



---

# I VIOLENCE – DOMESTIC VIOLENCE

## 1. Violence and domestic violence

### Introduction

There is no universal agreement about the definition of violence. Definitions reflect societal values, which are subject to historical and cultural change. Furthermore, definitions are influenced by philosophical, juridical, sociological and criminological debates. Discussing violence means discussing a taboo – the taboo of exerting violence. So far, definitions describe acceptable and unacceptable behaviour and further, the threshold of state intervention to maintain social order. In European countries a tendency toward an increasing acceptance of non-physical forms of violence can be observed. For example, most stalking activities do not aim at the body of the target person but their psyche. Nevertheless, stalking is now subject to legal sanctions in some European countries.

Some theorists (e.g. von Trotha 2000, Sofsky 2001) characterize violence as being accessible to every single person, regardless of situation and finally without reason. This characterization assumes violence is highly unpredictable individual behaviour. Individuals behave differently even though they share same motivation or vice versa, act the same way out of different motivations. The circumstances in which the behaviour/action occurs are neither the grounds nor prerequisite, nor sufficient to cause the exertion of violence. This approach leads to the conclusion that there is no sense in violence prevention.

Other theorists, on the other hand, assume that there are inhibiting or promoting circumstances that influence violent behaviour. Those circumstances are nonetheless not causes. Both, cause and circumstance are the basis for violence prevention. According to Foucault (1977) jurisdiction is a main aspect of crime prevention and particularly the awareness of penalization. The main function of punishment is prevention. Since punishment itself is kind of violence since it restricts the physical mobility of offenders (imprisonment) or, as in the

United States, destroys lives (death penalty). Therefore it is necessary to differentiate between legal and illegal forms of violence. Whereas legal violence belongs to the state, illegal violence is exerted by individuals.

### **Gender bias of violence**

Looking at individuals, violence might appear as unpredictable, reasonless and accessible to everyone. According to von Trotha, violence is nevertheless a matter of male youth, an “antithesis of female, childhood and old age”. This means, women do not have the same access to violence as men. This fact leads to assumptions, for example, that women do not exert violence or use non-physical forms of violence. Both assumptions are owed to female socialisation, which promotes the absence of violence since it is deemed discordant with motherhood. New research about youth gangs and in particular girl gangs shows, that this specific aspect of gender is eroding. Young women use physical violence in conflicts. Further, even though they might be a minority, an exception of the rule, women kill their children, batter them, batter their partners and commit other criminal offences. Nevertheless, there are at least eight times more men in prison than women. Women might be less violent and less criminal than men, women are also involved in violence and crime.

**So, the question is why and when women transgress gender biased borders of social order and become violent. Hopefully, this tool box offers one possible answer.**

### **1.1. Definitions**

#### **Violence and aggression**

Definitions and explanations of aggression can be found in psychology and social psychology. Theories about aggression mostly analyse individual behaviour and its factors that influence it. Contrary to this, theories about violence are found predominantly in the field of sociology. They focus on the violent act itself and/or its societal context.

According to theories of aggression, it is defined as a habitual aggressive attitude, meaning aggression is viewed as an aspect of personality or individual character. Even though no unitary definition of violence can be found, all theories regard violence basically as damaging behaviour directed against an organism.

Theories about aggression focus mainly on the aetiology of aggressive behaviour. Four main approaches can be found: intra-individual, inter-personal, inter-group and finally ideological. Whereas the intra-individual approach regards aggression as an aspect of individual personality, the interpersonal approach views it as a communication problem and as a conflict between individuals. The third approach combines individual and sociological explanations, analyzing aggression in the context of inter-group dynamics. Aggression can help forging and strengthening group identities. The fourth approach can be found in social psychology, which views individual behaviour as embedded in a social context which supports or even legitimizes certain aggressive behaviour.

**It is assumed that same causes that activate aggressive behaviour also lead to violent behaviour.** There are several approaches to differentiating between violence and aggression. Some theorists argue that aggression describes the emotional whereas violence describes the more functional aspect of a certain type of behaviour. In literature both terms are often used synonymously.

In contrast to aggression, the definition of violence is more subject to historical changes and influenced by culture and social values. Definitions reach from solely actual bodily harm to the idea of 'structural' violence (J. Galtung 1975), which claims a society that restricts somatic and mental realization compared to what is potentially possible can be defined as violent. Thus, direct and indirect discrimination will be regarded as an aspect of violence.

### Domestic violence

Violence in the close environment is called either 'domestic violence' or 'family violence'. 'Family violence' puts the focus on the family. It includes intergenerational violence as well as violence within the partnership. In this approach, violence is seen as a symptom/result of a dysfunctional family dynamic. In contrast, 'domestic violence' includes various kinds of relationships aside from the family of origin, but still assumes that the participants are living together (cohabiting). 'Domestic violence' thus covers various constellations of relationships, e.g. violence within the partnership, flat sharing communities or intergenerational violence, such as violence against older people. In contrast to 'family violence', 'domestic violence' puts the focus more on the perpetrator/offender and includes his/her social context: The causes of violent acts are seen either in individual life experience and/or in a social context

which promotes or inhibits violent behaviour. A predominant social context is gender bias and its definitions of 'male' and 'female'.

'Domestic violence' generally covers "physical, sexual, psychological, emotional or financial abuse by one person against a current or former partner in a close relationship, or against a current or former family member" (Definition by British Crown Prosecution Service 2006). Since in the UK adults are defined as any person aged 18yrs and over, cases of domestic violence do not cover the violent acts of juveniles against parents or vice versa. Usually child abuse is excluded from domestic violence.

Nevertheless a lot of young homosexuals and transgender people experience violence from members of their family of origin: for example parents confining the adolescent daughter to her room, taking her mobile phone and hamstringing contact to her homosexual partner. Although the parent's violent behaviour might be due to homophobia and thus could be defined as 'hate crime', it needs to be defined as domestic violence since they are family members. Domestic violence can be exerted for homophobic reasons.

