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SYMPOSIUM

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What does it mean to adopt a holistic approach to criminal justice? This symposium treats that question as a foundational inquiry into the theory, practice, and institutional architecture of criminal law. At a time of eroding public trust, a broad recognition that mass incarceration both reflects and entrenches structural inequality, growing pressure on legal actors to account for the human costs of their decisions, and anxiety about the rule of law, revisiting the normative commitments of criminal law feels like an urgent task.

Holistic criminal justice is not a single method or intervention. It is a reorientation—a conceptual framework and set of practices that decenter case management and punishment as the system's organizing logic and recenter human dignity, relational accountability, and structural context. It challenges us to see cases not as isolated legal infractions but as chapters in larger human stories—of trauma,

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victimization, discrimination, social neglect, constrained opportunity, untreated mental illness, and community disempowerment. Holism resists the fragmentation of legal reasoning by insisting on moral, psychological, and sociological complexity. Put simply, it begins with a deceptively simple commitment that proves surprisingly hard to honor in practice: to see the whole person within the full ecology of harm, need, responsibility, and repair.

That insistence immediately encounters a system built for speed, routinization, and volume. Herbert Packer's canonical typology still captures the core dilemma: A crime-control model that prizes throughput and standardization versus a due-process model that deliberately slows the system to make room for rights and humility in the face of error.[1] The debate Packer set in motion in 1964 still structures our choices today: When caseloads are overwhelming, do we prioritize efficiency, or do we design procedures that dignify individuals at the expense of time and cost?

Empirical work reveals what those choices look like in practice. Malcolm Feeley's classic ethnography of a lower criminal court made visible the lived costs of "efficient" justice: crowded dockets, hurried calendars, and a constant mix of appearances and bargains in which the process itself punishes—through missed work, childcare crises, fees, and fear—regardless of outcome.[2] Even when formal punishments were light, the everyday experience was disorienting and inconsistent; the language of the courtroom was opaque, the physical spaces threadbare, and the logic of decisionmaking hard to discern. In that world, expedience—not meaning, and certainly not justice—becomes the currency of adjudication.

Why does that world persist? Scholars have helped explain its internal mechanics. In mainstream courts, Stephanos Bibas observed, the true "contest" is less prosecutor versus defense attorney than "insiders" versus "outsiders."[3] Repeat-player professionals—judges, prosecutors, defense attorneys—share incentives to move cases, to manage calendars, to keep the wheels spinning. Those incentives rarely map neatly onto the interests of defendants, victims, families, or the public. Agency costs, information asymmetries, and simple human heuristics mean that many bargains reflect caseload pressure and local custom more than calibrated judgment. Rights become priced at the bargaining table, and most consequential decisions occur far from

1. Herbert L. Packer, *Two Models of the Criminal Process*, 113 U. PA. L. REV. 1, 23 (1964).

2. Feeley's seminal work, which, although written nearly fifty years ago, remains strikingly relevant today. *See* MALCOLM M. FEELEY, THE PROCESS IS THE PUNISHMENT: HANDLING CASES IN A LOWER CRIMINAL COURT (1979).

3. STEPHANOS BIBAS, THE MACHINERY OF CRIMINAL JUSTICE 29 (2012).

public view. Prosecutors rarely explain why a case was declined. Plea deals are typically struck in chambers, in hallways, or over the phone—not in open court. And even when proceedings are technically public, they remain practically opaque: Dense jargon and procedural complexity bog the process down and keep it inaccessible in any meaningful sense. In this environment, insiders consolidate power and strip outsiders of influence. Eventually, the system is managed as a "game" of cost-benefit tradeoffs rather than as a forum animated by explicit moral purposes.[4] Holistic reform must therefore grapple with this insider economy if it is to be more than compassionate rhetoric layered onto an unchanged machine.

William Stuntz widened the lens and showed the structural stakes of that insider economy: As guilty pleas resolved the vast majority of cases, discretionary power migrated from public, trial-centered forums to earlier, largely invisible charging and bargaining stages.[5] Substantive criminal law expanded; managerial control eclipsed deliberative truth-seeking; the system's center of gravity shifted away from juries toward professional negotiation. On this terrain, "holism" can either flourish as care or manifest as unchecked discretion—both possibilities within the same architecture.

