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# Transformative Justice: Anti-Subordination Processes in Cases of Domestic Violence

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Stopping domestic violence is hard work. Domestic violence is a social practice maintained by multiple systems that operate in the lives of battering men and battered women. For men in subordinated communities, social inequalities related to race, poverty, and Indigenous status, for example, operate in complex ways that are related to a man's choice to use violence, though none is its single definitive 'cause'. The same intersecting oppressive systems operate in women's lives. For example, poverty increases women's vulnerability to battering and limits their ability to escape violence; violence increases women's vulnerability to poverty.

This chapter attempts to further the dialogue between restorative justice activists and scholars and feminist anti-domestic violence activists and scholars. My focus is on the struggle against domestic violence in subordinated communities. My aim is to address the need for justice strategies that account for the intersecting oppressive systems that operate in the lives of battering men and battered women who are members of these communities.

My discussion draws on theory and practice of both the feminist movement against domestic violence and the restorative justice movement. Feminist theory provides critical insights regarding the dangers of reliance on private mechanisms of control, the causes of male violence against women, the necessity of engaging the state on behalf of women, and the conflicting and ambiguous nature of that state intervention. Restorative justice theory offers critical insights regarding the way offenders' experiences with the criminal justice system influence their likelihood of reoffending, the importance of providing victims the opportunity to be active agents in developing responses to crime, and the importance of social networks of family and friends both in providing restraints against crime and in caring for victims of crime. I hope to lay the groundwork for a dialogue between feminist theorists working against domestic violence and restorative justice theorists. Building on the insights of both fields will enrich anti-domestic violence theory and practice.

I begin with a critique of the feminist analysis of liberalism's public/private distinction as it relates to anti-domestic violence work. Feminist efforts to construct domestic violence as a public issue rather than a private problem have been critical for gaining women's access to public resources, including criminal justice resources. But the discourse that constructs domestic violence as a public issue is subject to co-optation in ways that increase state control of poor women and women of colour. The critical dilemma for feminists who seek to empower battered women is to develop strategies for controlling the criminal justice system without increasing state control *of women*.

Restorative justice processes, on the other hand, threaten to re-privatize domestic violence in ways that are harmful to women. Feminist critics have warned of the dangers of restorative justice processes that privilege family and community forms of intervention, noting that family and community are often unwilling or unable to oppose domestic violence (Goel, 2000; Hooper & Busch, 1996; Stubbs, 1995; Stubbs, this volume). Indeed, family and community are often the *primary* supports for male control of women. I share these concerns of feminist critics, but I focus on a second manner in which restorative justice processes may be said to be 'privatizing'. The restorative justice critique of punitive criminal justice responses emphasizes the power of the state to do harm (Braithwaite, 1989), yet restorative justice proponents often construct the state as a distant and largely irrelevant party (Hudson & Galaway, 1996). This construction of the state elides state power and naturalizes state created crime categories and the operation of state crime control systems. Thus, restorative justice processes threaten to create a deeply privatized criminal justice process.

I identify two additional serious theoretical weaknesses of restorative justice theory as applied to domestic violence cases. First, it offers no clear principles for dealing with crimes, such as domestic violence, where majoritarian opposition to the crime is weak or compromised. Second, restorative justice theory under-theorizes criminal offending, generally, providing little foundation for a theory of male violence against women.

These weaknesses can be addressed by current feminist theory, critical race feminist theory, social science research regarding domestic violence, and the theoretical underpinnings of programs for men who batter. Incorporating insights from these theoretical and empirical sources can enable restorative justice theory to effectively address the complicated problem of domestic violence.

Finally, I call for anti-subordination processes that address the intersecting oppressive systems that operate in the lives of men and women in subordinated communities. These anti-subordination processes

should seek to transform private relationships – the social networks that reinforce and support a batterer's controlling behaviour as well as the social networks that can assist battered women. A process that attempts to animate family and community to intervene against domestic violence need not result in re-privatizing domestic violence, provided the process seeks to transform the norms of family and community members, rather than rely on existing anti-battering norms that may be weak or contradictory. A focus on race and class subordination need not excuse domestic violence, provided that battering men are encouraged to connect their own experiences of subordination with their subordination of women.

In developing these processes I draw on Ruth Morris's concept of *transformative justice* (Morris, 1994, 1995). I expand Morris's model to include concepts from innovative programs, including batterers' treatment programs, that link a critical analysis of the racist, sexist, and classist practices of the criminal justice system with offender accountability to victims and communities. A process that incorporates insights from feminist and critical race feminist theory as well as restorative justice theory offers battered women and battering men the possibility of transforming communities as well as interpersonal relationships.

## The Dilemma of Privacy: Battering as a Public Issue

The controversy about nation-wide implementation of mandatory arrest policies reflects the ambivalence with which feminists regard the police. On one hand, battered women's advocates want to hold the police accountable, as agents of the state, for carrying out the government's mandate to protect citizens. On the other hand, feminists realize that police often exercise their power in ways that reinforce the disadvantages already experienced by women, and in ways that reinforce the disadvantages experienced by members of poor and minority communities as well. (Sparks, 1997: 35–36)

Feminist challenges to the liberal distinction between the public realm of the state and market and the private realm of family and community have long been central to anti-domestic violence activism (Goldfarb, 2000; Schneider, 1991). In contrast to concepts of the family as a haven that fosters personal development and civic engagement, feminists have documented the extent to which families are sites of domestic tyranny marked by violence and coercion (Bartlett, 1999; Kelly, 1996). Feminists have further exposed the manner in which public/private ideology hides state action by making patriarchal families appear natural and inevitable (Fineman, 1995). Both positive law and the absence

of law create family structures of dominance (Fenton, 1999; Miccio, 2000; Minow, 1990; Taub & Schneider, 1990). Constructing domestic violence as a *public* issue exposes the state's collusion with batterers, underscores the seriousness of the violence, and emphasizes battering as a civil rights issue.

By contrast, restorative justice scholarship presumes a largely unproblematized distinction between public and private life. Dominant methods of criminal processing are said to 'steal' the conflict from the parties (Braithwaite, 1999). As compared to state actors, community and family members are presumed to have a greater stake in responding to crime and to be better able to meet the needs of victims.