Neither "family violence" nor "domestic violence" seems to accommodate the present social changes in how people live together, how they arrange their relationships and their lives. Europe traditional ideas about the family have been radically changed, partners do not necessarily share a conjoint living space, they are not married, do not have children, are 'patchwork families' or have the same gender. There are less multi-generational-households and older people are not necessarily related to other adults in their living space. Furthermore, both terms veil the perpetrators of violence.

**The project focuses on violence within couples, whereas it is exerted mostly by former or present partners. This includes male as well as female ex-partners.**

## **1.2 Force, Dominance and Control**

Taking societal dynamics into account, violence can be defined as the misuse of force or power to deny the rights and freedom of choice on another. In the context of domestic violence, the aim is to dominate and control the partner and to restrict her/his rights and freedom of choice. Acts which deprive the right to make one's own choices and impede personal de-

velopment and growth therefore range from physical to non-physical forms of violence. Perpetrators use tactics of control and domination such as threats, intimidation, economic control, minimization and denial. While male partners try to assert male dominance and privilege, this explanation cannot be applied to elucidate violent behaviour in women.

### **1.3 Main indicators of violence**

Since ‘violence’ covers material and immaterial forms of aggressive action such as physical and/or sexual attacks, verbal, emotional and psychological abuse, it is necessary to specify indicators which define an act as violent. The indicators we propose cover the perspective of both the perpetrator and the victim. While perpetrators often deny or are not aware of their motivation, the victim’s fear is an important indicator. But neither motivation nor fear are ‘objective’ indicators, since they reflect a subjective, individual attitude or experience. Nevertheless we regard the proposed indicators as useful and ‘measurable’: There are psychological means of measuring the extent of fear a victim experiences as well as means of finding out about the motivation of the perpetrator (see chapter “[risk assessment](#)”).

There are two important criteria which help to decide whether an aggressive act must be defined as violent:

a) The motivation of the perpetrator: The aim of action is destruction: The deed might be a conscious (this usually includes a planned scenario) or unconscious act: Even though perpetrators might experience their acts as an expression of helplessness or powerlessness or as an uncontrollable emotional ‘eruption’, the aim is to destroy the person physically or symbolically.

*The motivation of destruction further leads to the difference between conflict and violence: The aim of a conflict is to retrieve what unifies the partners: Conflicting partners experience a separating development, e.g. in a partnership and try to regain common ground. The aim of violence is to destroy the partner either physically or symbolically.*

b) A second criterion to define violence is the victim’s fear: aggressive acts can also be defined as violent if the victim feels fear and thus tries to change their behaviour to avoid further aggression. Fear is not an ‘objective’ measure, meaning a certain aggressive behaviour might cause fear in one person but not in another one. The same act can be experienced in different

ways, due to individual life histories and social orders (e.g. hate crimes against members of social “fringe groups”). In addition to avoidance behaviour, indicators of fear might be:

Sleep disturbance

Fatigue

Depression

Self-blame

Irritability

Isolation

Loss of trust

Post-traumatic stress disorders

Etc.

#### **1.4 Stalking and domestic violence**

The term ‘stalking’ means repeated harassment or other forms of invasion of a person's privacy in a manner that arouses fear in its target person. Stalking may include such acts as repeated physical following, unwanted contact by various means of communication, observing a person's actions closely for an extended period of time, contacting family members, friends, or associates of a target inappropriately and ‘cyber-stalking’ (using the internet as a tool for harassment). In some European countries special laws against stalking can be found, for example in Austria (July 2006), Germany (March 2007) and UK (1997, Protection from Harassment Act).

Since stalking activities are used in violent partnerships as well, it is necessary to differentiate between domestic violence and stalking: the term ‘stalking’ covers harassment after termination of a partnership while ‘domestic violence’ covers violent acts during the partnership and during the separation phase.

There are various typologies of stalkers. Two types of stalkers are of importance in the context of domestic violence:

- **Rejected stalkers** pursue their victims in order to reverse, correct, or avenge a rejection (e.g. divorce, separation, termination)

- **Resentful stalkers** want to frighten and distress the victim out of a sense of grievance. They want retribution for their experienced of pain through separation.

The “rejected stalker” is angry, feels rejected by the partner and is emotionally dependent on her/him. S/he cannot accept the rejection or cannot believe that s/he has been rejected. Those perpetrators usually do not show mental disorders and know pretty well when they are at an advantage and when not. This means that they are responsive to legal sanctions (Mullen/Pathé/Purcell 2001).

The ‘resentful stalker’ gains a personal kind of satisfaction since s/he experiences power and control over the victim. S/he considers her/himself a victim experiencing pain. Her/his aim is to fight against experienced injustice. Her/his aim is to frighten and intimidate the victim. S/he usually uses threats and less physical attacks. S/he is not responsive to legal sanctions and views them as a prolongation of her/his experience of unjustness. S/he tries to avoid legal sanctions and further may show aspects of a paranoid personality.

Even though the number of same-sex partnerships is estimated as negligible (Zona, Palarea & Lane 1998, Meloy & Gothard 1995), it is worthwhile looking at them in the context of domestic violence. Research on stalking in the context of gay and lesbian partnerships is at the very beginning. A study of the Technical University of Darmstadt, Germany (2006/2007) shows that most stalking in same-sex context was motivated by the desire to regain partnership, hurt feelings, jealousy and anger. Where the stalker was the former partner, victims describe their partnership as shaped by jealousy. In half of the cases stalking activities already had been started during partnership. None of the victims experienced police or law as supportive. Almost 45% of perpetrators said that they had stalked other persons before. Further information: [www.stalkingforschung.de](http://www.stalkingforschung.de)

## **2. National laws**

### **Introduction**

National laws in European countries are based either on Roman law (e.g. Germany) or the French “code civil” (e.g. France, Belgium, Italy, Portugal, and Netherlands). Both juridical systems regarded women as subordinate to men. With marriage, women were subject to the

husband's guardianship. According to §213 of civil code, the husband was obliged to protect his wife, whereas her duty was to obey. In Roman law, family, house and courtyard were subordinated to 'major domus', the man of the house (patria potestas). He had the unrestricted right to issue corporal punishment to his subordinates (ius vitae necisque). In the Middle Ages, the right of corporal punishment was attenuated; now the husband was allowed to punish his wife only in cases of adultery, disobedience and when she contradicted him.

