

Living at the Cutting Edge

Women's Experiences of Protection Orders

Volume 1: The Women's Stories

A report prepared by

Neville Robertson, Ruth Busch, Radha D'Souza, Fiona Lam Sheung,
Reynu Anand, Roma Balzer, Ariana Simpson and Dulcie Paina

of the University of Waikato (School of Law and the Māori and Psychology
Research Unit)

Commissioned by the Ministry of Women's Affairs

August 2007



Dedication

Dedicated to the 212 women and children who have died in domestic violence homicides since the enactment of the Domestic Violence Act 1995¹.

1995

Cherie Hoyle (29 years)
Chay Grant
Robert Grant (4 years)
Stephanie Skidmore (20 years)
Leonie Newman (26 years)
Victoria Watson (8 months)
Charmaine Julian (42 years)
Veronica Takerei-Mahu (11 months)
Sara Nixon (7 years)

1997

Andrea Brander (52 years)
Child, name not known
Child, name not known
Shae Hammond (17 months)
Anaru Te Wheke Donny Te Moananui Rogers (17 months)
Rosemary Roberts (27 years)
Pet Kum Kee (49 years)
Brittany Crothall (3 years)
Jamoure Chaney (10 months)
Casey Albury (17 years)
Karen Jacobs (26 years)
Moana King (34 years)
Stephanie Baker (26 years)
Andrea Torrey (28 years)
Wynell Lelievre (15 years)
Catriona Fettes (33 years)
Tishena Valentine Crosland (2 years)
Peti Taihuka Cherie Kokiri (12 years)
Marcus Te Hira Grey (2 months)
Kim Ihaka (22 years)
Deidre Williams (22 years)

1998

Alofa Fasavalu (38 years)
Liam Sullivan (3 months)
Baby boy, name not known
Angelina Edwards (25 years)

¹ This list was supplied by the Family Violence Technical Advisory Unit (PO Box 1219, Hamilton). Because it was compiled from a search of newspapers, some domestic violence deaths may have overlooked.

Nivek Dodunski (17 months)
Karen Stanley-Hunt (25 years)
 Fiona Maulolo (31 years)
 Shona Bruce (42 years)
Jaydon Perrin (10 months)
Jonelle Tarawera (19 months)
 Bavinder Kaur (26 years)
 Lauren Runciman (19 years)
Margaret Bennelick (44 years)
 Patricia Paniani (33 years)
Kelly Rae McRoberts (6 years)
 Lisa Hurrell (21 years)
 Lucy Carter (7 years)
 Thomas Carter (4 years)
 Holly Carter (3 years)
Pirimai Simmonds (17 months)
 Jennifer Federici (27 years)
 Lisa Hope (8 years)

1999

Marama Tamati (19 years)
James Whakaruru (4 years)
Simon Tokona (18 months)
 Winiata Tokona (3 years)
 Roimata Wehi (25 years)
Mereana Edmonds (6 years)
 Angela Han
 Nicholas Han (4 years)
 Christina Han (2 years)
Joanne Van Duyvenbooden (32 years)
River Michael Manawatu-Wright (9 months)
 Israel Aporo (3 years)
 Jillian Thomas (45 years)
 Elizabeth Douglas (51 years)
Keziah Te Huia Smith (11 months)

2000

Annette Bower (47 years)
Tangaroa Matiu (3 years)
 Alice Perkins (8 years)
 Maria Perkins (6 years)
Kamphet Vong Phak Dy (50 years)
 Jian Huang (35 years)
 Jiang Su
 Alison Aris (32 years)

Te Miringa Tipene

Lilybing Hinewaoriki Karaitiana-Matiaha (23 months)

Natasha Tana-Bind (24 years)

Cherie Perkin (23 months)

Baby boy, name unknown (11 months)

Matekino Taylor (25 years)

Christine Lundy (38 years)

Amber Grace Lundy (7 years)

Florence Simpson (82 years)

Liotta Leuta (5 years)

Eliza May Te Hiko (45 years)

Margaret Waterhouse (42 years)

2001

Tracey Patmore (34 years)

Daniel Marshall Loveridge (13 months)

Lauren Shepherd (21 years)

Thomas Lance Darshay Schuman (2 years)

Levi Wright (10 months)

Caleb Moorhead (6 months)

Dominique Hingston (6 years)

Nikita Hingston (5 years)

Ryco Lance Mauri (10 months)

Patricia Burton (49 years)

Helen Wickliffe (22 years)

Te Pare (Polly) Te Kahu (39 years)

Chanel Lambert (21 years)

Karen Nant (16 years)

Janice Kenrick (40 years)

Pamela Hesketh (64 years)

Helen Johns (43 years)

Saliel Aplin (12 years)

Olympia Jetson (11 years)

Wathanak Tea (37 years)

Jaelyn Ariki Ngatai Maxwell (6 years)

2002

Wendy Heaysman (56 years)

Langaola Ahau (23 years)

Tamati Pokaia (3 years)

Barbara Miller (17 years)

Kalin St Michael (2 years)

Brodie Gordon (9 weeks)

Shontelle Marks (4 months)

Kelly Paula Gush (12 years)

Hasnah Hamer (38 years)
Dawn Parrish (65 years)
Coral-Ellen Burrows (6 years)
Cheyanne Rongonui (18 years)
Zhi Ping Yu (22 years)
Weng Di Dai (10 years)
Edwina Graham (30 years)
Jessica Pardoe
Iris Kathleen Davidson (23 months)

2003

Jia Ye (20 years)
Girl, name not known (11 years)
Boy, name not known (6 years)
Bin Lin (Ruby)
Anahera Ross Lewis (3 years)
Randwick Aholelei (3 months)
Caleb Tribble (4 months)
Donna Hewlett (39 years)
Seau Luana Ate (51 years)
Gulshad Hussein (23 years)
Lorraine Royal (43 years)
Lisa Blackmore (27 years)
Rocky Wano (15 years)

2004

Ordette Lloyd-Rangiua (45 years)
Gabriel Harrison-Taylor (8 months)
Asolelei Samuelu (32 years)
Child, name not known
Child, name not known
Raiden Niania (4 months)
Wendy Mercer (34 years)
Will Mercer (6 months)
Pamela Lotze (48 years)
Baby, name not known (4 months)
Te Hau Te Horo O'Carroll (10 years)
Ngamata O'Carroll (2 years)
Molly Rose McRae (6 years)
Cheryl Pareanga (33 years)
Baby girl, name unknown (7 months)
Cameron Fielding (10 years)
Kathleen Harris (7 months)
Krystal Fielding (8 years)
Mereana Clemments-Matete (14 months)

2005

Denise Holmes (27 years)
Baby boy, name unknown (6 days)
Sarah Rebekah Haddock-Woodcock (3 months)
Chitralekha Ramakrishnan (32 years)
Woman, name not known (36 years)
Susanna Brown (33 years)
Hannoraugh Johansen (94 years)
Nicola Hackell (36 years)
Britney Angelique Abbott (9 years)
Eileen Te Oki Puke
Aaliya Morrissey (2 years)
Nancy Peterson (Xiukun Feng) (54 years)
Rosemary Harry (33 years)
Shunlian Huang (24 years)
Christine Hindson (45 years)
Catherine Carter (45 years)
Thelma Thompson (26 years)
Woman, name not known (20 years)
Deborah Rerekura (39 years)
Moana Kapua (29 years)
Samantha Mahara-Rangiawha (34 years)
Teresa Kohu (27 years)
Karen Oakes (28 years)

2006

Ruth Peoples (35 years)
Ngatikaura Ngati (3 years)
Staranise Waru (7 months)
Woman, name not known (34 years)
Arwen Fletcher (2 years)
Suzanne McSweeney (50 years)
Baby girl, name not known (14 months)
Boy, name not known (3 years)
Woman, name not known (22 years)
Mairina Dunn (17 years)
Ariana Burgess (24 years)
Verilyn Koia (41 years)
Lesa Pakau (33 years)
Denise Brame (41 years)
Chris Kahui (3 months)
Cru Kahui (3 months)
Maureen Matete-Walker (36 years)
Alyssa Patricia Little-Murphy (7 months)

Aiden Whitfield (15 years)
Alex McRae (2 years)
Baby girl, name not known (newborn)
Woman, name not known (46 years)
Reipai Joanne Dobson (19 years)

2007

Shirley Anne Keith (62 years)
Denise Simeon (52 years)
Angela Teresa Dean (55 years)
Misook Kim (42 years)
Baby girl, name not known (18 months)
Baby girl, name not known (newborn)
Woman, name not known (35 years)
Rosslene White (35 years)

Judge Ellis, in *Fielder v Hubbard*, the very first case that was decided under section 16B(4) of the Guardianship Act, stated:

It may be that this [is] the first such defended case in the Family Court requiring consideration of the provisions of this amendment, and if that is so, it would be appropriate, since it was in this Court that orders were made affecting the children of the Bristol family whose tragic fate subsequently gave rise to the Commission of Inquiry whose recommendation led to this significant legislative change. It might have been expected that the significance of the event, and of the legislative change, would have made more impression on counsel in this case, some of whom were involved in that other.” [1996] NZFLR 769

LEST WE FORGET

Acknowledgements

This research was commissioned by the Ministry of Women's Affairs. It was completed only with the help of many people whose assistance we acknowledge.

- The women who generously and bravely gave of their time and energy to tell their stories.
- The key informants who took time to share their wisdom with us.
- Margaret Young and Rowena Phair of the Ministry of Women's Affairs for their patience, support and meticulous work in checking our report.
- Ged Byers, Rob Veale, Jodine Lee and Ari Pfeiffenberger of the Office of the Commissioner of Police for facilitating access to police documents.
- Elizabeth Barrett and Patricia Knaggs of the Ministry of Justice for supplying statistical and other information.
- Karen Whiteman who did much of the administrative work during the early part of the project.
- The Family Violence Technical Advisory Unit for providing office space, ideas and lunches.
- Our respective whanau who have supported us through the past two years.

About this report

This report was commissioned by the Ministry of Women's Affairs. The views expressed in it are those of the authors and not necessarily those of the Ministry.

The report is published in two volumes:

Volume 1: The Women's Stories (Executive Summary, Chapters 1 – 6)

Volume 2: What's To Be Done? A Critical Analysis of Statutory and Practice Approaches to Domestic Violence (Chapters 7 – 15 and Appendices)

Both can be downloaded at <http://research.waikato.ac.nz/CuttingEdge/>. The *Executive Summary* is also available at that address as a separate document.

Contents (Volume 1)

Executive Summary	xi
Background	xi
Our approach	xi
Key Findings	xi
Recommendations	xv
1: Introduction	1
New Zealand Domestic Violence Policy	4
Background to the Present Research	10
Our Approach	11
2: Māori Women’s Stories	17
Crystal	17
Halle	21
Katrina	27
Lyla	35
Marama	41
Maria	47
Roimata	50
Te Rina	55
3: Pākehā Women’s Stories	61
Amanda	61
Caitlyn	68
Claire	71
Elizabeth	83
Hilda	90
Jess	98
Louise	108
Marjorie	114
Patricia	119
Patti	126
Rachel	130
Sarah	136
Trudy	139
4: Pasifika Women’s Stories	145
Alofa	145
Mele	147
Priya	151
Rasela	154
Rowena	160
Tessa	163
Tiare	169
Titiana	172

5: Other Ethnic Minority Women’s Stories	177
Alice	177
Amira	180
Amy	189
Annie Wong	197
Eve	200
Laura	206
Lee-Mei	214
Lin-Bao	219
Nusrat	223
Pinky	225
Sonal	229
Sripai	233
Tina	237
Zaleha	240
6: Conclusion	245
Violence in the Relationship	246
Barriers to Getting Help	248
Getting Help	249
Getting a Protection Order	250
Police and the Enforcement of Protection Orders	251
Criminal Courts and the Enforcement of Protection Orders	253
Care of Children Act 2004 Proceedings	254
Our Reflections	257
Women’s Expectations	258

List of Chapters and Appendices in Volume 2

7: Risk Assessment
8: Seeking Protection Orders: Women’s Experiences
9: The Legal Context of Seeking Protection Orders
10: Children and Domestic Violence: Women’s Experiences
11: Children and Domestic Violence: The Legal Context
12: Police
13: The Criminal Courts
14: Immigration Issues in Domestic Violence
15: Allied Agencies and Other Sources of Support
Appendices
1. Statistical Analysis
2. Risk and Lethality Assessment Worksheet
3. Information sheet for potential case study participants
4. Interview Protocol

Executive Summary

Background

This study was commissioned by the Ministry of Women's Affairs, some ten years after the implementation of the Domestic Violence Act. Our objectives were to:

- (a) identify and describe the experiences of a sample of women in obtaining protection orders, the impact of protection orders and the response to breaches of protection orders
- (b) identify those aspects that are working well (i.e. positive experiences of protection orders)
- (c) identify areas for improvement including barriers that prevent women from applying for and obtaining protection orders.

Our approach

At the heart of our research are 43 case studies of women and their experiences of domestic violence and seeking safety. The case studies are presented in four streams: Māori women, Pakeha women, Pasifika women and other ethnic minority women. In addition to this cultural diversity, women were recruited to ensure that a diversity of experiences were included in our sample (including women who did not apply for protection orders).

We have drawn on four other main sources of information.

- (a) Interviews with key informants. That is, family law practitioners, women's advocates, stopping violence workers, Ministry of Justice personnel, social workers and community workers.
- (b) Decisions of the Family Court and criminal courts relating to domestic violence, including applications for protection orders and prosecutions for breaching such orders – as well as relevant decisions of the Residence Review Board.
- (c) Statistical information relating to applications for protection orders.
- (d) Social science and legal research on domestic violence.

Key Findings

The stated object of the Domestic Violence Act 1995, as spelt out in section 5(1), is:

... to reduce and prevent violence in domestic relationships by—

- (a) Recognising that domestic violence, in all its forms, is unacceptable behaviour;
and
- (b) Ensuring that, where domestic violence occurs, there is effective legal protection for its victims.

Significantly, Parliament underlined the importance of the object of the Act in section 5(3).

- (3) Any Court which, or any person who, exercises any power conferred by or under this Act must be guided in the exercise of that power by the object specified in subsection (1) of this section.

Our key informants were almost unanimous that the Domestic Violence Act 1995, and the concurrent amendments made to the Guardianship Act 1968, were – and are – sound legislation. However, repeatedly, in our conversations with them, key informants expressed frustration at various aspects of the implementation of the legislation. Their comments were borne out in the case studies, in our analysis of decided cases, and in our analysis of the limited statistical information available.

Applying for Protection Orders

While many women were aware of protection orders, some groups of women, particularly new migrants, seemed to know little about them. Often, women learned about orders when they called the police, either from the police officers who attended the scene or from women's advocates who were called or visited following the police attendance. Referral protocols – whereby Women's Refuges or other advocacy organisations provide follow-up support to women who call the police – seem to be widely implemented. Such follow-up was appreciated by the women in our case studies.

Besides a lack of information, other barriers to making an application for a protection order included those factors which tend to mitigate against battered women leaving abusive relationships: fear of the abuser's payback, poverty, shame and, in some cases, community condemnation. For women ineligible for legal aid, cost was a significant barrier. For non-resident women whose abusers were also the sponsors of their applications for residence, applying for a protection orders was generally not an option; the threat of removal and the possibility of permanent separation from their children made calling the police or obtaining a protection order virtually impossible. Some women did not apply for orders, or applied reluctantly, because they believed that protection orders were ineffective. On the other hand, encouragement to apply came from refuge workers, Victim Support workers, the Citizens Advice Bureau and, for some women, friends and family.

Most women were able to access legal advice, often through the sources just mentioned. Lawyers were generally perceived as being helpful, especially in explaining protection orders to women. However, our case studies do include examples of poor legal advocacy, including lawyers who recommended abandoning applications.

Thirty-two of the 43 women in our case studies applied for a protection order at least once (some applied twice or more). All of these women applied without notice to the respondent. Twenty-eight were granted a temporary protection order. Of the four applications which were put on notice, only one woman obtained a final protection order. These figures broadly match national statistics. Significantly, the Pasifika and other ethnic minority women in our case studies were much less likely to apply for, and obtain, protection orders than the Māori and Pākehā women.

Key informants told us that, over the past few years, the threshold for granting protection orders without notice to the respondent has been raised. Judicial speeches tend to reinforce this view, as does our analysis of decided cases and of published statistics. We can discern no compelling legal reasons for the barrier for obtaining temporary protection orders being raised and current judicial practice seems counter to the object of the Domestic Violence Act 1995, especially section 5(3). Certainly, the women whose applications were put on notice experienced significant hardship as a result.

It is important to understand that without notice applications for protection orders are routinely considered "on the papers". Neither women nor their solicitors are heard in person. Moreover, the failure of some judges to give reasons for declining applications or for putting them on notice raises real concerns for the rights of women to natural justice. Unless reasons are given, the appeals process becomes a catch-22 situation. It is difficult for the appellant battered women to show that the Family Court judge has incorrectly exercised his or her discretion or misapplied the law when the judge is not required to give reasons for his or her decision.

Women in our study whose applications were opposed in a defended hearing found such experiences traumatic and re-victimising.

Breaches of Protection Orders

While getting a protection order was a psychological boost for most women, any relief was, in the majority of cases, short-lived. That is, most women experienced multiple and repetitive breaches of their orders. In some cases, respondents embarked on sustained campaigns of stalking and harassment. Some of this was by electronic means. Telephone calls, text messages and emails were all used to harass, threaten and intimidate women in breach of protection orders. Seldom were men subject to any meaningful consequences for such breaches.

Indeed, the same could be said about breaches generally. That is, the women in our case studies often experienced a quite inadequate response from the police when they reported breaches of their protection order. This was particularly the case with breaches of the non-contact provisions which did not involve physical assaults. Such breaches were often trivialised as “technical”, but to the women involved they were frightening and worrying reminders of the respondent’s ability to track them down. Often, such breaches triggered flashbacks and other symptoms of post-traumatic stress. On the other hand, some women did have some success in getting their orders enforced. Generally, this required them to be incredibly persistent in documenting events and in calling the police to ask about the progress of their complaint. Other examples of effective police action seemed to reflect the understanding and commitment of particular officers, especially police family violence coordinators. Overall, police enforcement of protection orders was inconsistent. In many respects, whether a woman received an effective response or not depended on the luck of the draw.

Inadequate enforcement of protection orders extended to the criminal courts. Few men who breached their orders were ever convicted of such offences, and even fewer received a meaningful sentence. If the accused was charged with an assault and a breach, the result was often a concurrent sentence. Indeed, in one of our cases, the sentence for a conviction of threatening to kill, male assaults female and possession of a dangerous weapon resulted in a concurrent sentence of 180 hours for the accused. In our case studies, very little emphasis appeared to be placed on enhancing the safety of the woman. Again, the experiences revealed in our case studies broadly reflect published statistics about the clearance, prosecution and sentencing of breaches of protection orders. Moreover, for women who had to give evidence in the criminal courts in relation to breaches, participation in the prosecution of the respondent was often another point of exposure to his psychological violence.

It should be noted that having a protection order granted does not mean it remains in place, as eight of the women who got orders discovered. In two cases, respondents successfully opposed the granting of a final order (and this may yet happen to a third women who is awaiting her hearing). In four cases, temporary orders were discharged after intimidation and pressure from their abuser led to the women abandoning their applications for a final order. In two cases, men successfully applied to have final orders discharged, even though in both cases there had been numerous breaches of those orders.

Children and Domestic Violence

As is clear from our case studies, children are frequently exposed to domestic violence, either as witnesses to the violence against their mother, as unintended direct victims (as can happen when children attempt to protect their mother or when their mother is carrying them when she is attacked), or as the intended direct victims. The social science literature provides convincing evidence of the deleterious effects of such exposure. The batterer parent poses significant risks to his children before and after separation. Unless it is carefully monitored – and sometimes, even if it is – contact with such a parent can seriously undermine a child’s healing from exposure to

violence. In the words of the English Court of Appeal in *Re L*,² “domestic violence represents a total failure of parenting on the part of the abuser.”

As the case studies show, women with children negotiate their own safety within the context of their fears for their children. Sometimes, concerns about their children precipitated separation. On the other hand, some women remained in the relationship, or reconciled with the abuser, because doing so meant that they were better able to protect their children.

Post-separation, the Family Court became an arena of perpetrators’ power and control tactics. That is, they engaged in protracted litigation under the Care of Children Act 2004 as they sought various orders: orders giving them the day-to-day care of the children; orders giving them unsupervised contact with the children; orders preventing the removal of the children from a specific place within New Zealand or to another country; and orders preventing women who had day-to-day care from relocating back to their families and other support systems. Such litigation was draining, frustrating, frightening and expensive for women. Often it meant that their plans for their children, new relationships or new jobs were significantly impeded. Moreover, the Family Court’s preference for mediation and conciliation processes in resolving parenting disputes meant that some of the women were bullied into accepting unsafe or unnecessarily burdensome “consent” orders regarding their children.

Overall, the experiences of the women in our case studies tended to confirm what many key informants told us: despite the provisions of the Domestic Violence Act 1995 and sections 58 to 61 of the Care of Children Act 2004, ongoing contact with an abusive father trumps safety for women and children.

Immigration Issues

Immigrant women faced particular barriers. Sometimes these involved language difficulties. The lack of interpreters and/or the lack of patience demonstrated by some officials meant that women with little or heavily accented English fared particularly badly in their interactions with police officers, judges, counsellors and other service providers. For some women, migration meant that features of their cultures which were protective of women had been lost. Instead, community condemnation and feelings of shame proved to be significant barriers to their safety and autonomy. Non-resident women whose batterer was also the sponsor of their application for residence were in a particularly vulnerable position. In the worst cases, such men rescinded their sponsorship of the residence application and, at the same time, got an order from the Family Court preventing removal of the child(ren) from the country. Under exactly these circumstances, one of our case study participants has been removed from the country, leaving her daughter in the care of the father. The same may yet happen to another of our participants.

Other Agencies

Of the other services women used, the most positively evaluated were women’s refuges and protected persons programmes. The former provided immediate physical safety for some women, and advice, support and advocacy for a much larger group of women. Protected persons programmes were highly valued by those women who attended for the information and support they provided. Above all, such programmes assured women that they were not alone and nor were they stupid, thus directly countering the isolation and emotional abuse tactics typical of domestic violence perpetrators.

Women’s experiences of other groups, agencies and organisations were more mixed. Some women found family and whānau incredibly supportive. For other women, family and whānau

² *Re L (A Child) (Contact: Domestic Violence)* [2001] Fam Law 260.

tended to collude with the abuser. Similarly, women who belonged to religious communities sometimes found themselves blamed for what had happened to them. The role of Child, Youth and Family (CYF) in the lives of some of our case study participants was deeply problematic. Fear of losing their children acted as a significant barrier to some women accessing “official” help.

Finally, women’s experiences of their partner or ex-partner attending a stopping violence programme was generally negative. Few men completed such programmes, and those who did not seemed to have escaped any consequences for such failure.

Recommendations

In the following pages we have listed our recommendations. Each is accompanied by a brief explanation. In addition, there are references to the chapter of the main report from which the recommendation is drawn. Readers who wish to understand the full rationale for the recommendation should read the chapters listed.

Amendments to Relevant Legislation

The problems summarised above suggest that the Domestic Violence Act 1995 has failed to realise its promise. Yet even the most critical of our key informants had few problems with the Act as it is written. Overwhelmingly, the problems identified in our case studies and in our analyses of judicial decisions reflect not inadequate legislation but inadequate implementation. This is particularly evident in the decisions of certain Family Court judges who have, for example, failed to carry out the risk assessment mandated by section 61 of the Care of Children Act 2004, or who have added an extra “gloss” to the criteria for granting without notice protection orders (based on a very problematic view of section 27(1) of the New Zealand Bill of Rights Act 1990) to impose a higher threshold than Parliament intended. As we have commented at several points in the following pages, such decision makers need to implement the law as it is written, not as they wish it were written. In many ways, our most important message is **enforce the law**.

On the other hand, our findings have highlighted a small number of areas in which both the Domestic Violence Act 1995 and the Care of Children Act 2004 should be amended. These are outlined below.

- 1. THAT section 13 of the Domestic Violence Act 1995 be amended to the effect that a without notice application for a protection order may not be declined or placed on notice unless the applicant and her lawyer have had an opportunity to participate in an (ex parte to the respondent) hearing, in the court in which the application was filed, to address any questions which might have led the judge to decline the application or put it on notice.**
- 2. THAT section 13 of the Domestic Violence Act 1995 be further amended to require Family Court judges to give reasons (in writing) when they either decline or put on notice a section 13 application for a temporary protection order.**

It is standard practice that without notice applications for protection orders are considered “on the papers”. That is, there is no hearing. Instead, applications are put before a duty judge who, typically, considers them during a tea break or after other business has been completed for the day. While this may be administratively efficient for dealing with the volume of section 13 applications, applicants are denied natural justice through the current practice. They are also denied natural justice when the Family Court gives no reasons for declining such applications or putting them on notice. As the “loser” in the proceedings, the applicant has a right to know why her application for a temporary protection order has not been granted. Our proposed amendments would remedy these problems. (Chapter 9.)

3. **THAT section 47 of the Domestic Violence Act 1995 be amended to prevent the court from discharging a protection order without first being satisfied that the protected person and any child of the protected person will be safe from all forms of the respondent's violence.**

As our case studies show, some women are pressured into seeking the discharge of their protection order. This has implications not only for them but also their children. Our proposed amendment would help protect applicants and their children in these circumstances. (Chapter 8.)

4. **THAT section 50(2) of the Domestic Violence Act 1995 be repealed and replaced by a provision that, unless there are special circumstances, police shall arrest where there is cause to suspect that the respondent has committed a breach of a protection order.**

As we understand it, section 50(2) was inserted in the Act to encourage police officers to arrest respondents who have breached their protection order. In fact, following *Police v Keenan*,³ it has become an impediment to making arrests. Certainly, our case studies suggest that too often police fail to make arrests when breaches of protection orders are reported. (Chapter 12.)

5. **THAT section 58 of the Care of Children Act 2004, be amended by adding "psychological violence" to the types of violence which trigger the rebuttal assumption that a violent party should not have a role in providing the day-to-day care of a child or have unsupervised contact with a child unless the court is satisfied that the child will be safe.**

As it stands, the rebuttal assumption is triggered only by violence of a physical or sexual nature. Our case studies confirm findings from the social science literature that psychological violence also has deleterious effects on children. The suggested amendment would make section 58 of the Care of Children Act 2004 consistent with the definition of domestic violence provided in section 3(3) of the Domestic Violence Act 1995 and also consistent with section 5(e) of the Care of Children Act and section 19 of the United Nations Convention on the Rights of the Child. (Chapter 11.)

6. **THAT the Care of Children Act 2004 be amended to the effect that, where allegations of domestic violence have been made in parenting order proceedings, no consent parenting orders be made unless the Family Court judge first scrutinises the proposed consent order and satisfies himself or herself that the particular parenting order is in the best interests of the child(ren). The impact and effects of the violence on the child(ren) must be evaluated and the court must be satisfied that the physical, sexual and psychological safety of the child(ren) will be ensured during any day-to-day parenting and/or contact arrangements.**

The case studies illustrate how women can be bullied into consenting to unsafe parenting and/or contact arrangements. Our proposed amendment would require that such consent orders not be accepted at face value but subjected to proper risk assessment. (Chapter 10.)

7. **THAT section 4 of the Care of Children Act 2004 be amended to the effect that, where a party has used violence against the other party or a child of the other party (as defined by section 3(2) of the Domestic Violence Act 1995), the court must, in determining what best serves the child's welfare and best interests, take into account any wish of the other party to relocate so that she or he is able to recover from the trauma of violence and to better provide an environment which will support the recovery of the child.**

³ *Police v Keenan* (Palmerston North, District Court, 25 November 1996).

As several of our case studies show, perpetrators of domestic violence sometimes seek orders preventing their ex-partners from relocating. We prefer the position taken by Justice Fisher in *M v M*⁴ to allow a parent who has been the target of domestic violence to relocate. (Chapter 11.)

8. **THAT the Care of Children Act 2004 be amended to the effect that unsupervised contact with a party who has used violence (as defined by section 3(2) of the Domestic Violence Act 1995) against the other party or a child of the other party, shall not be granted unless the court has first considered a report from a psychologist who has specialist training in domestic violence. Such a report shall evaluate the risk to the child, the impact of the prior violence on the child, the implications of the violence on each party's parenting abilities, and the meaning of the child's expressed wishes.**

Some of the key informants we interviewed were concerned that the Family Court was not always calling for specialist reports when such reports were, in their view, needed. Specialist knowledge is required in assessing children exposed to domestic violence and understanding their expressed wishes. (Chapter 11. See also Chapter 7.)

9. **THAT the Family Proceedings Act 1980 be amended to empower judges considering applications under the Care of Children Act 2004 to direct that the parties *not* be referred for counselling or to a mediation conference:**
- (a) when a party has used violence (as defined by section 3(2) of the Domestic Violence Act 1995) against the other party or a child of the marriage or civil union or de facto relationship; or
 - (b) if because of previous counselling or mediation within the past 12 months, counselling or mediation is unlikely to serve a useful purpose; or
 - (c) for any other reason.
10. **THAT the Family Proceedings Act 1980 be further amended to specifically exclude victims of domestic violence (as defined by section 3(2) of the Domestic Violence Act 1995) from being required to take part in counselling.**

There is a strong consensus in the social science literature that mediation and conciliation processes are inappropriate in cases of domestic violence. Our case studies include instances in which battered women were bullied into consenting to potentially unsafe and/or unnecessarily burdensome parenting or contact arrangements, and other cases in which the batterer used applications for parenting orders or contact to further harass his ex-partner. Section 19A of the Family Proceedings Act 1980 specifies that no one can be **required** to attend counselling at which the other party is present if that party has used domestic violence (as defined in section 3(2) of the Domestic Violence Act 1995). This provision needs to be broadened to include mediation conferences as well as counselling. It would also be useful for judges to have specific power to direct that referrals to counselling not be made in response to requests from a party who has used domestic violence and/or who is unduly litigious. (Chapter 10.)

11. **THAT sections 103 to 106 of the Evidence Act 2006 be implemented immediately so that victims of domestic violence are able to give their evidence while screened from the accused or via video.**

The case studies include various examples of the intimidation to which victim witnesses can be exposed while testifying in Court. This can be addressed by the use of screens or video

⁴ *M v M* [2002] NZFLR 743 (HC), Fisher and Priestley JJ.

technology. The Evidence Act 2006, the implementation of which awaits an Order in Council,⁵ contains excellent provisions for alternative ways of giving evidence. We think the Executive Council should exercise its powers under section 2 of the Act to set an immediate commencement date for these provisions (set out in sections 103 to 106). (Chapter 13.)

The Family and District Courts

12. **THAT specialist domestic violence victim advocacy be provided for victims of domestic violence within both the criminal and family jurisdictions. This should be a free service provided by approved community-based domestic violence services, with advocates having speaking rights in court. Advocates should be available to assist victims of domestic violence by:**
- (a) helping women file applications for protection orders;
 - (b) explaining protection orders and their enforcement;
 - (c) helping women make safety plans;
 - (d) encouraging women to attend protected persons programmes;
 - (e) preparing women for any hearings in both the criminal and family courts, as well as any mediation which may be part of proceedings under the Care of Children Act 2004, and supporting them through such hearings and mediation;
 - (f) advising non-resident women about the Victims of Domestic Violence Policy; and
 - (g) helping women access other relevant services.

The case studies include many examples of women lacking good information about protection orders or about the special residence policy for victims of domestic violence. Women sometimes did not fully understand the protection order and were unsure about how to have it enforced. Some women were intimidated at court, and felt vulnerable and silenced. The cost of legal fees for some women who were ineligible for legal aid was a barrier to applying for a protection order. All of these issues could be addressed by specialist domestic violence advocates, who, in addition to providing a service to individual women, could take part in the sort of safety audits and monitoring we recommend elsewhere. Importantly, to be effective, such advocates need to be independent of the Ministry of Justice. We think that the sort of service we are recommending here would go some way to making the courts victim friendly. (Chapter 8. See also Chapter 13.)

13. **THAT the Ministry of Justice ensure that all professionals (for example, judges, counsel for the child, specialist report writers, mediators, counsellors and supervised access providers) working in the Family Court and specialist domestic violence criminal courts be required to demonstrate a multidisciplinary understanding of domestic violence, including the principles of scientifically rigorous risk assessment, prior to their appointment, and that they be required to participate in annual “refresher” training on these matters.**

Here, we are following the call of Lord Justice Nicholas Wall for judges and other professionals working in the Family Court to be well trained – and to maintain their training at an appropriate level. Many of the problems we have identified – the raising of the threshold for granting without notice protection orders, making dangerous parenting orders, misinterpreting children’s wishes in

⁵ Section 2 of the Evidence Act 2006 states: “This Act comes into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions.”

the context of domestic violence, minimising the impact of psychological violence, being overly optimistic about men's commitment to change, minimising the risks a battering parent presents to his children and to their recovery from the trauma of violence, using a discredited typology of domestic violence – each of these is reflective of significant ignorance of recent research and good practice standards in the field. (Chapter 11. See also Chapters 8, 9 and 10.)

- 14. THAT the Family Court follows the practice of allowing affidavits in support of applications for temporary protection orders to be amended to omit information which might identify the applicant's whereabouts or endanger the applicant, the children of the relationship, or any other person supporting the applicant.**

The case studies include instances in which women had well-founded fears that information included in their affidavits could compromise their safety. Here, our recommendation endorses the procedure adopted by the Family Court judge in Trudy's case study. (Chapter 8.)

- 15. THAT a counsellor who receives any referral from the Family Court to conduct counselling shall screen for the occurrence of domestic or family violence between the parties. Where evidence of domestic violence exists, mediation shall occur only if:**
- (a) counselling is requested by the victim of the violence;**
 - (b) counselling is provided by a counsellor who is trained in domestic violence and able to protect the safety of the victim; and**
 - (c) at any counselling session with the perpetrator, the victim is permitted to have in attendance a support person of her choice (including a lawyer) who may advocate on her behalf.**

Recommendations 9 and 10 call for amendments to the Family Proceedings Act 1980 to give judges the power to order that referrals to counselling and mediation not be made in cases of domestic violence and to ensure that identified victims of domestic violence are not required to attend mediation. Because domestic violence is not always identified at the outset, for this general approach to be fully implemented, those amendments need to be accompanied by routine screening for domestic violence and the implementation of appropriate safety and empowerment measures when it is identified. (Chapter 10.)

- 16. THAT, in cases involving an inquiry under section 60 Care of Children Act 2004, a psychologist who has specialist training in domestic violence should be appointed to evaluate the risk to the child, the impact of the prior violence on the child, the implications of the violence on each party's parenting abilities, and the meaning of the child's expressed wishes.**

As the cases of Amira and Amy show, the risk assessment mandated in section 60 of the Care of Children Act will not be effective unless judges have good quality information on which to base their inquiry. A report from a suitably trained psychologist would have allowed the Court to conduct a proper assessment of the risk to the relevant children. However, in what we were told is an increasingly common pattern, in neither case was such a report requested. Obtaining such reports should be standard practice where there is domestic violence. (Chapter 11).

- 17. THAT the Parenting Hearings Programme Pilot deal only with cases in which both parties have freely consented to take part. Moreover, sufficient time periods and resources need to be available for specialist reports to be obtained and the mandatory approach specified in sections 60 and 61 of the Care of Children Act 2004 to be carried out.**

We think that the emphasis on speedy resolution in the Parenting Hearings Programme Pilot will not serve battered women and their children well. There is no evidence that children are adversely affected by the short- or even medium-term loss of their relationship with a violent parent, providing they have the support and security of the uninterrupted care of their non-violent parent. Speed must not compromise safety. (Chapter 11.)

- 18. THAT the Ministry of Justice reviews information systems to ensure that:**
- (a) judges in the criminal court considering sentences in domestic violence cases can access relevant records of proceedings in the Family Court (including applications for a protection order, affidavits in support, and judges' decisions and memoranda);**
 - (b) judges in the Family Court considering applications under the Domestic Violence Act 1995 and the Care of Children Act 2004 can access records of domestic violence offences from the criminal courts and POL400 forms from the police;**
 - (c) judges in one Family Court registry can access records relating to matters involving the parties in other registries; and**
 - (d) the records referred to above are retrievable under the name of each party and each child.**

At the moment, breaches of protection order being heard in the criminal court are typically dealt with without reference to the background of the case. In these circumstances, breaches of the non-contact provisions of a protection order in which there is no physical assault can, for example, be seen as relatively minor and/or of a merely "technical" nature. The case studies include examples of minimal sentences being imposed for such breaches of protection orders. The sort of information sharing we are proposing will allow breaches to be placed in context by criminal court judges, and for Family Court judges to know about relevant criminal court cases when considering applications for protection orders and/or parenting orders. They will also prevent the Family Court from effectively being put in the position of countermanding itself as can happen when a judge makes an order in one registry without knowing that an order has already been made in respect of the same case in another registry. (Chapter 13. See also Chapter 11.)

- 19. THAT no more specialist domestic violence courts be established until the present courts have been properly evaluated to identify both good and problematic practices.**

Interviews with key informants, our analysis of judicial speeches and articles, and our review of relevant literature raise serious questions about the safety of such courts for victims and their effectiveness in holding perpetrators accountable for their violence. They should not be replicated without proper evaluation. (Chapter 13.)

- 20. THAT the Ministry of Justice ensures information about the Domestic Violence Act 1995 and protection orders, including how to apply for them and how to have them enforced, is translated into the various languages common in New Zealand, makes that information available on its website and disseminates that information widely through community networks.**

- 21. THAT a plain-English order be developed.**

The Ministry of Justice has produced guides to the Care of Children Act 2004 in 14 languages (including Māori and English). A similar approach is needed in relation to protection orders. The case studies and the social science literature show that non-English-speaking women are

particularly ill-informed about their legal options. However, understanding protection orders is not simply a case of which language it is written in, but also of the style in which it is written. The section 19(2) (non-contact) provisions are particularly wordy and complex. A plain language order is needed. (Chapter 8. See also Chapter 15.)

- 22. THAT the Family Court encourages counsellors from across the wide range of linguistic and cultural communities within New Zealand to become accredited so that culturally appropriate counselling can be provided as frequently as possible, and that it ensures that interpreters are available to assist parties in court who have limited facility with English.**

The case studies reveal what seem to be racist and monocultural practices which have had serious impacts on women and their children. In what might be regarded as the worst case of its type, one of our participants has been removed from the country, leaving her daughter in the care of her violent (and probably sexually abusive) New Zealand resident father. (Chapter 8.)

- 23. THAT the Ministry of Justice commissions periodic evaluations to assess the extent to which decision making regarding applications for protection orders and parenting orders contributes to the Domestic Violence Act 1995's goal of providing effective protection to victims of domestic violence and their children.**

A perennial problem in the Family Court is that judges get feedback on their decisions only when they are appealed or when a party comes back to court with a new application. Typically, they do not learn whether the parenting orders they have put in place have helped to create an environment in which children can heal from trauma or if those children have been re-victimised. Similarly, except for the possible exception where an unsuccessful applicant has been murdered, judges do not know what further violence women have experienced when an application for a protection order has been declined or put on notice. The lack of such feedback increases the risk of dangerous decision making. (Chapter 11. See also Chapters 7 and 8.)

Family Law Practitioners

- 24. THAT family law practitioners not recommend undertakings in situations where there is a potential for future physical, sexual, or psychological violence.**

Perpetrators of domestic violence sometimes succeed in having an application for a protection order withdrawn in exchange for an undertaking to leave the applicant alone. Such undertakings are unenforceable and, because they may give the appearance of safety, may make things worse for women. (Chapter 15. See also Chapters 8 and 9.)

Legal Services Agency

- 25. THAT the eligibility criteria for legal aid be revised so that all bona fide applications for protection orders are free.**

Violence against women is a fundamental breach of women's human rights. The state has a responsibility to make effective remedies accessible. At the moment, cost is a barrier to obtaining a protection order for those women who are not eligible for legal aid. (Chapter 8.)

- 26. THAT fee ceilings for legally aided temporary protection order applications and other Domestic Violence Act 1995 proceedings be increased so that senior family law practitioners can be encouraged to accept this type of work.**

Consistently, key informants told us that Domestic Violence Act 1995 work was uneconomic for any but the most junior of legal practitioners. This needs to change. (Chapter 8.)

- 27. THAT legal aid should be available to women who wish to appeal against decisions of Immigration New Zealand under the Victims of Domestic Violence Policy.**

Additionally, or alternatively, this work could become one of the roles of the free domestic violence victim advocacy services we have recommended.

As the successful appeal cited in Chapter 14 shows, appeals against decisions of Immigration New Zealand are an important and potentially vital protection of the rights of non-resident women who are victims of domestic violence. Almost by definition, such women are unlikely to be able to afford the legal fees involved in making an appeal. Our recommendation will help protect their rights to natural justice. (Chapter 14.)

Domestic Violence Act Programmes

28. THAT the Ministry of Justice works with relevant community organisations to ensure linguistically and culturally appropriate protected persons and respondents programmes are available for diverse groups, and that these be actively promoted in appropriate ways.

Protected persons programmes are one of the unquestioned successes of the Domestic Violence Act 1995. Those women in our case studies who participated in a protected persons programmes found them to be extremely helpful. The programmes were well regarded by the key informants we spoke to. However, only about a third of those eligible attend such programmes, and there is a lack of programmes, particularly group programmes, specifically for Pasifika and other ethnic minority women. The value of respondents programmes is somewhat contested but we agree with our key informants and the dominant view of the social science literature that such programmes, properly implemented as part of a comprehensive approach to battering, can make a useful contribution. As with protected persons programmes, there are few respondents programmes which cater adequately for other than Māori and Pākehā men. (Chapter 15. See also Chapter 14.)

29. THAT much higher priority be placed on prosecuting non-attendance at respondents programmes, that the procedure be streamlined, and that statistics for programme completion and enforcement action taken be routinely collated and published.

One of the main values of respondents programmes is the message they deliver about the unacceptability of violence. That message is seriously undermined if attendance is not enforced. According to key informants working in stopping violence programmes, men who are directed to programmes but fail to complete them rarely face any consequences for their non-completion. Unfortunately, we could find no recent published statistics to verify this, but what key informants told us was reflected in our case studies. Of the 28 women who got a protection order, only one reported that the respondent had completed his programme, although two more were still attending at the time of our interviews. As far as we can tell, none of the men faced any consequences for failing to complete a programme as directed. (Chapter 15.)

30. THAT protocols be developed so that providers of respondents programmes are routinely given names and contact details of protected persons to facilitate victim contact.

As the social science literature shows, providing stopping violence programmes for men can be dangerous. Some men use programme participation to bargain their way back into the relationship. Empirical studies show that women are more likely to remain in their relationship if their partner enters a programme. Some men make self-serving comparisons with other programme participants in an effort to portray themselves to their partners as not being so bad. Some men appropriate the language of the programme to further abuse and manipulate their partners. Such risks can be minimised if partners are provided with advocacy, support and realistic information about the effectiveness of programmes and if their safety is monitored.

Unfortunately, programme providers have told us that making contact with the partners of programme participants is becoming increasingly difficult because the Family Court will not pass on contact details. Some providers reported being told explicitly that they are not to contact partners. This is quite contrary to recognised good practice and may in fact mean that some programmes are doing more harm than good. (Chapter 15.)

The New Zealand Police

31. THAT the New Zealand Police Family Violence Policy be revised to:

- (a) incorporate a predominant aggressor test in relation to arrest;**
- (b) include a specific direction that the victim is not to be placed in the position of having to decide whether the offender is to be charged and/or arrested;**
- (c) reflect a presumption that victims will not be able to participate in prosecutions, and that prosecution without victim participation be used whenever possible;**
- (d) emphasise investigative practices which will support the more effective prosecution of offenders, including collecting and presenting evidence which demonstrates the full extent and impact of violence; and**
- (e) reflect the provisions of the Bail Act 2000 to incorporate a presumption against the granting of police bail to any domestic violence offender, and a specific direction that any offender released on police bail be subject to a non-association condition in respect of the victim.**

The current police Family Violence Policy is over ten years old and needs to be revised in the light of experience. As the literature – and our case studies show – women who use violence in self-defence are sometimes arrested. Some overseas jurisdictions have introduced a predominant aggressor test. The New Zealand Police should do the same.

On the whole, the prosecution of domestic violence offenders is far too reliant on victim testimony. This means many men escape conviction as women fail to give evidence as a result of intimidation or other factors. In a self-perpetuating cycle, this discourages police officers from making arrests in the first place. It need not be so. Effective investigation techniques should, in many cases, make it possible to successfully prosecute offenders without victim testimony. This would not only improve the accountability of offenders. It would also signal that it is the community, through the police, which is taking a stand against violence, not (just) individual women.

The case studies include instances in which men have been given police bail in contradiction to the provisions of the Bail Act 2002 – and instances in which women have been put in the invidious position of having to tell police whether or not they want the offender held in custody. The amendments we suggest should address these problems. (Chapter 12.)

32. THAT the New Zealand Police places much greater priority on following up and charging respondents who breach the non-contact provisions of their protection order but have left the scene by the time the patrol arrives, and that where there are multiple offences, each is charged.

The case studies show many instances in which a breach of a protection order has not been followed up. This seriously undermines the message inherent in the order – both to the offender, who learns that breaching the order is consequence free, and to the protected person, who often decides there is little point in calling the police. (Chapter 12.)

- 33. THAT, wherever possible, police officers completing domestic violence risk assessments do so in consultation with victims and that the results be made available to them.**

Significant advances have been made in understanding risk factors in domestic violence. The New Zealand Police is currently trialling several promising risk assessment protocols. This is to be encouraged. However, given that battered women's views are the single best predictor of further violence, it is crucial that risk assessment is carried out in consultation with them. In addition, we think women have a right to the results of such assessments, which may help those who underestimate the risks they face to make a more realistic reassessment. (Chapter 12. See also Chapter 7.)

- 34. THAT the New Zealand Police:**

- (a) accelerates efforts to increase the ethnic, cultural and linguistic diversity among police recruits; and**
- (b) ensures District Commanders identify interpreters on whom they can call to assist when dealing with non-English speakers in their districts.**

By and large, women in the Pasifika and other ethnic minority streams faced particular barriers to receiving an effective response from the police. This seemed to reflect a mix of cultural, immigration and language issues. We applaud efforts by the New Zealand Police to recruit a greater diversity of women and men into the service. This needs to be accompanied by the provision of interpreters. (Chapter 12. See also Chapters 14 and 15.)

- 35. THAT the New Zealand Police substantially increases the amount of pre-service and in-service training in domestic, and ensures that such training pays particular attention to helping police officers understand the dynamics of family violence in diverse cultural contexts.**

As mentioned in relation to the courts, some of the problems evident in policing reflect the fact that too many police officers lack a good understanding of domestic violence. This is particularly evident in the minimisation of certain breaches of protection orders as "technical", and in the way some police place women in the invidious position of making decisions about the arrest and/or bail of their abusers. In addition, few police seem to have a good understanding of the particular barriers facing women from culturally and linguistically diverse communities. (Chapter 12.)

- 36. THAT the New Zealand Police places greater priority on working in genuinely collaborative partnerships with Women's Refuges and other specialist domestic violence organisations and negotiates with them;**

- (a) protocols for the provision of support to victims of family violence;**
- (b) case-specific protocols for sharing information which will help to hold offenders accountable for their violence; and**
- (c) arrangements by which specialist domestic violence community-based organisations can participate in monitoring the response of the police and other state institutions.**

Many of the women reported that they were called or visited by Women's Refuge workers as a follow-up to police attendance at a domestic violence incident. This follow-up was often crucial to women getting information about protection orders and other remedies and support available to them. It was often the first step in providing a seamless, community-wide response to the battering of women. It also enabled the sort of data sharing needed to monitor the response of both state and community agencies. In turn, such monitoring helps to ensure consistency, to

identify gaps and to plan remedial action. However, in some centres, interagency collaboration is limited to sharing more general information about policies, practices and training opportunities and does not include the sort of case-specific information needed for effective monitoring. This needs to be addressed. (Chapter 12. See also Chapter 15.)

Immigration Issues

- 37. THAT the Victims of Domestic Violence Policy be aligned with the Domestic Violence Act 1995 by including the interests of children as one of the factors that must be considered when determining whether a woman's application for residence and/or a work permit should be granted.**

As one of our case studies graphically illustrates (Amira), non-resident women can fall into a gap between the roles and processes of the Family Court and Immigration New Zealand respectively. That is, because their abuser/sponsor withdraws support for their application for residence, women may be forced to leave the country. However, the same abuser/sponsor can get from the Family Court an order preventing the removal of the child(ren) from the country. Removing the mother from the country is not in the interests of the child(ren) because it is likely to result in further exposure to the batterer and the loss of the relationship vital to recovery from trauma. Allowing the interests of children to be taken into account when considering applications for residence under the special policies for victims of domestic violence would address this problem. (Chapter 14.)

- 38. THAT immigration officers considering applications for residence under the Victims of Domestic Violence Policy be given powers to consider a wider range of evidence in determining whether domestic violence within the meaning of section 3 of the Domestic Violence Act 1995 has occurred, but that the rules be drafted to specifically exclude consideration of information from the abuser.**

Despite the recent revision of the policy, the evidential requirements regarding domestic violence are quite restrictive, especially when police respond to Immigration New Zealand requests without fully understanding what is required and the implications of their responses. Giving immigration officers wider discretion would help. (Chapter 14.)

- 39. THAT when an application for residence under the Victims of Domestic Violence Policy is being considered, the woman's own perception of her circumstances should be the basis for the verification of evidence in support of her claim of an inability to return home, that her husband's or partner's views should not be considered, and that the burden of proving the general status of women in a society should not depend exclusively on evidence provided by the applicant.**

The current test here is quite difficult. Essentially, what is being required is independent evidence of cultural practices and of events which have not yet happened. Our analysis of certain Residence Review Board decisions suggests that New Zealand-based officials can make sweeping and ill-founded judgements about conditions in the home country and that those judgements may force women to return to dangerous and demeaning circumstances. (Chapter 14.)

- 40. THAT Immigration New Zealand works with relevant migrant communities to:**
- (a) make information about the Victims of Domestic Violence Policy available in a simple form and in languages understood by the major immigrant groups in New Zealand;**
 - (b) ensure that such information is provided to women when they arrive in New Zealand or make an application for residence;**
 - (c) distribute that information in places where immigrant women are most likely to**

go; and

- (d) **ensure that orientation programmes for new immigrants allocate time exclusively for women where they are informed about the Policy as well as other relevant New Zealand law and services.**

The special immigration policies for victims of domestic violence seemed to be used surprisingly infrequently. More promotion of them is needed. (Chapter 14.)

41. **THAT a clear statement should be included in the Immigration New Zealand *Operations manual* to the effect that the purpose of the Victims of Domestic Violence Policy is to give effect to New Zealand's international obligation to end violence against women.**

In contrast to other special policies, the special policies for victims of domestic violence do not have a statement of their objective or purpose. Such a statement would provide useful guidance to officers faced with marginal or ambiguous cases. It would also be helpful for women appealing against decisions to decline applications for residence or work permits if it could be shown that such decisions ran counter to the purposes of the policies. (Chapter 14.)

Child, Youth and Family

42. **THAT Child, Youth and Family adopts risk assessment protocols which:**
- (a) **are consistent with the definition of domestic violence in the Domestic Violence Act 1995, especially section 3(3) where the victim of the violence is not construed as having caused the children to hear or see the abuse meted out against her;**
 - (b) **require social workers to screen for domestic violence; and**
 - (c) **require social workers, where domestic violence is detected, to evaluate battered women's parenting in the context of the constraints imposed by such violence.**

Our case studies reflect a problem identified in many countries, namely inconsistencies between the approach of women's advocates and child protection workers. That is, child protection workers often fail to identify domestic violence in the lives of abused children, or, if they do identify such violence, treat the non-violent parent as part of the problem (an inadequate protector) rather than as part of the solution. Such practices can mean the battered mothers are unfairly held to account for events over which they have no control. Good practice suggests that, in general, the best hope for keeping children safe is to work with their mothers to help them to keep themselves safe – and their children. The methodology of the current Risk Estimation System is part of the problem. It needs to be modified. (Chapter 15.)

43. **THAT Child, Youth and Family places greater priority on perpetrator accountability through the use of restraining orders and the prosecution of perpetrators, and works collaboratively with the police to ensure the effective prosecution and enforcement of restraining orders.**

One aspect of the lack of coordination between child advocacy and women's advocacy is that, essentially, women are held responsible for monitoring the behaviour of the abuser. In fact, it needs to be the community which takes this responsibility. The use of a restraining order against the abuser is one mechanism by which CYF could assume more direct responsibility for keeping children safe and making abusers accountable for their violence. (Chapter 15.)

44. **THAT Child, Youth and Family places greater priority on working collaboratively with community agencies which specialise in domestic violence work. This must**

include working in partnership with such organisations to assess cases, determine priorities and allocate the follow-up of children exposed to domestic violence.

Good practice worldwide recognises that the best results arise through coordinated intervention. Here, we are suggesting that the statutory powers of CYF are best reserved for the most serious cases where urgent action is needed, not in less serious cases where those powers can be perceived by battered women as a threat. Triage arrangements in which cases are allocated to community or statutory services depending on risk and urgency can make better use of resources. Some communities are implementing such arrangements. We recommend extending them. (Chapter 15.)

45. THAT social worker training, both pre-service and in-service, pays greater attention to the dynamics of domestic violence, the co-occurrence of violence against children and women, the role of the state in holding perpetrators accountable and the importance of interagency collaboration.

As with other services, some of the problems we have uncovered seem to reflect a lack of understanding of the dynamics of domestic violence, the effects of such violence on children and the constraints under which battered women live their lives. Better training is needed. (Chapter 15.)

Community and Non-Government Organisation sector

46. THAT the New Zealand Police, the courts, Child, Youth and Family, and the Department of Corrections collaborate with specialist community-based domestic violence agencies to plan and implement regular safety audits of the state agencies' handling of domestic violence cases.

We think that the interagency approach now well recognised as best practice needs to be strengthened. It is important that this brings together state and community agencies, and does so in genuinely collaborative relationships which address imbalances of power between state and community agencies. Moreover, community-based agencies need to be recognised as key players in driving the sort of safety audits which should become a regular feature of monitoring the performance of state agencies. (Chapter 12. See also Chapter 15.)

47. THAT counselling and generic social service agencies adopt domestic violence screening and safety protocols and ensure that only counsellors with training in domestic violence work with perpetrators and victims of domestic violence.

Finally, our case studies have revealed dangerous practices of a range of social service and community organisations, practices which often colluded with the abuser and placed women and children in dangerous situations. While most of these organisations are not specialists in domestic violence work and should not undertake such work unless they have properly qualified staff, they are in a position to screen for domestic violence and make appropriate referrals. (Chapter 15.)

1: Introduction

Violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms ... [it] is a manifestation of historically unequal power relations between men and women ... [and] is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men ... States should pursue by all appropriate means and without delay a policy of eliminating violence against women.⁶

For centuries, many societies have been characterised by a patriarchal system in which political, economic and social power has been largely the preserve of men. While undoubtedly progress has been made, women in Aotearoa/New Zealand still have substantially lower rates of participation in the paid workforce than men, have significantly lower median incomes, are largely absent from the leadership of major corporations and under-represented in local, regional and central government. To a large extent, women workers continue to be clustered in a relatively narrow range of occupations, often in service and caring roles.⁷ As an ideology, patriarchy promotes the view that men are inherently superior to women and that, compared with women, they are “naturally” stronger, more rational and better suited to leadership of society as a whole. As analyses of battering show, abusers simultaneously draw on such ideological notions to justify their dominant position vis-à-vis their women partners and use their violence to maintain both their privileged position and their power over their partners.⁸

Domestic violence can only be fully understood if individual acts of violence are placed in the context of the power and control dynamics which may operate within particular intimate relationships. In such relationships, the abuser is able to achieve coercive control over his partner through his ability to link his demands with credible negative consequences, including physical violence.⁹ To be credible, such negative consequences need not be delivered every time a demand is made. Compliance can just as readily be achieved by threatening violence, or by invoking memories of earlier violence. As battered women commonly report, there are certain gestures, words or looks which their partners typically use to invoke such memories. In other words, fear lies at the heart of domestic violence.

⁶ United Nations Declaration on the Elimination of Violence against Women, 1993. Retrieved 20 July 2006 from [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.48.104.En?Opendocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.48.104.En?Opendocument).

⁷ See Statistics New Zealand. (2005). *Focusing on women 2005*. Wellington: Statistics New Zealand. Retrieved 21 July 2006 from <http://www.stats.govt.nz/analytical-reports/focusing-on-women.htm>; Human Rights Commission. (2006). *Women making glacial progress in corporate leadership*. Retrieved 22 July 2006 from <http://www.hrc.co.nz/home/hrc/newsandissues/womenmakingglacialprogressincorporateleadership.php>; Human Rights Commission. (2005). *Widening pay gap a concern*. Retrieved 22 July 2006 from <http://www.hrc.co.nz/home/hrc/newsandissues/wideningpaygapaconcern.php>.

⁸ Pence, E., & Paymar, M. (1990). *Power and control: Tactics of men who batter* (Rev. ed.). Duluth, MN: Minnesota Program Development, Domestic Abuse Intervention Project; Tift, L. L. (1993). *Battering of women: The failure of intervention and the case for prevention*. Boulder, CO: Westview Press; Yllö, K. A. (1993). Through a feminist lens: Gender, power and violence. In R. J. Gelles & D. R. Loseke (Eds.), *Current controversies on family violence*. Newbury Park, CA: Sage.

⁹ Our use of the male pronoun is not to suggest that in the context of heterosexual relationships men are invariably the coercers and women invariably the coerced. It is possible to envisage situations in which particular women may achieve coercive control through their access to resources such as money and social status which their partners lack. However, given that men typically have a greater ability to use physical violence which seriously harms, maims, kills and terrifies, men are overwhelmingly the perpetrators of domestic violence and women the victims.

In contrast, a decontextualised view of domestic violence which focuses on specific acts such as slaps, pushes or punches in isolation ignores the dynamic of fear.¹⁰ Taken in isolation, the consequence of a single punch might be, as one judge observed, “a not uncommon black eye and no more.”¹¹ But in the context of a pattern of violence and threatened violence, it becomes another reminder of the price to be paid for non-compliance. Such a contextualised view is reflected in the definition of domestic violence in the Domestic Violence Act 1995. Section 3(4)(b) notes that, “A number of acts that form part of a pattern of behaviour may amount to abuse ... even though some or all of those acts, when viewed in isolation, may appear to be minor or trivial.”

Domestic violence flourishes in the assumed privacy of the home. Such privacy is the norm in many parts of the Western world but has not always been the norm in Aotearoa/New Zealand. As Ranginui Walker has observed, in traditional Māori communities, “there were checks and balances against capricious and violent behaviour towards women. If men beat their wives, they were answerable to their brothers-in-law who could plunder a husband’s property in compensation.”¹² Violence against a woman was seen as an affront against her and her whānau.¹³ Colonisation disrupted the mechanisms of social control which had served to restrain perpetrators of violence,¹⁴ as well as introducing values and practices which undermined the status of women.¹⁵

Historically, the state has been reluctant to intervene in the private domain of family life, a stance which undoubtedly privileged the position of men over women. In fact, nineteenth century British jurisprudence was quite explicit about the superior status of men. As Blackstone pointed out in 1857:

By marriage, the husband and wife are one person in law; that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated or consolidated into that of her husband, under whose wing, protection or cover, she performs everything.¹⁶

Women, like children, were deemed to be not competent to make contracts. Before marriage, a woman was deemed to be under the control of her father: after marriage, she was under the

¹⁰ Certain research methodologies, notably the Conflict Tactics Scale, also adopt a de-contextualised approach. Such research typically finds that in the context of heterosexual relationships, women are as violent as men. However, the Conflict Tactics Scale fails to take into account context (much of women’s violence is in self-defence), impact (men’s violence is much more likely to result in serious injury or death), and meaning (men’s violence is much more likely to result in intimidation and fear). The Conflict Tactics Scale is typically used with cohabitating couples, thus missing violence associated with separation, a particularly dangerous time for women. In addition, the fact that the scale focuses on conflict also makes it an inadequate measure of men’s violence against women, much of which is unrelated to conflict but is used strategically to ensure compliance.

¹¹ *Kelly v Police* (High Court, Rotorua, 15 May 1991).

¹² Walker, R. (1994). Te Karanga. *Metro*, (158), 135.

¹³ Milroy, S. (1996). Māori women and domestic violence: The methodology of research and the Māori perspective. In Special issue on domestic violence. *Waikato Law Review*, 4(1). Retrieved 20 July 2006 from http://www.waikato.ac.nz/law/wlr/special_1996/2_milroy.html.

¹⁴ Ritchie, J., & Ritchie, J. E. (1990). *Violence in New Zealand*. Wellington: Allen & Unwin.

¹⁵ See, for example, Balzer, R., Haimona, D., Henare, M., & Matchitt, V. (1997). *Māori family violence in Aotearoa*. Wellington: Te Puni Kōkiri; Glover, M. (1993). *Maori women’s experience of male partner violence: Seven case studies*. Unpublished master’s thesis, University of Waikato; Wainohu, R. (1991). Correcting the stories. *Te Whakamarama: The Maori Law Bulletin* (10), 5-6.

¹⁶ Blackstone, W. (1857). *Commentaries on the laws of England: A new edition adapted to the present state of the law by Robert Malcolm Kerr*. Vol 1. London: J. Murray.

control of her husband.¹⁷ Violence against wives was expressly permitted by what became known as “the rule of thumb” after an eighteenth-century British jurist ruled that a man could beat his wife as long as he used a rod no thicker than his thumb.¹⁸ Until 1985, New Zealand men were immune from prosecution for rapes committed against a current spouse.¹⁹ Similarly, until 1987, the response of police to domestic assaults was one of reluctant involvement in which the aim was to restore calm and withdraw as quickly as possible.²⁰ That is, such assaults, apart from the most serious, were regarded as private conflicts, not readily amenable to police intervention.

Because domestic violence is overwhelmingly perpetrated by men against women, the historical failure of the state to prosecute such violence has been held to be a form of discrimination against women.²¹ Although it does not specifically mention domestic violence, the United Nations Convention on the Elimination of All Forms of Discrimination against Women, to which New Zealand is a signatory, does require Party States, “[t]o establish legal protection of the rights of women on an equal basis with men.”²² The notion of state responsibility was further developed in the 1993 Declaration on the Elimination of Violence against Women.²³ Article 4 of the Declaration calls on states to “[c]ondemn violence against women and ... pursue by all appropriate means and without delay a policy of eliminating [such] violence.” States should “exercise due diligence to prevent, investigate and ... punish acts of violence against women.” The Declaration notes that “women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered.” States are asked to consider “developing national plans of action to promote the protection of women against any form of violence” and to provide “adequate resources for their activities related to the elimination of violence against women.” In pursuing the aim of eliminating violence against women, states are requested to facilitate, enhance the work of and cooperate with relevant non-government organisations.

The last three decades of the twentieth century saw many governments around the world implement policies to address violence against women within the domestic sphere. Many of these can be broadly described as “the criminalisation of domestic violence”,²⁴ that is, policies relating to the arrest, prosecution, punishment and/or treatment of batterers. For example, following a series of experiments in various cities during the 1980s, many states in the United States of America (US) introduced policies mandating the arrest of perpetrators of domestic assaults.²⁵

¹⁷ Sigler, R. T., Crowley, J. M., & Johnson, I. (1990). Judicial and prosecutorial endorsement of innovative techniques in the trial of domestic abuse cases. *Journal of Criminal Justice*, 18, 443-453.

¹⁸ Family Violence Prevention Co-ordinating Committee. (1991). *The cultural facilitators of family violence*. Proceedings of the Family Violence: Prevention in the 1990s Conference, Christchurch.

¹⁹ Crimes Act 1961, s 128; Crimes Amendment Act 1985, s 2(4).

²⁰ Ford, G. W. (1986). *Research project on domestic disputes: Final report*. Wellington: Police Psychological Services, New Zealand Police.

²¹ Thomas, D. Q., & Beasley, M. E. (1993). Domestic violence as a human rights issue. *Human Rights Quarterly*, 15(1), 36-62.

²² Convention on the Elimination of All Forms of Discrimination against Women, 1979, Article 2(c). Retrieved 22 July 2006 from <http://www.hrc.co.nz/home/hrc/abouthumanrights/internationalhumanrights/nzandtheinternationalinstruments/women.php>.

²³ Retrieved 22 July 2006 from <http://www.un.org/documents/ga/res/48/a48r104.htm>.

²⁴ Fagan, J. (1996). *The criminalisation of domestic violence: Promises and limits*. Washington, DC: National Institute of Justice.

²⁵ For a review of this work by one of the leading experimenters, see Sherman, L. W. (1992). *Policing domestic violence: Experiments and dilemmas*. New York: Free Press. For a critique of this works, see Lerman, L. G. (1992). The decontextualisation of domestic violence. *Criminal Law & Criminology*, 83, 217-240 and Robertson, N. R. (1999).

Other policies have been aimed at improving the effectiveness of prosecutions against batterers, including bail rules which reduce their ability to intimidate victim-witnesses,²⁶ so-called “no drop” policies which limit the prosecutor’s discretion to drop prosecutions even if the victim wishes to withdraw the complaint,²⁷ and the provision of support for victim-witnesses to increase their ability to participate in prosecutions.²⁸ Within the civil courts, protection orders which restrain the batterer’s behaviour are now available in most Western jurisdictions.²⁹ In a general sense, many of these policies can be seen as an attempt to address well-documented gender bias in the courts under which domestic assaults are routinely seen as less serious than other assaults and not requiring the imposition of significant penalties.³⁰

New Zealand Domestic Violence Policy

Getting domestic violence on to public policy agendas owes much to the Women’s Refuge movement. The first New Zealand refuge was established in Christchurch in 1974.³¹ Eight years later, Parliament passed the first legislation specifically addressing domestic violence, the Domestic Protection Act 1982.³² The Act, in the words of the Minister of Justice, was to provide alternative remedies to the criminal justice system.³³ It provided for two main orders.

Reforming institutional responses to violence against women. PhD thesis, University of Waikato. Retrieved 11 June 2006 from <http://www.nzfvc.org.nz/PublicationDetails.aspx?publication=12704>.

²⁶ Hart, B. J. (1996). *Battered women and the criminal justice system*. Retrieved 20 November 1997 from <http://www.umn.edu/mincava/hart/battere.htm>; Lyon, C. M. (1995). Working together: an analysis of collaborative inter-agency responses to “the problem of domestic violence”. In J. Bridgeman & S. Millns (Eds.), *Law and body politics: Regulating the female body*. Aldershot, England: Dartmouth; Salzman, E. (1984). The Quincy District Court Domestic Violence Prevention Program: A model legal framework for domestic violence intervention. *Boston University Law Review*, 74, 329-364. Some American jurisdictions allow for protection orders to be issued during remands, see Developments in the law: Legal responses to domestic violence. (1993). *Harvard Law Review*, 106, 1498-1620.

²⁷ Cahn, N. R. (1992). Innovative approaches to the prosecution of domestic violence crimes: An overview. In E. S. Buzawa & C. G. Buzawa (Eds.), *Domestic violence: The changing criminal justice response*. Westport, CT: Auburn House; Davis, R. C., & Smith, B. (1995). Domestic violence reforms: Empty promises or fulfilled expectations. *Crime and Delinquency*, 41, 541-552; Jaffe, P. G., Hastings, E., Reitzel, D., & Austin, G. W. (1993). The impact of police laying charges. In N. Z. Hilton (Ed.). *Legal responses to wife assault: Current trends and evaluation*. Newbury Park, CA: Sage; National Council of Juvenile and Family Court Judges. (1992). *Family violence: State-of-the-art court programs*. Reno, Nev: National Council of Juvenile and Family Court Judges; Tolman, R. M., & Weisz, A. (1995). Co-ordinated community intervention for domestic violence: The effects of arrest and prosecution on recidivism of woman abuse perpetrators. *Crime & Delinquency*, 41, 481-495.

²⁸ Hart, B. J. (1996). *Battered women and the criminal justice system*. Retrieved 20 November 1997 from <http://www.umn.edu/mincava/hart/battere.htm>; Developments in the law: Legal responses to domestic violence. (1993). *Harvard Law Review*, 106, 1498-1620; Pence, E. (1989). *The justice system’s response to domestic assault cases: A guide for policy development* (Rev. ed.). Duluth, MN: Minnesota Program Development, Domestic Abuse Intervention Project.

²⁹ Sigler, R. T., Crowley, J. M., & Johnson, I. (1990). Judicial and prosecutorial endorsement of innovative techniques in the trial of domestic abuse cases. *Journal of Criminal Justice*, 18, 443-453.

³⁰ Maryland Special Joint Committee on Gender Bias in the Courts. (1989). Domestic violence and the courts. *Response*, 12, 3-6.

³¹ Glover, M., & Sutton, D. (1991). *“Side by side?” An evaluation of parallel development in the Te Anamutu Women’s Refuge and Rape Crisis Inc.* Hamilton: Department of Psychology, University of Waikato.

³² However, remedies for domestic violence were available under the Family Proceedings Act 1980 (ss. 176-179). These included an order for occupation of the home if needed for the protection of one of the parties and/or children and a non-molestation order which could be made upon application of either party where there was a separation order or an order relating to occupation of the home.

³³ *Hansard*, 19 November 1982, at p. 4838.

The first of these was a new non-violence order which was available to applicants who were, or had been, living with a partner who had “used violence against, or caused bodily harm to, the applicant, or child of the family, and is likely to do so again (section 6). A respondent who used violence or threatened to do so could be arrested (section 9) and held for 24 hours (section 12).

The second was a non-molestation order. Like its predecessor under the Family Proceedings Act 1980, this was available only to applicants who had separated from the respondent (section 13). It could be made where the court was satisfied that it was “necessary for the protection of the applicant or any child of the applicant” (section 15).³⁴ A non-molestation order prohibited the respondent from entering or remaining on any land or building occupied by the applicant or where the applicant was present, from “watching or besetting” the home or workplace or the applicant or a child of the applicant (section 16). A breach of a non-molestation order carried a maximum penalty of three months’ imprisonment (section 18). Importantly, a non-molestation order ceased to have effect if the parties resumed cohabitation (section 17).

There were additional remedies. Occupation and tenancy orders (and an ancillary order relating to furniture) were also available for applicants to ensure that they had continued occupation of a previously shared home. And, in 1986, an amendment gave the court the discretionary power to direct respondents to “counselling”, in effect, stopping violence programmes (section 37A).³⁵

All of these orders could be granted without notice being given to the respondent. (Such orders were known as interim orders.) The respondent’s right to procedural fairness was protected in two ways. Firstly, in making an order without notice the court had to specify a date (“as soon as reasonably practicable”³⁶) for a hearing to determine whether a permanent order should be made. Secondly, the applicant could apply immediately for variation or discharge of the order.³⁷ Moreover, for an order to be made without notice, the court had to be satisfied that “the delay that would be entailed by proceeding on notice would or might entail risk to the personal safety of the applicant or a child of the applicant’s family; or ... serious injury or undue hardship.”³⁸

Police Policy

As noted above, the remedies of the Domestic Protection Act 1982 were seen as alternatives to those provided by the criminal law. Within the criminal law, 1987 saw an important policy development with the adoption of what could be best termed a pro-arrest policy in relation to domestic assaults. That is, until then, police intervention in what were, and still are, commonly called domestic “incidents” was decidedly low key, focusing on dispute resolution rather than treating men’s violence against women within the home as a criminal matter worthy of arrest and prosecution.³⁹ During 1986, a more assertive police response had been trialled in Hamilton. This involved arresting offenders where an offence was detected, without asking victims to make a complaint. This was an explicit recognition of the risk of retribution a woman may face if she is seen by the offender as responsible for his arrest. In addition victims were referred to Women’s Refuge for immediate follow-up and support. Ford’s evaluation of the trial revealed high levels of

³⁴ This is the wording of s. 15 as amended by the Domestic Protection Amendment Act 1986.

³⁵ Inserted by the Domestic Protection Amendment Act 1986, s. 3.

³⁶ Domestic Protection Act 1982, s. 31.

³⁷ Ibid, ss. 5(3) (non-violence order), 14(3) (non-molestation order), 20(5) (occupation order) and 25(5) (tenancy order).

³⁸ This is the wording used in relation to non-molestation orders (s 14). Similar, but not identical, wording was used in relation to the other orders.

³⁹ Ford, G. W. (1986). *Research project on domestic disputes: Final report*. Wellington: Police Psychological Services, New Zealand Police.

satisfaction among both victims and refuge workers. Interestingly, half of the ten offenders interviewed thought that the arrest was appropriate and six reported that being arrested had helped them.⁴⁰ The protocols developed in the trial were subsequently adopted as national policy in 1987.⁴¹

Domestic Protection Study

In 1990, two of us, Ruth Busch and Neville Robertson, along with Hilary Lapsley, were commissioned by the Victims Task Force to investigate “continuing breaches of non-violence and non-molestation orders made by the Family Court or District Court, with a view to improve the protection offered to victims.”⁴² As our brief suggested, there was widespread concern that non-violence and non-molestation orders were often breached repeatedly. This was confirmed by our study which was based on (a) 20 case studies of women with protection orders, (b) interviews with judges, family law practitioners, police officers, refuge advocates, counsellors and Family Court counselling coordinators, and (c) analyses of decided cases, police files and statistical information collated by the relevant organisations.

Our study identified widespread problems in a number of areas. In summary, we described these as constituting a significant “gap” between women’s experiences of domestic violence and the justice system’s response to that violence. This gap can be understood by the following example.

A woman we called Deb finally managed to get away from her partner after years of abuse, during which he had strangled her, head butted her and thrown things at her. On several occasions, she was chased down the road by him in a vehicle. He played mind games on her and controlled her movements. On her second attempt, Deb got a non-molestation order but it did not stop her partner from harassing her. On one occasion, she came home to find that he had been inside her house. Nothing had been disturbed, but he had done the dishes so that she would know that he had been there. The police were perplexed that she wanted her ex-partner arrested for doing the dishes. To them, he was being helpful. To Deb, it was a chilling message. “I know where you are and I can get you when ever I want.” But, as Deb put it, to the police “He was a good guy and I was a nut.”⁴³

Our 20 case studies included many such examples. The circumstances varied. Sometimes it was police officers, sometimes judges, sometimes counsellors – but the consistent pattern was a gap between women’s experiences of violence, intimidation and abuse and the way the system responded. Specific aspects of this gap included the following.

- (a) The police pro-arrest policy was poorly implemented, with police officers often being sympathetic to respondents and/or viewing breaches as trivial and not “real” crime. Typically, respondents were warned rather than arrested and charged. Victims, including those with non-molestation or non-violence orders, were often seen as at least partly to blame for the violence against them. Many women became disillusioned by the police response and gave up calling. Women who insisted on having their orders enforced risked being characterised as paranoid and/or vindictive.
- (b) Prosecution of offenders was inadequate, with considerable use being made of diversion, contrary to police policy of the time. Domestic violence offenders often faced charges less

⁴⁰ Ibid, at pp. 48-50.

⁴¹ Police Commissioner. (1987). Domestic dispute policy changes. *Commissioner’s Circular, 1987/11*.

⁴² Busch, R., Robertson, N. R., & Lapsley, H. (1992). *Protection from family violence: A study of breaches of protection orders*. Wellington: Victims Task Force, at p. 1.

⁴³ Ibid, at pp. 64-66.

serious than was justified by the facts. The criminal courts routinely trivialised violence against women by discharging offenders or imposing minimal sentences, much lighter than comparable assaults against strangers.

- (c) In the case of breaches of non-molestation orders, 1989 figures showed that, nationally, 40% of respondents who were prosecuted were either acquitted or had the charges withdrawn. Of those who were convicted, 58% were either discharged without penalty or ordered to come up for sentence only if called upon. The latter meant that respondents could, theoretically, face a penalty if they were convicted again within the period specified. In fact, such orders to come up for sentence proved to be quite meaningless in respect of repeat breaches because they could be triggered only by a subsequent offence carrying **more** than three months' imprisonment. As noted, a breach of a non-molestation order carried a **maximum** of three months' imprisonment. In short, the message seemed to be that orders could be breached with impunity.
- (d) There were concerns that the Domestic Protection Act 1982 was too narrow, excluding from its coverage gay and lesbian partners, housemates and couples who had never cohabitated but had children in common.
- (e) Our analysis of judicial decisions showed that many judges shared myths about domestic violence commonly held by society at large. A two-to-tango analysis meant that, too often, women were blamed for domestic violence which was seen as a symptom of a relationship problem rather than as a real problem of itself.
- (f) There seemed to be significant regional and individual differences in judges' willingness to make an order without notice to the respondent. Judges often read into the law a requirement for "fresh" violence before making an order. Intimidation and harassment without physical violence was generally seen as not reaching the threshold for granting an order.
- (g) There were problems with the archaic language of the non-molestation order – and uncertainty about what constituted resumption of cohabitation.
- (h) Court waiting rooms – in some cases, the court room itself – were identified as places where women were exposed to violence and intimidation by the abuser.
- (i) Violence against the mother was regularly seen as completely irrelevant to determination of custody and access, despite the documented effects on children of witnessing domestic violence and the huge co-occurrence of domestic violence and child abuse.
- (j) The strong preference of the Family Court to resolve conflict through counselling and mediation was considered to be inappropriate in cases of domestic violence. The "no-fault" orientation sent the wrong messages where one partner had used violence. Victims were likely to placate their aggressor and settle for less than that to which they were entitled. Face-to-face meetings exposed women to abuse and intimidation. One woman in our case studies was killed as she left court-ordered counselling.
- (k) There was a lack of coordination between the Family Court and District Court, such that the latter typically sentenced offenders for breaching protection orders without reference to the events which led to the order being made in the first place. Unless that background was considered, there was a strong likelihood that only minimal sentences were imposed for the breach.

We made 101 recommendations, including 35 for statutory change. All but one of the latter were incorporated in the Domestic Violence Act 1995 (discussed below).

Hamilton Abuse Intervention Project

Statutory change was not needed for another important policy development in the early 1990s. The Hamilton Abuse Intervention Pilot Project, as it was originally called, was an initiative of the Family Violence Prevention Coordinating Committee. The committee brought together the heads of key government agencies and relevant non-government organisations.⁴⁴ Part of its brief was to “co-ordinate and oversee the development of an inter-agency approach to family violence”⁴⁵ It did this by establishing a project in Hamilton modelled on the Duluth Abuse Intervention Project in Minnesota. The rationale for these projects and their various replications around the world is that men’s violence against women is largely sustained by the way the community and the state collude with the abuser – in the sorts of ways we described in our 1992 study summarised above. The logic of intervention projects is to address that collusion through the application of detailed protocols. The implementation of the protocols is monitored by battered women’s advocates. The goals are as follows.

- (a) Ensure that there is a consistent response to acts of violence against battered women and/or their children which prioritises their safety and autonomy.
- (b) Hold offenders accountable for their violence by consistently imposing sanctions, including incremental sanctions for repeat acts of violence – and to the extent that it is consistent with accountability, to provide opportunities for rehabilitation.
- (c) Represent battered women in the criminal justice system and to provide support and advocacy for them within that system.
- (d) Develop and implement detailed protocols to guide the work of individual practitioners who handle domestic violence offences. Such protocols must include arrangements for sharing information between agencies.
- (e) Carry out systematic monitoring of practitioners’ compliance with the protocols, and evaluation of intervention practices.⁴⁶

The Hamilton pilot dramatically improved the responsiveness of the criminal justice system. The number of women calling the police increased significantly and women were overwhelmingly satisfied with the service they received. There was a 400% increase in the number of women receiving services from the Hamilton refuges. The number of men arrested for domestic violence assault increased about twofold. Non-association conditions on bail – and their enforcement – provided a mostly effective barrier between men facing prosecution and their victims. Men charged with male assaults female were convicted in 90% of the time, one and a half times the rate in the rest of the country.⁴⁷

⁴⁴ Membership included representation from the New Zealand Police; the Family Court; the departments or ministries of Justice, Social Welfare, Education, Health, Women’s Affairs, Youth Affairs, and Pacific Island Affairs; Manatu Māori; the Accident Compensation Corporation; the National Collective of Independent Women’s Refuges; the National Collective of Rape Crisis and Related Services; Te Kakano o te Whanau; the National Men for Non-Violence Network; Runanga Tane; and the Pacific Island Women’s Project. The Māori Women’s Welfare League attended meetings in an observer/advisory capacity. Family Violence Prevention Co-ordinating Committee. (1991). *Family violence prevention in the 1990s*. Proceedings of the conference held in Christchurch, 1-6 September 1991, at p. 90.

⁴⁵ Family Violence Prevention Co-ordinating Committee. (n. d.). *Terms of reference*. Unpublished document, at p. 1.

⁴⁶ Pence, E. (1989). *The justice system’s response to domestic assault cases: A guide for policy development* (Rev. ed.). Duluth, MN: Minnesota Program Development, Domestic Abuse Intervention Project; Robertson, N. R. (1999). *Reforming institutional responses to violence against women*. PhD thesis, University of Waikato. Retrieved 11 June 2006 from <http://www.nzfvc.org.nz/PublicationDetails.aspx?publication=12704>.

⁴⁷ Robertson, N. R. (1999). *Reforming institutional responses to violence against women*. PhD thesis, University of Waikato. Retrieved 11 June 2006 from <http://www.nzfvc.org.nz/PublicationDetails.aspx?publication=12704>.

The dramatic improvement in successful prosecution was particularly interesting. An important factor here was the work of the court advocate.⁴⁸ She attended court daily, and played a crucial role in assisting and monitoring police prosecutors. She liaised with victims, kept them informed and, if their evidence was required in a defended hearing, supported them through the process. During the pilot phase, no woman whose evidence was needed in a prosecution declined to give evidence. Such support, advocacy and monitoring is fundamental to effective intervention from police call-out, through court hearings, and, where the offender is so sentenced, to his participation in a stopping violence programme.

Elements of the model piloted in Hamilton found their way into the 1996 *Government statement of policy on family violence*⁴⁹ and its successor, *Te Rito*.⁵⁰ Both policies placed considerable emphasis on interagency collaboration, but, unfortunately, neither embraced the sort of external monitoring of the state by battered women's (and children's) advocates. It was such external monitoring which the Hamilton experience showed to be essential for ensuring that the criminal justice response is consistent in prioritising victim safety and autonomy on the one hand, and offender accountability on the other.

Domestic Violence Act 1995

The Domestic Violence Act 1995 and related amendments to the Guardianship Act 1968 were significant legislative attempts to improve the lives of battered women and their children. Compared to the Domestic Protection Act 1982, the 1995 legislation broadened the definition of "domestic relationship" such that protection orders became available to, for example, same-sex couples, family members, flatmates or anyone in "a close personal relationship" with the respondent (section 4). Similarly, a broader, more contextualised definition of "domestic violence" was introduced which encompassed physical, sexual and psychological violence, the latter including intimidation, harassment, damage to property and threats (section 3(2)). In recognition of the deleterious effects on children, causing or allowing a child to witness the physical, sexual or psychological abuse of any person with whom that child had a domestic relationship was also included in the definition (section 3(3)).⁵¹ The court is now specifically reminded that acts which, in isolation may appear minor or trivial may, nevertheless, amount to domestic violence when part of a pattern (section 3(4)). In determining whether there is a need for protection, the court must have regard to the applicant's perception about the nature and seriousness of that violence and its effects on the applicant and on any children of the applicant (section 14(5)).

The new protection order has significant advantages over the non-violence and non-molestation orders which it replaced. For example, unless the respondent contests the making of the order, a temporary (without notice) protection order becomes permanent without further application (section 13). Unlike the old non-molestation order, the protection order applies equally to respondents living with or separated from applicants, and remains in force if the applicant and

⁴⁸ Other factors were shortened remand times (time was reserved in the court calendar for defended domestic violence hearings) and non-association conditions attached to bail where that was granted.

⁴⁹ Department of the Prime Minister and Cabinet. (1996). *New Zealand Government statement of policy on family violence*. Wellington: Department of the Prime Minister and Cabinet, at p. 7. The other five strategic directions were early intervention, victim safety, perpetrator interventions, Māori designed and managed delivery options, and building safer communities.

⁵⁰ Ministry of Social Development. (2002). *Te Rito: New Zealand Family Violence Prevention Strategy*. Wellington: Ministry of Social Development.

⁵¹ For a recent New Zealand study of this, see Martin, J., Langley, J., & Millichamp, J. (2006). Domestic violence as witnessed by New Zealand children. *New Zealand Medical Journal*, 119(1228). Retrieved from <http://www.nzma.org.nz/journal/119-1228>.

respondent resume (or begin) cohabitation, although certain prescribed behaviours, commonly referred to as the non-contact provisions, are suspended during cohabitation – and revived if the applicant withdraws consent to cohabitation (sections 19 and 20).

The Domestic Violence Act 1995 increased the penalty for breaching a protection order and introduced incremental penalties for repetitive breaches (section 49). Courts are required to direct respondents to attend stopping violence programmes (section 32).⁵² For the first time, funding became available for programmes for adult protected persons and their children. Significantly, in the wake of the murders of Tiffany, Holly and Claudia Bristol by their father, who had been given custody of them by the Family Court, an amendment to the Guardianship Act 1968 introduced a rebuttal presumption against a violent parent having custody of or unsupervised access to his/her children unless the court could be satisfied that the children would be safe during such visitation/custodial arrangements (section 16B).⁵³ These provisions have been carried forward into the Care of Children Act 2004. Given the dangers women face on access changeovers, the rebuttable presumption, combined with the court's power to include special conditions concerning access in protection orders, appears to offer greater safety for women and children.

Above all, the stated object of the Domestic Violence Act 1995, as spelt out in section 5(1), is:

... to reduce and prevent violence in domestic relationships by—

- (a) Recognising that domestic violence, in all its forms, is unacceptable behaviour; and
- (b) Ensuring that, where domestic violence occurs, there is effective legal protection for its victims.

Undoubtedly, the new legislation promised much for women and children.

Background to the Present Research

During the period 1999 to 2002, evaluations of various aspects of the implementation of the Domestic Violence Act 1995 were published.⁵⁴ These, and some of our own work, identified significant changes in the ways in which the courts were dealing with domestic violence issues.⁵⁵ The implementation of the new legislation was followed by a marked increase in the number of women applying for and gaining protection orders. The Family Court was seen to be paying much greater attention to the safety of the child in making custody and access determinations.⁵⁶

⁵² However, note that s. 32(1) allows the court to not require attendance where “there is good reason for not making such a direction.”

⁵³ Guardianship Act 1968, s. 16B.

⁵⁴ Barwick, H., Gray, A., & Macky, R. (2000). *Domestic Violence Act 1995: Process evaluation*. Wellington: Ministry of Justice; Cargo, T., Cram, F., Dixon, R., Widdowson, D., Adair, V., & Jackson, S. (2002). *Evaluation of programmes for children under the Domestic Violence Act 1995*. Wellington: Ministry of Justice; Chetwin, A., Knaggs, T., & Young, P. T. W. A. (1999). *The domestic violence legislation and child access in New Zealand*. Retrieved 21 June 2006 from http://www.justice.govt.nz/pubs/reports/1999/domestic_violence; Cram, F., Pihama, L., Jenkins, K., & Karehana, M. (2002). *Evaluation of programmes for Maori adult protected persons under the Domestic Violence Act 1995*. Wellington: Ministry of Justice; Maxwell, G., Anderson, T., & Olsen, T. (2001). *Women living without violence*. Wellington: Ministry of Justice; McMaster, K., Maxwell, G. M., & Anderson, T. L. (2000). *Evaluation of community based stopping violence prevention programmes*. Wellington: Department of Corrections.

⁵⁵ For example, Busch, R., & Robertson, N. R. (1997). The gap goes on: An analysis of issues under the Domestic Violence Act 1995. *New Zealand Universities Law Review*, 17, 337-378. Also, Busch, R., & Robertson, N. R. (2000). Innovative approaches to child custody and domestic violence in New Zealand: The effects of law reform on the discourses of battering. *Journal of Aggression, Maltreatment & Trauma*, 3, 269-299.

⁵⁶ Under the Care of Children Act 2004, these are now referred to as “day-to-day care” and “contact” respectively.

However, more recently, there has been increasing concern that the Act has failed to live up to its promise. Many of these concerns were brought together in a report published by the National Collective of Independent Women's Refuges.⁵⁷ These concerns included the following.

- A decrease in the number of protection orders made without notice.
- Significant delays in hearing applications put on notice.
- The use of undertakings whereby the respondent promises to stop harassing the applicant if she withdraws her application for a protection order. Such undertakings are unenforceable. Respondents escape accountability for their violence while women's safety becomes, in effect, something to be negotiated rather than a basic human right to be protected by the state.
- A reassertion of victim-blaming attitudes towards women on the part of certain judges and police officers.
- Custody and access arrangements which expose women to violence (for example, at access changeover times).
- Lack of referrals to programmes for protected persons, including children's programmes, and inconsistent enforcement of attendance at respondents programmes.
- Police officers being reluctant to arrest respondents who breach protection orders.
- Respondents who breach the non-contact provisions of their orders but leave the premises before the police arrive, not being followed up and apprehended.
- Lengthy delays in the prosecution of breaches of protection orders.
- Trivialisation of some breaches as being merely "technical"⁵⁸.

In summary, ten years after the implementation of the Domestic Violence Act, there is increasing concern that some of the problems which led to the legislation remain and that new barriers to protection have emerged. The current research is very timely. While there is a consensus among women's advocates and family law practitioners about some aspects of these problems, what is lacking is systematic information about women's experiences of protection orders.

Our Approach

The objectives of this project were to:

- (a) identify and describe the experiences of a sample of women in obtaining protection orders, the impact of protection orders and the response to breaches of protection orders;
- (b) identify those aspects that are working well (that is, positive experiences of protection orders); and
- (c) identify areas for improvement including barriers that prevent women from applying for and obtaining protection orders.

⁵⁷ Hann, S. (2004). *The implementation of the Domestic Violence Act 1995*. Wellington: National Collective of Independent Women's Refuges. Retrieved 7 June 2006 from <http://www.nzfvc.org.nz/PublicationDetails.aspx?publication=12835>.

⁵⁸ A so-called technical breach is one in which the respondent breaches the non-contact provisions (for example, by phoning or texting the applicant) but does not commit a physical assault. See Chapters 11 and 12 for a discussion of this issue.

Case studies of women seeking protection from partner violence form the core of our study. However, these are not the only sources of information on which our report is based. In addition, we have interviewed key informants, conducted an analysis of statistical data and reviewed relevant literature.

Case Studies

Contrary to certain common stereotypes, women who seek protection from male partner violence are a very diverse group. We wanted to include as much of that diversity as possible. In the first instance, we aimed for diversity in terms of ethnicity. Our case studies comprise four streams: Māori, Pākehā, Pasifika and other ethnic minority women⁵⁹ (Chapters 2 to 5 respectively).⁶⁰ It should be noted that the number of women in each stream is not proportional to their numbers in the general population. Our aim was not to extrapolate from our sample to draw quantitative conclusions about New Zealand women in general. Nor was it to make cross-ethnic comparisons. Rather, our approach was based on the belief that each of these groups faces particular challenges in seeking protection from domestic violence, and that the experiences of each group of women need to be understood from within their particular cultural contexts. In other words, our sampling logic was driven not by equality of representativeness but by a desire to ensure equality of explanatory power for each of these groups.

We also wanted to include as much as possible of the diversity within each of these groups. This included the iwi or specific ethnic background of the women within each of the four streams. We wanted to include both rural and urban women. We wanted to include women from varying socio-economic groups. Crucially, we wanted to include a diversity of experiences in relation to protection orders by recruiting women who did not apply for an order, women who applied but did not get an order, women whose orders proved mostly effective and women whose orders were breached repeatedly. As the case studies show, we have been remarkably successful in including a diversity of women on these dimensions.

We recruited women by networking with refuges, women's advocacy organisations, family law practitioners, ethnic associations and generic social service agencies. Potential participants were given an information sheet (see Appendix 3, Volume 2) explaining the purpose of the research, the sort of questions they would be asked and the use to which information would be put. The explanation included the steps we would take to protect their anonymity, as well as potential limits to anonymity (see below). The information sheet also made it clear that women had the right to withdraw from the research if they wished. Mostly, potential participants completed a

⁵⁹ In respect of the last-named group, we followed the description used by the Office of Ethnic Affairs: "Ethnicity is a broad concept of group affiliation based on the elements of race, language, religion, customs, heritage and tradition as well as geographic, tribal or national identity. For administrative purposes, the scope of the Office of Ethnic Affairs primarily concerns people who identify with ethnic groups originating from Asia, Africa, Continental Europe, the Middle East and Central and South America; and includes refugees and migrants as well as people born in New Zealand who identify with these groups. In this sense, 'ethnic' is used to refer to people whose ethnicity is different from the majority of people in New Zealand, and from Māori or Pacific people." Department of Internal Affairs. (2005). *Briefing for incoming minister: Ethnic affairs*. Wellington: Department of Internal Affairs. Retrieved 10 April 2007 from [http://www.dia.govt.nz/pubforms.nsf/URL/EthnicAffairsBIMOctober2005.pdf/\\$file/EthnicAffairsBIMOctober2005.pdf](http://www.dia.govt.nz/pubforms.nsf/URL/EthnicAffairsBIMOctober2005.pdf/$file/EthnicAffairsBIMOctober2005.pdf), at p. 7.

⁶⁰ Women were placed in streams according to their primary ethnic identity. Mostly, this was straightforward. It should be noted that the Pākehā stream includes New Zealand-born women who identified as either "Pākehā" or "European" and one woman who had immigrated from what was sometimes thought of as the "white" Commonwealth and for whom English was her first language. The Pasifika stream includes both New Zealand-born women and women who have immigrated from Pacific Island nations. The other ethnic minority stream includes both New Zealand-born and immigrant women whose ethnic and cultural origins are in Asia, the Middle East, Africa and non-English-speaking parts of Europe.

“Profile form” (attached to the Information Sheet) which allowed us to select participants within each of the four streams to achieve the desired diversity of experiences and background.

Interviews

Women were interviewed at a mutually agreed time and place, usually their home or the premises of the organisation through which they were recruited. Three women agreed to be interviewed by telephone. While we were not always able to match participants with interviewers of the same specific ethnicity, interviews were usually conducted by interviewers from the same stream. Two interviews were conducted with the help of an interpreter. Women were encouraged to have a support person present and some elected to have someone with them.

Interviews began with a further discussion of the purpose of the research and the steps we were taking to protect women’s safety and anonymity. Women were given the opportunity to ask any questions before consent to participate was confirmed. Permission to audio-record the interview was obtained.

Because we were interested in obtaining women’s stories in as uncensored a manner as possible the interviews were relatively informal. While we had a list of issues which could potentially be covered (see Appendix 4, Volume 2), the issues canvassed in each case varied depending on the circumstances of the particular woman, such as whether she applied for an order, whether she was granted an order and whether the order had been breached. Typically, our conversations followed a chronological order beginning with the relationship and then moving on to attempts to get protection. Interviews lasted between one and three hours and were audio-recorded.

For those women who had reported violence or breaches of protection orders to the police, we sought permission to have access to the relevant police files. Similarly, we sought access to affidavits and judgments where women had been part of proceedings in the Family Court. Such documents provided “official” accounts of women’s experiences of violence and of their efforts to seek protection. We were not always successful in locating these documents but, when we did, they were very useful in helping us to understand the nature of the gap between women’s experiences of violence and the way the justice system responded to that violence.⁶¹

Participant checks

We prepared the case studies from the record of our interviews and relevant documents. Women were offered the opportunity to review a draft of their case study. Most did so. This usually resulted in relatively minor changes being made, either to better preserve the participant’s anonymity, to correct minor inaccuracies or to elaborate on important points. In some instances, there were further developments which needed to be incorporated into the case study.

Safety and anonymity

We were conscious that taking part in the research could compromise the safety of participants. Any woman who was recognised by her (ex)partner could potentially be subjected to “pay back” for discussing his violent and abusive behaviour with us. To minimise the risks for women, we took the following steps.