Issa Kohler-Hausmann's work on mass-misdemeanor courts makes that architecture legible in everyday life.[6] Her account of "managerial justice" captures a system that marks, sorts, and supervises people over time—through records, conditions, and procedural demands—often without convictions. From the outside, it may appear to be a mechanized assembly line; from the inside, it is a high-volume administrative apparatus that does make distinctions, but in the service of managing populations rather than adjudicating individual blame, let alone rehabilitation. Kohler-Hausmann situates "managerial justice" in dialogue with the new penology: It shares its orientation toward population management and risk sorting. However, she argues that misdemeanor managerialism cannot be reduced to actuarial risk management alone; it also retains a moral, individuating component.

This literature brings into focus a first cluster of tensions: *the architecture of adjudication itself*. Standardization, speed, and volume are key anchors of modern criminal justice—especially in the era of the vanishing trial, where plea bargains resolve over ninety percent of cases

4. *Id*. at 30.

5. WILLIAM J. STUNTZ, THE COLLAPSE OF AMERICAN CRIMINAL JUSTICE 8 (2011).

6. ISSA KOHLER-HAUSMANN, MISDEMEANORLAND: CRIMINAL COURTS AND SOCIAL CONTROL IN AN AGE OF BROKEN WINDOWS 66–67 (2018).

in the United States.[7] The pressure to efficiently dispose of cases often means suppressing complexity, disregarding social context, and silencing the narratives of both defendants and victims. As Eric Fish describes, while portraying the U.S. criminal courts as "factories," this efficiency logic systematically crowds out individualized, holistic justice.[8] In such "plea-market" environments, holistic practices look subversive: They slow things down. They demand attention. They interrupt the flow. They require discretion and interpretation. These very attributes challenge the system's core design.

Holism, however, carries its own risks. Individualized justice can invite arbitrariness, exacerbate disparities, and reinscribe inequalities. If judges and prosecutors are empowered to consider personal histories, trauma, or community impact, how do we prevent the reintroduction of bias? What are the mechanisms of accountability for discretionary mercy? Can equity and consistency coexist?

The classic question thus intensifies: Should similarly situated lawbreakers be treated the same (consistency), or should each case be treated as unique (discretion)? In sentencing, for example, before 2005, the U.S. Federal Sentencing Guidelines were mandatory and aimed to reduce unwarranted sentencing disparities by standardizing sentencing ranges;[9] in contrast, a holistic view may accept what looks like "unwarranted disparity" when tailoring punishment to circumstances promotes substantive fairness or rehabilitation. Our very metrics shift—from formal equality ("like cases alike") toward individualized equity. As Farhang Heydari notes, reasonable minds will disagree about a "fair" sentence because the answer turns on contested values (deterrence, mercy, restoration) rather than a single metric of accuracy.[10] Historically, American sentencing has oscillated from individualized, rehabilitation-oriented indeterminacy to highly structured guideline regimes; in the past two decades, courts and commissions have reintroduced discretion—most notably after *Booker*—so that guidelines function as advisory or presumptive frameworks that permit case-by-case judgment.[11] The holistic literature argues that mechanical rules can produce injustice by

7. Mark Galanter, *The Vanishing Trial: An Examination of Trials and Related Matters in Federal and State Courts*, 1 J. EMPIRICAL LEGAL STUD. 459, 493 (2004).

8. Eric S. Fish, *Standardization and Routine in Criminal Law*, 78 VAND. L. REV. 1721 (2025).

9. *See* U.S. SENT'G COMM'N, FIFTEEN YEARS OF GUIDELINES SENTENCING: AN ASSESSMENT OF HOW WELL THE FEDERAL CRIMINAL JUSTICE SYSTEM IS ACHIEVING THE GOALS OF SENTENCING REFORM, at iv (2004) (executive summary noting the Guidelines' central goal was reducing unwarranted disparity).

