

Advances in Preventing and Treating Violence and Aggression

Madhumita Pandey *Editor*

International Perspectives on Gender-Based Violence

 Springer

Advances in Preventing and Treating Violence and Aggression

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The series publishes books focused and developed across three domains. The first is understanding and explaining violence and aggression. Books in this domain address such subject matter as genetics, physiology, neurobiology, cultural evolution, biobehavioral, learning, cognitive, psychoanalytic, sociological and other explanations of violence. The second domain focuses on prevention and treatment for individuals and couples. Examples of books in this domain include cognitive behavioral, behavioral, counseling, psychopharmacological, psychosocial, couples, and family therapy approaches. They also explore extant treatment packages for individually focused treatments (e.g., mindfulness, cognitive analytic therapies). Within this domain, books focus on meeting the information needs of clinicians and professionals who work in youth facilities, emergency rooms, special education, criminal justice, and therapy settings. Finally, books in the third domain address prevention and treatment for groups and society, including topical focus on early intervention programs, school violence prevention programs, policing strategies, juvenile facility reform as well as socio-legal and ethical issues. Books in this series serve as must-have resources for researchers, academics, and upper-level undergraduate and graduate students in clinical child and school psychology, public health, criminology/criminal justice, developmental psychology, psychotherapy/counseling, psychiatry, social work, educational policy and politics, health psychology, nursing, and behavioral therapy/rehabilitation.

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ISSN 2946-4757

ISSN 2946-4765 (electronic)

Advances in Preventing and Treating Violence and Aggression

ISBN 978-3-031-42866-1

ISBN 978-3-031-42867-8 (eBook)

<https://doi.org/10.1007/978-3-031-42867-8>

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This Springer imprint is published by the registered company Springer Nature Switzerland AG
The registered company address is: Gewerbestrasse 11, 6330 Cham, Switzerland

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Chapter 1

Introduction: Combatting Gender-Based Violence: A Multi-Approach Call to Action



Madhumita Pandey

Gender-based violence is a well-recognised pervasive social evil of our times, yet we are quite behind in combatting this gross human rights violation. Whilst there is no doubt that both men and women can be victims of this type of ‘gendered’ violence, it disproportionately affects women and girls. According to United Nations’ sexual and reproductive health agency, one in three women have experienced physical or sexual abuse (WHO, 2021). Further estimates from UN Women (2021) show that globally, 35 percent of women have experienced physical and/or sexual intimate partner violence or sexual violence by a non-partner. This figure does not include sexual harassment. When it comes to adolescent girls aged 15–19 years worldwide, 15 million have experienced forced sex. European report on gender-based violence highlights that one in three women in the European Union (EU) have experienced physical and/or sexual violence since the age of 15, whilst one in ten has experienced sexual harassment or stalking via new technologies (European Parliament, 2016).

Defining Gender-Based Violence

In most cultures and societies, gender disparity is deeply embedded with clear differences in the way men and women socialise and are expected to behave. There are of course far greater consequences for women and girls if they move outside of their rigid gender norms. One way in which they are reprimanded is through the use of

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violence. The definition of gender-based violence has been well established by academics, activists and advocates working in the field of gender equality over the last three decades. The first official and, safe to say, most notable definition of gender-based violence comes from the 1993 United Nations Declaration on the Elimination of Violence against Women which outlines, ‘any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life’ (UN Women, 2021). People who experience gender-based violence may suffer from different human rights violations – for example, right to the highest standard attainable of physical and mental health, freedom from discrimination and the right to safety and security. Gender-based violence is an umbrella term that encompasses but is not be limited to physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence; and violence related to exploitation. It also includes forms of violence occurring within the broader community, including rape, sexual abuse, sexual harassment and intimidation at the work place, in educational institutions and elsewhere along with trafficking and forced prostitution (UNHRC, 2022). More specifically, the above definition encompasses all forms of violence included and discussed in this book.

Prevalence

It is important to note that prevalence figures for violence against women and girls are always underrepresented. Kury et al. (2004) found rates of violence against women to be related to social attitudes, and Capezza and Arriaga (2008) argue that when individuals perceive violence to be acceptable, it can lead to a societal climate that further breeds and normalises violence against women. Although these acts of violence have been condemned through various feminist movements, both globally and locally, gender-biased attitudes continue to remain a big part of our societies, and this issue is suspiciously treated as a topic of ‘women’s problems’, even when a disproportionate number of perpetrators are men. According to the World Health Organization (2021), it is estimated that 736 million women have been subjected to physical and/or sexual intimate partner violence, non-partner sexual violence or both at least once in their life. Simply put, globally almost one in three women faces numerous forms of gender-based violence. Most gender-based violence is perpetrated by current or former husbands or intimate partners which further highlights the importance of including men in the discourse around combatting violence against women.

The European Institute for Gender Equality report (2021) outlines how one in ten women in Europe has experienced cyber-harassment since the age of fifteen. In the Middle East and North Africa, 40–60 percent of women have experienced street-based sexual harassment. According to the Equality Now (2017), rape of woman or girl continues to be treated as an issue of morality rather than one of violence in at

least 15 out of 82 jurisdictions examined in the report. These are Afghanistan, Belgium, China, India, Indonesia, Jordan, Luxembourg, Netherlands, Nigeria, Pakistan, Palestine, Peru, Singapore, Taiwan and Yemen. Misogynistic and victim blaming terminology of humiliation, honour, modesty, chastity or morality is frequently used in legal provisions on rape in these jurisdictions. Although, such sexist behaviours are not exclusive to just one part of the world.

Conceptual Framework

The UN Gender Assembly (2006) argues that gender-based violence is rooted in social structures rather than individual and random acts; cuts across age, socio-economic, educational and geographic boundaries; and continues to be a major obstacle in ending gender inequality and discrimination globally. Therefore, it is essential to understand gender-based violence in an in a framework that can recognise the continuum of violence. As noted by many researchers, various acts of sexual violence against women are actually connected to commonly occurring aspects of everyday male behaviour in the society (Gilbert & Webster, 1982; Scully & Marolla, 1985; Kelly, 1988; McMahon et al., 2011). Kelly (1987, 1988) was one of the first researchers to stress on the relevance and use of a ‘continuum’ to understand the perpetration of sexual violence against women. She argued that, ‘The concept of a continuum can enable women to make sense of their own experiences by showing how typical and aberrant male behaviour shade into one another’ (Kelly, 1988, p. 75). At one end of the continuum are behaviours that are generally considered sexually violent in our society, such as rape. These acts are recognised as serious crimes in most cultures and societies and are judged more harshly and carry legal ramifications and punishments (Stout, 1991). At the other end of the continuum are behaviours that are more commonly accepted, traditional gender norms, sexually degrading language against women, molestation and harassment (McMahon et al., 2011). The behaviours at this end of the continuum are often normalised as a part of our culture, and their connection to sexual violence is not widely recognised nor judged as harmful (Stout, 1991). The behaviours on the less severe side of the continuum are important because they contribute to a culture of violence that supports and tolerates the more severe forms of violence against women (Brownmiller, 1975; Schwartz & DeKeseredy, 1997). Kelly’s (1987) continuum included women’s experiences ranging from flashing, sexual harassment, obscene phone calls and pressure to have sex, domestic violence, sexual abuse, coercive sex, sexual assault, incest and rape.

In addition to viewing gender-based violence on a continuum, it also crucial to place it within an integrated model as it is a phenomenon driven by complex socio-ecological factors. Heise (1998) encourages the widespread adoption of an integrated, ecological framework for understanding the origins, prediction and prevention of gender-based violence. She presents an ecological approach to gender-based violence grounded in an interplay of personal, situational, and

sociocultural factors. Whilst most of the theoretical underpinnings of the book support the feminist school of thought, it should be noted that the research presented is not solely focused on the survivors of gender-based violence. The book aims to not only highlight women's vulnerability but also men's responsibility. Wu's (2018) work provides a useful discussion on how to engage men as allies in ending gender-based violence. Therefore, it is crucial to have multi-approach prevention strategies that can focus on both survivors and perpetrators of gender-based violence. De-Hoog's (2017) research in Haiti and Pandey's (2018) research in India also establish undeniable links between crises of 'masculinity', particularly in contexts of severe economic poverty. It revolves around the idea that the root causes of violence can be found in the disempowerment of men through a patriarchal system that provides them with only superficial power, ultimately creating a dangerous paradox through the juxtaposition of supposed male supreme power and ultimate powerlessness in the face of societal expectations of masculinity (Pandey & Cius De-Hoog, 2019).

Organisation of the Book

This book aims to present international perspectives on combatting gender-based violence. It brings voices of early-career researchers to senior academics in the form of 14 chapters containing empirical as well as theoretical research on gender-based violence. These have been thematically organised into five parts.

Part I: Gender-Based Violence: Perspectives on Rape and Sexual Violence

After the introduction, the second chapter outlines an important discussion on how rape myths continue to be influential across sexual offences trials in England and Wales, despite ongoing and significant reform. The author, Charlotte Herriot, presents an exploratory study using extracts from court observation research, to explore rape myth construction in reference to underlying adversarial ideals. It concludes that the adversarial 'contest' and focus on winning appear to facilitate and even incentivise advocates to rely upon rape myth narratives at trial and as such, advocates routinely exploit adversarial constructs so as to 'win' the battle. This study is particularly significant as despite extensive academic research and policy reform, the underlying legal context of trial has largely escaped examination in relation to myth usage.

The third chapter builds on this discussion and explores how rape myths alone fail to explain why the existing evidence suggests that victim-survivors from minoritised and marginalised groups have a particularly low chance of seeing a conviction

in England and Wales. Drawing on court observation data from 2019, this chapter therefore delineates some of the specific ways in which oppressive cultural narratives reinforce common rape myths. Specifically, the chapter highlights how victim-survivors are undermined through classed and gendered narratives of respectability in ways that reach beyond rape myths. The misconception that false allegations of rape are common is reinforced by deeply embedded narratives that position women, and particularly working-class women, as inherently untrustworthy.

The next two chapters bring perspectives on sexual violence from the global south. Following the 2012 Nirbhaya gang rape in Delhi, the Criminal Law (Amendment) Act 2013 was enacted in India. At this time, Delhi was being hailed the rape capital of the world. Then in 2014, Delhi Commission for Women claimed that 53.4 percent of the total rape cases filed between April 2013 and July 2014 were false. Instead of lamenting a very high attrition rate, the growing nexus in the public and law enforcement officials became that women file false rape complainants due to personal vendetta. Using ethnographic account of the rape victims and their families, Chap. 4 unravels why victims turn hostile whilst accessing the criminal justice system. Garima Jain argues how sexual violence discourse is often dominated by archaic, regressive and patriarchal attributes that question the victims' legitimacy and experience. This chapter offers a novel approach to the difficulties experienced by rape victims in accessing justice processes by expanding an emerging paradigm of narrative victimology.

Chapter 5 continues in the same vein of examining sexual violence in a culture of misogyny and toxic masculinity. Whilst the issue of rape in South Africa is commonly known to be one of the worst in the world and therefore a major abuse of human rights, Lesotho, a lesser-known, landlocked country within South Africa, has been shown to have statistically higher rape levels. Still, there has been a dearth of research conducted on this rampant gender-based violence within Lesotho, leading to a distinct lack of understanding and knowledge of the impact upon the lives of the victims. In this chapter, authors Anna Lester and Madhumita Pandey examine existing literature on rape in Lesotho using a thematic analysis. They utilise an ecological map as a theoretical framework to present the intricacies of the cultural, societal and legal elements that have impacted the prevalence of rape within Lesotho, including a deep-rooted patriarchal society and sexual violence occurring within the education system.

Part II: Gender-Based Violence: Perspectives on Trafficking and Modern Slavery

Chapter 6 also brings a unique perspective from the global south, but the focus now shifts to modern slavery. In a context of global contemporary slavery and society, Haiti's *restavèk* practice epitomises the result of a gendered system of patriarchal power and structural and symbolic violence. In the dominant literature, female

slaveholders are described as enacting out a ‘frustrated rage’ towards child domestic slaves. However, through Chap. 6, Fiona de Hoog-Cius and Kevin Bales provide a framework of analysis that points to wider factors of gendered disempowerment in a context of extreme hardship as basis for violent visceral outbursts. The authors amplify the voices of Haitian women interviewed on the subjects of complicity in the *restavèk* system, their experiences of inequality and the cascading effects on vulnerable children of gender inequality in a context of poverty.

The treatment of female victims of traditionally gendered crimes by the UK criminal justice system has historically been weak, in particular, those young women and girls who have experienced sex trafficking. A notable example of this would be the Rotherham/Rochdale ‘grooming scandals’ whereby girls as young as 11 were trafficked and sexually abused across the UK by gangs of men over the course of several years. In Chap. 7, authors Lindsey Brooks and Craig Paterson critically examine the British approach to handle cases of child trafficking, focusing on police and social services using a multi-agency approach. The chapter highlights how there was little consistency of practice across the nation, creating a disjointed and fragmented experience for young people who have been victims of trafficking, with little provisions made to account for further harm sexual crimes can have on these children.

Part III: Gender-Based Violence: Perspectives on Domestic Violence

The next two chapters focus on approaches to combatting domestic abuse in the UK. Chapter 8 argues for more investment to explore the use of data-driven technology to predict, prevent and pursue criminal harms against women. The author, Jamie Grace, begins with an overview of the contemporary scale of the issues and the current problem of recording data on serious violent and sexual offending against women, before moving on to consider the current status and strength of positive obligations under UK human rights law to protect victims of intimate partner violence. The chapter also includes some examples of how data technology can augment policing of serious criminal harms against women, before turning to consider some of the legal problems concerning potential bias, inaccuracies and transparency that can dog ‘predictive policing’ in particular.

From advocating the use of machine learning technology in public protection roles, we now move towards public health approach interventions for reducing crimes against women. For police forces and government agencies across the world, the development of strategies which tackle violent crime is of high priority. Chapter 9 evaluates the effectiveness of strategies which aim to prevent and reduce violent crime. Each intervention that is evaluated by John Land sits within a broader public health approach (PHA). PHA deals with the social determinants of crime, as opposed to the punishment of crime. The PHA interventions that are evaluated in

this chapter relate to the Scottish Violence Reduction Unit and the Cardiff Model, responses to domestic abuse and educational inclusion. The purpose of the chapter is to provide well-balanced evaluations of PHA interventions which will allow interested groups to make informed decisions regarding the deployment of violence reduction strategies.

Part IV: Gender-Based Violence: Perspectives on Media Discourses

The issue of gender and the disparities it brings in relation to crime is one that has undergone intensive research over recent years particularly within the media context. Lloyd (1995) argued that female offenders are often regarded as ‘doubly deviant’ as not only do they break the law in its practical sense but also, they go against those rules which underpin womanhood. Chapter 10 revolves around the media discourse. Shamima Begum featured heavily in the UK headlines in February 2019 after she was discovered in a Syrian refugee camp, pregnant and pleading to return to Britain. Begum had left the UK 4 years earlier, aged just 15, as one of three British schoolgirls (widely referred to as the ‘Bethnal Green trio’) who travelled to Syria to join the Islamic State of Iraq and the Levant (ISIL). As her story unfolded, Begum became the centre of extensive media and public outcry regarding her ambition to return to Britain. Within a week of Begum’s case becoming public, the UK Home Office revoked her UK citizenship, citing her rights to Bangladeshi citizenship as a basis for the move and arguing that this was permissible under international law as, they claimed, she was not left stateless. An ongoing legal battle to reinstate her British citizenship thereafter ensued, and in July 2020, the UK Court of Appeal ruled that Begum could return to the UK to contest the government’s decision. It remains unclear how she will return, with the British Government thus far maintaining that they will not permit her entry. Currently, Begum is awaiting the rule of the Supreme Court. Some research has begun to consider the case of Shamima Begum from a human rights perspective (e.g. Masters & Regilme Jr, 2020), and there is a small body of research exploring media constructions of the so-called Jihadi Brides (E.g. Jackson, 2019; Martini, 2018). However, Labenski (2019) highlights in her LSE blog, that ‘despite her trial in the court of public opinion, there has been little feminist gender analysis of Shamima Begum’s publicity by mainstream news outlets [and] a failure to reflect on what public thirst for her story reveals about gender, religion, race and “Britishness”.’ It is precisely these ambitions that authors Laura Kilby and Lisa Staniforth address in this chapter.

Chapter 11 continues the discussion on media discourse and media misogyny by focusing on intimate partner violence. Using critical discourse analysis, the author Sarah Tatton examines contrasting news reports of the murder of Hannah Clarke and her children in February 2020 by her ex-husband, Rowan Baxter. The chapter explores contemporary dominant and counter discourses around intimate partner

abuse, particularly the patterns of behaviour associated with coercive and controlling behaviour. The analysis draws on the work of Foucault, Fairclough and Carabine in examining the construction of cultural ‘norms’ or ‘truths’ through discourse. More specifically, two newspaper articles were selected from the wide media coverage of Clarke’s murder. Competing constructions of intimate relationships and the nuclear family are considered, with particular focus on the power struggle between the reproduction of historically dominant patriarchal constructions and the resistant, feminist perspective. This sample of media discourse demonstrates the persistence of the historically dominant discourses of intimate relationship dynamics, despite decades of work aimed at resisting these dynamics of power and subordination, and provides an example of the news media as a site of discursive construction and reconstitution.

Part V: Gender-Based Violence: Perspectives on Rehabilitating and Reintegrating Perpetrators

It is well established that gender-based violence takes many forms, including domestic abuse, sexual assault, harassment, stalking and murder. The impacts are far-reaching for victims, perpetrators and the families of both. Rebuilding a future is challenging for anyone affected by violent crime, and whilst many services focus on supporting the victims and their loved ones (support which is much needed and should be in place), the support needed for those who committed the offences cannot be underestimated. Many perpetrators have histories of trauma and abuse, long-term mental health or substance misuse issues or an upbringing defined by poverty and deprivation. They often lack positive role models, self-confidence and the ability to integrate successfully into society prior to the offence, and a custodial sentence exacerbates this situation, destroying family connections, support networks and the potential for sustainable employment. In the final part of the book, perspectives on combatting sexual violence and harm have been discussed with perpetrator rehabilitation in mind. Chapter 12 argues for greater use of community hubs in the supervision of people convicted of sexual offences. The chapter presents an overview of the current state of probation, contemporary issues in the supervision of people convicted of sexual offences and desistance from sexual offending. The authors, Charlotte Oliver, Andrew Fowler, Madhumita Pandey and Peter Brown, examine community hubs, a collaborative and multi-agency approach to probation, along with their application and associated research. The authors bring together community hubs and the experiences of people convicted of sexual offences. In highlighting the potential benefits of community hubs for this specific group, those convicted of sexual offences, the chapter suggests that the hub approach, one grounded in human rights, is well positioned to bridge gaps in probation practice through creating more visible desistance pathways. This work strongly supports the idea that when addressing gender-based violence, it is vital to encourage sufficient

provision for those with convictions, to both encourage desistance and prevent future harm and victimisation. Ultimately, the chapter aims to encourage further research on the use of community hubs for people convicted for sexual offences and advocates for their innovative and desistance-focused potential with this vulnerable population.

Chapter 13 presents a unique alliance of authors who highlight how theatre and creative arts, proven ways to develop transferable skills within incarcerated communities, can help people return to communities as citizens rather than offenders. It is authored by the director of several collaborative theatre companies within a number of English prisons, Rowan Mackenzie; prison governor, HMP Hewell, Ralph Lubowski; and a current inmate and founding actor of Emergency Shakespeare (a prison-based theatre company), Pheeliz Obun. As individuals with a strong collaborative history, they discuss how theatre can be an effective tool in providing mental health benefits and identity creation and development of transferable skills for individuals with sexual convictions through co-ownership of a theatre company within prisons. One actor describes them as ‘a co-operative endeavour, meaning that all involved have a sense of ownership of it’ and as they aim to provide positive autonomy in a place which strips people of their identity. The chapter draws on long-term ethnographic research to examine the extent to which such programmes can enable perpetrators of violent crimes, particularly those convicted of sexual offences, to develop positive connections both during their sentence and upon release. With contributions from both HMPPS and prisoners, this last chapter of the book provides a novel perspective on the way in which theatre can avoid further harm and victimisation. Chapter 14 is the final chapter of the book that strings together the common themes from the chapters and presents concluding remarks.

Conclusion

This book attempts to explore the multifaceted nature of violence experienced by women and girls and analyse international perspectives on combatting gender-based violence. It links gender-based violence to deeply-rooted sociocultural norms and socio-economic inequalities. The book presents 14 chapters written by 20 authors drawing information from the global south as well as the global north. It features voices of academics, early-career research scholars and practitioners who are investigating the area of gender-based violence and its implications on human rights, law and policy. It is through this multi-agency, multi-sector, multidisciplinary and multi-methodology that we call to action. An issue as complex as gender-based violence needs strategic collaborative efforts from all fronts. The book offers critical discussions on various forms of gender-based violence such as sexual violence, domestic violence, intimate partner violence, media misogyny, sex trafficking and modern slavery. Each chapter is unique in its theoretical, methodological and empirical contribution to existing knowledge on gender-based violence as well as makes new contributions to address the common challenges and barriers to combatting this issue. The 2030 UN Agenda for Sustainable Development Goals (SDGs), adopted

by member countries in 2015, has made strong calls for the elimination of violence against women and girls – namely, through Goal 5 on gender equality and women’s empowerment (UN, 2021). Whilst we present recent scholarship in this edited volume, it is crucial to continue in this streak to understand the true magnitude of the problem and to monitor the progress made globally and by countries individually in addressing gender-based violence.

This edited volume should be a good resource for researchers, clinicians, civil society organisations and related professionals as well as graduate students in criminology, psychology, anthropology, sociology, legal studies, women’s studies, public health and policy studies.

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Part I
Gender-Based Violence: Perspectives
on Rape and Sexual Violence

Chapter 2

Attack as the Best Form of Defence? Rape Myth Construction in the Adversarial Trial in England and Wales



Charlotte Herriott

Introduction

Despite decades of wide-ranging reform efforts and a governmental rhetoric of a victim-centred criminal justice system [CJS] (Ministry of Justice [MOJ], 2002), justice responses to sexual victimisation in England and Wales continue to be characterised by high levels of attrition, unacceptably low conviction rates and a routinely traumatic justice experience for complainants (Munro & Kelly, 2009; MOJ and Home Office, 2021). Whilst policies and processes may have changed ‘fundamentally for the better’ in recent years (Stern, 2010:115), a vast body of academic research attributes the persistence of ongoing inadequacies in the justice response, at least in part, to the presence and influence of the so-called rape myths within justice discourse, which act to hinder reform efforts (Farrell, 2017; Temkin et al., 2018).

Rape myths are defined by Gerger et al. (2007) as ‘descriptive or prescriptive beliefs about sexual aggression (i.e., about its scope, causes, context, and consequences) that serve to deny, downplay or justify sexually aggressive behaviour’ (p. 245). Ultimately, such beliefs reflect patriarchal, heteronormative values (Cowan, 2021) and serve to sustain power imbalances by advancing a misinformed and misguided schema about what sexual violence is, how it occurs and who it affects (Gray & Hovarth, 2018).

Within the legal context, rape myths pose a ‘major challenge to the concept of a fair trial’ (Gillen, 2019, p. 54) by undermining the credibility of the complainant, expressing disbelief at claims of rape and attempting to excuse or exonerate the defendant (Bohner et al., 2009). Substantial research has shown rape myths to be

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persistent and pervasive throughout all stages of the justice response to sexual victimisation (Angoliolini, 2015; Holh & Stanko, 2015; Stern, 2010); however, these remain particularly extensive during trial (Durham et al., 2016; Smith, 2018; Temkin et al., 2018). Multiple recent observational studies have reported frequent and routine reliance on rape myths at trial, particularly by defence counsel as a means to refocus attention onto the complainant's rather than defendant's actions and to discredit the complainant in the eyes of the jury (Durham et al., 2016; Smith, 2018; Temkin et al., 2018). In turn, this reliance on myths frequently causes complainants to report feeling as if they are the one on trial (Payne, 2009) and crucially has been shown to make jurors overwhelmingly less likely to convict (Dinos et al., 2014; Leverick, 2020).

Yet, whilst the academic study of rape myths in the CJS has a long history, the literature has tended to focus upon the type, frequency and perceived influence of rape myths in justice discourse. Arguably, research has therefore tended to overlook how myths are constructed at trial and whether this can be linked to the underlying justice context itself. This chapter draws on court observation findings from four sexual offences trials in the south-east of England to explore links between rape myth usage and the underlying adversarial trial context. Whilst a small sample, the rich qualitative observational dataset provides important insight and justifies the need for further, large-scale research in this area.

An Overview of the Adversarial Legal System in England and Wales

The CJS in England and Wales operates within a common law, adversarial legal system, built upon the premise that partisan advocacy by two opposing sides will best lead to the determination of truth (Golding & Edmunson, 2005). The trial is regarded as the central aspect of the justice process with the judge a neutral referee between two opposing sides and 12 lay men and women of the jury, determiners of guilt (Creaton & Pakes, 2011). Praised by some as a fundamental marker of democratic due process (Bone, 1998), a growing body of literature criticises this adversarial legal structure predominantly in reference to ethics and the treatment of vulnerable and intimidated witnesses at trial (Burton et al., 2007; Ellison, 2001).

Indeed, the adversarial 'battlefield' which pits one side (the prosecution) against the other (the defence) has been critiqued widely as simply creating a game (Carson & Pakes, 2003) in which the ultimate goal of advocates is purely to 'win' (Taslitz, 1999). Accordingly, the adversarial courtroom has been described as a 'combative and competitive' environment (Ellison, 2000) which inhibits best evidence giving, pivots cases around the credibility of the complainant, draws unwarranted focus towards emotionality and contradictions in evidence and routinely leaves complainants feeling attacked and victimised (Smith, 2018; Temkin et al., 2018). Proponents of this dualistic structure have argued that lawyers should 'play to win' using all

available means to serve their client (Smith, 2012) and suggest that rigorous vetting of witnesses to expose inconsistencies is imperative to achieving best evidence (Rosenberg et al., 1976). Yet, crucially, such game-play distances trial from the realities faced by each party whilst also losing sight of the need for fair and proportionate societal responses to wrongdoing (Hanna, 2021).

Moreover, whilst adversarial ideals purport ‘equality of arms’ between parties as a central tenet of the adversarial trial structure, in-practice tension often arises in sexual offences trials between the defendant-centric right to fair trial and the protection and interests of the complainant (Kilean et al., 2021; Marsh & Dein, 2021). Complainants enjoy no formal standing in adversarial proceedings but attend simply as witnesses for the prosecution (Smith & Daly, 2020). As such, complainants routinely report feeling overshadowed or sidelined during adversarial proceedings (Hanna, 2021) as, whilst prosecution counsel may intervene to protect the complainant, they are under no obligation to do so and act solely on behalf of the public interest (Gillen, 2019; Kilean, 2021). Meanwhile, the protection and fair treatment of complainants are often portrayed as an obstacle to the defendant’s right to fair trial in somewhat of a zero-sum game (Hoyano, 2015), and therefore, it is argued that adversarial ideals continue to unduly favour defendants (Smith, 2018; Temkin, 2002).

Ultimately, however, adversarial principles pivot the presentation of evidence around a storytelling structure, in which oral witness evidence is central and cross-examination used to achieve dual objectives of favouring the examiner’s facts whilst sowing seeds of doubt upon the witness evidence (Marsh & Dein, 2021). Within this structure, legal representatives largely fail to present facts known to them that disfavour their client (Lind et al., 1973; Sevier, 2014 Sheppard & Vidmar, 1980) which again raises significant moral questions as to the implications of the game-play adversarial structure.

Temkin et al. (2018) therefore submitted that adversarial game-play must be interrogated with regards to its moral validity and capability of protecting vulnerable complainants, whilst Smith and Skinner (2012) contended that rape myths cannot be truly addressed without tackling the adversarial focus on winning.

Method: Court Observations

Acknowledging the trial stage as central to adversarial culture, this study used court observations to gain insight into rape myth usage and construction within the adversarial courtroom of England and Wales. Court observations were deemed to be the method most compatible with the research aims, as they enabled collection of rich, qualitative data to capture the complexities of the trial process. Observations allow comprehensive analysis of *how* myths are constructed within the adversarial environment as well as behavioural and linguistic examination of parties present. Whilst much of the previous literature exploring rape myth usage in criminal justice discourse has employed interview or survey methodologies, observations were deemed

more appropriate so as to enable a broader examination of how complex court cultures operate from a range of perspectives (Foster, 2006; Smith, 2018).

Four trial observations were undertaken in two Crown Courts in the south-east of England over a four-month period, with an additional pilot and one abandoned trial, as legal arguments were deemed outside the remit of this study (See Table 2.1). Two of these resulted in conviction, one in acquittal and one trial postponed after 3 days due to issues of disclosure of digital evidence.

Opportunity sampling was used, with trials selected according to date of commencement and location. A list of upcoming trial dates was obtained from the regional independent **sexual violence** adviser or advocate (ISVA) service; however, due to cancellations and delays, each court was contacted every Friday afternoon to enquire about upcoming trials. As a matter of good practice, letters were drafted for the judge and each legal representative in every observed trial, to request permission to observe and notify them of the research aims. Whilst this was not necessitated, it was deemed ethically important so as to not increase anxiety or distress of witnesses. Permission was explicitly granted by the judge in every trial.

Table 2.1 Characteristics of observed trials

Trial	Indictment	Case type	C and D relationship at time of offence	Special measures?	Trial duration	Outcome
1.	Indecent assault on male person Indecent conduct towards young child Buggery (SOA 1956)	Historic child sexual abuse	Three complainants, all of whom were foster sons of the defendant	No	4 days	Unanimous guilty on all counts
2.	Indecent assault (Sexual Offences Act 1956)	Historic child sexual abuse	Stepdaughter and stepfather	Screens	4 days	Unanimous guilty on all counts
3.	Sexual assault Common assault	Domestic abuse	Partners	Pre-recorded 'achieving best evidence' (ABE) and live link	4 days	Majority not guilty on all counts
4.	Rape Sexual assault Assault by penetration	Rape	Best friends	ABE and live link	Postponed after 3 days due to issues surrounding digital disclosure of evidence	N/A

As it is illegal to use recording equipment in court in England and Wales, speed-writing techniques were used alongside a pre-prepared observation criterion to record noteworthy data regarding myth usage, objections/dismissals and observable juror reactions. Whilst Foster (2006) notes that it is impossible to produce a completely full transcript, data gathered was as in-depth as possible, to create a relatively comprehensive transcript of each trial, with particular focus on the legal professionals' dialogue. All data gathered within trials was fully anonymised to preserve the anonymity and confidentiality of witnesses and to prevent the risk of deductive disclosure. Each trial was then digitally transcribed by the researcher, to make the information more legible and easier to analyse.

Due to the small sample and the nature of court observation research, a statistical data analysis method was deemed unsuitable. Statistical significance could not be attached to results due to the small sample size used, and no causal link between observed narratives and case outcomes could be drawn as juries could not be studied. Thematic analysis was therefore undertaken to explore themes and issues with reference to the existing academic knowledge base; yet, the research remains exploratory.

Observing Rape Myths During Trial: Attack as the Best Form of Defence?

This chapter argues that rape mythology remains intrinsic to the adversarial foundations of English and Welsh sexual offences trials, whereby adversarial ideals not only facilitate but arguably encourage routine deployment of rape myths.

Consistent with previous research, the current observational findings verified that rape myth usage was frequent and routine across the observed sample. Multiple rape myths were drawn upon in *every* observed trial and largely correlated with Bohner et al.'s (2009) categorisations of beliefs that doubt the allegation, beliefs that blame the complainant and beliefs that excuse the defendant. Similar myths tended to arise and overlap across trials, demonstrating patterns and trends of modern myth usage (Table 2.2).

Building upon previous research, the present chapter uses direct quotes and examples from these court observation findings to explore the construction and deployment of rape myths and stereotypes, with reference to underlying principles which shape and inform adversarial courtroom ideology.

Ultimately, adversarial principles of orality and cross-examination, the underlying competition-like structure, use of lay jurors and the adversarial emphasis upon rationality and credibility were all exploited in the current dataset so as to advance rape myth narratives. I argue that this rape myth usage typically stemmed back to discrediting and maligning the opposition case and thus appeared to feed into the overall game-play rhetoric in which the goal of winning was seemingly consistently prioritised over truth-finding.

Table 2.2 Table of observed rape myths

Rape myth	Trial 1	Trial 2	Trial 3	Trial 4
Delayed reporting	●	●	●	
False allegations	●	●	●	
Revenge/plotting	●	●	●	
Complainants are delusional	●	●		
Maintaining a relationship	●	● (Against C's mother)		
Failure to fight back	●	●	●	●
Lack of injury	●	●		
Women often lead men on or 'ask for it'				
Sexual history evidence	NA	NA	Yes (application on day)	Yes (no application)
Inconsistencies in courtroom evidence	●	●	●	●
Complainant's demeanour in court		●	●	
Complainant's clothing/behaviour/intoxication		●		●
Men's 'uncontrollable' sexual urges			●	

Oppositional Structure and Oral Presentation of Evidence

At its very foundation, adversarial procedure organises trial as a fight between two equal parties and assigns responsibility to these parties to present relevant evidence at trial (Hodgson, 2010). Resultantly, all trial evidence is confined to that which each party decides to adduce on the day in court. Whilst witnesses attend court to present their version of the evidence, ultimately, this is filtered through questioning by partisan advocates who produce competing courtroom stories of what happened (Ellison, 1997; Smith, 2012). Cowan (2021) suggests that this structure enables defence counsel to frame narratives at trial that complainants must then ultimately disprove.

Indeed, in the current observational dataset, this oppositional storytelling structure in which oral evidence was extracted and moderated by advocates seemingly facilitated rape myth usage in every observed trial. Rape myths were regularly deployed by advocates as part of a wider narrative to support their story or interpretation of case facts. In doing so, questions to witnesses were routinely articulated in a storytelling manner, whereby a theory or assumption was put to a witness to correspond to counsels' favoured narrative. Such narratives were typically advanced using closed questioning to limit witnesses' explanations and often relied on very little in the way of evidence.

This process was observed in every trial in the dataset. For example, in Trial 1, defence counsel presented complainant 3's allegation as a false allegation,

suggesting that this was made as an attempt to be moved to a foster placement nearer to his brother. In making this assertion, it was inferred that this complainant had previously made false allegations and was therefore not a credible witness:

DC: 'You hoped didn't you, to go and live near your brother didn't you?'

C3: 'I didn't know by brother was living there until after'.

DC: 'Before that, you said a lot of other untrue things'.

(Cross-examination of Complainant 3, Trial 1)

However, neither of these inferences that complainant 3 had (a) wanted to or was able to live nearer to his brother or (b) that he had a history of previous false allegations were substantiated by any factual evidence presented to the court during trial. Yet, by presenting these narratives as possible explanations or reasons behind the complainant's allegation, this false allegation narrative and suggestion of the non-credible complainant was ultimately put to the court. In doing so, the narrative subscribes to the mythical assumption that false allegations are frequent in sexual violence cases and complainants routinely dishonest in their motives. Moreover, the closed nature of questioning observed here diminished this complainant's ability to elaborate on his answers and therefore limited deviation from defence counsel's favoured narrative which was based on mythical ideals.

Similarly, in Trial 2, defence counsel utilised comparable storytelling techniques based on little factual evidence, to advance suspicion regarding a possible false allegation:

Because money wasn't coming in from his end, you were annoyed. (Cross-examination of complainant, Trial 2)

Again, this illustrates defence counsel's focus upon obscure or unrelated information to advance a story or theory, based in mythical ideals, to attempt to discredit the complainant and her allegation. These techniques of closed questioning and reliance on minimal evidence to advance a theory or hypothesis to the jury, reflect how the adversarial storytelling structure may be exploited by advocates to advance myths and stereotypes. The principle that witnesses may only provide evidence in direct response to the questions they were asked by advocates crucially limited complainants' opportunity to recount experiences in their own words (Burman, 2009).

Whilst not contesting the adversarial need to 'test' evidence, the current findings seemingly illustrate deviation from the supposed adversarial fact-finding goal towards the objective of simply 'winning' the case. Arguably, this highly regulated closed questioning by advocates often went beyond the scope of 'testing' evidence, towards exploitation of the wider game-play structure.

Inconsistency and the Rationalist Tradition

Within this wider oppositional storytelling framework, in which advocates control the focus of questioning, the adversarial rationalist tradition has been further posited to facilitate reliance on rape mythology (Cowan, 2021; Smith, 2021). Rooted in the assumption that an objective truth can be found using reason and logic (Smith,

2018; Twinning, 2006), the rationalist tradition upholds binaries of credible vs. non-credible, truth vs. lies and reason vs. emotion (Smart, 1998). In doing so, this sustains rape mythology which provides a schema of expected 'normal' actions and reactions (Cowan, 2021), despite substantial research having highlighted that there is no single way to respond to sexual victimisation (Loderick, 2007).

This adherence to rationality however continued to be played upon heavily across observed trials, and rape myths were routinely used to emphasise complainants' supposed lack of rationality so as to lower their credibility and infer suspicion of their claims:

Is it true that the defendant would come and visit you and that there have been family events that you have shared together....and you attended [Foster mother's] funeral in 2015...and it would have been obvious would it not, that the defendant would have attended this too?
(Cross-examination of complainant, Trial 1)

He disgusted you but you kept living together? (Cross-examination of complainant, Trial 3)

These narratives illustrate a clear focus in defence counsels' stories towards supposed normal or expected behaviour of complainants. They again invoke closed questioning to purport the complainants' supposed deviation from rational ideals as suspicious and to dismiss the veracity of their allegations. In doing so, these narratives overlook extensive evidence which shows that there is no normal or correct reaction to sexual violence (Loderick, 2007) and instead rely upon storytelling ideals and a lack of understanding amongst lay jurors in order to advance these notions.

This fixation upon ideals of rationality was commonplace throughout the observed dataset and frequently used to sustain myths surrounding false allegations, lack of resistance or injury, delayed reporting, inconsistencies in evidence and so on.

In three of the four observed trials, notions of rationality were used to portray complainants as irrational or suspicious for maintaining a relationship with the alleged perpetrator:

You allowed the defendant to stay over Christmas. (Cross-examination of complainant's mother, Trial 2)

DC: 'You say to him that you love him?'

C: 'Yeah'.

DC: 'So you are talking about everyday life?'

C: 'Yeah'.

(Cross-examination of complainant, Trial 3)

If this was going on, you may think, members of the jury, she would not be sending him messages like that. (Defence closing, Trial 3)

These narratives sustain mythical ideals of rationality and expected responses to sexual victimisation, to portray the behaviour as illogical and the allegation implausible. In doing so, these narratives attribute a level of responsibility or blame to the complainant and dismiss the veracity of the allegation itself.

Similar such narratives were equally observed in reference to delayed reporting, which was again presented as irrational and suspicious:

If they had been genuine incidents, you would have reported them sooner wouldn't you?
(Cross-examination Complainant 2, Trial 1)

You had no reason not to make that allegation straight away, if it was true. (Cross-examination Complainant 3, Trial 1)

DC: 'And you didn't mention anything to him?'

C: 'No I didn't. I was embarrassed by it'.

DC: 'You were embarrassed by it?'

C: 'Yeah it made me feel weird'.

DC: 'So isn't that a good reason to mention it – if it made you feel weird?'

C: 'I didn't want to start an argument. I had children to think of'.

(Cross-examination of complainant, Trial 3)

These narratives dramatically oversimplify the complex relationships in which the alleged incidents occurred and overlook substantial evidence regarding attachments and difficulties associated with reporting sexual victimisation (Loderick, 2007; Weiss, 2010). Instead, these narratives present the rape myth that 'a delayed report is likely a false report' as fact and therefore sustain and perpetuate mythical understandings of sexual violence to the jury. Reliance upon this rationalist tradition combined with principles of storytelling, closed questioning and the use of a lay jury enabled defence counsel to advance these narratives across the observed trials.

Cross-Examination

Adversarial procedure heralds' cross-examination as a vital safeguard (Ellison, 1997) used to comprehensively test the reliability of witness's evidence. However, in practice, it was observed throughout the current dataset that cross-examination was often directed at unsettling a witness and attacking their demeanour, to inhibit effective presentation of evidence and lower their credibility (Ellison, 2001; Temkin, 2002).

Within the oppositional storytelling framework, cross-examination was observed as a chance for defence counsel to advance their narrative of the case and to further advance rape myths and stereotypes to support this narrative. Small evidential details and inconsistencies in evidence were routinely framed as pivotal to the determination of verdict and were emphasised during cross-examination as a means to diminish the overall credibility of the complainant and their testimony.

For example, in Trial 2, minor inconsistencies in the complainant's evidence were drawn upon by defence counsel during both cross-examination and summing up, to portray the complainant as a liar and suggest that her entire evidence should be questioned as a result of these minor inconsistencies:

DC: 'Did you tell the police that you were 13 or 14 at the time?'

C: 'Yes'.

DC: 'Did you also tell the police your mum was in hospital after the baby's birth?'

C: 'Yes'.

DC: 'So you would have in fact been 15 and a half'.

(Cross-examination of complainant Trial 2)

These are not minor details. These are at the heart of the case. It is conduct that if was true, you would think she would remember... That evidence cannot possibly be relied on'.

(Defence closing Trial 2)

This narrative exemplifies findings by Smith (2018) in which she found barristers to present a clear dichotomy between the ‘wholly credible’ and ‘wholly incredible’ witness, relying upon small inconsistencies to discredit the complainant. Again, defence counsel relied upon closed questioning and storytelling techniques to highlight such inconsistency and present this as pivotal to the case.

Similar focus upon inconsistencies was advanced by defence counsel throughout each of the observed trials. A further example in Trial 1 relates to a disparity between the complainant’s written police statement and courtroom testimony in Trial 1:

You said yesterday that Vaseline was used. You didn’t put that in your statement to the police. Have you added that detail to make your story more credible? (Cross-examination of Complainant 2, Trial 1)

Again, this must be explored within the wider, oppositional adversarial framework which enables and justifies advocates to focus upon minor evidential details and inconsistency, whereby this fits their overall narrative of the case. Indeed, rather than examining the potential reasoning behind such inconsistency, such as prolonged time lapse and often brief nature of initial statements, defence counsel emphasised such inconsistency as a fundamental reason to doubt the evidence of this witness.

Moreover, this further exemplifies challenges surrounding the oral presentation of evidence in sexual offences trials. Whilst traditionally orality has been seen as a measure to test rigour of a witness’s testimony (Marsh & Dein, 2021), it was common practice throughout the observed dataset to infer inconsistencies as evidence of deceit, as opposed to exploring possible reasoning behind this. Significant literature has established challenges surrounding accurate recollection of traumatic incidents, coupled with stress and anxiety of delivering oral evidence to a courtroom or for a police statement (Campbell, 2006); however, the adversarial focus on winning arguably overlooked such reasoning. I therefore argue that the oppositional adversarial framework gives rise to manipulative questioning styles and justifies focus by barristers on minimal details, thus arguably facilitating continued rape myth usage.

Further to manipulating inconsistencies of evidence in cross-examination, this stage of trial was also regularly used to discredit and attack the character of the complainant or other prosecution witnesses:

So you say you didn’t want any confrontation but you also say you’d say fuck off or get off or words to that effect? (Cross-examination, Trial 3)

Since you wanted to put it all behind you when you were 18, and so you thought it was a pretty disagreeable experience. Why were you so prepared to have any contact with [D] over the next 30 years? (Cross-examination of Complainant 2, Trial 1)

These findings again highlight the practice of defence counsel in particular, constructing narratives to suit their side of the case and then simply positing these narratives to witnesses using closed questioning to advance their ideals. Complainants were frequently accused of lying or creating a false allegation as a means of revenge, regret, jealousy or delusions and focus routinely turned towards their credibility, actions and behaviours rather than the defendant’s:

You're not the scared shy type that you're making yourself out to be. (Cross-examination, Trial 3)

Would you agree that you had a problem with alcohol? (Cross-examination, Trial 2)

Again, these narratives could be linked to the oppositional structure of the adversarial courtroom in which it seemingly became imperative to discredit and malign the opposition case using whatever means necessary to do so. Indeed, it is theorised as the adversarial lawyer's job to mould the raw version of events into the most credible narrative (Finkelstein, 2011), and thereby, the oppositional adversarial structure enables and perhaps even encourages barristers to do so, by manipulating questioning and constructing a desired narrative based upon minimal evidence.

However, these techniques ultimately served to put the complainant on trial and demonstrated the harsh and judgemental examination that complainants continue to routinely endure during sexual offences trials in England and Wales. Cross-examination is thus frequently identified as the most traumatic aspect of pursuing a rape allegation, by complainants (MOJ, 2014). In the current dataset, all complainants showed significant observable distress (crying/shaking/jittery voice/visible nerves/anger) during cross-examination, also, being the stage in which rape myth narratives were most prevalent.

Inequity

Adversarial theory heralds that a competitive trial between two oppositional parties, as the optimal way to test evidence and pivot differing interpretations of the case against each other. Whilst justified on the basis that opposing parties will supposedly counter each other's arguments to ensure fairness, significant literatures denote frequent and significant inequality between parties in practice (Langhbein, 2003). Smith (2018) suggests that the adversarial focus on winning is not equally prioritised by the prosecution and defence and resultantly prosecution counsel tend to invoke less manipulative questioning than the defence.

The current study revealed rape myths to be almost exclusively introduced by defence counsel across all observed trials. Resultantly, prosecution witnesses were routinely subject to multiple and substantial attacks on their character, credibility and behaviour whilst defence witnesses were largely immune from such attacks:

You would have been watching B as she gave her evidence. When topics turned to D's infidelity you may have noticed her hardening attitude. I ask you to take this into account. (Defence Closing, Trial 2)

C had an incredibly troubled life. Common sense dictates that those events must have affected her. (Defence Closing, Trial 2)

These narratives illustrate clear attacks towards the character and credibility of prosecution witnesses during defence closing speeches. Such attacks were arguably justified by legal framework such as the Criminal Justice Act (2003) which advises jurors to consider whether complainants demonstrate 'demeanour consistent with

the allegations'. This crucially substantiates and legitimises reliance on rape myths and stereotypes, such as those relating to rationality and expected or appropriate reactions, as discussed above.

The defendant on the other hand was observed to be largely immune from such attacks on character and credibility, again substantiated by legal rules such as bad character legislation (Ornstein & Haden, 2001). Similarly, guidelines regarding delayed reporting, for example, denote that whilst not suspicious for the complainant, defendants should be given additional leeway due to evidence being lost (Smith, 2018):

D didn't have to give evidence. He didn't have to say anything, but he did. If he spoke too much you may forgive him. He was trying to get across as much as he could because this was his opportunity. (Defence Closing, Trial 3)

This again arguably affords defence counsel a further opportunity to endorse rape myth narratives, in which it may be portrayed as suspicious that a complainant did not immediately report or that their behaviour was not deemed 'rational'. Such narratives were observed throughout the dataset:

If these had been genuine incidents, you would have reported them sooner wouldn't you. (Cross-examination of Complainant 3, Trial 1)

Does 'not upsetting [Foster Mother]' really stand up as an explanation for the delay in making these allegations? (Defence Closing, Trial 1)

At this stage, why didn't you say about masturbating over you and don't fucking do it. Because you are quite vocal about things. (Cross-examination, Trial 3)

Arguably therefore not only the underlying adversarial context but also current legislative frameworks sustained and perpetuated inequity between the prosecution and defence at trial.

Further, observations of the current study support Smith's (2018) observation that the burden of proof is routinely heavily overstated by all parties at trial. This further emphasises the inequity of task between prosecution and defence and arguably encourages further rape myth usage by the defence in order to plant seeds of 'doubt':

If any words like could be or maybe come into it, then the law says that your verdict must be not guilty. (Defence Closing, Trial 3)

You must be sure. This is a high standard. It is a deliberately high standard and must not be watered down. (Judge's Summing Up, Trial 3)

Nothing less than sure will do. (Defence Closing, Trial 2)

This inequity between parties at trial creates an asymmetric interpretation of the right to a fair trial whereby defendants' rights of due process were seemingly prioritised over complainants' (Smith, 2018). Whilst theoretically measures to protect the defendant and fair trial should not detract from the rights of the complainant in a 'zero-sum game' (Hoyano, 2015), in practice, it appears that complainants' rights are regularly held at odds with the rights of the defendant in the adversarial courtroom. This asymmetric interpretation of a fair adversarial trial arguably

demonstrates that defendants are fundamentally protected over complainants' within the adversarial structure. Such interpretations account for complainants reporting feeling as if they are on trial (Payne, 2009), as well as the ease for defence counsel to undermine the complainant's credibility (Smith, 2018).

Lay Jury

Trial by jury is the central tenet of adversarial legal procedure (Creton & Pakes, 2011), promoting lay participation in the execution of justice. Whilst it is upheld as crucial aspect of justice process in the Crown Court in England and Wales, the current observational findings arguably illustrated counsel exploiting the lay nature of jurors in order to further advance mythical ideals.

These narratives were typically confined to defence counsel, who seemingly took advantage of jurors' lack of expertise in the field to endorse and sustain mythical ideals to discredit the complainant and prosecution case:

Is she telling the truth or is she simply trying to pull the wool over your eyes? (Defence Closing, Trial 3)

[Complainant] had an incredibly troubled life. Common sense dictates that those events must have affected her. (Defence Closing, Trial 2)

These narratives illustrate how defence counsel framed mythical assumptions to jurors, as a matter of 'common sense' or by using colloquial expressions. This framing highlighted jurors' lack of expertise in the subject matter and reverted back to endorsing assumptions of rationality and expected behaviour to advance the case. In doing so, these narratives perpetuated widespread rape myths, such as that false allegations are common often made by scorned or deviant complainants.

Crucially, the literature on rape myths has highlighted that jurors continue to widely and readily accept these stereotypical assumptions about sexual violence (Leverick, 2020; Willmott et al., 2017). Therefore, observations of the current dataset seemingly illustrate that the use of these narratives by barristers is perhaps inevitable within this combative adversarial structure, utilised as a means simply to win the case.