1. The information sheet given to participants set out the steps we would take to protect women’s anonymity but also included the following advice:“(W)hile we will take all possible care in protecting your privacy, it is possible that you may be recognised by people closely involved in your case – people like your lawyer, close family members or your (ex)partner. You should bear this in mind when checking your case study.”

⁶¹ With women’s consent, examination of these documents was sometimes supplemented by interviews with the professionals involved.

2. The profile sheet asked potential participants the following question: “When we contact you, are there any particular measures we need to take to ensure your safety? (e.g. the time or day of week we should ring).” We followed such requests.
3. In making contact with participants (via telephone or door knocking), we always made sure that women were safe to talk and that we had a “bail-out” strategy if that was not the case. For example, in telephoning women, interviewers were instructed not to disclose their connection with the university, nor the purpose of the contact, to anyone other than the woman and to have a plausible cover story should they be asked for such information. Fortunately, such strategies never had to be used.
4. We ensured that women had good information about relevant services. Where it is thought necessary, women were put in touch with relevant services which could help protect them and their children.
5. In preparing the case studies, we used pseudonyms for participants and their partners, and, where relevant, their children and other family members.
6. We omitted certain identifying information such as specific dates and place names and replaced these with more general references.
7. Where case studies include references to judgements in the Family or criminal courts, we have with-held the citation details.
8. We have changed certain details peripheral to the story but which may otherwise have compromised anonymity. Such changes include things such as occupation, specific country of origin (in relation to immigrants), and the location of certain events.
9. Finally, as indicated above, women were given the opportunity to review a draft of their case study. This sometimes resulted in minor changes being made to better protect their anonymity.

Additional Sources of Information

It has been our desire to put women’s experiences at the heart of our report. However, in reflecting on those experiences, it has been useful to draw on other sources of information.

Key Informant Interviews

At the beginning of the project, we conducted a series of key informant interviews throughout the country. Interviewees included refuge advocates, counsellors, social workers, community workers, members of ethnic associations, family law practitioners, police officers, Ministry of Justice staff, facilitators of stopping violence programmes and probation officers. Mostly, these were group interviews. Approximately 150 people took part in these discussions.⁶²

We did not make transcripts of these conversations but relied on notes taken at the time. The conversations enabled us to quickly get an overview of the issues from a practitioner point of view. They helped us to clarify some of the issues we needed to canvas in the case studies, to focus our review of the literature, and, in some instances, led to the recruitment of potential case study participants. In addition, key informants were a useful source of information about current policies and practices, either in relation to specific women in the case studies (as mentioned above) and/or about the operation of policies and practices in general. Such information helped us to understand women’s experiences within the context of the institutions and services with

⁶² We cannot be precise because on one occasion, a focus group held at the annual conference of the National Network of Stopping Violence Services, a large group of people attended only some of whom completed a form.

which they interacted. We draw on observations made by key informants in drawing conclusions and developing recommendations.

Analysis of Statistical Data

Ministry of Justice and police statistics relating to applications for protection orders and breaches of protection orders have been analysed for evidence of trends in relation to such issues as the number of applications made, the proportion of applications resulting in orders being made and the extent to which applications are dealt with on notice, even if initially applied for on a without notice basis. This analysis is reported in Appendix 1 along with statistics relating to the enforcement of protection orders. We draw on this analysis in making our conclusions and recommendations.

Literature Review

Finally, we have reviewed local and international literature relevant to the issues raised in the case studies and in key informant interviews. This includes published examples of internationally recognised best practice. To better understand New Zealand courts' approach to domestic violence cases, we have reviewed various decided cases from both the family and criminal jurisdictions. The literature and decided cases have been used extensively in the final chapters of our report to provide additional commentary on the issues arising from the case studies and in developing our recommendations.

Ethical Issues

Our research plan was approved by the University of Waikato Human Research Ethics Committee. As discussed above, the safety of participants was obviously a major consideration in the study, as was ensuring that participating was not unnecessarily painful. In fact, it was our impression that most women appreciated the opportunity to take part in the study, even if it was not always easy at the time. That is, women sometimes struggled to tell the most painful parts of their stories and one woman later reported crying for three days after her interview. However, she, like most of our participants, said she found that having her story in a written form was empowering and helped her to clarify some of the feelings she had about her experiences. Some women have shown their case study to family and friends or have used it to lobby for improvements in the services with which they had been involved. Some of the women became quite active in refining their stories, suggesting ways of better protecting their anonymity and/or improvements to the way events were described. While we take responsibility for what appears in our report, the stories in following chapters really belong to the women who gave so generously of their time and energy.

Outline of Our Report

The following chapters present the case studies of Māori, Pākehā, Pasifika and other ethnic minority women respectively. The main themes to emerge from our research are highlighted in the final Chapter of this Volume (Chapter 6).

In Volume 2, *What's to be done? A critical analysis of domestic violence related statutory and practice approaches*, we turn our attention to the institutions and agencies which have particular responsibilities for protecting women and children from domestic violence. We begin that volume with a review (Chapter 7) of recognised good practice in risk assessment. We do this because good risk assessment is vital if decision makers are to help protect women and children victims of domestic violence. Our intention is that this discussion will help inform the analyses of decision making in various settings covered in the subsequent chapters.

Chapter 8 provides an overview of women's experiences of obtaining protection orders. We identify certain barriers some of them faced in making applications and discuss both positive and

negative experiences of being involved with the Family Court. We pay particular attention to the consequences for women of having applications put on notice and/or of having to defend their applications in court. These issues are further explored in Chapter 9 in which we contextualise women's experiences by analysing contemporary judicial approaches to the granting of protection orders and identify good and problematic practices within the Family Court.

As the case studies show, women's attempts to protect themselves are inextricably bound to their concerns for their children's welfare. Thus Chapters 10 and 11 focus on domestic violence and children. In the first of these, we examine how children in the case studies were exposed to violence and used by perpetrators as tactics of power and control. We also review those case studies in which women or their ex-partners made applications for parenting orders in the Family Court. In Chapter 11, we contextualise these experiences by a wider analysis of contemporary judicial approaches to determinations under the Care of Children Act 2004.

Chapters 12 and 13 focus on the criminal justice system. In Chapter 12, the policing of domestic violence, including the enforcement of protection orders, is discussed in the light of the case studies and the local and international literature. In Chapter 13, our focus moves to the criminal courts, reviewing the experience of those women in our case studies whose partners were prosecuted for violence against them. We also consider contemporary judicial approaches to domestic violence offending in the criminal jurisdiction, including specialist domestic violence courts.

As shown in the case studies, immigrant women, especially those without resident status, face particular barriers in protecting themselves from male partner violence. In Chapter 14 we discuss men's use of their partner's uncertain immigration status as a weapon against them and the implementation of the Immigration Act 1987 in respect of victims of domestic violence. We also identify certain barriers facing women from culturally and linguistically diverse communities in their attempts to protect themselves from domestic violence.

In Chapter 15 we discuss the experiences of women in relation to the wide range of other services they encountered in their attempts to keep themselves and their children safe. These include "specialist" non-government organisations which provide safe houses and protected persons and/or respondents programmes. They also include Child, Youth and Family. But other agencies are also shown to play an important role, such as health services and generic social service agencies. We consider these, along with the role of whānau and community assistance in supporting women's ability to live their lives free of violence.

2: Māori Women's Stories

Crystal

Crystal's story is a not uncommon one for Māori women living in relatively remote areas. Her isolation was compounded by the success of her partner's family in cutting her off from the support of her whānau. When the state did intervene, the interventions were usually ineffective. As a result, Crystal experienced horrific violence in the course of her seven year relationship. Along with the health consequences of such violence, she has lost the day-to-day care of her children.

Violence in the Relationship

Crystal and Shane grew up in the same area, where their respective families knew each other, although not well. Crystal and Shane got together in their late teens. Their relationship lasted seven years, and produced four children. During the early years of the relationship, they lived with Shane's parents, who tended to see any problems between Shane and Crystal as being her fault. They almost inevitably sided with Shane. Shane's (Pākehā) father, Bruce, was very controlling. Effectively, he and Shane isolated Crystal from her own family making it harder for her to leave the relationship. Indeed, it was often Bruce's isolation tactics that prevented Crystal from getting help when Shane beat her. That is, Bruce would accompany her to the doctor or Accident and Emergency Service to answer questions on Crystal's behalf.

Shane was violent from pretty much the start of the relationship. He assaulted Crystal while she was pregnant with their first child. Shane beat her and sat on her back and held her down. As a result, she had bleeding to her kidneys; she popped two disks in her back and fractured three ribs. She couldn't walk for six weeks afterwards. She needed an epidural for the administration of pain relief.

Crystal described the violence as being "full on" for three or four years. Although she continued to be assaulted right to the end of the relationship, Crystal says that the assaults grew to be less frequent over time. On the other hand, Shane's psychological and emotional abuse continued unabated. Crystal thinks that, in some ways, that was worse than the physical violence.

That should not be taken as suggesting that the physical violence was insignificant. At various times Crystal was dragged along the floor, thrown across the room, punched in the kidneys, kned in the back and kicked in the shins, knee and thigh. She had her arm twisted. She was hit about the head and body with various objects. She was choked. As a result of such attacks, she suffered bruising to much of her body. She had fractures to an arm, a hip, an eye socket and her skull. She had dislocated her shoulder and her jaw. She had several teeth broken. She suffered internal injuries. On several occasions, she lost consciousness and suffered from concussion.

Not surprisingly, Crystal reports significant long-term health impacts from such violence. These include headaches, kidney problems, scarring, insomnia and weight problems. She has suffered from depression to the point of attempting suicide. For a while, she self-medicated through the abuse of alcohol and drugs. Crystal reports losing jobs as a result of the violence. She has had to relocate out of the area. She became isolated from her whānau and friends. Perhaps most significantly, she has lost the day-to-day care of her children who are under the supervision of Child, Youth and Family (CYF).

Shane did not assault the children. Nor, according to Crystal, did they see him assault her. But they did witness the violence in other ways. In retrospect, Crystal thinks that they would often have heard the noise, the shouting and the slamming of doors. Inevitably, they would have seen the aftermath.

Crystal thinks she must have been to the Accident and Emergency Service 15 to 20 times over the years to seek treatment for injuries caused by Shane's assaults. Other times, she sought treatment from a general practitioner. But often, Crystal did not get treatment. "It was just bruises. I knew that the doctor couldn't have done anything."

The police were frequently called when Shane attacked Crystal. Sometimes she made the call. Sometimes whānau members made the call. Sometimes it was neighbours. But, on the whole, Crystal was not happy with the police response. As she sees it:

Until you get an agency behind or alongside supporting you, the police don't take it seriously.

This accords with what whānau members told us. In their view, Crystal's family had a reputation for violence. The police were inclined to minimise any reported violence that involved her family. It wasn't until Women's Refuge got involved that the police started taking things more seriously.

Getting a Protection Order

Crystal got her protection order about three years ago. This followed one of the assaults for which she needed to be hospitalised. It was very obvious that Crystal's injuries were the result of domestic violence. Hospital staff called in Women's Refuge and the police.

I had the senior sergeant come in. He took the complaint, and then he did all the paper work for my protection order, and then he just rang up my lawyer, and then my lawyer came down and took a statement, and then I had my protection order by the afternoon.

This is a good example of interagency collaboration. Without it, Crystal is unlikely to have got an order, for when we asked her if she knew much about protection orders at the time, she replied:

No. I just knew what the police told me, and what he [the police officer] read, which was, "Shane can't do this, this and this. If he does any of these things, then we can come and take him away." He prettied it up. It sounded totally different – the speech that he's recited, to what's really on paper. And he said something about it being in two parts, and that just got me totally confused. The part of being able to live together and he not touch you, and if you ask him to leave he has to go. That kind of thing.

The conditions of a protection order are very complex. In explaining the order, the police officer had "prettied it up" by putting it into everyday language. And he seemed to have made a reasonable job of it. Even if Crystal felt unsure, the officer has been able to convey the essential difference between the section 19(1) conditions (in effect, the non-violence conditions) and the section 19(2) conditions (in effect, the non-contact conditions) – and the implications of section 20 (governing the suspension and revival of the non-contact conditions).

But despite the officer's good attempt at explaining it, Crystal remained "totally confused". That is hardly surprising: most people would find a single explanation insufficient to fully grasp and commit to memory all of the conditions of a protection order. The difficulty would be compounded if that explanation was delivered in the aftermath of an assault, possibly while one is recovering from concussion or experiencing impaired cognitive functioning from a previous head injury. Being able to refer back to the written word is essential.

However, Crystal's experience shows that the very formal, legalistic wording of the order is quite unhelpful for her. She found that the police officer's explanation was "totally different ... to what's really on paper." And of course, what is "really on paper" is complex and not that helpful. Crystal remains uncertain. Yet to enforce an order requires confidence that one understands what it means. A plain language order seems needed.

Breaches and a Variation

Crystal got her protection order without notice, not that it made all that much difference to Shane's behaviour. He breached the order on a regular basis, at least until Crystal went into a women's refuge. In fact, Crystal says that the protection order has not been useful at all.

Sometimes, it was not Shane, but his father, who was the problem. Bruce would ring Crystal on Shane's behalf and pass on messages. In theory, if it could be proved that Shane had "encouraged" his father to contact Crystal, Shane could have been convicted of breaching the order.⁶³ In fact, a better solution was found. Crystal got a variation of the order making Bruce an associated respondent, and therefore subjected to the same restrictions as Shane.⁶⁴

Shane did get charged with breaching the order once.

It didn't go to court for nine months, and we were together for that nine months. In that time, we had managed to give up our house in [place] and find another one and move in together. You know ... it's enough time to break up, make up and be six months' pregnant.

Crystal reflected on how she came to be back with Shane on this occasion.

I know we [women] have got a part to play but I think that a lot of the reason why we go back is because it's such a long wait. There's no point in [the police] arresting them, then asking them where they want to be bailed, and then [the police] ringing you up and saying, "Oh, he wants to be bailed back to your house, is that okay?" I've been rung before twice, and had [the police] pick him up, take him away, then they ring me back, like, in a hour and say, "Oh, he wants to be bailed back to your house, is that okay? His parents won't have him back at their house." And I just think, "You're the police officer asking me?" I just used to go, "Oh, whatever. Okay." I just couldn't see the point. It's hard to say, "No, I don't want him here." Because really, when you're in the middle of a fight, I mean you hate them, but you really don't want them to leave. You really don't want them to do anything more than to just give you a cuddle and sit down and deal with it.

Here, Crystal has reflected on some of the complexities of male partner violence. Despite the violence, there may be good reasons for wanting the relationship to continue. These may include factors such as companionship, the children's access to their father, financial security, and protection from other men's violence. Like most women, Crystal didn't start out wanting Shane to leave: she simply wanted him to stop being violent.

However, there is another perspective here. Given the factors which too often restrict women's ability to live independently of their abuser, it seems irresponsible to ask a woman if it is okay to have the man who has just breached her protection order back into the house on bail. From this perspective, the police are in fact (without being aware) colluding with the abuser's manipulation of his partner and his minimisation of his violence.

Asking a woman whether she is "okay" about having the respondent return to her on bail assumes that she has a choice. However, any choice may be illusory. As Crystal told us, "It's hard to say no." Saying no may invite further violence and abuse. The fact that he has just breached the order is strong evidence of the respondent's continued ability to inflict further harm. The safest thing may well be to take him back. Appeasement and the ability to anticipate his behaviour may well be preferable to risking a sudden, and possibly lethal, attack by an angry, provoked man. Too often, there is only one answer to questions of the sort police posed to Crystal. Such questions put women in an invidious position and police should not ask them. Instead, they should take the initiative and either oppose bail or seek a non-association order

⁶³ Domestic Violence Act 1995, s. 19(1)(e).

⁶⁴ *Ibid.*, s. 17.

(unless the woman specifically requests otherwise). It is the role of the police to ensure that there is a barrier between a perpetrator and his victim. It is not their role to be party to his power and control tactics.

Losing the Children

On one of the occasions in which Crystal was hospitalised for injuries inflicted by Shane, hospital staff made a notification to CYF. Following an investigation, social workers determined that the children were in need of care and protection. A family group conference was held on Shane's marae. Refuge workers were concerned about Crystal being intimidated during the conference, so attended with her. They believe that made a difference to the process, if not the outcome. The children were put into a foster placement. In the view of refuge workers, Crystal was so beaten down that she had no expectations that she would get her children back.

Currently, she gets supervised access to her children. But even this has exposed her to more trouble from Shane's family.

Bruce managed to meet up with me at [the access centre], and corner me and have conversations with me. And because I said, "Oh, I don't have a problem", and he said "I don't have a problem seeing her", he started to talk to me. But the women were just trying to supervise like they always do, and they were in earshot. And he said, "Oh f..., I'm just trying to f... talk to her! Come over here [to me] there's too many people." And I went, and the supervisor said "Are you alright." [I said], "Yeah, I'm alright." Then she said, "Look Bruce, we've asked you not to take her aside and talk to her at her access times. This is her time with the kids. I'm sorry but I'm going have to make a note of it." And this is like, the third time he's done it. It didn't really bother me, but I'm glad now that people are seeing these kind of things.

For the sake of clarity, it should be pointed out that Crystal is happy that Shane's parents have a role in the lives of her children. She told us, "They are very good to my kids." However, it is of concern that Bruce has been able to talk to Crystal away from the scrutiny of the access supervisors, even if Crystal didn't have a problem with talking to Bruce as such.

Reflections

We asked Crystal to evaluate the various services she had received.

Crystal thought Women's Refuge had been very helpful. It was refuge who provided for her immediate physical safety. Crystal thought that the refuge workers were good listeners. She liked the way that they got straight to the point and helped her set goals for herself. She regards the refuge women as good friends.

Crystal also spoke very highly of the help she got from her local iwi-based health and social service agency. This organisation provided her with respite, companionship and support. It provided childcare and a protected persons programme. It helped to address her health needs, including getting her on an exercise programme and participating in waka ama. Along with Refuge, Crystal thought this was the most helpful agency.

However, in respect of other services, Crystal's experiences were less positive. She feels that she had got "a real raw deal with the kids." She thought that CYF tended to focus on the negative and paid little attention to the positive benefits she and her whānau could have provided for her children. She would have liked the social workers to:

Really listen to the people they're assessing. They need to get real. Māori have different struggles [to non-Māori].

Similarly, she felt that the Family Court did not meet her cultural needs. She thinks that the court fails to really listen properly to Māori women. This is not a new concern. Previous research has pointed to the inherent racism of a monocultural, British-based judicial system, and its associated

services, in which there are few Māori lawyers, few Māori counsellors and few Māori judges, and which, above all, marginalises whānau and hapū.⁶⁵

On the other hand, Crystal is not completely negative about protection orders, even if hers proved “useless.”

But they do work, I know that they would work, and I know that we've got a part to play too in following through and things like that. And I know that the court system is all backed up, but I think that's half the problem. They [police] come, you lay your complaint and they arrest them. And they can't get you in for another three months.

Here, Crystal is drawing attention to the lack of capacity in the criminal courts to provide speedy resolution. In her case, it took nine months for a breach to reach the court. Whether it be in the Family Court or the criminal courts, lengthy delays expose women to manipulation, intimidation and threats, and undermine their ability to “play their part” in the system. In the end, delay colludes with perpetrators attempts to escape accountability for their actions.

Finally, we asked Crystal what were the things she needed most while the violence was happening.

I wanted support from my partner to make the right decisions about our children. And I wanted him to stand on his own two feet.

These seem very modest wants. Unfortunately, there was relatively little that the state did to encourage Shane to be accountable for his behaviour.

Halle

This case study demonstrates how “gas lighting” – manipulating situations to undermine a partner's confidence in herself – can be used as a tactic of psychological abuse. It also shows the typical progress of domestic violence; that often the abuse escalates in severity and frequency over time. As well, in Halle's case, the onset of violence began with pregnancy, a well-known risk time for violence against women. In this case, Halle's tenacity and the support of her family brought her protection. She got a protection order only after her application was placed on notice. The police responses were of limited use.

The Relationship

Halle met Michael about three years ago through a friend of the family. He was five years older than her. Initially, the relationship seemed healthy and loving. Halle remembers it as being “great”. But she also remembers worrying that the relationship was moving too rapidly for her:

Fast, as in, we were a couple, which was okay. It was like, I've met your parents now, and you can meet my family. At that stage we didn't know each other well.

In December 2003 the couple were expecting their first child but, unfortunately, Halle suffered a miscarriage. At the time, they were living in separate towns. The relationship seemed to work well, even with the distance between them. At the time of the miscarriage, Michael detached himself from Halle.

We used to see each other every other day. But when I miscarried, he was not there in terms of support. I would ring him, but it's not the same as physically seeing someone ... I felt that he could have been a bit more supportive at that time.

⁶⁵ Milroy, S. (1996). Māori women and domestic violence: The methodology of research and the Māori perspective. *Waikato Law Review*, 4, 58-76; Mikaere, A. (1994). Māori women: Caught in the contradictions of a colonised reality. *Waikato Law Review*, 2, 125-149.

The relationship went through highs and lows, with disagreements leading to separations. Over time, Michael would promise to change and Halle's hope for them would reignite and she still believed that the relationship could work.

It was those good times that I looked forward to, in the hope of what he used to say, that things were going to change.

They started living together in Halle's family home, along with her mother. After a disagreement, Michael packed his belongings and found another place to live. Shortly after, Halle left her mother's home and joined Michael.

The couple moved into a home that was owned by Michael's uncle. On one occasion Michael threatened to throw Halle out and demanded that she move her belongings out that night. Halle rang Michael's uncle and explained the situation:

Michael and I had a disagreement and he is going to move all my stuff out if I don't move it tonight And his uncle said, "You go back downstairs and tell him if he touches any of your gear, he will be the one being kicked out."

Once established in their space, Michael became quite controlling. In response, Halle created a safety plan for herself. Whenever she and Michael argued and it became too much for her, she would walk out and go to her mother's home, regardless of the time. In one incident in 2004, when Halle was six months' pregnant, Michael locked her in the bedroom.

I went to the door and it was locked ... so I banged on the door for him to let me out and he unlocked the door ... he said, "I didn't lock the door." I said, "Yes, you did that deadbolt. It cannot lock itself unless someone pushes it across." And then he goes, "Oh, I thought it would be a joke ..." I said, "That is not funny; what if something happened during the night and you wouldn't wake up?"

Michael never took responsibility for his actions. He just carried on as if nothing had happened.

Finances

Halle was the sole income earner in the relationship. She worked full time for a Māori organisation. Michael's income was sporadic. He would pick up occasional jobs offered by friends. He suffered from an injury that affected the work he could do.

Despite his lack of income, he would encourage Halle to purchase items in her name and convince her that the purchases were for the benefit of them both.

I think it was within three months I brought a \$7,000 car. Well he asked me to buy it for us and he said he would help me pay it. Here I was expecting an adult relationship with him, whereby I thought, "Ok, he's already considered how we will both work together to maintaining the finances for the car", but in actual fact this was not to be. I paid for the car the entire time. Again for the household furniture, this happened again. At the end of the day, it became a burden rather than assets we had accumulated.

At the end of the working day Halle would return home to cook the evening meal, and clean the house.

He perceived me in a way that because I was his partner, I would also be his mother, which meant picking up after him, cleaning and being financially able to support us both.

He was not helpful around the house and would only perform chores if specifically asked to. Otherwise he would not move from the couch.

During Halle's second pregnancy, Michael's expectations of her remained unchanged. He made no effort to help around the house or support Halle during her pregnancy.

He did not understand that I would get emotional, that I would get tired. He just thought I could be the same person that I was before I got hapū ... during this time, he never had a job.

When Halle was at work, the couple agreed that Michael would have the car and that he would pick her up in the evenings. On many occasions he would not be there, and she would have to find a ride home with other work colleagues or family members.

I wasn't a priority on his list of things to do. [He] took for granted everything I did for him.

Michael would often use the "silent treatment" to show Halle that he was not happy with her. He also manipulated circumstances, leaving her feeling too exhausted to continue arguing. Anyway, it would always end the same way, with him accusing her or her family of being at fault.

Arguing and then the silent treatment ... he would walk right past me as if I didn't exist. I never used to say anything just to save the hassle ... a lot of guilt trips, silent treatment, [and] turn all arguments around ... he was never wrong about anything.

Shortly after the birth of their daughter they paid a visit to the doctor and while in the waiting room, Michael read a pamphlet on post-natal depression. He then asked Halle the questions listed in the pamphlet.

He said, "Are you depressed?" I said, "I don't have post-natal depression, but I am depressed because I'm with you ... you are more work than the baby." He never thought it was his fault. It was always the baby's ...

With the newness of motherhood Halle longed to be closer to her mother and benefit from her experience and support. So the couple moved back to Halle's mother's home. Later, Halle returned to work. The couple needed the extra income as Michael was on the Sickness Benefit. He would look after their daughter in the day and on Halle's arrival home from work, he would quickly leave the house. It did not take him long to find a job that required him to be out of the house. Halle's mother became the daytime caregiver.

The couple moved into a new rental property. Not long after, Michael lost his job.

He lost his first job because of his attitude. He wanted to be the boss.

He eventually got another job, but the relationship began to deteriorate again. Halle became suspicious about Michael's usage of his cell phone. If she went to use the phone, he would delete all the messages in his inbox and outbox folders. One day he forgot his cell phone, and when he returned home that night, Halle confronted him with what she'd discovered:

His face fell on the floor. He was as white as a ghost. I said, "What is that about", and he said, "What are you talking about?" "Who is this woman you are texting?", I asked. He said, "Oh I just thought it would be a bit of fun."

Halle was furious, not only because of his betrayal, but because she was responsible for paying for his cell phone bill.

I said, "You live in that little fantasy, I am not going to sit here and be used and mistreated and taken for granted as your partner." I gave him a choice, "You go, or you stay on the condition that what you say is really what you do." He cut the woman off.

Michael continued to make promises and not follow through. On one occasion, their daughter was sick and Halle checked with Michael to see if he was going to be home the next day.

I said to him, "Are you able to watch baby tomorrow so I can go to work?" He said, "That's fine, I don't work tomorrow." Tomorrow came and he changed his tune ... "I have to go out to [town] to look at this car, and I can't have baby."

In the end he took baby with him. He left without taking Halle to work. Exhausted from the emotional abuse, Halle rang her sister.

I just cried and cried, because I was tired of his bullshit.

Halle stayed with her sister for the weekend, and, on her return home, she told Michael that it was time to live in separate places, and that she was prepared to leave or he could choose to leave. He decided he would leave, and they agreed that in two weeks he would move out. Halle believed that he would never find his own place and that in two weeks he would have some excuse as to why he did not move. So she started looking for a home for her and the baby as well.

At the end of two weeks Halle asked Michael if he had located a new home.

I said, "Have you found you a place?" He said, "Nah." I said, "That's fine, you can stay here, 'cause I'm moving out. I've found a place." He got pissed off, he got so shitty. He said, "What! You snuck around and found you and baby a house and you didn't have the decency to tell me?"

During this time the stress of the relationship could be seen, and Halle was approached by her employer.

The conversation we had that day changed everything for me ... She told me, "You look tired and worn" and she mentioned stuff she had heard from family members of mine. She said, "I just want to tell you that I was in a physically abusive relationship for 13 years." She said, "I don't want you to wait 13 years before you do something about it."

Halle started to be more reflective about her relationship with Michael and realised that his behaviour was emotionally and psychologically abusive. Her new home was not available for another two weeks and during this time, Michael did all he could to make things difficult. Nearing the end, he again began to make promises about how he would change and try harder. Halle rejected these promises.

Separation and Escalating Violence

The couple separated and Michael had open access to his daughter. He would visit on a daily basis. Both he and Halle decided this would be good for their daughter. He then started staying overnight. Halle reminded him that they had agreed to live separately, and his constant presence in her home was not part of their agreement. After that, he no longer visited regularly but sometimes he would turn up at five in the morning.

On one occasion when he did arrive early in the morning his cell phone rang. After the call, he deleted the number. He became nervous and Halle asked him if he was seeing another woman:

He just sat there and got all fired up. He picked up his phone and threw it at the wall ... We started arguing and it escalated. I said, "I don't like the way you are talking to me, I want you to leave." He said, "I'm not fuckin' leaving ... you fuck off."

He refused to leave. She tried all she could to get him to leave, but he was adamant about staying. They got into a scuffle and then he got really annoyed. He pushed her so hard she hit the wall.

I kind of caught my breath because it was quite a forceful push. He didn't care, and there was no sign of remorse.

Halle again told Michael to leave, and that she did not appreciate his treatment of her. She pushed him towards the door and hit him in the head. This really annoyed him and he responded by going into the kitchen and throwing teacups at her.

I was really scared but I was not going to let him get the better of me. When he got closer, I threw one back at him and it smashed on his arm and it started to bleed.

While Michael was distracted, Halle grabbed her and Michael's keys and ran out of her house where she saw a friend and asked for help. They rang her friend's mother who told Halle that she has three choices, "One would be to leave, two, you could wait for him to leave, or three, you could go and say you are trespassing, you have to leave. Say this three times and if he does not leave then, ring the police." Halle chose option three.

Scared and frightened, Halle took her friend with her for moral support and as a witness when she told Michael to leave. When she got home, he had locked her out. He told her to "fuck off", and that he wasn't moving. Halle returned to her friend's home, called Michael and told him their relationship was over. He responded by trashing her property. She called the police.

In the meantime Michael had made phone calls to various members of Halle's family. Within ten minutes her mother had arrived, followed by her younger brother. Her mother left after being convinced by Halle that the situation was under control. Still concerned, Halle's mother called her sons who drove to Halle's place.

They are big boys, they are tall and big. The policeman comes around and he was so shocked. You could tell what was going through his mind. Like, "Who the hell are these men?" But my two brothers work in the mental health field and they resolve the [issues] very quickly, so the situation does not get out of hand.

One brother worked alongside the police officer to settle the situation. Michael was given the opportunity to gather any of his belongings before he was escorted off the property. Her brothers stayed with her and waited for the police to return. The police advised them that they had given Michael a verbal warning and that they should put the trespass notice in writing.

That night Michael called Halle and told her he wanted all his furniture back.

I told him, "I don't care about material things." He tried to use [the furniture] as a tool to get me back ... I said, "Take what ever you want. I don't care as long as I don't have to see you again."

One of Halle's brothers volunteered to be on the property when Michael came to get his stuff. Her brother called Michael and advised him he could collect his property and, given the trespass notice, that he should come with a police officer. Michael then went to the local police station and waited to be assigned a police escort. No officer was available. Instead, Michael was advised by the police that he could enter the property but only for the purpose of collecting his belongings, and that he was to leave once that was done. He was also served with a trespass notice covering Halle's home and workplace.

While Michael collected his things, Halle went to get her daughter from Michael's mother's place, figuring that would be the safest time as Michael would be busy collecting his belongings. Halle rang ahead to tell Michael's mother that she was dropping by to pick up her daughter. On arrival at Michael's mother's place, Halle was pleasantly surprised by her welcome:

She said, "You do what you need to do. Here is baby, here are all her things." She kissed and hugged me, and she said, "I will see you when I see you, I know you and Michael haven't gotten on very well, but I hope that doesn't ruin our relationship."

While Halle was still there, the phone rang. It was Michael.

Michael called and he was checking to see that I didn't go up and pick up baby. His aunty answered the phone. She said, "No, Halle is not here and the baby is okay." They did that for me. Wow!

On the journey home, Halle received a call from her mother saying that they would meet her at a designated check point to make sure that she was okay. Halle's brother drove them home, and baby was placed in her mother's car.

I was scared because I was unsure, I couldn't predict how far Michael would go. We went into hiding, the baby and me. I was really scared I couldn't go anywhere alone. I constantly had to have someone with me. I was so scared for my safety ...

Halle had property at Michael's house that needed to be uplifted so she and two of her brothers went to his house. At the same time, Michael called Halle's mother who accidentally let slip to him that Halle was at his house. He went over to the house immediately. Halle's mother (by now aware of her mistake) called Halle and told her that Michael was on his way over. Her brothers decided to continue onto his house anyway. When they arrived Michael was home with his mother. He refused her brothers entry.

"This ain't your fuckin house. You can't come in here ... if she wants to come and get anything, then she can come in this house ... but you fuck off unless you bring the police."

Halle's brothers left the property and returned home. Michael called the police and in an hour and a half an escort was arranged to collect Halle's belongings. Michael remained present, talking and trying to coax Halle into conversation. As they left Halle's brother served Michael with a trespass notice covering their family home.

He didn't want anything of it. He threw them away.

Gaining a Protection Order

That night Halle received a call from the same friend who had assisted her in the prior altercation. Her friend mentioned applying for protection and parenting orders. Halle was eager to pursue this path. Her friend suggested that she contact Women's Refuge. The Women's Refuge advocate put Halle onto a lawyer.

So on Saturday night the ball started to roll. We did it over the phone. We did as much as we could, that was from 7-10.30 pm. Everything just fell into place.

At least some of it "fell into place." The applications were filed on Monday and Halle was granted interim custody of her daughter. However, her application for a protection order was placed on notice. Without a temporary protection order there was nothing stopping Michael harassing Halle and her family. The Family Safety Team got involved due to Michael's misuse of a telephone. These incidents were recorded and another affidavit was added to her application.

Eventually, Halle's protection order application was heard and granted. Her lawyer told her:

The usual judges that sit in this family Court would not grant you a protection order on the information you supplied. But this second judge, he was new to the district and what he said was that he was quite surprised that the protection order wasn't granted earlier.

Reflections

Halle shared with us what it was like for her to apply for a protection order.

It's an exhausting process, mentally an exhausting process and recalling bits from your relationship that were abusive ... wanting a protection order was a really hard decision ... you get to the point when you have had enough.

When we asked Halle about the police response she replied:

In terms of the police, it depends on who you deal with. Some are cooperative but some actually felt like they didn't know what they were supposed to be doing. Some knew really well and others didn't.

More helpful was the support Halle received from her family and her workplace. Her employer's support was crucial because she did not have to worry about losing her income.

The support made it easier, especially at work ... my boss said, "If you need to take leave, you let me know and you can take it." So when this happened, I knew I would be fine.

Her family was extremely supportive and protective:

My family was great support. My brothers did shift work and they ensured that I had one male with me until I felt safe. They made sacrifices with their own partners and children to support me.

Katrina

Violence has been a part of Katrina's life since she was very young. Initially, she was sexually abused by her father and other male relatives, then by an employer. After her first partner had abused her for many years she got a non-molestation order under the Domestic Protection Act, 1982. That order made very little difference and it took several more years before Katrina was free of him. A second partner also abused her and Katrina got a protection order against him under the Domestic Violence Act, 1995. This order has not made much difference either and Katrina continues to be harassed by him. In their various ways, she, and her children, exhibit the effects of all this violence.

The First Relationship

Katrina was about 12 years old when she first met Rana.

I knew of him. We didn't really see eye to eye when we were young and we were going to primary school. I didn't really like him [at first]... I was acquainted with his cousins and relations. We were a group of troublesome young teenagers that all used to hang out together. My parents forbade me to associate with [his] family, but I was one of those teenagers that had no ears. So by associating with Rana's family I became associated with him.

It was hardly surprising that Katrina "had no ears." Her family was hardly a safe place for her.

As a young girl, I was being sexually abused by my own father as well as other family members while we were in placement under welfare care. Sexual abuse to me was something I thought was normal. It was AOK to be abused like that – it was what I thought was part of love. I was pretty mixed up, so I would just give my self openly and voluntarily, thinking that it was AOK – that it was allowed to be.

Katrina's mother was often in hospital. In fact, Katrina thinks of herself as "never really [having] a mum." She spent much of her childhood "in and out of foster placements, whānau placements, welfare, here, there and everywhere." For much of the time, she was separated from her siblings.

Katrina fell pregnant to Rana when she was 14. She didn't even realise that she was pregnant for many months and, when she did, she hid the fact from her parents. The baby was born while Katrina was away from home. One of Rana's aunts helped with the birth, but Rana was not told about the child who was brought up by the whānau of the people Katrina was staying with at the time.

They took my baby from me and we covered it up like it never happened. I went home and I went through the real bad grieving process. It was hard to go back home and go to school and I was carrying guilt, shame. I was confused, and I lost contact with these people for a while, and I think it was about two years later that I saw [the child] again. He was about two, going on three.

By that time, Katrina and Rana had another child, named Raymond. Although, of course, Rana thought that it was his first. There had been another earlier pregnancy. Katrina had carried twins, but lost the babies, most likely because of domestic violence.

I had been abused by his [Rana's] older brother, who assaulted me over jealousy because he wanted me – and the two boys got into a conflict and I ended up in the middle and I took quite a nasty blow and I think it caused me to lose the twins. We're not too sure.

After her second pregnancy, a job was organised for Katrina as a live-in caregiver. She ran away after her employer raped her. She and Rana got engaged while she was carrying Raymond, and after the baby was born, Katrina moved into Rana's home. "I wanted to be with what I thought was the love of my life."

Rana had been raised without his father and became, in Katrina's view, "the husband to his mother." The household included a number of Rana's younger siblings. Rana was the only one in the house with a job. His mother had a problem with drink and gambling:

My mate is working trying to provide for me, as well as our baby, and all these little children, and what's mum doing? Gambling money away and never home. I became the constant baby sitter for all these children, including sisters that were still in school. I started stealing stuff from my family home to provide for this household. Taking kai, taking dishes, taking linen – all the stuff I had in my glory box. I started taking it from my mum and dad's home so that we could use it because there was nothing in that household to use. I started spending my income at the second-hand shop to buy dishes and towels and blankets, clothing for all these children, and they weren't even my children, because I guess I had a heart and I cared.

According to Katrina, Rana's mother really loved her mokopuna. She became, for a period, Katrina's main support.

I was probably closer to her than I was to my own mum. The love that I received from my mum was a bitter love. She loved me one day and didn't love me the next day. And she took a lot of that abuse [she received] out on my baby. She would accept my baby sometimes and other times she would reject my son. So I just put it, "Oh well, you don't have a moko. It's my baby and I'll do what I want with my baby. He's my responsibility." My mum kicked me out of the family home and more or less said that my father didn't want me there, and I believed her. I thought that it was because my dad was ashamed of me, that he was kicking me out. Much later I found out that was untrue. It was her.

So, despite the domestic violence in Rana's home – he would beat up his mother if she spent money on alcohol or gambling – in many ways, it provided more for Katrina than her own home had done.

Rana's mother passed away. Katrina and Rana, along with Rana's siblings and three nephews, moved out into the country to live with Rana's whānau:

There were lots of domestics. And probably a lot of them I never reported. I just took it as if it was normal. Other family members would step in. They would try to get me out of it, get me away from it, but I was too blind to see that it was wrong – I just thought it was normal. If the police were involved, it wasn't always my choice. It was either someone else would ring the police or they would just turn up because it was such a commotion and he would make such a scene. And I didn't always follow through with pressing charges. I was in denial. I would lie. I would minimise what actually happened, and try and cover it up.

Rana was jailed for an assault against Katrina. While he was inside, some of his whānau took Katrina in.

They gave me stability. They showed me how to save money, to budget, and put me on the right track to setting myself up for when I had to go out into the community and provide for my family. I learnt a lot of skills by being with these people. They were hard and I had my ups and downs with them, but I think with them – being hard – it was for a good reason.

Rana was paroled to a residential anger management programme. Katrina moved to live near by.

During his time at [the programme], our relationship was rocky because he was angry and bitter towards me because he had served a prison sentence and because I had put him in jail ... He felt that it was because of me that we lost the custody of his nephews. And if I hadn't put him in jail we probably would still have had custody of these three little boys, which were basically left to us in his mother's will. But because he ended up in prison and I was unstable and I was too young, the older brother came and took these nephews from us. And we never got them back.

In Katrina's view, the reason Rana wanted his nephews was the additional benefit money they brought.

Attempted Separation

Katrina became pregnant again. As with her previous baby, she was determined to do things right, but the environment was not great.

Because my mate was so into his drinking, his drugs, that became a normal lifestyle. It was around me 24/7. I had to put up with parties, strange people coming in and out of our home. I couldn't handle it. It was to me, unhealthy. I was always concerned about my baby. A lot of the times when these parties were going on I would send my baby away to other people to baby sit, because I didn't want my child around it. By doing that it was making my partner angry.

The "other people" who looked after Raymond from time to time were various members of churches which Katrina joined.

They weren't family. They were just people I trusted and that were caring. I knew that they would keep my baby safe. My mate didn't like that.

To keep the unborn baby safe, Katrina stopped having sex.

When I carried Raymond he [Rana] wasn't around me anyway. He was working, so there was no need for the great concern about the harm of my baby. So I thought that if you're pregnant you can't have sex. You can't do these things because it will hurt the baby. So it was a bit frustrating trying to stick to my ways, my mate saying to me, "Oh not even!" And I'm saying, "No, no, no, no, you're not touching me. You have to wait till I have the baby." So he went out getting his sexual pleasure, people were telling me, but I just didn't want to believe it.

Katrina had the baby, Jason, in a maternity hospital. When it came time for Katrina and the baby to be discharged, Rana said he was too busy to collect them. He said that he would be in the next morning. Katrina took a taxi home and found Rana in bed with another woman.

I felt totally shattered, totally angry. I just felt helpless. It was like everything that I lived for and the person I idolised more than anything – my world just crumbled. I just lost it. I thought that he was my love, my protector, my everything, even though he was being violent towards me. I was just totally hurt and shattered ... I said to him, "You, you filthy mongrel, you animal! You get your clothes on. You get the hell out of my flat and get out of my life!" There was a picture of us hanging on the wall with our baby. I smashed it. There were lots of photos in our room. I started taking my frustrations out on them, smashing all the photos. He was trying to stop me. My sister-in-laws came running into the room. When they saw the woman, they started attacking her. While they were attacking the woman, I was trying to get at my mate. He was trying to get his clothes on. He was so afraid of me with the anger that was in me, and the fact that I was holding the knife in my hand, he just went straight for the door. He was trying to protect the woman too. I remember him pushing my sister-in-law out of the way, because my sister-in-law was really attacking her.

Rana left. Even his mates were disgusted with the way he had behaved.

But he came back and belted me up anyway. He made a hell of a mess of the flat – it was just a total mess. My flat was trashed. And because it was in my name I was the idiot who had to pay for the damages, and I got copped for it all. The police were called. I tried to cover it all up. It was just a mess, and I was a mess, because I

threatened to leave him, and I told him that he's never going to have his children – so he took to me.

Rana was sentenced to another term of imprisonment. He found Katrina when he was released. There were three more pregnancies but each time, Katrina miscarried.

I think it was because of the hiding that I sustained at the time, caused me to lose [the babies]. Domestic violence? I didn't report it. I didn't tell the cops. I covered it all up.

Soon, Rana was back in prison again. Katrina took Raymond and Jason to visit him but did not go into the visiting room herself. Rana got a message to her that she should find someone else.

So I did, I did exactly what he said. He [Rana] told me he didn't love me no more. He did, but he was just saying that to hurt me. It didn't worry me, because at that point in my life, I don't think I loved him anymore. I was too hurt and too angry. That's what I thought, but it wasn't till I started seeing him with other women. It really sunk in that I did still love him and I couldn't handle it. And the jealousy started showing. I never thought that I was a jealous person. But it showed alright. And he loved every little bit of what he was doing to me – how he was interrogating me, how he was showing off all these other women ... How he would try and get my children to call these other women "mummy". It just drove me to my wits end, and I couldn't handle it. In the end, I gave in to him. I let him back in again. Before I let him back, I met someone else and accidentally got pregnant. I told Rana, but he didn't believe me. He said, "It was all shit! It was all in [my] head."

Katrina miscarried again. By this time, she was very low.

I started hiding my fears and problems in drinking and just let myself become a total mess. I let myself go from the morals of a good life to being a bad person. I even started neglecting my children and not being a good mother to my children.

Being so low, Katrina was very vulnerable to Rana.

I let him back in and I became pregnant again, but when I became pregnant it wasn't planned and it wasn't out of affectionate love. It was horrible. He used to go out and drink and come home and batter me. Treat me like a sex slave. He'd treat me like I was a working girl. He'd make me do indecent acts on him, make me perform acts that I didn't want to, make me dress up, or he would do indecent acts on me that were uncomfortable, that I didn't like, but I just tolerated the pain and allowed him to. I used to spend lots of times crying after he finished doing what he did to me. I couldn't even sleep beside him. I'd wait till he was asleep and then I'd roll out of bed and go and sleep beside my babies, or go and sleep in the lounge on the sofa. I think the best times were when he wasn't in the house. The minute he walked out the door, I felt relief. The minute I knew he was coming back, I would be walking on eggshells. I'd have anxiety – the anxiety was so bad sometimes that it would cause me to pass out.

Getting a Protection Order

Katrina went to the local Women's Refuge who transferred her to a refuge in another town where she would be safer from Rana. With the help of a refuge advocate, Katrina got a non-molestation order and a custody order. She also got a trespass order against her parents. She was happy. She thought that with the orders in place, should Rana bother her, all she had to do was call the police and he would go to jail.

But then, when it came to having to have to use my protection order, I used it, but it didn't happen the way I thought it would happen. The drama of the court, the having to tell the story, the trying to remember what happened – and it took a long process to get it to court. He was still out on bail. He was still stalking me, harassing me, bothering me, making me run away. I had to leave my home. In and out of refuge.

The police would come and say, "Oh, you've got a protection order. Do you want to press charges? Do you want to use it?" And I would go, "Oh, what for? I used my protection order but you fullas don't come when I ring you. What's the point anyway? The incident happened two weeks ago, and he's just going to come back, and you're

not going to lock him up, and he's just going to be on bail, and he's going to bother me again." Some officers did listen to me and some didn't.

Katrina told us about another incident, reflecting on how Rana could manipulate others – and her. She was cutting cabbage with a knife when Rana came in to the kitchen. He hit her in the head. The knife slipped and Katrina cut her finger. Blood dripped on to the cabbage.

He says to me, "We don't want your fucking blood in the pot, stupid bitch", and started tipping it out. I said, "You're telling me to cook a feed – what do you want me to do?" He just kept hitting me. I got so frustrated, and I was so freaked out because I was holding the baby and he's hitting me and trying to make me cook a feed. He's got friends and acquaintances in my lounge, all drinking a keg and partying hard. The stereo's so loud, they couldn't even hear him nutting off at me in the kitchen, until one of them walked in and saw him hit me. And I just picked up the knife and swung at him, and he went to put his hand up to stop me and I slashed him right across the top of his arm. It was quite deep and he was losing a lot of blood. He just grabbed the tea towels off the rack and swung them around his arm and walked into the lounge and started swearing and carrying on to everybody, and telling them to all, "Get out, the party's over." He didn't turn the stereo off, he went over and kicked it off the stand, kicked it to the ground. He slammed the door shut, and he said to me, "Right bitch, you're in for it now." He come up to me, grabbed my head and slammed my face down to his arm, saying, "Look what you did bitch." He was trying to tell me to get a needle and cotton to sew him up. He was trying to make me sew him up. I was shaking so much, you know, terrified and toddlers screaming. I had to put the baby down on the sofa, and there's blood all over my baby. I thought when he had hit me, he had hit my baby too. I didn't realise that the blood was coming from me that my nose and my face was bleeding. Didn't even realise, I was just in so much pain from him punching me in the head. And he's saying to me, "Hurry up and sew me up!" I'm looking at his arm, and I'm freaking out, because I can't stand the sight of blood. I could feel myself just about ready to faint. He kept saying to me, "You better do it right, you better do it right." Next thing he sat on the sofa and he conked out.

With Rana passed out, Katrina was able to tend to the children and clean up the mess. Then an ambulance crew arrived; they had been called by someone else. The paramedics tended to both Katrina and Rana. When Rana regained consciousness, one of the paramedics asked him what had happened. He told them that Katrina had stabbed him.

And you know what? They were starting to believe him. They were actually more concerned about him than what they were about me. I'm trying to give them my story, telling them what happened. Okay, I've got a smashed up face looking like a pumpkin head, and saying to them, "He was bashing me up." He's interjecting and saying, "No I wasn't even. I was having a party with my mates and she came in and started looping off at me with the knife ..." We're doing this while the paramedics are there. It was like they were believing him. In the end, I just didn't say nothing. I started saying, "Yeah, I did stab him. He's lucky it was his bloody arm. I should have slashed his throat." By me saying that, it made them think that it was me that attacked him first.

Although the police did subsequently question Katrina, she was not charged, but Rana's tactic of presenting himself as the victim is a common tactic employed by perpetrators.

Katrina and Rana were taken to the Accident and Emergency Department. Rana was admitted to hospital overnight. Katrina was treated and discharged, but, instead of going home, she went to sit with Rana.

He woke up in the morning, and looked at me, and the first thing he goes is, "What happened?" I said, "I cut your arm." And he goes, "Why is that?" I said, "Because you was hitting me." And he goes, "What the fuck happened to you? Look at your face. You look fucking ugly. Who did that to you?" ... I hadn't even had a chance to look at myself. I got up and had a look, and the shock I got looking in the mirror! "You fucking did this to me – that's who did this to me – you did." He didn't even recall what he had done. He was too wasted, tripping out on I don't know what ... He actually shocked

himself and he started crying, and then he just hugged me and we laid on the bed together, and they told him they wanted to keep him in again, but he told them he was going home. So he discharged himself and we went home. Went home like a happy couple – like nothing had happened. He played with my emotions – played me over, and I listened to his sorrys and all this crap.

Children's Exposure to Domestic Violence

When Rana began another period of imprisonment, Katrina, with the help of Women's Refuge and a local social service agency, got a rental place from Housing New Zealand.

What a privilege it was to live in a home and not a flat. I had a home that I could furnish, and my children had a room of their own. It was wonderful, not being so crammed into a little flat. I made my home, my home. Then the kids father came out of jail. I had all my orders and I used them. I became really nasty. I would use my protection order every little move and everywhere I could, just to get at him, and make him suffer.

If taken out of context, Katrina's words here could be seen as vindictive. She wanted to make Rana suffer. But in the context of the years of horrific physical, sexual and emotional abuse, and her consistent willingness to forgive Rana, Katrina's attitude here can be seen for what it is – a determined effort to reclaim her dignity, her life, her mana.

As often happens, Rana turned his attention to the children. By an order of the Family Court, he had access to them, but soon Katrina found that Rana was playing "mind games" with the boys, using them to get information about her. It got to the point where they did not want to go on access visits. When she asked why, they told her that they didn't get to spend the time with their father who was often partying while they were left in the care of someone else. On one occasion, Rana failed to return the boys. It took a warrant to get the children returned.

It is not clear whether access had been supervised. If it was supervised, clearly the supervision was inadequate. Either way, the arrangements failed to ensure the safety of the children as required under section 16B of the Guardianship Act 1968. Rana was charged with kidnapping the children. Katrina thinks he was also charged with breaching the protection order.

From that I became really nasty, and I started turning my kids against their father, telling them that they didn't have a dad and I didn't want to hear their father's name again. Because of how I was feeling, I tried to make my kids feel the same way. But it wasn't working. Instead it was brainwashing these children, upsetting these kids that wanted a daddy. Then I started having trouble with my oldest boy, at school. He got into trouble. He wasn't happy. He wasn't playing soccer – they didn't want their mummy on the sideline, they wanted their daddy, like all the other kids. I could see what was happening. My boys would be over at the neighbours playing with their mates' dads. They didn't want me to come to their practices, so I started feeling pushed away by my boys. I could see what was happening but I felt helpless. My boy started retaliating, started becoming violent like his dad, and using violence towards his siblings. He [Raymond] threw a butcher's knife at [Jason]. I know that if I hadn't have pushed my boy to the side, the knife probably would have hit him in the head. So that is where I called [Child, Youth and Family] in.

Katrina was quite explicit. She was "turning [her] children against their father." On the face of it, Katrina was alienating the children. However, we believe that this needs to be seen in context. She had been quite prepared for the children to spend time with their father – as long as they were safe and well cared for. Only when court-sanctioned access resulted in her children being kidnapped did she become "really nasty" and try to make her children see their father as she had come to see him.

We don't know how the boys regard their father, but Raymond's behaviour reported above is not unusual for a boy exposed to domestic violence. Among other things, scientific studies have consistently found children exposed to domestic violence to be more aggressive, show higher

levels of behavioural problems and have poorer mental health than children who have not been exposed. While boys exposed to domestic violence have a general tendency towards externalising or “acting out” behaviours, girls are more likely to show internalising behaviours such as anxiety and withdrawal.⁶⁶ Among boys, the level of verbal abuse directed towards their mothers has been found to be a strong predictor of which boys will batter their partners in adulthood.^{67,68}

As mentioned above, Katrina sought help from Child, Youth and Family (CYF). Raymond was taken into care. He ran away from various placements. When we spoke to Katrina, he was serving a term of imprisonment for violent offences.

At various times, Katrina has lost the care of each of her children through the intervention of CYF. When we spoke to her, she had her youngest child back in her care.

A New Relationship and Another Protection Order

Katrina formed a relationship with another man, Tony. He had gang connections, but compared to Rana, Tony was:

the more caring and sensitive one. I could feel myself falling for him ... It was good to start with. But when Tony started finding out about my past history, my past relationships, who I had been with, what I had been through. He started using it against me. Using the fact that I had been involved in mental health, that I'd been suicidal, using the abuse that I had suffered. Knowing that I had suffered all kinds of abuse, he started using it against me. And using it to emotionally and mentally get at me.

Tony was trained in certain martial arts techniques. He knew how to use pressure points to render Katrina unconscious.

As part of the arrangement for resuming the day-to-day care of her youngest child, Katrina moved into a residential facility.

We were only meant to be there for three months, but me and my daughter ended up being there for 13 months. A wonderful journey, a lovely organisation, lovely people. With the help of a good social worker we returned to the community. We've got a home and we've been there since. The last social worker we had, she was wonderful. Thanks to her, I've got full custody of my daughter back. They've left me alone.

While Katrina was in the residential facility, Tony visited from time to time. Because Tony was “bringing personal domestic problems on site” Katrina was required to take a protection order against him – the alternative was that she would have to leave the facility.

Tony repeatedly breached the protection order, and Katrina consistently called the police.

And it was getting to the point where I was ringing the police a bit too much, and they were getting sick of it. Some officers were good. Some officers said it was tit for tat. They didn't bother doing anything and told us to sort it out. Or if I was at his house and we had an argument, I'd have to leave – they'd take me elsewhere. Or if it was him at my house he would take off anyway, and end up not getting arrested. There were a few times where I was at his house, he rang the cops, but they didn't take me away –

⁶⁶ See, for example, Holden, G., Geffner, R., & Jouriles, E., (Eds.). (1998). *Children exposed to marital violence: Theory, research, and applied issues*. Washington, DC: American Psychological Association.

⁶⁷ Tjaden, P., & Thoennes, N. (2000). *Extent, nature and consequences of intimate partner violence: Findings from the National Violence against Women Survey*. Report No NCJ-181867. Washington, DC: National Institute of Justice and Centers for Disease Control and Prevention.

⁶⁸ Bennett, L., Goodman, L., & Dutton, M. A. (2000). Risk assessment among batterers arrest for domestic assault: The salience of psychological abuse. *Violence against Women*, 6(11), 1190-1203.

he got taken away. He was the one drunk and intoxicated and they ended up taking him away.

Here, Katrina's experience reflects a common pattern of inconsistent enforcement of protection orders. Like other women we interviewed, Katrina attributed this inconsistency to differences between the individual officers concerned. It is often difficult to find a plausible alternative explanation.

Tony tried to get Katrina to remove the protection order. In a manner not uncommon among respondents, he appropriated the language of the respondents programme to argue that, in retaining the protection order, Katrina was using power and control over him. Katrina explained her response.

[The protection order] is keeping my daughter and me safe. You want to use violence and you think violence is only physical. It is not. Violence is when you verbally abuse me, [when] you emotionally play your silly mind games to control me, [when] you take the keys off me or you lock us in the house. You even go and hide things from us or take my handbag away so that I can't leave you, when I want to go home to my house. What kind of a person does that? You come home, you press redial on the phone, to see who I've rung. You even ring Telecom to see if there's been toll calls made from the phone. You go to the neighbours and ask if any cars have been here. If I've been out in the community you try to snuggle up to me and make out, and you're smelling me – if I go for a shower, you're sniffing my under clothes, looking through my pockets for whatever. You read through my diary, you go through my cell phone. That is all power and control. And that's abuse. You've got no right to do that.

He said, "Yes I have – I'm your partner, I'm your fiancé. I can do what I like."

Reflections

Katrina is not yet safe. While Rana is no longer on the scene, Tony continues to harass her. He rings her. He drives up and down outside her place. He follows her in his car. He parks outside places she visits. He checks to see if she is where she says she will be. We think this is likely to continue until effective action is taken to make him accountable for his behaviour. As it stands, he still considers himself to be Katrina's partner. And, as such, his experience seems to have confirmed that he can do what he likes.

Beginning with her father, and continuing with other male relatives, her employer, Rana, his brothers and Tony, Katrina has seen little evidence that men will be held accountable for their violence. Instead, each man's violence has exploited previous men's violence, in as much as her earlier experiences have undoubtedly made Katrina vulnerable to further abuse. And that abuse has had a devastating and cumulative effect on Katrina. She has few teeth left. She has had numerous head injuries, which means that there is a high possibility of neurological damage.⁶⁹ She has sustained numerous internal injuries. She has had a series of miscarriages which were probably the result of domestic violence.

Getting protection orders has, at best, made only a marginal difference to Katrina because of inconsistent enforcement by the police. Neither do the orders seem to have made much difference to her children, who have now had extensive exposure to domestic violence. On the other hand, during one of his early terms of imprisonment, some of Rana's whānau provided a safe and supportive environment for Katrina. Women's Refuge and the residential facility referred to above also provided an effective barrier between Katrina and her abusers. Without the

⁶⁹ For an empirical account of brain injury among battered women, see Valera, E. M., & Berenbaum, H. (2003). Brain injury in battered women. *Journal of Consulting and Clinical Psychology, 71*(4), 797-804. These authors assessed a sample of 99 battered women and found that three-quarters had sustained at least one partner-related brain injury, either through a blow to the head or choke-induced anoxia or hypoxia, and that such injuries were associated with diminished cognitive abilities.

physical and psychological space provided by these services – or by whānau – it is unlikely that Katrina would have developed the clarity she showed in assessing Tony's behaviour for what it is: “power and control. And that's abuse. You've got no right to do that.”

Lyla

Lyla did get a protection order against her partner Steve, but her story is one in which the order seems to have made little difference. She continued to be exposed to Steve's violence and manipulation. His violence cost Lyla her relationship with her older son and nearly led to the loss of her younger son. Neither boy is Steve's.

There had been quite a lot of violence in Lyla's life before she met Steve. Two previous partners had been violent to her and, during her early twenties, she had served a term of imprisonment for a violent offence. Lyla and a friend, both under the influence of drugs, had attacked a neighbour who had been harassing her. Lyla lost the care of her first child, who had been born when she was just 17 years old.

As a youth, Steve had been sentenced to Borstal and, by the time he met Lyla, he had made about 50 appearances in court and served 15 terms of imprisonment. Not all the offences were violent. He was also convicted of various charges involving drugs, burglaries, and other offences involving dishonesty.

Violence in the Relationship

Lyla had not long regained the care of her first child, then about 12 years old, when she first met Steve. Violence was part of the relationship right from the beginning.

I was on the benefit and he was on the benefit. Most of our fights started because of the lack of funds. I was using drugs because I was covering up the pain of the relationship – it was all one way. I didn't really want to use drugs and I told him to stop and get food for our house, but he wanted to rely on the Salvation Army food parcels. I wanted to stop all of that. I wanted to pay our bills, so it had a lot to do with money and he would rather have drugs.

Steve was very violent. At various times, he punched Lyla, slapped her, kicked her, dragged her along the floor, pushed her and threw her across the room. He would grab objects in the house and use them to hit her. He strangled her. Lyla suffered extensive injuries, including bruising, deep cuts, broken bones, dislocations, broken teeth and internal injuries. On several occasions, she was knocked unconscious. The long-term physical effects of Steve's violence included vision problems, headaches, gynaecological problems, blackouts and weight loss. She has been on medication as a result of the head injuries she has received. Psychologically, Lyla has suffered from depression, panic attacks and phobias. She became addicted to the illicit drugs she was using to self-medicate. She described herself as losing her self-confidence. Even now, Lyla finds she has trouble concentrating, has flashbacks to the violence, is jumpy and easily startled. In fact, she experiences most of the symptoms of post-traumatic stress disorder.

Such long-term psychological effects of violence are quite predictable, but, as Lyla pointed out to us, there were immediate psychological impacts too. That is, Steve's violence gave him power over her.

A lot of it [the violence] was verbal. The fist would come after the verbal and the kicking. But the verbal was enough for me to keep quiet before he got to the hitting.

It is only in retrospect that Lyla realised “how much control there was” but her comments here encapsulate an analysis of coercive control in the context of male partner violence.⁷⁰ As is commonly observed, you do not have to hit someone every time to make them do what you want.

Steve’s emotional abuse served to keep her in the relationship. For example, he made threats about what would happen if she left the relationship.

[He’d say,] “No one would like you. No one wants to go out with a bag. You can’t find anyone better than me. You know you only got me.”

Predictably, the violence affected Lyla’s older son.

At the age of 14, he ran away from us because my partner threatened him and told him to get out. So I said you better go. So I watched my own boy at the age of 14 walk out. That was really painful. I sacrificed – I put up with my partner and let my big boy walk out.

Subsequently, Lyla’s “big boy” was diagnosed with schizophrenia. Lyla blames herself.

I knew it was because of me. Part of me told myself that part of it was rejection, because I left him behind and chose the partner over him. A lot of it has to do with our relationship and how the partner bullied him, like, you know, “You should get out and work, and you are big boy now.” Things like, “Don’t smoke our drugs.” [Steve would] physically abuse him, going up to him with a fist in his face to find out where I am. He would say to my son, “Where is she? You know where she is.”

Getting Arrested

Generally, Lyla did not call the police in respect of Steve’s violence. Ironically, when she did, she got arrested. Having made the call – without Steve seeing her – Lyla knew that the police were on their way. She ran to the kitchen to get a knife.

[I thought] the knife might scare him off, but it didn’t. As soon as the police cars turned up, he saw them and grabbed the knife and cut himself. It looked like I cut him. When the police turned up I had the knife.

Lyla was arrested. She spent ten days remanded in custody.

The men police were all thinking I was nutty by then. I was worked up and I was angry, but the woman police had compassion because they knew that the wrong person had been locked away. It was too late. A charge had been laid by the male police that I had assaulted this man that was violating me, and it was so unjustified ... I have to laugh about it now. It was very painful to be locked up. When I was inside I had to tell the officers why I was inside, and I said it was like this. A lot of them laughed at me and said, “You have to face your own responsibilities.” I started to believe it. Yeah, maybe I shouldn’t have pulled out the knife. I only did that to scare him.

Convicted of assault, Lyla was sentenced to nine months’ supervision with a special condition relating to anger management. At the same time, Steve was sentenced to nine months periodic detention for burglary, possession of implements for burglary, possession of an offensive weapon, and shoplifting.

Lyla did make several attempts to end the relationship.

I ran all the time and he would always find me. I would run away. I would leave all the clothes, all the furniture, and I would keep running. A lot of times I would run I would run by foot or hitchhiking. I had no money to catch a bus or a train, so I would

⁷⁰ For a full discussion, see Dutton, M. A., & Goodman, L. A. (2005). Coercion in intimate partner violence: Toward a new conceptualisation. *Sex Roles*, 52, 743-756.

hitchhike. A lot of the [drivers] were male, and I didn't like it. I knew they were after something.

The lesson was clear. As Lyla said, whatever she did, "I knew he would find me eventually."

Getting a Protection Order

Not long after being sentenced to supervision, Lyla got a protection order. (This was in 1999.) She recalled some parts of the process.

I had to state why I needed the protection order, how long the abuse had been going on – and at that time we had been in our relationship for about four years ... so I had to tell him that the ex was stalking me, burning me, strangling me, abusing my big boy – I didn't have my little boy then. He was calling me names and I had to say a lot of reasons why I was put into the women's refuge because I got abused, kicked around and beaten up.

Lyla is unclear about other parts of process. For example, she is not sure whether or not the application was made (or put) on notice. She remembers that she did not have to go to court and that her lawyer and Women's Refuge workers handled the arrangements. She remembers feeling quite ambivalent about it all.

It was the Women's Refuge that was pushing it. A part of me didn't want to do it, because I know once I did it he was out of my life. Because I had no strong foundations or teachings, I was going around and around in circles. A part of me didn't know how to let go of that life. I was like an alcoholic – I couldn't do it. But because the Women's Refuge was saying, "This is what's best for you, this is the only way you can keep him away ... a protection order will help you. The next time he will kill you." And they were right. If I didn't get my protection order done, he was out for revenge [and would] kill me eventually.

When put into the context of Steve's tactics of power and control, Lyla's ambivalence about having him out of her life was understandable. He had undermined her confidence. Her family had pretty much disowned her. In fact, because he was so nice to them, "He was the apple of their eye" and they saw Lyla as "the wild one." As she told us, "I felt alone and like he was my only family." Previous experience had shown her that he would always track her down. It was not until much later that she had the "strong foundations or teachings" provided by a protected persons programme she attended and a church she joined, that she could be strong in her determination to end the relationship. In the meantime, she was "lucky" to have got the protection order.

I thought lucky for the protection order because the Women's Refuge in [place] – they were really good, even though they were predominantly white. They pushed me, even though I didn't want to, but lucky they did, because that was my backup. I used to think "Poor guy, he didn't have to hit me. If only I had kept my mouth shut about the money."

Early Breaches

Despite getting the protection order, Lyla told us, "I never really used it." She and Steve were soon living together again and he took care to dissuade her from involving the police again. Lyla recalled conversations in which she and Steve talked about the incident which had seen her arrested. On the one hand, Steve appeared to be sympathetic. He would agree that the police should not have arrested Lyla but then, on the other hand, he would tell Lyla that she:

"... shouldn't have done that. You should not have involved the police. You know we would have sorted it out." But I knew I was in danger. He was about to really hurt me.

So, despite feeling in danger, Lyla remained reluctant to call the police. She did take other steps to protect herself. In an effort to end the relationship, Lyla moved south. She told us, "I just knew that it was getting worse and dangerous."

Lyla met another man in the new city. She fell pregnant. But she had not succeeded in ending the relationship with Steve. He followed her south. Within the space of a week, there were two police call-outs, one when a neighbour rang, one when Lyla rang. On neither occasion was Steve arrested.

Lyla moved into a new flat but Steve was able to convince her to let him stay after he was kicked out of his flat.

Eventually I felt sorry for him and told him that he could come and live with me. I told him that if there was one more fight that he would have to move out. I also told him that I only wanted a flatmate; I told him I did not want a sexual relationship with him.

But Steve accused her of being with another man and got into bed with her. As Lyla told us, "I thought it was easier to give in and let him into my bed." She was conscious, too, that the flat had only one exit. If Steve became violent again and blocked that exit, her only means of escape would be through a small window.

The next morning they went shopping and on the way home they started to argue. In the middle of a park Steve punched her and ran away. She did not report the assault, "I thought the police would wonder why I had taken the Steve back."

Steve returned that evening. He punched and kicked Lyla who asked him to leave and to hand over his keys to the flat. He did both, reluctantly, but came back while Lyla was at work and trashed the flat. When Lyla returned, she did her best to secure the flat by putting a couch across the doorway. In the early hours of the morning, Steve forced his way in. Lyla defended herself by wielding a piece of broken glass. Steve left, but not before punching her once more. Lyla called the police but by then Steve was well clear of the scene. Lyla once again tried to barricade the flat but again, Steve returned and broke in. This time he was able to grab her and smash her head against floor and against the brick wall. Lyla grabbed a hammer to try to defend herself but Steve wrestled it off her and used it to attack her as she tried to escape out of window. As he later told the police, "If she is going to fuck me around I will fuck her around."

Lyla sustained serious injuries.

The doctors were surprised that I was alive because of the knocks to my head. He knocked me out with the hammer. When they did a head scan in the hospital they were surprised that I had no internal bleeding, and I went to the dentist and got my jaw and mouth knocked back. My teeth had fallen out but they were surprised that I had not suffered a dislocated jaw from the hammer.

This attack left her unconscious but in the lead up to it, there had been an opportunity to call the police. Lyla did not make the call and explained why.

I think I was afraid that this time he would catch me with the phone ... I was afraid he would see me because he had the axe and the hammer. If he saw me use my cell phone I would have been a goner, so I was afraid. I think I was saved by the neighbours because we were living in a flat situation and one of the neighbours had rung, and I was so glad. The neighbours came out and said they were going to ring the police. If they neighbours didn't come out, he would have done me over with the axe and the hammer, but the neighbours came out of their house. He dropped everything and ran, and then the police arrived. That was how he ended up inside for four years. I was lucky the neighbours rang that time. I was really afraid.

Steve was arrested and charged. He pleaded not guilty and was remanded in custody. But Lyla was still not free of him. From prison, he phoned her and wrote her letters, variously apologising and asking for forgiveness, promising to marry her if she did not give evidence and threatening to bring certain things up from the past if she did. In one letter, he suggested that it would be better for both of them if she "disappeared" on the day of the court hearing so that they could "be together again".

A charge of perverting the course of justice was added to the others Steve faced. Lyla was summonsed to give evidence. The police collected her from her house to ensure she attended court hearing. Lyla told us that Steve was “making eyes” at her. According to Lyla, the message was clear, “You better not get me locked away again.”

Steve eventually pleaded guilty, but not until after the prosecution evidence, including Lyla's testimony, had been heard. He was sentenced to four and a half years for attempting to pervert the course of justice, male assault female, injuring with intent, wilful damage and two charges of breaching the protection order.

Meanwhile, Lyla lost her job. She didn't want anyone to ask questions about the bruises on her body and found herself making up excuses as to why she could not go to work.

Later Breaches

Having Steve inside for a substantial period made a big difference to Lyla. She attended a protected persons programme and developed a friendship with another survivor of domestic violence. She gave birth to her second child. She began to establish a life for herself and her baby, independent of Steve.

However, she was not totally successful in this. Steve had not finished with her and tracked her down upon his release in 2003. As Lyla later said in a statement to the police,

The Parole Board released him back to [city] and it just happened that Steve moved back in with me ... I actually thought that prison had changed him and I wanted to give him another chance. He stayed at my house for about a month over the Christmas period. I then decided that I wanted to call it quits and I made the choice between Steve and my baby. I decided that my baby was more important and one day I dropped Steve off at a hotel. I then went to the women's refuge and stayed there for about a week. When I got back home, Steve was gone.

Compared to the earlier events Lyla told us about, this one showed some significant changes. Although she initially took Steve back, Lyla felt strong enough to make him leave when she “wanted to call it quits.” Moreover, Steve agreed to go, even if Lyla felt sufficiently concerned about his possible later reaction that she took the precaution of moving into the refuge. It seems that the power had moved a little. Here, it is relevant to note that it was a condition of Steve's parole that he not live with Lyla. The fact that he was in breach of his parole and eligible for recall to prison is likely to have influenced him. Also helpful was the support Lyla received from the protected persons programme and Women's Refuge. By this time, she was also receiving support from Family Start. As she sees it, they issued a stark ultimatum. “They told me you either get out of the relationship or we take the boy.”

A few weeks passed with no contact from Steve. Then, one day he rang Lyla's home. A friend who was visiting took the call. When Steve asked, the friend declined to put Lyla on the line, pointing out that, by ringing, Steve was in breach of his protection order. With her friend's support, Lyla reported the breach. A risk assessment was carried out. On the Risk and Lethality Assessment Worksheet, Steve was assessed as “extreme risk” (RA = 26).

Steve was not charged for this breach. Here, the issue seemed to be section 20(3) of the Domestic Violence Act 1995. As Lyla told the police, Steve, with her consent, had earlier been living with her. Pursuant to section 20(2), this would have had the effect of suspending the non-contact conditions of the protection order. Under section 20(3), those non-contact conditions are “revived” if “the protected person subsequently withdraws his or her consent to the respondent living in the same dwellinghouse.” On the face of it, that is exactly what happened. Lyla decided “to call it quits” and “dropped Steve off at a hotel.” However, the police seemed to want more evidence that Lyla had withdrawn her consent.

The police informed me that he hadn't breached the protection order because I was meant to write him a letter to say do not ring. And then I found out from a friend that that was all wrong. I thought that the protection order was a waste of time because nothing really took place. I never really used it.

The police did follow up with Steve. They formally warned him and made it clear to him that the non-contact conditions had been revived. They also made contact with the Probation Service, and although Steve was not charged with breaching the conditions of his parole by living with Lyla, it does seem likely that he was warned for that too. At one point, he agreed to move out of the city, but then changed his mind. He had a new girlfriend and she was pregnant to him.

Because the risk Steve presented to Lyla had been assessed as extreme, the case was raised at a family violence interagency meeting. Women's Refuge reported that it was trying to get Lyla to Australia, although this idea had to be abandoned because of her criminal record. The police family violence coordinator visited Lyla and arranged for her to get a personal alarm. This was a silent alarm which, if activated, would allow a monitoring company to hear anything that was going on and to notify the police. The family violence coordinator checked that the neighbours understood the situation and were ready to call the police should Steve appear. The coordinator also completed a second Risk and Lethality Assessment Worksheet. This time, Steve was assessed as "high risk" (RA = 22). The main reason for this slightly lower rating was that the item "Victim has recently separated/relationship breakdown" was not ticked, even though it was only about six weeks since Steve had left.

About two months later, Lyla returned the alarm. She felt that things had changed.

[Steve had] found someone else. That really cut me, and I've come a long way from it. I'm quite pleased he found someone else. Poor woman, she has to go through it, but I'm set free now, and I can be free to do anything. If I'm down town, often I can see him in town. A few times he has caught me in the shop and he would come and talk to me. I hate it, I hate every minute of it. I'm too soft to say go away. I know I should. I said to him, "You know you are not allowed to talk to me." I know that I just have to put up my hands and he would be back, and I would take him back if he didn't have that person. But I'm glad he has someone else.

Reflections

While the fact that "he has someone else" seems to have brought about a change in Steve's behaviour towards Lyla, we do not know if he is abusing his new partner and/or possibly her child. However, we do know that life has definitely improved for Lyla. Having done a course in childcare and passed the relevant police vetting, she now works part time in a domestic violence agency running a crèche, which allows other mothers with small children to attend the same programme she found so beneficial. She would really like to train as a teacher, but that appears to be ruled out because of her criminal record.

As noted above, one of those convictions arose out of an attempt by Lyla to defend herself in the course of an assault by Steve. Being arrested for violence committed in self-defence has long been recognised as a risk for battered women.⁷¹ Such a risk can be mitigated by the police using a predominant aggressor test. Such tests have been shown to be effective in overseas jurisdictions.⁷² We think they ought to be adopted here.

⁷¹ Stanko, E. A. (1995). Policing domestic violence: Dilemmas and contradictions. *Australian and New Zealand Journal of Criminology*, 28, 31-44.

⁷² Shepard, M. (1993). Evaluation of domestic abuse intervention programs. In E. Pence & M. Paymar (Eds.), *Education groups for men who batter: The Duluth model*. New York: Springer.

While things are going better for Lyla now, it seems that the protection order has, at best, made only a very modest contribution. As she sees it, “The protection order was a waste of time.” The one time she did use it:

I think the policeman was hōhā and thought all this man is doing is ringing her up. That was quite true, he wasn't abusing me. He was ringing me up and wouldn't let go. I was trying to let go.

As Lyla told us:

When I first got it [the protection order], I didn't want to split with him, I didn't have any [protected persons] programme to make me stronger then. I was just surviving

“Just” surviving is certainly the word. As the doctors' comments show, Lyla was very lucky to survive Steve's attack with a hammer. By itself, the order protected her neither from that attack, nor from other instances of Steve's violence and coercive controls. In the end, what seems to have made the difference is the coordinated work of a number of agencies, particularly the protected persons programme and the term of imprisonment imposed on Steve. This sort of interagency work provides one of the keys to making men accountable for their violence and to enabling women and children to live their lives in safety.

Marama

Marama faced particular challenges because she applied for a protection order during the Christmas period. She did get a protection order without notice, but her application for a parenting order was placed on notice. Although the protection order applied to her children, Marama had considerable difficulty getting her children back after her partner absconded with them. On the whole, Marama found the police to be less than helpful.

The Relationship

Marama and Patrick (Pākehā) were in a relationship for seven years. They have two girls, Missy aged six, and Susie aged four. When Marama met Patrick, she was a practising Christian, and together they both provided for the children and equally paid the bills. Marama told us:

He was a good provider, but he was never there emotionally.

Both were employed, and they shared the dream of buying their own property, renovating it and then placing it back on the market. In front of her friends, Patrick was “the perfect gentleman”. He would open the car door for her, pull her seat away from the table, and be very hospitable. But violence was ever present.

When things are good we connect on every single level, but when things are bad, they are really bad.

Patrick had commenced a 26-week programme on anger management. Classes were an hour in duration and he attended four before deciding it wasn't for him. The couple had undergone relationship counselling which required them to be honest if any changes were to be made. But Patrick did not like anyone else knowing the truth about his violence. In one particular session, Marama told the counsellor:

He was not happy that I told you [counsellor], that he would get angry and damage the inside of the car. Or coming home, angry and strangling me. He did not like the idea of me telling you [counsellor] that he was pulling knives out because he is getting jealous.

After three sessions they did not return.

Finances

Marama and Patrick were financially stable during their relationship. At one point, Patrick worked seven days a week, collecting as much overtime as he could. But, as a result of these long hours, the house they purchased to renovate together remained untouched and their relationship suffered. Over a two-year period:

The only time he had spare, he would visit his family. For years he could not understand. I told him that I missed him, and the moment he would hear that, he was out the door. He would be gone and I would say, "Didn't you just hear me?"

Health Problems

Everything came to a head when Patrick was injured in an accident. The injuries restricted his movements, affecting his back and his ability to have sexual intercourse. As a result, he suffered from depression and was prescribed pain killers and antidepressants. He could not cope with being unable to financially provide for his family or no longer being able to do his regular household chores, like mowing the lawn. Marama picked up the pieces and decided that mowing the lawn was a good form of exercise for her.

As Patrick's depression increased, his bouts of silence also increased.

There were always signs that something was up. He would go extremely silent and withdraw himself from us and go into his room. The girls would wake up and feel it; I would feel it. We knew to, "give dad some time, some space and time", because that is what he would say, "I need my space, just leave me alone." But if we left him alone, he might accuse us of ignoring him.

Marama told us that Patrick's inability to talk about what he wanted or his feelings often led to bigger fights, and even more silence. He would prefer to not say anything and hope that it all would go away.

His biggest problem is he doesn't know how to communicate. He would not stay around for the hard work, and there is no commitment to change.

Gaining the Protection Order

Marama applied for a protection order after being assaulted by Patrick during the Christmas holidays (2005). At the time, Marama's father (who is 75) was visiting. He was fully aware of Patrick's abuse, but was not able to do anything to prevent further assaults. Patrick's behaviour was erratic.

One minute he would have his arm around me and be bubbly and happy, and then he would go silent and withdrawn, then back to bubbly and happy.

Christmas Day was a huge success for the family. Marama's two children from a previous relationship had joined them on the Saturday before Christmas and opened their presents. Marama and Patrick's children were allowed one of their presents that night with the other children. Marama remembers that "Christmas was full of good food, great presents and everyone was having a wonderful time."

Boxing Day was also enjoyable until evening came, and the drinking began. Marama knew that when Patrick drank Steinlager, he became extremely violent. On any given night, she would know how he would behave later from how he was drinking.

Sometimes he would be extremely sloppy, other times extremely jealous, or extremely violent.

On this particular evening, Patrick consumed the six remaining Steinlagers and moved onto an Ice beer. Marama could see him brooding and as the night progressed, he became more and more possessive.

He was pulling me close and telling me that "I'm his" all the time.

Marama realised that Patrick was recalling a time in the past when she had left for a week without telling him where she was going. Patrick believed Marama had been unfaithful then and she could sense his anger rising.

He starts pushing me around ... we had been drinking ... he tells me to fuck off, and I said, "I'm going to go to a friend's place." I jumped in the car, and he is on the phone.

Marama was driving down the road and saw the police in her rear-view mirror. She assumed that they were responding to another call, and did not stop until they turned on their lights. Unbeknown to Marama, Patrick had called the police on her. She believed that she was under the legal limit but was found to be over the limit. She was taken to the police station. At the police station she called Patrick, as he had been in this situation many times before, and asked him what would be the best thing for her to do. He told her to "go with the flow and it should be alright". His answer gave Marama the message that things at home were okay, and his mood had subsided. The police took her home but she requested to be dropped off a couple of houses away.

As she walked up the driveway, she saw Patrick smoking on the front doorstep. This was the first indication that things weren't quite right, as he usually smoked on the back veranda. Marama walked to the back of the house toward the rear entrance. In the meantime, Patrick walked through the house to the back entrance. Marama asked him for a cigarette but he said that he'd dropped the pack. This didn't make sense as he was just smoking when she walked in:

He said, "I dropped them." Then he went "bang" and gave me a head butt and threw me off the deck.

She could remember blood on her head, but when she went to check herself, she found that it was not her blood but Patrick's. Patrick went into the house and locked all the doors. Not having any friends close by, Marama broke a window and let herself in.

He yells at the top of his voice, "So are you going to wake the whole household?"

Once inside, Marama checked on her father and her girls. All of them were fast asleep. Marama found Patrick and told him that if anyone was going to wake the household, it would be him, and that she was going to bed.

He turns around and said, "How many guys have you fucked since we have been together?" And for years I have been saying, "Only you, only you." However, on this night I said, "How many you say Patrick, as many as you say, I'm going to bed."

With that, Marama left the room and went to sleep beside her daughter. Patrick walked past the bedroom and saw her next to their daughter. He yelled abuse and walked away. Silence fell on the house. For Marama, this silence seemed to mean peace, so she settled herself.

I think, cool, so I lie on my tummy get ready to go to sleep. He comes in and punches me in the back of the head while I was sleeping next to our daughter. And he knows the pressure points. He had told me that he knows where the pressure points are, and he knows that at certain points you could cause death.

I remember the silence, and having a big sigh and a huge rush of blood going around in my head and a big black out again, and I thought, "Fuck, I'm not even safe here."

Marama got up, her daughter still asleep in bed. She grabbed her jacket and headed down the hallway:

I just remember going through a glass door. He pushed me and I went through the glass door. He dragged me and dumped me back on the ground.

In the meantime Patrick had gone inside the house and called the police, informing them that Marama had deliberately broken the window and the door to gain entry into the house. The police recorded Patrick's statement:

He denies assaulting his wife and stated that she had sustained the injuries when she ran through the back door of their house. He stated that she had done this whilst grossly intoxicated.

The police officer who attended the scene noted on the file:

When I dropped Marama back at her house she was intoxicated but not grossly so.

Marama went to the neighbours' house, but they weren't home. When she looked down the street, she could see one house with the lights on and music coming from it. Marama knocked on the door and the people who answered took her in. They offered her a safe, warm and clean place to stay.

I had four or five glasses of water, and then my hips started to hurt really sore, and I went back into the bathroom and I lifted my top and there is an 8 cm gash and you see the fat and the muscle and on my arms ... you could see the artery. The lady freaked out and said, "You can't stay here, you might die." So they rang for an ambulance.

The ambulance took Marama to the hospital. In the ambulance she found two big gashes on her legs. At the hospital, Marama waited for over three hours before being seen. She was not given any pain relief during that time. The doctor on the wards that night was a substitute. Marama recalled:

He starts to sew me up and he drops the needle about four times and he would not change it after it dropped on the floor. I did get infected.

In the morning, Marama discharged herself and hitchhiked home. She was eventually picked up by her sister who came into the house with Marama to ensure that it was safe. They discovered that Patrick and the children were gone, along with their clothes. No note was left to say where they were.

Marama walked to the police station and reported her children missing. She was informed that Patrick had as much right to take the children away as she did, and that the best thing she could do was to see a lawyer. Marama returned home and started going through the yellow pages to locate a lawyer who was working. Marama called every lawyer listed in the phone book, leaving messages. She received only one reply.

Only one lawyer got back to me, and on the same day ... he told me to come and see him the next day ... he was on holiday with his family, but he took the day off to help me get my protection order.

The lawyer returned from his holiday and they spent the day writing up her applications for a protection order and a parenting order, both on a without notice basis. Marama hand delivered her application to the court. She was later rung and informed that her protection order had been granted, but her parenting order had not.

Tracing the Children

Marama's lawyer wrote to Patrick to find out what was happening with the children. He informed the lawyer that they were on their way up north for a holiday. Marama later found out that the children never left town.

Shortly after New Year's Day, Marama saw Patrick and the girls in the street. She pulled over and sent Patrick a text asking if she could come over and see the girls. He agreed and they arranged to go to a local park so that Marama could visit with the girls. On the way to the park, Marama called the police and told them that she had a protection order and that she was meeting her husband and the girls at the park.

Marama, Patrick and the girls were at the park when the police arrived.

Patrick ends up bawling his eyes out in front of the police. The cops ask me if the protection order has been served or not and I did not know, and so they said to me if it has not been served then it was a technicality. My lawyer did not tell me that it wasn't in place until it was served. I had one constable saying it needs to be served and another one saying, no, it does not.

The police told Marama that, since Patrick was calm, they were going to let him take the girls with him. They told her that once he was served with the protection order, he would return the children. They told her that it would all happen in a couple of days. Marama was insistent that Patrick would place the girls into hiding and that she would never see them again.

I said, "He will put them into hiding and I won't see them again." And the police officer said, "You can't, how can you go into hiding with two children?" And I said, "It's easy. How many children are there that you haven't found, mate?"

The constable said Patrick "wouldn't do anything silly as he is fully aware what will happen if he should divert from what is expected after a protection order is served."

Constable [name] tells me that Patrick will return the girls the moment he receives the protection order, that he knows that if he does anything silly with the children he will be up on all these other charges in High Court. I said to him, "Can I hold you responsible?" And he said, "Yep, you can hold me personally responsible for it."

In the days that follow, Patrick placed the girls with his sister. Marama did not know where they were at this time. Patrick called into a police station and requested a copy of the protection order. The court faxed a copy to the station, so Patrick was now (finally) in possession of the protection order. In the meantime, Marama went to her local police station and asked to see her file.

I went down to the [name] police station and told them about my protection order, but they can't find it in my file there either, so they have to take a copy of my copy and put it into my file. However, I saw that there was a copy of the confirmation fax to the courthouse that said the [name] police station had already received the order.

There was never any explanation given as to why the court had received a confirmation fax from the police station receipting a copy of Marama's protection order, yet they did not hold a copy of the order on her file.

The following evening, Patrick sent a text to Marama advising her that the girls were on holiday with his sister and that if she had any questions, she should correspond with his lawyer. Patrick was in full knowledge that the children should be returned to Marama, but this was his way of still controlling her even when he wasn't with her.⁷³ Prior to this text, Marama had met Patrick's sister only once and knew neither where she lived nor her phone number.

This text confirmed Marama's worst fears and really panicked her. She had informed the police that Patrick would take the children to a location where she could not find them. The following day, Marama went to the police station to speak with the constable who gave his personal guarantee about Patrick returning the girls to Marama once he was served with the protection order.

So I go to Constable [name] and I said, "I told you that this would happen and it has happened", and he said, "Well [Patrick] knew what would happen if he did it", and I said, "Well, he has done it", and then he said, "Well you know he is very silly." And that was it.

Dissatisfied with the constable's reply, Marama went to the sergeant in charge to ascertain what her options were. After she explained the situation to the sergeant, he stated that if he believed

⁷³ Domestic Violence Act 1995, s. 16(1): "Where the Court makes a protection order, that order applies for the benefit of any child of the applicant's family."

that the children were in danger “he would be the first one back in uniform heading out” to locate the children.

I thought, “Well cool”, but I didn’t know that they weren’t in danger and I was giving the sergeant in charge the benefit of doubt.

Marama received a call on her cell phone. The caller id registered the number as being an Omnibus calling card. The call was from her older daughter, Missy, who was distraught as she described how her cousin kept picking on her. Marama felt helpless and panicky. She had no knowledge of where the children were. Patrick then made contact with Marama.

He put them into hiding and he tells me that he is not bringing them back and that he has got legal advice and he is doing nothing wrong.

Marama believed that under the Guardianship Act 1968, she was the children’s guardian. And she thought that because a protection order was out against Patrick, by right the children should be in her care. With this belief, she called the police. This was a reasonable expectation, because under section 16 the children were included in her protection order, and Patrick was potentially in breach of the order. The police asked Marama if she had a phone number or an address they could collect the children from. She informed the police that the number belonged to a third party and did not show the actual location the call had come from. The police informed her that since they could not trace the number, they could not help her locate the children.

Marama was determined.

I rang the Omnibus people and I said “This is what is happening. We need to track down the number”, and they had it within five minutes. But they said they could not give it to me and could only release the information to the police.

She then called her local police station and spoke to the constable who had been assigned to her case. He asked whether she was prepared to uplift the children with police assistance once they located the address. Without hesitation, her answer was, yes. Hours later, Marama was contacted by another constable who informed her that they had spoken to Patrick who had agreed to return the children.

I said [to the constable], “Do I need to go to [town name] and meet up with the police?” And he said, “We are not a taxi service; we are not going around to uplift these kids.”

This statement was in total conflict with the earlier assurance. Marama found the constable’s negative attitude discouraging. With her children so close, she did not want to risk anything to lose them again.

It just put me on the back step and I even told him the conversation with Constable [name] but it didn’t matter, and I didn’t want to push it.

During this time, Patrick called Marama to tell her that Missy had been attacked by his parents’ family dog, a rotweiler/mastiff cross. According to Patrick, Missy had been poking the dog’s food while he was eating. She received no medical attention for the dog attack but Missy and her sister were eventually returned by Patrick’s father.

My daughter was returned to me with quite a nasty dog bite on her jaw ... bruises on her stomach due to her cousin punching her in the stomach ... I don’t know much about this kid [the cousin] but I do know that when she was four she pulled a knife on her mum. My youngest came back alright.

Breaches

Back home, Marama suspected that Patrick was still entering the property through the back entrance. One night, she heard the sound of a person landing hard on the ground, and the breaking of twigs. She called the police.

A cop turned up and he didn't seem bothered.

On another occasion, Patrick actually called out to Marama. She called the police, and they told her that it could be anyone. To which she replied:

Look, I know his voice. I've lived with him for seven years.

On many mornings, Marama would find a little calling card that Patrick had left to let her know that he still had access to her and the girls. One morning, Marama found mucus on the window screen of her car, the car would not start, and her bike had flat tyres and broken gears. The previous evening both the bike and car had been in perfect condition.

The police suggested that Marama should hide out in her garden and take photos of Patrick performing these acts. When she raised the issue of her safety, they told her to "fit out a security light". Marama decided to pack up the girls and move into a women's refuge. There she was supported and helped into another home in a different city, where she and her children have established themselves in a friendly neighbourhood.

Reflections

Marama was lucky that she found a lawyer willing to interrupt his holiday to help her obtain a protection order over the Christmas break. Not getting an interim parenting order was a set back and made recovering her children more difficult. Her difficulties were increased when her lawyer resumed his holiday and Marama had to seek legal advice from another lawyer, something which was not received well by her original lawyer.

The police were less than helpful, giving Marama conflicting information about the implications of the protection order in relation to the children. She would have benefited greatly from getting clear information about this and about the process of service. Similarly, the police were potentially endangering Marama by suggesting that she hide in her garden at night to take photographs of the person who was climbing into her property.

On the other hand, Women's Refuge was extremely supportive in assisting Marama into a new home for her and the children.

When asked if the protection order met her expectation, Marama replied:

Yes and no. I expected that with a protection order that I would be safe and that he would not be able to intimidate me, but the police did not enforce it.

The protection order was good because I had it but it isn't good without any enforcement ... I didn't feel as though the police were doing everything they could do.

Maria

For 14 years, Maria was periodically abused by her partner, Eru. Maria didn't want people to know about the violence, so getting a protection order never seemed to be an option. Only once did she involve the police and that proved ineffective. Instead, what made a difference to her was the way Eru finally took responsibility for his violence.

Background

Maria was exposed to violence as a child. We asked her if her father had hit her mother.

Yeah, all the time. I was always there trying to break it up, and feeling like, "Come on mum, why don't you do something?" I felt like she was pretty weak. I thought, "Stop him." But how do you stop that and not separate from him? That was always my fear – I didn't want mum and dad to split. It is a really scary feeling, and I loved them both.

Eventually, her father turned to Christianity, gave up drinking and stopped his violence. Years later, Maria asked her mother why she had stayed in the relationship.

She said, "I thought about it"... but she said, "At the end of the day, I married him and for the sake of you kids I stayed." I think I kind of picked that up, believing that for the sake of my boy [I had to stay too].

Maria got pregnant when she was 19. The baby was given to whānau members to raise and Maria has played very little part in this child's life. Shortly after the birth, Maria moved away from her home area. She soon met Eru who was tangata whenua. He did not know about Maria's first child.

Violence in the Relationship

Maria fell pregnant to Eru and gave birth to the first of their two sons.

Dad was adamant that we should have got married before the baby was born. I was thinking I'm not really sure. Dad said, "Too late, you made your bed, you lie in it ...". Our baby came, we did a christening, so we decided to get married – for my dad – I felt that I had always let him down.

For many years, Eru worked as a bushman. He would go into the bush for a month at a time, coming home for quite short periods. The violence started after they had got married.

The first time he hit me, we had come back from the hotel ... We were intoxicated. In fact, I hadn't drunk a lot – it was a social drink. He would keep drinking till he was paralytic. We had to get someone to drive us home. We got home, we picked up our baby, and he came along staggering. He tried to take baby off me. I let him go, and he was sort of swaying so I said "Give my baby here, he's not yours." And I think it was that that triggered it off. It was like "bang." I didn't expect it. I was like, "What the hell?" I tried many times to understand why I was getting hit. My man would go bang, and I would think, "What did I say?"... I staggered back and tried to get up, and I was in pain. I asked him the next morning, and he couldn't remember. He wanted to know why I had big bruises, and he said to me, "What happened to you?" I thought, pathetic.

At various times, Maria has tried to understand what made Eru violent. In respect of this first instance, she can only think that Eru thought she was saying that he was not the baby's father. But of course he was – it was only her way of getting him to hand the baby back.

Whatever it was that sparked the first assault, it set a pattern that lasted many years. The violence would often occur after Eru had been drinking or when Maria argued with him past the point of him wishing to continue the discussion. It would end up with her being punched and verbally abused. Sometimes, weapons were used. Occasionally, he made threats to kill her. While the violence did not happen every time Eru came out of the bush, it happened often enough that it became a normal part of life.

We just got on with life. He was hardly there – probably just as well – otherwise I would have got more bashings. It was more to do with his drinking and not being at home – not husband and wife [issues]. He would come around on a Thursday with his mates, come staggering home, sleep all day Sunday, and back in [to the bush] on Monday. It wasn't much of a relationship ... So for the first five years it was my boy and I, against the world.

In many respects, Maria was a sole parent. She worked in town and took care of her son. When he was 11, a second son was born. The children were very much at the centre of Maria's life. In some ways, Eru's long absences were a blessing. In fact, his return visits home were often an intrusion into the lives of Maria and the boys. He was loved but he was also a distraction from their daily routines and practices. Both she and her sons would often wait for him to leave so things could return to normal.

This is not to say that Maria just accepted things. When Eru was violent, she often fought back, either physically or verbally. This resistance often resulted in her receiving a more severe battering than if she had remained silent. As the years went by, she began to resent her husband more and more.

The children were never hit by either parent, even as a form of discipline. However, they, particularly the older one, did hear and experience their father's violence towards their mother and also their mother's anger towards their father. The situation at home became worse when Eru was made redundant and was at home 24 hours a day, seven days a week. The loss of the relatively high-paying job reduced the family's income, but Eru, who was always a good, reliable worker soon found other work and managed to keep food on the table and the bills paid. Maria worked throughout the marriage and she used her money to buy the little extras they had in their home and for the kids. She was not frightened of hard work and actually enjoyed the economic freedom she had with her own income.

