrave Macmillan.
- Daly, K. (2013). Conferences and gendered violence: practices, politics, and evidence. In I. Vanfraechem & E. Zinsstag (Eds.), *Conferencing and Restorative Justice: International Practices and Perspectives* (Illustrated ed., pp. 11–33). Oxford University Press.
- Daly, K., & Stubbs, J. (2006). Feminist engagement with restorative justice. *Theoretical Criminology, 10*(1), 9–28.
- Davis, A. Y. (2003). *Are Prisons Obsolete?* Seven Stories Press.
- Dezalay, Y., & Madsen, M. R. (2012). The Force of Law and Lawyers: Pierre Bourdieu and the Reflexive Sociology of Law. *Annual Review of Law and Social Science, 8*(1), 433–452

- Downes, J. (2017). "It's Not the Abuse That Kills You, It's the Silence": The silencing of sexual violence activism in social justice movements in the UK Left. *Justice, Power & Resistance*, 1(2), 35–58.
- Fávero, M., Del Campo, A., Faria, S., Moreira, D., Ribeiro, F., & Sousa-Gomes, V. (2020). Rape Myth Acceptance of Police Officers in Portugal. *Journal of Interpersonal Violence*.
- Fletcher, R. (2002) Feminist Legal Theory. Banakar, R. & Travers, M. (eds.). *An Introduction to Law and Social Theory*, pp. 135-154.
- Hansen, M., Stefansen, K., & Skilbrei, M. L. (2020). Non-reporting of sexual violence as action: acts, selves, futures in the making. *Nordic Journal of Criminology*, 22(1), 42–57
- Hart, C. (1998). *Doing a Literature Review: Releasing the Research Imagination (SAGE Study Skills Series)*. SAGE Publications Ltd.
- Herman, J. L. (2005). Justice From the Victim's Perspective. *Violence Against Women*, 11(5), 571–602.
- Holder, R. (2014). Satisfied? Exploring Victims' Justice Judgements. Wilson, D., & Ross, S. (ed.) *Crime, Victims and Policy: International Contexts, Local Experiences (Palgrave Studies in Victims and Victimology)* (1st ed. 2015 ed.). Palgrave Macmillan.
- Hudson, B. (1998). Restorative Justice: The Challenge of Sexual and Racial Violence. *Journal of Law and Society*, 25(2), 237–256
- Hudson, B. (2002). Restorative Justice and Gendered Violence: Diversion or Effective Justice? *British Journal of Criminology*, 42(3), 616–634.

- Jacobsson, K., & Åkerström, M. (2012). Interviewees with an agenda: learning from a 'failed' interview. *Qualitative Research*, 13(6), 717–734.
- Jordan, S. P., Mehrotra, G. R., & Fujikawa, K. A. (2020). Mandating Inclusion: Critical Trans Perspectives on Domestic and Sexual Violence Advocacy. *Violence Against Women*, 26(6–7), 531–554.
- Jülich, S. (2006). Views of justice among survivors of historical child sexual abuse. *Theoretical Criminology*, 10(1), 125–138
- Jülich, S., & Thorburn, N. (2017). Sexual Violence and Substantive Equality: Can Restorative Justice Deliver? *Journal of Human Rights and Social Work*, 2(1–2), 34–44.
- Keenan, M., Zinsstag, E., & O’Nolan, C. (2016). Sexual violence and restorative practices in Belgium, Ireland and Norway: a thematic analysis of country variations. *Restorative Justice*, 4(1), 86–114.
- Kelly, L. (1991). *Surviving Sexual Violence (Feminist Perspectives)* (1st ed.). Polity.
- Kim, M. E. (2019). Anti-Carceral Feminism: The Contradictions of Progress and the Possibilities of Counter-Hegemonic Struggle. *Affilia*, 35(3), 309–326.
- Koss, M. P. (2013). The RESTORE Program of Restorative Justice for Sex Crimes. *Journal of Interpersonal Violence*, 29(9), 1623–1660
- Kvale, S. (2006). Dominance Through Interviews and Dialogues. *Qualitative Inquiry*, 12(3), 480–500.
- Lee, M. R., & Renzetti, M. C. (1990). The Problems of Researching Sensitive Topics. *American Behavioral Scientist*, 33(5), 510–528.

- Machado, A., Hines, D., & Matos, M. (2018). Characteristics of Intimate Partner Violence Victimization Experienced by a Sample of Portuguese Men. *Violence and Victims, 33*(1), 157–175.
- Marsh, F., & Wager, N. M. (2015). Restorative justice in cases of sexual violence. *Probation Journal, 62*(4), 336–356.
- Martins, S., Machado, C., Abrunhosa, R., & Manita, C. (2012). Escala de Crenças sobre Violência Sexual (ECVS). *Análise Psicológica, 30*(1 / 2), 177–191.
- McGlynn, C. (2011). Feminism, Rape and the Search for Justice. *Oxford Journal of Legal Studies, 31*(4), 825–842
- McGlynn, C., Westmarland, N., & Godden, N. (2012). ‘I Just Wanted Him to Hear Me’: Sexual Violence and the Possibilities of Restorative Justice. *Journal of Law and Society, 39*(2), 213–240.
- McGlynn, C., & Westmarland, N. (2018). Kaleidoscopic Justice: Sexual Violence and Victim-Survivors’ Perceptions of Justice. *Social & Legal Studies, 28*(2), 179–201
- Mercer, V., Madsen, K. S., Keenan, M., & Zinsstag, E. (2015). Doing restorative justice in cases of sexual violence: A practice guide.
- Moreira, V. P. (2016, May). O Crime de Violação à Luz do Bem Jurídico Liberdade Sexual. (Master Thesis Universidade Católica Portuguesa).
<https://repositorio.ucp.pt/bitstream/10400.14/21394/1/TESE%20COMPLETA%201.pdf>