10. Farhang Heydari, *A Fear About Holistic Justice*, 78 VAND. L. REV. 1743, 1745–46 (2025).

11. United States v. Booker, 543 U.S. 220 (2005) (making the Guidelines advisory).

ignoring relevant differences; the counterargument warns that expanded discretion can become a cover for bias. If judges or prosecutors have free rein to account for personal factors, they might give breaks to those they unconsciously favor (e.g., defendants of a certain race or class that feels familiar, as in the notorious example of Brock Turner's case[12]). The concern, therefore, is that unguided individualization can undermine the principle of equal justice. Thus, the debate centers on striking a balance between equity through efficiency and empathy, with the purpose of advancing human flourishing.

Holistic approaches generally imply expanding discretion for decisionmakers, trusting police, prosecutors, judges, or parole boards to consider fuller information and exercise judgment in pursuit of better outcomes. Yet, expanding discretion is the double-edged sword of holism. On one hand, discretion can be a relief valve in systems that punish too many too harshly; on the other, it can generate inequity. Heydari urges caution: Efforts to humanize the process "will introduce greater opportunity for bias and subjectivity," potentially "hurt[ing] the same individuals" the reforms intend to help.[13] Two prosecutors might both embrace "holistic" ideals yet apply them in opposite ways—one may show mercy based on a defendant's disadvantaged background, while another, considering the same holistic information, might conclude the defendant is incorrigible and seek a harsher outcome. Safeguards are therefore might be essential for the holistic project. These may include categorical sentence reductions or default diversion rules that require less unguided discretion, as well as bias training, diverse decisionmaking panels, and meaningful appellate review.

Algorithms complicate this tradeoff. Risk-assessment tools promise to constrain human inconsistency by standardizing evaluations, yet holistic critics warn that such tools can be blind to individual stories and embed structural biases.[14] As Itay Ravid notes, modern risk-assessment algorithms "effectively reduce complex human beings to statistical probabilities rather than viewing them as unique individuals with particular circumstances and needs."[15] Far from neutral, such tools may reify bias under the guise of science. As Ravid

12. In Turner's situation—a wealthy college athlete who received a lenient sentence for sexual assault—critics argued the judge's "holistic" consideration of Turner's background (future potential, etc.) led to unjust inconsistency, sparking national outrage. *See, e.g.*, David Palumbo-Liu, *Stanford Sexual Assault Case Revealed Racial Bias. We Must Recall the Judge*, GUARDIAN (June 28, 2016, at 7:00 ET), https://www.theguardian.com/us-news/2016/jun/28/stanford-sexual-assault-judge-aaron-persky-recall-effort [https://perma.cc/C8AB-NYYC].

13. Heydari, *supra* note 10, at 1745.

14. *See, e.g.*, Sandra G. Mayson, *Bias In, Bias Out*, 128 YALE L.J. 2218 (2019) (raising concerns about inherent bias in algorithmic crime prediction).

15. Itay Ravid, *Anti-Holistic Algorithms*, 78 VAND. L. REV. 1765, 1804 (2025).

puts it, "seemingly neutral technological tools carry embedded anti-holistic assumptions that threaten the holistic project."[16] To reduce one kind of bias (human inconsistency) we risk another (algorithmic opacity and dehumanization). Scholars, therefore, advocate for algorithmic humility—using risk assessments cautiously and in combination with individual assessments—essentially calling for the integration of standardized data with contextual judgment.

A pragmatic tension underlies all of this: Holistic justice, while laudable, is resource intensive. Tailored dispositions, restorative dialogues, and social service integration require time and resources. Practitioners in overburdened systems ask a practical question: If we slow down enough to engage cases holistically, will the system collapse? And if we refuse to slow down, will justice ever be possible? Court dockets and prison populations might initially swell if, for example, judges cease to accept quick pleas and instead order comprehensive pre-sentence investigations and interventions. On the other hand, if we continue business as usual, we risk miscarriages of justice and the erasure of context. Empirical findings cut both ways. Some problem-solving courts and diversion programs save money long-term by reducing recidivism; others report high upfront costs and mixed outcomes when programs are poorly targeted. The debate here is less philosophical and more realistic—it is about scalability: Can small, tailored, holistic programs expand without losing what makes them effective?

As Fish warns, under the machinery of criminal justice, holistic diversion only scales when it, too, becomes a standardized output.[17] When programs are pressured to expand quickly, the very features that make them meaningful (time, tailoring, and relational work) can be flattened into checklists, templates, and routinized requirements. The danger, then, is not simply program drift, but a familiar pattern: repackaging the status quo in more attractive terms—old wine in new bottles.

