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Male Perpetrators of Domestic Violence: How should we hold them to account?

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Abstract

Domestic violence is now widely acknowledged as being a significant social, health and legal issue. At both a national and transnational level governments have sought to develop strategies built upon prevention, support for victims and holding perpetrators to account through criminal justice sanctions. However, the current paradigm that informs the policy response to most perpetrators of domestic violence has failed to deliver the outcomes required, in terms of a reduction in levels of recidivism or the improved safety of women and children. It is argued that holding men to account through external controls has failed and that interventions should support men to take responsibility for their own behaviour.

Keywords:

Istanbul Convention; patriarchy; perpetrator programmes; victims; violence against women

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Introduction

Whilst domestic violence is not a new phenomenon the past thirty years has seen increasing public awareness and a growing political consensus that something needs to be done, even if what should be done is less clear. At both national and international levels governments in most industrialised nations have developed and ratified a range of policy initiatives and strategies designed to reduce the incidence of domestic violence, provide support to victims and to hold perpetrators of the violence to account. This article seeks to explore this last issue, of what we mean by accountability, and the implications for policy and practice.

Background

Domestic violence is now widely acknowledged as being a significant social, health and legal issue. At a transnational level the European Commission and the Council of Europe have devoted considerable time and money to discussing the issue of domestic violence and agreeing how it should be tackled¹. This has filtered down to national governments, with most western economically developed countries having strategies designed to tackle domestic violence at both a societal and individual level. These strategies typically consist of three complementary strands – firstly, to introduce measures to prevent domestic violence occurring in the first instance or to limit its reoccurrence; secondly, where domestic violence does occur, to ensure that victims receive prompt and comprehensive support; and finally, to ensure that those who perpetrate domestic violence are held to account for their behaviour.

Whilst it is now recognised that domestic violence covers abuse across genders, regardless of age, ethnicity or sexuality, it is also broadly accepted that men are more likely to be perpetrators of violence, and that women tend to suffer more frequent and severe physical assaults over a longer period of time². This article focuses primarily on male perpetrated violence against women, although the points raised are likely to have wider applicability.

In May 2011 the Council of Europe adopted a Convention on preventing and combating violence against women and domestic violence (commonly referred to as the ‘Istanbul Convention’)³. Building upon earlier work in the form of pronouncements

and strategies, this was the first legally binding instrument creating a comprehensive legal framework to combat discrimination and violence against women in the European region through prevention, protection, prosecution, and victim support. At the time of writing the Convention has been signed by 24 countries and ratified by eleven. As the Convention states its purpose is to ensure that:

“Parties shall take the necessary measures to promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotype roles for women and men.”

Article 12.1 Council of Europe (2011)³

Furthermore:

“Parties shall take the necessary legislative and other measures to prevent all forms of violence covered by the scope of this Convention by any natural or legal person.”

Article 12.2 Council of Europe (2011)³

Accountability

For over thirty years, the public policy response to the problem of domestic violence has been framed by the majority of activists as the socially sanctioned dominance of women by men, a discourse reflected in the Council of Europe Convention³:

“Recognising that violence against women is a manifestation of historically unequal power relations between women and men, which have led to domination over, and discrimination against, women by men and to the prevention of the full advancement of women;

Recognising the structural nature of violence against women as gender-based violence, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.”

Whilst our increasing understanding of domestic violence within same sex relationships and violence perpetrated by women against men have challenged the

concept of patriarchy as an all-encompassing and explanatory framework, this view of patriarchy as the root cause of domestic violence underpins a practice and policy paradigm that has dominated the legal, regulatory and policy discourse of most western nations over this thirty year period⁴.

There is a risk of presenting feminism ‘...as though it were a monolithic movement or thought’ (p.4)⁵, but for the purposes of this article I will focus on a set of collective ideas that inform our understanding of domestic violence through this lens. Feminist constructions of domestic violence are grounded on a core set of beliefs that domestic violence is common, that it is based in gender inequality and oppression of women, and that it affects women of all social standings, effectively cutting across stratifications of ethnicity and socioeconomic status⁶. It has been convincingly argued that this straightforward message, which is easily conveyed and unambiguous, has transformed domestic violence from a private concern into a significant and widely recognised public issue that has considerable resonance outside the feminist movement itself, within the spheres of public awareness, and policy and service provision⁷. Behind the abusive acts lie men’s need for power and control in their intimate relationships – that is, being in charge and getting their own way. These behaviours and beliefs are underpinned by a set of ideas about how the world should operate, creating high expectations for the behaviour of one’s partner. These expectations are decisively imposed on others, and when they are not met create extreme frustration and violence⁸.

