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Restorative Justice and Violence Against Women: Comparing Greece and The United Kingdom

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Abstract While Western societies are striving to become more honest about gender inequality, terms such as 'violence against women' have started to appear in policy debates in Asia and worldwide. The response is largely punitive. The option of restorative justice has been considered, but evidence on actual practice with these cases is scarce. Following international attempts to block restorative justice for violence against women cases, this paper argues that a better understanding needs to be developed before further steps are taken in any direction. The authors examined cases from their respective countries, Greece and the UK, to identify common elements, differences and minimum standards when applying restorative justice in cases of violence against women. An abstract implementation mode for further research is constructed.

Keywords Restorative justice · Gender equality · Violence against women · Domestic violence

Introduction

Restorative justice (RJ) is currently discussed in various international fora and continues to attract the interest of many reformers and researchers (e.g. see Braithwaite 2002a; Gavrielides 2007). These debates are complemented by numerous evaluations of restorative practices (e.g.

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see Umbreit and Greenwood 1997; Miers 2001; Miers et al. 2001; Wilcox and Hoyle 2004; Vanfraechem et al. 2010).

However, the appropriateness of RJ in cases of violence against women (VAW) remains largely unexplored (Cook et al. 2006; Proietti-Scifoni and Daly 2011). There is general consensus among feminists and victim advocates that RJ is not appropriate for such cases, particularly when it comes to intimate partner violence (Stubbs 1997, 2002; Acorn 2004; Hopkins and Koss 2005). Consequently, this area of practice remains under-researched and in the shadow of the law (Hopkins et al. 2004; Proietti-Scifoni and Daly 2011). Nevertheless, this does not hinder passionate practitioners from piloting conferences, mediation and other RJ programmes, most of the time without any government support (e.g. Hudson 1998, 2002; Jülich 2010; Jülich et al. 2010).

Advocates and opponents of RJ have called for further research into this grey area of limited practice (Yantzi 1998; Coker 1999; Stubbs 2002; Frederick and Lizdas 2004; Penell and Francis 2005; Gavrielides and Coker 2005; Gavrielides 2007). Based on the premise that the RJ rhetoric should focus on the development of RJ processes and principles rather than on the superiority of its paradigm, this paper aims to open up the debate on the appropriateness of RJ in VAW cases. The impetus for this paper came from a recent international policy development that may hinder the practical and theoretical development of RJ in VAW cases.

At the time of writing, the United Nations (UN) and the Council of Europe have issued guidance that prohibits their member states from using mediation "in all cases of VAW, both before and during legal proceedings" (United Nations 2009: 42; Council of Europe 2009). As the evidence is still accumulating, initiatives such as these are informed by incomplete data, while it is feared that their implementation could potentially result in the violation of the very principles that their initiating bodies were set up to protect. Furthermore, without piloting and continuing to evaluate existing ad hoc practices, a robust body of evidence will never be developed. We hope that, by joining other initiatives in bringing this debate forth, decision makers take proactive steps to allow research and learning to develop. The lack of research on actual RJ practices with VAW cases should not discourage intellectual debate; good practice needs to be grounded on solid theoretical foundations.

Let us also add that it is only recently that the social problem of VAW attracted the interest of policymakers worldwide (McGillvray and Comaskey 1999). The limited scope of this paper does not allow us to explore the movements (e.g. feminist, human rights), historical events and tragedies (e.g. suffragettes) that led to the increased awareness that now allows us to finally talk openly about these issues. Despite this progress, there is still a long way to go in understanding, let alone dealing with, VAW.

Despite the use of some case studies, our paper is not meant to be based on research on actual practice. As Daly and Nancarrow (2010) argued, there are so few RJ pilots with cases of VAW that it is practically impossible to conduct research on what is actually happening. Proietti-Scifoni and Daly said: "research on actual practices or outcomes, victims' experiences of informal processes, or comparisons of informal and formal processes and outcomes … is difficult [in this area]" (2011: 271). "It is hard to gain access to victims and contact them; and, once contacted, they may not wish to participate in research" (Proietti-Scifoni and Daly 2011: 271).

Through a combination of literature review and a small scale qualitative study carried out in 2009–2010, this study aimed to achieve two objectives. First, to identify the key similarities and differences between cases that took place in two different jurisdictions. Second, to construct an abstract implementation model for further research using the

common minimum standards that these jurisdictions use when applying RJ for VAW. To narrow down our findings we focussed on cases that had dealt with reported incidents of domestic violence.