This raises a practical governance question: How can we hold the stick at both ends—broadening access to holistic interventions while preserving the individualized attention and problem-solving that make them effective? One pragmatic pathway is triage. Courts and partner agencies can reserve intensive, fully "holistic" responses for people with the highest risks and most complex needs, where the marginal benefit of deep engagement is greatest. At the same time, low-level cases can be resolved swiftly and with minimal burden, avoiding

16. *Id*. at 1766.

17. Fish, *supra* note 8, at 1739–40.

unnecessary supervision, procedural hurdles, or program conditions that may do more harm than good. Finally, rather than pushing every need back onto the court, policymakers can invest in community-based services and support outside the courthouse, so that help is available without requiring constant judicial monitoring. If the broader ecosystem becomes more holistic—through upstream services, prevention, and accessible community resources—overall system efficiency may improve over time via reduced reliance on courts and jails and smaller caseloads, even if the short-term pressures to process cases quickly remain very real.

Within this landscape of pleas and tradeoffs, judging matters. We often imagine plea-stage judging as largely passive—rubberstamping negotiated agreements reached offstage. In practice, even the possibility of judicial rejection shapes bargaining and can supply balance and legitimacy. Scholars have urged more active judicial engagement at the plea stage, drawing on dispute-resolution theory to widen the values and practices judges bring to bear. Precisely because plea negotiations are now the central arena of criminal justice, they are the place to import these considerations—complementing gatekeeping with a sense of justice and open space for restorative practices, emotional discourse, connections to social-service supports, and meaningful rehabilitation.

Michal Alberstein and Nourit Zimerman show how judges can integrate dispute-resolution components into day-to-day work.[18] In this approach, judges can begin by choosing a process emphasis—rehabilitation, victim empowerment, or benefits to third parties—and aligning procedures accordingly. The lens is forward looking: Beyond reconstructing the past or calibrating punishment, the court asks what will improve matters now and prevent harm. Decisions should surface the "hidden layer" of social conditions—welfare needs, substance use, domestic violence, mental health—and address them directly. Crime is hybrid and complex, calling for calibrated mixes of tools that balance proportional accountability with rehabilitation and repair. Relationships and emotions are legally relevant; rebuilding them is part of doing justice well, without sacrificing proportionality and accountability.[19] Even within hierarchical courts, bottom-up participation by defendants, victims, and communities can make outcomes more constructive and durable. Such steps do not romanticize

18. Michal Alberstein & Nourit Zimerman, *Constructive Plea Bargaining: Towards Judicial Conflict Resolution*, 32 OHIO ST. J. ON DISP. RESOL. 279 (2017).

19. *Id.*; *see also* Stephanos Bibas & Richard A. Bierschbach, *Integrating Remorse and Apology into Criminal Procedure*, 114 YALE L.J. 85 (2004) (proposing remorse as a tool for integrating emotion into accountability for criminal justice).

slowness; they widen the frame so a system built for speed and standardization can still see particular human beings, stakeholder needs, and the social context behind each file number.

Social psychology and criminology independently support a holistic ethos of personalization and respect. Tom Tyler's work on procedural justice shows that people's willingness to comply with the law and accept legal decisions depends less on severity of outcomes and more on their perception of the process as fair, clear, and respectful.[20] In the criminal justice context, this means that how police officers or judges treat individuals—whether they are given a voice, treated with dignity, and judged by neutral, trustworthy authorities—strongly influences perceptions of legitimacy, which in turn increases compliance. Over the past two decades, procedural justice has evolved from theory to practice, influencing police training, court "procedural fairness" initiatives, and prosecutorial and parole practices. For holism, the lesson is that process matters. Procedural justice shifts the focus from what the system *does to* people to how the system *interacts with* them. Outcome-sensitive holism remains essential, but procedural justice broadens the lens in ways that align with inclusion and humanization.