Maria did not tell other people about the violence. Her family and friends got on well with Eru and she was not sure that they would be supportive of her leaving or taking action against him. She believed that very few, if any, of her friends understood what was happening between her and Eru. Even today, she feels that members of her family think that she has the problem and that the problems within the relationship have been generated by her and her attitude towards Eru.

With one exception, Maria did not complain to the authorities about the violence, even when she was terrified of him. She saw the violence as a matter between husband and wife. Whatever motivated her to keep quiet – she thinks it was public opinion of her and her family – to outsiders, their family circumstances looked healthy, happy and close. And, in fact, sometimes that was true – but at other times it was far from it.

Police Intervention

Maria did call the police – once.

The cop came round. He was Pākehā, and he was looking for any bruising. So he came around and took Eru aside, and had a good chat to him. ... He told me to go inside, and then they left, saying, "Any more trouble, just let us know." It was like, "Who cares?" He looked at me as if to say, "Where are the bruises, the marks?" When it just happened – it doesn't actually show till later on.

The police officer took Maria aside. He told her what a great man her husband was and how highly respected he was in the community. He told her how her husband was a good provider and that this behaviour was totally unexpected and unusual. He told her that she must have done something to trigger this event, because everyone knew him to be a mild-mannered, gentle man. He told her that if she didn't settle down and shut up, that he would have to arrest her for disturbing the peace, and then he left. That night Maria left her husband.

Separation and Reconciliation

Maria moved into town with her two sons, then aged 3 and 14. Eru accepted the separation. As Maria saw it, "I think he knew he had to go." He never once threatened her or demanded that she return to him or that she return the children to him. He never entered her home without her permission, even when she was not on the property. He never asked for forgiveness. And he continued to support Maria and the boys by supplying boxes of kaimoana, fruit, vegetables and meat. Whenever he went hunting there was always wild venison or pig left at their door. As Maria put it, during that time she was seeing the same man as everyone else in the community saw.

The boys resented the move but they did not lose contact with their father. In fact, in many ways, Eru became a more responsible father. He would take the boys after school to go fishing. He

took them camping and remained involved in their sporting events. Throughout this time, he always left Maria a note explaining where he was taking the boys and what time he would have them home.

After two years, they began to talk about getting back together again. Eru had shown no interest in getting involved in another relationship, or of distancing himself from Maria or the children. When they did move back together it was with the understanding that the violent and abusive behaviour had to be something of the past. At the time of our interview, there had been no repeat of violence and the general abusive language and behaviour had also stopped.

Reflections

Maria has grown to have respect for Eru for the strengths he has brought to their relationship and that he shows in himself. She believes that he doesn't need her in his life – he is capable of existing without her – but that he chooses to be in this relationship with her. At the same time, she retains some anger for the years of abuse that he dealt out to her, for wasting important years in their and their children's lives, and for exposing her to things to which she never needed to be exposed.

Maria is still scared of Eru at times. This, she believes, is a hangover from his years of violence. It happens when he adopts a particular stance or tone of voice, or when a situation arises that would have once resulted in her being hit. They have been together for more than 22 years. Maria believes they will probably remain together for life, "but who knows?". She trusts him but within the context of knowing his capacity to hurt her. She looks forward to an easier life than when they were young. She accepts that intimacy is probably not ever going to be a strong factor in their lives. Instead, familiarity and the shared experience of their sons' lives is their common ground.

The changes in Maria's and Eru's lives have happened without the intervention of the state. Protection orders⁷⁴ never entered the equation because Maria believed the violence was a husband and wife issue, she only ever called the police once and that proved ineffective. Instead, the personal changes are reflective of changes in the wider community. Maria got involved in domestic violence work.

A challenge went out to Eru. [We were] supporting women out there that were struggling, and experiencing domestic violence, and we challenged Eru, "Where is your support?" So he spoke with the men in the community. It was really about seeking education for themselves in terms of how they can relate to their partners and other females. They got a lot of support from our group, and got cracking and really strong in that area.

Now that they have a mokopuna, there are additional reasons for change.

I think he realised then it was about setting an example, not only for our baby, but for our moko.

Roimata

Roimata had no difficulty getting a protection order against her partner, Mark. The order also included her children from a previous relationship to a man who is gang-related. Mark himself had an extensive criminal record, and repeatedly breached the protection order, usually with minimal consequences, although he did serve some jail time. In Roimata's view, the police have not been very helpful.

⁷⁴ Maria separated from Eru before the Domestic Violence Act was implemented but she could have applied for a non-molestation order under the Domestic Protection Act, 1982.

Violence in the Relationship

Roimata had known Mark over ten years before they commenced their relationship. She was a good friend of his sister. The relationship began during a two-week visit home in 2001. At the time, Roimata had been living in the South Island completing a diploma in visual arts. They returned to the South Island together and Mark moved into the family home with Roimata and her three children. In speaking with Roimata, she mentioned that she knew Mark came from a tough family, but those thoughts did not enter her mind at the time. In reflection, Roimata states that Mark moving into the family home was not good for her or her children.

Roimata described Mark as being a jealous person who would often accuse her of sleeping with various men, though this was never true.

Nine months into the relationship, Roimata started to realise the extent of Mark's drinking problem.

I started seeing things change. I had been around boozers, but not people who drank 24/7. I had not seen that before ... For him, it was every day of the year. I had never come across that kind of drinking. I hadn't realised he was drunk all the time. He was able to hide it on his breath, that's how good he was. It was unreal, I knew he drank but I didn't recognise how pissed he was. I thought he had only drunk that box, when all the time he had other stuff he was drinking as well.

His behaviour would change when he used alcohol or narcotics.

He had a tendency to strangle me, and he did that once at the beginning but towards the end of the relationship he did it every week. It kind of shocked me because he would strangle me until I blacked out; He would hold me by the throat and I noticed that those were times when he was paralytic on hot stuff.

Roimata rates Mark's treatment of her children as "average to bad". His philosophy towards children was they should be seen and not heard. Roimata mentions that one particular time Mark said:

My mother never did it like that; kids in our house didn't rule the house.

Mark would often provoke her 16-year-old son, yet he was generous with her daughter, giving her money and buying her gifts.

The children all witnessed the verbal and physical abuse Roimata was subjected to. She talks about the effects on her daughter:

I saw the little girl in her leave. She would start to cry, and a couple of times he reacted to that and he would call her "a little slut."

An insight into the effects of the violence on the children can be gained from letters they wrote when their stepfather later appeared before the court. Hayden and Monique wrote to the judge and expressed the impact of Mark's presence in their lives. Hayden wrote:

I, Hayden have had enough. Mark is constantly abusing me and my family I wish he had never come into our family. The first time I met him he was drunk. Through the last couple of years I have seen my mother lose friends and a bit of herself because of this alcoholic. He had for three and a half years dragged my mother down with him and made her unhappy. Every time my mother tries to leave him he starts stalking her and threatens her with suicide and violence. Over the years it has taken its toll. I have tried to take my life because I haven't been able to deal with the things he has done to me and my family. Sometimes I feel like I have failed my family because I haven't been able to protect them from this man Mark. I am not strong enough. I feel like a ten ton brick has been removed from my head now that he has gone. We've tried to help him but to no success and I leave it up to God to help this man.

Monique wrote:

Dear Judge.

I am scared of Mark when he's drunk. He yells at me and my mum. I get frightened when he fights my mum. He is always drunk. I don't want him at my house.

Love,

Monique.

Roimata was aware that Mark was seeing a doctor who seemed happy to prescribe him Diazepam, knowing that he was drinking and taking the tablets as well. She was told that the Diazepam was prescribed to help him curb his drinking, but she threw the bottles out. She had observed gang members taking valium and alcohol together and noticed that they became very violent and vicious on the combination. She wanted to avoid that with Mark. During our interview, Roimata told us what she thought of the doctor.

The doctor never monitored him. He never made sure he wasn't drinking on them. I used to threaten that I would go and see his doctor but I didn't know what impact that would have.

Roimata couldn't predict Mark's violent outbursts.

I don't know [what would set him off] ... as far as I was concerned I wasn't any different from what I normally was, but he would come back like that, in a certain state of mind.

Mark would often hit her in places that would not bruise or mark, like the back of her head or neck, and she would black out. On the occasions that he took P (methamphetamine) he would not be able to sleep, and that meant that she could not sleep either, because of her fear of what he might do.

Mark would often only have P in the company of his brother. She believes that he was bullied into taking P, as it was not his drug of choice. She recalls a time when Mark's brother was in the kitchen:

I caught his older brother passing a P pipe around and I said, "I don't want that in my place." I would leave them alone in the kitchen and I caught him once passing a pipe and that is when I started putting one and one together. Every time Mark misbehaved, he had been with his brother.

Towards the end of the relationship, Mark was strangling Roimata on a weekly basis. She went to stay with a cousin to get away from him, and woke to find him strangling her. She did not always ring the police when Mark was being abusive. She would only call once the situation got out of hand and the physical violence was really severe, or her children were "in the direct line of getting hurt".

There are the times when you don't give up because he was getting really violent.

Seeking Help and a Protection Order

Roimata tried to gain assistance from his family as his behaviour was becoming more and more violent. She began to think that he was becoming mentally unstable and needed to be committed for psychiatric assessment. But Mark's family solution was to say:

"If he gets like this, and like that, rather than call the police, call us." They protect each other. They are aware of it, and they deny it, and they always tell me I am lying, even though they have seen him do some stuff in front of them.

Roimata sought advice from Women's Refuge, which was when she first learned about protection orders. Women's Refuge advised her to get a lawyer. She was granted a temporary protection order without notice.

I did it over the phone. The lawyer was helpful. It looked easy enough to get the order once you were in motion. It's what you go through once you get it.

Breaches

After she got her protection order, Roimata moved north. Patrick followed and soon began to breach the order. When she first reported a breach, the police could not find any record of her protection order. This was despite the police policy that protection orders should be entered into the “Persons of Interest Sub-System” (a police database).⁷⁵

The cops couldn't find the order which had been made in [name of city]. That is why I carry my own copy. You have to carry a copy and make sure the police have a copy that they stamp and put it away properly because they lose it. And you make sure your lawyer has a copy.

Roimata sums up her view of the police response:

With the cops, it feels like they can't be bothered – like, “Do we have to go through this hassle?” They will practically talk you out of it, like, “The charges won't stack up ... it's your word against his word unless he has made a mark.” It is like you have to draw blood or have a cut or bruise before they will do anything, and they will say things like, “There's not much to work on.”

On other occasions when Roimata rang the police she would be asked if she was sure that he was still there. If Mark was not in the area, the police would not come to her assistance. Because of the indifferent response, Roimata often did not bother to report the breaches.

They would say, “If he is there, give us another ring.” You get those sorts of answers, so after a while you give up.

On one occasion, Roimata came home to find all her firewood missing. She knew immediately that Mark had either given it away or sold it. He was drinking at his friends' house when she pulled into the driveway. She asked him about the wood. Her later statement to the police about the incident shows his response to that question:

[Mark] chased me off the property and into my car. He had been drinking and was aggressive and verbally abusive. He tried to intimidate me by walking up to me in a threatening manner. He then attempted to grab my son Hayden out of the back seat. I heard [Mark] yelling, “Come on then, cunt, let's have a fight” to my son, while trying to drag him out of the vehicle.

I was trying to stop [Mark] from hurting my son but he was hitting my arms to get them out of the way. The defendant only stopped when he realized that his daughter was sitting in the front passenger seat of the vehicle and she said “Stop it Dad.” He snapped out of it when she said “Dad” and he apologized to her and then to the rest of us.

The police report of the same incident recorded that:

[Mark] became angry and verbally abused and threatened [Roimata] and her son, both of whom have a protection order against [Mark]. He was trying to pull [the] son [Hayden] out of the car so he could give him a hiding.

There is no mention that Mark was drinking, intimidating, threatening or physically violent; it also omitted the presence of their daughter and her terror.

Mark calmed down when the police arrived. Roimata and the children left the property and went visiting. Several hours later they returned home and Roimata noticed the garage door had been moved. She immediately knew Mark was on the property.

Mark was in the kitchen cooking something to eat. Roimata asked him to leave. He stormed across the room in a manner that she describes as “threatening” and refused to leave. She asked

⁷⁵ Police Commissioner. (1996). *1996/2: Family Violence Policy*. Wellington: Office of the Commissioner of Police, at paragraph 45.

him at least six times to leave and each time he refused. She then called the police; he left and hid down the road.

Conviction, Sentencing and More Breaches

Mark was convicted of three breaches of Roimata's protection order for some of the above incidents. His sentence was 80 hours' community service for each charge, to be served concurrently.

In July 2002, Mark called into Roimata's house and fell asleep in the back seat of her car. When Roimata found him in her vehicle, she asked him to leave. The police report states:

While at the address he had bashed on the back door in an attempt to get in but was too inebriated to do any damage.

He was remanded on bail with conditions prohibiting him from consuming alcohol and having contact with Roimata. He was also placed on a curfew from 7 pm to 7 am. He was subsequently convicted and sentenced to a further 80 hours' community service.

Roimata recalls another incident which had deteriorated to the point where she had grabbed an axe in self-defence. When the police arrived, Mark was calm and called Roimata "a drama queen". The police report recorded:

Roimata extremely intoxicated and agitated. Mark cooperative and calm. He did not appear to be the aggressor in the incident. No complaint was forthcoming from either party.

No arrest was made.

A few months later, Roimata reported another breach. Mark had arrived at her house early in the morning. He started banging on the doors and windows. Only when the police arrived did he start to demand his chef knives. When the police enquired about his knives, he told them that he needed them for work. When they enquired further, he admitted that he did not have a job.

In Roimata's victim impact statement, she said:

As a result of this incident and many others like it, I feel that I am a prisoner in my own home. I have to shut all the windows and doors for fear of him getting in. I have had enough of his behaviour and I do not wish any further involvement with him.

Mark was convicted and sentenced to one year's supervision. He breached the order another three times while he was on supervision. For these breaches, he received 21 months' supervision and 60 hours' community service.

On one occasion a police woman answered Roimata's call. Roimata recalls that:

It was cool. The last one that came with the [place] police – she was cool, she was alright.

However on another occasion when the police attended, the officers interviewed Roimata while Mark was in the room. Roimata was asked if she was sure that she wanted the police to charge him. She told us she wanted to say, yes, but could see the look on Mark's face. He urged her:

Come on babe. You know it wasn't like that.

Roimata told us that the result of one of Mark's breach convictions was that he was court ordered to attend rehabilitation and a detox centre. She says that he was sentenced to four months but only completed three weeks of the programme. Roimata doesn't understand why the rehabilitation centre didn't hold him.

One yet another occasion when Mark was charged with breaching her protection order, he convinced Roimata that he would carry out the programme in full, if she agreed to blame his violent behaviour on alcohol. Again he failed to complete the treatment.

The only time that Roimata has had some time away from Mark is when he found himself another girlfriend. She says that she feels sorry for his new partner but is “slightly relieved”. However, even with a new girlfriend, Mark was not quite finished with Roimata. About a year ago, he came to Roimata’s house and an argument developed. The police report states:

[Mark] held a closed fist up to the complainant and threatened to “Take the complainant and her kids out” if she rang the police. He continued to make this threat and he followed the complainant out to the street where she went to seek safety in public view. When spoken to by police, Mark was obviously intoxicated and was consuming beer. He denied the facts as outlined and said that the complainant was making it up.

He was charged with threatening to kill/grievous bodily harm and breaching the protection order. He was convicted and sentenced to imprisonment but given leave to apply for home detention. Roimata described the time at court as demeaning to her:

The way he reacted to being charged ... the police read out the charges of psychological abuse and the way he reacted made everyone laugh. All the males in the court laughed. All you could hear was male laughter.

Reflections

Roimata obtained a without notice protection order, but it did not assure her safety, largely because of indifferent police responses. She can’t believe that twice Mark was sentenced to treatment but was able to just walk away from the centres. Nor can she believe that in total he only got one year in jail for all the violence he meted out to her. In contrast, she finds it ironic that she got beaten up by the police once, when she refused to get out of her vehicle after being pulled over.

Roimata speaks highly of the (Anti-Violence) Trust which has given her the tools to understand the tactics that Mark used to control her. It has also helped her find her self-esteem again.

When we asked Roimata if she had any recommendations to make, she said:

We need to recognise that a woman needs time to get over the violent relationship. She needs to get to a place where she is not so upset, where she can deal with the authorities, when she is in a good frame of mind and knows what she is actually doing. And people need to take her seriously, even if she is emotional.

I could see the police wanting to help, but their attitude is not helpful. They made you feel like a nuisance and sound frustrated with you. I would expect the police to come in and get him. I don’t expect to be interrogated, especially when you are in an emotional state. The frustration of the breaching of the order – they say three times and you’re out, but that never happened.⁷⁶

Te Rina

Te Rina and Pera were teenagers when they met. They stayed together for 16 years. They are from the same iwi and both come from close-knit whānau. Although she got a protection order and occasionally called the police, it was Te Rina’s whānau, together with her neighbours and Women’s Refuge, which provided the most effective support in countering Pera’s violence. On the other hand, Pera’s whānau tended to collude with his violence.

⁷⁶ Section 49 of the Domestic Violence Act 1995 provides for enhanced penalties for the third conviction for breach of a protection order within a three-year period.

Violence in the Relationship

Te Rina described Pera as being “sweet as” at the beginning of their relationship. But that changed quite quickly. As was the case with some of the women in our research, the violence started while Te Rina was pregnant, just a few months into the relationship.

He hit me. He chucked me. His family yelled at me. I got everything under the sun when I was in [city].

Te Rina and Pera were living in close proximity to Pera’s whānau, but, as she pointed out:

There was a feud between my aunty and his mother. So when [Pera’s mother] first met me, she didn’t like me because of my aunty.

Pera had the total support of his family, who generally colluded with the way he treated Te Rina. With little or no support from anyone locally, Te Rina called her mother who, together with Te Rina’s neighbours, helped her move back to her own rohe.

In two days I was home. He never came anywhere near me, because my neighbours were around me. They took me to the bus stop. They waited for the bus, and he turned up at the bus stop but they still wouldn’t let him near me ... They put me on the bus, waited for the bus to leave and then they went home. I came back to [town] and had my baby ... Two days after I had her, he gave me a hiding ... over the name.

That is, Te Rina registered the baby with her family name, not Pera’s.

Te Rina now has six children, and, as she told us, “During the pregnancies he used to beat me up heaps.” In fact, she miscarried during one of her subsequent pregnancies, an outcome which she attributes to Pera’s violence. Te Rina recalled another assault during one of her later pregnancies.

With my son, I was assaulted while I was carrying him. I was eight and a half months. My mum came in, and said “You don’t do that! Enough is enough. We never gave her a hiding, why should you?” Well, two days after having my son, he hit me again, because none of my kids carried his name ... My last child is named after both of us, so I never got assaulted for that one. That was the only way I more or less kept the peace. My mum named him.

There was a common pattern to Pera’s violence, which typically happened every two months or so.

The hidings were the same really. More hitting and verbal stuff, to the stomach and back, to the back of the head, bruising. It was a punch, slap, kick to the back of the head. It was whatever he could do.

Generally, Te Rina did not call the police. When the police did attend, they usually removed Pera from the property and gave him a warning.

They would come in and check out our story, and then they asked me if I wanted a protection order. I asked them what it is. They just go, “A piece of paper saying he’s not allowed anywhere near you.” I go, “Is that all it is?” And they go, “Yeah.” So I thought it wasn’t worth having them, if it’s just a piece of paper. Because my neighbour, she’s been assaulted many times and it took them ages just to get to her. She’s got a protection order out on her partner, and just because it was [street name], it always took the police ages to get to us. It’s more or less known as the Bronx of [town]. There’s gangsters and all that down that road. So just because we’re from [street name], then you sort of got targeted as [street name]. “There’s no need to hurry there.” But people like me needed help, but that was my downfall.

Te Rina’s comments here go to the heart of the effectiveness of protection orders. An order provides little protection if there is not a speedy and effective response. Te Rina had observed that she could not count on a quick response from the police because of where she lived. Thus, a protection order was effectively “just a piece of paper.” Not surprisingly, applying for an order

was not a priority for her. Instead, it was mainly her mother and her neighbours to whom she turned.

Criminal Prosecution

Te Rina recalled two occasions on which Pera was charged for assaulting her. The second of these occurred about four years ago. We discuss it in some detail because it raises interesting issues about the way violence against women can be minimised in the course of a prosecution.

First, this is the account of the assault as recorded in Te Rina's statement to the police.

Today Pera came home ... He was instantly grumpy and started yelling at me saying I didn't like his family. We were in the lounge. My two year old daughter and eight month old son were with me. I was holding [the baby]. I decided to leave because he [Pera] was starting to scare me. I got up and went to leave and Pera pushed me over. I was holding [the baby] at the time. I dropped him. He fell forwards landing on his head. I got up and picked up [the baby]. He was crying. Pera continued to yell at me. I was sitting on the corner of the bed holding both kids and I was telling him I wanted him to leave and go for a walk until he chills out. He turned around and started slapping me. He slapped me six to eight times with an open palm across both sides of my face, backhand and forehand. [My daughter] was screaming at him "Don't daddy!" Pera took [the baby] and I grabbed the cell phone and called 111. Pera just stood there yelling whilst I was on the phone. When Pera was yelling at me he was saying things like if I was going to take the kids off him it would be over [his] dead body. He said if I get custody of the kids, he'll shoot me and kidnap the kids. I believe Pera is capable of these threats as he gets so mad and angry and aggressive.

Next is the summary of facts prepared by the police. This was read out in court (and a copy given to the presiding judge) after Pera pleaded guilty to a charge of male assaults female.

An altercation occurred over financial problems and the defendant has pushed the victim causing her to fall backwards. The victim at the time was holding her baby son and he fell to the floor causing him to cry. She sat on the corner of the bed hold both children. They have continued to argue and the Defendant has slapped the victim six to eight times with an open hand. The victim tried to reason with him without any success. As a result the victim suffered bruising and swelling to her face. The children were also very traumatised by the assault. The Defendant admitted to having a "Domestic" and said he had just "lost it." He said that he had only slapped her once.

Te Rina's experience is that Pera arrived home already "grumpy" and immediately "started yelling." As key informants have noted, it is not uncommon for battered women to feel that they are walking on eggshells while they await their partner's return. They listen carefully for signs of impending trouble, such as a car door slamming or the sound of stomping feet. Such vigilance becomes an important survival mechanism. Te Rina's attention to the manner of Pera's return is lost in the summary of facts. Instead, the court was told that the lead up to the assault was an "altercation" over financial problems. This tends to suggest that what followed was a result of an argument which got out of control. In fact, this is a common misperception of domestic violence, one which tends to collude with the perpetrator and subtly blames the victim, because surely it takes two people for an argument to get out of hand.

Te Rina told the officer that she "decided to leave" because Pera was beginning to "scare" her. These details too are missing from the summary of facts, so that the court did not get to hear what might be considered the essential component of battering, the fear engendered by the batterer's behaviour. Above all else, it is the fear which gives the batterer his ability to control his partner. Nor did the court get to hear of Te Rina's efforts to protect herself and her baby by leaving, an omission which makes it easier to regard her as contributing to the escalation of the "altercation."

In both versions of the incident, Pera is recorded as pushing Te Rina while she was holding the baby, with the result that mother and baby fell to the floor. According to the summary of facts, Pera “pushed the victim causing her to fall backwards” and he did this in the course of the “altercation.” Again, this tends to present the incident as an out of control argument. Missing are two important details from Te Rina’s statement. She was pushed when she “got up and went to leave.” That is, until that point, Te Rina was sitting down, and, in all likelihood, Pera was standing over her. He pushed her “backwards” to stop her from leaving, that is, stopping her doing what she needed to do to keep herself and her baby safe. Moreover, according to the summary of facts, the baby “fell to the floor”, whereas according to Te Rina’s statement, he “land[ed] on his head”, potentially a much more dangerous event.

To this point, a generous reading of the summary of facts allows one to understand Pera as having temporarily, in his words “lost it”, his pushing Te Rina as an impulsive action, and her falling with the baby as an unfortunate, but unintended, consequence of that impulse. What happened next, or rather how it is presented, makes a big difference to how one understands Pera’s culpability. A parent whose impulsive action has caused his child to hit the floor head first – not to mention causing his partner to fall – might be expected to be extremely shocked and to immediately tend to them. However, Pera did not do this. Instead, according Te Rina, he “continued to yell” at her while she retrieved the baby and comforted him and his older sister on the bed. Pera’s callousness and persistence is lost in the summary of facts. Instead, the court was told simply that, “They have continued to argue”, again providing a subtle suggestion that Te Rina has some culpability for what has happened. In fact, at this stage, the only “argument” which can be construed related to Te Rina’s request that Pera go for a walk to cool down.

The summary of facts records, not inaccurately, that Pera slapped Te Rina “six to eight times with an open hand.” Compared to Te Rina’s statement, what is missing is that the slaps were aimed “across both sides of (her) face, backhand and forehand” suggesting a level of calculated violence which is missing from the summary of facts. Also missing from the summary is that their daughter, according to Te Rina, “was screaming at him ‘Don’t daddy!’” and that Pera took the baby from Te Rina. In the hearing of the children, Pera said that he would “shoot [Te Rina] and kidnap the kids” and that she will get custody of them “over [his] dead body.” Te Rina’s statement provides a more complete description of the impact of the violence on the children than the summary of facts, which noted merely that they were “very traumatised”.

As the power and control model of battering points out, one of the tactics characteristic of the batterer is minimising or denying his violence and/or blaming his victim for it. Here, the summary of facts has done that on Pera’s behalf. A deliberate, sustained attack terrorising both Te Rina and her children – and a possible concussion to the baby – has been presented as a temper outburst in the course of an argument in which Te Rina can be seen as partly culpable. We do not suggest that the officer who prepared the summary of facts set out deliberately to collude with Pera’s minimisation of the violence. A desire to be brief and a possible reluctance to dwell on unsavoury details may be more likely motives. So too is a desire to appear “objective” by avoiding anything which may be seen as reflecting the victim’s “subjective” experience. Such motives do not serve battered women well. Instead, they are implicated in the frequent failure to hold perpetrators accountable for their use of violence. After pleading guilty, Pera was sentenced to 75 hours’ community work.

Getting a Protection Order

As a result of the police involvement, Te Rina was referred to Victim Support, which put her in touch with a lawyer. The lawyer applied for a temporary protection order and an interim custody order. Both were granted without notice.

[The lawyer] was great. She broke it all down for me. She spoke with big words at first, till I asked her what she was talking about ... She said, “We’re going to take

custody out on them, so he doesn't run away with them. We're going take out a protection order so he doesn't come anywhere near you. And if he ever trespasses, we'll put that out on him too, and if any of that is broken you can have him charged." Some of me felt like I was safe, but then when I wanted him to come and pick up the little ones. He had to come here. I didn't want to go anywhere near him. I got custody anyway. I ended up with custody ... because he wined me, and baby ended up being dropped on the floor.

Te Rina's comments are equivocal. "Some" of her "felt like [she] was safe", but organising Pera's access to the children was making things more complicated. Women's Refuge helped her establish a safety plan with regard to access to the children.

I always met him at the park. He couldn't do anything to me in public. He couldn't go on and on, and say, "Sorry, I didn't mean to do this and that and the other thing. Can I stay?" So I took the kids to the park to have access with their dad. All I ever wanted from Pera was to be a dad to the kids, that's all.

While hardly an ideal site for access changeovers, the park proved satisfactory to the extent that there was no violence on such occasions. Pera did breach his order in other ways. Te Rina told us that she had got the police to remove him from her property several times, and that he was charged with breaching the order once, although we could not find any record of that.

Pera got into a new relationship, which brought other dynamics to the situation. The older children were having difficulty adjusting to their father's new relationship. Te Rina tried to talk to Pera and his girlfriend about this once when they came to collect the children.

We got into a conversation and it ended up in a big conversation with us yelling. I got rid of the kids and told them to go to the park, because they didn't have to hear it. We were out here yelling at one another, because his teenagers are frightened they're losing their dad. Everything with their dad was always them and their dad. Now that he has got another girlfriend, it's just him and his girlfriend. And they're feeling left out. And that's all I tried to put to him. But it ended up in, "Oh, so many years back, you did this, you did that." In the end I told him to piss off, and the neighbours just come over and escorted him back to his car. They took me back inside, waited for him to leave and shut the door. So he didn't actually get to assault me physically – just verbally. He said, "You're not taking all my kids off me. I'll fucking kill you before you take any of them off me."

Te Rina's account illustrates the risks women can face during access changeovers. Here, the neighbours have provided some informal supervision. Helpful though that was, it is unlikely to have prevented the children from hearing their father's threats.

Ironically, this incident arose from Te Rina's attempt to preserve her children's relationship with their father. As she told us, all she ever wanted was for Pera "to be a dad to the kids." Unfortunately, too often, Pera was the sort of father who exposed his children to violence and threats and who had assaulted each of them in utero.

Pera breached his protection order in other ways. Pursuant to section 32 of the Domestic Violence Act 1995, he was directed to attend a stopping violence programme. However, he failed to attend.

He used the fact that he didn't have a car – his job – you know. They were slack and he got away with it.

Here, Te Rina's experience reflects what many of our key informants told us. Relatively few respondents complete a programme, and most non-completers escape consequences for their non-attendance.⁷⁷

When we spoke to her, Te Rina was experiencing more problems with Pera and his partner. They had moved into the house she had vacated but the tenancy had remained in her name. Thus, when they failed to pay rent and power bills and caused damage to the house, she became liable for debts of more than \$3,000 dollars. They were refusing to pay. They began sending abusive text messages to her and one of her sons. The messages Pera sent constituted more breaches of the protection order, but the police have not done anything about it, even though Te Rina has talked to them.

Reflections

On the whole, it seems that non-statutory intervention measures have been of the most help for Te Rina.

Firstly, there has been her whānau who have always been supportive. For example, her mother came and helped her move early on.

Secondly, there has been Women's Refuge, which has helped her to set up safety plans around access visits, amongst other things. Te Rina has really appreciated their help.

And thirdly, there have been the neighbours who have intervened in various situations. Neighbours in the city she was living in made sure she got on the bus safely when she went back to her home town. And neighbours where she lives now, in what is locally known as the Bronx, have repeatedly stepped in to escort Pera off the property or to otherwise help keep Te Rina safe. This is somewhat ironic given the reported reluctance of the police to get too involved in a street with "gangsters."

On the other hand, Te Rina thinks the protection order has been of some help, despite the fact that there have been many breaches. She even said that Pera had "respected" the protection order – at least to the extent that it had resulted in the police removing him from her property from time to time. Moreover, being prosecuted for the assault may have been a salutary experience for Pera.

He wants to hit me, but he knows the next time, he will go to jail. The judge told him, that if ever he is back in his court for assault, he's gone. So he's pretty worried.

⁷⁷ According to the initial process evaluation of the Domestic Violence Act 1995, only 36% of respondents completed (or at the time of the evaluation were completing) a programme. Barwick, H., Gray, A., & Macky, R. (2000). *Domestic Violence Act 1995: Process evaluation*. Wellington: Ministry of Justice.

3: Pākehā Women's Stories

Amanda

Amanda's case involves a common theme in domestic violence; that women's attempts to keep themselves safe are inevitably played out in the context of their concerns about their children. Amanda separated from her partner shortly after their child was born. Thereafter, her partner waged a prolonged campaign of litigation through the Family Court. Ostensibly, this was about the custody of, and access to, the child, but, in fact, the proceedings seemed to be more about his attempts to control Amanda. Amanda got a protection order but, unfortunately, was badly advised and had the temporary order discharged. This very likely made the subsequent proceedings much more difficult for her than might otherwise have been the case.

Violence in the Relationship

Amanda was about 23 when she moved in with Raymond (who is ten years older than she is). She had been attracted by his "showy personality" but soon found that, in private, "a shutter would come down." During the early days of the relationship, Amanda found Raymond to be somewhat controlling and manipulative and sometimes quite critical of her, but not so much so that she wanted to leave. She talked to friends about what was happening.

I might have had a whinge now and then, but you cover it up, and think "Maybe this is what life is suppose to be about? No one is perfect – everyone has the odd argument. Get over it."

As is sometimes the case, things began to change for the worse when Amanda found that she was pregnant. Like some of the other women in our study, for Amanda, pregnancy marked the beginning of serious violence and abuse.⁷⁸

As Amanda saw it, Raymond had "an underlying disrespect for females." He called her derogatory names such as "fat cow", "whore" and "fat slut". He criticised her for all manner of things: for using the wrong knife, for using the wrong cloth, for paying too much for meat, for buying the wrong brand of crackers. He said Amanda couldn't cook. He ordered her to wear her hair a certain way. He controlled her access to money. He limited her contact with others.

Friends commented later that he virtually excluded me from others, especially friends, contact with family in [place] – he was very jealous of that. [If I was on the phone] he would often pick up an extension from another room and annoy you so much that people wouldn't want to talk to you and you couldn't continue the conversation.

And he backed up his controlling behaviour with physical violence. Amanda recalled being "clipped over the head or kicked in the legs" and, as she observed to us, "He had done a bit of kick boxing, so let's say he knew how to kick – and it hurt."

As the birth approached, Raymond picked on Amanda for putting on weight and forbade her to eat ice cream. He countermanded her wishes relating to plans for the birth. He refused to visit birthing centres with Amanda.

After Katie was born, Raymond exerted control over Amanda's parenting. He had a view that babies should be left to cry. Once, when Katie was just five days old, he stopped Amanda from going to her when she woke, dragging Amanda down the hallway by her hair. On another occasion, he made Amanda sit outside the house while Katie cried. He would interrupt

⁷⁸ For a review of literature on pregnancy and domestic violence, see Pallitto, C. C., Campbell, J. C., & O'Campo, P. (2005). Is intimate partner violence associated with unintended pregnancy? A review of the literature. *Trauma, Violence, & Abuse*, 6, 217-235.

breastfeeding with demands that Amanda attend to other things. He would complain that the baby was getting fat. And within two weeks of the birth, he was forcing Amanda to have sex, despite the pain it caused her.

When Katie was about a month old, Amanda left the city where they were living to return to her parents for a break. On her return, she went to the Family Court and applied for counselling. She and Raymond attended six sessions, but Amanda felt that it made no difference.

Getting a Protection Order

Amanda ended the relationship in 1998 when Katie was six months old. She waited until Raymond was at work before packing and leaving for her home town. On the way, she rang Raymond and told him what she was doing.

Amanda consulted a lawyer because she wanted to make sure that she retained the care of Katie. She had not actually considered applying for a protection order. She told us “I knew they existed but I didn’t think it applied to me.”

I felt that if I was away from him any violence would cease and because I wasn’t living with him anymore, apart from dealing with him with our child, I could put distance between him and I ... I really thought the issues would go away. I did feel unsafe. I was shell-shocked. [Raymond made] all sorts of wild accusations, like, “Oh, she has been having sex with someone.” He was a jealous man. He told the lawyers that I was unstable one minute, then he is on the phone and bragging how many times I had sex with him even though I couldn’t stand him – all these wild accusations that lawyers don’t want to deal with. Neither did I.

So, initially, Amanda thought distance was sufficient protection from Raymond, but after talking it through with her lawyer, who commented on how aggressive Raymond sounded, she decided to apply for a protection order, as well as an interim custody order. Both were granted without notice. Within a month, Raymond had filed a notice of defence to the protection order.

Protection Order, Custody and Access

Amanda’s application for interim custody was not the first to be made in respect of Katie. Unbeknown to Amanda, Raymond had gone to the Family Court in the city a few days before she left and got, without notice to Amanda, an interim order for joint custody and an order preventing Katie’s removal from the city, but, by the time the order was sealed, Amanda was well on her way home. Later, Raymond was to allege that Amanda knew of the order and had deliberately breached it. However, the court subsequently found that there was no evidence to substantiate Raymond’s claim.

Raymond’s pre-emptive attempt to prevent Amanda leaving with Katie was just the first of a long sequence of litigation. As he was later to report to counsel for the child:

I decided to put my foot down ... I belong to the Caring Fathers Association and after hearing their stories I am disgusted at the way fathers are treated. I do not want to end up like that. Some of them have no rights at all. The courts have sat back and let her do every dirty trick in the book.

The day after Amanda left, Raymond consulted a lawyer who prepared two further applications. The first sought a variation to the earlier custody order, while the second sought a warrant to enforce the order. Three alternative proposals were offered to the court. The first was sole custody to Raymond. The second was custody to Amanda on the condition that Katie lived in the city, with immediate access for Raymond. The third was custody to Amanda on the condition that Katie lived in the city, with custody to revert to Raymond should Amanda leave the city. In other words, were the court to adopt any one of Raymond’s proposals, Amanda would have been forced to return to the city or face losing Katie, who, of course, was still being breastfed.

Raymond's application relied on four main points. His access to Katie would be difficult if she remained where she was. He claimed that most of Amanda's friends lived in the city. He portrayed her as emotional and aggressive. And he suggested that Amanda was unduly influenced by her mother who, he alleged, was mentally unstable, erratic and posed a risk to Katie.

Raymond's applications were not granted but his aggressive, litigious response to Amanda leaving did produce dividends for him – with the assistance of what we consider to have been extremely bad advice from Amanda's lawyer. That is, the lawyer saw in Raymond a level of aggressiveness she had not seen before. When Raymond filed his notice of defence against the protection order, the lawyer recommended to Amanda that she drop the order rather than defend it. The lawyer figured that the protection order was infuriating Raymond unnecessarily and that Amanda was safe, now that she was in her home town.

Amanda subsequently filed an affidavit in support of Raymond's application to have the protection order discharged. In it, she noted that since the separation Raymond had had access to Katie three times: twice he had travelled to her, once she had taken Katie to him. She described a perception:

... that [Raymond] is feeling so pressured over the threat of the domestic protection order being made final that this fear is blocking his willingness to negotiate a suitable custody and access arrangement between us ... There are times when I still feel frightened of [Raymond] but since our separation he has not behaved in a physically threatening manner towards me.

In drafting the affidavit, Amanda and her lawyer have characterised the protection order as a "threat" hanging over Raymond, adopting a rhetoric commonly used by many respondents.⁷⁹ But such a characterisation of protection orders needs to be critically examined.

The *Concise Oxford Dictionary* gives the following definition of threat in the context of the law: "menace of bodily hurt or injury to reputation or property, such as may restrain (a) person's freedom of action."

Clearly, a protection order poses no risk to the body or property of the respondent. It does arguably pose a risk to his reputation. On the other hand, any damage to the reputation of a respondent is justified if the test for the granting of a protection order is met. That is, under section 14, "The Court may make a protection order if it is satisfied that (a) The respondent is using, or has used, domestic violence against the applicant, or a child of the applicant's family or both; and (b) The making of an order is necessary for the protection of the applicant, or a child of the applicant's family, or both." Raymond and other respondents may construe such a finding as a risk to their reputation. We prefer to construe it as a (limited) form of accountability for their behaviour.

The second part of the definition of threat needs consideration: "such as may restrain a person's freedom of action." A protection order certainly does place some restraints on respondents. Crucially, they must not make uninvited contact with the applicant.⁸⁰ Under the protection order, Raymond was not able to make contact with Amanda without her agreement. To that extent, Raymond's freedom was restrained. But what also needs to be considered is Amanda's right to be able to live her life free from unwanted contact from someone who has used domestic violence against her.

⁷⁹ According to key informants who facilitate stopping violence programmes, respondents commonly talk about protection orders in exactly this way.

⁸⁰ Here, we are assuming that the non-contact provisions are being invoked as was the case with Amanda. Protection orders are also available to applicants who live with the respondent in which case the non-contact provisions are suspended (s. 20).

The affidavit refers to concerns Raymond was believed to have about negotiating a suitable custody and access agreement. The “threat” of a protection order was held out as an obstacle to such negotiation. Clearly, it was no such thing. He had made several applications to the court, and his lawyer had been active on his behalf. Moreover, he had exercised access to Katie several times while the temporary protection order was in place. Any “obstacle” to negotiation – indeed to access – was in Raymond’s mind. His characterisation of a protection order as a block is really an ultimatum: remove the order or I will not even begin negotiation.

Nevertheless, Raymond’s view of the protection order prevailed. Unsurprisingly, the temporary order was discharged.

We asked Amanda how she felt now about the discharge of the order. She told us she feels angry at the lawyer:

She didn’t do her job in protecting me ... Yeah, I was trusting her advice. She was concerned about his employment and getting jobs, something to that effect. [She said] “You are safe now, aren’t you? There is distance between you. You are not in immediate physical threat.”

But Amanda is clear that she felt safer with the protection order. By way of contrast, she described an incident which happened not long after the order was discharged.

One instance that was very difficult was when I had a friend visiting, and [Raymond] wanted to pick up Katie, I had a little gate thing at the door [to keep Katie safe] and he came to the door and I said, “I need to confirm a time for when you will bring her back.” He refused to organise it, wouldn’t communicate, got really agro. And I said, “No, you can’t have her – you need to organise this with me.” [Katie] was less than one at the time. He just marched in and grabbed her.

[Question: What did you do?]

There were just two of us, and [so] what do you do? He just went – with her. It was frightening. You can’t do anything ... he would just come back when it suited him.

Thus, without the protection order, Amanda felt there was little she could do to stop Raymond’s domineering, bullying behaviour. And it seems that dropping the protection order had significant implications for the custody and access proceedings. For the next two and a half years, Amanda faced what she described to us as: “One of those top 10% of most aggressive legal battles.”

Continuing Litigation over Custody and Access

The next stage of the “aggressive legal battle” saw Amanda in mediation. The outcome was an order, made by consent, that Amanda and Raymond would have shared care of Katie. Raymond was given access every second weekend, three of every four access times to be in Amanda’s home town, with Amanda taking Katie to the city on the fourth occasion. Access was to be in three-hour blocks because Katie was being breastfed. Katie was to be in Amanda’s care the rest of the time.

Amanda felt “completely” bullied in mediation.

We got a shared care order because he is such a bully and his lawyer is such an incredible bully.

Much has been written about the inappropriateness of mediation as a conflict resolution strategy when there are significant power imbalances between the parties.⁸¹ In the US, the National Council of Juvenile and Family Court Judges has specifically determined that mediation should

⁸¹ For a recent empirical study of child custody mediation in cases of domestic violence, see Johnson, N. E., Saccuzzo, D. P., & Koen, W. J. (2005). Child custody mediation in cases of domestic violence. *Violence against Women*, 11(8), 1022-1053.

not be used in cases of domestic violence.⁸² Locally, in his inquiry into the deaths of the Bristol children, Sir Ronald Davison noted that there are considerable dangers in accepting consent memoranda in cases involving domestic violence.⁸³ Unfortunately, in Amanda's case, the court did exactly that. Moreover, the order made was, predictably, unsafe and unworkable. Shared custody requires a high level of trust and cooperation.⁸⁴ Almost by definition, it is inappropriate in cases of domestic violence.

That was clearly illustrated two months later, the first occasion on which Amanda had to take Katie to the city for an access visit with Raymond under the terms of the shared custody order. Katie was just six months old and still breastfeeding. Katie was taken to Raymond's place. Later in the day, Amanda arrived to feed her. Raymond indicated that he wanted Katie to stay overnight, contrary to the terms of the order. Amanda picked Katie up and went to leave. A struggle ensued, parts of which were captured on video by Raymond's brother.

The details of what happened were later to be disputed, but in Amanda's view, she was set up. It seems remarkable that a video camera was on hand. Moreover, the video recording showed her biting and hitting Raymond, but, as was noted by counsel for the child, what happened immediately beforehand was not recorded. For her part, Amanda admitted that she had "lost it", but said that she was concerned about Katie and her feeding routine, and that Raymond had acted in an arbitrary, overbearing and belligerent manner.

Some two years later, a Family Court judge reflected on this incident and concluded that considering the circumstances, "The Court would be most reluctant to draw adverse inferences from [Amanda's] conduct on that occasion." Thus, in the end, it is likely that Raymond did not gain the leverage he intended from the video recording. But neither was he held to account for his continuing violent and abusive behaviour. For example, Amanda recalled a similar incident when Katie was a year old. Again, she had gone to Raymond's place to feed Katie. Raymond had some of his family there.

I asked, "When can I have her back tonight?" [They said,] "Oh. you can't have her back – she is not coming back tonight." So there is no custody order in place, no firm agreements and here is me with this one year old. I probably should have just got over it and said it would be fine. But when you have no back up – so I thought, alright I'd take her, I'll go now thanks. And they pulled her out of my arms. I had her in my arms. They backed me up against a car and then I got him and his mother pulling her out of my arms. It was the most awful thing. So she starts screaming. Then they got her and took her into the house. I said, "Give me back my baby." And I had to walk half an hour to my friend's house – luckily it's only half an hour. Then he refused to give her back all weekend. He let me feed her a couple of times. He wouldn't give her back, he said, "You are an unfit mother. You are stark raving mad." And I had to go to court to get her. It took a week. I lost half a stone.

Amanda is concerned about the sort of pressures Raymond is puts Katie under.

He can be very critical about physical appearance. He has got a big hang up about that – [about] weight. She is my build, which is fine – I'm a normal 12-14 ... To tell a four or five year old that you need your eyebrows plucked, or starting on the thighs – thighs are a big thing – and bottoms – big thighs, fat ... so he won't let her eat and she has to wait for breakfast till he got out of bed ... I know, little subtle things and they

⁸² National Council of Juvenile and Family Court Judges. (1994). *Model code on domestic and family violence*. Reno, NV: Hilton Foundation.

⁸³ Davison, R. (1994). *Report of the inquiry into Family Court proceedings involving Christine Marion Bristol and Alan Robert Bristol*. Wellington: Office of the Minister of Justice.

⁸⁴ Meier, J. (2003). Domestic violence, child custody and child protection: Understanding judicial resistance and imagining the solutions. *Journal of Gender, Social Policy and the Law*, 11, 657-710.

may be just in my mind or they may not. But I just say, “You are normal. You are healthy.” She is active. She is growing and needs to eat regularly. He tends to be someone who sleeps in, doesn’t eat breakfast, maybe doesn’t have lunch and doesn’t eat until around four in the afternoon. You can’t do that to a child, so if he is picking on her, “You eat too much, you eat too much, you eat too much” – I worry about that.

Katie is often “stewed up” when she returns from access but “once she has had a cry she is alright.” Amanda finds that Katie takes on some of Raymond’s behaviour, for example, play fights which go on too long and don’t stop when asked. She attributes this to Raymond, for whom “No doesn’t mean no, and stop doesn’t mean stop.”

In Amanda’s view, Raymond became “more inflamed” when she entered a new relationship. Her new partner, who she had known when they were much younger, was living in Sydney. While on a visit there, Katie was slightly injured in a car accident, when the driver (a family friend of her partner) had a heart attack at the wheel. Raymond flew to Sydney and accused Amanda of not taking sufficient care of Katie. He gathered evidence which he used for further litigation (Katie’s injury was presented as evidence of Amanda’s poor parenting), including secretly photocopying the private diary of the mother of Amanda’s new partner. Back home, Raymond sought, and was granted, an order preventing Katie’s removal from New Zealand. Amanda unsuccessfully sought to have this discharged, as she and her new partner wanted to move to Sydney.

Raymond also reported Amanda to Child, Youth and Family. She got “a grilling” from two social workers investigating claims that Katie had a burn on her foot and a bruise on her back. According to Amanda, the bruise was tiny and the “burn” was a rub mark from her new shoes. Such scrutiny began to make Amanda super cautious. At one stage, she and Katie were living with a relative who owned a ten-acre block. Her relative told Katie that there were lots of trees to climb.

I said, “Don’t let her climb the trees. They’ll take me to court if she breaks her arm. We will have Child, Youth and Family around at the drop of a hat.”

Final Custody and Access Determination

After extensive litigation, including numerous applications, and various interim orders, some finality was reached after a formal hearing of the Family Court. By this time, Katie was two and a half years old and Amanda had a new lawyer. An order was made giving Amanda custody and Raymond access every second weekend. Like the earlier arrangement, three times out of four, access was to be exercised in Amanda’s home town, with Amanda taking Katie to the city every fourth time. Raymond also got access one week each term holiday. Christmas’s were to be alternated between Raymond and Amanda.

In coming to this conclusion, the judge applied the analysis required under section 16B of the Guardianship Act 1968⁸⁵ – but in respect of Amanda, not Raymond. That is, the judge noted Raymond’s allegations that Amanda had exposed Katie to domestic violence. This allegation rested heavily on the incident videotaped by Raymond’s brother. The judge concluded that the incident needed to be seen in context, namely that Amanda was entitled to expect Katie to be returned to her and that Katie was being breastfed on demand. While the judge noted that he did not condone Amanda’s actions, neither did he consider that they reflected adversely on her.

Interestingly, the section 16B considerations were not applied to Raymond:

as there was no attempt to support the initial allegations of Raymond’s alleged violence to Amanda or in some way to suggest that it impacted upon Raymond’s ability to care. The fact remains that at no time has the issue of domestic violence

⁸⁵ Section 16B of the Guardianship Act 1968 was subsequently incorporated into the Care of Children Act 2004 (s. 61).

been proved before the court, nor does it appear to have had any significant impact upon Katie.

Finally, the judge found that there was no benefit for Katie to move to Sydney and that such a move would likely damage her relationship with Raymond. Accordingly, the order to prevent Katie's removal from New Zealand was left in place.

Reflections

Amanda is not opposed to Raymond having access to Katie, a position that she has maintained right through the litigation. She told us:

I think its neat they [the Family Court] want dads involved and I think that is really important that [children] build strong constructive relationships with their dads.

But Amanda is angry that she has been subjected to prolonged, aggressive litigation, through which Raymond has been able to exercise a considerable amount of control over her, including forcing her to abandon plans to move to Sydney.

[Raymond] spent about \$30,000 on it. They can throw money at it, to make your life miserable to get out their anger and the lawyers will respond because that is their job and they get a couple of hundred of bucks an hour for it. As much as they may not like it, that's what their job has turned into ... and you have no choice but to respond, if you get an affidavit thrown at you because they are making an application to court.

All of this had a cost for Amanda. Financially, it cost her \$10,000 and a charge over her home in respect of legal aid expenses. Emotionally, it had a cost too.

For me, it was just a thing about being scared. No matter what you did, you were wrong. Even if you tried to have a quiet life and be a good mum ... Still you would be wrong. You are doing something wrong. I had this fear. What have I done wrong now? What do they want? I just wanted some kind of finality and to get on with it, rather than this, where the court system can let bitter people fight ... The protection order was a blip because [otherwise] I felt unprotected. I felt really unprotected. I really felt bullied, really bullied and it didn't protect me as it should have. And I felt that part of the system let me down.

That is, Amanda is really clear that she did feel safer while she had a protection order. Not only did its discharge leave Amanda unprotected, it also had implications for the way the proceedings under the Guardianship Act 1968 were determined. In Amanda's analysis:

Once that protection order was out of the way [I was] perceived as being no different from him. He could argue all he liked. I had no protection from him and he was still abusing me.

Her analysis is consistent with the judgment summarised above. With the temporary protection order discharged, Raymond's application for custody and access was not evaluated in terms of section 16B. Instead, Amanda found herself to be subject to such an analysis as a result of being set up and filmed hitting and biting Raymond when he kept Katie in contravention of the access order.

Amanda is very angry at the lawyer who represented her for advising her to have the protection order discharged, but it is also interesting to consider here the responsibility of the Family Court. This issue was canvassed in the 2000 process evaluation of the Domestic Violence Act 1995. Both lawyers and judges interviewed in that research had concerns about discharges, especially when children were involved. Most of the judges (17 out of 19) had specific procedures in place to ensure that an application for discharge was freely made. These included having the applicant attend court, requiring evidence that the respondent's behaviour has changed and appointing

counsel to assist or counsel for the child.⁸⁶ Certainly, Amanda feels that had such procedures been in place, she would not have gone ahead with her application for discharge of her protection order.

Because Raymond continued to seek variations to the custody and access order, Amanda has had to go back to court every year or so. More positively, when we spoke to her, there had been no new proceedings for two years. Moreover, sick of the cost, the last time she needed to go to court Amanda represented herself. She described herself as having learnt “communication skills” and how not to “buy into” Raymond’s aggressive tactics. She had some success. The last mediation concerned an application from Raymond to make her pay more of the travel costs associated with access, but the outcome was an order requiring her to pay less than she had been paying.

Caitlyn

Caitlyn was abused emotionally, financially and physically over the course of her seven year relationship. Mostly, she did not call the police. Although she made enquiries about it, neither did she apply for a protection order, such was the discouraging response she received from various sources.

The Relationship

Caitlyn met Bernard by accident when he mistakenly dialled her number. Two years later, she and her two teenage children moved to his town to be closer to him. That was about eight years ago.

Caitlyn recalled that he would invest time and energy in activities and conversations he thought important, but was uninterested in issues that concerned her:

I remember after a week, our conversation was always about him ... It was very subtle. I started to think that my needs were not as important as his ...

Bernard frequently pressured her for money, even though he was employed and Caitlyn was on the Domestic Purposes Benefit.

I was on the DPB. But when he came to see me, I would have to give him money for petrol. I gave him \$20 and he’d say, “I can’t survive on that; I need more than that, you have to give me more.” And I’m thinking, “Oh yeah, how do you think I’m going to survive?”

Over time, the couple were able to start a business and buy a house together. Caitlyn organised payments of the couple’s bills and told us:

He never took responsibility for money, but he always criticised me for how it was done. It’s the way he operates.

The first physical assaults happened after Caitlyn moved into town. During one incident, she recalls Bernard going to bed before the evening news. When she came to bed, he was sleeping across the bed, in a way that prevented her from getting into bed with him. When Caitlyn told the half-sleeping Bernard that she still couldn’t get into bed:

... he sat on top of me, and pinned down my arms and hitting around my face. He was in an out-of-it state. He said it was because he was so tired, and I believed that.

Caitlyn could not understand how Bernard had enough strength to physically restrain her but, at the same time, claim that it was a result of his physical exhaustion. When Caitlyn confronted Bernard about his physical violence, he told her:

⁸⁶ Barwick, H., Gray, A., & Macky, R. (2000). *Domestic Violence Act 1995: Process evaluation*. Wellington: Ministry of Justice.

“... you don't realise how you drove me to it”, but I was thinking that doesn't give him any reason to be physically violent with me.

During another incident early in the relationship, Caitlyn called the police. When they arrived, they could see she had a black eye. The police told Caitlyn and Bernard that they were old enough to “work it out”, and that that's what they should do. The incident report completed by the police was inaccurate and did not record any physical violence and minimised what actually happened.

The police report stated

Argument developed into push and shove from both parties, neither wanting to make a complaint, counselling for both parties advised.

Caitlyn spoke to Women's Refuge which informed her that she had every right to have the incident report corrected to reflect what actually happened. Unfortunately, after a considerable amount of time and repeated phone messages, the record still remains unchanged.

Caitlyn called the police after another assault. The operator ask if Bernard possessed firearms, and when she confirmed that he did, an Armed Offenders Squad was sent to the scene. While Bernard possessed an air pistol and parts of other guns, he had never used them in a threatening manner towards Caitlyn. When the Armed Offenders Squad entered the property, Bernard was having a cigarette. They manhandled him to his knees as they removed the firearms.

From then onward, Bernard would refer to this as “the incident”, and regularly blamed Caitlyn for causing it. Rather than reflecting on what he had done to precipitate the call-out, he repeatedly blamed her for his having been forced down on his knees (“when they were sore”) and having his arm wrenched. He also blamed her for the Armed Offenders Squad's arriving when his father was on the property visiting. She describes this as another example of Bernard refusing to take responsibility for his actions and his ability to reconstruct the situation so that she was to blame for it and all its consequences.

Bernard joined a church that practised tithing. One particular week, Caitlyn told Bernard that there were insufficient funds to tithe because the fuel account was due to be paid. Bernard immediately called a friend from church informing him that he was unable to tithe because of Caitlyn. He also said that, until he could tithe again, he was going to withhold finances from Caitlyn.

Over time, Caitlyn started to recognise that when Bernard was not happy with their relationship, he would ring a third party and blame Caitlyn for whatever was happening. One friend of Caitlyn's sums up this behaviour as:

[he] would only form a network of people that supported him in his beliefs.

Throughout the relationship, Caitlyn tried different ways of making their relationship work. She sought relationship counselling under the Family Proceedings Act 1980, but she told us that it made no difference. Bernard was sent a letter requesting him to attend the counselling session. He wasn't happy about it.

On the day the session was scheduled, Bernard called Caitlyn to tell her that he would not be there. Caitlyn went by herself and found the session very helpful. Bernard then attended the second session alone and they jointly attended the remaining sessions. At the third session the counsellor suggested that they needed to decide whether to try to work out their relationship or terminate it.

Over the course of the next weekend, Caitlyn raised the issue of their relationship. They both decided that it was not going to work and that they should separate. She told us that it was amicable decision, but he told his friends a different story.

He spent the afternoon crying to his friends, that, "Caitlyn is kicking me out and doesn't want me here anymore." It was really frustrating that he didn't take ownership of a decision we had made together.

Even towards the end of the relationship, Bernard continued to manipulate the situation. They had decided that he would leave, but he thought it would be more financially viable if he stayed in the house until it was sold. During the interim, Bernard's demands for sex increased.

He constantly wanted sex and I said, "No, I'm not interested in doing that with you", and he said, "Then there was no point in me being here then."

After this statement, Bernard moved out within four days. On the morning of the fourth day, he told Caitlyn that he was sick and would not go to work that day. By midday Bernard called her and said he was leaving, but, because he wasn't feeling too well, he would only take a few things. Caitlyn described her sense of elation when she got home.

I came home and he had taken most of his clothes and some of his stuff, so I cleaned stuff out and moved things out of the bedroom and made it mine.

When Bernard returned weeks later, he was furious that she had put things into boxes. "He picked up a box and threw it across the room." She could not understand why he was angry that she had packed his belongings when he told her he was moving out. His anger was always unpredictable, flaring up for no apparent reason, and really frightening Caitlyn. To stay safe, she would go into another room in the house to get away from him.

After separating they had decided to each pay half of the mortgage and half of the credit card bill. Caitlyn has only recently discovered that Bernard has made only one payment on the mortgage and no payments on the credit card.

When we left he said to me, "You are going to find that you are going to get some surprises about what I have done ..."

Trying To Get a Protection Order

Caitlyn had worked in a women's support agency and knew about the existence of protection orders. She first thought of taking one out during an abusive incident last year. She was still living with Bernard at the time.

I had been out and I was expecting a phone call, and the phone was off the hook. I asked him where the phone was and he didn't reply. I asked a second time. He stormed out of the kitchen and shouldered me and threw me across the wall. I called the police ... and said there had been domestic violence ...

Caitlyn states that the police arrived in 20 minutes, and interviewed Bernard and Caitlyn in separate rooms. Bernard claimed he had "brushed against" Caitlyn. The police asked Caitlyn what she wanted.

... I said I want him prosecuted and they said, "It is very unlikely that will happen because, if you went in front of a judge, it will be your word against his." The police didn't mention anything about a protection order or what I could do. They talked about how it couldn't go through the legal system and there was no discussion around that [the protection order]. Later, when I was talking to someone at work and they said, "Why don't you get a protection order", but because of what I had been told [by the police] I thought there was no point in pursuing one. I work in places where people come in with protection orders. I'm dealing with Women's Refuge and I still hadn't thought of that. When the police said not to go any further, I put the protection order in there as well. I did not differentiate between prosecuting and the protection order.

Caitlyn did attempt to make another application for a protection order but currently does not hold one. As she says, "It wasn't that easy."

Caitlyn first phoned the Maori Legal Service, which she had used prior to this occasion, and she was told that the waiting period was two weeks. She described her appointment:

... when I finally go to see her on the third attempt, she referred me to someone else. I went to this solicitor and she said because I was still living in the same house as him, there was no use of going any further.

The solicitor's advice is legally incorrect. Women who continue to reside with their abusive partners can obtain protection orders. However, the non-separated woman obtains only the protections set out in section 19(1). If a woman is separated from her abusive spouse, she obtains all of the protection orders standard conditions contained in both sections 19(1) and (2).

Caitlyn's experience with Women's Refuge varied from receiving helpful and friendly advice, which led to her and her children making a safety plan and enlisting friends into it, to what she describes as "unsupportive criticism", which led Caitlyn to make a formal complaint.

... I made a complaint. It wasn't supportive but accusative: "You got choices; you should be making them." I said, "No, it's not okay to treat me like this."

Reflections

Caitlyn's experience in trying to obtain a protection order has been an uphill struggle. The delay she experienced with her first lawyer, and then the misleading advice given by another lawyer, both proved to be significant barriers. The comment from the police that "it's your word against his" was similarly discouraging.

We asked Caitlyn if she had any recommendations.

I think the protection order needs to be more immediate. The letter I got from Women's Refuge after I called the police was six weeks later. I was thinking that was much too long ... I'm an intelligent woman and that was difficult enough for me to work through that situation ... I had to start with me doing work internally first ... At Women's Refuge there doesn't seem to be linking between current clients, incident reports and the generated courtesy/information letter posted out. I was already seeing a worker for support at refuge – it would have been more appropriate for that worker to phone me when the police report was received by them than be sent a letter. This would have been more supportive, respectful and transparent.

Claire

Claire's experience with her protection order has some distinctive features. In contrast to the other women in our case studies, she never lived with the respondent, Robert.⁸⁷ Claire also obtained a protection order without notice, despite there being little evidence of physical violence put before the court. However, there was a clear pattern of obsessive, stalking behaviour, behaviour which continued, despite the protection order being made. Robert's psychological violence, his manipulation and his ability to present well to others have meant that he has largely escaped negative consequences for his behaviour. Indeed, Robert has succeeded in having the protection order discharged.

The Relationship

Claire is a middle-aged woman with three children, aged between 17 and 24. She works as a tutor. In our initial conversation, Claire described herself as having previously been married to "a drinker." That description is typical of a pattern Claire now recognises – the minimisation of violence. Her husband certainly did drink, but he also abused her, emotionally and physically.

⁸⁷ However, it was clearly a "domestic relationship" as defined in s. 4 of the Domestic Violence Act 1995.

Claire had been strangled by her former husband, who was also the subject of an Armed Offenders Squad call-out.

Two years after she left her marriage, Claire established a relationship with Robert, who she had met a few years earlier. Robert is about 11 years older than Claire. She found Robert to be “very charming, very caring, very attentive.” He would bring groceries to her house and cook for Claire. He would sometimes help with the housework. He seemed to be quite the opposite of her former husband, but, in retrospect, Claire realised:

I mistook him [Robert] as being a very caring person but didn't realise he was using power and control, emotional abuse and manipulative behaviour.

Claire and Robert became engaged, but Claire soon began to have doubts about the relationship. She called the engagement off, but, as she said later in an affidavit:

I was harassed by Robert by letters, emails, telephone calls, and unwelcome visits to my property. In the end I was overwhelmed by letters of apology and flowers, and I decided to accept Robert's suggestion that we enjoy each other's company without the pressure of making decisions for the future.

Claire and Robert discussed their relationship. Robert wrote her letters. He presented himself as loving and caring, and talked about his difficulty with rejection. Such conversations lead Claire to doubt her own mind, wondering if “I had it wrong.” She wrote Robert a letter apologising for the pain and hurt she had caused him. Two years later, having earlier undertaken to destroy the letter, Robert annexed a copy to his affidavit opposing the granting of a final protection order. In fact, he had often threatened to use the letter by, for example, sending copies to her friends “to show [them] what sort of person I was.”

Later, Claire was to discover that prior to her breaking off the engagement, Robert had been seeing another woman, taking an overseas holiday with her.

As Claire sees it:

He kept working on my compassion. I wasn't tough enough. I believed what he said and doubted my gut feeling. And then when I did make the decision [to end the relationship] he would always make me the problem – that it was my fault.

Ending the Relationship

Enjoying Robert's “company without pressure of making decisions” quickly proved impossible. He would constantly demand Claire's attention, including ringing her repeatedly at work.

He always made me feel that I owed him and when I did work hard to provide time together it was never enough for him. I would then feel bad. He would tell me that millions of people ring each other during work hours and that I should ring him or when he rang [I should] be happy to talk to him and not worry about my work ... Robert works on “yes” means “yes” and “no” means “yes.”

He would frequently arrive uninvited at her door. He would wait outside places where she was meeting with clients. He began to waylay her when she went out. For example, he intercepted Claire during one of her early morning walks. (He would have had to travel an hour and a quarter to get there.) He followed her back to her house, wanting to come in for breakfast, despite the fact that Claire made it very clear that he was unwelcome. He pushed past her anyway. Eventually, he agreed to leave, but Claire later saw him outside her house just as a client was arriving. While she was meeting with her client, Robert let himself into kitchen. He left but came back later, just as she was getting ready to host some friends. Again, he eventually left.

On another occasion, when Robert had arrived unannounced, Claire asked him to leave so she could get on with some work. He refused many times. Claire got so frustrated that she picked up

a chair and brandished it. She called to her son to help and he got so angry he picked up a broom and broke it trying to get Robert to leave.

On some occasions, Claire did involve the police. For example, when she encountered Robert a second time on her morning walk, she took refuge in a residential driveway and called the local police officer. Robert has gone by the time the police officer arrived. Another time when she called the police it rebounded on her. In this instance, Robert wanted to spend the night at Claire's house. She had an early start the next morning and asked him to leave. He refused to go. She phoned the local police officer, but the call did not go through. She drove to the police officer's house. The officer agreed to go and talk to Robert, who, as a result, left. However, thereafter he told Claire that the police officer had felt sorry for him – reminding her of this on many occasions. It was not until much later that Claire discovered that Robert's account of what happened was quite wrong, but by then it had served its purpose – discouraging Claire from involving the police again.

As Claire was to say later, in her application for a protection order:

I have tried many times to end my relationship with the respondent. He will not take no for an answer, and I have at times reconciled with him rather than put up with the "drama" that arises when I tell the Respondent that our relationship is over. The Respondent has often said to me, "It's not over, get used to it."

Robert used public displays of charm. For example, shortly after Claire ended the relationship, Robert heard that she was celebrating her birthday at a restaurant. He arranged for the restaurant to provide an expensive bottle of wine for Claire's party and for the waiter to announce who the benefactor was. As Claire says:

He came across to my friends as generous but I checked [later] and he never paid the [restaurant] the full amount. He complained about the price and said to the owner I should pay ... [It was] another case of showing charm and manipulation.

By this stage, Claire was not answering his calls, but Robert would leave messages on her answer phone. Insight into his tactics can be gleaned from the transcripts of some of the hundreds of telephone messages. For example:

You think I am sick. Take a look at yourself Claire. That is why I hang around – because you are sick and anyone who carries on like you abusing people and things. [It is] confirmed that you are sick by people who are close to you and it is bad for you but that's why I love you because I want to help you. Bye.

Thus, Robert could simultaneously locate any problem within Claire and position himself as being supportive of her. In another message, Robert said:

Now Claire, you have to take some responsibility for what is going on around here at the moment. Umm. It is quite serious I tell you. You sitting there on your little perch with all your professional knowledge but it is not good I tell you. Just telling you ... things are happening around this town, Claire. Don't be so cocky that you have got the police beside you because it is the sickness in your fucking head. How you have the cheek to button me off. I spent all this time with you. You haven't even got the guts – you haven't even got the guts and the fortitude to face up to the fact that you are sick in the fucking head. All your friends think you are a mental case and say, "Robert, everybody loves you" and [they] can't understand why you are such an evil bitch.

By such tactics, Robert was isolating Claire from her friends. The isolation was compounded by Claire's feelings of shame. That is, she sometimes felt embarrassed to admit to friends who had been supportive of her that she was still seeing Robert, despite what had happened.

Getting a Protection Order

Claire was determined to end the relationship, but getting a protection order was not the first legal remedy she tried. First, she got a trespass order against Robert, but this proved totally

ineffective. Robert broke the order by walking around her house at night. Once, he even rang her on her cell phone while he was doing it. On another occasion, he seemed to take great delight in telling Claire that he had walked up to her house across the paddocks one night and had seen her in the kitchen.

Things began to escalate quite rapidly. He phoned constantly, up to 140 calls in a single day. Claire would disconnect the phone at night. It would begin ringing as soon as she reconnected it in the morning. It became second nature to not pick up the receiver until she heard the caller leaving a message on the answer phone. Typically, Robert hung up if she did answer. He wrote to Claire. He wrote to her son. On one occasion, he left a rose on the windscreen of her car. He staked out places where he knew Claire would be. On three occasions, he followed her while she was driving, forcing her off the road. Once he tried to take the keys out of the ignition when she was attempting to drive away. Claire began to involve the police; several times ringing for assistance in getting him removed from her property. Each time, he left of his own accord.

It was a police officer who told Claire about protection orders. This followed an incident in which Robert tailed Claire in his car. She rang 111.

They said come to the nearest police station which was five minutes away. He was right behind me. I thought the police would know I was coming so I pulled up by the police station and he pulled right up behind me and jumped out of the car. I locked the car thinking someone will come out, and no one came out. Eventually he realised that it was the police station. He went off down the road and I got the phone book out and rang the police station ... and it was at that point I was told about protection orders and that was the first time I had heard about them. They told me that it cost about \$800 and that stopped me in my tracks and I thought, "Why do I have to spend money to address someone's behaviour?"

Later, Claire found that she could get legal aid, but what finally convinced her to apply was a night during which she received 47 telephone calls and her answer machine was filling up.

... I got home at 8.15 pm I was home one minute and I was still getting more calls and they went right through the night and I got a text at 5.07 am and another call at 9.37 am on my cell phone. He was saying, "Why won't you talk to me?" ... At that point I thought I want to go to the [place] show with my family like I usually do and if I don't put a protection order on I'm going to be in a very vulnerable position. He is going to be there and he will be stalking me, and I have had enough of these calls. So I went ahead with the protection order.

Claire consulted a lawyer who filed an application for a protection order, which was granted without notice. Robert was directed to undertake a respondents stopping violence programme.

That Claire got her protection order without notice seems quite unusual. With the exception of an attempt to force her off the road, the application did not mention any physical violence. Instead, it relied on the pattern of psychological abuse, including the obsessive harassment and stalking. According to the family law practitioners we have spoken to, applications relying on psychological violence are seldom adjudged to reach the criteria for making an order without notice.⁸⁸ In Claire's case, the court seems to have interpreted section 13 as Parliament intended. Given Robert's persistent, obsessive behaviour, including stalking and making threats, it seems reasonable to assume that the delay which would be caused by putting the application on notice would have exposed Claire to "a risk of harm or undue hardship."

⁸⁸ These views are consistent with a judgment delivered by Justice Priestly. This concerned an appeal against a decision to put an application for a protection order on notice. The application relied on evidence of psychological violence and made no claim of physical violence. The decision of the Family Court was upheld. See *D v D* [2003] NZFLR 327.

Claire believes Robert deliberately tried to avoid being served with the protection order. Although it was made without notice, Robert did know about the application. He rang Claire's cell phone while she was meeting with her lawyer. Claire recognised the number of the caller and initially ignored the phone. When she told her lawyer who was calling, he took the phone and spoke to Robert. In an almost unbelievably stupid move, he told Robert that an application for a protection order was being prepared. In effect, he gave Robert notice of the application, negating the advantage of making a without notice application. It took a couple of weeks for the bailiffs to find Robert. In the meantime, Robert stalked Claire around an agricultural show, never speaking to her but constantly hovering nearby. He also left a letter suggestive of suicide with a friend who then wrote a very accusatory letter to Claire, blaming her for the fact that Robert had disappeared and no one knew where he was. Thus, Robert was able to continue to exert pressure on Claire, free from any risk of being breached.

Robert was also making threats. Police files include a reference to a "Threat to kill/do grievous bodily harm." This related to an incident in which Robert confided to a friend that, "No one's going to do this to me ... I feel like killing the bitch." Police later told Claire that Robert's use of the words "I feel" made it unlikely that a prosecution would succeed. Nevertheless, the friend to whom Robert was speaking was sufficiently worried to warn Claire, and to report the matter to the police. The friend told police that he wanted to remain anonymous as he was worried that Robert "would want to have a go at me."

Attempted Reconciliation through Counselling

Robert made an application to the Family Court for counselling. Claire was quite clear that she wanted the relationship to end so the counsellor met only with Robert. The counselling provided more scope for Robert's manipulation. After four sessions, the counsellor wrote a report for Robert addressed "To whom it may concern." It said, in part:

Robert first presented in a state of extreme reactive anxiety coupled with confusion, hopelessness and extremely low self-worth. His physical body language plus his verbal account displayed helplessness and a strong sense of disempowerment. Robert conveyed strong positive statements about his partner, their relationship and an intense need to have an understanding of what he had done wrong. Affect response was high. The response pattern presenting was consistent with what would normally be observed as a response to recent or historical trauma; a "learned helplessness" or "battered person" type response. Within all sessions Robert has appeared to be very genuine, speaking openly and honestly about his behaviours while exhibiting in language and demeanour a deep sense of caring for his "friend" ... At no point in any sessions with Robert has any anger or controlling behaviours been observed. Robert in contrast, displays a passive, non defensive response pattern. Counselling is now being used to understand intense unfamiliar affect and cognitive responses and thus allow a sense of management and control over these. Robert's work in this area appears to be feeding back positively into safer responses for Robert, thus empowering Robert to remain free of self harming behaviours and situations.

It should be noted that this report was prepared without any consultation with Claire. Had there been such consultation, the counsellor might have re-evaluated her assessment of Robert as disempowered, battered and traumatised. She would almost certainly have not described him as open and honest. And while it may well be that Robert displayed no controlling behaviours in the context of the counselling session, a more complete investigation might have identified his obsessive, manipulative, harassing and controlling behaviours towards Claire.

Robert probably took some comfort from the counsellor's assessment. He certainly made use of her report. It was later produced in support of his application to have his firearms restored to him. The counsellor's report highlights the dangers inherent in social service workers dealing with family violence cases without the requisite specialist knowledge and skills. One of the risks is that

such workers respond to abusers entirely out of their own experience of their client – no doubt Robert was charming in the sessions – rather than ensuring that their assessments are cross-referenced with the experience of the victim. A counsellor with domestic violence expertise would certainly have recognised the dangers of providing such a report.

Legal Challenges

Shortly after being served with the order, Robert filed an objection to the direction to attend a programme; a defence against the protection order itself, and a counter-application seeking a protection order against Claire. In his affidavits, Robert attempted to paint Claire as not knowing her own mind. As mentioned earlier, he submitted a copy of the letter Claire had written two years earlier in an effort to show that there was a committed relationship. He alleged that Claire had been “manipulative and emotionally abusive.” He alleged that she had used physical violence against him.

The last allegations are particularly interesting. In one, he alleged that Claire had hit him with a “back hander” while driving, and that this was her response to him “challenging” her. On her part, Claire says she did indeed slap Robert – lightly on the back of the hand. She had done this because he would not leave the volume control on the radio alone. In retaliation, Robert elbowed her in the ribs, dislocating one.

Claire filed a second affidavit in response to Robert’s applications and went to court, ready for the hearing. However, the hearing did not go ahead. While she sat in the waiting room, her lawyer and Robert’s lawyer negotiated between themselves. The outcome was that the judge made the following determinations by consent of the parties. A final protection order was made in favour of Claire. Robert’s application for a protection order was dismissed. However, the direction for him to attend a respondents programme was discharged, on the understanding that he was attending individual counselling. Robert was allowed to retain his firearms licence. Claire provided two undertakings. One was to not approach Robert. The second was to not oppose the discharge of the protection order in 12 months’ time if Robert had complied with it.

While pleased to have a permanent protection order, Claire felt “despondent” after the hearing. With the exception of his application for a protection order, she felt Robert had got his way. He had certainly won significant concessions, each of which had important implications for Claire.

These concessions need careful consideration. Firstly, Robert was able to have the direction to attend a respondents programme discharged in favour of his continuing his counselling. This was with the same counsellor who had conspicuously failed to recognise or address his stalking, harassment and psychological violence against Claire. Such counselling seems a very poor substitute for a properly accredited, specialist stopping violence programme.

Secondly, the court exercised its power under section 22 of the Domestic Violence Act 1995 to modify the standard condition relating to firearms such that, in the words of the judge’s minute, “firearms may be utilised by Robert.” However, section 22 needs to be read in the context of section 23, which specifically requires the court not to exercise the power conferred to it under section 22 “unless the Court is satisfied that the standard condition relating to weapons is not necessary for the protection of the persons for whose benefit the protection order applies from further violence.” There is no indication that the court considered Claire’s safety at all.

Finally, there were the undertakings made by Claire. The first was that she would not approach Robert. As Claire notes, there was no evidence at all that she had been trying to contact him. Robert was “once again using his power and control to suggest that I undertake not to approach him.” Claire was concerned that she was agreeing to something that made it look as if she was pursuing Robert, but her solicitor’s advice was to “Give him what he wants.” The undertaking

has been a boon for Robert. Claire has received reports of him telling people that the court had ordered Claire to stay away from him, again, enabling him to position himself as the victim.

The second undertaking was that Claire would not oppose an application for discharge of the order if Robert did not contact her in the following 12 months. This undertaking has also come back to haunt Claire. Robert has breached the order – repeatedly – but, as we describe below, he and his lawyer shifted the goal posts and got the protection order discharged anyway.

These outcomes bring into sharp relief the problems of making orders by consent in the context of domestic violence.⁸⁹ Certainly, Claire feels that she was pressured into agreeing to the proposals developed by counsel. Some of this pressure came directly from Robert, who was able to draw on the fact that Claire's former husband had lost his firearms licence in order to portray her as vindictive and punitive. Part of the pressure came from her solicitor, who, she feels, was keen to settle because of the capped legal aid grant. She was also beginning to feel quite uncomfortable with her solicitor who, she felt, was behaving quite inappropriately towards her, using ribald language and sitting very close to her. He seemed inappropriately flippant. When Claire asked him after the hearing what she should do with the list of Robert's telephone messages, he said that it might be a good idea to keep them for the police, "in case there was ever blood on the floor."

Adding to her dependency was the fact that Robert seemed to have been breaching the temporary order. For instance, she had several phone calls at odd times when the caller hung up without speaking. Then, just three days before the hearing, Robert was stalking her. He had driven past her in town, turned, and came back. Claire drove to her solicitor's office. During the meeting, Robert was observed loitering outside. Later, Claire again encountered Robert as she and her solicitor drove to the courthouse.

Breaches

A month after the hearing at which a permanent protection order was made, Robert was again breaching the order. He stalked Claire at an agricultural show. She called 111.

When I first made the call they said, "Are you sure this is a protection order you have got?" And "What is your job? Can you still see him?" Finally the police came and it was like "Lady we are a bit busy at the moment." I was gutted really, and I was carrying my protection order but it didn't really help.

A Risk and Lethality Assessment Worksheet was completed resulting in a risk score of 4 (no apparent risk.) Ironically, considering the circumstances in which the form was being completed, the officer overlooked the item "Offender has stalked victim or others in the past."⁹⁰

More breaches followed. These included numerous phone calls, text messages and stalking. With the encouragement of her counsellor, Claire reported the phone calls to the local police. This marked the beginning of a more effective police response. They obtained records of calls made to

⁸⁹ These problems have been canvassed locally by former Chief Justice Sir Ronald Davidson in his enquiry into the deaths of the Bristol children, and, more recently, in the UK, by Lord Justice Nicholas Wall. Although reporting on consent orders in relation to children, the basic caution against simple acceptance of consent memorandum in cases of domestic violence applies more widely. See Davison, R. (1994). *Report of the inquiry into Family Court proceedings involving Christine Marion Bristol and Alan Robert Bristol*. Wellington: Office of the Minister of Justice. See also Wall, N. (2006). *A report to the President of the Family Division on the publication by the Women's Aid Federation of England entitled Twenty-nine child homicides: Lessons still to be learnt on domestic violence and child protection with particular reference to the five cases in which there was judicial involvement*. London: Royal Courts of Justice.

⁹⁰ A major reason why the risk assessment score was so low was that Robert scored 8 "credit" points in Part A of the worksheet. For an explanation of the problems associated with this aspect of the risk assessment, see case study Louise.

Claire (this cost the police about \$1,000). They recorded information about stalking. They got a search warrant to obtain other evidence. Eventually, Robert was arrested. He was found to be in possession of two sim cards used in some of the calls. He also had with him a pair of binoculars.

Charges

Robert was charged on five counts of breaching the protection order. One related to Robert leaving roses on the windscreen of Claire's car while it was parked at one of the schools at which she tutors. One related to a dance Claire attended as he was noticed peering into the hall with binoculars and loitering outside. One related to approximately 60 calls made to Claire from various call boxes and cell phones. Two related to sending text messages.

Robert pleaded guilty to all five charges. A pre-sentence report was prepared. Although the probation officer was of the view that Robert was putting the relationship behind him and that supervision was not needed, the judge ordered nine months' supervision, with special conditions to obtain "such treatment, counselling, programme or intervention as may be directed." Robert was also fined \$500 and ordered to pay court costs of \$130.

A victim impact statement prepared at the time records Claire as suffering:

... anxiety, drained energy, feelings of exhaustion, loss of self-esteem, constant sleep deprivation and tension. Each time Robert came to my home prior to obtaining the protection order, which were un-invited visits, I felt traumatised by his presence and did not want to enter into any dialogue with him. I felt a prisoner in my own home ... As a result, I was forced to seek professional help from a qualified private counsellor with costs amounting to \$1,600. I have also been forced to change the security on my home by replacing the locks at a cost of \$236. I installed security lights at my house which amounted to \$40. These measures were directly as a result of the need for me to feel safe. Being self-employed I was forced to relinquish some of my clients in order to feel safe and free of being stalked by Robert. This led me to immense financial struggle and I had to seek financial assistance to cover the basic needs to care for my family over the holiday periods ... The emotional harm impacted on all three children in different ways. My son in particular received counselling initiated by him through his school. All three children were sitting exams at the time which made it stressful for them. The relief of no phone calls since the apprehension of Robert has been described by my son as "luxury." We just can't believe how good it feels to be normal again. And for family members ringing it is a joy to have me answer the phone without any of the previous fear experienced.

More Legal Challenges

Unfortunately, that was not the end for Claire who was soon to face further litigation as Robert applied for discharge of the protection order and attempted, successfully, to escape accountability for his actions in other ways. He has been active on at least three fronts.

The first is that Robert successfully applied to get his term of supervision cancelled after six months. A victim advisor informed Claire that the grounds were that Robert had obtained a job which made it "inconvenient" for him to report to his probation officer.

The second area concerns Robert's firearms. Initially, these were surrendered under the terms of the temporary order. As described above, when the permanent protection order was granted, he was again allowed access to his firearms. These were later seized when the search warrant was executed because the weapons were found to be in an insecure state. Subsequently, Robert was served with a notice of revocation of his firearms licence, which invited him to make submissions if he wanted his firearms back. Robert did exactly that.

I am aware the police have taken my firearms from me a number of times over the last few years as a result of the relationship break-up with Claire. I am aware that I have a protection order taken out against me by Claire, but the firearms licence was not revoked at that time. In fact, the agreement made with the lawyers and the judge was

that I could keep my firearms licence. The protection order is due to expire in February next year. Although I have been convicted of breaching the protection order, I have never threatened or intentionally harmed Claire in any way. I would never harm her. Really I am just a silly old man who is infatuated with a younger beautiful woman. As a result of the breach of protection order charges, I have moved on. I now have a new lady in my life and Claire no longer forms part of it.

Robert was correct in saying an agreement had been reached that he could keep his weapons, but in the next point he subtly moves the goal posts. Claire's undertaking not to oppose an application for discharge of the order if Robert left her alone has now become a definite "expiry date", unaffected by the subsequent breaches. In the balance of his submission, Robert totally minimises his violence and stalking, which becomes merely the infatuation of a silly old man.

Robert's submission was successful. Despite a constable's report drawing attention to Robert's "stalking and harassment" of Claire, a senior officer concluded that there was nothing to indicate threats or violent tendencies and that the breaches were simply attempts at reconciliation. The firearms were to be returned as soon as the police were satisfied that he had secure storage for them.

A further letter from Robert to the police in relation to storage arrangements for the firearms shows just how far he was from accepting responsibility for his actions and just how determined he was to paint Claire as the problem.

I don't believe and so does everyone in the public arena that the protection order should have been taken out against me from the start. I would like to restate the horrendous emotional and physical abuse Claire dealt me in the 7½ years.⁹¹ All this is documented in affidavits ... I loved Claire unconditionally. I can not understand myself for not getting out the r/ship myself. I would never consider in any way using firearms against her. I fact all my protests against her were passive as [the] protection order charges showed. I know [name] you hear all sorts of stories in your job. Sometimes there is another side to the story. I have been a victim of lies and denials and someone who didn't have the guts to face me. I was the kindest person Claire has been with.

Thus, Robert's persistent use of domestic violence and repetitive breaches of the protection order, including hundreds of hang-up calls, stalking, running her off the road and other forms of harassment, have become "passive" protests, which are contrasted with the "horrendous ... physical abuse" which Claire is supposed to have used against him. While he suggests that this violence is documented in affidavits, it is not. Nevertheless, this assertion serves to add authenticity to Robert's allegations. The contrast which has been constructed between his "passive" protests and Claire's "horrendous violence" allows Robert to position himself as "the kindest person Claire has been with."

Discharge of the Protection Order

Having had his supervision terminated and his firearms licence restored, Robert moved on to the protection order. Here, Robert and his solicitor moved the goal posts. That is, Claire's undertaking was that she would not oppose an application for discharge if Robert did not contact her in the following 12 months. Obviously, he has, the most compelling evidence being his five convictions for breaching the order involving multiple phone calls and other stalking behaviour. Those breaches were acknowledged in a letter from Robert's solicitor, who nevertheless argued:

Having regard to the fact that approximately ten months have expired [since the breaches], and that by the time the proceedings are filed and served and a date of obtained from the court, it will be at least one year from those breaches.

⁹¹ In fact, the relationship lasted for four years, not seven and a half.

That is, an undertaking – made under pressure – not to oppose discharge of the order if it was not breached within 12 months was subsequently presented as an obligation to consent to the discharge if there were no further convictions for breaching the order in **any** 12-month period. The solicitor’s letter continued:

The effect of the protection order makes life extremely uncomfortable for Robert. As your client will no doubt inform you, they have a similar social group of friends and similar interests involving public events ... it is therefore inevitable that some form of contact comes about when our respective clients are attending community activities or social events. Our client should not be precluded from living his life as he has done in the past ... the existence of the protection order means that there is no “closure” for him.

This is not an uncommon line of argument. In our experience of respondents programmes, men often complain about having protection orders “hanging over” them.

In his affidavit, Robert advanced six grounds for the discharge of the order. It is interesting to consider each of these in turn.

Firstly, Robert submitted that he and Claire had separated. Setting aside the fact that they had never actually lived together – so separation was hardly the appropriate term – it is difficult to see how separation can provide grounds for discharge. Most women who apply for an order do so after separating (or when they separate) from the respondent. Like most of the women in our case studies, Claire’s experience was that separation does not ensure protection.

Robert noted that he had received counselling which had helped him to “move on”. He also acknowledged that his behaviour in the past was “unacceptable.” A letter from his counsellor was attached. Like her earlier letter, this characterised Robert as a victim, this time as a victim of “the strong subconscious control his feelings had of him.” Robert, it was said, had “[taken] responsibility and control of his automatic response to these feelings.” If men’s violence against women is to be seen as “automatic”, a helpless response to subconscious forces, then there really is no way that they can be held accountable for such violence. They would certainly be able avoid conviction by arguing an absence of *mens rea*.⁹² Moreover, the counsellor displays an interesting view on taking responsibility. If Robert was truly taking responsibility for his behaviour, would he not recognise Claire’s need for protection and leave the order in place?

The fourth ground for discharge advanced by Robert was that, “Physical violence was not a feature of [the] relationship and [he] was not required to attend a stopping violence programme.” In fact, he had used physical violence. This was detailed in the affidavit which accompanied Claire’s application for a protection order – an order to which he consented. At any rate, protection orders are supposed to protect from all forms of domestic violence. By linking his exemption from attending a programme with his claim to have not been physically violent, Robert has managed to suggest that the former is evidence of the truth of the latter. It is no such thing. That he was exempted from the programme was a reflection of his ability to persuade an inadequately trained counsellor that he was the victim in the relationship.

Finally, Robert claimed that the protection order meant that he had “on several occasions been forced to alter [his] social arrangements” to avoid Claire. He further argued that the order made it “difficult” for him to socialise with friends he had in common with Claire. This was an argument he had used in the criminal jurisdiction. Having had his term of supervision terminated because it

⁹² The online *Oxford English Dictionary* defines *mens rea* as “The particular state of mind required to make an action criminal; a criminal state of mind; (more generally) criminal intent. The prosecution must prove *mens rea* to have existed at the time of an offence in order to secure a conviction.” Retrieved 24 May 2007 from <http://dictionary.oed.com.ezproxy.waikato.ac.nz:2048>.

was “inconvenient”, he was now asking the Family Court to discharge the protection order because it was “difficult.”

In discharging the order, the Family Court judge noted that:⁹³

... it is now two years since the final protection order was made and it is some 21 months since these parties last had any contact. [Robert's] behaviour was psychologically abusive of [Claire]. It is my view that his behaviour was a situational response to the break down and the messy break down of their relationship – that is the bad behaviour which lasted for some time. It took [Robert] some considerable time to deal with the break down of his relationship.

That is, in a theme we explore in Volume 2, Robert's violence was minimised as “situational” and as “bad behaviour.” The judge accepted Robert's word that he had put the relationship behind him and concluded that, contrary to Claire's fears, there was no “objective” risk of further abuse.

The order was discharged. It had been in place for a little over two years.

The next day, Robert, who had said in his affidavit that he had “no further interest in maintaining a relationship with Claire”, sent her a text message.

While the judge may see no risk, Claire is not taking her safety for granted. When we last spoke, she was concerned that Robert was still staking out her home. The sensor-controlled security lights have been coming on. The police have offered to arrange the loan of a video camera to put the area under surveillance. This is yet to be actioned. Whether or not it is Robert who is setting off the lights is unclear. What is clear is that Claire continues to face considerable challenges in ensuring her safety and putting the relationship with Robert behind her.

Reflections

In some ways, Claire's story is a reflection of the positive changes introduced by the Domestic Violence Act 1995. There are three points relevant here.

Firstly, Claire would not have been able to apply for a protection order under the Domestic Protection Act 1982 because she and Robert had not lived together.⁹⁴

Secondly, even if they had lived together, it is unlikely that she would have been granted an order given that there was not a strong history of physical violence against her. By its definitions of both “domestic relationship” and “domestic violence”, the Domestic Violence Act 1995⁹⁵ has made available remedies to women in Claire's situation which were not previously available. Hence, Claire was able to get a protection order in the face of a persistent pattern of harassment and stalking.

Thirdly, Claire was able to attend a protected persons programme, free of charge. Before the Domestic Violence Act 1995, the state provided free-of-charge access to programmes only to respondents who were directed to undertake them.⁹⁶

However, from Claire's perspective, the programme was the only part of the protection order which worked for her. Robert was exempted from the standard conditions relating to attending a respondents programme and having to forfeit his firearms licence. The non-contact provisions

⁹³ Unreported decision of the Family Court, 2007, details suppressed to protect anonymity, paragraph 25. Note that, as the Family Court judge pointed out (at paragraph 23), the Domestic Violence Act 1995 does not specify the factors to be taken into account when considering an application for the discharge of a protection order.

⁹⁴ Compare with Domestic Protection Act 1982, ss. 4 and 13.

⁹⁵ Domestic Violence Act 1995, ss. 3 and 4.

⁹⁶ Domestic Protection Act 1982, s. 37A.

have been largely ignored by Robert, whose stalking and harassment continued unabated until he was finally breached. Throughout, he has been able to minimise his violence. He has been able to blame Claire for the problems, even to the extent of portraying himself as the victim. And he has been able to isolate her.

Initially, these tactics were applied directly to Claire in the context of their relationship. Later, these tactics were played out on a wider stage. Crucial here was the fact that Robert was able to enlist some of the very people and processes which might have been expected to help protect Claire. For example, Claire was poorly served by her solicitor who recommended she give certain undertakings when the Family Court was considering Robert's opposition to the protection order. Although that order was made, the Family Court provided Robert with further opportunities to minimise his behaviour and to blame Claire. Because of the first undertaking, Robert was able to portray the order as "due to expire" within 12 months – and, in turn, this was held out to be an indication that the order was not really justified. Moreover, because of Claire's undertaking not to approach him, she could be portrayed as being as much to blame as he. In addition, there were the counsellor's reports, the first of which was used to support his application for return of his firearms licence, the second to support his application for the discharge of the protection order.

Each of his successes added momentum to Robert's cause. The undertakings he won when consenting to the order allowed him to portray it as not really justified, as did being exempted from attending a respondents programme and being (initially) allowed to keep his firearms. Having his supervision terminated added more momentum. However dubious the grounds on which he achieved these small victories, Robert was able to use them to argue, successfully, for discharge of the order.

Robert's tactics have tended to isolate Claire from her friends. As she reflected on one of the many messages he left on her phone referring to what other people supposedly thought of her, Claire commented:

I was gutted. He was talking about people I had known for a long time and who I socialise with. It took a lot of effort to go out. I still doubted what people were thinking. Even now he is saying things to my friends. And some people do believe him.

In contrast, Robert has been able to maintain credibility, at least among some in the community, who find it easy to sympathise with him. As Claire told us, he is:

A six foot three man who cries, and who has [supposedly] been abused by me, and who suffers from rejection, and whose mother has just died. He tells a good story and people believe him. He is talking to everyone telling stories.

To some extent, Claire even became isolated from her family. They got sick of the whole business. When flowers arrived in the house, they would comment, "Oh, has there been another drama?" As noted above, Claire's son was put in the position of having to help manhandle Robert off the property. Claire's daughter was put in the position of knowing about Robert's relationship with another woman and having to decide whether to tell her mother. Inevitably, such events put a strain on family relationships.

Mostly, however, Robert's domestic violence has had a devastating and enduring impact on Claire. In her worst moments, she has felt like she wanted to die. At other times, she has considered leaving the country and changing her identity.

Part of me says, "Stay for the children." The other part says, "How dare anyone control my life?" But now that he has his firearms back I have taken different routes than I normally take. The counsellor said, "Claire, it's about you taking control and putting safety measures in place." So I don't go bush walking anymore and think everything through, and now it's becoming a part of my life. I had to learn to lock the house, lock my car, take my cell phone everywhere ... I carry a hand-held alarm ...

The counsellor said to lock my bedroom door and pull the curtains which I never use to do ... I don't go to cafes that I use to go to, I go to different ones. I [ask] people to pick me up if I have to go out at night – we don't have taxis in [this town].

In many ways, Claire has come a long way. Although she is “shock[ed]” and “angry” at the discharge of her order, she also feels much stronger than she was. She has a very clear analysis of what has happened. She is determined to speak out so other women can be spared what she has endured.

Elizabeth

Among other things, Elizabeth's story is about the challenges facing battered women with mental health problems. Her story involves not only her interactions with the Family Court, the District Court and the police, but also her interactions with the mental health system and Child, Youth and Family (CYF). In addition, staff of a domestic violence agency have worked extensively with Elizabeth and, to a lesser extent, her partner, Stephen. Work and Income, Strengthening Families, a drug and alcohol agency and a non-statutory social service organisation have also been involved. At the time of writing, the concerted efforts of several of these services had finally succeeded in providing some respite for Elizabeth: Stephen has been sentenced to six months' imprisonment. However, it has taken five years of relatively ineffective intervention to reach this point, and Elizabeth continues to face an uncertain future.

Background to the Relationship

Elizabeth's first dealings with the mental health system occurred when she was 22 years old. She was admitted to hospital after overdosing on Panadol. She had just broken up with a boyfriend. Over the succeeding years, she has had several spells of inpatient treatment and has been variously diagnosed with depression, personality disorder, drug dependency, drug-induced paranoid psychosis and adjustment disorder. She has had eight treatments of electroconvulsive therapy. Her mental health status is inextricably bound up with her experience of violence. Stephen has both exploited her mental health problems and contributed to them. It has been a vicious cycle, both metaphorically and literally.

