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BATTERING, FORGIVENESS, AND REDEMPTION

BRENDA V. SMITH*

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INTRODUCTION

Is there a place for words like forgiveness and redemption in our discourse on battering and domestic violence? In the almost thirty-year history of the domestic violence movement,¹ these words have been conspicuously absent from the dialogue and the debate. The absence of discourse on even the possibility of forgiveness or

* Associate Professor of Law, *Washington College of Law, American University*. I would like to thank my mother, Geneva Baker, for her willingness to share her story, and my father, Charles Smith, for his willingness to change. I would also like to thank my colleague at *WCL*, Ann Shalleck, Professor and Director of the Women and the Law Program, who encouraged me to participate in this important symposium, and Rebecca Goldfrank and Loren Ponds, my research assistants, for their excellent work on this project. Finally, I would like to thank my clinical colleagues, particularly those who participated in the Mid-Atlantic Clinical Theory Workshop and who commented on this Article in its earliest stages.

1. See generally ELIZABETH M. SCHNEIDER, *BATTERED WOMEN & FEMINIST LAWMAKING* (2000) (surveying the progression of the feminist movement in the domestic violence context).

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redemption has made many, including me, uncomfortable with engaging in the work and the debate surrounding domestic violence.² Without understanding, acknowledging and accepting principles of forgiveness or redemption, there is little hope for successful intervention in lives affected by domestic violence. Without discussion of these principles, it is difficult to understand the cyclical nature of relations between batterers and battered women,³ and to craft strategies and interventions that are effective and healing. Without an understanding of forgiveness and redemption, individual wrongdoers and victims alike may remain focused on vengeance and blame, missing important opportunities to proceed as successful, albeit fallible, human beings.

The words “forgiveness” and “redemption” are loaded in this context. We have been nurtured on the belief that some acts are unforgivable—battering, murder,⁴ abuse of children—and that people who commit these acts are irredeemable.⁵ Not only is forgiveness not a part of the discussion in the domestic violence movement, most scholars are very critical of even introducing the concept of forgiveness.⁶ They believe that focusing on forgiving detracts from the seriousness and unacceptability of domestic violence and opens the possibility that women will return to situations that are dangerous

2. See Donna Coker, *Enhancing Autonomy for Battered Women: Lessons from Navajo Peacemaking*, 47 UCLA L. REV. 1, 72 (1999) (observing the internal conflict among women of color who fear that resorting to traditional and racist institutional powers to cope with domestic violence will only perpetuate the violence within the community); see also Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241, 1242-44 (1991) (critiquing the failure of the feminist and antiracist movements to consider and address the intersection of race and gender in the domestic violence context).

3. See Deborah Sontag, *Fierce Entanglement*, N.Y. TIMES, Nov. 17, 2002, at 53 (tracing the history of one woman’s experience in a co-dependent, violent relationship and discussing the inadequacies of current approaches to addressing women’s needs and coping with domestic violence).

4. See generally Paige McThenia, *The Role of Forgiveness in Capital Murder Cases*, 12 CAP. DEF. J. 325 (2000) (discussing the various functions of forgiveness and its use in defending death penalty cases).

5. See generally Pamela Bridgewater, *Connectedness and Closeted Questions: The Use of History in Developing Feminist Legal Theory*, 11 WIS. WOMEN’S L.J. 351 (1997) (arguing that women who commit infanticide are outside of feminist theorists’ lens because of the unfathomable nature of their conduct); ELIZABETH S. MENKIN, VICTIM OFFENDER RECONCILIATION PROGRAM, INFORMATION & RES. CTR., I FORGAVE MY SISTER’S KILLER (last visited Mar. 17, 2003) (describing the author’s personal transformation from a desire to seek vengeance and retribution against her sister’s killer to reaching a mediation agreement with and eventually forgiving the offender), available at <http://www.vorp.com/articles/forgave.html>.

6. See, e.g., Symposium, *The Role of Forgiveness in the Law*, 27 FORDHAM URB. L.J. 1351, 1396 (2000) (exploring the skepticism of forgiveness in the law, particularly within the domestic violence context).

and dysfunctional.⁷

Yet the precepts of many religious⁸ and psychological principles⁹ are based on forgiveness and redemption. These principles are premised on the belief that forgiveness is good in and of itself, that it is strengthening, and importantly, that it is necessary for the salvation and healing of the injured person. These principles, of both religion and psychology, leave open the possibility of redemption no matter what the individual has done.¹⁰ Both religious leaders and psychologists believe that without the possibility of forgiveness and redemption, individuals lose hope and motivation to change their lives.¹¹

What is forgiveness? Joanna North, in *Wrongdoing and Forgiveness*, offers that people who rationally determine that they have been unfairly treated “forgive when they willfully abandon resentment . . . and endeavor to respond to the wrongdoer based on the moral principle of beneficence, which may include compassion, unconditional worth, generosity, and moral love.”¹² Martha Minow frames her discussion of forgiveness in the context of choices to punish or reconcile.¹³ She explains that a punishment model would be consistent with what is now the predominant response to domestic violence; retribution or vengeance through prosecution.¹⁴ Minow suggests an alternative model and describes that structure as

7. See Sontag, *supra* note 3 (discussing the recurring pattern in which a battered woman leaves and later returns to her husband).

8. See, e.g., Robert Postawko, *Towards an Islamic Critique of Capital Punishment*, 1 UCLA J. ISLAMIC & NEAR E.L. 269, 271-72 (2002) (attempting to reconcile Islamic beliefs with abolition of the death penalty and dismissing the significance of retribution while noting, “the Qur’an stresses that it is more laudable to forgive than to seek vengeance.”); Abbe Smith, *The Calling of Criminal Defense*, 50 MERCER L. REV. 443, 466-73 (1999) (discussing the pivotal role of forgiveness in the Jewish tradition); John Paul II, *Message of The Holy Father for Lent* (Oct. 4, 2001) (“The only path to peace is forgiveness. Forgiveness given and received enables a new kind of relationship between people, breaking the spiral of hatred and revenge and shattering the chains of evil which bond the hearts of those in conflict with one another.”), available at <http://www.liturgical/lent/2001jplllent2002.html>.

9. See generally Jonathan R. Cohen, *Advising Clients to Apologize*, 72 S. CAL. L. REV. 1009 (1999) (discussing the psychological benefits of apologies).

10. See, e.g., Michael E. McCullough et al., *Interpersonal Forgiveness in Close Relationships*, 73 J. PERSONALITY & SOC. PSYCHOL. 321, 325-26 (1997) (asserting that an apology by the offender creates empathy on behalf of the injured party, which later progresses into forgiveness).

11. See generally Erin Ann O’Hara & Douglas Yarn, *On Apology and Consilience*, 77 WASH. L. REV. 1121 (2002) (discussing the conceptual meaning of an apology and probing its effects).

12. Joanna North, *Wrongdoing and Forgiveness*, PHIL., 62, 502 (1987).

13. See Martha Minow, *Between Vengeance and Forgiveness: Feminist Responses to Violent Injustice*, 32 NEW ENG. L. REV. 967, 969 (1998).

14. See *id.*

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grounded in restorative justice and focused on reconciliation.¹⁵ “Restorative justice emphasizes the humanity of both offender and victim, and repair of social connections and peace as more important than retribution.”¹⁶ A focus on reconciliation in the domestic violence context would look at ways to include forgiveness in the lexicon of possible outcomes.¹⁷

Again, the language in this context is loaded, because reconciliation, which is widely used in restorative justice models, runs contrary to another tenet of domestic violence work; namely, that women should not return to situations where battering has occurred. So, reconciliation in the restorative justice model means situating the wrong in the context of the community and having appropriate community-based responses and solutions to the offense. It does not necessarily mean, as we often think in the domestic violence context, that the parties will reconcile, reunite or renew their relationship.

Forgiveness is often associated with forgetting and a lack of accountability for the wrongdoer.¹⁸ Yet forgiveness can include both accountability and remembrance.¹⁹ Being forgiven creates opportunities for accountability because the focus is on the *conduct* of the offender, and not on the offender as a person. The offender is forgiven for his actions, but still held accountable, either through judicial intervention, community and family disapprobation, loss of important rights such as liberty and family interaction, or through alternative forms of dispute resolution.

Why even discuss forgiveness or redemption in this context? Many would say that the decision to forgive depends on whom you are talking about forgiving and who or what behavior is capable of redemption. There are many spaces for forgiveness in the discourse on domestic violence: forgiveness of self for permitting oneself to be battered; forgiveness of self for exposing children to violence; forgiveness of the batterer; and forgiveness of an unresponsive justice system. While the focus of the discussion on battering often centers on the fallibility of male batterers and abused women forgiving them,

15. *Id.*

16. *Id.*

17. See, e.g., Sally Engle Merry, *Rights, Religion, and Community: Approaches to Violence against Women in the Context of Globalization*, 35 LAW & SOC'Y REV. 39 (2001).

18. See MARTHA MINOW, BETWEEN VENGEANCE AND FORGIVENESS: FACING HISTORY AFTER GENOCIDE AND MASS VIOLENCE 9 (1998) (“Forgiveness . . . seems to rule out retribution, moral reproach, non-reconciliation, a demand for restitution, and in short, any act of holding the wrongdoer to account.”).

19. See Minow, *supra* note 13, at 971-72 (describing various public apologies that incorporated both acceptance of responsibility and remembrance).

this movement has only recently begun to identify battered women's needs for forgiveness. Moreover, the movement has only haltingly begun to accept the fallibility of battered women.²⁰

While there has been some acknowledgement that battered women kill,²¹ there has been less acceptance that battered women may neglect or even abuse their children.²² Battered women who abuse alcohol and other drugs are ignored at best, and at worst, excluded from the discourse on battering.²³ And what of the many battered and abused women in prisons and jails²⁴ who have been arrested for some other offense?²⁵ Can those fallible women be "forgiven" for their offenses and allowed to receive the community affirmation, validation, social services, and protection that other battered women

20. See Linda A. Ammons, *Dealing with the Nastiness: Mixing Feminism and Criminal Law in the Review of Cases of Battered Incarcerated Women—A Tenth-Year Reflection*, 4 BUFF. CRIM. L. REV. 891, 910 (2001) (reflecting upon efforts to grant battered women clemency while critiquing those same efforts as piecemeal, delayed responses to a widespread problem); Joan S. Meier, *Notes from the Underground: Integrating Psychological and Legal Perspectives on Domestic Violence in Theory and Practice*, 21 HOFSTRA L. REV. 1295, 1305 (1993) (commenting on varied social science theories, used in court by experts and attorneys, to explain the behavior patterns of battered women).

21. See generally ANGELA BROWNE, *WHEN BATTERED WOMEN KILL* (1987) (providing an historical and legal overview of women who kill their battering partners).

22. See, e.g., Elizabeth M. Schneider, *Particularity and Generality: Challenges of Feminist Theory and Practice in Work on Woman-Abuse*, 67 N.Y.U. L. REV. 520, 552-56 (1992) (discussing societal expectations that women "transcend their own victimization, to act on behalf of their children, regardless of their own situations"); see also SCHNEIDER, *supra* note 1, at 158-59 (detailing cases where women in violent relationships were held responsible for neglect because they were aware of the dangerousness of their spouses). Schneider further comments on several New York cases in which women were held liable for child neglect by allowing children to witness domestic violence. See *id.*

23. See BETH RICHIE, *COMPELLED TO CRIME* 94 (1996) (describing experiences of African-American battered women who were refused social services due to drug and alcohol abuse or other factors such as homosexuality, prostitution activities or involvement in drug sales).

24. See generally CAROLINE WOLF HARLOW, BUREAU OF JUSTICE STATS., U.S. DEP'T OF JUSTICE, *PRIOR ABUSE REPORTED BY INMATES AND PROBATIONERS* (1999) (revealing that 57.2% of women in state prisons and 39.9% of women in federal prisons had experienced either physical or sexual abuse before admission to prison), available at <http://www.ojp.usdoj.gov/bjs/abstract/parip.htm>; Angela Browne et al., *Prevalence and Severity of Lifetime Physical and Sexual Victimization Among Incarcerated Women*, 22 INT'L J.L. & PSYCHIATRY 301, 303-07 (1999) (discussing the link between a history of violence and increased incarceration of women while comparing six studies estimating the incidence of abuse in the lives of incarcerated women to be between 29% and 85%).

25. See RICHIE, *supra* note 23, at 20-21 (surveying crimes of incarcerated African-American and white battered women involved in study and identifying these offenses as inclusive of child murder, assault of men other than spouse, illegal sex acts, crime during assault, economic crimes, and illegal drug activity); Minow, *supra* note 13, at 971-72 (noting the incongruous stance of feminists who have generally been silent on criminal justice issues, except to push for greater forgiveness of women and harsher penalties for men).