Responding to Rape Myths

Whilst the chapter so far has explored advocates' manipulation and exploitation of adversarial ideals to advance rape mythology, the remaining section examines positive practice in regards to the so-called myth busting. Positively, adversarial ideals dictate that legal counsel may counter and challenge narratives of the opposition party and the neutral judge equally holds the role of enforcing legal safeguards whereby inappropriate questioning arises. This represents a valuable legal safeguard to counter the influence of rape myths and other inappropriate narratives at trial. Nevertheless, whilst the current research did find some positive myth busting

attempts, these were generally not widespread despite repeated inclusion of rape myths during trial. Again, it is argued that this may be drawn back to the underlying adversarial structure.

Direct immediate challenges to myth-based narratives as they were introduced were fundamentally absent within the observational sample. Judicial interventions were rare and, at no point during any of the observed trials, did the trial judge halt a line of questioning or intervene in cross-examination when this became oppressive or irrelevant. Moreover, prosecution counsel often missed opportunities for direct myth busting during re-examination, thus failing to promptly warn jurors of the dangers of relying on false assumptions. Smith (2018) argues this lack of direct challenge to be a result of complex power relations whereby judges feel unable to challenge questions or arguments where both barristers agree. The current findings support this premise and thereby highlight the oppositional adversarial structure as somewhat ineffective in protecting vulnerable witnesses.

More positively however, attempts were made by both judges and prosecutors in the latter stages of every trial, to resist the influence of stereotypes and mythology on juror's interpretations. Thus whilst direct, immediate challenges were absent, some attempt at 'myth busting' did occur in the prosecution closing speeches in each of the observed trials. Delayed reporting was the most frequently challenged myth across trials, highlighting the difficulties associated with reporting and clarifying that a delayed report does not necessarily mean a false report:

Only need to look at [Complainant 3] in 1981 to confirm that he was right in his belief that these boys in foster care would not have been believed. (Prosecution Closing, Trial 1)

She was scared of D. Scared of the consequences and off angering him. (Prosecution Closing, Trial 2)

But you will take into account the direction about people reporting these offences or making this kind of accusation. Everyone is different. (Prosecution Closing, Trial 3)

These myth-busting attempts are positive in highlighting the inaccuracy of the delayed reporting myth, especially, for example, in Trial 1 whereby prosecution emphasised the difficulties of reporting with reference to the specific case facts.

However, myth-busting attempts against other rape myth narratives, such as previous sexual history evidence in Trial 3, proved less thorough. Perhaps, actually further endorsing rape myth narratives surrounding supposed 'appropriate' socio-sexual behaviour:

It is a modern world and she is a modern mother. (Prosecution Closing, Trial 3)

This myth-busting attempt was arguably weak and fails to posit the irrelevance of sexual history evidence as a marker of consent or as a marker towards the character and credit of the complainant. Thereby, findings of the current observational research highlight that myth-busting attempts vary considerably in strength according to the barrister in question.

Positively, judicial directions were utilised in every full trial. However, as with myth busting, the detail and authority attached to such challenges varied considerably. Encouragingly, the rationalist tradition of the law was generally well

challenged, with judges in all full trials reinforcing that there is no ‘set way’ to react to a sexual offence. However, judges overwhelmingly simply reproduced the non-exhaustive list of myths mentioned in the Bench Book (Judicial College, 2011) meaning specificity of directions for the case in hand were routinely lacking. Furthermore, directions addressing rape myths were often easily undermined by defence counsel during their summing-up.

The inconclusive nature of court observation research and the private nature of jury deliberations mean the impact of these challenges, and defence counsel’s undermining of these is unknown. However, within the adversarial structure, jurors are only aware of the evidence in terms of the narratives presented by legal counsel at trial. Jurors are not required to explain their understandings of such evidence, yet research shows, jurors routinely accept such myths as truth (Leverick, 2020). Therefore, it can be theorised that undermining the often already weak myth-busting attempts could be extremely effective for the defence case. Indeed, within the adversarial nature of proceedings, once a narrative has been introduced, this cannot be unheard by the jury meaning despite attempts to contest, it is likely to still have some effect.

Conclusion

Despite wide-ranging rape law reform in England and Wales, extensive literature has continued to attribute ongoing inadequacies in the justice response to sexual violence, to the influence of rape myths and stereotypes at trial (Temkin et al., 2018). However, research to examine rape myth usage within the underlying context of the adversarial justice system has been limited. This study therefore, set out to establish whether core constructions of the adversarial fact-finding process facilitate the inclusion of rape myths in sexual offences trials in England and Wales.

Given the small sample size, statistically generalisable claims could not be made; however, the qualitative findings of the current study have highlighted the need for further scrutiny of this area. In line with previous research, it was apparent throughout the observed trials that myths and stereotypes regarding the complainant’s credibility, rationality, the credibility of the allegation itself and excusal of the defendant were routine. These were particularly prevalent during cross-examination and closing speeches, especially used by defence counsel, and often seemingly as a tactic to strengthen their side of the case. Resultantly, stereotypical framings of sexual violence became central to the presentation of evidence and narratives of trial.

This chapter argues that the competitive adversarial structure and inherent focus on winning (Smith, 2018; Temkin et al. 2018) seemingly encouraged manipulative questioning and reliance on rape myths as a tactic to win the case. Adversarial ideals including the oppositional structure, requirement of orality, rationalist tradition, cross-examination and use of lay jury could all be linked to rape myth usage at trial.

At its core therefore, it may be argued that the oppositional structure which posits advocates against one another, seemingly distorts the truth-finding purpose of

trial and in turn arguably incentivises rape myth usage. Concurrently, the adversarial storytelling structure (Ellison, 1997) in which all evidence is filtered by legal counsel (Smith, 2012) allowed advocates to routinely select limited factual evidence on which to base the narratives of trial. This limited evidence was then presented using rape myths and stereotypes in the form of competing courtroom stories, with closed and manipulative questioning styles used to limit witnesses' ability to explain their answers. This ultimately, therefore, reinforced counsel's narratives based on myths and stereotypes, meaning these myths and stereotypes became the cornerstone of evidence heard by lay jurors.

Cross-examination was highlighted as the aspect of trial in which the majority of rape myth narratives were introduced and ultimately resulted in substantial attacks towards the credit of the complainant. Mythical assumptions of credibility, appropriate behaviour, gender roles and rationality therefore became pivotal to the case, reinforced via the rationalist legal tradition. Moreover, over-reliance on inconsistencies became a further means used to discredit complainants and advance rape myths in line with the adversarial fixation on supposed rational responses.

Whilst multiple safeguards have been implemented in order to limit manipulative questioning and reliance of rape mythology, the combative adversarial procedure and complex power relations of the adversarial courtroom seemed to prevail. Prosecution counsel routinely missed opportunities for direct myth-busting attempts and judges wholly failed to interrupt questioning whereby this became overly manipulative. Whilst judicial directions were widely used, these tended to be extremely broad, simply recounting the Bench Book (Judicial College, 2011).

Secondary victimisation of complainants was also a key byproduct of the adversarial structure, demonstrated via observable distress of all complainants in the sample. The insistence on oral evidence enabled advocates to bring focus onto the complainant's character and credibility as if they were on trial. Meanwhile, adversarial safeguards prohibited such examination of the defendant, in line with an asymmetric interpretation of the right to fair trial (Smith, 2018). A conflict therefore arose between legal practitioners' ethical duty to protect complainants and defence counsel's duty to promote and protect the accused fearlessly (Smith, 2013) within the adversarial structure.

Ultimately, therefore, whilst adversarial principles assume that a focus on winning enables rigorous testing of the evidence and leads to truth-finding (Langhbein, 2003), findings from this study and others (See Ellison, 2001; Smith, 2018) suggest that in practice this focus appears to incentivise legal counsel to manipulate evidence and fundamentally facilitates and even compels myth usage at trial. Notwithstanding the limited sample size, this study provides some evidence to suggest that key aspects of the adversarial structure in England and Wales play a significant role in facilitating rape myth usage in sexual offences trials and contribute to persistent inadequacies. Myth usage throughout the observed sample appeared to involve fundamental exploitation of multiple adversarial structures and processes, encouraged if not compelled by adversarial ideals of winning and competition (Taslitz, 1999).

Acknowledgements I would like to express sincere thanks to Dr. Jo Lovett, who supervised me during this project and offered invaluable support both during and beyond this research.

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Chapter 3

Beyond Rape Myths: The Role of Cultural Narratives in English Sexual Offences Trials



Ellen Daly

Introduction

The notion that we live in a ‘rape culture’—that is, a culture that normalises, minimises, justifies, and excuses sexual violence—has gained significant traction in the twenty-first century. ‘Rape culture’ is a term that seems to have first emerged in the 1970s through feminist activism (see, e.g. Herman, 1979) to describe the cultural acceptance and normalisation of sexual violence against women. But as Garcia and Vemuri (2017) point out, the ideas behind the concept of rape culture were not new and had been recognised within the politics of suffragists. Suffragists recognised the role of patriarchal culture in the normalising and excusing of violence against women, and they critiqued the law and the courts in relation to rape (Garcia & Vemuri, 2017). Contemporary understandings of what constitutes rape culture continue to recognise the role of patriarchal values and attitudes in rape culture (Roze & Koss, 2001), and the conceptualisation of rape culture put forth by Buchwald et al. (1993) remains in common usage today. They surmise that rape culture is:

A complex of beliefs that encourages male sexual aggression and supports violence against women. It is a society where violence is seen as sexy and sexuality as violent. In a rape culture women perceive a continuum of threatened violence that ranges from sexual remarks to sexual touching to rape itself. A rape culture condones physical and emotional terrorism against women *as the norm*. In a rape culture both men and women assume that sexual violence is a fact of life, inevitable as death or taxes...Much of what we accept as inevitable is in fact the expression of values and attitudes that can change. (Buchwald et al., 1993, p. vii, emphasis in original)

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Understanding rape culture as simply a product of patriarchy is limiting, however, and fails to recognise other systems of oppression, such as colonialism, heteronormativity, white supremacy and xenophobia and the interactions between them (Kessel, 2022). Kessel (2022) therefore suggests a reconceptualisation of ‘rape culture’ that removes the single axis focus of male domination over women and thus encourages an intersectional analysis, preferring to understand rape culture as:

A set of intersubjective and collectively reproduced myths, discourses, and practices that individuals use to assign interpretations of rape victimhood and perpetration, innocence and guilt, and power and powerlessness that, in turn, reproduce a culture that normalizes rape and other sexual violence as an effective (though outwardly condemned) way to reinforce relations of subordination. (Kessel, 2022, p. 137)

The specific attention paid to myths, discourses and practices in Kessel’s conceptualisation is especially useful in the analysis of rape trial narratives, which forms the basis of this chapter. The analysis I present herein draws on court observations of rape and sexual assault trials conducted in England in 2019, where I sought to understand the interactions between rape myths and broader cultural narratives that (re)produce pejorative ideas about gender and social class (Daly, 2022). Focusing on one of those trials as a case study, I delineate the ways in which the notion of ‘respectability’ is operationalised within the courtroom context. Specifically, I argue that middle-class ideals of respectability (re)produce, and are (re)produced by, the notion of the ‘ideal victim’, and I outline the ways in which the deeply embedded gendered concept of ‘hysteria’ is implicated within this. Ultimately, I argue that until these deeply entrenched cultural narratives are addressed, a narrow focus on solving the problem of rape myths through, for instance, ‘myth-busting’ measures, fair justice will continue to be out of reach for many victim-survivors.

Social Class and ‘Respectability’ in Britain

The discussions within this chapter centre on the notion of respectability, which according to Skeggs (1997) is a primary marker by which social class is measured and ascribed. It is therefore pertinent to set out how social class can be signified within courtroom narratives, particularly because social class is not something anybody in a trial would usually be asked about directly. Social class is a persistent system of oppression in Britain, but it is not something people necessarily typically ascribe to themselves in the way that they would with, for example, their ethnicity (Roberts, 2011). Whilst there is no unified definition or way of categorising social class, it is perhaps most commonly understood in the terms of upper, middle and working classes. The working classes are often demonised and stigmatised in British society and stereotypes about people perceived to be working class abound (Jones, 2011; McLaughlin, 2021). As Skeggs (1997) argued, notions of respectability are formed from middle-class ideals and dictate the ‘standards’ to which working-class

people should aspire in order to boost their social capital and thus be taken seriously and considered ‘deserving’.

Turning to the courtroom then, social class was not directly referenced in any of the trials I observed; instead, it was subtly pointed to through barristers’ questions and the overall narratives they produced over the course of the trials, which pointed to stigmatising cultural narratives about working-class people and communities. Small details about victim-survivors’ and defendants’ lives were elicited and referenced which when taken together, and framed within the overarching trial narratives, pointed towards them being from a working-class background. The details referenced included things such as them residing in areas considered deprived, the types of accommodation they lived in, being in receipt of state welfare, and the types of (un)employment they were in (see Daly, 2022, for more detail on this). It is also pertinent to note that the victim-survivors, defendants and other witnesses in the trials were all racialised as white, positioning them as racially privileged. In the context of Britain, however, this white racialisation plays a key role in the formation of classed narratives because whiteness is salient within British working-class stereotypes, where there is a delineation between respectable and non-respectable working-class whites (Lawler, 2012; Nayak, 2019; Skeggs, 2004; Watt, 2006). Thus, the discussions within this chapter specifically relate to narratives about white British working classes.

It is crucial to point out here that identifying these classed narratives is not a comment on whether the victim-survivors or defendants were or were not working class. Indeed, the structural inequalities and systems of oppression that were reproduced within barristers’ narratives, such as social class, may not necessarily have been congruent with the lived realities of the victim-survivors or defendants. This is because characteristics of witnesses are made salient at trial without their choice when their affiliation (whether real, perceived or portrayed) to a particular group is imposed on them through the narratives employed by barristers. That is, a narrative may draw on stigmatising ideas about working-class people and encourage the jury to perceive the victim-survivor or defendant as such, even though they may not in actuality consider themselves working class. This is made possible by the combative nature of barrister conduct in the adversarial tradition (Smith, 2018), along with the controlled question-and-answer format that constrains witnesses’ ability to present a free narrative or challenge the content or manner of the questions (Brown et al., 2010; Ainsworth, 2015).

Being a ‘Respectable’ Victim-Survivor

As noted above, the notion of ‘respectability’ is a significant marker of social class in British society. It plays a key role in gendered, classed and racialised perceptions of femininity that seep into everyday life (Skeggs, 1997), not only in Britain but across the world—for instance, Ecuador (Fleetwood, 2015), India (Radhakrishnan, 2009; Gilbertson, 2014), the Netherlands (Roelofsen & Peters, 2015), Pakistan

(Ansari, 2016), Sweden (Odenbring & Johansson, 2019) and Turkey (Alemdaroğlu, 2015). Speaking from a US perspective, Ortner (2006, p. 34) noted that ‘class differences are largely represented as sexual differences’. For some, this is understood in terms of the ‘grotesque’ body, where the ‘classical’ body is socially acceptable and reflective of middle- and upper-class values, with the ‘grotesque’ as the abjected other and target of disgust (Brown, 2005; Cocker et al., 2015). ‘Traditional’ heterosexual femininity, then, has been constructed from middle-class ideals, with respectability used as a marker by which to regard particular groups as dignified and valued whilst othering those who do not conform (Skeggs, 1997; Lawler, 2005). These are deeply embedded ideas that have a long history of maligning working-class women in Britain. For instance, Robinson (1984) historically situated these narratives in the obscuring and denial of women’s sexuality and desire, and Clark (1987) delineated the significance of classed narratives in the construction of working women as unchaste and thus unrapable. Indeed, Phipps (2009) and Anthias (2014) have both pointed to the significance of the intersections of class and gender in the context of sexual violence, and such narratives have been noted in previous rape trial observation research (Lees, 2002; Smith, 2018).

In the trials that I observed, respectability was reflected in barristers’ narratives through the notion of excessiveness. Women’s femininity has long been judged and policed in terms of excessiveness, particularly with regards to sex and alcohol (Mackiewicz, 2016) and particularly for women perceived as working class (Skeggs, 1997, 2005). The narratives in one of my observed trials demonstrated this with particular clarity, and whilst it is set out in detail elsewhere (Daly, 2022), I summarise here for context.

The trial related to two allegations of rape involving a female victim-survivor and male defendant who had been long-time friends. Both were in their late teens at the time of the alleged rapes. The defendant was ultimately acquitted by the jury on both counts. Alcohol formed an integral part of the classed and gendered narratives within the trial because the alleged rapes both took place after evenings of heavy alcohol consumption. The prosecution’s position was that the victim-survivor was passed out asleep after consuming large amounts of alcohol late into the night and therefore had no capacity to consent, whereas the defence’s position was that the victim-survivor was not as drunk as she claimed, was not asleep and had consented to sexual intercourse with the defendant. Because of this, the victim-survivor’s drinking habits were put under heavy scrutiny by the defence barrister:

Defence: *You get drunk quite often, you often can’t remember how you got home. What were you drinking that night?*

Victim-survivor: *I can’t remember.*

Defence: *You can’t remember?*

Victim-survivor: *Alcohol.*

Defence: *Yes, well I got that. <chuckles> What type?*

Victim-survivor: *I don’t remember.*

Defence: *I suggest that you weren’t drunk.*

The defence’s core argument in this case was that the victim-survivor was not as drunk as she claimed she had been. It is interesting, then, that he prefaced his

suggestion that she was not drunk with a question that established that she often drank excessively to the point where she was unable to remember how she got home. Whilst it may seem counterproductive to the defence's key argument, it may not be so if it encourages the jury to form moral judgements about the victim-survivor's character. Indeed, this was bolstered further by the defence later commenting that the victim-survivor had 'developed a taste for [vodka]'. In Britain, to say that someone has 'got a taste for something' tends to indicate that person partakes in frequent consumption of or has a strong inclination/desire for something. In addition to contributing to the classed construction of excessiveness in relation to this victim-survivor's form of femininity (which I continue to delineate below), value for the defence could be found from the pejorative cultural understandings of 'excessive' substance use that position it as an indicator of a person being inherently unreliable and untrustworthy (Selseng, 2017), thus damaging the victim-survivor's credibility. Taken together, then, the defence's seemingly counterproductive argument actually helped depict the victim-survivor as a 'problem drinker'.

Add to this a digital message the victim-survivor sent to the defendant in the weeks prior to the alleged rapes, stating 'I know I have a drink problem; I get fucked all the time now'. The message was stripped of context; it was not explained nor explored whether this was a serious comment, a comment made in jest or an offhand comment. Nevertheless, the trial judge specifically drew the jury's attention to the message in her summing-up of the evidence. She said:

[Victim-survivor] says 'I know I have a drink problem, I get fucked all the time now'. We know from [victim-survivor's] mum that they spoke just before she went to bed, her mum said she sounded fine, it was a normal conversation. You may wish to consider that compared to the victim's account of struggling to walk, feeling weird, and passing out.

The victim-survivor's message was mentioned with no clear link to the issues the jury were to decide about. The judge suggested that the jury may wish to consider the victim-survivor's mum's description of the conversation that had taken place between them that night compared to the victim-survivor's account of her level of drunkenness, but this is not linked to the digital message. The statement the judge made would not help the jury in deciding whether or not there was consent. It seems, then, that the message was raised as a point to consider regarding the victim-survivor's credibility. Regardless of intent, there was no clear instruction to the jury as to how they might use the digital message in their deliberations. In the absence of clear context or instruction, this could be seen as drawing on narratives that position women who have consumed alcohol as unreliable and incredible.

Along with the questioning regarding the victim-survivor's drinking habits, evidence was adduced regarding the length of her dress and the height of her heels. The context in which this evidence was adduced and referenced by the defence could be argued relevant because the questions about the clothing were framed within the context of establishing the mechanics of how the defendant had touched the victim-survivor and the questioning regarding the height of her heels was done in the context of attempting to establish the victim-survivor's level of drunkenness. Nevertheless, drawing attention to the ways in which the victim-survivor dressed

plays into the rape myth that ‘women who wear revealing clothing have themselves to blame if they are raped’ (Workman & Orr, 1996; Moor, 2010). Crucially, snippets such as these may not by themselves seem overly damaging to a victim-survivor’s character or credibility, but in fact, they go towards building a larger picture that can be far more damaging than it seems on the surface.

Taken together, the narratives in this trial went towards building a depiction of the victim-survivor that corresponded with embedded social stereotypes at the intersection of gender and social class that position female heavy-drinkers as sexually available (Blume, 1991; Cozzarelli et al., 2002). Indeed, Riemer et al. (2018) found that by merely holding an alcoholic beverage, women were routinely dehumanised and assessed as sexually available. Furthermore, research has shown that victim-survivors from low socioeconomic backgrounds are more likely to be rated as ‘promiscuous’ than victim-survivors from higher socioeconomic backgrounds and that this is correlated with higher levels of blame and negative attitudes towards victim-survivors from lower socioeconomic backgrounds (Spencer, 2016). Indeed, victim-survivors who were voluntarily intoxicated when they were raped tend to be apportioned higher levels of blame than those who were not (Finch & Munro, 2005, 2007; ICM, 2005; Gunby et al., 2012; Schuller & Wall, 1998). It is also worth noting here that all of the witnesses in the trial were questioned by both the defence and prosecution about the victim-survivor’s level of intoxication, but there was far less focus on the defendant’s level of intoxication. This disparity reflects the double standard previously noted by Finch and Munro (2005) whereby intoxicated victim-survivors are viewed as more blameworthy and intoxicated perpetrators are viewed as less blameworthy (Grubb & Turner, 2012).

In my book (Daly, 2022), I explain how these portrayals of the victim-survivor reflect dominant media characterisations of young, white, working-class women in Britain, especially through so-called ‘reality’ TV, wherein the women are characterised as hypersexualised and sexually available through imagery of them drinking alcohol to excess and engaging in, or talking about, sexual acts (Griffin et al., 2013; Payne, 2016; Stepney, 2015; Wood, 2017). Alcohol is highly prevalent in British reality TV (Barker et al., 2020; Lowe et al., 2018), so too is highly gendered language that constructs women as objectified, sexualised beings as well as irrationally emotional (Payne, 2016). The notion of emotion management was also a significant thread throughout the trial, with the victim-survivor frequently being described as ‘hysterical’. This is a point I return to later.

Taking the narratives of feminine excess within this trial as a whole, then, culminates in an image of a young, white, promiscuous, working-class woman, who binge drinks often and who, therefore, does not conform to middle-class ideals of respectability. These narratives at the intersection of gender, social class, race and age thereby positioned the victim-survivor as unreliable and drew on victim-blaming myths about rape. Furthermore, when barristers deploy these narratives about young working-class women, the effect of any sexual history evidence that is introduced is arguably compounded (Smith, 2018). Indeed, as I delineate elsewhere (Daly, 2022), questionable sexual history evidence was adduced in relation to this victim-survivor. That alcohol can play such an easy role in the formation of narratives about the

sexual behaviour of victim-survivors is significant because alcohol is a prominent feature in many rape and sexual assault cases in Britain (Her Majesty's Crown Prosecution Inspectorate, 2007; Hester, 2013; Lovett & Horvath, 2009; Mayor of London Office for Policing and Crime, 2019). Being perceived and portrayed as a young working-class woman, then, can work as a tool for undermining victim-survivors' credibility through casting them against respectability standards and, as I set out below, the image of the 'ideal victim' (Christie, 1986).

Respectability and the 'Ideal Victim'

To understand the links between the notions of 'respectability' and the 'ideal victim', it is first important to recognise the role and function of rape myths. Rape myths are 'descriptive or prescriptive beliefs about rape...that serve to deny, downplay or justify sexual violence that men commit against women' (Bohner, 1998 cited in Gerger et al., 2007, p. 423). Their function is to cast doubt over the suggestion that a rape has occurred, place blame on the victim-survivor and excuse or absolve the perpetrator (Eyssel & Bohner, 2008; Lonsway & Fitzgerald, 1994). Rape myths therefore serve to legitimise sexual violence against women. They stem from rape culture (Burt, 1980) and also reproduce it (Edwards et al., 2011). These myths shape what Christie (1986) termed the 'ideal victim', that is, the standards a victim-survivor must meet in order to gain the status of 'victim', to be considered worthy and legitimate and to receive compassion. Christie (1986) surmised that the 'ideal victim' is virtuous, blameless, unknown to the perpetrator and weak in relation to the perpetrator. Similar conceptualisations include Jordan's (2001) 'perfect victim', Stevenson's (2000) 'unequivocal victim' and Larcombe's (2002) 'valorised victim'. Christie identified several key attributes of the 'ideal victim', one of which was 'The victim was carrying out a respectable project' (Christie, 1986, p. 19). Thus, to be perceived as 'unrespectable' prohibits being perceived as an 'ideal victim'. Indeed, throughout his varied exemplifications of the 'ideal victim', Christie (1986) recognises the role of social class (which is key to the concept of respectability) in its construction.

Racialisation is also a factor in formulations of the 'ideal victim', with the 'ideal victim' status being more easily conferred to those belonging to privileged races. In Western societies, this ideal is positioned as whiteness and is evident across a range of contexts. For instance, in her analysis of legislation and policies named after crime victims (e.g. 'Megan's law' in the USA), Wood (2005) demonstrated that such practices have reinforced the image of the 'ideal victim' as a young, white, middle-class female. Wood (2005) also pointed out that the 'ideal victim' is aligned with who is considered a 'good woman' and 'good mother'. The ideal victim as white is also reflected through media coverage. For example, Gilchrist (2010) and Slakoff and Fradella (2019) delineated the disparate (in both quantity and quality) media coverage received between white women who go missing and indigenous and minoritised women who go missing, with white women receiving more and

better-quality coverage. Again, Slakoff and Brennan (2019) found that white female crime victims were afforded more sympathy and more coverage in the US media than were Black and Latina female victims. The privileging of whiteness in victimhood is also visible in the formation of policies responding to violence against women, as Wooten (2017) described in the context of sexual violence in higher education institutions and as has been highlighted in the UK through the *Anti-Racism in VAWG Charter* (Anti-Racism Working Group, no date). Indeed, through analysing how Swedish courts respond to victims from Roma communities, Nafstad (2019) posits that minoritised victims must be perceived to closely align with the dominant culture to be able to achieve ‘ideal victim’ status.

The ideals of respectability, then, can be seen reflected in the construction of the ‘ideal victim’; the ideal victim is white, middle-class and virtuous, and this mirrors the conceptualisation of what makes British ‘respectability’. This mirroring means that to be perceived as not respectable is to be perceived as not being an ‘ideal victim’. As is set out earlier in the chapter, this is clearly visible with regards to gendered and classed ideas about alcohol and femininity in cases of sexual violence. Not only this, but respectability is also positioned as a marker of truth (Burns, 2005). Thus, highlighting ways in which a victim-survivor does not meet respectability standards serves to damage her credibility in the eyes of a jury. In subtly casting a victim-survivor against standards of respectability, she is cast as untrustworthy, and as she is simultaneously cast against the ‘ideal victim’ standard, she is also cast as unrapeable.

Respectability, the Ideal Victim and ‘Hysteria’

Du Mont et al. (2003) also noted that the ‘ideal victim’ is bound by the notion of respectability, which therefore disqualifies from victimhood those who do not measure up against the middle-class ideals of respectability. One particular example Du Mont et al. (2003) provided of a group excluded from ‘respectable’ and ‘ideal’ victimhood was women who have been ‘psychiatrised’. This reflects the long history of the pathologisation of women, where their distress has been persistently framed as madness (Busfield, 1996; Ussher, 2011). This is evident through cultural narratives about women’s innate ‘hysteria’, which became commonplace in the seventeenth century but can be traced as far back as the ancient Greeks (Ussher, 2013). Historically, ‘hysterical’ women were viewed as prone to making false allegations of sexual violence (Bourke, 2007; Jordan, 2004); thus, being considered hysterical disqualifies victim-survivors from victimhood. This is particularly pronounced in the context of the courtroom, where there have long been concerns regarding defence barristers’ use of victim-survivors’ medical or therapeutic mental health records as a means of undermining victim-survivor credibility (Ellison, 2009; Kelly et al., 2006; Smith & Daly, 2020; Temkin, 2002). These records are used to depict victim-survivors as ‘crazy’, damaged, disturbed and untrustworthy and thus someone who cannot be trusted to provide reliable evidence (Ellison, 2009; Temkin,

2002). However, even without such records, defence barristers can rely on the strength of the same deeply embedded attitudes to undermine the credibility of victim-survivors in the courtroom. For example, Smith (2018) found that defence barristers asked questions about victim-survivors' emotional vulnerabilities and linked these to narratives about mental health and women as pathological in order to portray them as 'damaged goods'. She also identified defence narratives that characterised women as delusional and erratic and therefore untrustworthy (Smith, 2018).

Indeed, in my own observations of the trial outlined earlier in this chapter, information about the victim-survivor's mental health was adduced without the assistance of medical or therapeutic records. I have outlined this in detail elsewhere (Daly, 2022), so the following serves as a summary. The defence elicited confirmation from the victim-survivor that she had been taking antidepressants through asking her to clarify what she meant by her reference to 'happy pills' in a text message to the defendant. Her antidepressant use was also included in the toxicology report and, significantly, was also mentioned multiple times by the defendant in his police interview when discussing what others had characterised as the victim-survivor's 'hysterical' reaction. The defendant very much relied on this depiction of the victim-survivor as hysterical and had in the immediate aftermath of the alleged rape been witnessed calling the victim-survivor 'crazy', 'paranoid' and a 'psycho' and described her as 'having a breakdown'. The defence barrister in this case repeatedly referred back to the victim-survivor's 'hysterical' reaction to the alleged rape, with two other witnesses describing her reaction as such. The use of the descriptor 'hysterical' was significant because as well as having gendered connotations regarding 'false allegations', it also carries negative gendered connotations about femininity and mental ill health (Epting & Burchett, 2019). The narratives about the victim-survivor's mental health and her 'hysterical' reaction became intertwined, reinforcing one another in undermining her credibility. The characterisation of the victim-survivor as 'crazy' was further galvanised through the defendant's testimony in court, where he described her as having 'always had a temper'. This drew on pervasive gendered stereotypes of women as irrational and overly emotional (Shields, 2013; McCormick et al., 2016), that is, hysterical.

Emotionality is salient in cultural narratives of credibility and 'ideal victimhood', especially at the intersections of gender, race and social class. For example, Gilmore's (2017) analysis of women's testimony delineated the ways in which Black women's emotions and associated credibility are judged against different criteria than are white women's. Whilst the victim-survivors in all of the trials I observed were racialised as white and were therefore racially privileged, the axis of social class provided a means for their emotionality and credibility to be judged through oppressive cultural narratives. That is because middle-class ideals of respectability guide what is considered acceptable expression of emotion and what is not. Attributes such as calmness, congeniality and warmth are valued and attributed to those perceived to be middle-class, whereas traits such as anger and aggression are stereotypically attributed to those considered working class (Bjornsdottir & Rule, 2020; Fiske et al., 2002; Loughnan et al., 2014). Indeed, Wingfield (2010)

found that rules regarding what is considered appropriate ways of displaying emotions are differently constructed for different racialised and classed groups. Furthermore, Cossey and Martin's (2021) analysis of anger and emotion management practices on *Love Island* found that women who overtly express anger were met with ridicule and scorn because they did not conform to gendered, classed and racialised expectations of emotion expression and that this was amplified for working-class women and for Black women. Returning to the trial outlined throughout this chapter, then, the framing of the victim-survivor through cultural narratives regarding young, British, working-class women bolstered, and was bolstered by, narratives depicting her as being highly emotional because of mental ill health.

Interestingly, though, the 'ideal victim' is expected to be upset, and so in the observed trial, the victim-survivor's tearful response in the aftermath of the alleged rape could have been framed as congruent with the 'ideal victim' prototype. Indeed, the prosecution barrister used the victim-survivor's distress in his closing argument to help depict her as an 'ideal victim': '[Victim-survivor] woke up and became very distressed, she told people straight away, she gave a full detailed account to the police very soon after'. Klippenstine and Schuller's (2012) research on expectancies regarding the emotional response of rape victim-survivors over time found that perceptions of credibility are negatively influenced by emotions incongruent with the 'ideal victim' but that regardless of emotion type *consistency* of emotions over time was associated with more support for victim credibility. This could have impacted the jury's assessment of the victim-survivor's credibility in the observed trial, because although her initial response was distress, she gave her evidence with a calm demeanour. Indeed, another finding from Klippenstine and Schuller's (2012) research was that calm and controlled demeanours were perceived as less credible than upset and tearful demeanours. Likewise, research on the deliberations of mock jurors has shown that victim-survivors' calmness in court can negatively impact perceived credibility (Ellison and Munro, 2009). At the same time, Ellison and Munro's (2009) study showed that a victim-survivor's upset demeanour in court can also be perceived as part of a manipulative performance by a dishonest complainant. This conflict reflects one of the many 'damned if they do, damned if they don't' situations for victim-survivors, where blame and doubt can be apportioned to them no matter how they react. Ultimately, although distress and upset can be considered congruent with an 'ideal victim', barristers can draw on deeply embedded gendered and classed cultural narratives in order to make it *incongruent*. Upset and distress can simply be recast as hysteria or mental illness, as demonstrated above, and it can also be reframed as evidence of a mendacious complaint.

Final Thoughts

Rape myths are commonly used as an explanatory model for low conviction rates (Dinos et al., 2015; Page, 2010; Temkin & Krahé, 2008; Willmott et al., 2017), and evidence has indeed consistently shown that they are frequently used in court as

tools to undermine the credibility of victim-survivors (Adler, 1987; Lees, 2002; Smith, 2018; Temkin, 2010; Temkin & Krahé, 2008; Temkin et al., 2018; Smith & Skinner, 2017). But rape myths alone cannot explain why the existing evidence suggests that victim-survivors from minoritised and marginalised groups have a particularly low chance of seeing a conviction (Hester, 2013; Hester & Lilley, 2017; Kelly et al., 2005; Lovett et al., 2007; Munro & Kelly, 2009). Deeper analysis of rape trial narratives shows that barristers also draw on broader cultural assumptions formed from systems of oppression such as racism, classism and ableism (Daly, 2022; Smith, 2018). This chapter has delineated some of the ways in which oppressive cultural narratives linked to ‘respectability’ and ‘hysteria’ reinforce common rape myths linked to the ‘ideal victim’.

Victim-survivors are undermined through classed and gendered narratives of respectability in ways that reach beyond rape myths. The misconception that false allegations of rape are common is reinforced by deeply embedded narratives that position women, and particularly working-class women, as inherently untrustworthy. These narratives of belief and disbelief can be historically traced and were constructed through gendered and classed ideals of what counts as respectable. Seeing rape myths as the root of the issues faced by victim-survivors of sexual violence fails to recognise the whole picture and does not enable us to see just how embedded these cultural narratives are. The interaction of subtly deployed rape myths and subtly deployed cultural narratives distorts them and makes them difficult to recognise. I have argued elsewhere that this means myth-busting measures, such as judicial directions, could find difficulty in achieving the desired effect due to the mismatch in the way each is presented (Daly, 2022). Indeed, my identification of the subtle narratives and references to cultural narratives and rape myths in courtroom discourses was the result of careful analysis over many months, which is very different to the context of an adversarial trial where jurors listen to proceedings, rarely taking notes, and are expected to reach a verdict within a few hours, sometimes a few days.

Addressing and dismantling these deeply entrenched cultural narratives is a long-term project, however, and in the meantime, victim-survivors of sexual violence continue to report their victimisation to the police. One possible way to improve access to justice for those whose cases reach court is to introduce more accountability for juries. Indeed, whilst trial by jury is the fundamental touchstone of the English criminal justice system, there has long been debate as to whether juries are fit for purpose and able to produce fair justice (Jackson, 2016), particularly with regard to the influence of prejudicial views and implicit biases (Bergold & Bull Kovera, 2021; McDonald, 2021; Willmott et al., 2021). Debate about the utility of juries is often viewed in binary terms (abolish or keep), but there are growing calls to examine the ‘middle ground’—specifically, a *modernisation* of the jury system based on robust contemporary evidence (Willmott et al., 2021). Looking to other jurisdictions could provide useful insights into how to increase jury accountability. For instance, there are jurisdictions on the European continent, outside of the common-law tradition, which require ‘reasoned verdicts’ (Burd & Hans, 2018; Martín & Kaplan, 2013), that is, an accompanying written justification for the

verdict decision. Reasoned verdicts are an increasingly common element of jury systems in Europe and are seen as a means of reducing bias and arbitrariness in jury decision-making, improving transparency and legitimacy (Burd & Hans, 2018). Consideration and exploration of alternative jury models such as this could help provide a much-needed level of accountability within the criminal jury model in England and Wales.

Ultimately, it is crucial that debates and research on sexual violence are situated within a broader cultural context that widens the lens with which rape myths in the courtroom, as well as in the wider criminal justice system, are viewed. Without this, fair justice will likely continue to be out of reach for many victim-survivors.

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Ellen Daly’s interdisciplinary research focuses on criminal justice responses to sexual violence and specifically explores intersectional narratives in rape trials. Her research interests further extend to policing and justice responses to violence more broadly, and she is particularly interested in how the intersections of gender, age, (dis)ability, and social class shape victims’ journeys through the justice system

Chapter 4

Blurred Boundaries of Honour and Rape: Contesting Elopement and False Promise of Marriage as Rape



Garima Jain

Introduction

Patriarchal notions of 'honour' lead us to believe that rape is the worst thing that can happen to a woman. There is a need to strongly challenge this stereotype of the 'destroyed' woman who loses her honour, who has no place in society after she was sexually assaulted. We believe that rape is a tool of patriarchy, an act of violence (Menon, 2012).

Elopement cases are consensual relationships of love and marriage between upper caste women and lower caste men. The line between consenting sex and rape is not socially understandable in the case of elopement. Elopement, for example, is referred to as kidnapping under state law, and love is referred to as rape. According to Chwdhry (1998), there is 'complicity between perpetrators of violence and the police concerning the justice' done for the sake of honour. According to a survey undertaken by Enfold Proactive Health Trust and UNICEF India, one out of every four cases under the Protection of Children from Sexual Offences Act (POCSO) in Assam, Maharashtra, and West Bengal is classified as 'romantic instances'. The analysis is based on 7064 POCSO rulings issued between 2016 and 2020, and it discovered that in 1715 cases (or 24.3 percent), the decisions admitted to a voluntary relationship between the victim and the offender (Raha & Ramakrishnan, 2022). Almost every occurrence of elopement is reported by the parents. Rape, kidnapping and abduction laws place transgression in the collective sphere rather than representing individual women's experiences of force or consent.

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Promise to marry cases are common in rape discourse in India and have been highlighted by postcolonial feminists as perpetuating patriarchal views of marriage as the only place for sexual expression. The high proportions under both old and new laws demonstrate that premarital sex is considered abhorrent in Indian society and can only be legitimised by marriage (Dash, 2019). In a community that values women's virginity before marriage, a partner's unwillingness to marry a woman after having sex with her would come at a heavy cost, as it would deem her 'unsuitable' for marriage. It has been stated that such cases are filed for strategic reasons in Bangladesh, another South Asian country with a similar sociocultural concept of gender and sexuality as India, because it is more respectable to be a victim of rape than to have consented to premarital sex (Siddiqui et al., 2012).

Section 1 discusses the inclusion of false promise of marry as rape is based on the cultural dominant idea of an intracaste, intracultural and intrareligion marriage as only site of legitimate sexuality and alliance. Section 2 provides an overview of elopement cases as rape as how it feeds into patrilineal and heteronormative notions of premarital sex and marriage without parents' consent as rape. This article is an attempt to understand how the law preserves the notion of honour as a discourse in the rape cases. This chapter draws parallels between rape laws in India and controlling women's sexuality by dwelling into two categories of rape: false promise to marry and elopement cases.

Why Rape Is Wrong?: Discourse around Honour and Chastity

Patriarchal notions of 'honour' lead us to believe that rape is the worst thing that can happen to a woman. There is a need to strongly challenge this stereotype of the 'destroyed' woman who loses her honour, who has no place in society after she was sexually assaulted. We believe that rape is a tool of patriarchy, an act of violence. (Menon, 2012)

According to Sahay (2014), Ghosal Pasi, a leader in Jharkhand's Bokaro district, was presiding over a community meeting in 2014 to resolve a dispute between two parties in their village. The man involved in the dispute had been accused of molesting his neighbour's wife. Pasi determined that the only way for the woman's family to restore their lost honour was to dishonour the accused boy's family. To balance out the alleged harassment of the boy's family, Pasi ordered a man in the community to rape the minor sister of the accused. Ghosal Pasi clearly condemned the molestation of a woman. However, he and the entire community viewed molestation as the violation of the 'honour' of the woman and her family. In order to satisfy the 'honour' of the husband of the woman molested, the village chief decided to carry out the retaliatory rape. The ironic revenge rape case is a classic example of flawed reasoning behind why rape is wrong. In this case, rape is considered wrong because it violates the honour, dignity and respect of the woman as well as of the family (Khoja-Moolji, 2017). Recently, feminist outcries that we must acknowledge that rape is bad because it takes away the autonomy over sexual consent, bodily integrity and independence of a woman. By believing that rape is bad because it takes away

the honour and dignity of woman, we are demeaning the right of a woman over her own body and her individuality. In Hindi, rape is referred to as 'izzat lootna' which translates as taking away one's izzat or honour or respect. The term 'honour-related crimes' is frequently used in the context of 'honour killings' which are prevalent in the northern parts of India. Honour killing is defined as 'the purposeful preplanned murder, generally of a woman, by or at the command of members of her family stimulated by a perception that she has brought shame on the family'. The dishonourable acts are premarital relationships, inter-caste and inter-religion marriages, widow marriages and same gotra marriages by females (Baxi et al., 2006).

The terms 'honour' (Gangoli et al., 2020), 'chastity' (Kolsky, 2010), 'shame' (Lodhia, 2015) and 'stigma' (Kennedy & Prock, 2018) are frequently studied with rape studies in the academic articles. In India, 'honour' is a gendered notion and transcends very differently for men and women. Women are considered as the repository of the family honour as a daughter, mother and the wife. And men are the protector of that honour. Their honour largely lies in their ability to control the female members of their family. The greatest threat to the honour for her and her family lies in her body, her reproducing and procreating capacity, which establishes her distinct from male, on which males have no control (Chowdhry, 2004). The inherent patriarchy renders male prerogative to ensure that she does not jeopardize the 'honour' bestowed on her body by violating her virginity. Due to forced sexual intercourse, women are referred to as 'damaged goods' or 'disgraced' due to historic importance attached to her virginity, purity or saving themselves for marriage (Schwartz & Virginia, 1998; Brownmiller, 1975):

I never told anyone. People have no mercy, and if anyone ever learns of the rape, that will be the end of the whole family. I will never be able to find a husband for my daughters, and the shame and dishonour will stay with us as long as we live. (Shalhoub-Kevorkian, 1999, p. 164).

Rape affects the 'honour' of the family is a notion not unique in India. In an enthralling and disturbing article, Nadera Shalhoub-Kevorkian provides an in-depth analysis of the sociocultural determinants in Palestine, such as restoring the honour of the female, preserving the female virginity, need to silence the occurrence of crime to restore the prestige and reputation of the family which leads to her re-victimization. In countries like Pakistan, Afghanistan and Jordan, a woman who is 'raped' can bear extreme circumstances. She can be killed by the family members to restore 'honour' and to eradicate family's disgrace (Doğan, 2020). Similarly, in countries like Democratic Republic of Congo, in (famously) called 'the rape capital of the world' (Bihamba, 2017), where women are more likely to be raped than to be educated are ostracized by their families after being raped (Jones & Cook, 2008).

One can draw two conclusions from the following discussion. First is that it matters why we think rape is wrong. By linking rape with 'honour', the society as a whole has become an integral part of the larger social disease called 'rape'. It is necessary to study the patriarchal reaction of crimes against women from a socio-cultural and political lens. Honour is a 'social construction', just like gender and sexuality. For example, sociologists studying gender argue that what it is to be a woman and a man is not a 'biological' construct but rather determined by how

society and culture defines the appropriate roles of both genders (Merken & James, 2020; Weiss, 2010). Within the social constructionist approach, masculinity and femininity are expected roles or behaviours of men or women. Any failure to meet the expected role brings disgrace, shame and dishonour for the family and the community. Therefore, crime against women is not a women's centric issue which needs to be addressed by the women or survivors-victims; but it is a larger social disease which has multidimensional facets. It is society's concern to address the issue as it is the social reaction towards 'rape' which is the root cause of its existence. Second, it is not surprising to witness an awfully low reporting of the rape cases in India where women are denied of their basic human rights and 'biological control' over their own bodies. Women are the sexual property of her family, and at the same time, her body is negotiated for sustaining family honour (Brownmiller, 1975). In India, sociocultural factors and sensitive issues of maintaining honour and dignity of the family are more important than pursuing legal avenues (Baxi, 2010). Thakore (2015) refers to 'honour' as an institutional sanctity of sexual activity. To safeguard the 'honour' or 'izzat' of her family and the entire community, the survivors-victims suffer in silence. Protecting herself and her family from getting ostracized from their community, enabling the prospects of marriage for herself and other female members of her family, the survivors-victims of rape never report the crime and remain what (Umakant, 2016) referred in her book as 'nameless faceless'.

Section 1 discussed the inclusion of false promise of marry as rape is based on the cultural dominant idea of an intracaste, intracultural and intrareligion marriage as only site of legitimate sexuality and alliance. Section 2 provides an overview of elopement cases as rape as how it feeds into patrilineal and heteronormative notions of premarital sex and marriage without parents' consent as rape. This article is an attempt to understand how the law preserves the notion of honour as a discourse in the rape cases. This paper draws parallels between rape laws in India and controlling women's sexuality by dwelling into two categories of rape: false promise to marry and elopement cases.

The Criminalization of Consent by Fraud: False Promise to Marry as Rape in India

Michel Foucault describes two types of regulatory power in the society: juridico-discursive power and disciplinary power. The juridico-discursive power is the law of the land. It is formal, written and uniform. This is applied when a crime is committed. The disciplinary power is non-formal, discontinuous and fragmented and is concerned with maintaining discipline. It varies from institution to institution like schools, prisons and marriage. It aims not to punish but to discipline and 'normalise' code of conduct like dress codes in schools, monogamy in a marriage and so on. Using Foucault's idea, by criminalising consent by fraud, sexual autonomy of women as well as men is prohibited. Rape prosecutions in the false promise to

marry reinforce premarital sex as a stigma for a woman. It feeds into the notion of marriage as the conservative, patriarchal, heteronormative, intracaste institution which only legitimize and validate the proposition of sexual relationship.

There is a significant social stigma around premarital sex in India. A woman's chastity is often equated with her virginity and is linked with the 'honour and integrity of the family, culture and community' (Kapur, 2000). The doctrine of rape by fraud is a response of the legal system to protect the vulnerable women from the extreme social consequences of premarital sex. False promise to marry cases are those in which a victim is deceived into a sexual intercourse with the defendant on the pretext of marriage. Since the 1980s, such cases are categorized as rape by the Indian law. As per the latest report by National Crime Records Bureau, 57 percent of the total rape cases registered in Uttar Pradesh falls into the category of false promise of marriage (Chakraborty, 2020). Delhi Commission for Women (DCW) reports that more than half of the total 250 rape cases reported in 2014 are of false promise to marry (Bronitt & Misra, 2014, p. 46).

In 1984, in *Jayanti Rani Panda v State of West Bengal*, a young girl alleged that she had been deceived into sexual intercourse by the defendant on the pretext of a promise to marry. He left her after she got pregnant. This is the first case where the appellant court has acknowledged the validity of consent in the context of false promise to marry. The high court acquitted the accused as the prosecution's case failed to prove that the accused has never intended to marry. Due to pregnancy, he changed his mind which was the 'breach of promise' and not 'false promise to marry' which never amounted to rape. False promise to marry relates where the accused has no intention to fulfil the promise to marry from the beginning, whereas breach of promise has other factors involved like falling for some other partner, unable to marry due to family pressure, unwanted pregnancy, etc.

Section 90 of IPC provides a negative definition of consent. Under this provision, when the consent is given under a misconception of fact and the person to whom the consent is given knows that this is the case, this amounts to absence of consent in law (IPC, s. 90, Indian Evidence Act 1872, c.3). Henceforth, it is the reliance on the section 90 that the promise to marry cases are criminalised: (1) When the victim consents to the sexual intercourse based on the misconception of marriage by the accused. (2) When the accused has the intention of breaching the promise to marry, then his conduct amounts to rape. Unsurprisingly, these cases are characterised as 'relationships gone sour', 'fake rape cases' by male right activists. Feminist activists have also argued such cases should not be heard under the ambit of rape law as it feed into the notion of marriage as the only legitimate site for sexual expression. By criminalising consent by fraud, the law demeans a woman's expression of sexual autonomy (Johari, 2014). The Orissa High Court heard a similar case, in which the petitioner had applied to the high court for bail:

The law holding that false promise to marriage amounts to rape appears to be erroneous, however, the plight of the victim and the probability of the accused tarnishing the dignity of the victim and her family need to be looked at ... There is a need for the amendment in the legislation defining what constitutes 'sexual

intercourse' with the prosecutrix on the 'pretext of a false promise of marriage'. Orissa High Court.

The United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Declaration on the Elimination of Violence against Women (DEVAW) prohibits the use of 'customs, tradition or religious considerations' as excuses to deny women their human rights (DEVAW, Art 4; CEDAW, Art 5 (a)). False promise to marry as rape is a classic example of how guidelines of the international human rights fail to recognize in Indian context. Interpreting such cases as fraud or cheating is an option, but by levelling a rape allegation against a man on the pretext of false promise to marry must be contested and problematised. In her analysis of 79 judgements of false promise to marry cases, Garg (2019) discussed what is 'real' promise to marry rape is:

- The victim is vulnerable, not educated, impoverished.
- The victim is never married before.
- The victim is from the same religion, caste and sect as the accused.
- The couple have informed their respective families about their relationship.
- The victim doesn't have any romantic or sexual feelings towards the accused and has sex with him for no other reason but the promise of marriage.
- There was only one incident of sexual intercourse, which should be reported without any delay.

