

On the Efficacy of Victim-Offender-Mediation in Cases of Partnership Violence in Austria, or: Men Don't Get Better, But Women Get Stronger: Is it Still True? Outcomes of an Empirical Study

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Introduction: What This Study has Shown

Put in a nutshell, the core finding of this study reads thus: The efficacy of VOM in cases partnership violence is to a large part due to the empowerment of the women victims, but partly, albeit to a smaller percentage, also due to an inner change, to insight and following from that a change of behaviour on the side of the male perpetrators. These achievements cannot be understood except as part of a comprehensive societal change – a change of collective mentalities, or in other words: change of expectations¹ regarding the use of violence in intimate partnerships.

The research presented is to be perceived against the background of another study carried out about 10 years ago; its title was: 'The efficacy of criminal law interventions in cases of partnership violence: Comparing the Criminal Trial and Victim-Offender Mediation (out of court offence compensation – ATA)'. The result of this first study had evoked my provocative summarising statement that 'Men don't get better, but women get stronger'. In other words: it was the women whose claim to a partnership free of violence had been reinforced and confirmed by the VOM intervention, while a deep-reaching inner change of the men had happened only very rarely. Now, ten years later the quantitative part of the new study, i.e. the results from the questionnaire sent out to women victims of partnership violence provides empirical evidence that it has been possible to contribute to the prevention of violence both by way of an empowerment of women, but also by an effect towards a change of attitude of perpetrators. What has happened within this time span, between 1998/99 and 2008? The qualitative part of this research was to shed light on this

¹The term 'expectations' is used as a sociological category indicating people's 'mutual expectations' of behaviour – thus constituting the social space where people's actions take place.

question. We were able to trace the processes that led up to such an inner change – as observed in the course of the VOM procedure and as related by the women.

This study is therefore not least also about social change and about the repercussions of the women's movement and the effect of legislation and its implementation – seen through the observation-slit of VOM applied to cases of partnership violence. The broad societal change, the change of collective mentalities enhancing the potential effect, VOM was able to produce, is not the whole story though. There is definitely a specific, independent contribution of VOM to achieving a change of attitudes and of behaviour. It consists of the (semi)-official confirmation of the empowerment of already strong women and it consists in bringing home to the men that they are responsible for having violated the rightful claim of a woman to live in a partnership without violence.

The most prominent finding regarding the VOM-experience as analysed by the qualitative research in this study lies with the fact that we can trace the way this impact on the minds of men is brought about. The working elements of such a restorative process: recognition and empowerment now use the fertile ground that has been prepared by the change of collective mentalities. Mediators could reach a perpetrator and bring about insight and inner change.

Apart from these core results of the study, produced in a complementary way by quantitative and qualitative research, we will see additional achievements of VOM produced and displayed in the course of the procedure.

Our attention will also be drawn to a few problematic points regarding the design and the practice of the Austrian brand of VOM.

What I have Done: The Research Steps Performed

The study consisted of two main parts:

- + a quantitative study, using a questionnaire that was sent out by post to every woman that has been a victim of partnership violence dealt with by way of an *Außergerichtlicher Tatausgleich* (Out-of-court offence compensation) (ATA) – by and large corresponding the term Victim-offender-mediation (VOM) – in the course of the year 2006. The time that has elapsed since the ATA has taken place was therefore between 1.5 and 2 years. Posting was administered via the central registration of cases at the Vienna bureau of NeuStart. It was accompanied by a letter drafted by the researchers and explaining the purpose of the study and the questionnaire the women were asked to complete.

The completed questionnaires were to be sent directly to the research institute, the answers entered via SPSS and data analysis was effected. (About 900 questionnaires had been sent out, quite a high percentage had not been delivered. With the return quote a little more than 20%, there were finally 162 questionnaires to be processed.)

- + the qualitative study consisted of observations of ATA procedures, of single/individual talks as well as 'mediation' sessions proper, i.e. 'Ausgleichsgespräche', most of them taking place with two mediators and the two parties present. I had consciously refrained from tape-recording this session, and was only putting down notes – as accurately as possible. Detailed protocols resulted from this step.

Following that, I asked the woman whether she would be prepared to talk to me about her experience with the ATA-procedure – some time afterwards and at a place of her choice.

These interviews were also recorded and transcribed – not linguistically, but focussing on content.

I have altogether observed 33 VOM sessions and I have conducted 21 interviews.

These materials were interpreted by a team of three researchers: Birgitt Haller of the Institute for Conflict Research and Andrea Kretschmann and myself both from the Institute for Sociology of Law and Criminology.

Our analysis started with looking at single cases, followed by comparing cases and by contrasting cases alongside different aspects or variables. Since this study was a repetition of the earlier one we focussed on one of the main findings of the first study, namely the effect of an empowerment of women in the course of VOM (Hoenisch and Pelikan 1999). Another aspect that came to the fore was socio-cultural milieus and their potential bearing on men's and women's modes of interaction and of their reaction to the 'offer' of VOM.²

The Criminal Policy Context of the Austrian ATA

I have to make a few remarks that will serve to explicate the wider context in which the Austrian ATA becomes effective and I will give a short description of the way, or the method VOM in those cases is practised. I will in other words talk about: What is the Austrian ATA and which is the scope of its application where partnership violence is at stake, or: what is the type of referrals made?

The Procedure

In cases of partnership violence very often though not always, a procedure called 'mixed double' (borrowed from the language of tennis) is applied. The work of the mediators, in Austria they are experienced social workers, starts out with asking the alleged offender and - often simultaneously - the victim whether they are willing to participate in the VOM-effort. It is the social workers who explain that the state prosecutors have decided to hand over the case to the VOM-bureau and thus offer them the chance to find a solution to try for compensation, for restoration and for a meaningful settlement.