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receive?²⁶ This Article focuses on a topic that, though discussed, has frequently been dismissed in the domestic violence discourse; battered women's forgiveness of their batterers and battered women's process of forgiving themselves for participating in the relationship.²⁷ I will use the device of a personal narrative taken from my own experience to explore these two issues.²⁸

I. WHY TALK ABOUT FORGIVENESS AND REDEMPTION?

Why do I talk about forgiveness and redemption? Because, I come from a tradition of love, forgiveness and redemption. I was raised in a Pentecostal church in South Florida.²⁹ A foundation of that experience was that you could always come back. No matter what or who you had become—drunk, prostitute, murderer, abuser—or who you were—child, man or woman—there was always space for you. It was never too late to repent your misdeeds, seek forgiveness, redeem yourself and come back.³⁰ It was understood that the breadth of

26. See Schneider, *supra* note 22, at 556 (discussing challenges faced by “women who depart from traditional stereotypes of perfect mothers, including those who are sexually active, lesbian, or battered”).

27. In this Article, I am addressing only the interactions between battered women and male batterers. However, that is not to minimize domestic violence that crosses gender, sexual orientation and age lines. See generally *Revolutions Within Communities, The Fifth Annual Domestic Violence Conference, Lesbian, Gay, Bisexual and Transgender Communities and Intimate Partner Violence*, 29 FORDHAM URB. L.J. 121 (2001); PATRICIA TJADEN & NANCY THOENNES, BUREAU OF JUSTICE STATS., U.S. DEP'T OF JUSTICE, EXTENT, NATURE, AND CONSEQUENCES OF INTIMATE PARTNER VIOLENCE: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY (2000) (reporting that 834, 732 women reported intimate abuse, as compared to approximately 160,000 men, in a 1998 study on partner violence), available at <http://www.ojp.usdoj.gov/nij/pubssum/181867.htm>; ADMIN. ON AGING, THE NATIONAL ELDER ABUSE INCIDENCE STUDY: FINAL REPORT (1998) (discussing increased incidence of elder abuse), available at <http://www.aoa.gov/abuse/report/default.htm>.

28. I offer this narrative only as my experience and the experience of my family. It is explicitly anecdotal and speaks to my understanding and integration of those experiences. It is meant to be illustrative and not authoritative. Certainly, other women and children affected by domestic violence have different experiences and perspectives. I offer it as one way to look at the concepts and process of forgiveness and redemption.

29. I am sure that for some, the notion of Pentecostals as “forgiving” is somewhat incongruous. Indeed, I encountered many contradictions of this notion myself, while growing up: women not being able to wear pants (I did); not listening to secular music (I did); not dancing (I did); and being subservient to men (I wasn't). Despite all this, within the community there remained a tremendous acceptance of people who had overcome or were still struggling with problems such as abuse, alcoholism, drug addiction and prostitution. More recently, my church has been dealing openly with AIDS and adultery among the congregation.

30. In my church, there was a public space during the service called “testimony service.” During that time, anyone could stand and “testify” about God's goodness or even confess a “sin” or misdeed and ask for forgiveness. Usually, when this happened, the church would unitarily offer affirmation for the individual's statement

God's abundance and forgiveness included you, no matter what you had done, no matter where you had been.

The experience of growing up in a Pentecostal or "holiness" church shaped my thinking about many things in both positive and negative ways.³¹ At the same time that the church exerted this powerful influence on my thinking, I lived in a household where my father beat my mother regularly. The police knew our address. They came on Fridays or Saturdays and locked up my father. My father's girlfriends would bail him out of jail each weekend. And he would return to our home. My mother reminds me of how she used to sleep with either my sister or me, or put both of us in bed and sleep between us, so that my father would not try to beat her or have sex with her. It is only as I have become older that she has referred to my father's conduct as rape. I forget and she reminds me of how we used to sleep under the bed so that he could not reach her.³²

I have asked my mother why she stayed and she explains:

I stayed because the church told me to stay.³³ They quoted scripture about our heavy burden and told us that we were supposed to endure the abuse. I was not the only one. A lot of us were working like dogs in the fields³⁴ and being abused at night.

and display public acceptance of him/her. On a visit home last year, I saw this practice in action. The minister asked an estranged couple to come forward. He publicly asked the woman if she would forgive her husband for his actions (infidelity, drunkenness, deceit and abuse). Both male and female church elders stood around the couple. The woman indicated that she would forgive her husband, but that he could not return to their home. Thus, the woman offered forgiveness while simultaneously holding her husband accountable for his actions.

31. For example, smoking and drinking were absolutely forbidden in my church. Consequently, I almost never smoke or drink. At the same time, the strictures of growing up in an institution where women were not permitted to preach or lead, even when they were responsible for the survival of the church, meant that I sought opportunities to be visible and powerful as a woman.

32. In relating these stories, my mother focuses less on the violence and more on the issue of how these experiences brought my mother, my sister, and me closer to each other, and how overcoming them were formative events for the three of us, both personally and spiritually.

33. See generally Merry, *supra* note 17, at 60-70 (discussing the powerful role of the church in domestic violence situations and remarking on its anti-divorce stance); see also Katherine Hancock Ragsdale, *The Role of Religious Institutions in Responding to the Domestic Violence Crisis*, 58 ALB. L. REV. 1149, 1154 (1995) (analyzing religion's role as fostering a hierarchical system of creation and humankind, and thus a natural domination of church and men over women and children).

34. My mother and five of my aunts did farm work. My mother, her sisters and their children worked on farms all over Florida and in several other states. Depending on age, my cousins and I worked alongside our mothers or ran errands like getting water, preparing lunch or keeping up with the money. One of my first memories is of sitting on a wire basket in a huge field that seemed to stretch endlessly. I remember being moved from row to row on the basket, occasionally putting tomatoes in the basket.

Your Dad used to take my money.³⁵ I would get all these dimes for picking tomatoes and he would take them and throw them all over the floor. I would be crawling around on the floor trying to get my money.

I stayed because I had been beaten all my life by my mother. I left my mother's abuse because it was more acceptable for a grown woman to be abused by her husband. I stayed because I wanted you and your sister to have a name. In my family we all had different last names; Mathis, Minatee, this, that. I didn't want that for my children. I said that I would endure in order for you to have better.

Like many battered women, my mother left and returned.³⁶ Her return was motivated both by economic and social factors. Economically, we were poor;³⁷ my father's income as a brickmason made the difference in our being able to own a home and have a car. Socially, being married indicated status. Many women in our community were not married and had children from a series of relationships,³⁸ but my mother aspired to be different—better. She also had been raised in the Pentecostal church and believed that divorce was a sin.

I remember one of the occasions when my mother left and returned. My parents had had a particularly violent fight, and my mother had decided that she could not take any more. She decided to leave the house, furniture, and dishes and to move to peace and safety. We moved out of our house into a very small house in a neighborhood of other little box houses. There was one bedroom for all of us, whereas before, we had lived in a three-bedroom house. We had a black and white television and few of the comforts of home. My aunt Josephine, in a tradition of self-help, ejected my father and his current girlfriend from our home and we moved back to our

35. If you worked "by the piece" you earned money for each basket of produce you picked. One basket was a dime. Two baskets were a quarter. If you worked "by the day," you earned minimum wage, which was \$10-12 per day at that time.

36. See generally RICHIE, *supra* note 23 (discussing the continuum of oppression suffered by poor, uneducated women of color who may not perceive domestic violence as their most serious problem); LENORE WALKER, *THE BATTERED WOMAN* (1979) (initiating scholarly discourse on battered woman's syndrome and describing the phenomenon of 'psychological paralysis,' which often returns women to their batterers or impedes them from seeking help).

37. I never knew I was poor until I attended college because everyone in our community, which was stratified by both race and class, lived the way we did.

38. Because this was so much the norm, there was little societal stigma attached to having children without being married to the children's father. Yet the community aspired to a more traditional family structure and privileged intact families in subtle ways.

house and stuff and security, not to my father.³⁹ Shortly after that my parents divorced.

I ask my mother, “How could you still believe in redemption and forgiveness and the church after what he did to you?” She says, “I forgave [your father] and [the church] in spite of themselves. I forgave them for me and for you. I could not continue to hold on to my anger at them and do what I needed to do for myself or for you.”⁴⁰ Thus her narrative was “I forgive you for being fallible, but I don’t forgive you for hurting me or others. I hold you accountable for your actions. But I also open up the possibility for redemption—not only that you can prove that you can do better but that you can do better.”

I analogize the battered women’s movement to a story that I tried to write about my mother. Each time I began writing about her, I ended up writing about my father. I think this analogy is particularly apt for this discussion. So much of the work in domestic violence has been about men, even though we think it is about women. Personally, I could not write about my mother until I forgave my father, because much of what I perceived about her was filtered through my response to him and his actions.

The domestic violence movement has devoted its resources primarily to addressing the violence of men and the sequelae of that violence—displacement of women and children. Yet it has done little to address the needs of women.⁴¹ While women need safety, they also need a framework to move forward out of violence. Perhaps resorting to principles of forgiveness and redemption could provide the template for that framework.

A primary barrier to examining forgiveness and redemption has been the resistance to acknowledging the concept of fallibility,

39. Harder questions about the availability or advisability of forgiveness exist for the many women who return and remain in physically and psychologically abusive relationships. Whether they forgive is difficult to determine. More often women hope that the batterer will change or stop the abuse. Alternatively, women think they will be able to change or control the conduct that they believe causes the abuse. In that way, battered women may not ever believe that the batterer engaged in behavior that requires forgiveness.

40. See Minow, *supra* note 13, at 969 (discussing the role of restorative justice models in coping with mass domestic violence by examining models such as those implemented in South Africa, which have helped victims “move beyond anger and beyond a sense of powerlessness”). Notably, restorative justice models may be equally useful in the smaller-scale domestic violence context, such as within the home.

41. See, e.g., Sarah M. Buel, *Family Violence and the Health Care System: Recommendations For More Effective Interventions*, 35 HOUS. L. REV. 109, 110 (1998) (analyzing inadequacies of current domestic violence intervention programs and institutions).

especially of battered women.⁴² So even when women gain resources and relief, they nevertheless lose on a number of levels: when they are not perfect; when they are fallible; when they do not fear;⁴³ when they harm or fail to protect their children;⁴⁴ when they abuse drugs or alcohol;⁴⁵ when they commit some other crime;⁴⁶ and when they go back to their men and their homes.⁴⁷

One aspect that is often overlooked is self-forgiveness. How did my mother forgive herself?⁴⁸ How did she forgive herself for putting my sister and me in danger and for exposing us to harm, the possibility of physical abuse, the reality of emotional trauma and abuse? How did she forgive herself for staying involved in a situation that she knew wasn't right?

My immediate response, which is perhaps always the most honest, is that she had to forgive herself in order to get up every day and keep living. In order to get on buses at four and five o'clock in the morning, and pick tons of tomatoes and oranges for dimes and dollars, she had to forgive herself and others. Otherwise, she would not have been able to go on and provide some measure of security for herself and for us. If she had not had a spirit of forgiveness, I imagine that she would have hurt us, herself, or others.

42. See Schneider, *supra* note 22, at 556 (asserting that battering fathers are usually not penalized because of their attacks, although battered mothers often are).

43. See Laurie Kohn, Remarks at the Symposium, *Confronting Domestic Violence and Achieving Gender Equality: Evaluating BATTERED WOMEN AND FEMINIST LAWMAKING* by Elizabeth M. Schneider, *Domestic Violence Victims, Credibility Assessments and the Expectations of Fact Finders* (Apr. 19-20, 2002) (transcript on file with the *American University Journal of Gender, Social Policy & the Law*) (discussing her work with victims of domestic violence and their unwillingness to "testify to being fearful of their batterers"); see also Laurie S. Kohn, *Barriers to Reliable Credibility Assessments: Domestic Violence Victim-Witnesses*, 11 AM. U. J. GENDER SOC. POL'Y & L 733 (2003).

44. See SCHNEIDER, *supra* note 1, at 150-59; see generally Michael Dowd, *Battered Women: A Perspective on Injustice*, 1 CARDOZO WOMEN'S L.J. 1, 45 (1993) (comparing battered women defendants in the judicial system with the "good battered woman" who comports with the stereotypical notion of the blameless victim); Schneider, *supra* note 22, at 556 (indicating that the stereotypical notion of a battered woman as weak and unable to care for her children works against the mother in custody proceedings).