A second cluster of tensions concerns the *epistemologies of justice*. Who is authorized to define harm, responsibility, and repair? Who sets priorities for criminal justice institutions, and who decides what counts as "success" and how to measure it? Traditional answers privilege professional authority—judges, prosecutors, defense attorneys, legislators, policymakers, academics. Holistic justice challenges this settlement by widening the circle of epistemic authority. A holistic system not only looks at the whole person; it listens to the whole community. It treats lived experiences of those most affected—defendants, victims, families, and communities—not as anecdote but as situated expertise, whose systematic exclusion produces "epistemic injustice."[21]

Democratizing criminal justice thus means translating "we the people" into choices about what to criminalize, how to punish, when to exercise penal control, and how to evaluate institutional performance—

20. TOM R. TYLER, TRUST IN THE LAW: ENCOURAGING PUBLIC COOPERATION WITH THE POLICE AND COURTS 161–75 (2002) (demonstrating that legitimacy and procedural justice drive cooperation with police and courts); Jason Sunshine & Tom R. Tyler, *The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing*, 37 LAW & SOC'Y REV. 513, 513–14, 529 (2003) (finding legitimacy—rooted in procedural justice—predicts compliance, cooperation, and support for police authority).

21. MIRANDA FRICKER, EPISTEMIC INJUSTICE: POWER AND THE ETHICS OF KNOWING 1–2 (2007) (introducing "epistemic injustice" and laying the conceptual groundwork for recognizing harms from excluding lay knowledge).

building processes that recognize, rather than discount, lay knowledge. In this symposium, Jamelia Morgan provides a vivid doctrinal stake for whose knowledge and body "counts" in law's baselines. She brings a critical disability studies perspective to bear on policing and the Fourth Amendment, arguing that "reasonableness" doctrine erases disabled people's lived realities and legitimizes coercion.[22] A disability-conscious doctrine should reflect those experiences. Marie Manikis shows how prosecutions for "gender fraud" police identity, rest on contested binary assumptions about gender and harm, thus criminalizing identity performances and reproducing stigma rather than meeting criminal law's requirements of blameworthiness and cognizable harm. In this way, the State "creates crimes that are rooted in ontological and binary categories that ignore lived realities, broader social contexts, and scientific plurality relating to sex/gender."[23]

Hadar Aviram maps how to institutionalize participatory voice and moral salience within adversarial spaces by showing how activist defendants can pursue both acquittal and consciousness-raising even when judges foreclose the necessity defense. Rather than leading with overtly political justification, counsel can pivot to "Plan B" arguments that work through the elements of familiar offenses—trespass, burglary, and larceny—while still creating pathways to surface what factory farming looks like and why the defendants acted.[24] This strategy offers concrete design cues for "making room" for community values and problem-focused narratives inside hostile courtrooms: identify the doctrinal choke points, then deliberately craft litigation scripts that translate moral urgency into admissible, element-relevant proof, so that the factfinder can meaningfully engage the underlying harm through ordinary criminal law grammar, rather than being shut out by a ban on political argument.

But holism is not satisfied by ad hoc bypasses that squeeze lay sentiment into a rigid system built to exclude social complexity. A genuine commitment to a holistic approach requires rethinking procedures and institutions to accommodate plural perspectives. Democratic, participatory theorists offer both normative grounding and institutional direction. Iris Marion Young argues that democratic decisionmaking must incorporate diverse modes of communication—including narrative and first-person testimony—because bureaucratic-

22. Jamelia N. Morgan, *The Reasonable Officer and the Disabled Subject*, 78 VAND. L. REV. 1823, 1842 (2025).

23. Marie Manikis, *Beyond Autonomy: Rethinking Deception in Sexual Assault Law*, 78 VAND. L. REV. 1851, 1875 (2025).

24. Hadar Aviram, *Plan-B Activist Defense: Defending Animal-Rights Activists in Courtrooms Hostile to Political Argumentation*, 78 VAND. L. REV. 1883, 1912 (2025).

legal discourse marginalizes certain speakers and forms of knowledge.[25] Nancy Fraser's norm of "participatory parity" adds that institutions are just only when all affected can interact as peers—economically, culturally, politically—rather than as supplicants or token consultees.[26] Practically, these accounts push agencies to build fora in which affected publics shape agendas, standards, and measures; on this view, participation is an element of holism.