The above 'real' promise of marriage clearly illustrates that when a woman approaches the criminal justice system when a promise of marriage is broken, it is seen as her way of claiming her place back in marriage alliances. Due to low conviction rates in such cases due to witness turning hostile, such cases reinforce the myths that most of the rape cases are false and that law is misused by women. This poses a threat to the struggles and success made by victimologists and women movement against sexual violence. Garg (2019) revealed that only one resulted in conviction (1.3 percent). Delhi district court heard over 110 promise to marry cases, out of which 80 resulted in acquittals. The reasons for high acquittals are attributed to higher number of witnesses who are declared hostile by the prosecution. Baxi (2010) stated that though rape is a non-compoundable offence, it is a well-established fact that the pressure to compromise in the rape cases is enforced through the functionaries of the state institutions. Denial to compromise by the family members invites threat in the forms of murder, re-rape of the survivor-victim. The laws on rape in a country like India represent 'justice' in the realm of collective rather than individual women's experience of coercion or consent. Compromise centers on re-insertion of the women who experiences sexual assault into the folds of societal, familial and caste-based normativities. The most often cited reason for compromise is to restore the male-dominated notions of honour (Chowdhry, 1998). Even after reporting a case, victims-survivors are challenged by the functionaries of the state to lead it to the ultimate conviction. The spectacle of compromise is desired by the society, police functionaries, lawyers in the realm of restoring the 'honour' of the family and community; the rape cases remain underreported and under-convicted.

Unable to recognise the dynamics of compromise in rape cases, women are often referred as liars and using the state machinery for personal vendetta. Additional session judge of Delhi High Court has acquitted defendants in three cases of rape and voiced that ‘many of the cases being reported are by those women who have consensual physical relationship. When the relationship breaks, the woman uses the law as a weapon for personal vendetta’ (Mathur, 2017). Responding the alleged claim of false rape allegations, Delhi Commission of Women released a report in 2014 that over half of the total 250 cases reported every month in India fall under the category of false promise to marry. It further states that 53% of the complaints filed between 2013 and 2014 are false (DNA Correspondent, 2014). The conclusion is not based on the convictions or malicious motives documented by the courts. Without reliable methodology, such results can prove to be destructive to the stories and credibility of rape survivors.

The Criminalization of Adolescent Sexual Relationships in India Under the POCSO Act

The Protection of Children against Sexual Offences (POCSO) Act was enacted in 2012 which provided a comprehensive definition of sexual assault against children. The law was a welcome move as it acknowledged sexual assault against children including boys and transpersons under the age of 18 years. The Justice Verma Committee recommended of restricting the criminalization of sexual assault for adolescents to 16 years or under in POCSO. However, the legislature increased the age of consent from 16 to 18 years of age. Age of consent means a person who is above 18 years old is capable of giving consent to the sexual activity. Therefore, any sexual activity below 18 years is called statutory rape (POCSO, 2012).

Elopement cases or runaway marriages by minors are referred under the ambit of POCSO. In these cases, couples elope and sometimes get married. The couple resort to elopement as it is opposed by the families due to different caste, religion, same village or gotra (Gotra is equivalent to lineage) (Vishwanath, 2018). Marriages in India continue to adhere to alliances within the same religion and caste. As per the India Human Development Survey (IHDS) of 2011–2012, only 5–10% of marriages are inter-caste and less than 2% are inter-religion. A strong sense of social identity is held by people because of their religion and caste. A rigid and hierarchical caste system is an integral part of the Indian society and permeates in Hindu, Muslim, Christian and other religions. There are nearly 1000 honour killings reported in India annually on the notions of ‘honour’ (Anand, 2022). The honour-based killings are a result of couples getting married against their parent’s wishes. Drawing a similar parallel to honour-based killings, the elopement cases are led by the parents of the girls. When the adolescent girl is found missing, a missing complaint is filed by the police. When the police find the couple, they are held in police custody. The girl either informs the family about the sexual intercourse, or it is established by the

medical examination. Once the sexual intercourse is established, the charges of kidnapping, abduction and rape (IPC Sec 363, 366, 375) are levied against the defendant. The girl either chooses to go back home or is sent to the shelter home run by the state or women organizations (Pitre & Lingam, 2022; Vishwanath, 2018). Baxi (2010) reported that majority of the elopement cases end up in a compromise as the girl testifies in the court that she eloped voluntarily with the boy.

When a girl loses her virginity outside of marriage, her marriage prospects diminish, and therefore, it is seen as a sexual offence by the legal system in India. Siddiqui et al. (2012) suggested that rape complaints in elopement cases are filed because 'it is less dishonourable to claim to be a victim of rape than to admit to consensual sex'. Women in such cases become *persona non grata* both for her native and in-laws' family causing severe distress to her psychological as well as economic stability. In an in-depth study carried by the Centre for Child and the Law and National Law School of India University (NLSIU), Bangalore, of the 526 trial courts complaints of sexual assault under POCSO, 28 percent (186 cases) of the total cases concerned the adolescents aged 16–18 years old. Majority of these cases are filed by the parents of underage daughters due to opposition of consenting relationships. Of the total 186 cases, 90 percent of the cases resulted in acquittals. In some of the cases, the girls married their partners by the time the case reached the court or agreed to a voluntary elopement with the boy leading to out of court settlements. Vishwanath (2018) carried focus group discussions with the police officers about elopement cases where police participants blamed the girls for misusing the law and lying despite it's the parents of the girls who filed such cases against the boy and his family. She argued that POCSO Act whilst addressing the serious offence of sexual assault against children has also strengthened the conservative and patriarchal control on adolescent sexuality. In a qualitative study of 15 girls by PLD India found that girls ran away and got married to escape abusive households, forced marriages, to legitimize inter-religion or inter-caste marriages (Mehra & Nandy, 2019). In the POCSO Act which is enacted to protect children and adolescents from sexual assaults, the reality reveals mounting criminal charges on the partners of the adolescent girls. This reminds us all of the gap between law in books and law in practice (Bronitt, 1998).

The law adopts a punitive approach in disciplining the adolescent sexuality in the guise of protecting the dignity and honour of the families by punishing the adolescent for consenting relationships. Drawing a parallel to Michel Foucault's analysis on juridico-discursive and disciplinary power (Sutherland, 2002) also documents prosecution of minority men (Hispanic or Black) who had sex with white girls signalling that law works in both discursive and disciplinary manner to control adolescent sexuality.

Understanding of 'rape' as crime is in direct contraction to the feminist discourse on honour, chastity and sexuality. Madhu Mehra, executive director of PLD, stated that 'the law infantilises all the persons from 0–18 into compulsory abstinence, who suddenly assume maturity as they turn 18'. It points to a shift and hijack of the rape law by the patriarchal families in controlling adolescent's sexuality. The National Commission for Protection of Child Rights recommends decriminalization of

adolescent sexual relationships which are consensual. There is an urgent need of lowering the age of consent from 18 to 16 years by CLA Act, 2013.

Discussion

Although the 2013 amendments may have stimulated survivors of abuse to report incidences of gender violence, male rights activism groups completely dismiss the increased reporting to a belief that both 1983 and 2013 have created a tsunami of false complaints (Lodhia, 2015). The opinion of the defence lawyer of the accused in the Nirbhaya rape case, Mr. Manohar Lal Sharma expressed his views in a BBC documentary (which was banned by the Indian government) called India's that 'All the (rape) cases that come in the courts these days, 90 percent of them are fake. And in the other 10 percent, they have to prove it. You have to see if the girl put herself in the circumstances'. Lately, the media and male right activists have become an ally to the belief on false rape cases, exemplified by articles in mainstream newspapers articles such as 'Does India have a problem with false rape claims' in BBC news; 'You are damned if you're a man in India. You're damned if you're a guy and accused of anything against a woman' in Indian Express (Anand, 2015). Similarly, men right activist Partha Sadhukhan said, 'Today the definition of rape has changed so much and anything and everything is reported as rape'. The less tolerance by the feminists and lawmakers towards the 'normal' acts of indecency which are an inherent part of women's lives is increasingly voiced and reported. Men feel victimized with the new amendment and broader definition of sexual harassment which criminalize 'eve teasing', 'indecent touching or kissing'.

The outcry of false allegations is not unique to India. Similar backlash can be seen in different parts of the world whenever feminists seem to have progressed in challenging the patriarchal beliefs (Jordan, 2004, p. 3). It is important to address the prevailing discourse on false rape allegations as the reported rape cases continue to increase. With great ordeal, recent law reforms present a progressive avenue to the women to report and voice the abuse faced by them. By positioning women as an untrustworthy witness in a rape case, the focus of criminal justice system is shifting towards the accused who is presented as a victim of malicious and false complainant. And most importantly, it further suppresses the 'voice' of the women who are raped. It exacerbates the doubt on the credibility of the women who are sexually assaulted, leaving no ground to uphold their narratives in the justice process. Rape is a non-compoundable offence in India which means that 'out of court settlements', 'plea bargaining', 'negotiations', 'mediation' and 'compromise' in the court of law are not legal. By Indian law, compromise in a rape case is illegal as the state is the sole arbitrator of the extent and nature of injury caused to the society by this crime (Baxi, 2010):

Compromise as a form of public secret is not destroyed by its utterance before the judge but it is subjected to a specific revelation in court. The specific revelation in a court is actualized

through the law of evidence when prosecution witnesses turn hostile to the prosecution case (Baxi, 2010).

In 2015, Justice P Devadass of the Madras High Court accepted the bail petition of the accused who was convicted of raping the minor. The court suggested the survivor and her family have a 'mediation session' with the convict as the girl bore a child from the union. Justice Devadass quoted, 'The victim-girl has become mother of a child. But as on date, she is nobody's wife. So she is an unwed mother. Now there is a big question mark looming large before the girl as well as her child, who is completely innocent'. These lines depict that the origin for the injustice for the victims of rape is not based on coercion or forced sex but rather her status as an unmarried girl who had circumstantial forced premarital sex leading to 'loss of honour'. This case created a furore and outrage among the human right activists and legal experts who termed the decision as 'illegal' and 'unethical'. The Delhi High Court in the *Narayani Gautam and Ors v. State AND Guddu and Ors v. State and Ors AND Than Singh and Anr v. State N.C.T of Delhi and Anr MANU* stated that 'sexual offences constituted an altogether different class of crime which is the result of a perverse mind. By this very nature, these crimes cannot be treated at par with economic crimes or the crimes causing grievous hurt or even attempt to commit murder. Compromise in a rape case demeans the integrity of a woman who has suffered an abuse'. However, as observed by Baxi (2010) and Brereton (2017), compromise is a routine site in the appellate courts during sentencing bail, in the police stations or for making void in the criminal proceedings of rape cases. The courts describe the witness hostile when they enter a compromise, leading to rising number of perceived false rape cases (Brereton, 2017).

This chapter is an attempt to understand the relationship between law, culture and sexuality. Law and culture are mutually inclusive entities. The law of any country is shaped by cultural codes and norms. Rape is equated with taking away the 'izzat' (honour) in India. As a woman is raped, it means she lost her honour. The honour of a family resides in the virginity and chastity of a woman (Siddiqi et al. 2012). Rape is defined as penetrative or non-penetrative sexual acts which are not consensual (CLA, 2013). The term 'consent' is fluid, conditional and changes from time to time. Consent can be violation of the body, coercion, consent by fraudulence in false promise of marriage, implied consent in marital rape and no consent in mutual sexual alliances by adolescents (Pitre & Lingam, 2022). Law and community norms often merge and collide in the interpretation of consent in the rape cases.

A basic tenet of Melvin Lerner's work on justice motive offers an explanation of pervasive victim blaming in the rape cases (see Hafer & Begue; 2005; Lerner, 1981). Lerner emphasized that the world is a 'just' place and good things happen to good people and bad things happen to bad people. Reporting of a rape case conflicts this need (wrong thing happens to good and innocent people), which leads to employing of attribution bias by the observer. The justice motive can lead to altruistic and helpful responses such as compensation, restoration and rehabilitation when the victim resonates with the ideal victim stereotype. But when the victim doesn't fit in the

clear cut black and white framing, a negative reaction is formed such as derogation of character, blaming and secondary victimization (Hafer & Begue, 2005).

A major challenge for the victims of false promise to marry and elopement cases is posed by the stereotypes and frames which are used to portray the ideal victim. Nils Christie (1986) describes several characteristics of an ideal victim such as no relationship with the accused, no delay in reporting the crime, victim is weak and vulnerable and several other attributes. The victims in these cases don't conform to the shorthand depictions of these stereotypes as the defendant is an acquaintance, intimate partner, lover or someone who is known to the victim. As a result, victims in such cases find it difficult to make sense and give meaning to their own victimization as they don't see themselves as a fit in the depiction of such frames (Entman, 1993). Pemberton et al. (2017) noted that lack of connection between the stereotypical ideal victim and the actual victim experience leads to secondary victimization where victims are seen as non-credible witnesses, liars, blameworthy of their own victimization.

In the cases of false promises of marriage, women are left with no option but to file complaints against the men and make them accountable for the dishonour borne by them. There is a need to recognize women's sexuality and their sexual agency. By perceiving women with no sexual desires, we are viewing female sexuality with a stigma. If such cases will become dominant discourse in rape cases that will lead to the dilution of the gravity of sexual offences, there is a need to rethink if false promise of marriage should be taken out from the ambit of the rape law and can be interpreted as cheating or fraud.

The chapter points towards the paternalistic belief that all sexual activity below the age of consent is sexual assault. The data must be interpreted with caution on POCSO and rape cases, and it hides more than it reveals. Overemphasis on improving the conviction rates by the retributive system fails to address the issue of adolescent sexuality. In the cases of runaway marriage, it is important to ponder who is the justice being served to?: to the patriarchal familial forces or to the victims? The women in such cases have no voice and agency. Instead of primarily focusing on the age of the girl in elopement cases, her testimony should also be given primacy. There is an urgent policy level discussion on reducing the age of consent from 18 to 16 years by the CLA, 2013.

Conclusion

It is critical to examine that 'false promise of marriage' and 'elopement cases' are frequently labelled as fake rape cases in legal discourse as the women do not conform to the ideal rape stereotypes. These cases usually result in compromise and out of the court settlements as the accused is the/ex-partner, lover or boyfriend of the victim. To restore the chastity and honour of the women and their families and to make the men accountable for their actions, such cases are reported as rape which must be contested because it demeans the gravity of sexual offences and its

credibility. Legal instruments alone cannot solve the complex social issues around premarital sex unless accompanied by comprehensive sex education, gender sensitization in schools, financial and social empowerment of girls and access to sexual and reproductive health services. By recognizing sexuality of women, enabling financial empowerment and facilitating supportive state apparatus, women and girls can exercise healthy sexual relations without entering into the alliance of marriage to restore the honour of their family.

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Chapter 5

Exploring the Normalisation of Rape as Gender-Based Violence in Lesotho



Anna Lester and Madhumita Pandey

Introduction

In 1993, the United Nations defined violence against women (VAW) 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. (Declaration on the Elimination of Discrimination against Women, 1993)

Physical and sexual violence is a worldwide issue that continues to be prevalent within many societies. Globally, it is estimated that just over one third of women are attacked by an intimate partner or raped by a non-partner (World Health Organisation, 2017). Additionally, an approximate 15 million girls have been raped, with only 1% seeking official support (United Nations Children's Fund, 2017). However, many statistics that are formulated do not represent the accurate nature of VAW around the world due to fear of retaliation or shame (World Health Organisation & Pan American Health Organisation, 2012), especially for children (United Nations Children's Fund, 2017), and it is likely that the true number is much higher. Nevertheless, there is a global issue with the prevalence of VAW, which creates mass human rights implications for women across the world.

Lesotho, also known as the Kingdom in the Sky, is a small country located within South Africa (Pherudi, 2022). Geographically, the lowest point in the entire country is 1400 m above sea level (Thetsane, 2019), and whilst Lesotho is visually beautiful, it suffers from mass soil erosion (Verschuur et al., 2021). This is one of the reasons why their natural resources are insufficient, which has led to the country being

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impoverished and reliant upon South Africa for much of its economic stability (Verschuur et al., 2021). Within Lesotho, 99% of the population is Basotho (with few other ethnic groups like Xhosa, Baphuthi and Ndebele), and whilst the two spoken languages are Sesotho and isiXhosa, the two official languages are Sesotho and English (MOET, 2013). The Basotho people are known to be homogenous, although there is variation in practices by families and individuals in different parts of the country (Khau, 2022). One of the most commonly shared aspects of culture is the Basotho blanket. This blanket is known to be an ‘...an important part of who they are as a nation’ (Khau, 2012, p. 97). Blankets are provided to people throughout different stages of their lives, such as getting to a certain stage in childhood or through marriage (Khau, 2012). There is great historic significance of the blankets within Lesotho, with certain designs and patterns holding fundamental meaning and can often be symbolic in nature. Whilst the blankets are more well known, culturally, very little has been written about traditions within Lesotho, as it is common practice to pass information through generations orally (Johnson, 2018; Khau, 2016). Lesotho is not a well-known country; the human rights issues that occur there are not as internationally recognised as other countries in the area, such as South Africa (Human Rights Watch, n.d.), meaning that it is still quite under-researched. Basotho society is known to be patriarchal, with power and advantage often being given to men (Khau, 2022). Therefore, this chapter will discuss, amongst other aspects, the nature in which patriarchy within the society aids in enabling rape against women and girls.

Although efforts have been made in lessening violence against women, in Lesotho, there is a long-standing and prolific problem (Chipatiso et al., 2014). In a 2014 report, 86% of women experience gender-based violence (GBV), and 62% have suffered intimate partner violence (IPV) within their lifetime (Chipatiso et al., 2014). Much of Lesotho society views women as powerless, who must be chained ‘...to the domestic sphere...’ (Ramakhula, 2019, p. 5) and thus inferior to men. To maintain dominance, men have been known to use violence to regain control (Chipatiso et al., 2014). There is an indoctrinated system that believes women must acquiesce to their husbands demands, with 73% agreeing that men have the last word on familial matters (Alber et al., 2018). In comparison, in the UK, women state that, in relationships, they generally ‘...consult one another...’ and there is often no hierarchy in decision-making (Twamley, 2013, p. 4). Additionally, an article about women’s empowerment from 2018 states that only 30.9% of Lesotho’s national income is earned by women (Kalimo, 2018). Through unemployment, men maintain control as women are unable to buy anything without input from the employed man of the house, which then stifles their independence and continues the controlling dynamic between men and women (Bloem et al., 2004).

In 2011, it was suggested that in Lesotho (with an approximate population of two million, spread over 11,200 miles) there were 88.6 reported cases of rape per 100,000 people (Robinson & Cussen, 2017). For further context, in the same year, Slovenia, which is similar in population (The World Bank, n.d.), had a rate of 2.68 out of 100,000 people (United Nations Office on Drugs and Crime, n.d.). Whilst this statistic makes the nature of rape clear in Lesotho, it must be acknowledged that

cultures within Lesotho and Slovenia are most likely drastically different and that these statistics are only being used to explain the difference in rape offences between two countries of similar population. Additionally, a lack of empirical data collection in Lesotho means that these statistics may not be reliable or representative of this issue, leading to less understanding and widely used preventative measures. To provide an example, other official records do not mirror this, such as criminal justice records between 2008 and 2010 which show that out of the 1432 cases of VAW in Lesotho, 1234 were sexual assault offences (Chipatiso et al., 2014). Rape statistics often fail to be dependable due to mass underreporting that occurs, largely due to the ‘...stigma of having been raped’ (Bloem et al., 2004, p. 48). Many women feel that they cannot approach officials, due to the male-oriented positions that are held (Morojele, 2009) and for fear of attack if their partner is not convicted (Chipatiso et al., 2014). However, some efforts have been made in lessening violence against women (Morojele, 2009), such as the Child and Gender Protection Unit (CGPU) (Chipatiso et al., 2014) and shelters such as ‘She-Hive’; based in Maseru (She-Hive, n.d.), which provide support to victims of domestic violence and sexual abuse.

Normalisation of Rape

Artz and Smythe (2007) define rape as a man intentionally having sexual intercourse with a woman, without her consent. In the context of this chapter, the consequences of rape go beyond what is written in statutes and laws; it is about a woman’s social standing, a girl’s experience in school, and the lack of governmental and societal support provided to victims. The term ‘normalisation’ refers to the complex influences that make people believe or act in a certain way (Brown, 2017). In their article about normalisation in the *New York Times*, Bear and Knobe (2017) state that people accept normalisation because ‘...simply by becoming more common, [things] become more acceptable’. With this notion, normalisation will be used to primarily show how the individual and wider society accept rape as a way of life in Lesotho. To provide an example of this, the most common form of individual normalisation is the acceptance that rape is an everyday aspect of life. Khau’s study (2007), discussing date and marital rape, found that a woman who had just had a baby with stitches from the birth was raped by her husband. He demanded sex and she complied, even though she knew the physical consequences would be extensive. This acceptance shows that women do not feel that they can protest. In another study conducted by Morojele (2009), the experiences of schoolgirls in rural Lesotho are impacted by patriarchal social norms that are placed upon them at such a young age, militating them. They are taught to be inferior and to acknowledge their subservience to boys leading to society, and therefore women themselves, normalising that rape is a way of life, just because they are women. Ultimately, this provides insight into how the patriarchy begins to embed into society at early stages of life. In order to begin to understand why rape is so prevalent in Lesotho, societal, cultural and legal considerations must also be made.

What Are the Societal, Cultural and Legal Factors That Facilitate Rape in Lesotho?

Community Opinion of Rape Victims and the Patriarchal Society

Within the feminist literature, the patriarchal nature of rape is commonly discussed (Brownmiller, 1975; Kelly, 1988; Millett, 2000), and some academics use qualitative data collection to explore this within Basotho society (Makoa, 1997), such as the negative beliefs of the community towards rape victims (Morojele, 2009) and the shame that women feel as a result of this (Khu, 2007). There is a continuous theme that runs throughout, discussing the damaging effects of patriarchy on the relationship between men and women (Kalimo, 2018). Within the literature regarding Lesotho, there is discussion on the gender roles that women hold within the communities. Through analysing this in the sexual violence context, there has been increased understanding of what society is like for women in Lesotho. For example, an article written by Makoa (1997) uses secondary data to discuss some historical and traditional aspects of Basotho culture to create understanding of the gender hierarchy. Although primary data collection on the effects of these traditions would have provided further understanding of the culture, Makoa (1997) discusses the use of the 'Khotla', where men and the chief have dinner together every day, during their spare time. There has been suggestion that this can lead to segregation from and alienation of the women, as they are left at home to look after the children. It is clear, from the literature provided, that the mass gender disparity not only normalises rape, but also aids in keeping women in their place.

The Perpetrator's Position Within the Society

When discussing the normalisation of rape, the perpetrator's perspective can show their attitudes towards sexual violence and the relationships they have with women. In Lesotho, it has been suggested that boys hold a higher, more powerful position than girls. In Morojele's (2011) qualitative article, the researcher observed informal interactions within schools. Through listening to the learners within their everyday environment, they determined that Basotho boys learn to dominate the girls and the girls are required to accept it.

Schooling in Lesotho

Another detail found in the research was the violence committed against children. In Lesotho, some pupils are whipped by teachers (Morojele, 2009), and the male pupils are encouraged to harass girls when they do not act femininely and as a girl should (Morojele, 2011). Using a '...violence and trauma questionnaire for adolescents...', De Wet (2007, p. 673) has provided a quantitative research article

revealing how 10.66% of learners were subjected to peer-on-peer rape. Time within education is influential in a child's life, and violence in schools further propagates social normalisation of VAW. Teachers should provide stable learning environments and examples to the children (They Work For You, 2022), but by abusing them and teaching boys to harass girls, these children are learning that sexual violence is normal and the importance of maintaining gender inequality (Parkes et al., 2016).

Legal Aspects

Unsurprisingly, due to the history of the country, the Lesotho Sexual Offences Act No 3 of 2003 (LSOA) holds some similarity to the Sexual Offences Act 2003 in the UK. However, the term 'rape' is not used within the LSOA; sexual offences are referred to as an 'Unlawful Sexual Act' (Sexual Offences Act No. 3, 2003), which uses coercion instead of consent as a requirement that an unlawful sexual act has occurred. There is no specific wording stating that the consent given must be free and voluntary (The Human Dignity Trust, 2020), as is required from international human rights law, including key international and regional human rights treaties, and their interpretation by expert bodies (The Human Dignity Trust, 2020). Lesotho (being a member of the United Nations (UN)) signed and ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) and the Protocol to African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) (African Union, 2003), which means that they are required to follow the sections contained within them. Rape is a complex societal issue, so appropriate and inclusive law is needed to ensure clarity in what a sexual offence is.

Within Lesotho, there is little research conducted on police or magistrate response to rape. However, in Morojele's (2009) previously discussed research, they explain that the reason why a mother did not report her daughters' rape was due to the prevalence of men within the legal system in Lesotho. According to them, men dominate in all fields, whether that's the village chief or the magistrates. Due to low social standing and their lack of positions of power, women do not feel confident in reporting rape (Morojele, 2009).

Research Framework

In order to synthesise literature for review and consequential research analysis, thematic analysis was used to examine rape as gendered violence in Lesotho. Through using Braun and Clarke's (2006) six-phase process, a coherent structure was created allowing for better understanding of the approach to finding themes within the literature. The use of thematic analysis allowed for a '...patterned response or meaning within the data set...' (Braun & Clarke, 2006, p. 82), and through '...identifying

code co-occurrence...’ (Guest et al., 2012, p. 9), the correlation of information has been used to show the reasons for normalisation of rape. The process of identifying themes was shaped by Heise’s (1998) ecological design which provided further analytical opportunities by way of consideration of normalisation of rape at different social ecological stages within the society (see Fig. 5.1 below). The original design has traditionally comprised of connecting circles which state the different levels of societal involvement in a topic (Kaye et al., 2005), from the individual person through to the ‘...attitudes that permeate the culture at large’ (Heise, 1998, p. 264). It is designed to be modified to the required context in which it is being used (Zengenhagen et al., 2019). In the context of this topic, this design showcased varying levels of abuse within the society, from the individual person to the larger societal actions (Heise, 1998), and how different factors affect this. To provide an example, at the individual level, there is consideration of how victims feel shame for their attack and the indoctrination of rape victims to blame each other. Alternatively, at the community level, blame is often placed on the victim by both their families and the wider community, rather than the perpetrator (Bloem et al., 2004).

In the process of undertaking research, it is important to outline any biases that may influence findings (Smith & Noble, 2014). In this instance, there are two female authors who have taken a feminist and human rights-oriented approach to exploring

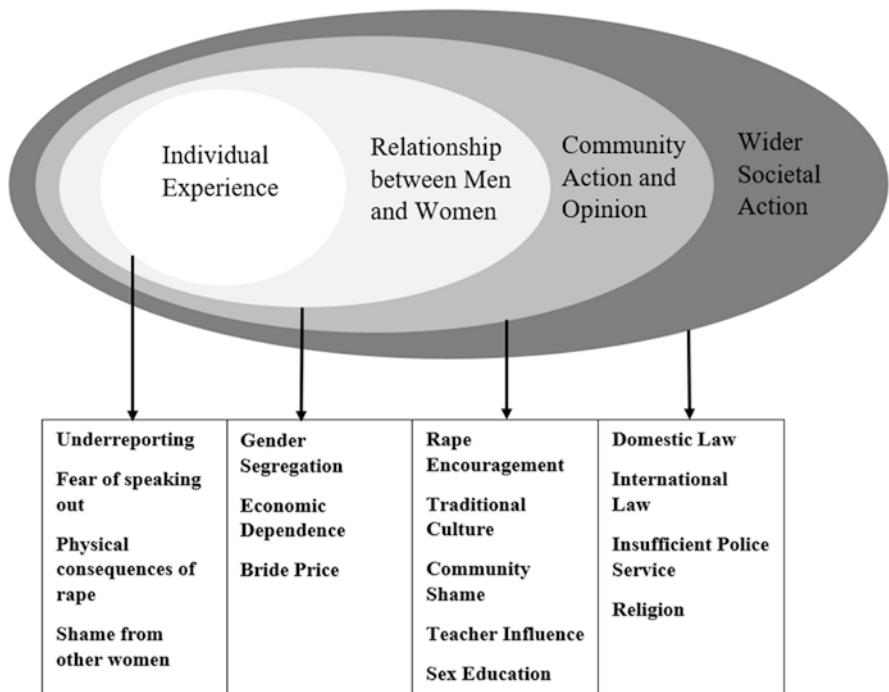


Fig. 5.1 Factors affecting violence against women in Lesotho at different levels of social ecology. (Adapted from Heise’s (1998) framework)

rape in Lesotho. There is regular application of feminist theory throughout the discussion, and inclusion of international human rights law has enabled an understanding of why rape in Lesotho is a gendered issue. Research bias is often unavoidable (Smith & Noble, 2014), but through discussing it, context is provided to understand why certain themes have been discussed and how findings have been created. Lester, as a white woman, from a western country, felt the importance of recognising that she was looking at the culture within Lesotho from an outside perspective. This is often referred to as an 'etic' approach to research, which applies to researchers who '...are more prone to isolating particular components of culture and making predictions using hypotheses about their antecedents and consequences' (Galperin et al., 2022, p. 8). As an etic researcher, in this instance, there are many points whereby findings have been discussed based upon certain aspects of culture within Lesotho with the aim of understanding why rape is such a prominent issue. Whilst the authors feel that this research is important, owing largely to the lack of research conducted in this area, they also recognise that it is never fully possible to understand the lives and culture of the people within Lesotho. From this, we also want to reiterate the importance of conducting research with a decolonial lens, especially when it comes to issues of the under-researched global south. Pandey, the co-author, who is of South Asian descent, further helped with understanding of applying a decolonial perspective to this body of work. Taking a decolonised approach acknowledges the significance of highlighting perspectives that have been unobserved due to dominant western views (Galperin et al., 2022). At no point during the research process for this work was the idea to overshadow this topic with either westernised perspectives or narratives. The aim of this is to bring awareness of an issue that is mostly under-researched and create some further understanding of this topic.

Discussion

The First-Hand Experience of Rape in Lesotho and South Africa

Being a Woman in Lesotho and South Africa

In Lesotho, with the average age for marriage being between 15 and 19 years old, and many having children young (Morojele, 2011), women are committed to upholding the domestic lifestyle (Olowu, 2011). From a young age, girls practice their domestic skills through '...serving their brothers...' and learning how to take care of their household (Khau, 2016, p. 101). They cook, they clean and they look after the children (Bloem et al., 2004). Ultimately, men are commonly known to be providers (Alber et al., 2018), and women are required to continue their traditional role of being powerless within the society.

Specific sayings in Lesotho enable men to be held to a higher standard than women, such as 'Monna ke tšepe e ntšo' which translates to '...a man is a black

iron...’ (Morojele, 2013, p. 14). These phrases have been commonly used to polarise men from the women and guide them from acting effeminately (Morojele, 2011). Often, men are given the opportunity to commit violent acts against women, which can manifest as sexual violence, and know that many women do not have enough societal influence to speak out (Kalimo, 2018). In order to explain the relationship dynamic between a woman and her husband, a female teacher uses the analogy of the Lesotho cultural blankets to explain that:

As a woman I see myself as a blanket. A blanket is a possession that someone can do whatever they please with. You can have as many blankets as you wish and they can never complain. If you do not take care of the blanket, it can't say anything. If you choose to wear another one, it still remains your blanket. It cannot walk out of the house. Because you pay for it, you can do anything you want with it. You can sleep on it, walk on it, sleep under it, wipe your feet on it, or even use it as a bed for your dogs. The duty of the blanket is to keep the owner warm and happy, protecting him from the coldness of the world outside. I am a blanket for my husband. He beats me when he wants, he cares for me when he wants and sometimes he wants to be seen with me in public when he is happy. (Khau, 2012, p. 106).

The lower position that is shown to be held by women provides the first step towards understanding normalisation of rape. Although there are global problems with gender disparity (Nguyen, 2022), the difference between men and women within the social hierarchy is shown to promote and give reason for some of the highest levels of rape in the world (Waife-Amoako, 2018; Robinson & Cussen, 2017).

Personal Shame

Unfortunately, it is not rare for Basotho women to feel shame about their rape; some have also been indoctrinated into shaming each other, even when they may have been raped themselves. One of the main issues that arises in collecting data from women in Lesotho is the shame they feel when speaking about their experiences first-hand. Within much of the literature, many choose to ‘...relate stories as if they happened to other people when in actual fact those things happened to them’ (Bloem et al., 2004, p. 21). Women feel that they cannot even approach medical staff about their attack for fear of being judged (Khau, 2007). In Lesotho, although 70% believe that men and women are equal, 97% of women also believe that they must obey their husbands (Alber et al., 2018). Eighty-one percent feel they need to ask permission to work (Chipatiso et al., 2014), and if there was suspicion of infidelity on the wife’s behalf or they neglected their duties, then they agree that abuse is justified (Morojele, 2011). Women who are being raped are accepting that the actions of the rapist are her fault, and through failing to obey her husband (Alber et al., 2018), or deviating from her marital duties (Morojele, 2011), they believe that rape is deserved. This creates a level of indoctrination and responsibility being placed upon women, by both men and women alike.

The Relationship Between Men and Women

Prominent Gender Roles

The patriarchal structure that exists in Lesotho provides roles within the matrimonial home. The husband is often known to be the decision-maker, and the wife maintains the household (Alber et al., 2018). Therefore, holding economic dominance is vital to men in Lesotho. Without it, women do not rely on them, and they lose negotiation power. Women who have an education or maintained frequent and affluent employment are more susceptible to abuse than those who have not (Morojele, 2011). Although there is no direct correlation between marital violence and employment, men feel that they should use violence and rape to ‘...combat...the unchanging order of nature’ (De Wet, 2007, p. 685) and that they have the power to keep women in their place (Chipatiso et al., 2014). Husbands have been known to use their higher economic standing to demand sex, and if the wife does not comply, he will not provide his salary for the household leaving the wife without food for herself or the children (Bloem et al., 2004). They will also use it to control their wife’s daily life; in 2011, 90% of women in rural towns felt that they could not leave without their husbands’ permission, but in Maseru (the capital) where literacy rates are higher and women have more freedom, over 50% felt they needed to ask (Morojele, 2011) (however, this statistic is dated and could have improved since then). With marital rape not being an offence until 2010 (Morojele, 2011), women continue to believe that they must comply with their husbands demands (Alber et al., 2018). Although it is clear that violence is indoctrinated into this society from a young age (Chipatiso et al., 2014), the belief that men are entitled to sex purely because they are the husband and sole contributor is damaging to both women and society as a whole. Rather than rape being a violent criminal act, it is deemed to be a bargaining chip and normalised as a control mechanism to keep women in their place.

Community Opinion and Action

Violence in Education and the Repercussions

In a report on sexual violence in Lesotho, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) stated that out of 1234 reported sexual offences, 33% were against children (Chipatiso et al., 2014). General violence in schools is rife in Lesotho, with girls often being the victims (De Wet, 2007) and even teachers partaking in the abuse (Ngakane et al., 2012). Although there is little research on sexual violence in schools in Lesotho (Ngakane et al., 2012), physical violence is prominent. Boys (90%) experience more physical abuse than girls (84%) (Chipatiso et al., 2014), and nearly half of the school pupils suffer

threatening behaviour from teachers (De Wet, 2007), with female pupils being specifically disproportionately targeted to maintain the ‘...gender order...’ (Morojele, 2012, 2013, p. 10). There are reports of teachers punching students in the face and beating them until they faint (De Wet, 2007), sometimes for failing to answer questions (Ngakane et al., 2012). Additionally, in Lesotho, there is a traditional initiation school, which provides young people with practical skills and cultural education (Rathebe, 2018). Whilst they are a source for information about sexual health and tradition (Khau, 2016), often, male pupils who return are more likely to rape than those who did not attend (Mturi & Hennink, 2005). Nevertheless, pupils who do not attend this traditional school are not devoid of violence against girls, with 10.66% of pupils falling victim to rape by their peers (De Wet, 2007) and some being gang raped by a group of boys at their school (Ngakane et al., 2012). As a result of this, girls who had not been attacked are 59% more likely to complete school (Chipatiso et al., 2014), and one in four drops out because of pregnancy or forced marriage as a result of the sexual assault (De Wet, 2007). If girls drop out of school, their future employability will be affected, which means that they will rely on their husbands for basic necessities (Morojele, 2011). Within both the schools and the wider community, a gendered social narrative is being implemented from a young age (Ngakane et al., 2012). This is then accentuated in later life, when men use rape and violence to control women (Bloem et al., 2004). Although remedial suggestions will be discussed later, the violence that children are being subjected to at school is fundamental in normalising rape. Due to abuse at home and at school, boys are taught to be violent and continue this throughout life, and girls are forced into a gendered category that leaves them powerless.

Community Victim Blaming and Traditional Culture

To determine how rape is normalised within the society, the traditional culture regarding the relationships between men and women must be discussed. Aspects of this in Lesotho have created a distance between men and women (Alber et al., 2018) and aid husbands in maintaining power over their wives. Whilst there are positive instances of the Khotla (Stender & Rozario, 2020), which is traditionally a court or a gathering place for men, it is known to be a location whereby men solely spend their time together, leaving the women at home, causing alienation and separation between men and their wives (Makoa, 1997). Another aspect of traditional culture regarding gender in Lesotho is the concept of the bride price (there are different names for this, such as ‘Bohali’ (Murray, 1977, p. 80) or ‘Lobola’, which is common in Southern Africa (Heeren et al., 2011, p. 74)). For a woman to marry a man, the man must provide her family with a payment (Heeren et al., 2011). There can be multiple social problems caused by this, such as ‘If lobola has not been paid, the husband in times of crisis will say to his wife ‘you are not my real wife, I did not pay lobola’ and ultimately:

'The wife does not respect the husband' and 'the husband does not respect the wife', if lobola has not been paid and 'The families do not recognise the marriage'. In case of problems within the marriage, the couple will not find any support. Failure to pay lobola assumes that 'the woman remains single', 'thus is not married' as a result the children of the young couple will belong to the father of the wife, and not to the husband and as a result the husband will have no influence in the upbringing of the children. (Heeren et al., 2011, p. 77)

By having a cultural bride price, women can become the property of their husbands (Morojele, 2011), which sometimes creates a repayment system within the marriage (Bloem et al., 2004). A consequence of this is the entitlement that men can feel they have over their wife's body; and if this is not provided, this can lead to violence (Zondi, 2007). A study about Lesotho from 2004 stated that 63.4% of women believe that their husbands own them; however, in 2014, this was shown to have decreased to 42% (Chipatiso et al., 2014). Whilst maintaining tradition is important in many respects, this could be seen as an archaic system that allows some men to justify violence against women and making them commodities. It has been shown here that both the Khotla and the bride price can be detrimental in normalising rape and the ill treatment of women, as this can make women commodities that must be compensated for and cause gender segregation within social circles.

Whilst women have been indoctrinated to feel shame about their own sexual assault, victim blaming is also prominent in the wider community. In Lesotho, both the victim's family and community frequently place blame upon them, rather than with the perpetrator (Bloem et al., 2004). Sex in Lesotho is shown to be either for the man's pleasure or a procreative activity, intimacy and sexual attraction, and especially lesbian relationships are deemed to be disgraceful, with many lesbian women being subjected to corrective rape (Matsúmunyane & Hlalele, 2019). Although rape blame and the effects it has in Lesotho are often unreported, mothers and fathers frequently discourage girls from partaking in any form of sexual activity but often do not provide them with information on healthy sexual relationships. An example of this is a father explaining why his daughters should not have sex:

I always tell my girl that if she has sexual relationships before marriage, as we know boys are tempting, she will end up being like a driving school vehicle. Before one can buy a new vehicle, he starts driving other people's vehicles—usually in a driving school. When the time comes to buy his own vehicle, he will never buy the old vehicle he used to drive. (Mturi & Hennink, 2005, p. 136)

From this, the father is showing that if his daughter has sex, then she would be undesirable and is placing the blame on her whilst subscribing to the 'boys will be boys' mentality (Ngakane et al., 2012, p. 44). When the families and community blame the victim, not only does this place a responsibility to act on the woman, but it also allows men to avoid any form of social or legal consequences. Therefore, the seriousness of rape is avoided and is deemed to be a way of life for women in Lesotho.

Wider Societal Action

Actions of the Justice System

In 2003, 9% of rape convictions in Lesotho were found to be successful (Chipatiso et al., 2014), and only 11% of cases were reported (Bloem et al., 2004). Whilst these statistics are dated (and they could have improved or worsened since then), for perspective, between 2021 and 2022, the UK had a conviction rate of 70.7% (Crown Prosecution Service, 2022) for rape, leading to 661 convictions (based upon 67,125 recorded rapes ending in December 2021) (Office for National Statistics, 2022). A lack of reporting in Lesotho is unsurprising due to the negligent actions of the police officers, as they frequently ask inappropriate questions such as ‘Did you enjoy the experience?’ or ‘Did you cry?’ (Bloem et al., 2004 p. 34) when a case is reported. The failure to provide a just system and respect for victims has led to the seriousness of this human rights issue being ignored, which has continued to allow rapists to control and violate women.

Domestic Law on Rape

In Lesotho, Section 3(2) of the Sexual Offences Act No 3 of 2003 (LSOA) states ‘For the purposes for this Act, a sexual act is prima facie unlawful if it takes place in any coercive circumstances’ (Sexual Offences Act No. 3, 2003). In 2020, a report on sexual offences legislation within African Commonwealth countries was funded by the UK government (The Human Dignity Trust, 2020). A universal criterion was used and based upon international human rights law to determine where the gaps were within legislation (The Human Dignity Trust, 2020). For Lesotho, gaps in the LSOA, such as marital rape and sexual assault only being crimes in certain circumstances (where if violence or threat of violence is used, the person is sick, the offender has HIV, there is a judicial order of restraint, the parties are separated or the offender has deserted his spouse (Sexual Offences Act No. 3, 2003)), have been made clear, including very little discussion around consent and freedom to make that choice (The Human Dignity Trust, 2020). The shallow definitions of consent and inclusion of coercion criteria may be detrimental in making the law act to its full capacity, as shown in the legal principle of *nullum crimen, nulla poena sine lege* which translates to ‘...no crime without law, no punishment without law’ (Hossain, 2021, p. 241). With the previously shown levels of successful rape convictions, the justice system is failing to sufficiently protect victims.

International Law on Rape

As shown, Lesotho has ratified CEDAW (1979) and the Maputo Protocol (African Union, 2003) to tackle the issue of rape in the country. With the rate of rape shown in the literature to be one of the highest in the world (Robinson & Cussen, 2017), the Lesotho government do not seem to be acting to improve women's fundamental human rights. However, in recent years, there has been a lack of literature on rape in Lesotho; therefore, these efforts may have gone unnoticed (Chipatiso et al., 2014). Nevertheless, based upon a report by the CEDAW Committee in 2012 (Chipatiso et al., 2014) and the research available, recommendations were made to the Lesotho government. These included more protection for victims, further data collection and encouragement in reporting sexual assault (Chipatiso et al., 2014). In 1992, the CEDAW Committee made separate recommendations for countries who had ratified and for those who would in the coming years (Nowrojee & Manby, 1996). This included sufficient legal protection, preventative programmes directed at gender segregation and support for women who have faced violence (Nowrojee & Manby, 1996). In supporting international regulations, the Lesotho government will have to look at making extensive improvements. Although the suggestions by the CEDAW Committee are over 20 years old, they are still vital to creating a safer life for many and, if implemented, could cause a shift, changing how women are treated in society and providing basic human rights. More research will be needed to provide recent and realistic statistics on the occurrence of rape and provide a platform in which women can discuss and report their attacks, creating an open dialogue about why rape so frequently occurs.

Suggestions for Future Research

Due to the vast research that has been conducted on race and HIV and the effect that they have on the prevalence of rape, these topics have not been included in this chapter. However, these aspects of history are important and should not be ignored. On the topic of rape in Lesotho, the opportunity for further research is vast, such as learning more by way of participatory research and collecting data within local communities in order to increase understanding of societal gender segregation. Another research suggestion is to focus on the violence in schools contributing to rape. There has been limited research conducted on this issue, even though it is prominent within the lives of school children (Ngakane et al., 2012). This could provide insight into how learning violent behaviour leads to some becoming rapists. Another research suggestion is to provide police officers with training on how to appropriately investigate rape cases and then conduct a primary data collection on the effectiveness of the training programme. Lastly, research could be conducted on the impact of changing the law in Lesotho to match international human rights law suggestions (The Human Dignity Trust, 2020) and what positive effects could result from it, with the aim of improving the lives of women and girls.

Research, Practical and Policy Implications

The research conducted has provided insight into why rape is normalised in Lesotho. There have been comparatives drawn on how women are treated, such as the need for women to be compliant with their husband's abuse if they want basic necessities (Bloem et al., 2004) or implementing the bride price (Zondi, 2007) and normalising rape within the marriage (Bloem et al., 2004). Due to the prevalence of violence and rape in schools (De Wet, 2007) and the gender segregation that is supported by the education system (Morojele, 2013), the researcher suggests that human rights education (HRE) could be introduced to pupils and teachers. Whilst these classes would be effective in teaching about gender equality, they would also be instrumental in '...promoting respect for human rights beyond the school walls...' (Bajaj, 2011, p. 209). Pupils who engage in HRE often identify human rights problems within their communities and look to rectify them (Bajaj, 2011). It has also been shown to aid pupils in understanding further cultural and socio-economic issues (Nadkarni & Sinha, 2016). By introducing HRE into schools in Lesotho, there is the opportunity to educate teachers about the effects of being violent and teaching gender segregation but also potentially reducing the chances of male pupils becoming violent adults. This may also aid in stemming the issue of female shame surrounding rape.

The approach in which the police have taken in investigating rape cases has been ineffective (Bloem et al., 2004), and the treatment of victims has not only lessened the likelihood of reporting but also further traumatised individuals. In order to aid victims in approaching the police, a training programme could be implemented in Lesotho. Research-based training programmes for the police in the UK (McKee et al., 2020) and Australia (Darwinkel et al., 2013) have shown to be successful in lessening the belief of rape myths and judgement of victim credibility. This training programme may improve reporting and may increase case investigation success. The Lesotho Police should implement policies which guide officers to investigate rape cases thoroughly and support victims. This would create direct instructions on handling rape cases and show that the police are changing their outdated protocols.

Conclusion

This chapter has been written with human rights and feminist perspectives as a wider backdrop, by highlighting how rape is a gross violation of a woman's fundamental rights. The aim has been to highlight the extent of this human rights issue and gain understanding of the cultural, societal and legal factors that have contributed to the normalisation of rape in Lesotho. There has been use of secondary data and an overview of rape, with special regard to patriarchal influences. Throughout, this has been an underlying sub-topic showing why rape is normalised within this society, such as the prominent gender roles within the household (Chipatiso et al., 2014), violence and gender segregation in schools and victim blaming

(Matsúmunyane & Hlalele, 2019). Through the use of secondary data, it is clear that the police in Lesotho have been unempathetic and negligent in dealing with rape victims (Bloem et al., 2004). There are identifiable shortcomings with the law on sexual violence (The Human Dignity Trust, 2020), which creates a narrowed approach to cases (Dowds, 2019). Although Lesotho has ratified CEDAW and the Maputo Protocol, the prevalence of rape is still high, despite suggestions being made by the CEDAW Committee (Chipatiso et al., 2014). This chapter has also accumulated literature showcasing high levels of sexual and physical violence in schools (Ngakane et al., 2012) leading to a higher probability that female students will drop out of school and be economically reliant on men if they are sexually assaulted (Morojele, 2011). Lastly, from the data, it is evident throughout that the society in Lesotho is heavily patriarchal, with women's rights often being violated. This is accentuated by traditions such as the bride price within the marriage (Bloem et al., 2004), responsibility being placed with the rape victim (Bloem et al., 2004) and an indoctrination that it is the woman's duty to keep men happy and alleviate their urges. The treatment of women in Lesotho is a serious human rights issue; women are being attacked from a young age, and people are being taught that women provide specific services for men and cannot be anything more. As a result, rape is normalised and used as a control mechanism to maintain female powerlessness and their position within the society.

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Part II
Gender-Based Violence: Perspectives on
Trafficking and Modern Slavery

Chapter 6

‘In the Case of Women, It’s Total Viciousness’: Violence, Control, Power and Rage in Female Slaveholder-Enslaved Relationship



Fiona de Hoog Cius and Kevin Bales

A child sobs as he wipes his tears on his dusty T-shirt. His crying is drowned out by laughter of two women. ‘Mezanmi, mezanmi, woououy!’ There is a pile of dishes on the floor and a woman sits on a short wooden chair, her head rolled back in laughter as she struggles to catch her breath, tears streaming down her face. A *restavèk* boy has just received a beating. She throws all the dishes he’d cleaned on the floor to do again. They are laughing because he is crying and saying ‘I want to go home. (de Hoog Cius, 2016)

Violence is an inherent part of the *restavèk* system of child slavery in Haiti. More than a means of coercion, it erupts as visceral outbursts of rage as female slaveholders appear to redirect deep-rooted frustration onto the most vulnerable children in Haitian society. Rage, however, has roots. In the context of a global patriarchy, if women are expressing rage, cruelty and viciousness, it is necessary to consider the factors that create those emotions and actions. We therefore discuss the element of rage found to be a core part of the relationship between female slaveholders and children in domestic servitude in Haiti. We set out the wider contextual factors that form part of the tapestry of female oppression in a society severely affected by economic poverty and all its consequences. Firstly, we describe modern slavery and the *restavèk* system as a relationship between a slaveholder and a person in slavery, presenting findings that suggest that women are primarily responsible for the violence suffered by these children. We argue that the reluctance to utilise the term ‘slavery’ for *restavèk* children contributes to their invisibility and, therefore, their vulnerability. We further explore the reasons behind Haitian women’s ‘frustrated rage’ and discuss how violence is an integral element of Haitian society, suggesting

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that pervasive violence is not only the cause of the ‘rage’ and ‘viciousness’ within the system but is its very root.

The Restavèk System in a Global Context

The current best estimate of the number of slaves worldwide is 40.3 million (Walk Free Foundation, 2016). While this is a small fraction of the global population, their contribution to the global economy through forced labour in a number of global industries, commercial sexual exploitation and forced domestic labour is large, estimated to be \$150 billion per annum (International Labour Organisation, 2014). The average global acquisition cost of taking a person into slavery is around \$90–120 USD, which varies significantly by country. In the poorest countries, which often have a larger prevalence of slavery within their population, the acquisition cost is often lower than this average. In the richer developed nations, the cost will be appreciably higher, reaching into the low thousands of US dollars for an individual. We use the term ‘acquisition cost’ since only a small proportion of enslaved people are literally sold, more are acquired through false recruitment processes, and their ‘price’ is what it costs to lure them into a situation in which violent control can be established. Note, however, that in relative terms and even at their most expensive, the price of contemporary slaves never reaches that of slaves of the past. This collapse in the cost of slaves was driven in large part by rapid population growth creating a glut of people vulnerable to enslavement. Its specific impact on the lives of existing slaves (as well as the profits of slaveholders) is to convert the enslaved from capital investments into disposable inputs in the process of work and exploitation. All forms of slavery, both historical and contemporary, are multifaceted, yet all are organised by and around violence.