Elizabeth is the mother of two boys. Fulton is six. Lucas is two. Stephen is the father of the younger, but not the older boy, who was a few months old when Elizabeth's relationship with Stephen began. She was 30 years old and Stephen was about six years older.

For his part, just before meeting Elizabeth, Stephen had recently had a long-term relationship end. As was to happen to Elizabeth, Stephen's earlier partner had been abused, harassed and manipulated for a number of years. Two children were born in this earlier relationship. Both came to CYF's attention. Because of his violence, Stephen has no access to them. He also had a protection order against him. He had been convicted of breaching that order, and of two charges of male assaults female. For these offences, he had been sentenced to periodic detention. He had been directed to undertake a stopping violence programme but had not completed it. He was not prosecuted for failing to complete the programme. However, he had been prosecuted for other offences. By the time Elizabeth met him, Stephen had numerous convictions for other assaults, traffic offences, dishonesty offences, and drug offences.

The Beginning of the Relationship

Initially, Elizabeth got to know Stephen's mother. The women were neighbours in temporary supported housing. Against the regulations, Stephen's mother sometimes let him stay in her unit. He soon struck up a relationship with Elizabeth. In retrospect, she believes that Stephen singled her out as someone he could control.

While initially charming, Stephen's propensity for violence soon became apparent. Elizabeth recalled that the first assault happened one night when Elizabeth did not want to have sex.

... and that's when I found about the abuse ... because he didn't get what he wanted. [He] grabbed me by the hair. Fulton was asleep, [he] dragged me into the dining room, smashing my face up, pulling my hair.

In another early incident:

... my brother went overseas and bought a bottle of Jack Daniels for me so they were drinking that. [He] turned the stereo up loud, really loud, and I said, "Look, you're gonna wake Fulton up." He said, "Oh noise is good for babies, they can't sleep silently." So I turned it down and the next minute he grabbed me and dragged me out the back door with a screwdriver and then started threatening me and punching me and [my brother] waited till Stephen went to the toilet and said, "He does this. Just do as he says. It's just the alcohol." And yeah, no more was said after that.

With two exceptions, the early violence was not reported. In retrospect, Elizabeth feels that one of the main reasons she did not call the police is that she was worried that CYF would take Fulton into care. Ironically, this is exactly what was to happen.

The Protection Order

A little over one year into the relationship, Elizabeth was granted a protection order, *ex parte*. She made the application largely because of pressure from a CYF social worker concerned about Fulton's safety. However, the order appears to have made no difference to Stephen's behaviour, nor to Elizabeth's safety. Neither has it meant that Elizabeth has been able to keep Fulton who was taken into foster care. When Lucas was born, about a year after the protection order was made, he too was taken into care. At the time of writing, both boys remain in foster care and Elizabeth has only infrequent, supervised access to them.

In overview, during the four years the order has been in force, Elizabeth has been continually harassed and assaulted, been the subject of numerous calls to the police, made several attempts to take her own life and undergone various periods of in-patient psychiatric treatment. For his part, Stephen has mostly escaped the consequences for his actions. This includes not being prosecuted for failing to complete the stopping violence programme to which he was directed under the terms of the protection order. On those occasions when he has been arrested and charged for assaulting Elizabeth or breaching the protection order, Stephen has mostly escaped conviction by intimidating her so that she declines to give evidence against him.

Tactics of Power and Control

To understand how Stephen has mostly escaped the consequences for his violence requires an analysis of the tactics of power and control he has employed against Elizabeth and the way those tactics were "read" or, more accurately, "misread", by those whose responsibility it is to intervene. Those tactics encompassed serious physical and sexual violence, a sustained campaign of psychological abuse, threats, economic exploitation, intimidation and the use of children – and others – to further ensnare Elizabeth. At the same time, he was able to minimise his violence (sometimes with the help of others), blame Elizabeth for what was happening and present himself, to her and others, as a loving, devoted partner.

The physical violence described above was just the beginning. For example, a POL400 form⁹⁷ records, "Stephen grabbed Elizabeth around throat. Smashed her head against wall 6 times.

⁹⁷ This is the standard police Family Violence Report form which officers are directed to complete for every incident of family violence. It is used to record information about the complainant and offender, details about the incident and the action taken by the police.

Fractured skull.” Elizabeth recalled that Stephen is shorter than her and when he grabbed her throat, he would push upwards so that she would have to stand on tip-toes to be able to breathe at all.

In a statement to police, Elizabeth recalled:

One night, Stephen and his sister were present They were in the garage having a few drinks and having some P and Stephen then went inside and lost in it in the bedroom, started kicking me on the floor, hit my heard on the boom box, dragged me [full length along the floor] with my hair down the hallway and through the kitchen ... That is why I kept cutting my hair short.

On other occasions, Stephen dragged Elizabeth around the house with a rope around her neck. Once, when asked by a detective, “What sort of hitting has there been?” Elizabeth replied:

Um, grabbing my arms, suffocation, punches in the eye, in the chest. He would hit my airways ... I don't know where it is but he would just stab that hard that it would get my airway and I couldn't [breathe], yeah. And I remember one time – I wasn't pregnant, but he had intercourse with me that much that I had a read raw thrush and all this burning sensation and I had to have baths cause he wouldn't stop. He would just carry on.

As the last instance suggests, physical violence often accompanied sexual violence. Stephen would watch pornographic videos and then insist that they copy the behaviour shown on the video. Stephen sometimes continued to watch pornography while they were having sex. On at least one occasion, Stephen and some friends watched pornographic videos together before he put a rope around Elizabeth's neck and insisted that she allow his friends to do to her what they had watched actors in the video doing.

Such physical and sexual violence did not occur in silence. As is typically the case, Stephen would tell Elizabeth why she “deserved” beatings. Sometimes, he said it was because she was a bad mother. Sometimes it was because she was a “whore.” Police and other agency records have many references to Stephen calling Elizabeth “useless”, “crazy”, “fat bitch”, “mental” and similar terms. Encouraging Elizabeth to think of herself as crazy seems to have been a key part Stephen's emotional abuse.

About 16 months after the protection order had been granted, Stephen began to exploit a new angle in his emotional abuse. Elizabeth had become pregnant with twins but, probably as a result of a car accident, she went into premature labour and the children were stillborn. Thereafter, he would frequently blame her for their deaths, despite the fact that he was driving at the time of the accident. As she told a detective, Stephen “would always blame me for the girls dying ... [He'd say] that I murdered them.” Moreover, Elizabeth's grief about the twins seems to have made her more vulnerable to Stephen's manipulations.

Stephen increased Elizabeth's vulnerability in other ways. He would withhold her psychotropic medications and make her take illicit drugs. On one occasion, he held a razor blade to her throat to make her take P (methamphetamine).

Threats were commonplace. For example, Elizabeth's mother recalls a time when Elizabeth rang in a panic.

She was screaming over the phone from her flat, and said, “Mum, mum, can you help me?” and I said, “What's the matter?” We could hear this voice in the background screaming, and I said, “What's wrong with Fulton?” and she said, “He's frightened. Stephen's threatened to kill me.” And I said, “Why? What's happened?” and she said, “I dunno, he's just threatening to kill me.” She said, “Can you help me?” And then the next thing I heard this voice, and it was his, and through the phone I heard him say, “effing ****, I'm gonna cut your effing throat like this.”

He made explicit threats against Elizabeth's parents. As discussed below, threats were one of the main mechanisms by which he escaped prosecution. Often these threats involved the children. For example, Stephen phoned Elizabeth during one of her periods in the psychiatric ward. At the time, Stephen was facing charges of male assaults female and breach of the protection orders. Elizabeth later told police:

He was ringing to ask me if anyone had come to see me about going to court next week. He said that I won't get my fuckin kids back because I'm mental. I started shaking when he said this. He makes me feel that's what I deserve. He kept saying to me to get my fuckin act together and I'll never get my kids back. He said once these charges are dropped we can move out of town and get things sorted out.

Elizabeth did not give evidence and the charges were dropped.

Stephen used the children in other ways. After assaults, Stephen would sometimes leave but come back and say it wouldn't happen again and "then get close to Fulton. You know what I mean? He'd use Fulton as his ally more or less. I know it's horrible to say but Fulton did get close to Stephen."

Economic exploitation was another tactic. After Elizabeth was allocated a state house, Stephen arranged things so that she moved in with his mother. This allowed him to let her house out to his mates. They damaged the house, getting Elizabeth into trouble with Housing New Zealand. Later, while he and Elizabeth were living together and receiving a joint benefit, he kept her credit card and gave her only \$10 per week. He sold her furniture and her car and kept the money. He bought cars in her name, forging her signature, and let her take the liability for parking tickets. He ran up huge toll bills on her phone. Elizabeth was adjudged bankrupt in respect of debts incurred by Stephen in her name and still cannot get a land line because of her credit rating with Telecom.

Minimisation, Denial and Blame

Like many batterers, Stephen is adept at minimising his violence, denying it, or blaming Elizabeth for it. Some of this is evident in one of several letters he wrote to Elizabeth while she was in hospital.

Well Elizabeth if you really loved me you would have kept yourself together when you first went to the HBC so you could have come home instead of making things worse. Just because you couldn't ring me you don't fight to defend me. You just let them down me. I always stuck up 4 you always.

On another occasion he wrote:

How are you. Just a short note to let you no that I love you and need you in my life as you are the best thing that has ever happened to me. I no things have been weird as I am very stressed and I need you to come home and help me fight for our children. I can't do it alone. I have a house sorted out for us at [town]. A new start and I would like to marry you two weeks after you come home as I love you very much. I miss your smile. I love waking up with you beside me every morning. I will never go anywhere without you as I will never leave you at home alone ever again. I am sorry. I love you. Please come home soon. I feel so lonely without you and I miss your smile. You are the only girl I want in my life. There is nobody else, just you forever. I am faithful and honest to you forever. Don't ever doubt my love for you as it is real. I cry myself to sleep at night. I love you always, Stephen. ... We get your tubes untied and have another baby in a new town where SYPS [sic] can't find us because you are so beautiful when you are pregnant ...

The minimisation and denial of the violence was reinforced by Stephen's mother, with whom Stephen continued to live during much of the relationship. On one occasion while they were at Stephen's mother's house, she intervened briefly while Stephen was beating Elizabeth, but only to tell him to "tone it down a bit" in case he woke the grandchildren who were staying there at the time. If Elizabeth had bruises on her arms, Stephen's mother would tell her to put long

sleeves on if somebody was expected to visit. Another example of collusion concerned a time when Stephen's mother accompanied Elizabeth and Fulton on a visit to Elizabeth's mother. Elizabeth's mother noticed:

... a big bruise on her arm. I asked her, "What's happened to your arm Elizabeth?", and she said, "Oh, I just walked into the side of the door." And then I looked down, when she sat down, and as her trousers rose I could see she had another big bruise on her leg. I said, "What's that on your leg?" and [Stephen's mother] straight away spoke up, "Oh, she fell into a tree." And I said, "[name], if she'd fallen over a tree her legs would be scratched not bruised, and her arm would be scratched, not bruised." And she said, "Oh yes, yes, she did, didn't you Elizabeth?" ... And Elizabeth didn't say anything, she just kept quiet. When [Stephen's mother] went to the toilet I said to Elizabeth, "You didn't fall over a tree Elizabeth did you? Who did that?" and she said, "Stephen did it." So that was the first stage of it.

Thus Elizabeth's mother has known about the violence from early on in the relationship. She has been very supportive of Elizabeth. Others who have been in a position to intervene have read Stephen's tactics in quite another way. One tactic, which is particularly important here, is Stephen playing the victim. He made at least three 111 calls himself and an associate made another call. The POL400 for each of these four calls records Stephen as the victim. In two of these cases, Elizabeth is referred to as "1M" and "slightly 1M" respectively, 1M being a code indicating a mental health problem. On one of these occasions, Stephen claimed Elizabeth was trying to kill him, attributing her behaviour to the pills she was taking. On another occasion, when shop owners became concerned about Elizabeth, Stephen portrayed himself as her caregiver.

Stephen's tactics of presenting Elizabeth as the problem are well documented in another incident. On this occasion, police visited to carry out a "welfare check" in response to a call from Elizabeth's mother. According to a police job sheet, Stephen answered the door. He told the police that Elizabeth was in the shower. Leaving the police at the door, he went inside apparently to talk to Elizabeth. When he returned to the door, he told the police that Elizabeth was trying to kill herself again. Leading police into the house, he picked up a broken picture frame and told the officers, "This is what she does, ya see. She broke this and has the glass." One of the officers found Elizabeth in the toilet. She was upset and said that she didn't want to go to jail. As recorded in the job sheet, the conversation went as follows.

Q: Why do you think I want to take you to jail?

A: Stephen told me you are going to arrest me and take me to Mt Eden.

Stephen responded by saying "No I didn't babe. I said that I was going to call the Police so they could take you to the hospital. You're sick babe. You need help.

On this occasion, Stephen's tactics were unsuccessful, at least initially. That is, Elizabeth was interviewed alone. Stephen was arrested and charged on two counts of injuring with intent. However, in the longer term, Stephen prevailed. Elizabeth declined to give evidence and the charges were withdrawn.

Avoiding Conviction

Stephen had charges against him withdrawn under similar circumstances on four occasions. Each time he was able to apply pressure through phone calls, letters or direct contact. On one occasion, he utilised an associate who was in the same psychiatric facility to which Elizabeth had been admitted. He engineered for the associate to transfer to the same ward as Elizabeth, the better to intimidate her. Another time, it was his mother who acted on his behalf. In this instance, not long after the death of the twins, Elizabeth did attend court to give evidence. Just before the hearing started, Elizabeth went to the toilet. She was accompanied by a court victim advisor. On the way, Stephen's mother intercepted her and handed Elizabeth an envelope, telling her that "These are what you wanted." Inside were pictures of the twins, with their footprints and

handprints, and written on the back was “Elizabeth, don’t do this, I love you” and Stephen’s phone number.

The hearing began and Elizabeth took the stand. She was very fragile. A women’s advocate sat in the line of vision between Elizabeth and Stephen. Elizabeth managed to give her evidence in chief, but became increasingly distraught under cross-examination as the defence counsel began to suggest that she had something against Stephen. The judge called for an adjournment to see defence and prosecution counsel in chambers. Afterwards, the prosecutor explained to Elizabeth that the defence were going to argue that she was being vindictive: that she blamed Stephen for losing the twins and the charges were her way of getting back at him. According to the advocate, “Elizabeth just crumbled.” She did not want to go on and the charges were withdrawn.

Successful Prosecution

However, there were two occasions when Stephen was convicted for offences against Elizabeth. These convictions resulted from proactive policing in the context of effective inter-agency collaboration, which included Stephen being identified by police as their “number one target” in respect of family violence offenders.

One of the first steps was obtaining a warrant to search Stephen’s property for evidence relating to both drug and domestic violence matters. The search produced forensic evidence relating to assaults (damage to doors, blood stains, as well as letters from Stephen to Elizabeth) and afforded an opportunity for police to talk to Elizabeth – and to take her to the Psychiatric ward. Although no domestic violence charges resulted from this search, it did uncover evidence relating to Stephen’s use of drugs, leading to him being convicted and fined \$350.

Over the next few months, police and women’s advocates, along with staff from mental health services, social services, child protection services and drug and alcohol services worked closely together – and with Elizabeth. There were several multidisciplinary, multi-agency case conferences. A compulsory treatment order was made. A detailed statement about the violence was taken by a woman detective. Plans were made for Elizabeth to enter supported accommodation. Counselling was arranged. Women’s advocates kept in close contact with Elizabeth.

The plans made did not always work out. For example, Elizabeth walked out of a drug and alcohol residential service, apparently at Stephen’s urging. But the increased level of collaboration began to pay dividends. For example, while Elizabeth was in the psychiatric ward, a staff member overheard Stephen making threats against Elizabeth in the course of a telephone conversation. The breach was reported, and although it was not prosecuted, Elizabeth’s calls were thereafter screened to prevent him from contacting her.

Stephen was convicted for breaching the protection order on another occasion. Elizabeth had telephoned him to arrange the return of some property. During the conversation, he threatened to kill her parents. Elizabeth made a complaint to the police.

The police located Stephen at his house. Elizabeth was there. During the initial conversation with the police, Stephen admitted making the threat but said that he would never have carried it out. He was arrested. He pleaded not guilty and was remanded for a defended hearing, on bail, with a non-association order in respect of Elizabeth

Three weeks later, Stephen was stopped during a routine vehicle check. Elizabeth was in the back seat. In response to a question from the police, Stephen said his passenger was “Tanya.” When “Tanya” was asked to provide her name and date of birth, Stephen mouthed a date of birth which she repeated. But good use of police intelligence meant that staff at the check point rang a member of the Family Safety Team who was able to describe Elizabeth. Stephen was arrested for breaching his bail conditions and remanded in custody.

Elizabeth was really worried about having to give evidence in the hearing but, in the end, she did not have to. The prosecutor managed to get Stephen's statement acknowledging the threat admitted as evidence. As a result, Stephen changed his plea. The judge, taking into account that Stephen had spent three weeks in prison, sentenced him to nine months' supervision, with special conditions relating to drug and alcohol counselling and attending a stopping violence programme.

Stephen did not begin the programme, being arrested again two months later for an assault on Elizabeth and a breach of the protection order. Again, he pleaded not guilty, but this time he was remanded in custody until the defended hearing. For this hearing, Elizabeth was subpoenaed to appear as a witness and a request was made for her to be screened from Stephen while giving evidence. The request was declined, but a woman's advocate sat in the court in the line of sight between her and Stephen. According to the officer in charge of the case, Elizabeth "lost it" only when Stephen mouthed at her "I love you."

Stephen gave evidence in his defence. In delivering his verdict, the judge made it clear that he preferred Elizabeth's evidence. Stephen was convicted and sentenced to six months' imprisonment, to be followed by six months' supervision, with special conditions relating to drug and alcohol counselling and attending a stopping violence programme.

Reflections

Stephen is a serial abuser. Domestic violence agency records show that he abused and manipulated his previous partner in a manner very similar to the tactics he employed against Elizabeth. The most significant consequent he faced for his violence in that relationship was three months' periodic detention. Twice ordered to undertake a stopping violence programme, he failed to complete either programme, without facing any consequences. We do not know how Stephen viewed these experiences but the state's response to his violence clearly failed to deter him.

Stephen moved on to Elizabeth. Undoubtedly, her mental health problems contributed to her vulnerability to abuse in at least two ways. Firstly, they made it easier for Stephen to exercise power and control over her. Secondly, they provided scope for Stephen to present Elizabeth as the problem, not his behaviour. Moreover, the abuse and the mental health problems became inextricably intertwined in that the abuse appears to have exacerbated the mental health problems. This simultaneously made it easier for Stephen to abuse Elizabeth and evade the consequences.

Stephen may move on to other women. He recently registered on an internet dating website as:

... easy going and fun to be with ... happy easy going guy who loves life and would like to find someone to share it with ... I want to fall in love and be happy forever, committment [sic].

Stephen is a master at impression management. Too often, other people, including police, have been taken in. When they were not taken in and Stephen was arrested, he was often able to avoid conviction by intimidating Elizabeth. Among other things, this case illustrates the importance of ensuring victim-witnesses are well protected and supported.

On the positive side, this case also illustrates the difference that close interagency collaboration can make, and the crucial role of victim advocacy in that collaboration. The close cooperation of police, women's advocates and health workers helped to ensure that Stephen did finally face consequences for his violence. Furthermore, good investigative techniques meant that, on one occasion at least, a conviction was obtained without the need for Elizabeth to give evidence. Prosecuting abusers without reliance on victim testimony is certainly one strategy of circumventing the intimidation of victim witnesses.

More speculatively, the case raises questions about the role of child protection. Elizabeth apparently applied for her protection order as a result of pressure from CYF. Subsequently, CYF took Fulton, then Lucas, into care. In some ways, Stephen benefited from the situation as Elizabeth understood that reporting his violence would see the children removed. Following an early breach of the protection order, Elizabeth told a victim advisor:

I am also so afraid that [CYF] are going to take Fulton off me, because of all this abuse from Stephen. I don't want Fulton to see it either. I know that is not good for him. I had a mental break down last year and a lot of that has come from the mental and emotional abuse I get from Stephen. I have no self-esteem left and am very self-conscious around people. Stephen tells me that I am mental and no one wants to talk to me. I am a nervous wreck and feel afraid all of the time. I do my best for Fulton and I don't want him to see anymore of this abuse. I just want Stephen out of my life for good.

Whether Stephen is out of her life for good is uncertain. At the time of writing, he is only a few weeks from release, having served half of his six-month term of imprisonment. He undoubtedly remains a serious danger to Elizabeth and to other women.

Hilda

Hilda got a protection order against John without notice. This was shortly after she had been seriously injured by John. Hilda soon found herself fighting on several fronts. In the Family Court, she faced John's defence of the protection order made against him. In the District Court, she was a witness in protracted criminal proceedings against John. Hilda had to cope with John's breaching the order. She had to undergo various medical procedures in relation to her injuries. She had to cope with the symptoms of post-traumatic stress disorder. She lost her job as a consequence of John's assaults and fought for a just resolution in the Employment Court. And socially, Hilda had to counter John's attempts to undermine her credibility with her friends.

The Relationship

Hilda was born in Canada. She came to New Zealand with her two teenage daughters six years ago, following the death of her husband. She had no other family here. It was through socialising with other Canadians that she met John. By this time, she had been in New Zealand for about two years and had a senior position in tertiary education. John was in finance and very wealthy. Hilda was pleased to find a man with the same cultural background as her – it was like she didn't need to keep explaining herself.

The relationship lasted about 18 months. Hilda and John never lived together in the sense of a shared home, but John did stay at Hilda's place for lengthy periods. In fact, the way he moved in and took over Hilda's place was one of the things which alerted her to John's manipulative ways.

I suddenly realised, hang on, there is no space in the wardrobe. It's all his, and he has a key. He had made a copy of my key without my consent or my knowledge. I was expected to make the dinner and get up when he got up and yet I was also expected not to say anything when he did not come home. And if I did, I was looked upon as if I was trying to ruin his life. It was a really confusing time. I never knew where I was. I always felt like I was sitting on eggshells, [that] I was doing something wrong, and if I did put my foot down – and say this wasn't good enough, if he did want to go out with other women, then go, just leave me out of it – it always turned back on me. [He'd say] that there weren't other women and I was just paranoid and selfish and completely over the top and that I needed help.

However, it seems pretty clear that John was seeing other women. He “flirted outrageously”, asking for women's telephone numbers in front of Hilda. He made sure that he was out of earshot before answering certain phone calls. He got text messages which he obscured from

Hilda but she saw one which was sexually explicit and had a woman's name on it. He tried to explain it as being from a male colleague. In other words, commitment seemed like a one-way street. While John felt able to come and go and never contributed to household expenses, Hilda was expected to provide domestic and sexual services and to be accountable to him.

For example, when Hilda had to make a business trip at short notice, John was angry that she would dare to go away without telling him. He would go through her phone messages and dial the numbers of men listed in her cell phone. He would often drive past Hilda's office to check she was there. He didn't want her to take a new job which required her working in a different suburb, much further away from his office. He went "berserk" when an old boyfriend phoned Hilda on her birthday. He accused her of having affairs with tradesmen whose business cards he found in the house.

John tried to isolate Hilda from her friends. When she was meeting a woman friend, she would often invite John along simply to keep the peace. Once, when she went out to dinner with business associates, he drove past the restaurant and phoned her repeatedly:

I was embarrassed, I was mortified. And I don't understand why I didn't switch off my phone. He had me so on edge about proving that I wasn't doing wrong that I would make myself available for him, whenever he needed me to be, like I needed to, cause then he would see I wasn't doing anything wrong.

John was very judgemental:

I think he hated the way I spoke, the way I drove, I cooked ... furniture in my house. He hated my house. He constantly put me down. When I drove he would say, "Why are you changing gear now? Why are you driving this way?"

He would compare Hilda unfavourably with other women:

We would be watching television and there is that ad on TV where the woman does the Glad song, and I remember him saying, "That is the kind of woman for me. That's who I am looking for." It made me feel really terrible. Obviously there is something wrong with me ... He would drop in little things like that, and then talk about something else, and all I would be left with was, "Did I really hear that?"

Such tactics had Hilda doubting herself: "I constantly tried to make amends, to see what was wrong with me." In retrospect, she can see that John actually set this pattern up right from the beginning of the relationship.

He said to me when we first met that he had had terrible experiences with other women and they cheated on him all the time, and he thinks it's because he is too nice a guy, and too generous with his time and very considerate, kind and caring. And he is a bit frightened of women ... [so] I would put myself down so that he didn't feel bitter about things – so that I could let him see that it was okay.

In such ways, John could be very controlling and psychologically abusive, while simultaneously positioning himself as the victim.

John's violence became physical as well as psychological. Towards the end of the relationship, he assaulted Hilda twice. The first time, he got angry with something she said. He grabbed a pillow and pushed it down over her head. He grabbed her by the throat. Hilda had a sore neck for several days afterwards. The second time, Hilda was sitting on the floor when he got angry with her and picked her up by the hair and flung her across the room. He did so with such force that she had a sore head for days afterward.

Hilda consulted a counsellor and told her what was going on. "A relationship", said the counsellor, "should not be that hard." With the counsellor's encouragement, she began to assert herself but John's behaviour did not improve at all. Hilda called the relationship off but John

kept ringing. In one call, he said that he had had “a revelation” and wanted to commit to a relationship with her. She took him back but his behaviour remained unchanged.

Assault and Separation

One evening, while they were visiting friends in an apartment in the city, Hilda heard John receive a call from another woman. This happened just as Hilda’s daughter arrived to travel home with them. All three left the apartment with Hilda’s daughter going down the stairs first. As they followed, John asked Hilda why she was angry. Hilda asked him how he would feel if she was receiving calls from men. As they reached the foyer, John caught Hilda completely by surprise:

He grabbed me by the neck and smashed my head against the wall and started to throttle me. He banged my head against the wall again, and I thought I was going to die. His eyes went black and he looked like another person and he was, honestly, enraged. I remember self-defence 101, which was to knee him between the legs. I looked down to see where I was going to knee him, but when he saw what I was going to do, he head butted me and broke my nose ... He was still strangling me and he said to me, “How was that? Would you like another one?” I actually said, “Yes.” I remember feeling completely broken, thinking, “That’s it – it’s over.”

Hilda’s daughter, having already gone out the door, did not see the attack but she heard the noise. Without a swipe card, she couldn’t get back in the door. She called out. Hilda tried to open the door but John stopped her. She realised that she had blood all over her face and clothes. She got her cell phone out to call for help. John insisted that she not call the police but offered to take her to hospital. Hilda called out to her daughter to call the police. At that stage, John let Hilda out the door. Hilda and her daughter went straight to the police.

John was arrested and held in the cells overnight. He was released on bail, with a condition that he not contact Hilda. He sent her a big bunch of flowers with a note asking her to marry him. John was arrested for breaching the conditions of his bail but released on bail again.

Hilda’s injuries were severe. It took two hours for the bleeding to stop. She had four stitches inserted. An x-ray showed a serious fracture. She was off work for three weeks. After the initial healing was completed, further investigation revealed that significant reconstructive surgery was needed. That could not be scheduled until the swelling went down. For four months, Hilda had to live with a painful, disfigured face. “When I wore my sunglasses, they collapsed into a hole.” She found it embarrassing to be out in public, and had trouble breathing – and sleeping – because of the complications. Undergoing surgery four months later was a further ordeal. “It brought all the horrors of him smashing my face back again”, and necessitated another week off work. There was more pain – and a scar – after the surgery.

The psychological impact of the assault was severe.

It was absolutely devastating that someone who told me he loved me treated me like that. It has totally shaken my faith in humankind.

Hilda got a friend to move cities to come and live with her, so nervous was she about living alone. To make matters worse, a friend of John’s kept ringing her to encourage her to reconcile. She felt “panicky, upset and fearful.” Not surprisingly, she was assessed as meeting the criteria for post-traumatic stress disorder. She found it “embarrassing” to go to work and felt “mortified” having to explain her injuries to colleagues.

The assault, and John’s behaviour before and after, had a significant economic impact on Hilda. Initially, on her doctor’s recommendation, Hilda had three weeks off work. Later, when she was in the middle of proceedings in both the Family Court and the District Court (described below), she had to take some time off work to attend a meeting with the police. She rang her boss who was very irritated that dealing with such things was taking so much time. Hilda returned to work

after her meeting but felt very stressed. She went to her doctor, who recommended that she take the rest of the week off.

I phoned my boss and told her and she phoned my doctor, and she then sent me an email saying, "Actually we don't want you to come back." I rang her and said, "Please, I would rather not be in this situation either. I want to come back. I just need some time out." ... She sent me an email saying, "I've given a directive to the staff that I do not want you in this office. You are distracting to the other staff because of this personal issue you are going through, and until it is sorted, we don't want you at work."

Eventually, Hilda lost her job, and although she subsequently won an Employment Court case against her employer, she was out of work for six months and when she did find another position, it was at a substantially lower level.

Getting a Temporary Protection Order

A Women's Refuge worker who rang her after John's arrest suggested that Hilda should think seriously about getting a protection order. She consulted a solicitor who prepared an application. Four days after the assault, Hilda had her protection order granted without notice to John. Both of Hilda's daughters were included in the order.

John began breaching the order almost immediately in "really insidious ways." For example, he was waiting at a bus stop when Hilda went to pick up her daughter from work. He was standing at a bus stop outside her other daughter's workplace when Hilda went to collect her. As Hilda noted, "This is a man who drives a Mercedes and I've never seen him catch a bus in my life." He approached one of the girls while she was walking down the road and told her that she needed to "talk sense" to her mother to get her to resume the relationship. On another occasion, John passed four cars to get in front of Hilda while she was driving.

Hilda reported some of these breaches to the police. John was given a formal, written warning.

John maintained pressure on Hilda in other ways. He told friends that Hilda had had him arrested for sending flowers. He told other people that he and Hilda were "soul mates" and were going to be married. He phoned some of Hilda's friends seeking their support. He sought counselling from the Family Court. Hilda declined to participate. Then, just a few days before the temporary order was due to become final, John filed a defence.

Getting a Permanent Protection Order

John's defence of the order became another way of further abusing Hilda. He filed various affidavits, both from himself and from some of his friends. The affidavits made various allegations against Hilda; that she was aggressive, that she was a drunkard, that she was mentally unstable. Reflecting on the process later, Hilda said:

Receiving these many affidavits was very traumatic for me and my family and I was the person who was put in a position of constantly having to defend myself on a personal level while still trying to hold together my family and my job.

Hilda had to prepare another affidavit. This outlined some of the incidents described above and addressed some of the allegations made in John's affidavit. Because John's affidavit completely minimised the assault for which he had been charged, Hilda submitted relevant police job sheets and detailed medical reports, including an assessment showing that she was suffering from post-traumatic stress disorder. Several friends submitted affidavits in support of her, as did one of her daughters. They did this because they were concerned about the negative, incorrect impression that John was trying to create about her. John's lawyer insisted that all of these people be available for cross-examination, a request which delayed the hearing. They, and Hilda, were extensively cross-examined.

His lawyer questioned me 90% of the time about incorrect personal traits of mine which were reported by the judge in his report to be blatantly untrue and made up. I found the questioning to be abrasive and personally interrogatory, and not about the physical attack or chain of events. This was brought up by my lawyer in her summing up but the fact that we were in court for two days for the protection order case and I was not questioned on the assault but was grilled about my personality was bizarre and ludicrous. My teenage daughter was also grilled in this way.

Being cross-examined and having to defend herself was not the only the challenge. Hilda found the hearing intimidating in other ways.

John kept on winking at me, showing how clever he is, that he could get away with that. Every time the judge turned away [to talk to the lawyers] he would turn around and wink at me. I felt completely intimidated. The victim support person was fabulous. She did offer for us to go and wait in a safe room. My daughter said, "No way – I'm not hiding from anybody."

A week after the hearing, the judge delivered his decision. Hilda got a permanent protection order. Costs were ordered against John. Although the outcome of the hearing was positive, the process had been very gruelling.

Criminal Prosecution

Meanwhile, the prosecution against John was proceeding slowly through a series of status hearings. Again, it seemed like he was engineering delays.

Initially, John was charged with male assaults female but after considering the seriousness of the assault, the police laid an alternative charge of assault with intent to injure. This was later withdrawn after John pleaded guilty to the lesser charge of male assaults female.

The withdrawal of the more serious charge really worried Hilda. Not wanting to have to give evidence, she agreed with an amended summary of facts but after thinking about it, she went back to the police to talk it over again. She was worried that reducing the charge might undermine her case in the Family Court. In the end it didn't, but was a very worrying, stressful time for her.

While John pleaded guilty to the lesser charge, he disputed some of the facts so that a hearing was held to consider evidence relating to the seriousness of the assault. John's lawyer argued that grabbing Hilda had been an instinctive reaction on John's part to hitting his head on the door after she had opened it on to him. Again Hilda found herself in the witness box being cross-examined by John's lawyer. Again, she found the process harrowing. The judge, however, did believe her, finding "that the incident occurred very much as the complainant claimed it did."

Almost a year after the assault, John was finally convicted and sentenced to 150 hours, community work. In addition, he was ordered to pay \$3,000 reparation to Hilda. John appealed against both the conviction and sentence but his appeals were dismissed.

More Breaches

John has continued to breach the protection order by contacting Hilda. Twice he has been charged for such breaches. Police records show that he was first charged for breaching the protection order six weeks before the final hearing on the assault. The breach related to events in which John was repeatedly found to be waiting in places where and when he knew Hilda would be there. John denied the charge. Hilda and her solicitor discussed the issue. Hilda did not want to give evidence. She was exhausted from the other proceedings and all the other things which were happening. It was thought that perhaps John would be learning his lesson from the prosecution that was in progress against him. The charge was withdrawn.

The second charge related to an incident which happened after a period during which Hilda had not heard from John. Then, out of the blue, she encountered him while she was walking down town.

He was walking the other way, and he saw me, and I just carried on walking, went to my client visit, and walked back again, and he was still there ... I remember thinking, "Oh my god, what bad luck that it is to see him twice in one day." A few seconds later my cell phone rang and it came up private number, and my home number is a private number, and I expected it to be my daughter because we had arranged to meet for lunch. It was him. He said to me, "I don't appreciate you stalking me", in an angry, vicious tone. I just put the phone down straight away. I never spoke and I called the police straight away. I was back in complete hysteria. I felt so vulnerable. I thought, "Oh my god, I'm not safe in any way whatsoever." It frightened the life out of me. Not only did he have my number but he made the effort to track down my new private cell phone number that I never gave to anybody other than friends, and I didn't know how he got it. Not only that, but *why* did he get it? I felt like getting on a plane right then and there and getting out of the country. But I thought, if I leave the country I have no protection order and I could be worse off ... I felt like walking in front of a bus. At that stage, I seriously contemplated suicide. I didn't know how I steered away from it.

Hilda walked into the nearest police station, but "Reporting that breach was really hard ... I felt awful. I thought, 'Oh my God, not again'." She was shown into an interview room but had to wait 20 minutes. When an officer came to interview her, he asked her to "Start from the top."

I said, "Well I was walking down ..." but he interrupted and said, "No, no, no – from the beginning." I said "What?" He wanted me to tell him every breach, every assault. I told him, "I can't do this." I was crying so much he called the sergeant in ... [The sergeant] said, "Look I'm really sorry. I know this is hard for you but we have to get this in context." And I said, "Don't you have computers?" I thought, I spent two years trying not to think about this guy and you want me to dredge the whole thing up again.

Hilda's reaction was consistent with that of people experiencing post-traumatic stress disorder. Typically, they are troubled by thoughts and images of the traumatic event. They may, in effect, relive the event, even to the point of experiencing some of the physical reactions associated with it, such as breaking out in a sweat and having their heart beat very fast. They typically try not to think about the traumatic event, and try to avoid activities, people, or places that remind them of it. Certainly, the police interviewing Hilda needed some background information, including sufficient details for them to locate a record of the protection order. But their approach to the interview failed to address Hilda's immediate needs and may well have helped to trigger some of the reactions associated with serious trauma.

The police did get sufficient information to follow up the matter. At ten o'clock that night, Hilda received a call from a police officer who had talked to John. The officer said John had denied making the call to her. He asked Hilda what she wanted to do about it.

I said, "What do you mean, what do I want to do about it? He has breached the protection order and I was told that I have to report every single breach" ... This policeman said to me, "Well you know, in the greater scheme of things, it's only a phone call. It's not a big deal is it, really?" It went through my head that if I go hysterical here, he is going to believe what [John] tells everyone. So I have to hold myself together, and I said, "Hold on a second. To you it may be one phone call – to me it is one in a chain of events."

Police traced the call made to Hilda's cell phone. It had come from John's phone. He was charged with breaching the protection order. Initially, he pleaded not guilty, but subsequently changed his plea to guilty. Almost a year after the breach, he was fined \$400.

Another year on, and John has breached the order again, this time by sending Hilda an email. She described the content as "rubbish" poetry:

Except for the very last line that said, he doesn't know what he did wrong, nor does he care, all he needs is something, something from the pretty rose. He still doesn't believe what he has done, and he is still testing the waters to see if I want him back. What went through my head is, "If I don't report this, the breaches might escalate" which I have seen happen before. "If I do report it, I have to go through the whole process all over again."

In the end, Hilda decided not to report the breach. Going through another court case seemed just too much. After all, she had already lost one job through missing work to deal with earlier proceedings against John.

Without actually breaching the protection order, John continues to harass Hilda by trying to undermine her with her friends. For example, Hilda received a report that John had been telling people:

How fantastic I was and how this thing [the assault] had happened, and that I had been mistaken, but it doesn't matter, because he will forgive me because we are meant to be together. He and I are like peas in a pod, and it takes him a long [time] to get over something like this, so he is prepared to wait for me to get over it. He understood that I had made a mistake but that was okay – he will forgive me.

Reflections

Despite all the challenges, faced with the same situation again, Hilda would still get a protection order. There are some positives in her story. Hilda got a temporary protection order without notice. While the process of getting a permanent order was very stressful, she did succeed in the end and found the judge who presided over the hearing to be "fantastic". The Family Court handed down a comprehensive judgment and did so very quickly after the hearing. Hilda attended a protected persons programme which she found to be "really restorative and helpful." Also helpful were Women's Refuge, some of the police officers Hilda dealt with, the lawyer who represented her in the Family Court and the victim advisors.

However, Hilda was very upset by her experience of the courts.

The court is where I felt completely and utterly vulnerable, and completely unsupported and alone – whereas he, as the defendant, had a lot of support and he had rights ... It was very stressful. I wanted to fall apart. I felt like my whole body is stripped of skin and you are completely and utterly out there on your own. And somebody touches you – that's how I felt. I couldn't show that to the outside world because then ... they would really believe what he is telling them – that I was a controlling woman. It was the weight of the world on my shoulders trying to keep it all together, while I was being attacked from every angle. I would say to people, "I understand that he has rights, and I'm okay with it, but what are my rights?" Not one person has ever been able to answer me. I didn't have any rights.

While some of these comments relate to both the Family Court and the District Court there were particular problems in the latter where Hilda was not a party to proceedings. Her value was only as a witness in support of the police prosecution. There was no one to be her advocate.

Hilda was fighting for her rights on several fronts. There were the proceedings in the Family Court. There were the proceedings in the criminal court. With an unsupportive employer, Hilda ended up losing a job and taking proceedings in the Employment Court. And, in the Family Court, she and her friends and acquaintances, had to continually counter John's lies about her and the relationship. Through all this, she had to manage her responsibilities as a sole parent.

Over and above the specific challenges in each of these areas, Hilda faced an additional problem; a lack of coordination. As far as she is concerned, the various professionals did not talk to each other. This was shown in her description of reporting a breach of the protection order. She had to retell her story to a succession of police officers. But she also had to tell her story to two lawyers, to the Family Court judge, to the District Court judge, to the Employment Tribunal, to

victim advisors, to her general practitioner, to the psychiatrist who confirmed the diagnosis of post-traumatic stress disorder, to her employer and to her friends. While there can often be a therapeutic benefit in telling one's story, having to constantly repeat it can be a source of intense frustration and distress, especially if traumatic memories are triggered in the process.

The lack of coordination was not only frustrating, it was disempowering and terrifying. After reflecting on the people who had helped her, Hilda commented:

But, none of these people could help me in totality and I felt completely powerless and terrified – that even the country was letting me down. They all agreed with me that what was happening was wrong but they were unable to do anything about it. This is a very frightening place to be.

We think Hilda's case provides a very valuable insight into the need for coordinated intervention in family violence. Coordinated intervention is now widely recognised as one of the keys to ensuring the safety of women and children and the accountability of perpetrators. Coordination is central to Te Rito, the Government's policy statement on family violence.⁹⁸ In the absence of good interagency collaboration, individual workers may be unable to address the sorts of gaps and inconsistencies in the system which have been implicated in the deaths of various women and children.⁹⁹ Here, Hilda has drawn attention to a more subtle but significant consequence of a lack of coordination. When workers are seen as "unable to do anything" to improve the situation, this can only compound the isolation and powerlessness of victims. As Hilda says, "This is a very frightening place to be."

But if Hilda's experience reflected a lack of coordination, what she saw happening for John seemed to be quite different.

I have been to all these people and they have been very helpful, but nobody talks to the other ones, so as individuals they are actually powerless. He [John] had an integrated approach because he had one lawyer, and this one lawyer was helping him with the Family Court and the District Court. I had [her lawyer] helping me in the Family Court because she was representing me, but I was only a witness for the police in the District Court. They don't talk to each other and they don't want to know.

Hilda was able to observe how John could exploit the lack of coordination to his own ends. He could tell one story in the Family Court and another in the criminal court. And he was able to delay proceedings, placing more pressure on Hilda.

It took an awful long time. He delayed and delayed. It took a year before we got through the court the first time. In terms of the Family and District Courts, it would be months and months. Psychologically, it was like a sword over my head all the time.

Hilda's relationship with John lasted 18 months: the effects of his abuse and his manipulation of court proceedings have lasted rather longer. Her injuries may have healed but she is still facing another procedure to remove scarring from her face. She has lost weight. She lives with the symptoms of post-traumatic stress disorder. She moved house because there were too many bad memories associated with the place she sometimes shared with John. Financially, she has faced the costs of lawyers' fees and those medical expenses not covered by accident compensation. She

⁹⁸ Ministry of Social Development. (2002). *New Zealand Family Violence Prevention Strategy*. Wellington: Ministry of Social Development. Retrieved 11 June 2006 from <http://www.msd.govt.nz/documents/publications/sector-policy/te-rito.pdf>.

⁹⁹ See, for example, Commissioner for Children. (2003). *Investigation into the deaths of Saliel and Olympia Aplin*. Retrieved 11 June 2006 from http://www.occ.org.nz/childcomm/resources_links/reports_publications. See also Commissioner for Children. (2000). *Final report on the investigation into the death of Riri-o-te-Rangi (James) Whakaruru, born 13 June 1994, died 04 April 1999*. Wellington: Office of the Commissioner for Children, and Robertson, N. R. (1999). *Reforming institutional responses to violence against women*. PhD thesis, University of Waikato. Retrieved 11 June 2006 from <http://www.nzfvc.org.nz/PublicationDetails.aspx?publication=12704>, Chapter 8.

lost her job and while the Employment Court awarded her \$15,000, she is now earning less than in the job she lost. There have been social costs too.

I've actually lost a few friends to this ... They would actually assume that it was me enjoying the hysteria, and that if you really want someone to leave, they would go. I would have probably thought the same thing before – if it hadn't have happened to me.

Hilda's hope is that it will not happen to other women. Like many of our participants, she reflected on being part of our research.

The whole situation has affected me and my daughters in many ways and if there is one positive thing that could change by [participating], then I would feel as if I haven't been through this for nothing.

Jess

Jess (35) got her protection order without notice. Thereafter, her experiences have not been positive. For several months, her ex-husband, Bruce (33), was able to avoid being served with the order. Subsequently, he was able to circumvent the order's promised protections (and consequences) and continue terrorising and psychologically abusing her. Bruce has exploited his position with Jess's internet service provider to abuse her. When this was discovered, his employer failed to take effective action and efforts to prosecute him have failed. The experience has left Jess frustrated and angry. She is contemplating complaint actions to the courts and to the Privacy Commissioner. She is left wondering what it will take to end his harassment.

Violence in the Relationship

Jess lived with Bruce for just over two years. Initially, there was little to indicate his propensity for abuse, but there was a change just three months into the relationship when Jess discovered she was pregnant. That was the first time he hit her – in the stomach. In this, Jess is not unusual. International research has produced estimates of the incidence of domestic violence during pregnancy as high as one in four, and pregnancy often marks the onset of physical violence.¹⁰⁰

Throughout the pregnancy we argued now and then and had small fights and scuffles but things didn't start escalating till after Jodie's birth. When I first started having contractions is when I noticed a definite shift in the way he treated me. I called out to Bruce that my contractions were getting painful and asked him for help but he initially ignored me and then shouted at me to leave him alone ... I remember being quite shocked as it wasn't the way I had expected to be treated when approaching the birth ... After that he changed from being nice and helpful most of the time with small outbursts every now and then to being abusive, with small lulls of nice behaviour in between.

Because Jess was seriously questioning Bruce's commitment to the relationship, in some ways, getting married seemed to Jess like progress. They married when Jodie was four months old, but things did not improve. In fact, Bruce got more verbally and physically violent. He repeatedly told Jess he hated her and that he wished she was dead. He would smash things around the house. Sometimes he would threaten to smash things which were particularly important to Jess. Frequently, he would kick and punch her quite randomly, for no reason that Jess could see at all. In one incident, she lost consciousness after being kicked so hard the force of it threw her backwards and her head smashed into a door. On another occasion, Bruce got upset with Jess

¹⁰⁰ Sanchez-Hucles, J., & Gamble, K. (2006). Trauma in the lives of girls and women. In J. Worell & C. D. Goodheart (Eds.), *Handbook of girls' and women's psychological health: Gender and well-being across the lifespan* (pp. 103-112). New York: Oxford University Press; Pallitto, C. C., Campbell, J. C., & O'Campo, P. (2005). Is intimate partner violence associated with unintended pregnancy? A review of the literature. *Trauma, Violence, & Abuse*, 6, 217-235.

while she was driving. He pressed his thumb into her eye and pressed really hard – it was so painful she worried she would lose the sight in that eye.

In the early stages, Jess's response was to fight back. "I felt it was okay to respond to threatening behaviour and actions with an offensive stance in the interests of self-protection." Twice, she punched Bruce after he had assaulted her. The second time she was so upset that she vowed never to do it again.

Partly because she was afraid that Bruce might use these two incidents against her, Jess did not generally try to call the police when he was violent. When she did try, he was usually able to prevent her from getting to the phone. On one occasion, she got through to the 111 centre but he managed to cut the phone off before she could talk to anyone.

Jodie was also affected by the violence. For example, on one occasion Bruce got violent while Jess and Jodie were taking a bath together. In his rage, he pounded the walls, screamed at them, and then poured jugs of cold water over them. Jodie started screaming. It was two months before Jess could get her to have a bath without immediately crying and wanting to get out.

Jess began to fear for her life and tried to end the relationship. She began to ask him to leave.

Towards the end of the relationship, Jess was raped by Bruce on two successive nights. She became pregnant. She did not want to bring a child into the world who had been conceived in such appalling circumstances so she terminated the pregnancy.

As Jess describes it:

By the end I felt as if I was living under a tyrant and sometimes hoped a horrible accident would befall him so he would finally be out of my life. I really felt entirely powerless to make him leave. I felt a prisoner in my own home, with him in control of everything.

Separation and Getting a Protection Order

Bruce did leave, but it took the support of a friend to get him to do so.

She saw how upset I was with things and took him to a hostel so I could have a break from him. I had been asking him to leave for months before this, as I needed to be left alone to recover from all the terrible things that had happened but he never would leave, despite the many promises he made to do so.

Moreover, as Jess later discovered, the night before he left, Bruce had installed a programme on her computer which recorded keystrokes. He was thus able to obtain her online banking password, and hence access to her account.

Bruce was back the next night, kicking the door and stomping around the house with a piece of timber, threatening to break the windows. Jess's friend called the police. A POL400 was completed. It recorded:

Husband wanted to talk to his wife. She wants him out. Witness [name] called police after threats to smash door. He left of own accord.

The incident was coded 1734 (speaks threateningly). The outcome: "reported only."

The next day, Jess consulted a solicitor and an application for a protection order was prepared. This was granted without notice. As her affidavit noted, Jess did not apply for a custody order because "Bruce has not done a lot of caring for Jodie and I do not believe he would want this responsibility."

Delayed Service and Immediate Breaches

It was three months before Bruce was served with the order. He had left town and there was no address at which he could be served. Bruce rang Jess repeatedly during this time. She took these calls:

So I could find out his address to pass on to the lawyer to pass on to the courts so he'd get served. It made it really hard for me because on the telephone he was all full of stories about how terrible things were for him, how he wanted to commit suicide, how he would be different this time because he realised what he had lost, and him trying to talk me into reconsidering getting back together with him because life was so much better with me.

At the same time, Bruce was running Jess down to others. He told them she was a liar, that she had taken his money, and that she had been violent to him. Some people began to shun her as a result. On the other hand, Jess told us, "It was good to hear from a few people that this was happening as I found it easier to resist Bruce's pleas to get back together."

Jess took her protection order with her everywhere. On one occasion, she encountered Bruce at a healing festival. He had known Jess was attending and had got work there looking after children. Jess went to the organisers, explained the situation and asked for help in getting the order served. They declined, instead suggesting that this would be a "great opportunity for Jess to heal her relationship with Bruce."

When the protection order was finally served, Bruce immediately breached it by writing to Jess, explaining that he pretty much agreed with all that she had said in her affidavit but that he had burnt it – and the protection order – because he didn't want anyone knowing about it, particularly Jodie.

I don't think it would serve any good purpose for Jodie to read that and see me in that way. There is so much more to me than the craziness left over from my parents and my life of being lost and whatever ... I burned up the paperwork as soon as I read it once, because I don't want anyone to find it and judge me and I wish that you would do the same to your copy so that my whole life is not ruined forever with no hope of ever moving past the terrible mistakes of the past.

Bruce did not burn everything.

I did save the Family Court's phone number, so that I can call them and arrange for me to go to a class here in [city], maybe I'll meet some nice, wife beating mates and we can go hang out at the pub after the class and talk about how crazy those fucking bitches are ... well if you could not tell I was joking there, but really, consider what it would feel like for Jodie if she grew up with that sort of perception of her father ... remember that kids process things very differently than adults would.

Attending the programme was one of the few ways he complied with the protection order. He wrote:

There is people in there who have REALLY beat their wives until their bones are broken, faces completely scarred for life and even a guy who says he raped his wife and cut her sex organs with a knife and these guys, every single one of them, except me – and this is a group of 30 men – every one of them goes home to his wife and does the little exercises and stuff and seems so happy that they are putting their life back together. It only makes me angry that they could do such truly terrible things and still have a chance of fixing things, whereas I did horrible things too, but I can't go home and do the exercises that the counsellors want me to do ... It just reminds me that I have lost everything that is important to me. [Emphasis in original]

Although Bruce apparently completed the programme, this has had no positive effect for Jess; it was just the opposite. It provided a reason for Bruce to contact her and cajole her into resuming the relationship. By enabling him to make comparisons with the other men on the programme, it provided him with another way of minimising his own violence to Jess. The culmination of this

was when he told her that the programme provider was so pleased with his response to the programme that they wanted him to train as a facilitator.¹⁰¹

Having the order served appeared to make very little difference to Bruce's behaviour. Despite being told not to call or email Jess, he repeatedly did both. There were numerous hang up calls. He was able to activate an old email account of Jess's and began using that. He found internet groups of which Jess was a member and logged on under an alias. He sent emails to Jess's friends pretending to be her.

Initially, Jess did not go to the police about Bruce's emails to her. She found the emails to be:

... disturbing, semi threatening at times, and in some ways minimising of his abuse of me. I found them to be quite destabilising to read. I never went to the police about these communications as invariably he would make sure to put something of a defamatory or insulting nature about me and I wondered if they would believe his interpretation of things rather than my own. I felt quite humiliated by some of the things he said. So I usually just ignored his emails.

But, as time went on, Jess did go to the police several times.

I never really got a response. They never did anything. It was like, "This isn't really serious" ... If it wasn't life-threatening, they didn't want to deal with it ... I have been told by other police that the courts have told them that they are only to prosecute breaches of the order that involve threats or serious offences as the courts are getting too clogged up with minor stuff.

What Jess has reported here accords with what our key informants have told us. That is, an extra-legal distinction is made between "real" breaches and "technical" breaches. "Real" breaches are those involving physical violence. "Technical" breaches are those which involve contact but no violence and attract minimal sentences, or more commonly, are not prosecuted in the first place. Such a distinction makes sense only if one has no understanding of the tactics of power and control respondents employ and is completely blind to the impact of psychological violence, including the terrorising effect of such unwanted and unlawful contact.

Later, Jess succeeded in getting the police to take the breaches seriously, as we describe below. In retrospect, she says that, initially, she simply wasn't strong enough to insist on the police taking action. In fact, from what she was later to tell a victim advisor, Jess appeared to be showing many of the symptoms of post-traumatic stress.

The [breaches have] not only been stressful, upsetting, frustrating, destabilising and costly for me, they have also triggered off many memories and feelings from the past abuse by Bruce ... I have had many terrifying nightmares on a regular basis. Nightmares about being stalked, spied on and physically attacked by Bruce. Sometimes the nightmares are situations from the past replaying in my sleep. Sometimes they mirror my feelings of being violated and unsafe because of this current incident. I wake in the night terrified and am unable to get back to sleep because my level of anxiety is so high on waking from them. This feeling of being unsafe and anxious has been very noticeable to me in my waking life also and I recognise it as a post-traumatic stress reaction. Loud noises startle me. I feel anxious that Bruce will find out where I have moved to, or my new phone number and will start harassing me or worse.

Attempted Prosecutions

Bruce returned to the city where Jess lived. She started getting lots of hang up calls. She installed a panic alarm. When Bruce got a job with her internet service provider, Jess was concerned about her privacy. She finally contacted the company to see if Bruce would have access to her address

¹⁰¹ We don't know if this was true or not. Either way, it served to minimise Bruce's violence.

and asked specifically if it was possible that he would be able to read her email. A supervisor then checked the computer logs. Bruce had been monitoring Jess's emails for about a year. That helped explain something else that Jess had noticed. Some of her friends had been asking her why she never responded to emails they sent her, but she had never received them in the first place.

Jess went to the police, "and fortunately for once I got a constable who actually listened to me." Records of Bruce accessing Jess's email account were obtained. During the period of the investigation, Bruce rang to tell Jess he was going overseas for a month. Jess reported that call to the police too.

In the end, Bruce was arrested and charged with three offences. The first two related to 36 occasions on which he had accessed Jess's email account. One charge was laid under section 249(1) of the Crimes Act 1961, namely accessing a computer system without authorisation. The second was a breach of the protection order by using psychological violence (in the form of reading and censoring her email). The third charge was a second breach of the protection order and related to the telephone call he had recently made. After a night in the cells, Bruce was given bail, with a direction not to contact Jess. He was, however, given permission to leave the country on a planned holiday.

Bruce pleaded not guilty to the charges, which were adjourned for a defended hearing. Jess was to give evidence but the hearing did not go ahead because Bruce failed to appear. A warrant for his arrest was issued. However, this was cancelled when he turned up later in the day.

Eventually, Bruce was convicted on just one charge, the breach of the protection order involving the one telephone call. On this, he was ordered to come up if called upon with 12 months. Effectively, it appears he faces no penalty for his many breaches.

Of the other two charges, one was withdrawn. This was the charge that involved a breach of the protection order by Bruce's accessing Jess's emails. The police withdrew this charge after reasoning that it would be difficult to establish Bruce's **intention** to cause psychological harm. They reasoned that because Bruce had not **intended** Jess to find out what he was doing with her emails, his actions did not constitute a breach of a protection order. This did not seem to have regard for how controlling and subsequently intimidating those actions were.

That Bruce's actions **caused** psychological harm is demonstrated by the stress and depression which she experienced when she discovered what he had been doing. The views of the police on the difficulty of showing that Bruce **intended** that harm appears at odds with a decision by the High Court.¹⁰² That case concerned an appeal against a decision not to grant a protection order on the grounds of psychological abuse. The applicant's description of the respondent's behaviour was largely accepted by the respondent but his counsel argued that these actions did not constitute psychological violence because the respondent had not intended that his behaviour harm the applicant psychologically, or indeed at all. Justice Hammond, after reminding the parties that the Domestic Violence Act 1995 is a "remedial statute which should be given a wide, liberal and expansive interpretation", reversed the decision of the Family Court and held that it was not necessary to read down an intentionality requirement in order for a respondent to commit psychological violence.

There are significant implications for protected persons if the approach that the police took in relation to Bruce's behaviour became a general policy. For example, it appears the threshold for abuse would not be met where perpetrators attempted to hide behaviour, such as peeping and other forms of surveillance, despite the psychological harm to the victim. Such a position would

¹⁰² *A v B* [1998] NZFLR 789.

severely undermine the intention of the Domestic Violence Act 1995 to “reduce and prevent” domestic violence “in all its forms” (section 5).

The police did proceed with the third charge but this was dismissed. This was the charge of accessing a computer system without authorisation. Here, the issue became whether or not Bruce had obtained a “benefit” from his actions.¹⁰³ Bruce’s lawyer admitted at the beginning of the case that if the term “benefit” was not restricted to “a material benefit”, then Bruce was guilty because he had committed all of the other elements of the offence.

After hearing submissions on what constituted a “benefit”, the judge found “that the word ‘benefit’ as used the section means one that could result in an advancement of a person’s material situation.” This seems a very narrow interpretation and is at odds with certain other decisions. For example, in hearing the case of a man charged with joining an internet paedophilia chat group and circulating pornographic images of children – for which he was not paid – the District Court held that “gain” did not need to be limited to monetary or other material benefit, arguing that the defendant gained from the distribution and receipt of these images by way of pleasure and satisfaction.¹⁰⁴ In another case, in which an information technology professional deleted files from the website of his previous employer, “revenge” seemed to constitute the benefit derived by the accused. He had no material gain, though his previous employer suffered a material loss.¹⁰⁵

Whatever the merits of the judge’s decision to dismiss the Crimes Act 1961 charge – and of the police’s decision to withdraw the breach – the dismissal and the failure to charge do not coincide with Jess’s views of the seriousness of what Bruce has done to her.

I feel violated that Bruce has been reading my emails. I feel scared that Bruce has had access to all the private email addresses of people I know through doing this. I hate the fact that he has all this personal information about me and could possibly find some way to use it against me as a way to cause further harm to me or to use what he has found to continue to monitor my life.

In a move that Jess and we applaud, the police lodged an appeal against the ruling made in the District Court. The appeal succeeded, the High Court finding that the information laid did disclose a charge to be answered. In coming to this decision, the High Court judge found that the “benefit” outlined in section 249 of the Crimes Act 1961 was not limited to a “material” benefit. The matter has been remitted back to the District Court where it awaits a hearing.¹⁰⁶

In the meantime, after four years of frequent breaches of the protection order, the only consequence Bruce has so far faced is a night in the police cells. Unless he is convicted on some other charge within 12 months, and the sentencing judge decides to call upon Bruce to answer for his breach conviction, it appears Bruce will have faced no consequences for his sustained campaign of breaches.

It should be noted that Bruce could have faced many more charges. The internet service provider’s computer logs showed he had accessed Jess’s account 61 times. Jess handed the police copies of numerous emails she had received from him, and told them about the many

¹⁰³ Section 249 of the Crimes Act 1961 states “(1) Every one is liable to imprisonment for a term not exceeding 7 years who, directly or indirectly, accesses any computer system and thereby, dishonestly or by deception, and without claim of right,—(a) obtains any property, privilege, service, pecuniary advantage, benefit, or valuable consideration.”

¹⁰⁴ *R v Millward* [2000] DCR 633.

¹⁰⁵ Mills, K. (2004). Man disputes damages caused in hacking case. *Computerworld*. Retrieved 17 May 2006 from <http://www.computerworld.co.nz/new.nsf>.

¹⁰⁶ High Court decision, 2007 (details withheld to maintain anonymity).

hang up phone calls he had made. In respect of the latter, Jess was told that it would cost too much to get the call records from Telecom.

In addition, Jess reported a further breach while Bruce was on bail awaiting trial on the charges described above. In this case, Bruce sent another email to Jess, breaching not only the protection order but also the terms of his bail. The police file records that he was merely warned.

Exposure through Other Services

Jess is outraged at her internet service provider's failure to take any responsibility for what has happened. She has tried to find out what they are doing to address the situation with Bruce, but to little avail. In fact, one of their employees has accused her of making up the allegations, of harassing Bruce, and of harassing the company. On another occasion, she was told that the company was using her account as "bait" to trap Bruce. Jess engaged a lawyer to find out whether Bruce was still employed and to help her in her efforts to ensure the integrity of her internet service provider. Despite spending some \$5,000 on the case, she has not got very far.

Jess made submissions to the Privacy Commissioner about the way Bruce and his employer have breached her privacy. She has had some success. The Commissioner has indicated to Jess that she agrees that the privacy of victims of domestic violence is an important issue and that she is making enquiries to gauge how organisations "currently handle the issue of employee browsing in the domestic violence context." Jess hopes that this will send a clear message to Bruce and lead to changes ensuring that New Zealand companies have "proper policies in place to safeguard women with protection orders against the unethical and illegal actions of abusive men."

As it turns out, Bruce now appears to have attempted other ways of keeping Jess under surveillance. He applied for a job with the bank at which Jess had her accounts. The position would have given him access to all her banking details. Fortunately, his application was referred to Jess's father who intervened. A warning was distributed that he not be employed. Of course, it is just possible that it was simply a coincidence that Bruce applied for this job. However, subsequent events suggest it was probably a deliberate attempt to target Jess.

Becoming involved with child support has also threatened to expose Jess to Bruce's abuse. Because she was afraid that he might react badly, and possibly assume a right to have access to Jodie, Jess initially did not apply for child support. Later, she realised that he was going to harass her whatever she did, so she thought she may as well apply. Bruce was assessed and required to make payments. He immediately sought a review. The reviewing officer's decision noted that, in fact, Bruce was earning rather more than the amount on which he had been assessed and drew attention to the fact that Jess herself could apply for a review. However, Jess is reluctant to take part in the process the way it is currently structured. She has been told that, in the interests of natural justice, all information she supplies will have to be made available to Bruce. As she has told the Inland Revenue Department, "Given his history of abuse I think it dangerous in the extreme for him to be privy to that level of information about my circumstances and of course to see the personal information that is asked in the form."

In fact, Jess may have been slightly misinformed. According to an Inland Revenue Department official we spoke to, certain information is withheld, specifically the parent's address, telephone number, occupation, and his or her employer's name and address.¹⁰⁷ Nevertheless, some of the other information which is passed on is open to being misused. From it, an ex-partner could discover such things as whether the parent had a new partner, who else was living with the parent, whether a child was in childcare, and the make and year of any cars the parent owned. In

¹⁰⁷ All of this information is recorded on the first page of the IR178, which is apparently not copied for the other parent.

addition, locating the parent would be very easy if, as the form advises, they were required to provide “proof of details shown on this form (such as payslips or invoices).” Jess’s case, therefore, raises issues about safety considerations in procedures for assessing child support payments.

As it stands, there is little reason for Jess to cooperate with the Inland Revenue Department. Bruce has not made a single payment.

Bruce employed the Family Court in his efforts to get Jess back. He applied for counselling. Jess was sent a letter asking her to go to Relationship Services. The counsellor asked her what she would need to consider going back to the relationship. Jess told her that because Bruce had told so many lies, she could not believe anything he said. She said that she felt so unsafe that she wanted nothing to do with him. The counsellor said maybe she would recommend to Bruce that he needed to build trust with Jess if reconciliation was ever to occur. We do not know if this was ever relayed to Bruce, but it was definitely not the message that Jess was wanting to convey. She did not go back for another session.

Jess had a more positive experience of the Family Court in relation to custody and access. She did apply for custody of Jodie. Her application was uncontested, and, so far, Bruce has not sought any contact.

Advocacy and Support

Jess reflected on the availability and accessibility of women’s advocacy services. Initially, she said, she did not approach Women’s Refuge because all she knew of them was that they ran safe houses for women.

I thought that ruled me out from using their services because I had my own house and my problem was trying to get Bruce out of my house. Also, I thought that they only dealt with people who had been seriously abused, that is, people who had broken bones after being beaten by their partners and so on. So I thought I didn’t really fit that profile either as he had never broken any of my bones or caused any permanent physical damage other than the recurring headaches I got from the head injury. I didn’t realise back then that what I had experienced was serious abuse too. I was too much of an emotional mess to think straight about anything.

When she got her protection order, Jess was referred to an adult protected persons programme run by a church-based social service. This was not particularly helpful. “It didn’t adequately assist me in dealing with any of the breaches I was experiencing at the time.” Neither did it deal with the trauma she was experiencing. However, she found other services after she called the police in relation to violence from another man some two years after separating from Bruce. (She quickly ended this second relationship.) The police ensured Jess was visited by Women’s Refuge advocates, who told her about programmes run by a specialist domestic violence agency. Jess has found these programmes incredibly helpful.

It’s taken a long time for me to get strong enough to stand up for myself and go [to] the police, and go through all this stuff. And you know, if I had it right after [separating from Bruce] – had more support – it probably would have been a faster process.

Individual counselling and the support of a court victim advisor have also been really helpful. As Jess sees it, such professionals, because of their experience, have been more supportive than friends.

After I split up with Bruce and told people (ie, friends) that this was happening – you know, most people wouldn’t believe me. I lost so many friends. And it is only now that I have taken him to court that people are thinking, “Oh god, it was real!”

Reflections

Jess's experiences reflect some of the new challenges battered women face as a consequence of advances in technology. Perpetrators of domestic violence now have new tools to use in their power and control tactics. In Jess's case, the response of police and the judiciary – not to mention her internet service provider – have failed to provide effective protection. Jess's case raises particular concerns about the way “benefit” has been interpreted by the District Court, although the recent High Court decision should prove very helpful in this regard. It raises serious questions about the police responsiveness to breaches which they view as “trivial.” On the other hand, the police have undoubtedly done battered women a service by their successful appeal against the District Court's narrow reading of “benefit” within the context of section 249(1) of Crimes Act 1961.

Jess's difficulty in getting the police to act on breaches is, unfortunately, not uncommon. It is a theme repeated in the majority of our case studies. Far too often, phone calls, text messages and emails are regarded by police as trivial, so-called “technical breaches” not worth following up. Yet as Jess's experience shows, such breaches of a protection order can have a cumulative, devastating effect, the more so when they trigger fearful memories and other symptoms of post-traumatic stress. In Jess's case, in response to her repeated calls for action, the police did finally charge Bruce for some of these breaches. They should have done so consistently and without the need for her to continually press her case.

Jess is also very frustrated at the way multiple breaches are treated.

I got told recently by a police legal advisor that even when there have been multiple breaches of the order, they only need prosecute one as the sentencing all goes together anyway. But this doesn't give a clear picture of the real situation that is occurring! And not only that – my experience of police is they won't prosecute one minor offence at a time anyway.

We agree with Jess's analysis. Previously, we have argued that concurrent sentencing, in effect, gives offenders “freebies” as they perceive that additional offences are not going to lead to a heavier sentence. Here, Jess is drawing attention to another problem. Concurrent sentencing discourages prosecutors from pursuing all charges. Figuring that additional charges are not going to make a difference to sentencing, the temptation may be for prosecutors to prosecute only a small sample of charges. By such processes, violence against women is minimised.

Jess's experiences raise important issues regarding the way respondents can access information about applicants. Her internet service provider clearly failed to protect her privacy vis-à-vis Bruce. Had she not checked the child support review process thoroughly, the Inland Revenue Department would have done likewise. We think special provisions are needed for administering child support in cases of domestic violence. We also think that there are issues to be considered in relation to the responsibilities of those who employ protected persons. (See also case study Patricia.)

All of this has been at considerable cost to Jess.

The psychological toll of all of this has been huge. I still have many nightmares that I wake from feeling terrified. I have lain awake many nights thinking of escape plans should he decide to break into my house or accost me in the street. I am constantly having to tell everyone I deal with whether it be Jodie's school, Jodie's childcare providers, my electricity company, my phone company and so on [about] my situation and the protection order.

Jodie too has been affected. From being a “normally happy confident and easy-going child ... [she is] having numerous temper tantrums and her emotions have swung between being very angry to very sad whenever her father intrudes into her life in these negative ways.” To Jess's considerable relief, so far, Bruce has not applied for contact or day-to-day care. The prospect that

he might, remains a major concern for Jess, especially in the light of the section 5 principles of the Care of Children Act 2004.¹⁰⁸

Jess was disappointed to receive advice that it was unlikely the Bruce would be removed as a guardian. Jess notes that Jodie describes herself as not having a father. In some ways, Jess finds this sad, but in other ways, she is glad her daughter “is not having contact with a violent father.” Given Bruce’s history of violence, Jess’s fears for Jodie should Bruce have contact seem well founded. Unfortunately, her views could potentially rebound on her and on Jodie. In the opinion of many family law practitioners we spoke to, holding such views puts a mother at risk of being portrayed as an “alienator.”

Jess has found many people to be sympathetic and helpful. But:

... at times I see others put me in whatever mental box they have about victims of domestic violence and treat me based on their inner assumptions from that, rather than just being treated as a regular person ... it's frustrating to constantly have to be in this situation.

Ensuring her own safety has required Jess to become very assertive and knowledgeable about how the system works. In her experience, there is a large information gap. One of her recommendations is that applicants be fully informed about how to make the best use of their protection orders.

I wished that I could have received an in-depth booklet when I got the protection order about how they work, what to do if the order is breached, how to deal with police, what others have experienced and how they have dealt with it, a list of helpful support people and organisations ... ideas on how to safeguard oneself from further abuse, a list of organisations that provide counselling for the trauma suffered from abuse, the court process and procedure, other difficulties within the system and how to navigate them, and so on. I really could have benefited greatly much earlier on from having such information. I count my lucky stars that I met [name] and attended the [domestic violence agency] courses after my second abusive relationship, as little by little, I have put these types of things together from that – though I still don't grasp all of it.

As we did with many of the women we interviewed, we asked Jess if she would recommend women in similar situations get a protection order.

I would – it actually made quite a change to my feelings. For the first time I didn't feel completely powerless. I remember that when I got that piece of paper, I photocopied it and stuck a copy of it to my front window – so everyone who came round to the house would see it. I didn't care who saw it. I thought if he comes around, he'll see it. And I carried it everywhere with me. Because it just added something – to me – I was technically being protected, although I didn't always feel that ... It's been a long time coming but now I feel I have grounds for making complaints about his behaviour and that I do have the right to be taken seriously about it. That some judge decided that my case was serious enough that I was worthy of a protection order – it felt like it backed me up a bit.

Jess's comments remind us that protection orders have an important psychological meaning. The challenge for the police and the criminal courts – and other service providers – is to ensure that they also have practical effect in increasing the safety of women and children.

¹⁰⁸ Particularly relevant here is s. 5(a) and (b), which states that the child should have continuing relationships with both of his or her parents and that the parents should be encouraged to come to their own agreements about the child's care, development and upbringing.

Louise

Louise, whose separation from Phillip initially went fairly smoothly, got a without notice application for a protection order after he learnt about her new relationship and became much more violent and abusive. Although she was awarded custody of her children, Louise had to face extensive litigation in the Family Court, including an application from Phillip to prevent her from relocating to take up an exciting job offer. In addition, Phillip breached the protection order on numerous occasions. By and large, the police did not take decisive action until a family violence coordinator became involved.

The Relationship

Louise and Phillip separated approximately three years ago after being together for about 15 years. They have three children, two girls and a boy. In talking about her time living with Phillip, Louise noted that he was not physically violent. Apart from the last stages of the relationship, she wouldn't have even described him as verbally abusive, but she does describe the relationship as "psychologically and emotionally abusive."

About six months before they separated, things changed dramatically. Phillip was chronically short of money (he blamed bad debtors). He lied about money and other things. Louise could never rely on him. It took a little while before she worked out why. Phillip had started using drugs: initially speed to help him work long hours, but later, P (methamphetamine).

For Louise, learning about the drugs was:

... like the pieces of the jigsaw were in place. I knew where the money had gone, where he was ... His level of anger increased, he was intolerable, I was walking on eggshells. I never knew what sort of mood he was going to be in; I never knew how he was going to react to different situations.

However, it would be simplistic to suggest that the drugs made all the difference in Phillip's behaviour. In hindsight, Louise thinks that the difference was that Phillip was less able to be subtle about his controlling behaviour. She found herself having to anticipate his behaviour. For example:

When he came home, he would put his keys on the bench and I would immediately put them in the bowl and the reason I did that [was that] in the morning, if he couldn't find his keys, the whole world would know about it. I had to be ten steps ahead of him ... [He would play] mind games ... things like if you don't do this, this and this, this will happen.

Louise's initial reaction was to try to help Phillip. He promised to go into treatment, but changed his mind. Only when she saw what was happening to her children did she ask him to move out.

I started to notice his mannerisms ... his blaming, denial and minimisation started to come out in the children. The way he treated me was how my son began to treat me. I was trying to work this out. Just this morning I went into [his] bedroom and he said, "You made [cat's name] go, that's your fault."

Recognising the blaming tactic, Louise commented:

This [protected persons programme] has been so good for me. I know all this stuff but when you are emotionally involved in it, you can't see the wood for the trees. It has been really good for identifying the different things which were going on.

The Initial Separation

Initially, the separation went reasonably smoothly. It was agreed that Phillip would have the children every other weekend and although over time he saw them less and less, Louise felt she was able to have "respectful" conversations with him about the arrangements. In fact, in some ways, the relationship improved once Phillip's drug use was out in the open.

However, one year after the separation there was an incident in which Louise felt the need to call the police. Phillip had visited her and, in the course of an argument, locked her outside her house. Her 111 call is recorded thus:

Separated husband was returning [child], became abusive, swearing, refused to leave, physically kicked complainant outside.

It was coded as male assaults female. By the time the police arrived, Phillip had left. Louise gave a statement to the police. A risk assessment completed at the time resulted in a rating of -3 (“no apparent risk”). According to the police record, the matter was “cleared” four weeks later with a warning. There was follow up, however. A report form completed some six months later noted that Louise had been contacted, that there had been no repeat incident and Louise and Phillip were “sorting through the issues amicably.”

That was probably a reasonably accurate assessment. There were concerns about visitation arrangements. Phillip was reportedly not coping well with having the children overnight. They were becoming less comfortable with such stays. But these concerns were dealt with by an agreement to vary arrangements so that Phillip had them twice weekly but not overnight.

Around this time, another agreement was reached “amicably.” Louise had been offered a one-year contract in another city, at virtually the other end of the country. Phillip agreed for her to take the children with her on the understanding that they returned for a Christmas holiday.

A Sudden Escalation

Not long after this, there was a dramatic change. Phillip learnt that Louise was dating someone. At the time, he had been in a new live-in relationship for ten months, but learning about Louise’s relationship was the catalyst for six months of sustained harassment and violence.

It began when Phillip confronted Louise while she was taking one of her daughters to ballet. When Louise confirmed that she was seeing someone, Phillip flew into a rage. He attacked her car. He grabbed her. He hit her. Amongst the abuse, Louise recalls him saying, “I’ll fucking kill you, you bitch ... I’ll kill both of you ... I’ll kill that fucking cunt.” All this was witnessed by the child.

Phillip left the scene with his daughter but continued the threats and harassment over the phone. Later, he came to Louise’s home, ostensibly to collect some things he had left there, but, instead, came inside, and, in Louise’s words, “continued to rant and rave.” He was verbally abusive and intimidating, and called Louise a “whore” and a “slut.” He eventually calmed down and left.

The harassment continued the next day, during which Louise had to endure two more unwanted visits from Phillip, in which he alternated between rage and reasonableness. He was discovered by a friend in circumstances in which he appeared to be planning to take his own life. He made numerous threatening phone calls. Eventually, Louise stopped answering the phone.

Louise made a statement to the police. It outlined the assault, the harassment and the threats. Louise noted:

I think that in his current condition he is capable of carrying out his threats ... I do not want to stay in my house because I’m afraid of him and what he might do. During these visits the threat of killing me has continued.

But more was to come. The next morning, Phillip was waiting at school when Louise was dropping off one of the girls. Again, he was shouting, abusive and making threats. He was also asking for money. At one stage, he grabbed Louise’s bag and told her she could have it back if she met him back at her house.

Louise drove away and immediately rang the police. Phillip was arrested a short time later. In relation to events at ballet, he was charged with threatening to kill and common assault. In

relation to events at the school, he was charged with theft. He initially pleaded not guilty, but after a remand in custody, he changed his plea to guilty. He was sentenced to supervision with special conditions relating to drug rehabilitation, counselling and attending a stopping violence programme. By then, he had spent three weeks in custody. A risk assessment completed after his arrest resulted in a rating of 21 (“high risk – investigate further”). This put him in the second highest category but had the assessment not incorrectly recorded him as having no history of suicide, and not using psychotropic drugs (P (methamphetamine) meets the criteria) he would have been placed in the highest risk category (“extreme risk – urgent”).

Getting a Protection Order and Having it Breached

The day after Phillip’s arrest, Louise made a without notice application for a protection order. The application included a request for the order to apply to her friend and his children, and was accompanied by an application for interim custody of her children. Both applications were granted without notice and the orders served on Phillip while he was in custody.

Phillip was breaching the orders within a few days of his release from custody. The first of these involved a series of text messages within the space of four hours. The messages, written in the third person,¹⁰⁹ concerned Phillip’s access to the children. For example, according to the sender, Phillip, the children could relocate with Louise only “over his dead body.” Louise was warned that the children would find out that their mother had sent their father to jail.

Louise reported the text messages. A POL400 completed that day noted that there were no direct threats in the texts, that they were written in the third person and that the phone may have been that of Phillip’s girlfriend. No other follow up is recorded.

Two days later, Phillip again breached the protection order. In the first instance, he rang Louise. He was not charged with this phone call. In the second instance, having learnt that she had a doctor’s appointment, Phillip waited outside the surgery for Louise to leave. He harangued her, saying, among other things:

I’ll make sure the kids fucking hate you ... I hope you end up in [psychiatric] ward ...
I’ll see you in court.

Louise again reported the breach to the police who arrested Phillip later that day. Again, he was remanded in custody, to be released six weeks later after being fined on two charges of breaching the protection order. A risk assessment completed at the time of his arrest again rated him (at 21) as “high risk – investigate further.”

The remand in custody did not provide a respite for Louise. Phillip immediately filed an application for an order preventing removal of the children from the district and to have access to them. The judge determined that the application would proceed with notice to Louise and appointed a counsel for the children. Two weeks later, Phillip filed a notice of intention to oppose the granting of a final protection order.

The Use of Litigation to Gain Power and Control

Louise was now facing a major problem. Because Phillip had earlier agreed that the children could relocate with her, she had already given notice at her job and arranged for her house to be tenanted. She needed a resolution quickly. Having already spent over \$800 on legal fees to obtain her protection order, she decided to represent herself. She prepared her own affidavit and

¹⁰⁹ The wording suggests that the messages were sent by Phillip’s girlfriend. Whether she or Phillip transmitted the message is immaterial as the standard conditions of a protection order include “Encourag[ing] a person to engage in behaviour against any protected person, where the behaviour, if engaged in by the Respondent or any Associated Respondent, would be prohibited by the order.” In relation to these messages, Phillip pleaded guilty to one charge of breaching the protection order.

organised supporting affidavits from people who knew her and the children. She went to court prepared to state her case and expecting a quick resolution.

The hearing did not proceed. Phillip wanted more time. Twice the case was adjourned. Because so many people were involved in the arrangements, Louise felt that she had no option but to give up her plans. Thus, a month after Phillip was released from his second remand in custody, the court made a determination. Noting that Louise had agreed to stay in the city, the court considered the issue of access. The judge made a finding that violence had occurred, and invoking *Fielder v Hubbard*,¹¹⁰ determined that Phillip's behaviour included psychological violence towards the children and that this needed to be taken into account. The status quo that access continued to be supervised was upheld. A permanent protection order was also made.

Louise found the process draining and frustrating. She had been well prepared: the counsel for the children said the affidavits were "fantastic" and included everything necessary. But, by delaying the process, Phillip was able to put a stop to plans to which he had previously agreed. All, it appears, because Louise was dating another man. This cost her a lost opportunity. It cost her money – Louise estimates over \$2,000. And it had a serious impact on her health.

I started to get really sick. I was vomiting. I had diarrhoea. I couldn't work. I couldn't talk to anyone about it I was so wound up and worried about everything ... It was meant to be good fun and it turned into the worse mess of my life.

More Breaches

A week after the Family Court hearing, Phillip breached the protection order again. Firstly, he rang Louise's home and spoke to one of the children. Secondly, having been told she was at The Warehouse, Phillip went there and further harassed Louise.

He came up to me. He stopped my trolley, became verbally and physically aggressive, very quietly, under his breathe so no one would notice ... But they did. People were looking. He kicked my trolley. He wouldn't let me move. He was trying to be discreet, you know, but people were looking.

Louise rang the police. She was asked to go to the police station. She was unable to do this, and the incident is recorded in police files as being cleared with a warning.

Three weeks later, Phillip breached the order again. He made about a dozen calls to Louise who answered only the first. She later disconnected the phone. That afternoon, Phillip came to her house and refused to leave when asked, doing so only when a neighbour intervened. Louise also reported this breach to the police. Her statement reports that:

... as a result of Phillip's behaviour I am very nervous and frightened ... I have to keep the phone unplugged at times so Phillip doesn't call. My children are being affected because they receive text messages from Phillip. This is causing problems between the children and me.

A risk assessment completed at this time resulted in a rating of 13 ("moderate risk"). The much lower score reflected several oversights, including the suicide attempt and the stalking behaviour, and an arithmetical error in adding up the items. As with the previous breaches, no charges were laid.

Phillip avoided being charged for two more breaches the very next day. These involved visits to his children outside the terms of the custody and access orders. At the time, they were at two different addresses. In the more serious of these breaches, Phillip tried to remove the child from his grandfather's house. It was the child's grandfather who called the police.

¹¹⁰ *Fielder v Hubbard* [1996] NZFLR 769.

A risk assessment was completed. This time, the rating was 16, the top of the “moderate” range. This reflected the fact that the assessor overlooked the drug use and the threats Phillip had made against Louise, including the specific threats to kill.

A senior constable did follow up these last two incidents. Firstly, he spoke to Phillip, who, according to the officer, provided “a plausible explanation” for visiting his children and trying to remove one of them. The senior constable then phoned Louise, late at night, waking her up. For Louise, this was after two nights of little sleep following the events of the previous two days. The officer said Louise was sending mixed messages by sometimes talking to Phillip. As she said, “He made me feel responsible.” These two breaches were recorded as being cleared by a warning.

Effective Enforcement

The file was reviewed by the family violence coordinator. According to Louise, he was furious about the way she had been treated. The electronic file includes an entry by the coordinator. “[Phillip] has been warned enough for breaching orders – arrest and impose bail conditions or summons. Do not discourage victim – high risk offender.”

Three days later, the coordinator’s advice was implemented. Phillip was arrested for two new breaches. In the first, he followed Louise while she was driving with the children in her car. In the second, he phoned a friend of Louise’s and urged her to get Louise to turn her phone on. A risk assessment completed at the time resulted in a score of 26, putting him in the highest category (“extreme risk – urgent”).

Again, Phillip was remanded in custody. A victim impact statement completed during this time records Louise as saying:

He constantly stalks me and tries to make contact with me when he knows he is not allowed I am sick of living in this way. I am constantly living in fear and looking over my shoulder to see if he is following me.

She noted that she kept the house quiet so that she could hear if Phillip was approaching. She described her parenting as suffering and herself as “depressed and on edge.” She described Phillip as “... extremely unpredictable and I fear for my life as his actions are becoming more bizarre and dangerous.”

Repeating an earlier pattern, Phillip initially elected to defend the two changes of breaching the protection orders but later changed his plea. After spending a month remanded in custody, he was sentenced to two months’ imprisonment. Because of the time spent on remand, he was immediately released.

Six months later, Louise told us that she had had no further hassles from Phillip who is attending drug and other counselling. He is having supervised access, with his parents and girlfriend as supervisors.

The children are really happy to see their dad. I want them to have a positive relationship with their father. That’s why I like it at the grandparent’s place. That way, if Phillip is not coping, or he gets wound up he can just leave rather than them seeing him not coping. At least this way they can go off and enjoy themselves together. I would like the children to see more of him if I could be assured that he was balanced and appropriate.

But access has not altogether gone smoothly. Phillip’s parents have sometimes allowed him to take the children away, in contravention of the order. They have not been removed as access supervisors. Instead, they, and Phillip’s girlfriend who is also an access supervisor, have been required to sign agreements which set out the conditions of access. The court monitors access every six weeks. While these arrangements have helped to allow the children to have the sort of contact they (and, for that matter, Louise) would like to have with their father, it comes at a cost.

Phillip's parents are busy and are sometimes unavailable. Phillip has missed some weekends. Arrangements have to be continually negotiated, requiring Louise to have more contact with Phillip than she would like. And Louise is still having to attend the Family Court every six weeks as it monitors access arrangements.

Reflections

In some ways, Louise's story is one of the system working. Certainly, when we spoke to her recently, things were looking up. Of Phillip, she said:

Something has clicked. He has realised that if he is to have a relationship with the children, he has to talk to me civilly ... If he is abusive, I just hang up on him ... I just want my children to have their father back.

Louise feels generally positive about the police, especially the family violence coordinator who she found particularly helpful.

I found it [the police response] very validating. They believed me ... I was interested in how they were reacting to the situation because I had been dealing with some of these things by myself and had learnt how to minimise them and suddenly they were saying this shouldn't be happening, they were believing me and they were actioning this stuff and I was going, "Wow, this is good." Made me feel like, yeah, what I was saying was the truth.

The importance of being validated cannot be overestimated. Louise remarked that the period immediately after getting her orders "was a learning time." She did not report some of the early occasions on which Phillip breached the protection order by phoning her or the children. As she said, "What do you say to someone you are used to talking to? For me, I had to develop those strategies through trial and error." In this context, the way she was treated by the senior constable who was following up the second-to-last series of breaches can be seen as very problematic. A response which leaves women feeling responsible for what is happening is potentially very undermining of them.

Other aspects of the police response were sub-standard. The first time Louise reported being assaulted, Phillip avoided prosecution, as was the case in several reported breaches, especially those involving the children. That Phillip was considered to have a "plausible" reason for breaching his protection order – and the terms of the parenting order – suggests the application of extra-legal considerations by the police officers involved.

This case study also raises questions about the use of risk assessment tools. Police files contain six completed Risk and Lethality Assessment Worksheets. These recorded scores of -3, 21, 21, 13, 16 and 26 respectively. This is a wide variation (from "no apparent risk" to "extreme"). Of course, risk levels can be expected to change over time. At the time of the first assessment there was not the history of events which would indicate a high level of risk. But it is problematic that the fourth and fifth assessments indicated lower levels of risk than the two previous assessments, despite the documented events which had occurred in the meantime (particularly an assault, numerous threats to kill and various other breaches of the protection order). Risk assessments which are completed without a proper check of records may underestimate the dangers facing women.

It should also be noted that the fourth (RA = 13) and fifth (RA = 16) risk assessments were carried out following breaches for which Phillip was neither arrested nor prosecuted. This raises the possibility that risk assessments may influence decisions to prosecute, an issue we discuss in Chapter 7. While Louise is reasonably positive about the police, she is much less so about the Family Court. She said:

What I found out about that process was that it was very very hard and very very cold. And there were no children in the family court. There were lawyers making lots of

money and a judge doing I know not what ... They were cold and heartless and they were not there for the wellbeing of my children.

She was particularly upset by a suggestion from the judge and counsel for the children that the children would be the subject of a psychological report in relation to their being taken out of the county.

I said why? What is the purpose of that? They couldn't convince me of the purpose of wanting to do these things. For me, you know I have degree in education, I work in the family area ... And here are these people up there saying your children need a psychological report and I am thinking in my head, this is not right ... How do I say this? What do people out there without any qualifications or experience do? I think that they get railroaded into all sorts of things which could be incredibly traumatic for them and their children. Why would I need to put my children through an experience like that? How effective would the outcome be?

Phillip got involved with the Union of Fathers. Louise thought this was really unhelpful.

I feel that they wind him up ... some of the attitudes and views I have heard from him are not his views. You know how you know someone?... You name it, he opposed it. I think that has something to do with the Union of Fathers. You know, I believe in fathers, very much so, but good responsible fathers.

We asked Louise what would make things better.

If the Family Court could grow a heart ... it would be interesting if they had people who were in touch with family ... In my experience it is a very cold heartless place, a totally foreign place to the world I work in.

On the other hand, Louise was grateful to the Family Court counselling coordinator who was very active in encouraging her to attend a protected persons programme, which in turn, she has found very supportive and incredibly useful in helping her make sense of her experiences.

Marjorie

Marjorie endured 16 years of domestic violence from her husband, Alistair, before she separated. In public, Alistair was a generous, esteemed member of their church. In private, he was an angry, controlling bully, whose violence was may well have been responsible for the fact that their son was born with a disability. There was little help for Marjorie among the church leaders, most of whom colluded with Alistair. Eventually, she consulted a lawyer, and although she did not apply for a protection order, with the lawyer's help, Marjorie was able to separate from her husband more or less safely.

Violence in the Relationship

Marjorie had known Alistair "on and off" for about two years before they were married. As Marjorie recalls, "We didn't know each other well before we married." There had been no sign of violence but within two weeks of getting married, Alistair hit Marjorie for the first time: he slapped her face.

Alistair's family were well known and respected in the community, but his upbringing had left him with very fixed ideas about how things should be done. "You had", she said, "to do things the [family name] way." Alistair had rules about how Marjorie was to speak to him.

I always had to speak quietly and nicely. I couldn't be angry about anything and I couldn't have a point of view and I couldn't contribute to the business. If I did happen to raise my voice or speak assertively, that was not acceptable. It would provoke him and of course he would be angry about all sorts of things and I just had to say something and it would make him angry.

If Marjorie challenged Alistair:

He would storm out and then come back in and demand a ten point plan like, "Are you sorry?" "What did you do?" and, "How can you change it?" He had power and control over me and if he didn't like anything I did then there was silence. He could go for a week and not talk to me and out of the whole year and he could not talk to me for four months.

While much of the violence was psychological, this was backed up by physical violence. Once, Alistair pointed a loaded shotgun at her. More typically, he would push Marjorie out of the way or hold her up against a wall.

He is six foot two – that was the thing. If he held me down, I couldn't get out. If he had slapped or hit me, I could run away, but he could hold me up against something and I couldn't move.

Marjorie has quite vivid recollections of an assault when she was six months' pregnant. She hadn't been feeling well and went to the hospital for a check. She was sent home, but was still not feeling well.

I lay down and said to him, "Could you make me something to eat? I don't feel very well." He said "No, I won't." I said, "Please could you make me something? I really don't feel very well." He said, "No, I won't." He was argumentative to me in the passage and because he was angry he stormed out of the house and he went across to the shed, and I locked the door. Why I locked the door, I don't know, but it was the wrong thing to do. I locked the back door and he was over in the shed. I walked along the passage, and I could see him with a crow bar and he was trying to undo the wood across the French doors. I thought he is going to hit me with the crow bar. He must have heard me lock the back door, because otherwise, why would he come back in? The timber came off, and he ran towards me, so I ran. There was a little tin sitting on the shelf and he was running towards me and I threw the tin towards him, and I started to run down the hallway. I'm six months' pregnant. He pushed me down onto the ground, after that he did take off, and I just laid on the bed. He came back and I told him that I wasn't feeling very well. We went to bed and I was on all fours and I said to him to call the doctors – I wasn't feeling very well. He said he wouldn't. So for four hours I was in incredible pain, and so I crawled out and just when I got to the phone he came out and called the midwife. She came and she said "I think you are going to have the baby." They took me into [town] Hospital. It was 2 am and [then] they flew me into [city]. They discovered that I had a kidney disease. So my husband and his family blamed [that for bringing] on the premature birth and that is the story they told everyone. I know that's not true, but it could have contributed. I didn't tell anyone – well the people I didn't tell couldn't do anything about it.

Marjorie's son was born with a neurological disability. The extent to which Alistair's violence contributed to the problem cannot be known for sure. But caring for a child with a disability has become a major focus for Marjorie. As she says, "I did throw my life into helping Jacob ... [I have to be] a very on to it parent."

Seeking Help

It wasn't easy for Marjorie to tell others what was happening. She felt a certain amount of guilt and shame. She was very isolated. Her parents had passed away and the rest of her family lived overseas. So it was not surprising that when she did talk about what was happening, she went to people within the church. As she told us, "I didn't know anybody outside of the church that I could go to." Unfortunately, there was little support from those she did approach.

I would go to the elders and the pastor and they would tell me I would need to be more submissive, "You need to be doing this", and "you need to be doing that", and it was all this behavioural things which I could do, and it still didn't stop the abuse ... Things like, "Don't argue with your husband. Don't have the last say, let him make the

decision. Just be quiet. Don't say too much." I had to change my behaviour so he wouldn't get angry. It was like, "If you didn't say that, then he wouldn't do that."

Marjorie told one of the church counsellors what Alistair had said to her – that they needed to separate or he would end up killing her. The counsellor didn't believe her and persisted in his couples counselling approach, so Marjorie stopped going.

When my husband went back to him, he said, "Oh yeah, and as soon as we start working on her she doesn't like it." That was what the counsellor said, and that was ammunition to my husband. Straight after that he just came home and yelled at me, and said it was all my fault, and the counsellor doesn't even talk to me now. I can tell you what I did wrong in my marriage quite honestly and the things I have contributed to, but I don't believe I deserve in any form that treatment.

It didn't help that in public, Alistair was seen as a good upright citizen and church member. Marjorie described him as "Jekyll and Hyde."

[In public] he was so good, he would give money to people, he would help, he would ask people if they needed a trailer for compost. "I'll get it for you", he would say. "I'll will do that." He does have a lovely heart – he just couldn't interact with me in a nice way.

Some within the church were supportive of Marjorie. A friend quietly suggested that there was a reason she wore long sleeves to church (to hide bruises). And when a woman elder counselled Marjorie and Alistair, she challenged him in a way the male counsellors did not, getting him to look at his problems and to stop blaming Marjorie. Alistair stopped attending.

Marjorie eventually consulted a Christian counsellor outside her church who helped clarify things by asking her a question:

She said, could I live with a man who is angry every day and grumpy and bad tempered? I said I had been doing it for 16 years. I'm not sure I can do it any more.

Marjorie never dialled 111, even though Jacob suggested it once.

The last time when I got bruises there, my son yelled out, "Mum call the police." That frightened me, but I didn't, because ... I couldn't see anything happening if I dialled 111. Where was I going to go? Who was going to look after Jacob and I? I had no money ... I couldn't actually see anything happening here. I was looking for what was going to happen. Where were we going to go? Where were we going to be? And for Jacob who is special needs, you've got to know him. He would not have coped. Where would we be? He just would not have coped.

Marjorie did visit the local police station. That did not prove very helpful. The police officer, who was on a local trust board with Alistair, said that he would need to see bruises before he would take action. He suggested that perhaps Alistair needed counselling. But, as Marjorie pointed out to us, he had "been going to counselling on and off for years." Marjorie asked about protection orders and the police officer said that she would need to ring a lawyer.

Initially, Marjorie did not take that advice because she expected the same sort of reaction as she had received from most of the people she had talked with.

I went over it in my mind, I am going to go, and I'm going to park outside, and I'm going to go inside, and when we get going, they say, "Oh, [Alistair parents], oh, they are a lovely family. They are really nice. Oh, he is a nice bloke, I really like him. What's going on here? It must be her." That scenario went through my mind.

Separation

With the encouragement of a supportive church elder, Marjorie decided she did need a lawyer. She looked through the *Yellow Pages*.

