

**RESTORATIVE JUSTICE  
AND  
DOMESTIC VIOLENCE/ ABUSE**

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## INTRODUCTION

This report has drawn on many sources. The first is the research undertaken by Marian Liebmann for her book *Restorative Justice: How It Works*, published by Jessica Kingsley in 2007; the bulk of this research was undertaken in 2006. Further information came from participants at the European Forum for Restorative Justice Conference in Verona in April 2008. Finally we searched the internet for further projects (drawing especially on RJ Online), and also included a brief overview of mainstream methods of working with domestic violence/abuse issues. The report was completed in August 2008, and extra material added in April 2010.

This report is in two sections:

1. Mainstream methods of working with domestic violence/abuse
2. Restorative justice projects working with domestic violence/abuse

### **Domestic violence/ abuse**

We have included both labels here. The first is the more well-known label, but it is now recognised that domestic abuse does not have to be violent. A man who says: ‘I’m not violent, I just look at my wife and she does what I tell her’ is playing on her fear of what may happen if she disobeys – the threat is there.

Victim Support in England & Wales has adopted the following definition of domestic violence:

Any incident of threatening behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) between adults who are or have been intimate partners, or intimately related within a family or domestic setting, regardless of gender or sexuality. Domestic violence involves abuse of power and control by one person over another and typically escalates in frequency and severity over time.

(Victim Support 2003, updated 2006)

This definition focuses on partner violence/abuse. A wider definition of domestic violence/ abuse would include the field of family interventions (e.g. family mediation concerning children and financial issues in cases of separation or divorce, where domestic abuse may exist but is not the focus of the intervention) and youth offending work (e.g. children assaulting their parents or siblings). But our remit here is to focus on adult abusers and their adult partners, so we have excluded these other areas. However, they would be worth looking at in the future if considering other models of working in this area.

Many women’s organisations believe that restorative justice has no application to domestic violence, and that victim-offender mediation can only be dangerous. This point of view is understandable, given the relatively recent acknowledgement of domestic violence as a crime (although there is no criminal offence called ‘domestic violence – usually it is a crime of Assault or Grievous Bodily Harm). It is not so long ago that domestic violence cases were still seen as private affairs where men had the right to do what they liked, and women were held to blame if they were abused. Women’s organisations rightly do not want to see the clock turned back and domestic

violence put back into the private domain by restorative approaches (Home Office 2004a).

However, many victims of domestic violence end up dropping charges and returning to their abusive situations, so prosecution does not provide a solution for everyone. There have been (and still are) several projects which have used restorative approaches with domestic violence/ abuse, to provide an alternative to prosecution for those who want.

In November 2009 the Home Office published 'Together We Can End Violence Against Women and Girls: A Strategy' (Home Office 2009), bringing together many strands of work to form a coordinated approach to combating all forms of VAWG (Violence Against Women & Girls). The strategy has three main elements:

- Protection – delivering an effective criminal justice system
- Provision – helping women and girls to continue with their lives
- Prevention – changing attitudes and preventing violence

The strategy proposes a cross-departmental senior delivery board managed by the Home Office; a single inter-ministerial group to report to; and an annual independent review of progress and annual parliamentary debate.

**Note**

**This report has been received in principle, but has not yet been approved by the Home Office (September 2008).**

## **SECTION 1. MAINSTREAM METHODS OF WORKING WITH DOMESTIC VIOLENCE/ABUSE**

This section looks at mainstream programmes in the UK that offer services or programmes for victims and offenders, but do not actually get them together in any form. Most of these programmes focus on women's safety and information exchange, not healing. However a few of them work solely with the perpetrators (e.g. *Family Man*). This section is by no means a definitive list of domestic abuse/violence programmes but a broad overview, looking in most detail at the Integrated Domestic Abuse Programme (IDAP) and Freedom Programmes.

### **The Freedom Programme for women**

The Freedom Programme for women has been developing since 1999 and aims to provide an opportunity for women to develop ways of thinking and behaving to protect themselves, their children and others from harm, and to provide them with the knowledge they need to achieve this. The programme is currently running across the UK through a network of licensed trainers. It is a rolling 12 session programme, delivered by two facilitators. It is not possible to get figures for how many women have attended the programme due to its local delivery through various groups and trainers.

Its target group is all women, gay or heterosexual, who feel they would benefit from learning how they are affected by their gender position within society.

The programme challenges beliefs and values of a patriarchal society and does this through raising awareness and the introduction of a character called 'The Dominator'.

The Dominator has 8 aspects to his persona:

1. The bully
2. The jailer
3. The headworker
4. The persuader
5. The liar
6. The badfather
7. King of the castle
8. The sexual controller

The programme works through these personas and their opposite non-abusive possible personas:

1. The friend
2. The liberator
3. The confidence booster
4. The negotiator
5. The truth teller
6. The goodfather
7. The partner
8. The lover

## **The Freedom Programme for men<sup>1</sup>**

The Freedom Programme also runs for men. These programmes are run over a two-day weekend and are called 'Awareness Raising' Programmes, the participants are called 'students' and they are open to any man who wishes to improve his relationship skills. These programmes are facilitated by Pat Craven herself (creator of the Freedom Programmes). There is no discussion about personal circumstances; the whole focus is on the Dominator personas. Because of this the programme can be suitable for gay or heterosexual men who wish to attend.

No man who is in a relationship will be accepted on to the course unless his partner has also done the Women's Freedom Programme. This is so that she can be fully informed about the programme and realistic potential for change. If a heterosexual couple are still together and the woman has attended the Freedom Programme she is welcome to attend (as an observer) the weekend programme that he is participating in. This enables the women to either watch their partners change - or fail to change - and in both instances be fully aware of what they are watching and able to make informed choices about their relationships. A number of men have been on the course more than once.

To date about 113 men have completed the course, five have completed it more than once and one has attended four times. 12 couples have had their children returned to them by Social Services and have stayed together in a non-abusive relationship (Craven 2008).

This programme has not been formally evaluated.

## **Integrated Domestic Abuse Programme (IDAP)**

The Integrated Domestic Abuse Programme (IDAP) is a Home Office Accredited, community-based, case management and group work programme designed to reduce re-offending by adult male domestic violence offenders against female partners (based on the Duluth Model).

In order to be assessed for this programme offenders need a sentence of a minimum two-year Community Order with a specific condition to attend all 27 sessions of IDAP. If the offender is not considered suitable to participate in group work, some sessions can be delivered on a one-to-one basis.

IDAP promotes multi-agency working with both internal and external agencies, to provide a community-based approach. The programme prioritises women's and children's safety by means of co-operative risk management. It is a requirement of IDAP that areas have in place a supporting infrastructure prior to being authorised to deliver the programme. Key elements of this are: a) arrangements for the provision

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<sup>1</sup> Respect (the UK membership association for domestic violence perpetrator programmes and associated support services) does not recognise the Freedom Programme for men as a perpetrator programme, as they consider that it does not meet key requirements of the Respect Standards (Respect 2008). See later in report.

of women's safety work, and b) protocols agreed with local police and social services for detailed information-sharing in relation to men undertaking the programme.

The IDAP consists of nine modules, each three sessions long, giving 27 group work sessions overall.

The modules cover the following:

1. Non-violence
2. Non-threatening behaviour
3. Respect
4. Support and trust
5. Accountability and honesty
6. Sexual respect
7. Partnership
8. Responsible parenting
9. Negotiation and fairness

The offender's progress is measured during a meeting with his case manager every three weeks to reinforce the module he has just completed. The programme facilitators provide feedback to the case manager on a sessional basis.

### **Women's Safety Worker Role**

An essential part of the IDAP (and the Duluth approach that it is based on) is the provision of a supportive infrastructure for women, and the Women's Safety Worker/Victim Support Officer (VSO) role. The VSO liaises with the partners of the men on the programme to obtain the victim perspective (in confidence) and that of any new partners (if applicable). Input from the police during the order can also act as a measurement of his progress.

The VSO can provide realistic information to women about the programme, her partner's attendance and programme outcomes: as it is important for them to know he may not change. They also contribute to the whole risk management process and work with court staff, case managers and programme facilitators.

The contact that a woman may have with the VSO is a minimum of four contacts including post-programme contact and exit survey. The main focus is safety whilst the offender is on the programme and for a period of six months after completion. They also contribute to the evaluation of IDAP by the feedback gathered. The formal contact is complete with the woman at this stage, although some areas (e.g. West Mercia) ask women to fill in an exit survey and voice any concerns/ideas which can then feed into the management meetings around IDAP, the Women's Safety Worker role and its evaluation.

The VSO's role is not to offer support for women directly, but to facilitate the referral of women and signpost them to appropriate local services. The West Yorkshire Research Team's 'Improving Women's Safety Project Evaluation Report' (National Probation Service 2008) found that many did provide direct support, as other services were not there. The evaluation also found that many women wanted more support

than the VSO was able to offer, while others felt that the VSO was more there for the offender than themselves.

The aim of the role is to make sure that the risk posed by the offender is managed for the duration of the IDAP and then six months after programme completion.