## **Austria**

In May 1997 the „Protection of Violence Act“ came into force in Austria to increase the protection for victims of domestic violence. Some aspects have been amended in 2000 and 2004. The new approach in the “Protection of Violence Act” is, that the violent person can be evicted on the spot by the police and the victim is enabled to stay in the place and has not to seek protection in shelters or with friends.

The law is based on three columns:

### **1. Eviction and barring order** (§ 38a SPG)

Eviction and barring order offer protection for all persons living in the flat or the house no matter whether they are related or not.

If the police decides that the victim is in danger, the offender can be expelled on the spot, the police takes his/her keys and the person is only allowed to take necessary personal belongings. The eviction is followed by a ten day's barring order.

The police has to document the case, inform the Domestic Abuse Intervention Centre and is obliged to control within the first three days whether the perpetrator follows the bar. A breach of the barring order is an offence and is fined with € 360,00.

The victim has to be informed about the possibility to apply for a temporary injunction at court to extend the barring order and about victim protection facilities.

### **2. Temporary injunction** (§ 382b EO)

The right to apply for a temporary injunction is only accessible for related persons, that means flat-mates and – as there is no legal recognition of same-sex partnerships - same-sex partners have no access to this law.

The temporary injunction provides several forms of protection, the victim can claim that

- The person causing danger must leave the dwelling and its immediate vicinity;
- The person may not return to the dwelling and its immediate vicinity;

- The person must stay away from individual locations specified in the application;
- The person is prohibited from contacting or meeting the victim

The application for a temporary injunction has to include a proof of the violence, like a declaration of the victim, a declaration of witnesses, medical findings etc. The court has to decide as soon as possible and execute the decision immediately.

The temporary injunction extends the barring order to three months and it is prolonged by an application for a divorce until the divorce is executed.

### **3. Domestic Abuse Intervention Centres (§ 25 SPG)**

In addition to the legal measures Domestic Abuse Intervention Centres were found in every federal province. The centres are legally defined and financed by the government. As the number of clients increased, there have been financial shortages since 2005 and some districts of Vienna could not be covered any more, the problems should be resolved by end of 2007 though.

The Domestic Abuse Intervention Centres have to be informed promptly after a police intervention and then get in contact with the victims and offer information, support and counselling. Although people can contact the centres without a former police intervention, statistics show that about 80 % of the contacts result out of police information.

The Domestic Abuse Intervention Centres link all involved authorities and are very important that the “Protection of Violence Act” got a very effective law. Although their statistics show that only a very small number of same-sex partners use this law.

<http://www.interventionsstelle-wien.at/>

### **Belgium**

Domestic violence and sexual abuse are criminal offences in Belgium. Specific laws have been developed over a period of time. Martial rape has only been a criminal offence since July 1989. “Domestic violence” is still not a criminal offence according to the Belgian legal system. Domestic violence comes within the scope of Art. 442 of the penal code and is treated as harassment. Until 1997, Art. 413 of the penal code was in force, stating that in cases of adultery first and second degree murder, battering and maltreatment are justifiable. In 1997, Art. 410 of the penal code was modified. Now domestic violence is regarded as an aggravating circumstance, since offender and victim have been in a close relationship. Aggravating circumstances lead to a more severe sentence. This law is applied to married as well as unmar-

ried couples and any other person who maintains or maintained a long-term emotional and sexual relationship with the victim. Hence, the above-mentioned Art. 413 has been suspended.

Since 1997 victims receive better police assistance and since 2003 judges can impose restraining orders. The support system for victims has been strengthened with new measures. The first Belgian National Action Plan against Violence was introduced In May 2001. It covers domestic violence as well other domains of violence. The Action Plan against domestic violence was developed in 2004-2007. In cooperation with the office for equal opportunities for men and women, it decided to focus on combating violence of (former) partners. The Action plan aims at:

- sensibilisation,
- education,
- prevention,
- shelters,
- restraint and other measures,
- evaluation.

In March 2006, the Minister of Justice and State Prosecutors signed a circular, titled “Marital and Family Violence”. Every complaint and each intervention measure must be recorded. Every offence is brought to charge. The systematic reaction of the juridical system demonstrates that there will be no impunity. Prosecutors will get special training and cooperation between police, prosecution and the social and medical sector will be strengthened. Victims will receive more information and support. Further, another important point is the treatment of perpetrators/offenders to reduce the risk of recidivism.

### **Germany**

Even though Prussia abolished corporal punishment in 1882, other German countries (e.g. Bavaria) kept it till the implementation of the Civil Law Code, dated 1.1.1900. A few years later, in 1908, women were allowed to attend universities. In 1918 they gained suffrage.

Until 1918 the catholic canonical right allowed husbands to beat, lock up his wife, and tie and let her “fast”. Even though corporal punishment had been abolished with implementation of Civil Law Code, it was still not an accepted reason for divorce – as long as it did not get out of hand. Thus, physical violence continued to be a fundamental part of family life. The guardianship of the husband continued till 1957, since he was allowed to stop any gainful

employment of his wife; wives were entitled to work only if it was in accordance with their marital and family duties. Thanks to Elisabeth Selbert – one of four “mothers” of the constitution - the German constitution of 1949 includes equal rights for men and women (Article 3.1 GG).

However, surveys of the 1980s show that a lot of women in West Germany and Austria accepted marital battering as unavoidable and some even recommended it: 12% of Austrian women said that they wanted “to be treated harshly”. In the 70s almost 30% of interviewed women answered that they viewed battering as not half bad. Also, a lot of men thought that women had to be “educated” and should be castigated (DER SPIEGEL Nr.8/1986).