A number of feminist scholars have raised concerns about the privatizing potential of restorative justice processes (Busch, this volume; Hooper & Busch, 1996; Stubbs, 1995; Stubbs, this volume). When applied to domestic violence cases, reliance on mechanisms of the private realms of family and community threatens to reverse progress by pushing domestic violence back into the realm of the 'private' (Hooper & Busch, 1996; Stubbs, this volume).

Feminist critics also worry that processes like conferencing will 'domesticate' the violence (Cobb, 1997), couching it as mere conflict or as centred in unique relationship dynamics rather than as the result of the batterer's struggle to dominate his partner (Hooper & Busch, 1996; Stubbs, this volume). In addition, some feminist scholars are concerned that the moral educative function of criminalization may be lost when restorative justice processes replace retributive processes (see Daly, this volume). Public punishment marks the violence as serious and 'send[s] a clear social message that battering is impermissible' (Schneider, 1991: 989).[1]

### The dilemma of privacy: limits of the public/private analysis

These critiques of the public/private distinction have been important to organizing public opposition against domestic violence, but feminists have paid too little attention to the dangers of a focus on making domestic violence a public problem. The feminist critique of the public/private distinction is an important but incomplete analysis of the relationship between battered women and the state. It is inaccurate to describe the state's response to domestic violence as a unified refusal to intervene in 'private' family matters. Race and class mark the history of the state's relationship to families in general, and to domestic violence, in particular (Gordon, 1988; Roberts, 1999; Siegel, 1996). As Riva Siegel's history of US law demonstrates, notions of family privacy eventually gave

way to class and race based notions of white middle-class superiority (Siegel, 1996). By the end of the nineteenth century harsh penalties such as whipping were proposed for wife beaters who were characterized as 'lawless or unruly men of the "dangerous classes"' (Siegel, 1996: 2139). These 'dangerous classes' referred primarily to African-American and low-status immigrant men (Siegel, 1996). Linda Gordon's history of a child-saving organization in Boston similarly demonstrates that there was little objection to state intervention when family violence was understood as a problem of poor immigrant families (Gordon, 1988). The racist and classist beliefs of state actors may support intervention as well as non-intervention, but neither choice derives from beliefs about protecting family privacy. For example, the practice of police to refuse to intervene when violence is 'horizontal' – e.g., involving two persons of similar (and devalued) race and/or class (Ferraro, 1989; Hampton, 1987) better explains police refusal to assist battered women of colour than does their desire to guard family privacy (Ferraro, 1989).

Further problematizing an emphasis on domestic violence as a public problem is the fact that the lives of poor women and women of colour are often *under*-privatized (Fineman, 1995; Roberts, 1995; Roberts, 1999). In other words, women *need* privacy (Roberts, 1999; Schneider, 1991). US women who receive government assistance have little protection from state intrusion (Roberts, 1995). Families headed by single mothers are deemed suspect and 'may be thought of as "public" families, not entitled to privacy' (Fineman, 1995: 178). Suspicion about the mothering abilities of poor women and particularly of poor African-American women results in disproportionate numbers of their children in the US foster care system (Roberts, 1995).[2] The massive removal of Indigenous children by the governments of Australia, the US, and Canada eloquently demonstrates the way in which an ideal of family privacy has little relevance for the description of relations between the state and families in subordinated communities (Australia Human Rights and Equal Opportunity Commission, 1997; Kline, 1992; Indian Child Welfare Act of 1978).

In addition to state control of women as mothers, US women of colour and particularly African-American women who live in urban cores are subjected to significant invasions of privacy incidental to the 'war on drugs', renamed by some the 'war on poor people' (Bush-Baskette, 1998). This war is largely responsible for increases in the numbers of women in prison (Chesney-Lind, 1998) and the extraordinary increases in the numbers of imprisoned African-American women (Bush-Baskette, 1998).

The ways in which the state operates to control and disempower poor women and women of colour illustrates the value of restorative justice

concerns with the state 'stealing conflict' from the community. Given a choice between the privatizing problems of community control versus the oppressive intervention of the state, some women will choose the former.

### 'Tough on crime' and domestic violence

Women's lives are subject to 'interlocking' (Fellows & Razack, 1998) and 'intersecting' (Crenshaw, 1991) sites for potential subordination. This reality shapes the effects and meaning of domestic violence intervention strategies. It should come as no surprise, therefore, that feminist discourse that regards domestic violence as a public issue is subject to cooptation. The language of public issue has been adopted by those whose agenda, unlike that of feminists, is not focussed on empowering women. If the problem belongs to the *public*, then individual women's desires need not be central to policy development (Mills, 1999). Further, given the trend in many countries, and especially the US, to enact increasingly harsh control and surveillance methods for dealing with social problems (Browne, 1995; Caplow & Simon, 1999; Fellows & Razack, 1998), domestic violence as a *public* problem has largely come to mean domestic violence as a *crime control* problem (Currie, 1993). Zero tolerance arrest policies and no-drop prosecution are popular in no small part because they resonate with this emphasis on punishment and control (Coker, 2001; Martin, 1998; Snider, 1998).

The dilemma for using the criminal justice system to empower battered women is to develop strategies for controlling state actors – ensuring that the police come when called and that prosecutors do not trivialize cases – without increasing state control *of women*. It is the dilemma of making domestic violence a public responsibility in the context of racist and classist public systems.

Aggressive crime enforcement policies that mandate arrest and require prosecutors to pursue domestic violence cases, even when victims are opposed to arrest and prosecution, are central to much of feminist law reform in the US, England, Canada, and Australia (Dobash & Dobash, 1999a). A primary reason for feminist support of these policies is that they increase the likelihood that police and prosecutors will act to protect women rather than trivialize or ignore their complaints (Stark, 1996).[3] For years, the problem with police intervention for US battered women of colour and Indigenous women was a problem of police refusal to intervene. Loretta Kelly (this volume) documents similar problems with police refusal to assist Aboriginal women in Australia. Thus, work to ensure that police respond when they are called

and that they protect women when they arrive is central to justice for battered women. But mandatory policies such as no-drop prosecution and zero tolerance policing increase the potential for state interference and control in women's lives. This is particularly true for poor women and women of colour (Espenoza, 1999; Mills, 1999). As a direct result of these arrest policies, for example, more women are arrested for domestic violence (Hamberger & Potente, 1994; Zorza & Woods, 1994). Strong anecdotal evidence suggests that most of the women arrested are victims of battering who are acting in self-defence or who are responding to a pattern of abuse (Zorza, 1994; Hamberger & Potente, 1994). In addition to arrests for domestic violence, aggressive criminal interventions also threaten increased state control for those battered women involved in (other) criminal activity. Women's involvement in illegal drug activity and prostitution is often directly related to being in an abusive relationship (Daly, 1994; Richie, 1996). As noted earlier, the danger of identification, arrest, and conviction is much higher for women of colour and particularly African-American women who live in heavily policed 'drug zones'. In addition, domestic violence arrest mandates may aggravate racist and abusive police behaviours (Kelly, 1999; Rivera, 1994; Snider, 1998).