As Gondolf⁹ notes:

“Men have plenty of reinforcement for these expectations, and aggression to enact them. They learn them from the examples of their fathers, their peers, and television and movie characters, as well as from watching or playing sports, and military experience.” (p.21)

This is further reinforced by societal structures that preference men more widely in society. Therefore responding to and intervening effectively with domestic violence requires change at both an individual and societal level.

In viewing domestic violence from this perspective there is a need to ensure that a strong message is conveyed that domestic violence is socially unacceptable, and

that just as there are negative consequences for victims as a result of experiencing violence and abuse, so too should there be negative consequences for perpetrators. These consequences should be both intrinsic, in the form of shame for behaving in such a way, and extrinsic, in the very public sanction of such acts. In this discourse accountability is synonymous with being held to account by the state, rather than men taking responsibility for their own behaviour. The underlying assumption is that most men will not take responsibility for their behaviour without an extrinsic motivator³⁴, and in the UK context this has increasingly been one in favour of criminal justice intervention⁸. Addressing the Women's Aid Federation in England in 2010, the Home Secretary, Theresa May, argued that success in tackling domestic violence would be measured by whether "more women have been helped, more abusers have been brought to justice and more attitudes have been changed"¹⁰.

The impact on public policy

This discourse of holding men to account through the criminal justice system for their domestically violent behaviour has a number of dimensions. Firstly, and most significantly, accountability is equated with a legal sanction of this socially unacceptable behaviour. In the UK a range of both civil and criminal legislation provides protection for victims, whilst also punishing perpetrators for their actions. Many of the most serious legal sanctions relate to acts of physical violence, and are laws designed for serious violence in any context, between any individuals, whether known to one another or not. Secondly, in policy terms, criminal justice agencies have been urged to respond robustly to the issue of domestic violence. As Theresa May stated, society "must give the police and the courts the tools they need to tackle violence against women"¹⁰. This can be seen in the efforts to improve the police response to emergency calls about domestic violence¹¹, pro arrest policies¹² and a continuing focus on the (low) rates of criminal prosecutions¹³. Thirdly, most services working with men who are domestically violent are based on the premise that individuals require a mandate to attend and participate. For example, in Northern Ireland most men who undertake group based programmes are legally required to attend by the courts¹⁴, while in Norway a significant proportion of those attending for individual or group based work are required to attend by child protection services¹⁵.

There is growing research evidence to show that for some men attendance and participation in group based programmes is helped by a legal mandate, ongoing supervision by a probation officer during the period of attendance on the programme and regular court review⁹. Similarly though, many programmes suffer from high drop-out rates, even where men are compelled to attend¹⁶ raising the issue of whether legal sanctions in themselves are an adequate mechanism for effecting change in behaviour, and ultimately achieving the outcome measure that really counts – a reduction in men’s perpetration of violence against women.

An alternative view

Whilst successive national governments in the UK and elsewhere have supported the position that men should be held to account for their domestically violent behaviour through a strong criminal justice response¹⁰, the statistics relating to what is happening in practice make depressing reading. It is estimated that the police respond to an incident of domestic violence once every 10 minutes in the London area (<http://www.met.police.uk/crimefigures/>). However, data collected from victims shows that 80% of the worst incidences of domestic violence are never reported to the police¹⁷, and data collected from 22,000 16 -59yr olds for the England and Wales Crime Survey indicate that only 31% of women and 18% of men who had experienced an incident of domestic violence (a combined rate of 24%) reported having told the police¹⁸. For those who did not report the abuse to the police, the most common reasons given were the abuse was too trivial or not worth reporting (42%), it was a private, family matter and not the business of the police (34%) or the victim did not think the police could help (15%)¹⁹. In asking respondents what happened when they did report the issue, 18% of respondents reported that the police took no action, with perpetrators being warned in another 39% of instances. Perpetrators were arrested in 31% of cases, and only 12% of offenders were charged with an offence. This means that of those individuals who reported experiencing domestic violence in the England and Wales crime survey, only 2.76% of cases result in the perpetrator of the abuse being charged by the police. According to the Home Office data less than one quarter of these cases (23%) made it to court, a total of 0.63% of all disclosed domestic violence incidents¹⁹ (Figure 1).

When the reasons for cases not proceeding to court were explored 41% of the respondents said that they, the victim, decided not to continue; 34% said that the police or Crown Prosecution Service (CPS) decided not to take further action; and the remainder (26%) said that it did not make the courts for some other reason¹⁹.

Victims who told the police about the domestic violence they had experienced were asked how satisfied they were with the outcome, whether they felt safer as a result of the outcome and how helpful they found the police and the CPS. Around three-quarters were either very satisfied (36%) or fairly satisfied (36%) with the outcome they got from going to the police. Around a half (55%) felt safer and 14 per cent felt less safe after the outcome. Around two-fifths found the police and CPS very helpful (39%). The majority said the police and CPS were either fairly helpful (37%), not very helpful (16%) or not at all helpful (9%).

