

# HOME AFFAIRS COMMITTEE DOMESTIC VIOLENCE INQUIRY

## SUBMISSION OF THE FAMILY JUSTICE COUNCIL

### **Introduction**

The Family Justice Council (FJC) is an advisory non-statutory Non-Departmental Public Body sponsored by the Ministry of Justice. It is responsible for advising Government on the operation of the family justice system and for making proposals for reform and improvement. The FJC is chaired by Sir Mark Potter, the President of the Family Division. It is an inter-disciplinary body with representatives of all the key professions that work in the family justice system including doctors, social workers, cafcass officers, family judges, family lawyers, police and officials from relevant Government departments and agencies.

### **Executive Summary**

The FJC submits that:

- an effective strategy to combat DV requires leadership at ministerial and senior judicial level and Government commitment to appropriate levels of funding;
- more finding of fact hearings are required in child contact cases where there is a history of DV;
- more supervised contact centres are needed;
- urgent legislative action is needed to enable cafcass to routinely carry out CRB checks in all private law cases;
- the criminalisation of breaches of DV injunctions has been a retrograde step;
- a properly funded public information and media campaign on DV is required;
- DV awareness and respect in relationships should be made available under the personal development strand of the national curriculum to all children in secondary education, and;
- DV awareness should be included in all relevant degree level and professional qualifications and training (e.g. in social work, law and medicine).

1. Enormous advances have been made since 1997 in tackling the issue of domestic violence (DV) in England and Wales. A major factor in this has been the joined up approach of the Interministerial Domestic Violence Group. This has led to new legislation and good practice protocols and the dissemination throughout England and Wales of previously isolated areas of good practice and the development of a multi-agency and cross-departmental strategy. The Family Justice Council (FJC) believes the task for the next decade will be to update and monitor the effectiveness of the relevant legislation and protocols and to encourage Government to continue to give priority to the funding that is needed. National strategies require coordination and leadership at ministerial and senior judicial level.

2. New legislation has come into being including the Domestic Violence and Witnesses Act 2004, the Female Genital Mutilation Act 2003 and most recently the Forced Marriage (Civil Remedies) Act 2007. All three give a clear message that DV in all its forms is no longer acceptable in this jurisdiction and that the perpetrators will increasingly be brought to justice and victims protected.

3. The Family Justice Council has made DV one of its principal strands of work. In 2007 the Council contributed to the funding and development, (in partnership with the Ministry of Justice and the Family Law Bar Association (FLBA)), a DVD which explains to victims of DV the court civil and family court process they will go through and eases their fears of it.

4. The FJC believes that the issue of court fees payable by victims of DV, either in respect of injunctive proceedings or issues relating to children, requires consideration so that victims are not deterred from access to justice due to not being able to finance the proceedings. Access to legal aid is an increasing issue - it is very difficult, if not impossible, for a litigant in person to prepare for and conduct a lengthy "finding of fact" hearing (see page 18 NIAP)

In 2006 HMICA conducted an inquiry into the response of the Courts Service and CAFCASS to DV. The final report was highly critical, see [http://www.hmica.gov.uk/files/HMICA\\_Domestic\\_violence\\_linked1.pdf](http://www.hmica.gov.uk/files/HMICA_Domestic_violence_linked1.pdf)

5. As part of its response to this report the FJC recommended to the 40 local family justice councils that they held multi-agency training day on DV awareness and produced a training pack to assist them in this. A quarterly newsletter produced with the Ministry of Justice, as an update on recent developments in the field of DV is distributed to its members and all 40 local family justice councils – to cascade relevant information across the family justice system. This information

is also placed on the FJC website. The Chair of the FJC Domestic Violence Working Group, District Judge Mornington, sits on a number of national and international bodies, including the ACPO DV and Honour Based Violence (HBV) groups, in order to link and coordinate the response of the criminal and family justice systems and to share experience with other jurisdictions (her speech given in Pakistan in April 2007 is at annex 1).

6. Further to a report by Wall, LJ of Feb 2006 to the President of the Family Division commenting on the Women's Aid Federation of England paper '*29 Child Homicides: Lessons still to be learnt on Domestic Violence and Child Protection*', the FJC produced 'Everybody's Business'. The President had asked the FJC to make recommendations on how the courts should respond to applications for contact by consent in cases involving a history of DV. The FJC offers it for the consideration of the Select Committee ([www.familyjusticecouncil.org.uk/docs/reportoncontact.pdf](http://www.familyjusticecouncil.org.uk/docs/reportoncontact.pdf)). See also (at annex 2) a paper by Lord Justice Wall given to the Hertfordshire Family Forum at the Law Faculty of the University of St Albans, 13 March 2007.

7. A Practice Direction is currently being drafted for the future guidance of the courts on child contact and DV. A cultural change is required, with a move away from "contact is always the appropriate way forward" to "contact that is safe and positive for the child is always the appropriate way forward". This will not be an easy task and the FJC believes continued multi-agency training, supported by a public information campaign will be vital to effect change.

8. In order to improve the handling of domestic violence cases involving issues of child contact and residence by the courts the FJC considers that the following matters require urgent attention:

- CAFCASS needs sufficient funding – the resultant under-staffing means that reports are now taking between 14-26 weeks in many areas.
- Funding for more specialist judges to reduce inordinate delay and ensure that "finding of fact" hearings are held in appropriate cases.
- More contact centres and, in particular, supervised contact centres are needed; most courts have no local supervised centre.
- Services for risk assessment need to be developed and funded nationwide – capacity could be increased by contracting with Barnardos and the NSPCC, or other appropriate bodies, to conduct assessments. Social Services and CAFCASS often lack the resources to provide the service needed.
- A directory of national and local DV services needs to be produced, and regularly updated, for use by the courts and practitioners
- Urgent legislative change to allow for the sharing of personal information in the context of DV for practitioners who work directly with victims, or who are

involved in the assessment of risk, so that CAFCASS can screen all Children Act cases by obtaining the criminal and social services information on the parties.

9. The FJC has concerns as to the effectiveness of the criminalisation of breaches of non-molestation orders introduced under s.1 of the Domestic Violence, Crime and Victims Act 2004. Feedback from the Local Family Justice Councils and from judges handling domestic violence cases, day in and day out, in county courts up and down the country suggests that criminalisation has been a retrograde step which provides a less effective remedy to victims of domestic violence. The 2004 Act has removed the power of the family courts to attach a power of arrest to non-molestation orders and it is now for the police, and the CPS, to decide whether to prosecute for breach of a non-molestation order. This has, effectively, removed from the family courts the power to punish breaches quickly. Feedback from the Local Family Justice Councils also suggests that in many areas the police deal with breaches by issuing cautions and do not give this work the level of priority that the judiciary, and others in the family justice system, would like to see. The FJC is firmly of the view that it is not appropriate to deal with a breach of a non-molestation order by a caution save in exceptional circumstances. The FJC also note that in many areas the criminal courts are not able to deal with these cases as quickly as the family courts were able to deal with them before the 2004 Act came into force and that, consequently, victims must now wait longer for the protection that they need. The FJC would invite this Committee to look at the training that the police have received on dealing with breaches of non-molestation orders and to examine whether it is adequate to the task.

10. The ACPO Domestic Violence Group has developed and continues to update national training and good practice protocols for the police including MARACS. HMICA are making regular inspections to ensure they are being implemented but there are still worrying lacunas. FJC would recommend that this Committee considers the HMICA reports and hears oral evidence from them. ACPO has initiated a policy on police officers who are perpetrators of DV- this should be considered for extension to other professions as part of work place policies. In conjunction with the President of the Family Division, and the Ministry of Justice, ACPO has developed a national information sharing protocol between the police and the family and civil courts. The Committee may wish to consider whether more can be done in this direction.

11. Specialist Domestic Violence Courts are being initiated nationwide. Whilst these are to be welcomed the FJC considers it essential that funding is secured so that the magistrates and justices' clerks who sit in such courts and the other relevant practitioners, including probation officers and lawyers, all receive regular, updated and sufficient training. This has not always been the case. Two hours'

training is not adequate for the task. DV affects so many cases coming before the magistrates and other courts including those dealing with youth crime, drugs, prostitution, debt, children and family work. For this reason all magistrates, judges and practitioners dealing with these cases require regular training – not just those sitting in the specialist courts. This Committee may wish to consider the case for requiring lawyers, and other practitioners, to have compulsory accredited training before they are allowed to deal with DV cases. In NI all court staff receive DV training at induction which should be extended nationwide. It has come to the attention of FJC that many social workers are still not receiving any, or adequate, DV training which endangers lives - including those of children. DV appears as a major factor in approximately 50% of children cases referred to social services. In the case of s.31 applications (as opposed to referrals to social services) evidence indicates some 45% of cases also contain evidence of domestic violence (i.e. male violence) - a further 21% contained evidence of other violence.

12. Recent changes which mean that cases will, in future, be prosecuted by unqualified CPS staff instead of specialist CPS lawyers has to be regarded as a major set back to the effectiveness of the criminal courts. The defence and family lawyers also need to be trained, and properly qualified, and have sufficient time and experience to prepare cases. The Carter proposals on legal services funding, which have been severely criticised by many including the FJC, see ([www.familyjusticecouncil.org.uk/docs/061004\\_response\\_to\\_LSC\\_Consultation.pdf](http://www.familyjusticecouncil.org.uk/docs/061004_response_to_LSC_Consultation.pdf)), will have an adverse effect on DV cases at all levels of courts criminal, civil and family.

