

Law and the Male Victim of Domestic Violence

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Introduction:

I was recently intrigued by a video of a social experiment on YouTube. ManKind Initiative,¹ a charity dealing specifically with male victims of intimate partner violence, had filmed the experiment on a public square in London. In the former part of the video, a young couple (actors) were seen quarrelling. As their argument became intense, the man physically assaulted the woman by aggressively grabbing her face. On this occasion, many members of the public rushed to assist the woman. Some threatened to call the police while others reassured the victim that she did not have to endure such violence. However, in the latter part of the video, the actor's roles were reversed. As the argument got heated, it was the woman who similarly took hold of the man's face. In this instance, some bystanders openly laughed but none of them intervened to assist the man. Although men's rights activists naturally praised the video, it received negative attention in certain media outlets such Marie Claire and The Huffington Post. Domestic violence (DV) faced by men was denied by asserting that 'the video may be a fraud using deceptive editing to distort incidents'² that would have actually played out differently. Moreover, it was argued that the male victim was not in any physical danger: 'he could have easily defended himself ... The scenario is farcical, which is ... why some of the onlookers were laughing'.³ This argument, as will be shown, is overly simplistic.

A few days later I came across another such event portrayed on the media. However, this was not a social experiment conducted by actors. Solange Knowles assaulting the rapper Jay-Z in an elevator was caught by surveillance cameras. However, after the attack, the question constantly being put on social media was 'What had Jay-Z

¹ Mankind Initiative <<http://www.mankind.org.uk>> accessed 21st September 2014.

² David Futrelle, 'Is The Mankind Initiative's #ViolenceIsViolence Video a Fraud?' (We Hunted the Mammoth, 2014) <<http://wehuntedthemammoth.com/2014/05/30/is-the-mankind-initiatives-violenceisviolence-video-a-fraud/>> accessed 28th January 2015.

³ Kasey Edwards, '#ViolenceIsViolence Downplays The Gendered-Nature of Violence' (Daily Life, 2014) <<http://www.dailylife.com.au/news-and-views/dl-opinion/violenceisviolence-downplays-the-genderednature-of-violence-20140915-3fr7h.html>> accessed on 29th January 2015.

done?’ Considering the social experiment I had seen, I felt that people would have been asking completely different questions if Solange had been attacked.

As a student of law, this made me wonder how prevalent DV encountered by men is and how much legal and societal consideration they receive. Reading through journals and websites made me question why violence against men in heterosexual relationships is a taboo subject that receives little legal attention. The interpretations of DV law seem biased against men as will be established in the proceeding sections. This dissertation will look into the reasons for this in western liberal societies, focusing on the United Kingdom and United States of America. It is acknowledged, as a limitation, that despite having many common social characteristics, there are many differences within the legal and social circumstances of these countries.

There does exist a body of research that suggests that men are also victimised in the context of intimate relationships. The Crime Survey for England and Wales 2012/2013 produced data suggesting that a significant number of men and women, 1.2 million and 0.7 million respectively, had experienced domestic abuse. The research also showed that 30% of women and 16.3% of men would experience domestic violence in their lifetime.⁴ Similarly, *Domestic Abuse Recorded by the Police in Scotland*⁵ shows a stark increase in male victims in Scotland by 163.74% as compared to a 29.02% increase in the number of female victims between 2004 and 2013.

Researchers like Straus paint a similar picture through their findings in the US using the Conflict Tactics Scale (CTS) to measure DV. The violence subscale in the CTS consists of eight items ranging in severity from ‘threw something at the other one’ to

⁴ Office for National Statistics, ‘Crime Statistics, Focus on Violent Crime and Sexual Offences, 2012/13’ (February 2014) <<http://www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/focus-on-violent-crime-and-sexual-offences--2012-13/index.html>> Chapter 4.

⁵ The Scottish Government, ‘Domestic Abuse Recorded by the Police in Scotland 2012-13’ <<http://www.scotland.gov.uk/Publications/2013/10/2411/8>> accessed on 28th January 2015.