During 2011/12 95,117 domestic violence cases were passed by the police to the CPS in England for charging decisions¹³. The CPS' analysis of its own statistical returns states that of those cases passed to it during 2011/12 65.6% were proceeded with, with 20.9% of cases dropped by the CPS. In this period, offences against the person were the most frequently prosecuted offences, representing 68% of domestic violence crimes. Criminal damage and public order accounted for a further 13% and 6% respectively. The majority of defendants were aged 25-59 (69%) and 18-24 (26%). It was of concern to note that just under 30% of defendants (23,209) were under 24, with 2,643 (just over 3%) of defendants being 14-17 years old and 148 (0.2%) aged 10-13 years old, which raises questions about what types of behaviour are included within the CPS definition of domestic violence. Recording of victim age was not robust enough to include in the CPS statistical return.

Of those cases prosecuted the successful conviction rate was 73.3% (a total of 58,138 cases, 61.1% of all cases originally passed by the police to the CPS). Of the successful prosecutions, guilty pleas accounted for 92% of outcomes¹³. When the reasons for unsuccessful prosecution are explored, 46% are related to the victim: 17.8% were due to the retraction of a complaint/evidence by a victim, victim non-attendance at court accounted for 13.9% of such cases, and in 14.5% of cases the evidence from the victim did not support the prosecution case²⁰. Other reasons for

unsuccessful prosecutions included, acquittals (14.8%), essential legal instruments being missing (6.6%) and conflict of evidence (4.54%).

Research involving 692 domestic violence perpetrators who were reported to the police for a three-year period in England found that exactly half (50 per cent) were involved in one or more domestic violence incidents (measured as a police report) during this three-year period. Of the perpetrators who were re-reported, nearly one in five (18 per cent) were reported for assaulting a different partner³⁵.

Of course, this does not necessarily mean that legal sanctions are the wrong approach, as there may be much that could be done to improve the detection, investigation and prosecution of such cases. Indeed, the CPS report presents some information indicating that legal processes are improving¹³, although Gadd⁸ usefully highlights that decreases in domestic violence crimes and prosecutions may have as much to do with an ageing population. In their study of older women's life long experiences of domestic violence²¹ researchers found that victims report that as their partners age they become less physically violent (the types of behaviour that typically warrant police attention and are easier to prosecute) although the controlling behaviour continues and can increase.

If though the end point, the outcome, is to ensure that individuals who perpetrate acts of violence and abuse towards their partners or ex-partners stop this behaviour, then using criminal justice remedies appears extremely limited as a tool. And surely this is the nub of the issue – whilst the outcome that society seeks to achieve is a reduction in recidivism, the underlying process for achieving this is wrapped tightly in the competing paradigms underpinning our understanding of what causes and sustains such behaviour. The criminalisation of domestic violence serves a symbolic function of signalling society's rejection of women's abuse, intended to act as a general deterrent²². The question then arises of whether it is an effective deterrent for existing perpetrators, and more generally potential future perpetrators. Various studies have argued that at an individual level female victims often do not feel that criminalising their partners or ex-partners behaviour is what they want²³. From a societal point of view criminalisation appears extremely limited in reducing recidivism²⁴.

An alternative view of accountability is that men should be supported and encouraged to take personal responsibility for their behaviour, and *to hold themselves to account* for how they have behaved in the past and will behave in the future. This perspective is rooted in a belief that personal change is more likely to be achieved *and* sustained when individuals make their own free choice rather than being coerced²⁵. This of course is problematic in situations whereby the behaviour of one individual can have such drastic consequences for others, however there is a need to confront the current paradigm that sees men who are abusive towards their partners as homogenous and defines them solely by this characteristic and behaviour. In aiming to provide better services to women and children there is a need to engage with men, rather than 'other' them, and that professionals in working with men who have perpetrated violence towards their partner "...recognize the importance of not condoning violence, but are able to appreciate the importance of engaging with the complexities of individual life histories and opens up possibilities for the re-authoring of their lives..." (p197)²⁶. This notion of "othering" is important, linked as it is to stigma²⁷. Stigma has been defined as an attribute that is deeply discrediting that reduces the bearer from a whole and usual person to a tainted, discounted one.