Participation, however, is not a panacea. Without power sharing, practices devolve into tokenism—voice without influence.[27] Community-based participatory research warns that "community perspectives," though indispensable, reflect partial standpoints, may reproduce internal hierarchies, and often lack visibility into institutional constraints. Thoughtful participation thus requires capacity-building, transparency about constraints, and shared authority over problem definition, evidence standards, and evaluation. Empowered-participatory-governance scholarship supplies concrete architectures—mini-publics; advisory councils with delegated powers; participatory budgeting and evaluation; iterative feedback loops—through which agencies can share agenda setting and oversight while preserving legality and due process. Albert Dzur urges professionals to build structured interfaces that welcome lay co-production without abandoning expertise,[28] while James Scott cautions that top-down simplifications routinely ignore local knowledge; holism succeeds only if it harnesses that knowledge rather than flattening it.[29]

Along these lines, Federica Coppola and Jarrell Daniels offer a normative case for "collaborative justice": Treat lived experience as actionable expertise and share agenda-setting power with those most

25. Iris Marion Young, *Communication and the Other: Beyond Deliberative Democracy*, *in* DEMOCRACY AND DIFFERENCE: CONTESTING THE BOUNDARIES OF THE POLITICAL 120, 127–35 (Seyla Benhabib ed., 1996) (arguing democratic inclusion requires plural communicative forms, including narrative and first-person testimony).

26. Nancy Fraser, *Rethinking Recognition*, 3 NEW LEFT REV. 107, 114–16 (2000) (articulating "participatory parity" as the standard for just institutions and linking recognition to material and political conditions).

27. Sherry R. Arnstein, *A Ladder of Citizen Participation,* 35 J. AM. INST. PLANNERS 216, 216–22 (1969) (classic account of tokenism vs. genuine power sharing in participatory practices).

28. ALBERT W. DZUR, DEMOCRATIC PROFESSIONALISM: CITIZEN PARTICIPATION AND THE RECONSTRUCTION OF PROFESSIONAL ETHICS, IDENTITY, AND PRACTICE 17–22, 153–60 (2008) (arguing for co-productive interfaces that welcome lay participation without abandoning expertise).

29. JAMES C. SCOTT, SEEING LIKE A STATE: HOW CERTAIN SCHEMES TO IMPROVE THE HUMAN CONDITION HAVE FAILED 2–3 (1998) (warning that top-down simplifications erase local knowledge).

affected by criminal policy.[30] Grounded in relational accountability, epistemic inclusion, and social (re)integration, their approach operationalizes proximity between "justice providers" and "justice users" to co-diagnose structural determinants of harm and co-design remedies. They illustrate the model through New York initiatives—Inside Criminal Justice (prosecutors and incarcerated students co-develop policy proposals), the Justice Ambassadors Youth Council (vulnerable youth and government leaders craft community-safety strategies), New Rochelle's Opportunity Youth Part (a developmentally attuned emerging-adult court), and Project Restore (a community-violence intervention that reconciles rival crews while creating pathways to education and work). These examples show that when affected communities co-author policy and practice, systems can prevent harm, foster trust, and divert individuals away from incarceration.

Measurement is part of the same epistemic dispute. If institutional "success" is reduced to recidivism or other crime-related metrics, central goods of holistic justice—repair, well-being, trust, empowerment—remain invisible.[31] The participatory study by Hadar Dancig-Rosenberg and Peter Dixon at the Red Hook Community Justice Center in Brooklyn, NYC, demonstrates how justice systems can co-produce more holistic indicators of success through genuine community engagement. Drawing on focus groups and voting sessions with the Justice Center's various stakeholders, including former defendants and family members, youth, neighborhood residents, legal professionals, and staff, they document how these stakeholders define the success of the Justice Center, far beyond crime-related metrics.[32] Yet, a holistic approach does not call for replacing expertise with opinion, but to reconstruct expertise to include affected publics as co-knowers and co-governors, with attention to power, design, and evidence.

A final cluster of tensions concerns *the scope and aims of criminal law itself*. If criminal justice is more than determining guilt and imposing punishment, what else might it entail—recognition of harm, repair, transformation, reconciliation, trust building, empowerment? Each draws on rich traditions—restorative justice,

30. Federica Coppola & Jarrell E. Daniels, *Justice Through Proximity: Theoretical Foundations and Practical Applications of Collaborative Justice*, 78 VAND. L. REV. 1947, 1967 (2025).