‘used a knife or gun’. Each spouse in the study is asked to rate on a frequency scale how often each act of violence was performed by each partner during the course of a year.⁶ The findings from the CTS indicate approximately equal levels of violence perpetrated by both sexes. Straus concluded that DV is symmetrical and reciprocal.⁷ Similarly, Steinmetz’s studies measuring discrete acts of violence also indicate an almost proportionate level of violence perpetrated by both sexes.⁸ An almost equal percentage agreed to having thrown things, pushing, slapping and hitting their partner with something.⁹ Therefore, these researchers conclude that ‘the eruption of conjugal violence occurs with equal frequency among’ spouses.¹⁰

Other western researchers also indicate that the level of female-to-male DV is more than a mere anomaly. Kimmel states that more than 100 empirical reports indicate that the rates of DV amongst both sexes are equivalent.¹¹ Katz, Kuffel and Coblentz¹² found, in a US university, 18% women and 13% men reported that their partners had been abusive to them once whereas 26% women and 38% men reported repeatedly

⁶ James Browning and Donald Dutton, ‘Assessment of Wife Assault with the Conflict Tactics Scale: Using Couple Data to Quantify the Differential Reporting Effect’ [1996] 48 JOFM 375, 376.

⁷ Murray Straus, ‘Gender Symmetry and Mutuality in Perpetration of Clinical-level Partner Violence: Empirical Evidence and Implications for Prevention and Treatment’ [2011] 16(4) Aggression and Violent Behavior 279, 287; Murray Straus and Richard Gelles, *Physical Violence in American Families: Risk Factors and Adaptations to Violence in 8,145 Families* (Transaction Publishers 1989).

⁸ Suzanne Steinmetz, ‘The Battered Husband Syndrome’ [1977-78] 2 Victimology 499, 499.

⁹ *ibid.*

¹⁰ Richard Gelles, *The Violence Home: A Study of Physical Aggression Between Husbands and Wives* (Sage Publications 1974) 77.

¹¹ Michael Kimmel ‘‘Gender Symmetry’ in Domestic Violence: A Substantive and Methodological Research Review’ [2002] 8(11) VAW 1332, 1333.

¹² Jennifer Katz, Stephanie Kuffel and Amy Colbentz ‘Are There Gender Differences in Sustaining Dating Violence?: An Examination of Frequency, Severity and Relationship Satisfaction’ [2002] 17(3) Journal of Family Violence, 247.

abusive partners. In Germany, Amendt¹³ presents data revealing that one-third of men reported instances of DV during the divorce process, two-thirds of which were initiated by their ex-partners. Moreover, studying DV in Australia, Sarantakos concluded that one-quarter of the cases were of abused husbands.¹⁴ Consequently, it is acknowledged by many researchers globally that men also encounter DV in sizeable proportions.

However, some researchers¹⁵ are critical of this evidence. They criticise the CTS for not being a sensitive measure. They also assert that DV is a phenomenon mostly encountered by women and conclude that it is legitimate to perceive it through a gendered sieve.

Nonetheless, although the empirical data does indicate that men may be victims of DV, their legal and social treatment does not parallel this evidence, as will be established. Firstly, the position of law enforcement and other public agencies will be critically assessed considering its contribution towards concealing or ignoring the plight of abused men. The attitude of the police and courts towards male victims as well as the lack of appropriate services for abused men will be evaluated. Secondly, the influence of social constructions within society preventing men from accepting and reporting abuse will be studied. Thirdly, the contribution of feminist discourse towards potentially downplaying the abuse of men will be considered. Here, assessing the current legal frameworks, the *implementation* of a gender-neutral yet contextually sensitive definition of DV will be advanced.

The final section will propose means to secure greater legal and societal attention for abused men. Two recommendations will be made. Firstly, it will be argued that

¹³ G Adment, *I Didn't Divorce My Kids!* (Campus Verlag Publishers, 2008) Chapter 5 cited in Martin Fiebert, 'References Examining Assaults by Women on Their Spouses or Male Partners: An Annotated Bibliography' [2010] 14 *Sexuality and Culture* 49, 50.

