



# PACIFIC WOMEN'S WATCH [NZ] INC.



## TAKING ACTION



## TO OVERCOME



## VIOLENCE



## ONE-DAY CONFERENCE REPORT & PROCEEDINGS

**25 NOVEMBER 2006**



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# **TAKING ACTION TO OVERCOME VIOLENCE**

## **ONE-DAY CONFERENCE** *co-ordinated by* **PACIFIC WOMEN'S WATCH [NZ]**

**Saturday 25 November 2006**

**Somervell Church and Community Centre, 497 Remuera Road, Auckland**

### **PROGRAMME**

- 8.15 am – 8.55 am**      **Registration**
- 9.00 am – 9.05 am**      **Welcome**  
Jane Prichard, Pacific Women's Watch [NZ]
- 9.05 am – 9.20 am**      **Opening Address**  
The Hon Luamanuvao Winnie Laban, Associate Minister  
Pacific Island Affairs  
*Creating Policy to Overcome Violence*
- 9.20 am – 10.20 am**      **Speakers' Panel One**  
***Highlighting persistence and unacceptability***  
Joy Liddicoat, Human Rights Commissioner on Women's Issues -  
*Relationships between International Obligations and Social Policy*  
Judge Peter Boshier, Principal Family Court Judge -  
*The Domestic Violence Act 1995 - Are Women Still the Victims?*  
Heather Henare, National Manager, National Collective of  
Independent Women's Refuges -  
*Supporting Victims – The Critical Need*
- 10.20 am – 11.20 am**      **Speakers' Panel Two**  
***Assessing prevalence***  
Janet Fanslow, Researcher, School of Population Health,  
Auckland Medical School -  
*Researching Violence Against Women*  
Associate Professor Mike O'Brien, Child Poverty Action Group  
*The Impact of Poverty*  
Gary Poole, CEO, Refugee Resettlement Centre -  
*The Roots of Cultural Violence Against Migrant Women in NZ*  
Senior Sergeant Alan Rowland, New Zealand Police,  
Auckland City District -  
*The Extent of Violence Against Women and Children from a  
Police Perspective*
- 11.20 am – 11.35 am**      **Tea Break**

<b>11.35 am – 12.45 pm</b>	<p><b>Workshop Session</b></p> <p style="text-align: center;"><i>Recommendations for Action</i></p> <p><b>Facilitators:</b></p> <p>Joy Liddicoat, Human Rights Commissioner <i>Taking Action on Human Rights</i></p> <p>Radha d’Souza, Law School, University of Waikato <i>Community Action</i></p> <p>Jan Ngatae, PACT Restorative Group <i>Action Through Restorative Justice</i></p> <p>Mike O’Brien, Child Poverty Action Group <i>Taking Action to Overcome Poverty</i></p> <p>Jenny Janif, Family Violence Project for Migrants <i>Action to Support Migrants and Refugees</i></p> <p>Senior Sergeant Alan Rowland, Youth Services Co-ordinator, Auckland City Police <i>Action on Youth Violence</i></p>
<b>12.45 pm – 1.30 pm</b>	<b>Lunch</b>
<b>1.30 pm – 2.30 pm</b>	<p><b>Speakers’ Panel Three</b></p> <p style="text-align: center;"><i>Seeking Strategies and effective action to combat all forms of violence</i></p> <p>Andrea Evans, Ministry of Women’s Affairs - <i>Strategies Developing Through the Task Group on Family Violence</i></p> <p>Jenny Janif, Ministry of Social Development, Family Violence Project for Migrants - <i>Effective Support in a New Setting</i></p> <p>Jan Ngatae, PACT Restorative Justice Group - <i>Strategies Through Restorative Justice</i></p>
<b>2.30 pm – 3.10 pm</b>	<b>Report-back on workshop recommendations</b>
<b>3.10 pm – 3.15 pm</b>	<b>Break</b>
<b>3.15 pm – 4.10 pm</b>	<p><b>Roundtable Discussion on recommendations</b></p> <p style="text-align: center;"><i>Will the Action be Effective?</i></p>
<b>4.10 pm – 4.25 pm</b>	<b>Acceptance of recommendations</b>
<b>4.25 pm – 4.30 pm</b>	<b>Closing remarks and thanks</b>

**Supported by Human Rights Commission & Auckland City Community Board Funding**

# FOREWORD

In his message for the International Day for the Elimination of Violence against Women 2006 the UN Secretary-General said *Violence against women causes untold misery, harms families across generations, and impoverishes communities. It stops women from fulfilling their potential, restricts economic growth, and undermines development. When it comes to violence against women, there are no civilised societies... Fighting this scourge requires us to change a mindset which is still too common and deep-seated and to demonstrate, once and for all, that when it comes to violence against women, there are no grounds for tolerance and no tolerable excuses.*

Pacific Women's Watch [New Zealand], (PWW[NZ]) was therefore gratified to co-ordinate and convene on 25 November 2006 a one-day Conference entitled *Taking Action to Overcome Violence*. An event to honour the United Nations Secretary-General's special study on violence against women provided the opportunity to engage with an audience in Auckland to take forward a study of international significance that was very relevant to the local community. The direct link to the work of the United Nations was made real for the 120 women and men from many cultures who attended.

The aim was to hold a conference that could be used as a model for use nationally and regionally based on the one-day conference held last March by the New York NGO Committee on the Status of Women for participants at the 2006 session of the Commission on the Status of Women. The objective was to offer an event that could be replicated easily in any place on a subject that is a critical issue in every country without exception. Men as well as women were invited to attend.

The conference was supported by UNIFEM NZ and by branches of the National Council of Women of New Zealand in the Auckland region. The National Council is one of the five partner organisations of Project Five-O which sets up development projects all over the world for women and their families. The other partners are the Federation of Business and Professional Women (BPW), the Federation of Graduate Women (NZFGW), Soroptimists International and Zonta International, all of whom participated in the Auckland conference. They welcomed the chance to meet collaboratively to promote their work.

Goals for the Conference were

- To bring direct reporting to members of local agencies, organisations and NGOs involved with assisting the victims of violence and abuse about new policies and programmes designed to reduce violence
- To consider how all those involved in providing support services in the wider Auckland region might assist in taking action on proposed initiatives
- To provide opportunity for face-to-face dialogue between service providers and NGOs on ways of preventing violence
- To bring reporting to a diversity of ethnicities who suffer a high level of violence in their communities and with whom PWW(NZ) has worked closely
- To hold a major event, in response to requests, notably from UNIFEM NZ, on the International Day for the Elimination of Violence against Women and White Ribbon Day
- To be a showcase for the work of Project Five-O
- To bring recommendations for advocacy by all concerned suitable for the local, national, regional and international arenas
- To contribute new information for use by NGOs in reporting to the CEDAW Monitoring Committee.

All agreed that the conference more than fulfilled the expectations expressed in these goals in an environment that was unbiased.

Experts in the fields of human rights, law and justice, research on violence against women, refugee and migrant issues, women's refuges, restorative justice, family violence projects, child poverty and youth violence gave addresses. A great deal of information was shared during the day. The experts had time for informal dialogue with each other and with the participants in a neutral environment. They were also able to learn during a workshop session and Plenary Roundtable Discussion where gaps were to be found and how to tackle some of the challenges in a new way.

There have already been positive outcomes from the conference: the Refugee Resettlement Centre in Auckland is putting together a far more comprehensive and detailed approach to address the issues from the very time at which refugee families arrive in New Zealand. More work will be going into initiatives at the centre over the next few months. New information has been included in PWW[NZ]'s NGO Alternative Report to the CEDAW Monitoring Committee to be presented later this year.

The Conference will be part of the Action Plan for 2007 for the International Council of Women's Regional Councils in The Americas, Africa, Asia-Pacific and Europe. It will be reported at an NGO workshop entitled *Creating Global Change with the UN Study on Violence against Women* to be held on 28 February 2007 in New York during the 51<sup>st</sup> session of the UN Commission on the Status of Women.

Eight recommendations were endorsed by the conference. We offer them for advocacy and urge all those reading this report to take them up for action.

PWW[NZ] chose to hold the conference on the International Day for the Elimination of All Forms of Violence against Women and White Ribbon Day to achieve the greatest impact for finding ways to stop violence from occurring.

We acknowledge with grateful thanks a grant from the Hobson Community Board of Auckland City Council to assist with costs of venue hire, advertising and production of the Conference Report. A grant from the Human Rights Commission sponsored ten people who had difficulty in affording the fee to attend. Anonymous donations provided funding for a further seven participants.

Jane Prichard  
Chairperson  
Pacific Women's Watch [New Zealand] Inc.

15 February 2007

# **Pacific Women's Watch [New Zealand] One-Day Conference**

**Saturday 25 November 2006 in Auckland**

## **Taking Action to Overcome Violence**

### ***Recommendations***

- Support Children's Commission proposed "register of children" to track children and identify early risk factors
- Develop national guidelines for information sharing between agencies, Non Government Organisations and community networks with timely release and agreed standards eg. NFVCH (National Family Violence Clearing House)
- Support education programmes that promote non-violence and healthy relationships
- Provide information in their own languages, that is culturally appropriate, about the unacceptability of violence and the availability of services for abused women, to assist the safety and good settlement of refugee and migrant women
- Having regard to human rights urge government action to end poverty as a stressor leading to violence
- Support early exploration of alternative systems with respect to effective and unbiased ways of preventing further family violence such as restorative justice, mediation and Family Group Conferences
- For the safety of victims of violence investigate allowing Police to issue immediate protection orders
- Promote wide consultation and safety as paramount concerns with monitoring and evaluation mandatory in all policies, programmes and projects designed to overcome violence

# Welcome and Introduction

## Jane Prichard, Chair Pacific Women's Watch [New Zealand] Conference Co-ordinator

Tena koutou, Tena koutou, Tena koutou katoa

The Hon. Luamanuvau Winnie Laban, Members of Parliament, Dr Richard North, Judith Collins, Darien Fenton, our keynote presenters and members of the Five-O partner organisations – National Council of Women, Business and Professional Women, Federation of Graduate Women, Soroptimists and Zonta – welcome to this Conference with the theme *Taking Action to Overcome Violence*.

I bring warm greetings from Jean Corbin Thomas, National President of UNIFEM NZ; Sir Barry Curtis, Mayor of Manukau City; and Lynne Pillay, MP for Waitakere.

The Conference is co-ordinated by Pacific Women's Watch [New Zealand] of which I am Chair. Pacific Women's Watch [New Zealand] was established in 1999 to monitor, review and report on the status of New Zealand women. It links to Asia Pacific Women's Watch in the wider region.

Since establishment the Watch has done substantial work including facilitating workshops nationwide to prepare and publish the New Zealand Country Report for the Beijing + 10 Review. We hold regular public forums to report on new research and held a Half-Day Seminar just before the 2005 General Election to bring questions for candidates on burning issues. An alternative report to the CEDAW Committee with a targeted focus across human rights, poverty, violence against women and girls and health is just being completed.

This Conference honours the International Day for Elimination of Violence against Women and White Ribbon Day. The United Nations Secretary-General's special study on violence against women provided the catalyst for this day. In New York last March the Project Five-O partner organisations who collaborate to fund development projects for women and their families in many countries made a commitment to support and promote the special study. We participated in a conference while in New York for the 2006 session of the Commission on the Status of Women when we were encouraged to hold similar conferences in our own countries. In my role as Vice-President of the International Council of Women it seemed timely to plan a conference in Auckland for a diverse audience to be informed through expert speakers about the issue of violence especially as it impacts women and girls and to consider concrete action to overcome violence.

Very many organisations and agencies are helping victims of the trauma of violence, but today the objective is to find some ways of preventing violence from happening in the first place. UN Secretary-General Kofi Annan, in his statement for today has asked that states and organisations take their efforts to the next level. Let's use this day to uplift our efforts to that next level.

It gives me tremendous pleasure to introduce the Hon. Luamanuvau Winnie Laban, Associate Minister of Pacific Island Affairs and Social Development, to address us and to open the Conference. Minister, you have an overview of the issues surrounding policy on the issue of overcoming violence and we look forward to your keynote statement on the subject.

Please welcome the Hon. Winnie Laban.



# Creating Policy to Overcome Violence

**Hon Luamanuvao Winnie Laban**

**Associate Minister of Pacific Island Affairs and Social Development**

*Tena koutou katoa, Talofa lava, Malo e lelei, Fakaalofa lahi atu, Ni sa bula vinaka, Namaste, Kia orana, la Orana, Gud de tru olgeta, Taloha ni, Talofa, Kia ora tatou*

And warm Pacific Greetings to you all this morning.

Thank you Jane for your warm welcome. And thanks also to Pacific Women's Watch for coordinating this one-day conference and also to UNIFEM NZ and the Project Five-O partner organisations for collaborating in setting this event up.

I would also like to acknowledge some of the contributors to today's event, in particular:

- Judge Peter Boshier, Principal Family Court Judge
- Heather Henare, Director National Collective of Independent Women's Refuges
- Joy Liddicoat, Human Rights Commissioner on Women's Issues, and
- Dr Mike O'Brien, Child Poverty Action Group.

I also bring warm greetings from my colleague Lianne Dalziel who sends her apologies.

I am pleased to be here today to mark the international Day for the Elimination of Violence against Women and White Ribbon Day.

The Labour Government established the Ministry of Women's Affairs in 1985 and has had much to celebrate about the progress women have made over the last ten to twenty years. However, there is a strong focus on what still needs to be done.

Violence against women is the white elephant in the living-room – the compelling issue that we cannot, and must not, ignore. There are other areas where we need to improve but nothing is more urgent or more difficult than eliminating violence within the family and other forms of violence where women and children are overwhelmingly the victims.

I know you are probably well versed with the depressing statistics, but I want to mention two numbers that starkly demonstrate the disproportionate impact of violence on New Zealand women.

- The first is 85 percent. According to the Police, that's the percentage of reported family violence cases in 2001 that involved women as the victims.<sup>1</sup>
- The second is 94 percent. That's the percentage of perpetrators of adult family violence-related murders who were men in the four years to 2004.<sup>2</sup>

Yes, women can be violent towards men but the evidence shows women are overwhelmingly the victims, rather than the perpetrators of violence. We need to recognise and address this fact if we are to put a stop to family violence.

In New Zealand we have one of the world's most comprehensive set of laws to protect human rights, yet despite that, women's most fundamental human rights – the right to safety and the right to life – are breached dozens of times every day in this country. It happens because we tolerate it – and because we have been tolerating it for generations.

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<sup>1</sup>New Zealand Police submission made to the New Zealand Parliamentarians' Group on Population and Development for *Creating a Culture of Non-Violence* (August 2005).

[http://www.fpaid.org.nz/SITE\\_Default/SITE\\_fpaid/SITE\\_parliamentarians\\_group/CCNV\\_submissions.asp](http://www.fpaid.org.nz/SITE_Default/SITE_fpaid/SITE_parliamentarians_group/CCNV_submissions.asp) (accessed 2 November 2006).

<sup>2</sup>Ministry of Social Development (2006), *Taskforce for Action on Violence within Families – the First Report*. Wellington: Ministry of Social Development, p. 32. Note these statistics are not official New Zealand Police statistics, they were obtained from data relating to cases investigated as homicide and as such are provisional.