13. Witness protection measures are in place to ensure that victims feel safe to access the criminal courts and that conviction rates are, therefore, increased. These will be enhanced by the new victim advocacy schemes. The Ministry of Justice has sent out advice to all civil and family courts on giving similar protection to victims and witnesses attending court. However, reports are being received that in certain areas such protection is sketchy and monitoring and enforcement is necessary. Despite a number of protocols there is still an issue of failure to keep victims informed of the progress of criminal cases. It is unfortunate that the much heralded appointment of a Commissioner for Victims did not, for reasons as yet unclear, and which this Committee may wish to investigate, take place. The Commissioner and the powers he/she would have had would have been a powerful tool for the better protection of DV and other victims going through the criminal justice system.

14. The Raising the Standards (RTS) Inter-jurisdictional Group (covering England, Wales, Scotland, Northern Ireland, the Republic of Ireland, Isle of Man

and the Channel Islands) meet quarterly to exchange information on best practice and new initiatives and legislation and to develop new joint strategies. Regular links are also made with EU countries and internationally – their experience is of great value.

15. The Northern Ireland Action Plan (NIAP) "Tackling Violence at Home" ([www.nio.gov.uk/tackling\\_violence\\_at\\_home-action\\_plan\\_oct\\_2005-mar\\_2007.pdf](http://www.nio.gov.uk/tackling_violence_at_home-action_plan_oct_2005-mar_2007.pdf)) distributed through RTS, is recommended for consideration by this Committee. They are developing guidelines for all NI political representatives and providing a range of information and publicity materials to all constituency offices. Consideration should be given to extending this useful initiative throughout the UK.

16. National media campaigns are an acknowledged tool in the battle against DV. On their own initiative, and through partnerships developed through RTS, Scotland, Northern Ireland, the Channel Islands and the Republic of Ireland have long been developing and funding such campaigns. Materials have been generously shared between jurisdictions. Joint campaigns have taken place between NI and the Republic. Regular DV awareness weeks take place. England has, to date, failed to have a similar national, well funded media strategy. Funding may well have hitherto been the stumbling block. The FJC believes that this is a matter which now requires action and a long term strategy. What is needed is a change of culture. Consideration should be given to a public information programme of video reaching the courts, hospitals, GP surgeries, housing and social security offices and, in the case of forced marriage, airports.

17. Work place strategies are being developed through the Corporate Alliance Against Domestic Violence. In October 2007 RTS is holding an International Conference in Guernsey on the theme of "The Cost to Business and Society of Domestic Violence". These strategies need further development and funding and extension to small businesses in partnership with the trade unions.

18. Multi-faith DV guidance for faith leaders and communities has been developed in Northern Ireland. The Department for Communities and Local government together with a number of other departments, agencies and community groups is currently working on the development of such a guide for Muslims. If such guides are to be developed, it would be vital for them to be extended to other faiths as a matter of priority. Such guides can be important tools for practitioners and courts and can make a valuable contribution to tackling honour based violence and Forced Marriage.

19. NI is currently developing a leaflet specifically for children on issues of DV and the law. The FJC recommends that consideration be given to developing such a tool for English and Welsh child victims to which the FJC would be happy to contribute.

20. The FJC believes that children and young people should, as part of the national curriculum under the personal development strand, receive awareness training in DV and respect in relationships. Designated teachers in each school should receive awareness training and there should be specific guidelines for school staff dealing with DV in all its forms – including information that may be required of them by the courts. In higher and professional education, DV should be covered in all degrees relevant to those professions which work in the family and criminal justice systems. This would include law, medicine and social work degrees. As in NI, there needs to be national coordination of training strategies. Consideration should be given to the setting up of a National Delivery Group for children affected by DV akin to the Scottish model. The FJC would recommend that the “Watch over Me” information resources for schools funded by the Cabinet Office and DFES be made part of a national programme for all schools as these cover DV, Forced Marriage, HBV, gun and knife crime, drugs and bullying. Funding should be provided, as in Scotland, for child workers in every refuge. The FJC believes that prevention of DV through education is essential and if the Government is serious about tackling the root causes of DV the necessary funding must be found.

21. The FJC considers that the value of DV homicide reviews in relation to their expense needs to be monitored. The FJC supports the view taken by ACPO in their letter to the Home Office DV Unit of 3/9/07 (annex 3). Guidance should also be produced and disseminated as to the role of the judiciary, subject to the agreement of the President of the Family Division, and to other professionals, who may be involved in them.

22. The value of perpetrators’ programmes in relation to their cost and to other needs for funding (such as children’s’ play workers in refuges) should be kept under review. Wales and the Republic of Ireland are developing perpetrators programmes for use by the civil and family courts. In England, perpetrators programmes are available to the family courts in only a few areas (such as the DVIP in London). This is causing huge problems for courts which have carried out a “finding of fact” hearing and then need to see if the perpetrator is capable of changing attitude and behaviour in accordance with the guidance laid down by the Court of Appeal in the case of *Re L* [2000] 2 FLR 334. If such programmes have a proven success rate in the criminal justice system a national programme for referral by the family courts needs to be urgently evaluated and costed. At present

perpetrators have to be referred to psychologists or psychiatrists at great expense to the legal aid fund and the quality of the reports provided can be variable due to a lack of specialisation and sufficient experience in dealing with DV perpetrators. The Children and Adoption Act 2006 will allow courts to direct a party to proceedings to take part in a perpetrator programme. See S.11A(5)(a)(ii). The Act had a published Impact Assessment. Early enactment of the Act would allow this process to begin,

23. Screening programmes have been developed and rolled out nationally in ante-natal and gynaecological clinics and are now being extended to A and E departments. The national advisor to the Health Service in 2006 developed national policy and best practice guidelines on DV for the health service. The CDNA in conjunction with ACPO produced best practice guides for nursing and Elder Abuse. Domestic Violence and Elder Abuse has been added to the medical school curriculum. It continues to be felt by many in the field that General Practitioners are lagging behind in awareness and practice in relation to DV and this requires urgent attention.

24. The FJC Diversity Committee will be making a separate submission in relation to Forced Marriage and Honour Based Violence.

Family Justice Council  
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## **Domestic Violence and Honour Based Crime- joined up governance and an Islamic approach**

In the name of Allah the most merciful, the most beneficent.

### **1.Introduction**

The aim of this talk is firstly to carry out a detailed analysis of the UK Labour Government's policy from 1997 to date in respect of domestic violence (DV). The work will seek to show how factors such as ideology, the shape of the UK's socio-economic environment, and the change in attitudes which has taken place globally in respect of the role of the state in preventing violence in the home, has resulted in the rising prominence of DV as a significant political issue, and one which the current government has, with varying degrees of success, sought to make a real effort in tackling,

"We have invested an extra £70 million to tackle domestic violence, and on the latest figures that we have, domestic homicides are down, the number of guilty pleas is up significantly, and convictions at court have quadrupled. One of the reasons why that is happening is that there is far greater co-operation across the agencies and a far greater willingness in our court system and among the police to take domestic violence far more seriously." (Blair, PMQ's, 2006 – <http://www.theyworkforyou.com/debates/>, 20<sup>th</sup> December 2006)

After briefly introducing the key concepts that form the basis of the essay, I will look at why there have been significant differences in policy with previous governments, before then going onto analyse a series of policy initiatives observed since 1997. I will argue that the concept of joined-up government (JUG) has taken up a central role within the implementation and structure of the Labour government's DV policy. Although DV policy has involved numerous actors, I have chosen to concentrate on the key governmental and non-governmental actors, which I consider to have been most utilised and co-ordinated in order to produce new policy ideas, and then implement those initiatives effectively. Whilst I acknowledge from the start that the government has not always been successful in achieving its aims, I will argue throughout, that the situation for DV victims and their children is now markedly better now than it was and JUG has proved to be an invaluable component in bringing about improvement.

For the purposes of this essay, I will make use of the Home Office's definition of DV as, "Any incident of threatening behaviour, violence or abuse between adults who are or have been

in a relationship together, or between family members, regardless of gender or sexuality.”(<http://www.homeoffice.gov.uk/crime-victims/reducing-crime/domestic-violence/?version=1>, accessed on December 24<sup>th</sup> 2006) Whilst DV clearly affects both genders, it is proven by all respected studies world wide that women are more likely to be victims, and that the violence they suffer is of a far greater intensity and repetition (World Health Organization 2005), and the analysis will reflect this. In regards to defining JUG, I feel it is important to note that due to the increasing involvement of NGO’s and voluntary organizations in defining and implementing government policy, I therefore acknowledge that the issue is becoming a key example of joined-up governance rather than government. In respect of this work I do not wish to detract from the key issues involved and get tied up in a debate on definitions however. Whilst it is of course important to recognize the differences between governance and government, I feel strongly that the core principles of JUG have formed the cornerstone of DV policy under New Labour, and so I will utilize Pollitt’s definition,

“‘Joined-up government’ is a phrase which denotes the aspiration to achieve horizontally and vertically co-ordinated thinking and action. Through this co-ordination it is hoped that a number of benefits can be achieved. First, situations in which different policies undermine each other can be eliminated. Second, better use can be made of scarce resources. Third, synergies may be created through the bringing together of different key stakeholders in a particular policy field or network. Fourth, it becomes possible to offer citizens seamless rather than fragmented access to a set of related services”. (Pollitt, 2003, 35)

My second theme is that of the developing UK approach to Forced Marriage and Honour Based Crime. We acknowledge them both as forms of domestic violence but that they need a different approach and understanding given their cultural context and that the victims’ needs and vulnerabilities may be different. Many (but not all) of the victims of such crimes in the UK are of South Asian origin- victims of their cultural rather than religious backgrounds- their plight ignored and hidden by families and communities by the concept of “Shame” and by the authorities for fear of accusations of racism. I believe educating victims , families , communities and statutory bodies on the true tenets of Islam( and of other religions )provides the best way forward to protect and prevent such abuses and to nurture healthy families and societies. We are also looking to learn from countries (hence my presence in Pakistan) who have long been tackling such issues and to work in mutually beneficial partnerships with them.