It is important to note that take up of service from the Women's Safety Worker is voluntary and will not affect the offender's condition to attend and complete IDAP. Women can take up the service at any point during the length of the programme and up to six months after completion, even if they decide not to take up contact initially.

Figures for the success of IDAP are mixed. The West Yorkshire Research Team's report mentioned above (National Probation Service 2008) found that just over a third of women felt the programme had not had a positive effect and in some instances had had a negative effect in that it made their partners more manipulative and controlling. However, a larger proportion of the interviewees reported that the programme had had a positive effect on their partner.

Interviewees were also asked if they felt *they* had benefited from their partners' attendance on the programme. A higher proportion said they had benefited. However, some of the women did not feel that they had benefited; for example, they felt that the offenders got more support than the victims. (National Probation Service 2008)

### **The Prison Service Healthy Relationships Programme**

The Prison Service and Probation Service run an interventions programme called Healthy Relationships. There are two versions: one aimed at moderate-risk offenders, and the other at high-risk offenders, in prison or in the community.

The programme for moderate-risk offenders is designed for men who have demonstrated at least one incident of abuse in their intimate relationships and who have been assessed as at risk of being violent in their intimate relationships. On the programme men learn about their abusive behaviours and are taught alternative skills and behaviours to help them develop healthy, non-abusive relationships.

The programme has six modules and lasts about 24 weeks, with sessions run three or four times a week.

Module 1: Motivational enhancement

Module 2: Awareness and education

Module 3: Managing thoughts and emotions related to abuse

The skill development part of this module is subdivided into three sections:

- 1) Thinking skills
- 2) Emotions management
- 3) Social skills

Module 4: Social skills

Module 5: Relapse management

Module 6: Healthy relationships



The Healthy Relationships Programme for high-risk offenders differs from the above in that it is designed for men who have demonstrated a pattern of abuse in their intimate relationships. The High Intensity Healthy Relationships Programme consists of ten modules and lasts about 68 sessions.

Module 1: Motivational enhancement

Module 2: Awareness and education

Module 3: Cultural issues

Module 4: Autobiography

Module 5: Thinking skills

Module 6: Managing emotions

Module 7: Social skills

Module 8: Parenting

Module 9: Relapse management

Module 10: Healthy relationships

### **Family Man**

Family Man is an intensive five-week programme (20 days), designed to challenge male prisoners' attitudes and behaviour associated with family problems, focused on the effects of a prison sentence on the family unit as a whole. It was launched in the Prison Service in 2002 and is now an established accredited course. It has been mapped to criteria from the Social and Life Skills, Key Skills and Adult Literacy curriculum. Whilst it is not aimed primarily at domestic abuse/violence perpetrators, the reality of abuse and violence means that tutors are often dealing with such issues throughout the course (Leitch 2008).

### **Other programmes**

These are some local schemes offering a variety of course in domestic violence/abuse. Examples are:

#### ***Hampton Trust***

The Hampton Trust works across Hampshire and the Isle of Wight. The Trust works to empower people to resolve violence, conflict, abuse and social isolation. It runs a whole series of programmes to combat domestic abuse and violence:

1. Domestic abuse prevention, for men, to support attitude and behavioural change
2. Domestic abuse training, for agencies, to enhance knowledge and skills
3. Women's support, for partners of men attending the domestic prevention programme, aimed at increasing safety.
4. Family Group Conferences, to use family strengths to help make the best possible plan for their children. On occasions these may include domestic abuse issues.

The Trust also runs a number of programmes for children and young people. These include:

- support for children and young people who have been exposed to domestic

abuse, aimed at increasing personal safety and enhancing communication skills

- a domestic abuse educational programme in schools for 11-17 year olds
- support for young men 14-17 who have experienced domestic abuse, aimed at breaking the cycle of abuse
- a group for young women 14-17 who have committed a violent offence, also aimed at breaking the cycle of abuse (Hampton Trust 2007; Ruddock-Atcherley 2008).

### ***Somerset Change***

Somerset Change, in partnership with Magna West Somerset Housing Association and Mendip CAB, provides an Outreach and Advocacy Service for all victims of domestic abuse in Somerset regardless of gender or sexuality, welcoming both self and agency referrals. The Service provides practical and emotional support, risk assessments and safety planning, liaison with other agencies and referral on to more specialist agencies for on-going support.

They also provide a voluntary community programme for male perpetrators of domestic abuse who want to try to change their abusive behaviour. The partners/ex-partners of the men on the programme are offered support by the Outreach and Advocacy Service (Avon and Somerset Domestic Incidents protocol 2008).

Here is an example of one in Europe:

### ***Czech Republic: Special service for crime and domestic violence victims***

This project was set up as a pilot project from September 2006 to June 2008, in three Czech cities: Beroun, Trebic and Brno. It is a collaboration between the Probation and Mediation Service and the Citizens Advice Bureaux, where the project workers are based. The main activities of the project are:

1. *Training advisers* involved in the project in working with crime and domestic violence victims.
2. *Providing specialized advisory services* to crime and domestic violence victims. Advisers provide information about criminal proceedings, rights and options, and give psychosocial encouragement to clients. They also signpost people to other services which can help. The counselling is provided free of charge, confidentially, independently and respectfully.
3. *Production and distribution of handouts* about problems and possible solutions for victims, their relatives and their employers. The aim is to help crime victims to overcome the trauma of crime, decrease their risk of secondary victimization and help them to return more quickly to normal life and work.
4. *Organizing workshops* for professionals in contact with victims, e.g. judges, prosecutors, police, social workers, doctors, teachers. The aim of the workshops is to inform participants about victims and their problems (trauma, secondary victimization, other problems caused by the crime), and possibilities of prevention.

5. *Informing the public* about the problems of victims of crime and domestic violence.

In Trebic, between November 2006 and April 2008, the number of crime victims helped was 86 (45 female, 41 male). Of these, 27 were domestic violence victims (24 female, 3 male), and 49 contacts were made. After the pilot phase it is hoped to expand the service to all regions of the Czech Republic (Hruskova 2008).

### **Respect**

Respect is the UK membership association for domestic violence perpetrator programmes and associated support services.

1. It runs a phone line to help perpetrators, partners and ex-partners wanting to know what help is out there for the abuser.
2. It runs a men's advice line for men experiencing domestic violence (as victims).
3. It has developed Standards of Accreditation and accreditation processes for programme providers.
4. It has a comprehensive website offering information and guidance.

Respect acknowledges that perpetrator programmes can raise the risks for women in the following ways:

- They can give her hope that her violent partner can change and women can be overly optimistic.
- Perpetrators can use their attendance on the programme to further manipulate and control a partner and others.

Respect is also clear that perpetrator programmes can increase women's safety in the following ways:

- Men on them can change their behaviour.
- Programmes monitor men and hold them to account.
- Programmes should support women partners and ex-partners.

They state that the core focus of interventions with domestic violence perpetrators should always be the safety of women and children. Perpetrator programmes should never be run in isolation. They should always be integrated with specialist, pro-active, associated women's services.

In outlining appropriate responses to domestic abuse it states:

'Couples work, anger management, mediation and restorative justice are **not** appropriate responses to men's abusive behaviour to women. Couples work may be considered:

- subsequent to a man completing a perpetrators' programme
- **AND** after a suitable period of non-violence
- **AND** only where the women is and feels able to freely enter couples work without fear for her safety or other negative consequences' (Respect 2004, p.17, *their emphasis*)

## **Risk assessment in domestic violence cases**

Carolyn Hoyle (2008) has charted the rise of 'risk assessment' and 'risk management' in all spheres of life, in crime generally and in the field of domestic violence. However, there is not complete agreement about the risk factors for domestic violence, and police often fill in forms differently from each other. This leads to some 'high risk' victims getting a good service, while some 'low risk' victims feel they are not taken seriously. The police response to risk is to help victims make a 'safety plan', thereby passing some of the responsibility to the victim; if she is unable to implement it, she may be blamed. These safety plans may also bring undesirable consequences (e.g. changing children's schools), curtail freedom and heighten anxiety. Perpetrators are not taken into account in these risk assessments; it is assumed they will not change. However, there are processes (e.g. perpetrators' programme, or an RJ approach) which might help offenders reduce their risk of re-offending.

## **Research**

### ***Research concerning perpetrators generally***

A study (in Newcastle) of 869 domestic violence incidents recorded by the police, showed that:

- There were 222 arrests, 31 convictions (4% of incidents) and 4 custodial sentences
- Court outcomes did not stop chronic offenders from continuing their violence and harassment.

(Hester et al 2003)

A further piece of research in 2006, by the Violence Against Women Research Group (VAWRG) at Bristol University, found that:

- Very little research has been done on service provision for domestic violence perpetrators.
- Very few perpetrators who were reported to the police were convicted (see figures above and below).
- Researching what men might need to stop being violent towards their partners is a controversial topic, mostly because it is already difficult to find money to provide research and services for victims of domestic violence.
- Service provision for victims of domestic violence is very important. However, if adequate services are not provided for men who perpetrate domestic violence, they may move on to offend against other women in the future.
- There is no criminal offence of 'domestic violence'. However, a range of criminal offences such as common assault, actual bodily harm and grievous bodily harm may be committed at a domestic violence incident. Perpetrators may also be arrested as a preventative measure where it is likely a criminal offence would otherwise take place.
- Out of a total of 2,402 domestic violence incidents, perpetrators were arrested, charged and convicted in only 120 incidents (5%). This replicates previous findings.