Unfortunately very little has changed in the nearly 20 years since the Report of the Ministerial Committee on Violence – commonly referred to as the Roper Report – in 1987. The names of the victims of violence may have changed over the years but the stories behind them haven't.

As we look to the future - New Zealand is increasingly becoming a more ethnically diverse society. While many Pacific and ethnic women enjoy the freedom they have here in New Zealand they also face many challenges. Where domestic violence is part of the lives of Pacific and ethnic women, challenges such as racism, communication and language further compounds violence within the family and adds to women's loneliness and isolation.

But research into Pacific and ethnic women's experience of violence in New Zealand is very limited. In 2003, the Ministry of Justice commissioned work that looked into violence, family violence and property offences for Pacific people.

A sample of 100 Pacific women were interviewed who were victims themselves of family violence.

Key areas of need for Pacific women that were highlighted in this report included: safety and housing for victims and their children; acknowledgement that family violence is unacceptable, although it might be considered by victims as culturally appropriate within their own families or Pacific families.

Providing access to services like health, child care and justice is one significant step towards making violence towards Pacific, migrant and ethnic women and their children visible.

The challenge for many Pacific ethnic and migrant communities is an examination of cultural practices that may condone violence and act to discourage victims from seeking help outside of the family. It is extremely important then that women's experiences of support services, the criminal justice system, and the effectiveness of these support systems in meeting their needs is appropriate and positive.

While I want to come back to this point, I want to talk about what this labour-led government is doing. That's because, while government can't fix this on its own, it does have a big role to play and the government is determined to fully play its part in reversing this pattern of violence and broken lives.

Last year the government formed a Family Violence Ministerial Team to build upon earlier initiatives that addressed family violence, such as *Te Rito – New Zealand Family Violence Prevention Strategy*.

By putting senior Ministers on the team we were signalling that this was a major priority for the government. We backed this up by creating the Taskforce for Action on Violence within Families and putting a number of chief executives of government departments on the Taskforce, as well as members of the judiciary and non-governmental representatives. The chief executives are there to provide leadership and to ensure that government agencies work closely together on integrated solutions. The Taskforce released its first programme of action in July this year. The programme has actions under four headings, and I would like to briefly cover each.

Action point one is 'Leadership', and under this heading ACC is undertaking research and evaluation on effective family violence initiatives with a focus on early intervention activities. The Families Commission and ACC are also making significant contributions to ascertain the levels of family violence in New Zealand through using the information and resources of the New Zealand Family Violence Clearinghouse.

Action point two is 'Changing attitudes and behaviour' - government has provided \$11.5 million over four years for the nationwide campaign to change attitudes and behaviour toward family violence, while the Families Commission is contributing a further \$2.5 million over three years.

The campaign will initially focus on the attitudes and behaviours of men who are violent toward their partners. Research is currently being done to understand how to change perpetrator behaviour and this will inform the key messages of the campaign. The Ministry of Social Development has the responsibility for implementing this programme along with the Families Commission.

Action point three is 'Ensuring safety and accountability'. Under this work-stream the threshold for eligibility to legal aid will be increased from March 2007, which will mean a 40 percent increase in the pool of people eligible for legal aid. This will include people who apply for protection orders.

Action point four is 'Effective support services' and under this heading the government is investing a further \$9 million in family violence prevention services, spread over four years. This will go towards community service providers such as 24-hour crisis lines, counselling, social work support, safe-house accommodation, advocacy and information. It represents a 20 percent increase in government funding and seeks to improve the capacity and capability of the family violence service sector.

Also underway is work to review current funding models with the aim of developing a new model that will ensure the appropriate and effective use of funds?

So those are some new initiatives coming out of the Taskforce. Other work addressing these issues includes the *Safer Communities Action Plan to Reduce Community Violence and Sexual Violence* released in 2004, which focuses on attitudes to violence, alcohol related violence, violence in public places and sexual violence.

There is also a range of other work underway – some of it initiated by the Ministry of Women's Affairs. The Ministry has commissioned research from the University of Waikato into women's experiences of protection orders under the Domestic Violence Act 1995.<sup>3</sup> The research will be completed by early next year and will help the Ministry inform government strategies and policies regarding domestic violence.

The Ministry is also undertaking a project to investigate the potential role of victim advocates, particularly in courts, to help people get information and access to the full range of support and services.

The project is due to be completed mid 2007. It will examine the potential role of the advocates – and if advocates are established, what funding will be required and where they might be located.

And third, as part of its work programme, Women's Affairs is developing methodology to investigate the attrition rate for sexual violence - that is, uncovering what percentage of sexual violence cases reported to Police fall out of the system before reaching the convictions stage. This will be new information for New Zealand. In the United Kingdom, 95 percent of rape cases reported to Police do not result in a conviction, so it will be interesting to see what happens in this country.

Hopefully that gives you an idea of the types of new government initiatives to help tackle the problem of family violence and other violence against women. The range of approaches is wide, because the problem is complex and needs to be approached in a number of different ways.

Even within government the initiatives typically involve several different agencies working together, and they also often involve community organisations and others outside of government.

The Taskforce involves chief executives from several government departments, but it also involves non-government agencies like Women's Refuge who work at the front line.

Which brings me back to what I believe is the central point about this struggle to eliminate violence. It is fundamentally about changing hearts and minds, not about changing the law or better support programmes for women once they have become victims.

The causes of violence are complex and do not always lend themselves to solutions based largely on government intervention. This doesn't mean that government doesn't have a critical, ongoing role – we need to continue to get the law and the policy right, and ensure government interventions are well thought out. Rather it means that government can't do it alone. We can't legislate to change the attitudes that tolerate violence, or under-value the work women do – but attitudes can change if government, non-government organisations, communities and groups of motivated women, such as all of you here today, work together to bring about that change.

Government is not prepared to tolerate the terrible toll of human suffering that flows from our high rates of violence. There are growing signs that communities are not prepared to tolerate it either and

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<sup>3</sup>Note that a member of this team, Ruth Busch, is scheduled to present the Auckland Labour Regional Women's Committee Seminar on Violence Against Women, but not on the protection orders research.

the pressure will increase on the perpetrators of violence, who will no longer be able to avoid the consequences of their actions.

Violence is our problem, not someone else's, and only we can fix it, as individuals and by working together.

I want to be part of that solution and I know you do too. I look forward to working with you, and to a time when New Zealand is free from violence.

# TAKING ACTION TO OVERCOME VIOLENCE

## *Relationship between International Obligations and Social Policy*

**Joy Liddicoat**  
**Human Rights Commissioner**

Kia ora tatou and warm Pacific greetings to you all. Kia ora ki a koe Hon Winnie Laban, Judge Boshier and other distinguished guests.

I want to thank the organisers of this conference, Pacific Women's Watch [New Zealand] and Project Five-O for their extraordinary hard work in planning and preparing for today, and for asking me to talk with you. We were delighted to host Dr Anamah Tan, Chair of Project Five-O, at the Commission last month and to acknowledge her role as President of the International Council of Women. I also want to acknowledge all the other individuals and organisations that have worked hard to ensure we have a productive and positive day. Thank you.

The Conference title is "Taking action to overcome violence" and has three themes:

- Highlighting persistence and unacceptability.
- Assessing prevalence.
- Seeking strategies and effective action to combat all forms of violence.

I've been asked to talk about the relationships between international obligations and development of social policy under this first theme. I have three simple messages for you today:

- Violence against women persists and is a significant issue in the Pacific.
- There are strong international, regional and national commitments to combat violence against women in the region.
- We must continue to make human rights relevant to policy about violence against women so that women can be safe and free.

I want to share with you two stories from my own experience of working in the Pacific. I have worked for women's human rights for over twenty years here in New Zealand and elsewhere in the Pacific including in Niue, the Cook Islands, Samoa, Fiji, and the Solomon Islands. During that time I have met many amazing women and men who struggle to deal with issues of violence against women on a daily basis. I want to tell you about just two of those women. (two stories shared informally)

Their stories demonstrate the complex realities of Pacific women's lives. They show us the resilience, determination and courage of Pacific women. They also help us understand the relationship between international obligations, the links to policy and the lived realities of Pacific women.

### ***International Obligations***

The phrase "international obligations" is an interesting one. To understand the relevance of these in New Zealand, we must first understand that these obligations are in fact self-imposed. The international human rights framework has not been thrown upon us by some remote organisation that we have no part in.

Quite the contrary. New Zealand has been a proud and active member of the United Nations since its creation. Successive New Zealand governments have worked hard since the 1940's to play a productive role in international debate and agreements about human rights.

"International obligations" are therefore commitments that New Zealand has signed up to and promised to implement. We have done this alongside other United Nations members. We helped draft these standards, voted for them, and given our word to other United Nations members that we will live up to them.

The framework for those obligations is the international bill of rights, which includes:

- The International Covenant on Civil and Political Rights
- The International Covenant on Economic, Social and Cultural Rights
- The Convention Against Torture
- The Convention for the Elimination of All Forms of Discrimination Against Women
- The Convention for the Elimination of All Forms Racial Discrimination
- The Convention on the Rights of the Child

In relation to women's human rights, this bill of rights is supplemented by, and further defined in, a range of other key agreements, such as the Beijing Platform for Action. Again, New Zealand not only played an active role in drafting these, but has agreed to be bound by them. We have agreed to participate in international scrutiny of our efforts, such as through Treaty body reporting and dialogue with the CEDAW Committee. NGOs have actively participated in those and other processes. Increasingly, Pacific women are also doing so.

### ***The Pacific Region***

There are also agreements between nations in the Pacific region. In 2004, Pacific Island leaders adopted a vision of the region that is "a region of peace, harmony, security and economic prosperity ... respected for the quality of its governance, the sustainable management of its resources, the full observance of democratic values, and for its defence and promotion of human rights."

Pacific leaders agreed to give effect to the vision through the development of a Pacific Plan and that Plan was endorsed in 2005 and the Kalibobo Roadmap Statement issued, which highlighted the Plan's key priorities and implementation requirements. The Plan has not been without its critics, especially among civil society groups which have concerns about consultation and implementation processes.

However, as a statement of priorities and as a means for regional co-operation, the Plan is a timely step forward. The Plan has a specific focus on gender. Improved gender equality is one of the fifteen key strategic objectives. Agreed initiatives include:

- Mainstreaming gender and development
- Strengthening police training, coordination and attachments with a focus on domestic, gender and sexual violence, drug control and accountability mechanisms
- Building stronger partnerships with national and regional stakeholders and with development partners
- Consolidating commitments to key integrity institutions including establishment of regional ombudsmen and other human rights mechanisms
- Development of a strategy to support participatory democracy and consultative decision-making and electoral processes

Violence against women has been a persistent concern in the Pacific, particularly from civil society groups. This year has also been a difficult one for many in the Pacific. Events in East Timor, the Solomons, and more recently the terrible destruction in Tonga have caused widespread concern. I believe the causes are complex and that it is important not to generalise or make simplistic assumptions about causes or solutions. But it remains true that the struggle against the causes of poverty and injustice must be addressed through democratic processes, good governance and the security of the rule of law, including the international human rights framework.

Unfortunately, of all the world's regions, the Pacific region has the lowest rate of ratification of the international bill of rights instruments. More efforts are needed to ensure that the Pacific feels part of the international community so that any sense of exclusion cannot be used as a means for deferring ratification or for demurring on participation in international efforts.

I believe that if we wish to make progress in that and other areas, we need more constructive dialogue about custom and human rights. The New Zealand Law Commission has recently published a valuable contribution to that debate in the report, *Converging Currents: Custom and Human Rights in the Pacific*.

The Human Rights Commission supported the development of this work. Our experiences and observations are that human rights and custom are often seen in conflict with each other. No conversation about human rights in the Pacific is possible without a good knowledge of custom and its importance in the region. The thesis of the Law Commission report is

“that custom and human rights can be harmonised by looking to the shared underlying values of both.”

Those shared values include, for example:

- Respect for the inherent dignity of all persons
- Sharing and caring for others
- Reciprocity in developing human relations
- The importance of community decision-making

The Universal Declaration of Human Rights describes respect for the inherent dignity of all people as contributing to freedom, justice and peace in the world.

The Report notes that:

Nothing will test whether custom and human rights can operate together more than the role of women.... Accommodating the rights of women will be a crucible for the survival of custom. If custom has sufficient dynamism to allow women equal partnership within society and at the same time to retain its vitality and relevance to the community, other changes to custom will follow more readily. The prospect of change to traditional gender roles is without doubt uncomfortable, possibly threatening, for many; particularly where the changes challenge male-dominated political structures.... An approach that seeks to harmonise custom and human rights through underlying values can greatly assist this process.”

The report needs to be debated and not all will agree with its conclusions, but it provides a solid foundation for more dialogue. I strongly commend this report to you, not only for its measured and considered approach, but also for the richness and diversity of information about the range of custom practices in the Pacific. Too often the Pacific is considered an homogenous region. While there are strong connections among and between Pacific peoples and cultures, there is also remarkable and rich diversity.

## ***International Obligations and Policy***

### **Progress**

In the midst of the sometimes awful and frustrating work that we do, it is easy to forget that we are making progress. Sometimes it does feel that way, or even that we are going backwards.

It may not be as fast or as robust as we would like, but overall women’s human rights are better protected today than they were in our grandparent’s days. I think we need to acknowledge the huge range of initiatives, government and non-government, that are seeking to improve the shameful rates of violence against women. I’ve been delighted to see the leadership of successive Ministers of Women’s Affairs, particularly Ruth Dyson and more recently Lianne Dalziel clearly framing violence against women as a human rights issue.

Of course, we will continue to debate the efficacy and direction of these initiatives. That is a necessary debate which needs to be constructive, not divisive. And it is necessary because women and children continue to be hurt and killed every year, despite our efforts. They continue to need the services of Women’s Refuges and, to their credit, the National Collective of Women’s Refuges, with Heather Henare’s leadership, continues to do a great job for them.

The debate about the repeal of section 59 of the Crimes Act is a good example of the links between international obligations and social policy. The links between the New Zealand’s ratification of the Convention on the Rights of the Child, social movements for justice for children and young people, and policies related to children are clear. Personally, I am very disappointed with amendments

proposed to Sue Bradford's Bill. I would like to see a Parliament of the 21<sup>st</sup> century have the foresight and courage to agree that children have the same legal rights as adults when it comes to being free from violence.

## **Policy Leadership**

It is interesting to reflect that in New Zealand it has traditionally been women, and the men who supported them, who have lead policy development about violence against women. That leadership has also been present internationally and across the region. That leadership was based around movements for social justice.

Over the years, that leadership resulted in government agencies, the legal system, and civil society being required to find ways to better respond to the protection of victims of violence. Some did not do so willingly, at least in the beginning. The health sector, for example, was a "late developer" in the violence against women field. Others demonstrated remarkable foresight. For example, it was the work of Detective Inspector Ford, which, in 1981, led to the police developing a pro-arrest policy in domestic violence cases based on what became known as *The Ford Report*.