## **2. From Thatcherism to the 'Third Way'**

I am in no respect attempting to argue that the Thatcher governments condoned DV in any way, but through the influence of New Right ideology, and an aim to solve many of the social and economic problems of 1970's Britain through the restoration of 'family values' founded upon a patriarchal society, Thatcherism as a political concept has been recognized as adopting an attitude that the family is 'private', an area in which the state should largely remain unobtrusive, "Thatcherism as a political project sought to reassert the importance of a strong nation and the patriarchal family. Both were significant in the construction of its electoral bloc, and helped to justify government indifference to the increased burden that the recession and government cuts in welfare services had inflicted on women." (Gamble, 1994, 199)

Through the use of highly divisive rhetoric, Thatcherism created an atmosphere within British society of 'them' (i.e. the unemployed, ethnic minorities, single mothers etc), as compared to 'us' (i.e., the 'hard working', white, middle-class majority). Although in reality this attempt to restore a patriarchal society was largely non-existent in respect of firm policy, mainly due to the fact that the Thatcher government realized that the highly flexible and easily hired/fired labour which women offered was essential as part of the move away from a manufacturing dominated economy. The often hostile attitude with which Thatcher appeared to regard some women such as single-mothers however, contributed significantly to the lack of a determined effort to firstly recognize that DV was a major problem within society, before even attempting to develop any serious initiatives with which to deal with the issue. Any intrusion into family life was often viewed by the New Right as being part of the failings of the post-war social democratic consensus, "The growth of the welfare state and the increased intervention into family life have been paralleled by a growth in concern for the privacy of the home and for the rights of the private individual. This issue is raised in a particularly acute form in the problem of wife abuse." (Pahl, 1985, 3)

The fact that no new DV legislation was brought into effect between 1979 and 2004 is testament to the lack of action taken by the Thatcher governments. The reasons behind this lay not only from the ideological influence, but also due to the economic reality in that one of the key aims of Thatcherism was to reduce public spending as part of a contested concept often labeled as the, "rolling back of the state". (Gamble, 1994, 235) This cut in resources inevitably reduced the capacity of the state to deal with acknowledged problems such as the negative effects of unemployment on society, never mind a relatively 'unknown' policy area, which DV was at the time. This failure to recognize the far reaching costs of DV to society and the

economy, is one of the key distinguishing features of the Thatcher and Blair governments, “The total cost of DV to services (Criminal Justice System, health, social services, housing, civil legal) amounts to £3.1 billion, while the loss to the economy is £2.7 billion. This amounts to over £5.7 billion a year”. (Walby, 2004, 1)

Whilst the Thatcher and Major years produced little in the form of DV related policy, the same cannot be said following the election of New Labour into power in 1997. There are several factors why Labour has taken up the issue under Blair, none more so than the presence of a significant number of female MP’s, with 101 elected into office in 1997, alongside a recognition of how vital it was for New Labour to appeal to women in order to achieve electoral success. The issue has also tied into many of the core principles of New Labour’s ‘Third Way’ style of social democratic politics, combining sound economics with an aim to tackle the negative consequences of society, and rather than demonizing single-mothers for example, “The (Labour) government wanted women to take their place as ‘economic equals to men’ while still supporting them in their accustomed nurturing role. The government’s ultimate objective was to encourage as many single parents as possible to enter the labour market.” (Fielding, 2003, 200)

As Pollitt (2003) notes, the concept of JUG is not a new one, as is often portrayed by New Labour, and can be observed to varying degrees in every post-war government. JUG offered New Labour not only a ‘catchy’ term from which to promote an image of change and ‘modernization’ of the British state, but of much greater significance, JUG was a tool which would allow the government to improve public services, without risking the political dangers of increasing public spending too early after the election victory, “(JUG) could take forward the government’s agenda without requiring large increases in spending in the short term, or major structural re-organization which might prove a distraction.” (Perri et al, 2002, 20) The degree to which significant changes had to be initiated within the DV issue is shown by the statistic that a victim ‘may go to 10 different agencies before she eventually gets help’ (Judicial Studies Board, 2004, 6), and so whilst Blair did not have DV specifically in mind when he promoted the idea of JUG, I would argue that it would be difficult to find another area or issue in which the core objectives of JUG were so desperately required, “DV is a complex issue and is not something that one agency, acting in isolation, can resolve. It demands a multi-agency approach, where both statutory and voluntary agencies engage to meet the needs of the victim.” (ACPO, 2004, 2)

### **3. Inter-Ministerial Domestic Violence Group**

In 2002, as a result of consultation between myself and the Chancellor Gordon Brown, the Treasury brought about the revival of the dormant Inter-Ministerial Group on DV. This has become the main engine for bringing about change through JUG. The group is headed by Baroness Scotland of the Home Office, and includes senior ministers from inter alia Health; DCA; ODPM (Housing [now Communities & Local Government (CLG) since May 2006) and Education. The group meets at a ministerial level at least quarterly to co-ordinate and initiate new DV policy. Senior civil servants supporting the group meet more regularly to carry out the detailed work. Before this group came into being, there was little or no co-ordination or communication on DV issues between departments and different parts of the country, resulting in a huge waste of resources, lack of a spread of best practice, and the response for the victim becoming a 'post code lottery'. By way of example, at one point, there were two separate groups in the Home Office and one in the DCA, working on the issues of Data Protection and the sharing of information in DV cases, without even being aware of each others existence.

An extremely successful piece of JUG which could not have been contemplated in the Thatcher era, and which was not without its difficulties for government due to the competing interests of the two major DV charities, was the setting up and funding by government of a national DV helpline (2003), a project run jointly by Women's Aid and Refuge. Another example of the role which JUG has played within the group has been the creation in 2005, of a joint specialist unit in partnership between the Home Office and the Foreign Office, to create the highly effective Forced Marriage Unit. It is very unlikely that any of the initiatives to be set-out below would have taken place without the authority behind the Inter-Ministerial DV group, together with the active support to it of both the Chancellor and PM.

Figure 3.1 below is a snapshot of many of the projects which have been brought about since 1997, and although I will not discuss them all within this essay, I still feel the table still provides a valuable picture of how vital JUG has been to the Labour government's policy on DV:

<b>Project</b>	<b>Initiatives/ Area</b>	<b>Research/Monitoring Body</b>	<b>Aims/Objectives</b>
<b>Criminal &amp; Civil Justice</b>	<ul style="list-style-type: none"> <li>-Intimidated witness support service (Brighton)</li> <li>-‘Standing Together’: Making the Law work for women</li> <li>-Co-ordinated Community Responses</li> </ul>	Criminal Policy Research Unit, South Bank University, London	<ul style="list-style-type: none"> <li>-To decrease police and CPS discontinuance levels and increase the number of individuals prosecuted and convicted</li> <li>-Increase the number of initial reports &amp; decrease repeat victimisations.</li> <li>-Raising Awareness and training of police &amp; magistrates</li> </ul>
<b>Protection &amp; Intervention</b>	<ul style="list-style-type: none"> <li>-Use of Cameras and Development of a Multi-Agency Database (Thurrock)</li> <li>-Alarm Systems (Wales)</li> </ul>	Criminal Policy Research Unit, South Bank University, London	<ul style="list-style-type: none"> <li>-To reduce repeat victimisations and the fear of reporting.</li> <li>-Enable women to stay in their homes &amp; provide an improved and more integrated service to those experiencing violence.</li> </ul>
<b>BME</b>	<ul style="list-style-type: none"> <li>-Reducing DV Project (Birmingham)</li> <li>-Victim Advocacy &amp; Safety Counselling (Tower Hamlets)</li> <li>-DV Advocacy Service (Croydon)</li> </ul>	University of East London	<ul style="list-style-type: none"> <li>-To raise Awareness in Asian &amp; other BME communities</li> <li>-Reduce levels of violence &amp; repeat victimisation</li> <li>-Increase efficiency &amp; protection through use of culturally sensitive services</li> </ul>
<b>Health</b>	<ul style="list-style-type: none"> <li>-Early Intervention Project (North Devon)</li> <li>-Enhanced Evidence Gathering Scheme (Salford)</li> <li>-DV Programme (Birmingham)</li> <li>-Primary Care Project (Wakefield)</li> </ul>	Faculty of Health & Social Care, South Bank University, London	<ul style="list-style-type: none"> <li>-To reduce repeat victimisations</li> <li>-Improve Partnership Working</li> <li>-Raise awareness amongst health professionals</li> <li>-Encourage safe disclosures in health settings, improve access to support</li> <li>-Improve training &amp; awareness, recording &amp; monitoring</li> <li>-Developing information sharing protocols</li> </ul>
<b>Multi-Service</b>	<ul style="list-style-type: none"> <li>-‘Staying Put’ (Bradford)</li> <li>-Safety Net (Camden)</li> <li>-Multi-Agency DV Project (Cheshire)</li> <li>-Sunflower Centre (Northampton)</li> <li>-Tools for Practitioners (Suffolk)</li> </ul>	School for Policy Studies, University of Bristol	<ul style="list-style-type: none"> <li>-To increase initial reporting</li> <li>-Reduce repeat victimisation</li> <li>-Increase women’s self-esteem</li> <li>-Develop multi-agency working</li> <li>-Increase women’s safety through screening</li> <li>-Help lines and legal support</li> </ul>

