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## Hunger For Healing: Is There a Role for Introducing Restorative Justice Principles in Domestic Violence Services?

Marilyn Fernandez  
*Santa Clara University*, [mfernandez@scu.edu](mailto:mfernandez@scu.edu)

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## CHAPTER 1

# Hunger For Healing

## IS THERE A ROLE FOR INTRODUCING RESTORATIVE JUSTICE PRINCIPLES IN DOMESTIC VIOLENCE SERVICES?

### The Research Problem

Academicians and practitioners have increasingly recognized domestic violence, particularly the battering of women by their intimate partners, as a social and public health risk to women (Cherlin, Burton, Hurt, and Purvin 2004; Holtz and Furniss 1993; Johnson 2006, 2008; Mills 2008; Roberts 1996; Rosenbaum and O'Leary 1981). Despite the difficulty in estimating accurately the prevalence and incidence of intimate violence, the American Bar Association's Commission on Domestic Violence (2005) reported the following: 28 percent of all annual violence against women is perpetrated by intimates; by the most conservative estimate, each year one million women suffer nonfatal violence by an intimate and that four million American women experience a serious assault by an intimate partner during an average twelve-month period; nearly one in three adult women experience at least one physical assault by a partner during adulthood; and that domestic violence crosses ethnic, racial, age, national origin, sexual orientation, religious, and socioeconomic lines. More locally, the California Partnership to End Domestic Violence (2007) reported that, in the year 2006, Californians placed about twenty thousand calls to the National Domestic Violence Hotline; in the same year, California law enforcement received 176,299 domestic violence-related calls.

There has been a rich history of theorizing about why violence in family relationships occurs as well as about the process and resolution of violence. Implicitly or explicitly associated with such theorizing about family violence are programs and services to address the problem. The earlier theoretical thinking, guided by feminist perspectives of gendered violence, focused primarily on the legal problematics in the relationship between the victim and batterer

(for example, Dobash and Dobash 1979, 1992; Dobash, Dobash, Wilson, and Daly 1992; Ferraro 1993; Yllo and Bograd 1988). The resulting programs were retributive in nature (Zehr 2002, 2005), centered on legally addressing the crime of family violence. More recently, there have been cautious attempts to introduce restorative justice principles into programs that address family violence, with an emphasis on repairing the harm caused by the violence and reintegrating the victim and batterer into their communities of care (see Curtis-Fawley and Daly 2005; Pracek 2010; Umbreit, Vos, Coates, and Brown 2003; Van Ness and Strong 2006; Zehr 2001, 2002, 2005). In this monograph, we will examine women's voices as they describe the violence they experienced in intimate partner relationships and make an evidence-based case for the imperative need to introduce restorative justice principles into the existing menu of domestic violence services. In the process, the linkages between the two research traditions, of domestic violence and restorative justice, will also be explored.

## **An Overview of Domestic Violence and Restorative Justice Theories and Praxis: Theoretical Perspectives on Domestic Violence**

### **SEXUAL SYMMETRY IN VIOLENCE**

In the 1990s, there was a growing body of survey evidence that documented that it was not only men who perpetrated violence but that women were as likely to do so (Gelles 1980, 1989; McNeely and Mann 1990; Shupe, Stacey, and Hazelwood 1987; Straus 1973; Straus, Gelles, and Steinmetz 1980; Steinmetz 1977/1978). More recent data from the National Violence Against Women Survey suggest that approximately 835,000 men (aside from 1.3 million women) are physically assaulted by an intimate partner annually in the United States (Tjaden and Thoennes 2000). In this line of thinking, domestic violence was conceptualized as an outcome of the violent environment that occurs and is reinforced at the individual, family, and societal levels in the social system. Thus, the problem becomes not wife-beating by violent men, but “violent couples” and “violent people.”

### **GENDERED VIOLENCE**

This narrative of “sexual symmetry” in violence has been criticized by those who subscribe to the feminist perspective of gendered violence (some key examples are Dobash and Dobash 1979; Dobash, Dobash, Wilson, and Daly 1992; Ferraro

1993; Murphy 1992; Pagelow 1992; Yllo and Bograd 1988). Feminist researchers countered the sexual symmetry thesis by arguing that even though women too are known to engage in violence, the unique nature of the violence experienced by women sets it apart from male experiences of violence. Women are more likely to suffer injury and serious injury in the violent encounters than men, even when women use weapons. When women engage in acts of violence, it is often out of self-defense or retaliation. Women, on average, engage in one-time violent behavior while men engage in more repetitive or cumulative battering types of violence. It is because of this gendered nature of domestic violence that much of the research and program attention to date have focused on women.