Much of the leadership from women lead to the international human rights framework and to civil society insisting on the realisation of freedom from want and fear for women in New Zealand. The National Council of Women, the Maori Women's Welfare League and Pacifica are just three examples. There are many more, including you here today.

Women and women's organisations have been at the forefront of human rights activism and progress in the Pacific. That journey has not always been a smooth one and is by no means over, as my earlier examples highlight in just a small way.

There is a clear link therefore, between the creation of international obligations based on movements for social justice, ratified or signed up to by governments, and the delivery on our international promises through law and policy in New Zealand. Indeed, the Domestic Violence Act 1995 has strong foundations in the international obligations and was drafted in order to give our own expression of them. To give credit where it is due, that Act was passed by a National led government. Those who criticise the Act as "passed by a bunch of feminists" seem to forget that the Justice Minister at that time was Hon Doug Graham and the Prime Minister was Jim Bolger.

It is profoundly disturbing to me, as someone involved in that drafting process, to see that implementation of the Act has failed in part because wider actors have not been willing to live up to those international obligations.

Today, while leadership and calls for action continue in the community, it is government agencies that appear to have responsibility for leading policy development. I will return to this later.

## **Research**

Good policy needs to be evidence based and that is where research is so important. I am a member of the Advisory Group to the New Zealand Family Violence Clearinghouse. The Clearinghouse is a web-based resource for research about family violence. I fully support the steps being taken to develop and strengthen New Zealand research about family violence and I want especially to thank and acknowledge Janet Fanslow. I think your contribution to this field has been simply outstanding.

I'm aware of Professor David Fergusson's recent entry into the debate about prevalence of violence and relative incidence rates as between men and women. The idea seems to be gaining currency that women and men are equally violent and that this means we should not talk about violence against women. We should talk about 'violence against everyone' or that we should be gender neutral when talking about violence.

I actually welcome this debate for two reasons. First, if we as advocates and practitioners cannot deal eloquently and persuasively with that debate, then what hope do women victims of men's violence have?



The debate about section 59 and more recent debate in the last few weeks has been a reminder that we must not be afraid to address the issue of women's violence towards children. But I make no apology for bringing a human rights approach to the issue of violence, nor for using a gender analysis to do so.

I know that the evidence supports that approach, and I am grateful to those commentators who have been providing constructive critique of David Fergusson's research. I wish that David was willing to participate in constructive dialogue with his peers and seniors in the family violence research field. Sadly, that appears not to be the case.

Secondly, that debate is an opportunity to make our case. We must embrace that debate as an opportunity to inform and educate. To bring to bear the international obligations and to show how these are directly relevant to social policy and a gender analysis of violence. We must also bring an intersectional approach to build understanding of not only gender analysis but also, for example, analysis based on race, national and ethnic origin, age, disability, and sexual orientation.

Here again, international obligations and the work of the United Nations can assist. The Secretary General's recently released report on violence against women makes it clear that discrimination against women is not only a cause of violence against women, but that violence itself is a form of discrimination against women. The Secretary General's in-depth study:

“...showed that half of human kind lives under the threat of violence – in every continent, country and culture, regardless of income, class, race or ethnicity.”

### ***The Role of the Courts***

The Courts have a critical role to play and I must say that day in day out in the work of the District and Family Court, judges are, I am sure, doing their best. We must respect and support them and assist with constructive criticism where appropriate.

I recently attended a workshop chaired by the former Chief Justice of the South African Supreme Court, Arthur Chaskalson. The purpose was to discuss the judicial enforcement of economic, cultural and social rights. The former Chief Justice believes that constitutional cases about such rights provide the courts with an opportunity to assist the deliberative dialogue about human rights between civil society and the State.

He noted that it was vital to have skilled civil society groups assisting the courts through their advocacy because this dialogue was complex and needed human rights expertise. He made this comment the very same week in which, to my delight, our courts upheld the right of the Child Poverty Action Group to take forward a case of discrimination, which I am sure Mike O'Brien will talk about later today.

Arthur Chaskalson also noted that the courts have a role holding the State accountable for the process of resource allocation in line with human rights standards. That is not to say that the Courts will make policy decisions for governments. Rather, as in the field of administrative law, the South African approach has been to uphold complaints, where justified, that human rights have not been adequately taken account of in the process of policy development.

### **Implications for Policy Development**

This brings me to policy development here in New Zealand and the Child Poverty Action Group case will be interesting to follow.

The Human Rights Commission has been advocating for much more transparency about the reference to and application of the international human rights standards in policy development. During the development of the New Zealand Action Plan for human rights we consulted with over 5,000 New Zealanders about human rights. We looked at the application of economic, social and cultural rights in the development of social policy and asked Claudia Geiringer and Matthew Palmer from Victoria University of Wellington to assist us by developing a paper on this topic.

In short, the authors identified a number of implications for social policy arising from international human rights obligations. These implications included:

- An ongoing and reasonable engagement with the scope and effect of relevant rights
- No retrogressive measures
- An obligation to respect rights - subject to reasonable limitations
- Participation of rights holders in policy development
- Forms of enhanced accountability
- Special protection for the disadvantaged

There are also implications for the wider state sector and parliamentary processes such as select committees. We must all play our part with the limited resources that we have. Leadership from those involved in movements for social change remains as essential today as in years gone by.

Within the Commission, we have clearly framed violence against women as a violation of fundamental human rights and we weave this into our work programme wherever we can. For example, I recently convened a roundtable here in Auckland to talk with interested people about domestic violence issues for refugee and migrant women as part of our participation in the review of the Immigration Act. I also convene a Pacific Human Rights Roundtable in Wellington, where government and non-government agencies share Pacific work programmes around issues such as violence against women. We also work closely with the Fiji Human Rights Commission and the Pacific Islands Forum Secretariat on the promotion and protection of human rights in the Pacific.

The relevance of international obligations to policy development and the growing demands for more complex and sophisticated policy work has implications for community groups. For example, how do we ensure that policy capacity and capability is developed and maintained so that communities are able to keep pace with developments in bigger government agencies? What strategies can be developed to ensure people working in this field stay healthy and do not succumb to burnout and fatigue?

For one thing, I think community groups must avoid fighting amongst themselves. I have seen some really unfortunate and destructive behaviour between individuals who, in theory at least, share the same objectives in the struggle to end violence against women.

I believe the stage is not only big enough for all of us, it needs all of us if we are to achieve our shared goals.

When I think of those women that I mentioned earlier, I have a profound sense of the need to support Pacific women in their efforts to overcome violence. We must also acknowledge the men who do so and I am grateful to the men who founded White Ribbon Day and who continue work to end violence against women.

Today, on White Ribbon Day, it is timely to recall what Kofi Annan said when releasing the United Nations report on violence against women:

Together, we must work to create an environment where violence against women is not tolerated...On this International Day for the Elimination of Violence Against Women, let all of us – men and women alike – join forces in this mission.

# **The Domestic Violence Act 1995 – Are Women Still the Victims?**

## **Principal Family Court Judge Peter Boshier**

The Domestic Violence Act was passed in 1995. The Act heralded a new approach for the Court's intervention into domestic violence and it contained potent weapons for addressing family violence.

However ten years on, domestic violence in New Zealand remains a major problem. At present, domestic, or family violence as it is becoming better known as, is occupying unprecedented time in the government and judicial sectors. In December 2004, the government was sufficiently concerned about rising domestic violence that it brought a number of key agencies together for discussion on the viability of setting up a Ministerial Taskforce. In early 2005 the Taskforce commenced work and I joined it, as a member. On 28 July 2006, the Taskforce released its first report,<sup>4</sup> which I will refer to below.

I want to focus on the criticisms about the implementation of the family violence legislation, including the report published by the Women's Refuges in 2004 ("the 2004 report").<sup>5</sup> There has been a steady decline in the number of applications for protection orders, falling by over 2000 since 1998 (see table on p7). While the number of applications is dropping, there is no evidence that family violence is similarly decreasing. The 2004 report contained a number of explanations for why fewer women are applying for protection orders, and why protection orders are not as effective as they should be. Many of these are not new. They were also raised in the Ministry of Justice's "Process Evaluation of the Domestic Violence Act" in 2000. However they have clearly not been resolved, again being identified in the May 2006 report of Dr Alison Towns and Hazel Scott.<sup>6</sup>

There is substance to many of the criticisms, and we are working to make improvements in almost every facet of the process. However we cannot simply adopt all of the suggestions in full. Hopefully I can explain the Court's perspective in balancing what can often be competing factors.

While I will focus on the Family Court, it must be remembered that the Court is only one aspect of a community-wide response. If we are to achieve a truly effective response to family violence, we must ensure a co-ordinated approach across the many sectors of the community that are involved. This is one of the main goals of the Ministerial Taskforce.

### ***The cold reality of Domestic Violence in New Zealand***

In situations where domestic violence is involved, or in any situation where family violence results in a death, I receive from the Ministry of Justice a report detailing any Family Court involvement, and any concerns around the Court process. Sixteen such reports have been completed since November 2005.

### ***The Family Court and domestic violence***

The main areas of violence the Family Court is involved in are protection orders under the Domestic Violence Act ("the DV Act"), violence in childcare disputes under the Care of Children Act 2004, and State intervention into childcare under the Children, Young Persons and Their Families Act 1989.

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<sup>4</sup> Taskforce for Action on Violence Within Families, "The First Report", 28 July 2006.

The report is available on the Ministry of Social Development website at:

<http://www.msd.govt.nz/work-areas/families-whanau/te-rito/family-violence-taskforce.html>

<sup>5</sup> Hann, S, "The Implementation of the Domestic Violence Act 1995" (National Collective of Independent Woman's Refuges, 2004)

<sup>6</sup> Towns, A, Scott, H, "Accountability, Natural Justice and Safety: Protection Order Study of the Domestic Violence Act 1995 for Inner City Women's Group and Network of Women's Support Agencies" May 2006

Despite these statutes, and the powerful protection they afford, the problem of family violence remains pervasive. The legislation is widely recognised as some of the most progressive in the world, and not in need of any significant amendment. Rather, we need to improve the implementation of these provisions. This is consistent with the Refuge's assessment.<sup>7</sup> It is also clear that legislation alone cannot resolve the problem. The legislation is generally a reactive measure to help families already experiencing violence. Violence needs to be eliminated primarily before it occurs, and we need strategies beyond legislative intervention to achieve this. One of the key areas the Ministerial Taskforce is focusing on is changing attitudes and behaviour.

### **Protection Orders: Problems and Solutions**

It was suggested in the 2004 report that there is a decreasing confidence in protection orders, so less people are applying for them. This lack of confidence is said to stem from the Court's approach to granting orders, and how those orders are later enforced.

In relation to applying for an order, there is a concern that too many orders are directed to proceed on notice, the burden of proof is too high, and the cost of applying for an order makes it impossible for some people to gain the protection they require. It is argued that orders are not granted readily enough, as the right to natural justice of the respondent – meaning their right to a fair and just process – is placed above the applicant's right to safety. It is said the intention of the DV Act to allow for stronger and more accessible means of protection than was previously available is not upheld by the Court.

Orders under the DV Act, as well as orders relating to violence under the Care of Children Act, also receive vociferous criticism from those with an opposing view. A protection order applies automatically to any children of the applicant. Obviously the applicant's children can also be the respondent's children, so when a protection order is granted it can also bar the respondent from contact with their own children. Under the Care of Children Act, where there are allegations of violence in childcare proceedings, the Court cannot give unsupervised contact to a violent parent unless it considers that to do so would be safe.<sup>8</sup> It is alleged these orders are granted too easily, and that they are used as a tactic to 'win' by making false allegations. It is argued the rights of the respondent are breached, and that orders of such drastic consequences must be proven to a higher standard. A person can be barred from contact with their children, and ordered from their home, without having the chance to put their case before the Court.

The figures for protection orders are as follows:

Year from July to June	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006
Total Number of Applications	6970	6126	5983	5724	5262	4901	4560	4534
Applications on Notice	758	597	689	737	742	633	584	576
Applications 'Without Notice'	6212	5529	5294	4987	4520	4268	3976	3958
Temporary Orders Made	5247	4522	4122	3794	3469	3236	3083	3007
Final Orders Made	4322	3842	3629	3299	2998	2829	2601	2392
Percentage of Applications Filed 'Without Notice'	89.1	90.3	88.5	87.1	85.9	87.1	87.2	87.3
Temporary Orders Made as a Percentage of Applications Filed 'Without Notice'	84.5	81.8	77.9	76.1	76.7	75.8	77.5	76.0
Final Orders Made as a Percentage of Total Applications Filed	62.0	62.7	60.7	57.6	57.0	57.7	57.0	52.8

It is important to note that there are two ways to apply for a protection order: either 'with or 'without notice'. Ordinarily when applying for a Court order, the applicant must notify the respondent so that

<sup>7</sup> above, note 2, p27

<sup>8</sup> Care of Children Act, s60

the respondent can ready a defence and be heard by the Court. In urgent situations it is possible to make a 'without notice' application, where the applicant obtains an order without the respondent being heard by the Court. The respondent is then notified of the order, and given the chance to apply to have it removed. 'Without notice' applications represent the vast majority of protection order applications,<sup>9</sup> and it is these applications which cause the greatest debate.

If a 'without notice' application is made but the Court is not satisfied that the situation demands it, or if there is not enough evidence to make the order, the Court can direct that the application be made on notice. The 2004 report pointed out that there was a dramatic increase in the number of 'without notice' applications directed to proceed on notice, and that this was discouraging women to apply for orders. This was based on data up to 2002-03.<sup>10</sup> The mere fact of making an application can itself be a cause of violence. So if an application is put on notice, the person will have no protection during the intervening period, when protection may be more necessary than ever given the possible incitement caused by the application.

Number of 'without notice' applications directed to proceed on notice

Year	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06
Number of 'without notice' applications	6,212	5,529	5,294	4,987	4,520	4,268	3,976	3,958
Number directed to proceed on notice	749	901	1,095	1,203	983	889	633	658
Percentage directed to proceed on notice	12.1%	16.3%	20.7%	24.1%	21.7%	20.8%	15.9%	16.6%

Since the 2004 report, the above table shows that there has been a steady decrease in the number of applications directed to proceed on notice. The number has been dropping since 2001/2002, with a decrease of 8%. The drop from 24% of the total number of applications to around 16%, means we have directed a third less applications to proceed on notice in the last two years compared with 2001/02. This is a significant decrease, and should provide some regained confidence in protection orders. This indicates that where it is proven to be necessary, the Court will have no hesitation in making an order 'without notice'.

***Rights and the burden of proof: protection and due process***

I want to emphasise that the right to safety is the primary concern where protection orders are involved. The Court is there to provide protection and where safety is shown to be an issue, as I have said, the Court will have no hesitation in making an order. But while safety is the primary concern, it is not the only concern. In deciding whether an order is necessary, the respondent is entitled to due process. As a Court of law the Family Court cannot simply hand out orders when asked.

Where there is an urgent situation, an order must be granted immediately. Clearly that is what the Act intends, and clearly no other response is adequate. However a problem we encounter is that we are often asked to make an order without sufficient evidence.