Zero tolerance arrest policies also create collateral harms for women. If a battered woman is arrested for domestic violence she may lose the protection afforded by special domestic violence legislation. For example, evidence of her arrest, even if she is not charged, may prevent her from benefiting from child custody laws that disfavour a violent parent (see, e.g., Florida Statute 61.30, 2000). In addition, police intervention and sustained prosecutorial presence increase state control of women through child protection monitoring (Pennell & Burford, this volume). In the US, many child protection agencies treat a child's residence in a home where domestic violence takes place as child abuse, even when the child was not present at the time the abuse took place (*Nicholson v. Williams*; Sengupta, 2000). Children are removed from the home and the mother's parenting is more broadly investigated (S. Dougan, attorney, personal communication, 1999). If both parents are arrested, children may be placed in temporary foster care.

In addition to these direct and collateral harms, the practice of denying women any voice in the criminal processing of intimates (or former intimates) raises questions regarding the legitimate role of battered women's agency (Mills, 1999; Minow, 2000).[4] These policies limit women's ability to negotiate the terrain between state control and private control (Ford, 1991; Harrell & Smith, 1996; Kendrick, 1998). Women, and in the US especially low-income African-American women, rely on the police to interrupt and prevent battering episodes

(Buzawa et al, 1999; Hutchinson & Hirschel, 1998). This does not necessarily mean that they seek prosecution and punishment. Some women clearly do, but others use the threat of prosecution to gain key concessions from the batterer. This kind of bargaining becomes impossible in jurisdictions with no-drop prosecution policies (Ford, 1991; Wittner, 1998).

In addition, mandatory criminal interventions reinforce pathological notions of battered women who do not want to assist prosecution and who do not want to separate from a partner who abuses them. As Martha Mahoney explains, women's 'failure' to separate is often understood as evidence that a battered woman is crazy, lying about the severity of the abuse, or both (Mahoney, 1991). 'Staying' is a socially suspect choice – often perceived as acceptance of violence ...' (Mahoney, 1994: 60). As Julia Perilla notes, 'a failure to leave the relationship is seen by many ... court systems as a woman's failure to do something for herself and her family' (Perilla, 1999: 124).

Thus, legal professionals in reform institutions in the US – judges who routinely hear protection order or misdemeanour battering cases, court personnel hired to work with battered women, prosecutors, police officers, probation officers, and court clerks – presume that women *should* separate for their safety (Coker, 2000; Fenton, 1999; Wittner, 1998). In fact, some actors refuse to assist women whom they do not view as serious about leaving their abusers. This problem is not unique to the US. Loretta Kelly (1999) similarly notes that Australian police sometimes refuse to assist Aboriginal women who make repeat police calls because they believe the women are uninterested in separating from their abuser.

Not only does this separation-focus 'devalue women's connections with their partner[s]' (Coker, 2000: 1019), it is based on the false premise that separation equates with safety. In fact, for some women separation increases their risk of death or serious assault (Mahoney, 1991). Further, the safety that follows separation is largely fictive for poor women who do not have the resources to relocate. If these women 'have managed to find low-cost or public housing in the inner city and to patch together support systems or social services which allow them to care for their children, they have no alternative but to remain there as sitting ducks for the abuser when he returns' (Bowman, 1992: 205).[5]

These are (some of) the harms of mandatory criminal interventions. However, this is only part of the story. 'The outcome of policing, and of criminal justice intervention more generally is likely to be varied, perhaps contradictory, and in part determined by context' (Stubbs, 1995: 262). This is true both because women's lives differ from each other in important respects, and because the implementation and consequences

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of criminal justice intervention policies differ from one location to the next.[6] These variances are shaped by conditions such as the nature of support services for battered women, the attitude of local law enforcement officers, the availability of programs for men who batter, the nature of the relationship between the police force and communities of colour, and the influence of the local battered women's movement (Coker, 2000; Pence & McDonnell, 1999). While the crime control agenda shapes feminist discourse, criminal justice systems are also shaped by feminist demands that '[r]edefin[e] the purpose of the system [by] ... attempt[ing] to shift its primary orientation from that of carrying out an abstract standard of justice to one of providing protection and resources ... [for battered women]' (Sparks, 1997: 36).

Feminists have long been aware of the ambiguous nature of their efforts to harness the power of the state for the good of battered women (Schechter, 1982). The results are varied and the impact is shaped by the different material and cultural positions of women. Women's positions are shaped in part by dominant ideologies that inform the availability and the nature of public resources. Battered women cannot afford over-privatized remedies that result in their inability to invoke state power for protection, nor can they afford remedies that give them no control while presuming to act in the public's best interest.

## Three Theoretical Weaknesses of Restorative Justice Theory for Addressing Domestic Violence

Restorative justice proponents, for the most part, do not recognize this ambiguous relationship with state power. Categorical statements in restorative justice literature that presume sharp distinctions between criminal justice policies that are 'punitive' versus those that are 'restorative' fail to capture this varied reality (Daly, this volume) as does scholarship that depicts a singular victim and offender experience. Courtrooms may sometimes be 'nightmares' (Martin, 1998) for battered women, but sometimes women feel validated and empowered by court processes (Ptacek, 1999; Wittner, 1998). Arrest may cause some abusers to feel shame or rage or both (Braithwaite & Daly, 1994), but this experience may be moderated by subsequent respectful though firm treatment from the court (Ptacek, 1999) and treatment programs. Most men arrested for domestic violence misdemeanours serve little or no time in jail (Fields, 1994; Karan, 1999; Salzman, 1994) and many in the US and Canada are ordered to attend batterers' treatment programs (Dobash & Dobash, 1999a).

It is critical to engage the state on behalf of battered women, but we

must do so in ways that are sufficiently protective of poor women and women of colour. Three theoretical weaknesses of restorative justice theory for use in domestic violence cases hinder its ability to provide this kind of protection.