### MAKING SENSE OF THE CONTRADICTIONS

How do we explain these seemingly contradictory findings from the over thirty years of research? Michael Johnson, in his recent summative work *A Typology of Domestic Violence* (2008), attempts to clarify these empirical contradictions in intimate couple violence. He attributes the contradictions to the fact that different researchers have been using different types of samples. And the resulting evidence points to different types of violence. According to Johnson, family violence researchers derive their sexual symmetry thesis from examining information from large-scale, often national, survey data while the feminist, gendered researchers who focus on male violence have often used “agency samples” (which include women from shelters and records from police, courts, and emergency rooms). As Johnson goes on to ask, why are these methodological differences important?

National surveys, such as the National Family Violence Surveys or National Violence Against Women Survey, even if not truly representative of the broader population, survey large numbers of husbands and wives. Family violence researchers who have typically used such surveys have found that family stress and conflict sometimes lead family members, whether spouses, parents, children, or other relatives, to resort to violent behavior in the home. In other words, Johnson claims that the violence described in the family violence narrative was often the product of situationally provoked conflict, an expression of anger or frustration, or may even be a bid for attention. He appropriately refers to such violence as “situational couple violence.”

On the other hand, agency samples typically have included women (most domestic violence agencies provide services to women and their children) who have come to the agencies seeking help. Violence, seen from these women victims’ perspectives, was qualitatively different from the violence described by the sexual symmetry proponents. The agency sample women described a

gender asymmetric pattern of abuse that was more frequent, more severe, and more likely to escalate over a period of time and be a product of violence used in the service of power and control (Pence and Paymar 1993) over the woman. Johnson terms this type of systematic violence “intimate terrorism.” Johnson further argues that couples involved in intimate terrorism are most likely not to participate in surveys because of fear of reprisal (for the woman) or of being exposed to the police or domestic violence agencies (for the men and women). On the other hand, situational violence couples, particularly when the violence is not frequent and/or severe, often do not end up in agency samples. Thus, Johnson concluded that the two groups of researchers have been focused on two separate types of violence; the family violence scholars have studied situational couple violence while the feminist scholars focused on “intimate terrorism,” or systematic battering.

In his comparison of the types of violence reported in three different samples from Pittsburgh in the 1970s—a general sample survey (thirty-seven), a court sample (thirty-five cases), and a shelter sample (n=50)—Johnson also identified an additional type of intimate couple violence, namely violent resistance. In the violent resistance situations, the woman’s violence is in reaction to her partner’s attempt to exert control. Drawing on research with women who have fought back their batterers’ assault (Bachman and Carmody 1994; Burke et al. 2001; Miller 2005; Ferraro 1997; Pagelow 1981; Walker 1984), Johnson described violent resistance as violence that occurs as a reaction (immediate or even some time later) to an assault and is shortlived. Even though the woman’s resistance might or might not result in fatal injury to the abuser, it does not do much to change the power imbalance in the relationship.

## RISK MARKERS FOR GENDERED INTIMATE COUPLE VIOLENCE

There is also an extensive and growing body of empirical research on the factors—particularly, status characteristics and relational dynamics—associated with incidents of intimate couple violence and the consequences of such violence. Some of the status characteristics or axes of social differentiation that correlate with intimate partner violence are marital status, socioeconomic factors such as education and income, presence of children, and race/ethnicity. Relational risk factors include family concerns about economic security and other forms of stress; spousal disagreements over children; violence in family of origin; young marriages (less than ten years) and young spouses (under thirty years); verbally aggressive spouses; frequent alcohol use; and family not being part of an organized religion (Stith, Hosen, Middleton, Busch, Lundeberg, and Carlton 2000; Straus 1980; Strauss, Gelles, and Steinmetz 1980; Johnson 2008).

Scholars like Johnson (2008), Johnson and Ferraro (2000), and Stith et al. (2000) have clarified the impact of these risk markers by specifying whether these factors are predictive of systematic battering or situational couple violence. For example, while Stets and Straus's "marriage license is a hitting license" (1989) idea is valid in the case of systematic battering, the rates of situational couple violence are higher when the couple is not married (Macmillan and Gartner 1999). The abusive man's education is negatively related more clearly with battering types of violence than to situational violence (Johnson 2008). On the other hand, income per se is not related to battering but it is the stresses of economic difficulties that are associated with situational couple violence (Johnson and Ferraro 2000; Kantor and Jasinski 1998; Straus, Gelles, and Steinmetz 1980). Similarly, racial differences in partner violence, particularly situational couple violence, are more due to socioeconomic differences among race groups (Johnson and Ferraro 2000).