- The most frequent sentence for those convicted involved a monetary penalty, most often a fine but sometimes compensation. This was a consistent finding over time (2001 – 2005).
- Exactly half of the perpetrators were involved in at least one more domestic violence incident within the three year follow-up period (50%).
- The men were more likely to seek help (often from their GPs) at some kind of ‘crisis’ moment, usually when the partner gave them an ultimatum or actually left, or where there were child contact issues. However, this is also when the men are likely to be especially dangerous and homicidal, and safety for the women and children concerned therefore has to be a priority for any agency intervening with the men at this time.
- Men who are violent towards women need to learn new, appropriate responses to feelings of jealousy and aggression. This requires an increase in the number of perpetrator programmes, including more self-referral programmes. Such programmes should adhere to the guidelines developed by Respect.
- For some men, domestic violence perpetrator programmes had clearly had a major impact on the way they managed all inter-personal relationships, not only those with their partners.
- It was difficult to predict when an intervention might result in a successful outcome – that is, moving the man towards a point where he wanted, and was able to, address his abuse and violence.

(Hester and Westmarland 2006; Hester et al 2006)

A systematic international review of behavioural interventions for perpetrators included 31 studies. Of these, 22 were based on Duluth CBT-type programmes. Effects due to treatment were found to be in the small range, indicating that the interventions had minimal impact beyond the effect of being arrested. The other studies, based on couple counselling and anger management, included too many different criteria to draw conclusions (Feder et al 2008).

### ***Research concerning probation IDAP programmes***

As far as we can tell, there is no existing conclusive research on the probation IDAP programmes. There seem to be some positive indicators:

‘All the psychometric assessment measures displayed a move in the desired direction, with the exception of one measure. The Paulhus Deception Scale did not show any change. This is a positive indication in terms of assessing change in the treatment targets of IDAP, and is generally very promising.’

However, the same report comments that this is not conclusive:

‘As noted previously, this change, at this time, cannot be attributed to the programmes.’ (National Offender Management Service 2007, p.4)

Other inconclusive results have been obtained by looking at treatment programmes on offer:

‘A recent international systematic review and meta-analysis of evidence-based adult corrections programmes reviewed nine rigorous evaluations of domestic violence treatment programmes and concluded that, on average, they have yet to demonstrate reductions in recidivism.’ (Hollis 2007, p.28, based on Washington State Institute for Public Policy 2006).

Hollis also summarised the UK evidence as: ‘One small-scale study in Scotland has evaluated two programmes for domestically violent men. This reported inconclusive but encouraging findings of reduced violence and reduced frequency of violence according to partners’ self reports.’ (Hollis 2007, p.28).

We have heard that the University of Sussex is currently undertaking an evaluation of probation IDAP programmes.

Clearly programme development and further research are called for. We hope that the Home Office 2009 strategy to combat Violence Against Women and Girls may have a role in bringing together existing research and identifying unmet needs (both practice and research).

## **Conclusion**

There are many programmes, both in the UK and internationally, working with domestic abuse perpetrators, and a number of these also offer some type of service to partners and ex-partners. The majority of these focus on male abuse against female partners in intimate heterosexual relationships. However, some interventions can accommodate same-sex relationships in their models and modes of practice e.g. The Freedom Programme for women.

The research evidence indicates that some women’s and children’s safety is improved by these interventions and some perpetrators benefit and change their behaviour. (National Offender Management Service 2007, p.4). However, not all those who start programmes complete them and there are some reports that men can use programmes to become more abusive, decreasing women’s safety (Cocker 2007/8, p.4; Respect 2004).

It also seems clear that restorative justice does seem to have something unique and valuable to offer in this area, that is not covered by the more mainstream interventions. The restorative justice focus on healing as a priority, means it may have a role for those wishing to look at past relationships, but it is not clear whether the emphasis on healing should outweigh the priority for women’s safety for those currently involved in abusive relationships (Edwards and Haslett 2003).

Another factor to consider is that proper support for domestic abuse/violence victims is very resource intensive, and a number of the interventions looked at are unable to offer partners the level of support they need/wish (Cocker 2007/8). Any programme wishing to offer healing for the victims of abuse and violence as a priority must have adequate resources to undertake the support work that may be necessary, and we have no reason to believe that this will automatically diminish over time as the victim leaves the relationship behind.

Respect is clear that restorative processes should not be used when couples are in a violent relationship as it can increase the danger to women (Respect 2004). However, it is not opposed to well-constructed and thought-out interventions after a relationship is over, or after a suitable period of non-violence in the relationship. The criteria and implications for these areas need to be looked at in more depth.

## SECTION 2: RESTORATIVE JUSTICE PROJECTS WORKING WITH DOMESTIC VIOLENCE/ABUSE

### Introduction

There is very little so far in the way of published material. In an article in 1995, ‘Masculinities, Violence and Communitarian Control’, Braithwaite and Daly proposed that a community conference can be more effective than a criminal justice/prison response, in that it:

- Makes men more accountable for violence against women (including rape) because women may be less likely to drop the case.
- Exposes the fact that men may have been violent many times, not just once.
- Is less likely to re-victimise the victim than the court process.

They proposed a model based on communitarian control to empower victims, seen as a pyramid with escalating steps, from self-sanctioning through community conferences with increasing sanctions, to probation with conditions and finally prison (p. 230). ‘We are suggesting that community conferences open an avenue for addressing the failures of contemporary justice processes, which leave misogynist masculinities untouched by shame and victims scarred by blame’ (p. 244). (Braithwaite and Daly 1995).

The only book we found which focuses exclusively on this topic is *Restorative Justice and Family Violence* (Strang and Braithwaite 2002). It is largely theoretical, consisting of chapters debating the arguments for and against restorative justice in cases of domestic violence.

An article by Block and Lichti takes into account the power dynamics of domestic violence and sexual abuse in extending Zehr’s well-known comparison of retributive and restorative paradigms. They add another column on ‘Restorative justice with respect to domestic violence and sexual abuse’, in which they spell out what extra is needed. So, for instance:

<b>Old Paradigm: Retributive Justice (Howard Zehr)</b>	<b>New Paradigm: Restorative Justice</b>	<b>Restorative Justice with respect to Domestic Violence &amp; Sexual Abuse</b>
Adversarial relationships and process normative	Dialogue and negotiation normal	Concern for the protection of the victim primary. Accountability of the abuser upheld
One social injury replaced by another	Focus on repair of social injury	Focus on education, healing for the victim and abuser, and societal change

(Block and Lichti 2002)

A more recent contribution is ‘Feminism, victimology and domestic violence’ (Hoyle 2007) in the *Handbook of Victims and Victimology*. This charts the growth of research in the field of domestic violence, related to different theories. It shows how a radical feminist view of the roots of domestic violence in patriarchy has done more to help those affected by domestic violence than any other theory. However, it has led to the dominance of one model of treatment, the Duluth model and its UK derivatives, notably the Integrated Domestic Abuse Programme (IDAP). This model is effective

for many cases, but not all perpetrators are the same; nor are all victims. Factors such as culture, religion, class, age and sexuality need to be taken into account, as well as the nature of the domestic violence events, which also differ. A more contextual approach may be needed, and here restorative justice may have a place:

‘Batterers, like victims, are clearly a heterogeneous group and, when it comes to intervening, one size does not fit all. Restorative justice is perhaps the only recent development for tackling domestic violence that does not assume that one blanket response will be effective for all; indeed, it aims to tailor responses specifically to each case by encouraging all parties to define for themselves both the problem and the possible solutions. It represents the first sign of policy wriggling out of the radical feminist ideological straitjacket.’ (p. 162)

A recent article (Van Wormer 2009) provides an overview of restorative justice as a process and examines its relevance to women who have been victimized by physical and sexual abuse. The starting point is the justice system with its roots in adversarial, offender-oriented practices of obtaining justice. The widespread dissatisfaction by battered women and rape victims and their advocates with the current system of mandatory law enforcement opens the door for consideration of alternative forms of dealing with domestic violence. Restorative justice strategies, as argued here, have several major advantages. Like social work, these strategies are solution-based rather than problem-based processes, give voice to marginalized people, and focus on healing and reconciliation. Moreover, restorative justice offers an avenue through which the profession of social work can re-establish its historic role in criminal justice. The four models most relevant to women's victimization are victim-offender conferencing, family group conferencing, healing circles, and community reparations. Each model is examined separately from a feminist standpoint. The discussion is informed by insights from the teachings of standpoint feminist theory and social work values, especially social justice (author's abstract).

The rest of this section describes examples of restorative justice initiatives and programmes, by country. In the examples below, the UK comes first, then other initiatives in Europe (Austria, Finland, Germany, Greece, Romania), then the US, Canada, Australia, New Zealand, South Africa, the Gambia, Jamaica, Colombia and Thailand.

This is not a comprehensive survey but we hope it has picked up a flavour of what is going on around the world in this field.