The state prosecutors, as is the usual practice with 'diversionary' mediation, act as gate-keepers. If both parties agree, they are asked to the VOM-premises, in Austria the bureau of the ATA. There the male social worker talks with the man alone, a female mediator takes care of the woman. In these 'single talks' they ask the parties about their concrete experience of the incidence that was reported - or led to the police being called. Previous incidences and the whole state of the relationship are further explored, and also, last but not least, the expectations concerning an agreement, the content of material and non-material compensation, the intentions and concrete proposals of the offender to make good on one hand and the victim's demands and wishes concerning the future of the relationship on the other, i.e. either the conditions for separation or for staying together. In Vienna these single separate talks usually take place at the same time, but in different rooms. When both partners have finished, the four of them: the partners and two mediators get together for the

² Originally the relevant variables had been derived from a model or flow-chart depicting the diachronic course of events, but also the various forces of influence that came to bear upon the use, or the mobilisation of the agencies of law and of the mediation procedure, and on their preventive and "peace-making" effects on the lives of men and women (Pelikan 2002).

mediation session proper, the ‘talk of the four’ (Vierergespräch). In Salzburg on the other hand, some time might elapse between these first ‘single’ sessions and the following mediation sessions to give the partner the opportunity to think, to ponder, and to enlist legal or psychological counsel. Since 2008 this practice is used more frequently in all Austria, as well as an observation period after a first agreement has been reached.

The session with four participants is the core element of the whole procedure. Its course follows a rather sophisticated and elaborated professional design that aims at bringing into effect the two main working principles of mediation: recognition and empowerment.

At the beginning of this session the two mediators are facing each other, while the two partners remain also on opposite sides, each sitting next to his/her mediator. The mediators tell each other what they have heard during the previous single talks: the story of the relationship, the story of suffering violence and of acting violent, of threatening, hitting, constraining the other's freedom; they tell and make heard what man and woman have done, what they have seen, what they have felt. The partners are asked to listen without interfering, and only afterwards they have the opportunity to comment, to correct, and to modify the rendering of their story by the mediator. This is also the beginning of the immediate exchange of the partners - about their perceptions, and their expectations. It might be interrupted by the mediators, whenever they deem it advisable, for a so-called ‘reflecting team’: in front of the partners the two mediators exchange their ideas and also their apprehensions and feelings about the ongoing process, including assumptions, doubts and hunches about the state of mind, the fears, and the tensions between the partners and about their chances to come to an agreement and to live up to it.

The “distancing effect” (or ‘alienation effect’) achieved by hearing one's own and the partner's story told by another person, this ‘changing of lenses’, promotes “re-cognition” - (literally, getting to know again) of one's own standing, and re-cognition of one's own needs and interests, beyond those of a formal legal position, or standpoint. Having found understanding and en-cognition and validation (an attempt at translating the German ‘Anerkennung’ or ‘Würdigung’) proves a prerequisite for empowerment - empowerment that aims at balancing existing power imbalances, and thus lends support to the weaker party.

The core elements, or working principles of any mediation process: recognition and empowerment are thus displayed in a particularly strong way by the professional setting designed and applied. To investigate the effect these arrangements that characterize the VOM-intervention, are apt to produce on the lives of men and women was the goal of the research project.

I will come back to this in the course of explicating the results of the qualitative study.

The Referrals

The situation regarding the referrals in Austria is marked by two features: one concerns the criminal justice system (CJS), the other the whole array or panoply of reactions available in cases of domestic/partnership violence.

Firstly Criminal law reactions have to concur with *the principle of legality*. This implies that any criminal act, as defined by the Criminal Code that comes to the notice of the police has to be passed on to the state prosecutor. There exists no margin of discretion for the police. The state prosecutor is then the one to exercise discretion as to the further dealing to be followed: referral to ATA as a type of diversion or one of the other modes of reaction: dropping the charge ‘a limine’, or making up an indictment, or another diversionary

measures (the array consisting of a fine, a term of probation with or without probation assistance, community service or an order/obligation to undergo therapy or training).

Secondly The Austrian Protection Against Domestic Violence Act 1997 (as amended) 1999 (see Pelikan et al. 2006). This law has become effective both as providing immediate protection and relief, and – even more so – exerting a symbolic effect. In the last instance it has been changing perceptions of violence and changing the perception of remedies available to victims of partnership violence. Regarding the referrals to VOM its usage results in a wider range of cases being brought to the attention of the state prosecutors, cases where an imminent threat, albeit only a minor assault had instigated the interference of the police. The police, after assessing the imminence and the seriousness of the threat wielded by the aggressor, decides – independently of the explicit and expressed wishes and demands of the woman (the person endangered) – whether the aggressor (Gefährder) has to leave the premises – immediately, on the spot! Special provisions are foreseen concerning the keys to the living quarters to be delivered to the police, the possibility to fetch things (clothing, toilet articles) necessary for daily life; checking up after three days by the police. And the police notifies the state prosecutor in case there is evidence of a criminal act committed. (I'll not refer in more detail the other provisions relating to a civil law restraining order that might be issued as a continuation of the eviction and barring order by the police.)

In the context of my paper the decisive effect of the astoundingly successful implementation of this piece of legislation is important insofar as its impact on the type of crimes that arrive at the ATA bureaus. We can observe that amongst the cases that are laid before the state prosecutors there are also those where the assault or the threat that is at stake is of a less severe nature and there is quite a substantial percentage of cases where we do find mutual accusations of assault or threat and the state prosecutor has to deal with the two 'aggressors'. There is also a substantial percentage (36%) of cases where – and this is already one of the results of the questionnaire-study – the violent act was the first one to occur within the relationship.

By and large we see that the referral practice of the state prosecutors proves well informed and adequate. But I really want to stress that due to the combined particularities of the Austrian situation, the principle of legality and the Protection against Domestic Violence Act, the profile of the cases referred to VOM might be different from that in most other countries. To be more precise: In Austria we face the favourable situation that also first and comparably minor incidents appear before the state prosecutors – and part of these are referred to VOM.

As regards these cases that the state prosecutors exercise discretion upon, it seems that they have – in the course of about ten years – developed a good understanding and a kind of knowledgeable routine that results in a spectrum of cases well suited to be handled by VOM and that is – I repeat – highly amenable to this kind of intervention.

What Effects are Achieved by VOM: The Results of the Quantitative (questionnaire) Study

The results of the quantitative study provide quite detailed information about the perception of the ATA and of its effects by the women who have been victims of partnership violence; (about 20% of them have been involved as both victims and offenders, i.e. mutual accusations formed the basis of the state prosecutors' referral of the cases.)