Working with motivation rather than compulsion

There is wide spread acceptance that domestically violent men are a heterogeneous group, in both how they behave and the motivations for this behaviour²⁸. For example, it appears that as many as one third of male perpetrators of violence seem to cease their behaviour without any apparent sanction or formal intervention¹⁶. Better understanding why this occurs might allow us to provide other men with the conditions to desist as well. In thinking about whether the issue of domestic violence might be more effectively addressed through a reconceptualization of what causes and sustains men's violence towards their current or former partners it is worth considering some models of behavioural and cognitive change from the public health field. For example, the utility of the Transtheoretical (Stages of Change) model and Protection Motivation theory have been discussed in the context of domestic violence²⁹. The Transtheoretical model conceptualises the process of change as

going through a series of stages from precontemplation, when the individual does not recognise the need to change their behaviour, to contemplation, when the individual considers that there may be aspects of their behaviour that might warrant changing, through to taking action to change, and then maintaining these changes. This model is widely used in the field of substance misuse, and approaches have been developed to engage with the denial and resistance to change identified in the precontemplation stage, to nudge individuals towards acknowledging their need to change and the benefits of same. The Protection Motivation Theory is another model of cognitive and behavioural change. This theory proposes that the intention to protect one self depends upon four factors: 1) the perceived severity of a threatened event (e.g., a heart attack); 2) the perceived probability of the occurrence, or vulnerability (in this example, the perceived vulnerability of the individual to a heart attack); 3) the efficacy of the recommended preventive behaviour (the perceived response efficacy) and, 4) the perceived self-efficacy (i.e., the level of confidence in one's ability to undertake the recommended preventive action). By being supported to weigh up the pros and cons of not taking action versus taking action, individuals can be helped to make more informed, and better decisions about their future behaviour.

Together, these two models would suggest that interventions targeting perpetrators of domestic violence should place a stronger emphasis on the benefits of changing and place a greater focus on increasing perpetrators' confidence that they can abstain from violence. There is some evidence to support such a view with researchers illustrating that the use of social marketing approaches can get beyond the stigma associated with domestic violence and prompt some men to seek help for their inappropriate behaviour, thus negating the need to use coercion, and with the potential for individuals to take greater personal responsibility for changing³⁰. Additionally, the Centre for Social Justice have called for work with perpetrators to be embedded in substance misuse services as a means to increase the accessibility and take up of services³¹. Between one-half and two-thirds of those seeking help for substance misuse will be behaving abusively towards their partners and rates of domestic violence are four to eight times higher than in demographically similar non-substance-dependent groups³².

However, some men may not be willing or able to change their behaviours regardless of the quality of supports and interventions available. In these instances the use of external controls to try and manage the risk that individuals pose to others needs to be implemented, particularly for those who pose the greatest risks.

Conclusion

There is no avoiding the sheer scale and significant impact that domestic violence has at both an individual and societal level. It is estimated that domestic violence in England and Wales costs society £16 billion annually in both the direct and indirect costs³³. The consequences for individual victims in their physical and psychological well-being is hard to quantify, but we do know that being the direct, and even the indirect victims of domestic violence (for example, in the case of children) can have long terms consequences for many years, even after the violence has ceased. As such there is a need to focus on the outcome we are trying to achieve and how best we might succeed. Indeed, there has been useful work completed looking at what we might define as a successful outcome, that goes beyond a simplistic focus on simply ending physical violence³⁶. Focusing on the issue of a reduction in the incidence of domestic violence it is clear that a useful starting point would be to reduce the rate of recidivism amongst those known to perpetrate violence against their current or former partners. The main tools to date have been located within a criminal justice paradigm – the detection and prosecution of this criminal behaviour, and the mandating of men to attend treatment programmes in order to learn how to behave in more socially appropriate and responsible ways. In this article I have argued that the current system does not appear to do this for the over whelming majority of men who engage in violence or abuse towards their partners, and indeed, if the main purpose of using the criminal justice system to hold men to account is to sanction their inappropriate behaviour then indeed we have failed – and maybe worse – that for most violent men they are able to get away with their behaviour without sanction, and they know this. In such a situation it is beholden on professionals and policy makers to consider alternative methods of intervention.

One reason why the therapeutic interventions perpetrators need are not more widely available is because the overarching policy and practice paradigm currently, and

almost exclusively, focus on the perceived desire of individual men to control women, supported by patriarchal beliefs about entitlement, identity and privilege³¹. Yet while power, control and patriarchy are explanatory factors in many contexts of domestic violence, there are also significant other factors, such as psychological vulnerabilities rooted in individual's past experiences (such as insecurity, jealousy, and dysfunctional ways of resolving conflict), their current situation (such as substance misuse) and the dynamics that play out between individuals in a current or prior relationship. Therefore, as domestic violence is about far more than power, control and patriarchy, effective solutions need to be drawn from a much fuller understanding of the issues.

Acknowledging these complex influences and relationship dynamics can be perceived as excusing perpetrators and lessening the need for them to accept personal responsibility for their past and future behaviour. It may also be seen as a retrograde step in the movement to create an equitable society for men and women. On the contrary though it provides an opportunity to recast the nature of the problem in order to deliver a more effective response, one that will better protect women and serve society.

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Figure 1: Representation of attrition of incidents of domestic violence through the criminal justice system in England and Wales