### **United Kingdom**

The government consultation paper *Restorative justice: the Government's strategy* (Home Office 2003) asked a question on restorative justice and domestic violence:

- What would be the benefits and disadvantages of developing more specific principles in particular areas – for example for sensitive offences such as hate crimes, sex crimes and domestic violence?

The responses showed that views were strongly polarised: ‘Domestic violence specialists were strongly against their use in any such cases, while proponents of restorative justice thought they could be beneficial in some cases.’ The arguments against the use of restorative justice centred round the risk of re-victimisation, the



power imbalance and the seriousness of domestic violence. Those involved in restorative justice cited the right to choose, the use of highly skilled facilitators and a multi-agency approach. The government conclusion was that more evidence was required on what works for victims.

(Home Office 2004a)

Accordingly, the subsequent publication *Best Practice Guidance for Restorative Practitioners*, based on discussions with many restorative justice organisations, under Section B: Sensitive and complex cases, says: ‘The use of restorative processes in domestic violence cases is not agreed; the government’s forthcoming paper on domestic violence will address this issue.’ (Home Office 2004b). At the time of writing (August 2008), this paper was still awaited. Meanwhile the Domestic Violence, Crime and Victims Bill was passed in November 2004, providing new powers for courts to deal with perpetrators of domestic violence, closing some anomalous loopholes and giving victims statutory rights (Home Office 2004c). These are enshrined in the *Code of Practice for Victims of Crime*, launched in April 2006 (Home Office 2006). However, restorative justice is not included.

Nevertheless, there have been and still are projects in the UK where mediation occurs in situations of domestic violence. Some of these are outlined below.

### ***Plymouth Mediation***

As in many other places, there was concern that the court system, although recognising the seriousness of domestic violence, was not able to deal with some of the cases. Often a woman would make a complaint and then withdraw it later, either under pressure from her partner or because she did not want to go through the trauma of the court process. This led to the development of a victim-offender mediation scheme for victims and perpetrators of domestic violence.

The scheme ran for six years 1994-2000, based at Plymouth Mediation, in partnership with Plymouth Probation Service. In 1995 it dealt with 300 referrals. It closed when funding ceased.

In recognition of the dangers of mediation in these cases, the scheme had three phases.

1. Both parties were interviewed (separately) to explain the scheme and assess whether the man was prepared to take responsibility for his actions.
2. The second phase included separate tracks for the parties. The man was required to attend a perpetrators’ group run by the probation service, to learn about the power-based nature of domestic violence, how to stop being abusive and how to make more equal relationships. Meanwhile the woman was offered counselling to help her think through whether mediation would be the right way forward for her.
3. When the second phase had been completed, if both parties wanted to go forward to mediation, this was arranged through Plymouth Mediation.

(Plymouth Mediation 1996; Peacock 2006)

### ***Warwickshire Domestic Violence Support Service, Rugby***

This service used mediation principles and a problem-solving approach to empower women victims of domestic violence and redress the balance. Then, if the woman wanted, the service offered a counselling service (telephone or in person at their office) to perpetrators who were willing to engage in change. However, they did not arrange meetings between them (Huckle 1998).

### *The Daybreak Dove Project*

This project was set up in 2001 to use Family Group Conferences to address situations of domestic violence. FGCs had been used in a Canadian initiative to address situations of domestic abuse where they achieved encouragingly good results. Researchers Joan Pennell and Gale Burford, involved in this programme, came together with representatives of agencies in Basingstoke interested in developing services addressing domestic abuse. A multi-agency Steering Group was formed.

The project takes referrals for/from any family that lives in the Borough of Basingstoke and Deane, experiences domestic abuse in its widest interpretation of physical, emotional, psychological, financial or sexual and has at least one child. Fundamentally anyone can refer - statutory or voluntary agencies, community groups, family members including children and young people. The Daybreak Dove Project and the Hampton Trust (see Section 1) work in the same geographical area. Where a referral for a FGC comes in, if its primary focus is the domestic violence, it goes to the Dove Project; if the focus is child welfare it goes to the Hampton Trust.

The FGCs are based on the following principles:

- It is members of the extended family who have the intimate knowledge about their own family, including who is safe and who is not safe around vulnerable people.
- Members of the extended family have a life-long commitment to each other.
- People are more committed to carrying out plans if they are involved in the decisions.
- Good decisions are based on high quality information, so meetings need to be open and honest.
- People work together better if there is mutual respect.
- If agencies identify and work with strengths of a family, a good outcome is more likely.

A family group conference acts against the secrecy of the abuse by enhancing knowledge and the number of people who know what has been happening. It draws on the strength of the extended family and friendship network for support, information and resources. It brings together, at one place and at one time, agencies who can offer professional resources. The meetings have two targets: to make all members of the family safer; and to promote the welfare of children.

The project is not about keeping families together, and takes great care not to re-victimise the victim, who has to agree with all the arrangements, especially who is invited to attend. The perpetrator is only invited if he is still in the same household as the victim, and if he acknowledges the abuse and is willing to address it. (Taylor and Powney 2005; Daybreak Dove Project 2008; Powney 2008).

The project has had contact with well over 100 families. A police report showed that between 1 April 2006 and 31 March 2007 there were 23 referrals which led to conferences which concerned 23 addresses, 31 adults and 52 children. After attendance at a Dove Project Conference there was a 50% reduction in the number of crime reports received by Hampshire Constabulary. In the six months following the project phase (April 2006 to March 2007) 11 of the 15 families that took part did not come to police attention again, a 73% success rate. (Hampshire Constabulary 2007).

### ***Victim Liaison Units***

These units are part of the National Probation Service in England and Wales, and provide information to victims of crimes where the perpetrator receives a prison sentence of one year or more for a sexual or violent offence.

Many of these cases either concern offences of domestic violence or include domestic violence even where the offence has a different label, e.g. criminal damage or assault. Workers who are trained in mediation skills (in a few VLUs) help parties to communicate, and occasionally to meet, to sort out the many issues involved before the perpetrator is released. These may then be reflected in the offender's licensing conditions.

Workers help both sides to have the space to think about the issues. Often the work in these cases concerns 'finding a dignified way out of the relationship' for both parties. This is important because it is known that the worst domestic violence often occurs when the woman leaves the relationship. By being involved with both parties, workers are aware of the power dynamics and can work towards safety for the victim. (Tudor 2008).

### ***Family Mediation***

Although this report is not about family mediation, it is worth noting that the UK College of Family Mediators has a Domestic Abuse Screening Policy. Excerpts from this include:

- Separate screening for domestic abuse must be carried out in circumstances that allow free, frank and safe discussion of the issues of domestic abuse to take place and a fully informed choice to be made by the participants as to whether or not to proceed to mediation.
- In cases where the abused person has made an informed choice to mediate, the mediator's responsibility is to ensure that appropriate arrangements are agreed which as far as possible guarantee that relevant safety issues are addressed and reviewed.
- If mediation does not proceed, mediation must be terminated safely, other alternatives to mediation explored, and appropriate advice and referral possibilities considered.

(UK College of Family Mediators 1999)

From this it is clear that family mediation takes place on some occasions where domestic abuse exists; it is for the abused partner to decide, after discussion, whether to proceed with mediation.

## Europe (apart from UK)

### *Austria*

Austria has one of the best-researched mediation programmes for domestic violence. Victim-offender mediation has been practised with juveniles since 1985 and adults since 1992, and mediators are full-time practitioners of mediation and also trained social workers. In cases of domestic violence, where the state prosecutor diverts a case from court to see if mediation can help, the mediators work in pairs, one man and one woman. They invite the couple (if both parties agree) to the Victim-Offender Mediation Centre and first speak with them separately: the male mediator talks to the man, the female mediator talks to the woman. These discussions are designed to elicit what the two partners want from the mediation, and in particular how they see their future relationship – whether they want to stay together or to separate.

After that, all four meet together. The mediators sit opposite each other, and the partners sit opposite each other, each partner sitting next to their mediator. The session starts with the mediators telling the stories of each party, while they listen; then the parties have the chance to correct or modify their story. This then develops into an exchange between the partners, which the mediators interrupt when they deem appropriate, to give their reflections on what is happening. This ‘distancing’ effect promotes ‘recognition’, which is a pre-requisite of empowerment: balancing existing power imbalances and supporting the weaker party.

Mediation is often attractive to parties because there are several ways in which court procedures may be unhelpful in domestic violence cases:

- The perpetrator does not have to take responsibility; the judge decides
- The victim often feels guilty if a sentence is passed
- The perpetrator blames the victim
- The victim is in a passive role of witness
- The victim can be re-victimised by the process
- The victim learns: next time, don't report it

However, certain preconditions are needed for mediation:

- The victim has to agree
- The violence has to stop
- The perpetrator has to take responsibility
- The perpetrator is the only one to blame – not the victim
- The process only goes ahead with the agreement of the victim

(Glaeser 2004)

Mediation in cases of domestic violence was researched by Christa Pelikan (2000), both by observation of 30 mediations and by follow-up interviews, separately with each partner, of up to two hours. These interviews were repeated three to four months later. In addition Christa Pelikan talked to the mediators about each case. For comparison an equal number of criminal procedure cases were researched in the same way.