The selected cases are by no means representative of the number and types of cases dealt with in the selected jurisdictions. As with any qualitative research, the intention is not to generalise, but to provide in-depth material for further thinking and analysis. The jurisdictions of Greece and the UK were selected for at least three reasons. First, they represent two very different methods of introducing and applying RJ. The introduction of RJ in Greece represents a "top down" approach of implementation through legislation[1] and state intervention (Artinopoulou 2009; 2010a). In the UK, RJ is very much a community driven/"bottom up" initiative (Dignan 2010), with no legislation behind it other than in the case of juveniles.[2] This is a key difference that must be explored further, particularly since the extant literature has argued that the limited RJ practices with VAW exist largely in informal settings (Proeietti-Scifoni and Daly 2011). Secondly, whereas in Greece RJ is relatively new, in the UK, it has been implemented since the early 1970s (Gavrielides 2007). This may raise issues of basic principles. Thirdly, the two jurisdictions were selected due to convenience including language limitations, sample accessibility and the two authors' respective locations.

Conceptualising Restorative Justice and Violence Against Women

Restorative Justice

Over the years, international, regional and national bodies have drafted guidance, declarations and statements fleshing out the key principles encompassing RJ. For instance, in 2002, the UN Council adopted Resolution E/CN.15/2002/L.2/Rev.1 'Basic principles on the use of RJ programmes in criminal matters', encouraging countries to use them in developing RJ (United Nations 1999). Despite the many definitions that exist in the literature, there is still ambiguity surrounding RJ (Gavrielides 2008). It is not the intention of this paper to explore these conceptual battles. However, it is important to acknowledge the complexity of the issue.

For the purposes of this paper, "Restorative Justice is an ethos with practical goals, among which is to restore harm by including affected parties in a (direct or indirect) encounter and a process of understanding through voluntary and honest dialogue. Restorative justice adopts a fresh approach to conflicts and their control, retaining at the same time certain rehabilitative goals" (Gavrielides 2007: 139). For Braithwaite (1999) and McCold (1999), the principles underlying this "ethos" are: victim reparation, offender responsibility and communities of care. McCold argues that if attention is not paid to all three concerns, then the result will only be partially restorative. In a similar vein, Daly (2006: 7) said that RJ places "…an emphasis on the role and experience of victims in the criminal process", and that it involves all relevant parties in a discussion about the offence, its impact and what should be done to repair it. The decision making, Daly said, has to be carried out by both lay and legal actors. RJ practices consist of: direct and indirect mediation, family group conferences, healing/sentencing circles and community restorative boards (Walgrave and Bazemore 1998; Crawford and Newburn 2003; Gavrielides 2007).

[1] Juvenile delinquency Law 3189.2003, domestic violence – Law 3500/2006, civil and commercial matters 3898/2010, Article 214A of the Greek Code of Civil Procedure (private disputes).
[2] Crime and Disorder Act 1998 and Youth Justice and Criminal Evidence Act 1999.

Violence Against Women

'VAW' is not a term without definitional challenges. The UN recommends that the term includes all the following forms of violence:

- "Domestic violence, femicide/ feminicide,
- Sexual violence including sexual assault and sexual harassment,
- Harmful practices including early marriage, forced marriage, female genital mutilation, female infanticide, prenatal sex selection, virginity testings, HIV/ AIDS cleansing, honour crimes, acid attacks, crimes committed in relation to bride price and dowry, maltreatment of widows, forced pregnancy, and trying women for sorcery/ witchcraft, and
- Trafficking and sexual slavery" (United Nations 2009: 24).

The UN also acknowledges that VAW can occur in the following contexts: "in the family; in the community; in conflict situations; condoned by the state including violence in police custody and violence committed by security forces" (United Nations 2009: 25). Finally, forms and manifestations of VAW vary depending on the specific social, economic, cultural and political context.

Restorative Justice and Violence Against Women

When looking at RJ and VAW as a topic, the extant literature is scarce. The debate was opened early in 1995 (Braithwaite and Daly 1995). These latter authors proposed a model based on communitarian control to empower victims, seen as a pyramid with escalating steps. They noted: "We are suggesting that community conferences open an avenue for addressing the failures of contemporary justice processes, which leave misogynist masculinities untouched by shame and victims scared by blame" (Braithwaite and Daly 1995: 244).)