31. *See, e.g.*, Hadar Dancig-Rosenberg & Tali Gal, *Many Shades of Success: Bottom-Up Indicators of Individual Success in Community Courts*, 49 LAW & SOC. INQUIRY 42 (2024); Tamar Ben-Dror, Hadar Dancig-Rosenberg & Tali Gal, *Uncharted Success: Expanding Metrics for Community Court Impact,* 58 UIC L. REV. 625 (2025).

32. Hadar Dancig-Rosenberg & Peter Dixon, *"Justice of Our Own": Defining Success at the Red Hook Community Justice Center*, 78 VAND. L. REV. 1989, 2025 (2025).

therapeutic jurisprudence, procedural justice, problem-solving justice, community justice—but demands careful delineation. Holistic justice is often invoked aspirationally, yet its normative content is less developed. On the common dichotomy between punitive justice and integrative, rehabilitative, restorative justice, holistic criminal justice aligns with the latter, privileging solutions that repair harm, restore relationships, and address root causes and social needs. It aspires to a meaningful transformation and reintegration post-interaction with the criminal justice system. Holistic approaches tend to be skeptical of punishment for punishment's sake, especially given evidence of its ineffectiveness in many contexts. Instead, they ask: Can punishment serve broader human values? Does linking justice to punishment narrow our imagination and obscure state accountability? Is punishment always the most fitting social response to crime? When might other responses fit better?

Saira Mohamed examines these questions in the context of international human rights. She critiques the growing tendency to treat criminal process and punishment as the default mechanism for safeguarding rights—less the product of reasoned determination than of a reflexive belief that criminal justice confers "status and seriousness."[33] The problem is that overreliance on penal responses risks distorting rights protection by narrowing attention to the individual offender, obscuring the state's structural role in creating the conditions for violation, and crowding out alternative avenues of redress and repair. Mohamed's example prompts skepticism about the capacity of criminal law, standing alone, to achieve human rights goals. Aligning with the holistic agenda, it opens up space for broader forms of accountability that transcend the punitive paradigm.

Nationally, nonpunitive venues offer alternative responses. Problem-solving and treatment courts emerged in the 1980s amid disillusionment with punitive mainstream justice and strive to address root causes of reoffending by integrating treatment and services with judicial review.[34] A typical drug court, for instance, suspends ordinary processing and places a defendant in a court-monitored treatment program, where a judge—with a collaborative team of prosecutors, defense attorneys, and social workers—regularly checks on the defendant, reviews their progress and adjusts the plan as needed. Literature on problem-solving courts often highlights a holistic,

33. Saira Mohamed, *Criminal Punishment as a Human Right?*, 78 VAND. L. REV. 2065, 2072 (2025).

34. *See generally* GREG BERMAN & JOHN FEINBLATT, GOOD COURTS: THE CASE FOR PROBLEM-SOLVING JUSTICE (2015); Bruce J. Winick, *Therapeutic Jurisprudence and Problem-Solving Courts*, 30 FORDHAM URB. L.J. 1055 (2003) (describing problem-solving courts).

forward-looking philosophy grounded in therapeutic jurisprudence.[35] Scholars described this model of judging as proactive judges solving problems and transforming communities, contrasting it with the passive, umpire-like role of traditional judges.[36] Crucially, problem-solving courts focus on individualized interventions, assessing each participant's needs (detox, job training, counseling) and crafting a tailored plan that addresses the underlying social or psychological drivers of crime. This can mean the difference between treating a case as "just another burglary" versus recognizing it as a symptom of a defendant's untreated mental illness and lack of stable housing. By addressing issues like substance use, untreated trauma, homelessness, and mental health within the court process itself, these courts embody a holistic ideal of justice as problem solving. Even amid critiques (for instance, concerns about coercion and net widening), the fundamental insight remains: Courts can do more than punish—they can coordinate solutions, acting as hubs in an interdisciplinary network of social supports. At the same time, scope questions persist: Should criminal law aim to improve well-being and socioeconomic conditions? Shouldn't other systems take the lead while criminal law narrows its mandates?