The results of this research suggested a typology of cases:

1. ***Victim-offender mediation as reinforcement of change***
  - (a) *Mutual change* – these were cases where the domestic violence was an unusual incident, a shock, and where both parties had decided they needed to re-negotiate their relationship. The mediation confirmed the woman’s right to preserve her physical integrity and so empowered her to negotiate the changes she needed. The court process, however, did not help with this.
  - (b) *Reinforcement of change enforced by the woman* – these were cases where the woman had suffered a long time and had then decided ‘Enough!’ and took action to end the relationship and leave. Sometimes this resulted in abusers trying to change their ways, for fear of losing their family. Cases where men continued to deny their behaviour were handed back to the state prosecutor. Victim-offender mediation again confirmed the woman’s right to stand up for herself and achieve a cessation of abuse. The later interviews showed that the changes the men had made actually lasted.
2. ***Victim-offender mediation as the beginning of reformation*** – these were cases which started with complete denial, but through the discussions and support for listening, resulted in the man being at last able to confront what he had done. The recognition and empowerment of the woman enabled her to speak up about the effect on her. For the man this could be the beginning of making a change in his behaviour.
3. ***Victim-offender mediation supporting separation*** – these are cases where mediation can empower women to negotiate separation arrangements and future relationships based on this (e.g. how they will behave if they meet again by chance).
4. ***Victim-offender mediation at its limits*** – these are cases where the woman does not have the resources (internal and external) to stand up for her rights, and where, even if agreement is reached during mediation about future behaviour, it breaks down and violence re-occurs. This is particularly likely to happen in cases where the violence has a component based on addiction, e.g. alcoholism.

The conclusions drawn by Pelikan were:

- The potential or strength of the mediation process lies with reinforcing processes of empowerment or liberation that are already on the way.
- Only very rarely does a conversion or reformation of the perpetrator take place.
- In victim-offender mediation, to promote and enhance a process of empowerment, the existence of personal resources – of both victim and offender – is a prerequisite. Otherwise the intervention remains futile.

To sum up, she coined the phrase ‘Men don’t get better (through victim-offender mediation), but women get stronger.’

One of the hoped-for outcomes of this research was a typology that would indicate which domestic violence cases would respond to mediation. This was not possible because so much depended on the parties’ responses rather than outwardly visible criteria. Pelikan’s conclusion was that victim-offender mediation could be helpful in a wide range of cases (though not all), in reinforcing empowerment and freedom from fear and violence within a relationship. But the ‘suitable cases’ can only be ascertained by a process involving a step-by-step assessment process involving mediation and victim support services.

The message of this research is that one cannot approach domestic violence cases with a 'one size fits all' response, as they are not all the same. Mediation can be helpful for the cases described above, and it is clear that a court process would not be able to help in the same way. The safeguard is that unsuitable cases can be referred back to the state prosecutor as soon as the unsuitability becomes clear. A research study found a high degree of satisfaction from women concerning victim-offender mediation, especially in cases of domestic violence (Altweger and Hitzl 2001)

### *New research*

Ten years later Christa Pelikan (2009) revisited her research, with the title 'Men don't get better, but women get stronger: Is it still true?' In 2008 she sent a postal questionnaire to 900 women who had been through victim-offender mediation in 2006, and obtained 162 responses – many questionnaires had been undeliverable. She observed 33 victim-offender mediation sessions and conducted 21 interviews with women after the mediation sessions.

What has changed? One important change which influenced mediation was the Austrian Protection Against Domestic Violence Act 1997 (amended 1999). This Act empowers police to order the offender to leave the premises immediately for several days (up to two weeks), even for minor offences, whenever there is imminent danger of further violence. The police then refer the case to the state prosecutor to ascertain whether a criminal offence has been committed. A victim can also obtain a court-ordered temporary injunction for the man to stay away up to six months. The Act has an important symbolic aspect in reinforcing the view that domestic violence is unacceptable, so that victims are more likely to call the police earlier in the chain of events. This is borne out by the fact that 36% of the sample entered mediation after a first act of violence. The Act may also be part of a general change in Austrian society, that domestic violence is no longer acceptable.

This research still showed a large contribution of the mediation to the empowerment of women. Of those who experienced no further violence from their partner, 80% said that the mediation had contributed to this. In addition 40% also said that their partner had changed as a consequence of the mediation process. These were not great numbers (about 14% of all cases) but it shows that more men than before were capable and willing to change, to help improve communication between the partners, especially where they decided to stay together.

Christa Pelikan's conclusion is that women's empowerment has been reinforced by the new Act and by victim-offender mediation, and that there is a 'new collective mentality' in society, in which keeping violence out of intimate relationships has become a matter of course, leading to some men changing their attitudes and behaviour.

### ***Belgium***

Suggnome Victim-offender Mediation Service undertakes some cases of domestic violence as part of their service.

## *Finland*

Cases of domestic violence have been referred to mediation in Finland. A research project reviewed the data from 2001-3 from four courts in different towns and cities. Of 416 cases reviewed, 116 were handled in court and 242 were referred to mediation. Of the 116 sentenced cases, 19 were later mediated.

The research included interviews with offenders, victims, mediators, judges, magistrates and project staff. The main criterion used in deciding whether to refer a case to mediation was the seriousness of the offence – serious cases were handled by the court. Judges said ‘Mediation does not make violence justified.’ They were keen to see mediation used to restore family relationships, but not instead of legal consequences.

The motives of the parties to participate in mediation were:

### *Victims:*

- They did not want to go to court (e.g. shame)
- They did not see punishment as a solution of the problem
- They needed the relationship to change
- They wanted to find out the reason for the domestic violence

### *Offenders:*

- Mediation seemed a reasonable way forward if violence was occasional
- Punishment would weaken the finances of the family
- Relationship difficulties could not be handled by the court
- Some agreed to mediation because the victim asked
- There was a hope that mediation might lead to a lesser sentence

In a total of 38 agreements made, most included apologies, commitments to a change of behaviour and promises to attend groups for violent men. These were followed up and 90% were fulfilled completely and 8% partially. Satisfaction rates showed that two thirds of participants were satisfied, both victims and offenders. One year after mediation, nearly all the couples were divorced, and most of the violence had stopped.

As in the Austrian research, it was not possible to identify beforehand suitable cases for mediation: this has to be decided as cases proceed, on a case by case basis. (Flinck and Iivari 2004)

A new law (2006) has tightened up procedures and this means that police and prosecutors do not refer family violence cases to mediation so easily (Iivari 2008).

### *Current practice*

The mediation process for domestic violence cases is outlined below (Kurikka 2008). Important points:

- Check that participation is really voluntary during the process
- Volunteer mediators have access to guidance and support from the professional staff at all stages of the process

- Other volunteer support persons may also be needed
- Other services may be accessed if needed
- The professional staff of the mediation service always work in close cooperation with other agencies in domestic violence cases

### *The process*

1. In domestic violence cases only the police or the prosecutor can refer a case to mediation.
2. The professional staff of the mediation service decides whether a case is possible to mediate, and whether to take the case.
3. The office chooses the mediators for the case.
4. The mediator(s) make contact with the partners in the case.
5. In the individual meetings (there may be many) with the mediators and partners, the aim is to:
  - talk to the victim first
  - gain information about the nature of the domestic violence
  - explain mediation, its nature, possibilities and influences
  - listen to the partners
  - motivate them
6. At the joint meeting(s), the aim is to:
  - explore the importance and possibilities of the mediation
  - hear partners' views and goals
  - help the 'change' work to start
7. Agreement is reached (if appropriate)
8. The agreement is sent to the police or the prosecutor
9. The agreement is followed up

### *Germany*

Die Waage Project, Hannover is an NGO which has provided victim-offender mediation in Hanover for many years, for adults as well as juveniles. For the past few years they have also worked with domestic violence cases. They do this as part of a network of local organizations which all play their part. Police receive special training, social workers intervene at an early stage, prosecutors take a special interest in such cases, women's support services help the victims (who are usually women), and institutions run courses for violent men looking for help.

With all the back-up from these services, die Waage provides an impartial service. They first talk to the woman, and only contact the man if she wishes. After that mediation may be the way forward, either indirect or face to face. The service uses a co-mediation model, with one woman and one man as mediators. The service handles 200 cases a year, including sudden escalation of violent behaviour, long-term violent relationships, and stalking by ex-partners.

Aims and outcomes of mediation can be very different. Some women make it clear that for them the relationship is finished and they want no further contact. For a few there may be reconciliation. Sometimes there are issues concerning children or compensation. Some women ask the men to attend a therapy group, e.g. alcohol, and



are looking for a change in men's behaviour. Often there is a follow-up meeting after three to six months to review the agreement.

Mediation is not the right method for every case, and some cases are not successful. But with the support and cooperation of all the other institutions, it can be a useful option for some couples. (Netzig and Petzold 2007)

### *Research*

New research from Germany (Bals 2008) considers whether victim-offender mediation is a suitable way of dealing with domestic violence, as part of a larger study at the University of Bielefeld, commissioned by the Ministry of Justice of Nord-Rhein Westfalen. The project examined 3906 cases dealt with by independent mediation services or court assistants (*Gerichtshilfen*). The report deals first with the usual objections to using VOM, but points out that 80-95% of cases are discontinued by prosecutors. Fines or imprisonment are not effective and often affect the victim, for example by reduced family income. Several studies have shown that prosecution of the offender is seldom what victims want: if they call the police, they usually hope for a helping reaction, not a punitive one. Suitability has to be judged for each case. Pressure on the victim to participate is avoided by contacting only the victim at first, and only with her consent contacting the offender to propose VOM.