As for relational dynamics, it is the challenges in the relationship that arise from the status characteristics which act as risk markers. Disagreements about raising children and other household labor (indicating traditional sex role attitudes of the male spouse), and not necessarily just the presence of children, are positively associated with battering (but not with situational couple violence) even after controlling for socioeconomic status (Hotelling and Sugarman 1986; Straus, Gelles, and Steinmetz 1980; Johnson 2008). Similarly, growing up with violent experiences in the family is a better predictor of battering violence and less so of situational couple violence (Johnson and Ferraro 2000; Straus, Gelles, and Steinmetz 1980; Johnson 2008). On the other hand, it is arguments over the partner's heavy drinking, and not just alcohol and drug use, that precipitate situational couple violence (Kantor and Jasinski 1998; Kantor and Straus 1989). The husband's status inconsistency (say, between his education and occupation) or status inconsistency between the husband and wife as when the wife earns more than the husband (Gelles 1974) and the presence of other forms of violence, such as child or elder abuse (Finkelhor 1983), are additional risk markers of systematic battering.

Researchers (see Wodarski 1987) have also developed personality profiles of the batterer and the battered woman. For example, the batterer tends to blame the victim, to view the victim as a possession, to displace anger meant for authority figures, and to have unrealistic expectations of the woman. The abused woman was found to be socially isolated, to internalize blame for the abuse, to comply with the violence as a survival mechanism, and to be loyal to the abuser in the hope that he would change. More recently, Feldman and Ridley (2000) and Holtzworth-Munroe and her colleagues (1994; 2003) have identified skill deficits rather than just personality traits that are associated with systematic battering but not with situational couple violence.

How about the human and financial consequences of violence? As might be expected, the severity of the consequences varies by the type of violence. While physical injuries and psychological trauma (posttraumatic stress, fear, anxiety, depression, lowered self-esteem) are substantially more pronounced in systematic battering relationships, these negative consequences do occur in situational couple violence, particularly when it is severe and/or chronic (Johnson and Ferraro 2000; Stets and Straus 1989). Nonetheless, battering relationships often involved injuries or severe injuries requiring emergency room treatment (Johnson 2006; Johnson and Leone 2005; Leone, Johnson, Cohan, and Lloyd 2004; Rosenbaum and O'Leary 1981), high rates of suicide and homicide for women (Holtz and Furniss 1993), and related economic challenges, such as economic dependency, lack of economic resources, and worker absenteeism (Lloyd and Taluc 1999; New York Victims Services Agency 1987; Riger, Ahrens, and Blickenstaff 2001).

Researchers have also looked at the impact of violence on the relationships between the victim and the batterer. Many women who experience situational couple violence are typically the ones who continue to stay in the relationship and even report relatively happy marriages. Johnson (2008) and his colleagues suggest this is the case because in situational violence, violence is not a central feature of the relationship, and both partners might be violent. As for systematic battering, many women do escape such relationships, albeit over a prolonged period of time, either by leaving their partners or by changing their partners' behavior (Burke et al. 2001; Campbell et al. 1998; Ferraro 1997).

## Overview of Domestic Violence Service Models

Much of this theorizing and research have guided the development and provision of domestic violence services (Browning 2002; Dobash, Dobash, Wilson, and Daly 1992; Dutton 1992, 1996; Dutton and Goodman 2005; Edleson and Eisikovits 1996; Fox and Benson 2000; Roberts 1996). Over time, the focus of this tradition has moved from blaming the woman victim to focusing on the family, on the batterer, on the relationship between the two, and, in recent years, on the community context of intimate violence.

### **BATTERED WOMAN: VICTIM OR SURVIVOR?**

The early domestic violence research attempted to understand why women are battered and how they respond to the battery. These perspectives framed the

thinking about what types of services the women needed, what would constitute effective service utilization, and even why many women failed to use the services or to use them ineffectively. Some examples of the conceptual models that framed these debates include battered women's syndrome, learned helplessness, dependency (Walker 1979, 1984), and family violence or sexual symmetry in violence where wife abuse was seen as a part of a pattern of violence that occurs among all family members (McNeely and Mann 1990; Shupe, Stacey, and Hazelwood 1987; Straus, Gelles, and Steinmetz 1980; Steinmetz 1977/1978). In contrast, Gondolf and Fisher's (1988) survivor model was presented as an alternative to the passive woman victim. In this model, battered women logically attempt to protect and ensure their own survival and that of their children by increasing their help-seeking in the face of increased violence, rather than decreasing help-seeking as learned helplessness would suggest. Despite these differences in foci, in the final analysis, these lines of thinking made the battered person responsible for her fate.