<b>Education &amp; Awareness</b>	-Violence Against Women Project (Bridgend) -NSPCC Patchwork Initiative (North Yorkshire) -STAR project (Southampton) Respect Initiative (Thurrock)	Canterbury Christ Church University College	-Raise Awareness -Changes Attitudes -Educate children and professionals and challenge existing attitudes through curriculum delivery, media campaigns, drama & websites.
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Figure 3.1 an Overview of Domestic Violence Projects (source: Home Office Website, "Tackling Domestic Violence: Effective Interventions & Approaches

<http://www.homeoffice.gov.uk/rds/pdfs05/hors290.pdf>, accessed on 20<sup>th</sup> December 2006)

#### **4. Police & the Criminal Justice System**

Up until 1997, there was no national police policy or training in respect of DV, and little or no acknowledgement of its seriousness as an offence. The only relationship between the police, other government agencies and NGO's, was that of mutual distrust, the NGO's being regarded as dangerous feminist lead organizations, hell-bent on destroying the 'family', and the NGO's regarding the Criminal Justice System, and other governmental agencies, as being upholders of a patriarchal society which endangered women and their children. The changes within the police commenced rapidly from 1997 onwards, and were tied up to the alterations in attitudes to hate and race crime. Pockets of excellence developed throughout the UK, in particular in the Metropolitan Police's Hate Crime Unit, which was significantly also responding to the Lawrence Enquiry. (1999) A Met led project named 'Adhikhar International' in 2000, brought together for the first time in true partnership NGO's, Criminal Agencies and the Judiciary to initiate national policy changes.

The new Labour government had within it, female ministers such as Harriet Harman( now Minister of State in the Department for Constitutional Affairs), who had campaigned for DV victims from a grass roots level throughout their political careers, and were now in a position to provide government support and also seek funding in order to effect change. A further factor was the advent of the Office of the Mayor of London, and the election of Ken Livingstone, himself a lifelong campaigner on issues of DV. He appointed and funded renowned NGO leaders in the field such as Anni Marjoram, to bring about joined-up change within the capital, the good practice of which spread nationwide. By way of example, the Mayor's DV newsletter

has in effect, become the national means of sharing current best practice and information, “The Mayor published the London DV Strategy in November 2001. It is the first citywide strategy to coordinate the work of organizations dealing with the problem of DV.” ([http://www.london.gov.uk/view\\_press\\_release.jsp?releaseid=1046](http://www.london.gov.uk/view_press_release.jsp?releaseid=1046), 24<sup>th</sup> December 2006)

Arising directly from the Adhikhar project, the government supported and funded the ‘Raising the Standards’ (DCA,2003) inter-governmental initiative( which I Chair) from 2000 to date, whereby the governmental agencies and NGO’s of England, Wales, Scotland, Northern Ireland, the Channel Islands and the Isle of Man, meet regularly to share and develop justice and other policy initiatives throughout the British Isles, with one of the published terms of reference being the, “Identifying and sharing what is considered to be best practice in relation to all aspects of dealing with victims and perpetrators of DV including strategies leading to the prevention of future incidents.” (DCA, 2006, 2) Adikhar carried out a nationwide 24hr snapshot of reported DV incidents, providing for the first time a database of the extent of the issue, and discovered for example, “An average of 3% of all calls to the police for assistance are for DV. This equates to over 570,000 each year”. (Hall, 2004, 7)

In the newly proactive climate, the Association of Chief Police Officers (ACPO), under its then lead, ACC Jim Gamble, developed between 2002 – 2006, the full partnership of NGO’s and government, agreement over national standards and training programmes for all police officers, a policy on the disciplining of police officers who were themselves perpetrators (annex 1), and a protocol between the police and the Civil courts for the exchange of information on perpetrators. Her Majesty’s Inspectorate of Constabulary (HMIC) followed this up with a year long thematic inspection report on all 43 forces, with the recommendations being continually monitored. The Crime Prosecution Service (CPS) in conjunction with ACPO and other agencies developed a national proactive policy on the prosecution of DV offences, with specialist training for all prosecutors, and 43 specialist officers. Partnership between heads of ACPO and the CPS was the foundation of the DV and Witnesses Act 2004, which was personally initiated by the Prime Minister and taken forward by Harriet Harman, through which the government consulted nationally, including the Lord Chancellor’s multi-agency DV Advisory Board. As a good example of JUG in action, in every case where police are called to an incident of DV regardless of the outcome, if children are present in the home, a report is automatically made to social services. (APCO, 2004)



Judicial training, non-existent pre-1997 at all levels in this area, has been and continues to be expanded and improved. Most recently in December 2006, the Family Justice Council, (of which I am a member together with Chairing its Domestic Violence Steering Group) in response to Lord Justice Wall's report into the Women's Aid investigation into a growing number of deaths during contact, made far reaching proposals for change within the Family Justice System, including enhanced multi-agency awareness training for all participants in the system.( summary Annex 2) A national programme for training in DV awareness for all 100,000 plus lay magistrates is being rolled out nationwide by 43 nationally trained specialist advisors.

As part of the 2004 DV Act, multi-agency homicide reviews including voluntary organisations, the police and social services and previously piloted by the Metropolitan Police, will be rolled out nationwide to investigate and learn from the causes of the current grim statistic that, "Two women are dying each week and one man almost every other week". (Hall, 2004, 6)

The partnership between the DCA, Home Office, CPS, Probation Service, Judiciary and NGO's, has lead to the creation of nationwide multi-agency specialist DV Criminal Courts and the first integrated DV Court located in Croydon (based on the New York model and developed under advisance of the New York Court System), by which the same Judge deals with all aspects of a case; civil, family and criminal, operating a joined-up 'one-stop shop'. In 2007 the government will be funding a national network of Victim Advocates who will support the victim throughout the court process and be his/her liaison with housing, health, education, counselling and all aspects of the court process. This support system is expected to lead to a dramatic reduction in retraction of victim's statements, and vastly increase the rate of successful prosecutions, in stark contrast to the situation during the Thatcher era when, "Studies demonstrated the reluctance of both the police and the CPS to pursue the prosecution process in cases of domestic assault due to an unwillingness to 'interfere' between husband and wife." (Barron, 1990, 28e

In the Family Justice System, the Family Justice Council DV steering group has initiated in 2006, a national multi-agency training programme on DV risk assessment and awareness, for all 43 local Family Justice Councils, and works in close partnership with ACPO, other government agencies and NGO's, offering advise to ministers in order to enhance the response of the family system to DV. We distribute, in conjunction with the DCA, a quarterly newsletter to the local justice councils and by their website, including all the latest news and information. I

have just completed the development of a DVD, which will be distributed nationwide, to prepare and explain to victims the court process of injunctive relief and to act as training tool of best practice for practitioners and judiciary at all levels. This is funded and developed as a partnership between the FJC, DCA and the Family Law Bar Association and is particularly aimed to assist victims from ethnic minorities. It shows real judges, courts and women's aid workers in action – with the voices of real survivors being heard. It was developed from a similar DVD made in Northern Ireland and distributed through the auspices of RTS- joined up governance in action this week!

## **5. Health**

Prior to 1997, apart from a small number of isolated initiatives, there was no response within the health service to DV despite the fact that, “The cost to the NHS for DV related physical injuries is around £1.2 billion a year. Whilst the estimated cost of cases related to mental health is an additional £176 million”. (Walby, 2004, 1) Indeed Ann Keen MP (PPS to the Chancellor), told me of when she was a senior nurse at a London teaching hospital, and requested the development of a DV policy for the hospital, she was threatened with disciplinary action if she persisted. The government have now appointed a national DV advisor- to the NHS, and in 2006 published a series of early intervention training guidelines to be distributed and supported nationally. In 2004 DV was added to the curriculum for the training of all medical students and the Nurse's Union CDNA in conjunction with the DCA and APCO have developed national best practice guide for health workers on the specialist DV issue of elder abuse. Through the 'Raising the Standards' initiative and the work of the national health advisor- Christine Mann, a national screening programme for all pregnant women has been brought into effect throughout the British Isles. Figure 5.1 shows how important the role of health workers is in identifying possible DV cases:

<b>Agency</b>	<b>DV Cases Identified</b>		
	<b>Year 1</b>	<b>Year 2</b>	<b>Total across years 1 &amp; 2</b>
Health Visitors	12 (11% of those)	24 (38% of those)	36 (20% of those screened)

	screened)	screened)	
Social Care Services:	11	34	45
Immediate Needs Team			

Figure 5.1 – Domestic Violence Incidents Identified (Source: Home Office (2005) “Tackling Domestic Violence: Effective Interventions & Approaches, 33 –

<http://www.homeoffice.gov.uk/rds/pdfs05/hors290.pdf> accessed on 20th December 2006

Despite the full co-operation of nurses, psychiatrists and A&E staff, all bodies locally and nationally continue to experience difficulties in engaging General Practitioners in the multi-agency response to tackling DV, of particular importance as GP’s are often on the front line and first point of contact for the majority of people seeking assistance, “Normalising victimisation through failing to respond to the disclosures of DV, either because of an acceptance that this is normal within a relationship, or that violence is the outcome of non-compliance with patriarchy.” (Williamson, 2000, 184)

The NHS through its specialist advisor has however been at the forefront of the particular current interest of the Inter-Ministerial Group in developing a corporate and work-place response to DV, with policies to assist employers to respond to staff who are victims. In the case of the health service, research carried out by the Corporate Alliance and the several Health Trusts has disclosed that,” Employees are themselves subject to domestic violence and so cost the service in terms of increased sickness absence, lost productivity and medical and psychiatric care. By raising awareness of the issue and implementing supportive policies, the NHS will be helping to reduce the number of DV cases and the costs to the service.” (NHS, 2006, <http://www.nhsemployers.org/practice/practice-222.cfm>, accessed on 20<sup>th</sup> December 06) In 2007 the ‘Raising the Standards’ international conference will concentrate on the effects of DV to industry, the conference being sponsored by major financial institutions.