UK research published in 1995 looked at the use of RJ with spousal abuse (Carbonatto 1995) while Strang and Braithwaite (2002) provided a theoretical analysis of the arguments for and against RJ in cases of domestic violence. Some of the most thorough evidence so far has been produced in Austria where 'Out-of-court-offence-resolution' (Außergerichtlicher Tatausgleich) has been used in cases of partnership violence since the 1990s. In 1999, qualitative research led to the conclusion that the potential or strength of mediation with these cases lies in reinforcing processes of empowerment or liberation (Pelikan 2000). The study was repeated 10 years later focussing on female victims. About 900 questionnaires were sent out to those who had undergone victim-offender mediation. A total of 33 victim-offender mediation sessions were observed and 21 qualitative follow up interviews were carried out; 83% of all domestic violence victims who had undergone direct mediation reported no further violence. And 80% of those who reported no further violence contended that this was due to the RJ meeting. They reported that RJ helped to bring about direct or indirect empowerment.[3] Forty percent of those women who remained in a partnership or who were still in contact with the offender but had not experienced further violence stated that their partner changed as a result of mediation.

In South Africa, a large victim-offender conferencing project with female victims of domestic violence occurring in three districts near Johannesburg reported positive outcomes.

[3] Direct empowerment implied the increased capacity to state one's demands and claims for life without violence, or the increased capacity to handle conflicts through communication. Indirect empowerment is pointing to mediation as an impetus to seek further support and help (Pelikan 2010, unpublished).

Twenty-one women who had agreed to take part in a small scale study reported that they felt that mediation had provided a safe space where their personal safety was not threatened, and where they could tell their stories, speak their minds and be heard, often for the first time (Dissel and Ngubeni 2003). According to this research, the RJ dialogue and the intervention of the mediator helped female victims feel safe again, and able to speak on an equal basis to their partners. Follow up to assess whether there had been any changes in the victims' views and the offenders' behaviour showed that, in all 21 cases, the female victims remained positive while reporting changes in the behaviour and conduct towards them with no further assaults or verbal abuse (Dissel and Ngubeni 2003).

Canadian research with First Nations women who had been in violent relationships favoured diversionary responses (McGillvray and Comaskey 1999), while three New Zealand studies on RJ with family (Kingi et al. 2008), partner (Tisdall et al. 2007) and sexual (Julich et al. 2010) violence cases highlighted the victims' satisfaction citing "open dialogue", "empowerment", "healing" and "being able to meet the offender". The UK-based DOVE project working with victims of partner violence reported positive results (Social Services Research 2003), while the New Zealand-based Project RESTORE discusses a range of RJ practice matters and benefits in relation to sexual violence cases (Julich et al. 2010).

Recently, there has been an increased interest in reviewing the scarce extant literature in the area. We agree with Ptacek (2010), Daly and Nancarrow (2010) and Proietti-Scifoni and Daly (2011) that all the aforementioned studies are based on small samples and lack the longevity that would allow us to draw solid conclusions. As Proietti-Scifoni and Daly (2011) put it "Our review of the sparse literature suggests that the sharp-edged nature of the debate is not recapitulated in the evidence which may show a fuzzier and incomplete picture" (Proietti-Scifoni and Daly 2011: 274).

Comparative Learning: A Case Study Analysis

As already noted, this paper does not aspire to breach the gaps in evaluation of RJ with VAW cases. The selected cases are intended to contextualise RJ for VAW and illustrate the key similarities, differences and minimum standards that were used.

Restorative Justice with Violence Against Women in Greece

State surveys carried out in 1999 and 2006 revealed the severity of VAW cases and the level of concern of Greek society and the Greek government (Giovanoglou 2008). Like most continental jurisdictions in Europe, Greece enacted legislation providing for restorative practices, namely victim-offender mediation.[4] Separate juvenile delinquency laws were enacted, focussing on social support and services rather than punitive treatment of VAW offenders (Artinopoulou 2009). Based on the European Directive on mediation in criminal proceedings, Law 3500/2006 on 'The Confrontation of Intra-Family Violence' provides mediation for domestic violence cases. This is provided only for misdemeanours either before or after prosecution. Three conditions are attached, i.e. that the offender had agreed: (1) not to commit any further domestic violence, (2) to participate in a special counselling/therapy programme, and (3) to undertake reparation to the victim, where possible. The General Prosecutor is responsible for carrying out the mediation process. Artinopoulou

[4] The law also provides for victim compensation and community service.

(2010b) argues that the regulation of penal mediation in the Hellenic legal tradition is seen as an innovation and a step towards the refutation of the traditional punitive system.

The implementation of RJ is faced with a series of problems and contradictions. These refer mainly to a lack of a wider public dialogue on mediation and RJ as well as the potential diffusion of roles between the public prosecutor and the mediator. In an evaluation carried out in 2008, Giovanoglou indicated that the way in which RJ was introduced for domestic violence cases was flawed from the start. This was attributed largely to the role of prosecutors, who are expected to act as mediators despite lack of training. Particularly in the case of domestic violence, Giovanoglou (2008) argues that prosecutors lack independence and flexibility in carrying out their mediating role.