### Naturalizing state power: restorative justice and a theory of the state

We need to address the harder and more complex questions about how justice system practices are saturated and marked by racial-ethnic (and other) divisions, both past and present. (Daly, 2000b: 182)

The first weakness of restorative justice theory for dealing with domestic violence in subordinated communities is the manner in which restorative justice theorists often construct the state as a distant actor and thus elide the way state power suffuses all criminal justice processes, including restorative justice processes. I raise this concern not to argue for the superiority of formal justice processes – indeed, formal processes are clearly engaged in the same practices – but rather to argue for the modification of restorative justice processes.

Restorative justice scholars understand crime to be 'primarily ... a conflict between individuals that results in injuries to victims, communities, and the offenders ...' (Hudson & Galaway, 1996: 2). In restorative justice processes 'all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future' (Braithwaite, 1999a: 5 (quoting T. Marshall, 1997, personal communication)). Thus restorative justice theorists construct the state as a distant or even irrelevant actor to restorative processes. The result is to elide the operation of state power that suffuses the processing of criminal cases. The legislature determines how crimes are defined and state actors within the criminal justice system determine how these laws are applied, to whom, and under what circumstances.

As some restorative justice writers have noted, the criminal justice system may not be the most likely arena for efforts to achieve large measures of social justice (Braithwaite, 1999a; Daly, 2000b). For example, John Braithwaite (1999a: 105) writes that the most important remedies for controlling crime 'are not reforms to the justice system' but rather 'reforms about liberty, equality, and community in more deeply structural and developmental senses'. The difficulty with this response is that restorative justice processes do more than simply fail to address

the possible range of social injustices. They legitimate state power through reinforcing the behavioural norms reflected in the laws and through naturalizing the justice practices that bring the offender to the attention of the restorative process.

This legitimizing function illustrates a fundamental tension of restorative justice processes and the use of John Braithwaite's (1989) concepts of reintegrative shaming in those processes. (Perhaps, instead, it illustrates the inevitable tensions in partial reform.) A critical insight of Braithwaite's work (1989) (and restorative justice work more generally) is that an offender's experience of criminal justice processes may encourage future offending. Braithwaite (1989: 55) distinguishes between disintegrative (stigmatizing) shaming and reintegrative shaming. Reintegrative shaming involves 'expressions of community disapproval ... followed by gestures of reacceptance into the community of law-abiding citizens' (Braithwaite, 1989: 55). Braithwaite argues further that 'shame is more deterring when administered by persons who continue to be of importance to us; when we become outcasts we can reject our rejectors and the shame no longer matters to us' (Braithwaite, 1989: 55). In his later work on restorative justice, Braithwaite refers to the use of 'communities of care' composed of individuals who care about the offender, to provide reintegrative shaming in restorative processes such as conferencing (Braithwaite & Daly, 1994: 194).

Thus, reintegrative shaming requires that private individuals agree with and support the moral norms reflected in the penal laws (Braithwaite, 1989). It also requires that private individuals (implicitly, at least) acknowledge the moral authority of the state to create and enforce those norms. In essence, restorative justice and reintegrative shaming require an alliance between the state and 'communities of care'. Given the way in which crime policy is used to control poor people and people of colour, given the racist and classist practices of criminal justice officers, and given the way in which significant numbers of poor people and people of colour are locked out of electoral politics, establishing an alliance between the norms of an offender's community of care and those of the criminal justice system asks a great deal of subordinated communities. Further, unlike some community–police alliances (Kahan, 1999; Meares, 1997), this alliance does not offer subordinated people much in the way of control of the ongoing operation of the criminal justice system in their community. As Kathleen Daly (2000b: 174) argues, restorative justice 'must be tied to a political process [that includes] a process of engagement among and between the interests of political minority groups (for example, indigenous and feminist) and governments'. In other words, restorative justice must engage

with political action directed at state inequalities; it must engage the state, rather than ignore the state.

### Restorative justice theory and the lack of majoritarian opposition to domestic violence

The struggle to construct the meaning of domestic violence is no less present in 'communities' than it is in the larger society. The most important questions for thinking about the use of restorative justice processes in domestic violence cases are '*who* defines the problem?' and '*how* will the problem be constructed?' If community is, as Liz Kelly writes, the result of struggle and conflict over its identity (Kelly, 1996), then processes that are said to enact community norms cannot help but enter into that struggle. 'Community' practice cannot be neutral.

John Braithwaite argues that reintegrative shaming, of the kind proposed by some restorative justice advocates, requires that the law in question 'represent a clearly majoritarian morality' (Braithwaite, 1989: 14), but as Braithwaite and Daly note, '[f]ew societies ... contain a majoritarian masculinity that sets its face against violence' (Braithwaite & Daly, 1994: 190). Polls that show significant opposition to domestic violence are promising (Braithwaite & Daly, 1994; Klein et al, 1997), but such research does not capture the degree to which people are sympathetic to the 'the hapless man who must defend against a nagging, shrewish woman' (Coker, 1992: 110) or the cuckold husband who must defend his honour (Coker, 1992). Additionally, people often fail to condemn non-violent controlling behaviours such as threats to take children, control of money, isolation of the woman, and extreme jealousy (Pence & Paymar, 1993).

The question of the norms that will apply is even more complicated for restorative justice processes like conferencing that rely on family and supporters. In conferencing, the victim, offender, facilitator, and supporters of both the victim and the offender meet to discuss the crime and to develop a resolution that focuses on repairing the harm done to the victim. Thus, with conferencing, the relevant question becomes not what do *most* people believe, but rather what do significant people *in the batterer's (and the victim's)* life believe? Research with men who batter finds that friends and family often play important roles in supporting the batterer's view of himself as a victim rather than a victimizer (Bowker, 1983; DeKeseredy, 1990; Hearn, 1998a, 1998b). Jeff Hearn's in-depth interviews with abusive men found that their level of violence was positively correlated with *both* social isolation (few people with

whom to talk over problems or socialize) *and* with having friends who tacitly or explicitly endorse their violence. Hearn concludes that '[i]t is likely to be the *nature* of men's contact with his friends rather than the volume as such that is most significant [in determining his level of violence]' (Hearn, 1998b: 151, emphasis added).[7] And what was the nature of this contact? Hearn found that most male friends either said nothing or actively supported the man's use of violence (Hearn, 1998b). For example, a man who stabbed his wife reported the following responses from his friends:

'What you've done, you've done something wrong, yes. And any man would have done something more or less similar, maybe not the same thing, or maybe not even anything related, but they would have fought for their children, sort of thing'. They said, 'And when children are involved in any sort of relationship or a man and a woman argument, it's a case of domestic and anything can happen.' (Hearn, 1998b: 154)

Whether because of familial loyalty, their own experiences with denying or excusing family violence (Gayford, 1983), or because they fear the abuser (Pennell & Burford, this volume), family members are also unlikely to actively oppose the batterer's violence (Hearn, 1998b). One man's report provides an example:

Q: Did any of your family or any of your friends know about the violence?