One of the primary reasons why we have been able to make advances in the response of all agencies to DV in the UK has been the acknowledgment- slow in coming- (led by renowned child psychiatrists such as Drs Danya Sturge and Clare Glazer from Great Ormond Street Children's Hospital) of the dire effects DV has on the development of children-and the cost to society in terms of their health/housing costs ,propensity to crime, failure to make future successful partnerships and inability to develop their educational economic potential. A £2 million project commenced in 2006 as a partnership between Liverpool and Manchester Universities and a major Merseyside teaching hospital to study the effects over a 5 year period on the physical, educational and psychological development of children living in families where DV is present in comparison to a control group. The children are selected and studied from in utero and I am proud to be a board member and advisor to the project

## **6.Housing/Education**

Government sponsored research, having disclosed the effects of DV on childhood development and education and the necessity for early intervention, led to the PM himself initiating a Cabinet Office/DFES initiative taking the form of a 'soap' opera DVD to be shown in schools with a full teaching support package, and is called 'Watch Over Me', dealing amongst other issues with DV and forced marriage.( I have copies with me to give away) Similarly the Treasury sponsored 'Sure Start'(1998) pre-school scheme identifies small children effected by living in a home in which DV is a feature, and employs councillors and health workers to address their trauma. It has still proven difficult due to pressures of the national curriculum and inevitable costs, in order to have 'Watch Over Me' utilized nationally, and for DV awareness to become part of every schools personal development programme, and this is still an area in which a great deal of work is still required.

One of the most staggering statistics I came across during research was that, "40% of all homeless women stated that DV was a contributor to their homelessness...and DV was found to be the single most quoted reason for becoming homeless." (Hall, 2004, 7) Large amounts of government investment have also been made in partnership with the women's organizations to upgrade existing refuge provision to provide on-suite accommodation, with the ability to also accommodate families with disabilities. A growing number of refuge places are now funded through the CLG department, including the recent 'Safe Room' initiative (2006), however there continues to be a long running disagreement between the government and the entirety of the

women's associations over the funding of refuge places of those who constitute probably the most vulnerable group of DV victims, namely immigrant women who have not yet obtained the right to remain in the UK and therefore have 'no recourse to public funds'.

## **7. DV Policy Dealing with BME Communities**

On the issue of violence Islam directs people in the Qur'an. It states:

***“O ye who believe! Stand out firmly for justice, as witnesses to Allah, even against yourselves, your parents, or your kin, whether it is against rich or poor, for Allah can protect both. Follow not the lusts (of your hearts), lest you swerve, and if you distort or decline to do justice, verily Allah is well-acquainted with all that you do”***<sup>1</sup> *Sura an Nisa*  
4:135

In recent years we in the UK have made the connection between Forced Marriage, Honour Crime and Domestic Violence and have reached out into the communities where these practices take place and commenced a process of bringing perpetrators to justice, supporting victims and most importantly, through education in all its forms, seek to change hearts and minds.

In 2000 following an extensive consultation, the working group on Forced Marriage published “A Choice by Right”. The Government has since produced guidelines for Police, Social Services, education Professionals on tackling forced marriage and will preparing similar guidelines for health Professionals later this year. We have also commissioned international guidance for lawyers.

My Government takes forced marriage very seriously. It is a form of domestic violence and an abuse of the human rights. Victims can suffer many forms of physical and emotional damage including being held unlawfully captive, assaulted and repeatedly raped.

*'I sobbed.' I will come back, but I can't marry that man.'*

*'Don't bother. In our eyes you're dead.'*

*'Shame', Jasvinder Sanghera – 2007.*

The UK Government sponsored a series of six nationwide multi-agency conferences, which I Chaired, between 2003 - 2004 on the issues effecting victims from the Asian community, with a government minister speaking at each. The strength of a joined-up response has been of particular value in this area, due to the sensitivity and barriers created by cultural, religious and race issues. ACPO has setup a specialist 'honour' based violence working group, which is developing a co-ordinated national police response, and sponsoring research into, this increasingly recognised form of DV. The government, again through the Inter-Ministerial group, is using its now established procedures for multi-agency engagement in seeking to develop an effective response, in particular utilising the auspices of the Women's National Commission, to consult and engage with otherwise hard to reach Asian women's organisations. Specialist BME refuge's and out-reach services are being setup nationally and in conjunction with Derby University in 2006, developed a government sponsored mentoring scheme for victims of forced marriage.

The British Council and the Foreign and Commonwealth Office have undertaken an extensive 3 year programme to tackle Honour Crime in Sindh- including a World Conference, education and media programmes. Last week I was in Karachi with Her Majesty's Inspector of Constabulary - Robin Field-Smith and a team of officers from South Yorkshire and the Metropolitan Police, as part of that ongoing work.

Forced marriage is not solely a 'Muslim' or 'South Asian' problem. The Forced Marriage Unit (FMU) has dealt with cases from East Asia, Africa, the Middle East and Europe. Freely given consent is a prerequisite of Christian, Jewish, Hindu, Muslim and Sikh marriages.

It affects both young women and young men - around 15% of the cases the FMU deals with involve males.

**What help is there available for people at risk of forced marriage?**

If anyone fears they may be forced into marriage overseas, or know someone else who may be, the FMU can help. The sooner they know about the case, the more they can do to help. The FMU can be contacted by calling 020 7008 0230, 020 7008 0135 and 020 7008 8706 or e-

mailing [fmufco.gov.uk](mailto:fmufco.gov.uk). All calls and e-mails will be dealt with on a confidential basis by skilled caseworkers fully aware of the cultural, social and emotional issues surrounding this abuse.

As well as giving advice, our caseworkers can also take practical steps to intervene if we are asked to do so. For example, they can liaise with other authorities for young people in the UK to be made a ward of court and their passports confiscated to prevent them being taken and married overseas. If the young person has already been taken overseas, FCO consular staff can work with the local police and judiciary to try to help those at risk, and, in extreme cases, can mount a “rescue mission” to rescue and repatriate victims.

Over the last four years, the Government has helped almost 1000 cases of forced marriage and has rescued and repatriated around 200 young people from overseas. However, many more cases are not reported and others are dealt with by other agencies.

The **minimum age for marriage entry clearance** has been raised from 16 to 18. This is to give those who face forced marriage extra time in which to mature and resist familial pressure to enter a marriage that they do not want. In support of this **an extra entry clearance officer** has been established in Islamabad. This officer will help these reluctant spouses, as well as assisting those who have been abandoned in Pakistan by their partners, and who have a right to return to the UK. This increases our ability to support victims and stop further abuse in the wake of forced marriage.

The Forced Marriage Unit also undertakes a great deal of **publicity**, outreach and awareness raising work to target communities. They speak at around 75 events each year across the UK. They also work closely with the media and have appeared in everything from Eastern Eye to Dear Deidre in The Sun. They have funded [missdorthothy.com](http://missdorthothy.com) to provide a range of videos and online resources particularly aimed at young people. One of these videos is the “Someone to watch over me” soap, a copy of which has been distributed to every secondary school. They also acknowledge the work the community themselves are undertaking on this issue. For instance, a range of youth, women's and race groups have been campaigning on this issue for many years, and it is usually women's groups who organise awareness raising events to which we are invited. Faith groups too are playing a role – for example, there has been a conference of Imams in Tower Hamlets, the Sikh community in Walsall has held events, and the Muslim Parliament is very active.

The Home Office has also provided funding for a **National Forced Marriage Steering Group** bringing together partners from the voluntary sector, statutory agencies and central government.

On 26<sup>th</sup> January 2005 the Home Office and Foreign and Commonwealth Office launched a **new joint Forced Marriage Unit**. The new unit is a one-stop shop to undertake policy, projects and give practical advice to people at risk of being forced into marriage. The Unit works closely with a wide range of community groups, women's groups and NGOs in combating forced marriage.