Since battering of women has a very long tradition, societal changes and changes to the attitudes of men and women take place very slowly. Even though the German constitution guarantees equal rights for men and women, married women somehow had been excluded from that idea. Marital rape and sexual assault in marriage wasn't made subject to the penal code until July 1997.

The first [“National Action Plan”](#) to fight violence against women was introduced in 1999. The National Action Plan focussed on prevention, jurisdiction, sensibilisation of professionals, strengthening networks for victim support, cooperation between institutions and non-government organisations, perpetrators programs and international networks. Its implementation was evaluated in 2004.

In 2002, a civil law was passed to strengthen the protection of abused women ([GewSchG](#)). §1 of the law allows a restraining order in case of malicious harm to body, health and freedom which prohibits access to the apartment and the vicinity of the injured person. The offender is also prohibited from contacting the victim, for example by post, e-mail, phone or any other means. In the case of cohabitation, Section 2 allows the victim to stay a minimum of six months in the shared home without the offender. If necessary, this order can be prolonged for another six months. Any violation is a breach of the penal code which can result in being sentenced to a fine or imprisonment of up to one year. The law protecting victims of domestic violence is not gender specific, thus implying that there are male victims and female offenders as well as same-sex partnerships.

Police statutes are on county level (e.g. Hesse, Bavaria, Berlin, Nordrhein Westfalen, Mecklenburg Vorpommern, Saxony). Since 2002 police have been able to bar offenders for up to 2 weeks without an adjudicate decision. Because police law is determined by the German counties, there are different regulations on barring time, ranging from 1 to 3 weeks.

### **United Kingdom**

In 2004 the [Domestic Violence Crime and Victims Act](#) was introduced to increase the protection, support and rights of victims and witnesses. The Act focuses its attention on the criminal justice system and has following key principles:

- Making common assault an arrestable offence.
- Significant new police powers to deal with domestic violence including making it an arrestable, criminal offence to breach a non-molestation order, punishable by up to five years imprisonment.
- Strengthening the civil law on domestic violence to ensure cohabiting same-sex couples have equal access to non-molestation and occupation orders as opposite sex couples, and extending the availability of these orders to couples who have never lived together or been married.
- Stronger legal protection for victims of domestic violence by enabling courts to impose restraining orders when sentencing for any offence. Until now, such orders could only be imposed on offenders convicted of harassment or causing fear of violence.
- Enabling courts to impose restraining orders on acquittal for any offence (or when a conviction has been overturned on appeal) if they consider it necessary to protect the victim from harassment. This will deal with cases where the conviction has failed but it is still clear from the evidence that the victims need protection.
- Putting in place a system to review domestic violence homicide incidents, drawing in the key agencies to find out what can be done to put the system right and prevent future deaths.
- Providing a code of practice that is binding for all criminal justice agencies, so that all victims receive the support, protection, information and advice they need.
- Allowing victims to take their case to the Parliamentary Ombudsman if they feel the code has not been adhered to by the criminal justice agencies.

- Setting up an independent Commissioner for Victims to give victims a powerful voice at the heart of Government and to safeguard and promote the interests of victims and witnesses, encouraging the spread of good practice and reviewing the statutory code.
- Giving the victims of mentally disordered offenders the same rights to information as other victims of serious violent and sexual offences.
- Giving the Criminal Injuries Compensation Authority the right to recover from offenders the money it has paid to their victims in compensation.
- A surcharge to be payable on criminal convictions and fixed penalty notices which will contribute to the Victims Fund. For motoring offenders, the surcharge will only apply to serious and persistent offenders.
- Closing a legal loophole by creating a new offence of causing or allowing the death of a child or vulnerable adult. The offence establishes a new criminal responsibility for members of a household where they know that a child or vulnerable adult is at significant risk of serious harm.
- Bringing in the Law Commission recommendation for a two-stage court trial to ensure that high volume crimes like fraud and internet child pornography can be punished in full.

Further information:

<http://www.crimereduction.gov.uk/domesticviolence/domesticviolence51.htm>

Further, it is planned to expand the number of courts specialising in domestic violence from 25 to more than 50. Specialist courts are better equipped to deal with the complex issues involved in such cases. In 2005 there was a conviction rate of 59% of cases whereas in 2004 it was 53%. In comparison, the conviction rate of specialised courts in 2005 was 71%.

### **3. Policing domestic violence in the UK**

#### **Background to policing of domestic violence (with a focus on the Metropolitan Police Service)**

There has been a growing awareness and consciousness of domestic violence and abuse in heterosexual relationships since the 1970s, and particularly since the 1990s in criminal justice agencies. This in turn has shaped policy and policing practice.

In response to a Home Office Circular produced in 1990 (Home Office Circular 60/1990) providing guidance on how domestic violence should be dealt with by the police service, police forces across England and Wales set up Domestic Violence Units with specialist Domestic Violence Officers. The Home Office circular recommended that:

*“...police forces develop policy statements and strategies grounded in an understanding that domestic violence is a crime as serious as assaults by strangers, and that the primary duty of police is to protect the victim and her children and to take positive action against the assailant. Police are reminded of their extensive powers to deal with domestic violence under the criminal law and warned of the dangers of attempting conciliation between victim and assailant. They are advised to take positive action in every incident, rarely to attempt conciliation, to interview the victim separately from the assailant, to prepare information leaflets for victims, to arrange for medical assistance, to escort victims to a place of safety if requested, to consider arresting and charging the assailant and not to be affected by the fact that some women withdraw charges, to provide continued support for victims during the pre-trial period, to liaise with other agencies, to set up (where practicable) dedicated domestic violence units, to ensure that all offences are properly recorded and not ‘no-crimes’, and to make records easily retrievable.”* (Morley and Mullender, 1994)

Morley and Mullender’s report entitled “Preventing domestic violence to women” (Crime Prevention Series Paper 48) can be seen in full on the following Home Office website:

<http://www.homeoffice.gov.uk/rds/prgpdfs/fcpu48.pdf>

The Metropolitan Police Service set up Domestic Violence Units in each of the London boroughs in 1990. These units were then relaunched in an extended capacity under the title of ‘Community Safety Units’ in 1999 to cover hate crime as well. The stated aim of these units was to “offer support and protection to anyone targeted due to their race, colour, religion, sexual orientation, disability, or to anyone who has experienced domestic violence”.