The cost of a person is not central to understanding slavery, though the collapse in the cost of slaves worldwide may be at its most acute in Haiti, where a child may be acquired for very little cost beyond transporting that child to their place of use and perhaps including a small fee paid to a ‘recruiter’. The process of enslavement is simple – a false offer of education and subsistence leads to a child being taken away from family and village and relocated into a situation where violent control can be exercised at will.

In Haiti, the most widespread form of modern slavery is child domestic slavery in a system known as the ‘restavèk’ system. In this practice, children from as young as 4 (Sommerfelt, 2002, p. 35; Pierre et al., 2009, p. 26; U.S. Department of Labor’s Bureau of International Affairs, 2012, p. 1, McCalla (2002)) are recruited and forced to work in homes, carrying out domestic labour in the context of Haiti’s underdeveloped infrastructure. Typical tasks include carrying buckets of water, cleaning, doing laundry by hand, washing dishes, shelling peas, cooking, shopping in markets and caring for children. The work typically takes long hours requiring children in *restavèk* to be up early before the rest of the household and allowed to sleep only after everyone has gone to bed. In addition to forced labour, the *restavèk* situation is

characterised by the brutal treatment of the children involved. Physical violence, emotional and mental abuse and neglect, as well as sexual violence, are integral parts of the *restavèk* experience. The number of children engaged in the *restavèk* system is impossible to measure precisely; however, a 2009 US Agency for International Development and Pan American Development Foundation report included a random sample survey of child trafficking into *restavèk*, and the practice is thought to affect 1 in 10 minors, totalling approximately 350,000 children in *restavèk* (Shahinian, 2009).

While the practice is widely discussed in the NGO and development sectors, there exist limited academic studies on the root causes and defining characteristics of the system. The complicity of women, as mentioned in this chapter, points to gender disparities and the gendered effects of poverty in the Haitian context. While some academic literature does discuss gender-based violence in Haiti (Faedi Duramy, 2014; Farmer, 2004; Horton, 2012; Gómez et al., 2009; Stromberg & Douglas, 1998), to our knowledge, there exist no publications that correlate the social positioning of women in Haiti, including their vulnerability to violence in all its forms, with the abuse of children in the *restavèk* system. Haitian women's experiences can be positioned within feminist 'gender and development' theory, providing a wider framework for analysis. In particular, the concepts of gendered labour, as discussed in a Global South context (Momsen, 2010; Moser, 1993), the 'feminisation of poverty' (Gammage, 2004) and the growth of female household-headship (Chant, 2006) are relevant to the group of women discussed here. Additionally, theoretical analysis of the 'invisible' quality of patriarchal power (Bourdieu, 2001; Farmer, 2004; Millet, 2005; Sen, 1997; True, 2012) provides an important framework for understanding the 'normalisation' of structural violence (Farmer, 2004; Scheper-Hughes, 1992), particularly within a postcolonial context where gender, 'race' and class are defining trajectories for people's lives (Fanon, 1968).

The empirical aspect of this chapter allows for discussion around the aforementioned theories in relation to Dollard et al.'s (1939) frustration-aggression hypothesis and further related discussions in the field of psychology (Berkowitz, 1989; Deutsch, 1973; Dutton, 1999; Lewis, 1993; Retzinger, 1991). As mentioned above, the connections between gender, poverty and violent treatment of children have not been made in academic literature to date.

Methods

This chapter is informed by an ethnographic gender analysis of rural and urban societies in Haiti and interviews with 69 participants that took place over an 18-month period between 2014 and 2016. Participants were chosen using purposive and theoretical sampling, with criteria for participation including women with experience of motherhood and economic poverty, trafficking of children, having a child in *restavèk* in their home or working in the field of child protection in Haiti. Men living in economic poverty were also included. *Restavèk* children themselves were

purposefully excluded for reasons of ethics as well as the fact that the study focused on the adult responsibilities and experiences around children as a primary concern. Access to the participant populations was ensured through the ethnographic research process in which the researcher lived, and participated, in communities in both urban and rural areas (at different periods of the research).

The limited sample size of 69 participants, out of a population of over 10 million citizens, does not allow for generalisation of the findings. However, priority was placed on gaining deep insights into the subject of women's involvement in the *restavèk* system, identifying root causes through rich and thorough data. An inductive approach to research philosophy allowed for conclusions from the data, both derived from interviews and ethnography, to be directed back into the research, and generalising theories (such as the majority female involvement in the *restavèk* system) were tested in interviews with participants, particularly those with expertise in the field of child protection and a wider view of the national situation through their profession. A total of 61% of the participants were female and due to their potential vulnerability, as well as researcher integrity, a feminist methodological framework was employed that sought to be 'humanising and empowering', contextualising the actions of women and men through their own life stories and situations as 'situated knowers' (Clisby & Holdworth, 2016, pp. 14–15).

Women, Rage and the Restavèk Context

Rage and Viciousness: Women as Slaveholders

The word 'restavèk' is a Haitian Kreyòl noun which describes children living in homes that are not their parents'. The term, 'Timoun ki rete ak moun', 'child who lives with someone', is widely used to describe children in domesticity in Haiti (and might be the original term before 'restavèk' became common). 'Restavèk' may have come about through a Haitian habit of 'frenchifying' certain Kreyòl terms – as *restavèk* sounds closer to the French term '*reste avec*', meaning 'stays with'. Both terms continue to be used but 'restavèk' is a derogatory term used for children in the worst situations. Sabine, a woman who works for a Haitian child protection organisation, describes:

As long as you hear the word 'restavèk', it's not something else. All those things, do work, do the dishes, do this, do everything. This means, there is a particular treatment. It could happen, because in all rules there are exceptions, it could happen that a child is pretty much [okay], in this case I would call it 'a child living in someone's home' – and this child is getting an okay treatment, he/she is lucky, goes to school, is lucky, has 'succeeded'.

It has been shown that women make up the majority of those responsible for the exploitation of children in the *restavèk* system in Haiti (de Hoog Cius, 2017). There are complex reasons for this which lie in the gendered distribution of labour and responsibilities and social dynamics in Haiti. Gendered labour is not a phenomenon

unique to Haiti, as women in many parts of the world, to varying degrees, are confined to private spheres, largely responsible for households and children (Moser, 1993; Okin, 1995; Sen, 1995; Momsen, 2010). In the Haitian context of economic poverty and lack of household infrastructure – i.e. basic amenities like water, plumbing and electricity, as well as appliances that facilitate modern life – it should not be surprising that many women struggle with the responsibilities assigned to them. Although Haitian women are not alone in the experience of economic poverty and oppressive gender roles, it is in the Haitian setting that an inextricable link has been demonstrated between women's experiences – their confinement to domestic spheres, marginalisation from formal employment, exposure to violence and inordinate social and familial responsibilities – and their brutality, as seen in their treatment of children in *restavèk*. These gendered experiences are discussed later in this chapter. What is important here is to set out the peculiar element at the core of the *restavèk* system's slaveholder-enslaved relationship: rage.

It is not too great a generalisation to say that with very few exceptions amongst human cultures women are more vulnerable than men, children are more vulnerable than adults, and that girls tend to be the most vulnerable of all. Because the internal dynamics and power relations of families are seen as outside the regulation of law except in the most egregious circumstances, the rule of law often fails to reach minors. This pattern is deeply embedded within cultures and often reinforced by religious dogma. Indeed, all social institutions in most societies tend to assume the complete control of children by older family members. The result is that children face both possible enslavement within their family and are less likely to be protected from enslavement outside their family.

There exist varying degrees and methods of coercion to ensure that children in *restavèk* perform the household tasks assigned to them by their (female) slaveholders. Violence and its threat are generally integral elements of slavery (Allain & Bales, 2012) and often form the fabric of the slaveholder-enslaved relationship. This is crucial to the controlling nature of the exploitative relationship of slavery. Yet, in the case of the enslavement of children, violence is not always necessary to ensure compliance, as other means of control can be established, as suggested above. However, not only is violence used, but there is a particularity about the violence within the *restavèk* system that leads some to use the word 'rage' when describing it. One government child protection official stated: 'in the case of women it's total viciousness'. Sabine contributed:

To correct a child, it's with the rod. That means, the same person, if she has a child, if it does something wrong, you'll see she'll beat [her child]. But [...] you'll see a difference between the way she beats her own child, with the way she beats the other [*restavèk*]. Because when she beats the [*restavèk*], she beats him/her with rage. She uses more violence.

The words 'rage' and 'viciousness' above suggest the violence results from a mixture of emotions including frustration rather than the intention to correct or coerce the child. It is this element of 'frustrated' violence towards *restavèk* children that is of interest here. Anger and rage have been found to be linked to frustration, fear, shame, trauma and oppression (Dollard et al., 1939; Deutsch, 1973, 2006;

Berkowitz, 1989; Retzinger, 1991; Lewis, 1993; Dutton, 1999). Deutsch (1973) suggests that ‘both rage and fear are rooted in the sense of helplessness and powerlessness: they are associated with a state of dependency’ (Deutsch, 1973, p. 395). Such psychological theories support the theory behind the transformation of gendered oppression into female slaveholders’ manifestations of rage.

Violent behaviour can also be linked to the ‘frustration and desperation’ of living in poverty (Justensen & Verner, 2007, p. 10). To understand how this linkage affects children in *restavèk* children, it is necessary to examine the lives of the women responsible for *restavèk* children within the context of poverty, violence and oppression. Kielland and Tovo’s (2006) research on child labour and associated abuse in the African context shows that ‘hardship also can produce cynicism, aggression and sometimes selfishness and these feelings may be taken out on those even more powerless – the children’ and that ‘the perpetrator in most cases was a woman’ (Kielland & Tovo, 2006, p. 23). Chantalle, a Haitian single mother, pointed to women’s difficult lives in Haiti to explain why some abuse children in *restavèk*:

I think it’s because this [woman] is already dealing with many problems. This person is so stressed and when they are stressed like that, they take it out on a child. I think that’s why they mistreat children.

The violence inflicted on *restavèk* children should be understood within the larger context of structural violence in Haiti. Physical punishment is common in schools, and hazardous child labour often occurs, particularly in rural areas. It is difficult to determine where the line is drawn between the different degrees of the physical punishment of children. Some Haitian parents inflict varying degrees of violence on their own children as discipline (Willman & Marcelin, 2010, p. 526). Some of these acts could be determined as abusive, depending on the background, opinion and cultural positioning of the observer. However, they must be considered within an environment of structural violence, wherein the context of safety and danger must be understood in Haitian terms, as a society affected by the violence of poverty (Fanon, 1968; Farmer, 2004). The normalisation of children’s experiences of violence, and even death, is relevant to Haitian society where structural violence takes on a routine and unavoidable nature. This can be felt in the wider environment of poverty and insecurity, as well as in interactions and relationships as discipline can be expressed through violence. This can be paralleled with Scheper-Hughes’ (1992) study of the normalisation of child deaths in Brazil, in which she states:

In a highly bureaucratic society in which triplicates of every form are required for the most banal events [...], the registration of child death is informal [...]. Their deaths, like their lives, are quite invisible. (Scheper-Hughes, 1992, p. 231)

Whatever treatment children experience in Haiti generally, there appears to be a clear difference in the level of violence in parent/child relationships compared to that inflicted upon a child in *restavèk*. It is the latter that demonstrates an element of anger and rage, as Gina, director of an NGO stated: ‘What is very difficult to understand, is how can you can be that way towards your child and not see the other child who needs protection, in the same way as yours does’.

Seen But Unseen: The Invisibility and Ubiquity of the Restavèk System

The *restavèk* system is widespread in Haitian society. The suggestion that it is a form of slavery, however, is not greeted with general acquiescence. Still reeling from a history of colonialism and plantation system slavery, modern Haitian society and culture places strong emphasis on pride inherited from the population's ancestors through the success of the Haitian Revolution – history's largest and most successful slave revolution. Cultural traits seem directly connected to this history, as humanity, equality, dignity and respect are reflected in many social transactions. For example, the proverb 'Bonjou se pòt la', 'Hello is the door' describes the importance placed on greeting one another and, thereby, acknowledging each other's humanity. Slavery is a vestige of the past that provokes feelings of humiliation in many Haitians, worsened by the poverty their nation continues to suffer. Whether *restavèk* is slavery or not is still a contentious issue in Haiti, doing little to acknowledge the plight of these children or to implement actions to end the practice.

It is perhaps *restavèk* children's ubiquitous presence in Haitian urban communities that creates the blind spot that facilitates their existence. Children in *restavèk* provide what is seen as a necessary service to the functioning of their communities and that their identities as people become confused with their role. In addition, as 'other people's children', they do not benefit from traditional parent-child relationships that encompass protection and nurturing. All these factors contribute to children in *restavèk* being part of a social class that is widely familiar yet, through the denial of their status as 'enslaved', invisible. As in all human relationships, there are varying degrees of treatment experienced by children in *restavèk*, and not all are treated with the same severity. Perhaps, a sliding scale of abuse and exploitative treatment, as well as the historical roots of the practice, designed to benefit children through placement with more affluent members of society, contribute to the hesitancy in engaging with the term 'slavery'. Given Haitian people's history with the word, and the implication that if slavery persists, then some Haitians are slaveholders by default, it is understandable that there is high sensitivity around the topic. However, as many, if not most, cases of *restavèk* fit into global definitions of slavery, and the failure to appropriately identify the system contributes further to the invisibility of children in *restavèk* in Haitian society.

Social Expectations on Women

'Rage', 'viciousness' and 'frustration', used to describe the ways women treat children in *restavèk*, depict a visceral image of the slaveholder-enslaved relationship. Above, we identified the ways through which children in *restavèk* are vulnerable to abuse and violence, placing them as one of the most powerless groups in society. Two further questions emerge from this analysis. Firstly, as the *restavèk* practice is

a female-dominated system, what is it about women's lives in Haiti that leads them to expect the services and labour of a child? Secondly, what 'frustrates' and/or 'infuriates' women to the point that causes a visceral reaction that is transmuted into rage? Both of these can be answered by delving deeper into the gender dynamics, hierarchies and women's lived experiences in Haitian society.

Similar to societies the world over, social, economic and political power in Haiti is divided and distributed according to a gender hierarchy that strongly favours men. This is manifested on the domestic level, with men benefitting from more privileges, freedom and power in households and communities, as Chantalle stated:

Men are always at the head [in charge]. It's him who makes the decisions [...], women can only agree. Most often, you'll find women agree with what their men say because they are the boss. [...] They are the boss, and when they are the boss, if they give orders we have to obey them.

It is also evident on the governing level, with a vast majority of parliamentary members and authoritative figures being men. In fact, despite a quota requiring 30 percent female representation in government, women remain marginalised. In 2016, there was not one woman included in the elected parliament (Charles, 2016). The outgoing Senate President, Riché, commented on this fact:

We are incapable of electing women in the Senate. We will be 30 guys deciding on the future of this country, while 53 percent of the population are women and they assume all of the economic responsibilities. (Andris Chiné cited by Charles, 2016)

Gina stated:

And it's the same thing in the government, even if there are women, they are just there to listen.

In a context of severe and widespread economic poverty, in which almost 60 percent of the population lives below the poverty line (Central Intelligence Agency, 2012), women experience hardship in different and more extreme ways than men. Gender roles define their lives, establishing possibilities, setting limitations and assigning responsibilities. For women in Haiti, this translates as a lower likelihood of being educated, decreased access to employment (not only a result of lacking qualifications but also due to widespread sexual exploitation and harassment in schools and workplaces) and increased household, familial and social responsibilities that have earned them the affectionate sobriquet of 'poto mitan' or 'central pillar'. Women play a crucial role in Haitian society and households. As well as being responsible for the market economy – and as a result, feeding the population – they are also charged with the maintenance of homes and the survival of their families, including men who rarely admit being able to cook and clean. Tasked with feeding their children, women's economic power does not often meet their financial needs, and they are left in a position of high levels of responsibility coupled with extremely limited economic and social power.

Gendered labour places men in public spheres with expectations of income and financial provision for dependents. Women's roles generally exist within private spheres, encompassing responsibility for the functioning of the household and the

care of all its members. In addition to household responsibilities, women are commonly involved in other labour activities such as agriculture and commerce. It is acknowledged, through the term 'poto mitan', that women play a crucial role in the informal market economy, being largely responsible for the transport of agricultural goods from rural to urban areas. However, because women's work is not considered to involve significant income generation, it is seen as less valuable and demanding than men's work. Women carry out increasing obligations of productive labour alongside extensive responsibility within their household; they are laden with a 'double burden' (Momsen, 2010, pp. 48–52). The invisibility of women's labour is a crucial aspect of this double burden in what Sen (1995) terms 'co-operative conflicts' where 'gender inequality is made acceptable to women themselves [...] by playing up the demands of efficiency in particular social arrangements' (Sen, 1995, p. 270). Okin (1995) argues that women being 'overworked' means they are considered less economically valuable than men (Okin, 1995, p. 282), which, in turn, devalues the work that they do. She adds that the gendered division of the public (men's) and domestic (women's) spheres results in the 'failure to count a great deal of the work done by women as work, since all that is considered 'work' is what is done for pay, in the public sphere' (Okin, 1995, p. 280).

Segregated gender roles, women's lack of access to income earning opportunities and men's limited participation in household labour result in an interdependency between the two sexes. Women express that they need men to provide for their children, and men need women to feed and clothe them, amongst other expectations. As one Haitian woman, Darline, powerfully phrased it:

What makes it difficult is that it's only men who can work, and the work they can do doesn't really make any money. When they come home with the little bit they come home with, it's women who have the biggest problem because we are the ones who have to think of what we can do with the little money that has come in. What I'm going to make this money do... It's not what it can do, no, but we have to make it do. When there are four children at home so you should buy 20 gourdes worth of bread so each child can have a piece – but you have to buy 10 gourdes worth and cut it in half so that each child can have a little, and it doesn't satisfy their hunger.

Another participant, Jolène added:

Well, what I would say is the biggest problem for women in Haiti is that most women [...] don't have any [economic] activity to make a little money so she can choose what to spend it on. That means, it's not all women who can work, or can have somewhere to go to do a few days of work. And when she can't work to make her own money, she has to have [money] given to her [...] it means she isn't her own master. Because when someone gives you 10 gourdes for whatever reason, you might want to do something else with it but you can't. But if women had work and could make their own money, they could make a little money and save a little money, it would be her own business.

In addition to the inconvenience of being dependent on men for financial support, women face the added factor that as the head of household, men control the household's finances. As seen across other societies, men in Haiti are more likely to spend money on themselves (in Haiti this can mean on food, alcohol, gambling and

sex), while women are more likely to spend money on their children and household. This is reflected in Darline's statement:

Sometimes what happens, especially when it's the man who has the monopoly [in the home/family], that's why I advise all women who are able to make efforts, if you can find work, if you are able to work, work! There are men, when they work, when they have a little money in their pockets, they pass by any area that has 'machann' [women selling food on the streets] and they fill their stomachs. Their children are at home, their wives are at home, hunger is killing them. and then on their way home, they look for another woman. The little money they have left in their pockets they give to you [the wife] and you and your children are there at home suffering.

Post-Colonial Violence and Patriarchy in Haitian Society

Violence as the Root of Violence

Whether it be through financial poverty, physical assault or sexual exploitation and abuse, women in Haiti live in a context of everyday violence. Though it is impossible to ascertain exact figures relating to the prevalence of sexual crimes against women because of vast under-reporting, conservative estimates place the proportion of abused women and girls within the population at 46% (Justensen & Verner, 2007, p. 4). In a survey of the wider Port-au-Prince region between 2004 and 2005, it was found that 35,000 women reported being sexually assaulted (Kolbe & Hutson, 2006, p. 868). Though this figure only represents *reported* crimes within the urban Port-au-Prince region, it is largely indicative of the large scale of sexual violence throughout the country. On the domestic level, sexual violence is widespread in Haitian households, with an estimated one in three women being victims (Joachim & Gardiner, 2005; Médecins Sans Frontières 2017; Beyond Borders, 2019). It can also be said more generally that many women lack full control over their bodies and agree to sexual activity which they would not choose by their own volition. This is reflective of women's position in Haitian society, their subjected duties as women or wives as well as other motivations such as self-preservation. Single mother, Chantalle, speaking about women's ability to say 'no' to sex, said:

Interviewer: Is it common that [a woman] will have that power, to say 'no' if she doesn't want to have sex?

Chantalle: She doesn't have that power. [...]Do you know why she doesn't have power? Because if she says 'no', her household won't be looked after, and the man will be angry. He will go outside [somewhere else] so he can [have sex].

Violence is a common feature of many relationships, as Chantalle, referring to a hypothetical couple, stated:

In public, they may get on well, but as soon as they get home, if the girl speaks out of turn, she'll get slapped. But when they go outside, she won't say anything.

These quotes speak to gender-based violence within a framework of 'symbolic violence' (Bourdieu, 2001, pp. 1–2) and 'structural violence' (Farmer, 2004, p. 307).

In a context of poverty and powerlessness, the line between consensual and forced sex is blurred, and it becomes difficult to identify the factors that might make women feel under an obligation to have sex and adhere to an overarching patriarchal system. As Millet (2005) points out:

We are not accustomed to associate patriarchy with force. So perfect is its system of socialization, so complete the general assent to its values, so long and so universally has it prevailed in human society, that it scarcely seems to require violent implementation. (Millet, 2005, p. 47)

'Gentle violence', as Bourdieu (2001) describes, exists and manifests itself within the same framework and 'unbroken continuum' (Clisby & Holdworth, 2016, pp. 78–79) as more outward and discernible symptoms of gender-based violence. This spectrum or 'continuum' of gender-based violence is part of a global patriarchal system that affects women across all social and economic spheres to different degrees (True, 2012). In the case of women in Haiti, there are parallels with Sen's (1997) statement about landless Indian women:

But why do poor, labouring women submit to this control? Responsibility for children under conditions of acute poverty makes women willing to submit to male sexual control in return for some economic resources, however meagre. (Sen, 1997, p. 147)

The circumstances discussed above must be considered in relation to the wider context of 'symbolic' and 'structural' violence (Bourdieu, 2001; Farmer, 2004) which have historical roots in Haiti. Farmer states:

Poverty, crime, accidents, disease, death—and more often than not their causes—are also seen as problems locally derived. The transnational tale of slavery and debt and turmoil is lost in the vivid poverty, the understanding of which seems to defeat the analyses of journalists and even many anthropologists, focused as we are on the ethnographically visible—what is there in front of us. (Farmer, 2004, p. 305)

He continues, 'In Haiti structural violence continues to play itself out in the daily lives and deaths of the part of the population living in poverty' (Farmer, 2004, p. 311). It is impossible to separate Haiti's history of colonialism and continued postcolonial consequences from its economic poverty. Violence is a fundamental element of the birth of Haiti as a nation. In describing the colonial setting and the relationship between the so-called 'settler' and the 'native' population, Fanon (1963) points out the roots of a violence that permeates the decolonising process and remains infused in modern societies and racialised concepts of the postcolonial world. His portrayal of the 'native town' echoes the lived realities of modern Haitian society:

They are born there, it matters little where or how; they die there, it matters not where, nor how. It is a world without spaciousness; men live there on top of each other, and their huts are built one on top of the other. The native town is a hungry town, starved of bread, of meat, of shoes, of coal, of light. The native town is a crouching village, a town on its knees, a town wallowing in the mire. (Fanon, 1963, p. 30)

Fanon points out that violence is inherited through colonialism, and its after-shocks are evident in racist postcolonial discourses, not least of all in the way that

violence is ascribed as an inherent trait of colonised populations. Discussing Fanon's theories, Mercer and Julien (1988) state:

The colonised direct acts of aggression not onto the white male coloniser, the original agent of violence, but against fellow colonised men and women. Such intracommunal violence can be seen as an almost pathological misdirection of rage – as the outward expression of internalised oppression it is consonant with self-hatred. (Mercer & Julien, 1988, p. 115)

Not only does this clarification of Fanon's work point to the violent consequences of colonialism, but it also follows the same reasoning put forward for the rage of those women who abuse children in *restavèk* by rooting it in 'internalised oppression'. The setting of physical, structural and symbolic violence forms the context for the sustained violence which becomes normalised in the lives of women and children. As discussed above, the dangers children are exposed to can be exacerbated by environmental factors, and this is relevant for economically poor communities the world over.

The banality of violence in children's lives does not just create the space for the *restavèk* system to exist, but it also forms part of women's experience as mothers inevitably fail to protect their children from their environment. Madanm Sansit, a mother from rural Haiti, told me:

I feel I am not competent enough to fulfil my main mission. That's what I feel because all the responsibility that rests on my shoulders, I don't feel like I can even fulfil even five per cent of it, in the way I'd like to. Because for what I would like, [...] I'm not capable.

Interviewer: What would make you feel you are competent?

Madanm Sansit: To be able to answer to the needs of my children, the needs of my family, but I'm not capable.

Interviewer: But is that you or your circumstances?

Madanm Sansit: It's me and my circumstances.

Although Haiti's economic struggles cannot be blamed on Haitian men, and men living in poverty are victims of these circumstances in their own gendered ways, it is important to understand the ways in which women are exposed to poverty in more extreme ways. This has been discussed more generally through the term, 'feminisation of poverty' (Gammage, 2004, p. 751) which proposes that 'women represent a disproportionate percentage of the world's poor, that this trend is deepening and that women's increasing share of poverty is linked with a rising incidence of female household headship' (Chant, 2006, p. 202). This is important not solely because it points to the gendered aspects of poverty, but it also places emphasis on female-headed households that are extremely relevant to the *restavèk* discourse. Many women who are likely to acquire children for *restavèk* fall into a category of urban single mothers who need to spend significant lengths of time outside homes, trying to earn money (often through street commerce or factory work). One such woman, Louisiana, mentioned:

I go out early in the morning, I come home late. As soon as I get home, I get some water, I bathe and I go to sleep. The next day, it's the same thing all over again.

Women involved in these types of economic activities usually have little time to spend at home with their children. They also have limited time for household chores.

Moreover, the lack of infrastructure means household tasks can take a long time to perform. Food preparation, using raw ingredients that require long periods of cooking, often on charcoal stoves, can take hours. Washing laundry by hand is also a long painstaking process. This creates the space into which a child in *restavèk* might be recruited, as Chantalle points out:

There are lots [of women] who go to get a child in the provinces, and [the child] stays with [the women's] children for them, while they go out to work.

Describing what her child in *restavèk* does, one participant, Judith, responded:

She gets up, she sweeps, mops, washes dishes, goes to get a few buckets of water, prepares food, [...] dusts, [...] and when I get home from the market she continues working with me and she comes with me to sell and we get home at 11 or 12 – because that's when I usually get home – and we get ready for bed.

Women's responsibilities and their circumstantial inability to fulfill them are the most significant factors that pull children into the *restavèk* system. Moreover, the wider circumstances of poverty and violence contribute towards a gendered oppression that results in women expelling their frustrations onto a social group that is more powerless than themselves: children in *restavèk*. This is not dissimilar to the reasons why men might physically abuse women in a domestic setting, as community leader, Sansit pointed out:

The way I see it, there are many people who, when they are in a difficult situation, they convince themselves that it's either their children or their wife that is the cause of this situation, that is responsible for it. Because when violence erupts inside a home, either on the wife or the children, we can't really know the principle cause of it. When you go deeper, you see it's because this person is in impoverished, and most often, people who do [violence] are people whose standard of life is not good. All the people who do violence in the areas I'm telling you about, are people who you see are in extremely difficult situations.

Gina suggested that women who have experienced abuse are also more likely to replicate the violent behaviour:

People who have been abused, abuse when it is their turn. That's how I see it. In general, women who were victims, or who have been, I don't know, sexually abused, or who were themselves *restavèk* children, will have *restavèk* children themselves. You don't give what you don't have. In general, that is what we find. "I was abused, so I abuse, too."

Conclusion

Considering the wider contextual factors of women's lives in Haiti and the various ways in which they suffer disproportionately the effects of violence and poverty, we can begin to identify the roots of the rage manifested towards children in *restavèk* in the slaveholder-en-slaved relationship. The hierarchical structure that allows women to be oppressed by men economically, physically, politically, socially, domestically and with regards to disproportionate role responsibilities, it is little wonder that many women cannot contain their frustration. Neither is it such a leap to suggest

that outlets for that frustrated rage can, and often do, take the form of children in *restavèk*, the invisible social class. Rage has a source, and where economically disadvantaged women living in a hierarchical patriarchy are enraged, we must consider the reasons why the violent slaveholder-enslaved relationship can take on such an aspect. We must also consider the fact that the *restavèk* role transcends domestic labour and takes on a more significant *raison d'être*: that of an outlet for rage and frustration.

The *restavèk* system has a complex history in Haiti, and its identification as 'slavery' is a catalyst for debate on all levels of society, from those directly involved in the system to governmental bodies answering to international treaties. However, it is through the definition of slavery and the *restavèk* system's place within it that the victims of this practice can be exposed and ultimately protected. With these basic terms established, the place of gender and female oppression, as causes and contributors to the exploitative system, can be acknowledged and addressed as preventative and protective measures for a safer society for Haitian children.

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Chapter 7

Strengthening Multi-agency Responses to the Trafficking of Girls in England and Wales



Lindsey Brooks and Craig Paterson

Introduction

The practice of domestic sex trafficking in England was thrown into the media spotlight in the mid-2010s with a series of ‘scandal’s’ in areas such as Rochdale and Rotherham becoming the focus of newspapers and a moral panic across the nation (Meyer, 2015). These ‘scandals’ involved the sexual exploitation and trafficking of girls aged 11–17, around the UK, by perpetrators dubbed ‘grooming gangs’. Both the media and follow-up investigations of these ‘scandals’ criticised the practice of police and social workers failing to meet the needs of the girls, with a significant focus being on attitudes towards victims and offenders, and the absence of a cohesive approach between agencies. The need for a multi-agency approach has been at the forefront of recommendations for practice since Lord Laming’s investigation (2003) after the death of Victoria Climbié in 2000. Since then, multi-agency work has become commonplace in many areas of child protection; however, the response to child trafficking continues to be viewed as not wholly successful (Rigby, Malloch & Hamilton-Smith, 2012). Recent recommendations call for more focus from the UK government and various agencies on children’s rights to protection and care, the inclusion of children’s voices in the process and access to safe psychological and psychical recovery (Hynes et al., 2022). This improved approach to child protection

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requires the synthesis of police and social work in a complex and consistent manner due to the fluid and cyclical nature of the crime.

The challenge can be seen in the UK government mandated reports on failures in Rotherham and Peterborough from Jay (2014) and Davies (2016). Davies evaluated Peterborough's implementation of multi-agency approaches in their investigations of child sexual exploitation (CSE) and found that Peterborough's application of multi-agency approaches improved their investigation and safeguarded children from secondary victimisation. Conversely, Jay found that Rotherham had a poor multi-agency approach and more negative attitudes towards victims, demonstrating the continued relevance of issues highlighted in Laming's report. The trafficking of the women and girls in these location-specific 'scandals' poses problems beyond the already challenging approach to child trafficking in England and Wales. There has been a longstanding problem with negative attitudes towards both the girls involved (victim blaming) and between the agencies themselves that hinders the multi-agency approach. This chapter will argue that the dovetailing of the agencies in the form of joint interviews and physically sharing a workspace means better protection for the child and should be the standard for all investigations of potential child trafficking.

The approach by police and social work across England and Wales to child trafficking faces three key challenges: flexibility, consistency and accountability. Locations have different needs based on factors such as the amount of child trafficking cases they have, but there is little flexibility in the procedures currently implemented. This challenge leads to a fragmented and inconsistent response to child trafficking with each location having its own different structures, meaning trafficking can rarely be tackled on a national level, despite victims being moved across county borders. The absence of accountability means change is difficult to implement as procedures and guidance continue to be implemented inconsistently without sufficient oversight. The chapter argues that despite there being a multitude of human rights and legal instruments designed to protect women and girls from sexual exploitation and trafficking, these recommendations are not yet fully implemented at the local level. The chapter begins with an outline of the relevant legal frameworks that is followed by a brief review of relevant academic literature. The chapter introduces a research study that highlights the potential of joint interviewing by police and social workers before concluding with a discussion about how to improve multi-agency working and the response to child trafficking at the local level.

Legal Framework

The legal framework surrounding the trafficking of young girls is deeply complex with numerous conventions and pieces of legislation from varying sources. This complexity is due to the combination of child protection and modern slavery laws which overlap in the field of child trafficking. Attempts to consolidate and improve the laws have resulted in a confusing outcomes. The Modern Slavery Act (MSA)

(2015) is a good example of this as its aim was to streamline the legislation surrounding trafficking (Craig, 2017); however, evaluations such as the Butler-Sloss et al., MSA report (2019) demonstrate that it does not fully fulfil this purpose. Multiple pieces of legislation with differentiated terminology weaken the international, regional and national guidance, and the underlying result is a lack of consistency and a postcode lottery of responses depending upon location that produces inconsistent results for both the victims and offenders of the crime.

At an international level, the most notable and recognised piece of legislation is the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, more commonly known as the Palermo Protocol (2000). The most accepted definitions of trafficking derive from this protocol due to its comprehensiveness. Article 3a defines trafficking as:

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Beyond this, the protocol states that children do not have to provide evidence of force or coercion, implying that they do not have the capacity to give consent regardless of the situation. This interpretation of the capacity to give consent also implies that a child victim should not be punished for forced criminality, a principle that the MSA later adopted (Unicef, 2017). The definition itself is strong and inclusive (Cockbain & Olver, 2019); however, there has been some criticism that ratified countries abuse the self-reporting system and are not compliant with the protocol rules (Elżbieta, Goździak, & Vogel, 2020), throwing into debate the limitations of strong guidance without proper enforcement.

Other key international instruments include the United Nations Convention on the Rights of the Child (CRC) (1989) and the Committee on the Elimination of Discrimination against Women (CEDAW) (1986). The most recent complete reporting cycles for both indicate a need for strengthening of the National Referral Mechanism (NRM) to improve victim identification, with the CRC adding a focus on ensuring children are not prosecuted for forced criminality due to trafficking. The CRC also calls for updates to the Sexual Offences Act (SOA) (2003) to reflect the definitions outlined in the Optional Protocol on the CRC for the sale of children, child prostitution and child pornography (Committee on the Rights of the Child, 2017). Despite this, the UK has not updated the SOA definitions, nor have they decreased the prosecutions against trafficked children (Ofer, 2019).

In a regional context, the creation of the EU Trafficking Directive in 2011 provided a human rights approach that was victim centric alongside clear and direct guidance in the forms of the 3 Ps: prosecution, protection and prevention. The directive dedicates a section to ensuring children have specific support, assistance and protective measures including a guardianship scheme to help children through the aftercare process and to provide them with an advocate (Weatherburn & Mellon, 2019). Scotland and Northern Ireland have successfully implemented advocate

systems (Scottish Government, [n.d.](#); Kohli et al., [2014](#)); however, England and Wales are yet to roll out a national scheme, as initial pilots have identified major issues, which will be explored further when discussing the Butler-Sloss MSA review. These issues have delayed implementation across the country, and although trials are ongoing (The Home Office, [2018](#)), this means there are still many children without access to this service, further adding to the ‘postcode lottery’ at the local level.

The issue of interpretation throughout the legal framework continues into national and domestic law. In the UK, England and Wales, Scotland and Northern Ireland have different acts containing different clauses and interpretations of the definitions set out in regional and international law, mostly in recognition of different legal architectures. For example, the MSA equivalents in Scotland and Northern Ireland are the Human Trafficking and Exploitation Act (2015) and the Human Trafficking and Exploitation Act (Criminal Justice and Support for Victims) (2015), respectively.

In England and Wales, the definition of child trafficking and the need for child protection can be drawn from multiple acts, including the MSA and the Children Act 2004. The latter is an update of the 1989 Act and reflects the need for a stronger multi-agency approach that was recognised after the death of Victoria Climbié. The 1989 Act, however, is still heavily in use today because of its introduction to section 47’s and other measures. There are also contributions from the Sexual Offences Act, the Asylum and Immigration Act 2004 and section 55 of the Borders Citizenship and Immigration Act of 2009. These pieces of legislation were formed before the creation of the MSA and thus contain outdated legislation and terminology which further complicates matters. An example of this is the Sexual Offences Act (SOA) still requiring evidence of induction into trafficking of a child victim, despite that undermining the Palermo Protocol (Bokhari, [2008](#)). The concluding observations from the most recent CRC reporting cycle called for updates to the SOA to reflect international legislation such as the Palermo Protocol and CRC Optional Protocols.

The drive of the MSA was to create cohesive law, making it easier to prosecute and punish offenders and fulfil the requirements of human rights instruments. Thus, it is heavily offender focused and looks primarily at punishment and prosecution. The reported prosecution numbers from the Home Office are slowly increasing with 466 offenders prosecuted for trafficking offences in 2021 which is an increase from 267 in 2020 (Office to Monitor and Combat Trafficking in Persons, [2022](#)) and only 98 in 2018 (Home Office, [2019](#)). The courts convicted 332 people of trafficking offences in 2021, yet these figures remain comparatively small compared to the 12,727 potential trafficking victims that were referred into the NRM in 2021. Despite these incremental successes, prosecutions represent just one strand of the response to modern slavery, and there is a need for continued strengthening of preventive measures.

The MSA was hailed as a leading piece of legislation as it was the first to coin the term ‘modern slavery’ as opposed to forced labour or human trafficking (Broad & Turnbull, [2019](#)). The legislation also introduced multiple anti-slavery measures such as the Anti-Slavery Commissioner and the Independent Child Trafficking Advocacy (ICTA) scheme, both of which were mentioned in a review of the MSA

by Butler-Sloss et al. (2019). In terms of the ICTA scheme, the 2015 review argued that the scheme needed refinement with the duration of ICTAs needing to be extended beyond 18 months in some cases with more complex needs. Part of this refinement involved the re-categorisation of advocates as Independent Child Trafficking Guardians who, in a subsequent evaluation on pilots running from 2017 to 2019, were deemed to be a sufficient success to lead to a further roll-out to one third of local authorities in 2021.

Current anti-trafficking efforts continue to be hampered by immigration and asylum policies (Hynes, 2015) that envisage and imagine all trafficking victims as individuals coming to the UK from a different country. This contradictory policy agenda puts victims of trafficking at risk of similar structural harms to migrants and asylum seekers. Public discussions about the NRM also continue to be linked to immigration in cases where the victims have arrived from overseas or do not have legal residence status in the UK (Rigby & Malloch, 2020). NRM figures for the first quarter of 2022 state that UK nationals are the most commonly referred nationality and 79% (767) of those referrals are children (Home Office, 2020), further emphasising the displaced impact of hostile immigration policy upon vulnerable child victims of trafficking in England and Wales. This challenge highlights the need for a strengthened NRM that can work for young female nationals who are being trafficked domestically. There has been continued criticism of the absence of a child-centred approach within the MSA which embodies a criminal justice focus and neglects the experiences of young people who have experienced trafficking (Gearon, 2019), in direct contravention of the CRC which encourages the facilitation of child-centred structures. This data illustrates how modern slavery needs to be understood as a child rights issue within England and Wales as much as an internationally focused human trafficking problem.

Academic Perspective

The roots of multi-agency approaches and joint interviewing of child trafficking victims stem from 20 years of literature, case studies and evaluations that have influenced policy in child protection. In 2003, Lord Laming published a report investigating the circumstances of the death of Victoria Climbié that called for greater protection of girls and a focus on multi-agency approaches to increase the standard of investigations of criminal offences committed against children that would match that of adults. There was a subsequent increase in the volume of academic literature in this area that focused on recommendations for improvement of resources, communication, training and referrals (Reder & Duncan, 2004). The literature found issues with police and social workers relationships and a problematic conceptualisation of child protection work as feminine (Garrett, 2004). Furthermore, and as echoed in Victoria's case, ethnicity played a key role in decisions that impacted upon children's protection (Rustin, 2005). These concerns eventually led to the creation of the principle 'Every Child Matters' (HM Treasury, 2003; Parton, 2006) and

the reformation and passing of a new Children's Act (2004) which aimed to improve children's services and associated accountability mechanisms.

A consistent problem that appears in the literature is that of attitudes. These attitudinal issues can be split into two categories: the attitudes of professionals towards each other (and therefore multi-agency approaches) and their attitudes towards victims. Garrett's (2004) insights on childcare being viewed as feminine work explained why police officers often adopted negative attitudes towards this core part of the police role and function as well as the social workers who undertook it. Garrett also suggested that police dominated these investigations and were frequently dismissive of other authorities leading to further challenges for multi-agency working. This cultural challenge impacts the authorities' views of multi-agency approaches, thus generating a difficult environment for collaboration. Furthermore, Westwood (2012) found that police do not find social workers' assessments of children credible due to the difference in how they define risk and harm. Similarly, McCarthy's (2013) research echoes the view of the protection of children as feminised and not looked upon favourably due to the traditionally masculine culture of policing (Lennie et al., 2020).

A further challenge has been the approach authorities take towards the children as individuals. Child trafficking was historically viewed as a 'moral panic' (Cree et al., 2014) which may explain authorities' poor attitudes towards the victims. Halter (2010) looked at police attitudes towards children who were being investigated for prostitution and found that police frequently viewed them as troublemakers and criminals as opposed to victims. Reinforcing this viewpoint, Lavoie et al. (2019) found that police officers have difficulty switching their view from offender to victim when interviewing child sex trafficking victims. This challenge was echoed in Rotherham when Jay (2014) found police would often ignore victim's testimonies and in some circumstances charged them with antisocial behaviour offences, despite there being evidence of exploitation occurring. These cultural issues highlight the continuing challenge of preventing the prosecution of victims of trafficking and forced criminality and highlight the difficulty of providing a legal resolution to an attitudinal issue.

In order for the UK to deliver on the 'world leading' aspirations of its legislation, agencies need to be held accountable for consistent and fair policy implementation (Mantouvalou, 2018). Both legislation and literature highlight continued challenges in implementing good practice that highlight a need to identify and share best practice, hence the main focus of this study.

Methodology

This research used a mixed methodological approach, beginning with a quantitative Freedom of Information request (FOI) followed by qualitative semi-structured phone interviews. The rationale for this complementary approach (Greene, 2007) comes from aiming to understand the topic more comprehensively and allowing the

FOIs to provide background for the interviews and therefore influence the questions asked. This process also allows for a comparison between individual experiences and the government's position, which highlights contradictions in the data that would not have been spotted had only one method been used (Grafton et al., 2011).

The FOI responses were obtained using a purposive sample of the agencies who held the information, resulting in 361 requests being sent out. This approach allowed for a snowballing method of acquiring participants for the interviews, using a follow-up email to councils/police forces who provided further information, such as a high number of joint interviews or a shared case management system. The interview sample included five social workers and four police officers with relevant experience and seniority. The fundamental aims of the questions were to look at the use of joint investigation teams in child trafficking cases as a facilitator of multi-agency working, including physical co-location as well as the use of shared databases.

A draft of the FOI request was created and refined, with similar questions but minor changes in language to suit the agencies. The police were also asked an additional question about the location of the joint interviews. Contact information was downloaded from a website dedicated to providing FOI details (FOI Directory, 2012) and cross-referenced with a map to ensure all areas were covered.

The interviews were undertaken in a semi-structured manner to build rapport and to generate a better understanding of individual experiences. Given the extenuating circumstances of COVID-19, they occurred over the phone or video chat software. The interviews were transcribed and then analysed in NVivo, before being coded into different themes and concepts. These concepts were then collated into 14 mind maps including the findings from the FOIs and wider reading to form comprehensive and integrated data on the research topic. Due to the response rates, complex analysis of the FOIs was problematic as it was difficult to find significant correlations with the little data provided. Instead, descriptive analysis was done by looking at ranges, modes and frequency tables and using the absence of data as a significant finding in itself.

Findings

Quantitative Data

Response Rate

In terms of authorities who provided more than an automated reply, of the 321 contacted, 172 (54%) provided a usable response to at least one of the questions. Of the ones that did not, 108 referred to another service, 101 of those being local councils referring to county councils as they did not hold the information. When authorities who could not provide the information were discounted, the response rate increased from 54% to 83%.

Number of Joint Investigation Teams (JIT)

When looking at the response of how many joint interviews (otherwise called a JIT) were conducted by police and social workers over a period of 2 years, 12% did not answer, and 34% referred to Section 12 or 17 of the Freedom of Information Act 2000 as a reason for not responding, showing the information is not readily recorded and easy to retrieve. The remaining 54% gave responses ranging from 0 to 93 with 0 being the mode at 27% of the 172 responding authorities' answers.

Without accessing the data about how many trafficked children there are in each area, it cannot be said how many cases of joint investigation there should be. What can be stated is that the response to this research indicates that many relevant authorities did not have the resources or information to provide a response. This finding highlights a lack of accountability in the current approach, as no child should be undergoing interviews without an element of child protection in place; therefore, there should be a record of this happening. There are discrepancies in accounts from police and local councils as there are multiple examples where figures from the same area do not match. This varies from small scale differences such as Cleveland and Redcar Council reporting two cases and Cleveland Constabulary reporting zero to more significant inconsistencies such as Kent County Council reporting 66 and Kent Police reporting zero. This response further enforces the viewpoint that recording these figures is a problem, to the point where agencies in a similar location do not record in the same manner.

Use of co-location					
		Frequency	Percent	Valid percent	Cumulative percent
Valid	Yes	89	51.7	51.7	51.7
	No	60	34.9	34.9	86.6
	Sort of	8	4.7	4.7	91.3
	Not yet	4	2.3	2.3	93.6
	N/A	11	6.4	6.4	100.0
	Total	172	100.0	100.0	

Of the authorities and police who responded, 51.7% stated they used co-location. A small number stated they had plans to implement this that were disrupted by COVID-19, and a further eight stated they had a form of co-location but did not further expand upon this. Some local authorities considered the idea of a Multi-Agency Safeguarding Hub (MASH) as co-location which is acceptable if the MASH handles children who have been trafficked. There was not a strong correlation between co-location and increased usage of joint interviewing; however, as the figures given for numbers of joint interviews are suspected to not be accurate, it is unfair to draw the conclusion that there is no relationship between the two areas.

Use of shared database		Frequency	Percent	Valid percent	Cumulative percent
Valid	Yes	7	4.1	4.1	4.1
	No	111	64.5	64.5	68.6
	Limited police access	11	6.4	6.4	75.0
	Limited joint access	2	1.2	1.2	76.2
	N/A	41	23.8	23.8	100.0
	Total	172	100.0	100.0	

The majority of responses (64.5%) indicated no shared database was present with the second highest percentage representing those who did not answer. An unexpected detail revealed by some responses was that systems were more likely to involve police having (limited) access to social care than equal access open to both agencies. This echoes the theme of police dominance in these investigations and an unequal balance of access to information.

Qualitative Data

Attitudes and Relationships

Social workers' views of police fit with the trends in literature in that they see police officers as dominating and taking control of multi-agency practice. Police on the other hand offered more varied accounts. P2, a police officer, did not understand the role of social workers and mentioned that they are 'much more useful as an appropriate adult than a second interviewer'; however, P7 and P8, also police officers, were emphatic about the role of social workers being to protect the child and were positive about the multi-agency approach. P5, a social worker, noted this variety in perspectives and stated that the role of the social worker depended on the attitude of the specific police officer involved, implying that this is more of a personality issue and that it may depend on circumstance.

When participants discussed the relationships between the agencies, respect and understanding were the two key themes. Four of the participants stated that being physically located together was the best way to build relationships and that having positive relationships benefits both the professionals and the child as it creates a 'united front' (P5) and fosters respect. P3 stated that the respect from those relationships helps settle disagreements which ultimately leads to a more joined-up decision-making process. Multiple participants believed that having good relationships gave insight into the challenges other agencies face and how they resolved them and, again, lead to disagreements being solved.

Case Management and Information Sharing

Good information sharing was recognized as important by two participants; however, all participants had different information sharing systems, with only one using a shared database.

P2 said police are 'better set up' for holding information; therefore, they often control the database. This viewpoint was supported by P5 who stated that whoever has the information tends to create the questions, and this is normally the police. There were contradictions from participants as P3 and P8 believed a shared database would be impossible to achieve; however, P5 and P6 used one on a daily basis. P7 and P9 recounted poor experiences when trying to set up an information sharing system due to a lack of participation from the 'opposing' authorities. This indicates that there is more than a practical barrier to information sharing, but a cultural element too.

Co-location

Participants were asked about the advantages and disadvantages of co-location, given that they were all co-located with the other services to some extent. Co-location was thought to create a more positive environment (P1) and better working relationships (P2) between the authorities, as well as reducing silo working. This leads to more respectful and informed decision-making (P4) and allows the authorities to understand the challenges of each profession (P5). Co-location has practical benefits such as quicker information sharing (P5) which allows for better risk assessment as it brings together perspectives from each agency (P2, P4 and P7). Co-location also enables a better understanding of terminologies (P2) which creates a noticeable impact in authorities who work in the shared location compared to those that do not. P4 stated that police who were not co-located used language such as 'illegal immigrants' and 'clandestine' as opposed to co-located officers using more neutral terms such as 'children' and 'young people'.

There were some disadvantages listed; however, most participants could not think of any. P1 suggested that co-location leads to shortcuts being taken in processes as relationships build whilst acknowledging this saves resources and time. P3 openly stated a dislike for co-location stating it can cloud professional identity and cause issues with value bases. P3 also stated that co-location prevents knowledge being shared across the agency and promotes a culture of specialised teams which can prevent everyone else being aware of the identifying signs of trafficking and how to help.

There was also criticism of full-time co-location as P2 noted it did not allow the agencies time to align case work with organisational priorities. P5 mentioned that real-world events can have more impact when agencies are co-located, citing the Black Lives Matter movement as an example as this generates tension during conversations in the office.

Decision-Making

Decision-making was identified as a critical issue throughout the interviews. P3 was keen to emphasise the importance of ‘owning’ decision-making and taking accountability for it, and P4 pointed out that decision-making leads into risk assessment; therefore, it is important to undertake it correctly. There was little evidence that suggested that social workers take the lead in decision-making aside from running some strategy or section 47 meetings. In terms of determining questions and deciding the route of care, P2, P4 and P5 stated it was predominantly the police who made this decision. There seemed to be frustration with these circumstances as P3 and P4 indicated dissatisfaction with the police ‘not filling in forms properly’ and directing proceedings based upon prosecution aims rather than child protection.

