Gendered Justice?

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Gendered Justice? How Women's Attempts to Cope With, Survive, or Escape Domestic Abuse Can Drive Them into Crime

BY

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INVESTOR IN PEOPLE

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About the Author

Dr Jo Roberts is a Lecturer in Criminology and Criminal Justice whose research interests include violence against women and girls (specifically domestic abuse), and women's pathways into the criminal justice system. She has worked in the fields of domestic abuse prevention and women's offending for the last 15 years, within both research and policy-based roles. This experience has fuelled her desire to conduct research which draws upon women's own words and experiences, amplifies women's voices, has real-world implications and, as a result, helps inform criminal justice policy and practice.

Acknowledgements

This book is dedicated to the brave and selfless women who shared their stories with me and afforded me the privilege of listening to them. It should be recognised that their recollection of often extremely traumatic experiences would have taken both honesty and strength. Importantly it is the women's perspectives and their own words which provide the foundations for the book and without their involvement neither the research nor this book would have been possible.

I am grateful for the support and encouragement I received from the Wales Probation Trust and in particular for those members of staff that, despite their already overwhelming workloads, generously gave their time and input without which the fieldwork would not have been possible. Many of the staff that took part in, or otherwise supported, the study had themselves been subjected to domestic abuse and therefore understood the importance of the research on a deeply personal level. The experiences of the staff members reflect the wide reach of domestic abuse where women of all ages, classes, ethnicities, and backgrounds can be affected, emphasising the need for everyone to work together to eradicate all forms of violence against women.

I am also forever indebted to the Department of Criminology at the University of Leicester who saw the potential both in me and my ideas. I couldn't be more grateful for the funding I was awarded as I would not have been able to undertake my doctoral studies if it weren't for this financial support. I would also like to personally thank my supervisor, Dr Sarah Hodgkinson, by acknowledging the unrelenting support and insight that she provided throughout my studies and has continued to do so long after.

My sister deserves special mention with an understanding that words cannot do justice to her unwavering support, motivation, and always helpful contributions. The belief she has shown in me has never relented even when I had none.

The accounts included within this book are the reflections of women's real-life experiences and lives and their recollections add further gravity to the sentiment that the personal is political. The feminist approach of the study was pivotal as it reinforces the unremitting importance of raising women's voices and always attempting to impact upon the real word ensuring that women's experiences are acknowledged and addressed both within policy and practice.

Summary

The presence of domestic abuse victimisation in the histories or backgrounds of women who come into contact with the criminal justice system has been well documented. Yet despite recognition that a link between a woman's victimisation and her involvement in crime exists the relationship between the two is still not well understood. Drawing on the experiences of women serving community-based sentences, all of whom had experienced domestic abuse, this book describes how a woman's involvement in crime can manifest as a by-product of her attempts to cope with, escape, or survive domestic abuse. Placing women's voices at the very centre of the discourse this book will present a range of ways in which women's experiences of domestic abuse have contributed to their pathways into crime. Much of the existing literature in this area has focussed upon crimes committed by women with, for, or against their abusive partners. This book, based upon the findings of the first UK based research of its kind, will instead demonstrate how a woman's involvement in crime can occur in a much broader context, including without women's abusers being present, after the abusive relationship has ended, or even years after the abuse has ceased yet the women's actions can still be attributed to their experiences of domestic abuse. This book will also explore how a woman's experience of domestic abuse can impact her ability to carry out her sentence as well as provide examples of perpetrators of domestic abuse employing the criminal justice system as yet another weapon of abuse. Finally, drawing upon supplementary interviews undertaken with staff working in probation, this book will also examine further ways that a woman's experience of domestic abuse can impact upon her contact with the criminal justice system, raising important matters related to women's supervision and support. Given that the foundations of the book are built upon women's real-life experiences, which have real-world implications, it is important to reflect on these; therefore, the book will conclude by presenting a range of recommendations and implications for both policy and practice in the field of criminal justice.

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Chapter 1

Women and Domestic Abuse

> I've been tortured, I've had my hair set on fire … I've had real bad things happen to me, I've had my jaw broken [and] I've had my nose bust 3 times. (Charlie)

> I weren't allowed friends, weren't allowed out, couldn't go shopping on my own. I could walk to the school and back and that's about it. Never, never went out … when I worked at the school and I worked with [my abusive partner's] sister in law, I was having an affair with his brother, his sister-in-law, everybody! And he said how can you work in the school you're too thick! … if I spoke to anybody [he'd say to me] 'I don't want you speaking to [them]'…. (Grace)

All of the women who were interviewed for the study which is outlined in this book had come into contact with the criminal justice system (CJS) and had been subjected to domestic abuse. The quotations above provide just a small insight into the varying types of violence and abuse the women who participated in the study had experienced. For the vast majority of the women who were interviewed for the research they recalled how their experiences of violence and abuse had, in some way, influenced or contributed to their pathways into crime. Before exploring the perspectives and accounts of the brave women who took part in the study, it is first important to understand what domestic abuse is, who is affected by it, how prevalent it is, and the effects it can have on women's lives.