I picked [name] out of the phone book. I looked at her face. I wanted a woman lawyer and a strong personality. She looked like a strong, assertive type; I knew nothing about her ... I told her this is what's happening in my relationship and she said, "You need to get out, you need to separate." Although I didn't make the decision – he made the decision in the end – I was getting papers ready, because I knew it was going to happen.

Marjorie wasn't sure what finally precipitated Alistair's decision.

I don't really know, but I felt like he had a plan and he had decided a few years ago in his heart that I made him angry, that I said the wrong things to him. He couldn't forgive me, because he could not ever say sorry, and I think that in his mind – although I can't actually say that he had decided "I am going to eventually separate from her" – it was like, "This isn't working" and he began to do different things in his life, which just surrounded himself, and shut me out, like the business, the farm, any decision that was made, to do with anything.

Jacob was upset when told his parents were separating. Alistair told him that it was because "Mummy and daddy are fighting." Jacob appears to have seen it slightly differently. He told his mother, "Dad fights with you, you don't fight with dad."

Having an agreement to separate was one thing. Implementing it was another. Marjorie had no money and nowhere to go and Alistair refused to leave. So she had to stay in the house while they sorted out an agreement about Jacob's care and about the business and other relationship property. They moved into different rooms but Marjorie continued to do all the cooking and cleaning. She didn't necessarily feel more in danger during that period but noted that, "There were one or two incidents", describing one in which Alistair threw her up against a kitchen bench. "That's when I had those bruises."

What was meant to be an arrangement lasting just a couple of months, ended up stretching out to six months as negotiations continued. They were made more difficult by the fact that Alistair had transferred many of his assets into a trust and resisted selling their jointly owned property. In the end, Marjorie was able to buy a property for herself, financing the mortgage out of an allowance Alistair pays her. As Marjorie says, "I'm still dependent on him", but there is at least an agreement that the jointly owned property will be sold and the assets shared should he fall behind in his monthly payments.

Under the agreement reached Marjorie has the day-to-day care of Jacob. Alistair has him for two out of every three weekends. This agreement was reached with the help of a child psychologist who suggested to Marjorie that it would be a good idea that she had Jacob some weekends because, otherwise, it would be only Alistair who got to do the "fun things" with him. The psychologist also warned Marjorie not to be surprised if Jacob yelled or growled at her, "Because he knows you love him unconditionally." As it stands, Marjorie has some concerns for Jacob while he is in Alistair's care. If Alistair is working, Jacob can spend long periods of time sitting in Alistair's truck. On two such occasions, Jacob soiled his trousers because of Alistair's inattention. Alistair also fails to provide basic toiletries.

Jacob rang me up and said, "Can you buy me some shampoo?" I said, "Dad can buy you shampoo", and Jacob's response was, "Oh mum, you know dad won't buy me this stuff." And it's the same with the toothpaste, and the toothbrush.

Worse, Alistair sometimes forgets Jacob's medication, resulting in him having seizures.

Considering a Protection Order

Marjorie did not apply for a protection order. In response to our question, Marjorie said that she did want to get protection order and her lawyer had discussed the issue with her, but in the end, it was guilt and the fear of other people's reactions that discouraged her.

This is really weird because the thought processes – [that] part of me is to blame – though I knew it wasn't, but that is how I felt – that I was to blame and if I get this protection order he and his family are going to get so angry, they are going to get so upset, that my name was going to be mud ... I didn't know what would happen, and I didn't know what the reaction would be. And although I did want to – I did want this man to stop. And I did want somebody to come along and tell him, "You can't do this anymore".... Even now he is laughing at me, and his family are laughing at me, because they are blaming me, and they are telling all kinds of weird stories and lies so they are feeling really good with themselves. I've always believed that silence is integrity, so I don't tell people.

So for Marjorie, applying for a protection order posed a familiar problem: the ability of Alistair and his family to portray her as the problem to the rest of the community. To some extent, this is what has happened. Alistair now attends the same church as his parents. As Marjorie sees it, "That is where he is protected and all of them hate me up there."

Reflections

Marjorie's reflections on what others in the church think of her and Alistair remind us that however much certain groups wish to portray domestic violence as a relationship problem, a major barrier to a woman living a violence-free life involves the social legitimisation and tolerance of domestic violence within her community. In Marjorie's case, her primary community and support system was her church.

We asked Marjorie if there was a sense of shame in her community associated with being a victim of domestic violence.

I wouldn't say it was shame. You could put it under that heading, but there still is – and there are people that don't talk to you and people who know. But I still think integrity is silence and I don't have to tell people. And there are some people who do know and it's interesting, the core friends that I had around me at the time sort of recognised some behaviour that wasn't quite correct and they just saw some odd sort of things. I have had some supportive friends. It's been quite good.

However, while Marjorie had the support of some within the church – mostly women – the church leadership generally minimised Alistair's physical and psychological violence. To the extent to which they saw it as a problem, they tended to see it as a symptom of a relationship problem rather than as a problem of itself. Rather than make Alistair accountable for his violent behaviour they saw the solution as Marjorie becoming more sensitive, more thoughtful, and more submissive. In another words, they colluded with Alistair.

Marjorie sees their stance as inconsistent with Christian teachings.

The Bible actually states that in Malachi – the scripture says that God says, "I do not like a man to cover his wife with violence", and that is an interesting scripture and right through scripture, if you understand what Jesus did on the cross, you understand how – how as you study the word of God – that is a picture of how God sees women. So it's very sad that people have this weird perception of Christianity and how women are seen. And the word submission is taken out of context and for some religions and for some extreme groups it is a controlling and dominating thing where the woman just does [what she is told] – but the Bible actually sees that women and men are equal. And in the word of God, it talks about how God actually elevates women and that is what a man is supposed to do. To elevate women. As you read and study the word of God and look into Corinthians and Ephesians it tells you what a man's role is and what a woman's role is. It actually says that God wants men to honour and respect women.

At the same time, Marjorie is very much aware of a common perception that Christian scripture condones men having power over women. That perception in itself became a barrier to leaving. As Marjorie sees it, she "should have left years ago" but one of the things that kept her in the

relationship, along with financial dependence, was a desire to protect the Church from “bad press.” That is, going public about the violence might:

Prevent people that are not Christian's from becoming Christians ... People would say it is those jolly Christians again. I don't want to have anything to do with God.

Thus, Marjorie was trapped by loyalty to a community whose leadership addressed neither Alistair's violence nor her need for safety. We asked Marjorie what she would need to be safe.

I would have needed him to deal with his anger; I need him to have a positive reaction to me. He needs to honour and respect me, and he needs to love me. Yet I never really used love before but to me you have to want to be with someone. He wanted to change me – that's what he wanted to do – and he needs not want to change me. He needs to accept me for who I am ... and I would have to see that way before we ever got together.

She is very clear about what would have helped her.

I just wanted someone to help me, or have their help to make the decision, but I didn't have anybody to come in and say “Marjorie this is not on.” I had no man come from the church and sit down and say [to Alistair] “You can't hit your wife.” I never had anything like that. That's all I wanted, was for someone to make him accountable – [to say] that “You cannot do that.” Or even to say, “Marjorie, if he hits you again, you ring me and let me know.”

In the end, Marjorie had to go outside her church for help. This was a big step for her and her first experience was not positive. As we have described, the police officer she spoke to was not particularly helpful. She did contemplate contacting Women's Refuge.

There were many times when I got the phone number out and I did ring and there was an answer phone and I hung up. [But] I do have a lot of respect for the Women's Refuge.

Moreover, there were still three powerful factors keeping her in the relationship: her fears about what others would think, her financial dependence on Alistair, and the challenges of caring for Jacob by herself. It took the intervention of her lawyer, who Marjorie describes simply as “brilliant”, to help address these issues.

Marjorie has ideas for change.

What I think should happen is that there should be a book in [the stores] for Christian women written by a respected pastor on physical and emotional abuse, and getting some steps on what you could do, and having names of places you could call, and they could help you with the steps.

She thinks she may need to write such a book herself.

Patricia

Patricia is in her early twenties. When we spoke to her, she had been in a relationship with George for five years. George is six years older than Patricia. They have two children, Debbie (four years) and Zane (eight months). For much of the relationship, Patricia and George lived in a small, remote settlement where George is employed in a mine. Their home was to be the setting for an Armed Offenders Squad call-out which marked the end of the relationship and the beginning of Patricia's dealings with several agencies of the state.

Violence in the Relationship

Like many women, Patricia tended to minimise the violence when talking to us. For example, when we asked her what had happened for her to apply for a protection order she said:

I got home late one day and my ex decided I was having an affair and lost the plot and was throwing things around and just typical losing it and losing the plot – pushes up against the wall – and just normal everyday losing the plot.

It transpired that these particular “pushes up against the wall” consisted of George grabbing her by the throat with one hand, brandishing a knife with the other. He told her, “I should kill you. It would be the end of this problem. I’m going to slit your gullet.” He held her slightly away from the wall so he could bang her head against it several times. Patricia was to later tell a detective that she didn’t think she lost consciousness, but that was always a risk with George. Because he was shorter than her, grabbing her by the throat meant he was pushing her upwards, her weight adding to the strangulation effect.

As Patricia told a victim advisor:

As a result of George pushing me up against the wall and grabbing me by the throat I received a large lump on the back of my head and I had a really bad headache for several days. My neck and throat were also sore for several days and when I tried to swallow my throat felt really tender.

While this particular incident was unusual, in that it culminated in an Armed Offenders Squad call-out, in other ways, Patricia’s characterisation of it as “just normal everyday losing the plot” seems quite accurate. For example, in a statement to police, Patricia provided this account of the relationship.

Our relationship has been very rocky. We spend periods apart all the time. Last year this was about on a monthly basis. Throughout our relationship the break ups have usually occurred when George has accused me of having affairs. He becomes paranoid and accuses me of sleeping with other people. He then gets verbally abusive and then physically abusive. He has elbowed me, slapped me. He loves to walk past me and elbow me. He has punched the wall beside my head as he held me against the wall. He used to be really bad at throwing things at me. He quite often threw the telephone to break it, leaving me with no outside communication. He pushes me about. His favourite thing is to grab me by the throat with one hand and push me up against the wall. He yells and screams at me, sometimes punches the wall beside me head waiting for me to crack.

He tries to get me to a stage where I just lose it altogether. I get hysterical and am just a blithering mess. He gets me to a stage where I am really terrified. He usually holds me up against the wall until I just can’t do anything. I am taller than him and he usually grabs my throat with his right hand. He pushes upwards until I am on tiptoes and can’t go any higher. He forces my head right up and back. On one occasion he squeezed so hard that I couldn’t hardly breathe. It felt like I was choking. I was sort of gasping and coughing. He let me down pretty quickly, then told me that it was my fault.

He always calls me a slut, whore, bitch when we have these episodes. They usually end when he punches the wall and then he goes to bed or goes off to the shed. He usually goes to sleep in the spare room but [by] the next morning he has come to our bed. He is always very apologetic. He promises that it will never happen again.

Patricia also told police “several times he has told me that he would kill me and burn my body at the incinerator.”

From these accounts of George’s behaviour, it is easy to see many of the tactics of power and control characteristic of perpetrators. By making threats and punching the wall, George terrified Patricia. On another occasion, he achieved the same effect by hauling on the handbrake while Patricia was driving. (The car crashed into a fence.) By smashing the phone, he isolated Patricia – as he did by accusing her of having affairs, by living in a remote settlement and by generally controlling her movements (she was not allowed to go to parties). He consistently abused her emotionally. By choking her to near the point of unconsciousness, he was demonstrating that he had the power of life and death over her. Yet, at the same time, by telling her that it is her fault

and by apologising the next day, he managed to minimise and deny his violence, to the extent that Patricia finds it easy to dismiss it as “just normal everyday losing the plot.”

The normalisation of violence extended to Patricia's daughter. With one exception, George was not physically violent towards Debbie but many of the assaults happened in front of her.

She's just used to it. It had been happening for as long as she can remember, you know. It's just another thing that happened. It never affected her. She just carried on doing whatever she was doing at the time – never looked twice.

Viewed from within the context of the family, it is easy to conclude that Debbie was not affected. Children have considerable coping skills. Debbie “coped” to the extent that, according to Patricia, she still loves her father and wants to see him (even despite subsequent events described below). But, from what is known about children's exposure to domestic violence, it is likely that Debbie was affected psychologically. She was certainly physically affected by the events involving the Armed Offender Squad: she developed alopecia.

The Violence Escalates

Things got worse about ten months before we spoke to Patricia. Unforeseen circumstances meant that a planned trip had to be abandoned. According to Patricia, for four to five weeks, George was:

in a constant rage and he didn't go to work once ... well, a couple of hours here and there and he'd come home and it was just a constant amount of windows getting broken and things around the house. [If I was] talking on the telephone too long he'd rip it out of the wall and smash it – or the computer [was smashed] against at the wall at one stage, because I was on the internet too long – just stupid things.

Patricia was able to convince George to go to his general practitioner. He was prescribed antidepressants. He returned to work where, according to Patricia, “He was abusing people and throwing things.” The mill was short of skilled workers so George was never disciplined. Instead:

They'd quite often just send him home, because he was such a brilliant worker and worked so well, and they need good workers they sort of let things fly over the wall there.

Unfortunately, this left Patricia to manage George's behaviour. She knew that she was potentially “for it” when he was sent home from work.

A couple of drinks would calm him down. I'd chuck a couple of bourbons in front of him and he'd disappear for a walk for half an hour. He'd normally come back and he's a bit nicer.

Staying in the Relationship

Patricia did know about protection orders, but had no faith that they would make a difference.

Yes, I knew they existed and I've been told by my lawyer what I could do and all the rest of it but it just seemed a little too scary to be getting out there and seemed safer to be where I was – in the chance that I wouldn't get hurt – than to leave and [face] a greater chance of getting hurt.

Indeed, for Patricia, staying seemed safer than leaving, which, she thought would simply make George worse and make things harder for the children.

He could be worse and life would be harder [without him] and worse off for the kids. Where we were they did have everything we needed. He did work very, very hard for us and did bring in a very good wage and we had some security in knowing that there was a male there to protect us, which is something I was personally worried about because of my past. I was actually raped in my own bed – twice now – so having a male actually seemed safer than being by myself.

Patricia's analysis of the situation seems realistic. It brings onto focus two contextual aspects of men's violence against women.

The first is the role of economic dependence. George earned a good income, far in excess of what Patricia could expect to earn, especially given her responsibilities as the primary caregiver for her children. Gender inequalities, in both child-rearing responsibilities and in income, provide a context which can be exploited by men who abuse their women partners. Poverty is not an attractive option, especially when compared with the periods of relative calm between assaults.

The second aspect of men's violence against women which is highlighted here is the role of other men's violence, especially stranger violence. As Susan Brownmiller first argued more than 30 years ago,¹¹¹ the stranger rapist plays a key role in perpetuation of battering. Violent though George was, he provided protection for Patricia from worse violence. That is, the ability of an individual man to abuse his partner and to escape the consequences for it is strengthened by other men's violence.¹¹²

Armed Offenders Squad Call Out

Patricia did get a protection order, but when she first sought help, it was not to get a protection order but to dial 111. This happened one evening after a day in town shopping with a friend. Her friend had taken her children but Patricia left Debbie and Zane with George. On their way home, Patricia's friend received a phone call to pick up her partner – he had been drinking and was worried about being over the limit. Patricia rang George to explain what had happened, telling him that they would be later than expected. George hung up on her.

It took the women an hour to get Patricia friend's partner home. When Patricia got home, it was Debbie who opened the door to ask what had taken her so long and why was she so late. Patricia knew immediately that there was going to be trouble.

I knew that by her asking me this that he must be saying something to Debbie about where I was and what time it was.

Initially, George wouldn't say much and went outside. Later in the evening he began to question Patricia about where she had been, suggesting that she was having an affair.

He said, "You are a fucking liar and a slut and there's something dodgy going on. It doesn't take two hours to pick someone up." I told him he was just being ridiculous. He said, "You should just like fuck up. Get out of my face."

His rage grew when he couldn't find some bandages. He looked in the car but came storming inside having found imprints on the dusty bonnet which he said were "arse prints" and wanting to know why three people had been sitting on his car. He pushed Patricia against the wall and demanded that she help him find the bandages and the car keys. She said she wasn't giving him the keys, that she would get the children and leave. He threw a bowl at her. She dodged and it missed. He smashed the telephone. Patricia got Zane into his car seat, but as she was walking down the hall with him George grabbed her again and pushed her up against the wall. She managed to get Zane into the car but as she tried to get Debbie, George intercepted her, brandishing a hunting knife. He forbid her from taking Debbie and grabbed Patricia by the throat with one hand pushing her against the wall, threatening to kill her. Debbie screamed, at which point, George let Patricia go, telling Debbie that her mother was a big bully. Patricia called Debbie to her but George, still holding the knife, grabbed Debbie. He told Patricia, "If you come

¹¹¹ Brownmiller, S. (1975). *Against our will: Men, women, and rape*. New York: Simon and Schuster.

¹¹² As some facilitators of stopping violence programmes have told us, it is common for men in group therapy to report that their partners had been abused in earlier relationships.

anywhere near her I'll do her too." Debbie was crying. Patricia left with Zane and drove to the nearest phone and dialled 111.

I thought that George was going to kill Debbie and then kill himself. I really believe that if I hadn't left he would have stabbed Debbie and killed her.¹¹³

When the police arrived, they talked to Patricia and after hearing the details of the situation, called out the Armed Offenders Squad. In the early hours of the next morning, George was arrested. The squad had found him – and Debbie – asleep. Four hours after leaving the house, Patricia had Debbie back, but, as she later told police, “[It] was the longest four hours of my life.”

Our account above is drawn from our conversations with Patricia and her statements to the police but it largely coincides with the account George gave to the police. When interviewed, he admitted questioning and verbally abusing Patricia. He admitted having a knife in his hand, but said he grabbed it when he went outside to see what the dog was barking at. He admitting telling Patricia, “If I was a nigger I would slit your fucking throat” but claimed that he then threw the knife away – in a direction away from Patricia and that he was not holding it when he was holding Debbie.

In summary then, I was loud, I was obnoxious, I was rude, I pushed her against the wall, I verbally abused her. But I did not threaten to kill her or Debbie, nor did I use a weapon to frighten or assault her. Patricia is a drama queen ... She twists everything to her benefit.

Getting a Protection Order

With George in custody and the Armed Offenders Squad stood down, police organised support for Patricia. Women's Refuge advocates called and helped her get a benefit, offered to move her to a refuge in another town should George get bail locally, and helped her to get a lawyer.

Patricia got her protection order without notice while George was still being held in custody. Like many women, she thus became simultaneously involved in two jurisdictions. In the criminal court, she was a complainant and, potentially a witness, in the police prosecution against George. In the Family Court, she was an applicant for a protection order, and subsequently, a respondent to George's application for the day-to-day care of the children. As it turned out, Patricia's concerns about the welfare of her children came into play in both jurisdictions.

Prosecution, Bail and Access

Five charges were laid against George: Possession of an offensive weapon, male assaults female, assault with a weapon, possession of an offensive weapon and two charges of threatening to kill (one against Patricia, one against Debbie). Two charges were subsequently withdrawn: Assault with a weapon and threatening to kill Debbie. The rationale for withdrawing the first appears to be that George had not used the knife to **physically** harm Patricia or Debbie. The rationale for withdrawing the second seems to be a desire to avoid having Debbie give evidence.

George thus faced no charges in respect of Debbie. This has important implications. George subsequently sought, and was granted, supervised contact with the children. Below, we reflect on the wisdom of this decision and on how it was reached. It seems a less plausible decision if one reads back into the situation the charge he faced in respect of Debbie. Withdrawing this charge has meant an important indicator of the risk the children face has been lost.

¹¹³ Killing a child in the context of domestic violence is not unusual. See Domestic Violence Death Review Committee. (2004). *Annual report to the Chief Coroner*. Ontario. Retrieved 15 May 2006 from http://www.mpss.jus.gov.on.ca/english/publications/comm_safety/DVDRC_2004.pdf.

Two risk assessment instruments were completed. George rated positive on 8 of the 12 red flags. On the Risk and Lethality Assessment Worksheet, a score of 18 (high) was calculated.

At his second appearance, George sought bail. Debbie was consulted for her views. The police and Women's Refuge agreed with her: she and the children would be much safer if George was to be held in custody. However, her parents said that opposing bail would make her look bad when it came to the Family Court making a determination on parenting.

I sort of felt like I was looking like I was trying to make life harder and worse for him and in the long run I knew it would come down to access to the kids which he will eventually want and the fact that his parents are very good to us and they'll want to see the kids. I didn't want to look like I was making things hard. [I wanted to] look like I was a good person in all this.

George was given bail, on the condition that he lives with his parents (in the South Island) until the next hearing – and that, when he returned, he was not to enter the street on which Patricia lived. At a subsequent hearing, conditions of bail were altered. George was allowed to remain in the area, but not to live in the small town to which Patricia had moved. Although she was informed of this change, Patricia was not told of the next change to George's bail, which removed any restriction on where he lived. The only restriction on him was that he not enter Patricia's street. He currently lives within four kilometres of her. Because it is small town, she sees him about frequently.

George pleaded guilty to four charges but not guilty to the charge of threatening to kill Patricia. Sentencing on the charges to which he has pleaded guilty was adjourned until the fifth charge had been heard. Initially, on that charge he elected trial by judge alone but on the day, changed his election to trial by jury. Patricia was summonsed to give evidence at a depositions hearing. On the day, George changed his plea to guilty. He remained on bail awaiting sentence, which was postponed until after he completed a stopping violence programme. Eventually, more than a year after the attack, he was sentenced to 180 hours' community service. To Patricia, and to us, such a sentence seems hugely inadequate in the circumstances. It is also a far cry from the five years imprisonment that the officer in charge of the case had told Patricia was a likely outcome.

So far, George has not attempted to contact or talk to Patricia. He apparently met the conditions of his bail, but arguably he is breaching his protection order. He makes nuisance phone calls to Patricia's mother and harasses her sister at work. Patricia has complained to the police about this but has been told that they can only take action if her mother or sister complains. Arguably, by harassing her mother and sister, George is engaging in behaviour "which amounts to psychological abuse of [a] protected person."¹¹⁴ This was the position police took in another of our case studies (see case study Elizabeth) in which they obtained a conviction for breach of a protection order following the respondent's threats made against the applicant's parents (who were not themselves protected persons).

Although she was determined to give evidence if needed, Patricia became very disillusioned with the criminal justice process. As she told us, during the lengthy remand:

The longer this goes on for, the less the services seem to give a damn ... I keep thinking it is just about over and then it hits me that it isn't ... It is one thing after another.

We got a sense of this in talking to one of the police officers involved in the case, who, in talking about Patricia said, "She can be a drama queen." Ironically, George had used the same term to describe Patricia when he was first interviewed. The perpetrator's tactic of minimising, denying and blaming others for his violence has been repeated by an agent of the state. A sentence of 180

¹¹⁴ Standard conditions of protection order, section 1(a)(iv).

hours of community service is similarly a major minimisation of the physical and psychological trauma experienced by Patricia and her children.

Access to the Children

There is more that Patricia has to cope with. George now has regular access to the children. Every second week she drops the children off at a supervised access centre 15 minutes before access is due to begin. George has one and a half hours with the children. Patricia collects the children 15 minutes after he has left. According to Patricia, Debbie says she enjoys seeing her father but Patricia notes that Debbie is “grumpy” before and after the access visits.

Officially, the access arrangements are recorded as having been made by consent. In fact, Patricia feels she had no choice in the matter. George had applied for the day-to-day care of the children but in mediation said that he would be happy with supervised access. His lawyer, Patricia’s lawyer and counsel for the children conferred. Patricia told us, “All three lawyers said I had no choice.” That is, they said that if she did not agree she would face a protracted and difficult hearing. Her lawyer advised her not to oppose supervised access or it would look bad for her. The judge’s memorandum notes that Patricia had given her consent “reluctantly.”

Reflections

Not surprisingly, all of this has taken a serious toll on Patricia – and Debbie. As Patricia told a victim advisor a month after the events which led to George being charged:

I am very scared of George. Whenever I see vehicle similar to his I think it is him and become very anxious. I think that he will come looking for us and try to get to our children. I am now living on my own with my children and spend a great deal of my time worrying that George will suddenly appear to begin this whole nightmare again. I am too scared to go to the shops on my own and have to rely on friends to be around when I do actually go out. I won't walk anywhere as I want to be able to get away if George turns up ... I have a protection order in place but I believe that this won't stop him. I don't want to live my life looking over my shoulder all the time and feeling the way I do. My daughter, Debbie, is now very scared of the police. Every time she sees a police car or a police office she becomes very worked up and gets upset ... I taught her that if she was ever in any trouble to ring the police or find a policeman. She is now frightened of them as a result of this incident. I have had to go to the police station several times since George was arrested and each time Debbie has become very upset when told that I was going there. She should not have to feel this way ... she is not the same happy wee girl she was. I just want for George to leave us alone so that we can get our lives sorted without the continual worry of him once more ripping our world apart.

Of course, George is still very much in the picture. He lives close by. Patricia encounters him frequently. And both children attend a supervised contact session with him every second week.

The contact arrangements were made under the Care of Children Act 2004. Section 5 of the Act sets out, “Principles relevant to child’s welfare and best interests”, noting, among other things, that “the child should have continuing relationships with both of his or her parents” (section 5(b)). There is a certain common-sense quality about this. However, in the case of Patricia’s children, it can be questioned whether it is in the children’s best interests to be having access with a father who has exposed them to such a high level of violence and who has apparently held his daughter at knifepoint – the latter occurring just six weeks before contact was ordered.¹¹⁵ Certainly, Debbie says she loves her father and wants to see him, but given the symptoms of trauma she is showing, is it sufficient to take her expressed views as necessarily reflecting her best interests?

¹¹⁵ We do not know if the Family Court had this information available to it.

In circumstances such as these, a young child's statement of love for her father and an expressed wish to see him, can be explained by the concept of traumatic bonding.¹¹⁶ One of the effects of abuse is to "create a potent longing in the victim for kindness and understanding and for relief from the fear or terror experienced."¹¹⁷ In the context of battering, that person is often the batterer, especially if he apologises and is especially attentive after the violence. Such behaviour can lead a victim, including child witnesses of violence, to confuse love and violence. Moreover, children of battered women can sometimes sense that their best chance of keeping safe will be to become an ally of the perpetrator, whereas aligning with his partner may pose real dangers of further violence.¹¹⁸

Patricia, as we have noted, consented to the contact arrangements, in much the same way she consented to George's release on bail. It is difficult to see her consent as freely given. In fact, she came under considerable pressure from George's counsel, from counsel for the children and from her own counsel. And, of course, there is the pressure of George's violence and power and control tactics. As was pointed out by Sir Ronald Davison¹¹⁹ in his investigation of the murder of the Bristol children more than 12 years ago, there are considerable dangers in accepting consent memoranda in cases involving domestic violence. What seems to have happened here is that the discourse that children need fathers has become so dominant that to take a stand in opposition to that risk is portrayed as being difficult and alienating.

Whatever concerns remain about the safety of the children, the contact arrangements scarcely provide safety to Patricia. George undoubtedly knows that she drops off the children before contact and collects them afterwards. There are no security arrangements in place.

Patricia's experience shows that women with children must negotiate their safety in the context of strong presumptions that fathers should see their children. To oppose access is to risk being portrayed as unreasonable. As a consequence of this, Patricia had to firstly, compromise her safety by agreeing to George being released on bail and secondly, compromise her parenting and the children's welfare by agreeing to him having supervised access. Moreover, George has now applied for three days a week unsupervised access. In a remarkably short time, he has gone from being the perpetrator of a terrifying and prolonged attack against Patricia and his daughter, one which Police expected to attract five years imprisonment, to being considered suitable for supervised, and maybe unsupervised, access with his children. Patricia is very disillusioned about the way he has evaded any real accountability for his violence to her and Debbie.

Patti

Patti's partner, Tim, was very controlling and his violence increased the longer the relationship continued. Patti got a temporary protection order but went back to the relationship. It took Tim being imprisoned for her to be able to make a final break. By this time, they had a son and, while Patti now has custody, access changeovers continue to be a point of exposure for her.

¹¹⁶ James, B. (1994). *Handbook for treatment of attachment-trauma problems in children*. New York: Free Press; Herman, J. (1992). *Trauma and recovery*. New York: Basic Books.

¹¹⁷ Bancroft, L., & Silverman, J. G. (2002). *The batterer as parent: Addressing the impact of domestic violence on family dynamics*. London: Sage, at p. 40.

¹¹⁸ *Ibid*, at p. 41.

¹¹⁹ Davison, R. (1994). *Report of the inquiry into Family Court proceedings involving Christine Marion Bristol and Alan Robert Bristol*. Wellington: Office of the Minister of Justice.

The Relationship

Patti was 18 years old when she met Tim. It was October 2000. He seemed to be the perfect boyfriend. They went out on dates which she describes as “really lovely”. She did not become aware of his controlling behaviour until he told her what she should wear out.

He was just sort of sitting there saying, “Oh, I’d like you to wear this.”

Whatever Tim needed to do in the day, he wanted Patti to come along, even if she didn’t want to go. He would ask her to drive him to visit his friends and he always had a way of engineering situations so that she would always be with him.

It was just sort of getting me into this [routine of] being by his side 24 hours a day, so he knew where I was.

Tim provided a van outside his father’s house as their first home. It was also there that the first abuse occurred, initially verbal.

He just sort of started flying off the handle, yelling and screaming at me, and that was only like a month or two after we first got together.

She believed it would be alright, and this was a one-off situation. A month later they relocated to a unit. He used the concrete walls to beat her head against.

He started slamming my head into the concrete walls ... so he’d slam my head into those, and just throw me around and slap me.

This was the first beating of many to come. Physical violence went from monthly episodes to weekly. She would leave him and then he would “chase” her, proclaiming his love and begging her not to leave him. Regardless of what she wanted, his decision was always the same, and that was to follow her and to be with her.

I’d go back ... he’d stop for a little while, say a month or so, and then I’d go back, and then it just started getting shorter and shorter again. Probably just before I left him, it was coming every few days, every two days.

Sometimes there were witnesses, but no one ever called the police.

I’d be running down the streets of [place] with him chasing behind me, grabbing my arm and dragging me back to the house and ... people were driving past ... and they’d sort of look at you like, “You’re weirdos” but they’d never do anything about it.

The relationship continued, with Patti too afraid to leave, and anyway, it seemed pointless knowing that Tim would just follow her. Tim decided that they should move to another small town where some of his family lived. He believed there were better opportunities there and they would feel less stressed out. Patti knew no one.

In 2004, she discovered she was pregnant and his beatings became even more regular.

I got so hurt. It got worse, once I was pregnant, because he thought that that’s it, you’re stuck now ... you know?.

He would drag Patti around by her hair, causing clumps to fall out. He continued to smack, punch and throw her to the ground during the pregnancy. She was extremely fearful, both for her own life and that of her baby. In her seventh month, he severely beat her. Finally, the neighbours called the police.

He threw me down on the ground and told me to get all my stuff and get out ... he was throwing me up against the wall, he grabbed me by the throat and tried to strangle me, and threw me down on the ground and started bashing me on the back. He threw me out the door, my tee shirt was all ripped ... he walked out ... locked the door behind him and jumped into his car and drove off. So here I am in a strange town, don’t know nobody ... I was totally isolated.

Patti's neighbours could hear her crying on the doorstep. She thought she must have looked a sight with a ripped t-shirt, pregnant tummy protruding through the rips, and her lip starting to swell. They offered her comfort, called the police, and took photographs of her injuries while they waited for their arrival. The police came, took her statement, and called Women's Refuge.

Patti's first wish was to return to her home town. The police advised her that once she got there, she should apply for a protection order. A refuge worker drove Patti to a half-way point where they met her sister who drove her home.

Obtaining a Protection Order and Attempting to Leave

Patti had known about protection orders prior to entering the relationship. Her mother had twice issued trespass notices to previous partners, but had never wanted to apply for a protection order.

Patti found a lawyer who helped her to apply for a protection order. She was granted a temporary protection order without notice. Patti told us:

They just sort of gave it to me and said read through it all ... I do know how to use it, but, I mean, when somebody is totally like overpowering you and bashing you, a piece of paper isn't going to save you ... and when they've got you so isolated ... that you can't even phone, you can't use a cell phone, ... they keep you as far away from your family as they can.

When we asked Patti about her lawyer, she told us:

He was great, he was absolutely awesome.

She also visited the police station to have more photographs taken of the bruises that were now appearing.

There was one perfect handprint right on the back of my shoulder and, um, they were just like, "Wow, I don't think we need any more evidence than that!"

During this time, Tim was located and arrested; he was released the next day.

A week later, Tim followed her home. He had a sister who lived in the area. He used her to get a cell phone to Patti and to relay a message.

"He wants you to have this cell phone. Turn it on. Keep it on."

Patti had none of her clothes or belongings and, through her lawyer, asked Tim for access to her clothes. Tim placed another cell phone in the bag of belongings that he gave to her lawyer. She turned on the phone, and responded to his text. Within two weeks, she had moved in with him and his sister.

Tim didn't oppose the protection order becoming permanent, but he later sent Patti to her lawyer.

"I want you to go into those lawyers and get it dropped." And I went into the lawyers and I said, "Look, I want this dropped" ... and the lawyer said, "I'm not going to do it for you. No way!"

With the lawyer's refusal, Patti went outside to tell Tim that the protection order could not be revoked. He responded by saying:

"You didn't know, harden up" ... and [he] just started bashing me in the middle of [town]... A lady in one of the buildings saw it and called the police and then the police came down and tried arresting him, and I just said that nothing had happened and you know, [that] there was nothing wrong and I didn't want to talk to them and the rest of it – because, before he even got in their car, he turned around and said "Don't say anything."

Patti was eight and a half months' pregnant and told us:

When you are shit scared, you do not say anything.

Patti did not press charges, but the woman who had viewed the incident was prepared to testify against Tim. As a result, he was arrested and ultimately convicted. Patti told us that, at the time, she felt that the police would not have used her testimony.

I was just going to say whatever Tim told me to say.

Patti was quite relieved that she did not have to testify against him. Tim was sentenced to attend an anger management course, which he started but did not complete.

Patti thought that the birth of their son, Johnny, would make the relationship stronger, and that Tim would change, but this did not happen. Tim would leave the house for days, come home, violently beat her, leave again for another indefinite period, return, and beat her again. On one occasion, Patti had their baby in her arms:

I was holding my son ... and he still bashed me while I was holding my son ... He always says he just sees red, and just goes for it, and yet he was coordinated enough that when I was holding my son, he only bashed me in the head.

Tim was calculating and controlling. Even when his anger “flared up”, his punches were deliberate and precise. During another incident, when Patti was in the nursery and Johnny lay fast asleep in his cot:

I could tell [Tim] was about to go for it and just bash me, but he changed his mind. I'm just curled up in a ball but something made him change his mind, and he just said, “Get up, and go deal with your son” and just walked out the room. And I was like, “God, that's the first time he's ever just walked away from it.”

Patti now knew that Tim had the ability to stop himself from bashing her, but mostly he chose not to. And Patti couldn't enforce her protection order.

He always made sure that there was no landline, and I had no cell phone.

As well, she was only able to use the car when she was taking him somewhere, or if he specifically said she could use it.

Patti's midwife informed Plunket that Patti was being beaten by Tim. They doubled their visits to her house to ensure that she and the baby were okay. When baby was three months old, Tim was arrested for stabbing the next-door neighbour and was sentenced to eight months' imprisonment. He served four months.

Separation, Custody and Access

Patti's sister had tried everything she could to get Patti to leave Tim, but nothing had worked. However, she remained supportive and Tim's imprisonment was an ideal time to help Patti escape his control. Patti told us:

It was quite hard because even that hour a day of phone calls, or at least 15 minutes a day of phone calls, and one visit on Sundays, he still had just enough influence to keep me there. And if he had managed to keep me there another month, I wouldn't be up here now.

When Johnny was six months old, Patti packed her bags and moved out of town. She never went back to Tim. However, that was not the end of having contact with him.

When Patti had applied for her protection order, her lawyer had told her:

There was nothing he [Tim] could do at that point in time to fight for custody ... because I was still pregnant ... He can't fight for a foetus; he can fight for a newborn child, so he said, “Come back once you've had him.”

So while Tim was still in jail, Patti began to investigate full custody of their son. A Women's Refuge advocate referred her to a different lawyer, who she did not find helpful.

I kept saying to her, "I want full custody" ... and then she didn't tell me exactly what she was going for, and then she just said to me one day that I was going for interim custody, and I said, "But I don't want that, I want full custody."

Patti had requested that any access Tim had should be supervised access. She would have preferred to have had supervision through Barnados, but they required an interview with both parents and Tim seemed unlikely to cooperate with that.

The courts turned around and said to me that I had to have some contact with [Tim] if he ever came here for access, and I said, "Well, why can't he do it via you [the courts]?"

Patti provided Tim with her cell phone number.

That's the only number I've given him because I can easily just change it, just like that.

She receives text messages and the occasional call from him.

Reflections

At the time of this writing this story, Patti is living a violence-free life and Johnny is healthy and strong. With the help of her sister and Tim's imprisonment, Patti was able to remove herself from this violent relationship. Plunket were also supportive and helpful by increasing their visits to their home.

Patti tells us that the only time she felt safe was after she left Tim. Only then did she feel she could use her protection order effectively. She likes the fact that she has the power, and the right, to tell him to leave her property.

Patti attended a protected persons programme.

It got me in contact with other ladies and realising that ... you're not stupid! Because you feel like you've been so dumb that you actually stayed for that long ... You find that you're not stupid, that these things sort of happen and you learn about how not to do it again.

When we asked Patti what she would recommend to other women, she told us:

Even if it [protection order] feels like it's not working at the time, it is going to work for you one day. Yeah, it is going to work for you eventually.

Tim being imprisoned provided an opportunity for Patti. She was not impressed with the earlier sentences he had received in the District Court. On the first occasion, he was given nine months' supervision and on the second "anger management." Patti told us:

That's so ridiculous ... It's just like giving them a slap and sending them on their way.

She wants people to become more aware of domestic violence.

Get out there, into the community and get the community to recognise that this is actually happening 'cause it is quite hidden. People don't want to recognise it.

Rachel

Rachel and Chris met in a treatment centre for alcohol and drug addiction, but while alcohol and drugs were initially an issue for both of them, it was only with Chris that alcohol led to violence. Rachel is now "clean" but the protection order she got, in 1999, contributed very little to helping her and her children. Instead, Rachel feels very much let down by the justice system, attributing

the gains she has made to the help of Women's Refuge and a women's empowerment programme. While she is now free of Chris – it is now three years since she was last assaulted by him - her children still see him under supervised access, even though they are terrified of him.

The Relationship

Rachel's relationship with Chris lasted for eight years, although they lived separately for a large part of that time. Alcohol was undoubtedly a factor in Chris's violence, although there were other factors too. Rachel thinks that unresolved issues from his childhood – he was abused as a child and had an intense hatred of his mother – may also have contributed. He also had ambivalent feelings about the children. Rachel has five children, but she thinks Chris "connected deeply" only with their son. According to Rachel, "It seemed that when we had another baby he always got really violent." For example, when her third child was born, Chris beat up Rachel because he believed (wrongly) that he was not the father. After that assault, Rachel "trespassed him ... He respected that order and buggered off for a year."

Chris returned. Rachel had found it lonely looking after three children by herself and she thought that her daughter needed to see her father. For these reasons, she resumed the relationship with Chris but not on a live-in basis. She was quite clear about what was needed.

I just said don't be drunk and don't be boozing around her, and don't bring any booze onto my property.

Rachel's concerns about Chris's drinking were well founded. For example, she recalled what happened after his grandmother passed away. After the funeral, Chris turned up at Rachel's house completely intoxicated. He pushed his way into the house. Two of the children were in the bath, and the other two were upstairs in the bedroom.

He nearly dropped one of the kids down the stairs he was so drunk. There were two in the bath, and they witnessed him punching holes in the wall right by my head ...[I] managed to push him out of the door.

For Rachel, addressing Chris's drinking was vital for the safety of the children. Chris was not prepared to discuss his drinking, and evidently felt entitled to use violence to end any such discussion.

He would visit ... and he would constantly do things like punch holes in the walls ... when I set boundaries with him – when I said it was time to go, or he arrived drunk and I would say, "No, you are not coming in. You are drunk. You can go home to your caravan and sober up and then you can come and see the kids – that's fine but not [when you are] drunk." Sometimes he would get upset with that because he didn't like boundaries set on him. There were fences broken, and walls smashed in – stuff like that would happen.

Obtaining a Protection Order

After having a caesarean with their third child, Rachel was required to stay in hospital for observation. Chris visited, bringing the oldest girl, Rebecca, with him. Rachel told us, "I knew straight away that he was doing nasty things with her." Rachel discharged herself and drove home. "I told him he had to go – that he could not treat Rebecca like that." Initially, Chris did leave. At the time, he was living in a caravan park not far away. But later he returned, telling Rachel that she was a "nut case" and that he was going to take his son with him. Rachel rang her sister, a Women's Refuge worker, who came around with another refuge worker with her.

Chris's behaviour was very threatening and frightening. He was very abusive verbally and he would have loved to smash me over but there was a great big woman from Women's Refuge here, so he wasn't going to touch me. He is a coward, so he wasn't going to touch me with her there. In the end they drove him to wherever he wanted to go.

While the immediate situation was resolved, it was not without Chris having become very aggressive. At one stage, he had hurled a heavy cylinder at Rachel, barely missing her. Rachel's sister insisted she get a protection order, telling Rachel that the police would respond quickly if the order needed to be enforced. Rachel told us what she hoped the protection order would do.

A protection order would give me the power to call the police and they would have to respond to you. They won't fob you off and say, "Are you bleeding?" They usually say that, "Are you bleeding and can you see him now?" I've had that all before.

Rachel got her protection order, without notice, in two days. In due course, she got a final order. Rachel described her lawyer.

She was really, really good, I must say ... she was young too; she had a passion for what she was doing.

However, when Rachel most needed her protection order enforced, the police in the town where she resided at the time did not help her.

Continued Violence

Chris persuaded Rachel to move to a small town. He hated living in the city but, in hindsight, Rachel believes he wanted to move to isolate her from her family and friends.

We moved to a small community where we didn't know anyone. We had three very young children, it was like getting all the stuff ready for a big fire and pouring petrol on it and then someone lights a spark and then, "whoosh" – it all went up in our faces. That is how it feels for me, looking back, and it was a matter of me not being able to see that I could leave with the children at any point as it was getting more and more violent. He was getting more drunk and as he was getting more violent I was becoming more drunk too and more frightened but didn't know what to do, and I was getting angry though too. We had another child, he got violent again, he was throwing tantrums all over the place and I was trying to rein him in. I had no bottom line about how I could be treated. He could smack me round and kick me into the gravel and rub my face in.

To use Rachel's word, it went "whoosh" one Sunday night.

It was early evening. I had had enough. He had affairs, he would embarrass me in public and I had to beg his boss for money because he was spending it all. I was breaking down. I'd just had a baby. I was taking too much dope. There was no family support from my family. Everything was going crazy in my head and this man was getting more and more violent and the cycle of violence was getting more and more out of control. So I went into town with the kids. I was so angry with him. He was a fisherman, and he had just come home and went out to spend all the money. I remember thinking, "Quick, I better go shopping before he goes and spends it all!" I got food for us and I brought a bottle wine and I was drinking it, and I thought, "I know where you are. You prick, I'm going to tell you what I think of you."

Rachel drove to the pub where Chris was drinking with his mates outside. All the men moved aside except Chris. The car slightly touched him, but he remained standing.

What I was, was a mother who had reached the end of what she could take without any support from her family with four small children, major addiction issues, terrible tendency to be a victim, and I was in a cycle of violence and I had no idea. [It was like] I was in a rapid and I was trying to swim with four kids and we were drowning and I was at the end of my tether. I wind the window down and yell out "Fuck you" in front of all these men which would have really got him going. I said, "You are a fucking useless prick" and it was like everything came up from years of it and I dumped on him in front of everyone. I was so angry. I just remember thinking men are pigs and it was going around in my head. I remember he hauled me out of the car by my hair and just punched and punched me, kicked me and stomped my head into the concrete. He did this in front of all those guys and nobody came to my aid because I was too lippy in front of all of them.

Rachel managed to get back into her car and drove home, but Chris followed and continued his attack.

It was an assault where you could do nothing, I could do nothing to protect myself and he was physically fit. He had shoes on. He was kicking me and dealing to me. I was thinking I'm going to die. This is it. I'm going to die. It was absolute terror, and I remember thinking, "I'm going to survive this, I will survive this." This is the whole time he was pounding me, kicking my head on the side of the bath, jumping on my head, stomping on it. He had sand shoes on because the imprints were all over my head.

The noise woke the children, who began to scream. Chris left the bathroom, telling Rachel he had not finished with her yet. Although Rachel cannot remember it – Rebecca told her later – at one point, Rebecca ran in between Chris and Rachel. Chris put his daughter outside and continued to attack Rachel. She described Chris's appearance to us.

His eyes were different. They are normally a sandy brown but they looked blue to me, a weird colour. I remember looking at him and thinking, He looks like a fucking demon and that just made me think of "fight, flight or freeze". I froze.

Chris's friend Kenny was in the house while all this was happening. At one point, he opened the bathroom window and told Rachel to escape through it. However, the bathroom was on the second floor. She yelled to Kenny to take the children away. Kenny left with the two eldest but failed to ring the police.

Chris then grabbed Rachel's sore leg. He suspended her from the ground by her feet before dropping her on her shoulder. She screamed out in pain. He dragged her out of the bathroom and into the bedroom where he threw her on the bed so hard she was winded. She knew what his intentions were:

Something in me rose up and I started to talk to him. I said, "Look Chris, you've got to calm down. You've lost it." He was just smacking me in my nose, trying to break my nose, and yelling, "I'm going to break your nose, you fucking bitch." And I would reel back and just say, "I love you Chris, I love you" and then he would punch me again and he would rave on. I said, "Chris, the kids, the kids ... you are not going to lose the kids; I'm not going to leave you." He started to calm down. I said to him, "Come on. You've got to get your shit together. I'll make you a cup of tea."

By reassuring Chris she wasn't going to leave, Rachel had diffused the situation to the extent that he stopped the physical attack. However, he kept up the verbal abuse, including making threats to kill her. Rachel thought about how she was going to get away, knowing that with her injured leg, she was not going to be able to handle the spiral staircase.

Rachel made Chris a cup of tea and placed it on the table. She got to the stairs and threw herself down. The door, as she had hoped, was open and she crawled outside as fast as she could. She hid under the hedge and waited to see if he would follow.

When she thought the way was clear, she crawled down the hill, hiding under bushes and hedges along the way. She crawled to her neighbour's door:

I crawl up to him and knock on his door, and he said, "No, I'm not ringing the cops but you can have a joint. I'll go up there and smash him but I'm not ringing the cops ..."
And I say, "no", and all I could say is, "my baby, my baby".

Rachel dialled the police. She cannot remember what she said to them but she can remember feeling hysterical. The neighbour drove her to her friends' place ten minutes away. Rachel staggered up the pathway. Initially, her friends did not recognise her but once they did, they immediately took her inside. Rachel then realised that her two youngest children, both under 18 months, were still in the house. She phoned the police immediately to find out why they hadn't arrived. Rachel recalled being told, "Stop ringing us; we are on our way."

The first police officer to arrive waited for support before going onto the premises. They found the two youngest children and later recovered the two other children from Kenny. Rachel later learnt that while Rebecca was in Kenny's care, he sexually abused her and showed her pornography.

It took an hour for the children to be returned to Rachel. In the meantime the ambulance had arrived for her. Rachel told us:

The hospital was so flippant with me. It was like "That domestic violence shit" and people can't deal with it.

Rachel felt that the police officer who attended her call was also very casual in his approach. Chris was given police bail, despite the police knowing that Rachel held a protection order against him.¹²⁰ The arresting officer commented to Rachel that he thought Chris had been trying to kill her considering the way he had attacked her around the head. The next day the same police officer went to see Rachel and casually told her:

"I thought you were completely looney when I saw you." What sort of fucking comment is that from a police officer? He sees a woman that has been nearly battered to death. What do you think you are going to see? Some beautifully made up woman? Oh man! I couldn't believe what he said.

Rachel found this comment startling. She did not appreciate having to deal with people's judgemental statements based on their lack of knowledge about domestic violence.

Chris was eventually sentenced to 12 months' imprisonment for assault with intent to injure, but that sentence was suspended for two years. He was not charged with breaching the protection order.

Further violence

The fact that he was subject to a suspended sentence of imprisonment did not deter Chris from further violence. About a year later, he was back in court on charges of male assaults female and breach of the protection order. This followed an incident in which he turned up, drunk, at Rachel's place.

[He] said to me, "Oh, let's be a family again. I want to be a family man." And I said to him, "Okay, if you want to be a family man, well, I want to tell you what a family man is. A family man doesn't drink. He gets a job and provides for his children. He doesn't cause violence in the home, and doesn't scare the shit out of his kids. Chris – quite frankly, I don't think you are capable of being a family man." So he left quite hurt and went away and the next night he arrived in a drunken state, uninvited, on to my property so he was breaching the PO ... I said, "You need to go. You are not invited." Rebecca was the only child awake and this time I noticed he had steel cap boots on. All I remember is freezing, thinking how did I get here again? I was frozen in fear. Rebecca was freaking.

A friend rang. He could hear Chris "raving on" and told Rachel he was coming around, putting his wife on the phone in the meantime to monitor the situation and ring the police if necessary. Rachel worked really hard at not responding to Chris's anger.

I just kept my eyes low and didn't say anything. I was being coached by this friend's wife and then he grabbed the phone out of my hand but still no response from me. So he proceeded to go get Rebecca and he said, "You fucking useless bitch. You are a fucked up screw ball." She was terrified in the corner and I made little signs to her, but I knew that if I went in there and yelled at him, that would have been the thing he

¹²⁰ Pursuant to s. 51 of the Domestic Violence Act 1995, a respondent arrested for breaching a protection order cannot be given police bail for 24 hours. However, Chris was arrested for assault, not for breaching his protection order. Thus, the police were legally able to release him.

needed. He wasn't getting any response from her so he ended up yelling in her face and trying to freak her out. She was six – seven maybe. He was so drunk he needed to go to the bathroom and I made signs for her to run so she ran out the door.

Rachel and the children were able to make a run for it to the neighbour's house. Chris followed them but didn't attempt to break in. His threats continued, telling Rachel, "If I wake up in a cell tonight, you are fucking dead." He left to head into town, where the police later found him and arrested him.

It took a year for the charges to be dealt with. Three scheduled hearings were deferred before Chris was sentenced to a total of 12 months' imprisonment. This comprised nine months imposed in activating the suspended sentence for the earlier offence and a further three months for the new offences. The judge declined leave to apply for home detention, but Chris appealed against that aspect of the sentence. A year after the latest assault and breach, the High Court allowed the appeal, granting Chris leave to apply for home detention, deferring the continuation of the imprisonment in the meantime. The Parole Board granted Chris's application and he served the balance of his sentence on home detention.

In determining the appeal, the High Court noted aggravating features of the violence, including the way the children were exposed to Chris's abuse. The court also noted that Chris had previous convictions for breach of a protection order and assault with intent to injure. On the other hand, Chris received credit for using the time gained by deferring the case to attend counselling and anger management, for gaining a new job qualification and for a positive reference from his employer.

Rachel felt marginalised and silenced by the process.

I got no lawyer to represent me in court. I was completely voiceless. I had pieces of paper that I wrote in trauma about what effect it had on me, but I wasn't able to stand in front of a judge and voice [my concerns or] have a lawyer. I had police officers, [to] who[m] – as far as I'm concerned – I was just another case.

Further Exposure of Children

Despite the criminal courts' concern about the impact of Chris's behaviour on the children, the Family Court has given him supervised access.

My kids didn't want to go but the court has ordered that they get to see this psycho man. The kids were terrified with him. [Chris] was a real charmer [in court]. The judge in the Family Court said to me, "What do you mean, you don't want us to know your address? How can we post you anything if we don't know your address?" In the meantime, Chris is sitting in the court, so the lawyer has to remind the judge about the safety issue. No matter what he did to me or what he put his kids through – Judge [name] in the [town] courts – totally minimised me. Even my lawyer at the time wasn't very good. I was in the middle of severe trauma and she was saying, "Be quiet, be quiet. You can't speak out in court." I was speaking out because he was getting access to the kids and I felt like [maybe] I was crazy and perhaps all these people were right, but I knew deep within my own being that this was outrageous. From whoa to go it was treated really badly.

Rachel was also concerned that Kenny has never been held accountable for his sexual abuse of Rebecca. Rachel reported the abuse. A specialist Child, Youth and Family interviewer conducted an evidential interview which was considered to provide a good basis for a prosecution. However, in the interim, Kenny went to Australia and there has been no further follow-up.

Reflections

Rachel is grateful for some of the help she has received from Women's Refuge and the women's empowerment programme she attended.

I now have a strong voice. Now I can speak strongly because I have had a lot of help, and I have remained clean, and the trauma isn't quite bad.

In her view, that has been the best protection. She also had positive experiences with police in the city. As she told us:

They [the police] came here and they were absolutely wonderful. They dealt to it really wonderful. They arrested him and locked him up for the night ... They made me feel validated too, They brought a victim support worker. They were really good. They brought a woman police officer ... [She] was absolutely wonderful. She was furious [about the attitude of some of her colleagues] and tried to do her best. She said to me, "I tell you something – police officers are arseholes." She was a police officer working for battered women. But she left. They treated her like a piece of shit. They were just booze-drinking rednecks.

But generally, Rachel is very disappointed with the justice system. In her view, the police officers in the town she moved to, "Didn't give a fucking shit about domestic violence." She is angry that no attempt has been made to follow up Kenny. She is angry about the failure of the police to charge Chris in respect of most of the breaches she reported. She felt quite powerless in the criminal court where she was "just another case" without a voice. She resents the effort she had to put in to oppose Chris getting home detention. She remains concerned about her children who are forced to see Chris whom she describes a "psycho abuser." She is angry that the Family Court failed to consider her safety. In summary:

The justice system did nothing and therefore I didn't feel validated and I felt unprotected while he was free ... For me the protection order let me down at a time in my life when me and my kids needed it most – when justice needed to be done ... I had to fight tooth and nail [for Chris] to do a tiny bit of jail. The effort it took to pursue that while in post-traumatic stress and bring up four kids! It was a mammoth effort every time. The best interest of my family was not served.

Rachel made an ironic comparison.

A man dragged his dog down the road and it was big news and he got two years! But compared to what happens to kids and women ... A piece of toilet paper would have been more protection. It was a mockery. I was worth less than money, and my kids were less than dogs.

We asked Rachel if she had any recommendations to improve the situation.

That men that are violent towards their partners and in front of their children are made accountable in every way and are shown what trauma does to kids and women and how bad it is. It is totally unacceptable to bash the living shit out of women and to murder them. And to bash your kids is totally unacceptable behaviour. [The message should be,] "Our society will put you away and then we will re-educate you. We will take you to that dark place and you need to get better. Firstly, they need to be locked up and we need to be safe. So that is where I strongly come from.

Sarah

Sarah met her partner, Simon, overseas. He was part of the music and drug scene. While Simon could always be short-tempered, he became more violent after they returned to New Zealand, particularly after they moved away from Sarah's home town. The violence escalated to the point where Sarah left the relationship, got a protection order and moved back to her home town. Fortunately, Simon did not attempt to follow her and has pretty much disengaged from the family.

Violence in the Relationship

Sarah met Simon while she was in England on her OE. Sarah thought he was the most creative person she had ever met. He was “technicolour ... an extremely gifted musician.” She loved being with him. He had a drug habit but that seemed to go along with the music scene. There was little sign of abuse, although Sarah noted:

He could just lose it, even then. One night before our wedding, he smashed his fist against the wall and broke a chair.”

Simon was not working as much as he wanted to, and he wanted new inspiration for his music. They decided to come back to New Zealand, to Sarah's home town. Sarah told us, “He was different here and seemed to need me.” At first, she thought the changes might have been the effects of drug withdrawal – he had stopped using hashish and friends in England had warned her that coming off that drug sometimes changed people. Sarah felt that Simon was becoming a more frightening person.

Eventually, Simon got a job, but he seemed to be getting angrier and more and more aggressive. Eight months after getting the job, he started to complain that he had no time for his music. With the help of Sarah's sister they moved to the South Island. By now, they had three children and she was beginning not to trust Simon with them.

His behaviour was scary and unpredictable. He would lose it sometimes and scream and yell and carry on.

Sarah was intensely concerned for Simon. She thought that there had to be something wrong with him physically for him to be behaving in this way. She believed that drugs were playing a big role in his behaviour. He had switched to marijuana after coming to New Zealand and it seemed to have a depressing effect on him. She was terrified of his angry rages. She said, however, that she didn't think of leaving him then. Instead she wanted to help him

Sarah remembers incidents of Simon's rage, even in the middle of the night when she was breastfeeding the youngest baby. She still believed that he loved her “in the good patches”. She says that:

You could tell as soon as his foot hit the floor next to the bed in the morning what his mood was going to be.

If Simon was in a bad mood, she would keep the children away from him so that he wouldn't get stuck into them. She preferred him taking his anger out on her. There was a lot of sexual violence as well. She could never say “no” to Simon without a big scene happening.

Simon's behaviour had alienated Sarah's sister and brother-in-law and she felt very isolated. The psychological abuse was constant.

It was an every day thing now. Sometimes I had to wait for up to two days to be able to talk to him rationally.

Simon was getting more and more irritated with the children, particularly the oldest and the youngest.

Simon shoved them but did not hit them. The second child was special to him and we would use him to get things by [Simon].

Escalating Violence and Seeking Help

Sarah was now pregnant with their fourth child and Simon was getting more physical towards her. During the eighth month of her pregnancy, she developed complications and Simon's violence increased. He started to lose his temper even more often. Once she tried to get away in the car and he whacked her really hard. He also started hitting the children as well. Sarah helped

the children develop a safety plan. If Simon started getting really scary, they were supposed to run to the neighbours.

He was very frightening and had weird gestures.

When Sarah started getting contractions, Simon began to punch her. She called the police. When they arrived, they took him away but released him after midnight. He stayed with a friend overnight and came back home the next morning.

Sarah decided that she and the children should move in with a friend for a while. She wanted Simon to be psychologically assessed and to go to an anger management course but nothing happened. He continued to be scary to her and the children. She told us:

He would put them on the roof of the car and drive around, and say that it was exciting.

Sarah remembers there used to be “very good” and “very bad” times in her relationship with Simon but after the fourth baby, there was only the bad. She had lost all hope. Simon would take off for “days at a time” leaving her with the children and little or no money. When he was home, he would constantly be threatening her and the children. He would often stay in his room smoking and playing music. When he came out, he would be angry and threatening. Sometimes he would start to strangle her.

He could go from one to ten just like that. He would start to scream and yell and smash things.

Sarah decided to leave Simon on a day when he had returned after being away for three days. He came back very angry and made a terrible scene. She told us:

I felt I had to go away to protect myself and the kids. I knew I could not take any of this any more.

Sarah planned to return to her family in the North Island. But first she went into a Women’s Refuge with her four boys. She had left very quickly and had not been able to pack anything. Work and Income agreed to help her with the price of air fares for her and the children and Women’s Refuge gave the children one set of clothes each. The children had no shoes, and the airlines refused to allow them on board without shoes. Sarah remembers the humiliation she felt but she said that she was more scared of Simon coming after them and stopping them.

Sarah got a lawyer who applied for a without notice protection order for her. The order was served on Simon before she left town.

Reflections

After initially staying with family, Sarah and the children now have their own house. She has been part of a women’s support group and attended counselling.

Simon did not oppose the making of a final order. He never followed them and has never breached the protection order. He has very little involvement in the children’s lives. When Sarah asked for the children’s clothes and some photographs, he refused to give them to her. She has telephoned Simon at times and let the children speak to him but he doesn’t phone them. Once in a while, he sends them birthday presents. Having seen the hassles and intimidation that some of her friends have been subjected to, Sarah counts herself lucky that Simon has pretty much disengaged himself from the children’s lives. Even now, six years later, Sarah is still afraid of confronting him. She told us, “I still have nightmares, often.”

Trudy

Trudy's story reflects some of the challenges facing women whose partners are part of criminal gangs. Eventually, she was able to escape back to New Zealand as she had been living in Melbourne, but then faced some new challenges as her ex-partner followed her to New Zealand and threatened to have her son returned to Australia under the Hague Convention. Trudy's story shows the importance of supportive networks. On "his" territory, she had little support and few options. Now that she is home – and has a protection order – she has been able to deal with her ex-partner more effectively.

Violence in the Relationship

Trudy (33) went to live in Melbourne about five years ago. Her daughter, Sophie, was two years old at the time. They had been there for about a year when Trudy met Shane. As Trudy says, "every relationship has a honeymoon phase" but it didn't take long to work out what Shane was like. Unfortunately, by that time she was pregnant with her second child (Sam) and financially dependent on Shane.

It soon became apparent that Shane was part of a very tight-knit set of brothers who were heavily involved in various forms of criminal offending. As Trudy sees it, "it was probably worse than living with the Mafia." Initially, she tried to ignore what was going on. She would tell Shane:

"I'm sorry I don't want to know about it"... yet if I said the wrong thing to him about anything, like that was it! I'd get a swat around the face ... there was never a relaxed moment over there.

Trudy was subjected to punches, strangulation, spitting and sexual abuse. As she said, "He wouldn't hesitate to hit me in front of the kids." He did not hit Sophie but he did hit Sam once.

We were sitting in a café one day and Sam's squealing and Shane turned around and he smacked my son over the face, and said, "Fucking stop it!" I thought, "Oh my god, there are people watching." I said, "Don't do that." He said, "Don't ever fucking what? If he is going to scream, and he's pissed me off, I'll do what I want with my son."

Shane would terrorise her and the children with his dangerous driving. Trudy would sometimes have the car door slammed shut on her. On other occasions, she was knocked unconscious, once in front of Sophie.

Resistance proved futile.

Initially, I did argue back, but his way of ending an argument was not to sit down and talk about it, but just to take a swipe at me and unfortunately one swipe wasn't enough. He would always come back with more, and more, and more, and in the end I learnt not to fight back ... You've got a hundred-kilogram man sitting there, somebody who is basically twice the weight of what [I was] at the time. There's no point.

It seemed as if there was little point in trying to leave either. There was the obvious example of what happened to Shane's former partner (with whom he had fathered two sons). Shane treated her house as his own.

He goes around, walks inside the house, he falls asleep on the couch, he eats the food in the cupboards ... He was still giving her hidings while he was with me if she said the wrong thing to him ... She is financially dependent upon him.

Trudy could also see that the women in the extended family who had separated from their partner were never allowed to take another partner. A new boyfriend would simply get beaten up. Needless to say, the men were allowed to have new partners.

The solidarity of the family is illustrated by an incident involving Shane's niece. Her teachers called in child protection workers one day when she said that she didn't want to go home because

she was “sick of my dad hitting my mum.” The child was ostracised by the males of the family, several of them, her grandfather included, calling her “a fucking dog” for speaking out of turn.

Within his circle, Shane was quite open about his violence against Trudy. For example, once when Trudy had a badly injured hand, Shane commented to associates that he had lost control and got carried away. At the same time, he isolated Trudy from outside influences. He kept her under surveillance. This included using a “ghost phone”, a cell phone he could hide in the house that would automatically pick up calls without ringing, thus enabling him to covertly listen to what was happening in the house. She wasn’t allowed to have male friends and would have to account for her time.

[I was] basically his gopher. I had to be available at his beck and call 24/7 – as was everybody by that token. If I had gone to do groceries, he would say “How long would you be?” And I would say, “I don’t know – however long it took to do groceries. It could be an hour or an hour and a half – whatever, it doesn’t really matter.” He would question me. You know, “Who were you with? It doesn’t take long to do the groceries.” So yes, very jealous and yet he could be away overnight and I would be expected not to ask questions. I would be in bed and not care – like I use to be not able to sleep at night. [I’d be wondering] “What’s happened? Has he been shot? Has he been arrested? Is he in hospital?” But in the end I used to go to sleep and think if I got a phone call in the morning to say he is dead, it would be all good.

Indeed, at times, death – his or hers – seemed the only possible end to the violence. Shane had a chronic illness, but he kept postponing treatment.

I would quietly think to myself, “Yeah the longer you put it off, you will get sick, then you will die and then I can cope.” But by the same token he used to sit on the couch and he always had a pig attitude. Then I used to have terrible thoughts in my head – I used to dream about getting out the cast iron pot and whacking him ... just anything to end that misery. I used to have the kids in the car with me, or by myself, and I had to stop myself from driving into the path of an oncoming truck. There was no way out, there was no help that I could get for myself that would not put me in more danger than I was already in.

Planning to Leave

Trudy made several attempts to leave. The first was very early in the relationship. While she was pregnant with Sam, she moved out and set up home with Sophie, but Shane kept coming around, constantly. On another occasion, the mother of one of Sophie’s friends helped her get to a women’s refuge with the children, but Trudy felt unsupported there and realised that to be safe she really needed to leave the country – and, for that, she needed passports. She moved to a motel and rang Shane from there. He said that he was sorry for the way he had treated Trudy, “so I ended up coming home and he was fine for a couple of days.”

Trudy began to make serious plans to leave Shane and return to New Zealand, the only place where she felt she and the children could be safe. She began to carry her passport and the children’s passports in the lining of her bag. She made a promise to Sophie that she would take her away from all the violence, preparing her by explaining that, when the time came, they would have to move very quickly.

Although it was unsafe to pack, Trudy sorted out some the children’s special things to take with them so that they could be quickly thrown into a bag when the time came. Later, she began removing photographs from albums and posting them to her mother. Fortunately, money was not a problem. Trudy knew she could always rely on there being plenty of cash in the house from Shane’s various deals.

Trudy had got to this point because she did not want Sam to grow up to be like his father. Neither did she want her son to be like Shane’s other sons. As teenagers, they were now in the

position of trying to protect their mother from their father's violence. But making the decision was different to implementing it.

All I knew was that I had to ... leave eventually. Sooner rather than later, but it was a terrifying process. I had opportunities where I could [have left] but I became frozen. Like standing on a bridge ready to bungee jump. You know everything is going to be okay, but the fear of jumping is what holds you back.

Coming Home

Trudy rang her mother who made airline bookings, timed to take advantage of a two-hour opportunity when she knew Shane would be away from the house. Timing was tight. She needed to get to Sophie's school and to the airport quickly without encountering Shane. Having packed, she drove to the school.

I said to her teacher, "I have to take Sophie. We have to go back to New Zealand." I think her teacher realised what was happening because she had seen bruises on me before. I went in and said to Sophie, "Honey this is it. Mummy is making things better for us today", and "Do you want to wave bye-bye and say goodbye to everybody." It was the hardest thing in the world for me to do.

Trudy and the children made the flight. Within a few hours they were back in New Zealand. And Trudy had bought some breathing space. Shane would not be pursuing them immediately. She had brought his passport with her "to slow him down." She later sent it back with a note saying that it had got mixed up with the other passports by mistake.

Shane Visits

When Trudy got home and turned on her cell phone, there were several messages from Shane asking her to come back. She sent him a message, telling him where they were and explaining that they were not coming back because she couldn't handle his lifestyle anymore. She told him where he could find the car at the airport.

Shane arrived in Trudy's home town three weeks later. Trudy was staying with her parents. Shane booked into a motel just down the street. He told Trudy that he had told people in Melbourne that she was having a three-month break in New Zealand. "He was trying to figure out ways to get me home." During the five days he was in town, he spent time with Sam. Crucially, Trudy retained Sam's passport.

Shane returned to Melbourne, but was regularly on the phone to Trudy. Six weeks later, he was back again. By this time, Trudy had found a house for herself and the children. She felt that she had no option but to let Shane stay (he slept in Sophie's room), but she had been considering her options and consulted a lawyer.

During this visit, Shane announced that he had "some good news." He was planning to move to New Zealand in a couple of months. He said they could buy a house together. Trudy made it clear to him that that was not going to happen and told Shane that she was dating an old friend.

He didn't like that one little bit, and he did everything he could to make my new partner look silly ... He used the mental abuse, just the belittling again, like, "Oh, you can't even wait until I'm out of your system until you go and meet somebody else." He upset the household when he was here. I couldn't wait for him to get on the plane.

He continued the harassment by phone, sometimes calling five or six times a day. Trudy would put the call on the speaker phone so she could monitor what he was saying to Sam. There were constant text messages as well.

In the end I started documenting and recording messages after he started getting verbally abusive on the phone and making verbal threats ... [He would threaten] that if

I didn't let him talk to Sam I was starting a fire that I was not going to be able to put out, and I best be watching my back.

Shane reminded Trudy that "Technically, you have kidnapped my son." He seems to have done some research about the Hague Convention, but so far he has not initiated action. Trudy is not surprised.

No, I'm not surprised because I know too much about him. He has too many little things pending at the moment, that should he try and apply for day-to-day care of Sam, well who's going to look after Sam when you go to jail? Nobody else is looking after my son except for myself.

Getting Legal Protection

Trudy's lawyer began work on applications for a protection order, an order preventing Sam's removal from New Zealand, an interim parenting order and a parenting order with supervised contact. The latter was intended to cover any further visits by Shane.

The lawyer pointed out that Sam could be subject to action under the Hague Convention, noting that domestic violence is not a reason for non-compliance with the Convention in Australia (or in New Zealand). Shane's criminality was regarded as Trudy's best hope for being able to argue against Sam's return should Shane invoke the Convention. However, Trudy was worried about including such information in her affidavit as she feared that it would simply make things worse next time Shane visited.

Trudy got a temporary protection order without notice. Shane was directed to attend a respondents programme if he ever came to town. At the same time, the court made an order preventing Sam's removal from New Zealand and an interim parenting order giving day-to-day care to Trudy. This order specified that there was to be no contact until a further order of the court when "supervised contact [would be] on such terms as shall be approved by the Court when and if respondent comes to New Zealand." The judge also gave leave to Trudy to "file an affidavit omitting information she wants excluded from the service copy." A new affidavit was duly filed which removed references to Shane's criminal activities. Arrangements were made for service of the orders in Melbourne, although this was unsuccessful.

Trudy took other steps to protect Sam. On his behalf, she applied for New Zealand citizenship and a New Zealand passport. Both applications were granted.

Supervised Access

Shane made a third visit, unannounced. Trudy was picking up Sophie from school when she noticed a man sitting in a car across the road. She thought he looked like Shane, but tried to convince herself that it was a father waiting for his children. Using methods she learnt from Shane, she drove past the car to get a second look but could not see the man's face. She checked her mirror to see if the car was following. It wasn't, but later she found it parked near her house.

I just freaked out, and I rang my partner. "You are not at home by any chance?"... And he said "Yeah", and I said, "I'm not sure but I'm 99% sure that Shane is out there"... [Trudy's partner] jumped into the spare car and came up the road as well, and in doing that Shane drove past.

Trudy notified her lawyer and the police. An urgent memorandum was put before the court explaining that the police, although they had spoken to Shane, had not been able to find out where he was staying. A process server was trying to locate him and serve him with the papers. Under the terms of the parenting order, the memorandum proposed that Shane would have contact with Sam at a local childcare centre under the supervision of Trudy's mother. The memorandum sought the judge's approval of the proposed arrangements.

Supervised contact went ahead as proposed and Shane returned to Melbourne. He currently rings about once a week and sends emails. There is no verbal abuse over the phone. Trudy thinks it is because Shane knows that she will simply change her number.

Reflections

There are some remarkable features to this case study, not the least of which are the extraordinary efforts Trudy and her lawyer have made to ensure Shane has access to his son. A man who has been incredibly intimidating and violent, who thought nothing of assaulting the mother in front of the child, who has assaulted the child, who has continued the intimidation post-separation and who arrives in town unannounced, has supervised access arranged for him within hours of his arrival.

An important part of the context here is the Hague Convention. Trudy's lawyer is quite right. It was always possible that Trudy could be required to return Sam to Australia. This has become less likely as time goes on. If Shane does not file his application for return more than one year after Trudy and the children left for New Zealand, Trudy will be able to show that the children are settled in their new home environment. One might have thought that, given Shane's previous physical and psychological violence to Trudy and the children, the section 13(1)(c) exception ("grave risk that the child's return would expose the child to physical or psychological harm or place the child in an intolerable situation") would ensure that Trudy and the children could stay in New Zealand as well. But given the existing case law, that outcome is very far from certain. So instead Trudy walks on eggshells, marks off the days, and is very careful not to do anything to upset Shane.

A second important feature is the leverage perpetrators can exert when they are supported by extensive family and gang connections. As Trudy said, it was like living with the Mafia. Leaving the relationship but remaining in Australia was not an option. There, his power was all but unchallengeable. Only by coming home did Trudy have a chance of being safe. On this side of the Tasman, Shane was still powerful – witness the lengths Trudy and her lawyer went to organise contact – but he did not have the same leverage he could have exerted in Melbourne.¹²¹ As Trudy sees it:

The day I came home was the best move I could ever have made ... [it] was a case of just fleeing. You know, I saw my gate [and] it was open.

Once back in New Zealand, Trudy was able to get a protection order without difficulty, although she did not initiate this until after Shane's second visit. In many ways, things are looking up for Trudy, but she has been very much affected by the violence.

When I met Shane I was a strong person, but lost that to become confused, depressed to the point of using antidepressants ... until he told me not to – feeling like I was constantly walking on eggshells, anxious and knowing that I wasn't the mother I could be to my children because of him, and putting him and his needs first. I was becoming more and more isolated and found, eventually, I couldn't bring myself to ring my mother because of the embarrassment ... I found myself becoming hard too, putting on a shield that wasn't me.

We asked Trudy whether she saw any effects of the violence on the children.

Yes, like my new partner now – occasionally we will have a play fight, tickle or whatever. Sophie gets very defensive. She will come up to him and say, "Don't you hurt my mummy." She is very protective of me. I tell her, "He's not going to hurt us. We are just playing. It's all good."

¹²¹ For a discussion of the importance of contextual factors in coercion, see Dutton, M. A., & Goodman, L. A. (2005). Coercion in intimate partner violence: Toward a new conceptualisation. *Sex Roles*, 52, 743-756.

Hopefully, it will be “all good” and Trudy will be able to remain at home with both her children.

4: Pasifika Women's Stories

Alofa

Alofa is Samoan and married to a Samoan man. She did not apply for a protection order as she believed that it would not help her. She preferred help from the women's advocates within a community service provider that supported her in looking after her disabled son. She is a strong-willed woman who looks after her disabled son full time, works part time within the community and is active in her church.

Marriage and Remarriage

Alofa came to New Zealand 40 years ago. Her father wanted her to have a life that gave her more options. She had extended family already living in New Zealand, including a cousin with whom she stayed initially. Compared to her village, life in New Zealand was "fast" and "vast." In time she became familiar with the landscape and people and getting around was no longer difficult.

Two years after she immigrated, Alofa married a Samoan man to whom she had three children. Their son was born with a disability and required 24-hour care. Not long after his birth, her husband left the marriage. He no longer wanted to support his wife or children. Alofa was left to raise her family on her own.

Alofa subsequently fell in love with a man with whom she worked. Six months later, they were married and Pita moved into Alofa's home. Alofa told us, "He is Samoan and he was good and kind."

Verbal Abuse and Intimidation

Alofa described her relationship with Pita at the beginning as "good", experiencing the normal ups and downs that relationships go through. However, shortly after getting married, she started to notice that any time Pita got angry he would break household items:

He never hit me, but he would always break things when we argued. He would destroy something or smash something around the house. He would get angry if I say something that makes him really hurt.

Afterwards, he would leave the room and try to calm down. Alofa told us that she has had to replace many things in the house. New items also became targets on which Pita would vent his anger, so, eventually, she stopped replacing things. His behaviour did not so much frighten Alofa, as infuriate her. She could not understand why he became so angry or why he had to cause so much damage when he did.

Pita's driving was more intimidating. If he became angry while driving, he would speed, drive erratically and take risks. On such occasions, Alofa would feel "slightly afraid".

Calling the Police

Twice, Alofa called the police. In the first instance, Pita was smashing plates, clocks and jars – anything, in fact, which was not secured to the floor.

The police came around and they had a talk with me and him separately, and the cops said, "It's better for him to sleep somewhere else and come back. Then he will be alright." But Pita said, "No, no I don't want to go and I'm not going to do something silly like that." The cops said, "No, let's go." So he went and came back the same night. I think the cops took him to his family and later on he came back and things were okay.

Alofa shared her story with some friends who suggested she visit a marriage counsellor. She was given the counsellor's number and made an appointment. Her first visit was to be her last, as she did not like the advice the counsellor gave:

He said to me, "I think the problem is you." I said to him, "I thought I would come and tell you, and you will ring my husband and we will have a talk and work it out", and he said, "The problem is you ... be good and do what your husband says."

The counsellor suggested that if she was more subservient to Pita, then they would not argue, and he would not break anything. Alofa was shocked to hear this advice and told us that she felt she had wasted her time going to see this counsellor. She thought the counsellor was similar to Pita, so it wasn't surprising that he would take his side. On the other hand, Alofa wanted to establish a safe place in which she and Pita could openly discuss any problems, and work together to find solutions.

Alofa shared with us her perspective on Samoan culture:

In the real Samoan way, the wife must listen to the head of the family and that is the man, so you must obey what they say ... I said to Pita, "I will do it, if it is the right thing, not if it's the wrong thing."

Eight months later, the couple had another altercation and Alofa again called the police.

I told [Pita] I was going to call the police and he said, "Go on, call them!" But when the police came, he changed his behaviour.

The police told Alofa that since Pita was not physically harming her, there was nothing that they could do to help her. She was frustrated that her husband could continue to destroy her property and face no consequences.

Alternative Sources of Help

About two months later, there was another incident. Pita had decided that he would car pool. He would give a lift to a friend who lived in the next suburb. His friend would pay for the petrol. Alofa was more concerned about the extra distance the car would have to travel to pick up his friend, and asked if his friend would be prepared to pay towards the cost of maintaining the car. Pita said no.

It was unfortunate that Pita's car should break down the next morning, so quickly after their discussion about maintenance on the car. It was 8 am and peak hour traffic was thick. Pita asked Alofa to take him to work.

I said, "I'm not taking you. It's nearly eight o'clock. There is no one to look after my son." Pita said, "He will be okay. By the time you come back, he will be alright." I said, "No, he can't stay by himself. Look at the time. By the time I get home, it will be ten o'clock."

Alofa went upstairs, thinking that that was the end of their discussion. Once she got into the kitchen, she saw Pita reverse the van out of the driveway. She ran downstairs angry that he was being so selfish in taking the van which she needed to take her son to various appointments.

I came out and said, "Where you going?" and he said, "Fuck you" and he went, and a couple of minutes later he came home.

Alofa did not know what made him come home, but the moment he was back in the driveway, he launched into a verbal tirade against her. She left him downstairs and went upstairs to make her son breakfast. Shortly after, Pita came into the kitchen. He was insistent that she take him to work, but she wouldn't and couldn't due to her son being unsupervised. His verbal abuse increased, he called her derogatory names and told her she was "useless and no good". Alofa told us:

Because he was swearing at me, I did not want to take him. I said to him, "Do you think I would be kind to you now?" ... He grabbed the fridge and threw it on the floor. He started to swear and then he left the house.

Alofa called Mary and Sarah, the support workers for her disabled son. They arrived within ten minutes, but by this time Pita had returned home again.

He told me that he would come and squeeze my neck.

He then went on to tell her she was unstable and mentally unwell. To which she replied:

"You are sick. Go and see the doctor. I'm not sick. If I was sick, I would smash everything in the house, but I can control myself."

Pita left the house. The support workers suggested that Alofa consider taking out a protection order if she ever became frightened or thought things would escalate into physical violence. She did not believe they would, and, even if they did, she was not comfortable in pursuing a protection order. Her discomfort was caused by the lack of action from the police when she had called them earlier. Also, after her experience with the counsellor, she believed that if she applied for a protection order she would be declined and told it was her fault Pita behaved in that manner.

Reflections

Alofa is an extremely strong woman. She has a two-storey house and helps her adult son up and down the stairs on a daily basis. Alofa and Pita are Matai, holding chiefly status within their villages, and the wider Samoan community. Alofa is well known in the community and she believes that her Matai status protects her from any harm. She is independent and quite confident, and doesn't scare easily. She believes that if she was ever faced with physical violence from her husband, she would use means other than the legal system to address the matter.

Mele

Mele is Samoan and she shares with us the story of her mother, Lily, and the violent relationship Lily had with her Samoan partner, Masi. Lily took out a non-molestation order under the Domestic Protection Act 1982. That proved ineffective so when advocates later encouraged her to apply for a protection order, Lily could not see the point. In the meantime, Lily and her children suffered extensively from Masi's violence.

Beginning of the Relationship

Mele told us that her mother, Lily, met her partner, Masi, in the late 1960s. Mele had always considered herself to be the oldest child of the family, only to find out that she was the fourth of six children. The third child and the youngest two were fathered by Masi.

When Mele was three, Masi was living intermittently in their family home. Only in later years did she realise that during the times that he was absent, he was in jail. Her earliest recollection of violence is from when she was four years old. She remembers the incident because Lily had just given birth to her fifth child, Tavita.

He got drunk and smashed the whole place up. We ended up in a place like Women's Refuge but I think it was a Salvation Army place. We were there for a while until mum thought it was safe to go back. I remember going back and Masi wasn't there but the things he had broken were still there.

They stayed a week at the Salvation Army refuge before returning home. Mele's aunt came over to help clean the house. It was a couple of days before Masi reappeared. At this point of the relationship, Masi was "just" verbally abusive and destructive to property, but nevertheless, Lily

was afraid of him so she applied for a non-molestation order. Mele told us that it appeared easy to obtain, but did not make the situation easier with Masi, as he tended to ignore the order, and carried on with no change to his behaviour.

Masi found a job, but it was not long before he lost it and went back to drinking.

Lily had a full-time job and made enough to cover the family's expenses. Mele lost count of the number of incidents that involved Masi coming over drunk and her mother having to kick him out.

He would break the lock on the door. He would force the door open. He would smash a front window to get into the house.

Lily was made part time at her job and, as a result, the family had to move to another suburb, into a two-storey housing unit. Mele recalls the worse physical assault. She was six at the time.

I remember waking up to screaming downstairs ... [I] opened the kitchen door and there is blood everywhere in the kitchen, the dining room. I remember going into the lounge and he was standing over my mother. He was drunk. She was screaming and crying for him to stop. He was holding the baby. He tried to hit my mother and missed. The baby's forehead was bleeding. While he was holding the baby, he was hitting my mother at the same time. She was begging for mercy. He was ignoring me. I was trying to stop him and he was hitting me in the process of trying to hit her. So I sat on her and tried to cover her as best as I could. He was doing whatever he could, kicking, punching. I actually got off the lightest. He was grabbing stuff from out of the cupboards: pots, pans. He got a milk bottle and it smashed me in the eye. I only got a black eye ...

Lily screamed to Mele to leave the house and call the police. Mele did not want to leave her mother's side. She believed Masi would kill her if she did not stay. When Mele did try the phone, it was dead. Masi had cut the phone cable.

Masi then found a knife, and Lily screamed for Mele to get out of the house. She clearly remembers:

My mother tried to force me to leave. I wouldn't. I thought she would be dead if I left the house. All the neighbours were awake and they grabbed me when I ran out. The neighbours had to stop me from going back inside the house.

The police arrived and Mele and her brother were taken to the hospital. Mele was covered in blood, but when the nurses bathed her, they discovered that all the blood belonged to her mother and brother (which is why she says she "got off the lightest"). Lily was admitted to hospital with cuts to the top of her head from the knife Masi had used on her. Tavita was admitted. He had to stay the longest due to the gash on his forehead. He still has scars today.

During their stay in hospital, Mele's school teacher paid her a visit. When she told her teacher why she was in hospital, her mother pinched her leg discreetly, indicating that she was not to say another word.

Masi was arrested and charged with assault. He wrote to Lily while he was in custody on remand. Lily was too afraid to give evidence, and the charges were dropped. While not unusual, dropping the charges should not have been necessary. Given the other evidence available, such as the damage to the house and medical records of the injuries to Lily and her children, it should have been possible to prosecute Masi without Lily's testimony. In Chapter 11, we make recommendations about prosecutions without victim participation, a promising strategy for circumventing the intimidatory tactics of perpetrators defending domestic assault charges.

Not much changed.

He came back, in and out. We were told not to open the door to him. We used to always call the police when he was around. The cops would come with the dogs and

take him away. He wasn't allowed anywhere near us. The police would come, get him, chuck him in the cells, release him and it was all the same again.

Mele and Tavita were well versed in what to do if Masi showed up.

If we ever saw him, call the cops and we weren't to allow him in the house. Me and my brother would do that and say, "No, you are not allowed to come in." I loved calling the police. It just became routine to call the cops.

Violence was what life was all about for Mele. By the age of seven, it was normal. And she recalled seeing her mother's spirit waver:

She got sick of calling the police, and I think that's what broke her. I remember he became a permanent fixture in the house. Her kicking him out became less and less.

In one attempt to escape Masi, Lily moved the family south to another city, which meant that she was closer to her sister. Within two weeks, Masi had found their location and did not hesitate "to visit". Lily's family strongly advised her to leave him, and not to let him back into her life. However, within six months, Lily had "reconciled" and moved the family back north. As a result, Lily was cut off from her sister.

Back home, Lily again became pregnant to Masi. She fell into a deep depression. When the baby was born, his cot was placed in Mele's bedroom.

I had to go to school and look after my brother at the same time. I would fall asleep at school all the time; I would have to get up in the middle of the night. It wasn't just the Samoan culture thing of being the oldest. My mother had given up. At the age of seven, I was running the house on some levels.

Not only was Mele looking after her brothers and the household, she had other problems to face.

Sexual Abuse

Mele was six years old when Masi started to sexually abuse her.

I remember the very first time he did something to me. He was drunk. He had me on the couch in the lounge and I couldn't push him off me and I couldn't breathe and I remember he put something in my hand when he had done his business and I opened my hand and it was a 20 cent [coin].

Mele believes her mother was aware of the abuse, but chose not to acknowledge it. If Lily went to Housie, she would insist Mele came with her, and when she had to work, she organised a babysitter. That is unusual for a Samoan family, as the extended family would normally look after the children. Mele could not recall why her mother chose to hire a babysitter:

When he was trying to get into me, I was fighting him. My mother had given the babysitter a key to the house. I was screaming as the babysitter came up the stairs. He stood in between me and her to block her view. I was pulling my trousers up and he told the babysitter to go away, that I didn't need babysitting. She never came back.

Mele never saw the babysitter again, and her mother never mentioned anything. The situation was never spoken about again. Mele told us that the sexual abuse continued until she was 14. It only stopped because she chose to leave home.

It was her form teacher at college who brought the situation to a head. She asked the right question, at the right time. Mele was at a point where she thought her life was hopeless and there was nothing to live for:

I was starting to crack up at school. It was either tell somebody or kill myself. I could not cope emotionally anymore. It was getting too much. I remember my form teacher asking me if [Masi] was my stepfather and I said, "They are not married", and she asked if he touched me and I said, "Of course". I know some of my teachers knew that there was more than just violence happening at my home but this woman had the courage to actually ask me. I would really like to see her again and say thank you.

Mele's form teacher found the Pacific Island Women's Project and made contact with an advocate who came and supported Mele. The advocate, Fau, arranged for a meeting with Mele and Lily. Lily denied ever knowing that her daughter had been sexually abused by Masi. Mele did not believe her.

I hated my mum for a long time because she chose him over me.

Mele decided to leave home. She had nowhere to stay, so Fau took Mele into her already full family home where she lived for two months. With the arrival of more of Fau's family, Mele decided to head back home.

It was horrible back at home. He was there and was calling me a liar. Not that I cared. I was in and out of home all the time. [My mother] kicked me out, slapped me out of bed and kicked me out because I didn't obey her rules ... Most of the time, I had nowhere to go. I lived off people's kindness for years.

Fau stayed in daily contact with Mele, and the two remain strong friends today. Mele would return home often to check on the wellbeing of her brothers, and, to a lesser degree, on her mother. While Masi remained in the family home, Mele would not stay for long periods of time. Instead:

I had to make sure I made good friends because they were kind of like my family.

Mele would stay overnight if Masi was not there. It did not take long before she and Lily started arguing, and then her brother would get involved and very soon the whole family found themselves in a full-blown argument, the majority of the time over trivial matters. On one occasion, Mele believed that her mother was so frustrated with her that she destroyed Mele's favourite possessions.

The only way she could get to me was to destroy my records and my posters, the things I liked the most. That's what she would destroy.

In one incident, an argument had broken out, involving Mele, Lily and Tavita:

By this time [Tavita] was physical enough to overcome me. Me and him got into a fight. I got arrested and had to spend the night in a cell which was not very nice. I had diversion 'cause I don't have a record. My mum was crying and I refused to talk to her.

Mele was 17 at the time.

Gaining a Protection Order

Mele remembers some women from a specialist domestic violence agency calling into their home to speak to her mother about safety options. They suggested that Lily apply for a protection order, but, given the ineffectiveness of the non-molestation order she had earlier, Lily did not believe that a protection order would help her now. In Mele's view, Lily did not want to invest in the time, energy or expense of pursuing another piece of paper that did not keep her or her family safe.

Reflection

Mele considers that her mother lost her will to stop the abuse because repeated calls to the police, even when she had a non-molestation order, made little difference. The one time Masi was charged, he avoided conviction because Lily was too intimidated to give evidence against him. According to Mele, it got to the point where Lily no longer called: she began to accept that this was how life was going to be. Thus, when it was suggested that she get a protection order, Lily decided it was not worth pursuing as she believed that the police could not do anything to keep her safe.

Thus, neither the community nor the state was effective in holding Masi accountable for his violence against Lily and her children. Although the relationship has since ended, the effects of

Masi's violence are still felt today. Certainly Mele, who was sexually abused by Masi, believes that her life could have been completely different if Masi had not been in her mother's life. Tavita is now married and in an abusive relationship himself. And Mele's relationship with her mother has suffered greatly.

When we asked Mele what changes she would like to recommend she said:

There should be a set amount of times someone can breach. After that, it's automatic jail.

Priya

Priya is a Fijian Indian who continues to practise some traditional beliefs. She is broad minded and well educated. She obtained a without notice protection order against her husband when his long-standing drinking habit worsened and he became psychologically and physically abusive. However, for the sake of the children and her cultural beliefs "that a woman's place is next to her husband" she later reconciled with her husband.

Violence in the Relationship

Priya worked in a legal service in Fiji for about ten years before marrying Satya. Although she continued to work there after the wedding, her life had really changed. She discovered that drinking was a regular feature of Satya's household. Typically, Satya was angry and abusive when drunk. Quite early in the marriage, Satya's father died. This seemed to exacerbate Satya's drinking and he became more abusive and, at times, he was physically violent to Priya.

No support system existed for Priya within her husband's family. Her mother-in-law had herself been a victim of domestic violence and she neither condemned it nor advised Satya against this sort of behaviour. Priya told us that Indian women usually treat domestic violence as part of their culture, and there is a stigma of inadequacy attached to the wife who reveals any problems existing between her and her husband. She never discussed her problems with anyone. Her sister-in-law lived in New Zealand and Priya's mother-in-law decided that the family should migrate to New Zealand and live with her. Satya had limited prospects in Fiji so the thought of moving to New Zealand was quite attractive.

Satya upgraded himself academically and migrated to New Zealand with a work permit. Priya had always been financially independent so she remained in Fiji with their two children. However, Satya constantly complained of being lonely and so Priya was forced to join him nine months later. He told Priya that his loneliness was causing him to drink heavily.

Migration to New Zealand

Priya came to New Zealand in 1999 and subsequently applied for permanent residence. She was now surrounded by her husband's family who did not appreciate her intelligence and who controlled her and her children's lives. Priya recognised that Satya's family was isolating her from other people in her community. They warned her not to mix with anyone. She constantly had a feeling of being watched by both her mother-in-law and her sister-in-law. Satya always defended his family.

Priya did not have a job. For the first time in her life she was not financially independent. Satya's drinking was escalating. Priya believes that he could sense her vulnerability and dependence and began hitting her. One night she was bruised very badly, but her injuries were minimised by Satya's family. Priya decided not to take the matter further for fear of causing complications in the process of obtaining her permanent residence.

Priya was granted residence six months later and the first thing she decided to do was to find a job. Satya's family had been controlling her financially for many months. She took the first job that came her way. Although she tells us she did not enjoy working there, the job gave her money and some control over her and the children's lives.

Escalating Violence, Protection and Parenting Orders

Every day the violence at home was getting worse. One New Year's night, Satya gave Priya "a good hiding". It had started with an argument about who should pay the power bill. The assault left Priya badly bruised. There were lumps on her head. She had had enough: she desperately wanted to get away from Satya and his family.

Priya had heard about a Women's Refuge that worked with ethnic women. She decided to call the next day. The women's advocates came around to her home and picked her up. She left the house on her own as the children were at school. She did not fear for her children's safety, only for her own. She knew that Satya's family would not harm the children and that she could fight for their custody at a later stage.

Priya applied for protection and parenting orders. Both were granted without notice, but it took a month. She felt that the lawyer dealing with her case was not efficient. In the meantime, she had to remain in refuge. She told us, "It was like living in a jail." She could not go out alone. This added to the stress surrounding her situation.

Both orders were opposed by Satya. In relation to the parenting order, he claimed that he was in a better position to provide the day-to-day care of the children because he had a secure job and the support of his family, while Priya was financially insecure and alone. However, Priya retained the day-to-day care of the children. Housing New Zealand arranged for a house for her and the children. Counsel for the children was also appointed.

As the house was some distance from Satya's, Priya felt safe. But the move had meant that the children had to change schools. They were lonely and wanted to go back to their old school, something their lawyer supported. He said that it would be good for Priya's case to demonstrate to the court that she valued the children's stability by relocating to her old neighbourhood, close to where her husband and his family lived, and returning the children to their old school. Priya followed this advice.

One day after she had moved back into her old neighbourhood, Satya spotted Priya while she was shopping at the local Warehouse with the children. He waited for them to come out of the store and then approached them. Priya was quite shocked, a protection order was in place, and he had breached it by approaching them. Her first reactions were of shock and disbelief. She was further surprised when he fell down on his knees and asked for her forgiveness. "Please come back and I promise never to hurt you again", Satya cried.

Priya told Satya she would call the police if he did not go away. She was very conscious of the children watching the drama. Satya continued with his pleading, crying and begging her to come back. He offered to buy the children food. Priya understood her children's need to be with their father and agreed. He took them out to a restaurant and "sweet talked" her into not calling the police.

Most significantly, Satya promised to leave his family and come and live with her and the children. He also promised to stop drinking. That seemed enough for Priya to be able to forgive and forget all that she had been through not so long ago. She told us:

I understand the importance of both parents in the children's lives, and if I was alone and did not have children, it may have been a different story.

Satya later followed them home and found out where she lived. The couple talked about their differences and he promised to do everything that she wanted him to do. Priya was convinced now of Satya's change of heart.

Reconciliation and Abuse

After their reconciliation, Satya persuaded Priya to move back into his family home again. To her dismay, everything was soon back to square one. The physical abuse resumed, along with the denigration and intimidation. Satya's whole family participated in the abuse. As the violence escalated, she called the police. Her protection order was still in place.

The police took her back to the refuge. She again applied to Housing New Zealand to help her find a place, this time as far away from Satya as possible. In the meantime, she continued living at the refuge.

Satya had supervised contact with the children. On one occasion, he found that his son had a scratch on his arm. He raised a big issue about how unsafe it was for his children to live with Priya at the refuge and how she was not looking after them properly. He accused Priya of not providing food for them and not sending them to school. He also notified Child, Youth and Family that she was a bad mother.

Priya felt depressed and wanted to move out of the refuge. In time, a house became available and Priya and the children moved out of the refuge. Satya did not give up pursuing Priya, and continued to harass her in spite of the protection order. He approached her again when she had the children with her. She threatened to call the police but he was not put off. We asked Priya why she did not call the police.