The Court often knows nothing of the personal history of the applicant, so can assess what is fact and what is assertion only on the evidence before the Court.

The Court must first make findings of fact, and only then decide whether an order is necessary based on those findings. Any question of fact must be proven on the balance of probabilities, and this is specifically set out in the DV Act.<sup>11</sup> There is a difference between proof and assertion, and this is just

<sup>9</sup> see the table above

<sup>10</sup> above, note 2, p8

<sup>11</sup> s85 Domestic Violence Act

as it should be. It is particularly important when the defendant has no opportunity to respond to the allegations.

### ***Cost of applying for an order***

It has been recognised that the cost of applying for a protection order is prohibitive to people gaining the protection they require. The DV Act was aimed at increasing access to justice for New Zealanders, and simplifying the process, making it possible for lay people to apply for a protection order. But there is also a risk that comes with not having a lawyer. As discussed, the Court can only make an order based on facts supported by evidence. Lawyers often have a greater understanding of what evidence is required to support an application, and it is generally in a person's best interests to be represented for this reason. We need to have a situation where justice is readily available to all New Zealanders, and where people's safety is not compromised because they cannot pay for a lawyer.

Action has been taken to rectify this problem. The threshold for legal aid eligibility will be altered for civil matters, which includes applications under the DV Act. The Legal Services Regulations 2006 and the Legal Services Amendment Act 2006 come into effect on 1 March 2007. This will increase the pool of people that are eligible for legal aid from 765,000 to approximately 1.2 million.<sup>12</sup> However what is yet to be achieved, is a situation in which there are legal aid rates which remunerate lawyers fairly, and which encourage them to continue to undertake domestic violence cases.

Quite apart from legal aid, what is also important is that lawyers who act for victims of domestic violence have the best possible training when it comes to dealing with traumatised clients, preparing applications and ensuring that the best evidence is put before the Court. I am working with the New Zealand Law Society to provide lawyers involved in this specialised area the training and support that is required.<sup>13</sup> The Refuge has raised with me a concern that professionals involved in the Court process may not have an adequate grasp of the dynamics of family violence, so I hope that with the further training that is developed, lawyers will be better prepared.

To this end, in April and May 2007, the New Zealand Law Society will host a series of seminars for Family Court lawyers who undertake family violence work. I have made a Judge available as a co-presenter. The seminars will focus on understanding the dynamics of family violence, knowing how to assemble documents in evidence so as to enhance the obtaining of a protection order without notice where that is plainly justified, and in understanding the networks that can be accessed and the process that should be employed, to achieve the best outcome for victims of family violence.

### ***Childcare and family violence***

Due to how we have seen the Act play out over the past ten years, we have become more aware of the possible impact on the care arrangements of any children involved. When the DV Act was initially enacted, after assessment of the evidence, an order 'without notice' was made and we left it to the respondent/perpetrator to make the running in either setting the order aside or applying to establish acceptable care arrangements for the children.

But such a simplistic approach has given rise to problems. With the heavy workload of the Family Court, respondents have often found it too difficult to readily access the Court to be heard after the making of a 'without notice' order. To respond to the need to manage cases better we have devised a Domestic Violence Minute, which is now widely used. It requires us to turn our minds to a raft of considerations, including whether it is proper for all, or parts, of the application to proceed on notice. It also requires us to review whether the care arrangements for the children are satisfactory for each parent. Routinely now, after making a protection order 'without notice' we return to the case the following week, to give each parent the right to be heard on arrangements. I think this is right and just. We need to be careful to preserve the relationship between each parent and their child or children in a safe and appropriate fashion.

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<sup>12</sup> p22

<sup>13</sup> for further details see NZLawyer, Issue 46, 11 August 2006, p4

This approach can also be seen in the Care of Children Act, which emphasises the primacy of safety, while also giving consideration to other factors such as parental involvement. Decisions must be based on the welfare and best interests of the child.<sup>14</sup> We are given guidance on what factors to consider when determining those interests.<sup>15</sup> It is said that a child *should* have ongoing contact with both of their parents, and that both parents *should* have a joint responsibility for bringing up their children. However it is also said that we *must* protect children from all forms of violence. This difference in wording is significant, for when interpreting legislation, the word “should” is directory but “must” is mandatory. This shows that in the event of a clash of principles, we must place safety above any other consideration.<sup>16</sup>

The expectation of joint parental responsibility in the Care of Children Act is primarily based on the child’s perspective, not the parents’. That means that both parents are to have a role in the child’s life because that is generally in the best interests of the child. When one considers depriving a parent of contact with their child because of violent behaviour, that decision must be based on the primary concern for protecting the child from violence, rather than on protecting any right of the parent to contact. If one thing is clear from all family law legislation in New Zealand, and the international Conventions, it is that the child’s perspective is to be placed above that of the parent.

### **High Court guidance on ‘without notice’ orders**

The Family Court must follow decisions of the High Court, and we have been given cautionary guidance regarding temporary orders. The High Court has also pointed out that it may be easier to prove the need for an immediate order where physical or sexual violence is involved. In *D v D*<sup>17</sup> it was said:

[36] ...there is a clear line of authority over the past decade (above) of High Court decisions which caution the Family Court against granting ex parte relief too readily. The policy reason behind such caution must clearly be that rights are affected. With regard to the Domestic Violence Act 1995, the interface between that statute and s16B of the Guardianship Act 1968 can have the effect of fragmenting family relationships and, importantly, severing for several weeks a relationship between a father and his children.

[37] The policy of the Domestic Violence Act, and in particular the s5 objects, mean that protection must remain centre stage. Although Mr Hudson is correct that one should not necessarily adopt different standards or criteria when dealing with psychological abuse as opposed to physical abuse, none the less the need for protection in an urgent situation, and in particular where a risk of harm may be involved, is glaringly obvious where physical violence or sexual violence are being threatened. In making that comment, I am not in any way minimising the insidious long-term harm which can flow from psychological violence.

### **Striking the right balance**

A clear example of the Court’s approach in weighing all of these factors was given by Judge Inglis QC in *R v R*.<sup>18</sup> The Judge was discussing the jurisdiction of the Court under s84 of the DV Act, which enables the Court to hear evidence that would not be admissible in other Courts, and the principles to be applied in deciding whether to hear such evidence.

“... It can properly be acknowledged that one of the reasons why s84 was included in the statute was to avoid the possibility that the protection provided by the Act might be withheld or obstructed because of technical issues of admissibility of evidence. Any hesitation in exercising the discretion on an application for a temporary protection order under the 1995 Act should therefore be resolved in favour of the importance of providing protection, remembering that it is always open to the respondent immediately to apply for discharge of the order if it can be shown to have been obtained on inadequate grounds. At the same time the need for protection has to be balanced against the need to consider that a protection order can have very serious consequences for a respondent, including

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<sup>14</sup> s4 Care of Children Act

<sup>15</sup> s5 Care of Children Act

<sup>16</sup> See *APN V KMCC FC HAS FAM 2005-020-329* 28 September 2006

<sup>17</sup> [2004] NZFLR 320

<sup>18</sup> (1998) 17 FRNZ 227, 229

potentially serious modification of the respondent's guardianship rights and responsibilities in regard to any children of the relationship. When a remedy with Draconian consequences is sought without notice the nature and quality of the evidence adduced in support is expected to be consonant with the seriousness of the consequences of granting the remedy. That point gains emphasis from the necessity for a solicitor's certificate on applications without notice under the 1995 Act where, as here, the applicant is legally represented."

So the Judge placed safety as the primary concern but also considered other competing factors.

### ***Eliminating delay from the Court process***

Delay is highly injurious in domestic violence cases. The offender needs to be held accountable very early, or they will learn that if the process can be slowed down, it is likely they will get away with it; perhaps because they can convince or frighten the victim into withdrawing the complaint. And of course in urgent situations the victim needs to be able to obtain a protection order immediately, without delay.

Delay is not only harmful to those who require a protection order but it can also be harmful to the person on the receiving end of the order. Parents can be disassociated from their children for prolonged periods, which creates huge stress and frustration, and can be damaging to the relationship between the parent and child. And then at the end of it, perhaps it is found they have not used violence at all.

The law requires that we handle domestic violence cases speedily. Currently we do very well at the initial stage, where a protection order needs to be issued quickly. Orders are generally made the same day as the application. A duty Judge is available in every region, and they often work through the lunch-break of the Court's regular duties, or stay after other cases are finished for the day, in order to make these important orders.

A report released by the Ministry of Justice this year indicates that the Family Court deals with the bulk of protection order applications within a tight timeframe.<sup>19</sup> In 2004 75% of applications were disposed of within four months.<sup>20</sup> This figure represents when a final protection order was made, or the application was dismissed. Many applications result in a temporary order immediately, and if the respondent takes no steps, the order becomes final after three months.<sup>21</sup> So often the applicant would have been protected by a temporary protection order, which has the same effect as a final order, well before four months.

However we need to do a good deal better. I would like the Court, and by that I mean administration as well as Judges, to have the ability to schedule fast domestic violence hearings, certainly faster than we do at present. I have suggested a number of reforms to the Family Court process, which aim to make it more efficient, and to free up judicial time for important matters such as expeditious family violence hearings.<sup>22</sup> As part of this, the Family Court is about to trial a new Court process for determining difficult childcare cases called the Parenting Hearings Programme – less adversarial childcare hearings. Many of these cases involve violence, and the new process will resolve these faster, and in a more child-focused manner. By reducing families' involvement in litigation in this area, we will also free up Court time allowing us to deal with applications under the DV Act faster as well.<sup>23</sup>

Another innovative issue we are considering is a wholly new way of some protection orders being obtained, in the first instance. In a number of Australian States, when Police visit a scene of domestic violence, they can hand to the alleged perpetrator, an injunctive notice which has the effect of a very short term protection order. There is merit in our looking at a similar but more comprehensive

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<sup>19</sup> Bartlett, E, "Family Court Statistics 2004"

<sup>20</sup> above p35

<sup>21</sup> s76(2)(b) Domestic Violence Act

<sup>22</sup> see a speech entitled "A Vision for the Future: Dispute Resolution in the new era of Child Law" available on the Family Court website at [www.justice.govt.nz/family](http://www.justice.govt.nz/family)

<sup>23</sup> for further details see a speech entitled "Parenting Hearings Programme: Less Adversarial Children's Hearings", 14 September 2006, available on the Family Court website at [www.justice.govt.nz/family](http://www.justice.govt.nz/family)



process, in New Zealand. One of the difficulties we presently have is that if violence occurs on a Friday night, a victim cannot get access to the Family Court until the following week to obtain protection and sometimes further violence occurs in the meantime. In addition, best evidence is not always provided to the Family Court in the form of documents that the Police hold or notes they have made.

The idea that Police on visiting a scene of violence might themselves initiate a time limited protection order has appeal to me. One possibility is that as a result of a family violence incident, frontline Police may apply to a commissioned officer for an order with a duration of seven days. If the victim wished to obtain further protection an application would need to be made in the Family Court. Such an idea has much to commend it but of course like all new ideas, needs to be thoroughly thought through and debated.

### ***Enforcement of orders and accountability***

Another problem identified with protection orders is that Police and the Court do not hold offenders accountable for breaches in terms of convictions and sentencing. The 2006 study identified this as a reason why protection orders are not as effective as they should be.

There has been acknowledgement from a number of sectors that we need to be more decisive in dealing with incidents of domestic violence. Non-attendance at programmes is also an issue that must be addressed. The number of convictions for breaching a protection order has been reasonably stable since 1999. There were between 1010 and 1075 convictions during 1999-2003.<sup>24</sup> This is up from 236 in 1994 for breaching a non-molestation order, which was the predecessor to the protection order under the Domestic Protection Act.

In response to this, one of the aims of the Ministerial Taskforce is to improve the prosecution process for breaches of protection orders, and to increase the ability of the police to act when a protection order is breached.

The police are developing training to improve the investigation of breaches of orders, and to improve the effectiveness of the risk assessments that must be done at the time of a breach.<sup>25</sup> In terms of failing to comply with an order to attend a programme, it is my view that a wholly different process should apply. At present, after a programme provider has reported to the Family Court that a perpetrator is not attending a programme, a series of highly resource intensive steps follow. The end result may be that the Family Court through a Court officer prosecutes a perpetrator. A charge is then laid in the Criminal District Court and the matter proceeds from there.

I would rather change this and achieve a wholly radically different approach. It is my view that after a programme provider has reported that a perpetrator is not attending a programme, the Family Court ought to make up a file and transfer the matter to the Police immediately. It can then be for the Police investigative arm to check its intelligence on the perpetrator, make an enquiry and see whether there is good reason why the perpetrator is not attending the programme. If there is, then a warning could issue and a check be made later to ensure attendance is occurring. If the position is that there is no valid excuse and the perpetrator is not attending, then I believe the Police should prosecute forthwith.

We have also seen the establishment of Family Violence Courts in Manukau and Waitakere, which aim to take a speedy and more specialised approach to domestic violence prosecutions. As part of the Taskforce's response to family violence, the Ministry of Justice is to establish four more dedicated Family Violence Courts. Three will be in the Wellington region and another in Auckland. There will also be a detailed analysis of the current Family Violence Courts in Waitakere and Manukau.<sup>26</sup>

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<sup>24</sup> Ministry of Justice, "Conviction and Sentencing of offenders 1994-2003"

<sup>25</sup> Above, note 1, p23

<sup>26</sup> For more information on the evolution of the Family Violence Courts see Chief District Court Judge Johnson, "The evolution of Family Violence Courts in New Zealand", delivered to the Police Executive Conference on 8 November 2005. Judge Adams, "Family Violence and the Courts - Changing attitudes: the role of the Court" Delivered to the "Rise Above it" conference on 2 May 2005, and available on the Family Court website at [www.justice.govt.nz/family/media/speeches.html](http://www.justice.govt.nz/family/media/speeches.html)

Another attempt to improve the prosecution of offences is found in the Evidence Bill 2005. It has long been recognised that many cases fall over before going to Court, due to the complainant withdrawing their evidence. The Bill aims to make it possible for the Police to prosecute an offender with less reliance on the victim. There are proposed changes to the law of spousal non-compellability, so that the witness can be required by the Court to give evidence. In some situations it would not be appropriate to force a victim into giving evidence, so the Court could excuse the victim, if requiring them to testify would cause “hardship”. The Court would then still be able to convict the defendant on the basis of the victim’s prior statement to the Police, which is currently not possible. The Court would also be able to take into account the prior statement if the victim came to Court and gave contrary evidence to what they had initially given to Police.

These changes recognise that domestic violence has features that other forms of violence usually do not. The victim and defendant are often in the same household, so the possibility of interfering with the witness is much greater than in other situations. The close relationship between the victim and offender completely changes the dynamics of the prosecution process.

The uptake of protected person’s programmes is too low. Like the programmes for respondents, these are aimed at preventing further violence. It seems clear that if a person is becoming involved in a series of violent relationships, that they need help and support to break away from this. This is not at all about blaming the victim, or telling them how to behave in order not to incite their partners. It is more a matter of support for victims to enable them to get out of violent situations and not become embroiled in another in the future. Women’s Refuges play a central and vital role here.