A: Two of my brothers knew. You know, they was blaming me for it, but they know different now. They've read everything what she's put down in statements and they know now that 99 per cent she started it. (Hearn, 1998b: 152–53)

In addition to micro-environments of family and male friends, the neighbourhood in which a batterer lives may shape his violence. Evidence suggests that men who live in the most intensely marginalized communities are the *least* likely to be deterred by arrest and criminal processing and their violence may escalate following arrest (Marciniak, 1994).[8]

The responses to offending that develop from restorative justice processes such as conferencing reflect the understanding of the causes of the criminal offence shared by those who attend the process. Thus the result is captured, somewhat, by the limits of the group's understanding. John Braithwaite's description of drunk driving conferences provides an example:

I have seen many drunk-driving conferences where the offender is a tottering alcoholic, but where no one in the community of care raises the need for a drug

treatment program, sometimes because most supporters are also excessive drinkers. (Braithwaite, 1999: 69)

While members of the offender's support network may be willing to express (and even act on) opposition to the offender's driving while intoxicated, they are unlikely and unwilling to confront the root of his problem – his alcoholism. Similarly, without a process that deals with the beliefs and controlling behaviours that accompany domestic violence, conference attendees are likely to focus their attention solely on stopping the violence. The result is as likely to be encouraging the victim to appease the batterer by complying with his demands, as it is to support the woman's demands for autonomy.

## Theorizing about domestic violence

I recognize that the violence was all about power, about wanting, I had to have my way, and by any means I would get my way. And usually the quickest means was violence. At the same time I always used to think that I never got my own [way] but in effect I did. I always got my own way ... (Hearn, 1998b: 170)

Restorative justice literature concerns itself more with the relationship of the justice response to further criminal offending than with the nature of offending, per se (Braithwaite, 1989). This under-theorizing of offending is a significant theoretical weakness for the use of restorative justice processes in domestic violence cases.[9]

Feminist work in domestic violence understands the violence as 'a way of "doing power"' in a relationship (Mahoney, 1991: 53 quoting Stets, J, 1988). Feminist criminology suggests that it is also a way of 'doing masculinity' (Braithwaite & Daly, 1994; Newburn & Stanko, 1994). Domestic violence is understood not as an eruption that follows 'conflict', but rather as part of a system of controlling behaviour. This is why reform systems require that battering men enrol in batterers' treatment programs that address a range of controlling behaviours that make up a battering system (Adams, 1988; Edleson & Tolman, 1992; Pence & Paymar, 1993). An emphasis on conflict resolution hides the struggle for control and the feelings of male entitlement that often create the context for 'conflict' (Dobash & Dobash, 1998; Fischer, Vidmar & Ellis, 1993).

Men who batter frequently describe themselves as victims (Coker, 1992). They equate women's verbal aggression or threats to separate with a physical assault requiring a physical response (Coker, 1992). A

batterer's belief in his status as a victim is often tied to gendered conceptions of appropriate behaviour for his female partner. Her failure to prioritize his needs, her failure to make herself available sexually, or her failure to control the children are felt as attacks on masculinity and provide a rationale for violence (Dobash & Dobash, 1998). As described in the previous section, these beliefs find much support both within the larger culture (Mahoney, 1991) and within the micro-cultures in which the batterer operates (Bowker, 1983).

Lee Bowker argues that interventions with men who batter must be 'multidimensional' in order to address the multiple systems roots of masculine violence (Bowker, 1998). Those who urge an ecological approach to understanding battering make a similar argument (Dutton, 1995; Edleson & Tolman, 1992). This requires understanding the interactive links to battering that occur at the social, cultural, personality, biological, and economic system level (Bowker, 1998).

Part of this systems approach is to recognize the ways in which men construct masculinity and the relevance of that construction to violence directed at women. As Angela Harris writes, when men use violence or threaten violence it may be 'an affirmative way of proving individual or collective masculinity, or in desperation when they perceive their masculine self-identity to be under attack' (Harris, 2000: 781). Understanding the manner in which masculinities are shaped by race, class and ethnic identities and experiences may be central to successful intervention against battering. More privileged men are often better equipped to make their partner appear at fault (Waits, 1998). For example, when women leave, these men have the means to carry out protracted litigation that drains the woman's financial resources (Waits, 1998).

As Harris notes, men who are denied access to dominant forms of idealized masculinity because of hierarchies of race, class, or sexual orientation may create oppositional definitions of masculinity that are nonetheless shaped by the dominant model. For example, '[b]uilding on and subverting racist stereotypes, working-class and poor black men may aspire to a masculinity that emphasizes physical strength, mental control, and sexual prowess' (Harris, 2000: 784). Others may develop a form of 'hypermasculinity' which rests on 'exaggerated exhibition[s] of physical strength and personal aggression' (Harris, 2000: 785).

Battering is not only the product of the operation of systems in the batterer's life (Edleson & Tolman, 1992), it is also shaped by structural inequalities in the lives of women (Schneider, 1992). One of the key such structural supports for battering is the lack of material resources available for women (Coker, 2000). Some abusive men select women because they are economically vulnerable (Jacobson & Gottman, 1998).

Even were this not the case, battering men often ensure that women become and remain economically vulnerable (Raphael, 1995, 1996; Zorza, 1991). Access to adequate housing, employment, childcare, and health care are important determinants of women's victimization. Research by Cris Sullivan finds, for example, that when advocates assist battered women with access to material resources and community services, women experience less re-abuse than do women who do not receive the same assistance (Sullivan & Bybee, 1999).

## Transformative Justice

Restorative justice processes do not generally address these sources of battered women's inequality nor do they address the subordinating systems that may operate in the life of the batterer. The concept of *restoration* suggests that a prior state existed in which the victim experienced significant liberty and the offender was integrated into a community; in many cases neither is true (Morris, 1995). Rather than restorative justice, battered women should have the option to choose processes that operate with a *transformative* justice ideal.