Further information about Community Safety Units can be found on the following site:

<http://www.met.police.uk/csu/whatsu.htm>

The Home Office published two further circulars in 2000. The Circular “Domestic Violence” placed greater emphasis on local police policy and sets out how domestic violence incidents should be policed.

A further circular entitled “Break the Chain Multi-Agency Guidance for Addressing Domestic Violence” gave detailed advice on a partnership approach to addressing domestic violence. This can be seen in more detail at the following site:

<http://www.crimereduction.homeoffice.gov.uk/dv/dv08d.htm>

The MPS Domestic Violence Strategy published in December 2001 stated that the MPS committed itself to an inter-agency approach to responding to victims and outlined its central aims of i) finding ways to ensure the safety of the victim and any children they might have, and ii) making perpetrators accountable for their actions.

Similarly, the Crown Prosecution Service (CPS) launched its ‘Policy for Prosecuting Cases of Domestic Violence’ in 2001 which stated:

*“We regard domestic violence as particularly serious because there is often a continuing threat to the victim’s safety and, in the worst cases, the victim’s life... may be at risk.”*

The government then produced a consultation paper entitled “Safety and justice: The Government’s proposals on domestic violence” in 2003. The issue of policing domestic violence has continued to be at the forefront of the political agenda with the publication in 2005 of a national action plan that set out the progress made so far in tackling the crime and outlined future proposals to further improve support to victims and bring more perpetrators to justice.

Further information on the action plan can be seen at the following site:

<http://www.crimereduction.homeoffice.gov.uk/domesticviolence/domesticviolence51.htm>

<http://www.crimereduction.homeoffice.gov.uk/domesticviolence/domesticviolence51.pdf>

These issues were then directly addressed by the criminal law with the introduction of the Domestic Violence Crime and Victims Act 2004, which came into force in 2005 and is said to be the biggest overhaul of legislation on domestic violence in over 30 years.

Further information about the Domestic Violence Crime and Victims Act 2004 can be seen on the following sites:

<http://www.crimereduction.homeoffice.gov.uk/dv/dv016.htm#top>

<http://www.opsi.gov.uk/ACTS/acts2004/20040028.htm>

The current domestic violence policy in force in the Metropolitan Police Service can be found at the following location:

[http://www.met.police.uk/foi/pdfs/policies/domestic\\_violence\\_policy.pdf](http://www.met.police.uk/foi/pdfs/policies/domestic_violence_policy.pdf)

The Metropolitan Police Service states that their aim is:

*“To investigate the incident and identify, arrest and prosecute the perpetrator. Where a criminal prosecution of a perpetrator is deemed inappropriate, we will identify and pursue alternative courses of action in consultation with our partner agencies to stop the violence and make victims and their children safer.*

*“The MPS will take a perpetrator focused approach in domestic violence investigations.*

*“Where a power of arrest without warrant exists and there are reasonable grounds to justify arrest, the perpetrator shall be arrested immediately, if available. Failure to do so may amount to a neglect of duty and the reasons for not doing so must be clearly documented.”*

*“In partnership with the Crown Prosecution Service we will promote positive action for arrest and charge. With effective evidence gathering for corroboration, we will take forward independent prosecutions, removing the pressure and onus away from the victim. Intelligence-led pro-activity and initiatives with our partner agencies to target perpetrators will bring more offenders to justice, prevent re-victimisation and ultimately save lives.*

*“This approach will require strong leadership, positive supervision and the co-operation of the communities we serve to provide a professional, effective and caring response.”*

## **UK Definitions of domestic violence**

### **Home Office definition**

*"Any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality."*

The Home Office states further that:

*"This includes issues of concern to black and minority ethnic (BME) communities such as so called 'honour based violence', female genital mutilation (FGM) and forced marriage."*

This definition does recognise same sex relationships and an adult is defined as any person aged 18 years or over. Family members are defined as mother, father, son, daughter, brother, sister, and grandparents, whether directly related, in laws or stepfamily. Domestic violence is acknowledged as occurring across society regardless of age, gender, race, sexuality, wealth and geography.

<http://www.crimereduction.homeoffice.gov.uk/dv/dv01.htm>

Some Government agencies and parts of the voluntary sector use slightly different definitions to fit their particular needs.

### **Crown Prosecution Service definition**

The Crown Prosecution Service definition is more extensive:

*"Any criminal offence arising out of physical, sexual, psychological, emotional or financial abuse by one person against a current or former partner in a close relationship, or against a current or former family member"*

<http://www.cps.gov.uk/publications/docs/DomesticViolencePolicy.pdf>

<http://www.cps.gov.uk/publications/docs/DomesticViolenceLeaflet.pdf>

The CPS further states that:

*"In cases involving domestic violence in same sex relationships, victims may fear homophobic reactions from the criminal justice system, as well as being "outed" by the process."*

However, this is the only place where same sex partnerships are mentioned in the policy.

### **Metropolitan Police Service Definition**

The Metropolitan Police Service (MPS) has adopted the definition of domestic violence as recommended by the Association of Chief Police Officers (ACPO), which has the same wording as the Home Office definition, but includes a wider definition of family members.

*“Any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults, aged 18 and over, who are or have been intimate partners or family members, regardless of gender and sexuality”*

Family members are defined as mother, father, son, daughter, brother, sister and grandparents, whether directly related, in-laws or step-family.