According to Artinopoulou (2010a), there is also a lack of consistent legislative guidance. Examples of shortcomings in the implementation of RJ relate to the reporting system, the lack of coordination on the part of social services and the evaluation and follow-up strategies for assessing progress. The enforcement of penal mediation is also often hampered by offenders' own unwillingness to co-operate.[5]

Restorative Justice and Violence Against Women in the UK

In contrast to Greece, the first development of RJ in the UK did not come through legislation but from the community, without any government support. In 1972, a project set up by the 'Bristol Association for the Care and Resettlement of Offenders' (BACRO) led to the development of the 'Forum for Initiatives in Reparation and Mediation' (FIRM) in 1984, then known as Mediation UK (Gavrielides 2007). Since then, RJ for adults had to find its way in the 'shadow of the law'. For the youth justice system, the 'Crime and Disorder Act 1998' (CDA), introduced the Youth Offending Teams' (YOTs) and the 'Reparation Order', which enables courts to order young people to undertake practical reparation activities directly to either victims or the community. The 'Youth Justice and Criminal Evidence Act 1999' (YJCEA) introduced the 'Referral Order'. This is a mandatory sentence for young offenders (aged 10–17 years) appearing in court for the first time who have not committed an offence likely to result in custody. Despite the absence of legislation, community-based organisations provide RJ services for VAW independently and on some occasions with the support of agencies such as the police, probation, housing associations and healthcare services (Gavrielides 2011). Table 1 presents some of these projects.

Case Studies

The following seven case studies were selected with the sole purpose of contextualising RJ with VAW cases in the selected jurisdictions. The cases from Greece were retrieved from the archives of the Public Prosecutor's Office of District Court Judges at Athens. The 3 cases below are selected from a total of 60 cases forwarded to the special appointed public prosecutor's office for mediation, for a 3-year period (2006–2009) from law enactment. The criterion for selecting was the severity of the committed offence. During an interview we held with the Public Prosecutor appointed for domestic violence, it was admitted that from the 800 domestic violence cases of 2009, only 20 were preceded by mediation. The cases from the UK were selected from one of the

[5] It is worth noting that once the offender agrees to penal mediation, the public prosecutor may lift charges; when the offender does not honour that agreement, the case is submitted *nisi prius* to the penal records (returned to the original court).

Table 1 Community-based restorative justice (RJ) programmes in cases of violence against women (VAW) in the UK. *NACRO* National Association for the Care and Resettlement of Offenders

Project/ organisation	Nature of work	Year	Further information
Plymouth Mediation in partnership with Plymouth Probation Service	Mediation for victims and perpetrators of domestic violence (approximately 300 referrals per year)	1994–2000	Plymouth Mediation 1996
The Daybreak DOVE Project in partnership with the Hampton Trust	Family Group Conferences for domestic violence (approximately 25 referrals per year)	2001–2008	Taylor and Powney 2005; Daybreak Dove Project 2008
Victim Liaison Units, National Probation Service	Mediation with victims and perpetrators who receive a prison sentence of 1 year or more for a sexual or violent crime	N/A	Liebmann and Wooton 2008
UK College of Family Mediators	Family mediation—domestic abuse screening policy	1999	UK College of Family Mediators 1999
Connect in partnership with NACRO	Mediation and group conference with complex cases such as domestic violence. Worked with adult offenders convicted at Camberwell and Tower Bridge Magistrates Courts, and the victims of their crimes	2001–2005	Gavrielides 2007

community-based programmes included in Table 1.[6] The cases were also discussed in an interview with the senior practitioner responsible for the programme. They were selected on the basis of their severity and depth.

Cases from Greece

Case No. 1 In July 2007, a woman accused her husband of verbal and physical abuse and testified that he had thrown an iron chair at her in front of their 10-year-old daughter. In her affidavit, the complainant also stated that the offender had refused to take her to hospital and left her to bleed. The medical examination verified head injury and suggested fortnightly hospitalisation. In September, the police submitted an impeachment to the public prosecutor for cases of domestic violence.