Issues with Multi-agency Work

Multiple issues were mentioned when it came to multi-agency work; however, few of them were shared by all of the participants, indicating these may be minor problems. Issues concerning confusion about language and terminology between agencies which are prevalent in the literature are inconsistent in this research. Fifty percent of participants claimed terminology was regularly debated, and 50% reported that it was not an issue for their team. Labelling of victims is another issue that is highlighted in the literature, but it divided participants in this research. P7 noted that sometimes police have to view a child as a criminal and therefore arrest them to prevent harm to others, for example, by recruitment of other children, even though they are a victim themselves. P4 stated that whilst labelling is not an issue for their team, they believe it would be challenging if the victims were adults, thus implying that it is the protected characteristic of a child that prevents them being seen as an offender rather than the identification of exploitation and/or forced criminality.

Joint Interviews

Some participants stated that making the decision to conduct a joint interview was not easy because occasionally it included older teenagers who refused to participate in interviews with certain agencies present. P2 recalled a young girl who did not want social work present, and P8 stated that social workers sometimes achieve more when police are not present as children can have a negative reaction to them. This issue was cited as the main disadvantage of joint interviews when it contravenes the child’s wishes. Despite this, the advantages were understood by professionals to outweigh the disadvantages, including the benefit for the child of having two professionals focused on their welfare (P1) and both agencies being immediately provided with information so they can conduct better risk assessments (P4). There is also the combination of welfare and law enforcement aspects being accounted for in a single

interview so the child does not have to recount events multiple times (P3) and can avoid the interview being solely focused on the criminality, which can be distressing for victims (P5).

Priorities

The concept of priorities was primarily generated from police accounts, but it links to other areas such as professional disagreements, roles and aims in interviews and barriers to multi-agency working. Most participants seemed clear about the different priorities of the agencies; social care focuses on child welfare and police focus on law enforcement. This is expected given the clearly differentiated roles in these teams; however, it is important to note that this is something that is seen as a barrier to multi-agency work as there are multiple disagreements about the appropriate path for the investigation. P4 and P5 both mentioned that because the police hold the balance of power, their priorities are more likely to influence decision-making; however, P2 claimed that social workers' priorities can sometimes impede police investigations as they slow the process down.

Discussion

Developing a full understanding of the response to child trafficking in England and Wales is difficult due to the absence of consistent reporting and recording mechanisms across the country. The FOIs indicate that agencies appear to use different methods of recording information at the regional level, and this generates a diversity of findings, meaning the overall national picture of child trafficking looks fragmented and inconsistent and undermines accountability. The implementation of joint interviews appears to be disjointed with some authorities using them regularly and others not at all. This is despite the benefits being recognised by both frontline workers and legislation under section 47 of the Children's Act (1989). The number of children trafficked over the time period investigated in this research according to the NRM was over 6000 (The Home Office, 2020), yet the FOI responses show that, at most, 582 joint interviews took place, not accounting for areas where both councils and police responded. It is unlikely that the 142 authorities who did not respond are responsible for the unaccounted 5500 victims experiencing a joint interview, and it should be noted that this only represents those who are officially recorded as being victims of trafficking. As the Jay report highlighted, identification of trafficked girls by the agencies was poor, and the recommendations from CRC and CEDAW imply this has not significantly improved with the introduction of the NRM.

Participants in this research listed multiple reasons why joint interviews are positive for both the child and the professionals and should form an integral part of the investigative process for a child who has been trafficked. The findings provide some reasons for the low numbers of joint interviews with a combination of resources,

cultural clashes and poor training being cited as key challenges. One significant barrier is a child refusing a joint interview. Some participants stated that it is more important to conduct a single-agency interview where a child will be comfortable and provide information which could safeguard others than to follow set rules. There are exceptions to this, for example, younger children always having social services present and older teenagers being given more control over their experience. There were multiple reports from participants that children have a distrust of authority due to grooming from traffickers which is consistent with findings from the literature (Bokhari, 2008) and can result in a police presence having a negative impact. The findings show this also happens with social services although it is admittedly rare. Participants cited the important role of the voice of the child during this process and the need for the child to be at the centre of this process. Accounts of the women involved in critical case reviews have identified the impact upon them of feeling like they were not being listened to when they were victimised as children. Having both professionals present enhances support for victims of child trafficking and ensures the needs of both authorities are represented at the interview.

Police dominance of proceedings has been repeatedly raised by participants as a critical issue and has historically been a boundary to effective multi-agency work (Holdaway, 1986). By seeing the police as the intelligence gatherers and central knowledge base, this leads to police officers making the majority of investigative decisions and shaping the interview questions. As the findings demonstrate, there is not always a full understanding of social workers' roles in the investigation which compounds the dominance police can exert as they decide the role of the social worker, despite evidence suggesting social workers could be the lead agency that assesses the problem and plans the investigation (Rigby & Whyte, 2015). A multi-agency approach ensures the child gets the benefits of both agency's expertise and a balance of input from law enforcement and welfare perspectives.

Police hold the greater amount of power in this relationship as they are most commonly the gatekeepers to both criminal justice and potential support. Therefore, police officers often make the initial decisions about the child, and these decisions have a significant impact on the child, from choosing to arrest them to filling out referral forms correctly for other agencies. One participant claimed police sometimes fail to fill out the child protection forms correctly which means a lack of information for child services. This shows how important data sharing and accountability is for a child's protection and well-being. Consistent and reliable accountability systems and procedures are required to monitor effective implementation of law and policy. Delivering effective multi-agency services relies on a cultural shift that encourages shared data and organisational objectives to help build trust across organisational boundaries. There is evidence to suggest that police have already been initiating this change to prevent their focus on enforcement being seen as a direct opposition to social care's welfare focus. The College of Policing has advocated for a victim-focused approach to investigations (Birdsall et al., 2017) and encouraged police and other agencies to be more collaborative. Change is thus being delivered, but it is happening slowly and inconsistently which explains the

differences in how police and social work utilise the mandate to deliver services through multi-agency working.

Issues with single-agency dominance tie into problems with priorities; however, this extends beyond social work and police as CPS, the Home Office and Immigration also have priorities that can interfere with investigations and outcomes. A good example of this is the inappropriate focus on immigration and the absence of a victim-centred approach with the NRM (ECPAT UK, 2017) as this deters a focus from UK nationals who are being trafficked and who constitute 79% of the trafficked children reported (Home Office, 2022).

Participants reported consistent arguments over priorities, with many stating this occurs daily. Agencies who hold the power may take precedence over others, further impacting the 'joint' element of a multi-agency approach. Having agencies collaborate means having more methods of achieving child protection. Exploring and combining these methods can yield better results for the child as both welfare and police perspectives are considered. Frost et al. (2005) claim joined-up decision-making does not require abolishing differences; instead, it means working around them. To foster fairer discussion, there needs to be respect between the agencies and an understanding of each others' roles, as participants agreed this makes the decision-making process easier. This kind of respect and understanding can be facilitated through methods such as co-location.

This research echoes conclusions from the literature that co-location in many different forms can improve practical issues such as efficiency and better joined-up decision-making (Shorrocks et al., 2019), but participants also discussed the social effects which are less documented in academic literature. These social effects include morale boosts and better relationship cultivation between the agencies. Participants noted how co-location created stronger relationships between the agencies and an improved understanding of each other's roles. Co-location allows for greater resource pooling and consequently more investigations, as the police gain indirect access to children who do not always want to speak to a police officer due to fear, mistrust and concerns about being labelled a 'snitch' (Clayman & Skinns, 2012). The willingness and practical ability of social services to share these connections are enhanced by having a stronger relationship with police.

A potential problem with specialist multi-agency teams is the loss of professional identity as members of different authorities become confused about their role and how they define themselves in a team made up of multiple vocations. The literature suggests this can be an issue in other areas of multi-agency working such as education (Day, 2018) where challenges are presented to professional identity and the potential loss of a professional value base. It is rarely acknowledged that multi-agency working requires preparation and resources to build upon distinct professional identities and to develop a mutually acceptable approach of working with others (Souhami, 2019). The evidence from this study demonstrates that professionals internalise their values as they fulfil their priorities and a small shift in professional identity may break down barriers between the agencies and support the creation of a unified environment which should ultimately lead to better joined-up decision-making. If identity becomes a serious cause for concern, partial

co-location may provide individuals with the opportunity to interact with their role outside of the team and thus reaffirm their values.

The case management and information sharing systems are one of the most significant areas that require change. As traffickers utilise an agile business model and advanced technologies to facilitate this ever-evolving crime, those who are aiming to prevent it need to do the same, starting with communicating information about cases on a shared platform with equal access for all parties. The FOIs showed that most areas do not share a system and, of those that do, the majority give police limited access to social workers information. This unidirectional sharing feeds the power imbalance between the two agencies as police can access social work information, yet social workers are not granted the same concession. Co-location helps address this imbalance and addresses the inefficiencies that cumbersome manual sharing can generate. Although many areas mentioned 'information sharing agreements' in the FOIs, this still relies on efficient human communication to provide results which has been raised as problematic in previous cases where protocols were ignored and information sharing was poor (Jay, 2014).

Both the FOIs and interviews revealed that shared databases exist in England and Wales although there is no explanation for the inconsistency of this provision. Those who use shared databases claim it is quicker to share information and easy to implement. Participants' accounts of attempts to set up shared databases cited an absence of engagement from agencies as a key concern and a need for cultural change to support implementation. As traffickers utilise technology to enhance their reach and efficiency, it is necessary for those tasked with the response to these crimes to have fast and accurate information sharing available that aids authorities in investigations, reduces the burden on professionals and decreases the likelihood of missed information. Technology can help transform professional practice and facilitate the collaboration that is needed to improve understanding of trafficking and to simultaneously enhance the capacity for investigations and information sharing.

Conclusion

Despite the attention that the domestic trafficking of young women and girls received 10 years ago, the changes needed to protect them appear to have not been implemented fully. This research has found that there are significant opportunities to improve multi-agency approaches in physical, digital and attitudinal ways. Responses to the trafficking of girls remain inconsistent across the country with little national-level visibility and accountability of local practices and the drive towards a child-centred approach to protection. This chapter has focused on one small aspect of this issue and has identified key areas for development within existing legislation and policy to enhance the potential to prevent trafficking and reduce the harms it produces.

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Part III
Gender-Based Violence: Perspectives on
Domestic Violence

Chapter 8

Female Victims of Gendered Violence, Their Human Rights and the Innovative Use of Data Technology to Predict, Prevent and Pursue Harms



Jamie Grace

Introduction

Domestic violence is a significant problem for the criminal justice system, a human rights concern of the utmost seriousness and an abusive type of behaviour which is difficult to deter and complex to prosecute and prevent. Statistical data on the recent picture on domestic violence in England and Wales is shocking, as is the picture of the disparity between levels of abuse and the numbers of eventually prosecuted cases. 1.7 million women are estimated to have suffered domestic abuse in England and Wales in the year to March 2022, for example; and in the same period, there were 910,980 police-recorded domestic abuse crimes (Office for National Statistics, 2022a) – but this led to only 53,207 cases where charges were brought by the Crown Prosecution Service (CPS) (Office for National Statistics, 2022b). Evidence demonstrates that the *most serious* violence perpetrated in the context of intimate partner relationships is routinely and disproportionately perpetrated against women rather than against men and is perpetrated disproportionately by men and not women. We also know that despite this ‘justice gap’ in terms of offences (not) brought to justice when it comes to domestic abuse, the judicial approach, in the UK human rights law system, classifies more serious harms arising from sexual violence or other abuse as inhuman or degrading treatment. This means that despite a deeply worrying shortfall in offences brought to justice concerning domestic abuse, the state is obliged to make practicable efforts to prevent such abuse through, for example, operational policing, and the handling of criminal investigations by the bodies comprising the criminal justice system.

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Critics have argued that a range of factors have led to a trend towards the effective ‘decriminalisation’ of rape, through increasingly poor responses to resource pressures that shift the bar upwards for proper pursuit and prosecution of serious sexual and violent offending against women, in a ‘bookmaker’s approach’ to weed out less straightforward indictments (Green, 2019). Resource pressures on the Crown Prosecution Service and the criminal courts alike have seen prosecutions for domestic abuse, including for domestic abuse-flagged rape offences, fall rapidly in recent years (see the table below). It is equally alarming to learn of a police force like Greater Manchester Police being found by a regulatory inspectorate to have missed opportunities to record, and therefore properly investigate and deal with, in a single year, thousands of domestic violence-related offences against women (HMICFRS, 2020). We are certainly only working with a partially reliable picture, at a granular and detailed level, of the total pattern of violence against women in any region or local community.

Year to 31st March	All CPS domestic abuse prosecutions E and W	% change year on year	Domestic abuse-flagged rape prosecutions, E and W	% change year on year
2017	97,497	/	959	/
2018	91,129	-6.53	908	-5.32
2019	81,035	-11.08	542	-40.31
2020	61,169	-24.52	335	-38.19

Sources: Crown Prosecution Service (n.d.), CPS Data Summary Quarter 4, 2019–2020 (n.d.)

And yet, the ability to generate insights and new ways of working, through the application of data science-led approaches to shaping the police, hold great promise, despite a number of misgivings about the use of data analytics in the public services setting. This chapter argues that there are human rights law duties to explore this potential, however, and to explore it sooner. This position, of being in favour of data-driven policing, raises objections around the bias, inaccuracy and staleness of police-recorded intelligence and information, and the extent to which a picture of the risk an offender poses, for example, can be said to be fully represented, mapped or recorded in data held by even a network of criminal justice agencies.

Particular questions are raised by existing scholarship in this multidisciplinary tangle of problems: What is the extent to which law enforcement agencies should be self-aware about the masses of data about victims and offenders that they control (Bland, 2020)? Should there be a more developed culture of policing work using data-driven ‘machine learning’ approaches to deal with victim ‘vulnerability’ as opposed to risks posed by offenders? And are there biases, and a ‘fragmentation of knowledge’ (Black, 2001), which reduce the efficacy of predictive algorithms in the artificial intelligence context, possibly worsened by the ‘black box’ problem with some ‘artificial intelligence’ tech, which render data-driven policing unethical, and even unlawful? (Black & Murray, 2019).

Human Rights Duties in the ECHR and the Possible Role of Data-Driven Technology?

There are positive obligations under the ECHR that take the form of duties to prevent varying degrees of harm arising from domestic violence, along with varying levels of obligation on state bodies as shown through those duties, under, chiefly, Articles 2, 3 and 8 ECHR. With respect to Article 2 ECHR and the right to life, the European Court of Human Rights determined in the case of *Osman v UK* (1998) (87/1997/871/1083) at 116 that ‘...where there is an allegation that the authorities have violated their positive obligation to protect the right to life in the context of their [duty] to prevent and suppress offences against the person... [to show a violation of Article 2 ECHR] it must be established... that the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual or individuals from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk’. Additionally, in the case of non-fatal offences, in *Opuz v Turkey* (2009) 33401/02 at 161–162, the Strasbourg Court found that if the harm caused by domestic abuse and/or partner abuse was sufficiently serious as to engage obligations under the right to freedom from inhuman or degrading treatment, ‘...the Court must next determine whether the national authorities have taken all reasonable measures to prevent the recurrence of violent attacks against the applicant’s physical integrity...’ in determining whether there was a breach of Article 3 ECHR. To supplement this, there is also a positive obligation to victims of domestic violence in cases where the harm caused falls short of the Article 3 ECHR threshold of seriousness – and in *A v Croatia* (2010) 55164/08 at 60, the European Court of Human Rights explained that ‘Under Article 8 States have a duty to protect the physical and moral integrity of an individual from other persons. To that end they are to maintain and apply in practice an adequate legal framework affording protection against acts of violence by private individuals...’. This chapter takes the approach that data-driven technology in policing contexts can help meet these human rights duties to victims of domestic abuse.

In the important case of *Talpis v Italy* (2017) (41,237/14), the Strasbourg Court acknowledged that police interventions to monitor, deter and prevent harms perpetrated by a violent partner, who will typically be male, should be an emphasis on protecting the rights of potential victims over perpetrators’ rights. The court observed [at 123] that ‘...perpetrators’ rights cannot supersede victims’ human rights to life and to physical and psychological integrity... the State has a positive obligation to take preventive operational measures to protect an individual whose life is at risk’.

In the UK Supreme Court, in the landmark case of *Commissioner of Police of the Metropolis v DSD and another* [2018] UKSC 11, the operational duty under the positive obligation stemming from Article 3 ECHR has been found to create a rule in UK human rights law, meaning that ‘conspicuous or substantial’ or ‘egregious and significant’ errors in the police handling of a domestic violence case or sexual

offences case will lead to an operational breach of Article 3 ECHR, notwithstanding structural ECHR compliance through the provision of legal powers to tackle the abuse of (mainly) women. The rule as to operational duty to avoid ‘egregious errors’ in case handling, arising from DSD as determined in the UK Supreme Court, goes beyond Strasbourg jurisprudence on operational duties on the police and is a result of a majority of the Supreme Court in the case (*Kerr, Hale, and Neuberger LLJ*) determining [at 78] that there is a duty under section 6 of the Human Rights Act 1998 to uphold Convention rights as they must apply in the UK context specifically – not merely in accordance with supranational guidance from the European Court of Human Rights. This shift, confirmed in *DSD* in the Supreme Court in 2018, is a welcome move from the senior judiciary of the UK and is a subtle but important nudge towards better scrutiny in the courts in terms of possible police shortcomings in cases where the most serious abuse is allowed to continue without proper criminal justice intervention. Lord Kerr [at 29] wrote that ‘... errors in investigation, to give rise to a breach of article 3, must be egregious and significant’. Better use of data-driven technology in policing of domestic abuse might avoid more risk assessments and deployments of policing investigative resources that might contain ‘egregious and significant’ errors.

In the High Court stage in the *DSD* litigation, Green J in *R (DSD) v Metropolitan Police* [2014] 436 (QB) held that discerning a breach of Article 3 was a matter of looking at the criminal justice system’s handling of an offender in relation to a victim who had suffered serious harm. As Green J explained [at 218]:

... whether a breach has occurred is measured by viewing the conduct of the police over a relevant time frame. Ordinarily, this will be measured by the time span from the assault on the Claimant to the last point in the criminal process (which might be a case closure or a conviction in a criminal court...)... There is, however, no reason why it cannot span the police investigation from the first point in time that evidence comes to police attention of a person’s offending until the last point in the process. This will be particularly relevant in the case of a serial offender whose violent criminality might long pre-date the point in time that a particular victim is attacked.

And [at 220], in the sense that to comply with Article 3 a police investigation must be efficient and reasonable in order to be effective:

... the assessment of the efficiency, and, reasonableness of an investigation also takes into account whether the offender was adequately prosecuted. In this respect, a successful prosecution within a reasonable period of time will render prior operational failures irrelevant (non-justiciable). However a prosecution that is brought after an unreasonable point of time does not in and of itself expunge the legal effect of prior operational failures...

So, in short, *DSD* means that the police must be proactive in pursuing serial offenders displaying violent criminality in their behaviour if they are to meet their Article 3 ECHR obligations, and this is a consideration that is to some degree disconnected from the question as to whether a conviction is eventually arrived at. The question that arises, in the context of growth in the sophistication of machine learning informed policing, is whether data-driven tech can help police forces meet their Article 3 ECHR investigative duties in particular, following *DSD*, as well as their wider obligations under Articles 2 and 8 ECHR in addition.

Relevant Types of Data-Driven Approaches Used in Policing

Data-driven technology can be split into two main groups – those used as explanatory models or dashboards, i.e. ‘what has been going on, where and why?’ and predictive models or dashboards that risk score individuals as perpetrators or victims (or both) or that try and predict the location and patterns of offending geospatially, i.e. ‘what will be going on where?’. An example of explanatory approaches is the way that the West Midlands Police (WMP) Data Analytics Lab (DAL) have been using complex statistical analysis to determine the relationship between different factors that affect or lead to an outcome of no further action against suspected rapists and/or domestic abuse perpetrators, with the aim of the project being the more targeted use of police investigative resources and the improvement of officer training (West Midlands Police and Crime Commissioner, *n.d.*). An example of the risk scoring or predictive approach is the ‘RFG’-based model used to guide interventions in policing known to domestic violence offenders, as used by Northumbria Police, discussed in research by Pamela Davies and Paul Biddle (Davies & Biddle, 2018). (‘RFG’ refers to a model based on the ‘recency-frequency-gravity’ profiles of data subjects’ criminal histories – i.e. the tool uses data about how recent domestic violence offending has been by a perpetrator, the frequency with which it has been reported and the gravity of the reported offences.) Davies and Biddle (2018) have researched how a machine learning tool can be used to try to risk score and predict a small number of the most serious future offenders, based on the amalgamated data of many offenders who perpetrate domestic violence in the force area. The police can then coordinate the proactive monitoring and support, or enforcement, against the riskiest handful of offenders on a rolling basis, working within the resources available in the most preventive way possible, that is to say, in a manner informed by a certain data science approach.

Davies and Biddle write of the FRG tool-informed approach that:

It identifies and targets repeat domestic violence perpetrators using a scoring mechanism that identifies the recency, frequency and gravity of offending. Based on a range of specific and weighted criteria (e.g. previous offences, number of victims, interpersonal relationships, health issues and substance misuse) the RFG scores each perpetrator from 0–100 (100 being the most harmful). The top-four highest scoring perpetrators identified are selected for discussion at each [multi-agency] area meeting... (Davies & Biddle, 2018: 474–475)

Davies and Biddle conclude of the RFG tool, used in Northumbria and which draws on police intelligence and wider sources of information, that:

The refinement, use and effectiveness of the RFG relies not only upon information already available to the police, but also, crucially, on information from MATAC partners about perpetrators and victims. The model targets individuals whose profile resembles that of a domestic violence perpetrator. It facilitates a focus on the coercive and harmful activities of serial perpetrators who are not yet [more formally] monitored for their violent inter-personal behaviour... An important outcome of the [multi-agency approach] therefore has been the shift towards prevention and early intervention via a multi-agency focus on perpetrators not previously known to police as presenting a significant risk to women. (Davies & Biddle, 2018: 481)

In addition to the Northumbrian RFG tool-related study by Davies and Biddle, researchers at the LSE have recently produced evidence showing that the application of machine learning to information about offenders' and victims' criminal histories as 'dyads' has great potential for predicting the risk of harm of domestic abuse of victims (Grogger et al., 2021). However, in terms of policing and the management of risk to public protection, it is clearly preferable that algorithms should augment police investigative discretion, not replace it. Algorithmically, *automated* decision-making raises a number of public law-related concerns; but on a practical basis, it would stifle the use of professional expertise and experience in keeping victims safer. As Robinson and Clancy (2021: 692) explain in relation to police forces adopting 'Priority Perpetrator Identification Tools', one anonymous force they studied made multi-agency risk assessment conference (MARAC) 'referrals entirely using an algorithm on police data (one domestic incident in the current month and two in the previous month)'. This is a very simple algorithm, given what is possible when we think about the wide range of multi-agency data that could be experimented upon for predictive purposes or even simply police-held data (Bland & Ariel, 2015), but it also raises a question about stifled professional discretion and concerns about victims being swept away by an overly coded approach. Indeed, as Robinson and Clancy go on to observe in their work (2021: 692), 'Following feedback from staff, this [referral process] was subsequently expanded to also enable Domestic Abuse Officers to refer cases using their professional knowledge'.

Whether an algorithm is lawfully used if it can still make auto-referrals to a MARAC or to target police interventions, or automate decisions, is a question of interpretation in relation to Sections 49 and 50 of the Data Protection Act 2018. These statutory provisions prohibit the taking of automated decisions that significantly affect a data subject or which produce an adverse legal effect for them, save for those automated decisions required or authorised by law, and it is not clear that existing police common law or statutory powers to share information with other agencies on the basis of a need to do so would enable the automation of such decisions. Proponents of automated referrals to multi-agency risk assessment processes for offenders, based on the outputs of machine learning tools, might argue, however, that the referral is not a significant decision per se. A MARAC or another process actually *makes* the meaningful decision to intervene with an offender, so that a referral does not necessarily produce an *adverse* effect, since the outcome of a multi-agency approach can mean that an offender's addiction issues are better tackled, or separate housing, away from their potential or current victim, is provided, for example. But the simplest means of meeting these statutory requirements are certainly that police forces should only develop profiling tools that create risk scores which inform or guide policing practices in a given area, where the final decision to take any step in a process is an expert, or well-trained, human decision.

The 'inhumanity' of some data-driven technology that affects the female victims of sexual and serious violence is at the root of some contentious issues indeed. For one, look to the way that digital interrogation is conducted by police of mobile phones and other devices used by rape complainants, in order to comply with the burdens of disclosure requirements to the defence in a pre-prosecution process. This

extraction of data from digital memory is deeply personal, and prying, and yet is required by the guarantees of a fair trial that are a necessity of a modern justice system operating in a digitally advanced society. The necessity of compliance with Article 6 ECHR, and the provision of information from digital devices in disclosure in case some of it is exculpatory, for example, because of pre- or post-offence communication online, or private messages between complainant and defendant, links into the wider and more profound difficulties of convincing jurors about the law in relation to sexual (non)consent at the moment a sexual offence takes place. Digital disclosure may aid systemic compliance with Article 6 ECHR rights of defendants, but it is invasive as a process and affects the Article 8 ECHR rights of complainants although it does have the overarching goal of leading to a fair conviction of a rapist, for example, and so in part fulfilling the positive obligation owed to the same complainant, and to others that man may have raped or otherwise abused, under Article 3 ECHR. At the time of writing, guidance to police forces on digital extraction of relevant evidence, focused on disclosure purposes and with regards to what can be obtained from an offender's phone and other devices, will need to be reworked, following a recent legal challenge (Topping, 2020). This means that there is an opportunity for this balance of rights to be more protective of the autonomy and privacy of victims of sexual and violent and abusive crimes and conducting the proportionate digital interrogation of complainants' devices only to the degree that there is a 'reasonable line of enquiry' at the heart of the process, with requirements in place to inform and properly support those complainants, as to the scope and purpose of the investigation of their devices (see *R v Bater-James and Mohammed* [2020] EWCA Crim 790 at 65–99).

Key Issues of 'Data Inequalities', 'Accuracy Biases' and 'Decisional Opacity'

There are some legal safeguards that should be noted as relating to predictive profiling and more advanced analytics. These safeguards potentially deal with the possibility of 'data inequalities', 'accuracy biases' and 'decisional opacity' (Grace, 2019). For example, Section 47(3) of the DPA 2018 requires that data processing about any individual should be restricted (that is halted) where 'it is not possible to ascertain whether it is accurate or not', while Section 205(1) of the DPA 2018, 'inaccurate', in relation to personal data, means incorrect or misleading as to any matter of fact. Of course, incorrect data might well be recorded and continue to be held about individuals in any number of criminal justice data systems because it is incomplete, stale or even the result of police systemic or institutionalised prejudices. Legal challenges to the accuracy of a predictive system or similar analytical tools, on the basis of data protection principles such as these, would shake confidence in the contribution that data technology might make to the policing of domestic abuse.

Bias in the use of data is driven by data itself. The public sector equality duty (PSED) under section 149 of the Equality Act 2010 is a key standard which must be seen as guiding the use of data-driven technology in the public sector. The PSED requires authorities to be ‘properly informed’ of the consequences of their measures, in order to show ‘due regard’ to impact on different groups with protected characteristics (such as, e.g. the characteristic of disability in *R (LH) v Shropshire County Council* [2014] EWCA Civ 404). Monitoring, through the collection of evidence, and data, in order to establish potential bias in terms of discrimination across protected characteristics under the 2010 Act can be a vital component of compliance with the PSED as a result. For example, with regards to the use of live facial recognition technology in public spaces in Cardiff on a pilot basis, the Court of Appeals recently highlighted in *R (Bridges) v South Wales Police* [2020] EWCA Civ 1058 at 182 that ‘...there was no evidence... that there is any reason to think that the particular AFR technology used in this case did have any bias on racial or gender grounds. That, however, it seems to us, was to put the cart before the horse’. South Wales Police should have been monitoring for bias throughout the pilot in order for that piloted use of a live facial recognition system to have been lawful with regards to the PSED under section 149 of the 2010 Act. Not doing your homework on the PSED, as a public body, is to run the risk of a successful judicial review claim being made against you on the basis of the shortcomings in your own self-monitoring as a policymaking body or a policy actor. To draw on the explanation of Knowles J, in *R (DMA and others) v Home Secretary* [2020] EWHC 3416 (Admin), at 324, and in relation to the finding a breach of the PSED because of a failure to properly scrutinise the contracted-out system and standards of providing accommodation to asylum claimants with disabilities, and who would otherwise be destitute, sufficient self-evaluation to show compliance with the PSED, is not possible if ‘... there is no monitoring (including collection of data and evaluation) that would enable that’. Of course, sex is a protected characteristic listed under section 149(7) of the Equality Act 2010. So, there is a need to have due regard to the need to prevent the discrimination suffered by women through violence against men, as it is policed, deterred and prevented by public bodies connected to the criminal justice system, and related agencies, in England and Wales. And as Calvert-Smith J has observed in *R (Hajrula) v London Councils* [2011] 448 (Admin) at 69, ‘...where large numbers of vulnerable people, many of whom fall within one or more of the protected groups, are affected, the due regard necessary is very high’. Logically, there is then a duty to ensure that due regard is had to the way that a policy of adopting or deploying any particular use of technology in the policing context, for example, contributes to the prevention of discriminatory violence against women in society.

Conclusions

Human rights duties mean that, ultimately, (admittedly important) well-established concerns cannot be allowed to derail the potential of technology in protecting victims of violence while still not being allowed to exacerbate intersectional unfairness (Grace & Bamford, 2019). Momentum in this area of police practice and data science is considerable. So, is there a need for a legal duty on police forces, and/or the Home Secretary, to have ‘due regard’ to the potential for data analytics to better-direct investigative and preventive resources to protect victims most vulnerable to domestic violence? Plenty of commentators, and some UK police forces, have called for a ‘rulebook’ on the police use of technology, including data-driven predictive technologies; so, there is a scope for the degree of guidance in policing circles to go beyond the current combination of ICO toolkit and data protection code of practice (Information Commissioner’s Office, 2021) – perhaps, it is time for a specific statutory code curated by the College of Policing itself, instead. Such a code could then promote and improve the use of data-driven tools, to sharpen the focus of policing violence against women and girls.

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Chapter 9

Using Public Health Approach

Interventions to Reduce Violent Crime: A Focus on Domestic Abuse



John Land

What Is the Public Health Approach to Reducing Violence?

Like traditional models of policing, the public health approach (PHA) is a product of police experiences of neighbourhood policing and problem-solving (College of Policing, 2017). The PHA differs from traditional models of policing in how it engages with the generative mechanisms of crime (Joyce & Schweig, 2014). Traditional models of policing centre around the enforcement of laws in relation to the actions of individuals; if an individual commits a crime, the police *react* (HM Government, 2018). In contrast, the PHA centres around preventative activities which address the causes of crime through working with partner groups and organizations who prioritize engagement, or ‘interventions’, with vulnerable groups (Stan, 2018). Hence, the rationale behind the PHA is that, through understanding societal problems at a population level, appropriate preventative interventions can be made and crime rates can be reduced (Faculty of Public Health, 2016).

As the PHA focuses on problems at the population level, it relies on working with partner groups and organizations who have access to a diverse range of skills which, when taken together, can effect change (Van Dijk et al., 2019). As such, central to the success of the PHA is influencing key partners to use their resources in a way that improves the well-being of the community. The ascendancy of the PHA could not be timelier, with over 80% of calls to the UK police being about issues of vulnerability and social need (College of Policing, 2015). This feeds into the definition of public health, which goes far beyond just medical need. The UK Faculty of Public Health states that the definition of public health is ‘the art and

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science of preventing disease, prolonging life and promoting health through the organized efforts of society' (Acheson, 1988).

Applying the PHA to Reduce Violent Crime: The SVRU and the Cardiff Model

Since the 1990s, evidence has emerged which supports the claim that a PHA which is comprehensively applied and embedded can reduce violent crime rates. In the context of the UK, two case studies which provide convincing evidence in support of this assertion are Scottish Violence Reduction Unit (SVRU) and the application of the Cardiff Model (Sivarajasingam et al., 2018). Following the central tenet of the PHA, the SVRU has worked with teachers, doctors, nurses and police officers to reverse Glasgow's status as one of the most violent cities in the developed world. At the turn of the twenty-first century, Glasgow had the highest murder rate in Europe, and Scotland's homicide rate for males aged 10–29 stood at 5.3 per 100,000 in 2002 (Hassan, 2020). Combined with the fact that the World Health Organization (WHO) declared violence a public health issue in 2002, there were several catalysts to inspire a new way in Scotland.

The first years of the SVRU focused primarily on Glasgow and made the culture around knife crime the priority (Scottish Violence Reduction Unit, 2017). The approach went on to have a substantial impact, including finger-printing knife carriers and a greater focus on DNA processes. Following this, the unit launched the campaign 'Safer Scotland', which focused on knife culture and crime. The campaign promoted a knife amnesty and gave knife carriers the chance to come forwards and dispose of their knives without fear of prosecution. As a result of this, 12,645 knives and other weapons were disposed of in Scotland over the first 5 weeks of the campaign (Hassan, 2020). From 2005 onward, the SVRU successfully applied the PHA by following four key steps. These steps were (1) define the problem through the systematic collection of data, (2) establish which factors could be changed through intervention, (3) implement and evaluate interventions and (4) apply effective interventions more broadly to have as wide an impact as possible (Scottish Violence Reduction Unit, 2017; Hassan, 2020).

One of the primary problems that needed to be tackled was Glasgow's reputation for gangs and the violence and territorial conflict associated with them. The comprehensive data gathering that the SVRU undertook allowed the unit to understand the key assumptions which gangs relied on. The first stage of this was the mapping and analyses of gangs in Greater Easterhouse, North-East Glasgow. This involved identifying 55 known gangs with around 1500 members. The SVRU summarized that these gangs comprised almost uniformly of young men who enacted and encouraged problematic behaviours in order to 'gain' respect locally, conquer territory and feed their urges for power (Scottish Government, 2017).

The SVRU took inspiration from the Cincinnati Initiative to Reduce Violence (CIRV) which aimed to unite church leaders, community voices and the law-and-order community with the purpose of challenging gangs that operated in the community (Engel et al., 2013). A crucial part of this process was the 'call in', in which gang members were confronted by members of the community and told how problematic their behaviours were. In Scotland, this became known as the 'self-referral session', and on a single day in October 2008 at Glasgow Sheriff Court, 85 gang members attended the first event (Tillyer et al., 2012). This was the first of the ten 'self-referral sessions' held over the next 2 years. In total, over 600 men and women attended these sessions, and analysis conducted by St. Andrews University showed that, in the groups who engaged with the CIRV, encouraging results were yielded. This included a 46% reduction in violent crime, an 85% reduction in weapons being carried, knife carrying being reduced by 58% and gang fighting being reduced by 73%. Furthermore, in the CIRV area, hospital admissions for serious violence reduced by 17%, and admissions for knife crime reduced by 34% (Williams et al., 2014).

The SVRU's impact has been felt broadly across Scotland. Analysis of the Scottish homicide database indicates that all four homicide types (indoor stabbing, indoor no weapon, gang rivalry and domestic femicide) decreased in absolute terms between 2012 and 2015. As such, the SVRU has played a crucial role in reducing the rate of homicides, which have fallen by 56% since 2004/2005 (Skott & McVie, 2019). As with fatal violence types, there has also been an absolute reduction in all four types of non-fatal violence (Public Weapon, Public No Weapon, Domestic, and Work Related) between 2008/2009 and 2014/2015 (Scottish Government, 2017). The SVRU's 'No Knives Better Lives Campaign' and similar campaigns aimed at how young men behave in public space have had a significant impact (No Knives Better Lives, 2018). Over the first 10 years since the SVRU's creation in 2005, hospital admissions from injury with a sharp object fell by 62% (MacLeod et al., 2020). There has also been a 64% reduction in handling offensive weapons across Scotland. In 2017/2018, there were an estimated 172,000 violent crimes experienced by adults in Scotland, which is a 46% decrease on 2008/2009 levels (Hassan, 2020).

The Cardiff Model (CM) of violence prevention is a well-established instantiation of the PHA and involves data from hospitals being shared with the police and local authorities (Joyce & Schweig, 2014). Receptionists at emergency departments who follow the CM record the location and weapon used from people injured in violence. Since the implementation of the CM in 1997, there has been a reduction in hospital admissions for violence along with a reduction in the number of violent incidents recorded by the police (Kollar et al., 2019). Starting in the late 1990s, reception staff at an A and E in Cardiff started collecting additional information from assault patients. Such information included assault location, the weapon used and the time of the assault. When the data was anonymized, it was shared with a crime analyst from a local multi-agency violence prevention group (Florence et al., 2011). The crime analyst combined A and E data with that from the police, with the result being the creation of summaries of the weapons used and the identification of

violence hotspots. The intelligence that was produced from this enabled the partnership to apply several violent crime reduction strategies (Boyle et al., 2012).

For example, the data informed changes to police patrols, the relocation of police resources to the most high-risk times and putting more police resources into night-life venues which were hotspots for violence (Droste et al., 2014). Further interventions included the pedestrianization of entertainment areas, mandatory use of plastic glassware in nightlife venues and changes to late-night public transport services (Warburton & Shepherd, 2004). The implementation of these strategies was associated with significant reduction in levels of hospital admissions due to violence over the following 4 years. Evaluations of the Cardiff Model have demonstrated a 36% reduction in hospital admissions related to violence in Merseyside and a 42% decrease in violence-related hospital admissions in Cardiff. Furthermore, for every \$1 spent on the CM, almost \$15 in the health system and \$19 in the criminal justice system are saved (Florence et al., 2014).

Boyle et al. (2012) aimed to validate the CM by reducing the number of assault victims attending an emergency department in Cambridge, which sees around 95,000 patients come through it per annum. In 2005, Boyle et al. (2012) initiated data sharing with the research team at County Council. The research team instructed their receptionists to collect the three data items that the CM requires, which are a description of the location of the assault, the date and time of the assault and the weapon which was used. The result was a 20% reduction in the number of assault patients requiring emergency department care and a 35% reduction in the violent crimes with injury reported by police. By implementing the CM, violence victims admitted to Cardiff emergency departments halved between 2002 and 2013, and there was a 39% reduction in violence inside licensed premises. In total, £5 million is saved per year on Cardiff's health, social and criminal justice costs.

In practical terms, the sharing of data in the way which the CM supports can lead to important and effective operational adjustments (Sivarajasingam et al., 2018). For example, in Cardiff, police can patrol hotspot routes and use closed-circuit television systems in the most violence-prone areas. Furthermore, buses can make more frequent late-night stops in order to avoid overcrowding and in turn violence and rowdiness (Kollar et al., 2019). The CM has inspired the setting up of the East Palo Alto's Police Department's Fitness Improvement Training (FIT). FIT Zones implement health-related programs in public spaces which have been overrun by gang members. The rationale is that, by increasing outdoor physical activities in public spaces, such as power walking and Zumba dancing, residents will increase their presence in public spaces and regain ownership of their neighbourhoods. Since activities surrounding FIT have begun, shootings in the two FIT Zones are down 60% and 43%, respectively, compared with a decrease of 30% in other areas of the city that have not used the FIT Zones (Joyce & Schweig, 2014).

Since the PHA started to guide and drive policing in the UK, there has been significant reductions in violent crime. The National Violence Surveillance Network (NVSN) provides consistent information on violence recorded in emergency department, minor injury units and walk-in centres. According to NVSN data, violence in England and Wales has fallen substantially since 2010. In 2016, 188,803

violence-related hospital attendances were recorded, a reduction of 39% when compared to 2010 levels. Other long-term trends have been similar. For example, according to the NVSN, 122,286 fewer people attended emergency departments in England and Wales in 2017 compared with 2010 (Sivarajasingam et al., 2018).

Domestic Abuse Interventions in Healthcare Settings

Interventions into domestic abuse form an important branch of the PHA to reduce violence. Providing useful findings on domestic abuse (DA) interventions in healthcare settings, Bacchus et al. (2010) conducted a 2-year evaluation of an intervention in the maternity and sexual health department of a UK hospital. Specifically, this intervention entailed an introduction of domestic violence clinical guidelines and a one-day programme on DA training for healthcare professionals. This was done in the hope that the introduction of these procedures would increase staff's knowledge of DA and enable healthcare professionals to conduct routine enquiry for DA. A further aim was to be able to refer women who had disclosed abuse to an on-site domestic violence advocacy service (Torres-Vitolas et al., 2010).

Training revolved around a specialist domestic violence trainer delivering group exercises, role-play and explaining DVD footage of routine enquiries. Female staff members were also able to use the advocacy service, and male victims and perpetrators were offered information about this service. Pretraining questionnaires which were circulated to healthcare staff indicated that 55% of maternity staff and 92% of sexual health professionals had no prior training around domestic violence. Post-training, 82% of maternity and 95% of sexual health staff reported that their knowledge of domestic violence had improved a lot (Bacchus et al., 2010). Auditing of maternity records took place between March 2006 and January 2007 and indicated that the rate of routine enquiry for domestic violence increased threefold from 15% in the first year of training to 47% in the second year (Bacchus et al., 2010).

Patients were far more likely to be asked about DA if the healthcare professional dealing with them had attended the training. Maternity and sexual health interventions are best categorized as 'opportune' points of intervention, as findings from Bacchus et al.'s (2010) interviews suggest that women's usual coping strategies to DA are compromised during pregnancy. Reasons for this include being more physically vulnerable, less mobile and more dependent on their partner for physical and emotional support (Feder et al., 2009). Maternity and sexual health services were shown to be opportune points of intervention for abused women at different stages of readiness to seek and accept help. Furthermore, routine enquiry by health professionals was successful at detecting women experiencing more severe forms of abuse. In terms of practical results, 22 of the 34 women interviewed were living with their abuser when they were referred to the domestic violence advocacy service, compared with only three at the post-intervention interview (Bacchus et al., 2010).

As a result of the advocacy programme, most women left their abusers. However, some were continually abused by their ex-partners post-separation, suggesting an essential need for post-separation interventions to maintain women's safety. Additionally, the training did not achieve universal enquiry for domestic violence amongst those administering it, which is reified by findings from US studies (Harwell et al., 1998). However, the results of the training programme were assuring, with clear improvements in health professionals' knowledge about how to screen for DA. Going forwards, ongoing clinical supervision, partnerships with specialist domestic violence agencies, clear referral processes and ongoing support for women post-separation are needed (Thompson et al., 2000).

One of the primary reasons why this intervention was successful, and a key factor in getting it up and running, is the provision of training by a specialist domestic violence trainer. Before the program was implemented, when rates of identifying and intervening in domestic abuse cases were less promising, staff had very little training around DA. As such, training enabled healthcare staff to expand their knowledge of asking about and identifying DA and was a key component in the promising results of the study. Therefore, any expansion of this program would need to retain its emphasis on the training of healthcare staff if it is to run successfully (Bacchus et al., 2010).

With DA being such a dangerous matter, it is never advisable to rely on the assumption that an intervention will not result in harm. Several potential sources of harm were identified during the investigation, such as breaches of confidentiality, failure to act on information and the negative stereotyping of women during evaluation. For example, one woman described how she was discharged with her baby to her abusive partner's home despite her case notes clearly stating that she was waiting for emergency accommodation (Torres-Vitolas et al., 2010). To add, several women described how confidential information surrounding the abuse they had been subjected to was discussed in front of other family members by health professionals. An even more disturbing account was given by a woman who was assaulted by her ex-partner after he discovered documentation of a previous abusive incident in her maternity records. Resultantly, she became too afraid to continue with the advocacy project. These issues will all need to be considered and addressed if the program is to be implemented on a wider scale (Bacchus et al., 2010).

Domestic and family violence (DFV) training and the use of a DFV support specialist for women are new strategies within hospital settings (Baird et al., 2020). In-depth, longitudinal investigation of clinician experiences after these implementations is lacking. Identifying pregnant women who are subjected to DFV is the first step to providing support and intervention. Universal screening, which means asking all women about DFV during pregnancy, has been utilized by many healthcare providers in Australia. National and international surveys have stated that women approve of DFV screening. For example, a meta-analysis of qualitative studies on DFV by Feder et al. (2009) confirmed that women were overwhelmingly in favour of DFV enquiry by healthcare professionals.

Following the advice of the Queensland 'Not Now, Not Ever report' (Queensland Government, 2015), a DFV intervention strategy was implemented at a large

hospital in Queensland, Australia. Routine antenatal DFV screening began in the maternity service in 2016. This process involved midwives and other clinicians attending a full-day training workshop, which lasted 7 h and implemented a number of experiential teaching approaches. Contributing to the training was a local DFV community support group, and the main thrust of the workshop was to inform attendees about different approaches which could allow them to overcome barriers of routine DFV enquiries.

According to a Cochrane review conducted by O'Doherty et al. (2015), DFV screening increases the identification of women who need support and makes pregnant women more likely to disclose a history of abuse. As such, antenatal care provides an opportune moment to identify problems surrounding abuse and offer appropriate support. DFV screening does this through shifting the responsibility from the woman being abused, who would traditionally need to disclose the abuse, to the midwife, who now asks about the (potential) abuse. Building on this with their more recent study, Baird et al. (2020) interviewed ten midwives in order to understand their experiences of conducting antenatal DFV screening. The key finding of Baird et al.'s (2020) study is that screening is a foundational component in the fight to identify and provide support to women who are suffering from DA.

Despite Baird et al.'s (2020) finding that maternity staff were very willing to conduct routine DFV screening, there remain barriers which will prevent such screenings from realizing their full effectiveness. More support needs to be given to staff who conduct DFV screening so that the effectiveness of the screening can be assured. Themes which emerged from Baird et al.'s (2020) interviews include the healthcare staff not having enough time to ask women about DFV, the problematic presence of the woman's partner and the need for ongoing training. Sprague et al. (2012) have also reported the presence of a partner as an obstacle to screening. Furthermore, Eustace et al. (2016) and Spangaro et al. (2010) confirmed Baird et al.'s (2020) findings that a lack of standardized training is a primary reason why health professionals do not ask women about domestic abuse and violence.

One of the positives found by Baird et al. (2020) was that all participating midwives asked women about DFV. However, there was anxiety amongst the midwives about being able to conduct the DFV screenings in a caring and professional manner and build rapport, with tight time constraints. Specifically, having a set time limit to conduct the antenatal appointment caused the midwives to feel pressured. As is reiterated by Salmon et al. (2006) and O'Campo et al. (2011), time is one of the most commonly identified barriers to DFV screening. As Miller and McCaw (2019) state, how the screening takes place can influence a woman's decision to disclose the abuse.

Reassuringly, despite the concerns of the midwives who were part of the Baird et al. (2020) study, none of the midwives felt they should discontinue the screening. This is reinforced by Spangaro et al.'s (2010) study, which found that all 32 women who took part in their study unambiguously agreed that their experience of DFV was valuable. What also became clear from Baird et al.'s (2020) study was that women valued being seen by the same midwife over multiple appointments and that this improved the development of the woman-midwife relationship. Crucially, this

long-term set-up allowed the midwife and the women to discuss DFV in an unhurried and comfortable manner. To add, continuity of midwives supporting the ongoing, as opposed to one-off, monitoring of risk for women, and in particular those who had already disclosed issues surrounding DFV, was useful (Hegarty et al., 2020).

As such, the most successful screening programmes are those which are built on an enabling environment. The delivery of antenatal screening for DVF at large, imposing and busy clinics is not conducive to implementing the optimal screening programme. A more appropriate model would centre around community-based services, where midwives educated and supported around DFV work in partnership with local professional community agencies and hospitals. In order to disclose a history of violence, women need to feel safe, supported and not rushed. It is therefore the role of hospitals and health services to strive for the creation and maintenance of such environments.

What makes the creation of these supportive environments necessary is that, despite women largely supporting screening, disclosure rates of DA remain low (Creedy et al., 2019). In fact, recent research has indicated that a trauma- and violence-informed care (TVIC) framework is needed. TVIC is the provision of a model which is centred around the relationship between trauma, health and well-being. The implementation of TVIC involves a shift towards the delivery of care that is tailored around the specific needs of the woman (Bowen & Murshid, 2016). Therefore, while one of the most effective ways to find out about DA and if a woman needs support is for a trained health professional to ask, there are several recommendations which should be considered.

The first of these recommendations is that health services should aim to implement a TVIC framework which puts the woman and her family at the centre of any care plan. One of the core principles behind this recommendation is that all women should have access to informed and caring midwives who have enough time to ask the woman about domestic violence. Furthermore, such consultations should take place in private, safe and comfortable environments where the woman can speak freely without recourse from the abuser or his family. A further recommendation is that healthcare providers should deliver DFV training to all frontline staff and implement unambiguous pathways for midwives to follow around domestic violence. Such pathways should allow victims to have access to all community DFV and sexual assault services. The continuity of midwifery care and in particular a woman's ability to see the same midwife were key to women feeling safe enough to disclose DA. Therefore, this assurance of continuity should be available to all women in order to maximize the chances of disclosure.

Halliwell et al. (2019) report findings of a multi-site evaluation of hospital-based advocacy services, which are designed to support survivors attending emergency departments and maternity services. The Independent Domestic Violence Advisors (IDVA) which were evaluated were located across five UK hospitals. Data were collected at the point of initial referral of the abuse survivor, at case closure and from survivors accessing hospital and community IDVA services. Relevant indicators included sociodemographic characteristics, experiences of abuse, health service use and health and safety outcomes. Once these indicators had been considered,

multivariate analyses are tested for differences in changes in abuse, health factors and other factors which influenced safety outcomes.

Outcomes which related to the change in domestic violence and abuse (DVA), when assessed at the closure of cases, showed positive changes in the safety of survivors who accessed IDVA services. The survivors who accessed hospital IDVA services were more likely to observe the cessation of abuse when exiting the service than those accessing the community IDVA services. In total, 62.4% of those who accessed hospital IDVA services experienced the cessation of abuse, compared with 48.3% in the community IDVA. Furthermore, hospital survivors experienced a greater reduction in physical abuse (86.2%) when compared with community survivors (71.2%). Hospital survivors were also more likely to report feeling 'much safer' (54.2%) compared to survivors who accessed a community service (50.1%). Overall, analyses demonstrated that safety increased if the support provided, whether hospital or community based, was more intensive.