[http://www.met.police.uk/foi/pdfs/policies/domestic\\_violence\\_policy.pdf](http://www.met.police.uk/foi/pdfs/policies/domestic_violence_policy.pdf)

The MPS further states that:

*“Where domestic violence has occurred, our aim is:*

*“To investigate the incident and identify, arrest and prosecute the perpetrator. Where a criminal prosecution of a perpetrator is deemed inappropriate, we will identify and pursue alternative courses of action in consultation with our partner agencies to stop the violence and make victims and their children safer.”*

#### 4. Research on domestic violence

The Belgian National Action plan 2004-2007 for fighting domestic violence intends compiling statistical research on the prevalence of domestic violence. In addition to compiling criminal statistics, data from the medical sector and counselling services will also be collected. At the beginning of the Belgian National Action Plan (Plan d'Action National) in 2004, for the first half year of 2004, the Belgian "Police criminelle" (criminal investigation police) recorded 4,861 cases of intentional bodily harm between partners in Belgium.

In 1998 Prof. Bruynooghe of the University of Limbourg conducted a study on marital violence. 68.1% of interviewed women stated that they had experienced physical and sexual violence. In 76% of the cases physical violence took place within the family and in 28% it had been perpetrated by the partner. One in seven women aged between 20 and 49 years (13.4%) and one of forty men (2.3%) had experienced severe bodily and sexual harm inflicted by the partner. Every 5th Belgian woman states having experienced at least one violent act through her partner.

In 2004, Prof. Müller and Dr. Schröttele from the University of Bielefeld, Germany conducted a representative study on women's experience of violence ([Lebenssituation, Sicherheit und Gesundheit von Frauen in Deutschland](#)). More than 10,000 women aged between 16 and 85 years were interviewed in 2003. They found that 37% of women have experienced physical violence, 13% sexual violence according to penal law, 58% sexual harassment and 42% psychological violence. Further, 23% of women stated having experienced physical violence in their partnership, 7% sexual violence and 25% physical or sexual violence. This data shows that every **2nd-3rd** woman experiences physical violence in her adult life and every 7th sexual violence. Moreover, every **4th** women aged between 16 and 58 experiences physical or sexual violence in her partnership. About 33% of those incidences can be described as battering relationships, meaning violence takes place repeatedly over a long period of time. 36% of interviewed women state, that they have experienced violence 2-10 times; about a third said that it had happened only once. In 64% of the cases the attacks induced physical injuries such as bruises, spraining, broken bones, open wounds and head and face injuries.

Since less than 1% of interviewed women said that they were lesbian, no data about violence in lesbian partnership could be raised. An analysis of 10 separate domestic violence prevalence studies in UK shows, that 1 in 4 women experience domestic violence over their lifetimes

([http://www.womensaid.org.uk/landing\\_page.asp?section=0001000100050007#common](http://www.womensaid.org.uk/landing_page.asp?section=0001000100050007#common)).

The Council of Europe has published a [stocktaking study](#) on domestic violence in opposite-sex couples. The extent of domestic violence has been studied within national health care systems and about 16 national studies have been commissioned to estimate the extent of domestic violence. Even its prevalence varies depending on the research methods, it can be stated that about one fifth to one quarter of women have experienced physical violence at least once in their adult life. Including all forms of violence, raises the percentage to 45%.

The preponderant majority of perpetrators of domestic violence are male, whereas the majority of the victims are female. Research which assumes that women's share in domestic violence is much higher (Fiebert 1997, Archer 2000), has already been rebutted (Kimmel 2002). Moreover Kimmel assumes that "Fiebert's scholarly annotated bibliography thus turns out to be far more of an ideological polemic than a serious scholarly undertaking". The fact that most perpetrators are male leads to the assumption that domestic violence is gender biased.

## **5. Approaches analysing domestic violence**

### **Introduction**

The various approaches to domestic violence are systematized in describing the focus of interest: The individual approach focuses on the single person whereas the gender biased approach puts the person in a certain social context characterized as a hegemonic social order along the lines of sex and gender. The intersectionalist approach views the individual embedded into a social context as well. The characterization of social order may differ from those of gender bias. It further focuses on interpersonal dynamics since a couple is seen as the smallest social 'system'. Finally, main critics of each approach are listed.

#### 5.1 Individual approach

The exertion of violence is seen as an individual behaviour, respectively dysfunctional behaviour caused directly by unresolved individual (traumatic) experiences in life. Domestic violence is seen as but one aspect of personality problems and impaired interpersonal relation-

ships. Unresolved emotional trauma result in the development of a number of survival tactics to avoid negative emotions, including high-risk behaviours such as substance abuse, violence and controlling behaviours. Therefore, not the violent behaviour but its causes are treated. The perpetrator is viewed as an ill person who needs to be healed.

This approach has developed various perpetrator typologies depending on ICD and/or DSM. The most typical are “anti-social”, “narcistic” and borderline personalities.

Perpetrators do not necessarily need to show disorders but several aspects of those personalities (e.g. Finkelhor 1988, Godenzi 1996, Gondolf 2002). A main risk factor of later delinquency is the experience of violence in childhood either as victims, witnesses or perpetrators. According to Godenzi, a lot of perpetrators are deeply dependent of their partners. This circumstance leads to controlling behaviour. Further, perpetrators use techniques to “neutralize” their violent actions and thus suspending the negative effects of their deeds: they reinterpret their behaviour, minimizing or justifying it, blaming and discrediting the victim. Many of them are not aware of their lapse and refuse any responsibility for their wrongdoing. Moreover, they see their partner – the woman – as accountable for those incidences (Logar 2002).

A quarter of perpetrators are dependent on alcohol but at the same time one in five interviewed claimed that they do not drink at all only rarely (Gondolf 2002). According to Gilchrist (2003), 73% of questioned perpetrators admitted drinking alcohol before violent action.

Finally, Gilchrist et.al. (2003) link certain types of perpetrators with certain violent behaviour: The antisocial/narcistic type in general uses intimidation and coercion as well as psychological violence and male privileges. The more antisocial type (47% of cases) shows lack of empathy for the victim behaves more “macho”-like and has already been convicted of criminal offences. He “neutralizes” his violent behaviour by minimizing it and blaming the victim. The more narcissistic type shows a tendency to narcissism and paranoia. They do not show overt “macho” behaviour but at the same time try to answer the desired way. In Gilchrist’s research, this type of perpetrator occurred in 13% of the cases. The borderline/emotional dependent type tries more to isolate the partner and threatens to hurt or kill her. This type further shows a high degree of interpersonal dependency and anger; he suffers from depression and anxiety states and blames others for his situation. Further, there is a high probability of the experience of physical or sexual abuse in childhood. 28% of the examined perpetrators of domestic vio-

lence belong to this personality type. Reasons for violent behaviour were jealousy, separation and themes around the children.