45. See SCHNEIDER, *supra* note 1, at 150-59.

46. *Id.*

47. *Id.*

48. This was a question I had not considered until a colleague raised it. Yet another colleague asked about why, in writing this Article, I had not talked about my anger toward my mother. It too was a question I had never considered. In reflecting, I cannot think of a time when I was ever angry with my mother about the abuse she suffered or for exposing us to violence. I realized that she did not and could not control my father's conduct any more than I could. And like she, I placed the violence in the context of a number of other equally "violent" experiences in my life, such as racial segregation, poverty, and fear for my safety from people outside my home.

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I also imagine that the abuse that my mother experienced from my father did not feel very different from the abuse of poverty and racism that she experienced every day.⁴⁹ She thought that feeling bad and being treated badly were what happened to women in her circumstances.⁵⁰ Until she could envision a better outcome for her and for us, it was hard to move on.

II. PRINCIPLES UNDERLYING A MODEL BASED ON FORGIVENESS AND REDEMPTION

How do we help women to forgive themselves so that they can move on, so they can make better choices, choices concerning whether to stay or to go? In beginning to think about applying principles of forgiveness in the domestic violence context, I offer several principles.

First, we must accept the fallibility of both women and men. Intimate relationships are incredibly complex and often irrational. It is rare that there is a neat solution or narrative that positions any party as totally in the right or totally in the wrong.

My mother married my father when she was eight months pregnant with their first child, my sister. He was not a citizen of this country,⁵¹ though he desperately wanted to become one. They both admit that the marriage met both their needs—my mother's need for legitimacy and my father's need for citizenship. Together, they came into the relationship with unspoken expectations and few experiences with healthy relationships. My maternal grandmother had had a series of relationships, resulting in ten children with four fathers. My father's mother died when he was seven, and he had seen his own father go from one relationship to the next, ultimately fathering at least sixteen children.⁵²

A Bahamian, my father came from a culture where physical discipline of children and women was accepted. And to some degree, that was the culture in which my mother came of age as well. It was

49. See generally RICHIE, *supra* note 23 (examining how the burdens of race and class prevent women from leaving abusive partners); Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991) (exploring the experiences of women of color as the product of patterns of racism and sexism).

50. See Crenshaw, *supra* note 49, at 1242 (noting the gradual change from battered women accepting routine violence in a private, isolated setting to women making a broad political demand for recognition and change).

51. My father was born in Long Island, Bahamas, and came to this country as a contract worker when he was twenty-one years old.

52. My grandfather claims that he has thirty-two children. He only married once, to my father's mother.

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indeed the rare man who did not feel entitled to hit or chastise his wife. Both of my parents had thus been exposed to a culture where men routinely had other relationships with women outside their marital relationships.

Notwithstanding these norms, women felt empowered to fight back and to give as good as they got. Common self-help strategies often resulted in further violence, and included battered women challenging the abusive conduct, resorting to violence, or “putting men out.” My mother stepped out of role by refusing to accept my father’s infidelity and his physical abuse, and by ending the relationship.

Second, institutions are fallible. The nature of institutions is that they are best at dealing with generalities. It is difficult for institutions to respond to the particular needs of individual families.⁵³ That is why the response by courts and law enforcement to particular problems in domestic violence cases, e.g., women reluctant to proceed with arrest or prosecution, wreak such havoc in particularized situations. The interventions of courts, prosecutors and police are blunt instruments that do not handle well the fine and subtle distinctions of families and relationships.⁵⁴

Third, the women involved may themselves understand their situations and solutions better than we do. A basic principle of client-centered lawyering is that clients have crucial information about the nature of their problem and the nature of the solutions to their problems.⁵⁵ Yet many of the policies that have been developed over the past thirty years to intervene in and prevent domestic violence run contrary to the explicit desires of battered women. Often women decide that they do not want the batterer arrested or they do not want to proceed with prosecution.⁵⁶ However, mandatory arrest and

53. See generally Schneider, *supra* note 22 (providing an overview of the difficulties associated with imposing a definition on the battered woman and asserting that not all battered women are “similarly situated”).

54. See generally Buel, *supra* note 41 (proposing a community-based, comprehensive approach to domestic violence intervention and prevention as opposed to the ineffective, piecemeal involvement of the community, police, court system, and hospitals).

55. See Binny Miller, *Give Them Back Their Lives: Recognizing Client Narrative in Case Theory*, 93 MICH. L. REV. 485, 503-04 (1994) (explaining the benefits and drawbacks of client decisionmaking).

56. See Maria Arias, Remarks at the Symposium, *Confronting Domestic Violence and Achieving Gender Equality: Evaluating BATTERED WOMEN AND FEMINIST LAWMAKING* by Elizabeth M. Schneider, *The Relationship of Mandatory Arrest Laws and Communities of Color in New York* (Apr. 19-20, 2002) (transcript on file with the American University Journal of Gender, Social Policy & the Law) (reciting one example of a client who wanted to cease the arrest and eventually prosecution proceedings that were ongoing against her husband, but was unable to due to mandatory arrest laws).

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prosecution policies thwart women's wishes and deny their agency.⁵⁷ Women may not want the batterer arrested or prosecuted because they fear for their safety, which may not be an unreasonable fear.⁵⁸ Battered women may also believe that the violent incident will not be repeated or that the violence may not merit institutional intervention, thus leading them to prefer to handle the violence outside of the rigid systems available through police or court processes. Women may seek to involve other institutions, such as the church, that are more rooted in familiar traditions. They may have mixed motives related to status, fear of losing important economic and social support and the desire to preserve their families. Finally, women may fear that institutions of control, once unleashed toward battering men, will ensnare them either through criminal or abuse and neglect proceedings.⁵⁹

Fourth, while thus far interventions in battering have been primarily through the judicial system, there are other models that exist which may provide greater particularity in resolving family violence conflicts. While none of the models, discussed *infra*, is perfect, neither is the current model. They merit serious discussion, study, and, in some instances, implementation to determine their effectiveness in addressing domestic violence.

Fifth, the process of forgiveness and redemption is personal and evolving, much like the process of addressing family violence. It often takes years for families to resolve to address violence. Likewise, the process of forgiving and changing or redeeming takes time. The challenge for the domestic violence community is to develop and use models that recognize the persistence of violence, yet also embrace the possibility for healing and change.

The role of progressive advocates is to provide women with other ways of imagining and actualizing their own healing and to assist women to move beyond their identities as survivors. In shedding themselves of the "survivor identity," women will be able to accept that violence was committed against them, but transcend those experiences as non-defining of their self-image. Further, we must help women become thrivers who have integrated and conquered

57. See generally Kathryn Abrams, *From Autonomy to Agency: Feminist Perspectives on Self-Direction*, 40 WM. & MARY L. REV. 805 (1999) (examining self-definition and self-direction as integral aspects of choice involved in agency).

58. See Daniel Goldman, *Do Arrests Increase the Rates of Repeated Domestic Violence?*, N.Y. TIMES, Nov. 27, 1991, at C8 (discussing a study by Dr. Lawrence Sherman that found an increased incidence of violence in cases of men who were arrested, rather than issued a warning).

59. See SCHNEIDER, *supra* note 1, at 150-59.

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their experiences of violence. The models below hold out some promise in helping women achieve that goal.

III. ALTERNATIVE MODELS FOR ADDRESSING DOMESTIC VIOLENCE

While the predominant model for addressing domestic violence in this country is through the formal judicial system (either through the use of civil protection orders or criminal justice sanctions), there are a number of other models of dispute resolution that have been used in other contexts. These models, while still to some degree in their infancy, may offer alternate approaches or elements of an approach to address domestic violence. Each has particular strengths and weaknesses that make its application to domestic violence situations more or less promising. Yet, each explicitly acknowledges the possibility of forgiveness or reconciliation and redemption.

I am not advancing any of these approaches as a curative; rather I am elevating those approaches that women in specific communities, particularly those in marginalized communities and communities of color are using themselves. While any approach involves certain dangers, we should evaluate these alternatives not only as to how they compare to the current criminal justice model, but as to how they support the needs of specific communities. These models, which often bypass or operate parallel to the criminal justice system, have the benefit of cultivating and situating resolution of violence within institutions that communities recognize and respect.

A. *The Mediation Model*

Mediation, a common form of dispute resolution, is “the process by which the participants, together with the assistance of a neutral person or persons, systematically isolate disputed issues in order to develop options, consider alternatives, and reach a consensual settlement that will accommodate their needs.”⁶⁰ Mediation has four primary benefits: (1) its success in reaching agreements; (2) reduced costs of conflict resolution; (3) court efficiency; and (4) greater responsiveness to parties’ psychological and interpersonal needs.⁶¹ Mediation also has four defining features: privacy, procedural informality, absence of substantive rules, and compromise.⁶²

These features can carry over to mediation in domestic violence

60. JAY FOLBERG & ALISON TAYLOR, *MEDIATION: A COMPREHENSIVE GUIDE TO RESOLVING CONFLICTS WITHOUT LITIGATION* 7-8 (1984).

61. See Isabelle R. Gunning, *Diversity Issues in Mediation: Controlling Negative Cultural Myths*, 1995 J. DISP. RESOL. 55, 56-58 (1995).

62. See *id.*

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cases and according to proponents, provide “the prospect of empowerment to the victim, rehabilitation of the batterer . . . a model of constructive conflict resolution, [and] an opportunity to end the cycle of violence.”⁶³ Proponents view mediation as more responsive than judicial processes because it personally involves the parties and addresses the violence and its consequences directly. Although some instances of domestic violence may be too explosive to use mediation, proponents offer it as superior to the court, which merely seeks to control violence and the offender.⁶⁴

Yet, the very features of mediation—privacy, procedural informality, the lack of substantive rules and compromise—evoke strong opposition and are a caution against using mediation in domestic violence matters. Opponents insist that victims have a basic right to safety which is not negotiable.⁶⁵ They believe that concentrating on individual rights, rather than compromise, can be accomplished only within an adversarial setting with strong court intervention.⁶⁶ Opponents also believe that court intervention is necessary to ensure the accountability of the batterer.⁶⁷

Opponents suggest that the mediation process in the domestic violence context is both inappropriate and inherently flawed. In *The Culture of Battering and the Role of Mediation in Domestic Violence Cases*, the authors argue that the screening by which cases are selected for mediation is ineffective at determining the degree of abuse and whether mediation is appropriate.⁶⁸ It is particularly difficult to assess the extent of abuse when abused women live in a “culture of

63. Kathleen O. Corcoran & James C. Melamed, *From Coercion to Empowerment: Spousal Abuse and Mediation*, 7 *MEDIATION Q.* 303, 311 (1990).

64. *See id.*; *see also* Peter Salem & Anne L. Milne, *Making Mediation Work in a Domestic Violence Case*, 17 *FAM. ADVOC.* 34 (1995) (describing mediation as an option to battered women, suggesting means of implementing mediation successfully in domestic violence cases, and describing a study conducted in Ontario which “found that mediation was associated with a greater reduction in physical, verbal, and emotional abuse rather than lawyer-assisted settlement”).

65. *See* Karla Fischer et al., *The Culture of Battering and the Role of Mediation in Domestic Violence Cases*, 46 *SMU L. REV.* 2117, 2171 (1993) (asserting that mediation is incompatible with the battering culture).

66. *See* Gunning, *supra* note 62, at 61-62 (arguing that the courtroom provides a better battleground for an adversarial fight); Janet Rifkin, *Mediation from a Feminist Perspective: Promise and Problems*, *J.L. & INEQUALITY* 21, 30-31 (1984) (citing as a common criticism of mediation the argument that traditional courts are better suited to combat male dominance).

67. *See id.*

68. *See* Fischer et al., *supra* note 65, at 2144-49, 2169 (providing an overview of several state statutes and describing the processes used to determine whether a domestic dispute may be referred to mediation).

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battering.”⁶⁹ Ingrained in the culture of battering is a “systemic pattern of control and domination” that advocates believe would prevail over battered women even in the mediation setting.⁷⁰

Moreover, opponents of mediation in domestic violence cases suggest that mediation is incompatible with domestic violence as it is future-focused and does not address the history of domination and violence.⁷¹ Opponents suggest that, “mediation in domestic violence cases belittles the batterer’s violence, treats it as non-criminal, and empowers the batterer.”⁷² Furthermore, opponents point out that the personal nature of mediation and lack of public record of the proceedings may promote the continued societal rejection of domestic violence as a serious problem.⁷³ Finally, mediation opponents argue that mediation of domestic violence lacks funding and experienced personnel, often leading to the courts’ failure to enforce mediated agreements.⁷⁴

69. *Id.* at 2119 (observing that the battering culture entails a means of communication through subtle phrases and modes of interaction that have meanings and symbols that are idiosyncratically shared by a battered woman and her abuser).