In line with the results described above, those who accessed a hospital IDVA service were twice as likely to report feelings of safety when the case was closed. These feelings of safety were more likely to be reported if the survivor had been supported for a longer period or had accessed a higher number of resources. In fact, accessing six or more programmes increased safety by one and a half times, and the chances of achieving this outcome increased progressively with a greater number of support days provided by the IDVA (Halliwell et al., 2019). Such findings were also observed in community IDVA cases, with more intensive support and frequent contact through support programmes being key factors in engendering feelings of safety.

From this, it is appropriate to suggest that the primary feature that defines a good IDVA service is intensive support for those who have been abused, whether in a hospital or community setting. Other characteristics of a good IDVA service included the provision of a range of resources for the abused, as well as a long period of access. These factors enabled abuse survivors to feel safer and thus were strong predictors of trust building between the survivor and those administering the service. One of the clear limitations of the IDVA service was that the community arm of the service produced fewer desirable results than those of the hospital service. Therefore, the challenge going forwards is to bring the level of effectiveness of community IDVA services up to the level of hospital services. This could be addressed through following the good practice advice surrounding access to a range of resources and generous contact hours for staff and survivors to build trust and increase safety.

Educational Inclusion

Educational inclusion represents one of the earliest forms of intervention under the PHA given how this intervention is aimed at children. A comprehensive and well-balanced evaluation of the effectiveness of educational inclusion, and how it can lead to violent crime reduction, is provided by Vazsonyi and Belliston (2004), who

look at the PeaceBuilders program. PeaceBuilders is a large-scale violence intervention and prevention program which targets both male and female youth who are identified at different levels of risk for future violence. The intervention is implemented on a schoolwide level (Embry et al., 1996). The aim of the program is to address and change the antecedents that cause aggressive behaviour and provide useful strategies which help to avoid the reinforcement of negative behaviour.

In practice, the program is based around five key principles: praise people, avoid put-downs, seek wise people, notice negative behaviour or 'hurts' and right wrongs. To promote change, specific behaviour techniques are used, including symbolic and live models, role-plays and rehearsals and individual and group rewards. Materials used to help implement these techniques include the 'I Help Build Peace' workbooks; Praise Boards, which are written records of positive events; home notes; and posters made by children. Teachers received a 1-h preintervention orientation, 4 h of training workshops and 2 h of coaching per week which took place in the first 8 to 12 weeks of the program's implementation (Embry et al., 1996).

The Vazsonyi and Belliston (2004) study looked at eight urban schools in the USA which were randomly assigned to the intervention, with the total number of participants being 2380 children of predominantly minority ethnic backgrounds. Overall, results indicated the differential effectiveness of the intervention. High-risk children reported the greatest decreases in aggression and the largest increase in social competence. As such, the study provides encouraging evidence that relatively low-cost, school-based efforts are able to reduce the likelihood of children becoming violent in the future. The sample for Vazsonyi and Belliston's (2004) study of PeaceBuilders was conducted in the Tucson metropolitan area. The targeted region had experienced an increase in violent offenses from 1990 to 1993, which included increases in juvenile arrests, vandalism and weapons violations (Flannery et al., 2003). In total, the sample included 4600 children from kindergarten to the fifth grade. For the study, data were collected by trained project staff members, while children completed in-class surveys which were administered by project staff.

Significant reductions were reported over time for children who were classed as high risk, and this applied to both male and female students. Specifically, social competence increased, and aggression decreased amongst these high-risk groups. Even for medium-risk children, significant increases in social competence were found, while for low-risk children, significant changes occurred in terms of aggression for both male and female pupils. As such, the findings from this review of PeaceBuilders are encouraging and show promise in addressing problematic behaviours and improving levels of social competence and decreasing aggression. PeaceBuilders proved more effective when administered at earlier stages in the child's development. Specifically, children in the delayed treatment condition showed significantly higher rates of aggression and lower social competence when compared to those who received treatment at an earlier stage (Flannery et al., 2003).

The PeaceBuilders program was effective primarily because its five guiding principles are diverse and as such can be applied on a broad scale throughout schools. Building on these foundations, more specific and tailored techniques then aided the success of the program. These techniques, including role-playing, rehearsals and

individual and group rewards, enabled the different needs and tastes of a range of students to be addressed. Also, ensuring the success of the program was the orientation, training and coaching that the teachers received throughout the process, which ensured high standards of delivery. Therefore, to get an intervention based around educational inclusion running successfully, it is advisable to establish at least three (but more ideally five) principles which will guide the practical implementation of the intervention. These principles should follow from the rationale that negative and harmful behaviours should be challenged and that positive behaviours (like praising people) should be encouraged. From these key principles, the group implementing the intervention should then create more specific techniques (like role-playing and interactive sessions) which practically apply the underlying principles.

These findings of the PeaceBuilders program are significant, as other studies have suggested that children who live in a climate of violence are more likely to suppress empathy. Furthermore, these children learn that violence is the best strategy to deploy to achieve their goals (Beland, 1996; Snyder & Sickmund, 1999). In response to such problems, recent violence prevention efforts which prioritize educational inclusion have shifted to large-scale, universal educational programs (Powell et al., 1996). Schools are the optimal setting for intervention, as at school, children spend large amounts of time with teachers and their peers. Furthermore, in a school setting, large groups of at-risk children can be targeted (Blechman, 1996; Gottfredson, 2001). Strategies which are effective in terms of intervention in schools focus on behavioural monitoring and reinforcement, classroom management and skills training. Other than PeaceBuilders, several school-based intervention programs have displayed promising findings (Kelder et al., 1996; Orpinas et al., 2000).

An example is the Resolving Conflict Creatively Program (RCCP), which significantly slowed increases in aggressiveness and decreases in social competence (Aber et al., 2003). The RCCP begins in kindergarten and extends through to 12th grade and aims for constructive conflict resolution. By doing this, RCCP reduces early social-cognitive and behavioural risks and thus prevents later violence. The RCCP was founded in 1985 and is a collaboration between Education for Social Responsibility Metropolitan Area, the New York City Board of Education and a community-based non-profit group. In New York City, 6000 teachers have been trained to deliver interventions based on RCCP, and more than 200,000 have received this intervention. The philosophy which guides the RCCP is that aggressive and violent behaviour is learned and in turn can be mitigated through education. The reduction of violent behaviour, the promotion of care, the learning of conflict resolution and the promotion of a positive learning environment are amongst the main aims of the RCCP.

The RCCP curriculum is delivered by teachers who receive initial training and ongoing training from staff developers. The curriculum has the aim of developing key skills, including communicating clearly, expressing feelings, dealing with anger, countering bias and creating a cooperative environment. Lessons which are based on the RCCP curriculum facilitate student-directed discussion, and these sessions are tailored to age groups. Peer mediation is a key component of the curriculum and involves children being taught conflict resolution skills and to be actively

involved in creating a peaceful environment. Children who are trained to do this are called mediators. These mediators work in pairs, wear special T-shirts and are trained to offer their assistance in settling conflict if they see conflict emerging, though they do not intervene in physical fights (Aber et al., 2003).

A study conducted by the Metis Associates and the Education Development Centre (1990) showed that teachers believe that the RCCP has positively affected their teaching and has reduced aggression amongst their students. The NCCP (National Centre for Children in Poverty) conducted an evaluation of the RCCP to investigate its impact on child development (Ray et al., 1996). Data collection took place between 1994 and 1996 and involved the evaluation of 11,000 children in New York elementary schools. In terms of outcomes, children who were exposed to more RCCP lessons showed decreases in hostile attributions and aggressive problem-solving strategies, decreases in conduct problems and a slower rate of acceleration of aggressive fantasies (Ray et al., 1996; Aber et al., 2003).

The results of the study provide compelling evidence of the RCCP's effectiveness and how the RCCP curriculum can have a positive impact on social-cognitive behaviours which are associated with aggressive behaviour and violence. Similar findings have emerged from the evaluation of cognate violence prevention programs. For example, an evaluation of the FAST-Track prevention model's Promoting Alternative Thinking Strategies (PATHS), which has a similar curriculum to RCCP, has proved the efficacy of the program. Fifth-grade children who took part in PATHS had consistently lower levels of aggressive and disruptive behaviours than children in the comparison school. As such, both the RCCP and FAST programs demonstrate the need for school-based early interventions into violence and aggression reduction (Metis Associates, 1990).

Similar findings were observed with the FAST-Track prevention trails, conducted by the Conduct Problems Prevention Research Group (CPPRG). The CPPRG (2002) indicated that the program decreased rates in conduct problems by 37% in children who were at high risk of behaviour problems in kindergarten. A similar program called Peacemakers was found to decrease incidence of self-reported and teacher-reported aggressive behaviours as well as decreases in suspensions following the implementation of the program (Shapiro et al., 2002). The Responding in Peaceful and Positive Ways (RIPP) program was shown to reduce violent behaviours and suspensions during and after its implementation (Farrell & Meyer, 1997). To add, the level of violence reduction was most dramatic in students who exhibited high levels of violent behaviour at the pretest stage. Similarly, two studies which evaluated the Linking the Interests of Families and Teachers (LIFT) programme found that LIFT reduced young children's playground aggression (Stoolmiller et al., 2000).

The results of the RCCP evaluation have implications for the implementation of violent prevention programs and the creation of effective social policy. The effectiveness of the RCCP demonstrates the need for school-based intervention programs which address the social-cognitive antecedents of aggression. Overall, children who received more RCCP displayed positive changes in social-cognitive processes and developed their interpersonal skills, which created nonviolent solutions to conflict

(Stoolmiller et al., 2000). Even more reassuring is that the findings show that the RCCP is effective for children from different economic, cultural, gender and ethnic backgrounds. As such, the findings indicate that a universal school-based violence prevention program can be implemented in an effective manner.

One of the key factors which allowed the RCCP to work was how it was embedded from the early stages of a child's development and maintained in older children. Specifically, the RCCP begins in kindergarten but, crucially, is maintained until the 12th grade. As such, any future version of the RCCP needs to be maintained throughout all age groups (from nursery up to Year 11). This ensures that early social-cognitive and behavioural risks are reduced and addressed from an early age. Effectiveness of this intervention was also secured through ensuring that teachers received initial and ongoing training from staff developers. The program cannot work if those who deliver it are not equipped. As such, if a similar program was to be implemented elsewhere, teaching staff would need to receive training around the aims and practical elements surrounding implementation.

Given the promising nature of these findings, it is recommended that school-based prevention comprises a central component of legislative efforts to prevent violence. Schools are the optimal environments for the implementation of these prevention programs as children spend most of their day in school. Furthermore, the interactions that children have with their teachers and peers greatly impact their social development. Therefore, through teaching critical life skills, interventions in school can prevent violence and promote academic learning. School-based prevention programs should form an integral part of communities' violence given how several evaluations demonstrate that, when implemented properly, school-based prevention programs put children on positive trajectories in terms of social and emotional markers. Crucially, such programs slow the rate of increase in aggressive social-cognitive processes which lead to violence. Such programs can be implemented at relatively low cost in relation to the academic and behavioural achievement that is yielded.

A further program that has been shown to be useful in preventing violence is that of 'Shifting Boundaries', which was utilized in 30 public middle schools in New York City, with over 2500 students participating. The program was designed around a six-session curriculum which emphasizes the laws and consequences for the perpetrators of dating violence and sexual harassment (DV/H). This intervention utilized building-based restraining orders for those not conducting themselves appropriately, increased security presence in unsafe 'hotspots' and posters to increase awareness of DV/H. Student surveys were implemented at the time of intervention, straight after the intervention and 6 months post-intervention. The result was that behaviours improved because of the interventions, with a reduction in sexual violence victimization involving either dating partners or peers (Taylor et al., 2012).

DV/H is a serious problem in school settings and amongst adolescents in that it can lead to serious injury, poor mental and physical health, increased risk of school avoidance and deviant behaviour (Gruber & Fineran, 2008; Howard et al., 2007). In Taylor et al.'s (2012) study, data collection, which took the form of surveys, was

conducted from September 2009 to June 2010 in New York City with 30 public middle schools. These schools were assigned to four cells: (1) receive the building and classroom interventions, (2) receive the building-only intervention, (3) receive the classroom-only intervention and (4) control group, in which the school experienced its normal class schedule. The interventions in 'Shifting Boundaries' are informed by the theory of reasoned action (TRA), which posits that attitudes towards and perceived norms about the desired behaviour facilitate the intention to change a behaviour (Ajzen & Fishbein, 1980).

The classroom-based interventions were implemented by trained personnel known as SAPIS (Substance Abuse Prevention and Intervention Specialists) over a period of 6–10 weeks. This six-session curriculum stressed the consequences for the perpetrators of DV/H, the role of bystanders as interveners and state and federal law surrounding DV/H. One of the key features of the curriculum was to enable students to determine and set personal boundaries. Key activities included exploring laws that apply to sexual harassment and activities which disregard personal boundaries. The building-based intervention arm of the program included the introduction of building-based restraining orders, which were called a 'Respecting Boundaries Agreement'. Further features which were part of the building-based intervention included the placement of posters in school buildings which increased both awareness and reporting of DV/H in school. Furthermore, Taylor et al. (2012) incorporated a building-based hotspot mapping, advocated for by Astor et al. (1999). This intervention involves schools working with students to identify unsafe areas within the school. The maps that the students produce are used to plan for a greater faculty or security presence in hotspot areas.

Data collection was conducted by school personnel who were trained by Taylor et al.'s (2012) research team and took the form of pencil-and-paper surveys. Staff distributed the surveys before schools were assigned to one of the four study conditions, immediately after the treatment was completed and 6 months after the intervention. The odds ratio of students in the building-only intervention reporting sexual harassment victimization was 107% more than that of the control (no intervention) group. Furthermore, students in the building-only intervention reported a 34% reduction in the frequency of perpetrating sexual harassment compared to those in the control group. In the post-treatment stage, there was a 32% reduction in the prevalence of sexual victimization by a peer for students in the combined intervention arm compared to those in the control group. Also in the post-treatment stage, the frequency of sexual victimization by a peer was 34% lower in the combined intervention arm than the control group.

At the six-month post-treatment stage, there was a 35% reduction in the frequency of sexual victimization by peers in the building-only treatment group and a 40% reduction in the combined treatment group. Also at the 6-month post-intervention stage, students in the building-only and combined intervention groups reported significantly lower prevalence of perpetrating sexual violence on peers (47%) than the control group. Keeping with the 6-month post-intervention stage, students in the building-only group reported a 50% reduction in the prevalence of sexual victimization by a dating partner and a 53% reduction in the frequency of

such events. Overall, the building intervention was effective in reducing the frequency of sexual harassment. Additionally, regarding sexually violent behaviour, the building-only and combined treatments were consistently effective in reducing sexual violence and victimization, whether involving peers or dating partners, at the six-month post-intervention stage. As such, the building component can be effective both as a stand-alone intervention and when implemented alongside the classroom intervention. Overall, there is compelling scientific evidence that the building intervention and the combination of building and classroom interventions are effective in reducing youth violence (Taylor et al., 2012).

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Part IV
Gender-Based Violence: Perspectives on
Media Discourses

Chapter 10

Islamophobia, Gender and Violence in Discourse: Media Representations of ‘Jihadi Brides’



Laura Kilby and Lisa Staniforth

Introduction

Islamophobia and Gender-Based Violence

The rise of Islamophobia in the West over the past two decades has been well documented (e.g. Featherstone et al., 2010; Gottschalk & Greenberg, 2007; Jackson, 2007; Poynting et al., 2004; Younis, 2021), with Mahamdallie (2015) conceiving it as the most predominant form of racism in contemporary Europe. Whilst Islamophobia existed prior to the events of September 11, 2001 (Mohiuddin, 2019), there is little doubt about the impact that these events and the response(s) to them have had on broader perceptions of Islam.

In the UK (UK) context in particular, the levels of mistrust directed towards British Muslims and associated discourses of threat and securitisation increased further still following the attacks on the London transport network on July 7, 2005 (Brown, 2010; Hussain & Bagguley, 2012). Media and political rhetoric focused on the British identities of the perpetrators (Hussain & Bagguley, 2012) to the extent that ‘the sudden emergence of “home-grown bombers” created a reality in which every Muslim resident in Britain became a potential suspect’ (Alam & Husband, 2013, p. 246). Whilst the ‘deeply problematic notion of “Islamic terrorism”’

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(Jackson, 2007, p. 395) was already impacting British-born Muslims prior to July 2005, UK media coverage in the aftermath of these events focused more heavily than ever before on British Muslims involved in political violence (Poole, 2006). Relatedly, conceptions of 'Islamist terrorism' were strategically utilised to underpin intrusive social control policies and 'the general assault on civil liberties in the name of protecting the citizenry' (Alam & Husband, 2013, p. 246).

Looking back over 20 years since the Al Qaeda attacks in the USA in 2001, Abbas (2021) reflects that Islamophobia stands as the most significant consequence of the 'racist, neoliberal and secular logic of the "war on terror"' (p. 403). Moreover, Abbas (2021) points to far greater divisions than ever between Muslim and non-Muslim communities, with the structural and interpersonal impacts of Islamophobia only serving to heighten the risk of radicalising young Muslim's towards extremist jihad and non-Muslim's towards far-right extremism. Abbas (2021; 404) laments 'we know more about Muslims than we have ever known and yet we fail to understand what Islam and Muslims stand for'.

To date, a small body of research has concerned itself with examining the intersections of Islamophobia and gender. In an attempt to characterise how Muslim women's experiences of violence are founded at the junctures of misogyny and Islamophobia, Ahmad (2019) coins the term 'Islamophobic gender-based violence'. Ahmad's work builds on research that variously reveals the gendered nature of Islamophobic hate crimes (e.g. Hopkins, 2016; Meer & Modood, 2009) and examines women's experiences of Islamophobic violence (e.g. Alimahomed-Wilson, 2017; Allen, 2014, 2015). Participants in Ahmad's (2019) study of Muslim women in Canada report experiencing a range of forms of interpersonal violence which include sexual and physical assault, intimate partner violence, attempted femicide and verbal assault. In the UK context, research with Muslim women, particularly those are described as 'visible' Muslim women (Allen, 2015), routinely finds that Muslim women in the UK are vulnerable to misogynistic harassment and street violence (Allen, 2015; Mason-Bish & Zempi, 2019; Perry, 2014). Moreover, Muslim women in the UK experience greater risk of being attacked than Muslim men (Hopkins, 2016; Zempi & Chakraborti, 2014).

These studies emphasise the need to pay closer attention to the intersections of gender and Islamophobic violence and to attend to the routinely gendered nature of Islamophobic discourse (Ahmad, 2019; Alimahomed-Wilson; 2017; Hopkins, 2016; Perry, 2014). Ahmad (2019) argues that dominant Islamophobic discourses in the West are already deeply gendered, thus significantly obscuring the intersectional nature of misogynistic, Islamophobic violence. Put simply, 'Muslim women are constructed as "only" being capable of being victimised by men within their community and not by systems of patriarchy and misogyny within Western societal contexts'. (Ahmad, 2019; p. 59). Similarly, in his analysis of Islamophobic hate crime in the UK, Hopkins (2016; p. 189) points out that 'mainstream debates about gendered violence almost exclusively cast it as a problem existing within ethnic or religious groups, rather than across them, therefore overlooking the relational nature of this phenomenon'.

This body of work, drawing attention to the gendered nature of Islamophobic violence and the gendered rhetoric of Islamophobic sentiment operating in the UK

and, more widely, in Western mainstream discourses, provides an important foundation for our work. However, whilst the research discussed above largely concerns itself with the intersections of gender and Islamophobia in relation to Muslim women's experiences of direct violence, we are concerned with how the intersections of gender and Islamophobia play out in the doing of cultural violence against British Muslim women. In particular, we are concerned with exploring cultural violence experienced by women who are routinely labelled jihadi brides.

Violence Beyond the Blow

In their recent thesis on 'non-violence', gender theorist and philosopher Judith Butler (2020) emphasises that all violence involves interpretation. They propose that 'without disputing the violence of the physical blow, we can nevertheless insist that social structures or systems, including systemic racism are violent' (p2). Butler's concern with structural violence connects us with the work of renowned peace studies scholar Johan Galtung (see Galtung, 1969, 1985, 1990, 1996) who distinguishes between three overarching categories of violence. Firstly, direct or personal violence which involves physical or psychological harm meted out in a direct manner and which tends to fluctuate over time (Galtung, 1969); secondly, structural violence which is akin to embedded and institutionalised forms of social injustice and which tends to be more enduring than direct violence (Galtung, 1969). Lastly, cultural violence is defined as 'those aspects of culture, the symbolic spheres of our existence [...] that can be used to justify or legitimise direct or structural violence' (Galtung, 1990; 291).

Galtung (1990) emphasises that these three categories of violence have distinctive temporal qualities. Direct violence relates to events, structural violence involves a process, whilst cultural violence has more permanence in society. These categories interact, shoring one another up and (re)producing systems of violence, and whilst violence can flow from cultural to direct and vice versa, Galtung (1990) indicates that it is often possible to identify a causal pathway from cultural violence, through structural violence, to direct violence. Further, cultural violence is perhaps most apparent in the mundane justificatory mechanisms that routinely legitimise forms of direct and/or structural violence, often shifting the moral code of society from one which might consider a given act as wrong or unjustified to one which is deemed as morally right.

In outlining examples of cultural violence, Galtung (1990) focuses on six main domains where violence can take root: religion and ideology, language and art; and empirical and formal science. For the purposes of our work, ideology is of particular interest. Galtung (1990) points to the rise of political ideologies in Western societies that are grounded in steep 'self-other' dichotomies which valorise certain ways of being whilst oppressing and alienating others. This includes ideals that differentiate between people based upon biological essentialist notions of sex and gender that benefit men and oppress women (see Butler, 2007); ideals founded in Western notions of nationhood (see Anderson, 2006) that promote the West as progressive/modernising civilisation whilst constructing the East as a collective of barbarism

and backwardness (see Said, 1978, 1981, 1993); and ideals founded in colonialist theories of race which construct essentialist differences between people based upon skin colour, creating oppressive hierarchies with white-skinned people presiding over black and brown-skinned people (see Gould, 1981). Thus, concerns with gender, nation and race are embedded in Western political ideologies and variously contribute to the creation of complex hierarchies and power imbalances which serve foremost the interests of white, Western men. Following Galtung's (1990) argument, it becomes clear that racist, nationalist and sexist ideologies, whether operating in isolation or combination, can be understood as the enactment of cultural violence.

Our aim is to engage Galtung's (1990) typology of violence as a means to explore how intertwined discourses of gender and Islamophobia build arguments of moral outrage in relation to so-termed jihadi brides. Applying Galtung's typology of violence as a theoretical lens allows us to situate discursive acts of gender-based Islamophobia as violent acts. In this way, we hope to broaden concerns with Islamophobic gender-based violence to consider violence beyond the blow. In so doing, we argue that the discursive creation of the jihadi bride is the enactment of cultural violence, which is both harmful in and of itself and, in turn, is a facilitator of structural and direct Islamophobic gender-based violence. As Galtung (1990; p. 295) articulates:

The culture preaches, teaches, admonishes, eggs on, and dulls us into seeing exploitation and/or regression as normal and natural, or into not seeing them (particularly not exploitation) at all.

The Case of Shamima Begum

To illustrate our argument, we refer to the case of Shamima Begum, a British Muslim woman who has featured repeatedly in UK media headlines since February 2019 when she was tracked down by a British journalist and found to be living in a refugee camp in Syria. At the time she was found, Shamima Begum was pregnant with her third child, having already experienced the deaths of her first two infants, and she was voicing a desire to return to the UK. She had left the UK 4 years earlier, aged 15, as one of three British schoolgirls (widely referred to in the media as the 'Bethnal Green trio') who travelled to Syria to join the Islamic State of Iraq and the Levant (ISIL). As her story unfolded, Shamima Begum became the centre of extensive media and public outcry regarding her ambition to return to Britain. Within a week of her case becoming public, under the direction of the then Home Secretary, the UK Home Office revoked her UK citizenship. The order was made on the grounds that it was conducive to the public good and, citing her rights to Bangladeshi citizenship, it argued that she was not left stateless. (Although note, the Bangladeshi Ministry of Foreign Affairs quickly, and unequivocally, stated that Begum did not have Bangladeshi citizenship and would not be allowed to enter Bangladesh.)

An ongoing legal battle to reinstate her British citizenship thereafter ensued. In July 2020, the UK Court of Appeal ruled that Shamima Begum could return to the UK to contest the decision; however, following an appeal by the Home Secretary, a ruling by the Supreme Court in February 2021 denied her the right to return to the UK to argue her main claim. The ruling of the Supreme Court significantly restricted the grounds on which an appeal against deprivation of citizenship might be brought (see Yeo, 2021). At the time of writing, she remains detained in a Syrian camp with little likelihood of returning to the UK to pursue her main appeal.

The case of Shamima Begum has continued to fascinate the British media and public alike, with each stage in the ongoing legal case bringing renewed media attention. Women accused of violent crimes are routinely deemed as especially newsworthy because their violence runs counter to established gender norms. Thus, they are often made highly visible in media coverage (Sandman, 2021). Accordingly, women accused of involvement in terrorism gain greater attention in the media than their male counterparts (Von Knop, 2007). Notably, Sjoberg (2018) argues that ‘women in, of and around IS’ are ‘hypervisible’ and ‘an object of irregular gaze or fascination’ (p. 298). Certainly, UK media and public interest in Shamima Begum has remained high, and, as such, she has come to personify the jihadi bride label. Whilst the term jihadi bride did feature in media discourse prior to the Shamima Begum case, it became increasingly normalised in the British press as a means to describe her and her two friends after their case came to light, and it has since become a shorthand label attached to any woman who embarks on international travel to join ISIS (Azeez, 2019).

Research has considered the Shamima Begum case from a human rights perspective (e.g. Masters & Regilme Jr., 2020), and a contemporary body of research explores media constructions of jihadi brides (e.g. Jackson, 2019, 2021; Martini, 2018; Sjoberg, 2018). However, as Labenski (2021) points out ‘despite her trial in the court of public opinion, there has been little feminist gender analysis of Shamima Begum’s publicity by mainstream news outlets [and] a failure to reflect on what public thirst for her story reveals about gender, religion, race and “Britishness”’ (p. 3). It is precisely these ambitions that we engage with.

Drawing on prior literature and illustrative extracts of UK newsprint media coverage, we begin with a consideration of gender, exploring how the discourses surrounding the Shamima Begum case routinely engage patriarchal and sexist notions of womanhood in ways that serve to ostracise and alienate her. We then turn to the issue of Islamophobia, exploring how discourses of race, citizenship and nationhood are invoked in arguments about what to *do* with Shamima Begum. In bringing the chapter together, we propose that media representations of Shamima Begum and by extension other so termed jihadi brides can be read as the doing of cultural violence, constructing a ‘doubly deviant Other’ (c.f. Lloyd, 1995), an identity so overwhelmingly transgressive of both the norms of gender identity and national identity, that those individuals who become located in this space are rendered ungrievable (Butler, 2020), thus, undeserving of even the most basic human rights protections.

Constructing the Gendered Other

Jihadi Bride Label as Both Rhetoric and Category

The extent to which ideologies of gender frame the culturally shared media discourses surrounding Shamima Begum and other Western women who have made similar choices is acutely evidenced by the label of jihadi bride. This term, favoured by the British media, is used broadly to describe ‘women from the geographical West who have recently travelled to Syria to marry a jihadi fighter and live a domesticated lifestyle in ISIS-controlled territory’ (Jacoby, 2015; 526). The label is both rhetorically powerful and deeply problematic. As Martini (2018; 464) points out, the process of labelling serves to ‘ascribe specific subject positions to the ones that are categorised and thus silences their voices’. Moreover, the jihadi bride label locates those to whom it is assigned within a fundamentally gendered identity category, rendering them knowable through their gendered service as newlywed wives. This point is reflected in UK media reporting of the Shamima Begum case, who is framed as ‘providing wifely succour to a backward, anti-British movement’ (The Sun, February 15, 2019) and ‘intent on breeding a new generation of jihadis’ (Daily Mail, February 15, 2019).

Whilst jihad stands as ‘a core concept of Islam and a fundamental ethical basis of Muslim belief and practice’ (Eppert & Roth, 2021, p. 558), it has been extensively misused and/or misunderstood in Western media discourse. Latif and Munir (2014) argue that the term jihad has been exploited in Western discourse to the point that ‘the common perception, particularly in the non-Muslim world, tends to equate jihad with terrorism’ (p. 70). Thus, the ‘jihadi’ element of the label classifies these women as actively engaged in political violence.

Azeez (2019) points out that Western media typically label men who travel outside of their home countries to join ISIS, as ‘foreign fighters’, whilst women are termed jihadi brides. Conjoining jihadi with bride thus ensures an inherently gendered categorisation of the women to whom this label is attached. As Martini (2018, p. 465) argues, the language of ‘jihadi brides attaches a woman’s project to a man’s agenda’. Moreover, reflective of the newsprint extracts presented in the paragraphs above, the term jihadi bride infers an intention to marry as women’s sole motivation for joining ISIS, thus obscuring the complex decision-making process that such choices might well involve (c.f. Jacoby, 2015). Overall, the jihadi bride label favoured by the British media constructs Muslim women as agentic in their propensity for jihadi violence and yet simultaneously nullified by their gendered subservience as brides.

The implications of categorising Shamima Begum and others in this way not only require a consideration of *how* the label of jihadi bride serves to construct particular kinds of ‘troublesome’ women who are both violent and also silent, but a further issue concerns the rhetorical power associated with *where* this label features within media discourse. Newsprint media headlines are widely recognised to have a strong rhetorical quality (Bell, 1991). van Dijk (1991) proposes that, ideologically,

headlines frame and define the overall story, influencing at the outset how the story will be interpreted. He further contends that headlines serve a cognitive function, providing a strategic shortcut to 'the process of understanding in order to construct the overall meaning, or the main topics, of the rest of the text before the text is even read [and to] activate the relevant knowledge in memory the reader needs to understand the news report' (van Dijk, 1991; 50). Thus, in the case of Shamima Begum, jihadi bride headlines powerfully shape and constrain how the audience can engage with the information offered to them.

The jihadi bride label is commonplace amongst newsprint headlines that report or discuss the case of Shamima Begum following the story initially breaking in the UK newspaper *The Times* in February 2019. Indeed, *The Times* ran their first article on Shamima Begum with a headline which began 'Return of a jihadist Bride...' (Times, February 14, 2019). As the story emerged, a flurry of headlines in the UK national press continued to reproduce the label, e.g. 'Dozens' of jihadi brides want to get home' (Daily Mail, February 15, 2019) and 'jihadi bride is facing UK ban' (The Sun, February 15, 2019). Some headlines offered variations on the label, including switching the focus from the cultural endeavour conveyed by the term jihad to the political group Islamic State, e.g. 'No way back: I.S. Bride wants to come home..' (Daily Mirror, February 15, 2019) and 'Families say IS Brides should be forgiven' (Daily Mail, February 19, 2019).

The extent to which the choice between jihad and IS in these headlines can be read as an intention to convey alternate meanings is difficult to assess; however, it seems likely that these terms are used as interchangeable markers which simply serve to conjoin the gendered bride with notions of the 'violent Muslim Other'. Either way, the upshot for Shamima Begum remains the same – jihadi bride headlines frame *the* story and simultaneously frame *her* story. Following van Dijk (1991), we can expect that prior knowledge and emotions which readers of these UK newsprint media headlines associate with jihad and/or IS become activated alongside knowledge and emotions associated with all that a bride invokes. The contrast here between that which is routinely associated with jihad and/or IS and that which is associated with a bride is striking. For the UK audience, the construction of a jihadi bride is an assimilation of all the violence, fear and Otherness that jihad and/or IS routinely conjures, alongside the culturally embedded and deeply gendered Western values, traditions and emotions associated with marriage. Thus, the label jihadi bride simultaneously marks Shamima Begum out as a violent Muslim Other, and it casts her as a culturally deviant woman, bastardising the traditions of bridehood and thereby doubly violating the expectations of her gender.

Martini (2018) argues that the jihadi bride label serves to categorise and silence those to whom it is assigned and further refers to the business of labelling as 'an act of epistemic violence' (2018; p. 464). Whilst the terminology of epistemic violence is used somewhat variably within the field of international relations and other related disciplines (see Brunner, 2021), following the work of post-colonialist feminist scholar Gayatri C. Spivak (1988), epistemic violence broadly concerns how 'mainstream and critical voices silence (post)colonial subjects whilst othering marginalised women in the Global South in particular' (Brunner, 2021, p. 201). Furthermore,

Brunner (2021) notes connections between the concept of epistemic violence and Galtung's concept of symbolic violence. Thus, whilst acknowledging that definitional differences exist, we see a meaningful overlap between Martini's (2018) claim of jihadi bride labelling as an act of epistemic violence and our exploration of the jihadi bride label as the enactment of Islamophobic gender-based cultural violence.

Having outlined how the (re)production of the jihadi bride label in the UK media can be understood as the *doing* of cultural violence, which shapes and constrains how Muslim women who are categorised as such can be known, we move to consider how media narratives develop and suffuse the category with certain characteristics and qualities which construct jihadi brides as a particular kind of deviant women.

Jihadi Brides as 'Passive', 'Possessed' and 'Problem' Women

Four years ago, 15 year old Shamima Begum and two classmates fled their homes in East London to join Islamic State. Bewitched by propaganda on the internet, they travelled to Syria to become Jihadi brides for the brutal terror group. Now the warped adventure is over. As the medieval caliphate collapses, Begum – now 19 and heavily pregnant - has pleaded to be allowed back in Britain. (Daily Mail, February 15, 2019, para 1)

Ms Begum is one of four girls who left the Bethnal Green Academy in East London to join the fight conducted by ISIS for a caliphate to turn the clock back to the era a decade before modernity set in. She had been schooled in conspiracy theory online and was scuttled across the Turkish border into Syria, where she has endured the hell that was predictable to all except credulous fools like her. (The Times, February 15, 2019, para 2)

Analysis of mainstream Western media (e.g. Jackson, 2019, 2021; Martini, 2018; Sjoberg, 2018) reveals that women labelled as jihadi brides are routinely constructed as lacking political drive and vulnerable to easy manipulation. Certainly, the extracts above, published the day after the story broke, accord with these findings. Both extracts frame Shamima Begum as a schoolgirl, easily manipulated by online materials before heading off on a foolhardy adventure, with no real awareness of what awaited her, and little regard to the consequences.

Martini's (2018) analysis of UK media narratives, incorporating newspapers that are reflective of both left and right leaning political perspectives, indicates that portrayals of 'ISIS women' did not vary greatly from one source to another. Her analysis reveals that the media portrayal of women's decisions to join ISIS constructs an identity that lacks political commitment and downplays agency. Overall, Martini (2018) contends that media representations of ISIS women emphasise narratives of the personal, which often serve to infantilise women, and which fundamentally 'irrationalises them, denies their agency and their intentionality and, overall, constructs a terrorist that is not credible and is apolitical' (p. 471).

Elsewhere, examining mainstream UK newspaper accounts of British jihadi brides between 2013 and 2018, with a focus on how dominant media constructions might be consequential for preferred policy options, Jackson (2019) identifies three

key metaphors, namely, natural, biological and supernatural forces. Natural force metaphors tend to construct women as passive viewers of their own lives, drawn or pulled by irresistible forces. Biological metaphors construct women as struck down or overcome by the toxicity or contagion of extremism. Lastly, supernatural metaphors construct women as captivated by otherworldly forces beyond their control. Certainly, these metaphors are all present in media constructions of Shamima Begum who is variously described as being ‘lured by the self-styled caliphate’ (The Times, February 14, 2019), succumbing to ‘extremist views being peddled in their own backyard’ and being ‘brainwashed’ (Daily Mail, February 15, 2019). Jackson (2019) argues that these dominant metaphors underpin dehumanising constructions, creating a limited framework within which women can be understood and responded to.

Despite evidence suggesting that men and women share a range of internal and external motivations for becoming involved in political violence, gendered stereotypes are persistently drawn on when constructing agency (Eppert & Roth, 2021). Martini (2018) argues that women’s involvement in terrorism poses such a challenge to dominant constructions of gender that, despite all evidence to the contrary, it is repeatedly treated as a novel phenomenon. Seemingly, little has changed in the decade since Sjoberg and Gentry (2008) reported that media coverage of politically violent women is disproportionate to that of men and argued that women’s involvement in political violence disrupts gender stereotypes to the extent that women’s violence is understood as somehow ‘different and more deviant than men’s’ (p. 7).

This amplification of deviant violence is apparent in the coverage of Shamima Begum, for example, on the day the story broke, an article published in The Times ran with the headline ‘When I saw my first severed head it didn’t faze me at all’ (The Times, February 14, 2019, edition 2, national). This was picked up by numerous other publications, running both as headline, e.g. ‘Severed head didn’t faze me’ (Daily Mail, February 15, 2019), and also featuring in the body copy of editorial pieces: ‘Certainly she remains unrepentant. When I saw my first severed head, it didn’t faze me at all’ (Daily Mail, February 15, 2019); ‘She seems proud; she was unmoved by the sight of an enemy’s head in a bin. No remorse’ (The Sun, February 15th, 2019, edition 1). Typically, as these extracts indicate, the portrayal of Shamima Begum as a woman at ease with the sight of severed heads was further connected with claims about her lack of remorse. Thus, she is not only unfazed by extreme violence, but she is also unapologetic. Neither of which are characteristics that stand women in good stead with the expectations of their gender.

A concern with the level of remorse, or lack of remorse, shown by Shamima Begum is perhaps key to how her character continued to be defined in the media:

In a brazen interview with the times, Begum said she wanted to return so the NHS could care for her unborn baby – due any day. With no sign of remorse she claimed her ‘normal’ life at former IS stranglehold Raqqa was ‘the one I wanted’. (The Sun, February 15, 2019, edition 2)

She has not shown one iota of repentance. (Daily Mail, February 15, 2019)

No remorse from the brainwashed bride. (Daily Mail, February 15, 2019)

As Jackson (2021) notes, when it comes to politically violent women, there are just two main categories available – either ‘victims’ or ‘villains’. Thus, judgements about levels of remorse are key to which category is most befitting. Moreover, whilst remorse is no clear indicator of the likelihood of forgiveness, a suitably contrite woman is certainly more in keeping with gendered expectations. According to an article in *The Times*, a presumed lack of repentance makes Shamima Begum a ‘testing case’ when it comes to forgiveness (*The Times*, February 15, 2019, Northern Ireland edition 1). As Jackson (2021 p. 413) reflects, ‘Damsels in distress are not supposed to be defiant’.

One element of Shamima Begum’s story that might have been anticipated to more readily lend itself to a victim narrative relates to her experiences as a mother, having experienced the death of two young infants before her story broke, and then the death of a third child during the initial weeks of media coverage:

At 19 years old, Ms Begum has suffered the unspeakable tragedy of seeing two of her infants die for the want of effective hospital care. She has fled a brutal battlefield and now lives, heavily pregnant, in the al-Hawl refugee camp in Syria. It is a tragic catalogue of pain and yet it is all but impossible to feel sorry for her. (*The Times*, February 15, 2019, NI edition)

However, media accounts invite little compassion or sympathy regarding her experiences as a mother. Instead, as the above extract from *Times* reports, despite her suffering, ‘it is all but impossible to feel sorry for her’. Moreover, rather than evoking compassion, the deaths of her children are presented as further evidence of her villainous character, e.g. ‘nine months pregnant but still defiant. During four years of conflict, she has lost two children’ (*Daily Mirror*, February 15, 2019, national edition). ‘Nine months pregnant, she declared no remorse over joining ISIS but revealed her first two children had died’ (*Daily Mail*, February 15, 2019). Notably, even in an article which reports on an interview with a British woman, who is herself described by the *Daily Mail* as ‘a former jihadi bride’, and who is promoting a narrative of rehabilitation, Shamima Begum is held accountable for the deaths of her children:

If we don’t help her that baby is going to die and it is her fault, 100 percent her fault. But for humanitarian reasons we help that child. (*Daily Mail*, February 16, 2019, London)

In other coverage, a slightly different angle constructs Shamima Begum’s experiences as a wife and mother as indication that she is beyond salvation:

Today, Begum is a woman hardened by a forced marriage to a Dutch jihadi fighter, the deaths of two children from malnutrition and illness, and a life under the tyrannical Islamic state. (*Daily Mail*, February 15, 2019, London)

What becomes apparent across the media coverage is that the deaths of her first two children are framed as further evidence of her gendered deviance, cast as a woman whose children die from preventable illness and who remains defiant in the face of those events. In turn, her desire to return to the UK ahead of the birth of her third child is treated as a brazen act of selfish disregard rather than a desperate attempt to save the life of this child. The *Daily Mail* suggests that if allowed to return ‘she will

probably move into a council flat with her new baby, claiming an assortment of benefits’ (Daily Mail, February 15, 2019). Thus, for Shamima Begum, her experiences as a mother are used against her, casting her further into the role of villain.

A final issue impacting upon British Muslim women who associate with IS is that they present a tension with Western justifications for the ‘war on terror’, which has included politically wielded arguments that women of Afghanistan and Iraq require liberating from oppression (Jackson, 2021; Masters, 2009). Thus, Western women’s engagement in political violence and especially their choices to leave the West in favour of IS do not sit neatly within established discourses conceiving Islam as inherently patriarchal (Azeez, 2019; Martini, 2018). Certainly, in the media coverage of Shamima Begum, there is evidence that her choices are presented as running counter to the wider interests of women. The Daily Mail points to her lack of repentance for supporting the ‘savagery of IS – public beheadings, crucifixions and rapes’ (Daily Mail, February 15, 2019), whilst The Sun writes ‘Even now she has “no regrets” about supporting the Islamist butchers as they raped and massacred women and children and beheaded hostages’ (The Sun, February 15, 2019, Edition 1).

In sum, when taking close account of the gendered construction of Shamima Begum, we witness the emergence of the ultimate jihadi bride. As a social actor, she stands as a defiant and remorseless, albeit ‘brainwashed’ (Daily Mail, February 15, 2019) villain, engaged in the violent business of ‘Jihad’. At the familial level, she is the monstrously failed mother, of two ‘could-have-been otherwise’ dead infants. Lastly, as a supporter of a regime that murders women and children, she stands as a traitor to her gendered kin, and all that is deemed precious to womanhood.

We now turn our attention more directly to issues of race and citizenship as we further consider how the construction of the jihadi bride weaves together mundane gendered, Islamophobic and nationalist sentiment. In keeping with the Shamima Begum case, we explore this in the context of debates about what is to be *done* with a jihadi bride who seeks a return to home in the UK.

Constructing the Gendered Non-citizen Other

Jihadi Brides as Persona Non Grata

Within the Western war on terror narrative framework, political rhetoric has routinely characterised Islamic cultural traditions and values as incompatible with traditional British values. As Moosavi (2015) argues following analysis of New Labour political speeches, orientalist tropes are drawn on to construct Muslim identity as conflicting with poorly defined conceptions of ‘Britishness’, essentialising Muslim people to reinforce notions of Western superiority and thereby fuelling Islamophobia.

A body of research contends that Western news media fuel Islamophobia by exploiting the war on terror discourse in ways that dehumanise and criminalise

Islam and Muslim people broadly (Altheide, 2007; Carr & Haynes, 2015; Mythen & Walklate, 2006; Powers, 2008; Poynting et al., 2004; Steuter & Wills, 2009, 2010; Sultan, 2016; Tufail & Poynting, 2013). According to Altheide (2007), the initiation and acceptance of such alienating discourse rely on the successful negation of the legitimacy of the Other, which is more easily achieved when fear is invoked. Certainly, in the media debates about Shamima Begum, fear is born out of presumed threat and risk associated with her possible return. Interestingly, the threat she poses is constructed as operating on multiple levels:

Security sources said she would be treated as a ‘national security threat’ rather than an intelligence asset. One said: ‘These late returnees are the most dedicated to the Isis cause, and therefore the most dangerous to us.’ (The Times, February 15, 2019, Edition 2, national edition)

Firstly, as reflected in the extract above, threat is framed as residing within Shamima Begum herself who is characterised as being ‘most dedicated to ISIS’ and thus ‘most dangerous to us’. The engagement of a ‘them’ and ‘us’ binary in the construction of the Muslim Other has been a consistent feature of Islamophobic discourse (Abbas, 2021; Alam & Husband, 2013; Allen, 2015) which maintains a division between ‘Us’ the taken-for-granted white, non-Muslim British citizens and Other, the conditional, questionable and, when necessary, excisable British Muslims (Masters & Regilme Jr, 2020).

Fear is also present in editorial commentaries, for example, a Daily Mail columnist leads with the headline ‘she’s not the same silly girl of 15 who ran away – that’s what worries me’ (Daily Mail, February 15, 2019), and it is apparent in comments from the public: ‘The Government needs to start thinking about the safety of our own people. This could have wide-ranging consequences if we let the wrong people back in’ (The Express, February 15, 2019, Edition 1, National edition). Again, an ‘Us and Other’ distinction between ‘our own people’ and the ‘wrong people’ is invoked.

Beyond the direct threat arguably posed by Shamima Begum, media debates about her desire to return to the UK articulate a separate and potentially less containable and therefore even greater threat, concerning her connections to dangerous individuals and her capacity for radicalising others:

All jihadi brides have connections and skills to be very dangerous. (Express, February 16, 2019)

Sir Peter Fahy, former chief constable of Greater Manchester Police, said Begum could become some sort of lightning rod for both Islamic and far-Right extremists. (Daily Mail, February 15, 2019.)

Notable in the extract above is the notion that Shamima Begum carries the potential to engender violence from across the extremist ideological spectrum. Thus, it is claimed that any decision to allow her to return to the UK would be to create avoidable and multiple threats posed by differing groups who already have a reputation for unpredictable and extreme violence which target different sections of the British public.

Matters of Gendered Appearance as Markers of (Un)belonging

Whilst the threat associated with Shamima Begum is presented mainly in vague or general terms, on one occasion, she is constructed as presenting a significant and immediate threat of enacting direct violence. Notably, this portrayal relies upon well-worn Islamophobic tropes of visibly Muslim women’s physical appearance (Allen, 2014, 2015):

Worst case scenario, she straps half a pound of Semtex under her burka and detonates it on a Circle Line Tube train, blowing herself and dozens of other passengers to Kingdom Come. (Daily Mail, February 15, 2019)

This characterisation reflects a long-standing narrative which serves to alienate and oppress Muslim women along the lines of cultural norms. Racialised constructions of Islam routinely focus on traditional dress codes to the extent that the veil has become a ‘contentious marker of ‘difference’ [which] paves the way for further contamination of the veil as a symbol of gender inequality, hostility to a democratic society and Islamist extremism’ (Chakraborti & Zempi, 2012, p. 276). The coverage of Shamima Begum routinely (re)produces this oppressive and alienating version of the gendered Muslim Other. Indeed, the very first line of a report published by The Times on the day they broke the story reads:

On the day the caliphate suffered a mortal blow the teenage London bride of an Islamic State fighter lifted her veil. (The Times, February 14, 2019, Edition 2, national, line 1)

Moreover, promoting essentialist, gendered notions of a Muslim Other is not confined to portrayals of Shamima Begum alone:

I bet there are more burkas per square yard in Bethnal Green than there are in Bangladesh. The streets have been patrolled by Islamist vigilantes, menacing women walking alone in immodest’ clothing and terrorising corner shops selling alcohol. (Daily Mail, February 15, 2019)

As the extract above highlights, the Islamophobic construction of a racialised gendered Other goes way beyond Shamima Begum, characterising entire communities of Muslim women in this way and further (re)producing binary Us and Other divisions between non-Muslim and Muslim members. As Marsden et al. (2022) argue, lay conceptions of Islam and its relationship to ‘British values’ are often grounded in binary constructions of Muslims as ‘conservative, outmoded and excessively religious, [whereas] Britishness, in contrast, is associated with modern, liberal, progressive and secular values’ (p. 2). Aligned with prior research (e.g. Allen, 2015; Chakraborti & Zempi, 2012), what our analysis emphasises is that when it comes to media representations of Muslim women, physical appearance and cultural attire are taken as evidential markers of such binary difference.

The Disavowal of Citizenship as a ‘Just’ Act

Under the UK Immigration Act (2014), individuals suspected of being involved in terrorist-related activities, and particularly those alleged to have ‘travelled abroad to fight for terrorist organisations inimical to the UK’ (Anderson, 2016, p. 11), can have their citizenship rescinded without any official charge or any judicial process (Bolhuis & van Wijk, 2020). British citizenship has become increasingly precarious since the controversial PREVENT strategy, a key component of UK counter-radicalisation policy, introduced the notion of ‘fundamental British values’ (FBV) in 2011. Now, embedded within policymaking and the national curriculum, the concept of FBV has become a commodified benchmark against which rights to citizenship are measured (Stronach & Frankham, 2020). Given her desire to return to the UK, the question of citizenship and concerns about FBV are a central focus in media coverage of the Shamima Begum case, with vocal demands that her citizenship be removed:

Time to strip traitor of her citizenship; Letter of the day. (The Express, February 15, 2019, Edition 1, National edition)

WHAT right has Shamima Begum to return to the UK? She should be stripped of British citizenship as should all those who fought with or for Isis. (The Express, February 15, 2019, Edition 1, National Edition)

As the above extracts indicate, some such arguments are founded in a belief that her actions render her a ‘traitor’ and no longer deserving of British citizenship. Some go further, demanding ‘She should also forego her human rights’ (The Express, Letters, February 15, 2019).

Notwithstanding valid legal arguments (and counter arguments) regarding the removal of citizenship in cases of individuals who transgress the dictate of the UK Immigration Act (2014) with regards to engagement in acts of terror abroad, what is apparent in the media coverage of Shamima Begum is the invocation of a set of, often, unspoken assumptions about what constitutes FBV and a strongly voiced commitment to banish those who transgress ill-defined moral boundaries of Britishness. Hence, what is driving calls for the disavowal of citizenship is not necessarily, or at least not exclusively, the actions of the *individual*, but the *cultural identities* of those who become the focus of such arguments.