## 5.2 Gender-biased approach

Representatives of this model raise the issue of high prevalence of domestic violence and the vast majority of male offenders and female victims, low sanction rate and societal background of the perpetrator's attitude toward their violent actions (e.g. Walker 1979, Sonkin/Martin/Walker 1985, Walker 1990, Godenzi 1996, Hageman-White 1997, Brückner 2002). In this gender biased approach, battering is viewed as part of broader societal norms and practices that subordinate and oppress women within institutions and individual relationships. Therefore, battering is a social problem and not an individual one. Men and women are 'performing' gender: violent behaviour is acquired and interweaved with presentations of masculinity and femininity for men and women respectively (Godenzi 1996). Further, men's aggression is rarely negatively sanctioned. This weakness strengthens their attitude towards battering as a positive demonstration of virility. In this model, the position of women is described as a) victims and b) supporting a complementary structure, meaning men and women are mutually strengthening "the transgressing, uncontrolled and at the same time controlling behaviour of the man and the acquiescing, paralyzed behaviour of the woman" (Brückner 2002).

The gender biased approach is based on the cognitive-behavioural theory, stating that violent behaviour is acquired and encouraged by societal values and norms. Domestic violence is analysed as a complex combination of thought and attitudinal processes and overt behaviours that are acquired and serve particular psychosocial functions for the perpetrator, e.g. confirming his virility and male privileges.

From this approach, local and national intervention networks have been developed, where institutions such as the social welfare office, youth welfare office, bailiffs, police and prosecuting authorities pull together with women shelters, women help-lines, health care providers and many others to combat domestic violence. It is assumed that when different members of the community coordinate their efforts to protect battered women and hold batterers accountable, these efforts are more successful. Coordination helps to ensure that the system works faster and better for victims, that victims are protected and receive the services they need, and that batterers are held accountable and cease their abusive behaviour. Coordinated community

response programs also often engage the entire community in efforts to change the social norms and attitudes that contribute to domestic violence. Even though the main focus is given to protection of the victim (mostly women), training programs for perpetrators have been developed, combining a cognitive behavioural approach with a feminist analysis of the gender bias of society.

### 5.3 Intersectionalist/systemic approach

#### *Couples as a small system*

Couples are the smallest ‘system’ of a society. The system ‘couple’ is in reciprocity with other social systems up to the biggest one, society: A couple is shaped by inter-personal dynamics as well as by societal norms and values. Couples are organized via various forms of interaction (reciprocity of individuals). Hence, interaction is defined as interpersonal dynamic; its main components are verbal and non-verbal communicative acts. This means, that ‘not communicating’ is also a form of communication. Communication carries individual expectations as well as societal ones like norms about femininity and masculinity. Thus, it is indispensable to analyse individual behaviour against the background of societal norms and values – and closely examine its reciprocity. In the interactionist/systemic model approaches vary from focussing on the family of origin as a system (e.g. family therapy) to the conflation of individual and gender biased approaches.

Conflict is an aspect of communication. But while in a conflict, participants aim at keeping up the system, violence aims at its destruction. Domestic violence occurs in an interpersonal relationship where both parties participate. Therefore, it is important to analyse interpersonal dynamics which establish a certain structure in partnerships and finally lead to the exertion of violence. This includes individual expectations, hopes, desires, disappointments, individual life history as well as attitudes toward gender and social order.

Having a closer look at the interaction of a couple, different types of violent dynamics become visible: In a perpetrator-victim relationship it is possible to differentiate between perpetrator and victim, whereas the victim either a) supports the dynamic in e.g. in forgiving the perpetrator, not leaving him/her, keeping up dependency, or b) not supporting the violent dynamic in e.g. trying to separate. All victims show fear, which is not restricted to a certain situation but determines their daily life. They try to modify their behaviours to avoid further violence, use strategies of pacifying the partner etc. Contrary to that, in the second type of

violent dynamic, the bi-directional ‘participant-model’, none of the partners show fear which determines their daily life. There are at least two sub-types, a) bi-directional violence and b) repetition of traumatic experiences by both partners. It can be assumed that in same-sex partnerships more violent dynamics of the participant type will be found than in heterosexual couples, while in heterosexual partnerships more of the perpetrator-victim dynamic will be found (Ohms 2008).

A sociologist’s view on the system ‘couple’ differs from those of systemic psychotherapists. Although there might be overlaps, attitudes toward couples and especially couple counselling or couple therapy may vary. Further, various definitions of interaction can be found. Interaction here means verbal as well as non-verbal communication embedded in a social context. Communication implies individual and cultural attitudes and its expressions. Thus, the way a partnership is shaped by both partners and culture can be described as a form of interaction.

### ***Intersectionality***

Research shows that in violent dynamics differences in the sense of inequalities which are connected with feelings of superiority and inferiority are essential. Some of those inequalities are provided by society’s hierarchal order, like gender, race or social background. If those are not “available” for the couple, the partners in violent dynamics tend to create their own – internal – hierarchies, like better coping strategies with experience of sexual abuse in childhood. The idea of **hierarchies** modulating violent dynamics lead to an intersectionalist approach which takes into account various factors causing domestic violence. The primacy of gender as the dominant factor explaining domestic violence thus needs to be questioned.

Additionally to hierarchies risk factors for domestic violence in lesbian partnerships are multi-factoral: individual life history, hierarchal structure of society, norms and values of lesbian subcultures etc.