70. *See id.* at 2161, 2168 (describing mediation’s focus as equalizing power imbalances, despite the possibility that power imbalances can never be eliminated); Catherine F. Klein & Leslye E. Orloff, *Representing a Victim of Domestic Violence*, 17 FAM. ADVOC. 25, 26-27 (1995) (describing mediation as “incompatible with a relationship in which there is disproportionate bargaining power due to fear or intimidation”). *See generally* CATHARINE MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* (1987) (analyzing the inherent power imbalance between men and women).

71. *See* Fischer et al., *supra* note 65, at 2172.

72. Klein & Orloff, *supra* note 70, at 27.

73. *See* Holly Maguigan, *Wading into Professor Schneider’s “Murky Middle Ground” Between Acceptance and Rejection of Criminal Justice Responses to Domestic Violence*, 11 AM. U. J. GENDER SOC. POL’Y & L. 427 (2003). One of the great successes of the domestic violence movement has been its impact in educating the public about the prevalence, causes, and manifestations of domestic violence. In fact, some commentators note that the domestic violence community’s efforts have been so thorough that they have ironically resulted in additional and unintended negative consequences for battered women. *See, e.g.*, Beth Richie, Comments at Women and the Law Conference, *Women’s Rights in Theory and Practice: Employment, Violence Against Women, and Poverty* (May 21, 2002) (stating that the domestic violence movement is like the old Jefferson Starship song, “We Built This City,” and “now [the domestic violence community] ha[s] to think about dismantling it.”); Holly Maguigan, Remarks at the Symposium, *Confronting Domestic Violence and Achieving Gender Equality: Evaluating BATTERED WOMEN AND FEMINIST LAWMAKING* by Elizabeth M. Schneider, *The Over-reliance on Criminal Strategies in the Domestic Violence Movement: Race, Ethnicity, and Culture and the Social Control Agenda* (Apr. 19-20, 2002) (transcript on file with the *American University Journal of Gender, Social Policy & the Law*) (discussing the widespread and publicized effort to mobilize police involvement in domestic violence situations and the disproportionate negative effects that their involvement has on arrest rates of women).

74. *See* Luisa Bigornia, *Alternatives to Traditional Criminal Prosecution of Spousal Abuse*, 11 J. CONTEMP. LEGAL ISSUES 57, 61 (2000) (noting that funding for mediation, however, would probably be increased if domestic violence advocates viewed mediation as a viable alternative in domestic violence cases). While funding certainly exists as a relevant factor, the failure to enforce agreements occurs in both mediated

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While the arguments on both sides have merit, mediation in domestic violence matters could be very difficult to implement. The nature of battering incidents is that an acute incident occurs, which requires immediate intervention and resolution. In order for mediation to work, both parties would have to be motivated to resolve the problem and committed to the process. It would be very difficult for a mediation program to assess the motivation and commitment of the parties without working with them over an extended period of time.

This investment of time runs contrary to one of the core goals of mediation—efficiency and quick resolution of problems. The benefits of efficiency could be lost in the time required to resolve the often complex problems and relationships associated with battering. Moreover, the physical settings where most mediation occurs, in which both parties in the presence of a neutral third party are brought together and are unrepresented by counsel, could intimidate women who are already intimidated by the batterer.

Changing the prism somewhat, however, and elevating the goals of forgiveness and redemption, casts mediation in a different light. While problematic in some respects, mediation has the potential to advance principles of forgiveness and redemption in domestic violence matters by permitting the parties to mediate or discuss issues tangential to the fact that violence occurred, but important to maintaining a cooperative relationship. The presence of a mediator could enhance women's sense of power and of being heard, while at the same time providing a measure of transparency so that a batterer's actions to intimidate are apparent. It could also provide an important opportunity for a batterer to show that he has changed, that he can manage his anger, and that he can participate as a partner in making decisions about important issues affecting the relationship. As with most mediation matters, a violation of the mediation agreement could move the matter back into the formal judicial process.

B. *The Restorative Justice Model*

Restorative justice models are anchored in the notion of giving something of positive value to the victim, acknowledging that infliction of pain or incarceration on the offender is not of positive value.⁷⁵ Given the demonstrably poor response to the retribution or

and court ordered agreements. *See id.*

75. *See generally* Lawrence W. Sherman, *Domestic Violence and Restorative Justice: Answering Key Questions*, 8 VA. J. SOC. POL'Y & L. 263, 267-68 (2000) (describing a

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criminal justice model, restorative justice offers a more utilitarian and future-oriented solution.⁷⁶ The goal is to restore the victim to wholeness, but also to make the offender accept responsibility for his wrong and, in turn, make him a more productive member of society.⁷⁷ Restorative justice recognizes the ripple effect of crime and mobilizes social networks of families and friends to respond to it, thereby encouraging broad investment in the process.⁷⁸ Another principle of restorative justice is to condemn the act, and not the actor.

Dr. Lawrence W. Sherman, a proponent of restorative justice, has recommended using a restorative justice model to address domestic violence.⁷⁹ Sherman supports restorative justice in domestic violence cases, although he has only studied it in settings involving juvenile violence, property crimes and drunk driving.⁸⁰ Sherman offers three theories that argue for using a restorative justice model, rather than a traditional justice model, in domestic violence matters.⁸¹ The first, “reintegrative shaming,” activates a family or village approach to wrongdoing that condemns the act, not the actor.⁸² Restorative justice is also aligned with the “theory of procedural fairness,” which Sherman describes as a process that reduces anger, a prevailing trait of abusers.⁸³ The third theory that Sherman advances is that of

restorative justice study done in Canberra, Australia, and supporting use of the model in domestic violence cases).

76. *See id.* at 267-68. However, the future-oriented nature of restorative justice also makes it vulnerable to the same criticism of mediation: that it does not take into consideration the history of domination and control of the batterer over the victim.

77. *See id.* at 267 (commenting that because certain kinds of harm, such as emotional damage, are irreparable, the victim’s restoration remains a goal and not a guarantee).

78. *See id.* at 269 (citing the Truth and Reconciliation Commission of South Africa as an example of restorative justice on a grand scale and involving an entire national community in the restoration process).

79. *See id.* at 272 (asserting that restorative justice would be successful in the domestic violence setting because it is acutely specific to the situations and people involved).

80. *See* Melvin N. Wilson et al., *Reconciliation, Justice, and Domestic Violence: Commentary on Dr. Lawrence W. Sherman*, 8 VA. J. SOC. POL’Y & L. 291, 292 (2000) (noting the limited settings in which Dr. Sherman has studied the efficacy of restorative justice, and critiquing its viability in domestic violence situations).

81. *See* Sherman, *supra* note 75, at 273 (noting that “this particularity can lead to very high levels of satisfaction with the process, absent a major division of opinion within the group about what should be done”).

82. *See id.* at 277 (promoting transitory stigma and favoring inclusion in the family or community environment as a more socially productive form of punishment).

83. *See id.* at 279 (asserting that a process which allows the offender to “feel much more value and dignity as a human being” is more conducive to a productive and healthy end to violence); Deborah Epstein, *Procedural Justice: Tempering the State’s Response to Domestic Violence*, 43 WM. & MARY L. REV. 1843, 1875 (2002) (commenting that recent social science research indicates that fair treatment affects compliance

routineness, which suggests that family network involvement in the justice process reduces the opportunities for the occurrence of domestic violence.⁸⁴

Sherman's process, frequently led by a police officer, includes three steps: (1) the offender's waiver of any claim of innocence;⁸⁵ (2) a "diversionary conference" where the victim and others injured by the offenders' acts are heard;⁸⁶ and (3) decision making about repairing the harm and preventing its reoccurrence. This process occurs outside the formal structure of the court, is based on consensus and is only complete after all parties—including the offender—are heard.⁸⁷

Sherman asserts that restorative justice increases accountability of the offender through shaming mechanisms, while also allowing him to feel that he is treated fairly. He also believes that the process provides victims with more closure, as they are an integral part of the justice process and their emotional needs are explicitly addressed.⁸⁸

In a commentary on Sherman's study, however, Melvin Wilson proposes several additional considerations that should be examined before using a restorative justice approach in domestic violence cases.⁸⁹ Wilson, who has conducted research with men who batter

regardless of whether the ultimate result is viewed as right or wrong).

84. See Sherman, *supra* note 75, at 280 (noting that the concept of "routine activities" perceives that "potential offenders commit fewer crimes when there are fewer opportunities to do so"). An opportunity may be defined as "the convergence of a motivated offender with a suitable target in the absence of capable guardians or handlers who could intervene and prevent a crime." *Id.* However, this theory is also vulnerable to the same criticism as reintegrative shaming based on a family model, where the community or the family may not prioritize violence against women. *Id.*

85. See *id.* at 270 (noting that the process begins only after the offender agrees to waive any claim to innocence pending resolution of the complaint outside of the traditional criminal justice system).

86. See *id.* at 270-72 (observing that the diversionary conference, frequently held by a police officer, also called the community justice conference, involves the victim, the offender, and their respective social support networks). The victim's network in a hypothetical domestic violence conference may include her children, parents, and siblings, all of whom are also victims in varying degrees. *Id.* The focus is on the primary victim speaking out, community condemnation of the harmful act, and discouraging the offender from repeating the offense. *Id.*

87. See *id.* at 271 (discussing deliberative democracy as a fundamental tenet of the process); John Braithwaite, *Restorative Justice: Assessing Optimistic and Pessimistic Accounts*, 25 CRIME & JUST. 1, 106 n.87 (describing deliberative democracy as entailing a Quaker-style agreement, in which all parties involved participate). "A rich deliberative democracy is one where the rule of law shapes the rule of the people and the concerns of the people reshape the rule of law." *Id.*

88. See Sherman, *supra* note 75, at 270-72 (observing that the deliberative victim-centered process produces meaningful solutions for the victim and offender as opposed to merely determining an appropriate punishment be inflicted).

89. See Wilson et al., *supra* note 80, at 292 (arguing that among other factors, a demand for retribution prevents the restorative justice approach from being

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their partners, provides insight into possible contraindications of restorative justice tools among the different personality types of violent men.⁹⁰ According to Wilson, many abusers tend not to accept responsibility for their actions and to have difficulty expressing themselves.⁹¹

Wilson states that while the restorative justice process should incorporate men's resolve to address interpersonal communication problems, it is more important that the process focus on stopping the batterer's violence and facilitate his acceptance of responsibility for his actions.⁹² Wilson believes that only after violence ends can the therapeutic process begin. This process should include disabusing batterers of their notions that women, particularly their partners, are helpless and subordinate to men.⁹³

Wilson's commentary suggests that in order for restorative justice to work, victims must have a strong support system and the opportunity to express the physical and psychological harm they have experienced.⁹⁴ Meanwhile, Wilson believes that abusers must recompense their victims, and that any intervention must be attuned to social and cultural factors.⁹⁵ Even with these caveats, Wilson remains concerned that a restorative justice model would not address the interpersonal and inherent power imbalance in relationships and, thereby, fail to intervene in a meaningful way in these matters.⁹⁶

Both Wilson and Sherman leave many unanswered questions about the efficacy and advisability of using restorative justice in domestic violence cases. Kay Pranis' work as the Restorative Justice Planner at the Minnesota Department of Corrections is more promising and implicitly incorporates notions of forgiveness and redemption.

utilized).

90. *See id.* at 298-99 (identifying traits such as inability to control anger, a high level of frustration, and being very emotional prior to the act of violence).

91. *Id.* at 298 (relating that men externalize the causes of their violence and blame their wives).

92. *See id.* at 299 (placing responsibility on the batterer and devising time-out plans and self-talks to aids in avoiding battering episodes).

93. *Id.* (bringing the man and woman together as distinct human beings separate from one another and the marriage).

94. *See id.* (emphasizing the individuals' own behaviors and emotions).

95. *Id.* (maintaining this assertion on the condition that the batterer acknowledge the victim's pain and injuries).

96. *Id.* at 300 (asserting that while restorative justice may be a familial solution that addresses individual issues, it does not necessarily resolve intricate interpersonal dynamics between the victim and abuser); Sherman, *supra* note 75, at 274 (conceding a major critique by domestic violence advocates that restorative justice may not speak to "the dangers of a result driven by intimidation and threats behind the scenes").