My children did not really understand what was going on between their mum and dad. He always approached me when the kids were around and I did not want them to have ill feelings for me or their father by calling the police on him. It would have confused them even more.

By stalking her, Satya discovered Priya's address. The pressure to reconcile started all over again, both from Satya and his family. She knew the consequences and refused to even consider it.

Contact arrangements changed. Satya now had access to the children in his own home. He was attending a stopping violence programme and undergoing counselling for his addiction problem. A few months down the track, the pressure to reconcile began again. Satya started to visit Priya and the children regularly, begging her to come back.

The children loved Satya and he had always been good to them, so Priya decided to give it one more try by having Satya move in with her. When we asked Priya why she had decided to reconcile with her husband she told us:

It was for the sake of the children ... Another reason was the culture that I come from. In my culture we are always told that a woman's place is with her husband no matter what.

When we spoke to Priya, it had been two years since Satya moved in with her. He had not been physically violent in that time, although he continues to drink. He refuses to contribute to the rent as he believes that they could live more cheaply if they lived with his family. More positively, Satya helped her learn to drive so that she now has some flexibility and independence. As a result of her new found mobility she was able to secure a good job with a law firm a fair distance away from her home. Priya has now withdrawn the protection order.

Reflections

Financial independence has been important for Priya. When she had her own income, she could cope reasonably well with the abusive and controlling behaviour of Satya and his family.

Conversely, Satya exploited the fact that she became financially dependent upon him when she first came to New Zealand. After serious violence, Priya left the relationship and got a protection order but eventually reconciled, believing that it was in the best interests of the children. While things are not ideal, the situation seems reasonably tolerable because Priya is again financially independent, albeit that Satya is exploiting her financially by not contributing to the rent.

At least Priya feels that both she and her children are physically safe. She thinks that the stopping violence programme and the counselling Satya has attended have been helpful.

I could see the improvement in him. I always believed that he had an alcohol problem but the assessment showed that he did not. I believe the counselling was very helpful as well.

Finally, we asked Priya if she would recommend a protection order to other women.

Of course I will. It is very important to make him realise what he has done. The longer you decide to stay in an abusive relationship the worse it will get. You have to make him accept his mistake

Rasela

Rasela was abused not by a partner but by her parents. She did not apply for a protection order. She decided that she felt safer without one, and that a piece of paper would not stop her parents from carrying out their various methods of punishment. Instead, her route to safety and autonomy was to leave home and establish a new life in another part of the country.

Family Background

Rasela is a bright, intelligent, well-spoken woman. She was born into a very traditional, well-respected family in the islands. Both of her parents descended from high-achieving families, in her father's case, a long line of missionaries and ministers. Her family was well known and the very mention of the name would conjure up certain expectations of how she should behave. Everyone in the family was responsible for upholding the family honour. She told us:

All the members of my family, young and old, are very traditional and no one dares to go outside what we consider acceptable. It is how our family has been run for a long, long time ... My mother and my father are both very educated my father has an MBA and my mother has a [master's degree]. They are really well respected in [name of island] by the people.

These qualifications, together with the family's religious status, meant the family were treated like royalty. Her father ruled the family with an iron fist. He wanted the family to be of the highest standard, to avoid any form of criticism by anyone within the extended family, the community, and the church.

Rasela has one sister and four brothers.

In our culture, it is not acceptable for us to mingle with our brothers. The boys had their own place where their houses are usually separate. Their bathroom is separate. We don't mix with each other within our culture. It is rude if someone swears when we are together. It is really an offence. And if we see kissing on TV, it is also really offensive. You can't be really good friends with your brothers because it is not acceptable in our culture. We respect each other.

The girls followed strict rules. They were not allowed to pierce their ears, and they had to wear their hair in a humble fashion that would not attract attention in any form.

You had to really watch what you said, wore and ate. Make sure you were home on time. Make sure you were not noisy. Make sure that there was nothing that you could get pulled up on.

In contrast, the boys were able to come and go as they pleased, although they too did not always like the way they were treated, something which became clear from conversations on those occasions when Rasela and her sister managed to talk with them. However, there was nothing any of them could do about it. From the day they were born, they were all raised to respect their elders, which meant they were not to question any decisions made by the adults. Rasela also noted:

My brothers, being guys, I think ... feel that its ok that my father is the man of the house and controls everybody, and at some stage they will run their house in the same way.

The children would never question their father. That would be considered unacceptable and disrespectful. Their father believed in consistency and that one had to strive for perfection everyday.

He had a lot of strong beliefs and understandings ... He is really forceful and has a strong personality. Whatever he wanted, he got it. It didn't matter the means as long as we were considered perfect. It didn't matter how we got there. It didn't matter if he bashed us into it or he forced us into it. At the end of the day, he wanted perfect results ... They would put me down constantly and nothing you did was ever good enough. If you got an A they would say, "Where is the A plus?" They would say, "I don't understand why you didn't get an A plus." They would put down everything, even when I tried to please them. When I thought I would be able to please them, it would never be enough. I would be put down all the time.

In fact, Rasela did strive for perfection, and qualified for numerous scholarships that would allow her to study in New Zealand. This could have meant that she would be able to move away from her family. But her father did not agree. Her parents applied for leave from their jobs, and the entire family moved to New Zealand about four years ago.

Life in New Zealand

The family rented a two-storey house with a large self-contained garage. The boys lived in the garage, the girls in the upper level, and for the first time, the entire family would have meals together, although they continued to live in different spaces. Their mother would prepare all the meals and make sure the girls had all that they needed to live comfortably.

Rasela's parents maintained their high status in New Zealand. Others from the same islands living in New Zealand knew the family and paid them the same respects as would have been the case in their homeland.

Rasela wanted to study computer science but her father wanted her to be a doctor. She applied for entry into a computer science degree, while her father made an application for her to study at a medical school. She was accepted into both.

When I got accepted to both schools – well, of course – I was going to go to medical school. It didn't matter [what I wanted] ... the way I was raised was to put aside how you felt and honour what is expected and fulfil your parents' wishes.

Rasela believed that her father did not think that a computer science degree would gain her any respect. On the other hand, he felt that doctors helped people and were far more liked and admired.

The first year contained basic science papers. She passed, fulfilling her father's expectations. The second year brought new challenges. She was required to undertake hands-on work.

We were given our little knives and we started cutting and chopping and I saw that was how I needed to be but I wasn't like that, and there was no way I was going to be like that. As much as I didn't want to shame my family, I just couldn't do it, and I knew I couldn't do it, and it was probably better for people that I wasn't a doctor.

Rasela couldn't stand needles or blood. People in pain distressed her. Worse was having to dissect cadavers. Rasela would have nightmares about the cadavers; their smell and appearance were enough to make her feel ill. A desire to carry out her father's wishes was not enough to get her through all this; nor was the friendship of three other Pacific women who thrived on the study. She knew she didn't have what it took to be a doctor; neither did she want to be one.

I hated it right from the beginning ... all I was seeing was injuries and people in pain, and it was all day, everyday, and we had to look at blood and I can't describe how miserable it made me feel and I tried to tell my father and he would not listen to me and he would say, "It is because it is new; you will get use to it" or that sort of thing.

Still not wanting to disappoint or disobey her father, Rasela kept talking to him about how much she disliked medicine. It got to the stage where Rasela became quite depressed about going to school and studying things she found morbid.

I just didn't want to do anything and not go anywhere. I mean, I wasn't allowed to, but I used to want to, but it got to a point where I just didn't care what happened to me.

Physical and Verbal Abuse

Rasela describes her upbringing as a "very controlled environment".

From the time that I could speak or walk, my parents and my family basically decided who I could speak to and who I could spend time with.

Even now, Rasela finds it difficult to meet new people and make friends. She was raised not to speak unless spoken to, and believed that she did not have anything worth sharing. She was always aware that one wrong decision could mean a torrent of verbal abuse, or a severe beating.

If you did something that my mother and father didn't agree to, then they would either verbally abuse you or give you a bashing. They would use anything around to hit me. It wouldn't be something fitting of the little mistake you made ... It was like the punishment was ten times worse than what you had done and I understood that, to try and stop me from ever making a mistake ... We were never allowed to question. We got a hiding if we questioned anything. We were expected to accept everything and go along with everything.

Her environment was controlled in every aspect. Her self-esteem was never allowed to develop and flourish. From an early age Rasela and her sister were told lies, and derogatory comments were made about them. These comments kept them prisoners in the only life they had known. Their parents would often tell them:

"You are such a useless person. I wish you were not born. You have caused me this much embarrassment. If it weren't for you, my life would be so much easier. I don't know why you turned out the way you did; there is something wrong with you. You are this terrible person." My mother was really cruel. She would say, "You are so ugly, so fat. I was so beautiful when I was young, I don't know why you turned out the way you are." And I would think to myself, why would she tell us these things if they are not true?

The incident that provided the turning point in her life happened at church. After the service, a young man approached her and started a conversation. Rasela, not wanting to appear rude, kept the conversation short and excused herself from his company. Her parents had seen their meeting, and did not approve. When church finished, the family returned home.

Rasela and her sister were sitting in their bedroom talking. Her parents came into the room and wanted to know why she was talking to this young man. They asked if she liked him, and wanted to engage in sexual encounters with him. Rasela was shocked and angry. Shocked to hear these accusations, and angry that they thought she would think in that manner. She refused to confirm her parents' allegations.

I was not going to admit to something that wasn't happening. I wasn't the kind of person that they were saying that I was, and I wasn't trying to do the things that they were saying that I did. When I didn't admit to it, or apologise, I got a beating.

Her father started slapping her face extremely hard and her mother came towards her and pulled her hair with such force, she was pulled backwards onto the floor. Then a rain of punches and kicks were administered to her body as she lay on the floor.

Her rings were so sharp that they cut me on my face and my neck, I was bleeding and bruised, and she was kicking me in the stomach and kicking me everywhere. She was going crazy. I was bleeding because she had punched me in the face. She was punching me so hard they [the rings] were digging into my flesh.

For Rasela, when her body and spirit was under attack, she learnt to cope by switching off. She describes this feeling as "the world stops". She was not able to hit back, nor would she ever consider raising a hand to her parents; this would be a great act of defiance. During this assault, her younger sister jumped onto their father. He threw her onto the bed and threatened to beat her if she tried to intervene again.

As suddenly as the beating began, it ended. Her parents left the room. No medical attention was sought, and Rasela and her sister began tending to her wounds. She stayed up all night crying and trying to make sense of her life.

I got that beating and that is when I realised that I prefer dying. I thought it would be better to die than to be like this.

The next day, it was expected that Rasela would go to university:

And if I got bruised or anything, I had to cover that up. You couldn't let anyone see. I was too embarrassed to let anyone see anyway.

It was untimely that, on this day, she had to work on a cadaver. Dissecting a body on top of her own abuse began to take its toll. She returned home, and again asked her father if she could change courses, to which he replied:

"If we ever speak about this again, I will send you home on the next plane and marry you off to someone in [name of the island]." So it was either go to med school or go back home and get married. I could just imagine the kind of man that my father would like me to marry. Probably exactly like him – or worse.

She continued to attend university, but, with each day, it became increasingly difficult. By the end of the week, she had enough and refused to return. As a result her parents beat her and locked her in the house. They delivered an ultimatum, "Return to med school, or go back to the islands to be married." For an entire week, she was locked in the house, and her parents removed the phone. Rasela told us:

I did not care if I got beaten to death ... I'll just lie here and get a beating, and if I die I don't care. I don't really care what happens to me.

Rasela felt powerless. Her parents had ensured that she was totally dependent on them. They controlled her finances and her day-to-day living expenses. They also controlled who she could speak with. At the time, she believed that she had no one she could talk to, or seek support from. She could not tell anyone within the church congregation without suffering greatly.

No one will help you. No one will be on your side. Everyone will immediately think, "What did you do to your father to make him feel like that?" No one would even dare to cross my father and disagree with him to his face. No one would voice it. No one would dare take my side over his. No one would. There is no hope because there is no way of getting out.

She believed she only had two choices; one would be to die, and the other would be to leave, which would mean dying anyway. That is "dying" in the sense that she would be disowned by her

family, she would not be able to marry a man of her culture, or return to live in the islands, and she knew that she would never be considered of equal value to members of her immediate and extended family. She shared her feelings with her sister.

She actually suggested that I leave because I told her I wanted to die ... she said, "What are you talking about? You know it is a sin to take your own life! Why are you doing this?" She was telling me, "Why would you condemn yourself to eternal damnation for people like our mother and our father? Why would you do that?" ... and she said, "In the end, they controlled you even to death, into the afterlife. They controlled you even to that, they controlled your life, your death, and where you are going after life", and I realised that was true.

All her life, Rasela had been told she was worthless, and could not survive without her parents. She did not have any reason to question her parents. She believed their words that she would not survive without them. Rasela recalls her thoughts about leaving, and the mere thought was enough to make her feel guilty:

I dared to think that there could be a better life. There could be something different out there. There could be a different world to what I was living in – if I had the courage to leave.

It was her younger sister who eventually made the decision:

And she said, "It is better, whatever the unknown is. There would be nothing worse than dying. There would be nothing worse than killing yourself."

Together, the sisters formed a plan. Rasela went to university on Monday but instead of attending classes she sought advice from the student support officer, Barbara. She had remembered her because she had always been kind to her since she started university. Rasela sought advice on how to find accommodation and financial support. This also meant sharing her experiences for the first time with someone outside of her family. Rasela shared with us how Barbara responded to her story:

She was so appalled, she decided to offer her own place to let me stay. She is a wonderful person, her, and her family.

Rasela continued to go to university and her father continued to think she was studying medicine. But in reality, Rasela, with Barbara's help, spent the week enrolling at another university in another city, changing her course of study to computer science, opening a new bank account, and finding a new home. One of the things which attracted Rasela to move was the small Pacific Island community in the new city. She felt confident that her parents would not find her.

The next Sunday, the girls packed Rasela's bag. During the night, they threw her bag over the two-metre high fence into foliage where it would be hidden. They had to be silent and avoid being seen. They were extremely scared; they did not want to think about the consequences if they were caught. It was hard for her to sleep that night, as it would be the last night she ever slept at home next to her sister. She also feared for her sister's life. Her sister had told her she would be alright, that she would not tell anyone where Rasela was going.

The next morning Rasela, again with Barbara's help, retrieved her bag and travelled to her new home. Barbara supported her financially and her new flatmates were made aware of her circumstances. Rasela was not used to being without her family.

I was depressed a lot. I had to seek counselling because I was not used to being by myself, out in this whole new world and how to figure out how to do everything for myself. It was really difficult and I used to spend a lot of times crying and I used to be scared.

Within a week, her parents came to the house she was living in. Her friends told her parents that they had come to the wrong house. Rasela was so scared she did not attend university for the

next three weeks. Her parents continued to visit the house, even though each time they were told she did not live there. They also looked for her at the university.

Rasela told us that she found out that her mother knew a Tongan woman who worked for Work and Income and who accessed Rasela's locked file to find out her new address. Barbara's address and occupation were also on Rasela's file. Her parents were able to identify Barbara as Rasela's support person and paid Barbara a visit.

They were yelling at her and she wouldn't let them in the house. They were saying, "Tell us where she is." I'm sure they would have been more abusive but Barbara wouldn't tell me.

It was at this point that Barbara suggested that Rasela apply for a protection order against her parents.

Gaining a Protection Order

Barbara organised a meeting with a lawyer who also shared the same island descent as Rasela. Rasela did not feel comfortable with this lawyer, and was not willing to go into detail about her circumstances. The lawyer started to explain the process of applying for an order, and Rasela thought:

It would motivate my father, just make him more angry and make him want to look for me more. Applying is probably another way of him finding out where I am. It couldn't help me. How was a piece of paper going to help me? How is it going to stop my father from dragging me on a plane? He does not care about a piece of paper. It would make me more afraid than actually make me feel protected.

Rasela was sure she did not want a protection order served on her father. She knew that Barbara wanted her to pursue the order, but she knew the consequences would change her life again. Barbara was insistent that she took the order, but Rasela told her that she felt safe, though she didn't, but she knew not taking out the order was the safest thing for her to do.

I know my father and I know my mother and that would guarantee it. They would see it as an insult. They would need to punish me for doing that. My parents – when they set their minds – they are going to do it. They don't care about a piece of paper or your legal system. Our ways have much bigger effect than any piece of paper can have on them.

After two months had passed, her parents seem to accept that she was not coming back. They stopped pursuing her and told anyone who asked after her, that she had run off with a man. This would guarantee that her reputation was now tarnished in the wider community and her only avenue of return would be through her family. Six months later, her parents returned to the islands. Rasela believes several reasons drove them back home, one being the loss of power and control over their children. Rasela's her younger siblings were getting older and her parents knew that they would be difficult to control if they remained in New Zealand. Finally, Rasela felt safe.

Reflections

To protect herself, Rasela had to choose the "unknown" and leave the family home – and, to some extent, her culture. She has recently married, outside of her culture. That is a source of great pain for her, but she feels that back in the islands, she will always be seen "as the person who defied her parents" and treated like a "leper." No island man would be prepared to marry her. Of her husband, she says:

He's really great. But even if he hadn't been, I could never have left him. He's the only one who's cared for me since I defied my parents' choice and was ostracised.

Although isolated from her community, things could have been even worse without the assistance of the student support officer who took her under her wing, helping her emotionally

and financially. Less helpful was the lawyer she consulted who did not make her feel comfortable or safe. In retrospect, Rasela may have benefited more from seeking legal advice from a lawyer who did not share her nationality.

Rasela values her autonomy.

The one thing that I could control were the standards I decided to live by – the things I decided to do, and not to do. My father can make me wear what he wanted, but I was in control of what I said, and I was not going to let him control me and make me lie about things I did not want to do.

Ironically, by leaving, she has been able to live her life by some of the values her father professed.

I wanted to live my life open and honestly. That was really important to me. Funnily enough, that is what the church and my father and all his preaching taught me: to live life honestly and be a good person [but] when I tried to do this, I was always punished for it.

It has not been easy.

In a lot of ways, I don't have as much esteem as the next person, I know that and I'm different now because I have been away from my parents for a couple of years. I have been in a different environment, so I am able to grow and be such a much stronger person

Rasela has thoughts about how to help other Pacific women:

I think it is important that they know they have options. That they know it's ok not to conform and not to accept the things they are expected to accept. I think it is important that they see other Pacific Island women in this place who are not judgemental and have been through similar things and can offer support.

Rowena

Rowena's story is of a migrant woman who came to New Zealand with high expectations of family life and of educating herself. However, her Palagi husband just wanted her to be a "traditional stay home mum." As Rowena developed networks, and attended university, she began to face emotional and physical violence from her husband. She obtained a temporary protection order but the granting of a permanent order was successfully opposed by her husband. At the time of interview, Rowena had moved in with another partner. She was happy and so was her child.

Initial Relationship

Rowena and Paul met through work. Paul had transferred in from another part of the Pacific, bringing his daughter from a previous relationship. Rowena had never dated anyone. She recalls:

I had never had a boyfriend; I was very innocent at that time. When he asked me to go out with him, I thought that it was a good idea. So we started dating ... A few months later, Paul came to see my family and asked them for my hand in marriage. They were quite happy to give him permission, since he is white and had a top job. So, we got married.

Rowena got pregnant soon after the wedding and decided to stop working. Her pregnancy was not a problem to Paul. She was also looking after his daughter. In fact, Paul did little for the children: it was Rowena who did all the childcare. Paul did not have a very good relationship with his daughter, who didn't like him much. At times, when he was upset, he would hit her. For their part, Rowena and Paul had occasional arguments but nothing major. "We were happy", Rowena remembers.

There was political trouble brewing, so the family decided to move to Australia. Rowena was granted permanent residence, but she found Australia to be a very lonely place for her. She had no relatives or friends to talk to. Rowena and Paul decided to migrate to New Zealand. Rowena said that she was quite happy here because there were lots more Pacific people around, so they decided to stay in New Zealand. She applied for, and was granted, permanent residence.

Abuse in the Relationship

After settling in New Zealand, Paul decided to study, “just for fun.” Rowena had always wanted to study but there had never been the opportunity in the islands. She talked to Paul about it. He refused to discuss it and told her that it was out of question. He asked, “Who is going to look after the kids and the housework?”

Rowena decided not to listen to him and enrolled at university. She made sure that she took papers that would fit around the children’s daily routine. She took some night classes. Some days, she would leave her stepchild with friends and take the baby with her to class. At the end of each day, she would come home to a very angry husband who would be verbally abusive towards her. This did not deter her and she completed her first degree.

Paul started to exercise more power and control tactics. He controlled all the finances. Every day he insisted that Rowena tell him where she was going and what she would do there. He never appreciated her role in caring for the children.

Paul got a job. When Rowena got a scholarship to do her second degree Paul, as a protest, applied for a job overseas. He was offered the job and went, leaving the two children with Rowena, with no financial arrangement to support them, apart from her scholarship money. The children and Rowena went through a very difficult time. It was hard to find the money for rent and food. She had little knowledge about social services in New Zealand and no knowledge about the law.

Friends advised Rowena to call the Citizens Advice Bureau, which she did. She was referred to Work and Income, and was able to obtain some money for her and the children. The bureau also told her about protection orders and recommended a lawyer, not that she applied then.

Temporary Protection Order

Two years later, Paul returned, bringing with him a girlfriend, and expecting Rowena to continue mothering the two children. He called Rowena to say that he would come around to see them shortly. Rowena quickly made arrangements with a friend from church to keep her child overnight at their house. His daughter was present in the house and began crying when he showed up. Paul arrived and they argued over his affair. He told Rowena that, “You should continue to have custody over my child because you are the only mother she ever knew.” Rowena told him that, “You already have a new partner and your child should be with you and your new girlfriend and not me.” Paul slapped her and called her a “slut.” Rowena said, “He did not care one bit.” Her neighbour could hear them arguing and called the police.

When the police arrived, they took Rowena to the police station and took a statement. Paul was not arrested because they said that they did not see any marks on Rowena’s face or body to indicate that he had hit her. Rowena said, “When the police did not take any immediate action against Paul, I felt that I cannot trust them at all.”

However, the marks were showing the next day. Rowena went back to the police station to show them the marks and have them photographed. It was a week before Paul was arrested. He spent one night in the cells. Rowena never learnt what the outcome of that arrest was.

After the fight, Rowena went to see a lawyer who made a without notice application for a protection order. Rowena reported that there was no difficulty in obtaining a temporary

protection order because of the record of the police attendance when she was assaulted. However, it took several weeks to process the application, and, Rowena told us, for some reason, it did not cover her child.

Paul breached the protection order but not in very obvious ways. Mostly, he breached it by driving past Rowena's place. He would also call Rowena's friends and ask after her. Such attention left Rowena very afraid of him. She would look out for his car all the time to make sure that he was not around. Eventually, she moved to another flat.

Family Court Hearings

Paul defended the making of the protection order. Rowena recalled attending the court several times, but, in her view, her opinions were never sought. She felt that the judge favoured Paul. The lawyers did not get her side of the story. They never consulted her with regard to what happened to her or the children. Only Paul was consulted. In Rowena's words:

I felt I was only there for formality's sake, but I knew that the outcome was not going to be in my favour. This was so disheartening for me. I was very scared because I had no support whatsoever. Even the photos of physical abuse marks that I showed to my lawyer did not make any difference. They were, in fact, never used during the hearings. I felt really let down at that time."

Rowena contrasts her position with Paul's:

On the other hand, Paul was white [and] had the support of his girlfriend. He knew about the systems and how they work. English is his first language. It was easy for him to discredit me because they did listen to him but not me.

One of Rowena's friends who went with her to one of the hearings told her that her lawyer had told her that she found it difficult to talk to Rowena and that she was quite difficult to approach. Rowena was very offended by that comment. She did not get a permanent protection order.

The Children

While Rowena did not get a final protection order, she did get a final parenting order giving her the day-to-day care of her daughter. The order gave Paul contact. He exercised contact on one or two occasions, but he no longer does so. In effect, he ignores her. Rowena says that there has never been a card or a present from him, even on the child's birthdays. Paul's older daughter lived with him, at least for a while. She later ran away (to the home of one of Rowena's friends) after Paul had "belted her up." She was subsequently taken into the care of Child, Youth and Family. Fortunately, Rowena's child was not abused. Rowena says that she is well behaved.

Reflections

A year later, Rowena met someone who shared her interests. He was very fatherly towards her child. They are currently living together. She considers that her first relationship has made her stronger. She believes that she would recognise abuse at its initial phases and would seek help immediately.

Rowena is fortunate in that she did not have to deal with immigration issues as well as the violence in her first relationship because she entered New Zealand with a permanent residence visa. She is also fortunate to have custody of her child because Paul is not interested in his daughter.

She survived the ordeal and learnt a lot from that experience. She is now educated and is looking forward to a very happy prosperous life with her new partner and child.

Tessa

Tessa has Tahitian and Indian ancestry. She was 16 when she met her Samoan boyfriend, Tasi. He began to beat her after the birth of their daughter. He isolated Tessa from her family, and restricted who she could see. Tessa did get a protection order, but it was inadequately enforced. Tasi's high profile as a rugby player seemed to help him escape the consequences for his violence although, eventually, he was sentenced to imprisonment.

The Relationship

Tessa met Tasi when she was 16 and he was 18.

The first year, he was like a dream come true boyfriend. He was really romantic, and really respectful and attentive. We were in love and I really thought he was "it".

Tasi changed schools to be at the same high school as Tessa, giving up rugby to do so.

For me it was romantic because he was wanted by all the other girls but he wanted me. That is how I looked at it.

But when Tessa tried to end the relationship, his response was to threaten suicide. Tessa identifies that as the first memory she has of feeling responsible for him. A year and a half later, Tessa discovered she was pregnant. Her father did not approve of her relationship with a man from outside of the family's religion. During her pregnancy, he banned her from the family home, telling her that he no longer wanted to see her.

Tessa booked into Jordan, a home for young mothers. Despite her father's attitude, her mother, sister, and brother maintained regular contact with her, and even though her father had refused to see her, he helped her financially from time to time. But Tessa was beginning to feel like she was losing control of her life.

We were not allowed to have boys there. They were allowed to visit, but he insisted on staying the night and not leaving at all. I would have to hide him and get in trouble and he could not understand that I did not need that stress. That is when I started to think that I am losing my control over what is happening.

When Tessa was eight months' pregnant, she moved out of Jordan and set up house with Tasi. She gave birth to a baby girl. Four days later, Tasi assaulted her. Over time, the violence escalated and became more frequent. She called the police for the first time after a "real bad" assault when their daughter was two months old.

He punched me in my shoulder quite hard, causing me to step back ... I must have said something he didn't like and he threw me on the floor. I crawled away from him and he picked me up and threw me on the floor again. I suffered from asthma and had a little attack and I couldn't breathe and he slapped me, but I think this was to make me breathe ... He got mad and took me back into the bedroom and started hitting me with his forearm on my neck and placed his hands on my throat as well. He went and got a knife and said that he didn't care if we all died. He kept on hitting me with a closed fist ... I was crying and telling him to stop throughout the incident.

Tasi wanted her to call the police, telling her that he was afraid of what he might do. When the police spoke to him, Tasi admitted his violence, saying, "That's just me, that's how I am." He was arrested and held in custody over the weekend. Tessa was pleased with the way the police handled that situation.

Gaining a Protection Order

Early in 1998, Tessa returned to her parents' home.

I was so happy. I rang my family and my brother came and spent the day with me and we had lunch and we had all the windows open in the house and the curtains. He was telling me about how my friends were asking about me.

She received a visit from two advocates from a specialist domestic violence agency. From them, she learnt that she could get a protection order. The advocates arranged an appointment with a local lawyer. Tessa described the experience as similar to going to the doctors. “She was really lovely ... really patient and concerned.” Her lawyer filed without notice applications for a protection order, an interim custody order and a furniture order. A couple of days later Tessa received a letter informing her that the orders had been granted. She told us that obtaining the orders was “easy”.

However, getting free of Tasi was not so easy. The following week, before the protection order had been served, Tasi was released on bail without Tessa being advised. His parents picked him up from the police station and dropped him off at Tessa’s parents’ house. Ignoring a non-association condition on his bail, Tasi, and his parents, assumed that he would live with Tessa upon his release. Tessa was having a shower when Tasi arrived:

I didn’t know what was going on. I locked myself in the bathroom. He said, “What’s wrong? Why are you doing this?” And he couldn’t understand why I was so scared.

In Tessa’s view:

[Tasi] was remorseful towards me, but I think he also thought, “Okay, I have been arrested. I’ve been through this horrible process [being held in the cells for the weekend].” He thought this was his punishment. [His attitude was,] “Okay, let’s forget about it and move on.” But for me, it was just the beginning of me thinking I can do something about this. We had totally different viewpoints.

Tasi left, but not for long. Within a week or two, Tessa had gone back to her house and Tasi had moved in with her. In fact, he was living with her when the temporary protection order was served on him.

He said “What is this all about?” And I said “Read it and see what you think.” It [getting the protection order] made things worse because I didn’t think he thought I was serious about what I was doing and from there I didn’t think about it. And three months later, it became permanent and he never defended it. I don’t think he knew how to or that it was an option to him. He was 19.

Of course, Tessa was even younger. In hindsight, she thinks she didn’t have a good understanding of what a protection order meant.

I don’t think my brain at the time could conceptualise what it meant. I was 17. And Baby was two months old.

The Violence Continues

Tasi came from an abusive family, where violence was an everyday occurrence. Tessa told us,

He assaulted me in front of them and his mother was only worried about the stuff getting broken.

Given his background, it is perhaps not surprising that Tasi continued his abusive behaviour despite the protection order. While mostly, the violence was in the privacy of the home, sometimes Tasi was violent in public too. For example, eight days after the birth of their daughter, Tessa was invited to attend a Christmas party at Jordan. Tasi did not approve. He initially refused to drive her to the party and criticised what she was wearing. Tessa was adamant that she would spend this day with the women she had established strong connections with while in the home.

All the way there he would do dangerous driving to scare me and once we got there he wouldn’t let me take my daughter. I went to take her out of the car and he assaulted me ... that went on for half an hour and people drove past and walked past and did nothing. He got me into the car and took me to a park and assaulted me there for about two hours. No one did anything there either. Baby was still in the car.

Tessa's mother, sister, brother and family dog have all experienced violence at the hands of Tasi. In one incident, he smashed down the door of their home.

Tasi liked to control where Tessa spent her time and with whom, but, fortunately, Tessa's mother persisted in maintaining contact.

He would isolate me by having no friends, and he would choose when I saw my family. If my mum wasn't so pushy, I think I would have had no one. She would come over and take me out and she would say to him, "No, she's coming with me!" He would tell me that he didn't like her to come over and I had to tell her that.

For her part, Tessa would ring her mother from a payphone. That way, Tasi was not able to listen in to their conversations.

The violence undoubtedly had an impact on Tessa's daughter. Tessa believes that the baby could sense her fears. She was uncomfortable being with other people. She had tantrums, would cry for no apparent reason, and often had nightmares. Tessa described her daughter as:

Hav[ing] really bad mood swings. It wasn't until we had nothing to do with him at all, we moved into another place ... then she settled.

Tasi would frequently use their daughter to provoke Tessa.

He was only physical with my daughter to get at me ... one time he put her on the roof of the house because he was trying to hide her from me.

The tactic of using the children extended to Tasi's mother. She told Tessa that if she didn't behave, she would take her granddaughter to Samoa. Tessa would visit Tasi's parents with her daughter, but would not stay long and never overnight. She didn't want her daughter in that environment, and she felt that the family resented her for taking this stance.

Enforcement of the Protection Order

Tessa tried separating from Tasi, but again, this was not easy, especially as the police response to the "countless" breaches of the protection order was poor. For example:

It was [the] following year that things started to escalate again, because I moved well away from him and stopped having contact for about a year and whenever he found out where I lived I would ring the police [but] there was always a delay with them coming out [and] he wouldn't be arrested because they couldn't locate him.

That is, like other women in our case studies, Tessa found that seldom was there effective follow up of a respondent who had left the scene before the police arrived. Tessa did what she could to help the police apprehend Tasi, even to the extent of deadlocking him inside the house.

One incident that I can remember I had locked him in the house and left. It was maybe four hours and they found him in the house. He had been through the stage of damaging my property, so there was little destruction. I think he worked out that it didn't do anything for me. I was lucky I had my parents. The house was okay. He was quite sadistic in things he would do. He would break in my house and look around, and have a shower, [invade my] personal space. He would break into my neighbour's house and make himself something to eat.

Tessa's family were affected too.

My parents were angry as well. He had assaulted my mum, brother and sister – physical abuse. He had smashed the door down, and they have experienced it as well. Even our dog was hurt. They wanted something done about it, so they said I had to ring the police and do something about it. I called the [domestic violence] coordinator.

Tessa explained how she went about getting her order enforced.

Every time he contacted me, whether it was a letter or anything, I would report it to the police station. He was not meant to contact me at all under the protection order and the police did nothing. The times I started to get really serious and think that I was going to die, I started to hound the police to do something about it. I was reporting everything. I would do a report and it would get filed and nothing would happen. The incident where he was in the house – that went to CIB and they had a detective working on it. Him and I spent about six months working on it before it went to court so that was a long time.

On several occasions a warrant was issued for Tasi's arrest, but the police said they were not able to locate him. At the time, Tasi was well known as a rugby player and often featured in the newspaper. Prior to his games, Tessa would ring the police and tell them where they could find him. However, he was never arrested.

The lack of enforcement took its toll.

I felt completely powerless. I ended up leaving my home and going to stay with my parents. Even that in itself took me three or four steps backwards in my healing and feeling good about myself again. A big part was that it was unsettling my daughter and she was a huge priority for me. [It was] taking us out of our routine and taking us back into my parents' house and sharing a room. I would just stay inside the house all day, lock the doors, all the windows. I couldn't go for a walk. He would stalk me. I would be out shopping and he'd walk up beside me. I couldn't go anywhere without thinking he would be around the corner.

Prosecution

Tasi was eventually convicted on a breach of the protection order, but his high profile in rugby seemed to protect him somewhat from experiencing the consequences of his behaviour. Evidently facing a term of imprisonment, he was released to take up a rugby contract in Australia.

His platform is rugby and, in New Zealand, if you are a good rugby player you are a god. The first three years it felt like a huge injustice because I was no one. He had so much support from everywhere because people believed he could be rehabilitated. He was sent to [city], given a house and a job, given a contract to play and all of that was done to get him out of the situation here ... Even his probation officer called me and said, "Why are you doing this to him? He is a young man with a very bright career in front of him and I think you should let this go." What he wanted me to do was write a support letter to say I don't think he should go to prison.

There is an interesting contrast here. Tasi is "a god" with "support from everywhere." On the other hand, Tessa is "no one." And having had to take so much responsibility for the enforcement of the protection order (for example, by locking Tasi in the house so he could be arrested, telling the police where he could be found), it is ironic that now she was given the responsibility of making submissions so that he could effectively evade the consequences for his violence against her. Tessa "wrote a letter that said if he goes overseas and stays overseas then I would be happy for him not to go to prison."

Tasi flew out of New Zealand, but returned a few months later for a Christmas holiday. Within two weeks, he had breached the protection order again. This time he was sentenced to imprisonment – for five weeks.

Tessa told us about another occasion when Tasi was before the criminal court. This involved the incident in which she had locked him in the house to help the police locate and arrest him.

The outcome was that it went to a ... hearing and I was willing to give evidence. He pleaded to a couple of charges. He was supposed to come back for sentencing and he didn't. He had a warrant for his arrest for a year or two. During that time I finished university and got a job at the courts so when he was picked up on the warrant it came to the court I was working at. So I ended up speaking to the prosecutor and he said we will try and get him to plead [guilty] so you don't have to give evidence. I

wasn't too concerned, but in retrospect they had my best interests at heart. They thought for my career that it would have been better if it stayed quiet and get it resolved. And they did. He pleaded [guilty] and he got community work.

Tessa's commentary provides some interesting perspectives on how domestic violence is perceived. Firstly, that a public figure such as Tasi could evade arrest "for a year or two" despite there being a warrant for his arrest suggests a considerable degree of collusion and/or a low priority being placed on domestic violence offenders. Secondly, Tessa's account suggests that plea bargaining is being used in the interests of expediency. Thirdly, the logic of the prosecutor is interesting. Presumably with the best of intentions, he wanted to save Tessa from having to testify. What we find interesting is that being identified as a victim of domestic violence was considered likely to harm Tessa's career. This may well be a realistic assessment, but it reflects a degree of victim blaming not usually associated with other types of crime. It is unlikely that being a victim of burglary, drunk driving or a stranger assault would be regarded as bad for one's career. That being a victim of male partner violence is so regarded suggests widespread acceptance of the notion that women are somehow to blame for being abused. While such attitudes persist, women will continue to be reluctant to report domestic violence. Men will continue to exploit those attitudes to evade accountability for their violence.

Custody and Access

Tasi commenced another relationship, and, not long after, his new partner had a baby boy. Shortly after the birth of his son, Tasi applied for access to his daughter, stating in his affidavit that he was present when she was born and wanted a relationship with her. Tessa did not qualify for legal aid, so she compiled her own affidavits. She asked that Tasi be made to undertake a parenting programme. He had already been court mandated to attend a stopping violence programme as a result of having a protection order made against him, but had attended only two sessions.

Tasi agreed to the parenting programme as a condition of his access order. Tessa believes that her daughter felt torn between them, not wanting to hurt either parent.

She used to be stressed out the day before, and in the morning she would be concerned that I wouldn't like her anymore, and she used to worry about what she could say to her father. It wasn't fair on her. And the day he didn't show up, she was so upset.

Tessa believes that Tasi saw access to their daughter as a way back into her (Tessa's) life. But after two visits with his daughter, he never returned. Tessa asked the Family Court to suspend Tasi's access so that her daughter would no longer be subjected to the stress. Tasi did not contest the application. He never attended any sessions of the parenting programme.

Other Service Providers

Tessa received help from Women's Refuge and another specialist domestic violence agency. In one incident, Tasi damaged his hand in the course of assaulting Tessa. Her mother suggested Tessa pack a bag while she drove Tasi to the hospital. Tessa rang Women's Refuge informing them that she needed a place to stay. While Tessa's mother was still on her way back to pick up her daughter, Tasi discharged himself from hospital, and he too was on his way back to Tessa's family home. Only by luck did Tessa make it safely to the refuge.

Tessa described her first experience within the refuge.

They left me on my own in a room with my baby – and nothing. I was isolated. I had no one to talk to ... I could not relate to anyone ... There was no feeling of it being a safe place where you can relax ... Everyone just kept to themselves ... The woman running it ... gave me noodles for me and my baby. I paid to stay there. I gave them \$90.

After two days Tessa's parents moved her into a hotel, a more comfortable environment, but a much less safe option.

More positively, women's advocates told Tessa about programmes available for women.

I went in and did *Breaking the cycle*. When the [advocates] came out and saw me they told me what was available and I just did all of them [the programmes]. It was really good ... and I read heaps like *Invisible wounds*¹²² and I tried to find books and movies. I was still a student, fresh out of high school. I was still learning and that is what I did.

Another positive development was that seeing what was happening to Tessa helped her father to see the impact of his own violence on his family. He has become a more accepting person. In the past, Tessa's father would only allow his children to have partners that were of the same religious belief or nationality. He now openly accepts and loves his extended family, Tessa's (previously "inappropriate") new partner in particular. Significantly, her family have established their own policy against violence. Cursing, yelling and smacking of any kind are banned in each of their respective homes. While Tessa acknowledges the pain that gave birth to her family's violence-free home policy, she and her family celebrate what has resulted.

Reflections

When we spoke to Tessa, it was over four years since she had last had any contact with Tasi. While that is good for Tessa, Tasi's behaviour is now a problem for his new partner, who, like Tessa, got a protection order against him. He has twice been charged for breaching that order. On the first occasion, the charge was withdrawn. On the second occasion, along with the breach, he was convicted of male assaults female, entering with intent, and failure to answer District Court bail. He was given 200 hours' community service. Police records suggest that he currently faces a hearing for failing to complete his community service hours.

We asked Tessa whether she thought her order had protected her.

When I learnt to use it properly it did, but before that it was just a piece of paper. I did not realise the power it would give me.

Reflecting on her initial contact with the advocates who told her about protection orders, she noted:

Whatever they told me, I just went out and did it. I did not think about why I was doing it. I thought it was what you had to do. So when I got the protection order I didn't really know what I was doing.

Unsurprisingly, Tessa sees a need for more education about protection orders and how they work.

I think a protection order is a good thing. It's a good start. But it needs to be explained – how you use it. I could not understand the big picture, like, what would get him arrested? I remember him going on a rampage and breaking stuff in the house and I thought I couldn't ring the police because he had not hurt me, and I thought it wasn't serious enough. But if I'd known I could ring the police about that, I would have done that so many times.

Tessa's journey led her to a greater understanding of domestic violence. She has since completed a degree, and now works with victims of domestic violence. When asked if she would take out a protection order now, she replied:

I know how they work now ... I think it is better to have one than it is not [to] have one but I don't think it is really protective until the courts get real about it and tougher, and

¹²² Douglas, K. (1998). *Invisible wounds: A self-help guide for women in destructive relationships*. Auckland: Penguin.

the police get a bit more on to it ... The police and the courts are the ones that make protection orders work. Otherwise it's just a piece of paper.

That is, while education is undoubtedly important, of itself, it cannot make a protection order effective. In the end, it is not women who make protection orders work, but the police and the courts.

Tessa's experience shows a significant gap between her expectation and the police response.

What I understand, contact is contact, and that is a breach. So anytime he did anything, I would report it. They would say "Oh well, when he comes around ring 111." [I was expected to] just accept that is how the system is, and the police are over-worked.

With regards to enhancing the police response, Tessa would like to see:

Training of the police in terms of following up breaches, or even them laying a charge for breach of the protection order. If a woman has a protection order and is assaulted the police [tend to] lay an assault charge but ... not lay a breach of the protection order – or vice versa They **can** do both – there is nothing to stop them from doing both and they should be doing that.

We agree.

Tessa has other ideas. She would like to see directions to attend respondents programmes enforced.

Part of when you get a protection order ... the respondent [has] to do a programme, but there isn't anything to police his going.

This is consistent with what key informants told us. The enforcement of programme attendance is, at best, patchy. This is an issue we discuss further in Chapter 15.

While things are much better for Tessa now, her experience of domestic violence has certainly affected her life.

What happened to me still affects me in my everyday life. I am really conscious about my safety.

Tiare

Tiare is a middle-aged woman from Rarotonga who has lived in New Zealand since the age of 14. She is separated and has five children between the ages of 19 and 29. She was abused by her husband throughout her marriage and is now being abused by her son. He lives in her home and refuses to leave. Both husband and son are alcoholics, and her son has a drug addiction. She has not applied for a protection order, and uses a knife to protect herself on the occasions when her nephew is not at home to protect her.

Beginning the Relationship

Tiare met Fetu in Rarotonga. They were both very young at the time. At the age of 14, she travelled to New Zealand and met Fetu again. They married and, at age 17, she gave birth to their first child.

After we had the kids, things started to go wrong. He was always drinking. The first one was alright, but the third come and everything is different ... He hit me before but we always solve the problem.

Tiare had become accustomed to being hit by Fetu. It was his "normal" behaviour, and could be expected if he was drinking. Fetu did not care who was present at the time and would often beat Tiare in front of the children.

From the day I had my first baby and I went to [X] hospital and they found out that I had bruises on me ... I was so scared that I said "I walked into door ... or I fell down."

Every visit Tiare made to the hospital, the staff kept a record of the numerous bruises which covered her thighs and back. If hospital staff asked her about the bruises, she denied any form of physical abuse. She was afraid that if she told the truth, her children would be taken away by Child, Youth and Family.

At the age of 19 Tiare gave birth to their third child. She came home from the hospital to find Fetu in bed with another woman.

I went to the hospital and had the baby and I come home ... and I say, what the use? Is he not getting enough from me? ... I know we should finish. I should think to go but I think, I want to die. From then, he keep doing it and I think to myself, I am crazy, I am dumb and I got nothing. What is the use?

Tiare was suffering from post-natal depression and the effects of physical violence in a loveless marriage. Fetu often told her that she was dumb and nobody would want her. She believed him. His psychological abuse would undermine her confidence, helping to keep her in the relationship.

In 1980, Tiare tried to kill herself. She still requires medical assistance for problems associated with the suicide attempt. Fetu has used this incident to publicly proclaim Tiare's "insanity." In private, he would remind her daily that she was "mental".

Fetu flaunted his many affairs, and expected Tiare to accept this in their home. If she ever tried to leave or run away, he would catch her by the hair and pull her back into the house. She was terrified of him. During one very violent incident, which Tiare found difficult to talk about, she decided to call the police:

The police came and said to me, "You two can solve it. You should talk about it." After they left [Fetu] said, "Why did you call the police?", and then he continued to hit me. The police would never take him away.

During another incident, Tiare called the police and they took her and the children to her mother's home. Fetu was not arrested.

Tiare told us that Fetu comes from a large, well-connected family. He has family members working in organisations that she requires help from. He can monitor her every move through the system. She told us:

He has family members in the police and they look after him ... He got family working at the WINZ [Work and Income] and family at the housing [Housing New Zealand] ... His family member represented him in court – he was a lawyer.

In contrast, Tiare had only Fetu. He was described as a "control freak" by a support worker.

Me not allowed to go [to] church. He say everything, from the time we had the first baby to the last one. I never had anything to my name. The only thing I'm good is for having kids and looking after them.

Tiare had no support. Fetu controlled the finances. He controlled who she socialised with. Because he had controlled her from her teenage years, she knew no other way of living and had no access to help outside of her home.

Returning to Rarotonga

At the age of 26, Tiare received news of the passing of her mother. Her brother paid her fare to return to Rarotonga. It had been 12 years since she had been home, and the abuse had changed her.

My dad had never seen me since I left, and I'm saying to my dad, "It's me! Your last-born" and it's not until my other sister said, "Dad, this is what happened", and he said, "I told your mother not to let you marry this man!"

Tiare was relieved to be home. She had the baby with her, and the other children were being looked after by Fetu's family. Fetu lost patience with her being in Rarotonga, and started to demand that she return to New Zealand. She did not want to leave Rarotonga, and her father insisted that she remain on the island. Fetu continued to ring and demand she return immediately to look after the other children. Eventually, he got his family to locate her and put her on the next plane to New Zealand.

Returning to New Zealand

Tiare was beaten by Fetu on her return. He had not changed. In fact, he had become more demanding than ever. For instance, when he was out drinking, he expected that dinner would be hot when he came home. One particular night, he arrived home drunk and found the food cold. Tiara was sleeping with their daughter. Fetu grabbed Tiare out of bed and beat her. Their daughter was so scared that she hid under the bed with the phone and called the police.

After we end up fighting, the pot was hot and I was going to pour it on him, but he kept punching me. I grabbed a fry pan and hit him with it.

When the police arrived, they found Fetu unconscious on the floor. Tiare was immediately arrested and taken to the police station.

The police made me feel that I am the bad one. They took me to the police station and they stripped me. The clothes I got on me that night was half ripped. There was my blood everywhere and then they put me in [the cells] for the whole night. I slept in my own clothes and at 10 the next morning, I had to go to court in the same clothes.

Tiare's legal aid lawyer requested an adjournment, which was granted. Fetu continued to insist that she was "mental" and requested that she be removed from their family home. She told us:

My lawyer asked me if I really want to stay there and I said, "No, bad things happen there."

Fortunately, her lawyer obtained Tiare's records from the hospital. These were all the evidence the judge needed to dismiss the charges laid against her. She was released. Her lawyer also applied to the Family Court for her to occupy the family home. Fetu defended this application by saying that she had never had an income and so therefore she was not entitled to live there.

Tiare chose to stay in the family home because of the children. When the violence escalated, she would go to her friends' house where Fetu could not find her. She told us that it took the Family Court two months before a decision was made declining her application for an occupancy order. She walked out with the clothes on her back.

Tiare's lawyer helped her obtain a Housing New Zealand home and gain a benefit. She moved into her first home with nothing.

Effects on the Children – and More Violence

Tiare talked to us about two of her children. Her daughter is supportive, but shows the effects of the violence she has witnessed. She still fears raised voices and drunk people. Her son has followed his father's example.

When my son got big enough, he started hitting me even if his father was there.

Tiare's son lives with her in preference to the small one-bedroom unit Fetu had to move to after losing the freehold property the couple had owned. Tiare's son refuses to leave her home. He punches, kicks and verbally abuses her. He threatens to make up stories for Work and Income so that her benefit will be affected. He steals her mail and tears up bills. Sometimes, she doesn't know that the power or telephone account is overdue until the service is about to be disconnected.

To protect herself, Tiare has brought her adult nephew to live in her home.

My husband still comes, but my nephew will look after me. And, if he is not here, I will use a knife. The only [other] protection I have is running away ... My nephew is here to protect me because my son smash my house and hits me.

Her son is not violent towards his mother when his older cousin is home. Tiare had him trespassed from her previous home, but finds having to take out an order on her son very hard to do.

Not long before we spoke to her, Tiare was assaulted by her son. She dialled 111.

They said immediately, "The Victim Support will be there" and they sent me a young girl, and I got mad. She is about 18 or 19 and I'm telling her what my husband and son are doing to me and she would smile. At that time I had some bruises on me and I tried to show it to her and I said, "This is what happened to me." I don't think she understood. I got one phone call and then she gone.

Tiare describes the Victim Support person as lacking life experience. Her reactions made Tiare feel trivialised and invalidated. The police never responded to this call at all.

Reflections

Getting a protection order was never an option for Tiare. When we interviewed her, she did not know about protection orders; neither did she know about Women's Refuge. She told us:

I don't know about that stuff.

But even if she had known about protection orders, it is unlikely that Tiare would have made an application. She had called the police several times when her husband and/or her son were beating her. Neither of them were ever arrested. Instead, she has been described to the police as "crazy." Fetu's family does all it can to discredit her name. She failed to get an occupation order. Such experiences do not engender faith in the willingness and ability of state agencies to protect one from violence.

Tiare's mental health worker did provide some emotional support and organised for a doctor to certify Tiare as suffering from depression but as not experiencing any mental illness. Less helpfully, the worker failed to make referrals to the specialist domestic violence services which may have helped her.

Recently, Tiare returned from Work and Income with the news that her benefit had been increased. The Accident Compensation Corporation had decided to pay her for the loss of her little finger, the grand sum of 85 cents a fortnight.

When we asked Tiare what changes she would like to see, she simply replied:

For the system to protect me.

Titiana

Titiana is from Fiji. Her story is of a migrant woman and mother without status in New Zealand. She faced physical and emotional abuse from her estranged partner, the biological father of her son. Throughout, her main support has been from Women's Refuge. A lawyer has also assisted her with legal matters free of charge. She has also had interactions with the police, a hospital, Immigration New Zealand, the Family Court, and Child, Youth and Family. At the time we interviewed Titiana, the Family Court had awarded her the day-to-day care of her son. Titiana and her son are still totally dependent on Women's Refuge for their needs, and Titiana still has not heard back from Immigration New Zealand about her appeal against the revocation of her work permit.

The Beginning of the Relationship

Titiana was a secondary school teacher in Fiji prior to meeting Allan, who was visiting from New Zealand. He had a daughter from a previous relationship. Soon after they met, Titiana and Allan became partners. After living together in Fiji for close to a year, they decided to come to New Zealand to sell Allan's house before returning to the islands to live. Allan got a contract job shortly after they arrived, so they stayed longer than anticipated. Their plan was that as soon as he completed the job they would go back to the islands.

Allan's controlling behaviour started when they got to New Zealand. He did not like Titiana talking to other men, even the neighbours.

He would say, "Who is he?" and I would say, "It's the neighbour." He would say, "But how come you talk to him? Did you know him well? Why did you talk to him?" And then we would start arguing.

Soon after he started working in New Zealand, Allan also began going to the pub where we would meet up with his friends. However, he did not allow Titiana, who was now pregnant, to go out by herself. Neither was she allowed to visit her only friend, Lola.

He would tell me that this woman is no good, that her partner has been in jail, [that] they have been fighting together.

Titiana was isolated and lonely. She wanted to be with her family. But every time this topic was mentioned, Allan would get upset and they would argue. Eventually, though, Allan gave permission for Titiana to go back to Fiji to see her family.

During her first month away, Titiana would receive a phone call from Allan morning and night. He sent money regularly. But after a month or so, the calls became less frequent, about once a week. When Titiana asked him why he stopped calling her daily he told her that he was too busy and tired. When Titiana asked him if he had a girlfriend, Allan denied it and instead accused Titiana of wanting to have another boyfriend.

Around that time, Titiana had a scan and was told that her unborn child was sick and would need surgery. She decided to return to New Zealand for the birth because she felt that there were inadequate facilities in the islands. Allan arranged to meet her halfway through the journey and then they flew back together to New Zealand.

When they arrived at Allan's house, Titiana's stuff was placed in another bedroom. When she asked Allan why he did that, Allan told her, "I don't really want you here."

He readily admitted to Titiana that he did have a girlfriend and was going out to see her.

Titiana was so angry and upset that she left. She went to Lola's house. She started having stomach pains. She went first to the local hospital, but the nurses there were worried that she might have a miscarriage, so they transferred her to a larger hospital the next day. When Titiana rang Allan to tell him what had happened, he told her not to bother calling him again.

However, after a few days, Allan came to see Titiana and persuaded her to go back with him. She agreed because there was no other choice for her. She had no money so could not afford to stay anywhere else. Meanwhile, Allan's girlfriend had moved in with him. Allan rented another property for Titiana to live in. While the separate accommodation was good in some respects, Titiana had to endure the pain of living alone and being very pregnant with Allan's child.

The baby was born and started undergoing treatment almost immediately, including surgery when he was just six weeks old. During this time, Titiana thought that as soon as the baby's treatment was completed they would go back to the islands.

The abuse became physical. Allan visited and saw the duvet pulled back from Titiana's bed. He did not accept her explanation that she was trying to get rid of a spider and demanded to know who had been in house. He started throwing things around.

He grabbed me by my jaw and asked me who my boyfriend was, and, and, "Tell your boyfriend to pay for everything"... and left.

Allan continued to visit them from time to time, but still accused Titiana of having another boyfriend. After their son's operation, he asked Titiana to move back in with him because his girlfriend had moved out. His girlfriend still came around everyday to see him. Titiana did not trust Allan and decided not to move in with him. She saw him at the pub, however, because that was where she went to email her family. Allan was unhappy about her using the email at the pub even when he knew that she did not consume alcohol.

Titiana never called the police because Allan told her that she would lose her baby if she did.

Police Involvement

During one of Titiana's visits to the pub, she came across Allan and his girlfriend having lunch. She confronted Allan about why he was still seeing the girlfriend when just a couple of weeks earlier he had promised to go back to the islands with Titiana once his job was over.

When Allan and his girlfriend goaded her, she poured orange juice over them. The girlfriend then grabbed Titiana's hand and asked why she had done that. Titiana turned around and pushed her away. Allan's girlfriend called the police and reported the incident. The police came and spoke to her about the assault.

Without her knowledge or consent, Allan took Titiana's passport and the baby's passport and brought them to the police. The police later gave hers back, but Allan kept the baby's passport.

A few days later, Allan did not feel well and was admitted to hospital. He sent his daughter to tell Titiana that he wanted her to go and visit him in the hospital. Lola transported her there. When Titiana arrived at the hospital, Allan's girlfriend was also there. She placed a gift beside the bed and left.

When Allan was discharged a few days later, he accused Titiana of throwing her gift at him. He told her to pack her things and leave. He informed her that he had also made arrangements for her to be removed from the country, and that he would have full custody of the baby. Titiana remembers him saying:

"Having fun? Good weekend? I want you out of the house. I have had enough of you. Go and stay with that family [Titiana's friend's family]."

Titiana stayed at her friend's house but it became obvious that her friend's husband did not want her there. Her friend called the police. A few days later, the police took Titiana and the baby to the refuge.

Titiana never called the police on Allan because she did not know how to do it. She had little knowledge about the law in New Zealand. She feared that they might take her baby away. She was charged with assault against Allan's girlfriend, but Allan has never been charged in respect of any of his violence.

Other Power and Control Tactics

Allan's tactics of isolation and denigration extended to a Women's Refuge support worker who accompanied Titiana to the hospital for one of the baby's appointments. It had been arranged that Allan was to meet them there. When introduced to the support worker he said, "That **thing** was to drop you off and pick you up later." The support worker explained that she was there to support Titiana. Allan told Titiana, "Tell that **thing** to leave." Later he asked Titiana, "Can I see

my son or is that **thing** going to rock him.” He grabbed hold of the worker’s arm and told her to leave. Two hospital security guards arrived. One of them escorted the family, with the support worker, to the baby’s appointment. Afterwards, Allan, who was not happy that the support worker was present during the appointment, verbally harassed her and Titiana as they left the hospital. Tatiana reported him as asking, “Who the hell are you?” and demanding to know why Titiana was “listening to these people?”

Titiana’s immigration status made her vulnerable to other power and control tactics. Initially, she got a two-year work permit under the partnership policy. Allan got this revoked after one year by ringing Immigration New Zealand to inform them that he was no longer with Titiana. Titiana consulted a lawyer and exercised her right of appeal. When we spoke to her, the appeal was still to be determined. If it fails, she will have to leave the country or face removal.

The Family Court

Titiana did not apply for a protection order. Initially, she knew nothing about them. She was new to the country, had very little knowledge about legal matters in New Zealand. Moreover, given that she was constantly threatened by Allan that she would lose her baby if she ever contacted the police, getting a protection order seemed pointless. She had more positive experiences in relation to her Care of Children case. With the help of a lawyer and supportive reports from Women’s Refuge and an island trust, she was given the day-to-day care of the baby. This really boosted her morale.

Reflections

Perpetrators of psychological and emotional abuse often latch onto individuals who are vulnerable. In the islands, Titiana had self-esteem and social skills. Her abuse started when the couple moved to New Zealand. Here, Titiana became totally dependent on Allan. In her own words, she became “a nobody without Allan.” She had no status and no independent income. Once in New Zealand, she was relatively powerless.

Allan took advantage of this situation. His controlling behaviour and intimidation were evident in many ways. Some of them included threatening to take the baby away from Titiana, constant harassment through her cell phone, withholding finance from her and their son, abuse of Titiana’s support workers, removal of passport documents, withdrawing of the work permit and name calling. She was isolated from her family members and had no knowledge of protection orders or about New Zealand law in general. However, Women’s Refuge was crucial in supporting her to gain freedom from violence. She remains dependent on Women’s Refuge and faces the possibility of removal from the country.

5: Other Ethnic Minority Women's Stories

Alice

Alice's story is one of economic exploitation as much as it is of physical and psychological violence. Harry, her ex-husband, has pretty much striped her of the capital she brought into the country, initially through his profligacy, later through extortion. Alice's ability to get redress and gain protection from Harry and his associates has been severely hampered by her limited English. We interviewed her with the help of a Mandarin-speaking interpreter.

Alice (36) immigrated from China almost four years ago to join Harry (34) who had arrived two years earlier. She left their son (six) in the care of her parents, but he, and her parents, joined Alice in New Zealand about three years later. While Alice is now reunited with her son and her parents, in other respects, things have not worked out well in New Zealand, mainly because of Harry's exploitative, violent and intimidating behaviour and his gambling.

The Relationship

Alice's parents and Harry's parents were friends. When Harry graduated, his parents arranged for him to work in a tour bus company under Alice's supervision. In many ways, Harry got his start in business from Alice's support and mentoring.

Alice moved to Hong Kong where she held down a job while studying accountancy. Harry wrote love letters to her. Both sets of parents encouraged the relationship. At the time, Alice was 28 years old, an age commonly considered old for an unmarried women. She arranged for him to come to Hong Kong where they married. Harry wanted to improve his English so Alice supported him while he furthered his studies in Hong Kong. As she told us through the interpreter:

He was not like this [that is, abusive]. He was a very gentle person and a very good student in our country ... At the time he was a very good man, his role was as a house husband. His English improved and he passed the MBA pre-exam.

Two years into the marriage, Alice became pregnant. By that stage, she had saved quite a lot of money and the couple were planning to move to New Zealand. In the event, there was only enough money for one of them to be able to immigrate. It was decided that Harry would come to New Zealand to further his studies, funded by a \$50,000 loan from Alice, while she returned to her old job China. As is customary, she went to live with her husband's parents, taking expensive gifts from Hong Kong with her.

While they initially welcomed Alice into their family, she soon found herself to be exploited. She was asked for money. She was expected to do all the house work. Harry's mother was rude, telling her, as her pregnancy advanced, that she looked ugly and disgusting. Once Alice overheard her mother-in-law on the phone to Harry in New Zealand, Harry's mother told him:

Your butterfly wife has become a goose, but I hope she can give our family a son.

Harry called less frequently and, when he did, he often spoke only to his mother. On the other hand, when he returned to China around the time of the birth, he made frequent calls back to New Zealand. Alice soon found out why. Harry had found a girlfriend here. Harry told her he had found a younger, beautiful and more intelligent woman. Her name was Linda.

After giving birth to her son, Alice refused to go back to her husband's family home. She knew that she would not be looked after there. Besides, Linda had arrived in China and was living with Harry in his parents' house. Nevertheless, Alice was constantly nagged to return and eventually gave in to Harry's parents. She says she knew that they did not want to miss the gifts and money

that would come when her friends and relatives visited the baby. She was feeling overwhelmed with the controlling behaviour of not only her husband but also her in-laws.

Both Harry and his mother were now abusing Alice. He told Alice she was getting old and ugly. He flaunted his relationship with Linda. His mother would shove Alice about, hit her and throw things at her. Harry refused to intervene. Instead, Alice was coerced into silence. Alice's brother worked for Harry's mother. Alice was told that if she spoke to anyone about the violence, her brother would lose his job.

At the same time, Harry did not see the marriage as being over. Divorce was seen as shameful. Instead, Harry wanted an "open" marriage, one in which he was free to have girlfriends. As long as Alice "behaved", looked after their son and did the housework, he was happy to remain her husband in title, if not in fact.

Migration to New Zealand

There were other aspects to the sort of deal Harry was proposing. When their son was two, Harry got permanent residence for the family in New Zealand. As he saw it, by getting Alice residence, he was repaying her for the financial and other help she had provided earlier.

Harry refused to buy Alice's ticket, so she paid her own way to Auckland, leaving her son with her mother. She quickly got a job and soon it was her who was paying the rent and other bills, leaving nothing to send back to her mother. Meantime, Harry, often in the company of Linda, started gambling at the casino. In Alice's view, he became addicted to gambling. Around this time, Linda moved into the house.

Alice was alienated from the rest of the Chinese community. She was ashamed of the kind of relationship she was in and kept to herself. She knew that a good wife and mother would not talk about violence with people outside the family. She did get support from others though. Harry had some Chinese students move in with them. They quickly understood the dynamics of the family and started to convince Linda to leave Harry. She did move out, but that only meant that Harry would go and stay with her most days of the week. Eventually, the students threw Harry's belongings out of the house. The students began to talk to others about Harry's behaviour. His friends stopped talking to him.

One of the students was useful in another way. She worked in a bank. Through this, she discovered that Harry's father had sent him a large sum of money. The student insisted that Harry repay Alice for the money she had given him when he first came to New Zealand. He handed over \$50,000. Alice now had some capital again.

Harry moved south to another city. He wanted to start a business, but lacked the capital and was in arrears with his rent. He came back to Auckland to ask Alice for money. Through the interpreter, Alice gave this account of Harry's pleading.

He came to me kneeling and begging saying [he had been] too young and had no idea as to what [he] was doing and [that he had realised that] Linda isn't a good friend. [That he had] just copied the bad behaviour from her – that was why [he] gambled, but from now on [he would] behave ... [and would I] please give [him] me the money to open the shop?

Alice gave Harry the money and moved south with him. They lived at the back of the shop to save money. Harry started drinking heavily and resumed gambling. If Alice tried to stop him from going out at night he would hit her.

He would suffocate me with the pillow if I screamed and yelled.

Alice soon found out that his friends were drug dealers and illegal immigrants. She did not want him to associate with them, but every time she tried to stop him it would get ugly and he would

kick and punch her. He would say that he was an adult and that she could not control what friends he had.

Separation

By now, Alice had had enough. She moved out and made plans to start her own business. Money from her parents helped, but she also wanted repayment of the money she had loaned Harry. He refused, claiming that it was his money. Eventually, Harry agreed to give the money to Alice but only as a loan, with repayments to be made weekly. He told her that if she did not pay, he would send people to destroy her shop. He also threatened to get her brother fired and that her son would be harmed. Two of Harry's associates were placed in Alice's shop for her "protection". Alice was constantly monitored and was forced to pay them too. They also bad mouthed her in front of Harry and that stirred up more trouble for her. According to the interpreter, such protection rackets are common in certain circles in China, and that the tactics are sometimes brought to New Zealand.

Six months after the separation, a separation and property agreement was completed. On the face of it, this looked fair. Each partner got to keep those assets held under their name. However, given that Harry's assets had been built up largely with Alice's money, she came out of the relationship substantially worse off financially.

Protection Order Application and Intimidation

Alice's parents migrated to New Zealand, bringing Alice's son with them. The extended family set up house together. While Alice now had the support of her parents, Harry started to bully them too. He tried to get Alice to re-mortgage her house to raise money for his business. When she refused, he made threats against her and their son.

Alice and her parents considered their options. Their first response was to get a trespass order against Harry. This was served by Alice's father the next time Harry came to the house. Harry reacted violently and kicked in the door before leaving. The wilful damage to the door was reported to the police. Harry was interviewed, but no further action was taken. Alice consulted a lawyer, and applications for a protection order and an interim parenting order were made the next day. They were both granted without notice to Harry, with the court providing for Harry to have contact with his son "on such terms as that shall be approved by the Court."

When Harry learned about the applications, he sent some people to ransack Alice's shop and threaten her that if she did not withdraw her applications she would have to face the consequences. One morning, when she came to open the shop, she found two dead rabbits, shot in the head, lying in front of the shop. She was terrified and, on the advice of a friend, went to the police station to report what had happened. Because of her limited English, the police officer could not follow what she was saying. As conveyed by the interpreter:

They told me that I have [a] mental illness as they cannot understand me.

The same day, a bullet hole was found in the door to her lawyer's office. Alice reported this too. This time, the police officer she spoke to seemed to understand, for he commented that there was no evidence as to who was responsible.

Alice's interpreter commented that she had once called the police on Alice's behalf (to report threats Harry made against his son). The officer who responded on that occasion complained that she could not understand the interpreter (yet we were able to) and that Alice would have to speak to the officer. The interpreter explained to the officer that she would have even more difficulty understanding Alice. According to the interpreter, the officer was rude and hung up.

This is really bad. I told the police woman that Harry already threaten Alice and her son, and she said "I cannot understand you, sorry." The police were not aware or

concerned about her complaint, because she [Alice] speaks too loud when she is anxious and she is not understood. They don't understand her. She was asked if she was mad.

Harry filed papers opposing the protection order, seeking discharge of the direction to attend a programme, and requesting unsupervised weekly contact with his son. At the time of writing, these applications are still to be resolved. Her lawyer has advised Alice to let Harry have supervised access, but in her view, "He does not love the child. He never comes to see him. He never supports him."

The protection order appears to have had relatively little effect in changing Harry's abusive behaviour, although the form the abuse takes appears somewhat modified. Harry no longer approaches Alice directly, but he does breach the order by phoning her. Some of these calls have contained threats, but Alice has not reported them. Two of Harry's friends continue to intimidate and harass Alice by visiting her shop and helping themselves to stock. One of them has taken a trespass order against her.

It was all a lie. He said that I went over to threaten him. He is an Indian and can speak English. I am a victim because people don't understand me, and don't know what happens to me.

Reflections

Alice still faces challenges. Harry continues to make threats, but Alice says she is not afraid any more. She faces criticism from other women of her community, who look down on her and regard her as a bad woman for taking such a step against her husband. But Alice says she does not care any more. She considers herself free at last, and would recommend a protection order to any woman in her community who lives with domestic violence. She sees herself as a strong woman. Even though she has lost quite a lot of money to Harry, it helps that she is financially independent.

Having supportive parents and her child living with her in New Zealand appears to have given Alice the strength to take decisive steps to end an abusive and violent relationship with Harry.

The interpreter offered her own analysis. She described Alice as having been very depressed earlier but now much better and stronger. In the interpreter's view, the police have failed Alice because they do not understand her. In her frustration at trying to be understood, Alice can be loud. Instead of getting an interpreter, some police have labelled her as mad. The interpreter was keen to emphasise that not all police were like that. Some she had dealt with showed considerable patience in trying to communicate with Chinese immigrants. But, as she said, "Of course it would help if someone spoke her language."

Amira

Amira has been removed from the country, leaving her (then) 14-year-old daughter behind in the care of her New Zealand husband. The information for her story has been collected through international telephone calls to Amira and conversations with some of the people who tried to help her. Amira's experiences reflect the difficulties of women who have only limited fluency in English, who do not have residence, and whose culture is not well understood in New Zealand.

Violence in the Relationship

Amira grew up in a Muslim family in the Middle East but met Barry in Western Europe where she had a residence permit. Barry was a New Zealand citizen working in a part of Europe from which his family had earlier migrated to New Zealand. Amira and Barry married about 16 years ago. Their daughter, Zola, was born about a year later.

Zola was about nine years old when the family moved to New Zealand. Amira entered the country on a work permit, but Barry had promised to sponsor her application for residence. For the first couple of years, they lived with Barry's parents. According to Amira, this was an "okay" time in the relationship because her mother-in-law looked after her. But the relationship deteriorated when they moved to a fairly isolated community where they drew a married Unemployment Benefit.

As Amira was later to tell the Family Court, Barry was physically violent to her. At various times, he kicked Amira, kicked her off a bed on to the floor, punched her about the head, elbowed her, and pushed and shoved her about. She got sore necks and headaches from such treatment. Possibly more important was the psychological violence.

My husband is a very controlling man. He thinks he owns me. He treats me like a slave. He says to me that in his house he is Adolf Hitler and I must do what he says. He tells me to do this and to do that. He does the same thing to our daughter. I am not allowed any friends to visit and have been isolated. I am not allowed to use my husband's telephone. My husband swears at me. He calls me names, and says I am lazy, that I am a bitch, that I am no good and that I am crazy.

Barry totally controlled the money in the family. Amira noted that, "He won't even buy me sanitary napkins when I need them." And her immigration status gave Barry considerable leverage over Amira, particularly once her work permit expired.

I filled in the forms for an extension. He said that he would help to get my extension, then he kept changing his mind and said he would not help. He threaten[ed] to have me deported so that he will have our daughter ... She is caught in the middle.

For the last three months of the relationship, Amira and Barry slept in different rooms. As Amira told the Family Court:

Barry has been sharing a bed with our daughter who is nearly 11 years old. One night when he was in bed with her he had an axe between him and Zola. I was very scared that he was going to kill me or our daughter.

Leaving and Applying for a Protection Order

Barry threw Amira out of the house. She had no income, no belongings to speak of and nowhere to live. She ended up sleeping in a pup tent on a neighbour's property. Initially, Barry let her return home to shower, but then took her keys off her.

Amira had some support. A Victim Support worker helped Amira move into a caravan provided by the local Women's Refuge. They got her to Work and Income to get her on an Emergency Benefit. Amira consulted a lawyer and applications were made for a temporary protection order, an interim custody order, and a warrant to enforce custody. These orders were sought without notice.

Amira's affidavit canvassed Barry's violent and controlling behaviour. It outlined her concerns about Zola, and included the statement about Zola sharing Barry's bed – with the axe. In relation to Zola, Amira also noted:

Our daughter has remained with my husband since he made me leave. I saw her on the street [recently]. She was crying. She said that she is too tired. That her daddy is making her do all the work. She said her daddy stresses her out too much. She told me her puppy had died when it swallowed a fishing hook and her daddy did not take it to the vet.

In support of her application for a protection order to be made without notice, Amira's affidavit argued that the delay which would be caused by proceeding on notice would entail:

Undue hardship to me and my daughter as follows. My husband is an angry, controlling and violent man. He will be very angry that I now have support. I have

been helped so that I have a benefit for myself which will mean his benefit will be reduced. This will make him even angrier. He will be very very angry that I have gone to the law and that I am standing up for our daughter. I believe that I need an urgent protection order for my physical safety. I also need it emotionally. I am worn down. I am depressed and tired. I also believe that our daughter needs to be protected from the respondent urgently and that an order needs to be made urgently placing her in my care. I believe that she is at risk of my husband's anger while she remains with him. She is scared of her father. My husband has made it very clear that he will never stop his control over our daughter. I don't believe he would even hand her over to the police if I got a custody order and asked them to help me collect her. I am certain that I will need a warrant to enforce any interim custody order made.

The Victim Support worker, who had known Amira and her husband a little, also submitted an affidavit. This provided corroborative evidence about the domestic violence and about Barry's controlling tactics. In particular, the affidavit recorded Barry's response when he found out that the Victim Support worker had been helping Amira.

[Barry] said, "I see my wife is on the move." He then proceeded to tell me that the only place his wife was going was out of here in a plane and that when she got back to [country] she would be shot for adultery. He made it clear he would have her deported to [country]. He was laughing in a very menacing way. The parties' young daughter, Zola, was present throughout this incident. I could see that she was feeling very uncomfortable and she created some distance between herself and the respondent by walking to the back of the shop. The respondent was very intimidating in his manner. I think this is very damaging for Zola.

Personally, I have serious concerns for the safety of not only the applicant but also of the daughter, Zola. I have previously worried about his parenting and it concerns me greatly that Zola is now in his sole care. He seems to have no idea of how his behaviour affects Zola emotionally.

I believe that the applicant needs the urgent protection of a Court order and that the child is at risk in the care of her father and that an urgent custody order should be made in the applicant's favour.

Despite the corroborative evidence, Amira's applications were put on notice. The papers were served on Barry the same day.

It is difficult to see why the court directed the applications to proceed on notice. The court's power to make a protection order without notice is governed by section 13 of the Domestic Violence Act 1995. Section 13(1) states:

- (1) A protection order may be made on an application without notice if the Court is satisfied that the delay that would be caused by proceeding on notice would or might entail—
 - (a) A risk of harm; or
 - (b) Undue hardship—
 to the applicant or a child of the applicant's family, or both.

Section 13(2) sets out the matters to which the court must have regard in determining whether to grant a protection order on notice, namely:

- (a) The perception of the applicant or a child of the applicant's family, or both, of the nature and seriousness of the respondent's behaviour; and
- (b) The effect of that behaviour on the applicant or a child of the applicant's family, or both.

The information contained in the affidavits of Amira and the Victim Support worker paints a compelling picture of a violent, controlling man whose behaviour has seriously undermined Amira's emotional resources. Her perception of Barry's likely reaction is very plausible.

Moreover, the affidavits from Amira and the Victim Support worker raised serious concerns about the safety of Zola, an 11-year-old girl who was sharing the respondent's bed – and who, on at least one occasion, was sleeping with an axe in the bed. On the face of it, the standards of section 13(2) seemed to be met.

As noted above, the language of section 13(1) is permissive: the court “may” make an order without notice. As with *D v D*,¹²³ the court used its discretion to put the application on notice. And, as in *D v D*, the court seems not to have provided any reasons for this decision. There does not appear to be a judge's memorandum. Instead, Amira's experience reflects what family law practitioners have told us: that obtaining a without notice protection order has become more difficult in recent years.¹²⁴

That Barry was sharing his bed with Zola – and had an axe to hand – is particularly concerning. To readers unfamiliar with the realities of domestic violence, this may sound fanciful. In fact, Barry did not dispute the facts, although he did have a different explanation for them. In an affidavit prepared the day after he was given notice of the applications, Barry said:

Because of the Applicant's depressive state, I did not feel safe with the axe around and I was worried about what she would do, so I was keeping the axe in a safe place. My daughter was sleeping in the same bed because she was scared. She is still scared, I have to lie down with her until she goes to sleep, otherwise she is too scared to go to sleep. She is not scared of me, she is scared of her mother.¹²⁵

Here, Barry has used tactics similar to many of the men in our case studies: characterising their partner as the violent party. But even if one did accept Barry's view of Amira – which is quite inconsistent with the views of everyone we spoke to – his explanation regarding the axe is hardly convincing. If he was truly concerned about having the axe around, surely a safer and more effective solution would be to dispose of it, or at least store it in some secure place known only to himself. Having it in the bedroom would be one of the least safe options. Moreover, his affidavit seems totally unreflective on the meaning of the axe for Zola. What is the effect on an 11-year-old girl sleeping with an axe in the bed, ostensibly for protection?

Unmentioned in all of this is the possibility that Barry was sexually abusing Zola. A father sharing a bed with his 11-year-old daughter is not conclusive proof of sexual abuse, but that must be a concern, especially when considered in the light of the frequent co-occurrence of battering and incest.¹²⁶

Although we cannot know why the applications were put on notice, Amira's counsel believes that the court felt it could not rely on Amira's affidavit because of language difficulties. In a memorandum to the court, Amira's counsel noted that:

While the applicant has a limited command of English I have spent considerable time going through her affidavit with her ensuring that she understands the contents. I am satisfied that the affidavit sworn by her accurately reflects her situation and that she requires the orders sought.

Certainly, Barry was to later argue in his defence to Amira's applications “I do not believe that she could read an affidavit and confirm it is correct, unless it was interpreted for her.” Yet this is at odds with reports that he communicated with Amira in English, and with the experience of the

¹²³ *D v D* [2004] NZFLR 320.

¹²⁴ We discuss this issue in Chapter 9.

¹²⁵ It should be noted that the court did not have the benefit of Barry's affidavit when it was considering whether to grant the orders without notice.

¹²⁶ See Bancroft, L., & Miller, M. (2002). The batterer as incest perpetrator. In L. Bancroft & J. G. Silverman (Eds.), *The batterer as parent: Addressing the impact of domestic violence on family dynamics* (pp. 84-97). Thousand Oaks, CA: Sage.

people who supported Amira, all of whom noted that while Amira was not fluent, she was able to understand what others were saying to her and to convey her message to others, even if they sometimes needed a little patience to comprehend her.

Further Proceedings in the Family Court

As noted above, Barry responded to Amira's applications by filing a notice of defence. Counsel for the child was appointed, and, three weeks later, reported back to the court. In the report, counsel for the child noted that she was not in a position to make recommendations about final orders, but she did recommend counselling for the parties. She noted that Amira and Barry had consented to an order preventing Zola's removal from New Zealand, a proposal counsel for the child supported. Crucially, counsel for the child recommended to the court a consent memorandum to resolve interim access and custody issues. In the form in which it was adopted a month later by the Family Court, the consent memorandum was to give Barry interim custody of Zola, with access for Amira two weekends out of three.

With minor variations, the custody and access arrangements recommended in the initial report of counsel for the child were preserved in the final orders made some 18 months later. Because the initial report in effect set the framework for the final resolution, it deserves close attention.

As could be expected, counsel for the child interviewed (separately) Amira, Barry and Zola. She had several conversations with counsel for Amira and Barry. In addition, she interviewed Amira's doctor and Barry's mother (Zola had spent some time with her grandparents). None of this is remarkable, but what is remarkable is that while the views of Barry and Zola are presented directly, information about Amira is drawn almost entirely from sources other than herself. In short, Amira has almost no voice in the report.

For example, it is reported that:

Amira has extreme temper tantrums when upset. It is difficult to know whether some of it is cultural but it would seem unlikely that any culture would find some of the behaviour described as acceptable. It is of concern to Amira herself, as well. I have had a lengthy discussion with [Amira's doctor] ... Amira has been on antidepressant medication for reasonably mild depression caused, her doctor believed, by cultural isolation and her feeling that her husband was inattentive towards her. In addition, he has in fact witnessed what he described as an amazing temper outburst where she flung herself to the floor, banged her head against the floor and was exceptionally, verbally aggressive. Although he indicated her actions were quite a spectacle, he does not believe that there was any indication of insanity or mental imbalance. [The doctor] also expressed himself as being understanding of Amira's depression and frustration from the situation of the parties' relationship, as well as Amira's difficulties with English.

Yet, in the next paragraph, Amira's understandable depression and frustration arising from her relationship with Barry and her isolation from others disappears. Instead, counsel for the child offers the observation that:

It appears Amira would benefit from anger management counselling as well as an exploration again of the affect [*sic*] on her behaviour on Zola. It would be important, however, to have a [language]-speaking counsellor.

Similarly, in her report, counsel for the child recounts a "dreadful scene caused by [Zola's grandparents] being a few minutes late" in returning Zola to Amira after she had spent time with Barry. Relying on Zola's account, counsel for the child notes:

Angry and abusive words were spoken about Zola's father and her grandparents by Amira in Zola's presence. She told me that she believed that if she went back with her mother that bad things would happen, for example, she would end up getting hit, so she asked to return to [town] with her grandparents, and that is in fact what happened. Zola would like to spend some time her mother provided her mother is calm.

The three excerpts quoted above assume considerable importance in the report of the counsel for child because they comprise all of the information presented about Amira. However, with the minor exception that Amira's apparent temper is reported to be of concern to her, none of the information comes directly from Amira. In this report, the view of Amira has been constructed almost entirely by others. In this regard, the report seems to bear out the conclusion of one of the support workers who accompanied Amira to her interview with the counsel for the child. In the view of this worker, counsel for the child took an instant dislike to Amira and had little patience with her limited and heavily accented English.

In contrast, counsel for the child talked, at some length, with Barry. Her report noted, probably with some insight, that:

Barry's expressed view of his wife, and his anger at her, will have adverse consequences for Zola if it continues. He also needs to support his daughter's relationship with Amira. Specific counselling for Barry may give him some insight into both these areas.

The report noted Zola's wishes. These focused on her wish to return to her school at the beginning of the next term – Zola was reported to be missing “her friends, her teachers and her school work.” Zola indicated to her counsel that she would like to live with her father during the week, going to school from there. She said that would like to live with her mother at weekends, but have some weekend time with her father.

However, as has been made clear by a practice note from the Principal Family Court Judge, the role of counsel for the child is not only “to put before the Court the wishes and views of the child” but also to put before the court other factors that impact on the child's welfare.¹²⁷ Here, it is relevant to note, as Amira's solicitor commented to us, that it is not unusual for a child to align themselves with the more powerful parent.¹²⁸ Given that the report was called for in the context of an application for a protection order, it was appropriate that counsel for the child address issues of safety. This is done, but in a somewhat cursory manner.

Although in my view there are unresolved separation issues which are causing anxiety and distress to both parties and affecting their communication with one another, I have not identified any safety issues for Zola in the short term, should she reside with her father.

This seems remarkable considering the contents of Amira's affidavit. Physical violence, extensive psychological violence, the presence of an axe in the circumstances described and the undisputed fact that 11-year-old Zola was sharing a bed with her father certainly raise significant safety issues. How counsel for the child formed her view that there were no safety issues was not explained. Instead, emphasis was put on a proposed consent memorandum despite the well-documented concerns about negotiated resolution of child custody disputes in cases of domestic violence.¹²⁹

Issues of Zola's safety and best interests might have been better considered had the court ordered a psychological report. Unfortunately, this did not happen. According to Amira's counsel, the court has become concerned about the cost of such reports and will generally not call for one until resolution has first been attempted through mediation. There is a potentially dangerous and self-perpetuating logic here. Psychological reports, which might well help clarify the power and control issues which should preclude mediation, are not being commissioned until

¹²⁷ Mahony, P. D. (2000). *Practice note: Counsel for child: Code of practice*. Retrieved 31 May 2006 from <http://www.justice.govt.nz/family/practicenotes/c4ccodeofpractice.html>.

¹²⁸ See Bancroft, L., & Silverman, J. G. (2002). *The batterer as parent: Addressing the impact of domestic violence on family dynamics*. London: Sage.

¹²⁹ See, for example, Johnson, N. E., Saccuzzo, D. P., & Koen, W. J. (2005). Child custody mediation in cases of domestic violence. *Violence against Women*, 11(8), 1022-1053.

after mediation. It is an approach which colludes with the perpetrators of domestic violence and further victimises women. If Amira's counsel is correct and this is a widespread practice, then it is one which is undermining the objectives of the Domestic Violence Act 1995.

Other Challenges

As mentioned above, the court made a final ruling, giving custody to Barry and weekend access to Amira (two weekends out of three). This was on the basis of a consent memorandum, which also included the withdrawal of the application for a protection order. It was 18 months before these final orders were made. During that time, the Family Court litigation was only one of the challenges Amira faced.

The most immediate of these were poverty and homelessness. Because of her immigration status, Amira was ineligible for a continuing benefit. Instead, she survived on a small grant (\$60 per week) from a charitable trust, with work cleaning the women's refuge, covering some of her living costs. Mostly, she lived in a caravan. This exposed her to more trouble. The son of the woman on whose property the caravan was parked formed a relationship with Amira. He proved to be at least as violent as Barry, but, as refuge workers observed, Amira remained in this relationship for a while because it meant that she wasn't so poor and had a roof over her head. She did take action though, reporting at least three assaults to the police. This new partner was eventually sentenced to a term of imprisonment.

Amira experienced problems in relation to access time with Zola. Barry, who subsequently moved back to live with his parents, sometimes simply refused to bring Zola to Amira. And Amira did not have the money to travel to see Zola at her grandparents home.

Amira raised her concerns for Zola with Child, Youth and Family. Social workers carried out an investigation but determined that, because Zola was living with her grandparents, there were no care and protection concerns.

But dealing with immigration issues was, in the end, the biggest challenge. As he had threatened, Barry refused to support her application for residence. Without his support, she did not meet the criteria for residence and she was removed. This happened despite the intervention of an immigration consultant who took on her case on a pro bono basis and despite the special domestic violence provisions of immigration policy.

These domestic violence provisions apply to people (among others) "who are, or have been, married to a New Zealand citizen or resident."¹³⁰ While this applied to Amira, before residence can be granted, a number of other tests must be met, namely that the person had intended to seek residence on the basis of that relationship, that the relationship had ended due to domestic violence by the New Zealand resident, that the person would be disowned by their family and community if they were to return to their home country, that if they returned to their home country they would have no means of independent support and that they meet health and character requirements. Significantly, each of these tests must be met before residence can be granted.

As we conclude in Chapter 14, these seem very restrictive rules. Here, we note only the requirements regarding evidence of domestic violence. These require a two-pronged test. Firstly they require either a "relevant New Zealand conviction", or a complaint to the New Zealand police in which "the police are satisfied that domestic violence has occurred." Secondly, they

¹³⁰ Immigration New Zealand. (2005). Residence. In *Online operations manual*. Retrieved 31 May 2006 from <http://www.immigration.govt.nz/NR/rdonlyres/B9297CAD-5D25-43BE-AFBC-ACA87C79884/0/Residence.pdf>, section S4.5.

require referral to, what is now, Immigration New Zealand “by a Child, Youth and Family approved Refuge Organisation.”

Amira’s case illustrated the narrowness of the first evidential test. There was no complaint or conviction against Barry.¹³¹ She did meet the second, but, as we discuss in Chapter 14, requiring referral by a Child, Youth and Family-approved refuge seems unduly restrictive considering how few such refuges can provide an accessible and appropriate service to women who have no or only limited English, to women from immigrant ethnicities other than European or Pasifika, or to women whose religious beliefs require particular practices and diets (for example, halal or kosher).

Presumably, because of the reason discussed above, the application of the policy in Amira’s case was never tested. Refuge workers told us they took Amira to three different lawyers specialising in immigration law in three different cities at three different times when she needed help. All three immigration specialists knew that she lived in a refuge and that she was referred to them by refuge workers. One of workers who handled her case told us:

They [the lawyers] used to call the refuge when they needed instructions ... The lawyers could have done a lot more for her if they wanted to.

As a result Amira lost at least four opportunities to test the legality of Immigration New Zealand’s decision because she was unable to access quality legal services, advice and aid. Opportunities to appeal Immigration New Zealand’s decision in her case under the law included an appeal to the Residence Review Board, the Removal Review Authority, under section 115 of the Immigration Act 1987 to the High Court on a point of law, or by way of a judicial review of the decision. In Chapter 14, we make recommendations about the immigration rules relating to victims of domestic violence.

Removal and Further Violence

Not surprisingly, fighting on so many fronts took its toll on Amira. Refuge workers report her losing weight. In fact, she stopped eating completely during periods in which she had no access to Zola. Her mental health began to suffer. Refuge workers report that, in the end, Amira grew frustrated at them too, as, like others who had tried, they were not able to help her.

As the date of removal grew nearer, refuge workers attempted to organise some quality time together for Amira and her daughter. With the help of a church-based social service agency, they undertook to fund a week’s accommodation in a local motel. The week’s access would be at no cost to Barry. Initially, he agreed, but in the end he changed his mind, bringing Zola to Amira for just one day before she left the country.

Barry has effectively stymied all further contact between Amira and Zola. The plan had been for Amira to call Zola on a cell phone. Barry has changed the access code which controls the use of the phone.

Amira has made calls back to New Zealand to talk to some of the people who have helped her. From these calls, we have learnt that Amira has been subjected to further violence. She was sent to her home country. Her father, angry at her conversion to Christianity, assaulted her. Because she had residence in Western Europe, she has been able to move on, out of reach of her father. While that provides some respite, the tone of her phone calls back to New Zealand suggest that she is lonely and desperate. If she wishes to see Zola again, she will need to repay the cost of her

¹³¹ Note that the convictions against her subsequent partner are deemed irrelevant here because she had not intended to seek residence in New Zealand on the basis of her relationship with him.

removal (we believe that this is about \$10,000) and wait at least five years before an application for re-entry can be considered.¹³²

Reflections

Amira's removal and the loss of her relationship with her daughter has been the cause of some reflection among those who tried to help her. A refuge worker provided this analysis:

She had become an unworthy person in the eyes of the system ... in her frustration, she would yell. And it wasn't about her anger. It was about getting someone to actually comprehend what was actually occurring ... She was very clear about what had happened. She was an older woman with common sense and some experience, but it was dismissed because each time he [Barry] came across as a very articulate white male, supported by a very hard-working [European nationality] family in [town]. He was able to provide this, this and this.

In contrast, Amira's lack of residence status meant that once, she had separated from Barry, she had no financial resources. Without money, she could not get decent accommodation. Without decent accommodation, she was unlikely to be regarded as able to provide a suitable home for Zola. Barry held the key. By withholding support for her application for residence, he put her on a very slippery slope.

Her slide down that slope might have been stopped had Barry been held accountable for his violence. Here, refuge workers made two observations. The first was that Amira was not as well served as she might have been by the Victim Support worker with whom she initially confided about the violence. The refuge workers believe that a better outcome might have been achieved if Amira had been actively encouraged to report Barry's assaults to the police. By the time Amira came to the refuge, so much time had elapsed since the assaults that the police were disinclined to charge Barry.

Of course, Barry escaped any accountability for his violence in the Family Court as well. Indeed, in the view of Amira's counsel:

Once we didn't get the protection order or interim custody, it was downhill from there. I was blown away. I've done zillions of these and I know when one is borderline.

Here, language and cultural differences seemed to play an important part. As we have noted, it is the view of Amira's counsel that her client's applications were placed on notice because the presiding judge doubted Amira's ability to understand what was in her affidavit. It is also likely that language difficulties meant a key document, the initial report of counsel for the child, provided a very slanted portrayal of Amira. At the same time, all the people we interviewed felt that Amira was able to communicate quite well, at least when she wasn't upset.

Language issues were complicated by cultural issues. Amira's counsel reflected on her client's communication style. When Amira was upset, she would become very animated. She would switch between English and the other languages she spoke. She would wave her arms around.

And she would cry, even in court. Like at the mediation, she would cry. Lots of clients cry in mediation but it was quite an expressive cry. "This is my baby!" A stream of tears, not just a – well, you know, in our culture, even the ones that do cry, well usually they are trying to hold it back. She wasn't trying to hold it back. It was just coming out.

It seems likely, then, that Amira broke some of the unspoken rules of the dominant Pākehā culture, in which strong, demonstrative displays of emotion are discouraged. At the same time, if

¹³² Personal communication from Immigration Service official, 31 May 2006.

she was not getting her message across, it is easy to see how logical it would be to become more demonstrative.

Despite these difficulties, things might have turned out differently if the court had exercised its responsibilities under section 16B of the Guardianship Act 1968. The court had before it various claims about domestic violence, yet seems to have made no finding about whether the allegations were proved (section 16B(2)). If the allegations had been seriously considered, then the analysis required under section 16B(5) might have lead directly to quite different outcomes in determining custody and access. Instead, the court seems to have pushed such issues aside, relying instead on mediation as its preferred strategy for resolution.

Of course, Amira was never in a strong position to engage in mediation. In the end, she “consented” to orders which saw Barry gain custody of Zola and her application for a protection order withdrawn. We asked Amira’s counsel if she wished Amira had not consented to the proposals.

I think I'd rather that she had stuck to her guns. I think she felt completely powerless. I think she felt backed into a corner. I think she felt that if she didn't agree, it would be worse. And I think one of the things which really hung over her was the whole immigration thing. I think she thought that, “If I go along with things, I might get to stay in the country. If I don't, I am going to be out of the country.” I think that was like this huge thing in her head all the time. I don't think she was in a position, at some level, to decide otherwise. And I'd have to say that if I were in her position, then I would have done exactly the same thing.

The power imbalances invoked in cases of domestic violence make mediation an inappropriate form of resolution. When those power imbalances were accentuated by language difficulties, cultural differences, poverty, homelessness and uncertain immigration status, mediation was never going to deliver justice – for neither Amira nor Zola.

Amy

Although Amy got a temporary protection order without difficulty, her partner was very litigious and successfully defended the making of a permanent order. He also won potentially dangerous access to the couple’s daughter. Amy’s story shows how women who don’t have permanent residence can be particularly vulnerable in an abusive relationship. It also shows significant gaps in the provision of culturally appropriate counselling.

The Relationship

Amy (24) came to New Zealand from China as an international student about five years ago. She first studied English in a language school and then went on to further training at a private institute. Peter (26), her husband, originally came from Nigeria but completed high school in New Zealand. He has New Zealand citizenship. When they first met, Peter was also a student and living in a neighbouring flat. Amy had known his flatmates even before Peter moved in.

Once Amy and Peter started dating, she was evicted from her flat by her landlord who did not like seeing her with a black man. So Amy first moved into Peter’s flat and, soon after, they found a place on their own.

When she first met him, Peter wasn’t violent to Amy. She thinks that he saw her as a “rich woman” because her parents supported her. Peter knew she had \$30,000 in her bank account. When Amy fell pregnant and Peter said he wanted to keep the child, they decided to get married. They had the wedding ceremony a year later when their daughter Joy was born. Peter said he would sponsor Amy for residence.

After they were married, things began to change. Once Peter had obtained his bachelor's degree and got a job, Amy's family said that it was time for her husband to support her and the baby. But Peter only stayed in the job for a few months. He kept complaining that the job was "stupid", that "they didn't pay him enough", that he was working but "I can't even buy what I want".

Amy said that after a while, she saw that Peter "talked big".

He would always say, "I'm talented! I'm just waiting for my million dollar contract." And on the flip side, he kept insisting, "everyone's stupid; New Zealand is stupid; my boss is stupid."

Violence and Abuse

Peter resigned from his job but he didn't want to find other work. He preferred to go on the Unemployment Benefit. Work and Income insisted that either Amy or Peter had to go to work, and it was only prepared to give the couple \$170 per week.

Within a week of learning this, Peter insisted that Amy go out to work. She took a job in a takeaway shop. In order to continue collecting the "full" Unemployment Benefit, however, Peter worked out a deal with Amy's employer that she would be paid "over the table" for the number of hours which Work and Income would allow without deduction from Peter's benefit. The rest of her wages, \$300 per week, was paid "under the table" directly into Peter's bank account.

Peter expected Amy to do all the cooking and cleaning when she wasn't at work. Frequently they argued about Peter not doing anything around the house while she was at work. This argument would often progress to him yelling at and intimidating Amy. At about this time, he also began to beat her up. His beating was often accompanied by him ridiculing her body. For instance, she told us that she had "a big scar from having a caesarean" and he would repeatedly kick her there. Peter also threw things at Amy to scare her, he cursed her "lots", and he kept telling her to go back to China. Peter taught Joy that all Chinese were "stupid" and as a "joke" he taught their very young daughter to respond, "stupid Chinese" whenever Peter called Amy's name.