The accused later claimed that it was all a 'misunderstanding', that he had never abused his wife, and that he had left the house to avoid disturbing the neighbours and waking up his sleeping daughter. Finally, he argued that as he was still living in the house, this was a testament to the validity of his claims. In October, the public prosecutor of the court of first instance summoned the accused ordering him to appear before the public prosecutor for cases of domestic violence. The prosecutor engaged the law providing for victim-offender mediation and asked that in advance of the mediation the accused:

(1) Declares his willingness to avoid any further acts of victimisation,
(2) Attend a counselling programme provided by a public health institution, and
(3) Repair/restore all the harm/damages caused by his actions as well as to compensate the victim financially (Artinopoulou 2009: 373).

[6] The name of the programme cannot be disclosed due to confidentiality.

The accused formally agreed to the conditions. His wife also accepted his statement of intent. Soon, however, the accused breached both legislation and his agreement. He never attended the therapeutic/counselling programme of the National Social Solidarity Centre (EKKA) and halted the process of mediation. RJ was dismissed as an option, and the victim was dealt with only as a witness in the formal criminal process.

Case No. 2 In May 2007, the police submitted an impeachment for domestic violence. The case involved a woman accusing her husband of severe physical battery. The woman argued that the incident was witnessed by one of the couple's children. According to her testimony, the woman charged her husband for trying to strangle her, calling her a 'whore', pulling her hair, kicking her, punching her head and hitting it against the kitchen bench. The woman also suggested that such violent behaviour against her was common, but had not previously pressed charges against her husband because of their children.

Witnesses verified the particulars including the past incidents of domestic violence. All three testimonies emphasised that the victim had previously filed for a divorce—a matter that she had discussed with her husband at her lawyer's office a few hours before the incident. The medical examiner's report suggested a 3-day hospitalisation and referred to 'simple physical injuries', a classification defined by Article 308 of the Penal Code. In May, the court judge signed the victim's statutory declaration of her previous testimony and added that she and her husband were now separated. In June 2008, the accused argued that his wife was having an extramarital affair with a colleague of theirs. He accused his wife for having concocted the incident of domestic violence in order to destroy him morally and financially. He also claimed that he was so embarrassed that he had to quit his job. The accused closed his statement arguing that he was hoping that justice would be served by revealing the true causes of his wife's complaint against him.

In November, the accused appeared before the public prosecutor for cases of domestic violence. The prosecutor initiated mediation and laid the conditions for the accused. Once again, both parties accepted RJ. The accused also attended EKKA where they defined the therapeutic/counselling programme. However, RJ was halted after only one session as the couple decided their definite separation. They did not see any reason for pursuing a dialogue and mediation. The prosecutor did not see any reason to mediate in the case.

Case No. 3 In September 2008, Athens' public prosecutor's office accused a couple for domestic violence. The wife was prosecuted for having beaten her husband and having thrown a wooden toy at her 5-year-old son. The husband was accused for having beaten his wife. They were both referred to RJ, which they endorsed. In October, both parties acceded to attending the therapeutic/counselling programme prior to mediation. The public prosecutor signed the relevant reports for the agreement and submitted a brief regarding an ongoing legal dispute between the couple.

In January 2009, the Director of EKKA informed the public prosecutor that, during their first meeting, the couple cooperated with the centre's psychologists. However, they consumed themselves in a 'vicious circle' of exchanging accusations regarding prior to legal abeyances. According to the EKKA, the woman wished the cooperation would continue. A few days later, she called EKKA to tell them that her husband had abandoned her and their child. The dialogue had intensified the tension between them. Whereas the woman continued receiving aid from EKKA, the husband ceased communication. Consequently, RJ was discontinued and the case was referred back to the traditional criminal procedure. No effort was made by the prosecutor to look into the offender's withdrawal.

Cases from the UK

Case No. 1 The woman victim had been in a long-term relationship with the offender. He took to alcohol and drug use and became unstable. He became violent and controlling, culminating in an attack and scary imprisonment. The victim was an intelligent, professional woman who was incensed by the way she had been demeaned and ignored by the criminal justice services. She wanted to make it plain to the offender that the relationship was over. Her main reason was to assess his mental state and a genuine concern for his recovery. Faced with disapproval by the probation and police authorities, she was insistent about the RJ process, which was offered as part of a voluntary organisation's practice.

At the assessment meeting with the offender, he was told that he could not demand a direct meeting until the victim felt secure. Whereupon he flew into an uncontrolled rage and made a string of threats against the victim. The victim had doubts. "You will assess this man based upon a 50 minute meeting. I have lived with this man for XX years; I am professionally more competent at making that assessment than you are", the victim said to the mediator, who spent a considerable amount and resource providing further information.