### **5.4 Critique of presented approaches**

\* The individual approach cannot explain why so many men batter. Individualizing domestic violence encourages looking at individual dispositions that lead to aggressive acts, e.g. history, psychological disorders, trauma, etc. Having a look at just intra-psyche dispositions thus deprives domestic violence of its societal context. Moreover, the individual approach has an aggravated risk of de-sexualizing domestic violence, making the use of violence available to

any individual. Police crime statistics reveal violence as a predominantly male phenomenon. In Western Europe, about 20% of crime suspects are women (e.g. safety report of German Innenministerium 2002: 21.6%) and about 5%-7% of prisoners are female. Even though there might be an increase in female adolescent violence and women who are recognizably violent, violence still is a male domain. Another critique of an individual perspective is that in focusing on intra-psychic dispositions and describing the perpetrators of domestic violence as “ill”, other circumstances that boost violent dynamics, such as societal context and interaction are lost from sight. Finally, the perception of illness encourages the perpetrator not to take responsibility.

\* In the second approach described above, domestic violence is analysed within the context of gender bias, disclosing the hierarchal order of gender: men use violence, force and control to maintain and perpetuate dominance and power over women. Furthermore, in this approach it is assumed that gender bias is the vital factor of society's hierarchal order. Since research shows that the vast majority of perpetrators of domestic violence are male while most victims are female, the categories of perpetrator and victim hence became gender-marked: working with women meant supporting victims while addressing men meant concentrating on perpetrators.

Nevertheless, gender bias cannot sufficiently explain, why not all men batter. Moreover, the possibility of male victims and female perpetrators has been largely excluded. Possible interests of women in maintaining the hierarchal order (including their status as victims) and their possible active participation are rarely discussed. Debates about domestic violence rarely – if ever – emphasise a complementary structure of partnership that is the aggressive manner of men and the acquiescing behaviour of women. Meanwhile existence of a variety of masculinities and femininities have been acknowledged (Connell 2005; Dinges 2005) in debates about gender bias. A certain type of masculinity, especially a very traditional, patriarchal perception of it, has been attributed to male perpetrators (e.g. Gräbel 2003). It also is assumed, that female victims who stay in battering partnerships also cling to a very traditional idea of partnership. Further, in their victimization they may experience care through the victim support system. This might also give them a sort of self-fulfilment. Still, gender bias cannot sufficiently explain, why not all men sharing a traditional idea of masculinity become violent.

## 5.5 Conclusion

Influential factors promoting domestic violence can be found on the individual, societal and subcultural level. It has to be acknowledged that the exertion of violence has multi-factoral causes of which gender is one aspect. Neither psychodynamic nor gender-biased approaches offer sufficient explanations for domestic violence in same-sex partnerships.

An intersectionalist approach involves the chance of concluding multi-factoral causes and describing their reciprocity: A couple can be described as a “small system”, thus looking at intra-personal aspects and inter-personal dynamics. Since this small system is part of a bigger system other factors such as shared values from a social class, circle of friends or subculture etc. can be added till finally the social system “society” can be examined in the analysis of domestic violence.

The primacy of gender needs to be questioned to explain domestic violence of same-sex couples.

## Literature

**Brückner, Margrit** (2002a): ‚Gewalt im Geschlechterverhältnis – Möglichkeiten und Grenzen eines geschlechtertheoretischen Ansatzes zur Analyse „häuslicher Gewalt“.’ In: Göttert, Margrit, Walser, Karin (Hrsg.): Gender und soziale Praxis. Königsstein/Taunus.S.15-37.

**Brückner, Margrit** (2002b): Wege aus der Gewalt gegen Frauen und Mädchen. 2. Aufl. Frankfurt/M.

**Connell, Robert W.** (2000): Der gemachte Mann – Konstruktion und Krise von Männlichkeiten. 2. Aufl. Opladen.

**Gräbel, Ulrike** (2003): ‚Ein „richtiger“ Mann – eine „richtige“ Frau. Die Konstruktion von Geschlechteridentitäten in häuslichen Gewaltbeziehungen’. In: Lenz, Karl (2003): Frauen und Männer. Zur Geschlechtstypik persönlicher Beziehungen. Weinheim/München, S. 161-180.

**Foucault, Michel** (1977): Überwachen und Strafen – Die Geburt des Gefängnisses. Frankfurt.

**Godenzi, Alberto** (1996): Gewalt im sozialen Nahraum. Frankfurt/Main. 3. erweiterte Aufl.

**Godenzi, Alberto** (1998): ‚Ungelöst oder unlösbar: Politische und wissenschaftliche Bearbeitung der Täterfrage’. In: Wildwasser Berlin e.V. Arbeitsgemeinschaft gegen sexuellen Missbrauch an Mädchen (Hg.) (1998): Input – Aktuell zum Thema sexualisierte Gewalt. Berlin.

**Gondolf, Edward W.** (2002): Batterer Interventions Systems – Issues, Outcomes and Recommendations. Thousand Oaks, CA/London

**Gilchrist, Elisabeth/Johnson, Rebecca et al.** (Hg)(2003): Domestic violence offenders: characteristics and offending related needs. [www.crimereduction.gov.uk/domesticviolence39.htm](http://www.crimereduction.gov.uk/domesticviolence39.htm)

**Hagemann-White, Carol/Kavemann, Barbara/ Ohl, Dagmar** (Hg) (1997): Parteilichkeit und Solidarität – Praxiserfahrungen und Streitfragen zur Gewalt im Geschlechterverhältnis. Bielefeld.

**Ohms, Constance:** (2008): Das Fremde in mir - Gewaltdynamiken in Liebesbeziehungen

zwischen Frauen. Soziologische Perspektiven auf ein Tabuthema. Bielefeld.

**Sofsky**, Wolfgang (2001): Traktat über die Gewalt. Frankfurt.

**Sonkin**, Daniel Jay, / Martin, Del/Walker, Lenore E.A. (1985): The male batterer – A treatment approach. New York.

**Trotha**, Trutz von (2000): ‚Gewaltforschung auf Popitzschen Wegen‘. In: Mittelweg 36, 9. Jahrgang, Dezember 2000/Januar 2001, S. 26-36.