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Pranis' work employs restorative justice principles concurrent with training, group conferences, and peacemaking circles⁹⁷ for individual and community healing.⁹⁸ Pranis posits that restorative justice is possible in domestic violence cases, even though traditional restorative justice strategies, such as face-to-face meetings and the focus on reconciliation, may need to be modified.⁹⁹ She argues that the restorative justice project is broader than individual cases and really goes to the larger project of healing the web of connectedness between the parties and the community, which has been ruptured by domestic violence.¹⁰⁰ Pranis, like Wilson, cautions that meaningful restorative practices in domestic violence situations must also address "[l]ong-established power imbalances, secrecy, ongoing relationships, economic dependencies, [and] family pressures."¹⁰¹

Pranis outlines a set of guidelines to address the use of restorative justice in domestic violence cases. First, family violence experts, including advocates and former victims and offenders, and the greater community must be involved in designing the structure of a restorative justice model for domestic violence.¹⁰² Second, the traditional court system must participate in both the creation and oversight of the process to emphasize, through formal justice standards and law, the harm domestic violence causes.¹⁰³ Third, she advocates the involvement of family violence experts in decision-making about individual cases, to educate participants and recognize danger signs that may exhibit during the process.¹⁰⁴ Fourth, Pranis identifies the involvement of people outside of the immediate family who disapprove of the violence as a key element that serves to break down the secrecy typical in domestic violence cases.¹⁰⁵ Fifth, establishing "safe avenues" for victim feedback is also essential to the process, both for future restorative sessions and to alter or cease the

97. See Coker, *supra* note 2, at 33 (discussing how peacemaking and group conferencing are models of dispute resolution that may incorporate traditional indigenous jurisprudence principles focusing on a communitarian goal of improving the lives of individuals and the community through healthy, egalitarian relationships).

98. See generally KAY PRANIS, RESTORATIVE JUSTICE AND FAMILY VIOLENCE (Heather Strang & John Braithwaite eds., 2002) (examining the potential for restorative processes to reduce and prevent family violence).

99. See *id.* at 25.

100. *Id.*

101. *Id.* at 32.

102. *Id.*

103. *Id.*

104. *Id.*

105. *Id.*

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process if necessary.¹⁰⁶ Finally, Pranis suggests that practitioners and the larger community must regularly self-reflect on the use of restorative justice as an educational tool to improve the process, to reveal the underlying, societal causes of family violence and to begin long-term, preventive endeavors.¹⁰⁷

While it is obviously fraught with challenges, restorative justice holds out the promise of engagement between battered women and batterers. It provides an opportunity for each to situate and acknowledge the harm. Restorative justice also allows women and men to move forward with a more hopeful project of recreating a non-violent relationship—one in which they may be able to decide and discuss the consequences of the violence and its impact on their future interactions.

Yet, neither mediation nor restorative justice adequately addresses the need and tendency toward remembrance. It is difficult to move forward without remembering and acknowledging the harm that a batterer has caused. Rather than being “unhealthy” and “unhelpful,” as mediation and restorative justice principles seem to suggest, remembrance is a tool that helps humans learn from past mistakes and assess the risk of future actions. The Truth Commission Model may assist in this project of integrating remembrance into forgiveness and redemption.

C. *The Truth Commission Model*

Truth commissions implement many of the tenets of restorative justice in ways that parallel the diversionary conference described above in the Sherman experiment. Many of the pillars of successful truth commissions used to address national incidents of violence, including systemic rape and other violence against women and crimes against humanity, could be modified to address interpersonal domestic violence.

In transitioning governments, such as South Africa during the 1990s,¹⁰⁸ truth commissions bridged the gap between the unjust laws

106. *Id.*

107. *Id.* at 33.

108. See LYN S. GRAYBILL, TRUTH & RECONCILIATION IN SOUTH AFRICA 2-3 (2002) (observing that following the Pinochet military coup in Chile the nation established one of the commissions). The commission sought to cope with the loss of human life, government distrust, lack of public awareness and lack of accountability for the losses that affected the entire nation. *Id.* South Africa carefully studied the commissions established in Chile, Argentina, and Eastern and Central Europe, when deciding upon the form that its commission would take. *Id.* South Africa democratically implemented the commissions and “was the very first example of a process officially encouraging public debate and input on the goals, makeup and

of the former government and those implemented by the emerging, more just society.¹⁰⁹ The primary goal of truth commissions is to establish “a new public legal and moral culture” through a restorative process.¹¹⁰ Distinct from courts of law, which seek to punish offenders, truth commissions focus on the needs of victims by inviting them to speak about their suffering.¹¹¹ Victims are not limited to the facts, but are allowed to express feeling and emotion as testimony to their suffering.¹¹² Thus, “under humane leadership, a truth commission can do justice, not just to facts, but to the lives of whole persons and . . . whole communities.”¹¹³ Further, as truth commissions work to create a just legal and moral culture, they seek to “bring communities, institutions, and systems to moral judgment.”¹¹⁴

In South Africa, the entire system of apartheid was assessed and revealed. Vast numbers of people were found to have some level of responsibility, and individual citizens could no longer deny knowledge of individual and government wrongs.¹¹⁵ Ongoing dialogue between victims and offenders led to the accumulation of evidence of the wrongs committed.¹¹⁶ Hearings took place throughout the country and received broad press, radio, and television coverage in order to increase public education and acknowledgment, thereby promoting healing.¹¹⁷ They also provided a very visible forum for shaming and vindication. Wrongdoers were thus shamed throughout the country, throughout the world, and

procedures of a truth commission.” *Id.*

109. See Donald W. Shriver, Jr., *Truth Commissions and Judicial Trials: Complementary or Antagonistic Servants of Public Justice?*, 16 J.L. & RELIGION 1, 13 (2001) (asserting that South Africa serves as a good example of a government’s act of investigating and reporting a country’s past human rights abuses).

110. *Id.* (describing the ability and need for truth commissions to “invoke moral principles in contradiction to principles and laws observed in a previous social-political order”).

111. *Id.* at 14 (explaining that truth commissions invite victims to describe their experiences).

112. *Id.* (“[T]he truth of unjust suffering is no longer buried in the pain-soaked individual memory.”).

113. *Id.* at 15.

114. *Id.* at 15-16.

115. See *id.* at 16 (commenting on the number of white South Africans who testified to a lack of knowledge prior to the establishment of the truth commissions and remarking that subsequent to their creation, South Africans could no longer assert a lack of knowledge).

116. See *id.* (revealing the apartheid system on display for its violations from the depositions of 20,000 victims and 7000 perpetrators).

117. See *id.* at 17.

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more importantly, within their own communities.¹¹⁸ Victims were likewise vindicated and heard throughout the country, the world and in their communities.¹¹⁹

The South African Truth and Reconciliation Commission (“TRC”) gave individual offenders “amnesty for truth,” although the threat of judicial sanctions remained if they were non-compliant.¹²⁰ The TRC assumed the restorative goal of returning both the offenders and the victims back to society.¹²¹ The offenders suffered the “informal sanctions of ostracism, disapproval, and disadvantage” while the entire process sought to heal the individuals and the nation.¹²² Thus, truth commissions have a prospective mission that involves unveiling the past or remembrance to ensure that bad acts will not occur again.¹²³ The TRC did not seek full forgiveness from victims, rather it sought to reconcile the harm done to restore the parties as productive members of society.¹²⁴

The truth commission model could be useful as a tool to educate the public about the prevalence and impact of domestic violence on families and the community. Specifically, this model could be particularly useful if brought to significant settings in the community, such as child care centers, schools, churches, salons, barbershops, and recreation centers. The primary goal of this intervention would be to increase communities’ awareness of domestic violence by making the problem public and its consequences visible and heard. It could also engage stakeholders from different sectors of the community in the response to violence against women.

118. *See id.*

119. *See id.* (describing how truth commission hearings occurred across the country, thus allowing larger numbers of people to attend and be exposed to commission findings).

120. *See id.* at 18 (detailing how perpetrators were granted amnesty unless it was demonstrated that they were testifying falsely before the truth commission).

121. *See id.* (noting how public exposure of a perpetrator might constitute punishment sufficient to effect the individual’s eventual reintegration into society).

122. *Id.* (observing how a perpetrator’s exposure to informal sanctions strikes a balance by imposing a socially-approved form of punishment while concurrently ensuring that the offender is disciplined for his egregious acts).

123. *See id.* at 19-20 (commenting that by uncovering the truth, the future is served insofar as the revelation ensures that the future will be different from the past).

124. *See id.* at 19 (explaining that forgiveness is a complex emotion and process and that to ensure that the wrongdoers understand their wrongs, they are not fully forgiven). In fact, they must bear the weight of community sanctions such as ostracism, disapprobation, and disadvantage. *See id.*

*D. The Religious Model*¹²⁵

In the discourse on domestic violence, religious institutions are commonly associated with the subordination of women and their rights.¹²⁶ In *The Role of Religious Institutions in Responding to the Domestic Violence Crisis*, Reverend Ragsdale suggests three primary theological approaches to understanding the role of the church in the context of domestic violence.¹²⁷ The first is a hierarchical and patriarchal understanding of our society that derives from the Bible.¹²⁸ This construct suggests “men have not only the right but also the responsibility to dominate, discipline, and control their wives and children.”¹²⁹ Another understanding of the role of religion focuses on God’s omnipotence. God is aware of, and wills the abuse; thus, a victim of domestic violence should not defy God’s doing, but should endure.¹³⁰ A third approach draws on Jesus’ martyrdom and suggests that victims achieve salvation by yielding to suffering and powerlessness.¹³¹

Ragsdale describes these constructs as a means by which people try to cope and understand the world through religion.¹³² In practice, however, she states that religious leaders employ these constructs subject to their own interpretations and thus have a choice about whether to dilute, modify, or reinterpret these constructs. The effect of such reinterpretation ranges from furthering their historic meanings—including the subordination of women—to reinvesting these constructs with a meaning that recognizes the equality of all

125. My discussion here primarily relates to Judeo-Christian religions. It does not speak to other religions, which may offer more promising approaches to addressing domestic violence.

126. See generally Linda L. Ammons, *What’s God Got to do with It? Church and State Collaboration in the Subordination of Women and Domestic Violence*, 51 RUTGERS L. REV. 1207 (1999) (tracing how the dogma of male supremacy has been construed from Biblical narratives and has become part of church-codified hierarchical gender roles); Kathleen A. McDonald, *Battered Wives, Religion, & Law: An Interdisciplinary Approach*, 2 YALE J.L. & FEMINISM 251 (1990); Katherine Hancock Ragsdale, *supra* note 33 (noting that the church has helped to create and uphold a social climate for domestic violence).

127. See Ragsdale, *supra* note 33, at 1153-56.

128. See *id.* at 1154 (discussing the hierarchy of domination in which God prevails over men who, in turn, reign over women and children); see also Ammons, *supra* note 126, at 1220 (providing textual and doctrinal support for proposition that religion promotes this hierarchy and the subordination of women).

129. Ragsdale, *supra* note 33, at 1154.

130. See *id.* at 1153 (arguing that if God were indeed all-powerful, He would stop the abuse).

131. See *id.* at 1154 (teaching victims to learn to adjust to the batterer’s moods and to refrain from provoking the batterer’s anger).

132. See *id.*

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individuals and their right to be free from violence and other forms of subordination.¹³³

Despite the historical anti-violence sentiment of many religious bodies, religion traditionally bestowed and condoned the right of men to beat their wives.¹³⁴ Both early English and American law integrated this right and the patriarchal understanding of the family.¹³⁵ The early adaptation of male-dominance has supported the Christian church's and the Jewish tradition's complicity in domestic violence throughout history.¹³⁶ Although religion has traditionally counseled against violence, and continues to do so, in practice, individual religious counselors must weigh this belief against a multitude of others, such as maintaining the family unit, many of which may be more powerful.¹³⁷ Frequently, women are counseled through their faith that they should remain in abusive environments, obey their spouse, and alter their behavior.¹³⁸

While social movements have reconfigured society—particularly the Civil Rights and Women's Rights Movements and the change from an industrial to an information economy—so have the roles of women and men, both in society and in the home. Still, many religious institutions continue to promote fundamentalist beliefs grounded in male dominance.¹³⁹ These beliefs, combined with the fact that the vast majority of Americans practice religion, suggest the continued

133. *See id.* (explaining that although these are the mainstream constructs, there are other valid interpretations that do not yield the result of female subordination or the promotion of domestic violence). However, these alternative interpretations remain scholarly propositions that have not infiltrated congregations. *See id.*

134. *See* McDonald, *supra* note 126, at 252 (noting the codified authority of men to "chastise" their wives prior to any separation of church and state and then the continued acceptance of battering on religious grounds following the division of church and state).

135. *See id.* at 254-56 (observing that laws historically codified the authority of husbands to beat their wives and that American law assimilated Blackstone's interpretations of English common law attitudes toward abusing one's wife).

136. *See id.* at 262-63 (replicating the subordination of woman to man in the imagery of divine-human relations).

137. *See* Ragsdale, *supra* note 33, at 1155 (exemplifying the conflict and interaction among "theological values, social values, and commonly understood standards of pastoral practice" in religious institutions' response to domestic violence).

138. *See* Ammons, *supra* note 126, at 1209 ("Clergy have given women advice that focuses on their need to improve their Christian characteristics not his need to stop his unchristian behavior") (quoting Carol J. Adams, *When God-Talk Enters the Shelter*, VOICE 1, 1 (Fall 1996)).