In the end, the parties met and the case was successful. The victim was put in control of the process. Her questions were answered and the hidden risks were exposed. The professionals were made aware of the real and continuing problems that needed to be addressed and hence the risks were lowered and the relationship was ended as safely as possible. The mediator had worked with domestic violence cases for over 10 years and was aware of the intense preparatory work that had to take place prior to the encounter. Although the outcome was not a cosy recovery of the relationship, the victim reported being satisfied while both parties felt a feeling of restoration and the ability to move on. Expectations were made clear from the start; these did not include recovery of the love relationship.

Case No. 2 A couple had been having difficulties for some time and the relationship was breaking down. They had a joint business, which they kept going despite being separated. He was becoming threatening, occasionally violent and jealous. In this case, the offender was heading for a custodial sentence. Sentencing guidelines dictated this outcome. However, the victim did not want this. Following a referral by the police, direct mediation was organised by a voluntary organisation. During the meeting, it became clear that the business would go under if he went to prison. Both parties entered RJ voluntarily but with certain expectations. The victim wanted her safety guaranteed for a longer period, rather than see him serve a short custodial sentence. On the other hand, the offender needed stronger long-term parameters for his behaviour, and the ability to make reparation by winding up the business successfully. Despite the lack of legislative provision, the RJ intervention led to a suspended sentence and a long-term protection order by the court. This meant that both parties' wishes were met. This was noted clearly in their written assessment a few months post mediation.

Case No. 3 The victim wanted to make contact with the offender who was imprisoned due to assault. The stated aim was to assure themselves of the offender's well being. The case was referred by social services. When contacted by the mediator, the offender stated that he wanted to apologise, and did so without reservation. But he did not wish to meet the victim; he explained that the relationship was destructive and that it was best for both parties to

move on. He did not believe that a direct meeting would benefit either of them. This decision was met with unexpected anger by the victim, who actually wanted to re-establish the love relationship. It became evident that the controlling, dominant partner was the victim of this particular offence, but not always the weaker party. This showed to the mediator the need for great care at all stages in these cases. It also highlighted the significance of identifying and agreeing to expectations before the encounter takes place.

Case No. 4 In this case, the charged offence was rape. The victim was a sex worker, and controlled and dominated by her partner. She agreed to undergo RJ having been referred to a voluntary organisation by the police. During the meeting, it became clear that her needs were so great that, despite genuine remorse by the offender, it was hard to claim any great success in addressing the harm to her. Despite this, she reported that RJ gave her a chance to speak to the offender and to access some real help in her life. She said to the mediator: "for the first time in my life, I felt I was in control".

In an interview with us, the mediator of the UK cases said: "One of the most important benefits that I identified from the above case studies was the empowerment that the process offered to the victim. This benefit should not be underestimated. It is unique in the RJ process. Empowerment of female victims of violence gains particular significance in a male dominated system which lacks the support structures and disregards the significance of equality in helping survivors move on with their lives".

Critical Analysis

From the above analysis, some key facts and issues are identified. These are summarised in Table 2, and examined in detail below.

A key similarity in all cases is the dependence of their success on the principle of voluntariness. This seems to be better implemented in a bottom-up structure rather than within a legislated framework where RJ is offered principally as a rehabilitative/ treatment strategy for the offender. The skills and motivation of practitioners are also paramount. A public servant such as a prosecutor naturally focuses on putting things right for the system rather than the individual; prosecutors are legally trained justice servants with entrenched criminal justice mindsets.

It is also clear from the cases that removal from the parties of the option to engage in a restorative dialogue is equally problematic (see intentions by United Nations 2009). In the UK, many have argued for legal provision that would make this option obligatory (e.g. see Dignan 2010, Ministry of Justice 2011). However, as evidenced by the Greek case studies, despite legal provision and a 'top down' approach to implementation, RJ for domestic violence cases is still problematic. Alongside victims' frequent unwillingness to report (Artinopoulou 2009: 378), the interruption of mediation can also be attributed to the offender's priorities and the prosecutor's attitude. With the exception of the woman in Case No. 3, the men in cases 1 and 2 agreed to penal mediation, but ultimately retreated and chose a radical break from their families. In the second and rather more complex case, the couple had agreed to penal mediation, but their final decision to get a divorce disregarded the agreed procedures. The prosecutor/ mediator did not see any reason to continue RJ.