The core concept guiding the study has been the empowerment of women achieved through the restorative justice process. This specific effect of empowerment had been identified as the most prominent result of a previous study performed by the Institute for Sociology of Law and Criminology, comparing the effects of the penal process on the one hand, and VOM on the other in cases of partnership violence (Hoenisch and Pelikan 1999). I had at that time coined the slightly provocative sentence: Men don't get better, but women get stronger!' Now, ten years later I wanted to, firstly, investigate whether this statement can be confirmed by quantitative data and, secondly, whether changes have occurred in the course of ten years, regarding the type of referrals and the handling of cases, as well as regarding the reactions and the experiences of the women affected by partnership violence.

Characteristics of Respondents and of Cases

I want to first present a few data regarding the characteristics of the women who had sent back the questionnaire:

A severe drawback characterising the material is due to the fact that no translation neither into the Serbian, Croatian or Bosnian language, nor into Turkish could be afforded – a considerable segment of the clients of the ATA have therefore remained outside the reach of the questionnaire. But also within the group of the respondents the percentage of women with higher education is beyond that within the population in general.³ Another specific characteristic of the respondents relates to the so-called 'Gewaltgeschichte', the length of time marked by incidences of violence, experienced by a woman: I have already mentioned that 36% of the women responding said that the violence that had been reported was the first incidence they had experienced. Another 3% reported a short period of incidences of violence after which they had turned to the police. This points to a preference of the state prosecutors to refer those cases to VOM. It points also to the fact that there exists a considerable number of women that appeal to the police and the agencies of the criminal law quite quickly – and not only after long-lasting suffering.

Another feature of the ATA-clients: more than one third have experienced an eviction and barring order, i.e. the man as the one that had exerted threat and/or violence was sent off the premises and had to stay away for 10 days; another quarter of the respondents had obtained an additional, court ordered, temporary injunction – keeping the man away for three weeks altogether.⁴ Almost half of the women had been contacted by the 'Intervention Centre' (Now: 'Centre for the prevention and protection from violence') as a consequence of the police intervention according the Protection Against Domestic Violence Act.

Taking a closer look at the correlations calculated we could see that each of these variables taken separately is of little relevance as concerns the efficacy of the VOM procedure, especially its contribution to promoting a partnership free of violence. Taken together though, they are indicators of certain constellations that prove more or less amenable to interventions attempting to successfully prevent further violence.

³ But I have to point out that it is the women with higher education that are more critical towards the ATA than those with only elementary education.

⁴ Since July 1, 2009 the term for the barring order lasts for two weeks, the court injunction up to six months.

The Quality of the VOM-Process

The most pronounced result in this respect: Women are listened to, they find understanding and support; only between 14% und 22% answered negatively, i.e. indicating that they found little or no understanding.

And sometimes, in about 14% of all cases something happened to the men!

We had a series of three questions dedicated to their role in the process – the way it was perceived by the women:

- 1/ Was the behaviour of your (ex)partner, his having committed an offence, being taken serious by the mediators/social workers?

This did indeed happen in all but 19% of the cases, where it was taken serious to a very small extent only, or even not at all (once more: this is the perception and the recollection of the women!)

- 2/ Did your (ex)partner understand in which way and to what extent he had hurt and harmed you - including emotional harm and suffering?

This occurred in 57% of the cases, in 38% rather not, and in 5% not at all!

Finally:

- 3/ Did you have the impression that your (ex)partner was feeling sincere remorse for what he had done to you?

According to the women, remorse was seen and felt in only 40% of the men.

We could further find that in our research these three variables, focussing on the perception of the offender by the women had quite high correlations with long-term process outcomes, as shown by the answers to the question assembled in the section on what happened further on, i.e. in the course of 1.5 to 2 years following the VOM-intervention.

The following can be regarded as the key section of the questionnaire and the quantitative study:

What Happens Afterwards

We do have quite impressive figures to show there:

At the time when the questionnaire was completed about 40 percent of the respondents were separated from their partners and had no further contact at all; 28% had separated but did have contact – mostly for reasons of parenthood. And almost a third were still living together. (We have to add though that a majority of partners were already separated or in the process of separation at the time VOM took place – 32% and 26% respectively.

VOM had contributed to bringing about separation in almost half of those cases, at least to some degree: 65% of these women said that they felt more self-assured and stronger as a result of the ATA-process and thus empowered to follow through with the separation, for 55% the process had contributed to convince them that separation was the best thing for them to do.

Now: of those having still having contact or living together, two thirds lived free of violence in their relation with the (ex)partner, little less than one third had experienced further incidences of violence – 15% repeatedly.

As a percentage of all responding women we can state that 17% experienced further violence, 8% repeated incidences. There VOM had failed to achieve the intended effect! It

is difficult to gauge the importance and meaning of this numbers. We are not in the situation to draw any comparison yet. We have no specific recidivism rates for those cases that went to court and ended with a type of sentence, a fine or imprisonment, conditional or unconditional. We neither know about the effect on recidivism or 'real life' occurrence of more violence within a certain time-span, for cases that were dealt with by another diversionary measure, e.g. an order for anti-violence-training.

But we do know the 'official' recidivism rate of suspects that went through VOM in a case of partnership violence. (based on another study my colleagues at the IRKS did – investigating recidivism of different types of clients of NeuStart: VOM, community service and probation) This rate amounts to 11% (see Hofinger and Neumann 2008). It is self-evident that the figures of my study, based on the statements of the women victims, are closer to every-day life-reality. But then – to argue further – the difference between 11% and 17% appears small. It would imply that altogether about two thirds of the relapses, i.e. the re-occurrences of violence become known to the police. This drastic reduction of the usual dark-figure amounting to twice to three times that of the factual offences, would then figure as another remarkable achievement of the VOM procedure. A considerable percentage of the women who went through VOM have notified the police following a new incidence of violence. We have to consider though that these women have already found their way to the police once and have thus shown that they are able to overcome doubts and apprehensions.