Violence Against Women and Girls

Violence against women and girls is a global epidemic affecting millions of women and girls across all continents, cultures, religions, classes, ages, and ethnicities. Data collected over a period of 10 years by the World Health Organisation (WHO) from across 161 countries and areas estimate that globally approximately 30 percent of women, that is 1 in every 3, have been subjected to physical and/or sexual abuse perpetrated either by an intimate partner or a non-intimate partner (WHO, 2021). Furthermore, WHO (2021) data also illustrate that worldwide

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27 percent of women, that is, almost one-third of all women aged 15–49, have reported being subjected to physical and/ or sexual abuse by an intimate partner. Violence against women is defined by the United Nations as:

> any act of gender-based violence that results in, or is likely to result in, physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. (WHO, 2021)

Importantly, the WHO recognise that intimate partner violence (IPV), that is violence perpetrated against a woman by her intimate partner, is not only a significant violation of a woman's human rights but also constitutes a major public health concern (WHO, 2021). The WHO (2021) also note that across the world around 38 percent of all murders of women are committed by their intimate partners, demonstrating the lethality of violence against women.

Domestic Abuse

Domestic abuse is part of the continuum of violence against women and is similar to IPV but extends further by recognising that perpetrators of domestic abuse can include a wide range of family members (including both immediate and/or distant family). Therefore, domestic abuse as a term also encapsulates both IPV and adolescent to parent violence (APV). The term domestic abuse, as opposed to domestic violence, has been employed throughout the study and this book as this indicates that domestic abuse is not limited to physical abuse alone and instead encompasses a broad range of tactics employed by abuse perpetrators including sexual, financial, and psychological/emotional abuse. Lastly, utilising the definition of domestic abuse also allows for the recognition of coercive and controlling behaviours which often comprise an integral dynamic of domestic abuse.

The specific definition of domestic abuse that was current at the time of the fieldwork for the study was taken from the Home Office (2013) and was included in the UK Government domestic violence and abuse guidance. Significantly, the UK definition of domestic abuse was expanded further during the course of the research when Stark's (2007) concept of coercive control was incorporated into it in March 2013. The definition used throughout this book, therefore, defines domestic abuse as:

> any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality. The abuse can encompass, but is not limited to: psychological, physical, sexual, financial, emotional …. (Home Office, 2013, n.p.)

Stark's (2007) concept of coercive control is heavily referenced throughout this book and aligns closely with the theoretical positioning of the research, as it describes a model of abusive behaviours, tactics, and strategies that are

predominantly employed by men and used to dominate women within their personal lives. Stark's (2007) model of coercive control interweaves repeated physical violence (although physical violence is not always present in abusive relationships) with tactics of sexual degradation, intimidation, isolation, and control. Notably, Stark (2007) points to the foundations of coercive control as originating in the micro processes of relationships and within the dynamics of everyday existence whilst acknowledging the impact of structures which reinforce and sustain women's subordination at both a societal and individual level. Therefore, coercive control, as Stark describes it, constitutes an extremely personal form of abuse that is reinforced by, and originally derives from, a background of patriarchal society's sexual discrimination and female subordination. Stark's theories of coercive control and the recognition of how both macro and micro processes combine to facilitate a woman's experience of abuse provided an important foundation to the theoretical and methodological positioning of this research, influencing the way in which the research was approached and conducted.[1]

There are two further elements of Stark's (2007) concept of coercive control that were important for this study; these were his identification of both the gendered nature and individualised dimensions of this type of abuse, as he describes:

> Its particularity lies in its aim – to usurp and master a partner's subjectivity – in its scope of its deployment, its individualised and personal dimensions, and its focus on imposing sex stereotypes in everyday life. The result is a condition of unfreedom … that is 'gendered' in its construction, delivery and consequence. (Stark, 2007, p. 205)

As Stark (2007) demonstrates it is the individual knowledge that each perpetrator holds about his victim, for example, regarding their day-to-day activities, their routine, behaviours, personal fears and medical problems, that enables the targeted and highly personal dynamics of coercive control. Therefore, the foundations of coercive control are not only built upon the extremely personal knowledge that each perpetrator has of his victim but also the privileged access that he has to them (Stark, 2007) and this deeply personal knowledge of the victim is employed as a key dynamic of the abuse. Furthermore, these tactics are employed within a private and often unmonitored sphere, leaving the victim with little or no room for escape. It was this specific element of coercive control that was integral in the framing of the research outlined in this book as this helped to facilitate a better understanding of how women's experiences of domestic abuse may affect their pathways into crime, via examining the nuances and subjective nature of abuse and coercive control, and in particular, the actions women take to cope with, respond to, and survive it.