¹⁴ Sotirios Sarantakos, 'Husband Abuse: Fact or Fiction?' [1999] 34 *AUST J SOC ISSUES*, 231 234.

¹⁵ like Reece/Miller/Dobash and Dobash. Detailed discussion in Section 3.

the current social conception of gender needs to be further deconstructed for the benefit of both sexes. Secondly, it will be contended that DV should be engaged with as a human issue and not a gendered phenomenon.

1. Police, Courts and Other Services: Assisting all Victims of Abuse?

It is plausible to argue that the police, courts and social services are key institutions determining the fate of victims of DV. By adopting a welcoming/impartial attitude, they could encourage more people to report DV. However, the attitude of these agencies towards men seems to prevent this from happening, as will be subsequently shown. This renders male victimisation invisible.

It seems that the police often do not come to know of the abuse that men face. There is ample empirical data suggesting this. The Scottish Government 2011 found that the police was able to discover abuse 'only in 9% of cases involving abused men'.¹⁶ Similarly, the Scottish Crime Survey 2000 asked individuals whose partners had used force against them in the preceding 12 months about whether the police became aware of it.¹⁷ 16% of male victims in comparison to 47% of female victims affirmed that the police were aware of at least one incident. Therefore, 'less than one in six incidents of victimisation against male victims had been reported to the police, compared with almost one in two incidents against female victims'.¹⁸ Moreover, a study¹⁹ conducted in the Netherlands involving 372 abused men suggested that 'less than 32% [had] approached the police' [whilst] 'only 15% registered an official report'.²⁰ At first, it may be thought that men are not reporting instances of abuse themselves so the police are not at fault. However, a critical

¹⁶ Brian Dempsey, *Mens Experience of Domestic Abuse in Scotland* (AMIS 2013) 85.

¹⁷ David Gadd, Stephen Farrall, Damian Dallimore and Nancy Lombard, *Domestic Abuse Against Men in Scotland* (Scottish Executive 2002) 28.

¹⁸ *ibid.*

¹⁹ Babette Drijber et al, 'Male Victims of Domestic Violence' [2013] 28 *Journal of Family Violence* 173-178.

²⁰ *ibid.*

evaluation of the police's general attitude towards abused men paints a different picture.

The police seem to operate on the assumption that women rather than men are usually the victims of DV. Though this supposition may have a rational basis, it operates negatively for men, with evidence suggesting that female perpetrators are less likely to be arrested: Buzawa and Hotaling found that, in Massachusetts, incidents of male abuse were 5 times less likely to result in arrest than similar incidents concerning abused women.²¹ Similarly, some men report that when they contact the police to report their partner's abuse, 'the police sometimes fail to respond to take a report'.²² Moreover, attempting to seek help may often be labelled as a 'counter allegation'.²³ Stitt and Macklin found that on the few occasions when unreciprocated violence was reported to the police, the male victim instead of the female perpetrator was arrested. This led them to conclude that many men ended up coping with abuse alone.²⁴ Such an attitude of the police could plausibly discourage men from reporting their misfortune.

An example of this attitude can be seen through an excerpt from Cook's study, in which a respondent described an incident where his wife was kicking and hitting him. Her screaming out loud resulted in the neighbours calling the police. The respondent related: 'the first thing the lady cop when they came is say, "I want to talk to your wife." You could tell, from the tone in her voice that they ... wanted to

²¹ Eve Buzawa and Gerald Hotaling, *The Police Response to Domestic Violence Calls Assistance in Three Massachusetts Towns: Final Report* (National Institute of Justice 2000).

²² Denise Hines and Emily Douglas, 'Women's Use of Intimate Partner Violence Against Men: Prevalence, Implications, and Consequences' [2009] 18 JAMT 572, 578.

²³ Dempsey (n 16) 88.