### SHIFTING THE FOCUS TO THE BATTERER

Feminist approaches have taken such victim blaming or victim focused approaches to task and provided a set of alternative explanations for the why and the how of intimate partner violence. Researchers in this tradition focus on the sociocultural context in which domestic violence occurs—societal norms of male dominance and male entitlement, and the resulting inequalities in the structure of husband-wife roles. They contend that not recognizing these structured inequalities has unfortunate theoretical and practical implications. Not considering gendered inequalities has the potential for locating the source of the problem in the individual's characteristics and prior history and results in solely blaming the aggressor and the abused woman (Dutton 1992; Dutton and Goodman 2005; Fine 1989; Hart 1993). Women's coping strategies are considered pathological (Herbert, Silver, and Ellard 1991). For example, police officers, who often do not have an appreciation for women's subordinate status in the family, are generally unsympathetic toward women, particularly when the women are ambivalent about pressing criminal charges against their partners (Ferraro 1993). Or as Warshaw (1989) discovered, physicians and nurses medicalize the violence and treat the physical injuries as decontextualized events, which results in the true causes of the injury going unaddressed. In contrast, the gendered violence perspective would focus on the structural constraints that trap women in abusive relationships. It is the perceived sense of entrapment and dependency that sets women's experience with violence apart from the male experience.

## POWER AND CONTROL MODEL

Another perspective that has in recent years gained much attention in the domestic violence service world is the “power and control” model (Pence and Paymar 1993; Santa Clara County Probation Department n.d.; Shepard and Pence 1999). In this model, abusive relationships are based on the belief that one person has the right to control the other and when nonphysical tactics (such as intimidation or other emotional abuse) do not work, the person in power moves on to physical and sexual violence to exercise control. The alternative to power and control that service programs aim for is an equality model of nonviolence, also known as the Duluth model (Pence and Paymar 1993). This shift in focus from the battered to the batterer has its corollaries in shifts in service models (such as programs for batterers in addition to and separate from the services for battered women and their children).

## A BROADER CONTEXTUAL LENS

In a more recent article, Benson, Wooldredge, Thislethwaite, and Fox (2004) identified concentrated disadvantage in neighborhoods (measured by percent single parents, nonwhite, unemployed, families on public assistance and below the poverty line) as a critical factor in the differential rates of domestic violence between blacks and whites. But what roles do the service systems play in the efficacy of services, even if it is perceptual efficacy? Many battered women interviewed in this research talk about being doubly victimized, first by the batterer and then by the system. Thus, a contextual lens that includes the service delivery system is critical to develop a more holistic picture of service effectiveness in resolving and healing the wounds caused by the violent relationship. Bronfenbrenner’s ecological perspective (1979), with its nested systems approach and the role of human agency in shaping the interactions between and among the systems, is an untapped theoretical resource. Translated to the context of intimate partner violence, the victim and the batterer are nested within the micro-system of their family and friends, which in turn are located within the meso-system of direct service providers, the exo-system of agencies and organizations that indirectly impact the victim/batterer, and the larger macro-system of the community, the sociocultural context, and other structures. Even though the victim and/or batterer are embedded in these nested concentric circles of systems, they have the *power* or *agency* to enact changes, even in systems as far removed as the exo- and macro-systems. Dutton (1996) has made a theoretical case for this type of analysis. But the needed empirical evidence has been lacking.

## Introducing Restorative Justice Principles in Domestic Violence Praxis

### RESTORATIVE JUSTICE THEORY AND PRINCIPLES

Conceptually, an innovative application of Bronfenbrenner's ecological model and, to some extent, the feminist family violence perspective with its focus on the gendered context of intimate partner relationships, is the restorative justice (referred to as RJ in the remaining pages) approach. Restorative justice is a holistic and systematic response to wrongdoing that emphasizes repairing the harms and healing the wounds of stakeholders (victims, offenders, and their communities) that were caused by the criminal behavior, and ultimately reintegrating the stakeholders involved. Central to the restorative justice approach is the principle that those—victims, offenders, their families (micro-system), and their communities, which includes the government (the meso-, exo-, and macro-level ecologies)—involved in a crime are the ones who should have the agency (be involved) in responding to the harm caused by the crime (Van Ness and Strong 2006; Umbreit et al. 2003; Zehr 2001, 2002, 2005). According to Zehr (2002), the three pillars or elements of restorative justice are “*harms* and related *needs* (of victims, first of all, but also of the communities and the offenders); *obligations* that have resulted from (and given rise to) this harm (the offenders’, but also the communities’); and *engagement* of those who have a legitimate interest or stake in the offense and its resolution (victims, offenders, and community members)” (emphasis in original, 24) so that victims and/or offenders can be reintegrated into the community. Restorative justice is also preventive in its orientation to crime by building on and strengthening the community and the state. In short, the restorative justice approach is holistic both in its understanding of the causes and processes of the crime of family violence as well as in its approaches to dealing with the crime. A theoretical synthesis of the feminist and restorative justice perspectives is revisited in chapter 7.