At the other end of the spectrum, and perhaps where intervention is even more difficult, are situations where there is no history of serious violence, and no signs that anything is significantly wrong. In such cases, protecting the victim is extremely difficult, as there may be nothing to alert any concern.

In most of these incidents a correct Family Court process was followed. In every case where a without notice protection order was applied for it was granted (some applications included further applications such as for occupation, furniture, or parenting orders, which were put on notice but with the protection order made). This is at least encouraging from the Court’s perspective, but it shows that in the worst situations, action further than Court intervention is required, such as providing the victim physical protection and refuge on top of the legal protection offered by a protection order.

The Ministerial Taskforce recognised that the effectiveness of programmes can be enhanced. Work is in progress to improve monitoring attendance at programmes, and ensuring that attendance is effective through active participation.<sup>27</sup> This will be backed-up by improving the prosecution process for non-attendance. This work is due to be completed by June 2007.<sup>28</sup>

## **Conclusions**

There is substance to many of the criticisms of the legal process for intervention into family violence. We take very seriously the comments of the Women’s Refuge, because you see the impact and workings of family violence on a day-to-day basis.

Already we have seen the number of applications directed to proceed on notice drop by a third. The pool for legal aid eligibility is soon to increase, meaning that more victims of family violence will be able to get legal representation and give themselves the best chance of obtaining an order. With the training being developed for lawyers involved in this area, those legal representatives will also be better equipped. Delay is being eliminated as much as possible, and there will be significant developments in terms of enforcing protection orders and programme directions. The Ministerial Taskforce will be a driving force to ensure that further improvements occur.

However, there are competing considerations. We have been cautioned by the High Court regarding the making of temporary orders, and it must be remembered that the function of a Court is to first make findings of fact, proven on the balance of probabilities. The Court is constantly seeking to strike a balance.

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<sup>27</sup> above, note 1, p21

<sup>28</sup> above, p23

# Supporting Victims - The Critical Need

**Heather Henare**

**National Manager, National Collective of Independent Women's Refuges**

Tena koutou, tena koutou, tena koutou katoa.

*Pacific Greetings*

Thank you so much for inviting me to speak today. I am honoured to be here.

And this is a great way to celebrate White Ribbon Day.

I am proud to see so many white ribbons in front of me.

I think one of the great things about White Ribbon Day is the fact that so many organisations and community groups all over New Zealand have got together to support this initiative, and to ultimately make a stand against Violence.

But, we can't escape the facts. Our country has an appallingly high rate of men's violence towards women.

Women's Refuge - The first Refuge was established in 1973, and now, more than 30 years later, NCIWR includes 51 Refuges across the country.

Refuge continues to be the leading non-governmental organisation delivering services to women and children affected by domestic violence in Aotearoa/New Zealand.

I believe the Refuge is seen as a key stakeholder, providing leadership and direction on the issue of family violence to our government agencies and to other non-government organisations. In fact the Refuge movement has never been in such demand both locally, nationally and politically.

The need for services for women and children experiencing violence continues to grow in Aotearoa/New Zealand. Between 1996 and 2005 the numbers of recorded family violence incidents the Police attended doubled to in excess of 63,000. That's one every eight minutes.

We know that most women still do not call the Police, as they are fearful of the outcome. We know at the Refuge we are only dealing with the tip of the iceberg, and as awareness of domestic violence has increased, so have the numbers of women and children who seek our assistance.

We represent women and children who have experienced physical, psychological, sexual and/or financial abuse, and we prioritise always in our work the safety of those experiencing, and seeking to live without, violence.

We operate a policy of parallel development, which acknowledges that the most effective and appropriate way to deliver services to Maori is by Maori, so we operate 11 Maori Refuges around the country. And, an exciting development for the Refuge over the next year will be the implementation of our Maori Growth Strategy which will see the opening of a Maori Development Unit.

There are also Refuges affiliated to the Collective who specialise in providing services to Pasifika women and children, and associate members such as Shakti specialising in providing services to migrant women.

Over the last decade there has been an increase in the number of migrant women accessing our services.

And the Refuge, like other organisations, who work with increasing numbers of women for whom English is an additional language, is committed to developing culturally appropriate services for all women.

The Refuges around the country are reporting an increase in numbers of migrant women seeking assistance who have been brought here for a relationship with a New Zealand male citizen.

Some Refuges report that some of these women have been working in prostitution, either at the insistence of the man sponsoring their immigration, or to support themselves after leaving that relationship.

Refuge advocates also report that they are working with migrant women who have:

- Been forced to marry, usually by extended family members, and often very young. This is not the same as arranged marriage, again arranged by both extended families but which involves the consent of both participants.

In 2004/05, excluding Shakti Asian Women's Support Group General Refuges worked with:

- 52 migrant women without residency and without work permits
- 74 migrant women without residency but with work permits.

I believe these figures under-report how many migrant women accessed Refuge services around the country.

There are significant areas of difficulty for migrant women without residency seeking to escape relationships with violent men. When women leave a relationship, the economic responsibility for the man sponsoring her ends. This means she has to support herself. Some women in this situation will be able to seek paid work (if they have a work permit), but many will not, and will not have access to public funds.

Refuge will support these women financially in terms of rent, food, health issues, legal advice and immigration advice.

We recognise there are significant language, socio-cultural, and sometimes religious barriers for many migrant women in seeking assistance in Aotearoa/New Zealand. Domestic violence is not always conceptualised as a crime and racism and distrust of authority may make women less likely to seek help from New Zealand institutions (such as the Police, schools their children are attending, health services).

For many women the Police in their country of origin will have been in complicity with domestic violence and/or have been party to civil conflict and state repression; and organizations assisting migrant people currently do not universally see violence against women as within their work responsibilities. Additionally, many abusers actively use women's insecure immigration status as a tool of control, holding onto her (and her children's) passports, and telling women if they leave they will be deported.

Legislation specifically regarding migrant women without residency in violent relationships is contained in Section 4.5 of the Immigration Operations Manual, and specifies that women may be granted residency in certain limited circumstances. In reality, women may often wait several months for their cases to be determined, during which time unless they have a work permit they will have no access to funding. The criteria are:

- Evidence of domestic violence
- Evidence of domestic violence requires a very high burden of proof for migrant women.

I believe the criteria for the 'Domestic Violence Category' are set prohibitively high and this can be seen by the low numbers of applications made. In 2004/05, 14 applications were made, and 5 accepted; in 2005/06 9 applications were made and 4 accepted.

It is difficult to see how migrant women without residency are being assisted to live free from violence when their only recourse to stay in Aotearoa/New Zealand is so poorly taken up. For many women, returning to their country of origin following leaving a marriage will not be safe or culturally acceptable, even due to domestic violence.

Barriers for migrant women without residency fleeing violence are considerable, and in many cases without doubt leaving women with no option but to remain in abusive relationships.

Nationally, the Refuge is working to advocate for migrant women, and build alliances amongst community organizations to encourage increased access to justice and safety for women.

### ***Human Rights Commission***

Refuge is working with the policy team at the HRC, and also with Joy Liddicoat, Commissioner with an interest in this area, to discuss the particular vulnerabilities of migrant women fleeing violence. They are monitoring the take up of the 'Domestic Violence Category' with the Department of Immigration.

### ***Immigration Roundtable***

In August 2006, the HRC held a Roundtable in Auckland to which they invited members of community organizations working with new migrants to discuss domestic violence which Refuge attended. A second Roundtable is planned for Wellington later in the year, and several suggested action points have come from this Roundtable.

### ***Submission to the Immigration Review Act***

The Refuge submission called for an examination of the lack of financial responsibility which male sponsors have after women leave them due to violence; information on domestic violence and women's legal rights in Aotearoa/New Zealand to be part of 'settlement' information; and a review of the Domestic Violence Category to ensure that it was adequately protecting migrant women.

### ***Sponsorship discussions***

The Department of Labour began to review their sponsorship policies in September 2006, inviting both Refuge and Shakti to participate. This has entailed, to date, preliminary meetings to discuss the scope of possible changes to policy, and will lead to a Cabinet paper by the end of 2006. We have suggested that increased restrictions to sponsor criteria are incorporated to stop men with convictions of domestic violence; previous protection orders made against them or violent/sexual crimes against women or children being able to sponsor migrant women. We have also called for sponsors to be financially liable for women (and children) who leave them due to violence. This would be through IRD, and I have suggested their responsibility should continue until either the woman (and her children) return home, or her immigration status is resolved, and she is able to seek work or claim benefits. Finally, we have asked for the inclusion of information on domestic violence and women's legal rights to be included in 'settlement' information, and in countries of origin.

The possibility of coalition work with the Human Rights Commission and Shakti on further work in this area provides NCIWR with a sound base to build campaigns to raise awareness and seek legislative change. The current initiatives supported by these groups include:

- Further collaboration, capacity building and awareness raising in both directions between community organizations supporting new migrants and organizations challenging violence against women
- Using the HRC Asia and Pacific Human Rights network to produce information in countries of origin in appropriate languages on domestic violence and legal rights in Aotearoa/New Zealand for women thinking of migrating here
- Seeking the inclusion of information on domestic violence and legal rights in Aotearoa/New Zealand in 'new settler' packs distributed by the NZIS to all new residents
- Advocacy with NZIS around financial responsibility for sponsors – both while women are waiting for the outcome of their residency application, or for assistance to return to their country of origin. This could be taken through the IRD
- Advocacy with NZIS around the Domestic Violence Category – ensuring it is accessible to more women, and examining the reasons why it may not be currently. In particular, the burden of proof around domestic violence is a barrier which I believe we need to challenge, as we know how few women seek assistance from the Police, and for migrant women this number is likely to be further reduced.

There seems to be at the moment, I believe, a genuine desire in Aotearoa to 'do something about domestic violence.'

Currently Government focus is on the issue of family violence. Everyone has their opinion on how it should be managed. What some see as a “clear cut” way of dealing with family violence actually creates more issues around the safety of women and children.

And there is also an attempt throughout the country to continue to minimise the effects of violence on women and children.

I believe there is a continuing need to design our interventions in domestic violence from the viewpoint of those experiencing violence, and to ensure our interventions do not have unintended consequences.

I worry that at times in the desire to act, the voices of women and children have been lost, and unintentionally, this has the effect of further disempowering those experiencing violence, including driving violence underground.

It is imperative that when women and children seek statutory assistance to deal with the violence in their lives, that this assistance supports them in keeping safe by increasing their own strategies and resilience and holding the perpetrator accountable. At all times, women and children need access to information about the impacts of violence, resources to increase their safety, and the back-up of an effective justice sector response to deal with the cause of the violence. And that is why I see it is vital that we do work closely with government.

Statutory responses which blame victims for the violence they and their children are experiencing, or which treat victims as incapable of making their own decisions, will not make women safer – in fact they will make it less likely that women will seek help.

I am very clear that it is vital that the Refuge is involved in ensuring effective implementation of the DVA. And this should be one of our key focuses of policy work throughout 2007.

I believe we can increase the effectiveness of the DVA through:

- Ongoing Training
- Monitor and Improve the Effectiveness of Protection Orders
- Information Systems
- Monitoring Group
- Specialist Advocates with Refuge Training
- Whole Community Responses

Women’s Refuge continues to be led by the needs of women and children in its service development. The majority of the services we now provide are based in the community, rather than in our safe houses, as women are increasingly seeking safety without having to disrupt their homes, their support networks, the places they work and their children go to school.

But by working collaboratively at a local and national level, we will be able to improve the safety of all women and children and hold perpetrators accountable. That is why all round the country, local refuges have got involved in their communities’ White Ribbon Day activities.

Unless we as a community make a stand, starting today by wearing a white ribbon, and stop accepting second best for our women and children then we will continue to make it ok for those who deny us the basic right of not been beaten.

The exciting news is that the level of support White Ribbon Day has received shows there is a genuine desire in our country to “do something” about domestic violence.

We cannot sit back and allow Violence to destroy our country’s future. And as I look round today, I know we can all work to make New Zealand safe for all women and child

Thank you again for inviting me here today.

# Assessing Prevalence, Developing Prevention Strategies

Janet Fanslow, PhD  
School of Population Health, Auckland Medical School

## **Outline**

- Definitions
- Prevalence Statistics
- Consequences of violence
- What have we done to address the problem?
- What could we be doing?

## **Definitions**

- Physical Violence
- Sexual Violence
- Psychological Abuse/Emotional Violence
- Intimate Partner (Current or former: spouse, de facto partner, boyfriend)
- IPV = Intimate partner violence
- FV = Family Violence (child abuse, IPV, elder abuse, +)

## **Assessing Prevalence: Methods and Sample Size**

- Survey of women aged 18-64, in two regions (Auckland, North Waikato)
- Door-knocking at randomly selected houses, n=6,174
- Face-to-face interviews with one randomly selected woman from each household
- N=2,855, 67% Response rate
- Replicates World Health Organisation Study

## **Prevalence of Violence by Non-partners**

- 15% of women reported experiencing physical violence (1 in 7)
- 10% reported sexual violence (1 in 10)

## **IPV Prevalence**

- 33% of women reported at least one incident of physical or sexual IPV in their lifetime (1 in 3)
- 5% within past 12 months (1 in 20)
- Other industrialised countries (Australia, USA):- IPV rates around 22% - 25% in lifetime
- Not "gender neutral", USA study shows:- rates of 25% for women, 8% for men - more severe consequences for women

## **Why is it a problem?**

### **Health consequences: both immediate and long-term**

- 7 fold increase in suicide risk
- 2-3 fold increase in numerous health problems

### **Effects on children**

- Co-occurrence with child abuse
- Links with intergenerational transmission of abuse
- Associations with youth offending, high risk behaviour in youth

### **Economic costs (Snively, 1994)**

- NZ\$1.2 billion to NZ\$5.2 billion per year

### ***What have we done to address the problem?***

- Most of our responses have been aimed at assisting victims or holding offender's accountable
- Services for Victims
- Legal Remedies, Judicial Reform
- Treatment for Abusers
- Health Service Interventions
- WINZ programme being rolled out (2005)
- Coordinated Community Responses
- Various Government Policies

### ***What could we be doing?***

- First: clarify our goals
  - Zero tolerance for violence?
  - Fostering and promoting healthy relationships?
- What do we use to guide our next steps?