A final resource that was drawn upon for the study was the Duluth Model and in particular the Duluth Power and Control Wheel (Domestic Abuse Intervention

[1]Further information relating to this can be found in Appendix A.

Programmes, 2011). The Power and Control Wheel is a resource that is frequently referenced by those working in the field of domestic abuse as it depicts some of the common strategies employed by perpetrators of domestic abuse which includes threats, intimidation, isolation, undermining victims' autonomy, as well as tactics involving victims' children. As these tactics demonstrate the significance of the Power and Control Wheel lies in its broad categorisations of behaviours and actions which are employed by perpetrators of domestic abuse, many of which are unrelated to physical violence. Furthermore, this resource also emphasises the repeat nature[2] of abuse which comprises '… part of a *pattern* of behaviours rather than isolated incidents of abuse[3] or cyclical explosions of pent-up anger, frustration, or painful feelings' (Domestic Violence Information Manual, 1993, n.p., emphasis added). It is, however, important to recognise the limitations of this resource as the Power and Control model is fundamentally based on Western cultural understandings of domestic abuse and does not (and is not meant) to provide a definitive or exhaustive list of behaviours that can be employed within all domestic abuse situations (Harne and Radford, 2008).

When discussing definitions of domestic abuse, it is also helpful to mention that in April 2021 the *Domestic Abuse Act* (2021) received royal assent in England.[4] This Act created a new statutory definition of domestic abuse which recognises that domestic abuse does not simply consist of physical violence but includes controlling and threatening behaviours as well as economic, psychological, and emotional abuse (*Domestic Abuse Act, 2021*). Furthermore, the new Act acknowledges that children do not simply witness domestic abuse recognising them as victims in their own right.

The Gendered Nature of Domestic Abuse

Despite variation across countries and cultures relating to the form domestic abuse may take (Krug et al., 2002), one clear pattern emerges: domestic abuse is distinctly gendered in its nature. It is well understood that women are disproportionately the victims of domestic abuse and that men are overwhelmingly the perpetrators (Office for National Statistics or ONS, 2021b, 2021c; Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services or HMICFRS, 2019; Refuge, 2014; Chaplin et al., 2011). This recognition led the WHO (2002), the

[2]The repeat nature of domestic abuse perpetration is highly significant as HMICFRS (2019, p. 16) noted that: 'victims of domestic abuse are more likely to be repeat victims than are victims of any other crime type'.

[3]Hence there is also some crossover with Stark's coercive control with regard to this aspect of the Duluth definition.

[4]Prior to the *Domestic Abuse Act* (2021) there was already existing legislation in Wales – the *Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act* (2015). As a consequence of the devolved natures of the Scottish, Welsh, and Northern Irish Governments the majority of provisions in the 2021 Act mainly relate to England and Wales, or England only and some relate to devolved matters in Scotland and Northern Ireland (Home Office, 2021).

United Nations (UN) (United Nations Declaration on the Elimination of Violence against Women, 1993) and the Council of Europe (2011) to define domestic abuse as a gender-based phenomenon.

Elaborating further on the gendered nature of domestic abuse; being female is the single most significant risk factor (ONS, 2021b, 2021c; SafeLives, 2021; Women's Aid, 2021a; HMICFRS, 2019; Refuge, 2014) and domestic abuse is the most prevalent crime where women are the victims (HMIC, 2014; Chaplin et al., 2011; HM Government 2010a, 2010b). Police data further highlight the gendered nature of domestic abuse victimisation as during the year ending March 2021 records kept by 26 police forces indicated that in 73 percent of all domestic abuse related crime cases the victims were female (ONS, 2021c). Drawing upon data from the Crime Survey for England and Wales (CSEW) the gendered patterns of domestic abuse victimisation are also illustrated. The CSEW estimates that of those who completed the survey, (all of whom were aged between 16 and 74), 2.3 million reported experience of domestic abuse and this figure was divided into 1.6 million women and 757,000 men (ONS, 2020b)[5]. Furthermore, recent Crown Prosecution Service (CPS) data indicated, where the sex of the complainant was recorded, that in 82.5 percent of domestic abuse cases the victims were female, compared with 17.5 percent of cases which involved male victims (CPS, 2019)[6]. CPS data relating to the sex of the defendant, where this was captured, demonstrates that of the 78,624 individuals prosecuted for domestic abuse offences 92.1 percent were men and 7.9 percent were women (CPS, 2019). Alongside this, further research has identified that perpetrators of domestic abuse are predominantly male (Hester, 2013). Consequently, both the CPS and other sources of data demonstrate that women do not only comprise the largest proportion of victims of domestic abuse but indicate that men are far more likely to perpetrate domestic abuse, therefore, compounding the notion that domestic abuse is gendered – both in its victimisation *and* perpetration.