- Pali, B. (2019). Towards integrative frameworks for addressing sexual violence. In M. Keenan & E. Zinsstag (Eds.), *Restorative Responses to Sexual Violence: Legal, Social and Therapeutic Dimensions (Routledge Frontiers of Criminal Justice)* (1st ed., pp. 28–44). Routledge.
- Pemberton, A., Mulder, E., & Aarten, P. G. M. (2018). Stories of injustice: Towards a narrative victimology. *European Journal of Criminology*, *16*(4), 391–412.
- Regehr, C., & Alaggia, R. (2006). Perspectives of Justice for Victims of Sexual Violence. *Victims & Offenders*, *1*(1), 33–46
- Sipes, J. B. A., Roberts, L. D., & Mullan, B. (2019). Voice-only Skype for use in researching sensitive topics: a research note. *Qualitative Research in Psychology*, 1–17
- Turchik, J. A., & Edwards, K. M. (2012). Myths about male rape: A literature review. *Psychology of Men & Masculinity*, *13*(2), 211–226. <https://doi.org/10.1037/a0023207>
- Turchik, J. A., Hebenstreit, C. L., & Judson, S. S. (2015). An Examination of the Gender Inclusiveness of Current Theories of Sexual Violence in Adulthood. *Trauma, Violence, & Abuse*, *17*(2), 133–148.
- Ventura, I. (2021). *Medusa no Palácio da Justiça ou Uma História da Violação Sexual (Portuguese Edition)*. Tinta da China.
- Wemmers, J. A. (2009). Where Do They Belong? Giving Victims a Place in the Criminal Justice Process. *Criminal Law Forum*, *20*(4), 395–416
- Woolford, A., & Ratner, R. S. (2003). Nomadic Justice? Restorative Justice on the Margins of Law. *Social Justice*, *30*(1 (91)), 177–194.

Zinsstag, E., & Keenan, M. (2019). *Restorative Responses to Sexual Violence: Legal, Social and Therapeutic Dimensions (Routledge Frontiers of Criminal Justice)* (1st ed.). Routledge.

Legal documents

Portugal

Law nr. 101/2019, September 6th - Changes to the PPC to fulfill the Istanbul Convention.¹³

Law nr. 130/2015¹⁴, September 4th - Statute of the Victim

Parliamentary Resolution 4/2013¹⁵, January 21st - Istanbul Convention

Law nr. 21/2007, 12 June¹⁶ – Penal Mediation Regime

Law nr. 48/95, 15 March¹⁷ - Portuguese Penal Code

Law nr. 78/87, 17 February¹⁸ - Portuguese Penal Process Code

European Union

Istanbul Convention¹⁹ - Council of Europe Convention on preventing and combating violence against women and domestic violence, 12 April 2011

¹³http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=3142&tabela=leis&ficha=1&pagina=1&so_miolo=

¹⁴https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?tabela=leis&nid=2394&pagina=1&ficha=1

¹⁵ http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1878&tabela=leis

¹⁶https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1459&tabela=leis&ficha=1&pagina=1

¹⁷ http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=109&tabela=leis

¹⁸ http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=199&tabela=leis

¹⁹ <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210>

Other sources

APAV (2019) Manual CARE —Apoio a Crianças e Jovens Vítimas de Violência Sexual. (2.ª edição revista e aumentada)

EU Agency for Fundamental Rights (2014)²⁰. Violence Against Women: An EU-Wide Survey - Main Results.

Oliveira, M. (2018, September 27)²¹. Só 37% dos condenados por crimes sexuais vão para a prisão. PÚBLICO.

Petição para a conversão do crime de violação em crime público (2021).²²
Petição Pública.

Quebrar o Silêncio (2019)²³. Guia de Bolso para Homens Vítimas/Sobreviventes de Violência Sexual

Relatório Anual de Segurança Interna (2016)²⁴

Relatório Anual de Segurança Interna (2019)²⁵.

Sexual Violence Research Initiative (2015). Guidelines for the prevention and management of vicarious trauma among researchers of sexual and intimate partner violence. Pretoria: South Africa.

Swedish Research Council (2017). Good Research Practices.

²⁰ https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf

²¹ <https://www.publico.pt/2018/09/27/sociedade/noticia/so-37-dos-condenados-por-crimes-sexuais-cumprem-pena-de-prisao-1845394>

²² <https://peticaopublica.com/pview.aspx?pi=PT107082>

²³ <https://quebrarosilencio.pt/wp-content/uploads/GUIA-DE-BOLSO.pdf>

²⁴ <https://www.portugal.gov.pt/download-ficheiros/ficheiro.aspx?v=%3d%3dBAAAAB%2bLCAAAAAAABAAzNjYwBQBKIQJsBAAA%3d%3d>

²⁵ <https://www.portugal.gov.pt/download-ficheiros/ficheiro.aspx?v=%3D%3DBQAAAB%2BLCAAAAAAABAAzNDA0sAAAQJ%2BleAUAAAA%3D>