**Models show how this might happen. (see next pages)**

### ***What do we need now?***

- Adequate resources for services
- A commitment to fixing systemic problems and gaps in the system as they are identified
- Investment in primary prevention
  - School based programs about healthy relationships
  - Strategies that focus on changing community and societal responses
  - Strategies that seek to engage other sectors of our society (e.g., media, faith communities)

### **Beyond zero tolerance:**

#### **Key issues and future directions for family violence work in New Zealand**

A Report for the Families Commission  
August 2005

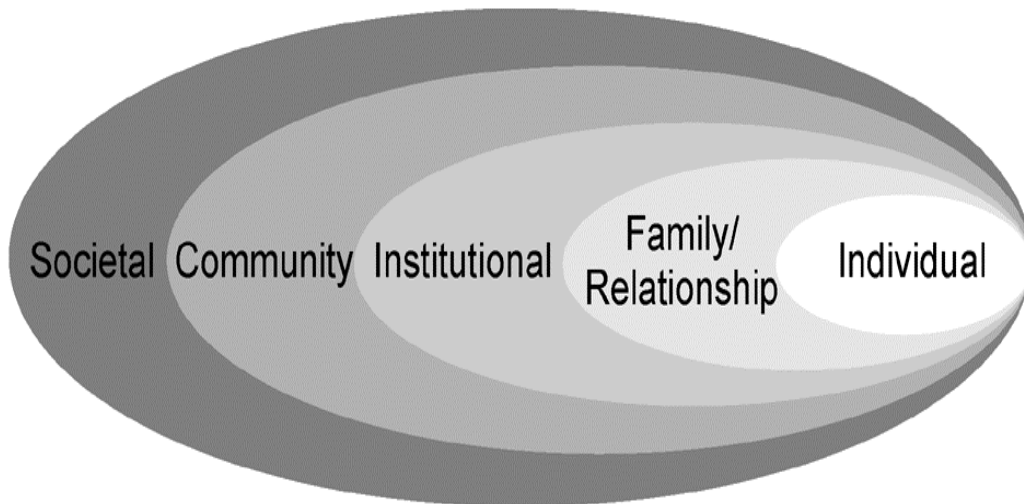
This report can be downloaded from::

<http://www.familiescommission.govt.nz/download/zero-tolerance.pdf>



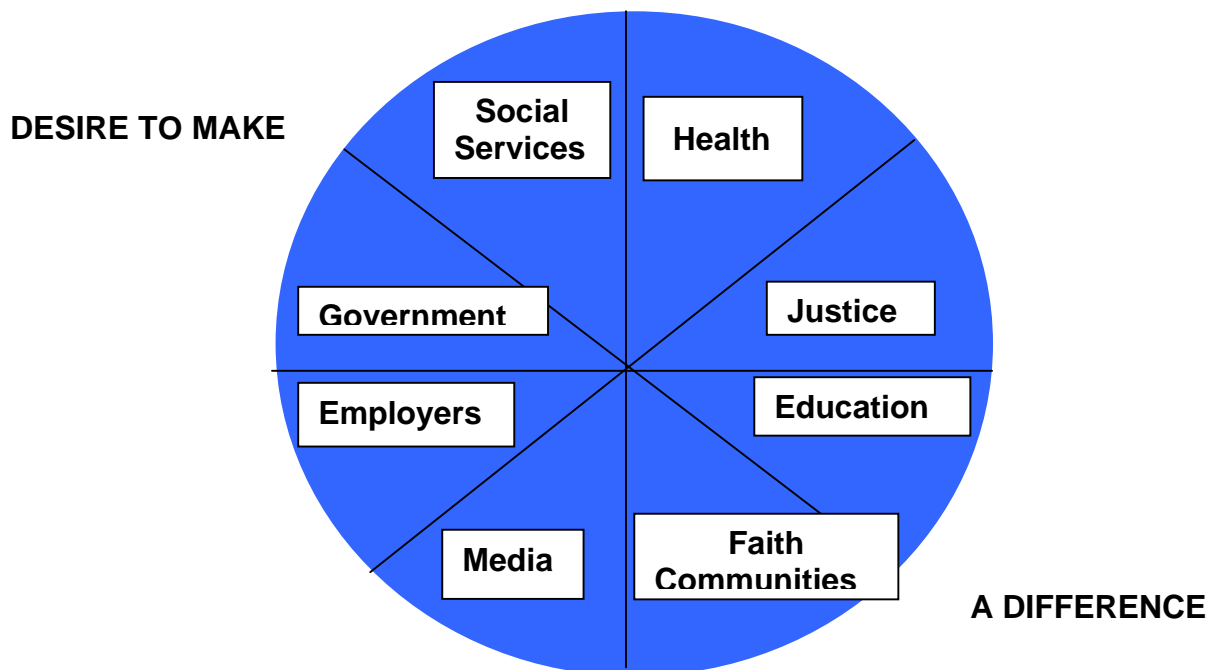
## ***Ecological Model***

This is used to represent the levels of influence that contribute to violent behaviour

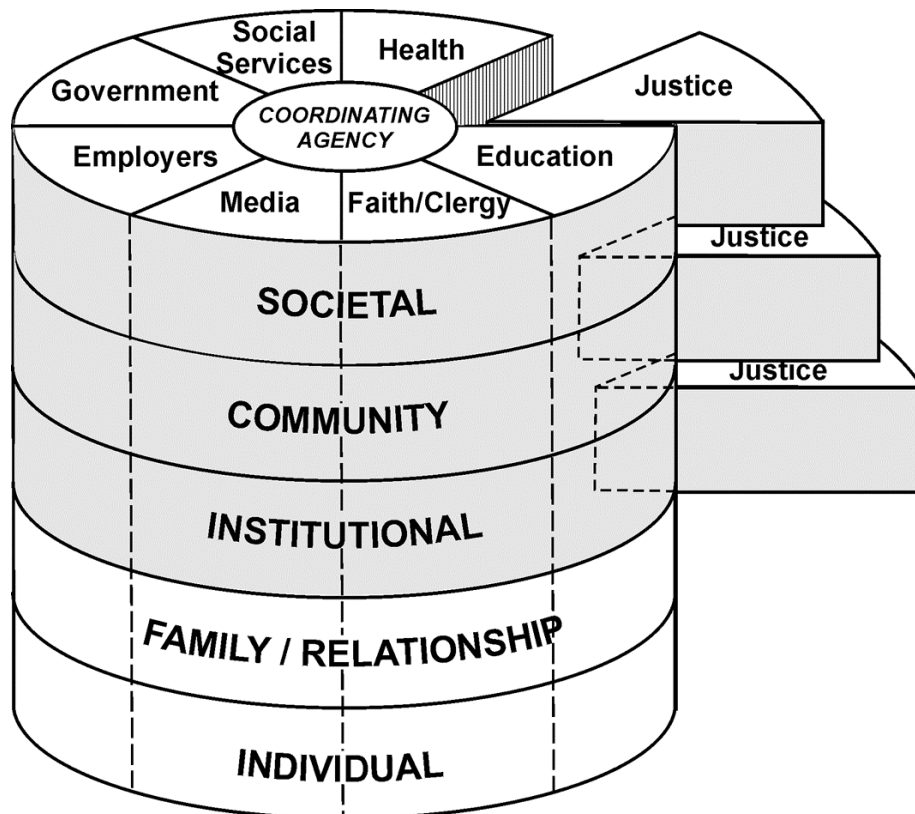
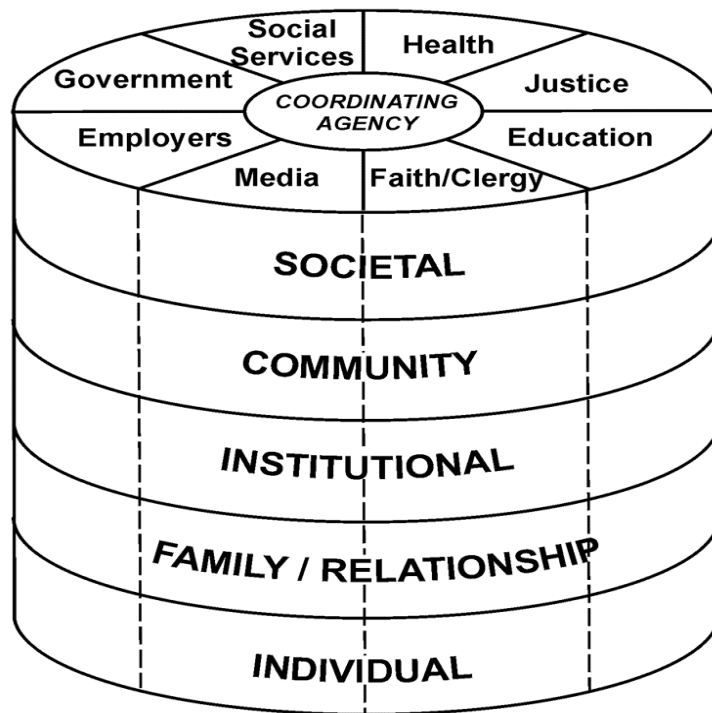


## ***Creating a Community Wide Response***

This is a demonstration of ways communities can accountably act to support victims of violence



One approach is to combine the ecological and co-ordinated community response models:



# POVERTY AND VIOLENCE

Associate Professor Mike O'Brien  
Child Poverty Action group

[www.cpag.org.nz](http://www.cpag.org.nz)

## POVERTY

POVERTY – WHAT POVERTY?

INSUFFICIENT RESOURCES, ESPECIALLY FINANCIAL, TO ENJOY AND PARTICIPATE IN THE EXPERIENCES AND OPPORTUNITIES REQUIRED AND EXPECTED IN CONTEMPORARY AOTEAROA/NEW ZEALAND SOCIETY

COMMON MEASURE – 60% MEDIAN INCOME

### CURRENT POVERTY

- CHILDREN – 220,000
- MSD REPORT – 26% OF CHILDREN LIVING IN HARDSHIP OR SEVERE HARDSHIP AND INCREASING
- BENEFICIARIES
- ETHNIC DIMENSIONS OF POVERTY
- WORK AND POVERTY?  
CURRENT POLICY DIRECTIONS  
DISCRIMINATION AND THE IN WORK PAYMENT

### DIMENSIONS OF POVERTY, PARTICULARLY AFFECTING CHILDREN

- HEALTH
- EDUCATION
- SOCIAL PARTICIPATION – RECREATION AND SOCIAL COMMITMENTS

### *Where are the poorest children?*

Social Report 2005

	1987–1988	1992–1993	1997–1998	2000–2001	2003–2004
Total population	12.3	26.5	20.9	21.8	19.3
Total dependent children	13.5	33.9	24.4	26.7	20.6
Children in sole-parent families	15.4	63.3	51.0	60.7	43.3
Children in two-parent families	13.1	27.0	16.8	18.4	14.6
By ethnic group					
With any Māori adult	13.5	41.8	30.3	31.5	23.6
With any Pacific adult	23.4	50.0	43.6	41.1	40.2
By main source of income					
New Zealand Superannuation	7.5	9.5	10.6	7.1	7.6
Income-tested benefit	25.1	75.1	60.5	61.2	51.2

## **Poverty leads to poor health**

Why does poverty matter?

1. Poor children get sick a lot more often
  - The likelihood of a child being sick is 3 times higher for those in the bottom household income quintile (*Easton and Ballantyne, 2002*)
  - Hospital admission rates for children are significantly higher in low income areas (*Graham, Leversha and Vogel 2001*)
2. Long term effects:

*Socio-economic disadvantage in childhood has long-lasting negative effects on adult health*  
University of Otago study; 1000 children born 1972-1973.

Children who grew up in low socioeconomic status families had poorer cardiovascular health poor dental health and more substance abuse as adults, regardless of adult socioeconomic conditions

Poulton R, Caspi A, Milne B et al Association between children's experience of socioeconomic disadvantage and adult health: a life-course study *Lancet* 2002; 360:1640-45

## **POVERTY IS VIOLENT**

- POVERTY VIOLATES
- HOPE AND EXPECTATIONS
- OPPORTUNITIES
- FUTURE PROSPECTS
- SENSE OF COMMITMENT TO SELF AND OTHERS
- SECURITY AND ENJOYMENT – STRUGGLE TO SURVIVE

## **QUOTES FROM ADULTS IN POVERTY RESEARCH PROJECTS**

- I haven't bought them any Christmas presents for the past two years... I feel angry at not being able to give my kids the same opportunities as some of their friends have
- Poverty is affecting the community by creating greater division between groups and more conflict within families
- All this juggling of money and struggling leaves me very, very, very, very, tired ... Sometimes I feel so desperate that I have actively contemplated suicide, and even that I can think of this is frightening. I've been through some traumas in my life and I never ever thought I would get to a stage of that
- You are limited so much that when someone does show you a bit of human kindness you lap it up like cream - I reckon it is quite sad ... I think myself that life is just a thing you have got to put up with. If you've not got the guts to commit suicide you just keep going
- Restrictions in every day areas can be seen to have caused stress in relationships and a decline in emotional and personal well-being. Because there is no money for anything but the absolute necessities, people are unable to pursue their own interests outside the home. Many families have therefore become more isolated and less able to participate in society in a way they would like to
- We do see families struggling to cope on low incomes, families continually facing hardship, families missing out on things others take for granted e.g. lack of resources and increased family stress levels arising from being poor increase the likelihood of family problems such as social isolation, depression, alcohol or drug abuse, child neglect or abuse

- Underlying the difficulties experienced both by those living on a benefit and those providing training is a feeling of being blamed for things beyond their control, of powerlessness, of being ignored, of being too small and insignificant to affect their own future. The result for individuals can be anger, depression, alienation, and hopelessness

***Child death and maltreatment report, 2006 (CYF)***

- A range of cross-national studies show that child death from maltreatment occurs predominantly in the context of poverty, psychological stress and limited support, while child murders (defined as a wilful act to kill the child) occur across the spectrum of socioeconomic status, including high-income groups.
- UNICEF’s cross-nation study found that, while ethnic minorities often have higher levels of child maltreatment, “... it seems likely that the operative factor is not ethnicity but poverty (which disproportionately affects ethnic minority families)”.

**COMMENTARY ON CHILD ABUSE DEATHS AND POVERTY**

- Poverty generates multiple stressors for families – poor housing, poor nutrition and hygiene, lower educational achievement and poorer life prospects generally. Poverty and general social disadvantage affect self-image and perceptions of self-worth that can lead to substance dependency, spousal violence or mental health disorders, particularly depression.