When Amy moved into the baby's bedroom after one of these incidents, Peter insisted that she had to pay the bills (for example, the rent, power, electricity), everything for Joy's expenses, and \$100 per week for "babysitting" his own child while he was home and not working. As a result, all of Amy's wages went to Peter and she had nothing left to save.

Peter ridiculed the fact that Amy worked at the takeaway shop. He told her:

How stupid your parents were to send you to university when you don't make anything more than some idiot who digs up the roads.

But Amy says she knew that she had to start small and build up.

Amy was getting more and more disappointed with Peter. He would take the rent money and buy things for himself. One time, he bought himself second-hand jeans for \$100. There was no money to pay the landlord. Amy had to call her parents in China and ask them to send money for the rent. "But", as she told us, "it doesn't come in one day". So she had to go to her boss and borrow the rent money until her parents' money arrived.

One day, when Joy was two years old, Amy came home earlier than expected from work and found Peter with a girlfriend having a shower in the bathtub together – with Joy. She also saw a used condom in the bathtub. She asked Peter, "What are you doing in front of Joy?" He said he was using the condom as a balloon but Amy saw that there was semen in it.

Peter then slammed the door and walked out of the house. Amy confronted him later about his having sex in front of Joy. He replied, "What are you talking about? She's always there."

Later, the boarder who lived in their house told Amy that Peter had sex with his girlfriend in front of Joy regularly and that, sometimes, there were group sex parties “even on our marriage bed”.

By this time, Peter had begun sleeping at his girlfriend's house. He would baby sit for their daughter at Amy's place, leave for his girlfriend's at 11 pm when Amy came home, and then turn up in the morning before Amy had to go to work.

Separation

Amy said she knew she had to leave the relationship. She started to get information about how to go about it. And she found an unexpected support person. Peter's mother lived in Canada. Amy had met her only once some years earlier. She telephoned Amy often and she also asked a good friend in New Zealand to look after them. This woman and her husband had been long time friends of Peter's family and they would sometimes drop over to visit. Peter was very angry at his mother for setting up these visits. He told her on the phone, “Get out of my affairs. Why did you call your friend? I don't need anybody to fix my head.”

Despite her son's hostility, Amy's mother-in-law kept calling her and offering her support.

About 18 months ago, on a Monday (Amy knows the day of the week because it was her only day off), Peter was watching television with Joy. He started to complain to Amy that the house was dirty. Peter then began to slap her and then progressed to punching and kicking her. “It was like a nightmare”, Amy said. Peter stormed out of the house with Joy. Amy was “left alone, shivering and crying.”

For that whole week, Amy's entire body was black and blue and covered in bruises. She also had bruises and scratches on her face, neck and arms. When she went to work on Tuesday, the other people she worked with asked if her husband had beaten her. “Should we call the police for you?” they offered. But Amy told them, “Nothing happened. I just fell.” She recalls:

I was so concerned if the police took Peter. What would happen to him? What would happen to my daughter?

Her boss told her that he didn't believe her story. He said that the bruising was too extensive and the strangulation marks around her neck showed that she hadn't just fallen down.

Amy didn't have New Zealand residence yet and Peter was constantly telling her that he would withdraw his sponsorship of her. She remembers that he would constantly threaten, “You'll be sent back to China. You'll never see Joy again.” As Amy told us:

I was more worried for my daughter than for me. I have a good family in China. They have a factory and some apartments. But I felt so powerless here. I did not understand how things worked and he could tell me whatever he wanted to and I would believe him. He could say, “If you do that, this and this, then this will happen.” And I didn't know he was making it all up. I finally realised that he had to be the leader; even if he didn't know what he was saying. He was always repeating, “I've been in this country for so long. I know how things work. “I am telling you ...” He always used to say that.

Unsure, dependent and abused, Amy knew she had to do what Peter wanted and agree with whatever he said, even when she (eventually) found out he was wrong. If she contradicted him, he would start yelling at her:

“You stupid Chinese. I'm going to call the immigration service right now and you'll be out of here!”

As Amy now sees it, Peter only had two weapons: Immigration New Zealand and Joy. But they were very effective.

Amy told her boss that she had to quit and sort out of her life. Her boss begged her not to, but she gave two weeks' notice. At the same time, Amy found out through Peter's use of her computer that he was looking for another place to live. When she asked what would happen to her daughter, he told Amy that Joy was going to live with him, but that Amy could come and visit her. Amy told him, "But I'm her mother. I have my rights." As Amy said to us, "I was so afraid that I wouldn't be able to see my daughter ever again."

Getting a Protection Order

Frantic, Amy called her mother-in-law in Canada who suggested she go to the Citizens Advice Bureau. The bureau gave Amy the phone number of an Asian women's refuge, which Amy contacted immediately. She learned about protection orders there for the first time and went to see the refuge's lawyer. Amy then applied for a protection order and an interim parenting order. Both were granted without notice.

Amy went into a safe house with her daughter. She just took a small bag of clothes for herself and her daughter, and a small packet of documents. She left almost everything else in the flat. In trying to get these things together, she realised that Peter had taken her daughter's birth certificate, their marriage certificate, their Inland Revenue Department numbers and all their daughter's photos.

This separation proved to be financially devastating for Amy. Because she had to move out so hurriedly, she lost all her bond money (over \$1,000) on the flat which Peter emptied out.

He took everything: had taken everything: all the furniture, the TV and radio ... the microwave, the video camera, everything. All the new things, the pretty things, they were gone.

And when she later asked him to give her some of the family chattels, he told her, "No I worked for them and I bought them."

She stayed in the safe house for three and a half weeks. She called her mother-in-law and told her what had happened. Her mother-in-law decided to come out to New Zealand, bringing her 15-year-old son with her. When they arrived, Amy rented a house for her mother-in-law, her brother-in-law, Joy and herself. Her parents sent her \$6,000 to start up this household. She had no money herself and because she only had a work permit, not permanent residence, she couldn't apply for a benefit through Work and Income.

When she first arrived, Amy's mother-in-law wanted to help the couple to reconcile but after seeing everything her son was doing, she became Amy's support "100%". She got a job as a midwife. A month before we spoke to Amy, she and her mother-in-law had bought a house together.

Amy feels that her mother-in-law's total support was a "miracle". But, almost immediately, a second miracle occurred. Amy had had to send her passport to Immigration New Zealand to have her work permit extended. Amy believes that that is the only reason her passport did not fall into Peter's hands, along with the other documents he took when she went into the women's refuge. Almost immediately upon moving into her new house with her mother-in-law, her passport was delivered there with her permanent residence stamp in it.

Amy describes her elation when she received her permanent residence status. She says that she felt much freer: that she was more even now with Peter; that she was no longer always on the back foot. To her enormous relief, she knew she couldn't be separated from her daughter. Amy states adamantly:

I was willing to give up everything for my daughter: my opportunity to stay in New Zealand, the advantages of living here, like my ability to go to university ... I knew I

couldn't go to university if I went back to China but I didn't care. I just wanted her with me.

Amy subsequently learned that Immigration New Zealand had approved her permanent residence in principle in December and a letter had been sent to her advising her of this. However, Amy never received the letter. She believes that Peter intercepted the letter and kept it from her so that he could continue to use her presumed lack of permanent residence as a weapon against her.

When she got her permanent residence, Amy was able to access a benefit through Work and Income. The Asian women's refuge helped her arrange the appointment.

Litigation in the Family Court

As described above, Amy got a temporary protection order and a parenting order. Peter had been having supervised contact with Joy. Almost immediately, however, Peter decided to defend the protection order and apply for unsupervised contact with Joy. He began to bombard Amy with affidavits. In what is now well identified as a power and control tactic, Peter used the court processes themselves to intimidate and harass her. Amy tells us:

Every week or sometimes twice a week, the lawyer would call up and say, "We got another affidavit from Peter and another from his friend." And the information in those affidavits were just lies. I was so angry about what he said. For a person like me, I asked for an interpreter. I speak some English, but not good enough to do this legal stuff. I can't write in English. I have my dictionary with me. I go through these affidavits line by line. My lawyer doesn't speak Chinese so I had to do it myself. Every day, I just worked on the affidavits, and talked to my lawyer. I seemed to have to say the same things over and over again, and I almost lost my hope. It was only my mother-in-law saying "just hold on" that kept me going.

Amy remembers being surprised when her lawyer told her that Peter would definitely be awarded unsupervised contact to her daughter. "The father wants to have contact with the girl and according to the New Zealand legal system, he has that right." So they arranged for a day time visit in front of McDonald's. Amy talks about her feelings about this visit:

I told [my lawyer], "I don't want to see him; he's nearly destroyed me. If I had stayed long enough, he might have killed me." And my lawyer said, "That's why we're doing a visit at a place which is open, with other people around. If he does anything to you or shouts at you, just dial 111 and call the police."

The lawyer did not want Amy to be seen by the courts as being hostile to Peter. Calling 111 was her plan for balancing Amy's and Joy's needs for safety against Peter's "right" to have contact with his daughter. One can only query whether the balance arrived at really was consistent with Amy's welfare and/or Joy's best interests. How safe would Joy and Amy have been if the 111 plan had had to be implemented?

When the time for the defended protection order hearing got closer, Amy's lawyer and mother-in-law tried to convince her that she should accept an undertaking from Peter to the effect that he would leave Amy alone. In return, she was to drop the protection order.

My lawyer was saying, "I never saw a case like this." Peter just seemed to work on affidavits all the time." And I just didn't have that time; I had my daughter to take care of. And I kept wanting to get a job so I could get off the benefit. But answering all this took so much time.

After first proposing the undertaking, Peter later changed his mind and said they should go to trial. There was a hearing and the application for a protection order was dismissed. Amy's lawyer said it was because Amy had been safe since the January beating, and because she had the support of her mother-in-law and her teenage brother-in-law, she was no longer in need of protection. Even though she was still frightened of Peter, the court found that the protection

order was no longer necessary for Amy's protection. Amy recalls, "It took four months to get a hearing. Then – case dismissed!"

By now, Amy was very concerned about the parenting order because she was really worried about her daughter's welfare. To try to sort out the parenting order, the court sent Peter and Amy to attend "communication counselling". Amy had no idea what this type of counselling was supposed to accomplish. "I felt dehumanised by it", she said and then recalled in detail her experiences with this counsellor.

I saw a white lady in [city] and I didn't trust her. She wasn't interested in what I was saying. She didn't seem at all concerned that my husband was having sex in front of my daughter. I wanted to ask her, "What would happen if you learned that was happening to your daughter?" It felt like she just wanted to write her report and send us away. I was saying important things and she just didn't listen.

The only time during the interview that Amy cried was when she recalled how distraught she and her mother-in-law both were when they saw Joy, on several occasions, imitating sex with her teddy bear. Amy reflected on the monoculturalism and uselessness of the counselling to her:

[The counsellor] didn't seem to know anything about our culture. I don't know whether she was racist or not, but she didn't like me. She made me feel that these things that were happening were all my fault. I got the feeling that it was my problem that my husband left me, my problem that my daughter didn't have two parents. I just felt guilty. At first I told her that I'm studying, I'm working, I'm planning to do this and this for my daughter. I'm planning to have a better job than a labourer's job. She told me that I should read to my daughter at night. I said, "I do. I read to her in Chinese." She said, "You're in New Zealand now; you have to read to her in English!"

The counsellor also questioned Amy on why she was studying at night, "Do you think that your daughter is less important than your studying?" Amy told us:

She made me so confused. I'm the kind of person who can just sit at home and get depressed. I want to do something, to continue with my study. And when I told her that my daughter and I sleep in the same bed, she said, "That's unacceptable! I can't believe that with your daughter being two and a half, you're still sleeping with your daughter." I didn't even bother to tell her that I slept with my parents in their bed in China until I was six. I felt that the counsellor was so judgemental. I didn't know then that I could apply for a Chinese-speaking counsellor. I came home with tears running down my eyes. My mother-in-law told me to tell my lawyer to get me another counsellor.

Amy's lawyer applied for another counsellor, but told Amy that she had to keep going to the original one in the meantime so that she would not look obdurate to the court. "Don't miss your appointment", she told Amy. Amy told us what happened next:

The counsellor hadn't heard that I was changing counsellors. But my lawyer had sent this application on to Peter's lawyer and so Peter had a copy of the letter and gave it to the counsellor at our next meeting. The counsellor read it and started to yell at me. She was waving the letter around and yelling at me. I couldn't believe that a counsellor who was a professional could shout at me. I was her client as much as Peter was.

Peter and Amy got a different counsellor and Amy says that "he was good". He had done some research about Peter's and her cultural background. "I saw books on his desk. He wasn't rushing us to an agreement. He had suggestions for how things should be done."

Peter kept changing his mind about parenting arrangements. Now that Amy had permanent residence, he switched to using Joy as his most effective tactic of power and control. He suggested that there be shared custody of Joy. Everyone, including her lawyer, told her that that probably was what the court was going to award. So Amy tried to work out how shared custody could work:

I wanted to have her on the weekdays; he would have her during the weekends. But he wanted week about. But how could anyone work or study with that arrangement? And then, when I wouldn't agree, he said he wanted full custody. I knew that was so he could get on the DPB [Domestic Purposes Benefit].

When Peter and Amy next went before the judge, Peter said he now wanted sole, rather than shared, custody. According to Amy, "even the judge was shocked."

After the hearing, the judge awarded shared custody: On Monday, Wednesday and Friday, Joy was to be with Peter. On Tuesday, Thursday, Saturday and Sunday she was to be with Amy. In Amy's mind, the court didn't care about Peter's violence. She repeated what she thought was the essence of the court's judgment:

You're not with him now. He's not going to beat you. And has he ever beaten the child? No. He's not dangerous to her.

Amy said that the judge was helpful in one way. He made the comment, "The only reason we're here today is because of [Peter's] immaturity."

From what we can tell, the judge's reasons for shared custody were typical but with respect, ill-conceived. They failed to have regard to what is required in order to have shared custody work. At a minimum, the parties need to be able to be child-focused, communicate well and respect one another so that agreements about the child can be made by them. They also both must be able to focus on the child's welfare rather than how the child can be used to undermine and control the other parent.¹³³ The judge's reasons also seem to minimise the high correlations between child abuse and spousal abuse, including data that male batterers are six times more likely than non-battering men to sexually abuse their children, no less the well-recognised deleterious effects on children of witnessing abusive behaviour, especially on frequent access changeovers.¹³⁴

Almost immediately after the court hearing, Peter wrote a letter to Amy. In it, he told her that:

Because I don't have my daughter with me enough, I cannot get the Domestic Purposes Benefit. So I'm having to get a job and I only want Joy on Saturday from 9 am until 7 pm.

After all the contested legal proceedings and numerous affidavits about the benefits to Joy of overnight access, shared custody, and/or sole custody to Peter, he had consented to seeing Joy only on Saturdays. Amy comments ironically, "So once he couldn't use her to get money, he just gave her back. Just like throwing a ball."

It should be noted that Peter has not paid child support since the couple separated.

Even though there is no longer a dispute concerning contact, there continues to be the threat of new court proceedings. When Peter agreed to having access to Joy only on Saturdays, he and Amy were living only a few minutes apart by car. The arrangement was that Amy dropped Joy off at Peter's and he dropped Joy back at Amy's. However, Peter has now moved an hour away from Auckland and Amy would need him to both pick up and drop off Joy, or at least help contribute to her travel costs.

To Amy, Peter has learned how to use the courts as a tactic of power and control:

Because he doesn't work, he gets legal aid for everything. I've recently got a letter from his lawyer that if I don't drop his daughter off, he will get an enforcement order.

¹³³ Turkat, I. D. (2002). Shared parenting dysfunction. *American Journal of Family Therapy*, 30(5), 385-393.

¹³⁴ See Appel, A. E., & Holden, G. W. (1998). The co-occurrence of spouse and physical child abuse: A review and appraisal. *Journal of Family Psychology*, 12(4), 578-599.

Reflections

Towards the end of the interview, Amy talked about what helped her to get free of Peter's violence:

My family and my mother-in-law, they're always supporting me. And my lawyer. I know if she had more options, she wouldn't have agreed to certain things. At least she explained things to me. And I met other women and I talk about my story with them. I do volunteer work [with battered women] and I tell them, "Stand up! Look at me, I got a house, I got my child, I got a future. I basically have everything." I am so lucky that I got all the support that I ever needed.

Without the support of her mother-in-law, things might have turned out very differently. And Amy was very fortunate that Peter had sent in her application for residence before the separation. Clearly, residence makes a big difference, something Amy herself reflected on.

Because I didn't have my permanent residency [earlier], I didn't involve the police. But now that I have it, I would use the police. I was so afraid then that I would be sent back to China without my child. When the mother doesn't have New Zealand residency and only has a work permit or a visitor's visa, she loses her children unless she's willing to go back to her husband ... Oh, women can go back to their own country but their lives in New Zealand have been destroyed. And they didn't do anything wrong. And so often, they stay being battered. It's so unfair!

Amy also feels that the treatment she has received in the Family Court has been quite unfair. She was denied a permanent protection order. She was directed to a counsellor who was racist and inappropriate. And, as Amy reflects, Joy has unsupervised contact with a father who thought it funny to teach his daughter to denigrate her mother, who exposed his daughter to domestic violence and who thought it okay that she was witness to his sexual behaviour.

The law hasn't given me justice. The blame always seems to be on me. Now I'm being told, "The father is now giving you everything but one day [Saturday]. Can't you give on anything?" I'm always being asked, "Haven't you done enough?" It's me. I didn't do anything! I didn't want to be a solo mum. I couldn't live with him and I didn't want to die. I want to live to see my grandchildren. I was so afraid that he could kill me, get just a couple of years and then still have custody of the child. I don't want to die meaninglessly ... I realise he has his rights but how could the court system be so hard, so unfeeling? Joy comes home and says, "Charlotte [Peter's new girlfriend] is hurting my hair." What I realise is that I can't stop that. I can't say anything to the court. They'll use it against me. I just have to ignore it, even if my child is unhappy. I feel that the order is so hard; it's like iron.

And, as she observed, she is still being controlled by Peter, now through the Family Court.

If I want to move, I'd be in big trouble [from the courts]. But he can move anywhere, even out of Auckland. Why do I have to chase after him? Would I have to fly to Sydney every Saturday if he moved there?

Amy can see some "silver linings" in her story. She laughs, ironically, "I wouldn't be able to speak English as I do now if I hadn't gone through this process." But the process has been gruelling and Peter has not been made accountable for his violence.

When I applied for a protection order and a parenting order, I didn't know what the process would involve. I'm glad because if I had known, I might just have given my daughter up to [Peter]... And I can't believe that the courts can ignore sexual behaviour with children present. Sometimes I wonder, when the judge makes an order, is he concerned about how the parents are going to make this happen? It seems to me the law system is protecting the criminal. In China, raping, beating up the child, beating up the wife, you get a big sentence. You don't get community service. Community service? – It's nothing.

Annie Wong

Annie has had a positive experience of protection orders. She was able to get a without notice protection order. The protection order worked as a deterrent and stopped her husband from further abusive behaviour, but then Annie is a qualified and articulate professional. She has a good job as a community worker and good community networks. Among Annie's friends are a lawyer and a police officer. She owns her own house and an investment property in New Zealand.

Married Life in China

Annie was born and raised in China. She studied English in China, because that is the only way she could have taken a master's degree and became a school teacher in China. She was introduced to Robert by common friends. At the time, more than 35 years ago, they were both teaching in the same school but in different departments.

Annie and Robert started seeing each other. Annie had expected that he would propose to her at some stage but was surprised when he proposed much earlier than she had expected. She agreed to marry him. She learnt later that he wanted to marry sooner than planned because it would entitle him to state housing. Unmarried couples were not entitled to independent housing in China. They were allotted a flat on the fifth floor with no lifts. Annie describes Robert as an indifferent person.

Soon after they were married, Robert had to go on an excursion with the school staff for one week. He locked Annie in the house for the whole week, leaving very little food and water in the house. (The water had to be carried five floors from the taps on the ground floor). "Had there been a fire or any accident I wouldn't have been able to run away" says Annie.

Annie says Robert did that because it was school holidays and he did not want her to see her friends while he was away. He told his parents she was away visiting her sister during the school holidays. His parents, believing both Annie and Robert were away, decided to check everything was okay in their apartment. They were astonished to find Annie locked up inside the house. Robert's father was very angry by what Robert had done and confronted him after he returned. The admonishment made little difference to Robert's behaviour, according to Annie.

Robert insisted Annie sleep on the couch in the living room and not in their bed. She did so for three months and developed back aches. She could not talk to anyone about what she was going through. Annie's father had disapproved of the relationship and Annie wanted to show her parents that her marriage was working well. Things came into the open, however, a few months later with an incident involving her parents.

Her parents planned to go away on a holiday. They asked Annie to care for her 80-year-old grandmother who lived with her parents. Annie agreed, but Robert refused to have the grandmother in the house. Annie's sister had to care for their grandmother instead. Robert would not let her have her grandmother even for one night. Annie says:

He insisted on me taking her back. He didn't have mercy for my 80-year-old grandma who had looked after me when I was young and could hardly walk. I felt terribly hurt.

To this day, Annie says she feels deeply pained by the memory of the incident.

Annie had to undergo surgery for kidney stones. She had to wait for six months before she could have her surgery. On the night before her surgery, Robert asked her to wash his socks before she went to hospital. When she returned from surgery, she could barely stand and he demanded that she cook, clean and wash for him as always. There were no washing machines in Chinese homes at the time. Annie says:

At that time I wanted to prove I was a good wife and a good daughter-in-law and so I tolerated him.

Annie fell pregnant. At that time Robert was studying for a master's degree in a town that was about 700 kilometres away from where they lived. Robert used to visit her during term breaks, but when he found out she was pregnant, he stopped visiting her and did not come home for her delivery. Annie says:

He didn't want to come home because it seemed our daughter wasn't as important as his degree.

After he finished studying, Robert found another job as a chemical engineer in another town, "So, he never really returned home", says Annie.

Annie and Robert did not live together as a couple for very long but they remained legally married. Annie says:

In fact, we had been physically separated for nine years before he joined me in Australia ... I was doing my master's degree in [X] University while he was working in our home town ... Then he was doing a master's degree in [Y] University [and] while I was lecturing in [Z] University he worked in [B] City as a chemical engineer. During all these years, we saw each other only once in a year with a few weeks' holiday. Emotionally, as a married couple, we became very distant. He didn't write to me for over six months even though I told him that both our daughter and I were hospitalised.

During one of Robert's absences, his elderly parents moved in with Annie and she began to care for them. Robert's father had surgery and Annie paid all the expenses. Soon after that, Robert's mother suffered a stroke. She went into a coma. Robert's father, sister, brother-in-law and Annie had a family conference and decided to ask Robert to come home.

Robert came home, but complained that they should not have sent him a telegram because it interfered with his promotion. Robert's father was very hurt and promised never to call him again. It took two years for Robert's mother to die. Annie cared for her and paid her medical expenses. True to his word, Robert's father did not call Robert home for his mother's funeral.

Annie was offered a scholarship by the United Kingdom (UK) government to do a doctorate in a university. She took it up and applied to bring her daughter and Robert to the UK. Once in the UK, Robert did not take any initiative to find work. Finally, Annie's friends found him a job. However, Robert had discovered the casino in the UK and started to gamble. Annie and Robert had frequent arguments over his gambling habit. Like many women from Asian cultures divorcing a husband, even an emotionally estranged one, was quite simply not a done thing.

After completing her doctoral studies, Annie applied to immigrate to New Zealand. She was the principal applicant. The couple migrated to New Zealand with their daughter about five years ago.

Family Life in New Zealand

Annie did a few jobs after arriving in New Zealand until she finally found continuing employment with a community organisation helping people with health issues. Annie has received several promotions since she got the job and won merit awards for her work. She earns a good salary, although Annie says most of it is spent on paying the mortgage on their home.

After migrating to New Zealand, Robert refused to work. Annie says:

His total income for the last four years was no more that \$1,800. I am the one who has a full-time paid job outside the home and a full-time unpaid job at home. I do the cooking everyday, washing and cleaning. Very often when I finished my work and got home at 5.30 or 6.30 pm, he was sleeping in bed. He didn't even prepare anything for me to cook dinner with.

A couple of years ago, Annie was diagnosed with Systemic Lupus Erythematosus, a condition of the blood that affects the auto-immune system, and that can be potentially fatal if not detected and treated on time. Fortunately for Annie, her vital organs had not been affected. She was prescribed heavy doses of steroids which left her with swollen and painful joints. Robert did not offer to help with the house. Annie says:

He thought he did me a favour by allowing me to visit the doctor. He felt I owed him for this favour.

Annie told us that she still remembers pleading with him to take her to the doctor on the night her condition deteriorated. She felt unable to drive. Robert refused and Annie had to drive herself to hospital in pain. To add to her health problems, her kidney stone problem resurfaced and she was diagnosed with ovarian cysts.

The night she returned from hospital after a Cystectomy, Robert came into her room and asked her to cook dinner for him. Annie could not believe what she was hearing because she could hardly stand straight. Robert pulled Annie out of her bed and dragged her into the kitchen. In her affidavit to the court later, Annie says:

I stumbled clumsily and collapsed on a chair. I felt that I was physically abused by him because I could not defend myself.

Robert's behaviour towards her became abusive and obsessive. He would not speak to her and when he did he became abusive. He followed her around the house. He sat in her room and she could not sleep. On one occasion, Annie was too weak to cook and her wound was still too painful for her to drive. Annie begged Robert to get some takeaways for dinner from a mall which was five minutes' drive from their home, but he refused. Annie says by then she had had enough. She took her daughter and drove to their friends' home. She could barely sit and was in great pain. Annie had never previously confided in anyone about what was going on. For the first time, Annie says "it was all out in the open".

Two days later, Annie saw her surgeon who informed her that she had to have a hysterectomy. Annie told Robert and their daughter. Their daughter was very upset by the news, but Robert showed no emotion.

Experience of Protection Orders

Annie was feeling increasingly harassed and vulnerable. She rang her next-door neighbour, a police officer. Her neighbour came and talked to Robert, and advised Annie to call 111 if Robert harassed her. In her affidavit in support of her without notice protection order, Annie says:

Before I went to hospital, my major concern was that he would take this opportunity to abuse me both physically and emotionally when I came home after the surgery. I feel so vulnerable and insecure to stay at home by myself with him around the house. I contacted a lawyer who suggested applying to the court for a protection order but I was worried about the safety of my daughter while I was in hospital. I told her I'd prefer to put it off until I came home from hospital. My friends suggested I stay at their house for safety reasons before the surgery but I declined their offer.

Annie returned home after the surgery but Robert continued with his intimidation and harassment. He threatened Annie and swore at her. Annie says:

He said things like, "My mother's soul [she died in 1995] is going to punish you." "You [Annie] won't have a good death." "I [Robert] won't let you have a good ending."

Annie told us that these are very cruel curses in Chinese culture which are not acceptable at all, in any circumstances.

Robert's behaviour became more obsessive. As she said in her affidavit:

At one time I had to do my toilet in front of him. Once he kept me in the toilet to talk to him. At night he sat at the door to my bedroom with the door open and kept talking nonsense for hours so I couldn't sleep.

Later in the same month, when Annie had her hysterectomy, Robert screamed at her and charged at her in the presence of her friends. Her friends came between Annie and Robert and prevented physical violence. One of Annie's friends who intervened in the incident was a lawyer. She was concerned for Annie's safety and advised Annie to get a protection order. Annie sent her daughter away to stay with her friends because she did not want her to witness Robert's violent behaviour. Three weeks after her hysterectomy Annie applied for a without notice protection order. Her application was granted and Annie was given interim custody of their daughter.

Annie was also granted occupation and ancillary furniture orders. At the time of writing Annie and Robert had decided to separate and were negotiating custody arrangements and property settlement between them. Counsel for the child was appointed. Her report noted:

[The child] does not have a close relationship with her father. There was little interaction between her and her father when they were living together as a family.

Reflections

Annie is an educated and articulate woman. Her case shows that protection orders may work for ethnic minority women with education, good English-language ability, family support and social networks.

Annie initiated proceedings only when her relationship with Robert had been emotionally "dead" for many years. She had a network of friends, including a lawyer who had witnessed an incident when Robert was abusive towards Annie. Her neighbour was a police officer. Unlike Robert, Annie is not a reclusive person. Once it was "out in the open" as Annie says, the services and support were easily accessible. The protection order was followed by divorce proceedings, including negotiation over property and arrangements for their daughter. Robert's emotional indifference to the family meant their daughter had no difficulty making up her mind which parent she wanted to be with and what type of visiting arrangements with her father she was prepared to have. She told counsel for the child that she wanted to see her father over lunch once a week and not more.

Eve

Eve is an immigrant from Russia. She met Richard for the first time when she travelled from Moscow to New Zealand on behalf of her Russian employer. Richard proposed marriage using a translator. During their time together, Richard made it clear he wanted Eve to be a "perfect Kiwi wife" and attempted to mould her into his ideal. When Eve's daughter visited Eve and stayed with them in New Zealand, Richard's behaviour towards Eve dramatically changed and she applied for a protection order.

Eve's Life in Moscow

Eve was from the Moscow, where she was a deputy director in a factory until economic pressures closed the business down. She had been married for 24 years and had a daughter. She had left her husband due to his violence and alcoholism and had been divorced for six years by 1999.

In 1999, Eve and her daughter Rachel placed an advertisement in a Russian newspaper selling household goods. Little did they know, this was an invitation for thugs to enter their property. These men broke into the house when Rachel was home alone. When Eve returned home, she was met with a gun jammed in her back. She could see her daughter tied up on the floor with a

knife and gun held to her throat. Eve fainted. When she came to, her daughter was at her side, sobbing. Rachel told Eve that when the men had left, they threatened:

If I go to the police, they would find out first and come and kill us ...

As a result of this incident, Rachel lost 80% of her vision, and her hair had turned grey due to the shock. She became housebound and scared. It took two months for Rachel's fear to subside; and when it did she decided that they had to report this incident to the police.

When my daughter came out of shock, she said it was bad that we had not gone to the police. So we went to the police.

Eve discovered that there were five families involved, but no one but Rachel was willing to be a witness against the men.

They threatened her during court that they will kill her. It was a very Russian court and the judges were changed about three times ... when the court finished a police officer said, "I'm very sorry, we did not realise that this guy was part of the mob. They are more vindictive than the Italian mob. They are well known; they never forgive anything." And then the police said that they can't help us.

Eve and Rachel feared for their lives. Their desire to leave Russia was greater than ever before. Eve applied for a position on a fishing trawler and got the job. Her first trip to New Zealand was funded by her employer. She was placed on a fishing boat for six months. The crews worked the entire six months without any leave or weekend breaks and then were flown out of New Zealand.

The Beginning of the Relationship

On her second trip to New Zealand, about five years ago, Eve came by boat.

I was almost dying because I was not used to the sea. I was seasick and losing consciousness ... I would have to get up and go and work for 12-13 hours a day. We would do eight hour shifts and then do the cleaning jobs relating to fish.

While on the boat, Eve befriended a New Zealand woman who insisted she meet a New Zealand man. Eve eventually agreed and her photo was sent to someone. Eve had no idea who he was, but she was told an introduction would be arranged. When the boat docked, Eve met Richard.

I liked him straight away because he reminded me of my father ... he was very nice to me ... he told me straight away that he liked me and would like to marry me ... I told him that I was not ready to get married ... this Russian lady translated for us. I don't know how, but I did understand him.

Richard is a New Zealander who has four children from a previous relationship. His eldest son lives overseas, a 20-year-old son lives with him, and two daughters live in a small country town. Richard works as a labourer and lives in a two-bedroom unit.

Richard promised Eve that he would help her to stay in the country if she said yes to his marriage proposal. Eve told Richard that she was worried about her daughter, whose life was at serious risk.

He said, "If you stay here, I will help you with everything" and I decided to take a risk.

Eve telephoned Rachel and told her that she was getting married. Rachel thought her mother was going crazy; it was so sudden. She was also concerned for her mother's safety: She told Eve, "If he hurts you in anyway, don't even think about it. Just come home."

The "Perfect Kiwi Wife"

Eve and Richard began living together, and he began to try to mould her into his idea of the "perfect Kiwi wife".

He was telling me the right way to live in New Zealand and I was trying to do that the best possible way. I wanted to show him that I am a good Russian woman and I can take care of my husband

Richard also told Eve that all his friends from work wanted to know if she was being a good Kiwi wife. They'd ask him if she made his lunch for him. This made Eve work extra hard to please him. Not only did she cook every meal, she also prepared seven different dishes for his lunch.

Richard also took a great deal of pride in his Rimu frames:

He would ask me to polish the frames and say, "It's all for our family." My fingers would bleed and I would ask, "Why don't you help me?" and he would say, "Well, I can't and you are doing such a great job at it, and it's difficult for me."

This "perfectionism" stopped when Eve got a job at a factory, but he still had other ideas of what a good Kiwi wife was:

He had some problem with his knee ... Then he had his surgery and he would ask me to give him a full body massage every day. When he came home, I would have to bathe him, wash his hair and cut his nails ... Now that I was living here I would have to take turns and buy the food ... In New Zealand it is normal that the woman help to pay the mortgage off and he asked me to pay \$250 a month.

Richard's greatest threat was:

If you don't do things in a certain way then I will take your residency away from you.

The couple got married and, eight months later, Eve was granted permanent residence. She had been living in New Zealand for a year and a half. The relationship was going relatively smoothly as Eve met Richard's every need. As well, she loved his children and grandchildren. She missed her daughter and poured all her maternal energy into Richard's family.

If the children were coming I would stay up all night to cook and bake things for them ... the kids treated me well in the beginning ...

Since Eve's emigration, Rachel had married too. Dmitri worked on a fishing trawler and was away six months at a time. Rachel was now pregnant and Dmitri would be at sea when the baby was born. It was decided that Eve would return to Moscow and care for her. Richard supported Eve's return to Moscow.

Richard decided because of [Rachel's] circumstances I have to go and stay with my daughter and support her.

Before leaving, Eve investigated how she could bring Rachel back to New Zealand. Richard had insisted she use his Eftpos card to pay for any expenses associated with Rachel's immigration. She arranged for a translator to help her with the forms:

I would always pay with his card for everything. He would say give him the cash.

Eve found out it was easier to bring just Rachel and her grandchild. Bringing Rachel's husband, Dmitri, as well would be much more difficult. Coincidentally, Dmitri's boat was berthing in her city, and so she approached him:

You won't be able to protect [Rachel]. You spend half of the year at sea and if you love her, you have to leave her, leave her alone. I could bring her here, but I couldn't bring both of you.

Returning to Moscow

Eve flew home to Moscow and made it in time for the birth of her first grandchild. She had a six-month visa. On her arrival, she learned that one of the men responsible for the burglary had been released from prison. Rachel had bumped into him and Eve told us that he said:

I know where you live, but you won't be [living there] for very long ...

The New Zealand Embassy invited Rachel to an interview for a visitor's visa. She told them about the threats to her life and at the conclusion of the interview, she was told by the official that she:

Couldn't see a problem why [Rachel] shouldn't live in Moscow, that [she] should return home and forget about New Zealand.

Shocked and distressed, Eve had to be placed on medication for stress. She called Richard who told her he would write to the Minister of Immigration to help with Rachel's case; Eve describes Richard as "very supportive and very persistent."

Rachel's application for a New Zealand visitor's visa was declined. Meanwhile, Eve's six-month Russian visa was about to expire. The last transaction Eve had to complete before leaving Moscow was the sale of her property. As she was in a hurry to leave, Eve sold their property at a depressed value below prevailing market prices. On her departure, Eve arranged with some old friends to take care of Rachel.

Changes to Life in New Zealand

Eve returned home to New Zealand and wrote to the Minister of Immigration. Rachel then obtained an international student visa. About this time, Eve began to find that Richard's behaviour towards her had changed. For instance, Eve told us that he welcomed her home saying:

"You haven't been here for six months. You have to go straight to work because you haven't been giving me this \$250 a month. And now you have to buy all the food every week now."

On top of these costs, Eve had to find \$5,000 to pay for Rachel's student visa and her air fare. Richard loaned Eve the money. Eve told us:

He was always telling me that all the money goes to the family when I was paying the money back ... it made no sense.

Rachel arrived and Richard felt that his life was affected adversely. At this time, Eve took on another shift job to help her repay her loan to Richard and meet the household food expenses:

He was used to me doing everything for him; I always had food ready. He was used to that ... he was always telling me to, "Put the baby down on the floor and come and massage [him]." I would tell him that [Rachel] is only going to be another 20 minutes. "I will do the massage for you then." He was very unhappy with us.

Richard tried his best to control Rachel, but her English was excellent and she would speak her mind. When Eve was not home Richard would tell Rachel:

That she can't cook for baby because of the [cost of] electricity, and you can't use the washing machine, you have to wash with your hands only.

He started to drop hints about how he had charged his own children board when they were living with him, to which Rachel replied:

If I had known that, that I had to pay money, then I would not have come because I did not have money.

Eve gave Richard \$3,000 hoping that would ease things for a while. Eve paid him in cash and no record was made of the exchange. Rachel could see Richard's demeaning ways and was getting angry with the way he treated her mother. On one occasion, Rachel overheard Richard talking to his future son-in-law.

Why marry a Kiwi woman when you can log onto the internet and get a Russian bride? She will work like a slave for you and open her legs to you. She will do everything for you.

Eve continued to work two jobs and share household chores with Rachel, and look after Richard, but his jealousy grew.

He got jealous that I would spend time with baby ... I was telling him, "Look Richard, it is a very hard time, Rachel is here just for a short time." He was very unhappy and I was trying to smooth it down for him.

On one occasion, the baby had a very high temperature. Richard had planned to take Eve car racing.

Rachel was pleading with him to leave a telephone number of someone she could call if something happened to her or the baby. I wanted to stay home with Rachel and the baby ... Richard said, "No, nobody is going to change my life. I want to live my life the way I want."

Intimidation

Richard had given Eve and Rachel strict instructions not to enter the garage, even though this meant that the baby's pram had to sit outside their small unit. One rainy day Rachel decided to place the pram inside the garage and made a discovery.

She found this very interesting cupboard. It was all shining, had lots of lights and it had a key in it. She thought this to be very interesting because he does not allow us to use power but something like this is using electricity. So she opens the cupboard and found the cupboard full of marijuana growing in pots.

Rachel was horrified and ran inside to her mother. She said:

"Where did you bring me to? I ran away from one mob to be in another? There are drugs here."

Eve told us, "I never questioned because I never knew things like that existed." Rachel decided to take a photo of the cupboard while Richard was not around. Eve and Rachel did not know what to do and said nothing, until one day when Richard started telling them off for using power. Eve said to him:

"What sort of person are you Richard? If you don't want us to cook and you have marijuana growing in the house."

His first reaction was to kick them out onto the street. Rachel ran to the nearest pay phone and called Dmitri on his ship. Eventually, Richard came looking and found them on the streets and convinced them to come home with him. When they got home his children were there.

The whole family were there. They locked us in our room and said, "If you open your mouths we will kill you."

The family verbally abused Eve:

Say[ing] things like, "Go and find someone who will pay you \$5 [for your body] ... You are old and grey and no one would want you."

Eve spent the night on the floor in her daughter's room. She told the family that she would start looking for a flat the next day.

I was scared to tell the police because he threatened me. Richard kept calling us to ask for forgiveness, but I think he was scared that we would go to the police. [He pleaded,] "Forgive me. From this moment, everything is going to be different. All the plants are gone ... forget about everything ... trust me and I will change everything."

Richard then took Eve to Rotorua and "booked into a nice hotel". The relationship settled down, but Richard persisted in his attempts to get Rachel to return to Moscow. He didn't want her in New Zealand any longer, and she was not to tell Eve about their conversations. One day, Richard produced a contract for Eve to sign:

I said, "I can't sign anything because I need to know what it is all about. I need time to read it" and then he would start to really abuse me. He would [also] walk into the room at 2 am, turn on the light, the baby would be screaming. It was emotional and psychological abuse. He would say, "Get up! You have to sign it right now!" He would consistently threaten to take away my residency, and then move onto threats of making sure Rachel and the baby were killed in Moscow.

Eve was not aware that Richard did not have the power to revoke her residence. She believed everything he told her. Richard then called the police and had them removed from the house. The police took them to Women's Refuge. In the meantime, Dmitri's ship was in town, and he was concerned for his family's wellbeing. He applied for leave off the ship and it was granted.

Eve found a flat, and Dmitri moved in with them. She went back to Richard's house to retrieve her belongings, but he would not let her in. She called the police. They could not gain entry, so they broke into the house for her.

Within a couple of weeks Richard became aware of her address and started making regular visits.

Since then Richard started contacting us again. He would record conversations and then turn it [tape recorder] off and threaten me. He would come to my work and say I have to help him ... I had to get a protection order.

A friend recommended a lawyer who had dealt with a lot of immigrant women. The lawyer helped Eve get a without notice protection order. Eve also took out a trespass notice that covered her property and workplace. Richard was furious. He started to threaten Eve's lawyer, and her translator.

Richard said if I withdrew the protection order then everything would be okay.

Richard engaged a lawyer and filed a notice of intention to oppose the making of a final order. In a letter, Richard's lawyer stated:

Even in the unlikely event that your client's evidence is accepted regarding so called allegations of verbal abuse and so forth [which our client rejects outright], we are firmly of the view that the Court would exercise its discretion and not make a final protection order in any event.

Your client' safety is in no way at risk and there is clearly no need for a protection order to be in place.

With all due respect to your client, we would suggest that she should think very carefully before proceeding through with a full defended hearing seeking a final protection order ... We are of the view that her credibility will clearly be in issue at the hearing.

If your client has not been granted legal aid then it would be our intention to seek costs at the conclusion of any defended hearing if the application is dismissed, and even if your client is legally aided we will be seeking a direction from the Court under s40 and then make an application under s41 of the Legal Services Agency.

Eve found the contents of the letter intimidating, and, as a result, withdrew her application. When we spoke to her, two months later, she still feared for her safety and that of her family.

Reflections

Eve's story reflects how certain men can exploit the vulnerabilities of others. Eve's – and Rachel's – experience of being victimised by a criminal gang in Russia and uncertainties about their immigration status in New Zealand meant that Richard could exercise considerable power and control over them. It is also a story of how New Zealand men can obtain immigrant women and "mould" them to fulfil their needs. The more desperate the woman's plight in her country of origin, the less she can utilise the safety mechanisms provided by our society: the courts and the police. In Eve's case, without access to a supportive Russian-speaking community, she accepted

what Richard told her as “truth” (such as his having the power to revoke her residence). And although she got a temporary protection order, in the end, Richard and his lawyer were able to intimidate her into abandoning her application for a final order.

Laura

Laura is South African and applied for a protection order against her partner, Paul, in South Africa. The couple reconciled and moved to New Zealand. Paul made an application for residence with Laura and her children named as secondary applicants. However, without telling Laura, Paul later removed her and the children from his application and abandoned them with no means of financial support. Due to her status as a new migrant she did not report the domestic violence she encountered in her new homeland as she believed this would affect her application to stay in the country.

Life in South Africa

Laura and Paul are Afrikaans-speaking white South Africans. Laura is educated in law. She met Paul in South Africa in 2001. At that time she had four children. The youngest boy who lives with her in New Zealand at present is about ten years old and her daughter is about 13 years old. The older children are adults. They refused to follow their mother to New Zealand with Paul, given his maltreatment of her.

After Laura started her relationship with Paul, her friends would ring her and inform her that Paul had been talking behind her back and asking them if she had had sexual relationships with them. When she confronted him about this, Paul’s response was that she would never tell him the truth if he asked her directly because she was a woman. “He saw females as defamatory people all his life”, says Laura. Laura subsequently found out that he had a history of treating women badly.

Laura was very fond of Paul’s mother and respected her a great deal. Two years after she began her relationship with Paul, Laura decided she could not carry on with him. She wanted to tell his mother personally, out of respect for her. When she informed her of the decision to leave Paul, Paul’s mother pleaded with her not to do so. She told her Paul had a mental disorder which was diagnosed too late and that his condition had worsened because it was not addressed in time. She told Laura she should help him develop a positive self-image as a result of his feelings of inferiority and inadequacy. She told Laura that Paul had not learnt “acceptable social and emotional behaviour.” She shared with Laura how Paul had treated her, and Laura says about Paul’s mother’s experiences, “it must have been a living hell”. Laura says:

When she told this to me, I made it my mission and thought what I was dealing with was an unfortunate circumstance because it was something he inherited and I cannot abandon our relationship without giving it a try and supporting him.

Paul’s mother made Laura promise that she would do her best. His mother passed away not long after.

She knew that I had what it takes to help him with this, and she knew how much I loved him.

Laura found out more about his mental disability, as this would empower her with the possible avenues in overcoming and treating the adult symptoms he experienced. She says:

I was informed that the social, personal and family relationship problems I was dealing with were merely adult reactions of the real cause, the disability itself.

When Laura spoke to Paul about how he could deal with his disability, he turned vicious. He verbally and physically assaulted her and showed his extreme discontent at his mother assuming

the right to tell her of this. This was the first time that Paul was physically violent towards Laura. The fact that Laura knew about his condition aggravated Paul's physical abuse. Laura says:

He would get physical and attack me, telling me I mustn't try to change him or control his thinking ... I still continued to be in that relationship. I know it was wrong, but I loved him and was really hopeful that he would eventually reach the stage where he would commit to his promise and go for counselling in overcoming his disability. As well as the fact that I had made a promise to his mother that I would persevere and I would help him.

Paul, who held an account management position, was dismissed for gross misconduct. He took to drinking heavily and associating with "bad characters." In Laura's words:

When he was drunk the physical abuse increased. There was no regular pattern but it was almost like he would look for confrontation. He would call me names and verbally assault me and if I in any manner tried to defend myself, either verbally or trying to distance myself from him, he would come for me physically. It was like he was not going to let this go until he had his hammering.

Experiences of Protection Orders in South Africa

Paul's violence to Laura increased the longer he was out of work. Around July 2002, Laura applied for her first protection order in South Africa. According to Laura, getting the order was "easy".

Laura's experience of protection orders in South Africa is worth quoting in full because the approach is significantly different from in New Zealand. This is because domestic violence is regarded as a human rights violation in South Africa and constitutes violation of a constitutional guarantee.

When I went the first time [for a protection order] it was as simple as phoning the police and they would advise you to go to the court. The Court would immediately issue an "interim" protection order on supply of a written affidavit by the victim as well as proof, presentation and witness of abuse. The whole procedure is free of charge for everyone. Anything ... which is your human and constitutional right is not charged for; and quite rightfully shouldn't be charged for in any country, as domestic violence is a gross violation of any human rights and I don't see how anyone can validate putting a penalty on that or charge to it. If you choose to have a lawyer, then yes, you would be liable for paying the lawyer's fees only. As for the police and court, such was free of charge.

Without notice protection orders given in the manner described by Laura are valid for three months. During the three-month period, Paul's behaviour improved. Paul was aware of the consequences of breaching the order. Laura had to call the police on one occasion when he took off with her children without her permission. On another occasion, she had called the police because he was destroying her property.

Paul was concerned about his police record, especially given that he had already lost his job due to misconduct. Whatever the reason, he generally behaved better while the protection order was in force. Things changed, however, when the without notice protection order ran its three-month course.

Whenever the protection order was no longer in force after three months, he would fall back into exactly the same behaviour as three months earlier ... go back to drinking and associate with bad and unacceptable characters. When I would tell him that those people [his friends] were not welcome and I refuse to have my children surrounded by them, he would tell me it was not my business and that I can't choose his friends for him, and how dare I tell him who he may bring home and who he may not. This continued on an almost daily basis.

Paul had actually torn up the first protection order that was served on him and had also destroyed the photographic evidence of his repeated physical abuse on Laura with it. Regardless of this, people had seen the evidence on Laura.

When heavily intoxicated, he didn't have the judgement to think as clearly as he would when he was slightly intoxicated. When slightly intoxicated, he wouldn't hit me where it was going to show, but eventually as his condition and sense of judgement worsened, I had the evidence on my face and all over my body and I couldn't hide it anymore and ran out of feeble excuses.

Laura's friends and her colleagues at work disliked Paul and did not support their relationship. They encouraged her to apply for another protection order, but the same pattern of behaviour continued.

After I made the last protection order we separated. He was going to move out permanently, but it only lasted a few days and he returned again saying that he had nowhere to go and the same old story, "I'm sorry. It won't happen again." All the sympathy and intimidating tactics he used in the past. I took him back again and I left him finally after losing our home ... as it was behind in payments and due to my being the only income provider and him being jobless for the majority of our relationship as a result of premeditated misconduct.

Laura maintained two jobs to help put a roof over their heads. She would give Paul money for petrol to go to job interviews, but he would get despondent and use it for alcohol instead. Losing their home in December 2003 was the last straw for Laura. They had to move out by January 2004.

Laura had decided that it was time to take stock and that she was not going to put up with his drinking and violence at the cost of her and her children's wellbeing. She moved into a townhouse and made it clear to Paul that the relationship was over and that he was not moving with them.

A week after she had moved into her own place, Paul started sending Laura text messages and emails asking her to meet him for lunch to talk things over. He tried to phone her too, but she did not respond. In February 2004, he dropped off a letter for her with Laura's neighbour. In that letter he apologised for his behaviour and promised to make a new start. He suggested they all immigrate to New Zealand where they could start a new life. In New Zealand, Paul said he would find a job without difficulty and that would help him make a new beginning in their relationship. Paul's letters were apologetic, passionate and romantic.

Laura told Paul she was not interested and she was not going back to him for any reason. Paul phoned her one day and Laura reminded him that the protection order was in place and she would lay a charge of harassment if he phoned her again. Paul promised not to contact her and pleaded with her to let him see the children one last time so that he could say goodbye to them. Laura agreed.

I did not see his request as a trap ... He was trying to ascertain where I was staying and how to get to me. The children were innocent in this and they obviously told him where we stayed ... It was both surprising and shocking when he came to drop them off, as I had arranged to pick them up at the movies. Seeing him at my front door was a frightening experience.

In April 2004, Paul promised he would go for psychiatric treatment, so Laura took him back. She had not planned to take him back until he had completed his counselling, but the flat he was staying in was sold and he had to move out. But once he moved back in with her, he reneged on his promise and stopped attending counselling after having just three sessions.

Laura's friends and work colleagues did not approve of her decision to take Paul back. Neither did her eldest son and daughter. Her son told her she had no self-respect left.

My son wanted to know why it was so difficult for me to see that [loss of self-respect] and why it was so difficult for me to address what I need[ed] to address and move on ... They just couldn't fathom this ... I told them that love is a terrible thing and a blind one at that ... "Mum we understand that, but surely you've got to see somewhere along the line ...!" I didn't. I was hopeful, and more so after he had at least attempted overcoming his behavioural problems by going for some counselling. This had really inspired me and given me renewed hope.

Immigrating to New Zealand

The couple had previously talked about immigrating because of the political situation in South Africa, but New Zealand had never been mentioned as a destination until Paul's letter. Paul said he had done his research and New Zealand was the place he would find a job based on his skills. Paul told Laura that he had learnt his lessons and asked that Laura go with him to New Zealand and to again believe in the dream that they had.

Through an immigration agent in South Africa they applied to come to New Zealand. The agent advised Paul that he should apply for a work permit first and then lodge an expression of interest to immigrate to New Zealand once he got to New Zealand.

Paul came to New Zealand on a work visa in October 2004 and got a job with a New Zealand company. By December 2004 he started ringing Laura regularly requesting that they change the plans and asking her to send the two younger children ahead of her as he was very lonely and wanted some responsibility. He told Laura that school started in February in New Zealand and that the children could start going to school in New Zealand in the New Year. Laura thought it might be good for the children to come to New Zealand and start school because they could improve their English (their education to this time had been in Afrikaans). At the same time she was also concerned because Paul had never been a responsible person or adult or a good role model. Laura set some conditions for sending the children. He promised to "make her proud" of her choice in giving him responsibility for the children and assured her that he had all arrangements in place, including student visas. The two children entered New Zealand on visitor's permits while Laura remained to complete a legal specialist qualification she was taking and to wind up their affairs and her work in South Africa.

It turned out that Paul had deceived her again. He had not organised student visas. Although a school provisionally accepted the two children on the condition the student visas would be provided, they were removed from the roll when no visas were forthcoming. Paul emailed Laura to say the children were no longer in school and they were at home.

Paul had to admit that he had not, in fact, obtained student visas for the children. He promised Laura he would organise private tuition and ring her to let her know about the arrangements. When she did not get a phone call from Paul for a week, Laura phoned Paul. She was devastated to learn that there was no schooling, no private tutoring and the children were being left on their own at home, illegally, without supervision all day, while Paul was out of the house. Paul explained the lack of private tuition by saying that it was too expensive. Laura transferred money into Paul's account to take care of these expenses.

The children, meanwhile, did not want to be with Paul. In Laura's words, they asked, "Why must we give up everything for a drunk who can't keep a job and hurts you?"

Despite her reservations, Laura agreed to come to New Zealand and the family home was sold. Because of Paul's previous unreliability, Laura prepared an agreement about his behaviour, plans for the future and details about their finances, including setting up a joint account. She wanted his signature on the document to be witnessed by family and friends. Laura told us:

Paul refused to sign any written agreement as he claimed that he'd changed and had learnt his lesson the hard way and that the time he was separated from me since

leaving South Africa had made him realise how wrong he was in the past and that he was now unconditionally and totally committed to making me happy and that he had already proven his ability to get a job and ... to take care of us.

He did make a verbal commitment to the agreement.

Life in New Zealand

Laura flew to New Zealand, arranging for furniture and personal effects to be shipped. Significantly, she never received an information pack about immigrating to New Zealand as Paul was in charge of dealing with immigration issues from within New Zealand. Laura got a 15-month work permit, but found out that she would not get a job in her specialisation unless she did further training.

While Paul had told Laura he had found a big three-bedroom house for the family, it turned out to be only slightly bigger than her garage back home and would not accommodate her furniture. He returned to his abusive behaviour towards Laura. She found sex aids, Viagra tablets, party pills and condoms hidden in his briefcase. Paul tried to grab the evidence from her, attacking her in the process. Laura told Paul that she would report the matter to the police.

What he did say was if I lay any chances against him, he wouldn't get permanent residency, and if he didn't get it, then we wouldn't ... Being new to the country and completely ignorant to the formalities governing immigration, it made perfect sense that this may very well jeopardise our futures in our new country of residence. I did not want that to happen. I did, however, go to the police the next day to find out about my rights relating to domestic violence as an immigrant.

The police officer advised her that it would be better to consult a lawyer as he was not confident that he could give her the correct advice. He set up an appointment for her with a Community Law Centre the next day. Laura "loved his proactive thinking and taking the initiative to put something in place." At the community law centre, Laura had a general discussion about her rights and was informed that she could initiate proceedings under the Domestic Violence Act 1995. However, because of her non-resident status, she did not mention that Paul had actually assaulted her. Thus, she did not apply for a protection order.

Soon after, Laura discovered from a bank statement that, contrary to the agreement to open a joint account, Paul had opened an account solely in his name. When confronted about this, Paul became physically violent and verbally abusive again. Laura told him to fix the problem within a week and to let her know when they should meet at the bank to open the joint account and that if he did not do this, she was going to see a lawyer to file a suit because he had misappropriated their property relationship money and was physically abusive towards her.

Paul's reaction was to inform Immigration New Zealand that he had terminated their relationship and that he wanted to have Laura and her two children removed from his application for a residence permit. He never told them he had done that, although he did continuously threaten to put Laura and the children on the next plane out with nothing as they were not family.

Experiences with Immigration New Zealand

It took five months for Laura to discover that she and the children had been removed from Paul's application for residence. Paul had pretended that he was still waiting for a response from Immigration New Zealand, but she discovered the truth by visiting an Immigration New Zealand office. She consulted the community law centre again and was referred to an immigration lawyer who sought clarification about her and the children's status.

Laura told Immigration New Zealand that she and Paul were in fact still living together. In response, an Immigration New Zealand officer told her, through her lawyer, that the service did not get involved in domestic disputes. Neither her application nor those of her children could

proceed without Paul's support – because they were secondary applicants. Laura found this contradictory and one-sided.

Laura was subsequently served with a notice to show cause why her temporary work permit should not be revoked. She had a month to respond. She emailed Immigration New Zealand.

I would just like to reiterate our discussion that Paul and I are still living as mutual partners, but regardless, his clandestine actions have put the children and I in a precarious situation after giving up our lives in support of him being jobless for 3+ years in South Africa to come to NZ.

However, we are now here and request your consideration in awarding myself a work visa and the children student visas in our own right.

I'm currently trying to secure work, but the situation at hand makes me a liability (and quite fairly so) for employment. Therefore, your consideration of granting me a work visa in my own right will be highly appreciated and assist my securing a permanent position and enable me to apply for residence in my own right.

Her case manager's response was tragic-comic. He replied:

Your revocation notice will arrive with you tomorrow and the revocation of the permit will become effective from January 9, 2006 ... Recently, the Department of Labour and Immigration New Zealand have launched a new online initiative that matches migrants and employers, called NetworkZ Online. This is available at <http://www.immigration.govt.nz/networkz/>, and you may find it useful.

In other words, he seemed to suggest that, although her work permit was to be revoked, she might like to spend her last three weeks in the country looking for a job.

When the revocation notice was served, Laura's lawyer was on a holiday so an application for a review could not be filed immediately. Laura was worried that she might miss the 42-day deadline for filing an application. When she checked with him on his return, she learnt that her lawyer had not done any work on her case. He told her he had obtained the forms and that she might be entitled to legal aid. That information turned out to be wrong: she was not eligible. Her lawyer told her that he would prepare her papers and get back to her in two days. When he did not contact her, Laura called him only to be told that she should go to another consultant. Laura then met with a new immigration consultant, who filed her review application.

The Situation Now

In the meantime, Paul had gone to Australia on holiday, his fifth vacation in nine months. Laura's daughter asked him how he could take another vacation when he said there was no money and would not buy groceries, and asked what he had done with all their money. Paul merely said that he had put it all into a trust account in his daughter's name and promised them that, on his return from his Australian vacation, they would all sit down together and resolve all their disputes.

Laura sent Paul a text message asking him when he planned on returning as he had left them without sufficient food and without money. She did not get a reply. Instead, she received a couriered notice from Paul informing her to vacate the rental premises as he had terminated the tenancy agreement. Laura could not phone Paul as he had barred the home telephone. This was just an interim measure as he had given notice of this service too, and the phone was disconnected shortly thereafter.

Out of desperation Laura rang Paul's former wife in Australia to ask if she knew his whereabouts.

She started laughing, and said that she would've thought that I would've, after all I'd been through ... realised that there is no changing this man ... that I should listen to her because she had had the same experiences more than 18 years ago and that he had abandoned her and their infant as well and ... "that Paul is not going to change ... he is not willing to do so." ... I knew now, for certain, that any hope I had was – and

[always] had been – pointless. I needed to hear this from someone who knew all too well ... She urged that I go to the police and make a case of abandonment and seek victim support and that I should not let him get away with his actions again.

Laura went to the police. Whilst waiting to be tended to, she found pamphlets on Victim Support. She asked to speak to someone who deals with such matters. She was told to wait as someone would be with her soon. This was a long wait.

I was told that there was a constable, “Who will be able to advise me on what to do” – that would tend to me shortly. I spoke to this constable and I found her without any emotion whatsoever. I did not feel that she was ... [suitable] to be working with people who needed understanding and assistance as victims of any nature. The only response she gave me was, “He is not acting illegally by going on an extended holiday.” I told her that the holiday was not the issue, that being without food, finances and soon a home was indeed the issue. She said bluntly to consult a lawyer, just after I told her that we were without financial means. [The constable said] as this is a civil matter, that they don’t get involved and that there was nothing she could do for me to assist us in this victimised situation!

Laura then contacted a refuge to see if she could get assistance in obtaining a protection order because, she said:

He always tracks me down. I don’t want him back in my life ... There is no one that can give me a protection order without a cost implication. I am stuck in a situation. I am totally without money and totally dismayed that there is a financial implication in having to request a protection order in this country. It is a gross violation of human rights ... If they [abused women] do not have money to stop it [the abuse], there is nothing to stop the perpetrators and they can continue doing what they do.

Hence, Laura never applied for a protection order.

Laura never got a chance to challenge the decision of the immigration officer before the Residence Review Board because her lawyer was away during that time. Although she informed Immigration officers handling her case about her situation, they followed the time allowed for reviews and appeals as a requirement that could not be altered. By the time the lawyer returned, the time for review of her residence application had passed and she was served with a removal order.

The removal order was appealed to the Removal Review Authority. The authority agreed that Laura’s “relationship has been one in which she has been physically and psychologically abused.” However, as her relationship had broken down she could not claim residence as Paul’s partner.

In terms of immigration policy, a relationship exists by mutual agreement. If one party considers the relationship over, no amount of outrage or insistence by the other can resurrect it. And even acknowledging the invidious position in which her removal from Mr [name]’s residence application has left the appellant, it does not change the fact that there is no current relationship.¹³⁵

Paul got residence as a skilled migrant, notwithstanding his domestic violence record in South Africa and his character record with employers in South Africa. The immigration officers did not inform Laura that she could apply for residence under the General skills category or under the special domestic violence policy. The only ground on which Laura could appeal her removal was humanitarian circumstances which would make it unjust or unduly harsh to require her to leave New Zealand. As noted above, the appeal failed.

¹³⁵ (Removal Appeal, decision by Removal Review Authority at Wellington (A M Clayton, member), paragraph 31) (details suppressed to protect anonymity).

Reflections

When we first spoke to Laura she had been contacted by six employment agencies and had received favourable responses. However, as she had no legal status, she could not work. Although without income, she was determined to stay in New Zealand.

We are not going back ... it is not safe and it is not conducive to or supportive of education and future opportunities for white children ... To return as a failed migrant is ... suicidal. If I get a job, it will be a low income job. I would not be able to afford to get my children into school. South Africa is a capitalist country. If you do not have financial means you get no support from the government.

The whole experience has left Laura desperate and angry. We no longer have contact with her and assume that she has indeed left the country. Presumably, her two children have gone too. Certainly, they have been badly affected. During the past two years, the younger children have had just eight months of schooling. And, of course, they have been affected by Paul's violence.

... especially my younger son. [Paul] wouldn't have been abusive with my older son because he would have taken him down. The younger one is extremely soft hearted, a loving child he would push him out of the way, throw him against the wall, but in an endeavour of pushing him away – and that would normally be when he was hurting me ... The eldest one constantly addresses [Paul's] bad behaviours and he just ignored him. The younger one – [Paul] would just dismiss it. In front of me he never carried out physical harm towards my daughter but [did to] my son. It has had quite an impact on my little boy, because he still remembers these occurrences and it was after this that he told me, "Mummy, I hate this man. I don't like what he is doing to you and I don't like him hurting me." And in the testimonies that were requested to be sent for our appeal, the children had to ... give their statements of what they had been through in our relationship. It was frightening to see the significance of the impact that his behaviour had on the children. It was so dramatic, and I didn't realise because I was too self-absorbed in the things I was dealing with. It looked like that I had dealt with everything wrong. It is something I would need to address once I terminated the relationship.

Laura's story raises major issues about immigration policy as it affects non-resident women victimised by male partners. Laura believed Paul when he told her they could immigrate to New Zealand and begin a new life. Once in New Zealand she became vulnerable because she did not know her rights, partly because Paul had not passed on the information package for immigrants supplied by Immigration New Zealand. Although Laura knew about protection orders in South Africa, she did not know where to find help in New Zealand. Crucially, she did not initially know how reporting Paul's violence to the police – or to Immigration New Zealand – would affect her immigration status in New Zealand. Her difficulties were compounded by the fact that she had sold her house in South Africa and put all her money into immigrating to New Zealand – money which was largely siphoned off by Paul. Going back to South Africa was not a great option. Her friends and family had been opposed to her reconciliation with Paul, and her support networks had broken down as a result. Besides, it is unlikely that she has much capital left with which to re-establish herself there.

The treatment of Paul by the immigration authorities raises questions about the way men and women are viewed by the officials. The Immigration Act 1987 is clear on the need for a police clearance certificate from the immigrant's home country and the need for background verification. These requirements focus on criminal convictions. Where protection orders are used

to prevent violence against women, there is no conviction that would impede a police clearance certificate.¹³⁶ Women fall between the cracks of the “public” and “private” domains of the law.

Laura’s case invites attention to the need for clear guidelines to immigration authorities on how they ought to deal with applications where the couple separate or the relationship breaks down while their application for residence is pending, matters we address in Chapter 14. Had Laura received better legal services and legal aid, she may have been able to appeal the decision of the immigration officer and had an opportunity to invoke the special domestic violence policy. As it was, her very understandable reluctance to tell Immigration New Zealand about Paul’s violence rebounded on her badly. By the time she did inform them, it was too late. She, we believe, has had to leave the country. Paul gets to stay in New Zealand, his track record in South Africa – and here – notwithstanding.

Lee-Mei

Lee-Mei is a Chinese woman who came to New Zealand in her own right as a businesswoman. She met John, also from China, who had become a New Zealand resident, fell in love and married him. When things went wrong in the relationship Lee-Mei was confronted with a number of barriers to ending in violence and protecting her daughter. She applied for a without notice protection order. It was not granted and her application was placed on 48 hours’ notice. Those 48 hours changed her life and her daughter’s in significant ways. Lee-Mei, in an advanced stage of pregnancy when we interviewed her, found herself without a home, without money, without her belongings, and a daughter to care for. Lee-Mei remains embittered and cynical about the justice system in New Zealand as a result.

The Relationship

Lee-Mei met her Chinese partner John in New Zealand in 2003. She was working with a Chinese company that exported goods to China. They fell in love almost immediately. After only a couple of weeks, John asked her to marry him. She agreed to his proposal and also agreed to move in with him to start with. Lee-Mei had an 11-year-old daughter she was raising on her own from a previous marriage and John too had a child, a 10-year-old daughter from a previous marriage who lived with him.

I was very excited that a new life would start for me. As a woman, I wanted a stable life that would be good for me and my daughter and this is what my husband wanted and needed too.

Lee-Mei had to go to China to complete some unfinished business. John did not want her to work. He reassured her:

There’s more than enough money to support the whole family for the rest of our lives and we will share everything.

John did not want a legal marriage, although for Lee-Mei it would be culturally much more appropriate to have “a legal piece of paper.

He said it was not important to have a marriage certificate. I wanted a legal marriage but in Chinese culture, you listen to your husband if you do not want to give him any pressure. So I give up some important things and I trusted him very much. If that is what he wants, then I will agree. We trusted each other, I looked after him.

¹³⁶ Because Laura was initially reluctant to tell Immigration New Zealand about Paul’s violence (in case it would jeopardise their applications for residence) it is likely that authorities in New Zealand would not have known of the protection orders at the time the checks were completed.

Oblivious to various forms of controlling behaviour (including financial control), Lee-Mei continued to be the obedient wife, which she felt was culturally required of her.

I enjoyed making him happy. Everyday I looked after the two girls and did everything I could do for him. I was very happy at that time. He liked to play tennis and was interested in the share market and would spend hours on the computer. I enjoyed looking after the girls and doing the housework. I had no money of my own and he gave me a credit card and an Eftpos card and we had a joint account. Everybody thought we were a loving couple and very lucky to have each other.

The Onset of Violence

As often happens, the violence began when Lee-Mei became pregnant.¹³⁷ The fact that John did not want the baby and wanted her to terminate the pregnancy came as a shock to her. She did not want an abortion and her refusal marked the beginning of a very different and difficult life for Lee-Mei. But at this time, she still had not given up hope:

I thought he loved children, and maybe in time he would change, and I thought if we had one more child it would be good for our family. Because money was no problem, I had enough time to look after the child. The girls would have a brother or sister and we would have a lovely family.

Lee-Mei's optimism was short lived. They started to have arguments and then he began to use physical violence. Lee-Mei recalled his previous angry outbursts which she had always minimised by saying to herself:

I think, "It is okay, maybe he has a very bad temper." But I tolerate it because he is a very responsible husband and father.

It was only later that she found out that John had also been violent towards his own parents and that his earlier marriage ended in divorce because of violence.

John began using a lot of verbal abuse and bad language.

I thought some people have a bad temper, or drank too much or smoked, and his only bad habit was his temper, and nobody is perfect. I just wanted to keep the family happy and stable. He was a very controlling person. He told the two girls that he was the parent for everyone, including myself, and I listened to him ... and I was happy to listen to him.

When asked if the abuse was a concern at this time, she says that, "Of course it did not make me happy" but it was not enough for her to leave him. She even thought that because she always did everything for him, he would miss her if she left. She does not remember complaining to her parents or his. She did not want to trouble them and always thought that "it wasn't too bad" and that she could take care of it herself.

However, the physical violence escalated. Lee-Mei would often be bruised but she did not visit the doctor or report the violence to the police for fear of upsetting John. He was also in the process of getting his permanent residence, and Lee-Mei worried that if she approached the police it might have adverse effects on his obtaining that.

One time, Lee-Mei remembers being badly beaten up and feeling ashamed, but she did not know where to go or whom to turn to. She wanted some help and support. Then she met a Chinese social worker. Lee-Mei told her about the violence and showed her the bruises. She was advised to go to an Asian women's support organisation for help and also to report the violent incidents to the police. In Lee-Mei's mind, however, it was wrong to tell the police. She thought she

¹³⁷ Pallitto, C. C., Campbell, J. C., & O'Campo, P. (2005). Is intimate partner violence associated with unintended pregnancy? A review of the literature. *Trauma, Violence, & Abuse*, 6, 217-235.

needed help to make things right. She did not want to end her relationship but to work on it and make it better. She believed that getting the police involved would only make things worse.

John started to abuse Lee-Mei's daughter. Lee-Mei thought that John hoped that she would agree to a termination if she saw how hurtful he could be to her older child. John also started encouraging his daughter to use bad language. He would go out and buy expensive gifts for his own daughter but nothing for Lee-Mei's daughter.

He was doing that to hurt me and my daughter. He used to be very fair, but things had changed.

Lee-Mei's sister was aware of these problems to some extent. One day she tried to reason with John over the phone. He became so angry that he started to scream and yell at Lee-Mei. Later he shouted at Lee-Mei's daughter for over an hour, losing his voice for a week as a result. Lee-Mei and her daughter were so scared that they left the house to stay in a hotel for the night. This infuriated John further. The next day, he punished Lee-Mei by taking away the car keys and her credit and Eftpos cards.

He wanted me to change, using the money power. He wanted to control me by having no money.

John later returned the car keys and the bank cards to her.

Seeking Help

The arguments did not end. One morning, while they were still arguing about the pregnancy, John forced Lee-Mei out of the house. He dropped her off down the street and then went to the bank and stopped her access to the credit and Eftpos cards.

Lee-Mei felt that she had no choice but to go to a lawyer. She was advised to apply for protection and occupation orders. However, she was not ready for any drastic steps at that time. She still believed that John would change. She walked back home later that day feeling very nervous.

From that day onward, John picked a fight nearly every day, screamed and yelled at Lee-Mei, calling her names. There were also several incidents of physical abuse that Lee-Mei described to us in detail. Her friend spoke to John once to warn him that he could find himself in prison if he continued to be violent. After that conversation, John became careful about physical violence, making sure he did not leave marks. Instead, he increased his verbal and emotional abuse. Although at the time she didn't think of emotional abuse as violence, in retrospect, Lee-Mei noted that:

The physical abuse is fast to heal but emotional and verbal abuse – you feel so bad and low about yourself and disappointed.

Lee-Mei rang a domestic violence hotline service. She was advised to ring 111 if she feared for her safety, but whenever Lee-Mei threatened to call 111, John would taunt her, "to go ahead and do it", because he knew that she would not.

In fact, Lee-Mei did call 111, twice. On the first occasion, she called when John started to throw plates in her direction. John ran off to the neighbour's house and told them that she was "crazy". He then returned to their house and, before the police arrived, cleaned up the mess. The police came and asked him to leave the premises and stay out of the house for a few days. A Victim Support worker told John he would be arrested if he returned to the house, but John returned home the same afternoon. Lee-Mei was more fearful than before as a result. He continued to meet with their neighbour and say that she was crazy.

Lee-Mei called 111 a second time after an attack which she thought was intended to make her miscarry. John was arrested, but bailed an hour later. Lee-Mei knew she had made him very angry. She feared for her life. She went to a community law centre which she learned about from

a brochure she found at a Citizens Advice Bureau. That brochure was the only information Lee Mei had about getting legal help against domestic violence. A lawyer at the community law centre advised Lee-Mei to apply for a protection order. The lawyer told Lee-Mei that she had good grounds for getting a protection order without notice given her advanced pregnancy and the evidence of physical, emotional and verbal abuse towards her and her daughter, namely, reports of police attendance, medical evidence and information about interventions from family and friends. The lawyer offered to help her with the application.

I had no choice. I wanted to apply for a protection order to protect myself and my unborn child. And my daughter ... I thought if I get a protection order, he will realise that he has done something wrong and he would change ... I wanted him to go for counselling so he could change. I did not want to leave my home.

Application Put on Notice

Lee-Mei did not get a temporary order. Instead, her application was put on 48-hour notice. Things changed for dramatically for the worse.

Lee-Mei was without a change of clothing and her child without her school bag and books or toys. She called the police and asked them to go with her to her home as she collected essential items for herself and her daughter. The police declined. They told her that because she did not have a temporary protection order, she could not return to her home. Lee-Mei asked the police why she could not go to her own home when John did not have any orders from any court stopping her from entering her own home. They advised her to see her lawyer. Lee-Mei told us:

I realised I had lost everything. I don't know how many women are forced out of their homes like that pregnant and with a child. If I knew, I would never have applied for protection orders ... Imagine if my temporary protection order was granted. Things could be so different today.

Lee-Mei says when she read the brochure about protection orders, she was convinced that her case fitted the criteria for getting a protection order without notice. As mentioned, her lawyer too was confident and was at a loss to explain why the application had been put on notice. Lee-Mei burst into tears when she heard the outcome of her application, because the prospect of facing John at home terrified her. A court staff member suggested she go to a refuge until the full application was heard. Lee Mei could not go to her parent's home. There is a lot of shame attached to pregnant daughters returning to their natal homes in Chinese culture, she told us.

I did not understand. I was told that, what is happening to me and my family is serious and I was thinking, "In my situation if I cannot get protection order, who can get one?" Everything changed. When I left home, I did not take anything and thought it would take a few days. I stayed with my mum temporarily, But my daughter and I became homeless I cannot get anything from home. I never thought that we would be homeless from this. This encouraged my husband and his abusive power. We lived in the women's refuge and that hurt my daughter so much. She became school-less for five weeks. I felt so failed by the system because I am the victim but I live in the refuge. If I knew that we would be homeless and my daughter school-less I would never apply for protection order. I felt it was not fair.

Lee-Mei was left feeling afraid, angry and shamed.

In my culture if a pregnant woman is thrown out of the house, then she is not considered to be a good woman. She is looked down upon and isolated from the rest of the community.

Lee-Mei's failure to obtain the temporary protection order seemed to encourage John, who began to prepare for the hearing. He approached a neighbour, who was also estranged from his wife, to file an affidavit testifying that Lee-Mei was a "crazy woman". John got his ex-wife to sign an affidavit to the effect that John could never have hurt Lee-Mei or her daughter or their unborn

child. Lee-Mei believes he coerced her into making the affidavit. However, two neighbours refused to support John's case.

Through his lawyer, John suggested that Lee-Mei withdraw her application and offered to pay her lawyer's fees if she did so. By that stage, Lee-Mei, who was ineligible for legal aid, had already incurred \$5,000 in legal fees.

I wanted justice. My lawyer told me if I [went ahead with the application and] did not get final protection orders I would be even more upset. She said sometimes there is no justice in the court. She suggested I withdraw the protection orders and take the money for legal costs. I thought I could give my relationship another chance. I wanted the violence to end and some programme to help me and help him.

Lee-Mei took her lawyer's advice to withdraw her application for a protection order. She told us, repeatedly, how much she later regretted this decision. She found a new lawyer who advised her to focus on property matters and filed an application for an occupation order. On learning that John had taken steps to transfer his properties to a family trust he had created, Lee-Mei put a notice on the family property. Meanwhile, John had filed an application for a temporary protection order against her. As she told us, "In my case, the protection order was for the abuser, it would seem."

Feelings about the Police

Lee-Mei's experiences with the police had not inspired confidence in the criminal justice system either. John was prosecuted in respect of the incident for which he had earlier been arrested. Eventually, the charge was dismissed. We do not know why, but we do know that Lee-Mei was not asked to give evidence. Of her experience with the police, Lee-Mei told us:

It was terrible. Most of them are so young. They don't understand family violence. They don't understand the feelings of a pregnant woman. I asked the cop, "Would you put your pregnant wife out of the house?" He was the only police officer who was 35 years or more ... He sympathised with my situation. The rest were barely teenagers around 20 years or so.

Lee-Mei repeated several times that when the police came out to their home, they kept insisting that the title of the property was in John's name.

One of them, the first thing he said was "what a beautiful house." He did not care about my situation. That I was crying.

She does not understand what title of the property has to do with her right to have her baby in her own home. When we interviewed Lee-Mei, neither her application for an occupation order nor John's application for a protection order had been resolved. She and her daughter remained in the refuge.

Reflections

Lee-Mei's priorities now are her daughter and her unborn child. She is clear she cannot live with John again, because if she does that then her baby will grow up in a hostile environment. She deeply regrets her decision to apply for a protection order. She doubly regrets later withdrawing her application after it had been put on notice by the court.

Lee-Mei's experiences have left her disillusioned with the New Zealand justice system.

I thought women in New Zealand had protection of the law. This shouldn't happen in New Zealand ... I don't know what's wrong with the system. A woman like me, who is pregnant, should be careful about using protection orders. What did the judge think? What would John have lost by [the judge] granting me temporary protection orders?

Lee-Mei told us that her reason for participating in the study was that she wanted women to learn from her experience and be wary about applying for protection orders. She does not believe there

is any point in pursuing legal remedies. From the moment the court put her without notice application for a protection order on notice, her life quickly deteriorated. The fact that the police did not help her obtain her personal belongings from her house meant she was left homeless, destitute and worse off materially. She does not wish to waste money on lawyers. Instead, she wants to concentrate on rebuilding her life. The one positive from Lee-Mei's experiences of trying to protect herself and her children related to Women's Refuge. She praised the refuge workers and the support she got from them. The state, however, failed to provide effective protection.

Lin-Bao

Lin-Bao is Taiwanese and was married to a Taiwanese man, Liu-Shao. The relationship subsequently deteriorated as he changed from a mild-mannered caring partner, to an abusive controlling, and often absent husband and father. Not only did Lin-Bao suffer physical abuse from Liu-Shao, she was also subjected to verbal and physical abuse from her mother-in-law.

Lin-Bao's problem is one that many Asian readers will understand straight away. On the other hand, readers raised in European nuclear family traditions may find it difficult to empathise or grasp the nuances of "the mother-in-law" problem, the physical and psychological violence it can entail, the social façade which hides it, and the degree to which it interferes with relationships between husbands and wives.

Life in Taiwan

Lin-Bao worked as a nurse. She knew Liu-Shao's family's for nine years before she married him. Her mother-in-law saw Lin-Bao as a suitable match for her son. She treated Lin-Bao with great warmth and affection when Lin-Bao visited Liu-Shao's home before their marriage.

Lin-Bao married Liu-Shao in 1989, when she was 25. In keeping with customary practices in many parts of Asia, Lin-Bao lived in the same house as her mother-in-law and sister-in-law. However, the marriage had established a new power relationship. Lin-Bao's mother-in-law became a completely different person. Lin-Bao told us, "Until you become part of the family, it is hard to tell how people will turn out." By then it may be too late – as was the case with Lin-Bao.

Lin-Bao told us that, in Taiwanese culture, it is common for mother-in-laws to be domineering and controlling.

But my one is much, much worse. My ex-mother-in-law has a different personality in front of people, and behind them, different again.

Lin-Bao found that two-faced aspect most difficult to deal with because even her own friends and family were not prepared to see the truth.

Liu-Shao was also abusive and controlling from the beginning of the marriage. On their honeymoon, Lin-Bao felt sick and unwell. She suggested that they take a bus or a taxi because she could not walk and it was a long way. Liu-Shao refused because he did not want to spend the money.

Lin-Bao reflected on the difference marriage made to the way she was treated.

He said, "Now you are my wife and you have to do everything for me that I ask – because you are my wife." I found that he treated me as his property. He can do what he wants and he can [throw me] out whenever he wants. His family does the same thing as well, and he supports his parents to do the same – even his siblings. He supports them against me. So that means everyone is allowed to take my money or pay for things with them. So I felt quite miserable ...

Lin-Bao's father was less certain about Liu-Shao's family before she married into it. Lin-Bao did not ask why her father was not happy with the family or why he did not like Liu-Shao. After the marriage his relationship with the son-in-law changed. Lin-Bao says:

Since we got married my father treat[ed] him as his own son, and my dad would do everything for him. My father had already said to me that it was no good that I marry him. And, I didn't want to tell him that he was right and I regret marrying him ... I didn't want to upset my father. I am my father's only daughter. And he treated me very good. And I don't think he can tolerate his only daughter being tortured and we have a broken heart.

When Lin-Bao was pregnant with her first child, her mother-in-law abused her both physically and verbally so much that she nearly had a miscarriage.

I was sent to an emergency room because the foetus was going to drop out. I have bleeding and my mother-in-law just yells out, "Is it a boy or a girl?" My ex-husband [was] just standing next to her smiling but doing nothing.

Lin-Bao nearly miscarried with her second pregnancy as well. She had no way out of her situation.

I could not walk out with the baby and work in Taiwan as a solo mother. I would have to hire someone to look after the baby, and my salary would not be able to pay [for] the things. I do not have much money to pay the mortgage as well.

Lin-Bao contemplated suicide, but the thought of leaving her two sons in the care of her mother-in-law and husband stopped her from self-harm. Liu-Shao was callous towards their children. For example, he once deliberately pushed one of the boys off his bike and laughed as he watched the child cry.

Liu-Shao beat Lin-Bao when they had arguments. Mostly their arguments were about his mother. Her mother-in-law stirred up trouble between the couple and did not like it if she found them getting on well. His sisters too were jealous and tried to sow dissension between Lin-Bao and Liu-Shao.

Lin-Bao wanted to move to another city as a way of getting out of the family home. She bought a new house with some money she got from her parents and, together with Liu-Shao and the children, moved in. This did not mean that she had got away from her mother-in-law though. Liu-Shao's mother did not work and had the flexibility to turn up at their house unannounced. Or she would ring and say she was coming to stay for a week.

Lin-Bao's mother-in-law would not do her own housework. She would summon Lin-Bao to come to the family home and do the cleaning and washing. Lin-Bao would have to drive three hours, often after working a night shift at the hospital, to be at her mother-in-law's early in the morning to do her housework. If Lin-Bao did not do it, her mother-in-law would complain to her husband who would then become angry with her and beat her. Or her mother-in-law would ring her own daughters and complain about Lin-Bao. Her sisters-in-law would ring Lin-Bao constantly and give her an earful, making her miserable.

Lin-Bao took parental leave from her job for two years after her second son was born. She had time to think about her situation. Lin-Bao says she said to herself that she was a skilled professional. She had tried her best to make her marriage work. She had moved to another city in the hope that she could make her marriage work. But things had not improved. Lin-Bao told us, "His mother is like a remote and controls his behaviour."

Lin-Bao found an advertisement about immigration to New Zealand. She calculated that she had enough points to qualify for permanent residence. She applied to Immigration New Zealand, but did not tell Liu-Shao until it was time for the interview. After a successful interview, Lin-Bao put the options before her husband. She made it clear she was going to New Zealand and that he was

welcome to come with her. If he wanted to stay with his mother instead, Liu-Shao was free to do so and he could file for dissolution.

Liu-Shao was shocked because he did not think Lin-Bao had it in her to take such a big step on her own. He said he would go with her to New Zealand – he was sick of the traffic jams and the pollution in Taiwan. In 1995 the couple moved to New Zealand.

Life in New Zealand

In fact, Liu-Shao stayed only a week before returning to Taiwan. He had not resigned from his job. His mother insisted that Lin-Bao return too. She refused because she wanted a future for herself and her children in New Zealand. For the next several years, they mostly lived apart: Lin-Bao and the children in New Zealand and Liu-Shao in Taiwan. He visited her every six months but when he came, he “made life hell” for Lin-Bao. She told us, “He tortured me like he did in Taiwan and accused me of having a boyfriend.”

Lin-Bao suffered from depression. She did not see a doctor because she thought that, as a nurse, she could control it herself. In 1999, after a big quarrel, Lin-Bao attempted to take her life with an overdose of sedatives. She called her best friend, but did not tell her friend what she had done. Her friend felt Lin-Bao sounded miserable and found out that she was calling from a park. She sent Lin-Bao to see a doctor who, in turn, sent her to the emergency ward of the hospital straight away. Hospital staff contacted Women’s Refuge.

Lin-Bao stayed in the refuge with her younger son for one week. She had left her older son with her husband for fear that if she took both of them, he might do something to hurt them. Besides, the older son was going to school at that stage. She returned home after a week because Liu-Shao was due to return to Taiwan. She was concerned that there would be no one in the house to care for the older boy. The day she returned, Lin-Bao says Liu-Shao was “very cruel”. A person from the refuge had dropped her off at her house and her luggage was on the ground. Just then, Liu-Shao returned from shopping and drove over the luggage.

Thwarted Plans

Lin-Bao had qualified for residence because of her nursing qualifications, but she could not work as a nurse, as she had hoped, because she lacked a New Zealand nursing certificate. Although she was able to buy a house with capital from her parents, without a good job, she was dependent on remittances from Liu-Shao to meet some of her regular expenses.

In 2000, one of her former teachers, who lived in the United States (US), suggested that she should move there. Lin-Bao went to the US on a one-month holiday and stayed with her. This time, Lin-Bao decided she was not going to another country without a job. She found out that she would have to sit for qualifying exams to get a nursing certificate that would allow her to work in the US.

In 2001 Liu-Shao and Lin-Bao had another big argument and Liu-Shao said he wanted to divorce her. Lin-Bao told him she had waited for a very long time to hear that, and she agreed willingly. Liu-Shao wanted a divorce before she went to the US. With the help of Women’s Refuge she found a family lawyer who helped her file her papers for divorce.

Lin-Bao got a letter from the US authorities informing her that if she did not sit her qualifying nursing exams by 2002, she would not be allowed to sit at all. Lin-Bao had been struggling financially since Liu-Shao had withdrawn his support but she had put away some money her parents had given her. With that money and support from her former teacher, she was able to travel to the US, prepare for and sit her exams. She passed and got her registration to work as a nurse in the US. She did this despite suffering from depression, experiencing financial troubles

and dealing with the stress of her divorce. She also got a job and an employer to sponsor her for a work permit in the US.

Liu-Shao told her that he had changed his mind and had decided to settle in New Zealand after all. He was going to learn English and look after the children himself. He told Lin-Bao he did not like the US and would not move there. He told the children horrible stories about “9/11” to frighten them.

Lin-Bao decided she would proceed with her plans for working in the US and resolve issues relating to the children from there. Once she began working, Liu-Shao demanded money from her to support the children. Lin-Bao thought it best to pacify him until such time as she was able to take the children to the US, so she sent Liu-Shao money for his and the children’s needs. After a few months, Liu-Shao phoned her and told her he could not live in New Zealand and he had decided to return to Taiwan. He left their children with her friends in New Zealand and returned to Taiwan.

Lin-Bao was in a desperate situation. On the one hand, she needed continuous, uninterrupted residence in the US for a period to become eligible for a “Green Card”. On the other hand, there was nobody who could bring her children to the US. She told her employer that, for her children’s sake, she had to sacrifice her job and return to New Zealand. She thinks Liu-Shao had deliberately returned to Taiwan to ruin her future in the US.

On her return to New Zealand, Lin-Bao was horrified to find that Liu-Shao had left her with huge debts. Nevertheless, she was glad he had left for good. She could clean up the financial mess he had left her with and get on with her life. She made inquiries about getting a New Zealand nursing certificate. Initially, the Nursing Council wanted her to sit an English exam and a nursing exam. Lin-Bao did not have the money to do both. She put her situation to them. As she had taken US qualifying exams, the Nursing Council decided to treat her as a special case and give her a certificate to practise nursing. With the certificate Lin-Bao got a job in a hospital, organised childcare for her children and began to work full time.

After the divorce was finalised, Liu-Shao returned to New Zealand. Despite the divorce, he told people in the Taiwanese community here that Lin-Bao was still his wife. Most people in the community thought “he was such a nice man” and tried to mediate and put the two of them together, hoping they would reconcile. As Lin-Bao said, “That is our culture. They think that a divorced woman is not good.”

Publicly, Liu-Shao continued to behave as if he was Lin-Bao’s husband. He came to her house whenever he felt like it. He would discuss their divorce in front of the children. They would become upset. Liu-Shao acted and spoke to the children in a way that alienated them from their mother. Lin-Bao did not apply for a protection order because she felt it would only upset her children more. When she did threaten him with legal action, he always blackmailed her, saying how much that would hurt the children. We asked Lin-Bao if she called the police to deal with Liu-Shao’s unwanted visits.

No, that’s difficult for me. If the police got involved and came to our house and scared the children when they are so young ... so, no. And the man takes it to his advantage.

Reflections

Lin-Bao thinks the most important barrier for her in getting help was the people around her.

Once I mentioned this to my lawyer and we were going to do something to solve our marriage problem and one of my friends said “I don’t think you are a good woman. You shouldn’t stand up against your husband.” But I have some good friends in New Zealand who understand the whole story because one has a similar situation and she understands. My very best friend has seen my husband change so now I can say I have isolated myself from our community. At this moment I have a job, and a lot of

Kiwi friends and they are very supportive, but I have only got two friends from our society supporting me.

In contrast, women in the Taiwanese community encouraged her to stay with her husband because a divorcee is looked down upon. Lin-Bao thinks women in her community do not know about Women's Refuge or the help they can get for domestic violence. In her case, she found out about Women's Refuge because the hospital called them to help her.

Nusrat

Ironically, Nusrat escaped a war-torn country with her children, but nearly lost them in peaceful New Zealand. Perhaps if her husband Aziz had received better trauma counselling and refugee rehabilitation Nusrat's situation might have been very different today.

The Relationship and Migration to New Zealand

Nusrat is 26 years old. She was married when she was 17 years old to her cousin, Aziz, her paternal aunt's son. She has three children aged eight, five and two. She had her first child, a boy, a year after her marriage.

Nusrat's father died fighting in the civil war which has engulfed the country. Her brother and Aziz's mother died from landmines. They have lost many other family and friends to the war. Nusrat and Aziz came to New Zealand as refugees about four years ago with two children. "We applied to come to New Zealand because it's not so dangerous", Nusrat told us. They had three sponsors in New Zealand.

Before they came to New Zealand, Aziz used to hit Nusrat sometimes if they had an argument but as Nusrat told us, "In [country name] it's not just me – many people are like that." When they arrived in New Zealand they were housed in a resettlement centre. In the centre, other men hit their wives but they did not generally involve the police.

One day there was a display of fireworks in a nearby park. Because she was new to the country, Nusrat did not know what the occasion was but she watched the fireworks with her son. Aziz became very angry and beat both of them badly. The police were informed. They questioned Nusrat through an interpreter. She told them Aziz had hit her. They took him to the police station.

They said, "Do you want to leave him?" I said "no." It's hard for me because I came to New Zealand very new for a few days [just a few days ago].

Other women present told the police that people's cultures don't change overnight and that the couple should be left alone.

From the way Nusrat describes him, Aziz appears to have mood swings.

Sometimes he is very happy and sometimes he gets angry. I don't why he is like that. Sometimes he would stay home and after ten minutes he would get angry and start shouting. When he is happy he is very good with me and the children.

Neither Aziz nor Nusrat received any trauma counselling. They were relocated to another city. Nusrat had hoped Aziz's moods would improve once they settled down in the new city. In fact, Aziz became more abusive and the beatings increased. Nusrat says:

I never called the police because I got two [home country] neighbours. They talk too much ...

Nusrat was afraid of finger-pointing and censure by the small (home country) community in the city. Nusrat is fearful that if she involves the police, the community will disown her and she will

be left alone in a strange country. But while she was understandably reluctant to involve the New Zealand authorities in her life, they followed her.

One day her son insisted on playing in the park. He would not stop crying, so Nusrat took him to the park. Aziz became angry with her for going to the park. When Nusrat was in the kitchen she heard the children screaming. Her son was shouting. Her daughter came running to Nusrat and told her that Aziz was beating her brother badly. Nusrat told Aziz it was not her fault, because their son was adamant about going to the park and that is why she went with him.

He said I want to leave you. You are not my wife. I said you are not my husband. I want to leave you too. I have no problem. I have many people who will help me. You don't want me and I don't want you. He was shouting ...

The next day, the boy went to school with black eyes and a swollen face. The principal asked how he got his injuries. Nusrat's son said that he was hit by a pole in the park. The principal did not believe him and spoke to Nusrat when she went to collect her son. The principal said that if she did not tell him the truth he would call the police, so Nusrat told him what had happened. The principal informed Child, Youth and Family (CYF). CYF intervened and insisted that Aziz leave their home as a condition for allowing the children to stay at home with Nusrat. Her husband being asked to leave home posed new problems for Nusrat. As a refugee in New Zealand, she was left all alone in a new and alien environment.

Nusrat feels alienated from her community as a result of the CYF action. She says:

People talk too much and they said maybe Aziz's wife doesn't want to stay with her husband. I said [it] is not my fault ... They say why you leave your husband? I said I never leave my husband. My husband is my cousin. I don't want to leave him. But maybe he finish his course and he come back with us.

Nusrat explains that people in her community are scared that "the same thing will happen with their wives" – and children.

At the time of writing, CYF had called a family group conference and finalised a plan under section 91 of the Children, Young Persons, and Their Families Act 1989. Under the plan, Aziz was allowed to return home but the whole family will be monitored closely by the CYF social workers, the teachers at school, a support person from the Refugee Migrant Centre and a support person from another agency (yet to be confirmed). Aziz has been asked to do a stopping violence programme and a parenting programme.

Reflections

It is uncertain how much Aziz will benefit from either the stopping violence programme or the parenting programme given the cultural and linguistic gap between him and mainstream programme providers. Moreover, it is questionable whether he will be able to benefit until he receives help dealing with the trauma he carries from his experiences in (country).

For her part, Nusrat did not know about New Zealand laws, the school system or CYF. When she sent her bruised son to school she had no idea that it would invite institutional reaction. Nor did she realise that CYF would send her husband, her only family member in New Zealand, out of their home. Nusrat's main problem was not so much with accessing a protection order – that was never really an option. Nor, in a sense, was it Aziz's violence against her. The bigger issue was that both those problems occurred within the context of significant societal violence in their home country – violence which coloured her family's experiences, left them traumatised and was little understood by agencies and service providers in New Zealand. Moreover, any intervention had to take into account the relative isolation of the home country community within New Zealand and the solidarity within that community against outside interference.

Pinky

When we interviewed Pinky, she was still coming to grips with the struggle to protect her sons from the ongoing abuse inflicted by their father. Pinky's case is an example of the ignorance of family and community dynamics on the part of some members of the legal profession and the false assumptions they make about those dynamics.

From India to New Zealand

Pinky was raised in northern India where she completed a degree (a double major) and worked as a teacher. Her husband, Jatinder, also from that region, came to New Zealand 20 years ago. He was working as a farmhand when they were married.

Although Pinky did not know it at the time, Jatinder had previously been married in New Zealand – to a Māori woman, Aroha, with whom he had a daughter. Pinky learnt later that Jatinder had originally married to gain residence in New Zealand. Once settled in New Zealand Jatinder decided to divorce Aroha and have a “traditional marriage”. He returned to India to have a marriage arranged by his extended family according to local customs and traditions.

Pinky consented to the marriage, although there was a big age difference between them. Pinky did not have a father and their economic situation was not too comfortable. Besides, Pinky had to care for her widowed mother. Pinky and Jatinder married in India. Jatinder then returned to New Zealand and Pinky followed him two years later. One of the first things Pinky did after coming to New Zealand was to sponsor her widowed mother's residence application so she could come and live with her.