At this point it is of course necessary to reference some of the problems associated with domestic abuse statistics and their validity, specifically in regard to the production and use of CJS data or official statistics. One significant issue encountered is the general underreporting of domestic abuse across all data sources (Dutton, 2006; Walby and Allen, 2004; Felson et al., 2002) which reflect the myriad of barriers women face when considering making a disclosure (Gracia, 2004). The lack of reporting to the police in particular is highlighted by the CSEW as their data indicates that only 18 percent of the women who reported

[5]Due to the COVID-19 pandemic the face-to-face CSEW was suspended and subsequently conducted over the telephone. As a result of the change in data collection method, there were concerns related to safeguarding and risk and subsequently, the domestic abuse questions were dropped from the questionnaire. Therefore, there are no domestic abuse estimates available from the CSEW for the year ending March 2021 (ONS, 2021c).

[6]Just to note that in some cases the sex of the complainant or defendant was not recorded which explains why the data does not total 100 percent.

having experienced domestic abuse in the year ending March 2018 had actually reported their experiences to the police (taken from Women's Aid, 2021b). These distinct levels of underreporting have led to the employment of the term 'iceberg' when referring to cases of domestic abuse as this describes the small numbers of incidents of domestic abuse that are actually captured by official statistics (Gracia, 2004). Despite significant levels of underreporting, the prevalence of domestic abuse is extremely concerning as the Police in England and Wales, on average, receive over 100 calls every hour which relate to domestic abuse (HMIC, 2015).

A further issue with criminal justice data specifically relates to the legal positioning of domestic abuse as an offence category. Although domestic abuse is a crime, there is an absence of a discrete offence of 'domestic abuse' within the law which causes difficulties when attempting to acquire domestic abuse data from recorded crime sources as the categorisations of offences will generally reflect the legal definitions (Thompson, 2010). Despite the problems associated with the reliability of domestic abuse statistics, all available data demonstrate that large numbers of women are affected by domestic abuse, that domestic abuse is prevalent across England and Wales, and that it is gendered in its nature.

To elaborate on the gendered dynamics of domestic abuse; whilst both men and women can be subjected to domestic abuse, as Women's Aid (2021a) note there are significant differences in how men and women experience it where these differences relate to the prevalence, severity, and impact. Moreover, the notion that domestic abuse exists within, and is reinforced by, gendered societal structures also contributes to its gendered nature, and as a result, women are more likely to experience domestic abuse (ONS, 2020a). When examining prevalence and incidents evidence shows that women, rather than men, are more likely to be subjected to much higher rates of repeat victimisation where incidents are perpetrated by the same person, therefore, the repetition itself is gendered (Walby and Towers, 2018, 2017). Walby and Towers (2017), drawing upon their own research, demonstrate how repeat victimisation directly relates to gender. They found that in regard to cases where victims are categorised as high-frequency (those who had been subjected to 10 or more domestic abuse crimes in a year) 83 percent of these victims were women. The disparity between how men and women experience domestic abuse is also exemplified by data that highlights how women are far more likely than men to be seriously injured or killed as a result of domestic abuse (Smith, 2021; Women's Aid, 2021a; Walby and Allen, 2004).

Multi-Agency Risk Assessment Conferences (MARACs) are regular meetings where a range of professionals meet to discuss how to help high-risk victims of domestic abuse. Only those who have been assessed to be within the top 10 percent of highest risk victims are discussed at MARAC and here risk refers to risk of serious harm or homicide (Standing Together, 2021). At these conferences information is shared between representatives of local police, health, child protection, housing practitioners, Independent Domestic Violence Advisors (IDVAs) and other specialists from both the statutory and voluntary sectors. Data collected from MARACs also corroborate the assertion that women are more likely to be higher risk victims of domestic abuse. MARAC data from the year ending