139. *See id.* at 1269 (noting as well, that despite the progress of women, the "stronghold of religious doctrine" clearly exists and how religion works as a "powerful, regulating force").

potency of religious institutions in the subordination of women.¹⁴⁰ The focus of religious institutions and parishes rests primarily on the traditional notion of family but fails to address the needs of problems within the family—such as domestic violence—and those families outside of the norm.¹⁴¹ Although some religious institutions have changed their doctrine so as not to appear to endorse domestic violence, it is significant that “religious communities have been among the last institutions to be publicly vocal about gendered domestic criminal activity.”¹⁴²

Yet the response of religious institutions is not hegemonic. Indeed the Black Church¹⁴³ may provide an alternative to the lack of leadership in faith based communities on domestic violence. In many ways, the Black Church has existed within the conservative framework of the church hierarchy, while at the same time challenging that construct. For example, black churches were an important source of sustenance¹⁴⁴ for slaves and reinterpreted the Bible (which had been used as a means of legitimizing slavery) as a tool of liberation.¹⁴⁵ The Black Church was also a site of resistance

140. *See id.* at 1268-69 (arguing that for many abused women, the questions of meaning are expressed in religious terms that become roadblocks for those dealing with family violence).

141. *See generally* DOLORES CURRAN, U.S. CATHOLIC, IS YOUR PARISH A GOOD FRIEND OF THE FAMILY? (2002) (acknowledging the church’s silence on domestic violence and suggesting a need for change among practitioners to become more aware of and better at addressing the diverse needs of parishes), *available at* <http://www.uscatholic.org/1997/06/featb9706.htm>.

142. McDonald, *supra* note 150, at 266; *see* Merry, *supra* note 17, at 62 (relating comments of a Christian family therapist on conservative Christian churches). “These churches deny that the problem is important, argue that the family is a private domain, and blame the woman for provoking the violence.” *Id.*

143. Again, eschewing hegemony, the “Black Church” is a diverse phenomenon, which encompasses conservative denominations like Pentecostals and Evangelicals to the more progressive denominations represented by Congregationalists like the United Church of Christ. Indeed the church that I attend today is a progressive denomination that is committed to gender equality and the rights of the disenfranchised. For example, the west stained glass window of the sanctuary of my church has a depiction of Jesus Christ as an African American woman. There is also a church ministry supporting the parents of gays and lesbians; collaborations with homeless shelters; and a ministry with the House of Ruth, a local shelter for battered women and their children.

144. *See* TRACI WEST, WOUNDS OF THE SPIRIT 60 (1999) (noting that religion and faith in God provide a “bulwark of strength” without necessarily addressing a specific problem). West describes this as a “crisis of faith” that marginalized women face, where many women “do not expect that faith in God will shield them from all encounters with pain and suffering.” Notably, socio-economically and racially marginalized women often view domestic violence as merely part of a daily continuum of violence that God helps them cope with.

145. *See* Will B. Gravely, *The Rise of African Churches in America (1786-1822): Re-Examining the Contexts*, in WILLIAM H. BECKER, THE BLACK CHURCH: MANHOOD AND MISSION, IN AFRICAN-AMERICAN RELIGION: INTERPRETIVE ESSAYS IN HISTORY AND

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during the Civil Rights Movement¹⁴⁶ and has taken a lead role in other social justice issues.

However, the Black Church has been for the most part curiously silent on the issue of domestic violence¹⁴⁷—no doubt for complicated reasons including complicity in shielding men in their congregations from liability for battering and its acceptance of patriarchal norms of conservative religious teachings that were also imbedded in the broader culture. There may be another reason as well; namely the Black Church's opposition to institutions, such as the criminal justice systems, which continue to disproportionately sanction poor people and people of color.¹⁴⁸ Given the predominant use of the criminal justice system to sanction men for battering, the silence of the Black Church may have been more in opposition to using the justice system as a strategy to end violence against women, rather than opposition to protecting women from violence.

Several religious groups have been less equivocal in embracing more progressive and reform-based principles in their efforts to reduce community and domestic violence.¹⁴⁹ The Franciscan Peacemakers, based in Milwaukee, have developed a comprehensive guide to educate and prepare clergy for the phenomenon of domestic violence in their ministries.¹⁵⁰

CULTURE 177, 182 (Timothy E. Fulop & Albert J. Raboteau eds., 1997); David G. Hackett, *The Prince Hall Masons and the African American Church: The Labors of GrandMaster and Bishop James Walker Hood, 1831-1918*, in 69 CHURCH HISTORY 770-802 (2000) (recounting the powerful role of the Black Church during slavery while also discussing Hood's leadership and how he "turned to the Bible and found in it a more complete and compassionate presentation of the history and humanity of black people"); Albert J. Raboteau, SLAVE RELIGION: THE "INVISIBLE INSTITUTION" IN THE ANTEBELLUM SOUTH 280-318 (1980) (discussing how slave reinterpretations of religion shifted Christianity from docility to a radical liberation theology).

146. See Wesley A. Roberts, *The Black Revolution and the Churches*, in EERRDMAN'S HANDBOOK TO CHRISTIANITY IN AMERICA 447 (Mark A. Noll et al. eds., 1983) (discussing the Black Church as a major source of the momentum for the Civil Rights movement). "The revolution began in the black church under the leadership of a black Baptist clergyman. It received its inspiration from the hymns, sermons, and charismatic leadership of the church, which became the meeting place for marchers." *Id.* See also TAYLOR BRANCH, PARTING THE WATERS: AMERICA IN THE KING YEARS 1954-1963 (1988) (discussing the pivotal role of Reverend Martin Luther King in the civil rights movement).

147. See WEST, *supra* note 144, at 120-21 (hailing the need for intra-community acknowledgement and confrontation of the "male-violence-sanctioning attitudes and practices within the community," including the Black Church).

148. *Id.* at 142 (criticizing the response of religious leaders who supported Mike Tyson when he was accused of raping a black woman).

149. See, e.g., FRANCISCAN PEACEMAKERS, MISSION STATEMENT (last visited Mar. 16, 2003) (providing a description of the Peacemakers' organization and purpose), available at <http://www.franpax.org/mission.html>.

150. See *id.* (delineating specific guidelines).

While acknowledging the complex histories of battering relationships and the importance of confidentiality for both parties, the Peacemaker guidelines emphasize that safety must always be the primary concern when taking a stance that confronts domestic violence.¹⁵¹ The Franciscans caution that abuse may not be obvious and insist that clergy who “uncover abuse” listen without assigning blame, and “unequivocally challenge the violence.”¹⁵²

The guidelines provide that clergy should encourage women to find safe environments for themselves and their children and offer abused women choices such as “individual counseling, career counseling, support groups, education, separation, divorce, legal aid or counsel.”¹⁵³ The guidelines further provide that clergy should not confront the abuser but should maintain contact with him and be willing to discuss the violence if the abuser raises it.¹⁵⁴

Contrary to many religious beliefs, the Franciscans emphasize that the primary goal is not to salvage the marriage, but to end the violence.¹⁵⁵ The guidelines suggest, “if the abuse is ongoing, it means that the abuser has not repented and that therefore forgiveness is not appropriate.”¹⁵⁶ While incorporating concepts of forgiveness, the Franciscans emphasize the battered woman’s need for strength and independence and assert, “forgiveness is the end, not the beginning of the healing process.”¹⁵⁷

Even acknowledging that forgiveness is a part of the process is an important modification to the current approach to domestic violence and an important resource for women. Of all the approaches discussed thus far, it is the religious model that most clearly speaks to forgiveness and redemption. However, the need for theological reform to change the climate “which so easily allows domestic violence to occur and to continue”¹⁵⁸ is evident.

IV. INDIGENOUS MODELS OF DISPUTE RESOLUTION

Throughout the literature are accounts of models of dispute resolution that indigenous communities use to address domestic

151. *See id.*

152. *Id.*

153. *Id.*

154. *Id.* (qualifying this statement by explaining that the discussion must be conducted within the bounds of confidentiality promised to the woman).

155. *See id.*

156. *Id.*

157. *Id.*

158. Ragsdale, *supra* note 33, at 1163.

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violence.¹⁵⁹ These models employ elements that resemble mediation and apply restorative justice principles.

These models attempt to explicitly draw strength from the connections between the victim and the offender based on their mutual membership in an ethnic group, community, or nation. The models described below are examples of some of the approaches that indigenous groups have used to address domestic violence.

A. *The Ho'oponopono Process – Native Hawaiian Healing*

The Ho'oponopono process is a spiritual problem-solving process developed by indigenous Hawaiians that focuses on repentance, forgiveness, and reconciliation.¹⁶⁰ Many of the steps in this process parallel the restorative justice model.¹⁶¹ When an intra-family conflict or a sickness arises,¹⁶² the family comes together to identify and discuss the problem before employing restitution, repentance, forgiveness, and prayer to correct it.¹⁶³ A family elder may lead the process,¹⁶⁴ but alternatively, a “kahuna” or a medical person can facilitate the process. Both parties are charged with working for the greater good of the community.¹⁶⁵ A distinctive feature of Ho'oponopono is that once the family has come together and discussed the sickness or conflict, the family “lets go,” and moves on without maintaining resentment or anger.¹⁶⁶ If a person fails to participate in the group's solution, then he will be evicted from the

159. See, e.g., Coker, *supra* note 2 (examining the Navajo Peacemaking system as it relates to batterer denial and victim blaming in the family violence context); Erin Daly, *Transformative Justice: Charting a Path to Reconciliation*, 12 INT'L LEGAL PERSP. 73, 161-81 (2002) (detailing the gacaca courts in Rwanda that integrate traditional communitarian principles); Merry, *supra* note 17 (comparing and contrasting religious and indigenous approaches to family violence).

160. See Merry, *supra* note 17, at 70-71 (“Ho'oponopono means to set to right or to correct, to restore and maintain good relationships among family members, and between the family and supernatural powers.”). The process was noted to have been used in “family therapy by social workers, healing within the Christian churches, and family problem solving in everyday life.” *Id.* at 71.

161. See discussion *supra* Part III.B (discussing the restorative justice model).

162. See generally Merry, *supra* note 17, at 71 (analyzing the nexus between medical and spiritual healing); Buel, *supra* note 41, at 110 (proposing a public health model that entails a comprehensive alternative to the current approach to domestic violence, and like Ho'oponopono, treats violence as an illness).

163. See generally Merry, *supra* note 17, at 70-81 (allowing each person to speak about what occurred and how they feel in an open forum).

164. See *id.* at 75.

165. See *id.* at 71 (noting that, due to the spiritual healing activities a kahuna may undertake, the kahuna's role is also affected by and may be likened to that of a religious leader).

166. See *id.* (commenting on how the result obtained through the Ho'oponopono process should be without the reservation of individual resentments or grudges).

family.¹⁶⁷

The Ho'oponopono process has also been used in domestic violence cases where the focus is on improving the self-esteem of the abusive man.¹⁶⁸ The leader of the session will stress the consequences and risks of the man's battering on the family and also each person's responsibilities.¹⁶⁹ The woman is asked to forgive her batterer and is urged to stop fighting.¹⁷⁰ The process stresses the integrity of the family, and no blame is assigned for the problem.¹⁷¹

B. Navajo Peacemaking

The Navajo Peacemaking process is a form of restorative justice and shares features of the Hawaiian Ho'oponopono dispute resolution process. The philosophy underlying Navajo Peacemaking derives from traditional Navajo jurisprudence that focuses not on punitive goals, but on teaching people how to live a better life, rebuild good relationships, and cultivate a healthy environment.¹⁷² A central tenet of Navajo culture is the interdependence of members of the community, family and the environment, and their responsibilities, rights, and reciprocal obligations.¹⁷³ However, this belief does not detract from the belief in the equality of individuals.¹⁷⁴ A parallel goal of the Navajo community is to maintain "hozho," which is best translated as "harmony."¹⁷⁵ Interestingly, the Navajo judicial system accommodates peacemaking that is court-ordered or that comes to court through self-referral.¹⁷⁶ In cases where a domestic violence protection order is sought, distinct rules requiring the petitioner's consent and the peacemaker's special training in

167. *See id.* at 75.

168. *See id.* at 77 (observing that at least one Ho'oponopono leader believes that a man's lack of self-esteem is typically due to "poverty, stupidity, and feelings of uselessness" that ultimately lead him to abuse his wife).

169. *See id.* (explaining that the husband is also informed that he may potentially lose his wife if he continues to exhibit violent behavior against her).

170. *See id.* at 77-78 (detailing the manner in which a woman may be asked to return to a violent husband under certain conditions).