The UK Police initiatives have been led by the Metropolitan Police and I wish to pay credit here to Commander Steve Allen and Laura Richards of the Homicide Prevention unit and to Nazir Afzal of the Crown Prosecution Service for their dedication to the victims of murder in the name of so called honour. They have developed new and innovative ways of analysing, understanding, investigating and preventing honour based violence. Their work has informed Police training and best practice nationally particularly with regard to risk assessment and risk management. They have concluded that there is no typical case of Honour Based Violence (HBV) .Honour Killings are ' atypical' and they fall within the "umbrella" of honour crime and hbv. Many of these crimes are interlinked – being drivers for one another

- Domestic violence
- Forced marriage
- Acid attacks
- Dowry related crime
- Bride price
- Female genital mutilation
- Honour rape
- Customs like 'swara'
- Female infanticide
- Blood feuds

Victims are often subject to psychological pressures that can lead to mental breakdown, self-harm and even suicide.

We are not judging cultures we are judging murderers and those that shield them from justice.



Most countries have signed up to Human Rights conventions and there has been a great deal of research and international co- operation on these issues yet we seem powerless to date to effect change. We now understand the misguided concept of “Honour “that crime committed in its name is based in feudalism, lack of education and denial of the fundamental human rights of women. We acknowledge that it is forbidden by all of the major religions and in particular Islam. I believe that change will only come when there is determined, assertive, consistent action by governments, faith leaders, judiciary, police, the media and educationalists.

***Abu Said Al Khudri narrates that he heard that Prophet (PBUH) say “Whosoever of you sees an evil action, let him change it with his hand; and if he is not able to do so, then with his tongue; and if he is not able to do so, then with his heart, and that is the weakest of faith.”<sup>1</sup> This hadith of the Prophet places an obligation on all Muslims to stop abuse actively. It is actually a sign of a deficient heart if all the Muslim does is feel that an action is evil, but takes no action.***

❖ Governments need to enact legislation that outlaws all forms of Honour crime. Only this week our Prime Minister has given his personal support to the enactment of legislation making Forced Marriage unlawful (annex 4) They need to make funds available (with international help if needed) for training of professionals, education in schools, Media campaigns, protection of potential victims and support of NGOs.

❖ Faith leaders are needed to educate their communities to understand that such crimes are abhorrent to God and all religions **The Qur’an forbids any equation where the product is violence or abuse. The Qur’an says “Let there be a community (or Ummah) among you, advocating what is good, demanding what is right, and eradicating what is wrong. These are indeed the successful (3:104). You are the best community ever raised; you enforce what is right, fight what is wrong, and believe in Allah (3:110).**

❖ Police need to develop and enforce best practice and training so that they protect the victims and not the perpetrators. Our Police have been at the forefront of seeking to outlaw Forced marriage (Annex 3) **The Qur’an states that “Indeed if any do help and defend themselves after a wrong (done) to them, against such (them) there is no blame. The blame is only against those who oppress by wrongdoing and insolently transgress**

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<sup>1</sup> Muslim

***beyond bounds through the land, defying right and justice, for which there will be a penalty grievous***<sup>2</sup>. <sup>1</sup> Sura ash Shura 42:41/42

❖ The Judiciary must be well trained to understand the causes and effects of Honour based crime. They have a clear and heavy duty to protect the oppressed without fear or favor. Not only must they ensure that laws are enforced but also put in place measures so that the courts are safe places which victims can access without suffering further at the hands of their oppressors, Our Judiciary have been at the forefront of developing innovative ways of using the civil law to prevent Forced Marriage and protect its victims and have been major supporters of the new proposed legislation.

The Qur'an states that "And him that seeks thy help thou shalt never chide"

## **8.Conclusion**

The Labour Government's record on tackling DV through the use of JUG has been successful to a degree, however as with other core New Labour policy initiatives, there have been significant problems. As with other projects utilizing JUG, there have been the usual difficulties associated with adopting a more holistic approach to governance, namely issues of accountability, the institutionalizing of new structures, a lack of clear communication of aims and objectives by central government, and a scarcity of funding. One has to recognize that in some areas, political rhetoric and 'sound bites' have not been backed up with adequate resources. An example of this came following the DV Act (2004), in which despite the Treasury being in full knowledge of what it costs not to deal with DV issues, it has still proved very difficult for the respective agencies and projects to obtain long term funding. Although the Act came into force in 2004, due to this lack of funding most of the provisions will not actually come into effect until July 2007, and this was only after a sustained period of pressure from both within and outside of the government, including senior ministers and members of the judiciary. This is even more surprising as the Chancellor's wife is a patron of the Women's Aid organization and Cherie Blair QC has been a high profile DV campaigner and supporter of Refuge, however maybe due to the fact that DV is often perceived as a 'women's issue', this has in turn hampered efforts when decisions are made in the Treasury under electoral related pressures.

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A report on the government's record in this area entitled, "Making the Grade" (2005), identified key failings, including an inadequate response in some regions of the UK due to a lack of effective police training, and a severe lack of response by some social services due to a lack of understanding and resources, "The report identifies that in almost every area a more integrated and co-ordinated approach would bring about huge benefits,

"Attempts at inter-departmental working and partnerships are evident, but are duplicated across DV, sexual offending, prostitution and trafficking. The Home Office could really take the lead in co-ordinating cross-departmental work and it is disappointing to see it is still not reaching its full potential in all areas in this regard." (Women's National Commission, 2005, 27)

Whilst there have indeed been clear problems, I believe however that the situation for DV victims is significantly better now than it was pre 1997, and JUG has played an invaluable role within the achievements and changes which have been brought about since 1997. There is of course a lot of work still to be done, but the Labour government has identified and attempted to tackle an issue which lies at the core of many of society's problems through a circle of violence, the extent to which is still being discovered. If New Labour has started a process which will eventually lead to the long term reduction in the number of people within the UK who are victims of DV, then this could definitely prove to be an area in which the Blair legacy is a positive one. I have no doubt at all that any future UK government of any persuasion would continue the improvements that have been made – public opinion would not allow otherwise and the Conservative party of today is a very different creature from the past – indeed its leader David Cameron has been advocating the criminalization of Forced Marriage.

Funding and the lack of it is a constant difficulty for those wishing it bring about improvements for victims of DV and child abuse in the affluent First World. NGOs are swamped and under resourced and receive only short term funding making it very difficult for them to plan ahead. Many women continue to be turned away from refuges due to lack of space. These problems are magnified a thousand fold in developing nations. However, many of the advances I have outlined above have come about due to changing attitudes and methods of practice and by inspired leadership from very small number of men and women of good will and insight. Much can be achieved on small budgets particularly if there is cooperation between agencies,

countries and regions in seeking to find solutions suitable for Asian culture and circumstances and if we in the privileged first world stand alongside our brothers and sisters offering our support , encouragement , advances and wherever possible finances. Our Prophet (PBUH) was a man who dreamed big dreams and so must we.

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### *Domestic Violence in Consent Orders*

*A paper by Lord Justice Wall given to the Hertfordshire Family Forum at the Law Faculty of the University of St Albans on 13 March 2007*

I need to begin, I suppose, with the usual caveat. The views I am about to express are, of course, my own. They do not pretend to represent those of the judiciary as a whole, although I would hope that many of my colleagues would agree with what I am about to say.

You have asked me to address a specific question. I need, however, to put that question in context. Although applications for contact are a common instance in which domestic violence falls to be considered, it is, of course, only one small aspect of a very much wider problem. I therefore need to make a first, and very obvious point, and it is that domestic abuse is endemic. It affects every level of society. It is a major social evil. It is intractable. It represents perhaps the greatest single interdisciplinary challenge to the family justice system. It is absolutely right that you are concerned about it; and it is also absolutely right, to take just one example of a more general concern, that the Family Justice Council (FJC) has both what it calls a “children in safeguarding proceedings committee” and a domestic violence working group.

My second general point is one which is, perhaps, more controversial and is one with which a number of people here may not agree. It is that domestic violence is predominantly a male problem. Of course there are women who kill their children and abuse their partners. However, in my view, for men to fall back on the politically correct view that the problem affects both sexes equally is, in my view, not only wrong: it can easily lead to a complacent

view that men really don't need to do anything about it. This is a point I have made to men's groups. Men's groups must, in my view, be open and public of their condemnation of domestic abuse, and should be at the forefront of those aiming to assist both victims and perpetrators.

This leads me to my third general point, which I accept is subjective and largely based on my own experience. One of the most dispiriting aspects of dealing with cases of domestic abuse in court has, for me, been the reluctance of most perpetrators to acknowledge what they have done. How often have we all heard the grudging admission that the man may have "pushed" or even "slapped" his partner, usually combined with an assertion that she had attacked him and that he was only acting in self-defence. This makes both the "treatment", let alone the reduction / eradication of domestic violence even more difficult.

It is, accordingly, very important in my view that we should continue to promote the message that it is not possible at one and the same time to be guilty of serious violence to your partner and to hold yourself out as a good parent. The old approach that a man may have abused the mother of his children, but that he had not struck the children and that he was still a good father will no longer wash in the over-whelming majority of cases. As Dr Sturge and Glaser put it in the ground breaking report to the Court of Appeal in *Re L* in 2000: "Domestic violence involves a very serious and significant failure in parenting"

This leads to my next point, which is also a general one, but which has some relevance to the point you have asked me to address. It is my view that the family courts are ill-equipped to deal effectively with domestic violence. Our remedies are crude. We can attempt to protect victims by means of non-molestation orders, occupation orders or by

refusing contact between violent parents and their children. In the criminal context, the police and the criminal courts can facilitate the prosecution of perpetrators. But none of this goes to the heart of the problem. The heart of the problem is how we address the issue in its wider, social context. The question which you have asked me to address, is, as I have already made clear, only a very small part of a much wider problem.