The Contribution of VOM: Empowerment and Change

And finally, getting still closer to the 'heart' of this study, the contribution of VOM to the empowerment of women, we can report the following: Of those that had experienced NO further violence from their (ex)partner, 80% contended that VOM had contributed to this effect – in 40% of those cases even to a substantial degree. This contribution was brought about by way of direct or indirect empowerment: direct empowerment implying the increased capacity to state one's demands and claims for a life without violence, or the increased capacity to handle conflicts through communication, i.e. by talking and deliberating and by an enhanced capacity to insist on one's demands and one's claim to live free of violence. Indirect empowerment is pointing to ATA as an impetus to seek further support and help.

In addition, 40% of those women whose partnership continued or who still had contact with an ex-partner and who had experienced no further violence stated that their partner had changed as a result of going through the ATA. (Another quarter said that such change had happened but did not perceive any influence of VOM.) We have altogether notice of men that changed as a consequence of the VOM-process in about 14% of all cases – not much, one could still say. To arrive at a conclusion whether it is a lot or a 'quantité négligeable' we have to become once more clear about our concepts of VOM as a criminal law intervention and of our perceptions of what this effort is about. I will come back to these pressing questions at the end of this paper.

We have also asked whether in the cases where violence continues this was due to the ATA-intervention – because it showed the perpetrator that his acts were not really taken serious, 'just talking about it', expressing void excuses, or because he wanted to demonstrate that he is not much impressed by this kind of action. There were five cases where such an effect was indicated and I looked more closely at each single of these questionnaires; to arrive after careful consideration at the conclusion that there is no empirical evidence to be found for this 'carte blanche'-hypothesis.

Variables Influencing the Effect of VOM or: Which Conditions are Favourable for VOM Becoming Effective?

The correlations calculated to provide an answer to that question allow us to arrive at the following conclusions: Regarding the *process-related variables* that indicate the quality of the process, we can see that the men/offender-related variables have the most visible influence on the effect of VOM, regarding its contribution to end the relationship or to continue without further violence. Where the offence has been taken serious, provoking insight and remorse there the ATA has more often contributed to a life free of violence.

But it can also be shown that receiving understanding and support in the course of the procedure which, in fact, applies to the vast majority of the women, affects the VOM-outcome in a positive way, i.e. in those cases the continuation of violence occurs more rarely and these women say more often that they have experienced direct or indirect empowerment through VOM.

As concerns the so-called 'situative' variables, those which refer to characteristics of the situation surrounding the incidence of violence: its history, the way the notification of the police was brought about, the intervention and assistance by other agencies or persons, e.g. lawyers, they all remain of little marked influence. Taking into view the socio-demographic variables of educational attainment and the variable of 'the history of violence' within a partnership, we can discern the following constellation: low educational attainment and longstanding violence 'results' more often in ongoing violence; but lower class women are also those, who have a good chance to see a change effected through the ATA regarding the behaviour of the man.

It is the academics that most often leave the relationship – independently of the ATA intervention – and they more often regard this experience as useless – a waste of time!

All of these constellations that can be constructed from the quantitative study were represented as concrete cases and stories within my qualitative material.

What Happens Inside the VOM-Procedure: the Results of the Qualitative Study

In this place I want once more to start with an introductory chapter, that is to provide a more general description of the situation, people coming to the ATA-bureaus, face:

A Description of the 'Atmospheric' Conditions that Characterise the Practice of the Austrian ATA

I have already mentioned that the parties are invited by a letter that contains basic information on the ATA as well as a proposal for an interview date. Of, course, people get the opportunity to negotiate the dates proposed by phone, but where no reaction occurs, the party is expected to show up at the bureau of NeuStart - mostly quite spacious premises (albeit in Vienna rather drab and bald looking). The whole procedure up to this point, as well as the physical environment is that of a bureaucratic governmental agency, even a court – as was confirmed in the interviews. Most women added though that once they were approached by the social workers they realised that this is indeed something different.

Also as a researcher I could feel the repercussion of this bureaucratic atmosphere and of being part of a governmental agency people submit to. It had its advantages though. Nobody refused to let me sit during the sessions as an observer (I joined the mediators when they went to

the waiting room to welcome the parties and asked their permission to be present as a scientific observer after I had been introduced – or introduced myself) And only one woman did not want to be interviewed (a lawyer by the way). But quite a number of those that had given me contact numbers to approach them, could never be reached by phone.

What I want to convey is the special spirit that prevails in the whole ATA endeavour, the light that is shed over this procedure. People appear before the ATA because it is introduced as some branch of the CJS. They do come with a mixture of curiosity, fear, distrust and hope. Mostly they feel relieved as soon as they realise that these are social workers, that approach them in a friendly respectful manner.

But then – in the course of the process – more clearly towards its closure they are again confronted with quite a lot of legal-technical details to which most of them react as is the usual way: nodding and asserting that everything is clear – whilst it is visible to the trained observer that it is not at all! The mediators themselves feel these tensions, but they themselves submit to those conditions and obligations and mostly just want to have done with them quickly. Few make a conscious effort to ‘translate’ into everyday language what these requirements are about and what are the relevant implications for the parties.

I myself have become more aware and more clear about these particularities of the setting of the Austrian ATA in the course of the seminar with Finnish colleagues in November 2008: In Finland, mediation is done by volunteer mediators, assisted by a staff of professionals, that provides advice and supervision. As one participant of this seminar stated: “using volunteer mediators should guarantee that regarding the process and the outcome of mediation the power remains with the parties involved.” Within the Austrian model the social work component is more pronounced. And it might well be that the difference in terms, catches this in a significant way: it is “clients’ in Austria and it is ‘customers’ in Finland (Pelikan et al. 2009).

A Typology of Cases

In presenting the results of the qualitative research I’ll follow the main lines of the previous study and proceed to discussing the ‘new’ typology of cases that has emerged from our analysis of the cases we have observed now.

In 1999 this typology was the following:

- * VOM as reinforcement of change (what I had called ‘Katharsis’-cases, meaning cases where the violent incidence in itself had triggered change);

Here we found two sub-types:

- + VOM reinforcing change as a mutual effort
- + VOM as a reinforcement of change enforced by the woman

- * VOM as the beginning of reformation (a rather rare event)
- * VOM supporting separation
- * VOM at its limits, i.e. cases where VOM had proved a futile effort and violence had occurred again (Pelikan 2002).