Some writers use the term transformative justice interchangeably with the term restorative justice (LaPrairie, 1995b; Porter, 1999), but Ruth Morris argues for distinguishing between the two concepts (Morris, 1994, 1995). Morris seeks to incorporate into justice processes the recognition that 'socioeconomic wrongs [are] at the root of our existing definitions of crime and punishment' (Morris, 1994: 290). She argues that while it is superior to more punitive models, restorative justice 'ignores structural causes of crime' (Morris, 1995: 72), which she understands to be 'an attempt to find power by the powerless and a negative response to pain by those in pain' (Morris, 1994: 291). She argues that when a crime is committed it presents an opportunity for the community to address its inequalities (Morris, 1995; see also LaPrairie, 1995a). Additionally, Morris adds the criminal justice system as a fourth player to restorative justice's focus on offender, victim, and community (Morris, 1995).

Morris's concept of transformative justice suggests possibilities for enhancing the capacity of restorative justice processes to intervene in domestic violence cases. Her vision of justice recognizes the criminal justice system as an actor and thus offers an alternative to the manner in which restorative justice theory and practice elide state power and naturalize criminal justice processes. Morris also recognizes the importance of identifying and addressing the links between the offender's experiences of subordination and his offending.

Despite these advantages, Morris's theory presents problems for application in domestic violence cases. Morris's single attention to structural explanations for crime results in what Jack Katz (1988: 313) refers to as 'sentimental materialism'. This structuralist approach fails to recognize the importance of how people construct the experience of offending (Harris, 1997). If applied to domestic violence cases, Morris's theory fails to address the importance of the gendered way in which batterers understand, explain, and experience their violence. Men who batter operate within constructs of masculinity that reinforce male dominance of women. Their explanations for their violence centre on women's perceived failures to live up to expectations for appropriate women's behaviour. Their violence is often directed at reinforcing male privilege and control of women's sexuality. Morris's structuralist approach also fails to acknowledge the role of offender choice and moral decision-making. As Angela Harris notes, 'crime does not simply emerge from structures of oppression and injustice; crime is committed by people who consciously make choices about their actions and how they wish their actions to be interpreted' (Harris, 1997: 42). This failure to attach clear moral blame may reinforce batterers' tendencies to blame the victim or others for their violence.

In addition, Morris fails to address the duality of oppression: the powerless in one context are the powerful in another context (Harris, 1990). The result is an incomplete structural account of crime. In reality, not only does inequality create crime, but crime (victimization) creates and maintains inequality. Domestic violence creates and deepens female poverty (Browne, 1995), it limits women's participation in civic and economic life (Zorza, 1994), and it debases and devalues women's lives in ways that deeply affect their emotional and spiritual sense of themselves (West, 1999).

An expansion of Morris's concept of transformative justice that is informed by feminist/critical race feminist theory would address both aspects of the relationship of battering to social inequality: the manner in which subordinating experiences in the lives of batterers relate to their decisions to batter and the manner in which their battering subordinates women.

This concept of transformative justice builds on research that demonstrates that batterers' networks are important supporters of battering behaviour as well as on restorative justice theory that emphasizes the ability of supporters to care for victims and reinforce non-offending norms in offenders. It differs from and expands upon restorative justice processes in several ways. First, rather than rely on existing community norms, it takes as its aim the transformation and creation of communities that support women's autonomy.[10] Second, it considers

reintegration of the batterer important but secondary to enhancing the victim's autonomy.[11] Third, it offers an opportunity to recognize the manner in which systems of oppression in the batterer's life – 'including economic policies that result in an inability to support families, racist structures, substance abuse and addiction, and histories of horrific childhood abuse' (Coker, 1999: 50–51) – relate to, but do not excuse, his use of violence. A transformative practice challenges not only the state's monopoly on responses to crime, but also challenges racial and gender subordinating institutions, beliefs, and practices that support the crime of battering.

### Examples of transformative processes

Current programs that work in subordinated communities provide models for a transformative justice process. These programs do not reject the use of coercive state power, but rely more prominently on changes in batterer networks, provision of support for battered women, and processes that link gender ideology and subordination with experiences of racial subordination and colonization. These programs aspire to meet the transformative goals of redefining gender expectations and norms and building more just communities to support these changes.

The Institute for Family Services in Somerset, New Jersey provides one such example (Almeida & Dolan-Delvecchio, 1999). The Institute works with Asian Indian-American families. Some abusive men are court-ordered to the program while others are voluntary participants. The program is based on the concept that 'it is essential to dismantle the power dynamics connected to gender in a way that does not simultaneously obscure and thereby collaborate with related systems of institutional oppression, such as racism and heterosexism' (Almeida & Dolan-Delvecchio, 1999: 657). Each client of the program is given a sponsor of the same sex whose job it is to 'connect the client to the collective experience of his or her gender, racial, and cultural group' (Almeida & Dolan-Delvecchio, 1999: 669). Through discussions of clips from movies such as *Sleeping with the Enemy* and *Straight Out of Brooklyn,* men in all-male 'culture groups' are encouraged to think about how differences of race and class affect the choices of the battered women in the films. The groups also encourage men to relate *their own* experiences of racism and classism to the issues of gender subordination. For example, 'one Muslim, dark-skinned Asian Indian father of three, who was referred for battering his partner and 12-year-old son, offered comprehensive ... analyses of racism ... He was challenged by his male peers ... to use his analysis of race to better understand their

requests for him to treat his female partner and his son nonviolently'
(Almeida & Dolan-Delvecchio, 1999: 678).

Couples sessions occur if the victim requests them and after the per-
petrator accepts full responsibility for his abusive behaviour. These
meetings are attended by sponsors and therapists. In one such meeting
a man who had abused his wife and daughter read a letter in which he
accepted responsibility for his violence. The effect was to produce in the
wife and daughter '[feelings of] empowerment and dignity, as men and
women they had never met unequivocally held the abuser accountable
for his violence in a public forum' (Almeida & Dolan-Delvecchio, 1999:
679). The meeting was subsequently described to the man's culture
group where '[he] was supported by his peers for taking the first steps
toward establishing justice in his marriage' (Almeida & Dolan-
Delvecchio, 1999: 679). The entire process became what John Braith-
waite refers to as a 'reintegrative ceremony' (Braithwaite, 1989: 102). It
provided the batterer with the opportunity to make amends and
acknowledge his responsibility for causing great harm to his family,
while also reinforcing the wife and daughter's sense of dignity and moral
worth. The process was also transformative because it reinforced the
emerging egalitarian norms of the men's culture group and in turn the
process in the group linked the struggle for gender equality with the
struggle for racial and economic justice. For women, the Institute pro-
vides support without requiring that women choose between cultural
identity or group membership and their safety and autonomy (Almeida
& Dolan-Delvecchio, 1999).