I am, of course, not competent to address these wider issues, interesting and important as they are. The only real contribution I can make, I think, relates to the hope that increasingly disputes over children in particular can be taken out of the court room, and that parents can be educated – by suitable programmes, counselling, mediation and other means – into an appreciation that violence in a relationship is unacceptable, and in particular that it can, potentially, have enormously damaging consequences for children who experience it either directly or indirectly.

If this seems a pipe dream, the process towards achieving it will, of course, only occur if the government chooses to intervene, for example by funding the types of programme which should, prospectively, accompany orders made under the Children and Adoption Act 2006. I am disappointed that the genesis for the 2006 Act and what Children Act Sub-Committee (CASC) of the short-lived Lord Chancellor's Advisory Board on Family Law was trying to achieve when making its proposals in the report *Making Contact Work* appears to have been misunderstood. We were seeking to educate, not to punish. We took the view that the solution to an intractable contact case was not endless, ineffectual court hearings culminating in committal proceedings, but external intervention designed to teach recalcitrant parents about the damage their ongoing disputes were causing their children. This included, of course, trying to demonstrate to a violent father why his violence was

responsible for the absence of contact; and to assist the recalcitrant resident parent, usually the mother, in understanding why her determined resistance to contact often had little to do with the welfare of her children, and everything to do with the ongoing battle with her former partner. How many contact cases are about children?

I do not wish to sound unduly pessimistic. There have, I think, been many improvements in the past five years. Above all, there has been the recognition, in particular by both the courts and by the police that the question of domestic violence has to be faced up to and addressed. The tensions between the need to empower the victim of an abusive relationship to take steps to prosecute the abuser on the one hand, and the myriad of pressures – some self-inflicted, which pull the victim in the opposite direction are undoubtedly being addressed by the police. My anxiety is that the welter of recent legislation, particularly in the field of harassment, will make the inter-relationship between the family and the criminal court even more difficult to navigate. But that is another topic for another day.

In summary, however, my view is that until we can generate a culture in which violence between partners and parents is simply unacceptable – a culture in which women, in particular, have greater social and economic power – the problem will remain endemic. In the millennium volume of essays published in 2000<sup>3</sup>, I cited seventeenth century cases which – a few anachronisms apart – could have been in my court when I sat at first instance – every day of the week. I predicted that in the year 2,100 there would still be domestic abuse. I would like to think that I was wrong. I won't, of course, be here to find out, but if nothing else the point goes to complacency. We must never think that we have

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<sup>3</sup> *Essays for the new Millennium* ed Professor Stephen Cretney, Family Law, 2000, pp 43-54



succeeded in eliminating domestic abuse. We must, however, be ever vigilant and ever inventive in our efforts to combat it.

Enough generalisations. I need to address some practical points.

I start, not with the WAFE report entitled *29 Child Homicides* but with the first CASC report unmemorably entitled *A Report to the Lord Chancellor of the question of Parental Contact in cases where there is domestic violence*. I realise, on re-reading it, how badly it is put together. You don't even get a date (May 1999) until the very last page.

The conclusions we reached are set out in section 4 of the report, and in approaching the question of domestic violence in consent cases it is, I think, helpful to remind ourselves what they were. We acknowledged the importance of the subject, and the powerful public perception that domestic violence was not being fully addressed by the courts. We were not persuaded that legislation – for example following the New Zealand model, was necessary. We were, however, strongly of the view that there should be good practice guidelines, preferably introduced by Presidential Practice Direction. We said that the operation of the Guidelines should be monitored by the Department and the Court Service for a defined period, and the question of legislation reconsidered if they were not working. That monitoring, we said, should be part of a “systematic gathering and analysis of information relating to applications to the court for contact in which domestic violence is an issue”. We also recommended “longitudinal research” funded by the Department and aimed at informing all the professionals working within the Family Justice System about the effects of domestic violence on children and their parents. Finally, we commended continuous

joint training for what was then the Court Welfare Service, together with training of the judiciary in understanding the effect of domestic violence on children and parents.

I fear that much of this simply did not happen. There was no Practice Direction. I am not aware of any really consistent monitoring or systematic gathering of information. I am not aware of any ongoing longitudinal research. CAFCASS continues to be under-funded and unable to put in place much of the work I know it would like to undertake.

We do, of course, now have the 2006 Act. The jury is out in relation to implementation and the resources to be provided for it. Much, as I have already said, depends on the extent to which the government is prepared to put in place the necessary funding.

This leads me, at long last, to the topic you have asked me address. I begin with the WAFE report, *29 Child Homicides*, which, as its title suggests, identifies 29 children killed by their fathers after the parental relationship had broken down, and when the children in question were visiting / staying with their father.

It is, I think, important to bear in mind a number of factors when considering this report. The first, of course, is that it covered a ten year period. The second is that 18 of the 29 children who were murdered were not subject to any form of court proceedings; and the third is that of the eleven children who were the subject of court proceedings, eight died as the result of parental actions which had not been and could not reasonably be foreseen. The deaths, therefore, appalling and unnecessary as they were, represent a very small sample. As I made clear in my report to the President, that is not in any way to

underestimate the personal tragedies in question. It does, however, enable me to retain a sense of perspective.

If I may be allowed a personal anecdote, one of the most moving cases I ever heard was the case of the father suffering from Huntington's disease who decided that because he was terminally ill, he would commit suicide and kill his children at the same time. The method he chose was to offer to take the children on a camping weekend. He had bought several cans of petrol, and he intended to immolate himself and the children in his van. Fortuitously, and because of the curious movements he made. You will find the case in the books, reported as *Re H (Contact Order) (No 2)* [2002] 1 FLR 22. The mother in that case, however, wanted the father to see the children, even though he had been violent to her. She readily agreed the contact. She had no idea what he was going to do, nor could she have reasonably foreseen it.

You will, I think, be aware that in two of the cases in which there had been consent orders I was concerned that perhaps the judge could have been more alert. In one of them, the child who was untimely killed had complained previously to his mother about his father's behaviour on contact, and the order had been varied because of it. On the other hand, it was clear that the parties would probably have made their own arrangements whatever the judge decided. I found it very hard to be critical of the judge in either case. Both had acted conscientiously and in what they believed to be the e best interests of the children.

I was very pleased that the President took up my invitation to ask the FJC to report to him on the question. This seems to me precisely the sort of task the FJC ought to be addressing, and I am impressed with the quality of the result. I am sure you are aware of the report's

recommendations, but you will find them set out in detail on the Family Justice Council's website. They are quite far-reaching. They call for a cultural change away from the "contact is always the way forward" approach to the "contact that is safe and positive for the child is always the appropriate way forward".

The recommendations call for a Practice Direction based on *Re L* [2000] 2 FLR 334. Safety is to be the watchword when considering contact. There should be a process of risk assessment in every case in which domestic violence is alleged. The court forms should be simplified and details of allegations of domestic violence should be given. There should be improved multi-disciplinary training. The Law Society's Family Law Protocol should be strengthened to make it clear part of a solicitor's duty when acting for either parent in a contact or residence application is consideration of the effect of a proposed order on the safety and welfare of the child concerned. The question of separate representation should be considered in highly conflictual cases. There should be a system of feedback to judges in which harm has arisen from a contact order. The Court Service and the DfES should explore how the family court process should be included within Serious Case or Domestic Violence Homicide Reviews.

These recommendations are developed in the body of the main report, which I commend to you. I do not have time this evening to deal with them all. I will, however, comment briefly on one or two aspects of them.

I fought and lost a battle with the then President (Baroness Butler-Sloss as she now is) over the proposed Practice Direction. I tried in vain to persuade her that she would not be telling her judges what to decide in individual cases (something she quite properly

perceived as unconstitutional) merely how they should go about the process of making their decisions.

My fear was – and I think it has proved justified - that unless there was a Practice Direction, the Guidelines<sup>4</sup> would be ignored – or, if not ignored, reduced to the status of something which existed, but which did not require any particular course of action to be taken on the facts of the individual case. I recall seeing some correspondence on FELIX, the judicial Email making it clear that guidelines did not have the force of law and could be safely ignored.

In my judgment, a practice direction is very important. I hope it will be based on the CASC Guidelines, reproduced below. The Guidelines were not written in stone. They provided a template from which the court in the individual case could select the approach to be adopted.

I am therefore very grateful to the FJC and in particular to the authors of the report for recommending a specific practice direction.

I would like to address in particular two of the aspects of the Guidelines which have attracted criticism. They are, respectively, the emphasis on finding of fact hearings; the second is on the abuse to which the system is subject if one party – usually the woman – seeks to advance a case of domestic violence which is either exaggerated or untrue as a

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<sup>4</sup> I was, of course, at that time discussing the proposed CASC guidelines, which I reproduce in an appendix to this paper

means of frustrating contact. The two are, I think, linked in the sense that they are both case management issues.

I am unrepentant about the need for the court to establish the facts before it makes its orders. Fact finding is a particular prerogative of the first instance judge. You cannot, in my view, safely make an order in relation to children without a good understanding of what the underlying facts of the case are.