How does the restorative approach differ from traditional criminal justice? As Zehr (2002, 2005) continues to elaborate, the collaborative, inclusive, and holistic nature of restorative processes as well as the mutually agreed upon (rather than imposed) outcomes is in direct contrast to the retributive criminal justice models. Criminal justice policy is focused on balancing offenders’ rights and government power in the interest of maintaining public order and security (Van Ness and Strong 2006). As such, these policies address primarily the legal dimensions of the crime with limited role for the voices of the victim and/or the offender.<sup>1</sup> In contrast, restorative justice focuses on victim’s needs (as opposed

to needs of the state in the criminal justice model): Victims' needs for real *information* about what happened and what has happened since; *truth-telling* as an important element of healing; *empowerment* to regain lost control; and *restitution*, either real or symbolic, as a means to vindication (Zehr 2002). Restorative justice theory and practice have been shaped around efforts to genuinely acknowledge and seriously address victim needs. In the process, restorative justice also redefines the notion of community. Unlike in the traditional criminal justice parlance where the state/government represents the victims and their communities, restorative justice theory and praxis re-lenses the sense of community to include not only the victim and the offender, but also their communities of care, and other stakeholders such as the state.<sup>2</sup>

## LIMITS AND PROMISE OF RESTORATIVE JUSTICE

The restorative justice model (with elements such as community reparation boards, family group conferencing, circle sentencing, and victim-offender mediation) has been used, with varying degrees of success, with juvenile justice issues, adult crimes, and community peacemaking (for specific examples, see Umbreit and Coates 2000; Umbreit et al. 2003; Van Ness and Strong 2006). However, criminal justice practitioners have been hesitant to include family violence as an offense appropriate for restorative justice intervention (see authors in Strang and Braithwaite 2002). Feminist critics (see Coker 1999; Curtis-Fawley and Daly 2005; Ptacek 2010) find the restorative justice process inappropriate to deal with domestic violence because the process and outcomes are not formal, the punishment not stringent enough for the batterer, the appearance that it is a “soft option”—perhaps even “cheap justice”—and concerns of reprivatizing gendered violence in ways that revictimize and are harmful to victims.

On the other hand, proponents argue that the restorative justice process might be better for victims than the court process because the former (the restorative justice process) holds batterers accountable and gives victims a greater voice (agency). In recent years, in Australia, Canada, and New Zealand, scholars and family violence practitioners have begun to explore restorative justice possibilities in dealing with family violence (Coward 2002; Curtis-Fawley and Daly 2005; Strang and Braithwaite 2002; Umbreit and Coates 2000; Van Ness and Strong 2006). The empirical evidence from Australian victim advocates that Curtis-Fawley and Daly (2005) report suggest that while the advocates have reservations, many also saw positive aspects to the restorative justice process. For example, like the critics of restorative justice, victim advocates were concerned about the possibilities of victim revictimization (in face-to-face encounters), the appearance of leniency of the responses to a grievous harm, and the potential

for victim retaliation against the offender. These reservations notwithstanding, several victim advocates affirmed the importance of the forum that restorative justice offers victims to express their voices and concerns. They also appreciated the informality of the process as being beneficial to the victims, particularly those who wished to continue their relationship with the offender. To the advocates, another attractive feature was the opportunity that restorative justice offered offenders to acknowledge responsibility and to assume accountability for the crime in a low stakes setting. On balance, the victim advocates felt that restorative justice could be an effective parallel and intersecting process to existing court proceedings, combining the sanctioning clout of the court with a forum for victims' voices.

Similarly, Canadian researchers found the restorative justice process empowering for women (Cameron 2005). Also, victim opposition is not necessarily to the restorative justice philosophy per se but rather to the initiatives as they have been presently developed (Coward 2002; Curtis-Fawley and Daly 2005; Van Ness and Strong 2006). Many of the feminist critics of restorative justice in the Ptacek (2010) volume, while finding the restorative principles of empowerment laudable, are critical of existing implementation of RJ programs and vehemently opposed to restorative practices replacing criminal prosecution. On balance, the much needed explorations of the theoretical intersectionalities between the feminist antiviolence and restorative justice movements and the recent development and implementation of programs combining feminist and restorative praxis are hopeful signs for victims of intimate partner violence.<sup>3</sup>

## REVIEW OF EXISTING RESTORATIVE JUSTICE PRINCIPLED PROGRAMS

More specifically, what do restorative justice-based programs look like when they have been tried, particularly in the domain of family violence? Several general as well as specific examples are available from Mills (2008); Pranis, Stuart, and Wedge (2003); Strang and Braithwaite (2002); Van Ness and Strong (2006); and Zehr (2002).<sup>4</sup> Below we draw from these sources.