In a story that leads with the headline ‘Sorry, but this is not your home any more’, the Sun argues: ‘There’s a casual arrogant assumption it is absolutely fine she holds values that run directly, violently counter to British values’. (The Sun, February 15, 2019, Edition 2, Scotland). Whilst in the extract below, we see how arguments about rights to Britishness extend, again, far beyond a concern with the individual rights of Shamima Begum:

Just because they live in this country doesn’t make them British – and if they can’t accept our way of life and culture, even more so. (The Express, February 15, 2019, Edition 1, National Edition)

Conceiving a narrowly defined set of national values as a marker of Britishness allows for exclusionary interpretations and differential treatment (Struthers & Mansuy, 2020). Essentialised conceptions of a collective value system necessarily rely on notions of the Other, with FBV implicitly invoking a concern with un-British values (Stronach & Frankham, 2020) and reinforcing notions of Us and Other. In the context of debates about Shamima Begum, this binary clearly relates to a Muslim Other.

Crucially, contemporary Western discourses of terrorism, and counter radicalisation/ terrorism, draw on long-standing conceptions of Islamic Otherness, fostering a climate where Muslim people are increasingly called on to demonstrate their rights to citizenship (e.g. Younis, 2021). For Stronach and Frankham (2020, p. 14), the very concept of FBV is grounded in notions of ‘empire’, promoting claims to ‘virtue against terror, friend against enemy and good against bad’ in order to conceive Britishness itself as a force for good. In this way, British citizenship is less about birth right and instead becomes contingent on demonstrating commitment to ideological values which are deemed to appropriately reflect conceptions of Britishness (Masters & Regilme Jr, 2020). Thus, as witness in the case of Shamima Begum, regardless of being born in the UK, she is constructed as categorically ‘un-British’ and as an ideological threat to all that the nation holds dear.

Elevating Britishness

Balanced against demands for Shamima Begum’s permanent exclusion, there is some media coverage of calls for her return to the UK. In the main, these are framed as the desperate pleas of family members:

FAMILIES SAY IS BRIDES SHOULD BE FORGIVEN. (Daily Mail, February 15, 2019)

Bring her home for her innocent baby; Family plea over teenage ISIS bride. (Daily Mirror, February 16, 2019. Edition 1, national edition)

[Family of Isis bride make plea for mercy.](#) (The Times, February 15, 2019. Edition 1, Ireland)

Beyond this familial context, there is a further theme of argument which counters calls for her continued exile. This line of argument is not founded in humanitarian concerns for her or for the welfare of her soon to be born child; rather, it is an argument that serves to promote the British nation as morally superior:

Shamima Begum deserves to come home; The urge to banish a Jihadi bride who expresses no remorse is understandable but Britain is better than that. (The Times, February 15, 2019. Edition 1, NI)

Like the overwhelming majority, we have no time for those who enjoy the advantages of our liberal society, then abuse it. But offering someone the chance to atone for their mistakes is what separates us from the barbarians. (Daily Mail, February 15, 2019, London.)

Colonialist overtones in the extract immediately above are hard to overlook and further reflect the ideals of FBV as grounded in narratives of empire (Stronach &

Frankham, 2020) and in constructing Us and Other binaries at the level of the nation. The weaving together of such historical notions of Britishness within contemporary narratives of national identity can be understood to support a nationalist agenda. Arguably, nationalism has seen somewhat of a resurgence in recent years (Rutland, 2021) and has become a central feature of contemporary politics (Valluvan, 2019). Younis (2021) examines British nationalism in the context of UK counter-radicalisation policy, arguing that ‘the political project of nationalism is one which inherently essentialises an ethnocentric vision of belonging which, by its own logic, immediately reifies a racialised Other outside its boundaries’ (p. 54).

Reflecting on media representations of Shamima Begum as (re)producing discourses of nationalism invites some further consideration of the data and another line of argument which problematises her possible return to the UK:

She certainly should not be allowed to return on benefits. Why should taxpayers have to support her childcare or housing? Omar Bakri called them Jihadi benefits. (The Express, February 15, 2019. Edition 1, National Edition)

After being fast-tracked up the housing waiting list, she will move into a council flat with her new baby, claiming an assortment of benefits. (Daily Mail, February 15, 2019).

Why should we pay to house or police her? (The Sun, February 15, 2019, Edition 1, national)

Concerns about welfare provision and policing access to welfare are a long-standing feature in media and political debates about nationality and citizenship and commonly voiced in debates which problematise immigration and asylum (c.f. Charteris-Black, 2006; Clarke, 2005; Kilby et al., 2013). In the current context, when the narrative of exclusionary Britishness is focused on a jihadi bride who, at the time these media articles were written, was also an expectant mother, we see further layers of exclusion associated with misogynistic notions of women as especially burdensome on a welfare system. Furthermore, drawing on feminist explanations of gender roles as underpinning hierarchical social systems, Masters and Regilme Jr. (2020) contend that gendered norms position women as both biological and cultural reproducers who create and maintain both shared identities and societal conflicts through motherhood, with mothers who are constructed as Other perceived as a threat to the reproduction of prevailing notions of Britishness and precisely what that entails.

In sum, media representations of Shamima Begum demonstrate a heavy reliance on pre-existing and widely used Islamophobic rhetoric. The engagement of an Us and Other binary elevates concerns with the threatening Muslim Other, framing Shamima Begum as a dangerous (and gendered) individual who presents both material threat to British lives and ideological threat to British values. This powerful rhetorical act of othering increasingly delegitimises the case for her return to the UK, leaving her vulnerable to both structural and direct violence. Jackson (2019) proposes that media constructions of jihadi brides create a deeply dehumanising “‘third category’ – neither targets nor innocent civilians, but individuals whose lives were more disposable because of their decision to migrate’ (p. 14). This sense of a life that no longer belongs in the UK and, thus, a life that no longer matters is central in these arguments about what should be done with Shamima Begum.

Discussion

In this chapter, we argue that UK media representations of women routinely labelled as jihadi brides construct a doubly deviant Other. This dominant characterisation of British Muslim women who travel to Syria with the intention of marrying and settling in the self-declared 'Islamic State' reflects intersections of gendered and Islamophobic discourse which engage patriarchal and nationalistic ideals. Applying Galtung's typology of violence as a theoretical lens, we further argue that the construction of the doubly deviant Other is the enactment of Islamophobic gender-based cultural violence.

Prior studies examining Western media representations of jihadi brides (e.g. Jackson, 2019; Martini, 2018; Sjoberg, 2018) have repeatedly argued that these women are Othered on the basis of race and gender, and our illustrative analysis of Shamima Begum adds to this body of work. Mainstream media is widely recognised to carry significant social and cultural power, (re)producing and promoting accepted 'truths' about issues, events and people in the public eye (van Dijk, 1991). Applying Galtung's theoretical lens allows us to approach the mainstream media as a site where cultural violence gets done and thus understand how UK mainstream media constructions of jihadi brides operate as acts of cultural violence. Galtung's (1990) typology of violence further invites us to explore connections between this discursive enactment of cultural violence and acts of structural and direct violence.

A repeated finding of prior studies (e.g. Jackson, 2019; Martini, 2018; Sjoberg, 2018), which is also indicated in our analysis, is the dehumanising effect of the jihadi bride construction. The discursive act of dehumanising those who are cast as Other carries significant implications. As Galtung (1990, p. 298) notes, when the Other is successfully dehumanised, 'the stage is set for any type of direct violence, which is then blamed on the victim'. With specific regard to jihadi brides, Jackson (2019) points out that there is not necessarily a direct relationship between discourses that dehumanise and acts of direct violence such as those meted out by policy-driven military actions. Rather, dehumanising discourses reframe possible courses of action, rendering some more appealing (and, we suggest, less morally indefensible) than they might otherwise have been. Galtung (1990) proposes that an exploration of cultural violence illuminates how 'the fact of structural violence and the act of direct violence are legitimised and thus rendered acceptable in society' (p. 292). When media representations of jihadi brides are understood as the enactment of Islamophobic gender-based cultural violence, we can identify a pathway between cultural violence, structural violence and direct violence.

Based on our explorations of the Shamima Begum case, and drawing on prior analytic findings, we contend that media representations of the doubly deviant Other dehumanise in large part by constructing racialised women who are characterised as defying and/or transgressing patriarchal ideals of gender and deeply rooted nationalist ideals. Against this culturally violent discursive backdrop, structural violence in the form of government response and policy position is framed as the sensible, reasonable and, often, morally just, course of action. This, in turn, facilitates direct

violence in the form of forced removal or denied repatriation. Notably, Galtung's typology of violence includes a category labelled 'expulsion' which is conceptualised as a form of direct violence that involves 'locking people *out* (banishing them abroad or to distant parts of the country' (Galtung, 1990; 293). Certainly, in the case of Shamima Begum, we suggest that the UK government's determination to strip her of her British citizenship and resist her legal appeals which might lead to her return to the UK can be understood as the enactment of structural and direct violence.

Jihadi Brides as a Testing Case

A major contribution of feminist research in relation to the study of women either directly involved in, or connected to, political violence develops out of the commitment to exploring and problematising the gendered framing of women in these contexts. As discussed, such research reveals how women are routinely characterised as either victims or villains, rendered subservient to ISIS men, and void of political, social and often personal agency (Jackson, 2021). However, when the dominant narratives and constructed identities of jihadi brides are dismantled and women are re-evaluated and infused with a level of agency that underpins their deliberative choices and actions related to their engagement in or support of political violence, and/or their immersion in cultures where gender equality is lacking, we are confronted by women who are not always deemed a comfortable fit with the ideals of feminism. Whilst expanding on this issue is beyond the scope of the current paper, it is something we believe it is important to acknowledge. For our part, we found Jacoby's (2015) thought provoking exploration of jihadi brides as testing the boundaries of contemporary feminism insightful. In this work, Jacoby poses some intentionally challenging questions, not least 'Should feminism include women who oppose liberal democracy, Western culture, and even Western feminism itself?' (2015; p. 532). As researchers grounded in the discipline of critical social psychology, with backgrounds researching Muslim identity construction in the context of terrorism talk, our primary aim is to examine how such identity work gets done and challenge the social injustice and inequalities that such racialised identity construction feeds. Whilst we don't have any absolute answers to the issues discussed by Jacoby (2015), we take the view that, for as long as women are discursively constructed in ways that fundamentally dehumanise and/or otherwise oppress on the basis of race, culture and gender, regardless of any given ideological standpoint they may embrace, there is an intellectual, political and moral role for feminism in bringing challenge.

We further recognise that the choices made by women who leave the UK to pursue a life under ISIS present many questions for UK society, both along moral and ethical dimensions and debates about the role of shared values and cultural ideals and regarding more pragmatic issues of security. The point of our work is not to deny the validity of debating all such issues; however, we contend that the construction of these women as the doubly deviant Other creates a monster in order to fight

a monster. In so doing, it perpetuates cycles of violence which primarily serve the dominant political interests of Western elite and rides roughshod over women, whose lives are largely inconsequential to those who wield power.

We hope that our work will connect with scholars with broad interests in gender-based violence and stimulate further interest in the study of gender-based cultural violence. Our work points to a need to better recognise media discourse as a site where gender-based cultural violence is done and a need to more closely attend to relationships between cultural, structural and direct forms of gender-based violence. Whilst our focus is with constructions of jihadi brides in the UK context, we also suggest that this theoretical lens could be meaningfully applied to better understand gender-based violence in a host of guises. Some obvious sites for analysis include media discourse as sites of cultural violence in relation to structural and direct forms of domestic violence and sexual violence. Another area that is ripe for such analysis relates to the erosion of women’s rights to abortion and reproductive health in the USA. We look forward to contributing to the pursuit of such work going forward.

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Chapter 11

Whose Take Is *the* Take?

The Contemporary Framing of Intimate Partner Abuse in News Reports on the Murder of Hannah Clarke



Sarah Tatton

Introduction

In Queensland, Australia, on the morning of February 19, 2020, Rowan Baxter doused Hannah Clarke's car in petrol and set it alight. Inside the car, Clarke and her three children were ready to set off on the school run. All four were killed. As the car burned, Baxter held observers back to prevent them from intervening, before stabbing himself and taking his own life. In the lead up to the attack, Baxter, Clarke's husband, had been the subject of domestic violence orders following their separation and was known to the police for a string of controlling and violent incidents. The murder prompted a flurry of media coverage and debate related to intimate partner abuse (IPA). The language used to describe and discuss the tragedy illustrates our current discursive struggle over how we frame and explain the dynamics of the abusive intimate relationship. From a critical realist perspective, the language we use in social interaction dramatically alters our realities, and as such, it wields great power (Fairclough, 2015). Fairclough's critical discourse analysis (Fairclough, 2013) is the perfect methodological tool for interrogating competing discourses at the point of social change and for examining the power dynamics at play. The feminist lens applied to language (Cameron, 1998; Lakoff, 2000) compliments Fairclough's critical methodology, exposing the centralisation of historically dominant patriarchal narratives in the service of ideological power (Fairclough, 2013). Foucault's genealogical approach (Foucault, 1975/2020) describes our current knowledge as contingent on a history of dominant and counter-discourses of IPA (Ferraro, 1996; Garland, 2014; Monckton Smith, 2020). Amongst discursive

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modalities, the news media have a particularly formative influence on our social realities (Monckton Smith, 2012; Lloyd & Ramon, 2017). This chapter examines two contemporary UK newspaper reports of Hannah Clarke's murder, using Fairclough's critical discourse analysis (CDA) to expose competing narratives of IPA as they vie to establish 'knowledge'. Themes of centring, agency and sympathy highlight the contrast between the dominant and counter-discourses.

Background

Intimate partner abuse (IPA) is a global and widespread social issue, the long-term and serious effects of which have become increasingly salient through research, practice and growing public awareness over the last half century (WHO, 2005). In England and Wales, legislation introduced in 2015 (Sect. 76, Serious Crimes Act) and later refined (Domestic Abuse Act, 2021) defines coercive or controlling behaviour (CCB) as an abusive pattern in the context of an intimate relationship. In contrast to historical portrayals of 'domestic violence' as episodic and triggered by conflict and situational stressors (Johnson, 2008), CCB legislation outlines purposeful patterns of behaviour motivated by the desire for control and the domination of one partner over the other. It encompasses not only physical assault but humiliation, intimidation and destabilisation accomplished through emotional, psychological and economic control and manipulation (Serious Crime Act, 2015; Domestic Abuse Act, 2021). The description of IPA captured in this legislation represents decades-long campaigning in the UK; beginning with the refuge movement of the 1970s, victim-survivor voices became increasingly amplified in the media, research and practitioner accounts (Dobash & Dobash, 1992; Ferraro, 1996).

Although its effectiveness for victims has been questioned (Walklate & Fitz-Gibbon, 2019), this legislation is a significant acknowledgement at the level of social formation (Fairclough, 2013) that a range of abusive behaviours within an intimate relationship are no longer socially acceptable. This narrative chimes with resistance discourses globally (Stith & Spencer, 2021), yet coercive control legislation exists in few jurisdictions. Hannah Clarke's murder added fuel to the national debate in Australia about the potential for better safeguarding and awareness offered by legislative reform (Smee, 2022). At this site of social change, Fairclough advocates critical discourse analysis (CDA) as central to examining the conflicting discourses which characterise it (Fairclough, 2013).

I draw on the following helpful definitions of discourse: 'language as social practice determined by social structures' (Fairclough, 2015, p. 51), 'connected language used for a purpose' (Lakoff, 2000, p. 8) and 'the site where meanings are created and changed' (Yates et al., 2001, p. 6). Fairclough describes a process through which socially constructed knowledge, internalised such that it is considered as 'common sense', is challenged through ideological struggle, much of which is framed by language (Fairclough, 2013). Historically dominant discourses of 'domestic violence' have constructed a social reality in which male violences in

particular are normalised and excused (Monckton Smith, 2012). The ‘coercive control’ discourse challenges this status quo, exemplifying Fairclough’s social change through social formations and social action (Fairclough, 2013). Two newspaper reports are chosen here to illustrate the contemporary ideological struggle between the historically dominant, patriarchal discourse of intimate partner violence and the survivor-informed discourse of coercive control.

Before analysing the narratives presented in the two news articles, the relevant dominant and counter-discourses will be described. This description draws on Foucault’s genealogical method, through which the present is analysed critically with reference to the histories on which it is contingent (Foucault, 1977/2020; Garland, 2014; Tamboukou, 2003, 2015). Foucault, like Fairclough, emphasises the power dynamics operating through social inter/actions and particularly through discourse. A brief genealogy of IPA is presented here, which will highlight how social realities are constructed in the service of power.

Intimate Partner Abuse and Discursive Construction

In examining the contemporary discourses associated with IPA, Foucault’s genealogical approach (Foucault, 1977/2020; Garland, 2014; Tamboukou, 2003, 2015) is the point of departure, since it encourages the ‘diagnosis of the present’ by examining its contingency on historical struggles. Fundamental to Foucault’s work is the concept of power, as operational through discourse, and a social reality which is constructed through human actions and interactions (Foucault, 1969/2002). Both Ferraro (1996) and Monckton Smith (2020) use this approach in describing the cultural resistance to violence against women in the USA and UK, respectively, much of which is embedded within family structures. The emergence of the feminist refuge in the early 1970s in both countries challenged the previously accepted ‘common sense’ of family and intimate relationship dynamics (Dobash & Dobash, 1992). This prompted significant shifts in the perception of agency in IPA, highlighted empowerment through ‘centering’ or disempowerment through marginalisation and questioned notions of who should receive sympathy and public support.

The long-established family structure has historically relied on socially defined gender roles, providing a setting in which expectations of the wife and mother are regulated and transgressions can be legitimately punished (De Beauvoir, 1949/2011; Smart, 1992; Cameron, 2018). These roles have been established and maintained through multiple discursive channels or ‘modalities’ (Foucault, 1969/2002), including legislation (Smart, 1989, 1992), art and literature (Hooks, 2001) and the scientific community (Foucault, 1969/2002, 1981; Lakoff, 2000; Shields, 2007). All of these contributed to the construction of the female as unreliable, unstable and less capable than the male and the male as more prone to aggression and served to subordinate and marginalise women (De Beauvoir, 1949/2011; Stanko, 1985; Stark, 2007; Tamboukou, 1999). Moreover, the location of the nuclear family in industrialised countries – in distinct households, each responsible for managing its own

resources – established a physical barrier between the family and the wider community (Hofmeester & van Nederveen Meerkerk, 2017). A culture of privacy and male control and ownership over his family unit (Mooney, 2000), as crystallised in the English idiom ‘a man’s home is his castle’, remains prevalent across the world. Within this framing, violence in intimate relationships is attributed to stresses related with work and economic resources, associated coping strategies such as alcohol and drug use and the failure of an individual (usually the female) to fulfil the expectations of their role.

This framing has been described as ‘situational couple violence’ (Johnson, 2008). It happens behind closed doors, within the privacy of an intimate relationship or marriage, it is attributed to normalised, structural factors, and the wider community is thus reluctant to intervene (Dobash & Dobash, 1998; Ferraro, 1996; Stanko, 1985; Stark, 2007). Viewed from this perspective, agency is deflected away from violent individuals. Monckton Smith frames this lack of accountability as the ‘crime of passion’ (Monckton Smith, 2020); the emotional trigger, rather than the individual, is to blame. Male violence is supported and endorsed by social structures which attribute agency to other factors, typically as non-compliance of the wife with gender and family expectations (Johnson et al., 2020). As such, the aggressor receives sympathy, since the violence is not his fault, and the voice of the victim is silenced, as their refusal to comply with socially accepted constructions leaves them without legitimacy.

The traditional view, in which the perpetrator is excused and the victim is blamed, remains salient in contemporary media coverage of violence against women. Two recent examples are Brock Turner’s sexual assault of fellow college student Chanel Miller, in which Turner claimed that the unconscious Miller had consented to sex, blaming female students’ promiscuity for his assumption (Stack, 2016), and the public response to English footballer Mason Greenwood (Pidd, 2022), whose girlfriend posted photographs of injuries and recordings of him allegedly raping her on social media, and who was widely supported by (mainly men) who said that it was a girlfriend’s duty to have sex whenever required (Women’s Aid, 2022). However, as exemplified in both these recent cases, the historically dominant discourse is fiercely challenged, and agency, centralisation and sympathy are contested. In this discursive and ideological struggle, the status quo is disrupted by the counter-discourse of coercive control.

Since the early 1970s, in resistance to these traditional structures, victim-survivor accounts have been amplified through social movements, research and practitioner accounts and provide a contrasting narrative of IPA dynamics (Dobash & Dobash, 1992; Stark, 2007). The counter-discourse is informed by the lived experiences of victim-survivors and is captured in descriptions of coercive control (Barlow & Walklate, 2021; Monckton Smith, 2020; Stark, 2007). Whilst ‘situational couple violence’ deflects responsibility away from the perpetrator by focusing on external triggers, coercive control highlights a dynamic of purposeful domination by one partner over the other. This ‘intimate terrorism’, as Johnson terms it (Johnson, 2008), is a deliberate pattern of behaviour, enacted through a range of controlling and coercive strategies which the victim is often unaware of. Patriarchal ideology

and structures, such as gendered roles and expectations, the nuclear family and romance are viewed through the feminist lens as supportive of IPA, especially male violence against women (Barlow & Walklate, 2021; Dobash & Dobash, 1992, 1998; Ferraro, 1996; Hearne, 1998; Mooney, 2000; Stanko, 1985; Stark, 2007). In contrast with the traditional descriptions of IPA which imply a *lack* of control on the part of the perpetrator, CCB places control at the centre of the narrative. CCB is a range of purposeful strategies which serve to subordinate and restrict the freedoms of the victim (Barlow & Walklate, 2021; Stark, 2007). The coercive control discourse emphasises the choices made by perpetrators in deliberately selecting the most effective strategies with which to control and manipulate their victim (Kelly & Westmarland, 2016; Johnson, 2008; Stark, 2007). As such, agency is squarely attributed to the perpetrator, whilst the experience of the victim-survivor is centralised as their voice provides insight into the dynamics of private spaces. In the CCB narrative, public support and sympathy lies with the victim-survivor as the target of deliberate and considered abusive behaviour.

The competing discourses outlined here provide the contemporary cultural backdrop to the murder of Hannah Clarke and her children. Their tragic and unnecessary deaths stirred a long-overdue debate about public responses to IPA. Within the media coverage, these two discourses are salient. The use of CDA to analyse reports on the circumstances of Clarke's death exposes the discursive strategies of this ideological struggle.

Method: Critical Discourse Analysis

Critical discourse analysis (CDA) exposes social realities as constructed through language and centralises the operation of power through discourse (Fairclough, 2013, 2015). Social change is the ideal site for CDA (Fairclough, 2013), since it focuses on how ideological struggles underpin shifts in accepted knowledge. This analysis of two distinct news reports on Hannah Clarke's murder illustrates the process of social change through discourse. It uncovers narratives of agency, centralisation and sympathy which highlight the work that remains to be done in challenging the patriarchal structures that excuse and endorse such brutal violence.

The central assumption in discourse analysis is that discourse is constitutive (Foucault, 1969/2002); discourse is 'the site where meanings are created and changed' (Yates et al., 2001, p. 6). From this perspective, the phenomena we take for granted – such as intimate relationships, gender and gender expectations and intimate partner abuse – are discursive 'objects' (Foucault, 1969/2002) which are constituted and reconstituted through our social inter/actions (Fairclough, 2013, 2015; Gergen, 2015). News media is an 'enunciative modality' (Foucault, 1969/2002), a site of discursive construction (Fairclough, 1995). In contemporary news coverage, the 'perpetual battle' (Lynch, 2014, p. 22) of power relationships and strategies exercised through discourse is evident. Interrogating news media with CDA highlights the persistence of the historical social structures described by the genealogy

above and provides evidence of the resistant counter-discourse (Fairclough, 1995, 2013, 2015). Thus, in the chosen news reports, the ideological struggle for power described by Fairclough (2013) can be illustrated.

Two UK newspaper articles, one from the Sun (Adjei-Darko, 2020) and one from the Guardian (McGowan & Smee, 2020), were chosen from the wide media coverage of Clarke's murder as representative of the competing IPA. Each refers to gendered expectations and relationship and family norms. Guiding the analysis is Monckton Smith's identification of two main contemporary discourses wrestling within the discursive field of IPA to retain/gain power (Monckton Smith, 2020). 'Crime of passion' is tethered to the historically dominant discourse which nests within patriarchal constructions of the nuclear family; 'coercive control' is the counter-discourse which arises in resistance to traditional patriarchal values (Monckton Smith, 2020). At the time of Hannah Clarke's murder, the dominant and counter-discourses around family dynamics and IPA are both salient, and what is accepted as 'truth' (Tamboukou, 1999) is in the process of significant reconstitution. Media news offers an effective modality for the discourses at work, since they are widely distributed and accessed by an audience that uses them to construct their understanding and thoughts about the social world (Lloyd & Ramon, 2017); news media contribute to the establishment of norms (Carabine, 2001). Echoing Fairclough's CDA methodology and inspired by Foucault's archaeology, Linda Graham distils discourse analysis as 'explicating statements that function to place a discursive frame around a particular position, that is, statements which coagulate and form rhetorical constructions that present a particular reading of social texts' (Graham, 2005, p. 10). This method focuses on the constitution of knowledge through the construction of discursive objects and the productive nature of discourse in relation to power (Fairclough, 2015; Foucault, 1969/2002; Carabine, 2001). Fairclough's CDA aims to dig into texts to expose these discourses at work in the service of power. The two articles in this analysis are thus carefully considered for illustrations of the 'crime of passion' and 'coercive control' discourses by looking not only at the language chosen but also at the silences and omissions. Interrogation of the texts, including images, reveals three main themes common to both narratives: centering, agency and sympathy. Each piece is examined for evidence of the construction of the news narrative and thus of the reader's version of reality.

Analysis of the Data

On February 19, 2020, Rowan Baxter doused the interior of Hannah Baxter's car in petrol and set it alight. Their three children, strapped in ready to set off for school, were unable to escape their car seats and were all burned to death as Baxter prevented members of their family and other bystanders from coming to their aid. He then stabbed himself to death. Meanwhile, Clarke managed to get out of the car but had already suffered severe burns and died in the hospital that evening. The incident was widely covered and discussed across the media. The following analysis is of

two news reports chosen as illustrative of the historically dominant/patriarchal and the counter/feminist discourses.

Theme 1: Centering

On the day following the murder, the Sun newspaper offered a discourse which retains strong connections with the historical construction of the patriarchal nuclear family (Adjei-Darko, 2020). This is achieved by placing Baxter at the centre of both the family narrative and the news story, and by sidelining Clarke as a minor character in the story of her murder. The headline, ‘Ex-rugby player Rowan Baxter died alongside his wife and young children in a car fire in Australia’, when unpacked, reveals much about how the reader should view the incident and the story behind it. Through use and omission of names, it immediately identifies and centres Baxter, disregarding Clarke as a nameless ‘other’ (Lakoff, 2000). Baxter immediately becomes the central figure of a tragedy, with added emotional intensity added by ‘alongside his wife and children’. The use of ‘died alongside’ has echoes of warrior narratives and implies unconditional commitment and loyalty to the family. The use of the possessive in ‘his wife and children’ confers on him ownership of the family, especially since they remain nameless; they are not identified as individuals, merely mentioned as his possessions.

Immediately beneath the lead sentence appears a photograph of the smiling family, Baxter holding the youngest child in one arm and his other arm around Clarke. He is at the centre of the closely positioned group and the photo is captioned, ‘Rowan Baxter pictured with his wife and family’. Hannah Clarke is still no more than Baxter’s wife, occupying a subordinated position with no presence as an individual in the incident, an anonymous smile in a family photograph. The narrative continues to centre on the death and loss of Baxter in the following paragraph, ‘Who was rugby player Rowan Baxter?’ which outlines his career as a sportsman and fitness coach and confirms his position as the subject of the story. Here, Clarke is still only mentioned as ‘his wife’ and is not introduced until the photograph placed beneath this paragraph. Clarke is holding one of their children on a beach, both smiling, again offering a discourse of the happy, united and loving family around Baxter. The caption ‘Hannah Baxter with son Trey, three’ introduces Clarke with Baxter’s name rather than her own. The following paragraph, titled ‘Who was Rowan Baxter’s wife Hannah and how many kids did they have?’ allows Clarke to join Baxter’s history as a supporting character, first outlining her age, marital status, job and status as a mother, not so much an individual as a set of labels (Clark, 1998). Not until the bottom of this paragraph does the coverage briefly mention a history of ‘domestic violence’. As Clarke has been dehumanised through the use of labels, moral objections – which would give IPA greater presence in the narrative – are minimised (Manne, 2019). The centring of Baxter in the traditional, patriarchal role in this piece allows for the themes of sympathy and agency to slot neatly into the narrative, serving the ‘crime of passion’ discourse.

Published on the same day as the Sun piece, the Guardian's coverage of the murder is particularly useful for examining the counter-discourse (McGowan & Smees, 2020). The headline, 'Queensland police spark anger with "open mind" comment on murder of Hannah Clarke and children' immediately centres Hannah Clarke and the children in the narrative, clearly positioning them as victims and using 'murder' to orient the reader within the appropriate discursive context. The picture which follows the lead is one of the three children (neither of the photographs in the article pictures Baxter), the caption for which states that 'Police say Baxter had a history of domestic violence'. Within this very different narrative, Hannah Clarke and her children are centred as the innocent victims of a violent murder. Again, this provides the context and clear signposts for the reader, such that sympathy and agency are beginning to take shape.

Theme 2: Sympathy

To make sense of the story, the reader must understand with whom they should align. Sympathy is a crucial aspect of the framing of a media story, which directs the reader towards how they should feel (Bouchard et al., 2020) and a critical component of both the 'crime of passion' discourse and its counter 'coercive control'. Levels of empathy with either a victim or perpetrator of violence have been shown to have a mediating effect on response, such that the perpetrator receives a more lenient response where the victim has violated gender norms (Johnson et al., 2020). As Kate Manne observes (2019), a great deal of effort goes into exonerating men of violence against women, using the term 'himpathy' to express this feature of cultural discourse (Manne, 2019). The Sun headline positions Baxter in a sporting context, a wholesome, healthy pursuit and a source of entertainment and service to the public. This sympathetic naming (Clark, 1998) in effect legitimises Baxter, establishing his status at the top of the narrative. The following lead sentence reports that 'Baxter was allegedly distressed amid custody arrangements after separating from his wife'. Baxter is thus portrayed as a victim of separation from his family, using 'custody arrangements' to imply a battle to see his children – a right which must have been denied him if he has had to fight for it. This 'distress' exploits two dominant discourses of fatherhood: the historical discourse, long accepted as a self-evident truth (Tamboukou, 1999), of the threat of low morality associated with a fatherless family (Smart, 1992), and the more contemporary construction of the ideal father – present, hands-on and loving – which typically has a far lower set of expectations compared with those of mothers (Cameron, 2020). The photographs present the picture of a loving father, and the article omits the abuse they suffered at his hands. These discursive strategies are commonly found in media narratives of male violence, which position the perpetrator as victim (Monckton Smith, 2012). Baxter the father is thus the object of sympathy for the reader; Clarke has violated the norms and traditional expectations of a nuclear family, such that Clarke's violent response is justified (Johnson et al., 2020; Monckton Smith, 2012). Clarke here

remains unnamed, the use of 'his wife' suggesting that separation from her is tantamount to the loss of his property, which may be considered to add to his distress. By the time 'domestic violence' is mentioned, much later and as an aside, it is overshadowed by his status as the victim of estrangement from the happy and beautiful family presented in the photographs. The 'crime of passion' discourse is subtle here, but sympathy for Baxter is consolidated before his role in the murder is even hinted at.

By contrast, the Guardian presents the 'crime of passion' discourse in order to tear it down, diverting sympathy away from Baxter and onto his victims. In the lead sentence, the Queensland force are quoted as suggesting that Baxter was 'driven too far', a reference to the 'crime of passion' discourse, and sets 'domestic violence campaigners' in opposition to it. The two discourses are embodied by the police, presenting the traditional, patriarchal perspective in trying to establish sympathy for Baxter and the domestic violence campaigners, signposted as occupying the moral high ground and 'appalled' at this historical narrative. The Guardian also states, at the top of the piece, that 'he set fire to his family in their car in Brisbane'. This provides a very different discursive construction from the outset; the reader is presented with a violent and abusive husband not a wholesome footie star. Direct quotes from Clarke's family and the police are employed to triangulate the narrative, thus creating a more reliable version of reality. In this context, the smiling pictures of Hannah Baxter and her children serve the counter-discourse, as innocent victims with status as individuals who have been subjected to the most extreme of coercive and controlling behaviours. Their long-term abuse at the hands of an abusive husband and father, which is reiterated throughout the article, leaves the reader in no doubt as to who deserves sympathy and who is the agent for their deaths.

Theme 3: Agency

Agency, as the flip side of the sympathy coin, is likewise constructed through discourse. To this end, the Sun headline aligns with prevalent dominant discourses which avoid attributing blame to male perpetrators (Smart, 1989). Baxter 'died in a car fire', removing agency from the incident. The whole article avoids attributing blame to Baxter for the deaths, either justifying or minimising his abusive behaviour. A photograph of a plume of black smoke in a suburban street is captioned, 'Hannah Baxter's car was set on fire while the kids were still inside'; the use of the passive 'was set on fire' avoids describing Baxter's act of premeditated murder. The sequence of events, as reported by witnesses present at the scene, unfolds in a paragraph, headed, 'What happened to the family?', a language choice that again removes agency. In the only sentence which directly reports his attack on Clarke and their children, his setting the car alight as they sat in it, Baxter is referred to not by name, but as 'the former rugby star'. The use of the word 'star' jars against the rest of the sentence, tempering his act of extreme cruelty and violence by offering a reminder of his 'good guy' status. The minimisation continues in 'Local media

reported Rowan had tried to prevent helpers', with the use of Baxter's first name and the distancing from witnesses on the scene through the insertion of a potentially less reliable source, 'local media'. We reach the closing paragraphs before domestic violence is mentioned, where the piece still evades the history of the family which, according to other reports, was widely known. Although this is linked to the custody arrangements, it is not made explicit that this is the reason he has not been granted access to the children. This discourse provides an example of the 'crime of passion' discourse (Monckton Smith, 2020). It aligns with historical discourses around the reasonable, rational male, who must have been pushed by events beyond his control to have acted in this way. The silences in the representation of Hannah Clarke imply the notorious discursive object, the unreasonable and emotionally unstable female (Shields, 2007), as the cause of distress. Agency is attributed to Clarke through strategic omissions and the exploitation of traditional discourses around gender expectations.

The Guardian, by contrast, unequivocally attributes blame to Baxter, a narrative which aligns with the 'coercive control' discourse. It is stated that Baxter 'killed his wife and three children by dousing them with petrol and setting them alight'. Here, the use of the possessive 'his' takes on a different aspect in the light of the headline and lead. Rather than possessions of the central character, Clarke and the children have been established as individuals such that 'his wife and children' are now *people* murdered by someone close to them; the murder is framed as a betrayal of trust. In this account, it is not the car that is burning; it is the family and not the burning car that killed the family but Baxter. This directness is repeated later in, 'Baxter poured petrol on his family in a domestic violence incident', where the language creates a vivid narrative of the family dynamic.

In contrast to the Sun's account, the police are positioned centrally as representations of the 'crime of passion' discourse. Already a stark contrast to the Sun headline, the Guardian constructs the police response and its hesitancy to attribute blame as inadequate. The language in the whole of this piece offers up the historical, patriarchal discourse, represented by the police force, as flawed and failing victims of abuse. They are said to have 'shocked domestic violence campaigners', highlighting the tension between two discourses. The police 'are appealing to people who knew the couple to come forwards to understand his motives', which, in the context clearly constructed by the piece so far, portrays the police as dismissive or evasive of the nature of the incident. The Sun coverage suggests that for the police to draw conclusions so early in the investigation would be inappropriate, which is presented as a reasonable and justified response. In the Guardian, however, the police are constructed as the voice of denial and avoidance, the mouthpiece of the patriarchy. The voices of the traditionally dominant and counter-discourses are made explicit in the Guardian account, with several quotes from both sides carefully positioned within the article so that the coercive control discourse emerges as the more powerful. Quotes from the chief executive of a women's legal service bring weight to this discourse; her wording positions 'victim blaming' narratives as ignorant and outdated and undermining their legitimacy by referring to them as 'myths' which the police are 'buying into'. Set against this, the detective's words appear particularly

dismissive; ‘Thompson said police were “aware of the movement of the children over the last couple of months” but were not investigating a kidnapping’. When he refers to ‘The dynamics of a family that are broken and estranged’ after Baxter has been called ‘a calculated monster’, the lack of progress in police response to IPA and the tenacity of historical discourse are particularly striking.

Discussion

Following the deaths of Clarke, Baxter and their children, discursive resistance to initial reports, such as the police ‘open mind’ comment, quickly arose, and later reports were modified in response. The discourse around the event thus became a dialogue between news outlets, members of the public and domestic abuse organisations and a glimpse into what Foucault calls ‘ruptures’ in history (Foucault, 1969/2002; Tamboukou, 2015). An illustration of Fairclough’s description of ideological struggle (Fairclough, 2013) tension is evident between traditional constructions of gender roles and the nuclear family and the counter discourse of resistance to patriarchal dominance. This analysis of contemporary discourse illustrates the power struggle in cultural responses and offers an insight into possibilities for supporting victims more effectively. The three key themes suggested here constitute a starting point for examining what we take for self-evident truth (Tamboukou, 1999) and for deconstructing internalised norms (Carabine, 2001; Fairclough, 2013) rather than accepting them as ‘reality’.

The discourse surrounding this murder demonstrates the persistence of the historical narrative, despite shifts in attitude initiated by feminism and the refuge movement, a constant effort to reassert or retain dominance. The resulting ‘crime of passion’ discourse works to justify and minimise coercive and controlling behaviour perpetrated by men against women, encouraging sympathy and lenient responses. This discourse does not serve victim-survivors of IPA, since it denies their experience and contributes to victim blaming. Such discourse creates barriers to recovery and justice and offers little deterrent for perpetrators. The ‘coercive control’ discourse, on the other hand, offers a perspective from which to reassess traditional constructions of intimate relationships. Whilst IPA and coercive control may take place in any intimate relationship, not only as male violence in heterosexual relationships, the latter is by far the most prevalent (WHO, 2005). The slow move away from historical constructions of women as subordinates, obliged to serve their male partners, has contributed to the counter discourse in offering space for women to be seen as individuals with rights equal to those of men.

The counter discourse of coercive control centres the experience of the victim-survivor and highlights the power mechanisms which have historically been used in the service of subordination. It offers the opportunity for those with a remit for responding to IPA and coercive control to unpick accepted ‘truths’ and approach victim support more effectively.

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Part V
Gender-Based Violence: Perspectives on
Rehabilitating and Reintegrating
Perpetrators

Chapter 12

Community Hubs: An Innovative and Desistance-Focused Approach to Probation for People Convicted of Sexual Offences



Charlotte Oliver, Andrew Fowler, Madhumita Pandey, and Peter Brown

Introduction

The volume of recorded sexual offences by the police in England and Wales has nearly tripled in recent years (ONS, 2021). Additionally, the most recent statistics estimate that around 11,873 people are serving a custodial sentence for a sexual offence in prisons across England and Wales (MoJ, 2021). Following a conviction for sexual offending, individuals typically receive either a custodial sentence or a community sentence. Although not all, a significant proportion of individuals convicted of sexual offending will be sentenced to a period of time in custody (Thompson, 2015). Trends of penal punitiveness have seen the length of custodial sentences increase over recent years as a political response to appear tough on crime (Kemshall & McIvor, 2004). Furthermore, the media has fuelled an emerging risk discourse surrounding sexual offending, creating a risk averse culture and encouraging predictive calculations in the sentencing of people convicted of sexual offences (Hood et al., 2002; Hudson, 2003; Thomas, 2005). Whilst incarcerated, people convicted of sexual offences frequently experience negative labelling and stigmatisation within the prison community (Tewkesbury, 2012). Ostracisation and demonisation from the society therefore often begins within the prison walls, even before release. On completion of a sentence, either on release from prison or during a community sentence, people convicted of sexual offences must then begin to

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navigate their release and contemplate reintegration into the community after release from prison, the success of which remains a key aim of criminal justice (Brown et al., 2007). As a result of the restrictions placed on sexual offenders and their devalued social status, people convicted of sexual offences experience significant and wide-ranging difficulties, from securing employment and housing to maintaining familial, platonic or intimate relationships (Uggen, 2005; Levenson & Hearn, 2007; Levenson et al., 2007; Tewkesbury & Lees, 2006, 2007). This is of concern, given the association of these factors with promoting desistance (Harris, 2021). The collateral consequences experienced on release create a persistent sense of vulnerability, stress and unease in individuals convicted of sexual offending that does little to facilitate desistance and may possibly encourage recidivism (Robbers, 2009; Tewkesbury & Lees, 2006, 2007; Tewkesbury & Zgoba, 2010). This set of circumstances prompts significant questions about how we as a society respond to sexual offending.

Gender-based violence and, in particular, sexual abuse and sexual offending are high on the agenda of concern politically, within media reporting and amongst the general public (McCartan & Richards, 2021). Undoubtedly, the impact of sexual offending, across the variety of forms it takes on victims and their loved ones can be destructive and devastating. Yet, the society often neglects to consider the impact of sexual offending on the perpetrators and their loved ones. Although an unsympathetic societal response towards perpetrators is perhaps unsurprising, this does not negate the life-altering effect a sexual offence has on *all* those involved. Whilst it is important to ensure that victims receive appropriate focus and care, if we are to truly address gender-based violence and sexual offending, we must also move past negative societal attitudes. We must ensure that there are also provisions and interventions for people convicted of sexual offences that prioritise desistance and support reintegration into the society to prevent future harm and victimisation. In line with this argument, this chapter focuses on such a provision in the form of community hubs, advocating for their use as an innovative and desistance-focused approach to probation for people convicted of sexual offence.

Background

Probation Supervision of People Convicted of Sexual Offences

The work of probation is typically carried out away from the public eye that is until it hits the headlines. This is of particular concern for the supervision of people convicted of sexual offences, with sensationalist reports on sexual offending engaging in processes of deviancy amplification, increasing hostility towards these individuals and, subsequently, their supervision on probation (Harrison et al., 2010; Thompson, 2015; Kemshall, 2008). In 2017, intense media scrutiny (BBC, 2017) followed a Ministry of Justice (MOJ, 2017) report into the Core Sex Offender Treatment Programme (SOTP) in prisons. This report suggested that men who had

completed the Core SOTP were slightly more likely to reoffend sexually. In January 2019, a joint thematic inspection of the work carried out with men convicted of sexual offences (HMIP, 2019a, b) resulted in a change in the training offered to practitioners within the field. The rapid response to this inspection (HMPPS, 2019) has now resulted in the rolling out of training to staff which incorporates the strengths-based approaches that were previously only familiar to programme facilitators (HMIP, 2019a, b).

The media undoubtedly has a significant impact on the context of this work, and it is a political topic, with governments responding to high profile, emotive sexual offences that often prompt calls for legislative change (BBC, 2001). This sets the tone for supervision of people convicted of sexual offences in many ways. The Ministry of Justice report (2017) did not address the effectiveness of community programmes or take into account issues such as ‘bias in the results’ that related to a lack of information about the level of denial of individuals selected to undertake programmes. Despite this, the report resulted in the scrapping of the Core SOTP in the community. The SOTP has now been replaced by the Horizon programme, which utilises a strengths-based approach and is broadly being received positively by participants but has not been fully evaluated. Nevertheless, not every person convicted of a sexual offence will qualify for this support, and those that do still struggle to successfully reintegrate into a largely unwelcoming community. This demonstrates the oppressive, wider forces influencing the treatment of people convicted of sexual offences, driven by negative media narratives that keep sexual offending high on the agenda of concern.

The media engages in a process of construction and contortion of news on sexual offending, with content chosen on its ability to sell (Silverstone, 2002). As society largely relies on the news media for information on crime, reporting creates a mediated lens that is influential in shaping and reinforcing public perceptions of sexual offending (Soothill & Walby, 1991; Harper & Hogue, 2017; King & Roberts, 2017). The ‘articles people best remember are the ones with sensationalist vocabulary and narratives’ (CJA, 2021: 6) leading to media reporting on high-profile cases that depict manipulative, irredeemable individuals that are entirely unrepresentative of this type of offending (CJA, 2021; Kitzinger, 2008; Anderson & Sample, 2008). Individuals convicted of sexual offending are a heterogeneous group of individuals from all walks of life (Ministry of Justice, 2010a). Through a predominant focus on rapists, paedophiles and celebrity cases, the media constructs a distorted picture of sexual offending (Payne et al., 2010). Indeed, a substantial proportion of sexual offending is less serious in nature, such as voyeurism or exhibitionism (Thompson, 2015; Ministry of Justice, 2010a). This spotlight on serious sexual offending leaves the majority of lower-risk offending unacknowledged (Ministry of Justice, 2010b). Consequently, media attention emphasises predatory, sensational offending, presenting it as the norm, the reality being that those classified as dangerous are the minority (Grubin, 1998; Ministry of Justice, 2010b). This impacts public perceptions on crime, with a Ministry of Justice (2013a) report noting common misconceptions about the true extent of crime and perceived leniency in sentencing. The Criminal Justice Alliance (CJA, 2021) produced a report which indicated that these

trends have been exacerbated by the shift towards people consuming media in less traditional ways and more through the lens of social media.

A notable trigger of significant change in the management of people convicted of sexual offences was the sexual assault and murder of Sarah Payne. This resulted in the News of the World campaign to 'name and shame' people convicted of sexual offences and called for the development of a UK equivalent to Megan's law, whereby members of the public in the USA can obtain information about people with sexual convictions in their community (Thomas, 2008). This led to tightening of the notification requirements (the 'sex offenders register') of people convicted of sexual offences, such as the inclusion of people who had a caution for a sexual offence to be included on this list, when a caution suggested reoffending was unlikely (Thomas, 2008). Prior to its inception, the efficacy of the register had not been tested or researched, being driven primarily by police interest in the mid- to late 1990s (Thomas, 2008). The notification requirements imposed restrictions designed to prevent reoffending 'based on populist demands' (Thomas, 2008: 94). This has not stopped notifications from becoming more onerous, despite human rights concerns and the existence of the register compelling the belief that individuals convicted of sexual offending require ever-present intrusive monitoring (Cesaroni, 2001; Tewkesbury & Lees, 2006; Thomas & Thompson, 2012). This current state of affairs leaves probation practitioners traversing a turbulent landscape, juggling a punitive political atmosphere alongside the individual trying to navigate their desistance journey (Mann et al., 2021).

Desistance from Sexual Offending

Although criminological research into desistance from sexual offending is still developing, critically, we do know that people who engage in these offences can and often do stop engaging in offending behaviour (Harris, 2021). Desistance describes the complex process of refraining from engagement in offending behaviour (Harris, 2014; Maruna, 2001). It is important to recognise desistance as a process, which may feature a de-escalation or deceleration of offending as part of the journey (Laws & Ward, 2011; Sampson & Laub, 1993; Farmer et al., 2012; McNeill, 2006). The importance of understanding desistance is evident, a greater awareness of how and why people stop offending can refine criminal justice approaches and, ultimately, help prevent further victimisation (McNeill, 2006).

The extent to which more general theories of desistance from crime can be applied to desistance from sexual offending has been doubted. Whilst stable employment or strong relationships are generally accepted contributors to desistance more broadly, a thematic review of desistance from sexual offending conducted by Farmer et al. (2015) suggested that for people convicted of sexual offences, whilst employment and relationships are important, they may not play a pivotal role in desistance (Bachman et al., 2015; Skardhammer & Savolainen, 2014). Related research implies that this may be because many people who commit a sexual offence have previously

been in relationships, had a family and secure employment prior to their offence (Harris, 2014; Hanvey et al., 2011). The applicability of findings from general desistance literature is likely to also be affected by the social control experienced by people with sexual offences. People with sexual offence convictions are overall less likely to be able to secure employment or a significant relationship due to the specific stigma associated with sexual offending (McAlinden, 2006; Laws & Ward, 2011). Work by McAlinden et al. (2016) found that the ability to envisage a realistic non-offending identity, similar to Maruna's (2001) core good self, is key in the process of desistance from sexual offending. A recurrent theme throughout research on desistance from sexual offending is the significant barriers faced by people convicted of sexual offences (see particularly Willis et al., 2010; Laws & Ward, 2011). Stigma, social isolation and labelling are all seen as impactful on the desistance process (Hackett et al., 2015; Harris, 2017). Alongside this are concerns that many approaches to the management of people convicted of sexual offences in the community may actually hinder opportunities for desistance and amplify the marginalisation they experience (Willis et al., 2010; Harris, 2014; Weaver & Barry, 2014). Crucially, research highlights that even with committed work in the early phases of desistance, problematic re-entry may increase the risk of recidivism (Göbbels et al., 2012). Whilst this is a growing body of work, it is vital that these findings filter into criminal justice provisions for the management and rehabilitation of people with sexual offence convictions (Harris, 2021).

Community Hubs

Partnership work, multi-agency work, inter-agency work and integrated offender management all involve multiple organisations to provide an aspect of support and risk management. It could be argued some of these processes emerge from concerns about risk management, rather than a holistic approach to working with people on probation. Despite this, at baseline, there is the recognition that the overall goal is the cessation of offending. The means of achieving this goal is subject to much debate. The community hub concept was a growing phenomenon in the field of probation, many having been introduced by Community Rehabilitation Companies (CRCs) following the implementation of the Transforming Rehabilitation reforms in 2014 (Ministry of Justice, 2013b). However, there are not clear plans in the target operating model to adopt a community hub system of support, and to date, there is limited research into the efficacy of community hubs to facilitate desistance.

There is no agreed definition of a community hub (Dominey, 2018). That said, they tend to address drug and alcohol use, housing, mental health, education and employment, with the overarching rationale being that people who use the hub can benefit from a multi-agency approach whilst meeting the requirements of their court order or prison licence. The person on probation can often attend beyond the period of their statutory supervision to access the resources at the community hub. Thus, hubs serve as a place and space in which agencies can pool resources to provide a

holistic service (Dominey, 2018). However, in the absence of a clear definition, it is necessary to consider the structure and governance of a hub in order to make sense of how it works, what it is intended to achieve and how successful it is in doing so (see Gardner, 2016). Hubs can be ‘specialist’, by supporting a particular group, or they can be more ‘generic’ by providing a service to everyone living in that community.

Ellis (2017), Dominey (2018) and later Phillips et al. (2020) conducted research into Community Rehabilitation Companies use of community hubs. Some of the findings are reported below.