Nadine Bals and colleagues compared 509 cases involving domestic violence with other cases referred for mediation, a total of 3906. The following comparisons resulted:

- Nearly as many victims of DV agreed to mediation (43.6% vs. 47.9%) There was no difference between those in a partner relationship and ex-partners (43.5% vs. 43.8%). Offenders accused of DV were less likely than other offenders to be willing (51.5% vs. 60.8%). However, 9.4% were not contacted by mediators, because the victim had declined or had not responded. Ex-partners were somewhat more likely to be willing than those still in a relationship (55.6% vs. 49.2%).
- In 38.5% of DV cases both parties agreed to mediation, as against 39.9% of other cases. Again, there was little difference between partners and ex-partners (39.9% vs. 36.0%).
- There was also little difference in the proportions of DV and other cases in which an agreement was reached (88.2% vs. 87.0%), nor between partners and ex-partners (87.7% vs. 85.7%).
- Concerning agreements kept, again there was little difference. Among cases of DV, 79.9% were fulfilled completely, 3.5% partly, and 11.8% still being fulfilled at the time of the research, leaving only 4.9% not fulfilled at all. The figures for non-DV cases were similar (82.7%, 4.2%, 9.0%, 4.0%). Ex-partners were somewhat less likely to complete (75.0% vs. 81.4%), and more likely not to complete at all (10.0% vs. 2.9%), but the difference is not statistically significant.

Bals concludes that VOM is as likely to be suitable in cases of DV as in others, both where there is a continuing relationship and between ex-partners. In both cases, agreements were overwhelmingly kept.

## ***Greece***

Following the European Directive on introducing mediation in criminal proceedings by March 2006, the Greek government enacted a law in 2006 providing mediation for domestic violence cases. This followed surveys in 1999 and 2003 identifying domestic violence as a big problem. The law provided for mediation to be carried out by prosecutors before prosecution or after the initiation of prosecution, provided the offender promised:

- not to commit any domestic violence acts in future
- to participate in a special counselling/ therapy programme
- to undertake reparation to the victim, if possible

An evaluation of this scheme pointed out that it was bound to fail because of role contradiction - prosecutors are not mediators, have no training as such or in the specialized area of domestic violence, and are not independent. Moreover there is no regulation or special funding, so the provisions are there on paper only (Giovanoglu 2008).

## ***Netherlands***

There are reports of successful Family Group Conferences in situations of domestic violence, bringing together both partners (especially if they want to continue the relationship) and other family members from both sides. For 17 cases, in 80% family members took care of fulfilling the agreements, with agencies helping in 20% (Joanknecht 2001). The report mentioned other similar projects in several other European countries.

## ***Romania***

With encouragement from the European Union and the advocacy work of academics and civil society organizations, Romania is beginning to use victim-offender mediation as an alternative to court processes in some cases. The legislation includes laws related to family violence.

Chapter 5 (articles 19-22) of law number 217/2003 regarding domestic violence provides for mediation in such cases. Article 21 sets up a family council defined as 'an association without legal personality and patrimonial aim, formed by the family members who have full legal capacity according to the law.' A meeting of the family council is coordinated by a family member or a social worker working with the family. While the outcome of this meeting does not affect a criminal trial concerning the domestic violence, it offers an opportunity for family members affected by the abuse to meet and discuss an appropriate resolution for the family. (Balahur 2006)

## ***United States***

### ***North Carolina***

In 2002, Carolina Dispute Settlement Services (CDSS) was asked by the jurisdiction in one county to mediate cases brought to the domestic violence court. Research was carried out in 2005 (Bryant, Seigle, Jabbar and McGeorge 2006) to compare domestic

violence re-offending outcomes two years after mediation with outcomes either following a court appearance or after release from a prison sentence. 100 mediation cases reaching agreement were compared with 118 court cases.

In North Carolina both complainants and defendants have incentives to use mediation. Defendants avoid getting a criminal record and complainants can bring back the case to court if agreements are not kept.

All the cases handled by CDSS were mediated in the local courthouse, where the physical security of victims was high. Everyone passed through the security checkpoint that included a metal detection device for weapons. The sessions were held in conference rooms next to the courtroom, so that police would be within shouting distance in case of problems. The sessions generally took place at the same time as the court was sitting, so that judge, prosecutors and defence attorneys were all usually available.

The re-offending rate for the 100 mediated cases was 16%. This was compared with outcomes for 108 court cases. Victim non-appearance and lack of evidence led to the dismissal of 59 cases. For the 49 court cases that took place, the re-offending rate was 43%.

In cases where the defendant had no previous criminal record, the difference was even more marked: only two out of the 55 mediated cases re-offended, compared to six out of 16 court cases. Thus it would seem that mediation is more effective than the court process in preventing re-offending.

### ***Navajo Peacemaking Project***

Donna Coker refers to a Navajo Peacemaking Project, in which RJ can have benefits for some women, provided that they meet five criteria:

- prioritise victim safety over batterer rehabilitation
- offer material as well as social supports for victims
- work as part of a coordinated community response
- engage normative judgments that oppose gendered domination as well as violence
- do not make forgiveness a goal of the process

(Coker 2006)

### ***Hawaii: Pono Kaulike programme***

In Hawaii, Lorenn Walker and the Hawaii Friends of Civic and Law Related Education have developed the court-based Pono Kaulike program – translated from Hawaiian, it means ‘equal rights and justice for all’. The programme began in 2003 and includes a range of interventions:

1. *Restorative Conferences*, in which the defendant, victim and supporters of both parties meet in a group to discuss how each member has been affected by the wrongdoing and how the harm may be repaired.
2. *Restorative Dialogues*, in which the defendant and victim meet without family or friends. Often victims simply want to know that the offender is remorseful for their harmful behaviour.

3. *Restorative Sessions*, when the parties are unwilling to meet with each other, and meet with the facilitators separately, often with supporters present. The outcome is a plan which includes how the defendant can repair the harm or otherwise take the wishes of the victim into account.

The programme also links restorative interventions with a solution-focused approach. Out of 43 interventions from March 2003 to April 2007, 18 concerned intimate partner violence, and the programme has undertaken three Restorative Conferences, six Restorative Dialogues and nine Restorative Sessions, with positive results (Walker 2007). Examples included victims who attended Restorative Sessions and were able to specify what they wanted the offender to do – e.g. attend anger management sessions and drug treatment – the offender agreed, so this was included in a court order. Another example included a couple who attended a Restorative Dialogue and felt it had helped them resolve the situation and stay together (Walker 2007; 2009). The programme is also being replicated with a court in New York.

### *Other references*

Mary Koss (2000) in Van Wormer (2008) advocates ‘communitarian justice’, similar to Braithwaite above. Van Wormer also quotes Umbreit (2000), who emphasises that issues of power and control for the victim must be addressed.

## **Canada**

### *Newfoundland and Labrador*

In this programme, Pennell and Burford developed a model of RJ (Family Group Conferencing) which safeguarded families. 32 families took part, resulting in 37 conferences (5 were reconvened). Altogether 472 people took part, of whom 384 were family members. The research included a comparison group, and pre- and post-test measures. The main findings were that the RJ group showed:

- a reduction in indicators of child maltreatment and domestic violence
- an advancement in children’s development
- an extension of social support

The design for the FGC programme included participatory co-leadership, local ownership and feminist principles. Pennell and Burford also found that, by involving the wider family network, any secrecy about the violence was broken, and the community of those committed to the safety of the victim and children was extended. (Pennell and Burford 1997 and 2002). Sadly the Canadian government ceased its commitment to this project, seeing it as too expensive (Busch 2002).

### *Hollow Water, Lake Winnipeg*

Aboriginal/ First Nation communities have well-developed systems for dealing with domestic violence offences in restorative ways. They regard any misbehaviour as a sign that teaching and healing is needed, not punishment. Rupert Ross has written about cases of domestic violence where people from the community worked with everyone involved, and (with the offender’s agreement) proposed a whole package of measures to tackle all the problems, of which the domestic violence was only the tip of the iceberg: alcohol treatment, couple counselling, and a family healing workshop to include the children, who had witnessed the violence (Ross 1996).

Other reports from traditional Canadian communities describe successful Sentencing Circles involving community members, and emphasise the importance of victims playing a key role to ensure their needs are met and that they are not re-victimised (Griffiths 1999; Hatch Cunningham and Griffiths 1999).

### ***Edmonton, Alberta***

Edwards and Haslett describe a programme which has a focus on addressing harm, participant safety, offender accountability, opportunities for dialogue and restoration. There is a thorough screening process to check voluntary participation, victim safety and that offenders take full responsibility for their actions, and want to change.