The new typology already reflects the changes that have occurred. Now we see:

- * VOM as reinforcement of change and as further empowerment of strong women
- * VOM as an impetus for the offender to trigger insight and change (‘the beginning of reformation’)

- * VOM as supporting separation
- * VOM failing because of the partners being deeply and indissolubly entangled in a fight around divorce and separation
- * VOM remaining futile because the partners are evading a real contestation and effort at confrontation
- * VOM as comprehensive social work intervention.

For each of these types I will in the following present the summarising statements, characterising them – as they appeared in the interpretation of the qualitative material and I will add some quotations from the protocols and the interview transcriptions.

VOM as a Reinforcement of Change and as Further Empowerment of Strong Women

In 2000 I had written the following paragraph:

Another way of looking at these findings might be to admit that what I have to tell, is probably not the success story of VOM usually announced: Not much is going on in the way of healing, or re-integrating, of visible effects of special/individual prevention. Nevertheless I will contend: VOM is apt to fulfil, or to promote, what - according to German sociologist Niklas Luhmann is the core function of law: the affirmation of the norm (Luhmann 1993). Affirmation of the norm means affirmation of the rightful, i.e. legally supported claim of the victim (in civil law it is the complainant). In this legal-theoretical understanding, the victim is at the centre. It is about her we are talking; it is her suffering, her fears, her apprehensions, her anger, and her reaction to the acts of the perpetrator, that are taken care of by the VOM-agencies.

Change in the way of long lasting preventive effects does, as we have seen in this research, stem from the resolution of the woman, the victim: to bear no longer, to change the situation, and - in the most dramatic cases - to end the relationship, to leave the partner using violence. The perpetrator either joins her in this effort to find new ways of communication and of living together, or the realisation of the danger to lose wife and family results in a sincere and strong effort to really change his ways.

In some rare cases, and probably more often with a young offender, VOM can spark off insight, self confrontation and the beginning of reform (Pelikan 2000).

I have already mentioned that several changes have occurred in the course of the last ten years: A major change has occurred regarding the 'reinforcement cases'. They still constitute the largest group of cases observed in the qualitative study, but they are of a different brand now:

The contribution of the partners to a new way of communicating, and even more so the contribution of the women appears now even more pronounced than 10 years ago. Strong women – from all social strata of society – have made an impressive show. Several times it became obvious that the decisive steps have already been taken by the partners in the aftermath of the violent act; the VOM intervention was indeed no more than the 'official', or 'semi-official' confirmation of a change towards a partnership free of violence. This is not to say that this confirmation was redundant and needless; rather the interviews with the women have confirmed the importance of this step.

The dynamics of these cases show some similarities: several times men and women had separated after the incidence – but then the women had decided to 'give him another chance'. One couple had started family therapy and the woman told me in the interview: 'Well, yes, we had already done a lot, therefore not so much was left to work out in the course of the ATA – otherwise we would probably have needed more sessions.'

A typical case in this category was that of Frau Aytekin ⁵

Frau Aytekin and her husband are Turkish, both have been living for quite a long time in Austria, although she is born in Bulgaria. They have two children together, age four and seven; Herr Aytekin is out of work and Frau Aytekin stays at home with the children. The police report mentions a dispute and him knocking her to the ground. After a period of separation – Frau Aytekin had left to stay with her relatives in Bulgaria – they are now together again; an aunt and uncle have assisted them in overcoming their difficulties. In the course of the separate (single) talk with Frau Aytekin she tells that the notification of the police was done originally by the medical doctor she had attended because her arm had hurt and she wanted ‘an ointment or something the like’. The doctor had told her that it was his duty to inform the police. She wanted to ‘take back’ the notification of the police and was informed that this is not possible according to Austrian law.

Discrepancies regarding the role of man and woman and regarding the ‘life-style’ surface: The family and especially the mother of Herr Aytekin is a conservative Muslima, wearing the kerchief and for some time young Frau Aytekin did so too – but she felt that this did not really agree with her feeling and her life-style and finally her own mother supported her decision to do without the kerchief. ‘There will remain nothing of your own self if you just do what others expect you to do’ she had told her. Herr Aytekin had, in fact, not really liked her wearing it, on the other hand he had been jealous because at her workplace she was working next to other men. To refrain from bouts of jealousy was therefore one of her conditions for coming back and live with him again. In the course of the single talk she says that they are now able to talk whenever problems arise – that’s what they have learned through this experience. Nothing is left to be clarified here at the ATA, Frau Aytekin repeats: they can rely on aunt and uncle and they now get along very well. She takes care of the family budget, Herr Aytekin receiving an allowance from her hands. The situation regarding work is tough though. She would like to find a job or even better, get access to some training, e.g. a computer course. She has been told that this might be too difficult.

It proves quite easy to arrive at an agreement in the course of the mediation session. According to the story of Herr Aytekin as told by Hannes, the male social worker, Herr Aytekin accepts responsibility for the injury he has caused. He says that their relationship is now better than it has ever been. Frau Aytekin emphasises once more the fact that this was the first time her husband had used physical violence; she knows that he feels sorry for that. But she confirms also her resolution: ‘I want to never again experience something like that!’

When I visited Frau Aytekin for the interview in her home, it became visible that although money seems short, her living conditions are quite satisfactory; the most pressing problem remains that of further qualification. The ATA experience was altogether satisfactory for herself and for her husband. She was glad that they got this chance to find closure outside a criminal procedure. She tells me that afterwards she felt ‘talked out’, and means by this expression that she was able to find relief through telling her story. And in her opinion it was also good for her husband to find another opportunity to talk about what he had done, although he had expressed his regret immediately after the incidence.

My personal reflections after this interview were the following:

This is the story of a young woman trying to find her place between the different cultures and the respective sets of expectations. She is clear-sighted and level-headed and

⁵ All names used here and in the report are fictional – as well as the (first) names of the social workers mentioned; in some cases I have also changed a few characteristics of the persons and situations.

she has obviously a lot of ‘social intelligence’. The couple has received support from relatives and they have been able to arrive at new arrangements for their life together – most important: they have learned to talk with each other whenever problems emerge. VOM did no more than provide additional reinforcement for this way and for the resolution of Frau Aytekin to never again suffer violence.