But first, a brief history of restorative justice praxis. The contemporary field of restorative justice theory and practice, with some kind of "encounter" between the victim and the offender as its centerpiece, originated in the 1970s in Mennonite communities in Canada and later in the United States as they experimented with ways to apply their faith-based peace perspective to criminal justice issues. However, as is widely acknowledged in the restorative justice circles, the roots of the restorative justice movement can be traced back to the indigenous communities in North America and New Zealand. In its modern incarnation, programs

based on restorative justice principles were originally developed and implemented to deal with property crimes and juvenile crimes, and later expanded in some communities to deal with other severe forms of criminal violence such as assault, murder, rape, and family violence.

### *RJ Principles and Praxis*

Zehr (2002) has succinctly summarized what restorative justice is NOT and what it IS. Restorative justice is NOT primarily about forgiveness or reconciliation; it is NOT mediation (where the outcomes might be mandated by the mediator rather than by the victim and/or the batterer); its primary intent is NOT to reduce recidivism; and it is NOT a replacement for the legal system or prisons. So, what is restorative justice? As Zehr eloquently states, restorative justice is done because “[v]ictims’ needs *should* be addressed, offenders *should* be encouraged to take responsibility, those affected by an offense *should* be involved in the process, regardless of whether offenders catch on and reduce their offending” (emphasis in original, 10). As for restorative justice goals, addressing the harms that have been done as well as the causes of the harms is primary. Even if the initial focus of restorative justice programs is on victims, these programs are also concerned with restoring and reintegrating the offender and their communities.

Restorative justice, with its focus on working through, resolving, and transforming conflicts, is based on the following fundamental principles: taking seriously the victims’ needs (that result from the harms caused to them); holding offenders responsible for the harms and accountable for righting the harms; and involving victims, offenders, and their community in the process. A typical RJ program involves a process with, at its core, some of form of “encounter” or “engagement” of all legitimate stakeholders (victim, offender, and the community).<sup>5</sup> Even though the praxis of “engagement” can take many forms, the common goal is to facilitate maximum exchange of information between and involvement of relevant stakeholders. The process of engagement might take any, or a combination, of following forms of conferencing. Direct, facilitated, face-to-face encounters among relevant stakeholders, with adequate screening, preparation, and safeguards (as in the mediated victim-offender conferences, family group conferences, peacemaking circle process, or a combination), are one option. When direct encounters have not been possible or deemed inappropriate, indirect exchanges between the victim and batterer, using surrogates or other forms of communication, such as video exchanges or letters, have been used. Or some form of victim-oriented batterer program that might include victim-impact panels where a victim or a group of victims is given the opportunity to tell their stories to batterers other than their own (with the hope that the batterers understand the consequences of their actions for victims, including

their own) and/or the batterers hear from victims other than their own. Restorative justice theorists and practitioners are mindful of the legitimate concerns of victim advocates for victim safety in an “encounter” situation, particularly for domestic violence victims, and advocate using such encounters only in the right situations and with appropriate safeguards.

RJ programs have typically been used along side the traditional justice system. But, as of 1989, New Zealand’s juvenile justice system has been reconfigured with a restorative justice principled family group conference at its center. In most other cases, the restorative justice programs are used on a discretionary basis with referrals of program participants from the justice system. Some are even completely separate from the formal justice system and program participation is most often initiated by the victims.

### *Challenges and Evidence for Success of RJ Programs?*

Because of its unique context, many feminist scholars and practitioners have been rightfully skeptical of the uncritical applicability of restorative justice processes to family violence. Unlike many crimes, family violence victims are often likely to be revictimized (cycle of violence), are not chosen as victims at random (in intimate partner relationships), and are dependent on their abusers, economically and through their children (Busch 2000, 2002; Stubbs 1995, 2002). The authors in Strang and Braithwaite’s (2002) and Ptacek’s (2010) edited volumes raise questions about the potential efficacy of restorative processes when applied to family violence. For example, they ask whether a one-time apology is sufficient to break the longstanding cycles of violence. Others worry that victims might be revictimized in a conference situation. They also wonder how well community involvement will work in the very communities that might sanction, even if tacitly, such violence. Others advise that restorative justice programs not ignore the state but rather engage and transform state-sanctioned inequalities. On the other hand, yet others (particularly in indigenous communities) worry whether RJ might facilitate more state control for poor and indigenous women. These critiques and cautions, notwithstanding, there is a tentative openness to exploring the viability restorative justice approaches to family violence, provided the programs are contextualized and tailored to address the nuances of domestic violence crimes.