For victims, having a safe space to tell their story can be a powerful experience. Positive outcomes have included reconciliation, forgiveness, closure and restoration, but it is important not to create any expectation of these. Restoration is not aimed at restoring individuals to a 'pre-assault state', as that led to violence, but to create relationships of social equality. The programme is based on the Duluth Domestic Abuse Intervention Project, but also other perspectives, e.g. Narrative Therapy. Casework in the programme has shown a continuum of domestic violence cases, from single uncharacteristic assaults to multiple patterns of abuse. Sometimes there is a conflict between safety and choice: prioritizing victim safety can perpetuate disempowerment; prioritizing victim choice can lead to dangerous situations. The process is resource-intensive, so the programme can only take on a few cases at a time. Most victims and offenders have preferred meetings with just themselves and mediators, rather than involving friends and family.

The authors' summary is:

'It has been our experience that restorative justice has much to offer victims and offenders of domestic violence, in certain cases and if certain conditions are met. We have found that this work is never easy, and what we have shared here are some of the learnings and challenges we have encountered along the way. Our experience leads us to conclude that if restorative justice is to be taken seriously as a valuable intervention in cases of domestic violence, it will only be as a result of informed practitioners demonstrating their thorough understanding of the risks (and also the benefits) involved in doing this work. This includes the ability to take meaningful steps to maximize victim safety and choice, and create opportunities for offenders to reflect on their actions and make new choices.' (p.8)  
(Edwards and Haslett 2003)

There is also reference in this article to consultations between mediators in this project and workers in Saskatchewan and Prince Edward Island.

### ***Winnipeg, Manitoba***

Maloney and Reddoch undertook a survey of possible stakeholders in an RJ programme for family violence. They showed videos of the conferencing process developed by Pennell and Burford (1997, see above), to focus groups of family violence practitioners, women survivors of domestic violence, and offenders. They also drew on a British study (Marsh and Crow 1997). All the focus groups could see

positive aspects of a Family Group Conference (e.g. fostering responsibility, collaborative working, family inclusion, safety, etc), but had the usual concerns about denial, addiction issues, power dynamics, resource issues, risks, realistic levels of support, etc. (Maloney and Reddoch 2003)

## **Australia**

The project descriptions below are all from Western Australia.

### ***Circle Court Transcript***

A 29-page manuscript describes an edited transcript of a case from 2005 in Nowra, concerning a domestic violence case. Attending the Circle Sentencing Court were a magistrate, the public prosecutor; the offender, his mother, his solicitor; the victim, her sister, her mother; and three representatives of the Aboriginal community. Most of the conversation takes place between the professionals, the community representatives and the offender, but they invite the others to contribute, especially the victim. She does. Many factors are unearthed, such as drugs, alcohol and jealousy; and the fact that the offender has done well at an assessment centre where he has been for four months. The purpose of the meeting is to pass a suitable sentence, bearing in mind the seriousness of the offences (several incidents of violence against his partner, including while pregnant) and the progress made so far by the offender. The sentence passed eventually was one of 12 months periodic detention, where the offender is free to do his own thing during the week and spends the weekend in gaol. This was a compromise between giving prison to emphasise the seriousness and acknowledging the offender's wish to make good in the community and to see his children (and for them to see him).

(Four Corners 2005)

### ***Restorative and transformative justice pilot: A court-sanctioned communitarian model with adult offenders facing custodial sentences***

This article describes a 30 month research project from May 2000 to October 2002, to develop a communitarian model for Restorative and Transformative Justice. This was the first RJ project in Western Australia. The researchers involved the whole community in developing the model. Cases were referred from the court after a guilty plea and before sentence – concentrating on serious crimes where a custodial sentence might be passed. Independent trained facilitators (in this case the researchers) then met with the offender and his/ her circle of supporters, to produce a Mutually Agreed Plan (MAP) to achieve a crime-free lifestyle – this was the ‘transformative justice’ part. The plan included addressing victim safety. Victims were asked if and how they wanted to be involved, and this often led to indirect communication, and sometimes to a Community Group Conference (CGC) after the MAP, with all relevant people present, to see if some way could be found to repair the damage or harm done to the victim. There was thorough preparation for all before a CGC.

There were 135 offender referrals. 118 offenders engaged to some degree in the process, most (98) proceeding through mutually agreed plans (the transformative process). 50 offenders completed community group conferences with their victims or an approved surrogate victim (1). 48 of the 50 conferences resulted in mutually

agreeable resolutions. The conferences were often very emotional occasions, and facilitators spent time with the victim and offender groups immediately afterwards.

Local domestic violence groups initially had strong concerns about the project, but the researchers showed that the R & TJ process often challenged offenders in a way that the court process could not. They also addressed concerns about power imbalance by introducing a 'cooling off' period of 48 hours after a conference for victims of domestic violence, with the offer of support from domestic violence counsellors. 7 of the cases concerned domestic violence (5 partner violence and 2 assaults by adult children on their parents) and all of these resulted in face-to-face conferences, showing a preference for resolution over punishment. So while the domestic violence cases formed only 5% of the total, they formed 14% of the face-to-face conferences.. (Goulding and Steels 2006)

This project still exists, but in a very watered-down version, with minimal uptake from victims (5% compared with 34% in the research project). (Goulding 2008)

### ***Research project with Aboriginal people and family violence***

Following on from the research project described above, Brian Steels obtained funding for an 18 month project to develop a restorative justice model suitable for local people living in the Roebourne area of Western Australia. All the cases were related to family violence – the preferred term within the Australian Indigenous context, as the patterns of violence differ somewhat from the nuclear family norm.

Networks were built up around key people including those engaged with the Aboriginal Legal Service, Community Development and Employment Program, Court Services, Aboriginal Visitor's Scheme, Aboriginal Medical Service and other local Aboriginal Corporations. A small group of people joined a loosely coordinated steering committee that gave oversight to the early stages of the project. A similar group was established among key stakeholders in Perth as a reference group with an ability to collect and disseminate information pertinent to the project.

The project also drew on the Hollow Water project in Canada, which developed a model of community healing for intergenerational sexual abuse. It gathered support from families and the wider community as grass-roots facilitators, to provide help and healing rather than courts and prison.

The project found that local people were willing and indeed preferred to be involved with a process which recognised the many difficulties facing individuals and families every day in and around Roebourne. Local people and researchers worked together to produce a model which strongly adhered to an Aboriginal methodology that seeks to address the aftermath of crime and anti-social activities through kinship ties and senior family members providing a degree of facilitation and leadership, challenging whilst supporting, disapproving whilst nurturing. (Steels 2006)

Ten local indigenous facilitators were trained, including 7 women and respected people with community leadership. Brian Steels conducted 11 circles with a local facilitator during the research period, and others completed many more after the project finished. However, although the court magistrates were helpful, non-

indigenous criminal justice workers were obstructive. Nevertheless the project continues in the hands of local people (Steels 2008).

### ***Family Healing Centre***

Aboriginal women (who are 45 times more likely to be victims of domestic assault than non-Aboriginal women) designed a Family Healing Centre with four sections surrounding a communal space: a space for women and children; a space for men; a space for old people; and a space for young men. After a crisis, everyone would go to their designated space to cool off and talk with each other, then come together in the central communal space, the 'camp fire', to resolve the problems. (Blagg 2002)

### **New Zealand**

In 1995 Waikato Mediation Services drafted protocols for an RJ programme to be piloted in Hamilton. They considered the pros and cons of a victim-offender mediation model and a Family Group Conferencing model with respect to domestic violence cases, drawing on research about domestic violence. They devised a hybrid model for the mediation services, including:

- separate conferences for victims and their supporters, and offenders and their supporters. The purpose of these is to address the effects of domestic violence on the parties and their respective family and friends, and enlist future support to stop the offending
- a joint session to discuss mutual issues
- follow-up sessions to monitor compliance with any agreements made

Mediation in cases of domestic violence was considered unsuitable except for isolated incidents or special circumstances. The usual safety precautions were in place. In the few cases accepted, a 'narrative mediation' process was adopted, focusing on offender responsibility, rather than a problem-solving approach (Jenkins 1990). (Hooper and Busch 1996)

### **South Africa**

In a large victim-offender conferencing (VOC) project, covering three districts near Johannesburg, from 1999 to 2003, many of the cases concerned domestic violence, which is held to be very prevalent in South Africa. The Domestic Violence Act was introduced in 1998 to provide women with legal protection from domestic violence. It has a wide definition of domestic violence, and also a wide definition of 'domestic relationship'. Cases in the VOC project area could be referred by courts and other agencies, to see if VOC could help more effectively than the court process.

In the context of South Africa, magistrates were keen to refer to the VOC project, as they felt that the court penalties were counter-productive. If they fined an offender for assault, then there was less food on the table and the family suffered. If the offender went to prison, the family was often destitute; and when the man came out of prison, the stigma of prison prevented him getting re-employed. The victims were often blamed for this. Sometimes women would refer themselves to the VOC project because the court proceedings were taking too long and they wanted to get things



sorted out. Court cases could be dropped or postponed to see if the agreement was fulfilled.

The percentage of cases involving domestic relationships (i.e. cases where victim and offender lived under the same roof) increased over the three years of the project, from 43% to 58% to 76%, partly because mediation seemed to be successful and partly because of a decision to increase the number of serious cases. So during the last year, a larger proportion of grievous bodily harm cases were mediated. In all 660 cases were mediated over the three years.