A central premise of public law, part of which is criminal law, is the consideration of public interest in the process of bringing an incident to justice. This is very much reflected in the prosecutor/ mediator's decision to discontinue RJ in the above cases. Evaluation has also showed that a coerced type of RJ is doomed to fail (Umbreit and Greenwood 1997; Miers et

Table 2 Facts and issues relating to the implementation of restorative justice for VAW cases in Greece and England and Wales

	Greece	England and Wales
Facts	RJ is a relatively new practice	RJ has been applied since the 1970s
	RJ is provided by Law 3500/2006	RJ is community born
	Applied for misdemeanours and before prosecution or post provided that the offender has met certain conditions	RJ remains in the shadow of the law (in the juvenile justice system: Crime and Disorder Act 1998/ Crime and Disorder Act 1999)
	The General Prosecutor is responsible for initiating mediation	Largely, RJ for VAW cases is initiated by victims
		The mediators are independent (rare exceptions where the Probation Service and the Police may carry out informal RJ)
	Public prosecutors are the mediators	Cases are referred principally to voluntary organisations by public service providers
	If unsuccessful, the case is referred back to the CJS	Both parties enter RJ voluntarily
Issues	Top down approach creates a solid structure that does not accommodate RJ's principles and ethos	RJ remains a voluntary sector initiative
	There is role contradiction between mediator and public prosecutor	Issues of funding and continuity; issues of evaluation and consistency
	Lack of consistent guidance	
	Shortcomings in implementation (principle of voluntariness, interruption)	Practice standards are voluntary
	RJ is mostly seen as a rehabilitative, soft measure for the offender; the victim comes second	No crime of domestic violence per se
		Cases are referred to mediation by public service providers but there is no formal structure; it is an ad hoc process

al. 2001; Wilcox and Hoyle 2004). Our qualitative analysis of the Greek case studies points out that to meaningfully engage the benefits of RJ for VAW cases, we need to move beyond the punitive understanding of coercive participation and identify the trade-offs and a model that can offer the parties the option should they genuinely want it. Although rehabilitation/ treatment are important for the offender they are not listed amongst RJ's key principles which include healing, empowerment, forgiveness, inclusiveness, fairness and restoration (Braithwaite 1999; McCold 1999).

To this end, the main task at hand is to initially test the limits of RJ at a micro, interpersonal level. Since the macro level would require structural changes and a redefinition of the relationship between individuals and the state; the micro level can gradually offer us ample examples of how direct relations can alleviate tensions and resolve conflicts that, in their totality, constitute certain social phenomena, such as gender-, race- and class-based inequality. In this context, RJ is all the more important for cases of VAW.

Given that mediation cannot become a punitive system as such, it is ultimately up to the parties to accept that an interpersonal dispute is not merely a family incident, but rather a social phenomenon that affects all. Even when they appear to stem from individual problems and choices, the actions of offenders point to structural and institutional shortcomings that go beyond the Greek legal system and extend to education, gender-based social stratification and the boundaries and strengths of RJ. These are challenges that should be expected by any jurisdiction implementing RJ from the top down.

Undoubtedly, there is a need for extensive and in-depth comparative research on the suitability of the treatment of victims of VAW in the context of traditional judicatory systems and restorative procedures. In the case of an experiential/subjective approach to victimisation, victims should be allowed to choose the processes that they believe would address their needs. Discussion, therefore, should move beyond alternative analyses and concentrate on more flexible and realistic approaches to the type of justice and the offences that appertain to restorative procedures (Curtis-Fawley and Daly 2005: 609). In conclusion, although RJ may have been provided in the rigid law of the Greek system and became part of its public law discourse, implementation is often hampered. It becomes clear that law alone cannot initiate an ethical dialogue among parties and society. There is a developing body of research on RJ in the Asian continent (e.g. see Lee 2009); policies are being reviewed and legislation is being considered (e.g. see Ua-amnoey and Kittayarak 2004). Lessons from abroad must be considered and UN attempts to block this process must be discouraged.

A Model for Social Change

Based on the qualitative findings of our comparative studies, a universal model of RJ for VAW is proposed for further research. The model should meet the following minimum standards identified in all case studies independently of their country of origin and seriousness.

i. Principles of voluntariness, empowerment and informed choices (Gavrielides 2007),
ii. The Universal Declaration of Human Rights underlying principles of fairness, respect, equality and dignity,
iii. The principle of confidentiality (Gavrielides 2007; Braithwaite 2002b),
iv. Professional standards, accreditation and professional ethics,
v. Independence of mediators, practice, evaluation and research (Gavrielides 2007),
vi. The process should be victim-led and victim initiated to address issues of power,
vii. The process should be carried out only by senior practitioners who should be expert enough to act as a 'cut out' sifting appropriate cases,
viii. Appropriate infrastructure needs to be in place in the form of follow up victim support services (e.g. counselling).