171. *See id.* at 78 (noting that the focus of these sessions is on relationships and the acceptance of personal responsibility, rather than blame).

172. *See Coker, supra* note 2, at 33 (stating that the Navajo Supreme Court wishes to incorporate Navajo law into adjudicatory functions). Navajo law also emphasizes the restoration of relationships. *See id.*

173. *See id.* at 34 (describing this feature as "relational justice").

174. *See id.* at 34 (observing that individuals speak for themselves, and not on behalf of their families or other individuals).

175. *See id.* at 7.

176. *See id.* at 36 (defining self-referral as when a petitioner claims that he was "injured, hurt or aggrieved by the actions of another").

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domestic violence are applicable.¹⁷⁷

Peacemaking is a spiritual method that involves several defined stages.¹⁷⁸ However, it is also very flexible, and with a dynamic peacemaker, the session is able to address the particular needs of the participants.¹⁷⁹ The session is led by “a respected person with demonstrated knowledge of traditional Navajo stories.”¹⁸⁰ The process commences with a prayer and engages the parties, their social support systems, and possibly a healthcare practitioner, such as a social worker or a drug or alcohol counselor.¹⁸¹ Each person is given an opportunity to talk about the problem and the peacemaker guides the group in a discussion aimed at developing suggestions and agreements intended to improve the situation.¹⁸²

Coker, the author of *Enhancing Autonomy for Battered Women: Lessons from Navajo Peacemaking*, provides three justifications that support Peacemaking as a beneficial process for resolving domestic violence cases.¹⁸³ Describing battering as a systemic problem, Coker asserts that Peacemaking directly addresses the tendency of the batterer and the family to deny the detrimental consequences of the abuse while simultaneously creating an understanding support system for the victim.¹⁸⁴ Peacemaking also engages the community in accepting responsibility for battering and in finding ways to improve the situation.¹⁸⁵

Additionally, Coker suggests that Peacemaking deconstructs

177. *See id.* at 37.

178. *See id.* at 36 (discussing how Peacemaking is not a fixed process and explaining how its flexibility allows it to adapt to circumstances on a case-by-case basis).

179. *See id.* (referring to an interview with a leader from the Peacemaker Division of the Navajo Nation).

180. *See id.* at 59 (explaining how peacemakers use traditional Navajo stories and lessons to convey a message and asserting that because of their flexibility, peacemakers thus may also have the ability to have gender-egalitarian themes permeate the session).

181. *See id.* at 34.

182. *See id.* at 35 (noting that the problem is discussed among disputants and family members).

183. *See id.* at 38 (conveying the author’s perspective that when compared with legal means of intervention in domestic violence cases, there are several areas within the concept of Peacemaking that might be more advantageous to battered women).

184. *See id.* at 42 (detailing the discussion and confrontation among family members and the Peacemaker in a domestic violence case).

185. *See id.* at 45-46 (specifying that the community also provides aid to both the battering victim and the batterer). It is not uncommon that the two partners are referred to social service providers or traditional healers. *See id.* “The assistance given by agencies and by traditional healers often results in increased community and governmental material support.” *Id.*

battering's systemic nature by allowing the batterer to also express the oppression he himself has suffered.¹⁸⁶ This attention does not detract from the batterer's responsibility for harm to the victim, but places his wrongdoing in a context that acknowledges the multiple forms of oppression that both he and the victim share.¹⁸⁷ Finally, the author proposes that Peacemaking more acutely addresses "battering as a system of control"¹⁸⁸ because unlike traditional courts, the peacemaker is able to reach and address the "non-violent and non-criminal" conduct that contribute to the domestic abuse.¹⁸⁹

Unlike judicial processes, where intervention can only occur in the event of a violation of the law, Peacemaking processes use rehabilitative measures or "stay away" orders to address the more subtle forms of domestic violence.¹⁹⁰ Peacemaking acknowledges the importance of relationships, the interconnectedness of persons, and the complementariness of the genders.¹⁹¹ Coker asserts that because the Peacemaker, unlike a mediator, is explicitly not a neutral party, but one who is invested in eliciting the greater good,¹⁹² s/he can integrate an "anti-misogyny norm" as a means of further disintegrating the battering culture.¹⁹³ Importantly, Peacemaking "does not treat as pathological women's attempts to maintain relationships with men who have abused them."¹⁹⁴ Nor does Peacemaking force the woman to choose between "various competing loyalties" as traditional adjudication often does.¹⁹⁵

186. *See id.* at 51 (revealing how Peacemaking can uncover the abuser's underlying feelings of oppression).

187. *See id.* at 53 (weighing the pros and cons of involving the batterer's life context in the Peacemaking process).

188. *See id.* at 57 (depicting the system of control as a "state of siege" over the woman that involves "control, intimidation, threats of violence, and violence").

189. *See id.* (mentioning "economic coercion and control, name-calling and humiliating behavior, and influencing the children to coerce the woman," as examples of behavior that Peacemakers are better equipped to address).

190. *See id.* (adding that alcohol treatment, counseling, and healing ceremonies are often included as rehabilitative measures).

191. *See id.* at 102 (discussing the value the Peacemaking process accords relationships).

192. *But see* Rashmi Goel, *No Women at the Center: The Use of the Canadian Sentencing Circle in Domestic Violence Cases*, 15 WIS. WOMEN'S L.J. 293, 325 (2000) (suggesting that reporting domestic abuse to outsiders, and perhaps even to a Peacemaker, may be in conflict with traditional indigenous values, such as kindness and family cohesion, and may give the impression of betrayal).

193. *See* Coker, *supra* note 2, at 103 (emphasizing the use of traditional Navajo stories to pursue this goal while further noting the potential difficulties with the subtle infiltration of misogynistic beliefs into the process).

194. *Id.* at 67.

195. *See id.* 68 (analyzing the unique function of Peacemaking and the ways in which it effectively addresses the conflicting needs of battered women).

C. *Gacaca – A Rwandan Experiment in Justice and Reconciliation*

In 1994, Rwandan Hutus killed approximately 700,000 people, mostly Tutsis, and an additional 50,000 Hutus considered sympathetic to the Tutsis.¹⁹⁶ In addition to the murders, Hutus committed other acts of violence, including rape and other forms of torture.¹⁹⁷ While the Hutu-run government was largely responsible, other individuals, including groups of youths and “ordinary people,” participated in the genocide as well.¹⁹⁸ The genocide ultimately resulted in the arrest of approximately 115,000 alleged participants,¹⁹⁹ severely straining the capacity of the government to house the prisoners.²⁰⁰ The government has also experienced significant problems adjudicating the cases,²⁰¹ and many individuals have been detained for as long as seven years while awaiting trial.²⁰² Attempting to address the administrative and judicial issues that arise from detaining such a large number of individuals charged with ethnic violence, and seeking to implement a means through which to address the fractured Rwandan society, the Rwandan government legislated that traditional “gacaca” courts would hear the cases of those detained.²⁰³

196. *But see* Catherine Honeyman, *Gacaca Jurisdictions: Transitional Justice in Rwanda, Interim Observations, June 10-Aug. 8, 2002* (last visited Mar. 17, 2003) (documenting that more recent government information estimates the number of deaths as closer to one million), available at <http://www.fas.harvard.edu/~socstud/rwanda/preface.html>.

197. *See* Laurie Anne Pearlman & Ervin Straub, *The Gacaca Process as an Avenue Toward Healing and Reconciliation* (last revised Oct. 24, 2001) (recounting the various forms of violence used during the Rwandan genocide), available at <http://www-unix.oit.umass.edu/~gubin/rwandasup/gacaca.htm>.

198. *See id.* (describing the wide range in the groups of Rwandan citizens who participated in the massive genocide).

199. *See* REPUBLIC OF RWANDA, OFFICIAL GOVERNMENT WEBSITE (last visited Mar. 29, 2003) [hereinafter RWANDA GOVERNMENT] (providing numerous reports concerning the events that have unfolded within Rwanda over the past several decades), available at <http://www.rwanda1.com/government/>.

200. *See id.*

201. *See* Honeyman, *supra* note 196 (explaining that the Rwandan government estimated that it would take over 200 years to bring all of the nearly 200 prisoners to trial using the traditional court system). The prospective delay was due, in part, to the fact that the court system had been essentially decimated during the genocide and was incapable of regenerating itself quickly enough to accommodate such a heavy caseload. *See id.*

202. *See* Marco Domeniconi, *High Turn-Out as Gacaca Courts Open Nationwide* (Dec. 5, 2002) (noting the large number of Rwandan prisoners left in jail without a trial subsequent to their capture following the genocide), available at <http://allafrica.com/stories/200212090340.html> and <http://www.alertnet.org/thenews/fromthefield/561998>.

203. *See* Honeyman, *supra* note 206 (explaining that “gacaca,” roughly translated, means “to sit in the grass.”).

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In traditional gacaca courts, two parties voluntarily agree on the person who will hear their dispute and reconcile them by resolving the matter outside the formal court process.²⁰⁴ The Rwandan government has modified this process and in October 2001, local communities selected 250,000 adults who would hold the title of “inyangamugayo”²⁰⁵ and serve as judges in over 10,000 gacaca tribunals.²⁰⁶ These judges adjudicate the cases from the lowest level of Rwandan society, called “cells.”²⁰⁷ The courts also hear all but the most serious of offenses committed during the genocide.²⁰⁸ Those who planned the genocide, who engaged in rape, and committed other serious crimes are tried in the formal courts.²⁰⁹

The explicit purposes of the gacaca courts are threefold: (1) the reconstruction of that which was destroyed during the genocide; (2) the acceleration of processing defendants from a large number of jurisdictions; and (3) the reconciliation of Rwandans and the re-enforcement of their unity.²¹⁰ The gacaca courts also have important ancillary goals: (1) establishing a record of what occurred and settling the past through truth-telling; (2) eradicating the culture of impunity; (3) redressing wrongs committed; (4) encouraging broad participation of all affected by the genocide; and (5) reestablishing trust and solidarity.²¹¹

The gacaca courts accomplish these goals by engaging in a multi-stage process that includes gathering the names of individuals who lived in cells prior to and after the genocide; creating a list of those deceased; collecting a list of damage claims; maintaining lists of those accused; and adjudicating the cases of the accused.²¹²

204. See Afrol.com, *Rwanda Implementing Controversial ‘Gacaca’ Courts* (last visited Mar. 4, 2003) (describing the traditional methods of implementation of gacaca courts and explaining how they differ from the modern government-controlled gacaca courts), available at http://www.afrol.com/News/rwa018_gacaca_courts3.htm.

205. See Honeyman, *supra* note 196 (translating “inyangamugayo” as meaning “a person of integrity”). “The judges of Gacaca Courts will be respectable people of at least 21 years of age, and elected by people of voting age. They will take responsibility for ensuring orderly and fair proceedings.” *Id.*

206. See AMNESTY INT’L, RWANDA: GACACA-GAMBLING WITH JUSTICE (June 19, 2002), available at <http://web.amnesty.org/ai.nsf/index/AFR470032002>.

207. See Honeyman, *supra* note 196 (explaining that Rwanda’s government is organized on a colonial model that includes cells composed of 400-800 households, sectors, districts and prefectures).

208. See AMNESTY INT’L, *supra* note 206.

209. See *id.* (describing the categories of offenses for which the gacaca courts hold trials).

210. See *id.*

211. See Honeyman, *supra* note 196.

212. *Id.*

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The defining feature of gacaca is the level of participation from all sectors of society. The gacaca courts literally hold meetings “in the grass” and engage the community in developing the lists of those affected by the genocide. The community also participates in the trials of the accused.²¹³ The gacaca process rewards the accused for pleading guilty and confessing by cutting their sentences in half.²¹⁴

About eighty pilot gacaca courts were established in June 2002.²¹⁵ This provided a way for Rwanda to evaluate the success of the gacaca process prior to implementing the process throughout the country. Prior to the establishment of the courts, preliminary gacaca sessions were held.²¹⁶ Defendants were brought to communities where they had allegedly committed crimes.²¹⁷ If no one in the community came forward with evidence of his crime, the defendant was set free.²¹⁸ If testimony was presented that the defendant participated in the offense, he was sent back to prison to await classification of the offense and a formal appearance before a gacaca court.²¹⁹

At present, it is too early to evaluate the effectiveness of the gacaca process, but several organizations have released some initial observations.²²⁰ Many indicate that the gacaca process has resulted in widespread involvement of people and institutions at all levels of society.²²¹ The existence and work of the gacaca courts is publicized in government newsletters, religious institutions and by radio.²²² Furthermore, the radio has emerged as an important vehicle for educating and investing people in the gacaca process.²²³ Additionally, several films have been made about the gacaca process and shown in a variety of settings throughout the country, bringing yet another tool

213. *Id.*

214. See Domeniconi, *supra* note 202 (reporting that the Rwanda Ministry of Justice had released a report indicating that “[thirty percent] of all genocide suspects in detention have pleaded guilty.”).