**Actions on child poverty**

- A large redistribution of resources is needed to rectify the harm to a generation, and protect against poverty in children now and in the future
- Remove discriminatory treatment of children
- Ensure that benefits are adequate and prevent poverty

**POVERTY IS NOT INEVITABLE**

**A STRUCTURAL PROBLEM TO DO WITH THE UNEQUAL DISTRIBUTION OF RESOURCES AND OPPORTUNITIES ...(UNICEF, 2000)**

# What are the Roots of Cultural Violence Against Refugee and Migrant Women and Children in New Zealand?

Gary Poole

CEO, Refugees as Survivors (RAS), Mangere Refugee Resettlement Centre

## ***Who are refugees and where have they come from?***

- New Zealand accepts 750 UN quota refugees each year and is one of 9 countries in this program
- By definition, refugees have escaped from severe persecution, and have experienced trauma and loss on a scale few in Western societies could even comprehend.
- Refugees have lost their homes, family, friends, culture: 19% have survived torture; 87% experienced severe trauma
- All come through the national Refugee Resettlement Centre in Mangere for medical, psychological and social assessment for preparation for resettlement - one-stop shop with four agencies
- Presently refugees are from Afghanistan, Burma, Congo, Iraq, Iran, Burundi, Rwanda, Somalia, Sudan, Ethiopia, Eritrea,

## ***A brief visual journey.....***

*WHERE AND FROM WHAT CIRCUMSTANCES HAVE REFUGEES COME?*

## ***Family and Partner Violence***

- Occurs in most societies across the world
- Migrant and refugee women are most particularly vulnerable
- It is a wrong notion that domestic violence is 'cultural' and thus somehow any less unacceptable

## ***Review of the literature***

- *Refugee Settlement, Safety and Wellbeing: Exploring Domestic and Family Violence in Refugee Communities – 2004 VicHealth*
- <http://www.vichealth.vic.gov.au/assets/contentfiles/CAS-Papers4-Refugee.pdf>

## ***What is known and unknown?***

- Intimate partner violence is at its highest point when communities are in transition
- When women begin to assume non-traditional roles & enter the workforce
- When men are less able to fulfill their culturally expected roles as providers and protectors (Krug, 2000) 2005 – involved 15 sites in 10 countries

## ***Unknown – quite a lot***

- Studies of cross-cultural resettlement violence prevalence are sparse
- Best work presently available is the UN World Health Organisation *Multicultural Study on Women's Health and Domestic Violence* –

## ***Prevalence of violence***

- Varies with diverse ethnicities
- Refugee Camp 'warehousing' high incidence
- Major study in Jordanian refugee camps showed 46% prevalence
- What is known for sure: domestic violence inside refugee communities is both high and under-reported

## ***CALD - Culturally and Linguistically Diverse Migrant Populations Western stereotypes and misconceptions***

- Western stereotypes of oppression and violence against women are not always true
- For example, in some Islamic countries the prevalence of violence against women may be less than in the West, one reason may be that the alcohol factor is removed

### ***Key studies***

- Shirwadkar (2004) in Canada found that despite progressive policies of multiculturalism and domestic violence policies, migrant women continued to experience social isolation, and did not have the same access to the justice system or refuges as other women and consequently do not report violence.
- Why? Because of: social isolation; language and cultural barriers; risk of condemnation; also pressures in their own communities.

### ***Key Findings***

- Isolation, 'cultural betrayal' and language skills Isolation from family support the important factor preventing migrant women from speaking out about abuse and family violence. Many migrant women and men believe women who seek assistance are 'betraying' their culture. Inadequate English is also a major barrier to women communicating with the broader community and in seeking help.

### ***Unemployment and Downward Mobility***

- The impact of unemployment and loss of social status strongly correlated to by both migrant women & men as being related to family conflict and violence. Work was seen by men as representing them as 'head of the family.' The 'breadwinner' role related to patriarchal beliefs mediated by culture. (Note DOL 2003 study- 80%+ @ 5 years)

### ***Trauma and Alienation***

- Trauma, mental health problems and alienation were all related to negative settlement issues and family violence. Women generally seem to experience torture & trauma without themselves becoming aggressors; patriarchal values & beliefs were seen to sanction violence against women- "taking it out"

### ***Gender Roles and Cultural Change***

- While many women became more aware of their rights and felt more empowered by the changes in their status, many of the migrant men felt disempowered. Many of the men did not accept the socially liberal changes in women's roles in the new country. Men attributed 'family conflict' to women becoming more dominant.

### ***The Western way of life - welcome to a new planet in a new century***

- Western society is seen by refugees as individualistic, materialistic, rushed and anti-social. Cultural barriers and lack of community cohesion and contact are important factors in understanding the unique difficulties and conflicts experienced by migrant families.

### ***Recommendations***

- That while refugees need to be made aware of the social norms of their new society, at the same time, their traditional lifestyles, beliefs and culture need to be preserved and valued....but without sacrificing basic, essential human rights. The delicate balance and challenge of a multi-cultural society

### **Best settlement outcomes**

- Not assimilation (Loss of culture and absorption)
- Not isolation (Culture retained but in isolated pockets and 'ethnic ghettos' develop – example: Paris riots of 2005)
- But acculturation where traditional home culture is preserved and valued but where the best of the new mores and values of the new host society are respected and incorporated and blended, anti-violence and the unacceptability of violence in its various forms being one of the key new values

### **Recommendations**

- That refugees be centrally involved in the development of policies and programs related to settlement and those specifically addressing family violence
- That education/information be intensively provided at the point and time of entry into New Zealand - and that this be combined with follow-up in the community

### **Prevention and Interventions – New and Current Developments**

- Education, active information at point of entry in the Mangere 6 week program (women only groups)
- Identification at point of entry for likely 'high risk' family cases
- Capacity-building for working with refugee women and families for mainstream NZ social services

### **What Refugee Community Facilitators do**

- Community Network Health Promotion
- 14 Community Facilitators representing 14 Key Refugee Communities
- 87 Interpreters in 27 languages
- Health promotion, psycho-education, smoking cessation, A&D, anti-gambling, and recently anti-violence "inoculations"

**Road Safety & Refugee Licensing** help with getting jobs and women becoming more independent

### **RAS Refugee Community Facilitators**

#### **What is happening currently?**

- Capacity Building
- Training health professionals in competencies for working with refugees and CALD clients
- Interpreter & clinician training
- Joint venture with Waitemata Health on training package, dvd, curriculum, national training programme

### **RASNZ – At the National Refugee Resettlement Centre**

- We do see families struggling to cope on low incomes, families continually facing hardship, families missing out on things others take for granted ... Lack of resources and increased family stress levels arising from being poor increase the likelihood of family problems such as social isolation, depression, alcohol or drug abuse, child neglect or abuse

**MISSION** United Nations mandated refugees will have access to quality, culturally responsive mental and general health services to assist positive resettlement in New Zealand



# Violence against Women and Children

Senior Sergeant Alan Rowland  
Youth Services Coordinator, Auckland City Police

## *Source of statistics and limitations*

- Statistics are sourced from Police systems
- Limited by;
  - Geography – only offences that occurred in Auckland City,
  - Only include those assaults reported to Police,
  - Only include those offences coded as 'male assaults female, or 'assaults a child'.

## *Reports of male assaults female*

- 2001 - 02 = 640
- 2002 - 03 = 613
- 2003 - 04 = 663
- 2004 - 05 = 622
- 2005 - 06 = 775
- Average = 663

## *Percentage of male assaults female complaints resolved.*

- 2001 - 02 = 77%
- 2002 - 03 = 84%
- 2003 - 04 = 90%
- 2004 - 05 = 90%
- 2005 - 06 = 91%
- Average = 86.5%

## *Assaults on children under 14 years of age.*

- 2001 - 02 = 68
- 2002 - 03 = 53
- 2003 - 04 = 72
- 2004 - 05 = 63
- 2005 - 06 = 52
- Average = 61.5

## *Influences and interpretations*

- Heightened public awareness increases reporting,
- Increased Police resources or focus on an area increase reported offences,
- Public confidence in Police may increase reports.

## **AUCKLAND FAMILY SAFETY TEAM**

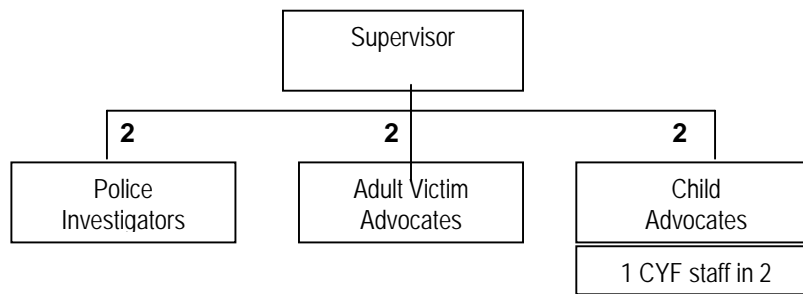
Auckland Oct - 2006

### **Composition of Auckland Family Safety Team (FST)**

covering Avondale and Onehunga Police Boundaries

Note: - Combinations may change following input of local practitioners and consideration of community demographics, community capability and policing practices. Budget allocations may also impact on team composition.

## Auckland Family Safety Team (FST)



### **Locations**

- 1 February 2005
  - Hamilton/Auckland
  - Wairarapa/Hutt Valley
- 1 February 2006
  - Christchurch
- 1 July 2006
  - Counties Manukau

### **Why these sites were selected?**

- Decision included the following criteria:
  - High risk
  - High volume of family violence (POL 400 data)
  - Demographics
  - North Island/South Island
  - Centre of best practice
  - Level of collaboration
  - Capacity

### **Principles**

The underlying principles of the FST concept are:

Ensuring the safety and wellbeing of family members who are victims of violence and improving the accountability of offenders in this area.

### **What have we done to date:**

- Information gathering and assessment
- Monitoring and evaluating practice and systems
- Developing new practice and systemic change

### **Some achievements thus far:**

- FV training delivered to a number of Government and NGO agencies.
- Case Managed with good results 100% conviction rate, limited Volume.
- Currently in the process of establishing a case management process for dealing with all high risk cases of FV across both defined Policing areas (17 plus) risk scores. (15 families at present)

### ***Strategic Direction for this year***

- Establish a forum for Case Management for High Risk FV (within pilot area)
- Evaluate local schools response to reporting of FV related concerns.
- Improve current procedures for dealing with repeat victim cases.
- Facilitate - Information Training for Government & NGO sectors.
- Assist alleviate issues effecting community response.

### ***Problems to Overcome***

- Size of Area allocated to the pilot.
- Number of agencies operating in each of the two Police areas.
- Size & capability of the Team
- Staff working in new environment with little previous experience in multi agency response.
- Vast amounts of information

### ***Future Positive Developments***

- Dedicated FV Court March 2007
- Further Police resources to Area FV Positions.
- Sworn FV Coordinator for District.

### ***Family Violence Courts***

- Operated at Waitakere since 1992
- Operated at Manukau since 2005
- Being introduced to Auckland City in March 2006

### ***How the FV Court works***

- Brings all the FV cases together on one day each week,
- A second day each week is used for defended hearings,
- Defendants reappear one week after their first appearance.
- Defendants are encouraged to admit their offending

### ***How the FV Court works***

- Defendants are encouraged to admit their offending with a view to getting help to control their anger, drug / alcohol abuse and violence rather than being sentenced to imprisonment.

# Strategies developing through the Taskforce for Action on Violence within Families

Andrea Evans  
Ministry of Women's Affairs

## **Overview**

- Role of Ministry of Women's Affairs
- Taskforce's first Programme of Action

## **Ministry of Women's Affairs**

- Providing strategic policy
- Monitoring the Action Plan for New Zealand Women
- Focusing on reducing the impact and incidence of domestic violence
- Contributing to the Taskforce
- Website: [www.mwa.govt.nz](http://www.mwa.govt.nz)

## **Taskforce's First Programme of Action**

- Leadership
- Changing Attitudes and Behaviours
- Effective Support Services
- Ensuring Safety and Accountability
- Website: [www.ms.govt.nz](http://www.ms.govt.nz)

## **Leadership**

- Monitoring and Implementing Programme of Action
- Developing relevant and effective actions
- Learning from what works

## **Changing Attitudes & Behaviours**

- Long term campaign
- Implemented at all levels
- Community owned and driven
- Nationwide media campaign

## **Effective support services**

- Keeping pace with demand
- Responding to emerging needs
- Providing culturally appropriate support
- Developing a costing tool

## **Safety and Accountability**

- Ensuring victim safety
- Holding perpetrators to account
- Improving information exchange

## **Ministry of Women's Affairs**

- Leading Taskforce project on victim advocates
- Undertaking Protection orders research

# Effective Support in a New Setting

Jenny Janif – Ministry of Social Development (MSD)  
Ailsa Wilson – Auckland Regional Public Health Service (ARPHS)

## ***Diversity in Auckland - new communities***

### Change in Ethnic Groups 1991-2001

- In the Auckland region, 1 in 3 people were born overseas.
- People of Arabic ethnicity are the second fastest growing group in 2001
- Iraqis are the fourth biggest
- In the Auckland region, 1 in 9 people were born in Asia.
- Almost three quarters of people born in the Pacific Islands and two-thirds of those born in Asia live in Auckland.
- Since 1996, there have been large increases in the number of New Zealand residents born in Africa, the Middle East and Asia.
- Excluding children under 5 years of age, 1 in 50 people do not speak English.
- More recent communities include Burmese from Thai Refugee camps
- The 2006 census will give a view of changing population demographics

## ***Refugee & Migrants***

### **Refugees**

- Take the quickest way out often without knowing their destination.
- Leave hastily, often to escape from harm.
- Leave secretly, unable to let loved ones know where they are going.
- Afraid to keep in touch with family or friends in their home country.
- May not be able to return home if things do not work out in the resettlement country.

### **Migrants**

- Choose their destination country and find out all they can before they leave.
- Plan their move.
- Pack their belongings and choose what to take and what to leave behind.
- Say goodbye to family and friends.
- Leave a forwarding address.
- May be able to go home if things do not work out in the destination country.

## ***Settlement Issues***

- Often re-traumatising (*refugees*)
- Isolation
- Culture shock
- Language difficulties
- Unemployment
- Depression and anxiety
- Reunification issues (*refugees*)
- Different family roles
- Housing problems
- Limited access to services & information
- Racism and xenophobia in the host community

## **Family Violence & New Communities**

- Country of origin & traditions vs. New Zealand life
- Cultural norms of family life – divorce/separation
- Separation & isolation from community upon disclosure
- Knowledge of NZ law
- Recognition the issue is affecting own community
- Hidden nature of family violence
- Excuses - perpetrator trauma

## **Family violence affects all the family**

### **Reducing Family Violence in Refugee Communities**

#### **The Approach – Refugee Community**

- Prevention programmes
- Societal and attitude changes
- Community owned the topic and raised needs
- Collaboration
- Working with elders and influencers
- Refugees' priorities are:
  - Safety
  - Survival
  - Resettlement

#### **Project Parameters**

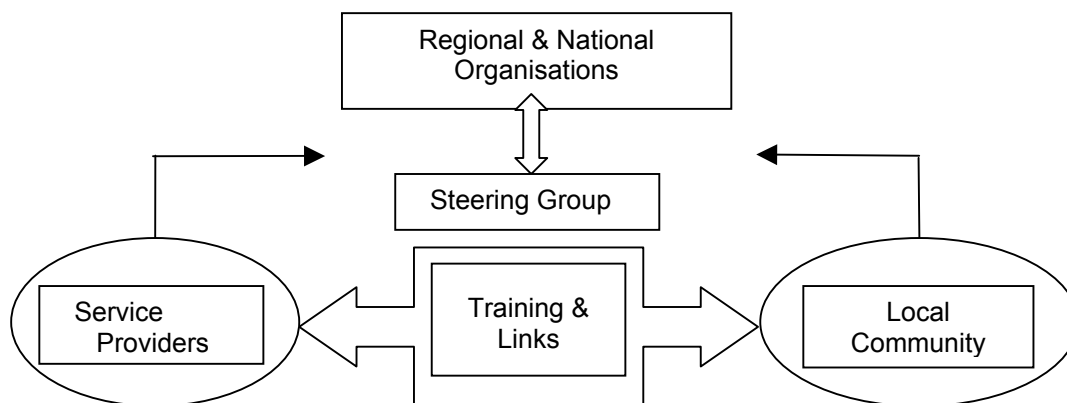
##### **Ottawa Charter**

- Build Healthy Public Policy
- Create Supportive Environments
- Strengthen Community Action
- Develop Personal Skills
- Reorientate Health Services

#### **Project Aims**

- Reduce family violence in refugee communities
- Engage refugee communities for attitude change
- Strengthen community action
- Strengthen responsiveness

#### **A Partnership Process**



### ***Key Project Components***

- Community decides programme (Strengths based)
  - Capacity building
  - Ownership
  - Culturally appropriate
- Training
  - Community 'train the trainers' (28 attendees)
  - Service providers (Refugee & FV agency)
  - How to deal with families experiencing violence
- Consistent FV prevention messages throughout all communities
- Reporting & Evaluation

### ***Refugee Community Led Projects***

- Iranian
  - Series on Triangle TV (Series of 4 programmes)
- Somali
  - Community meetings (3 men's session)
  - Triangle TV (Series of 7 programmes)
- Afghan
  - Community gatherings including mosque
  - Parenting
- Ethiopian
  - Parenting Course with Relationship Services

### ***Where Next?***

- Build on foundation of work by communities
- Broaden to other communities
- Network agencies and families/communities
- Intergenerational violence
  - Young role models
- Influence Policy Makers
  - Racism
  - Poverty
  - Employment

# Strategies Through Restorative Justice

Jan Ngatae  
Pact Restorative Justice Group

Restorative Justice is not a new process.