A 'top down' approach to implementation is unlikely to guarantee success; rather than forcing the option of RJ, best practice is better defined through the aforementioned principles. However, the proposed model is best placed in the criminal process and not outside or parallel to it. Within the system, the model can be 'independent,' 'relatively independent' or 'dependent'. It is 'independent' when the RJ practices divert the criminal case out of the formal criminal justice process. This can occur at a very early stage of the case, replacing any penal response to crime. The outcome usually precludes re-entrance of the case in the criminal justice system. Practices can be 'relatively independent' when offered as part of the regular criminal procedure. This can take place at any stage of the case, which is diverted and referred to an independent and qualified mediator charged with reaching an agreement between victim and offender. If this is accomplished successfully, it will have an impact on the outcome of the criminal proceedings. Its most common effect is to reduce sentencing, although there may be cases where charges can be dropped altogether. RJ practices can be 'dependent', when they are situated adjacent to the conventional system. This model is used

after the criminal trial has run its course, and is employed mainly in instances of the most serious crime or in the prison context.

According to our model, once a case of VAW is diverted into the RJ route, there can be four typical steps to restoration. The first is the referral of the case. As with the UK example, these referrals are expected to come from people within the justice or social system, such as police, prosecutors, judges, probation officers, social workers or housing officers. They can take place at any time from the date of the offence to the period of parole. The emphasis must be on the free and independent consent of the victim being obtained. There must be no direct pressure from the perpetrator, from families or from local cultural or religious bodies. Offenders' rehabilitation is welcome but not the primary reason for triggering the RJ process.

The second step is the preparation of the case. As discussed, VAW cases are complex cases involving a power relationship and high levels of re-victimisation. The victim and the offender should be contacted separately by the accredited practitioner who should be able to gather information about the offence and answer questions from both parties. It is best that these cases are handled only by senior restorative practitioners who are aware of the many problems concerning such vulnerable victims and who are capable of dealing with the power imbalances. They would also be aware that this restorative approach will not suit all cases and would not enforce its use. The concern would be to reduce harm, not to prolong or re-engage it. This is where the key process of empowerment takes place.

The third step is the actual process (direct or indirect) between the victim and the offender—and in the case of family group conferences and circles—of their families, friends and relatives. The meeting can start with a statement from the victim, explaining what it felt like to be harmed and posing their questions to the offender. Some practices, however, may choose to start with the offender's apology. The offender can be invited to give their detailed story of what happened. This introduction is expected to be followed by a constructive and honest dialogue that is facilitated by a neutral practitioner. This should focus on how the offender may repair the harm done and what can be done to reintegrate them into the community. The dialogue should be concluded with an agreement between the victim and the offender that may vary from a written apology to community punishment and compensation, the completion of an education programme, getting a job and holding it down, or making a commitment to stay out of trouble. Depending on the programme, agreements and penalties may vary from being strongly retributive to solely rehabilitative. The fourth step involves preparing the file and returning it to the referral source. A precondition for any restorative meeting should be that the offender has admitted the offence and that all discussions remain confidential and unusable in the formal criminal justice process. The right infrastructure needs to be in place providing counselling and support services to victims and care and reintegration programmes to offenders.

Concluding Remarks

In its greatest part, the restorative approach emanates from the victims and socially vulnerable groups' need to participate actively in the judicature processes through the articulation of an autonomous position (Braithwaite 1999). This characteristic of the restorative approach, also defined as its 'ingenuity', is also considered to be its greatest advantage and by means of its 'power/dominance unassailable' ideals and values (Morris and Gelsthorpe 2000), it is a way to "resist the usurpation of authority" (Braithwaite 2002a: 546).

The discussion of RJ in the context of VAW and the consequent implications of the issue of power has also given rise to questions around gender inequality, women's position within traditional judicial systems, and whether RJ procedures can practically change the judicial stereotypical treatment of women. This paper has argued that the law alone cannot guarantee success for mediation. Empowerment, victim-led processes and a bottom up structure are key elements for success. Daly has argued that in, the RJ literature, women continue to be presented in a stereotypical manner that depicts them either as the victim or the supporter of the process (Daly 2006). Braithwaite has argued that RJ is not a concept relevant only to the powerless or to suppressed social groups; it is a notion beneficial to all (Braithwaite 1997).

The values and practices of RJ are a new pathfinder for exploration. Our proposed model is meant to provide a framework for further research and testing. The key principles, process and stages of this model were outlined. Evidence-based policy must be applied. Further research needs to be carried out to explore the RJ option of empowerment. This debate is timely for Asia, as policy makers seek alternative solutions and cost effective practices. Dismissing RJ for VAW is counter-productive. Research of actual practices and the potential of empowerment for social transformation must be encouraged.

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