Insofar as hearings designed to establish the facts cause delay, this is, in my view, essentially a case management issue. The delay has to be balanced with the other factors in the case. Robust case management is required. Issues must be identified clearly and equally clearly addressed by the evidence. If the allegations made are unlikely to affect the order, it may not be necessary to address them. These are all matters for the good sense of the lawyers and the judge.

Lack of resources will always be prayed in aid as a reason for not undertaking the task. As a first instance judge, I deeply resented a lack of resources preventing me from doing my job properly. Every case, of course, involves a balance. But in my view the lack of resources should not be allowed to put children's safety at risk. If the needs of the children require a proper enquiry into the facts that is simply what must happen.

I strongly deprecate any attempt to frustrate contact by means to spurious allegations of domestic violence. But once again, this seems to me a case management issue. The court must examine the allegations, and the response to them, speedily. It may be necessary to make a snap judgment based on an assessment of the case overall. I do not underestimate

**the difficulties. But as the report from the FJC makes clear, these cases are of the utmost importance to children and their parents, and must be properly heard.**

**Intervention in cases where there is agreement may be difficult. It may upset the parties. It may irritate the profession. The ethos of the Children Act is non-interventionist, but if children's safety is to be uppermost in our minds when considering the welfare equation, we will have to intervene if we think an order has been agreed which is likely to compromise the child's safety.**

**I think the FJC report poses challenges to all of us. For the legal profession, the challenge is to tease out and address the issue of domestic violence wherever it appears, and to apply to the allegations made in a given case careful judgment and wise counsel. For CAFCASS and Social Services it will require courageous decisions and the need to address judicial findings with both victims and perpetrators. For those attempting to address abusive behaviour and / or to protect victims, the search to understand the phenomenon and to attempt to educate both victims and perpetrators will continue. For judges there will be the challenge to make findings where necessary, and to be proactive where to be silent would be much easier. The most important factor is that we identify the issue and address it.**

**We are all small cogs in a huge wheel, if that is not too obvious a metaphor. None of us will solve the problem, but we can each in our own way contribute towards its solution.**

## **Appendix: The CASC Guidelines**

### **PROPOSED GUIDELINES FOR GOOD PRACTICE**

1. In every case in which domestic violence is put forward as a reason for refusing or limiting contact the court should consider the allegations made at the earliest opportunity (and any answer to them) and decide whether the nature and effect of the violence alleged by the complainant (or admitted by the respondent) is such as to make it likely that the order of the court for contact will be affected if the allegations are proved.
2. Where the allegations are disputed and the court forms the view that the nature and effect of the violence alleged is such as to make it likely that the order of the court will be affected if the allegations are proved the court should:
  - (a) consider what evidence will be required to enable the court to make findings of fact in relation to the allegations;
  - (b) ensure that appropriate directions are given at an early stage in the application under section 11(1) of the Children Act 1989 to enable the matters in issue to be heard as speedily as possible; including in a proper case consideration of whether or not it would be appropriate for there to be an initial hearing for the purpose of enabling findings of fact to be made.
  - (c) consider whether an order for interim contact pending the final hearing is in the interests of the child; and in particular that the safety of the child and the residential parent can be secured before during and after any such contact.
  - (d) direct a report from a court welfare officer on the question of contact unless satisfied that it is not necessary to do so in order to safeguard the child's interests;
  - (e) subject to the seriousness of the allegations made and the difficulty of the case consider whether or not the children in question need to be separately represented in the proceedings; and, if the case is proceeding in the Family Proceedings Court whether or not it should be transferred to the County court; if in the County Court whether or not it should be transferred to the High Court for hearing.
3.
  - (a) Where the court orders a welfare officer's report under section 7 of the Children Act 1989 in a disputed application for contact in which it considers domestic violence to be a relevant issue, the order of the court should contain specific directions to the court welfare officer to address the issue of domestic violence; to make an assessment of the harm which the children have suffered or which they are at risk of suffering if contact is ordered; and to make particular efforts to ascertain the wishes and feelings of the children concerned in the light of the allegations of violence made.
  - (b) Where the court has made findings of fact prior to the court welfare officer conducting his or her investigation the court should ensure that either a note of the court's judgement or of the findings of fact made by the court is made available to the court welfare officer as soon after the findings have been made as is practicable.



4. In deciding any question of interim contact pending a full hearing the court should: -
  - (a) specifically take into account the matters set out in section 1(3) of the Children Act 1989 ("the welfare check-list")
  - (b) give particular consideration to the likely effect on the child of such contact and any risk of harm, physical and / or psychological, which the child is likely to suffer as a consequence of such contact being ordered;
  - (c) consider, if it decides such contact is in the interests of the child, what directions are required about how it is to be carried into effect and, in particular, whether it should be supervised, and if so, by whom; and generally, in so far as it can, ensure that any risk of harm to the child is minimised and the safety of the child and residential parent before during and after any such contact is secured.
  - (d) consider whether the parent seeking contact should seek advice and / or treatment as a precondition to contact being ordered or as a means of assisting the court in ascertaining the likely risk of harm to the child from that person at the final hearing.
  
5. At the final hearing of a contact application in which there are disputed allegations of domestic violence: -
  - (1) the court should, wherever practicable, make findings of fact as to the nature and degree of the violence which is established on the balance of probabilities and its effect on the child and the parent with whom the child is living;
  - (2) in deciding the issue of contact the court should, in the light of the findings of fact which it has made, apply the individual items in the welfare checklist with reference to those findings; in particular, where relevant findings of domestic violence have been made, the court should in every case consider the harm which the child has suffered as a consequence of that violence and the harm which the child is at risk of suffering if an order for contact is made and only make an order for contact if it can be satisfied that the safety of the residential parent and the child can be secured before during and after contact.
  
6. In each case where a finding of domestic violence is made, the court should consider the conduct of both parents towards each other and towards the children; in particular, the court should consider:
  - (a) the effect of the domestic violence which has been established on the child and on the parent with whom the child is living;
  - (b) whether or not the motivation of the parent seeking contact is a desire to promote the best interests of the child or as a means of continuing a process of violence against or intimidation or harassment of the other parent;
  - (c) the likely behaviour of the parent seeking contact during contact and its effect on the child or children concerned;

- (d) the capacity of the parent seeking contact to appreciate the effect of past and future violence on the other parent and the children concerned;
  - (e) the attitude of the parent seeking contact to past violent conduct by that parent; and in particular whether that parent has the capacity to change and / or to behave appropriately.
7. Where the court has made findings of domestic violence but, having applied the welfare checklist, nonetheless considers that direct contact is in the best interests of the child or children concerned, the court should consider (in addition to the matters set out in paragraphs 5 and 6 above) what directions are required to enable the order to be carried into effect under section 11(7) of the Children Act 1989 and in particular should consider: -
- (a) whether or not contact should be supervised, and if so, by whom;
  - (b) what conditions (for example by way of seeking advice or treatment) should be complied with by the party in whose favour the order for contact has been made;
  - (c) whether such contact should be for a specified period or should contain provisions which are to have effect for a specified period;
  - (d) whether or not the operation of the order needs to be reviewed, and if so the court should set a date for the review and give directions to ensure that the court at the review has full information about the operation of the order.
8. The court should also take steps to inform itself (alternatively direct the court welfare officer or the parties to inform it) of the facilities available locally to the court to assist parents who have been violent to their partners and / or their children, and, where appropriate, should impose as a condition of future contact that the violent parent avail himself of those facilities.
9. In its judgment or reasons the court should always explain how its findings on the issue of domestic violence have influenced its decision on the issue of contact; and in particular where the court has found domestic violence proved but nonetheless makes an order for contact, the court should always explain, whether by way of reference to the welfare check-list or otherwise why it takes the view that contact is in the best interests of the child.

Although not part of our formal guidelines, we think that all courts hearing applications where domestic violence is alleged should review their facilities at court and should do their best to ensure that there are separate waiting areas for the parties in such cases and that information about the services of Victim Support and other supporting agencies is readily available.



## Association of Chief Police Officers of England, Wales and Northern Ireland

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3<sup>rd</sup> September 2007

### Domestic Violence Homicide Reviews

I refer to the meeting at the Home Office convened on 5 July 2007 to discuss progress in respect of the implementation of Section 9. I found the meeting helpful and I felt it appropriate to set out my views on behalf of ACPO in respect of the merit of the proposals.

Despite substantial lapses from time to time in respect of the co-ordination of effort against domestic violence, it is our view that significant progress has been made by most agencies with a responsibility for the protection of victims.

The principal question I have been considering is what are we going to learn that is new from Reviews, rather than merely reinforcing what we already know? The lessons by now are clear to us from existing reviews under Part 8 and from our existing cohort of knowledge in respect of domestic violence:

- Inadequate arrangements for information sharing
- Inadequate arrangements for risk identification, assessment and management
- Inadequate training
- Inadequate supervision

There is already adequate policy, guidance and advice on what to do: the issue is that there is inadequate rigour in delivery and it is questionable whether DVHRs as 'soft' learning will deliver the essential rigour needed.

Also, noting the debate about 'new business or core business', there is presently little capacity to do more and do it meaningfully, according to feedback from Forces and partners.

If Government is determined to implement DVHRs then they should be streamlined so that they develop our understanding rather than enforcing what we already know. It would genuinely advance our understanding if such DVHRs as are commissioned concentrate upon the background of perpetrators in order to strengthen our knowledge and inform the design of tools for risk management.