²⁴ Sean Stitt and Audrey Macklin, *Battered Men: The Hidden Victims of Domestic Violence* (John Moores University Consumer Research 1995) 6; also evident in Kevin Brown, *Dispatches: Battered Men Survey* [1998] <www.dewar4research.org/docs/bms1.pdf> accessed 3 September 2014; Denise Hines, Jan Brown and Edward Dunning, 'Characteristics of Callers to the Domestic Abuse Helpline for Men' [2007] 2 J Fam Violence 63.

check ... if she was hurt ... even though I was standing there with blood on my face, and she was not showing any signs of being hurt. As soon as she said that, I ... walked away in the house. You could tell she was giving me an attitude. When I walked back out, the lady officer apologised to me'.²⁵ Although the police may not be acting deliberately biased, the pre-conceived notion of DV being a female issue prevents the acknowledgment of male victims. Lambert's findings similarly suggest that the 'police feel comfortable in delivering a service' they feel 'is a female-centred service'.²⁶ Therefore, they tend to instinctively favour female victims because society generally perceives DV as a female phenomenon.²⁷

Furthermore, some men hesitate to report to the police because, lacking sympathy towards them as victims, they fear that the police may ridicule them. Dagnall's study suggested that the police had laughed at men who had reported being victims of DV. This could again be attributed to the categorization of men as aggressors and women as victims, or potentially the misconceived notion that a woman cannot hurt a man.²⁸ Concurring with Macklin,²⁹ it is thus arguable that many victims may not want to involve the police because they lack faith in the police's impartiality and its ability to acknowledge them as victims of abuse.

Therefore, it can be concluded that the attitudes of the police, whether deliberate or unintentional, are one of the reasons little attention is paid to male victims of DV.

Like the police, social services and charitable organisations are agencies that can determine the fate of abused individuals. However, a differential approach between

²⁵ US Study by Cook cited in Dempsey (n 16) 26.

²⁶ Katie Lambert, 'Broken Men Break the Silence': Male Domestic Violence Victims and Their Struggle to be Heard' (Sheffield Hallam University) 26.

²⁷ The societal perception of what constitutes domestic violence will be examined in detail in Section 2.

²⁸ Jennifer Dagnall, 'Female-on-Male Domestic Abuse: Treatment by Public Services and Help Available To Male Victims' (Dissertation Liverpool John Moores University) 8.

²⁹ Stitt and Macklin (n 24).

male and female victims is also apparent in the existence and provision of these services.

There seems to be a lack of funds for abused men. Organisations set up to support their cause may face discrimination in terms of funding. Straus and Gelles initially found that DV encountered by men had not warranted publicity, and funds were hardly invested to deal with these victims.³⁰ In the UK, local authorities received about £60 million annually for the support of female victims but nothing for men and the government fund was extended to only one national helpline for abused men.³¹ Some progress was made when the Home Office launched a fund to support abused men and multiple organisations were able to receive a fund of up to £10,000 until 2013.³² The success of this policy has not been evaluated.³³ In the US, the Department of Justice's Office on Violence Against Women - the principal federal agency managing funds for victims of DV - has repeatedly issued directives and founded funding mechanisms that have an explicitly discriminatory nature.³⁴ In 2002, the Office instructed the Delaware DV coordinating council that 'States must fund only programs that focus on violence against women'.³⁵ This may imply that those rare organisations that are set up for men or recognise their abuse may often not be funded. It also shows that the empirical evidence indicating that men may also be victims of DV in considerable proportions is not paralleled in terms of funding to support their cause.

³⁰ Murray Straus and Richard Gelles, 'Societal Change and Change in Family Violence from 1975 to 1985 as Revealed by Two National Surveys' [1986] 48 JOFM 48 465, 472.

³¹ Parity, <http://www.parity-uk.org/male_dom_abuse2.php> accessed 30 January 2015.

³² UK Government, 'Domestic Violence and Abuse' <<https://www.gov.uk/domestic-violence-and-abuse>> accessed 30 January 2015.