During the last year of the project, a total of 139 cases were mediated, of which 27 (19%) concerned domestic violence. 135 resulted in agreements, which included: apology, dropping charges, reparation, respect, stopping abuse, stopping drink/ drugs, referral to substance abuse counselling, other counselling, reconciliation, relationship terminated, protection order, improvement of communication, visitation rights, maintenance, improved living arrangements, referral to other agencies.  
(Dissel 2000; 2003; 2004)

As restorative interventions are regarded as risky by many, Amanda Dissel and her colleague Kindisa Ngubeni researched the impact of VOC on female victims of domestic violence. They contacted 21 women who had completed mediation. Most of them felt that mediation had provided a safe space where their personal safety was not threatened, and where they could tell their stories, speak their minds and be heard, often for the first time. The ground rules of mediation and the presence of the mediators helped them feel safe and able to speak on an equal basis to their partners.

The women were interviewed again about one year later, to assess whether there had been any lasting change in the behaviour of the offenders. In all cases the women mentioned positive changes in behaviour and conduct towards them, with no further assaults or verbal abuse. All the women who were still with their partners said that relationships and communication had improved following the VOC. Those who had separated said that the VOC had helped them to negotiate the terms of this. The researchers concluded that restorative justice can be successfully used in domestic violence cases, and that it can result in lasting and meaningful change. Of course the necessary safeguards need to be in place: preparation, informed consent, training and impartiality for mediators.  
(Dissel and Ngubeni 2003)

Some of the Peace Committees in South African townships also consider a wide range of cases, including domestic violence. These are local community-run services which sort out cases brought to them by victims (Roche 2002 and 2003).

Another more recent mediation initiative is the Justice and Restoration Programme (JARP), a community-based project in KwaZulu-Natal.(Hargovan 2009). This programme started in April 2007 and dealt with 3000 cases in the first two years up to April 2009. Of these, 891 were domestic violence cases, over a quarter. Many women chose to go to JARP because they felt they would have more chance to tell their story and seek a resolution. Most of the cases started with separate visits to victim and offender, then a meeting to come to a resolution. With the domestic violence cases, shuttle mediation was also used as a precursor to a joint meeting, and victim safety

was an even higher priority. There was a high rate of satisfaction with the agreement reached from victims (78.5%) and offenders (80.5%) in the whole programme (no separate figures given for the DV cases) and also a very high sense of feeling that justice had been done (83%). This was important, as one of the aims of the programme is to increase access to justice.

A further report (Delomoney 2010) discusses the domestic violence aspect of this project, with results from cases in 2008. DV was the most common form of offending. Of cases coming to court, a high number were withdrawn, and many women chose RJ over the court system. 205 victims of DV who had chosen RJ were interviewed. The majority of victims were women (188), only 17 were men. Most cases (98) involved physical violence, of which 64 suffered grievous bodily harm. Despite the seriousness of the cases, the victims were satisfied with RJ processes as more flexible than court. Most women had stayed with their partners and reported improved relationships, however a quarter indicated that their partner had re-offended after mediation. The report highlighted the need for more support services after the mediation, to help with some of the triggers for DV – alcohol, drugs, unemployment.

### **The Gambia**

A Canadian initiative in the Gambia in 2004 aimed to introduce a Community Policing and Restorative Justice Project. This was a general project but included the possibility of domestic violence cases, as this quote shows:

Take domestic violence, for example. In the West, many jurisdictions do not allow for police discretion when an assault is reported; mandatory arrest of the perpetrator is the policy. The restorative justice policies of most Western jurisdictions exclude the possibility of many serious offences being diverted from the formal court system, with domestic assault typically viewed in the serious category. In The Gambia, domestic assault is still considered a private matter and usually goes unreported. Should a woman report an assault to the police, she typically would be advised to return home and try to better get along with her husband. Ironically, then, were domestic assaults dealt with at the village level, this would represent an increased recognition of the seriousness of the act, and not, as many Westerners might perceive, a lessening of magnitude.

(Perrott 2004)

### **Jamaica**

To combat rising rates of crime in Jamaica, three projects were set up in 1994 – the Dispute Resolution Foundation, Peace and Love in Schools, and the Police Mediation Unit. The latter was created as a response to the problem of domestic violence. The unit's purpose was two-fold: to mediate disputes before they escalated to severe violence and to train other police officers in conflict resolution. It later became a part of the Community Relations Programme.

The unit began by training 15 officers as mediators. These officers handled 300 cases in the first four months of the unit's existence, of which 171 were resolved. In 2000, the Mediation Unit had grown to 49 trained mediators waiting to be assigned to police units throughout the island. The goal was to train each police officer in conflict

resolution techniques. Mediation training was made mandatory for officers completing the two-year on the road training in general policing. (Parker 2002)

## **Colombia**

In 1995, the Government of Colombia, with financial support from USAID, established two Casas de Justicia, Houses of Justice, in poor communities whose residents were otherwise denied meaningful access to justice. The purpose of the Casas de Justicia was to bring together in one place a number of municipal services involved in responding to criminal and family violence, and to help clients resolve problems together whenever possible. The services include: psychology, police, legal advisors, prosecutors, family services, city representatives, medical care and victim services.

Encounter processes such as mediation and conciliation are the major tool used in resolving conflicts. Designed to lessen the strain on court systems, the Houses of Justice also contribute to the creation of more peaceful communities by helping people resolve conflicts through dialogue instead of violence.

Colombia has now developed a network of over 32 *Casas de Justicia*. Their cases include domestic violence, community conflicts, and minor crimes. Over 60% of the users are women. In 2002, 300,000 cases were brought to the *Casas de Justicia*. Of these, only 25 percent were sent on to the court system. The rest were resolved through face-to-face meetings between the parties in conflict.

The use of alternatives to court proceedings has several benefits. The needs of victims are met quickly. Offenders are able to repair the damage they have caused while avoiding a prison sentence and its many negative impacts. The use of dialogue to resolve problems empowers people to take responsibility for their own actions, enables them to listen to and recognize the value of others, and provides hope for the future.

Other Latin American countries are developing their own *Casas de Justicia*, e.g. Costa Rica, Honduras.  
(Parker 2003)

## **Thailand**

As everywhere else, domestic violence and especially spouse abuse is coming to be seen as a problem to be dealt with, rather than just a fact of life to be endured. Angkana Boonsit, a senior probation officer from Thailand, conducted research into domestic violence. The Thai proverb ‘Don’t let inner fire out, don’t bring outer fire in’ sums up the Thai attitude to family affairs. Criminal justice responses can provide initial safety for the abused spouse, but are not regarded as satisfactory in resolving the situation, as there is considerable shame attached to going to the police, and similar fears of poverty apply as in South Africa. Boonsit’s research examines restorative conferencing models which could help, and the Harmony Family Project was started as a pilot project for three months, to deal with physical assaults.

However, husbands often refused to participate, as they did not want anyone to intervene.

(Boonsit, Claasen and Piemyat 2004; Boonsit 2005)

## **CONCLUSION**

Work in the UK in domestic violence/abuse is almost all focused on perpetrator programmes, of which the best known is the Integrated Domestic Abuse Programme (IDAP). The UK government believes that restorative justice is contraindicated in these cases.

However, restorative justice programmes have run successfully in the UK, and are available in several other countries. The successful ones include the following features:

- safeguards for victims
- procedures for checking voluntarism
- a multi-agency approach
- support services available
- sufficient staff resources
- rigorous training and supervision

There are many dilemmas involved in this field, some of which stem from the different philosophies of working with women suffering domestic violence/abuse. In the development of initiatives, there is often a conflict between safety and choice – prioritising safety can be disempowering, while prioritising choice can be dangerous. Research in Austria and Finland has attempted to find criteria for identifying ‘suitable cases’, but this has proved difficult to assess beforehand – it is only on working with cases that this becomes apparent.

Most of the written information about existing restorative justice programmes focuses on meetings between victims and perpetrators. Very little has been written about indirect work (such as ‘shuttle mediation’; or victim-offender groups, involving victims and perpetrators of similar but not the same crimes). Indirect work could resolve some of the dilemmas identified, and also provide some of the safeguards needed before moving on to direct work.

This report has gathered information from as many instances of restorative justice with domestic violence/abuse as we have been able to find. We have also included a short account of mainstream work for comparison. Whereas the mainstream perpetrator programmes focus on men’s behavioural change leading to women’s safety, restorative processes have been shown to include an element of healing for victims. This potential needs further exploration and the resources to do it well.

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### ***Useful web sites***

Freedom Programme: [www.freedomprogramme.co.uk](http://www.freedomprogramme.co.uk)

Prison Offender Behaviour Programmes:  
[www.hmprisonservice.gov.uk/adviceandsupport/beforeafterrelease/offenderbehaviourprogrammes](http://www.hmprisonservice.gov.uk/adviceandsupport/beforeafterrelease/offenderbehaviourprogrammes)

Violence Against Women Research Group: [www.bristol.ac.uk/vawrg](http://www.bristol.ac.uk/vawrg)

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