Within this category I have also placed a case that was ‘successfully’ closed; but when I contacted the woman and after several difficulties could talk to her, she told, that another incidence of violence had occurred: she had to leave the joint apartment and her partner – they have a little daughter together – will have to face trial. She had been full of hope after the ATA: they appeared to have made a strong effort to better handle mutual bouts of jealousy, they had received encouragement and mental support for this effort. The young man had expressed his regret for what he had done, and asked her forgiveness; and so had she for the injuries she had caused him (although they had not resulted in a formal registration by the police.) It had been a most moving session and everybody present felt confident that these two people will be able to handle their life together refraining from violence. Both of them expressed their conviction that this was highly desirable and that it was possible. Also now, after the renewed violence, Frau Fuernsinn was strongly positive about her experience of VOM. She praised the effect the design of the mixed double, especially the mirroring of stories had on her: *“In the beginning it was a bit strange to hear one’s own story told by somebody else. But then you could look at it as if you were your own bystander; it felt as if a second ‘I’ was standing next to you.”* It was her ex-partner whom she accused of having put on a mask (‘theatre-mask’) in order to attain the appreciation of the mediators and gain the resulting discharge of prosecution. They have separated for good but retain contact because of their child. She says that she tries hard to keep up a reasonable basis of communication for the sake of the child. She is determined to follow through with her plans for the future – to finish her training as a psychiatric nurse. She hopes that the criminal procedure and the punishment he is expected to receive will teach her ex-partner a lesson.

All of the cases in this group conveyed the impression that the women were very sure about their rightful claim to a partnership free of violence and especially the young women regarded the interventions and reactions of the agencies of the CJS as a matter of course: that’s how things ought to be! I got the impression that also the medical doctor notifying the police in the case of Frau Aytekin found her calm approval. Most of the women in this category had taken the lead in the aftermath of the event: they had left and they had made efforts to arrive at a new way of communication within the partnership. This happened several times after the first incidence of violence but in three cases of this type after long-lasting and repeated violence. Frau Manhardt, the one that had started family therapy together with her husband said that for quite some time she had experienced the spiralling of violence from the side of her partner (*‘It had happened already several times, but for a long period I regarded each incidence as non-intentional: it had just happened to him. Therefore I did not want to turn to the police. Looking back I can see that I had suppressed what was already evident. This might work for some time – but then it turns up again.’*) As already said, the effect of VOM consisted in the reinforcement of the change already set in motion.

Something New Happens

I have also already mentioned that the most impressive effect occurred when and where in the course of the procedure men were brought to confront themselves with what they

had done to their woman partner. I could observe this happen and I was told in more detail about this effect in the course of the interview with women.

This process is very beautifully described by Frau Kriegler:

“Listening to his story (in the course of the talk of the four) I learned and realised things I had not known... I had the feeling that my husband only then - in the course of his single talk - realised that he cannot contend any longer that what had happened in reality was not as stated in the files and that it was not he himself and only he himself responsible – that’s what I heard. I am sure that this was a topic in this talk, because afterwards and later at home as well, the whole story as told from his side had become different. I guess that’s what had happened! Of course, I was not present, but I know my husband pretty well – his tendency not to use the ‘I’-form but talking about ‘one’ that does things or perceives them as such. I guess that the social worker he was with had told him: ‘no: it is not ‘one’ it is ‘you’ – something like that....”

To give a bit of the background of this case: Frau Kriegler went to the police after already the hospital she called upon had informed the police about the injuries her husband had caused. This was the first experience of this kind for her, it was dramatic and it had traumatizing consequences for her. She had attended a trauma-therapy in the aftermath and she said that she did not want to talk about the incidence in more detail at the ATA. In addition to going to the police, she had used the emergency hotline for women and there she had received valuable support. She had realised that her husband had tried to belittle the event – and to suppress all memory of it.

Frau Kriegler had explained the previous history of the incidence: She is a consultant with a heavy and stressful workload, theirs is a patchwork family with four children to care for. A year ago she had therefore taken a sabbatical to find time to reflect on her situation and to find new and less strenuous life- and work-arrangements. Her husband was not ready to follow her considerations and when she insisted on discussing – although he wanted to go to sleep – he flipped out and got violent.

In the course of the mirroring of stories, David, the social worker relates that Herr Kriegler has taken responsibility for what he had done to his wife, and he feels regret. He does understand that his wife still feels shaken and panics at the slightest shove. David adds that he would like to ask Herr Kriegler to clearly specify the act of violence he is responsible for and Herr Kriegler speaks out: *“What I have done is still with me and I feel deep remorse. I hope that this will not darken our future together forever.”*

The social workers then address what has already been talked about in the single sessions: in which way the harm Frau Kriegler has experienced could be compensated by Herr Kriegler: Beate, the female social worker, had told Frau Kriegler: “He ought to do something positive to set against the negative you have suffered”. Regular smart money is deemed inappropriate by the woman. She tells her husband that she wants him to think creatively about doing something or giving something to her. *“You ought to know what I am longing for deep in my heart. Not smart money as prescribed formally. It should be something you have thought about.”*

I have already quoted above the words Frau Kriegler had found to explain what she had felt had happened in the course of the VOM-procedure.

My comment ran thus: It was a piece of luck that in this case that illustrates the potential of VOM to produce inner change of a batterer, the woman had a high capacity for analysing what had happened, for reflecting on it and for relating the processes eloquently. My observation and the transcript of the interview contribute in a complementary manner to convey the story of a man going from ‘one must not’ to ‘I have done this’. On the basis of this cognition he arrives at

the feeling of remorse and the readiness to compensate for the harm by doing something good and beneficial to his wife – as an act of restorative justice, one could say.