Other programs for heterosexual men of colour who batter similarly
focus on relating the experiences of racial/ethnic subordination to the
men's own use of power to subordinate their female partners (Carrillo
& Goubaud-Reyna, 1998; Duran & Duran, 1995; Duran et al, 1998;
Tello, 1998; Williams, 1998). All stress that the man's own experiences
of oppression do not excuse or justify his own oppressive behaviour. All
seek to enable men to redefine their masculinity in ways that do not
depend on oppressing women. These programs vary in the degree to
which they rely on defining masculinity in a manner that is overtly
oppositional to that of Anglo-European conceptions of masculinity.

In Navajo peacemaking, a process similar to conferencing, some
peacemakers use similar strategies in dealing with domestic violence
cases. These peacemakers employ traditional Navajo stories that contain
gender egalitarian themes (Bonvillain, 1989; Zion & Zion, 1993) to
enlist the language of cultural and political sovereignty to create con-
ceptions of masculine identity that support gender egalitarianism
(Coker, 1999). Peacemakers use these stories to instruct parties re-
garding their gendered responsibilities to each other, including the

husband's responsibility to treat his wife with respect (Coker, 1999; Zion & Zion, 1993).

It is tempting to think of these processes as 'treatment' and therefore not 'law', but they are justice-*making* processes. These processes focus on education and organizing, not the individual psychology of the batterer or the battered woman. They rest on the realization that community is a project of political will and imagination (Harris, 1997; Kelly, 1996). Further, while processes such as those of the Institute do not directly alter the ways in which racial and class subordination shape crime legislation or criminal justice processing, they may form the basis for political action to attack those inequalities. Even if this were not true, they enable women in those communities to live less coerced lives.

We can also learn from justice programs that are not specifically focused on domestic violence. For example, Angela Harris's description of the work of the Prisoners' Alliance with Community (PAC), an informal organization operating out of Green Haven Prison in New York State (Harris, 1997), provides another example of transformative justice. The program operates with an Afrocentric and Latinocentric approach and 'places current statistics about the disproportion of African-American and Latino people in prison in the historical context of white supremacy ...' (Harris, 1997: 43). The PAC approach 'stresses "empowerment" rather than "rehabilitation": transformation of the offender and the community rather than a simple adjustment of the offender to the community' (Harris, 1997: 44). Harris quotes PAC material:

Inherent in the theory of rehabilitation is the concept that it seeks to 'correct' the individual such that it returns him or her to a state or condition that he/she was in, or should have been in, prior to the objectionable behavior ... [But] [t]he conditions for Blacks and Latinos prior to the objectionable behavior was one of a disadvantaged, second class citizen, in relationship to full and unobstructed access to the benefits, rewards and power in society. This lack of access clearly was a factor which contributed to the objectionable behavior. (Harris, 1997: 44)

PAC is not only interested in coming to understand the racial subordination that relates to choosing criminal behaviour, it is also interested in reconciliation with the community. This requires that prisoners acknowledge the wrongs they have committed. '[It] begin[s] with an apology and proceed[s] into five stages: recognition, responsibility, reconstruction, reconciliation, and redemption' (Harris, 1997: 44–45).

Harris does not note whether PAC specifically addresses crimes of violence against women, but the PAC approach of linking offender responsibility to the community while at the same time recognizing the

injustices in the offender's life suggests the possibility for transformative processes that go beyond a 'program' and into the neighbourhood.

### Principles of transformative justice process

A transformative justice project offers an alternative to the separation-focused interventions of the dominant forms of justice intervention. It helps women build a community that supports women's autonomy without forcing women to choose between their ethnic/racial communities and safety (Coker, 2000; Presser & Gaarder, 2000). Transformative justice processes must avoid the trap of 'privatizing' violence, but violence is not privatized when a man reads an apology to his wife and daughter in the presence of others, particularly when those others are in a position to monitor his future behaviour. In this way, transformative justice processes capture the benefit available in formal adjudication: that of a public repudiation of the batterer's behaviour and a declaration of unilateral responsibility for his violence (Fenton, 1999; Schneider, 1991). Needless to say, facilitators in a transformative process should not aspire to a neutral ideal (Umbreit & Zehr, 1996) but, like Navajo peacemakers (Coker, 1999) should make transparent the normative assumptions from which they operate (Freshman, 1997). These normative assumptions should not only oppose violence, but should support women's autonomy.

Contrary to some descriptions of conferencing (Retzinger & Scheff, 1996), a transformative process for domestic violence cases should *not* focus on eliciting forgiveness from the victim. The benefits of 'reintegration' for the batterer (Braithwaite, 1989) are found in enabling him to understand both his responsibility for his use of violence and controlling behaviour and his behaviour's continuity with the violence of racial, economic, and colonizing hierarchies. Reintegration does not require that the victim forgive him and certainly does not require that they reconcile, though it does not foreclose the possibility. Pressure to forgive places the victim in an untenable position of once again subordinating her own needs to those of the abuser.

Further, while public apologies from the abuser are important, there is a danger in placing too much emphasis on an apology. Some abusive men are quick to apologize, but slow to change (Coker, 1999). In order to guard against this kind of 'cheap justice' (Coker, 1999), a transformative justice process should include extensive fact-finding, planning, and enforcement. The kind of fact-finding that I have in mind is similar to the process of South Africa's Truth and Reconciliation Hearings (Minow, 1998), to interracial justice described by Eric Yamamoto

(Yamamoto, 1999)[12] and to the practices of some Navajo peacemakers (Coker, 1999; Yazzie & Zion, 1996). This fact-finding should ideally include the abuser's family and supporters, and at some point, the family and supporters of the battered woman. As the work of batterers' treatment programs illustrates, this takes time.