215. See RWANDA GOVERNMENT, *supra* note 199 (reporting that the pilot courts were established in one sector in each province of the country and the City of Kigali during the first phase of implementation).

216. *See id.*

217. *See id.*

218. *See id.*

219. See Mary Kimani, *Community Frees Four Genocide Suspects During Pilot Gacaca Justice Process*, INTERNEWS, May 30, 2001 (detailing release of four suspects in preliminary gacaca process), available at http://www.internews.org/activities/ICTR_reports_may2001.htm.

220. *See, e.g.*, Honeyman, *supra* note 196.

221. *See id.*

222. *See id.*

223. *See id.*

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to bear in educating and alerting the populace broadly about the gacaca process.²²⁴

In general, gacaca courts have generated favorable reviews at all levels as well.²²⁵ For the most part, the inyangamugayo or gacaca judges are viewed as competent and skilled at coordinating and managing the many community meetings called for in the process.²²⁶ And, interestingly, the selection process identified strong women and men as leaders.²²⁷ To some degree, these women have a greater opportunity for leadership roles because of the massacres of so many men during the genocide.²²⁸ Another success of the gacaca process has been its staging of the tasks of the court from the most prosaic, such as conducting a census of who lived in the cells prior to the genocide and who lived there afterwards, to much more intricate tasks arising near the end of the process, thereby allowing people to freely participate in distinct stages of the process depending on their investment, stamina and emotional resources.²²⁹ Finally, while not perfect, many believe that the gacaca process is the only viable way to accomplish the multiple goals of reducing the number of individuals in detention, while at the same time coming to terms with the aftermath of the genocide and trying to construct a reconciliation in the country.²³⁰

The gacaca process is ambitious and complicated, combining elements of the truth commission, mediation, and restorative justice models. While it is likely to assist in Rwanda's goal of reducing the number of individuals in detention, it is not clear whether it will accomplish the goal of securing justice and encouraging reconciliation among the Rwandan people. While few aspects of gacaca would be useful in the domestic violence context, the public education aspects would be incredibly helpful in educating the public and sensitizing the community at the most basic level about the prevalence and consequences of domestic violence. Though similar

224. See Mary Kimani, *Gacaca: Villagers Ask Questions After Viewing Internews Newsreel*, (Dec. 20, 2002), available at <http://www.allafrica.com/stories/200212220254.html>.

225. See Honeyman, *supra* note 196.

226. See *id.*

227. See *id.*

228. See Daly, *supra* note 159, at 171 (discussing the shift in family paradigms where women have become the heads of households due to the massacre of so many men).

229. See Honeyman, *supra* note 196; Pearlman, *supra* note 197 (discussing the need for extensive psychological support to assist gacaca participants, including defendants, victims, witnesses, community members and judges, in managing trauma associated with resolution of the claims).

230. See Honeyman, *supra* note 196.

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efforts at encouraging a national dialogue have occurred in this country, for example former President Clinton's National Dialogue on Race,²³¹ there has not been any recent effort of this magnitude to educate people at a neighborhood level and to secure their agreement about the direction and goals that the nation should pursue to resolve an important and pervasive problem.

D. A Critique of Indigenous Models

The indigenous models described above share three common attributes; informality, spirituality and the importance of narrative. Each seeks to create a process where the victims and offenders are heard. Two of the models, Ho'oponopono and Peacemaking, explicitly work toward the goal of having the victim release anger and hostility and forgive the offender.²³² In positioning the offender as capable of being forgiven, they have also acknowledged that redemption is possible.

Yet, these indigenous models also share common problems. First, all of these models are based on the involvement of elders or wise men and women in the processes. Often these elders hold traditional values which do not prioritize women's safety as the most important goal.²³³ Moreover, situating resolution of domestic violence in communities that are struggling to maintain their culture in the face of economic, racial and cultural threats may cause a bunker mentality where recourse to traditional values is seen as a way of supporting the integrity of the community in opposition to dangers from the dominant culture.

A second problem that these models share is the "hybridization" of the original models to make them more congruent with modern processes. For example, Ho'oponopono, Peacemaking and garaca all rely on the parties to choose a person to resolve their problems. This element of choice is critical to these indigenous healing processes. Yet, these voluntary processes have become mandatory. In the case of Ho'oponopono and Peacemaking, they are court ordered.²³⁴ In the case of gacaca, litigants no longer select the inyangamugayo. Those

231. Claire Wolfe, *A National Monologue on Turpitude* (Dec. 5, 1997) (describing one of President Clinton's dialogues on race), available at <http://www.geocities.com/CapitolHill/Lobby/1797/turp.htm>.

232. See discussion *supra* note 184 and accompanying text.

233. See discussion *supra* notes 186-89 and accompanying text.

234. See Merry, *supra* note 17 (contrasting the court ordered Ho'oponopono process requires that the offender report back whereas the native process seeks to address that issue and then move on to a restored family); see also Coker, *supra* note 2, at 36 (discussing the referral process in the Navajo Nation).

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envisioned are elected in a popular process, while the gacaca process envisioned an intensely personal process where the parties selected the inyangamugayo.

A third problem is the informality of these processes. The criminal justice model seems to elevate domestic violence by positioning it within a formal structure. The indigenous models, particularly Ho'oponopono and Peacemaking treat the violence as another sickness.²³⁵ While the public health model has its strengths, the potential consequences for both the offender and the victim, seem to call for a process where the offender's right to due process is protected and where the victim is able to make a record. These processes, which often call for letting go of anger and mistrust, do not accord sufficient weight to the importance of remembrance.²³⁶

Finally, the processes that are currently being used are just one of a number of practices that indigenous communities use to resolve problems. Many other practices which may have accorded more importance to women's needs have been lost, discarded, or dismissed.²³⁷ So the processes currently in use may only present part of the intervention and may preclude others which are more sustaining for women.

This critique of indigenous models does not mean that these models should be discarded. It simply provides other issues and cautions that communities, advocates and women should consider when using these processes. In this regard, particularity—asking “does the process meet the needs of this family, this man or this woman?”—is

235. See Coker, *supra* note 2, at 34 (noting that peacemaking circles are used in myriad interpersonal conflicts); Merry, *supra* note 17, at 72 (describing peacemaking as “a means of spiritual problem-solving” used in varied circumstances such as “family therapy by social workers, healing within the Christian churches, and family problem-solving in everyday life”).

236. See discussion *supra* note 184 (emphasizing the need to let go).

237. See Rashmi Goel, *No Woman at the Center: The Use of the Canadian Sentencing Circle in Domestic Violence Cases*, 15 WIS. WOMEN'S L.J. 293, 300, 323 (2000) (discussing the egalitarian, matriarchal and pre-colonial indigenous society and also applying Kimberle Crenshaw's intersectionality theory of the marginalization of women minorities to indigenous women). Goel further states that to employ these processes premised on equality is incongruous with the readily apparent effects of European colonization on indigenous communities and the ensuing dual nature of discrimination that indigenous women face. *Id.*; see also Loretta Kelly, *Using Restorative Justice Principles to Address Family Violence in Aboriginal Communities*, in RESTORATIVE JUSTICE AND FAMILY VIOLENCE 206, 207-08, 211 (Heather Strang & John Braithwaite eds., 2002) (supporting the need to address violence in the context of post-colonization while also acknowledging that the violence may be a product of colonized society – “in contemporary Aboriginal communities, the impact of colonization and dispossession has led to dislocation and the disintegration of traditional cultural values, so that the dissatisfaction of victims of violence, especially family violence, can be ignored and the community can continue to function”).

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more important than perfection.

CONCLUSION

There are a number of processes that institutions and individuals have used to resolve deeply felt injuries and harms to other individuals and sometimes even to entire nations. Each of these models, as discussed *supra*, has strengths and weaknesses, as does our current system of addressing domestic violence. Notably, each of these models shares goals of truth telling, justice and reconciliation. None of them demands forgiveness of abusers by victims, accepting the notion that the process of forgiving is acutely personal and cannot be scripted or required. While none of these processes explicitly refers to redemption, they nevertheless have implicitly recognized that people can and do change, particularly if they are heard and respected. These processes also share a quality of hopefulness by recognizing that with attention and resources, people and situations have the potential to change and to improve. The different measures offer something that the current model does not offer: the possibility for growth, healing and insight for the victim, offender and the community.

I will end this Article as I began it, with a narrative of sorts, a poem by Nikki Giovanni.²³⁸

Nikki Rosa

childhood remembrances are always a drag
if you're Black
you always remember things like living in Woodlawn
with no inside toilet
and if you become famous of something
they never talk about how happy you were to have
your mother
all to yourself and
how good the water felt when you got your bath
from one of those
big tubs that folk in Chicago barbecue in
and somehow when you talk about home
it never gets across how much you
understood their feelings
as the whole family attended meetings about Hollydale
and even though you remember
your biographers never understand
your father's pain as he sells his stock
and another dream goes

238. Nikki Giovanni, *Nikki Rosa*, in *BLACK FEELING, BLACK TALK* (1968).

and though you're poor it isn't poverty that
 concerns you
 and though they fought a lot
 it isn't your father's drinking that makes any difference
 but only that everybody is together and you
 and your sister have happy birthdays and very good
 Christmases
 and I really hope no white person ever has cause
 to write about me
 because they never understand
 Black love and Black wealth and they'll
 probably talk about my hard childhood
 and never understand that
 all the while I was quite happy²³⁹

This poem speaks to the duality lived by many individuals who have experienced or witnessed violence at the hands of a loved one or within their own family. Notwithstanding the violence I witnessed and the abuse my mother suffered, I am happy to have had both of my parents in my life. In my struggles to place my father's violence and my mother's forgiveness in context, I am often reminded of a conversation I had with my mother about why I should forgive my father. My question was, "Why should I put up with conduct from him, that I would not accept from an acquaintance or friend?" Her response was,

Because he is your father. You can change friends or acquaintances, but you can't change your family. You are as much a part of him as you are of me. You are just as capable of doing what he did and as vulnerable to abuse as I was. You need to be able to look at both of our weaknesses, accept what happened and move on. You need to try not to repeat the same mistakes that either of us made. And you need to let go of your anger. It is taking up a lot of energy that could be put to better use.

That answer was quite unsatisfactory at the time. Over the years, (in that way that we all hate to admit) I have come to agree with my mother. Regardless of whether we like it or want it we are all connected. In the same way that oppression of a person or a people, can create individual and cultural privilege,²⁴⁰ that subjugation and disenfranchisement ties the oppressor to the oppressed symbiotically by bonds of shame and guilt.²⁴¹ For me, anger at my father bound me

239. *Id.*

240. See generally TRACI WEST, WOUNDS OF THE SPIRIT (1999) (examining the social and psychological impact of domestic violence upon women of color from the time of slavery to today).

241. See, e.g., EDWARD BALL, SLAVES IN THE FAMILY (1998) (exploring in narrative

to him and the past in a way that was counter-productive.

Anger takes a great deal of energy and I am fortunate in being unable to hold grudges, even for deeply personal injuries. Yet forgiveness is more difficult, because forgiveness in some way means that perhaps I should no longer remember the terrible things my father did; the beating, the verbal abuse and the psychic abuse resulting from his infidelity, disinterest, and dismissal. Or perhaps, I need to remember his actions and hold on to my anger about it because if I forget, I may have to forgive. And then I would have to do the arduous work of rebuilding the relationship free from grudges, resentment and guilt.

While I advocate forgiveness and redemption, I realize that it requires more courage and effort than most people can muster. Thus far, the biggest step I have been able to take is to allow my children to know their grandfather free from my telling of his history. What they know of him is based on his behavior toward them. In this way, I have given my father an opportunity to recreate and redeem himself, if not with me then with my children.

So he plays games with them that he never played with me—cards and dominos under the pine trees in his front yard—and gives them gifts that he never gave me—a dog that he cares for at his home in Florida while they live in Washington—and demonstrates a love that he clearly felt but could not show for me. And in those random interactions with my children or working with my husband on our house in Florida,²⁴² he tells his story. He speaks of his love for my mother, even though he has remarried. He talks of his pride in me and my sister and our accomplishments, and his regret at not being a part of it. He admits that he beat my mother, even though he loved her. And sometimes, I am able to love him, because I forget not to.

the historical struggles of a slave family and its connectedness to the interests of the plantation owners who abused the slaves they needed to succeed).

242. My husband and father worked for almost a year to rebuild a home that I purchased in 1992 as my retreat. I purchased the house shortly after the birth of my first child, recognizing that I always needed personal spaces that I controlled.