Traditional Societies required offenders to make amends, because of the close-knit societies that they lived in. There was no place to put prisoners to isolate them from the Victims. Everyone lived in extended family groups, villages etc. like the Vikings.... Polynesian people who used a form of Restorative Justice.

Restorative Justice focuses on the victim in contrast to the usual situation, where our Courts handle everything about the case through the Police, Lawyers and the Judge.

See differences between Criminal system and RJ system – chart I, p.48.

## ***Objectives of the Restorative Justice process, which is totally voluntary:***

1. Promote healing for the victim of crime.
2. Engage with offenders to establish accountability for the consequences of their actions.
3. Develop an appreciation of the impact of the offence on the victim.
4. Encourage and facilitate the provision of appropriate forms of reparation by offenders to victims and the community.
5. Seek reconciliation between the victim and offender where possible.
6. Strive to reintegrate the victim and offender into the community.
7. Give Hope. Promoting healing for the victim and change for the offender.

## ***Values of Restorative Justice:***

1. **Participation.** Those most affected – the victims, offenders and support people. All present at a meeting have something valuable to contribute, so are given time to speak.
2. **Respect.** Equal worth of all. Mutual respect engenders trust and good faith between participants.
3. **Honesty.** Speak openly and honestly to explain their feelings and accept others right to feel the way they do.
4. **Humility.** R.J. accepts common fallibility and enables victims and offenders to discover that they have more in common as flawed and frail humans, than what divides them as victim and victimizer.
5. **Interconnectedness.** Society shares responsibility to help victims be restored and offenders reintegrated. Victims and offenders hold the key to each other's recovery.
6. **Accountability.** Offenders express remorse and often make reparation.
7. **Empowerment.** Crime robs victims of power. R.J. re-empowers both the victim and the offender.

The first Restorative Justice Group in NZ. was Te Oritenga. In 1995 PACT was formed from this group and offered Volunteer facilitators to the Community. In 2001 when the Justice Dept formed a Pilot for Restorative Justice, PACT facilitators were again the first to be trained to Court Standards, and gained one of the first contracts to perform R.J. Conferences. The Justice Dept. Pilot has been run in Auckland, Waitakere, Hamilton and Dunedin.

Hon. Matt Robson said:

The results have been that putting an offender face to face with their victim so they can hear the hurt they have caused is a more effective wake up call, than just putting an offender in the dock to glare across the courtroom. R.J is our best chance at changing Criminal Behavior.

The Government plans to extend R.J to serious offences over the next 12 months and bring in a trial of R.J for offenders in jail prior to their release.



R.J is to be formally integrated into diversion, and increased to double the number of R.J. providers over the next 3 years.

Court referred R.J does not get involved with Family Violence. There is a Special Group to handle these cases as family and domestic violence is usually not an isolated case, rather a long-term process.

The Co-ordinator at the courts interviews an offender as to their suitability, before referring them to a group for a R.J. case, and the offender must admit to the offence and the Statement of Facts.

At the present time diversion one requires a victim to be present, and Community groups supported by the Crime Prevention Unit handle these cases. They usually involve a panel of volunteers or community people who listen to the offender, and make recommendations to the Judge.

Restorative Justice through the Courts uses Court trained facilitators and the victim is ALWAYS present. The offender is required to bring a support person, so they cannot hide their wrongdoing, and to help them stick to their promise of outcomes. The victim is encouraged to bring a support person who knows what they have been through, and can tell the offender how it has affected the people around them.

Offenders often try to deny the crime. In Court they often hope to get off, and emotion is removed with lawyers handling everything for them. Prison is seen as an easy option for some offenders, and they can learn other sorts of crime.

They say:..." the person I stole from can afford it." " It's only a car."

Once they hear what the loss of that car actually meant... e.g. child's favorite toy, someone missed their exam... then they feel shame and remorse and can understand the wider consequences of their actions.

The Judge gets a report of the outcomes, which in some cases may only be that the conference was held and the offender apologized. There may be no reparation because of the situation, but at least the victim can put to rest the questions of "Why me?" "Did I bring this upon myself by my actions?" and " Are you going to come back and do something to me in the future?"

The monster that the victim builds in their mind can be laid at rest when they see that the offender is actually a hurt human being.

Even though the Judge gets the conference report he or she will make the final decision, as there are guidelines for sentencing in each case. Sometimes the offender gets the full sentence, plus what was the outcome from the R.J. conference. Not the easy option at all.

### ***Some of the results of a R.J. Conference are;***

1. Victims report less post-traumatic stress, such as anxiety, irritability, and persistent, intrusive thoughts about the crime.
2. Often victims will not seek counselling so R.J. helps them come to terms with what has happened to them, allowing them to come to terms with and conquer their fear and anger.
3. Untreated post-traumatic stress not only causes pain and suffering to the victims and their families, but also can contribute to serious long term health problems and loss of productivity. R.J. conferences can save the country in health costs and health care, when we consider how many people are victimized at some time by some kind of crime.
4. For victims a R.J. conference is like a magic bullet in terms of a dramatic improvement in their condition. It's all about repairing the harm, and turning victims into survivors.

**Table 1.1 Differences between criminal and restorative processes**

*Table 1.1 outlines the fundamental differences between the current criminal justice system and what restorative justice processes seek to offer.*

<b>Criminal Justice Process</b>	<b>Restorative Justice Process</b>
Asks: What laws are broken? How did it happen? What do they deserve?	Asks: Who has been hurt? What are their needs? Who is responsible
Crime violates the State and its laws	Crime violates people and relationships
Focus on establishing guilt	Aims to identify needs and obligations
Decides on the punishment	Gives priority to putting things right
The offender is central	The victim is central
Is adversarial – offender versus the State	Encourages dialogue and mutual agreement
Creates winners and losers	Opportunity for responsibilities to be taken, needs met and healing encouraged
Governed by rules	Process is facilitated to meet the needs of the participants
Offers limited opportunity to consider wider causes and solutions or inclusion of the general community	Offers a forum for the community to be involved in dealing with problems of crime

Based on a paper presented by Howard Zehr at the 'Making Crime Pay' Conference, Auckland 1994 and printed in 'Stimulus' *New Zealand Journal of Christian Thought and Practice*, Vol 2, issue 3, 1994

# **Workshop Issues and Recommendations**

Issues discussed and comments from the Interactive Workshops involving all Conference Participants:

## **Taking Action on Human Rights**

*Joy Liddicoat*

## **Community Action**

*Radha d'Souza*

## **Action Through Restorative Justice**

*Jan Ngatae*

## **Taking action to Overcome Poverty**

*Mike O'Brien*

## **Action to Support Migrants and Refugees**

*Jenny Janif*

## **Action on Youth Violence Auckland City Police**

*Alan Rowland*

# Taking Action on Human Rights

Joy Liddicoat, Human Rights Commissioner

## Recommendations:

Human Rights Workshop - Human Rights Focus  
Human Rights should be used when focusing on Violence Against Women

## Issues that emerged...

- (1) Refugee / Migrant Women  
Actions – inability permanent residence in their own rights  
Adequate financial
  - For non permanent resident
  - Victims of domestic violenceIncluding human rights in immigration act review (sponsors – screening and accountability)
- (2) Poverty  
Securing adequate income for these families  
Work place – building infrastructure for the care of children  
Payment to family caregivers
- (3) Education  
Culturally relevant/responsive  
Give positive alternative, teach support strategies  
Media – responsibilities  
Piolititis – enough! We have things that work – lets use them, integrated approach
- (4) Working Together  
Roles of Men
  - Migrant Families – support cultural structures that allow for authority, respect, obedience to be support in non-violent way
  - Integration – to get heart change need to integrate work with men, women, families, communities
  - Strengths in traditional values – we need to draw upon it
- (5) Vulnerable Groups of Women  
Women in prison, women in sex industry, disable women, women with no place to go, women with mental health, drug and alcohol problems

## Actions:

- More research
- Specialised services for these women
- Housing, refugees

# Community Action

Radha d'Souza, Law School, University of Waikato

Communities can be defined by geographical boundaries – but also  
Community of Interests – for effective networking and action:

- For effective community action it is important to have a clear focal point, to be inclusive and to have regular communication
- Importance of using language that organisations can understand e.g. law, clergy, health etc...
- Make actions clearly defined and of manageable size
- Media – display regular poster messages for men and women; provide pamphlets in appropriate languages and make them available wherever women often go
- Churches have an important role to play in pastoral care
- Recognise alcohol and drug problems
- Importance of emphasising relationships involving community elders.

## Action Through Restorative Justice

Jan Ngatae, PACT Restorative Group

**In all of the information given today on violence, Restorative Justice has a part to play.**

**Alternative Definition** (user friendly)

Need for common sense – avoid false declarations (Victim)

***Hope for future – need to talk to each other***

### Recommendations:

- More trained facilitators – opportunity for victims to go to court
- Education for families – where to go to get help and to talk before the case goes to court
- Custody cases – difficult for men to produce evidence to support their case/access
- Involve societies, churches and schools – raise community awareness
- System needs to be streamlined?
- Discussion between different groups from the earliest age (communication) i.e. kindergarten onwards
- New attitudes – Life Skills Education to be taught in schools as another subject equivalent to English, Maths
- Need more communication – early intervention
- Family Start Programme very effective – involve media
- Maybe new attitudes to parenting education
- More promotion – media, educate / influence Police. Study the Apart Centres in Holland – Police intervention 3 months
- Establish more support centres
- Establish more Buddy Groups

***Restorative Justice helps the victims take the heavy load off their shoulders.***

# **Taking Action to Overcome Poverty**

**Dr. Mike O'Brien, Child Poverty Action Group**

## **Recommendations:**

1. Remove discrimination against children and families from In Work Payment
2. Improving basic wage
3. Review current heavy policy emphasis on paid work because of effect on families and children
4. Change policy approach to reduce levels of gambling addiction
5. Action to reduce effect of debt on low income families / households
6. Improve affordability of food and housing
7. Improved access to health care for children and adolescents
8. Emphasis on strengthening existing organizations rather than replacing them with new ones
9. Response to particular issues / needs of refugee families – appropriate services and benefit access
10. Acknowledge links between poverty – stress – violence and take action to reduce poverty levels

## **KEY ISSUES**

1. DISCRIMINATION OF IN WORK PAYMENT – CPAG CASE ON HUMAN RIGHTS. CHILDREN HAVE NO CHOICE.
2. CONTRAST IN OPPORTUNITIES FOR CHILDREN DEPENDING ON INCOME AND EFFECT OF MISSING OUT.
3. HEALTH CARE ACCESS, ESPECIALLY ADOLESCENTS
4. POVERTY: CHOICE – OPPORTUNITY – FRUSTRATION
5. WORK DEMANDS ON FAMILIES – EFFECTS ON CHILDREN
6. FOOD – SCHOOL LUNCH – NUTRITION – AFFORDABLE
7. GAMBLING – GOVERNMENT LACK OF RESPONSE
8. DEBIT – LOAN COMPANIES – SOCIAL SENSE OF SELF WORTH. HOPE REGARDING FUTURE
9. SCHOOL FEES – 'DONATION', COURSE COSTS – HUMILIATION OF ASKING
10. BASIC WAGE AND MULTIPLE JOBS – PROVIDE FOR CHILDREN
11. WORK EMPHASIS AND EFFECT ON FAMILIES / CHILDREN – MULTIPLE JOBS

# **Action to Support Migrants and Refugees**

## **Prevention and Awareness**

**Jenny Janif, Family Violence Project for Migrants**

### **Recommendations**

Investigate:

- ID issues and Links in communities
- Education – female and male
- Agency and immigration collaboration
- Media – positive approach

### **Messages to Communities**

- Family violence is unacceptable in this community
- It is not woman's fault
- Underlying / social determinants to be understood
- Encourage discussion especially with men
- Involve leaders and elders as role models

### **Cultural Mediators**

Responsibilities:

- Intervention
- Agency assistance
- Action and advocacy
- Evaluation of mediators – peer review
- Train the Trainers programme

### **School Initiatives**

Consideration for:

- Next generation
- Long term programmes with resources
- Positive messages: home / communities / school

## **SUPPORT REFUGEES WITH ADEQUATE FINANCIAL RESOURCES**

### **Further recommendations**

Support for

- Young men's achieving
- Parenting awareness in New Zealand context
- Individual Capacity Building (NGO / Government Agency) and Training
- Individual and Community Training through:
  - Cultural mediators
  - Capacity Building for access and information
  - Driver Licence training
- More resources required for:
  - Referrals to be picked-up and followed through
  - More fully trained language staff and phone links
  - Closing of gaps in existing services

# ACTION ON YOUTH VIOLENCE - SUPPORT FOR VICTIMS

Alan Rowland, Auckland Police

## Recommendations / Factors to consider:

- Cult / Family Pressure to return
- Linking and support
- Driving Licence
- Intervention and Agency
- Financial
- Family Conference (Family values) / Custody
- Safety
- Victimisation
- Cultural mediator
- Agency-support and training on issues
- Protection orders / Sponsorship

## Barriers

- Immigration sponsorships
- Stigma
- Young people under achieving (drugs and alcohol)
- Control of fertility/sex violence

## Prevention/Education

- Links with communities
- Employment discrimination
- Awareness of problems and solutions - Wider communication  
Special communities a focus  
Societal violence (negative/positive media)

## Causes of problem – research, documentation needed

- Generation / Genders
- Language and access
- Priority of Issue for Communities - Finance  
Education  
Employment
- Reduce isolation / resentment
- Train the trainers - Positive male role models  
Involve community

## Empowerment - Issues

- No choice
- Cult betrayal
- Stigma
- Protection of cultural identity
- Discrimination - Employment  
Racism

## Policy - requires adequate financial resources and should be

- Responsive
- Reflective
- Government / NGO / Agency
- Immigration
- Status
- Sponsorship
- Currently supports abuse and control