Ellis (2017)	Dominey (2018)	Phillips et al. (2020)
<ul style="list-style-type: none"> • ‘Gallant project’ involved hubs, taking supervision into the community to reduce stigma • Partnership agencies support the hubs, free of charge to hit their own targets • Mixed response from staff; some were concerned about privacy in open plan hubs • Staff worked out of hubs implementing a move to ‘agile working’ 	<ul style="list-style-type: none"> • Increases service users’ awareness of other agencies • Good for meeting the needs of service users, with multiple agencies under one roof • Strengthen inter-agency relationships • Can provide individualised support • Need further data on reconviction rates 	<ul style="list-style-type: none"> • Hubs found to contribute to desistance, personal well-being and compliance with supervision • Community hubs provide or can access services which address key offending-related needs, e.g. substance misuse, accommodation, domestic abuse, employment and training • Hubs can provide practical and social opportunities to support desistance • Hubs are welcoming and non-stigmatising environments compared to ‘traditional’ probation offices

In Phillips et al. (2020), five key ingredients of hubs were identified to contribute to desistance:

1. *Location* – convenient, easy access, reduce stigma
2. *Environment* – the physical space came up frequently, design (social spaces, private rooms), cleanliness, less formal (staff suggested improved the relationship when meeting at a hub)
3. *Co-location* – allows for individualised support – wide range of services under one roof
4. *Cultural factors* – need staff and other agencies on board
5. *Innovation* – probation as a bridge to other services, involving service users, volunteers help run the service

The above factors contributed to building and sustaining hope, developing social and human capital, individualising support for change, developing good working relationships and recognising and developing strengths (Phillips et al., 2020; McNeill, 2006). This research largely referred to people whose conviction was not for a sexual offence, and now, we turn to consider community hubs and people experiencing sexual convictions.

The Use of Community Hubs for People Convicted of Sexual Offences

Given the clear difficulties faced by the probation service, together with desistance literature and existing research on community hubs, this chapter advocates for community hubs as a pathway to providing an innovative and desistance-focused probation for people with sexual offence convictions. Evidently, any potential solution to preventing gender-based violence and sexual offending is nuanced and complex, likely requiring a societal shift in attitudes. However, if we can move past the perceived discomfort in supporting people with sexual offence convictions and recognise the person behind the offence, we stand a better chance of addressing reoffending and promoting desistance.

Utilising community hubs with people convicted of sexual offences could be a progressive approach, providing purposeful rehabilitation and reintegration. In practical terms, hubs would need to either need to provide for all people on probation or be a specialist service, exclusively for people convicted of sexual offences. The former could be seen in the operation of Durham Tees Valley Community Rehabilitation Company, prior to reunification, which delivered its service across 35 community hubs (HMIP, 2019a, b). The service was not offence specific and prioritised providing enabling greater access to a range of services for people on probation. When inspected, it was found that ‘community hubs promote effective engagement with participants and partner organisations’ (HMIP, 2019a, b: 13), therefore providing the necessary societal links required for successful reintegration. The latter, a community hub providing specifically for people convicted of sexual offences, finds an excellent example in the Corbett Centre. The Corbett Centre is a collaborative operation, run by the Safer Living Foundation and launched in 2019. The Corbett Centre describes its purpose as:

...the Corbett Centre helps service users safely reintegrate into the community by offering practical and emotional support, educational opportunities, and training. (Safer Living Foundation, n.d.)

The first of its kind, the centre has a focus on people with sexual offence convictions; they also provide support to those newly arrested, on bail, awaiting charge or trial, people encountering problematic sexual thinking and the family and friends of service users. Through this holistic approach, the Corbett Centre is well positioned to deliver assistance across multiple points of the criminal justice timeline. Additionally, their work with those encountering problematic sexual thinking is significant in the overall aim of encouraging harm reduction and offence-free living. Amongst other things, the Corbett Centre provides services that align with factors associated with desistance: advice services, access to educational opportunities, active citizenship and support with housing issues (de Vries Robbe et al., 2014). There are also classes for social skills, to reduce feelings of isolation and improve integration into local community life. Whilst there is evaluation and evidence to support the Safer Living Foundation’s use of Circles of Support and Accountability, there has been no evaluation on the efficacy of the Corbett Centre itself. Through its

links with Nottingham Trent University, the centre also incorporates research into the experiences of people with sexual offence convictions. Through providing services that align with promoting reintegration and in providing a safe environment where people can remain hopeful and optimistic about desistance, community hubs stand as an innovative way of delivering probation for people with sexual offence convictions.

Concluding Thoughts

Historically, one can trace a rights-based law in many countries all the way back to the Magna Carta. Britain's leading role in the development of human rights principles in the post-war period has been thoroughly discussed by Simpson (2001). The key instruments that emerged from this period were the United Nations Universal Declaration of Human Rights and subsequently the European Convention on Human Rights (ECHR). Furthermore, the UK parliament passed the Human Rights Act (1998) which imposed a duty on the parliament to consider the human rights implications of all new legislation. However, the issue of human rights of those who commit serious offences continues to remain a highly contested area with strong perspectives on both sides. The complex relationship between public protection and human rights has been explored by various scholars across criminology, sociology, psychology and legal studies (Ife, 2012; Canton, 2013; Whitty, 2007).

The continued hostility and stigma faced by people with sexual offence convictions increases the likelihood of reoffending and through creating significant barriers to desistance (Levenson et al., 2007; Willis & Johnstone, 2012). We argue that if dignity is accepted as the basis for protection of rights and freedom, then fulfilling the reintegration needs of people convicted of sexual offences not only directly supports their desistance but also increases their chances to live a dignified life. As discussed previously, a dignified and meaningful life, which may include but not limited to a stable accommodation, employment, meaningful relationships, good mental health, alcohol and drug misuse intervention, etc., proves to be vital in preventing future harm and victimisation. As a future direction, this chapter has argued that the community hub model is well positioned to be applied in probation delivery for people with sexual offence convictions. Through delivering appropriate and respectful support, providing a safe environment that offers an escape from the hostility and isolation often faced by people with sexual offence convictions, community hubs can encourage offence-free living and have the potential to deliver probation in an effective way. There is also a link to be found between the use of community hubs with people with sexual offence convictions and epidemiological criminology, the study of anything that affects the health of society (Lainer, 2010; McCartan & Kemshall, 2021). Indeed, community hubs could be argued to be a form of quaternary prevention (Tesser, 2017), a form of prevention that prioritises harm reduction and successful community re-entry to promote desistance. Adapting its principles from medical literature, quaternary prevention characteristically seeks

to do no harm, focus on harm reduction, be non-stigmatising and avoid future negative impacts (McCartan & Kemshall, 2021; Martins et al., 2018). As a longer-term, ongoing and supportive intervention that aims to reduce sexual reoffending through addressing the needs of people with sexual offence convictions, the use of community hubs arguably fits well into this category. Research by McCartan and Kemshall (2021); McCartan and Richards (2021); McCartan et al. (2021); and McCartan (2022) has called for greater use of quaternary prevention, and thus, this chapter has explored community hubs in response.

In order to move towards a reality where community hubs are available across England and Wales, and internationally, existing research and practice must be built upon. The Corbett Centre is an innovative hub that provides a vital service, and, in supporting their model, this chapter calls for further development and evaluation on sexual offending, community reintegration and desistance so that we may begin to see more instances of this type of work. Ultimately, the key to combatting gender-based violence is ensuring appropriate provision and support for those with convictions, to both encourage desistance from offending and prevent future harm and victimisation. In supporting the reintegration of people with sexual offence convictions, we actively work towards combating gender-based violence.

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Chapter 13

‘If to Do Were as Easy as to Know What Were Good to Do’: The Rehabilitative Potential of Collaborative Theatre Companies in English Prisons



Rowan Mackenzie, Ralph Lubkowski, and Pheelix Obun

Introduction

The impacts of gender-based violence in its many forms are far-reaching and life-altering for victims, perpetrators and the families of both. There are many services which provide much needed and important support for victims as they attempt to rebuild their lives in the aftermath of the events, often requiring ongoing support and counselling for many years or indeed for life. Those who have committed such acts will often, understandably, find themselves ostracised by the society and vilified by the media and are likely to serve a custodial sentence for their crimes. It may seem that the focus should be on the victims rather than the perpetrators, but if we as a society are to minimise future harm, there also needs to be interventions which those who committed the crimes can access and which can help them to reintegrate into the society in a positive manner in the future. This chapter focuses on the way in which collaborative theatre can be used to help build a non-offending identity, drawing on a long-term ethnographic study conducted with men convicted of sexual offences. Many perpetrators have histories of trauma and abuse, long-term mental health or substance misuse issues or an upbringing defined by poverty and deprivation. They often lack positive role models, self-confidence and the ability to integrate successfully into the society prior to the offence, and a custodial sentence exacerbates this situation, destroying family connections, support networks and the potential for sustainable employment.

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The 2019 Her Majesty's Inspectorate of Prisons thematic review on the management of those convicted of sexual offences found several areas specific to this population which were deemed to be poor including individual work outside of prescribed programmes, staff who were insufficiently trained to deal with the population and potential risk management issues (Martin, 2019). Violent sexual offending has been found to be significantly influenced by factors such as childhood physical abuse, substance abuse or mental illness in the childhood home and the incarceration of family members (Levenson & Grady, 2016). When someone is convicted of a violent crime (whether gender-based or not) and particularly if that crime is sexual in nature, there is a significant impact on the perpetrator's personal identity; often, their sense of self is irreparably altered as a result of the stigma and shame brought about by their offence and subsequent arrest. Blagden et al. explore the way prison can exacerbate these feelings for this population, which now accounts for 18% of England's sentenced prisoners (Offender Management Statistics, June 2021). Building a new sense of identity, one which focuses on the person they want to be, free from offending behaviour, is essential to their desistance journey.

This chapter aims to bring together perspectives which would usually seem to be disparate and polarised; the three co-authors have all been directly involved with collaborative theatre work: Rowan Mackenzie (the founder of Shakespeare UnBard), Ralph Lubkowski (a prison governor who engaged the company within his own prison) and Pheelix Obun (a founding actor of Emergency Shakespeare (a prison-based theatre company)). Obun's index offence was a violent sexual assault of an adult female for which he received a significant custodial sentence. These authors are able to bring together unique perceptions on the mental health benefits, identity creation and the opportunity to develop transferable skills through co-ownership of a theatre company within prison. The beneficial effects of creativity for those incarcerated are widely acknowledged by the Ministry of Justice, practitioners, third-sector organisations and academics. Dame Coates, in her influential 2016 report, cited the importance of greater provision of high-quality creative arts provision and Personal and Social Development (PSD) courses. Both improve self-knowledge, develop self-confidence and therefore help tackle reoffending (Coates, 2016, p. ii).

Announcing the initiation of a further government review into prison education in September 2021, Spielman and Taylor stated that 'although there are small pockets of excellent practice, the overall quality of prison education remains extremely poor'.

Prison theatre can be traced back to the 1980s in England when Cicely Berry facilitated workshops in HMP Dartmoor. In recent decades, the interest in this work has grown exponentially with companies such as Geese Theatre, Clean Break and a multitude of others working across a number of prisons, in the UK and abroad. Edited collections by Thompson (1998) and Balfour (2004) serve as the academic foundations for this field, documenting the 'theory, description, guidance, history and analysis' of prison theatre at the turn of the century. The use of Shakespeare specifically within prisons has become a relatively widespread global phenomenon with work taking place across the USA, Australia and Europe. Pensalfini's book *Prison Shakespeare* (2016) attempts to survey the major projects in both English and non-Anglophone languages whilst acknowledging this is a disparate field. The Shakespeare in Prisons Network (founded by Curt Tofteland, Scott Jackson and

Peter Holland) has aimed to bring together many of these practitioners and projects through a biennial conference. There are a number of people who straddle the role of practitioner and academic including Pensalfini, Jonathan Shailor, Ashley Lucas and Rowan Mackenzie. The latter completed her doctoral research into Shakespeare with marginalised communities including people with learning disabilities and mental health issues, people with experience of the criminal justice system and people who have experienced homelessness. This led to her founding Shakespeare UnBard which is the umbrella organisation covering her work in prisons and the community; she currently works in three prisons, each of which has a permanent theatre company co-owned by her and the prisoners (The Gallowfield Players, Emergency Shakespeare and The Hewelligans). Emergency Shakespeare is based in a category C prison for men convicted of sexual offences and will form the focus for much of this chapter. Additionally, in January 2021, she founded Beyond the Walls for those in the community with lived experience of the criminal justice system which would preclude their involvement with many other organisations. The intention is that Beyond the Walls provides through the gate support for those leaving prison and gives people access to a support network away from peers who may have enabled offending behaviour or as an antidote to the social isolation people may feel upon release. It was founded in response to a conversation Mackenzie and Obun had about his desire to continue to use theatre as a methodology of regulating his mental health and his aspirations to 'pay it forwards' and help others.

Emergency Shakespeare

Emergency Shakespeare consists of Mackenzie, Obun and a further 12–14 men, where all decisions are made democratically. The company rehearses for half a day per week with additional rehearsals prior to performances and works on a production cycle of approximately 6 months. Each actor has the opportunity to pitch their preferred Shakespeare play with a brief synopsis, and then, a vote is taken. The script is shortened to approximately 2.5 h in length, as a starting point for any additional editing or adaptation the group chooses. To develop a common understanding of the plot and characters, the group then do a seated reading of the script and begin conversations about how they may wish to stage the performance. Casting is done through volunteering for roles which appeal rather than an audition process, and the group takes ownership of creating costumes, props and sets for the production as well as the music, programme content and any script adaptations required. Although formal rehearsals are 3 h per week, the actors dedicate much more than that time to the production: learning lines, creating props and creating images and written content for the programme. The productions take place in the visits hall (a light, airy room with plenty of space but challenging acoustics) with a number of performances for prisoners, staff, families and invited guests. After each performance, there is a time for the actors and audiences to chat over refreshments, a brief reprieve from the normal prison regime. This is broadly the model Mackenzie employs with each of her prison theatre companies although each has its own inherent culture and identity, based upon those involved.



Emergency Shakespeare logo, created by Obun (2019)

Prison naturally removes an individuals' autonomy. Sykes (1958) identified this as one of the five core deprivations of imprisonment, along with liberty, security, goods and services and heterosexual relationships. Warr (2016, p. 588) provides a nuanced revisiting of these in 'The prisoner: inside and out', challenging media perceptions of prisons as 'a place of ease and luxury as opposed to the places of stress, psychological turmoil and trauma that they are'. During their sentence, a prisoner is infantilised by the regime which specifies their daily routine with little opportunity for decision-making. As Michael (2019) articulates:

Upon crossing the threshold of prison we instantly become less, we are stripped of our clothes, our dignity and even our humanity. Our lives prior to incarceration instantly rendered worthless. All our experience, our knowledge debased.

The collaborative nature of Mackenzie's theatre companies aims to enable the participants to develop a sense of *positive autonomy* wherein they can make decisions and contribute to debates regarding the work whilst acknowledging that more widespread autonomy is not possible within the prison. The actors are able to develop and refine their own communication strategies both with fellow actors within the rehearsal space and with wider groups of people at the performances, enabling them to communicate effectively both during their sentence and upon release. The third element which Mackenzie identifies as fundamental to the work she facilitates is emotional resilience. Prison is challenging and life post-release will also be difficult for many of those convicted of violent or sexual offences; having the core emotional strength to navigate and withstand these challenges without resorting to offending behaviour or experiencing severe mental health impacts requires the prisoners to develop reserves of emotional resilience.

Performing and creativity in any form asks a person to make themselves vulnerable, to share their inner self with others, a challenge for all but the most confident of people. To be asked to do this in an environment which is permeated with shame, lack of confidence and potential threats, both real and perceived, is a significant challenge (Mackenzie, 2023, p. 51). Whatever takes place in a rehearsal space may cause issues back on the wings, with tempers flaring in what is essentially a pressure cooker of people living in close confines and without the external distractions those on the outside have to temper their frustrations about those they spend time with. Yet, over thirty men during the last 3 years have chosen to become members of Emergency Shakespeare – to get on their feet and act in front of their peers and, in time, to perform in front of prisoners, staff and their own families and loved ones. Despite the vulnerability it requires, the group is a safe place away from the oppressiveness of the prison environment. The mental health benefits are felt by all who take part as they are free to express their emotions and find a sense of purpose within the common goal of the company. There is a sense of achievement in performing before an audience and contributing more widely to the production through creating sets, music, costumes and props. The actors work together during association time to help with running lines, blocking problematic scenes and discussing ways to make each production their best yet.

Whilst other playwrights or devised work could be used (and have been to great effect by many prison theatre companies), there are some unique elements to Shakespeare which make it particularly effective for use in this context. Shakespeare is inherently loaded with what Bourdieu (1986) termed 'cultural capital', which plays a role in an individual's socio-economic position in the society; those with more cultural capital – traditionally passed down within families and relating to high culture – hold more power and influence within the world. Cultural capital is a complex issue as Shakespeare can be seen to have been a contributory factor to marginalisation of many communities through the dominance of a white patriarchal norm, but his works can be inverted and exploited to great effect within a people-centric approach. Within the context of prisons, the performing of Shakespeare can challenge perceptions held by staff, families and the prisoners themselves about their abilities. Often fuelled by media portrayals and an understandable outrage at the details of crimes committed, the public are encouraged to see perpetrators of crime (and particularly of sexual and/or violent crimes) as 'other', different from the rest of the society. This *othering* is what Braithwaite (1989, p. 104) described as 'disintegrative shaming' leading to continued societal exclusion upon release, which in turn has ongoing mental health impacts and is more likely to lead to further offences. If someone returns to the society after their sentence but is unable to find employment, stable accommodation and some form of supportive network of friends or family, the chances of them committing future crimes are heightened. Being a part of Emergency Shakespeare (or any other theatre company) cannot reverse this *othering*, but it aims to provide those involved with some degree of personal confidence and self-worth which helps them to serve their sentence but also plan for their effective reintegration into the society.



Sketch completed during rehearsal, Obun (2019)

The issues of pervasive guilt and shame for men convicted of sexual offences have been widely documented (McAlinden, 2007) even though reoffending rates for this population are low comparative to other crimes (Wakeling & Saloo, 2018). When Lubkowski took on the role of governing governor at a prison specifically for men convicted of sexual offences, he was keen to ensure that the men in his prison were enabled to develop the skills not simply to return to the society without committing further offences but to contribute positively to the community and live a

fulfilled life. In order to equip them with the skills and emotional resilience they will need to overcome this stigma, Lubkowksi realised that a more nuanced approach would be required than in local prisons which often see a 'revolving door' of people on short sentences. Whilst homogenisation is dangerous in any criminological context and there is a range of reasons for any offending behaviour to take place, men convicted of sexual offences are potentially one of the groups in which there is the most complexity and range of factors leading to offences which can vary widely in nature and severity. One of the commonalities experienced upon conviction though is that loss of fundamental identity: 'previously I was a father, a son, a partner, a career-person but now I am labelled only as a sex offender' (Daniel, 2021).

There was already an active citizenship programme within the prison which encouraged men to contribute positively to the prison community and to build pro-social skills during their sentence (Clarke, 2020, p. 18). However, this work was limited in the scope it offered for the men to explore what they had done and, more importantly, who they were and wanted to be as they moved forwards. It is through this exploration of their sense of self and identity that prisoners are able to envisage a future where they are able to build positive relationships with family and friends, desist from reoffending and contribute to their community. For many of those convicted of sexual offences or violent crimes such as murder, there is not the potential for a moment of redemption and forgiveness from the victim or their family (the heinous nature of their crimes often precludes this from being a possibility). The prisoner therefore needs to find an alternative way of reconciling themselves to what they have done and how to rebuild their identity, and, for some, this can be through creative work, such as theatre. It is one of the many ways which people can positively engage during their sentence, and given its intrinsically physical nature, it frequently appeals to men and women who may avoid traditional classroom-based education (Mackenzie, 2023, p. 44). Those participating can make personal decisions throughout the process around how much they use the character work being done in preparation for production as a reflective tool on their own behaviours and personality.

Whilst telling one's own story can be therapeutic (traditionally, this is often deemed to be the case in the Western world but can be extremely culturally damaging in other parts of the world), repeating the narrative can also be a methodology of embedding this into neural pathways which makes seeing alternative responses to the situation less possible and can verge on solipsism. In contrast, acting the role of a character can be more liberating mentally and emotionally as it provides an alternative persona. Jennings (1992, p. 17) describes the performance of text-based theatre as 'dramatic distancing': allowing personal themes to be explored safely through the lens of a fictitious character. With very few exceptions, Shakespeare's characters are neither entirely good nor entirely evil; instead, they are richly multi-faceted and allow the actor inhabiting them to explore the decisions and motivating factors which drive the plot. This in turn encourages the actor to consider their own life from different perspectives during the rehearsal process and think about alternatives which may not have been previously apparent.

Reflection and Self-Exploration



Othello poster created by Obun (2021)

One excellent example of this was Obun's role as Iago in Emergency Shakespeare's *Othello* in November 2021. Due to Covid-19 and the restrictions this placed on activities within the prison, the initial work was done via correspondence. Mackenzie (2023) created weekly activity packs which were designed to encourage the actors to think about the play and characters both as a distraction from the monotony of long periods of time in their cells and as preparation for the intended production. Tasks involving analysing specific speeches from *Othello* provided an interesting way to approach self-reflection from a different direction for Obun. Discerning meaning, emotions and thoughts from such fabulously rich, but at times bewildering, text required him to engage deeply with the characters and their dialogue, to imagine being in their shoes and experiencing what they were feeling. He found himself associating with different parts of the play which became relatable. The main emotions and feelings were easy for him to identify in his own psyche, but over time, he found himself moving beyond the illusion of self to see the subtleties. Anger was easily identified as this was an emotion he acknowledges having felt an uncontainable amount of – but Iago is not just angry: he's bitter and twisted. 'I'm not like that' was Obun's first thought but taking a closer examination of himself confirmed there have been times he has been bitter and has harboured those grudges which bring out the worst in any human; displays of contempt and loathing.

Obun's degree of self-reflection is rare; how many of us are able to acknowledge our least appealing traits with such honesty? Yet, these packs and the analysis of Iago and the other characters were a methodology he used to do just that. Herold (2014) identifies this self-reflective utilisation of Shakespeare in his work on US prison programmes, in ways which resonate with the experiences within Emergency Shakespeare. Whilst normally the overriding emotions would take precedence in Obun's mind, instead he found himself experiencing all that comes with such strong emotions – the by-products as well as the emotions themselves. He began to see patterns in his behaviour not previously identified, the extensiveness of his once-declining mental state highlighted in a Shakespearean script. The realisation of such traits has assisted him in developing his new identity, one where he can take ownership of negative emotions and mitigate their effects. This process of shattered identity and rebuilding a *new me* was not all negative although the deconstruction and emergence of a new version is understandably painful with a lot of focus on negative aspects of self, both internally and externally. Examining the range of characters within the play brought forth a host of characteristics, values, morals and beliefs to the forefront of his mind. Some of these had previously not been considered in years, forgotten beneath the turmoil.

He began to identify more positive traits within himself: a sense of honour and pride, a sense of what is right and a belief in his own achievements along with a dedication to duty and the willingness to sacrifice everything for his children, to feel love and all that comes from being loved. Obun is able to acknowledge that he has committed a monstrous act and that in the moment of that he was every bit the monster which he now loathes to look upon but he also knows that he was not born or raised a monster. After inflicting such trauma on another person, it is easy to feel self-hatred, to berate his continued existence, but this self-hatred serves no positive

purpose either for the victim or in Obun’s desire to be a man who can make a positive contribution to the society going forwards. To enable him to become the better man he desires to be the shift in focus needs to be a more positive one and a consideration of what good parts of his identity does he wish to retain and build upon? He attributes some of this reflective process to the characters of *Othello* which he engaged with deeply during the prolonged isolation of the pandemic, through the myriad of reflective activities which Mackenzie provided. The characters enabled him to move beyond highlighting faults or negative behaviour into a realm of rebuilding ‘self’ in a positive and rehabilitative manner, as Wilcox (2011, p. 250) identifies in her work with Prison Performing Arts.



Othello programme synopsis image created by Obun (2021)

When Emergency Shakespeare were able to reconvene in person to undertake Covid-secure rehearsals, this exploration of character (both Iago's and his own) meant that Obun was firmly enmeshed with the play. Whilst this was not the first role he played within the company, none precipitated such an internal conflict as that of Iago in all his bitter ruthlessness which culminates in the violent, on-stage murder of his wife, Emilia, played by Mackenzie. Prior to the murder, his contempt and hatred are explicitly expressed through language such as 'villainous whore' (*Othello*, 5.2.273) and other profanities which made Obun feel extremely uncomfortable. It was insufficient to speak the lines or undertake the violent actions, the emotions needed to be realistically portrayed to underpin the performance. This required Obun to tap into a part of himself which he wishes did not exist and certainly did not intend to place on public display: a look of anger which he had seen too often in the mirror previously. A look which made the recipient recoil from the eyes which gave a disturbing glimpse of the depth of loathing beneath.

The whole experience became a challenge of perceptions for Obun: how he wants to be perceived, how he feared he would be and what his family and other audience members would see. He had torn apart his identity and rebuilt it in the time period between his offence and the production; he did not want to be a monster. He has never called someone those exact words or committed a murder, yet he acknowledges that he has said some horrible things and is guilty of having committed an abhorrent crime. The fact that the victim in this final scene of *Othello* was played by Mackenzie, a female director, exacerbated the situation. The last time Obun had looked at a woman with this kind emotion was when he committed his crime. Obun has the highest of respect for Mackenzie and cares deeply about her opinion of him so to have to contend with the question 'can I look at her like I want to kill her?' was difficult and made him fear that he would appear as a monster to everyone.

It took months to overcome and manage those fears, issues and levels of discomfort until he was able to get them to an acceptable level where he was able to perform that crucial scene with as much conviction, energy and purpose that he applied to the rest of Iago's role. The production itself was immensely powerful and well received by the audiences at each of the four performances, and whilst the scene was emotionally charged, because of the reminder of the man he had left behind for Obun, there were no negative comments from peers, staff, families or his prison offender manager, all of whom saw the performance for what it was – a powerful piece of acting not a glimpse into a different perspective of his psyche. Four months after the production, Obun continues to process his feelings about the experience which evidenced to him strongly that he took no pleasure in treating a woman in this violent, derogatory manner; indeed, the total opposite – he found the experience abhorrent. He was able to take from the experience the knowledge that he never wants to be that man again. He previously did the unthinkable, and the role of Iago was a reminder of that time but also of the changes which he has effected since. It prompted the realisation that he has not yet come to terms with committing his crime and that he doubts that he ever will. Mackenzie and Obun held many discussions throughout the rehearsal cycle for the play, addressing these issues through the characterisation of the play which allowed him to face some of the worst facets of

his own personality in a way which was less direct than therapy would be, but which may have allowed him to explore them more deeply without erecting those barriers which each person uses to protect themselves from the overtly painful. The reality is that he may never be able to reconcile the person he is now with the crime he committed which poses issues for Obun's peace of mind but suggests that the potential for him committing further harm is significantly reduced.

Obun describes the process of self-reflection thus:

The depth and emotional scope of Shakespeare's works, coupled with Mackenzie's ability to empower, have provided a powerful and cumulative approach to self-reflection and exploration. The process of analysing traits, relating to characters, investigating self-perception and portraying various roles led to an array of development opportunities. Working in tandem with other avenues of rehabilitation, this unique experience has enabled the realisation of a 'new and better me'.

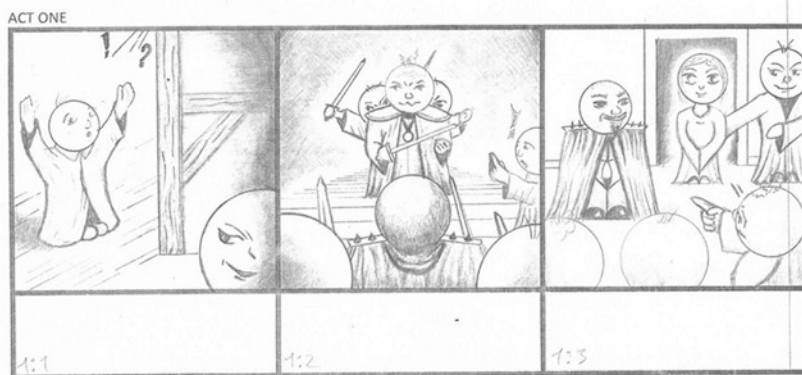
Self-reflection and exploration have been an integral part of my rehabilitation. I approached this process with determination but it was in many ways brutal and destructive at times as well as productive and rewarding; ranging from harrowing, traumatised despair to blissful euphoria. Counselling, behavioural programmes and the Shakespeare group provided a safe and constructive way to explore negatives and positives at a time where personal attempts to do so had failed devastatingly. From a personal rock-bottom and a fractured mind, the recovery and rebuilding process of rehabilitation began. Whereas other avenues rely on self-analysis, a structured approach and external challenges reflection through activities in Emergency Shakespeare allowed for a greater sense of distancing. Perceiving characters and their experiences (both good and bad) with an empathetic outlook enabled me to project a sense of self; directly supporting the creation of a new identity.

Positive Relationships

The sense of community which is created by those involved with the theatre company spreads far wider than the 3 h each week of rehearsal. The actors involved develop a sense of profound respect and camaraderie towards each other and Mackenzie, evidenced through their interactions and the efforts they put into producing performances they can all be proud of. Empathy and a desire to support people is borne out of the work and they begin to tolerate and support each other's differences where once they may have been liable to be sources of ridicule. One such example was when Bernard joined the group, at the instigation of a concerned officer as he has been placed on an ACCT document (Assessment, Care in Custody and Teamwork) due to how overwhelming he was finding prison to be shortly after his arrival. He spoke little during that first session but later described feeling like he was peering in through a window at his first session. Obun offered him support as they returned to the wing, 'and like pulling a helium balloon back down to earth, he made me feel there was still a place available for me on earth' (2021). The men within the group provide ongoing support to each other and have demonstrated their compassion for those involved throughout their time with the group and particularly

during the challenging regime instigated in response to the pandemic which has limited opportunities for education, programmes, time out of cell and family visits.

The importance of family connections is widely accepted, and Lord Farmer's review (2017) cited these as the 'golden thread' which are crucial to supporting successful desistance and reducing the risk of intergenerational offending. One of the most powerful things to come from these collaborative theatre companies is the way in which they encourage positive family connections, both during the performances and more widely. Obun's family have now attended all of the productions he has been involved in (another production was sadly cancelled in spring 2020 due to Covid), and they take pride in his burgeoning skills as both an actor and an artist. Obun is proud to be a part of something which makes a difference both to him and to others, advocating the opportunity which it presents to those incarcerated for convictions of sexual offences. This in turn means that he has something positive to discuss with his family and those he cares about both inside and outside of prison. Achievement begets congratulations; a boost in self-confidence becomes acknowledged; self-assurance and a positive state of mind provide his family with the relief that he is doing so well. He found the experience of inviting his family to performances initially daunting, but when they told him it had inspired them to read a little Shakespeare, this imbued him with a sense of being seen not as a prisoner but as a human which has been beneficial to their relationships and his own sense of identity.



Othello act 1 cartoon, Obun (2020)

When someone is incarcerated, their family connections are put under extreme pressure and as Rob, (an actor in *The Gallowfield Players*) who is serving a life sentence, explained (2020):

This isn't something we ever really have the opportunity for in here, we can achieve things and tell family/loved ones about it but I can't think of anything else I have been able to share, something special like that, with them.

The mother of another actor in that theatre company said at a performance that it had 'given me back my son' and that their telephone calls are all about the company and rehearsals, which gives him focus and purpose during a long sentence. The importance of this connection cannot be underestimated both in terms of the prisoner's mental health and coping strategies during their sentence and upon their subsequent release back into the society.

Although it does need to be acknowledged that for some of those engaging with the theatre companies, their family relationships are damaged, potentially beyond repair, usually due to the nature of the crime or the victim being a family member. This does pose additional challenges, particularly on performance days, but those without families provide support for each other and all are mindful of the opportunity afforded to them to have a relaxed Family Day where they can introduce their friends to those they are close to outside (whether related or not). Wayne a young actor in *The Gallowfield Players* described 'being part of the Gallowfield family' (2019) and the extent to which this in-prison pseudo-family gave him the confidence to enrol in the therapeutic community within the prison. The therapeutic community is 'a 25-bed, high-intensity offending behaviour programme for prisoners with long-standing emotional and relationship difficulties that had led to their violent offending' (Clarke, 2018), and Wayne attributed much of his willingness to engage with the programme to the foundations laid from being a member of the theatre company.

There are also positive impacts developed more widely than just within the theatre company; relationships between staff and prisoners improve, prisoners outside of the theatre company become inspired to engage with their own creativity, and links with the outside community can be formed and strengthened. Lubkowski identified these changes as being of a huge impact to the prison when he was governor there. The prison had been re-roled in 2014 from a local prison into one which housed only men convicted of sexual offences, and this was a fundamental change of population which some staff experienced issues relating to. The population was one which many staff would have had less experience of working with, and the public preconceptions held about the perpetrators of such crimes are heavily influenced by the negative media portrayals. Osborne's concept of mediachosis – the unconscious and unquestioning acceptance of information portrayed through electronic media – applies to some degree even within those who work within the prison service and those who commit sexual crimes are vilified and homogenised by the media relentlessly (Kidd & Osborne, 1995, p. 37). Ievins' (2019, 2020) ethnographic study in this prison (conducted in 2015) noted that many officers dismissed the notions of rehabilitation and felt 'the best response to sex offending was

incapacitation' with a proportion explaining the emotional toll of considering the reality of the offences.

Lubkowsi identifies the formation of the theatre company as being an important part of the journey many staff were undergoing around their own preconceptions of this population because seeing the men through the lens of being actors and forming positive relationships within the group encouraged their perceptions to shift. Positive affirmative relationships amongst prisoners, with Mackenzie and with staff, combine to create a huge sense of hope for those involved, a sense of trust which contributes to the men's ability to create the mental and emotional space to begin to develop their new identities. Bates also identified this in her own work in the US prison system, where the guards saw the passion with which the men engaged (Bates, 2003, p. 155). Breaking down barriers and reducing the perceived distance between staff and prisoners reduces the *othering* which people so often effect as a perceived safety mechanism for those convicted of serious crimes. Reversing this othering encourages each of us to see people as individuals rather than their crime, understanding that this person may be flawed and have committed a sexual offence but that they too have issues and frequently pasts shaped by trauma. As Binks writes from his own lived experience (2018, p. 150):

Society's tendency to condemn the whole individual for the action, rather than seeing this as one aspect of their personality and behaviour is actually detrimental to the prevention of this behaviour.

This is not to excuse or suggest acceptance of the behaviour, but it is important to be able to separate the crime from the person in order to work positively with them and support rehabilitation. This extends to members of the external community, local dignitaries and third sector organisations such as Prisoners' Education Trust; a number of whom attend the performance days and speak highly of the work. The High Sheriff of Stafford described the inaugural production of *Macbeth* (2019) as 'amazing', containing 'many pertinent and topical issues', and this validation from such a source was warmly received by the actors. The production of *Othello* was attended by a number of invited guests who then wrote to them commending them on being 'a fantastic team' and acknowledging 'the myriad of emotions, admiration and enthusiasm this performance inspired'.

Conclusion

As Hocken (2018, p. 92) writes, the general population's attitudes towards those convicted of sexual offences 'are dehumanising and are accompanied by the archetypal emotion of disgust', whilst she notes that 'social rejection is possibly one of the most damaging non-physical threats that a human can experience'. Whilst this public sentiment is understandable in many ways, continued ostracisation of those convicted of sexual offences increases the likelihood of further offences in the future and therefore of the creation of more victims. Conversely, the encouragement of

those who have committed such offences to examine their own behaviour and to build/rebuild a non-offending identity which allows them to integrate into the society upon release enables them to positively contribute to the community. The work of Emergency Shakespeare and other similar programmes can contribute to this and help to reverse the sense of *othering* which affects this population (perhaps, more so than any other group of people convicted). As HMIP's thematic review noted 'in custody, accredited programmes are often seen as the only way of working with men convicted of sexual offences' (Martin, 2019, p. 10), but access to these therapeutic programmes such as Horizon and Kaisen is limited by resources and numbers of spaces available. Creative interventions such as Emergency Shakespeare do not address the same elements of behaviour in the same way as formal therapy does, but both can operate in conjunction, as was the case for Obun. The creative outlet offered through the theatre company allows people to develop and explore their new identity as they begin to think about creating the 'new me' version of themselves they wish to live (Martin, 2019, p. 16).

Upon release, these individuals will experience many challenges as they attempt to reintegrate back into the society, potentially to rebuild familial connections, find work and develop a sense of self-worth and purpose. King's work (2014) on desistance identifies employment, positive-influence relationships and independence as being key drivers to an individual's creation of strategies of desistance (not specifically in the context of violent or sexual offences although equally applicable with these groups of people). The skills developed through the work of Emergency Shakespeare and other collaborative theatre companies can assist them with making this transition successfully. Emotional resilience is crucial when it comes to dealing with the challenges which will occur; there will be many setbacks and instances of exclusion and ostracisation as these men try to build a life after prison. Positive autonomy developed and exercised regularly within the theatre company aims to enable the actors to be able to make decisions based on the information available to them as well as the flexibility to assimilate additional information and amend those decisions as necessary, as all of us need to do regularly within the society. If we are to see the previous perpetrators of violence and sexual violence desist from further offences and live their new identity, contributing positively to their community, then programmes such as these within prison are a powerful contributory factor to that.

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Chapter 14

Conclusion: Combatting Gender-Based Violence: Reflections on a Way Forward



Madhumita Pandey

The aim of this book is to provide an understanding of gender-based violence (GBV) and some of its complex manifestations in various parts of the world. The contributions of the authors from different perspectives also highlighted the importance of combatting gender-based violence from a multidisciplinary approach. The idea for this book stemmed from collaborations with colleagues at Sheffield Hallam University as well as great working relationships with external international colleagues. It took a lot of time, effort, thinking, organising and reflection to achieve the objective of developing international perspectives from multidisciplinary authors, and we hope that readers find this book useful. Putting together this work was both a challenging and rewarding process. It was clear from the onset that gender-based violence is deeply rooted in most sociocultural settings, and thanks to the contributions in this book, it was extremely interesting to see the varied theoretical and applied concepts chosen to approach this complex issue. Given how pervasive gender-based violence is, there is no doubt that this book alone cannot include all forms of it, and in reaching this chapter, the readers would have also gotten a glimpse into its breadth. This chapter intends to provide a brief summary and conclusion of this edited book.

Whilst not a comprehensive guide, this book attempts to explore and represent a nuanced understanding of gender-based violence. It hopes to highlight the far-reaching impacts of gender-based violence and its many related practices, along with policy and practice responses. Almost all definitions of gender-based violence present it as a highly gendered issue, and this would have come through whilst reading this book. Critics of these definitions often feel that such definitions represent

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women as the 'weaker sex' in a patriarchal society. They also argue that these definitions completely overlook violence against men. It is because of this very reason the book began by addressing such claims. Anyone in the society can be a victim of harmful behaviours, irrespective of their personal and social characteristics. But it is foolish not to think that these same characteristics can also sometimes be at the very centre of those harmful practices. There is no doubt that both men and women can be victims of this type of 'gendered' violence, but undisputed evidence also points towards the fact that gender-based violence disproportionately affects women and girls around the world.

Past Efforts of Combatting Gender-Based Violence

Historically, women were given a lower socio-economic status making them subordinate to men. They existed without any agency or autonomy, as mere properties owned by men in their lives. It is interesting though that gender-based violence is commonly associated with South Asian and African cultures when in fact it was prevalent in ancient Rome in many forms, including politically motivated violence and domestic and sexual violence. Similarly, it was in the 1870s that the US courts abolished the common-law practice of a husband's right to 'physically chastise an errant wife' (Siegel, 1996), and in the United Kingdom, rape within marriage was only criminalised in 1991. Feminist movements of the 1970s contributed greatly towards highlighting gender inequalities and social injustice with a particular focus on violence against women. This period saw a rise in anti-war and civil rights movements which also utilised a sociological lens to situate the core of the problem – systemic inequalities such as imperialism, racism and patriarchy (Griffin, 1971; Walker, 1979). Scholars and activists of the time (largely women) came together from various backgrounds (including different academic disciplines) to contribute towards a better understanding of gender-based violence and its consequences.

Whilst the 1970 feminists argued for more legal and judicial changes, in the 1990s, the discourse was more focused on viewing gender-based violence from a public health perspective. The United Nations General Assembly also passed the Declaration on the Elimination of Violence against Women in 1993 closely followed by the Fourth World Conference on Women in 1995. Parallely, another paradigm shift towards human rights further bolstered attention and awareness towards gender-based violence. Through this lens, more structural inequalities and social injustices could be included when discussing the deep-rooted context in which gender-based violence thrived such as access to education, employment, inheritance and health and sanitation (Human Rights Watch, 1999). Throughout this book, contributors have attempted to examine these different structural inequalities through various forms of gender-based violence as well as provide rationalisations and theoretical understanding. What is clear is that no single theory or explanation can fully explain the complex phenomenon of gender-based violence. However, efforts need to be made to join forces and work collaboratively to combat gender-based violence.

Reflections and Lessons for Combatting Gender-Based Violence in the Future

Reflections on various forms of gender-based violence as well as efforts in combatting it point towards a better understanding of how power, privilege and positionality – the three Ps – impact women and girls around the world. Power can be simply be defined as the capability to control resources and their access in a society. Privilege can be looked at as an advantage or special right only available to a person or a group due to their social position. Positionality was very well articulated by Linda Alcoff (1988) who argued that gender, race, social class and other related aspects of our identities are markers of ‘positions’ rather than qualities. Together, these are crucial concepts in not only better understanding the issues related to gender-based violence but also in planning future interventions. The chapter contributions in this book also highlight how these three Ps manifest in the everyday experiences of women and girls and prevent their access to justice.

As noted by many researchers, and as outlined in the introduction of this book, various acts of violence against women are actually connected to commonly occurring aspects of everyday behaviours in the society. Kelly (2013) was one of the first researchers to stress on the relevance and use of a ‘continuum’ to understand the perpetration of violence against women. She argued that ‘The concept of a continuum can enable women to make sense of their own experiences by showing how typical and aberrant male behaviour shade into one another’ (Kelly, 2013, p. 75). One end of the continuum highlights behaviours that are generally considered violent in our society, and largely, these acts are recognised as serious crimes in most cultures and societies carrying harsher legal ramifications. The other end of the continuum presents behaviours that are more commonly accepted due to traditional gender norms and misogyny (McMahon & Barker, 2011). Often normalised and not seen as harmful, it is behaviours on this side of the continuum that contribute to a culture of violence that supports and tolerates the more severe forms of violence against women (Brownmiller, 1975; Schwartz & DeKeseredy, 1997; Sanday, 2007). Kelly’s (2013) continuum included women’s experiences ranging from cat calling, sexual harassment, domestic violence, coercive sex, incest and rape. The continuum has been extremely useful to feminist research on gender-based violence. It has also been adapted by researchers to examine other structural inequalities and social injustices. For instance, Guy (2006) presented an integrated continuum of sexual violence in which she stressed the importance of including all forms of oppression as ‘by providing a visual conception of the continuum that is more inclusive, of class, race, disability status, sexual orientation and anti-Semitism in addition to gender that it will remind and inspire us to develop a vision of comprehensive sexual violence prevention work which routinely encompasses all forms of oppression’ (p. 6). The revised sexual violence continuum developed by Guy (2006) is presented in Fig. 14.1.

Another important theoretical framework that is useful in combatting gender-based violence is Heise’s (1998) integrated ecological framework. Through this

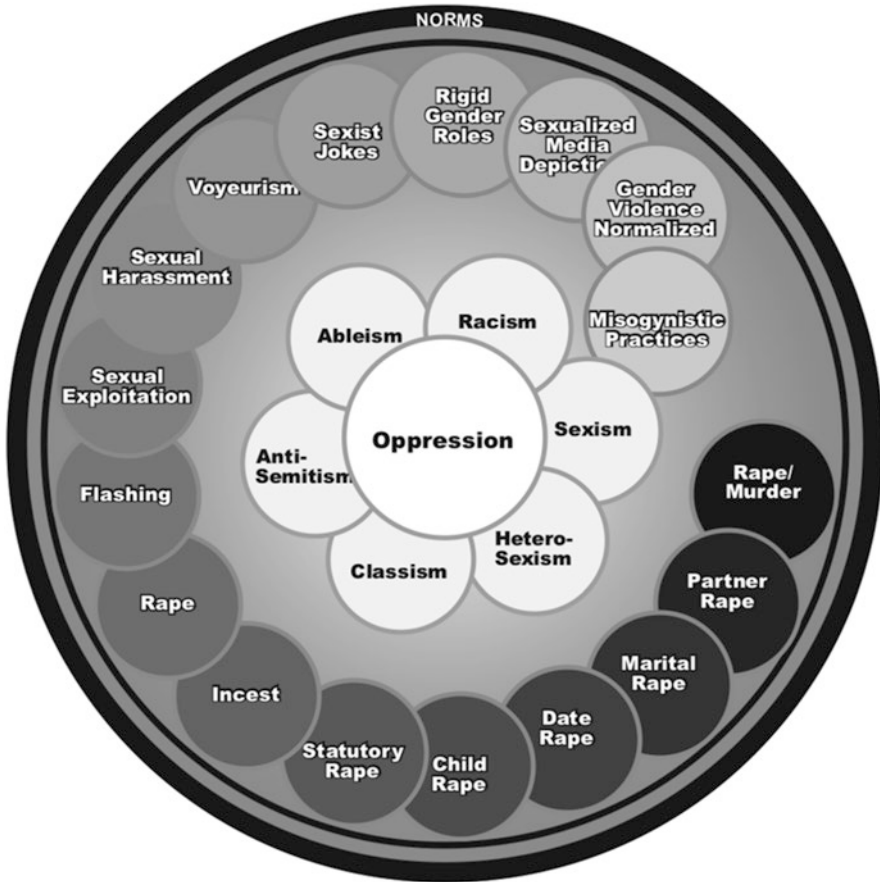


Fig. 14.1 Revised sexual violence continuum by Guy (2006)

framework, it is somewhat easier to visualise the deep-rooted nature of gender-based violence and the factors at different levels of social ecology that perpetuate it. Heise borrowed Uri Bronferbrenner’s ecological systems theory which posits that human development unfolds through a set of systems (often demonstrated by concentric circles) and involves cultural, social, economic and political elements. The interactions of these systems have a profound effect on development and Heise’s presents them as concentric circles (see Fig. 14.2).

As a field of research, we have taken a leap from just focusing on understanding the scale of gender-based violence, its causes and consequences, towards action – trying to understand what works to prevent and respond to it. The way forward is to utilise diverse forms of knowledge. As academics, we also need to move away from the idea and myth of what constitutes as ‘rigorous evidence’. This can only happen by building meaningful partnerships between all stakeholders – researchers, practitioners, activists, government and the NGO sector, and most importantly the public.

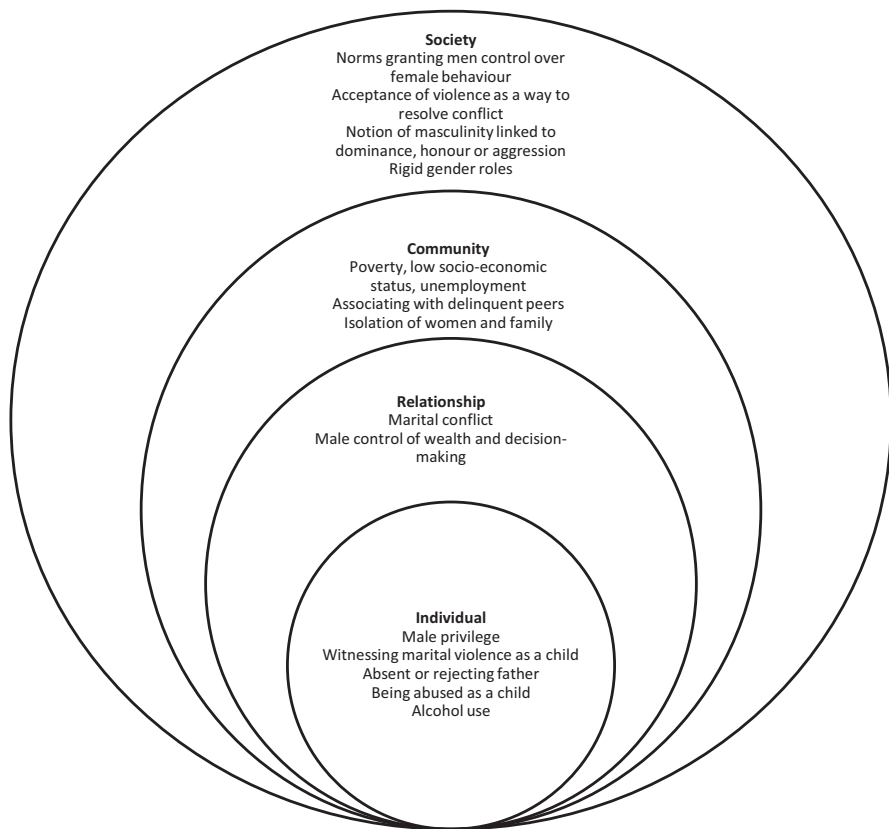


Fig. 14.2 Ecological framework for perpetration of gender-based violence. (Adapted from Heise (1998))

Knowledge should trickle down in the form of public engagement and awareness in order to fully impact society and the next generation that we hope can truly experience inclusivity and equality.

Conclusion

Throughout this book, contributing authors have examined various forms of gender-based violence, suggesting a multiplicity of explanations such as patriarchy, toxic masculinity, culture, society, media and individual characteristics along with how they intersect. Largely, all chapters highlight women's vulnerability and men's responsibility when it comes to combatting gender-based violence. This is not to say that men and boys cannot be victims of gender-based violence. There is a growing body of international (and decolonised) research on gender-based violence,

which in turn is also increasing our understanding of the underlying causes and factors that play a role in the perpetration of these crimes.

Whilst it may seem like we have come a long way since the dark ages, gender-based violence continues to plague our everyday existence sometimes in extremely subtle as well as profound ways. Whether individual practices, cultural norms or religious philosophies, there are still countless instances which condone various forms of gender-based violence around the world. The introduction to this book stressed on the need for a multi-approach call to action in combatting gender-based violence. The conclusion echoes that sentiment and urges thinkers and scholars to come together from different perspectives to combat this deeply pervasive and complex crime.

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