Such openness to restorative justice praxis in the family violence arena stems from the growing body of preliminary evidence of outcomes in restorative justice conferencing programs for juvenile and even adult offenders (although not always in family violence cases). On the one hand, victims, offenders, and other participants have been found to perceive the restorative process to be fairer and more satisfying than their experiences with the traditional legal system

(Braithwaite 2001; Ptacek 2010; Strang and Braithwaite 2002; Umbreit et al. 2003; Van Ness and Strong 2006). While there was also evidence for reducing recidivism rates, such evidence was more tentative. These data, which came from Canberra (Australia), Indianapolis (Indiana), Maori communities (New Zealand), Newfoundland and Labrador (Canada), and Winnipeg (Canada), suggest that the model can work across quite different cultures and regions. On the other hand, many of these evaluations did not include family violence cases and were also not methodologically rigorous enough (not using experimental or quasi-experimental designs) to isolate the effects of the restorative conferencing intervention.

However, a more rigorous longitudinal evaluation of the impact of family group conferencing on family violence in Newfoundland and Labrador (Pennell and Burford 2002) found a reduction in child maltreatment and domestic violence, positive child development, and expanded social support for conference participants. These optimistic results, posit Strang and Braithwaite (2002) and many of their collaborators, have led to a new openness to thinking about the applicability of restorative justice principles to family violence. In fact, they go even further to say that given the successes of these programs, even if preliminary, the domestic violence community is obligated to its victim clients to rise up to the challenge of strategically incorporating restorative justice principled programs into the menu of existing services.

As will become clear in later chapters, even after women (as in the case of the women interviewed and surveyed for this monograph) have sought available legal services, and done so successfully, they often express a “hunger for closure” and “healing.” The traditional legal framework is frequently experienced by women victims as adversarial. Besides, many women are not satisfied with the way the legal system currently works. Recently, Mills (2008) has made a case for restorative justice programs as an alternative to batterer intervention-type services. But the case made in this book is for services based on the principles of restorative justice *NOT AS AN ALTERNATIVE BUT AS A SUPPLEMENTAL OPTION* in the menu of traditional legal and community services.

This monograph will follow in the tradition of focusing on the battered woman–battering man dynamics and will examine the interactions of the battered woman with her batterer(s) and the community of domestic violence service providers. A battered woman, if she becomes known to the service delivery system, may have had contact with a whole host of agencies the mission of which is to help with the battering situation. Domestic violence services are offered by agencies, ranging from shelters and battered women’s agencies to the police, the probation department, and family and criminal courts. As a battered woman negotiates a resolution to the abusive relationship, this service delivery system, in addition to her family and neighborhood, becomes her community, and even

community of care. A critical component in the effective and successful “closure” to the violence is the nature and quality of the interactions between the battered woman and the service system. In the chapters to follow, an evidence-based case is made for supplemental (to the extant legal and other service) programs based on the principles of restorative justice that might offer the abused woman hope for “healing” and “closure.”

## **Brief Review of Chapters to Follow**

A brief road map to the content of the following chapters is provided below.

### **CHAPTER 2—FROM DOMESTIC VIOLENCE TO RESTORATIVE JUSTICE IN DOMESTIC VIOLENCE SERVICES: METHODOLOGIES AND ANALYSES PLANS**

This chapter outlines the methodological and analytical journey that the author undertook in the process of completing this manuscript. Restorative justice was not the primary focus at the outset of the study. The study, which started as a review and deductive understanding of existing domestic violence services and victims’ perceptions of their effectiveness in addressing violence in intimate partner relationships, soon turned also into an inductive exploration of the possibility of introducing restorative justice principles in domestic violence service programs. During the analyses of the qualitative interviews and survey data, it became amply clear that the victim-survivors of intimate partner violence longed for much more than a retributive legal conclusion of their domestic violence experiences. There was a palpable hunger for healing and closure that restorative justice principles could address.

### **CHAPTER 3—PORTRAIT OF THE BATTERED WOMEN: POTENTIAL FOR RESTORATIVE JUSTICE INTERVENTION**

In this chapter, a profile of the battered women is developed using their demographic (age, family life-cycle) and socioeconomic (education, employment history, economic) background characteristics, and the social and personal resources to which they report having access. Do the victims have a unique profile that has been associated in past research with the probability of women experiencing intimate partner violence and/or seeking available services? Is she a dependent victim or is she a survivor who has access to resources that she

could tap into in dealing with her violence experiences? In ecological terms, how much “agency” might she have in resolving her violent relationship? From a restorative justice perspective, who would be her community of care and what types of social and personal resources does she have that might be mobilized as she finds ways to heal and prevent future violence in her intimate relationships? And what do these survivors’ narratives tell us about the stakeholders that might be involved in a restorative justice setting?