Jatinder did not allow Pinky financial independence. She had always worked in India and been financially self-supporting from a young age. Her total economic dependency once in New Zealand made her feel vulnerable. Jatinder argued that he wanted to start a family and that Pinky could work once their children were older. They had two sons in three years. Jatinder sponsored residence applications for his parents to come and live with him in New Zealand. Pinky did not object to her parents-in-law coming because it is customary for parents to live with their sons, but she was concerned about supporting such a large, extended family on a single income.

Jatinder eventually allowed Pinky to take up farm jobs, work she was not used to. He insisted that she work for cash. Much later, she realised that this enabled him to continue to claim family support. Like other women in the Indian community, Pinky said that she had had no idea how family support payments were calculated.

They do not know that this [fraudulent claims] is a wrong thing to do and even if they do know it they do not want to oppose their husbands.

Pinky's earnings went into an account controlled by Jatinder. Rent and other expenses came out of her earnings. Jatinder kept an account of everything she earned and spent.

The marital relationship had gone downhill after Jatinder's parents migrated to New Zealand. Pinky says she never imagined that Jatinder's parents were so controlling of their son and had such a big influence on him. They did not like the fact that Pinky went to work. They expected her to follow old traditions, such as covering her head in front of them and touching their feet every morning, both considered a mark of respect for elders. Pinky says she respected her parents-in-law but such practices were outdated, even back home. Pinky's parents-in-law encouraged Jatinder to have more control over his wife.

Jatinder took to drinking. He abused and beat Pinky. One incident that Pinky recalls vividly occurred while they were driving. She asked him to consider the effect that their deteriorating relationship would have on their young sons. Jatinder became angry and deliberately drove recklessly. We could see the fear in her eyes as Pinky told us about the incident:

Didi,¹³⁸ I was so frightened. It was the first time I had experienced anything like this. It was the first time I had seen him so angry.

After that incident, Pinky felt unsafe to travel to work with Jatinder. She decided to go on her own. She considered this a huge step towards her independence because it meant he had less control over her movements. Pinky says Jatinder was concerned that his parents might see him as a “hen-pecked” husband. He started behaving better towards her so she felt safe to travel to work with him. Pinky noticed Jatinder had a small knife hanging from a keychain. When she asked him about it, Jatinder told her he kept it to cut fruit for himself when working on the farm. Pinky says she was not convinced of the reason. Later Jatinder told her:

Pinky if you ever leave me, I will kill you and the man that you will marry.

Pinky thinks he might have felt insecure because she was younger than him, but she reasons there was no need for him to feel that way because she had agreed to marry him despite the difference in their age.

Jatinder’s violence against Pinky escalated. His parents decided they would move out of the house and live with their daughter. That did not change the relationship. There was little communication between them. Jatinder regularly came home drunk and beat her in front of her children. He threatened to kill her. Pinky’s mother, too, became a victim of his abuse. Jatinder blamed Pinky’s mother for encouraging her daughter to question his authority.

Getting a Protection Order

Pinky called the police one night when Jatinder beat not only her but her mother as well. The children were terribly frightened. Pinky says her spoken English is limited – more so when she is upset. She was unable to explain to the police in detail about the extent of the violence. The police took Jatinder away, but did not charge him. He returned home and the violence worsened as he punished her for calling the police. Pinky later confided in a neighbour who told her of a refuge for women. Pinky contacted them. It turned out to be a refuge for Pacific women, but they helped her to move out of the house.

Pinky got a without notice protection order within 48 hours of applying. She, her mother and her children lived in a refuge for three months. Jatinder had no access to Pinky or their children. It was at the refuge that Pinky found out that Jatinder had a history of violence. His former wife, Aroha, had also got a protection order against him, and Jatinder had been charged for breaching it. Pinky met Aroha and found out that Jatinder had used violence as a way of ending their relationship after he got permanent residence in New Zealand. Pinky also found out that Aroha had a daughter from her marriage with Jatinder.

After she left the refuge, Pinky rented her own house and enrolled for a diploma course to improve her employment prospects in New Zealand. But she faced the wrath of her community. She was considered to have let them down and “shamed” them in the eyes of the wider New Zealand community by going to the refuge and seeking a protection order against one of their own. Community members pressured her to move back with Jatinder and reconcile with him. Pinky suggested Jatinder should move in with her, instead, which he did, but soon he started to complain that her house was too far from his workplace. Pinky says although she did not want to move she agreed in order to keep the peace. Pinky says Jatinder rented another house – this one in his name as he needed to feel like “the man of the house.”

The relationship changed once they moved into the new house. Jatinder wanted Pinky to stop studying. He made it impossible for her to complete her assignments on time.

¹³⁸ Means “sister” in Hindi.

The Family Court directed the couple to counselling. Pinky says she benefited from the counselling because it made her more aware of her situation and the options before her. During one of their counselling sessions, the counsellor told her Jatinder was very keen that Pinky should withdraw the protection order against him. Pinky declined to do this and her reasons are significant and explained below.

A Lesson by Example?

While Pinky and Jatinder were undergoing counselling, the wife of one of Jatinder's best friends committed suicide. Pinky knew she was a victim of domestic violence and that she had obtained a protection order against her husband. As had happened to Pinky, the community had pressured the woman to reconcile with Jatinder's friend. Pinky knew that the friend had compelled his wife to withdraw the protection order. He had driven her to the police station where she made a declaration to the police that she wanted to withdraw the protection order against her husband which obviously the police had no authority to do. Ultimately, the protection order was withdrawn. The same night, the woman committed suicide.

Pinky had noticed that Jatinder talked on the phone for hours with his friend during that time. She was suspicious of their conversations, feeling that something was not right. When the friend's wife committed suicide, Pinky was truly alarmed. Many in the community recognised straight away that what had happened was, in effect, murder, not suicide. Many in the community boycotted the funeral. Jatinder wanted Pinky and her mother to go to, but they declined to. That triggered arguments and fights between them. Jatinder's friend was not charged by the police and no investigations were made about the effect of the domestic relationship in the suicide.

Jatinder now put even more pressure on Pinky to withdraw her protection order against him and brought many people from the community to mediate between them. Pinky refused because the dead woman had taught her a lesson she could not easily dismiss. One day during their arguments Jatinder told her if he wanted to harm her he could do so, regardless of the protection order. Pinky became fearful and moved out of the house. This time she went to an ethnic woman's refuge and sought help from victim support groups. Pinky lived in the refuge for three months, then decided to rent a house on her own. She became involved in support work for other women in her community and took training in helping domestic violence victims. She told us that she is now able to identify the behavioural patterns and warn other women and help them.

Experience of Parenting Orders

Pinky says the lawyer who helped her get her protection order was very helpful. The lawyer explained how the law worked, informed Pinky of her rights, told her if she continued to live with Jatinder with a protection order in place for a long period it may get discharged automatically.¹³⁹ Pinky says the information was useful and helped her make informed decisions, such as when she moved out of the house for the second time.

Along with the protection order, the Family Court made parenting orders in relation to the boys. The Care of Children Act 2004 proceedings became a nightmare for Pinky. Jatinder was given unsupervised access once a week. He wanted them to be dropped at the temple. Pinky says she was totally opposed to this because she would have to face members of her community each time she went to drop the boys and pick them up. As she was regarded as a disgraced woman for leaving her husband, she and the boys would have to confront their hostility. Pinky says she did

¹³⁹ This part of the advice was incorrect. A protection order is discharged by the court after considering an application by either party. It does not automatically lapse or get discharged.

not have any say in the matter because the Court would not listen to her, and the counsel for the child decided it was the best arrangement for the children.

One day, Jatinder approached Pinky's mother in the temple and cried and begged for forgiveness. He promised Pinky's mother that he would live by all of Pinky's rules. Her mother, who was much older and more vulnerable to community pressure than Pinky, started pressurising Pinky to reconcile with Jatinder. This was difficult to ignore. Pinky reconciled with Jatinder. No sooner did she do so than Jatinder returned to his violent and abusive behaviour. One day their younger son talked back and refused to obey Jatinder. Jatinder was terribly angry and swore to beat him so much that his mother would not be able to save him and bragged that he was not afraid of the police. Pinky told us that this time around she could not blame anyone for the situation. "It was my bad luck that I had to go through this all over again."

Pinky had had enough. She slept in her son's bedroom that night to comfort him. The next morning, after Jatinder went to work, she rang his friend and asked him to inform Jatinder that he should not return home that night. Jatinder stayed away. Pinky sought legal help. She did not want her sons to meet their father because they were so frightened of him. She wanted the lawyer to interview them and ascertain the facts from them. She informed her lawyer that Jatinder had threatened to harm the children and she knew he would ask for unsupervised access to the boys now that they were living separately again. The lawyer minimised her situation. She told her she was too busy. Jatinder even got overnight access to his children. The lawyer told Pinky that it was in her own interest that the children went to see their father. Pinky says she knew her children's state of mind, but felt totally powerless to protect them.

The boys did not want to visit their father and would cry each time, especially the younger one. When they returned they would tell Pinky that they were terrified of their father when he was drinking. The younger son would hide himself in the house. Pinky voiced her concerns and fears for the safety of her sons to her lawyer. Her lawyer informed her that the problem was with Pinky and it was Pinky who was stressed and anxious, not the boys.

After recent visits, Pinky told us, the boys have come home with itching and rashes on their skins. Every time they visit their father, Pinky says she has to take them to the doctors. The boys feel embarrassed about scratching in school in front of other children. The children informed Pinky that their father abused them verbally and physically. When Pinky informed her lawyer and requested that the children be interviewed her lawyer informed her that she could not help Pinky any more. The lawyer said her case was closed. She advised Pinky to encourage the children to see their father.

One day, Pinky was asked by her younger son's teacher to meet her. The teacher told Pinky that the child had told her that he did not like to go to his father but that his mother forced him to. The teacher advised Pinky that she should call the police and tell them and to not force the boys to go to their father's house because it was having a detrimental effect on them.

Pinky is totally frustrated with the legal help she got with the parenting order. She feels powerless to protect her children. She feels she has no one else to blame but herself for putting the children through their trauma. She had begun to wonder if she might have shielded them from an abusive father if she had continued to take the violence and abuse upon herself. Pinky asked us, rhetorically:

I am a woman's advocate here. If I can't protect my children how can I help my clients?

Reflections

Pinky's story is one of great courage. For Pinky, to watch her husband supporting his friend who was suspected of being responsible for the death of his abused wife, it must have been a very

traumatic form of psychological abuse. Pinky came out her own abusive relationship as a result, only to confront an insensitive court system, and ineffective legal advice that encouraged her to be silent about the abuse her children suffered as a result of the parenting order.

Postscript

Just as we were completing our report, Pinky advised us that her protection order had been discharged. She tearfully told us that the judge felt that it would not be good for Jatinder's citizenship application if the order remained in place, and had remarked that, as her husband had not been physically violent to her during the past year, the order was no longer necessary for her protection. The discharge was made, despite the fact that the judge acknowledged that Pinky was still very afraid of Jatinder.

Sonal

Sonal's story is significant for a number of reasons. She is a third generation Indian-New Zealander. The degree and duration of the violence she suffered is shocking. The factors that prompted Sonal to endure extreme violence point to the complexities of being a "coloured" person in New Zealand. A mix of "imagined" cultures, a desperate need for cultural identities prompted by closed communities, close-knit families that nonetheless do not know their traditional roles, a lack of support and information for a way out of a violent relationship – these factors provide valuable insights into violence in coloured families in New Zealand.

Equally, Sonal's case is an inspiration to women across cultures because, despite all odds, Sonal's is a "success" story, in that she has successfully rehabilitated herself. Today, her sons, 21 and 17, are mature, responsible young men. She has divorced her husband. She runs her own business, owns her house and wants to help other women whenever she can. Sonal's story covers a period before and after the implementation of the Domestic Violence Act 1995.

Third Generation Indian "Kiwi"

Sonal's grandfather came to New Zealand almost 100 years ago. She and her siblings were raised as "Kiwis" in every way, except when it came to marriage. Marriage had to be done the traditional way, so Sonal had an arranged marriage. The proposal was brought by her cousin who was married to the brother of the prospective groom, Ranjit. Ranjit lived in the Punjab. Sonal wrote to him for two years and he wrote back. At least, she believed he was writing the letters. Later she learned someone else was writing them for him because he did not know any English. As Sonal told us, "There was deceit from the very beginning."

Ranjit had a brother in New Zealand who had married a woman from the Punjab. Sonal was not allowed to meet Ranjit after he arrived in New Zealand because his family said it would be against tradition. Sonal's father was concerned about that, but her family went along because nobody really knew what the correct tradition was. She met Ranjit for five minutes and they were engaged. His family wanted an early wedding because it would be against tradition to have a long engagement. Later Sonal learnt that Ranjit had come out to New Zealand on a six month visa which would soon expire.

Sonal's family was anxious that they followed this thing called "culture", even when, in Sonal's words, "We just did not know what 'culture' was." This meant her family accepted the word of Ranjit's family's on "tradition" and failed to negotiate the terms of the marriage or appreciate their ongoing role in it, as is often the case in arranged marriages. Sonal learnt later that marriage practices in India had changed, and the old ways were not followed as strictly any longer.

Family Life after Marriage

Their marriage had a rough start. Ranjit did not know English. He could not find a job. To make matters worse for him, Sonal's younger sister married an Indian-New Zealand doctor, an event that seemed to affect Ranjit's self-esteem.

For 12 years, Sonal endured a degree of violence that would be hard for most people to imagine. She could recall in graphic detail many incidents of extreme and horrific violence. A little unusually, Ranjit assaulted her not only in the privacy of their home but also in public places, such as hospitals and workplaces – but still managed to escape any consequences for his violence. The first hiding came within the first week of their marriage. The thrashings were triggered by trivial things like the dishes not being washed properly. He would grab her by the hair and bang her head into doors and walls. He punched and kicked her. He would drag her about the house by her hair. He made threats to kill her and her family. She received countless bruises. Sometimes she was cut and bleeding. Her teeth were damaged. She sustained injuries to her head, face, back, shoulders and abdomen. She has significant problems with her knees because of Ranjit's violence. Sometimes, she tried to protect herself.

I used to get dragged out of my bed by my hair. I would put the dressing table up against the door. I slept with an implement under my pillow – that's how bad it was getting. But I was too scared to sleep with a knife in case he used it against me

When Sonal found a job at the local school, she got “a real good hiding”. She says she felt it was “worth it” because at least she felt safe at the school from 8 am to 4 pm. Ranjit made sure all her income was direct debited to his bank account. And, though Sonal worked long hours, she never had any money of her own.

Sonal worked – sometimes at three jobs – cooked and kept house, taught Ranjit English and helped him find a job. Sonal realised she did not know the man she was married to, and did not know his customs and way of life. She suggested they visit India because she wanted to know him, his family and friends, his social and cultural environment. They saved money and went to the Punjab. She lived there for three months.

When I returned from India, I had become an Indian. I dressed Indian, I ate Indian, I even picked up a little Punjabi. I tried to be what a good wife should be.

Eventually, Ranjit got a job in a factory in another city. Sonal thought the move might not be bad for their family life. She got a job in a school and fell pregnant with their first child.

Ranjit had no idea of what was happening to Sonal. Even when she went into labour, he was dismissive and insisted she was “making a fuss”. She went to work as usual, but was in considerable pain. In the early afternoon, the principal asked Sonal to call Ranjit to collect her. Ranjit eventually arrived about 5 pm but he did not take her to hospital. Instead, he took her home and wanted her to cook because he had invited friends over for dinner.

Sonal eventually got to hospital with the help of her sister and brother-in-law. She is certain that she would have lost the baby had it not been for their intervention. Ranjit visited her in hospital in the morning and accused her of being “useless” because she “could not even carry a child”.

Sonal stayed with her parents for three months after the birth. Going to the maternal home after childbirth is a common practice among women in many parts of Northern India, but in Sonal's case, the move was also made so that she could have help with the baby. Because he was premature, he needed a lot of care. During those three months, Ranjit was phoned by a brother who asked him to go and help a cousin who lived overseas and was having a hard time financially. Ranjit left immediately, leaving his wife and newborn baby. He returned to New Zealand with two cousins, quit his job, got into a partnership with them, opened a shop in another city, and moved house – all without consulting with, or even informing, Sonal.

Sonal followed Ranjit to the new city with their baby to live in a flat above the shop. She had to work long hours in the shop and long hours in the flat cleaning and cooking for Ranjit and his cousin. She decided she could not work such long hours. She went to the local school and handed in her curriculum vitae. She was offered a job straight away. As she got to know the community, her self-esteem went up. Then, one day, Ranjit had a major argument with his cousin. He walked out of their partnership and bought a shop in another area of the city.

Sonal refused to live above the new shop, so they bought a house. The move meant Sonal had to leave the school job and was back to working long hours in the shop. Ranjit sponsored a number of cousins and relatives from the Punjab to help him run the shop. Sonal had to help with the paperwork for immigration, teach them English and cook for them. When she fell pregnant for the second time, there were ten men living in their home.

Sonal miscarried, but got pregnant again. Even in her advanced stage of pregnancy, she would have to open the shop early in the morning and bring in the crates of milk. She was befriended by the milkman, who told her she was not to lift the shutters and move the crates in her condition. He came every morning at 5.30 am to open the shop for her.

Sonal had difficulties with her third pregnancy. Her doctors told her if she did not go to hospital she would lose the baby. She went to a hospital that was far away from home. There she found a supportive matron, "one of those old fashioned kinds", in her words, who did not let Ranjit come "anywhere near me."

Seeking Protection

After her second son was born, Sonal developed Carpal Tunnel Syndrome. She could not sleep because of the pain in her hands and was beaten because she disturbed Ranjit's sleep. Sonal had to call a Plunket nurse for help. The nurse asked Ranjit to take Sonal to hospital. Ranjit abused the nurse instead.

Sonal did get admitted to hospital. When she was discharged, her doctor refused to let her go home. Instead, she lived with a friend for two weeks. During that time she found pamphlets on domestic violence. She decided she could not carry on living the way she did and that, for her children's sake, she had to do something. She found a lawyer by looking up the Yellow Pages. The lawyer was very helpful. What amazed Sonal was that he actually believed her, which went some way to restoring her confidence. He applied, under the Domestic Protection Act 1982, for ex parte non-molestation and non-violence orders.¹⁴⁰ The application was successful.

Sonal could not bring herself to enforce the orders, however. Ranjit came to her sister's house with his brother and presented Sonal with 100 red roses. Her family thought that was such a nice thing to do and she was being selfish to reject his affections. No sooner, however, had she got home than she got one of her worst hidings – and, of course, under the provisions of the Domestic Protection Act 1982, the non-molestation order lapsed because she had resumed cohabitation with Ranjit.

¹⁴⁰ A non-molestation order under the Domestic Protection Act 1982 was roughly equivalent to a protection order under the Domestic Violence Act 1995. The main difference was that a non-molestation order was available only to an applicant who was no longer living with the respondent. The order lapsed if the couple resumed cohabitation. Another difference was that an ex parte order (granted without notice to the respondent) lapsed after three months unless another application was made, and granted, for a final order. A non-violence order was available to an applicant still living with the respondent. It prevented the respondent from using violence against the applicant, somewhat in the same way as a protection order does if the non-contact provisions are suspended. However, unlike either the old non-molestation order or the "new" protection order, the only consequence for breaching a non-violence order was to be arrested and held in custody for 24 hours.

Sonal was soon to apply for orders again. This followed an incident in which Ranjit removed their older son from school. Sonal panicked and called the police as she thought he might send their son to the Punjab. The police acted swiftly. They took her in an unidentified car, stopped all flights taking off and made sure that the boy was not being removed from the country. They found him with Ranjit at home. The police advised her to go to a refuge, and Sonal got her second non-molestation and non-violence orders from there. She found the volunteers at the refuge and the lawyer they took her to be very supportive.

Again, Sonal reconciled with Ranjit. And, again, it was her family which played a crucial role in encouraging reconciliation after Ranjit sent her a card written in blood through her sister. This time, Sonal appears to have had a better understanding of what remedies were available, and insisted that Ranjit get counselling and go to an anger management programme. He did that for three months, but it only made matters worse for Sonal as the beatings increased. Sonal told us, "Counselling works only when the person wants to make a real change, not otherwise."

A further incident involving her children led Sonal to make a final split with Ranjit. He had picked up their younger son and banged him on the floor. Sonal says that an amazing feeling came over her. She went to her school principal the following day and asked him if he thought she was a good person. "Of course you are a good person", he said. She cried publicly that day. The incident enabled her to take carefully planned action to end the violence. Secretly, she packed her things in a suitcase, a little each day, so that Ranjit would not become suspicious. She wrote a letter to her father and posted it. She rang him and told him if he did not hear from her, he should come and look for her. And that if something happened to her, her family should care for her children.

For the third time, she made an application to the Family Court, this time, under the provisions of the Domestic Violence Act 1995, which had since been implemented. She got a protection order without notice and went to live with her parents. Even though Ranjit would come to her parents' driveway and abuse her, this third time around Sonal made effective use of the order. If Ranjit abused her or stalked her or threatened to kill her and her family, Sonal called the police and they came. She also went to the dentist to fix her teeth which were broken due to the battering. She saw a doctor about her back pain (caused by the battering as well). She took her children for counselling. She was able to devote herself to rehabilitating herself and her children.

The Role of Family

Throughout Sonal's narrative, a consistent theme is the role of her family. For example, she told her maternal grandmother about the first hiding she got within a week of getting married. Her grandmother told her mother, who told her father. It became very clear to Sonal that her family would not do anything to help. Initially, it was because they thought Ranjit was a very good man; they would not have believed her if she told them all the details of the battering. Sonal grew a fringe to cover the bruises on her forehead, tried to smile and got on with her life.

Her mother did witness the beatings and the abuse when she came to live with Sonal during Sonal's second pregnancy, but she did nothing. Later, Ranjit's relationship with Sonal's parents soured, but this did not mean that they were more supportive of her. Sonal says her mother was afraid to say anything because she was afraid of what Ranjit might do to Sonal's father, who was old and in poor health. By the time Sonal finally separated, her parents had witnessed a decade of abuse of their daughter and had done nothing to support her.

Sonal's sisters knew what was happening. One sister worked for the police. Another sister was married to a doctor. They too were caught up in "the family thing" and too timid to confront their parents or go against their wishes. On the contrary, the first time Sonal got a protection order, it was one of her sisters who pressured her to go back to Ranjit after he presented Sonal with the roses.

Sonal's cousins knew too. They had witnessed the abuse and taken her to hospital. Ranjit's relatives had also witnessed the abuse. Mostly, they walked away from the house without intervening. One exception was an occasion when Ranjit's cousin got angry with him after he had hit Sonal in front of customers in the shop.

To Sonal, family support was the single most important thing that could have helped her take decisive action to protect herself and her children. Her parents were under pressure from their own families to "do the right thing". And the right thing to do for girls from "good families" was to stay with their husbands, no matter what. Sonal also realised that for her family, violence against women was nothing unusual. Her mother had witnessed similar things with other women, one aunty in particular, who had been abused and no one ever spoke about it.

The need for affirmation and support from her family; the power of emotional control that the family exercised over Sonal; their fears of loss of reputation and "face" in the community – these were all factors that prolonged Sonal's suffering.

Reflections

The doctors, the matron in the hospital, the lawyers, her work colleagues, volunteers at the refuge, staff at Work and Income, and school authorities were very supportive of Sonal and extended themselves every time she needed help. Sonal was trapped by family ties. For her, getting out of a violent marriage also meant getting out of all family relationships, all community networks, and walking away from everyone she had loved and grown up with.

Sonal thinks the most important thing for a woman in violent relationships is to be given support and affirmation that because she walks away from violence she has not become a "bad woman". Sonal also thinks that there are times when a woman in a situation such as hers is vulnerable and needs another person, either a professional, or family and friends to provide support and guidance. Every time Sonal did take action to remedy her situation, she was prompted to act because of something that had happened to her children. The welfare of her children is what gave her the strength and the urgency to take action. Sonal realised she was on her own and only she could protect her children. With that realisation came the knowledge about the ways in which bonds of family, community and society were intertwined.

Sripai

Sripai's case highlights the role immigration issues can have in domestic violence. She came to New Zealand from Thailand to live with her partner Kevin, a New Zealand-born Thai. She did not have residence status. She did not speak the language. She did not know New Zealand law and institutions and how they worked. Nor did she have support networks here.

When he was not absent overseas, apparently on business trips, Kevin abused and manipulated Sripai. Her first application for a protection order was declined. She currently has another application before the court, but she faces an awful dilemma. On the one hand, she does not have residence status to stay in New Zealand. On the other hand, there is a non-removal order preventing her from taking her daughter back to Thailand.

The Relationship

Sripai is a Thai national. Hers is a close family, but they are poor. Sripai met Kevin in Thailand five years ago. He is a Thai-New Zealander, born and raised in New Zealand. He is an aggressive man who would readily get into fights. He had marks from injuries all over his body. He often bragged about his fights. Sripai said, "He told me stories about fighting with four or five guys at one time."

Kevin was aggressive at home too. Sripai, who fell pregnant very early in the relationship, recalled a big argument that ended in physical abuse when she was three months' pregnant. Because she was carrying his child, she decided to stay. For his part, Kevin refused to accept the baby as his. They had many arguments about it. He would prick her stomach with needles because he wanted her to see a doctor about the paternity. There were other beatings during the pregnancy. Sripai complained to the Thai police about Kevin's violent behaviour – to little effect.

In what was to be a pattern of regular absences, Kevin went to Indonesia when Sripai was seven and half months' pregnant. He told her it was to do with some business he had there. He returned to Thailand shortly before their daughter, Alana, was born.

After the birth, Kevin persuaded Sripai to come and live with him in New Zealand. He insisted that the move would be in Alana's best interests and they could live as a family together. Unlike Kevin, Sripai has no family in New Zealand. She thinks Kevin wanted to separate her from her family. The couple came to New Zealand and stayed with Kevin's family.

At Kevin's insistence, Sripai took Alana to a doctor for a DNA test. The test established that Alana was indeed Kevin's child. However, that did not improve their relationship.

Every time we had an argument he would say, "I will keep the baby here and you go back to Thailand." That is because he knows that the baby is his.

Shortly after they arrived in New Zealand, Kevin was found to have a sexually transmitted disease called "crab-lice". Sripai did not want to have sex with him, but he forced himself on her. He boasted about his sexual activities with other women. He told her about a Japanese woman with whom he had sex in a train, two lesbian women with whom he had sex, and one woman with whom he had sex in the sea. He described to her the sex and cocaine parties he and a friend had been to.

Kevin applied for a New Zealand passport for their daughter. He did not seek residence for Sripai. If she asked him why, he became very angry. She kept silent to avoid fights. Kevin continued to be abusive to her. They had many fights, especially over money. Once she cut up her ATM card out of frustration because of constant demands for it. Kevin refused to let her work. He was unable to find work in New Zealand and, after a few months, the couple returned to Thailand. Once back in Thailand, Sripai decided to end their relationship. She took Alana and went to live with her family.

Kevin kept in contact and visited his daughter. His mother would ring Sripai two to three times a week. She wanted Sripai to reconcile with Kevin and come back to New Zealand with him. Sripai told us, "I could see it was not such a good idea." But Kevin's mother was persistent. She promised to make amends for the way Sripai had been treated. She promised to send Sripai to school and to teach her to drive. She told Sripai she could have a house in New Zealand and a good lifestyle. Although Sripai had a supportive family in Thailand, they lived in poverty. Reluctantly, Sripai returned to New Zealand. Kevin bought a return ticket for her but a one-way ticket for Alana. When Sripai confronted him about it, Kevin told her he had to do it that way because he did not have enough money.

Later, Sripai learnt that while she was in Thailand, Kevin's mother had persuaded him to consult a lawyer. She learnt that the lawyer had advised Kevin that, under Thai law, he had no rights over Alana because he and Sripai were not married.

Once she was back in New Zealand, Sripai faced more abuse from Kevin and his family. It was four against one. Kevin told Sripai that he was sending her and Alana back to Thailand and took their passports to buy their tickets. Sripai wanted her passport and travel documents back. Kevin told her that if she wanted them, she would have to get the papers from his father. Kevin's father, who frequently abused Sripai, called her a liar and told her to, "Shut up and be quiet or the police will come and take your daughter away."

So I was always scared of the police because I thought they would take her away from me and I believed them because I do not know the law in New Zealand. If I was in Thailand it would be different.

Sripai became concerned about the way Kevin behaved around Alana. For example once when he was changing Alana's nappy he called out to his brother and said, "Come and see Alana's beautiful, clean white pussy – isn't she just beautiful?" Kevin and his brother looked at her genitals. On another occasion Kevin told his brother, "When she grows up she will have big tits and a nice ass." Kevin was taking photographs of Alana naked, photographs of a type Sripai thought were inappropriate.

Applying for a Protection Order

Despite the warnings about calling the police, Sripai did call the police during a fight over her travel documents. The police took her to a women's refuge where she remained for four months. Women's Refuge organised legal help and a without notice application for a protection order was filed.

The court refused to grant a temporary order and put Sripai's application on notice. After a hearing two months later, Sripai's application was declined. She did, however, get the day-to-day care of Alana, although Kevin was successful in obtaining an order preventing Alana's removal from New Zealand.

In declining the application for a protection order, the court seemed to prefer Kevin's views of the facts. For example, on the question of taking Sripai's travel documents the court noted that:

For Kevin it was a matter of security while Sripai saw it as a matter of control. The evidence does not go far enough to indicate a desire or wish by Kevin other than to ensure he knew the whereabouts of the documentation.

The court seems to have privileged a husband's presumed right to control documentation relating to his wife over her right to autonomy. It also failed to appreciate the powerlessness of foreigners left without travel documents.

The court further observed:

I believe that suspicion of Kevin's conduct resulted from the fragility of the relationship rather than from any intent seen objectively by Kevin to psychologically abuse Sripai.

How does one prove "an objective intention to psychologically abuse" someone? The court did not see threats to remove Sripai's child from her as psychological abuse when in fact it is the most important factor that dictated Sripai's actions in their relationship.

Sripai told the court of her concerns about Kevin's sexualised behaviour in relation to Alana, including Kevin's photographs of Alana and the comments he had made to his brother (reported above). In its decision, the court considered the photographs but decided that, "They were photos taken by a proud father of his daughter." The court mentioned Kevin's comments to his brother but drew no conclusion about them.

The court observed:

Each party was at times aggressive to the other but in the end each appeared to do what they wished at various times of the relationship and neither was so controlled by the other's action as to be dependent to an extent of not having free-will or choice.

The court's comment about free will and choice requires further exploration. Sripai was in a foreign country. She did not have her travel documents. She did not speak English (she had an interpreter during the proceedings). Her child was a foreign national governed by New Zealand law on custody and family matters. She had no friends or family in New Zealand. Her residence

status was uncertain. What were her “choices” in those circumstances that she could make with her “free will”?

Moreover, by granting an order preventing Alana’s removal from New Zealand, the court had even further restricted Sripai’s ability to exercise free will.

Immigration Issues and “Reconciliation”

Sripai’s visa was soon to expire. Although she had custody of Alana, the non-removal order prevented her from taking Alana back to Thailand. Sripai decided to “reconcile” with Kevin, although he was out of the country on unspecified business trips more often than not. Resuming the relationship with Kevin meant that she could apply for residence under the family partnership category. Sripai’s application was filed with Immigration New Zealand and supported by Kevin.

When he was in New Zealand, Kevin continued to bully Sripai. They had frequent arguments over money and Kevin repeatedly threatened to withdraw his support for her residence permit. On one occasion, Kevin, who did not have a job, asked Sripai for money to buy a lotto ticket. She refused as she did not have enough money for food. Kevin threatened to withdraw support for her residence application. The following day they had a fight, and Sripai started shouting loudly in the hope that the neighbours might hear and call the police. She tried to grab the phone to dial 111 but Kevin took it from her hand and smashed it. The police came – the neighbours had called them. They had to physically restrain Kevin. They asked Sripai if she wanted to go to the refuge. Kevin’s mother arrived and tried to take Alana away, but the police asked her to stay out of the fight. The police asked Kevin to leave. He took his computer and moved to his parents’ house. The police asked Sripai if she wanted to file a complaint against him but she declined.

The next day, Kevin was very nice to Sripai and asked her if she had called the police. Sripai replied she could not have because he had broken the phone. He told Sripai to never, ever involve the police again. As he did not work and did not have any income Kevin moved back in the house with Sripai, but not for long – he was soon away on another of his visits to Thailand. This time, he was away for nearly a year. During that time Sripai began to make a few friends of her own, both Thai and Pākehā New Zealanders. Kevin’s family, especially his brother, kept a close watch on Sripai’s movements, who she met and who she spoke to. That is how they found out that she had formed a relationship with a Pākehā man, John.

Kevin returned to New Zealand earlier than planned. He wanted Sripai to move out of the house and bring Alana to him with three weeks’ worth of clothing and other requirements. Sripai moved out but did not take Alana to him as she was afraid he would not return her. There were a number of incidents over the following few months in which Kevin threatened Sripai, John, and others among their group of friends. Police complaints were filed in relation to some of these incidents.

For example, on one occasion, Kevin left Sripai an abusive message on her voicemail. In the message, he abused her friend, John, and threatened to abduct and harm him. John called 111 and made a complaint. The next day, Kevin followed Sripai and John while they were driving to a birthday party. Kevin mimed shooting them from his car. John went with Sripai to the police station to lodge a complaint.

On another occasion, Kevin phoned John and told him that he was going back to Thailand where he would destroy Sripai’s family. He told John he would like to meet him alone. John began to tape the conversation and Kevin hung up. Another time, Kevin told one of Sripai’s friends that he had made arrangements to deport Sripai to Thailand and that Immigration New Zealand was going to put her on a plane within the next fortnight. He told the friend that it

would be in Sripai's best interests to meet with him. Kevin also tried to spread malicious rumours among Sripai's friends.

Despite several police complaints and call-outs, Kevin avoided arrest. If he had been arrested, Sripai may have felt safer. Arrest might have had major implications for Kevin. Routine background checks of the sort made about people who have been arrested might have found answers to some of the questions we are left with. What was the nature of his business that took him to Thailand on such extended trips? What was the nature of his business that gave him work in Thailand but not in New Zealand? Did he have other than the obvious reasons for insisting that Sripai not involve the police.

Fearing for her safety – and Alana's – Sripai applied for a protection order for a second time. Again, her application was put on notice. At the time of writing, she was awaiting a hearing.

Reflections

Sripai's story reflects some of the barriers to safety facing immigrant women. Although Kevin began abusing her very early in their relationship, once she was pregnant a slightly uncertain future in the relative comfort of New Zealand seemed preferable to the certain poverty she and her baby faced in Thailand. Unable to speak English, lacking family support, ignorant of New Zealand law and institutions, and having a time-limited visa, Sripai was always vulnerable to Kevin's abuse. For similar reasons, there were significant barriers to invoking the remedies available for domestic violence under the criminal law (calling the police) or in the civil jurisdiction (getting a protection order). When she did first seek protection, she was let down by the police who never arrested Kevin. Worse was to happen when she went to the Family Court. Firstly, her application for a protection order was put on notice. Secondly, after a defended hearing, her application was declined. Thirdly, although she got day-to-day care of her daughter, Kevin succeeded in getting an order preventing Alana's removal from the country.

I am in an impossible situation. I cannot return to Thailand with Alana because of an order preventing removal of Alana from New Zealand ... I [am] angry about all the stories he had made up to the judge. [It] was all lies and I can't show my anger.

More positive were Sripai's experiences with Women's Refuge. Through Women's Refuge, Sripai made friends, including women from her country.

Sripai is seeking permanent residence. We do not know what the outcome will be. In the meantime, she has applied for an extension to her current visa on the grounds that her presence in New Zealand is necessary to attend the Family Court proceedings. Sripai's fate will be determined by the Family Court as well as Immigration New Zealand. Unfortunately, each seems to be acting independently of the other.

Tina

Tina is a Filipino woman living in New Zealand who married a Filipino man. Both were New Zealand citizens. Tina applied for and was granted a protection order. Subsequently, she got the order discharged but that made things worse. Tina is now separated and, although she is still sometimes harassed by her husband, she has decided that calling the police is more effective than seeking another protection order.

Getting a Protection Order

Tina met Tony about 15 years ago. Both were members of what was then a small Filipino community in New Zealand. As Tina told us, "You get lonely – you meet your own people – and you click." Tina did not know Tony had a serious problem with drinking and gambling until she started living with him. They had lived together for three years and had one child before they got

married. Tony had started abusing her before that. Initially, the abuse was verbal and emotional. He swore; he made derogatory remarks; he kicked things in the house; he made death threats. They had a machete in the house which Tony would wave and say, "I'll chop your head off with this." On other occasions, he took out an air pistol and pointed it at Tina, threatening to shoot her.

There were times when I was scared of him. I had a tendency to just get out of the house, especially when the kids were around. We just stayed in a car park until he pacifies and falls off to sleep because he was drunk. And then I would come back home. He would be snoring.

In 1997, after Tony made more death threats, Tina got a protection order and an occupation order. The police picked Tony up from work¹⁴¹ and helped him move essential personal items from the house. Tony never breached the orders, but neither did he attend a respondents programme as he had been ordered.

Unless he is really able to accept that he has a problem and come forward to the counsellor, they cannot compel him to attend the counselling if he doesn't want to – which really upsets me because he has an anger management problem ... He was able to talk to a lawyer and get out of it at the time. There was an order that he should attend an anger management programme, and the lawyer was able to get him out of the programme, so there are exceptions to the compulsory nature of this. He never went.

Tina did not have the protection order for long. She got it discharged.

The reason for the withdraw was I didn't have any family around here. Being a migrant and not having any family ties – and being a solo mother was something I couldn't handle before. I had a young son, so I decided to withdraw. The protection didn't last long.

Tony moved back in after the protection order was discharged, but having the protection order discharged made things worse. Tony's verbal abuse increased and he constantly taunted Tina about the protection order. "We lived together for my son", Tina told us. In fact, they had several short periods of separation during which Tony lived with his mother. Tina always took him back, because:

I couldn't look after my children, even when there was only one. It was harder on the second and third because I was always with myself.

For Tina, the challenge of managing on her own was exacerbated by the fact that she suffered post-natal depression after the birth of each of her three children.

Calling the Police

Tina had spent over a thousand dollars to get her protection order, a cost she could not really afford. Even though Tony was still abusive, Tina decided it was not worth spending money on a protection order again.

Why should I get a lawyer to get a protection order because it's going to cost me money? All I got to do is call the police and get him removed.

That is exactly what happened on several occasions. The first time, Tony had threatened her with a knife. The police removed him from the house but did not charge him, ostensibly because he had not hurt Tina physically. Tina says there was a pattern to the way the police responded to her complaints.

They remove him and then he pacifies and they couldn't charge him because I wasn't hurt or anything. They just remove him.

¹⁴¹ Police serve protection orders where the respondent is known to have firearms in his possession.

Tina was frustrated enough with the police refusal to charge Tony that she attended a meeting on domestic violence to air her views. She received an acknowledgement that the sorts of emotional abuse and death threats she received were indeed defined as domestic violence.

Separation but Not Divorce

Tina is now finally separated from Tony. The last separation followed another incident, about a year before our interview, in which the police took Tony away and released him without charge. He returned the following day but Tina refused to take him back. Tony realised that their relationship had ended.

Tina has decided not to go to the court for legal separation or for a protection order. If Tony returns, Tina calls the police. As far as she is concerned the relationship is finished.

Even after separation, Tina remains married to Tony because in their culture divorce is not acceptable.

We worried how people would perceive the relationship so it doesn't matter how abusive he was, I put up with it – because in our culture, we identify ourselves as a broken relationship. You will hardly hear of a Filipino couple separating ... you basically marry the culture. That's how I look at things now-a-days.

Tina told Tony that he could go to a lawyer if he wanted to, but she was not going to her lawyer. She told us didn't want to pay a lawyer to respond to Tony's lawyer.

I said to my husband, "Look, I received a letter from my lawyer that I need to speak to them, but I don't have the money to pay my lawyer, to speak about this, but I can tell you my answer. I'm not going to provide my lawyer a copy of all the documents [requested]. I have 11 files ... I am consenting all of your proposal, and it's up to you whether you want to waste your time and get these documents, but I have no money to pay the lawyer, so it's up to you to withdraw the claim."

Effects of the Violence

Tina is living with the effects of trauma often associated with domestic violence.

I can't sleep anymore because I was too scared he might get up and whack me with a machete. In the last four months I've had about three decent sleeps. I don't sleep. My eyes become used to it.

The children were afraid of Tony. Even though he mostly did not assault them, Tina knows that they have been affected by the fights and abuse they witnessed.

I don't tell them anything, but my eldest saw most things, and he doesn't want to talk. And I've been trying to get him into counselling because he has seen so much, but he doesn't want to get involved in court proceedings, and he knows what his father is doing, but doesn't want to get involved.

Tina is particularly concerned about her teenage son, who witnessed the degrading way she was treated.

I'm already degraded by the way he [Tony] speaks to me and everything. Its embarrassing in front of my teenager. Their father calling me a "Fucking shit – you're a fucking stupid ..." I raised the kids and I don't think I can live with him degrading me in front of the children. Especially with a teenager – he will have his own family soon.

Tina thinks that the mental impact on her children caused by the abuse is a problem that is not recognised by the authorities.

Tony's violence has tended to isolate Tina from her community.

We don't see our friends anymore because they are too scared that their children might pick this lifestyle. It has affected my personal life. I don't see friends anymore.

They find it too difficult to understand how I could do it, because we go to the same church all the time. They think we are Catholics and that's it.

Reflections

Tina's story highlights some of the contextual factors that constrain women from using remedies which are theoretically available to women. For Tina, cost is a major factor. She could not get legal aid because she was working and earning too much but with three children to support, neither did she have the money to continue to pay for a lawyer. With regard to the income limit to qualify for legal aid Tina says:

Fifteen thousand! What is that! Even a teenager makes that money ... I think that is why there is a lot of domestic violence out there. People cannot resolve it because people cannot pay the bills. No matter how much women want to seek a protection order they can't because of the cost. The number one barrier of domestic violence is the legal system.

She thinks a woman should be able to get a protection order without any cost.

With her children to care for single-handedly, time and energy was a constraint. Tina suffered post-natal depression. Sometimes she reconciled with Tony because she was struggling to cope with her children.

The inadequate response from the police was a constraint. Tina is angry about the way police minimised the death threats made Tony against her.

Police think that there is no physical abuse you cannot charge the man. The police have to be addressed, and the education of women must be encouraged. People must be educated about domestic violence – especially in my case, he didn't physically abuse me. But the mental impact on my children. So the legal system is the biggest barrier.

Moreover, child and work commitments meant Tina did not have the time to chase up the police, the courts and the lawyers. She has made pragmatic decisions about exercising her rights. One of those was to abandon the idea of getting a second protection order in favour of calling the police. Unfortunately, as mentioned, Tina was not well served by the police either. Certainly, Tony seems to have avoided facing the consequences for his violence.

Finally, Tina does not think it is possible to live with the respondent when there is a protection order in place.

It's the fear inside. It doesn't matter whether he is going to do it or not, if you already have the fear. How can you justify yourself when you are already dead? It's just a piece of paper, but if you have already developed that fear it's like the target – even now that he has gone for four months, I can't even sleep. The fear is so deep in my system and I can't sleep.

Zaleha

Zaleha faced particular challenges as an immigrant woman being abused by an immigrant man who was well able to manipulate the system to avoid being held accountable for his violence. Although she was granted a protection order, her partner pretty much carried on abusing her, her parents and her friends as if the order did not exist.

Violence in the Relationship

Zaleha is Iranian. She married Hamid in Iran more than 20 years ago. She has three children from the marriage, the oldest of whom is 19. After marrying, Zaleha and Hamid went to Pakistan where Hamid was working as a reporter. Barely two weeks after their marriage Hamid beat Zaleha very badly. Zaleha wept when she recalled the start of her married life. She had discovered

that Hamid was on heroin and using regularly. In her view, his violent behaviour, at least initially, was due to the drug habit.

The couple returned to Iran after a year, but Hamid's drug taking and violence continued unabated. Neither did the birth of their first daughter change his behaviour in any way.

At that time, Zaleha's brother and sister-in-law lived in New Zealand. Her brother suggested that she come with her family to New Zealand in the hope that a new country and environment might make a difference. They believed that New Zealand did not have a drug abuse culture. Hamid and Zaleha came to New Zealand with their two children about 12 years ago. Zaleha says their first year in New Zealand was wonderful. Hamid was off drugs and they were happy being in New Zealand. She knew he smoked cannabis sometimes but it did not make him violent.

About 18 months after they arrived, Zaleha and Hamid learnt that his application for permanent residence had been declined. A few days later he started to behave in a strange manner. He laughed and talked incoherently. Zaleha called her brother, who took Hamid to the hospital. The doctors informed them that he had taken a drug overdose in an attempted suicide. He later told her he faked mental illness deliberately because he would be granted permanent residence. Zaleha says she could not understand his logic then and does not understand it now. It became a pattern with Hamid. He would take a drug overdose and ask to be taken to hospital. They would keep him in the psychiatric ward for a few days and discharge him.

Hamid was brutally violent with Zaleha. He also frequently threatened to commit suicide. For example, once her uncle was visiting New Zealand for a family reunion. Hamid forbade the uncle from coming to their house because he did not like him – even though Hamid had never met him. He threatened to commit suicide. Zaleha was upset because she wanted her family to participate in the family reunion. Her mother advised her to leave Hamid alone because he was not mentally fit. Zaleha joined her family reunion and went sightseeing with the other members of her family. When she came back, Hamid was furious and beat her badly because she had gone with her family. Later he apologised to her.

One day he took her children away and rang Zaleha and said she could not see her children ever again. Zaleha panicked and called Hamid's sister in Germany. His sister spoke to Hamid. Hamid returned with the children, but beat Zaleha because she had told his sister about his behaviour. Zaleha's mother was at home with her that day. Hamid beat her mother as well. Zaleha says she felt terrible to see her mother beaten up before her eyes. The pattern of behaviour – attempted suicide, admission to a mental health hospital for a few days and release – continued.

On another occasion, some years ago, Hamid took out a knife and threatened to kill Zaleha's brother. She ran to the neighbour who called 111. The police heard her account and provided protection for her and her brother at their respective homes.

Seeking Help

Zaleha's sister-in-law introduced her to a community worker working with a refuge for ethnic women. The refuge helped her get a protection order and obtain custody of her children. Hamid rang her at the refuge and told Zaleha that her protection order would not help her. He told her the police could not do anything to him because he was mentally ill. Zaleha says Hamid was feigning mental health to avoid criminal liability.

What use is a protection order for me? He can come and kill me and my children and still no one can do anything to him.

After a while Hamid contacted her through her cell phone and apologised profusely for his behaviour. Her mother said she should accept his apology and return home for the sake of the children. According to Zaleha's mother, children must be with their father. "This is our culture", Zaleha told us. As Zaleha pointed out, if she had lived in Iran she would not have had any rights

over her children should the couple divorce. By law, the custody of her children would have gone to their father and, if the father was unable to care for them, the paternal grandmother would have got custody. The biological mother is the last in the order of preference in custody matters in Iran. There are no laws prohibiting violence against women. Zaleha says, for the sake of the children, she put up with extraordinary violence for many years.

At her mother's insistence, Zaleha moved back to the house with Hamid. Within weeks the beatings and abuse had resumed – only worse. Hamid refused to let Zaleha's parents come to their house. "He does not like anyone from my family", says Zaleha. Although she had a protection order in place for the next two to three years she continued to be subjected to violence by Hamid. She says the police did not do anything and she felt it was no use going to them any more. Zaleha thinks the police did not act because in their eyes he was mentally ill.

How can they think that? He has girlfriends. He goes to night clubs. He has a job. He knows how to get work that pays under the table. How can he do all that if he is mad?
... Even if Hamid is truly mentally ill, must I be subjected to violence?

Hamid had had several relationships in the meantime. Once he beat her badly in front of his girlfriend. Zaleha complained to the police but was told her the protection order was no longer valid and that she would have to renew it before they could act. Such advice is incorrect. It is likely the officers had failed to understand one of the important differences between a protection order under the Domestic Violence Act 1995 and a non-molestation order under the now-repealed Domestic Protection Act 1982. That is, unlike the old non-molestation order, a protection order continues in force even if the protected person and the respondent resume cohabitation.¹⁴² It appears that Zaleha did not get proper legal advice or support. Notwithstanding that, it is difficult to understand why the police did not intervene. Irrespective of the status of the protection order, they appear to have had grounds for arresting Hamid and charging him under the Crimes Act 1961 for the assault on Zaleha.

Divorce and Continued Threats

After the above-mentioned assault, Zaleha's parents came to the conclusion things had gone too far. They told her if she wanted to end the marriage they would support her. Zaleha applied for divorce.

I divorced him three times. Once under New Zealand law, once under Islamic law, once under Iranian law.

However, the divorce made little difference to Hamid's behaviour. He still came to her house as he pleased. For example, one day her neighbour came to return something he had borrowed. Hamid found out about this visit and went to the neighbour and threatened him with a knife. The neighbour called the police who arrived before Hamid had left. The knife was found in Hamid's car. This time, Hamid was charged. Zaleha was a witness in the trial that followed. The night before the hearing Hamid took an overdose of drugs, called his friend, who took him to hospital. Zaleha says:

As usual, the doctor declared him mental. He is not mental. He is very clever.

The court sentenced him to community service.

Threats to her family members continued after the divorce. Hamid threatened to kill her niece and nephew. Zaleha has had her protection order varied so that it now covers her parents,

¹⁴² Under s.20(3) of the Domestic Violence Act 1995, the non-contact conditions of a protection order are suspended while the respondent lives with the protected person with her explicit consent – and are automatically revived again if that consent is withdrawn. However, the non-violence conditions remain in effect, whether or not the couple are cohabitating.

brother and his family.¹⁴³ Her neighbour has trespass orders against Hamid. Despite all the orders, Hamid continues to intimidate and threaten Zaleha. He insists that nothing will happen to him if she complains because he has a record of mental illness. He says he could get away with a few years' sentence for murder.

Hamid would ring Zaleha on her cell phone. She changed her mobile number, but somehow he always found her number. One day she got a phone call from Hamid while their daughter was visiting him. Hamid told Zaleha on the phone that he was sending their daughter to Iran. Zaleha was distressed and contacted the police. The police sent him away after a warning, but after this, Zaleha applied for, and was granted, an order preventing the removal of their children from the country. Hamid, though, continues to have contact with the children. Initially, this was unsupervised, apparently because of the lack of a suitable supervisor. This has since changed, through the intervention of counsel for the child. Contact is now supervised by a social worker appointed by the court.

Recently, Zaleha's son had to undergo major surgery. Hamid came to the hospital to see his son. In the hospital he abused Zaleha and her friend who was with her. Her son was distressed. He begged his father to go away and not create a scene in the hospital. Hamid reminded Zaleha that the police could not do anything to him because of his record of mental illness.

I am tired of fighting. What is the use of going to the police if they cannot do anything for me? I'll fight on my own.

Despite the odds, Zaleha says she has tried to turn her life around. Her English has improved. She now has a job and she helps as a volunteer at a women's refuge. She has also remarried. Zaleha told us that her new husband, also Iranian, is a very nice man, and is very nice to her children. They, in turn, are very fond of their stepfather. Yet, Zaleha cannot completely put the past behind her and move on. Zaleha says she cannot announce her marriage publicly to people because of fears that Hamid will harm them and her new husband. Zaleha says no one knows about her remarriage except her parents, her brother and her children.

That Zaleha's fears are real is illustrated by an incident a few days before we spoke to her. A friend had found Hamid lurking outside Zaleha's house when she visited. "What is he doing here?", Zaleha's friend asked. Hamid heard her say it. He accosted her friend a few days later on the road. Hamid threatened her friend with dire consequences if she visited Zaleha.

Reflections

Although she got a protection order, Zaleha has found it ineffective. In part, this was because police officers attending a breach wrongly believed the order had lapsed because she had resumed living with Hamid. More generally, it appears the police and the criminal court were reluctant to hold Hamid fully to account for his violence because of his mental health problems, whether real or feigned. The objectives of the Domestic Violence Act 1995 are clearly to stop domestic violence in all its forms and that includes women who are victimised by partners with mental health problems.

Worryingly, Zaleha noted that she has experienced a deterioration in the attitude of the police over the years. These days, she told us, when she complains of threats to her life by Hamid, the police do not go and look for him, even though they have his car registration number and they know where to find him

Zaleha has married another person and is happy with the relationship, except that she cannot be open about her marriage because of fears that Hamid might harm her or her new husband. Zaleha does not think the law can protect her and her new family in any way. She thinks a

¹⁴³ This is provided for by s. 46(3)(a) of the Domestic Violence Act 1995.

protection order can be of no use to her because Hamid is confident he would get away with murdering her because he could plead mental ill-health.

In essence, the protection order has not stopped Hamid from harming or threatening to harm Zaleha and her family, and she remains concerned about her future.

6: Conclusion

As a child, Katrina was sexually abused by her father, by other male relatives and by an employer. Her first partner, Rana, subjected her to horrific violence, including rape. She got a protection order against him and, although it was a huge struggle, managed to separate from him. She got into a relationship with Tony. History began to repeat itself and Katrina got a second protection order and Tony went off to a respondents programme. There he learnt about power and control and in an attempt to convince her to drop her protection order, claimed that by keeping the order out against him, Katrina was using power and control over him. However, Katrina had learned much over the years. This is what she recalls telling Tony.

[The protection order] is keeping my daughter and me safe. You want to use violence and you think violence is only physical. It is not. Violence is when you verbally abuse me, [when] you emotionally play your silly mind games to control me, [when] you take the keys off me or you lock us in the house. You even go and hide things from us or take my handbag away so that I can't leave you, when I want to go home to my house. What kind of a person does that? You come home, you press redial on the phone, to see who I've rung. You even ring Telecom to see if there's been toll calls made from the phone. You go to the neighbours and ask if any cars have been here. If I've been out in the community you try to snuggle up to me and make out, and you're smelling me – if I go for a shower, you're sniffing my under clothes, looking through my pockets for whatever. You read through my diary, you go through my cell phone. That is all power and control. And that's abuse. You've got no right to do that.

He said, "Yes I have – I'm your partner, I'm your fiancé. I can do what I like."

We have begun the concluding chapter of this Volume with this account from Katrina, because it encapsulates many of the experiences of the women in our case studies. Whatever leads an individual man to abuse and violate his partner – and here a very generous reading might suggest insecurity – it inevitably results in him exercising power and control over her. And he will continue to abuse and control – because he can. Despite what some judges have told us,¹⁴⁴ the utilisation of power and control tactics by the men in our case studies was the principal means by which women were intimidated, abused and oppressed.

Our case studies are, among other things, accounts of women's efforts to ensure that men **cannot** continue to abuse and control with impunity. The women have tried this by being assertive, often at considerable cost. They have gone to counselling, appealed to church and community leaders, tried to defend themselves and their children, separated, relocated, reconciled because it seemed safer, called the police and, the focus of this report, got – or tried to get – protection orders to keep themselves safe. Rachel told us what was needed to improve the situation.

That men that are violent towards their partners and in front of their children are made accountable in every way and are shown what trauma does to kids and women and how bad it is. It is totally unacceptable to bash the living shit out of women and to murder them. And to bash your kids is totally unacceptable behaviour. [The message should be,] "Our society will put you away and then we will re-educate you. We will take you to that dark place and you need to get better." Firstly, they need to be locked up and we need to be safe. So that is where I strongly come from.

We agree with Rachel. The responsibility to ensure men cannot abuse their partners lies not with the victims of abuse but with society. It lies with police officers, with judges, with counsellors,

¹⁴⁴ Doogue, J. (2004). *The Domestic Violence Act 1995 and s. 16B of the Guardianship Act 1968: The effect on children's relationships with their non-custodial parent*. Speech to the Child and Youth Law Conference, New South Wales. Retrieved 10 August, 2006 from <http://justice.govt.nz/family/publications/speeches-papers/archive.asp?inline=speech-lexis-nexis-conference.asp>.

with family members, with colleagues, with employers, with church and community leaders, with neighbours. It lies with all of us.

In this chapter, we summarise the experiences of the women we interviewed to illustrate some of the main themes to emerge, not only from the case studies but also from our analysis of statutory and practice approaches (Volume 2).

Violence in the Relationship

As Rachel's and Katrina's accounts above make clear, to adequately understand men's violence against women requires appreciating the way men acquire power through such violence and the way their violence is so often condoned. The case studies include examples of horrific violence. Katrina again, this time, talking about her first partner, Rana.

I let him back in and I became pregnant again, but when I became pregnant it wasn't planned and it wasn't out of affectionate love. It was horrible. He used to go out and drink and come home and batter me. Treat me like a sex slave. He'd treat me like I was a working girl. He'd make me do indecent acts on him, make me perform acts that I didn't want to, make me dress up, or he would do indecent acts on me that were uncomfortable, that I didn't like, but I just tolerated the pain and allowed him to. I used to spend lots of times crying after he finished doing what he did to me. I couldn't even sleep beside him. I'd wait till he was asleep and then I'd roll out of bed and go and sleep beside my babies, or go and sleep in the lounge on the sofa. I think the best times were when he wasn't in the house. The minute he walked out the door, I felt relief. The minute I knew he was coming back, I would be walking on eggshells. I'd have anxiety – the anxiety was so bad sometimes that it would cause me to pass out.

Readers who have seen the movie or read the book, may here recognise *Once were warriors*.¹⁴⁵ But it is important to realise that such graphic violence is no respecter of culture or class. Hilda is a middle-class Pākehā woman. This is her account of the assault which eventually saw John being sentenced to 150 hours of community work and ordered to pay her \$3,000 reparation.

He grabbed me by the neck and smashed my head against the wall and started to throttle me. He banged my head against the wall again, and I thought I was going to die. His eyes went black and he looked like another person and he was, honestly, enraged. I remembered self-defence 101, which was to knee him between the legs. I looked down to see where I was going to knee him, but when he saw what I was going to do, he head butted me and broke my nose ... He was still strangling me and he said to me, "How was that? Would you like another one?" I actually said, "Yes." I remember feeling completely broken, thinking. "That's it – it's over."

Hilda, it will be recalled, had her nose pushed into her face, was off work for some months, lost her job, was assessed as having post-traumatic stress disorder and had to endure protracted court proceedings in both the family and criminal courts – all of this while John continued to breach his protection order.

Impact of Violence

However, as Katrina reminded us at the opening of this chapter, men's violence against women is not only about the punches, kicks and strangling. It is also about the myriad of ways men threaten, intimidate, control, isolate and denigrate their partners – to their face and to others within their community. It is about the way women are expected to focus their energies exclusively on meeting the needs of their partners – recall, for example, the women for whom pregnancy was accompanied by the onset or escalation of violence. It is about the way women are forced to put their own needs – and often, those of their children – on hold, as they attempt to deal with the moods of their abusers through accommodation and placation. As Sarah said:

¹⁴⁵ Duff, A. (1990). *Once were Warriors*. Tandom; Wellington

You could tell as soon as his foot hit the floor next to the bed in the morning what his mood was going to be.

Katrina, for instance, was not the only woman to use the phrase, “walking on eggshells” to describe the emotional experience of living with a man who batters.

The impact of more subtle psychological violence was illustrated by Claire. She experienced less physical violence than many of the other women in our case studies, but Robert’s stalking and psychological violence nevertheless took a serious toll. A victim impact statement prepared for Robert’s sentencing on charges of breaching his protection order noted what Clair was experiencing:

... anxiety, drained energy, feelings of exhaustion, loss of self-esteem, constant sleep deprivation and tension. Each time Robert came to my home prior to obtaining the protection order, which were uninvited visits, I felt traumatised by his presence and did not want to enter into any dialogue with him. I felt a prisoner in my own home ... As a result, I was forced to seek professional help from a qualified private counsellor with costs amounting to \$1,600. I have also been forced to change the security on my home by replacing the locks at a cost of \$236. I installed security lights at my house which amounted to \$40. These measures were directly as a result of the need for me to feel safe. Being self-employed I was forced to relinquish some of my clients in order to feel safe and free of being stalked by Robert. This led me to immense financial struggle and I had to seek financial assistance to cover the basic needs to care for my family over the holiday periods ... The emotional harm impacted on all three children in different ways. My son in particular received counselling initiated by him through his school. All three children were sitting exams at the time which made it stressful for them. The relief of no phone calls since the apprehension of Robert has been described by my son as “luxury”. We just can’t believe how good it feels to be normal again. And for family members ringing it is a joy to have me answer the phone without any of the previous fear experienced.

Domestic Violence and Children

Claire’s last comment introduces another important theme to arise from the case studies. Men’s violence against women is often accompanied by violence against their children, and even if the children are not direct intentional targets, they typically experience considerable trauma from being exposed to the violence against their mothers. Some children got habituated to the violence. This is how Patricia described her daughter, Debbie.

She’s just used to it. It had been happening for as long as she can remember, you know? It’s just another thing that happened. It never affected her. She just carried on doing whatever she was doing at the time – never looked twice.

But even Debbie was eventually affected by her father’s violence. It will be recalled, she began losing her hair after being held at knifepoint by him. It was not in our brief to interview children but we did get an insight into the impact of violence upon children from Mele. She did not discuss with us in any detail her father’s sexual abuse of her but she did recall a time when he assaulted her mother. Mele was six at the time.

I remember waking up to screaming downstairs ... [I] opened the kitchen door and there is blood everywhere in the kitchen, the dining room. I remember going into the lounge and he was standing over my mother. He was drunk. She was screaming and crying for him to stop. He was holding the baby. He tried to hit my mother and missed. The baby’s forehead was bleeding. While he was holding the baby, he was hitting my mother at the same time. She was begging for mercy. He was ignoring me. I was trying to stop him and he was hitting me in the process of trying to hit her. So I sat on her and tried to cover her as best as I could. He was doing whatever he could, kicking, punching. I actually got off the lightest. He was grabbing stuff from out of the cupboards: pots, pans. He got a milk bottle and it smashed me in the eye. I only got a black eye ...

Note the way someone habituated to violence can minimise it. Mele “only got a black eye.”

Mele’s mother wanted her to call the police. Mele believed that her father would kill her mother if she did not stay by her side. As it turned out, there was little point in going to the phone. When she did try it, it was dead. Masi had cut the cable.

We got a more contemporary account of the impact of violence in children from the letter Roimata’s daughter wrote to the judge who was considering an application for a parenting order. Monique wrote:

Dear Judge,

I am scared of Mark when he’s drunk. He yells at me and my mum. I get frightened when he fights my mum. He is always drunk. I don’t want him at my house.

Love,

Monique.

And Maria gave us an insight into the intergenerational transmission of violence when we asked her if her father had hit her mother.

Yeah all the time. I was always there trying to break it up, and feeling like, “Come on mum, why don’t you do something?” I felt like she was pretty weak. I thought, “Stop him.” But how do you stop that and not separate from him? That was always my fear – I didn’t want mum and dad to split. It is a really scary feeling, and I loved them both.

Barriers to Getting Help

Leaving, and/or getting a protection order, was never the first option for women attempting to protect themselves and their children. Sonal told us:

I used to get dragged out of my bed by my hair. I would put the dressing table up against the door. I slept with an implement under my pillow – that’s how bad it was getting. But I was too scared to sleep with a knife in case he used it against me.

For some women, it seemed safer to stay. Patricia did know about protection orders, but had no faith that they would make a difference.

Yes, I knew they existed and I’ve been told by my lawyer what I could do and all the rest of it but it just seemed a little too scary to be getting out there and seemed safer to be where I was – in the chance that I wouldn’t get hurt – than to leave and [face] a greater change of getting hurt ... He [George] could be worse and life would be harder [without him] and worse off for the kids. Where we were they did have everything we needed. He did work very, very hard for us and did bring in a very good wage and we had some security in knowing that there was a male there to protect us which is something I was personally worried about because of my past. I was actually raped in my own bed – twice now – so having a male actually seemed safer than being by myself.

Patricia’s insight reminds us that domestic violence is not simply a relationship problem. Men’s violence against women within the privacy of the home cannot be fully understood without considering broader issues such women’s economic position and their lack of safety from other men’s violence. Marjorie’s reflections on why she never called the police further illustrate the lack of options facing many women.

The last time when I got bruises there, my son yelled out “Mum call the police.” That frightened me, but I didn’t, because ... I couldn’t see anything happening if I dialled 111. Where was I going to go? Who was going to look after Jacob and I? I had no money ... I couldn’t actually see anything happening here. I was looking for what was going to happen. Where were we going to go? Where were we going to be? And for Jacob who is special needs, you’ve got to know him. He would not have coped. Where would we be? He just would not have coped.

Sometimes, women had no faith that agencies of the state would help them. For example, Te Rina, who lived in a part of town as “the Bronx” seldom called the police.

Because my neighbour, she’s been assaulted many times and it took them ages just to get to her. She’s got a protection order out on her partner, and just because it was [street name], it always took the police ages to get to us. It’s more or less known as the Bronx of [town]. There’s gangsters and all that down that road. So just because we’re from [street name], then you sort of got targeted as [street name]. “There’s no need to hurry there.” But people like me needed help but that was my downfall.

We summarise women’s views of the police later in this chapter but another state agency had a worse reputation among our participants, Child, Youth and Family (CYF). The reputation of the statutory child protection agency meant that some women did not seek help from a fear that disclosing abuse might lead to their children being taken into care. This is exactly why Titiana and Elizabeth did not call the police. Moreover, Elizabeth’s partner exploited that fear by inviting her to “get your tubes untied and have another baby in a new town where SYPS [*siz*] can’t find us because you are so beautiful when you are pregnant.” Elizabeth, Crystal and Katrina all had their children taken into care. That may yet happen to Nusrat’s children. It is crucial that our statutory child protection service does not inhibit battered women reaching out for protection.

There was one group of women who faced almost insurmountable barriers to seeking help: non-resident women whose batterer was the sponsor of their applications for residence. Sripai needed Kevin’s sponsorship to get residence. He got an order from the Family Court preventing the removal of their daughter from the country.

Every time we had an argument he would say “I will keep the baby here and you go back to Thailand.” That is because he knows that the baby is his.

And, of course, this is exactly what happened to Amira. She has been removed, forced, by an order of the Court, to leave her daughter behind.

Getting Help

Family and Community

Sometimes, family and other community members failed to help women who sought assistance. In some communities, prevailing cultural values tended to blame women for what had happened to them. Lee-Mei told us:

In my culture, if a pregnant woman is thrown out of the house, then she is not considered to be a good woman. She is looked down upon and isolated from the rest of the community.

Marjorie lived in a different cultural context but encountered similar problems.

I would go to the Elders and the Pastor and they would tell me I would need to be more submissive, “You need to be doing this”, and “you need to be doing that”, and it was all this behavioural things which I could do, and it still didn’t stop the abuse ... Things like, “Don’t argue with your husband. Don’t have the last say, let him make the decision. Just be quiet. Don’t say too much.” I had to change my behaviour so he wouldn’t get angry. It was like “If you didn’t say that, then he wouldn’t do that.”

But the case studies also include examples of family and others rallying around to support women. Te Rina was assaulted when she was pregnant.

My mum came in, and said “You don’t do that! Enough is enough. We never gave her a hiding, why should you?”

Another Māori women, Halle, got valuable support from her mother and brothers as she was separating from her partner.

They are big boys, they are tall and big. The policeman comes around and he was so shocked. You could tell what was going through his mind. Like, "Who the hell are these men?" But my two brothers work in [the] mental health field and they resolve the [issues] very quickly, so the situation does not get out of hand.

Such examples serve to remind us that while agencies of the state have particular powers and responsibilities for addressing men's violence, the work cannot be left to them alone. Ending domestic violence requires a multilevel approach in which family and community networks are mobilised to support women and to give men the message, "You don't do that."

Women's Refuge

Almost three-quarters of the women in our cases studies (30 of 43) had contact with women's refuge. Mostly, they did not approach refuge directly but were referred there by police officers and sometimes, by health services. Such referrals were almost universally appreciated. Refuge advocates helped women deal with statutory agencies, provided information about protection orders, got women on a benefit, found them a lawyer or helped them get a state house. They provided practical assistance in helping women move house, ensuring that they and their children were clothed, and ferrying them to appointments. Women's Refuge was the major source of the sort of special domestic violence advocacy which we have recommended.

Protected Persons Programmes

Although not many of the women in our cases studies attended a protected persons programme, those who did spoke highly of them. Patti explained the value of such programmes this way.

It got me in contact with other ladies and realising that ... you're not stupid! Because you feel like you've been so dumb that you actually stayed for that long ... You find that you're not stupid, that these things sort of happen and you learn about how not to do it again.

And Tessa was thirsting for knowledge.

I went in and did *Breaking the cycle*. When the [advocates] came out and saw me they told me what was available and I just did all of them [the programmes]. It was really good ... and I read heaps like *Invisible wounds*¹⁴⁶ and I tried to find books and movies. I was still a student, fresh out of high school. I was still learning and that is what I did.

Protected persons programmes are one of the undoubted successes of the Domestic Violence Act 1995. We have recommended ways to promote them.

Getting a Protection Order

About three-quarters of the women in our case studies (32) applied for a protection order. In each case, the application was without notice. Of these 32 women, 28 got a temporary order. Of the four women whose applications were put on notice, only one got a permanent order, closely reflecting what happens nationally.¹⁴⁷ Because some applications were still to be finalised, we do not know exactly how many women got a permanent order (between 23 and 25). Four women were pressured into dropping their orders or applications for orders. It is important to note that access to protection orders varied across the four streams of case study. In particular, it was clear

¹⁴⁶ Douglas, K. (1998). *Invisible wounds: A self-help guide for women in destructive relationships*. Auckland: Penguin.

¹⁴⁷ Nationally, of applications for protection orders made during a six-month period between 1 October 2003 and 31 March 2004 and then put on notice, just 29% resulted in an order being granted. These figures were compiled for us by the Ministry of Justice in mid-2005, by which time nearly all the applications had been finalised. See Figure A3 in Appendix 1.

that Pasifika and other ethnic minority women were less likely than the other groups to apply for a protection order, and, consequently, less likely to get a permanent order.

The process of getting a protection order was fairly straightforward for many women where the order was made without notice and where the respondent did not file a notice of intention to oppose the making of a final order. However, for women who had to go through a defended hearing, the process was gruelling. Hilda, and her friends who had submitted affidavits in support of her application, were cross-examined by John's solicitor.

His lawyer questioned me 90% of the time about incorrect personal traits of mine which were reported by the judge in his report to be blatantly untrue and made up. I found the questioning to be abrasive and personally interrogatory, and not about the physical attack or chain of events. ... John kept on winking at me, showing how clever he is, that he could get away with that. Every time the judge turned away [to talk to the lawyers] he would turn around and wink at me. I felt completely intimidated. The victim support person was fabulous. She did offer for us to go and wait in a safe room. My daughter said "No way – I'm not hiding from anybody."

Hopes for the Protection Order

Rachel told us what she hoped the protection order would do.

A protection order would give me the power to call the police and they would have to respond to you. They won't fob you off and say, "Are you bleeding?" They usually say that, "Are you bleeding and can you see him now?" I've had that all before.

Jess saw her protection order this way:

It actually made quite a change to my feelings. For the first time I didn't feel completely powerless. I remember that when I got that piece of paper, I photocopied it and stuck a copy of it to my front window – so everyone who came round to the house would see it. I didn't care who saw it. I thought if he comes around, he'll see it. And I carried it everywhere with me. Because it just added something – to me – I was technically being protected, although I didn't always feel that ... It's been a long time coming but now I feel I have grounds for making complaints about his behaviour and that I do have the right to be taken seriously about it. That some judge decided that my case was serious enough that I was worthy of a protection order – it felt like it backed me up a bit.

Unfortunately, too often, protection orders turned out to be no more than the proverbial piece of paper.

Police and the Enforcement of Protection Orders

The police are the front line of the state's response to domestic violence and they have a particularly important responsibility in the enforcement of protection orders. Māori, Pākehā and Pasifika women often called the police – other ethnic minority women, much less so. Whether the women had a protection order or not, the most consistent thing about the police response was its inconsistency. In Halle's words:

It depends on who you deal with. Some are cooperative but some actually felt like they didn't know what they were supposed to be doing.

Roimata could have been speaking for many of the women when she told us:

With the cops, it feels like they can't be bothered – like "Do we have to go through this hassle?" They will practically talk you out of it, like "The charges won't stack up ... it's your word against his word unless he has made a mark." It is like you have to draw blood or have a cut or bruise before they will do anything, and they will say things like, "There's not much to work on."

Like some other women, Katrina became disillusioned with the police.

The police would come and say, "Oh, you've got a protection order. Do you want to press charges? Do you want to use it?" And I would go, "Oh, what for? I used my protection order but you fullas don't come when I ring you. What's the point anyway? The incident happened two weeks ago, and he's just going to come back, and you're not going to lock him up, and he's just going to be on bail, and he's going to bother me again." Some officers did listen to me and some didn't.

Here, Katrina is describing a common problem. That is, breaches of the non-contact provisions of the protection order which are not accompanied an assault were often not followed up, especially if the respondent had left the scene by the time the police arrived. Such breaches were often dismissed as "technical". They were, of course, far from technical for the women. Jess, who appeared to be showing many of the symptoms of post-traumatic stress, described the so-called technical breaches she experienced this way:

The [breaches have] not only been stressful, upsetting, frustrating, destabilising and costly for me, they have also triggered off many memories and feelings from the past abuse by Bruce ... I have had many terrifying nightmares on a regular basis. Nightmares about being stalked, spied on and physically attacked by Bruce. Sometimes the nightmares are situations from the past replaying in my sleep. Sometimes they mirror my feelings of being violated and unsafe because of this current incident. I wake in the night terrified and am unable to get back to sleep because my level of anxiety is so high on waking from them. This feeling of being unsafe and anxious has been very noticeable to me in my waking life also and I recognise it as a post-traumatic stress reaction. Loud noises startle me. I feel anxious that Bruce will find out where I have moved to, or my new phone number and will start harassing me or worse

Some women learned that they needed to be very mindful of the impression they were creating with the police. For example, Hilda had her order breached after a period of not hearing from John. Twice, within an hour or two, she encountered him in the street. She dismissed that as bad luck until he rang her supposedly confidential cell phone number to accuse her of stalking him. Hilda, who also had been assessed as experiencing post-traumatic stress, described herself as in "complete hysteria. I felt so vulnerable." She reported the breach and after a lengthy wait had to endure a lengthy police interview. Later, the officer told her that John had denied making the call to her and he asked her what she wanted to do about it.

I said, "What do you mean, what do I want to do about it? He has breached the protection order and I was told that I have to report every single breach" ... This policeman said to me, "Well you know, in the greater scheme of things, it's only a phone call. It's not a big deal is it, really?" It went through my head that if I go hysterical here, he is going to believe what [John] tells everyone. So I have to hold myself together, and I said, "Hold on a second. To you it may be one phone call – to me it is one in a chain of events."

A candid (and offensive) comment from a police officer gave Rachel some insight into how normal, predictable reactions to violence can lead to women's legitimate concerns not being taken seriously. With an injured leg, she had escaped from a brutal beating by throwing herself down the stairs and crawling to the neighbours. She felt the police officer was pretty "casual" in his approach. The officer returned the next day and told her, "I thought you were completely looney when I saw you." Rachel said:

What sort of fucking comment is that from a police officer? He sees a woman that has been nearly battered to death. What do you think you are going to see? Some beautifully made up woman? Oh man! I couldn't believe what he said.

Jess, like a number of the women in our case studies, had to become very assertive in order to have the police take action when her order was breached. So too Tessa.

Every time he contacted me, whether it was a letter or anything, I would report it to the police station. He was not meant to contact me at all under the protection order and

the police did nothing. The times I started to get really serious and think that I was going to die, I started to hound the police to do something about it. I was reporting every thing. I would do a report and it would get filed and nothing would happen. The incident where he was in the house – that went to CIB [the police Criminal Investigation Branch] and they had a detective working on it. Him and I spent about six months working on it before it went to court so that was a long time.

The detective Tessa refers to was not unusual. That is, women sometimes found a particular police officer who was very responsive and worked hard on their behalf. Rachel had some interesting insights into this. She had mixed experiences with the police, some bad, some good. Of the police attending on one occasion, she noted:

They were really good. They brought a woman police officer ... [She] was absolutely wonderful. She was furious [about the attitude of some of her colleagues] and tried to do her best. She said to me, "I tell you something – police officers are arseholes." She was a police officer working for battered women. But she left. They treated her like a piece of shit. They were just booze-drinking rednecks.

The importance of support from the police is underlined by Louise, who felt generally positive about the police, especially the local family violence coordinator.

I found it [the police response] very validating. They believed me ... I was interested in how they were reacting to the situation because I had been dealing with some of these things by myself and had learnt how to minimise them and suddenly they were saying this shouldn't be happening, they were believing me and they were actioning this stuff and I was going, "Wow, this is good." Made me feel like, yeah, what I was saying was the truth.

Criminal Courts and the Enforcement of Protection Orders

It is useful to think of the criminal justice system as a funnel. At the top, wide end, are all the offences which are reported to the police. At the bottom, narrow end, are the much smaller number of offences which result in conviction and meaningful sentences for the offender. Along the way, many offences are winnowed out. This is reflected in our case studies. Of the many breaches of protection orders reported to the police, few resulted in arrests and prosecutions, fewer in convictions, and fewer again in the imposition of a significant penalty. A similar process applied to other domestic violence offences women reported.

What happened to Tim, Patti's ex-partner, was typical. He received nine months' supervision for his first conviction for male assaults female against her and was required to attend an anger management programme for his second assault conviction. He never completed the course but no consequences ensued. Patti commented:

That's so ridiculous ... It's just like giving them a slap and sending them on their way.

Amy, one of immigrant women we interviewed, provided an international perspective.

It seems to me the law system is protecting the criminal. In China, raping, beating up the child, beating up the wife, you get a big sentence. You don't get community service. Community service ... It's nothing.

Rachel was particularly angry at the failure of the courts to impose a meaningful sentence. For an extended assault, in which the police believed Chris was trying to kill her, he got a suspended sentence. For a subsequent assault and a breach of protection order, he was sentenced to imprisonment but succeeded in an appeal against the judge's refusal to allow him to apply for home detention – which is how he served most of his sentence. Rachel made this comparison.

A man dragged his dog down the road and it was big news and he got two years! But compared to what happens to kids and women ... A piece of toilet paper would have been more protection. It was a mockery. I was worth less than money and my kids were less than dogs.

Without an advocate acting on their behalf, the criminal courts can be a gruelling experience for women. Hilda described it this way.

The [criminal] court is where I felt completely and utterly vulnerable, and completely unsupported and alone – whereas he, as the defendant, had a lot of support and he had rights ... It was very stressful. I wanted to fall apart. I felt like my whole body is stripped of skin and you are completely and utterly out there on your own. And somebody touches you – that's how I felt. I couldn't show that to the outside world because then ... they would really believe what he is telling them – that I was a controlling woman. It was the weight of the world on my shoulders trying to keep it all together, while I was being attacked from every angle. I would say to people, "I understand that he has rights, and I'm okay with it, but what are my rights?" Not one person has ever been able to answer me. I didn't have any rights.

Hilda outlined the way John was able to delay proceedings in the criminal court by initially pleading not guilty, then changed his plea just before the hearing, only to then dispute aspects of the police summary so that a hearing had to be scheduled after all. It took almost a year before he was finally convicted and sentenced to 150 hours' community work. To Hilda, the delay "was like a sword over my head all the time."

Such delays provided greater opportunity for the offender to pressure his victim into withdrawing her participation in the prosecution. For example, Stephen frequently escaped conviction by intimidating Elizabeth. Such intimidation even occurred in the precincts of the court when he arranged for photographs of Elizabeth's dead twins to be given to her by his mother. Fragile at the best of times, Elizabeth "just crumbled" as Stephen's solicitor suggested that she blamed Stephen for the twins' deaths and that the charges were her way of getting back at him.

Similarly, Katrina described how Rana harassed and stalked her while he was on bail awaiting trial for breaching her protection order. She said:

When it came to having to have to use my protection order, I used it, but it didn't happen the way I thought it would happen. The drama of the court, the having to tell the story, the trying to remember what happened – and it took a long time to get it to court. [Rana] was still out on bail. He was still stalking me, harassing me, bothering me, making me run away. I had to leave my home. In and out of refuge

Rana was never charged for any of his pre-trial actions. In only one case, Lyla's, was a man successfully prosecuted for attempting to pervert the course of justice through such intimidation. The resulting prison sentence provided Lyla with a vital window of opportunity to re-establish herself in another town. Although her ex-partner did track her down, she was able by then to resist his attempts at reconciliation.

As Jess discovered, part of the problem is the policy of generally imposing concurrent sentences for similar offences.

I got told recently by a police legal advisor that even when there have been multiple breaches of the order, they only need to prosecute one as the sentencing all goes together anyway. But this doesn't give a clear picture of the real situation that is occurring. And not only that – my experience of police is they won't prosecute one minor offence at a time anyway.

On the other hand, the value of clear and unambiguous messages is illustrated by what Te Rina told us. She thought Pera had learnt something from being prosecuted for an assault on her.

He wants to hit me, but he knows the next time, he will go to jail. The judge told him, that if ever he is back in his court for assault, he's gone. So he's pretty worried.

Care of Children Act 2004 Proceedings

Experiences of resolving post-separation parenting issues inevitably arose in our conversations with our participants. That it, it was clear the women were negotiating their own safety within the

context of their concerns for children. Moreover, several of the women found themselves involved in protracted Care of Children Act 2004 proceedings as their ex-partners used litigation as a way of controlling them. This motivation was quite obvious in the cases of men who fought for contact which they never fully exercised (see the case studies of Tessa, Amy and Louise). (Additionally, Louise's ex-partner initially agreed to her relocating with the children but then sought an order preventing that when he learnt about her new relationship.)

Certainly, Peter used the court processes to intimidate and harass Amy.

Every week or sometimes twice a week, the lawyer would call up and say, "We got another affidavit from Peter and another from his friend." And the information in those affidavits were just lies. I was so angry about what he said. For a person like me, I asked for an interpreter. I speak some English, but not good enough to do this legal stuff. I can't write in English. I have my dictionary with me. I go through these affidavits line by line. My lawyer doesn't speak Chinese so I had to do it myself. Every day, I just worked on the affidavits, and talked to my lawyer. I seemed to have to say the same things over and over again, and I almost lost my hope. It was only my mother-in-law saying "just hold on" that kept me going.

For Louise, extended litigation in the Family Court had a serious impact on her health.

I started to get really sick. I was vomiting. I had diarrhoea. I couldn't work. I couldn't talk to anyone about it I was so wound up and worried about everything ... It was meant to be good fun [the planned move] and it turned into the worse mess of my life.

Priya has taken another tack. She has "reconciled" with Satya.

It was for the sake of the children ... Another reason was the culture that I come from. In my culture, we are always told that a woman's place is with her husband no matter what.

Priya knows what some judicial officers seem to fail to understand: that the risk batterers pose to children often increases, rather than decreases, following separation as their mothers are no longer present to protect them.

Women's comments tended to confirm what our key informants told us, that contact with an abuser often trumps safety for women and children in the Family Court. Rachael told us:

My kids didn't want to go [to access visits] but the court has ordered that they get to see this psycho man. The kids were terrified with him.

In her view, the Family Court did not take seriously the safety of either the children or herself.

The judge in the Family Court said to me, "What do you mean, you don't want us to know your address? How can we post you anything if we don't know your address?" In the meantime, [Chris] is sitting in the court, so [my lawyer] has to remind the judge about the safety issue. No matter what he did to me or what he put his kids through, [the judge] in the Family Court totally minimised me. Even my lawyer at the time wasn't very good. I was in the middle of severe trauma and she was saying, "Be quiet, be quiet. You can't speak out in court." I was speaking out because [Chris] was getting access to the kids and I felt like I was crazy and perhaps all these people were right, but I knew deep within my own being that this was outrageous. From whoa to go, it was treated really badly.

The corollary of this emphasis on violent fathers having contact with their children was that women were coming under considerable pressure to put aside concerns about the safety of their children and agree to liberal contact provisions – in order to avoid being characterised as an alienating parent. This was very clear to Patricia, who was advised not to oppose bail for George when he was remanded on serious charges arising from an incident in which he assaulted Patricia in the presence of the children and had held Debbie at knifepoint.

I sort of felt like I was looking like I was trying to make life harder and worse for him and in the long run I knew it would come down to access to the kids which he will

eventually want and the fact that his parents are very good to us and they'll want to see the kids. I didn't want to look like I was making things hard. [I wanted to] look like I was a good person in all this.

The Family Court's preference for resolving parenting issues through mediation and conciliation served the women in our case studies poorly. This is hardly surprising. As we have shown, the social science literature has raised serious questions about the appropriateness of such approaches in cases of domestic violence. Amanda's experience confirmed this. In mediation, she was "bullied" into consenting to a shared parenting order.

We got a shared care order because he is such a bully and his lawyer is such an incredible bully.

Amy found herself referred to counselling with John in an attempt to resolve issues concerning the care of their daughter, Joy. In her case, she had to not only deal with the bullying tactics of her abuser, but also the unprofessional, culturally unsafe approach of the counsellor.

[The counsellor] didn't seem to know anything about our culture. I don't know whether she was racist or not but she didn't like me. She made me feel that these things that were happening were all my fault. I got the feeling that it was my problem that my husband left me, my problem that my daughter didn't have two parents. I just felt guilty. At first I told her that I'm studying, I'm working, I'm planning to do this and this for my daughter. I'm planning to have a better job than a labourer's job. She told me that I should read to my daughter at night. I said, "I do. I read to her, in Chinese." She said, "You're in New Zealand now; you have to read to her in English!"

This counsellor also questioned Amy on why she was studying at night: "Do you think that your daughter is less important than your studying?" Then Amy told us:

She made me so confused. I'm the kind of person who can't just sit at home and get depressed. I want to do something, to continue with my study. And when I told her that my daughter and I sleep in the same bed, she said, "That's unacceptable! I can't believe that with your daughter being two and a half, you're still sleeping with your daughter." I didn't even bother to tell her that I slept with my parents in their bed in China until I was six. I felt that the counsellor was so judgemental. I didn't know then that I could apply for a Chinese-speaking counsellor. I came home with tears running down my eyes. My mother-in-law told me to tell my lawyer to get me another counsellor.

The racism of certain professionals seem to be implicated in Amira's case. Her lawyer noted that when Amira was upset, she would become very animated, would wave her arms around and switch between English and the other languages she spoke.

And she would cry, even in court. Like at the mediation, she would cry. Lots of clients cry in mediation but it was quite an expressive cry. "This is my baby!" A stream of tears, not just a – well, you know, in our culture, even the ones that do cry – well usually, they are trying to hold it back. She wasn't trying to hold it back. It was just coming out.

Accordingly, counsel for the child and the presiding judge, seem to have formed a very negative view of Amira. As we know, she has been removed while her daughter remains in New Zealand in the care of her father.

Sripai may face the same fate. Potentially, she and her daughter will become victims of the disparate responsibilities of the Family Court, which has made an order preventing Alana's removal from New Zealand, and Immigration New Zealand, which may yet seek her removal from the country now that Kevin has withdrawn sponsorship of her application for residence.

I am in an impossible situation. I cannot return to Thailand with Alana because of an order preventing removal of Alana from New Zealand.

Our Reflections

Seventeen years ago, two of us (Ruth Busch and Neville Robertson), along with Hilary Lapsley, were commissioned by the Victims' Task Force to investigate women's experiences of non-violence and non-molestation orders under the Domestic Protection Act 1982. Our report¹⁴⁸ described what we called a "gap" between women's lived reality of the violence they faced and the justice system's minimisation, trivialisation and victim-blaming approaches to such violence. That gap was evident in the ways in which the police and the judiciary minimised the severity and impact of domestic violence on women and children. It showed in the lack of real consequences for perpetrators of domestic violence, though not, of course, for their victims. What we encountered then was a justice system which often saw violence as an indication of a dysfunctional relationship, a symptom of a real problem in the relationship, but not a real problem of itself. After analysing our case studies and reviewing decisions in the family and criminal courts, we realised that what we had learned was not how to stop domestic violence from reoccurring, but how to write a manual for abusers to ensure that they could continue to intimidate, coerce, and physically abuse their partners without facing any consequences.

Fifteen years after completing our earlier study, what we have described in the previous chapters and in Volume 2 of this report is a justice system very much like the one we had believed the Domestic Violence Act 1995 would improve. In a myriad of ways – the process used to "hear" section 13 applications for temporary protection orders, the haphazard enforcement of protection orders, the minimisation of the impact of psychological abuse on victims of domestic violence, the use of alternative dispute resolution processes in the Family Court which expose women to further abuse, parenting orders which fail to protect either women or children, decision making in the criminal courts which further trivialises violence against women – the problems that we had hoped had been remedied by the implementation of the Domestic Violence Act 1995, and the Guardianship Amendment Act 1995 which accompanied it, have been resurrected. These problems have resurfaced under the mistaken belief that a child's welfare and best interests will be promoted by having unsupervised contact with an abusive parent – and by its corollary, a belief that women use protection orders as a "weapons". In the ultimate irony, the erosion of women's and children's safety is justified by the New Zealand Bill of Rights Act 1990 provisions for natural justice¹⁴⁹ – as it relates to fathers. The irony, of course, is that the perpetration of domestic violence is arguably the most widespread human rights breach in New Zealand today. In our view, police and judicial practices which do not prioritise the safety of victims tacitly collude with those human rights breaches and are of themselves a further breach – this time by the state – of the human rights of battered women.

It should be noted that this abuse of human rights does not affect all battered women equally. While justifiably angry with many aspects of how police, courts and counselling services treated them, it has to be said that the Pākehā women in our studies did not face some of the additional barriers experienced by Māori, Pasifika and other ethnic minority women. The response to women other than Pakeha was shaped by racism, an inadequate understanding of relevant cultural values, a lack of culturally appropriate services, a failure to provide interpreters or a failure to simply be patient when listening to women whose English is (to the listener's ears) heavily accented. In addition, the isolation typically imposed on battered women was often accentuated for women living within marginalised ethnic, cultural and religious communities, for whom the maintenance of the family unit and the preservation of face often took priority over

¹⁴⁸ Busch, R., Robertson, N. R., & Lapsley, H. (1992). *Protection from family violence: A study of breaches of protection orders*. Wellington: Victims Task Force.

¹⁴⁹ New Zealand Bill of Rights Act 1990, s. 27(1): "Every person has the right to the observance of the principles of natural justice by any tribunal or other public authority which has the power to make a determination in respect of that person's rights, obligations, or interests protected or recognised by law."

women's safety and autonomy. And as our case studies show, immigrant women whose batterer is their sponsor for residence are particularly vulnerable. In the worst cases, the state separates them from their children, handing them to the abuser. This happens when, on the one hand, the Family Court grants an order preventing removal of the children from the country, and, on the other hand, Immigration New Zealand declines the mother's application for residence and serves her with a removal order. As mentioned above, we completed our earlier study able to write a manual for batterers on how to abuse and escape the consequences. We can now write a similar manual for the violent husbands of immigrant women.

As we demonstrate in Chapter 7, the Domestic Violence Act 1995 and the rebuttal presumption introduced concurrently by the Guardianship Amendment Act 1995, are consistent with sound risk assessment practice. Moreover the contextualised definition of domestic violence used in the Domestic Violence Act resonates with women's experiences. That is, it recognises the significance of psychological violence. It takes cognizance of the harm done to children by witnessing domestic violence. It reflects an understanding that single acts which, when viewed in isolation, may appear to be trivial nevertheless amount to domestic violence when part of a pattern of behaviour.¹⁵⁰ Unlike common public and judicial discourses about the presumed causes of domestic violence – low self-esteem, alcohol, poor communication, relationship difficulties, inadequate impulse control to name but a few – the definition of domestic violence reflects the reality that violence results in the perpetrator gaining power and control over his victim. Although we have recommended minor changes, we think that the current legislation provides a conceptually sound framework for achieving the policy objective to:¹⁵¹

reduce and prevent violence in domestic relationships by—

- (a) Recognising that domestic violence, in all its forms, is unacceptable behaviour; and
- (b) Ensuring that, where domestic violence occurs, there is effective legal protection for its victims.

What is needed are mechanisms for ensuring that the law is implemented as it is written, not as certain decision makers wish it had been written. Our recommendations relating to training, monitoring and evaluation, specialist domestic violence victim advocacy, improved collaboration between state and community agencies, and regular safety audits have been developed with that goal in mind. In many ways, our report makes a very modest request: enforce the law.

Women's Expectations

We have been struck by how modest, too, have been the expectations of the women we interviewed. Marjorie could have been speaking for any one of them when she told us what she needed in her relationship with Alistair.

I would have needed him to deal with his anger; I need him to have a positive reaction to me. He needs to honour and respect me, and he needs to love me. Yet I never really used love before but to me you have to want to be with someone. He wanted to change me – that's what he wanted to do – and he needs to not want to change me. He needs to accept me for who I am ... and I would have to see it that way before we ever got together.

Similarly, contrary to the view that women use protection orders as a weapon in parenting disputes, we were struck by the fact that the women with children, even the women with the

¹⁵⁰ Domestic Violence Act 1995, s. 3(4)(b): "A number of acts that form part of a pattern of behaviour may amount to abuse for that purpose, even though some or all of those acts, when viewed in isolation, may appear to be minor or trivial."

¹⁵¹ *Ibid*, s 5(1).

most violent of partners, had no particular problem with those partners having contact with the children. They simply wanted for the children – and themselves – to be safe during such contact and contact changeovers. That is exactly what is stipulated in the mandatory risk assessment provisions of the Care of Children Act 2004.

We often asked women what recommendations they had for change. Louise responded:

If the Family Court could grow a heart ... it would be interesting if they had people who were in touch with family ... In my experience it is a very cold heartless place, a totally foreign place to the world I work in ... What I found out about that process was that it was very very hard and very very cold. And there were no children in the Family Court. There were lawyers making lots of money and a judge doing I know not what ... They were cold and heartless and they were not there for the wellbeing of my children.

The women wanted simply to be taken seriously. When we asked Roimata for her suggestions, she told us:

We need to recognise that a woman needs time to get over the violent relationship. She needs to get to a place where she is not so upset, where she can deal with the authorities, when she is in a good frame of mind and knows what she is actually doing. And people need to take her seriously, even if she is emotional.

Patti wants people to become more aware of domestic violence.

Get out there, into the community and get the community to recognise that this is actually happening 'cause it is quite hidden. People don't want to recognise it.

We agree with Patti. We think New Zealand is in deep denial about the nature and extent of violence against women and children. Perhaps it takes a new arrival to recognise this. Lee-Mei's experiences have certainly left her disillusioned with the New Zealand justice system.

I thought women in New Zealand had protection of the law. This shouldn't happen in New Zealand ... I don't know what's wrong with the system. A woman like me who is pregnant should be careful about using protection orders. What did the judge think? What would John have lost by [the judge] granting me temporary protection orders?

Lee-Mei told us that her reason for participating in the study was that she wanted women to learn from her experience and be wary about applying for protection orders. She does not believe there is any point in pursuing legal remedies.

Despite the significant problems Tessa had in getting her protection order enforced, she had a slightly more optimistic view. When asked if she would take out a protection order now, she replied:

I know how they work now ... I think it is better to have one than it is not have one but I don't think it is really protective until the courts get real about it and tougher, and the police get a bit more on to it ... The police and the courts are the ones that make protection orders work. Otherwise it's just a piece of paper.

Finally, Tiare had a very simple answer when we asked her what she had expected.

For the system to protect me.

In our 1992 report, we ended the preface by stating:

Whether first posited by Rabbi Hillel or Tracey Chapman, the relevance of the question still echoes: "If not now, when?"

Fifteen years later, after the passage of the Domestic Violence Act 1995 and the Guardianship Amendment Act 1995, and after the deaths of 212 women and children at the hands of their partner/parent, we have searched for a sentence which can summarise our thoughts today. We have settled on these words from T. S. Eliot's *The waste land*:

Hurry up please, it's time ...