

Restorative Justice & Domestic Violence

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Problems with court procedures

- 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

Why some victims prefer RJ

- They don't want to go to court (e.g. shame)
- They don't see punishment as a solution of the problem
- In poor communities, fines or prison mean less food on the table, or even destitution
- They need the relationship to change
- They want the violence to stop
- They want to find out the reason for the violence

Why some offenders prefer RJ

- Mediation seems a more hopeful way forward if they want to stop their violence
- Prison and fines weaken the finances of the family
- Courts cannot resolve relationship difficulties
- Some agree to mediation because the victim asked
- Hope that mediation might lead to a lesser sentence

Preconditions needed for RJ with Domestic Violence

- 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

RJ Processes used with Domestic Violence

- Victim-offender Mediation
- Shuttle Mediation
- Family Group Conferences
- Restorative Conferences
- Sentencing Circles
- Victim-offender Groups

Victim-offender mediation (1)

- Mediators meet with the victim first
- They only meet the offender if the victim wishes
- They bring parties together if it is safe to do so
- They help the parties to come to an agreement
- They follow up to see if the agreement is kept

**Belgium; Canada; Germany; Jamaica; South Africa;
US; UK**

Victim-offender mediation (2)

- Mediators meet both parties
- The woman receives counselling to see if she really wants to go ahead
- The man is required to attend a perpetrators' group, to understand the implications of domestic violence
- When both these have taken place, if the parties still want to go to mediation, the mediators bring them together

UK (Plymouth)

Victim-offender mediation (3)

- 'Mixed doubles' – one male, one female mediator
- The male mediator interviews the man, the female mediator interviews the woman. They elicit what each one wants from mediation.
- When/ if they come together, each mediator tells the story of 'their' party.
- This develops into an exchange between the parties
- The mediators help them reach an agreement

Austria; Germany

Shuttle mediation

- In this model, parties don't meet
- Mediators talk to the victim
- Mediators talk to the offender, if the victim agrees, and helps him understand the situation

UK (Rugby)

Family Group Conferences (1)

- Secrecy is reduced by more people knowing what has been happening.
- Members of the extended family know who is safe and who is not safe for 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.

Family Group Conferences (2)

- Facilitators interview immediate family members
- Family members identify extended family who can help
- Facilitators invite agencies involved with family, and others with further resources
- Everyone meets together to make a plan for the future
- Aims of meeting: make all members of family safer; and promote welfare of children
- Perpetrator of DV only invited if in same household as victim, and willing to address the abuse

Canada; UK

Restorative Conferences

- Offender, victim and supporters of both parties meet in a group
- Everyone says how they have been affected by the wrongdoing
- Everyone contributes to working out how the harm may be repaired.

Hawaii (court-based)

Sentencing Circles in Traditional Communities

- Everyone in the community meets in a circle
- A talking piece is passed round so that everyone has a chance to speak
- After the initial round, there can be further rounds of talking until everything has been said
- An agreement emerges from this process
- The agreement includes follow up to check whether it is kept

Canada; Western Australia

Victim-offender Groups

- Perpetrators of DV meet victims of DV, but not their own victims
- The meetings are facilitated very carefully
- Perpetrators and victims have separate preparation sessions before the meeting
- One result of such meetings is that sometimes victims wish to be kept in touch with the progress of the offenders

UK (Wales)

SORI DV PERPETRATORS' GROUP

- Mon – Wed Victim awareness exercises
- Thurs am Preparation for the victim-offender meeting
- Thurs pm The victim-offender meeting (victims come into the prison)
- Fri am Follow up

UK (Cardiff Prison, Wales)

Research (1)

Victim-offender mediation

- Austria: large contribution of mediation to women's empowerment – 80% said mediation had contributed
- Finland: Of 38 agreements, 90% were fulfilled completely and 8% partially
- Germany: In 509 cases, results for DV cases were similar to other RJ cases
- Jamaica: 171 out of 300 cases resolved
- North Carolina: Re-offending rate for mediated cases was 16%, whereas for court cases the re-offending rate was 43%
- South Africa: 21 women victims who had completed mediation reported benefits and changed behaviour of partners

Research (2)

- **Family Group Conferences**
 - Canada: RJ group showed reduction in child maltreatment and DV
 - UK: 11 out of 15 families did not come to police attention again (73% success rate)
- **Sentencing Circles**
 - Western Australia: 48 of 50 circles came to an agreement

Research (3) - Qualitative

Victim-offender group

- Offender: 'Through this week I have personally been on a self soul searching journey which has taken me places that I simply avoided before.'
- Victim: 'I have changed my idea about Restorative Justice. You're actually seeing somebody as a human being, and inside us all, there's hope for change.'
- Independent observer: 'It was clear that it worked for the victims and offenders involved.'

Issues

- **Empowerment vs Safety**
 - Prioritising victim safety can perpetuate disempowerment
 - Prioritising victim choice can lead to dangerous situations
- **Typology of DV cases**

Research (Austria, Finland) has shown that it's not possible to predict which cases will respond to RJ, as it depends on the individual responses

Howard Zehr: Old and New Paradigms

Old Paradigm: Retributive Justice	New Paradigm: Restorative Justice
Adversarial relationships and process normative	Dialogue and negotiation normal
One social injury replaced by another	Focus on repair of social injury

Block & Lichti's extension (2002)

Old Paradigm: Retributive Justice	New Paradigm: Restorative Justice	Restorative Justice with respect to Domestic Violence & Sexual Abuse
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

Conclusion

Successful RJ programmes for domestic violence have:

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

With these in place, RJ has much to offer victims and perpetrators of DV.

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