The focus in restorative justice literature on *symbolic* reparations is misplaced where the material resources available to the victim are directly responsible for her ongoing vulnerability to the batterer's control. Transformative justice should address the material needs of the victim whether through unencumbered access to crime victim compensation programs (Mills, 1999) or through direct transfers of money or services from the abuser or his family to the victim (Braithwaite & Daly, 1994; Zion & Zion, 1993).

### Conclusion

Feminist critics are correct to worry that restorative justice processes may privatize domestic violence, creating a second rate justice that offers little protection for battered women. Indeed, current restorative justice processes seem largely inadequate to the task of addressing domestic violence. There are few restorative justice models that address the manner in which community opposition to domestic violence may be weak or non-existent. In addition, restorative justice literature offers little in the way of theory for understanding male violence against known women.

Restorative justice processes frequently involve a second kind of privatization, as well. Rhetoric that highlights the power of individuals to address crime may serve to make invisible the manner in which state power is deployed to define crime and to enforce criminal laws. Subordinated communities are poorly served if a discussion of social inequalities and discriminatory criminal justice practices are 'off-limits' for the restorative justice process.

Thus restorative justice processes may fail battered women because the particular dynamics of battering are poorly understood or because the process results in tacit approval of some measure of 'acceptable' male control of female partners. Restorative justice processes may fail both men and women in subordinated communities because of the failure to address their social context.

On the other hand, current anti-domestic violence strategies that focus on crime control measures create real dangers for women, and this is particularly true for women who are most vulnerable to state intrusion and control. Thus, women in subordinated communities must be

concerned with both the coercive power of the state as well as the coercive power of battering men (Coker, 2001). The question is how to control the state – to ensure adequate protection for battered women – without creating increased state control of women.

Because '[w]omen live under conditions of unequal personal and systemic power that affect all aspects of our lives ...' (Mahoney, 1994; 60), we cannot presume that a singular response to domestic violence will be effective for all women. Rather, as Gordon Bazemore (this volume) writes, we need a 'menu of responses' to domestic violence that account for the structural inequalities of women's lives.

The transformative justice model sketched here is an attempt to further expand our 'menu'. This model addresses the structural inequalities that frame the battering experience for men and women in subordinated communities, provides material and social support for battered women, and holds men who batter responsible for their violence. Adoption of a transformative process does not mean that domestic violence should be decriminalized. Women must be assured that when police are called they will come, and that arrest takes place when women request arrest and the circumstances are legally sufficient for an arrest. But battered women risk not only that the police will fail to protect them, but that opening the door to state intervention will create additional sites for state control.

Battered women require transformation: transformation of their families, communities, and the state. Transformative justice processes can link with formal justice processes (Braithwaite & Daly, 1994; Presser & Gaarder, 2000) and create programs that centre on this transformation.

### Notes

1    An additional privatizing concern not often mentioned by feminist critics relates to the private role of restorative justice facilitators and participants. Facilitators are private actors in ways that are not true of judges. They are not subject to removal under the same conditions, their decisions are less likely to be subjected to public scrutiny, and to the extent that their ranks are more numerous and their membership less well defined, they may be more insulated from reform measures such as domestic violence education.

2    The focus of state child protection agencies on the children of poor women of colour should be understood as part of a long history of US policies aimed at controlling the reproduction of poor women, particularly African-American women (Roberts, 1997).

3    These policies are also intended to 'shift the burden of confronting the abuser from the shoulders of the victim' to that of the state (Gamache & Asmus, 1999: 76; Hanna, 1996) and to 'hold the batterer accountable'.

However, 'holding accountable' may have different meanings. As Claire Renzetti writes, 'Could another translation of [holding batterers accountable be] ... "failing to adequately *punish* men for their violence?"' (Renzetti, 1998). Similarly, Laureen Snider suggests that feminist support for criminalizing policies confuses penality with social control (Snider, 1998).

4   Kathryn Abrams describes 'agency' as the partial autonomy women enjoy under systems of oppression. (Abrams, 1999). Martha Mahoney similarly notes that '[a]ll work with subordinated people confronts ... the challenge of analyzing structures of oppression while including an account of the resistance, struggles, and achievements of the oppressed' (Mahoney, 1994: 59).

5   Many battered women desire to separate from their abuser and these women need assistance and protection from the state. This assistance should address the desperate need many women have for additional material resources (Coker, 2000).

6   Activists with the Domestic Abuse Intervention Project, a model program that is often credited with the implementation of mandatory arrest and no-drop prosecution policies in the US and elsewhere, note that without a system-wide response that includes services and supports for victims, mandatory criminal policies can fail and even harm women (Pence & McDonnell, 1999).

7   Hearn provides a more detailed analysis of his study in his book, *The Violences of Men: How Men Talk About and How Agencies Respond to Men's Violence to Women* (1998a).

8   Tracey Meares makes a similar point describing the relationship between social disorganization and criminal behaviour in a neighbourhood (Meares, 1997).

9   An additional weakness of restorative justice processes and hence much of the theory that flows from those processes is that the majority of practice and research has focussed on juvenile offenders who commit property crimes. The leap from this context to work with adult offenders who commit violent crimes recommends caution in applying current research conclusions to domestic violence cases.

10  Carol LaPrairie (1995a) similarly notes that processes may be transformative because they have 'the potential for transforming communities by responding more realistically and effectively to community inequalities, needs, and conflicts'.

11  Presser and Gaarder similarly argue for restorative justice processes that make '[v]ictim well-being and safety ... the first priorities' (Presser & Gaarder, 2000: 186).

12  While Yamamoto describes a process in which communities of colour on both sides of a conflict engage in extensive fact-finding, soul-searching, apology and reparations, my focus is on the *batterer's* response (Yamamoto, 1999). Yamamoto describes 'the four "R's"' necessary for interracial justice: recognition (what I refer to as fact-finding), which includes investigating 'stock stories' that groups use to legitimate grievances against the other group; responsibility, which requires that the group 'assess carefully the dynamics of group agency for imposing disabling constraints on others'; reconstruction, which 'entails active steps ... toward healing the ... wounds resulting from disabling group constraints'; and reparation, which 'seeks to

repair the damage to the material conditions' and create 'material changes in the structure of the relationship (social, economic, political) ...' (Yamamoto, 1999: 10–11). He refers to reparations without changes in material conditions as 'cheap reconciliation'. I adopt Yamamoto's assessment and label as 'cheap justice' processes that over-value offender apologies without accompanying material changes (Coker, 1999: 85).