Restorative justice, too, challenges conventional paradigms. Rather than a bilateral state-versus-defendant model, restorative practices include victims, offenders, families, and communities in responding to crime.[37] The literature spans theoretical accounts and program evaluations, from youth diversion to prison-based circles. A common thread is the argument that justice should repair harm to people and relationships. Restorative justice provides a framework to address victims' needs, facilitate a direct dialogue, and promote reconciliation by treating the victim's story and the offender's understanding and accountability as central to resolving the dispute. Processes culminate in tailored reparation plans that address victims' needs and offenders' personal growth through responsibility, empathy, and amends. In a restorative encounter, a victim of sexual assault, for

35. Therapeutic jurisprudence, as a scholarly lens, asks how legal rules and actors can produce therapeutic outcomes for individuals involved in the justice system. As Wexler and Winick framed it, *"the law itself can be seen to function as a kind of therapist or therapeutic agent,"* and thus legal processes should be designed with attention to their impact on well-being. Bruce J. Winick, *The Jurisprudence of Therapeutic Jurisprudence*, 3 PSYCH. PUB. POL'Y & L. 184, 185 (1997) (emphasis added).

36. *See* Winick, *supra* note 34, at 1055–56; Leonore M.J. Simon, *Proactive Judges: Solving Problems and Transforming Communities, in* HANDBOOK OF PSYCHOLOGY IN LEGAL CONTEXTS 449, 452 (David Carson & Ray Bull eds., 2d ed. 2003).

37. *See, e.g.,* HOWARD ZEHR, CHANGING LENSES (1990); JOHN BRAITHWAITE, RESTORATIVE JUSTICE & RESPONSIVE REGULATION (2002); Hadar Dancig-Rosenberg & Tali Gal, *Restorative Criminal Justic*e, 34 CARDOZO L. REV. 2313 (2013).

example, might have the chance—if she desires—to confront the assailant, receive an apology, and ask them why they did it, sharing how the crime affected her life. Such outcomes—answers, control, direct reparation—are often unavailable in the mainstream criminal process. Debates continue over whether restorative processes should supplement or supplant punishment and whether they scale to serious crimes. Case studies suggest many affected individuals crave meaningful accountability more than mere harsh penalties.[38] Meaningful accountability may require an offender to confront the human impact of their actions and work to repair it—an experience holistic proponents view as more transformative than a prison term. Hybrid models—embedding restorative practices within proportional punishment or reentry—offer a path between poles.

Looking across these tensions, it is clear that fulfillment of a holistic project cannot be accomplished overnight. As Jonathan Simon argues in his closing essay, holism must be both transformative and institutionally savvy—able to inhabit contradictions while shifting metrics, authority, and practices.[39] Simon urges treating abolition as a guiding horizon, compatible with penal minimalism, while building collaborative institutions that share agenda-setting power with affected communities and adopt success metrics rooted in the lived priorities of these communities. On this view, holistic and community-based models are not peripheral experiments but, in Simon's words, necessary "orthopedic steps": iterative, participatory recalibrations that reduce reliance on punishment and reinvest in non-penal safety, repair, and dignity.

Ultimately, the essays gathered here do not offer a single theory of holistic criminal justice. They present a layered inquiry into possibilities, paradoxes, tensions, and political stakes. They reflect the disciplinary and experiential diversity that any serious reckoning with justice requires. They do not settle on one definition of holism, nor do they romanticize it. Instead, they treat it as a provocation: to expand legal imagination, ask harder questions about criminal justice's goals and aspirations, look both at individuals and beyond them to society at large, and move toward institutions that are not only more effective, but also more humane.

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38. *See, e.g.*, HEATHER STRANG, REPAIR OR REVENGE: VICTIMS AND RESTORATIVE JUSTICE 88–130, 192–210 (Oxford Univ. Press 2004); LAWRENCE W. SHERMAN & HEATHER STRANG, RESTORATIVE JUSTICE: THE EVIDENCE 63–65 (2007).

39. Jonathan Simon, Waiting for Godot*: Thinking About Criminal Law After Mass Incarceration*, 78 VAND. L. REV. 2097, 2104 (2025).