#### **CHAPTER 4—POWER AND CONTROL DYNAMICS IN THE BATTERER-BATTERED RELATIONSHIPS**

Using data from the survey (Service Utilization Survey) and interview samples in an iterative fashion, the systematic violent relationships between the batterer and the woman victim, who comprise the micro-system, are outlined to illustrate the power and control dynamics in the battering relationships. The goal of domestic violence interventions, particularly of the restorative justice type, is to help the victim-survivors transform the power and control dynamics in their violent intimate relationships into an “equality model.” A review of the survivors’ violence histories is imperative in order to identify the harms to be addressed and the causes of the harms so that the batterer can be held accountable (primary restorative justice goals). It is in this personal historical context that the specifics of any programmatic intervention, including identifying the relevant stakeholders, need to be located.

#### **CHAPTER 5—HELP-SEEKING PATTERNS: ARE WOMEN VICTIMS OR SURVIVORS?**

In this chapter, the impacts of women’s domestic violence histories on their probability of seeking interventions—law enforcement/legal services and services provided by battered women’s agencies—to deal with their violent relationships are addressed. The analysis of service utilization is guided by the dependency and survivor theoretical perspectives which offer contradictory predictions about help-seeking. If the prediction of the survivor theory is supported in the data, it is a hopeful signal that if restorative justice principled services (with their emphasis on holding the batterer accountable, repairing harms, and reintegration into the community) are available to the survivors, they will have the personal agency to use them. However, restorative programs will need to be supplemental to the legal and other community services because intimate partner violence is

too serious a crime to not have the stick of the legal system behind any nonlegal interventions.

## **CHAPTER 6—HOW WELL DO EXTANT DOMESTIC VIOLENCE SERVICES SERVE SURVIVORS? SOME RESTORATIVE JUSTICE IMPLICATIONS**

The battered woman's experiences with the extant domestic violence service systems are explored in this chapter. The service systems typically activated in a domestic violence case are the police, the criminal and family courts, probation, batterers' treatment programs, and those provided by battered women's agencies. The following questions are addressed: (1) Which services did the victims use when they encountered their most severe violence? (2) What happened when they encountered a service? (3) How satisfied were they with the services? From an ecological theoretical perspective, the analysis in this chapter broadens the focus beyond the dyadic relationship between the batterer and victim in the micro-system. The relationship between the victim-survivors and the service systems external to the micro-system and how well the victims think the services met or did not meet their needs are analyzed. Even though there were no restorative justice programs for domestic violence victims at the time of the study, comments will be made about elements of the current system that might be restorative although they are not titled as such or explicitly intended to be. Besides, the survivors' responses provide clues to the need for supplemental restorative programs which set the dyadic relationship in the context of relevant stakeholders and communities of care.

## **CHAPTER 7—A HUNGER FOR HEALING AND CLOSURE: A CASE FOR RESTORATIVE JUSTICE APPROACHES IN DOMESTIC VIOLENCE SERVICES**

This chapter includes concluding remarks about the theoretical and practical need for supplementing extant legal/community services with restorative justice approaches in resolving intimate partner violence. Ten guiding principles for restorative justice—principled programs are offered. Restorative justice programs signal a new partnership between the criminal law and restorative justice processes and provide a forum for community involvement. However, one can never underscore enough the need to approach these new initiatives with the appropriate degree of caution. As proponents and detractors of restorative justice

in the domestic violence arena reviewed in this manuscript have exhorted, the safety of the victim and her loved ones has to be paramount.

## Notes

1. See Zehr (2002) and Van Ness and Strong (2006) for excellent elaborations of the differences between the traditional criminal justice and restorative justice systems.

2. For an example of the shortfalls in the operationalization and idealization of community in RJ theory and practice, see chapters by Rubin and Stubbs in Ptacek (2010).

3. See chapters by Frederick and Lizdas, Pennell, Kim, and Julich, among others, in Ptacek (2010) for specific examples.

4. For a more detailed exposition of restorative justice principles, practice, and programs refer to these sources and the following chapters in Strang and Braithwaite's 2002 edited volume by Pranis, Daly, Morris, Pennell and Burford, Coker, and Bazemore and Earle.

5. In RJ practice, communities refer to communities of care (micro- or meso-system in ecological parlance) either in a geographic or place sense and/or networks of relationships, as well as the justice community (Zehr 2002).