This kind of inner change appears especially impressive in the case of a couple from central Asia, Frau Yumkella and Herr Saled. They are in possession of Austrian citizenship and Herr Saled has been living in Austria for many years and he speaks German well. He is in employment. Frau Yumkella has joined him in Austria a few years ago, they have two children together and were expecting the third at the time the ATA took place. It was Frau Yumkella who had turned to the police after her husband used violence; she had consulted her brother who lived in Germany and he had supported her steps. She had complained in the course of a first session at the ATA (where I was not present) that this had not been the first time, violence had occurred, that her husband treated her badly, that he was demanding that she got up and cooked for him when he returned late at midnight and that he was verbally abusing her. As a result of the first session it was decided that: firstly, Frau Yumkella should get the opportunity to attend a language course to learn German and secondly, Herr Saled was to fulfil the imposition already made by the Child Welfare Office of Vienna to get counselling by the ‘Men’s Helpdesk against violence’. It is important to mention that the Child Welfare Office had become active as a consequence of the intervention of the police according to the ‘Protection Against Domestic Violence Act’. The barring order that had been imposed originally had been lifted on that condition. During the single talk with Frau Yumkella, I observed, she told Karin, the social worker, that the situation had changed thoroughly; now she felt well treated and respected. She attends the language course and Herr Saled does himself some cooking when she is away, and, most important, no more violence had taken place. She said that this was at least partly due to her husband receiving counselling from the ‘Men’s Helpdesk’, albeit the counsellor was not available any more and Herr Saled had interrupted his visits.

Karin emphasises the importance of reacting and calling help from outside in case violence would happen again, Frau Yumkella assents and underlines how important it has been for her to find help from outside.

There is some irritation on the side of the male social worker who has been talking to Herr Saled concerning the interruption of the session with the counsellor, but then it can be clarified on the spot that the interruption was indeed caused by the counsellor being abroad for some time. During the ‘talk of the four’ Herr Saled confirms that he got valuable help from the counsellor. This man had given him good advice how to ‘remain cool’ and more generally how to behave differently as husband and as father. Herr Saled seems very pleased with himself and the new way of life that has opened before him. He mentions the social worker of the child welfare office and the help he and his family had received from her.

I had arranged for an interview with Frau Yumkella at her apartment and it was planned to be performed in English. I was received very kindly, and could talk for some time – in German – to the little girl, Sarah. Frau Yumkella’s English proved very poor though and only some very basic and simple communication ensued. Notwithstanding these restriction, I learned that she still experiences a life free of violence, and that her husband had undergone a complete change. Concerning the ATA and more specifically the ‘talk of the four’ she said: *“so good! It was so good for me – a good experience that we could go there and talk. The attitude change was a good thing: when he realised that it is good for us.”*

I learned also that the Child Welfare Office had promised to find them a bigger flat – when the third child is born; they keep regular contact and ‘Frau H. is very nice’, I am told.

What’s impressive about this story is the illustration of the potential of networking. The police, the Child Welfare Office, the ATA and the Men’s Help desk all contribute to bring

home to Herr Saled that his violent behaviour is not to be accepted – but also: that a change of attitude and behaviour is to bring him both material and psychological advantages. His compliance with the counselling imposition changes his family life for the better, he gets the love and respect of his wife and his children and this compliance is also rewarded with the very tangible assistance he receives from the youth welfare agency.

VOM in this case appears as one link within a chain of intervening agencies. As such it plays well its role as reinforcement of the requirement to abstain from violence.

This case is therefore apt to show also the intertwining of the big structural changes that have taken place and that became most strongly manifest in the enforcement of the ‘Protection from Domestic Violence Act’ on the one hand and the power of the ATA intervention enfolding on this background on the other hand – together with the more specific effects of counselling for men.

We have to mention that there are also cases where no longer lasting effect of VOM could be discerned although a change of attitude has become visible and tangible in the VOM-session. Once more we are confronted with the fact that it proves difficult for such an inner change to stand the test of everyday life and the ordinary and often harsh circumstances people live in, especially the influence of peers still adhering to a traditional understanding of gender relationships marked by the ‘natural’ domination of men. This collapse of a newly acquired insight did happen in the case of Frau Fuernsinn but also in the case of a young woman from Moldova where mutual injuries had occurred in the past, but where Herr Prager, her husband, seemed to have understood that he should contribute to a relationship based on mutual respect. When I talked to Frau Prager some weeks later it became evident that he had fallen back into his old attitudes and although no further violence had occurred, this was according her understanding only because he exercised restraint in order to avoid another confrontation with the agencies of the CJS. Examples like that serve to remind us of the limits of the societal change we have been talking about. It is definitely not all-encompassing. Notwithstanding this observation I would like to contend that the movement towards something new and different appears inevitable.

The Limits of VOM

Another interesting finding of the qualitative study is the different features the cases that have to be termed failures display as compared to the earlier study.

Ten years ago it was women living in a situation of dependency and helplessness, with no resources that could be used to start a spiral of empowerment to counteract the spiral of violence that marked their partnership. Even when and where the VOM process had instilled a glimpse of hope for a better life this could not stand the test of the ingrained habits and the drabness of daily routines. This time it is an inextricable entanglement and a relentless fight that characterises these cases and that kind of spills out into the ATA procedure and hinders the rationale of this procedure to take hold and to enfold its potential. The partners are unable to adapt to the requirements of the VOM procedure: to get truly engaged into one’s own story and in that of the other. Instead, the fight continues – using the mediators as just another auditory for presenting and devolving one’s position.

This very fact could also be read as an indication that the cases of the real helpless women are not referred to the ATA any more; it could also be interpreted as an indication that women that experience partnership violence do now have better access to resources and to agencies that provide assistance.

I will not pay special attention to the cases I have categorised as either futile because the partners are evading a real contestation and effort at confrontation.

And I have also left out the very few (2) cases of my ‘sample’ that illustrate VOM as contributing to dealing with separation; they are indeed very special constellations.

VOM as Comprehensive Social Work Intervention

Finally we have observed the type of cases that can be judged a particularity of the Austrian approach to VOM in general and to VOM in cases of partnership violence more specifically. The intervention of the mediators in those cases goes beyond dealing with an incidence of violence; in fact, it altogether transcends the focus on violence and takes into view the whole of the relational dynamics. Pre-empting the interpretation of cases belonging in this category I want to contend that this diffusion of focus does not imply any factual neglect of the necessity to insist on the ban of violence. As an optimal outcome a complete re-building of the relationship takes place and this comprises as a matter of course the renouncement of violence.

In the course of the ATA procedure these cases can appear very intense, very gripping. In one of them the relationship between a young woman and a man many years her senior was at stake: they have a child together, but do not live together. The relation was marked by fights, by jealousy, by stark discrepancies in life-styles and what they respectively deemed a good and right way of living. And there were also bouts of violence coming from both partners. At the beginning of the single talk, Frau Laskiewicz had declared her resolution to end the relationship, but in the course of the session it became obvious that there was still love and a strong bond that held her. On the other hand, Herr Brendl had felt badly treated by his partner who for him was especially important because he was still mentally ravaged by the tragic loss of an older son of a previous relationship. The talk of the four consisted for a long time of mutual accusations and complaints about the faults, the neglects and the deficiencies of the other, about the disappointments he/she had caused. Herr Brendl more and more closed up under the attacks of Frau Laskiewicz. Then Alice, the social worker who in this case was responsible for Herr Brendl (the male social worker not available) turned to the man and asked: “May I speak for yourself?” He nodded. Alice stood up, went besides Herr Brendl, knelt down, her head now at the same level as his and she started to talk, addressing Frau Laskiewicz: “I have felt very miserable after the death of my son and it was you who gave me support and something to lean on. I now want you to ask your forgiveness for what I have done to you and I want us to stop digging into the past. I want us to try something new together – and together with our boy. Maybe we can do this.” When she ended, there was an endless, a complete silence (I did not even dare to turn the page of my writing pad) Frau Laskiewicz was close to tears, then uttered: “I can’t say anything”. Alice (still as Herr Brendl): It’s not necessary for you to say anything”

Then Alice went back to her place and asked Frau Laskiewicz: “ - Can you imagine him thinking this way sometimes?” She nodded. Alice again: “How do you feel now?” ‘Shit’, uttered Frau Laskiewicz with a lot of feeling, a mixture of rage and desperation.

Alice: “It hurts to see what things have come to?” – a nod again. Alice turning to Herr Brendl: “It’s hurtful for you as well?” “Yes” he answered, “very much so!”

From there they were now able to make an arrangement for going to a carnival event together with their child; and the mediators arranged for another meeting after a period of observation.

I have been told that they have decided to live together again and they are trying to ‘live’ the new way that Alice had been talking about.

When after a longer period of time I conducted the interview with Frau Laskiewicz she told that they are still together, Herr Brendl is abstaining from drinking alcohol (one of her

complaints!) – there was no further violence. But, she thinks that they are not communicating the way they should – due to his behaviour of avoiding discussions, on the other hand it transpires that she feels bouts of jealousy whenever he stays out ‘unaccountably’.

Also in this case, the reality-test proves hard to pass, and it is difficult to transfer the stunning upswing that happened in the course of VOM to the harshness of everyday life.

Only in passing I will mention the case of Herr and Frau Banicevic. They are both migrants from Bosnia, Frau Banicevic has come to Austria together with her family when she was very young and has become a registered nurse. Her husband had stayed during the war on the Balkans, he is highly traumatised, suicidal and he has acquired a drug problem. There was one incidence of violence that occurred in a phase of his intense difficulties – separation was a threat pending for quite some time afterwards. The VOM procedure provided a forum – especially for Frau Banicevic – to relate her story and that of her husband, to talk about her resolution to support his efforts to find a way out of the drug habit, to go on together. It was a story of the horrors of war, of courage and of love. Not much was necessary on the side of the mediators – just to listen, together consider additional support for Herr Banicevic and to give further encouragement. The rejection of violence stood out strongly in the narration of Frau Banicevic and in the rendering of the story by Herr Banicevic as well.

Observing this session and talking to Frau Banicevic made the beneficial effect of the kind of reaction to partnership violence that VOM provided stand out clearly and convincingly.

Conclusion

Looking at both quantitative and qualitative results as complementary findings and perceiving them as complementary we can take into perspective the wider societal background. Both stories of the empowerment of women and stories of an inner change of men happen against the foil of a change of horizons of societal expectations, of a new collective mentality. The expectation of keeping violence out of intimate relationships has become a matter of course and has acquired wider acceptance within (Austrian) society. It is an acceptance that is not reserved for ‘official’ declarations to the outside world only. The term change of mentalities, or a rebuild of mentalities therefore appears indeed an appropriate term. We do not only hear about men having changed their attitude from women that have answered the respective questions in the quantitative study, but we have also seen and heard these men in the course of our observations. Both parts of the research also provide evidence of a considerable number of perpetrators that have experienced an eviction and/or a barring order according the ‘Protection against Domestic Violence Act’. In the interviews we have heard repeatedly the statement: ‘This was a kind of ‘halt’-sign! It has made him think about what he was doing to me’. It became obvious that the very concrete and very tangible intervention of the police in the course of the eviction has made an impact on the consciousness of the public, it has found a place within the array of police reactions as they are commonly known and perceived and: it produces an effect. For women endangered and threatened in the realm of an intimate relationship it has become a common sense-strategy to call the police and to have the batterer and ‘threatener’ sent off the premises for several days at least. It is, as already said – an effective strategy. The effect is both an immediate and factual one and a symbolic one that carries the message: this must not happen!

Against this background the VOM intervention is apt to effectuate then the next decisive step: these men are induced to move from: ‘Violence must not happen within an intimate relationship’ towards the insight: ‘I have been acting violently. I have – physically and emotionally – hurt my partner.’

As an effect of VOM two major changes take place. There is the empowerment of women - mainly as a reinforcement of changes that have already been brought on the way. The resourcefulness of women seems to have increased – and in other words once more: the increase of resources available has resulted in a generic adaptation of expectations – of what is regarded a rightful, a self-evident claim.

And we see also that men do change – sometimes – and as an effect of participating in the VOM-effort.

New horizons of expectations have become transformed into new horizons of opportunities and the social workers of the ATA help to realise those opportunities at the individual level – making women stronger and men better.

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