³³ *ibid.*

³⁴ Documentation from the Department of Justice Violence Against Women Office, quoted in a letter from the Delaware Domestic Violence Coordinating Council to David Burroughs, 9th October 2002 <<http://www.menshealthnetwork.org/library/VAWArejectDel1002.pdf>> accessed 4th September 2014.

³⁵ *ibid.*

The support provided to men is also lacking in many respects. Firstly, counselling services may not properly engage with the problems of abused men. Sarantakos' argued through his findings that counsellors who have not been trained to understand DV encountered by men usually sustain a negative attitude towards them.³⁶ Secondly, health services may also be geared largely towards abused women. In the English Department of Health, frontline staff tend to recognise and provide appropriate support only to abused women.³⁷ Thirdly, male victims may encounter obstacles in the provision of housing: There are currently around 1,200 abuse shelters in the US.³⁸ However, a majority of these usually turn away male victims or provide a considerably poor level of assistance to them.³⁹ In *SPECIAL REPORT: Domestic Violence Programs Discriminate Against Male Victims*,⁴⁰ a former shelter director said: 'the shelter did not provide services to male victims of DV, even when the men had suffered physical abuse similar to what women had experienced'.⁴¹ Lawrence also claims that 'support resources and networks available for abused women' are not available for abused men.⁴² In the UK, there are above 400 government funded refuges for female victims and their children, but none particularly for male victims. Only '5 of the women's refuges allocate [about eleven

³⁶ Kevin Hogan, John Hegarty, Tony Ward and Lorna Dodd, 'Counsellor's Experiences of Working with Male Victims of Female-Perpetrated Domestic Abuse' [2012] 12 *Counselling and Psychotherapy Research* 44, 45.

³⁷ Department of Health, *Responding to Domestic Abuse; A Handbook for Health Professionals* (London 2005) 6-7.

³⁸ Anonymous Author 'Stop Abusive and Violent Environments' *Domestic Violence Programs Discriminate Against Male Victims*' [2010] Special Report <<http://www.saveservices.org/pdf/SAVE-VAWA-Discriminates-Against-Males.pdf> > accessed 12th September 2014, 6.

³⁹ *ibid.*

⁴⁰ The author contests that the reason for differentiation is explicit bias against male victims in the system.

⁴¹ *ibid.*

⁴² Sue Lawrence, 'Domestic Violence and Men.' [2003] 17 *Nursing Standard*, 41-43.

places] for men on an ad hoc basis'.⁴³ Finally, other services that men may need are also seldom made available to them. The Department of Justice research solicitations in the US have expressly excluded applications laying emphasis on abused men. In fact, a solicitation for proposals from the Department of Justice expressly forbade 'proposals for research on intimate partner violence against ... [males of] any age'.⁴⁴ This approach adopted by service providers seems to support the notion that the response to DV is 'not intended to bring safer futures and better health'⁴⁵ for men despite the clear existence of their predicament.

Consequently, as Donovan asserts, one of the reasons of men not reporting abuse to public agencies is that they consider themselves unlikely to receive a sympathetic response.⁴⁶ This view stems from the lack of funds and services tailored to 'recognise and respond to' the needs of men.⁴⁷ Thus, the approach of social services tends to render the male victim of DV invisible in most instances.

Furthermore, courts should principally be impartial institutions delivering justice.⁴⁸ They should be a means for DV victims to seek protection from their perpetrators and to ensure that their abusers are punished for their vile conduct. However, it is evident that the approach adopted by courts usually contributes to the scant attention provided to male victims of DV.

⁴³ Parity (n 31).

⁴⁴ Department of Justice, *Justice Responses to Intimate Partner Violence and Stalking*. 5th November 2005 <www.ncjrs.org/pdffiles1/nij/sl000734.pdf> accessed 11th September 2014.

⁴⁵ Dempsey (n 16) 110.

⁴⁶ Catherine Donovan, Marianne Hester, Jonathan Holmes and Melanie McCarry, *Comparing Domestic Abuse in Same Sex Relationships* (London 2006) 22.

⁴⁷ *ibid.*

⁴⁸ This is a contentious claim. Arguably, courts may differentiate on gender to achieve substantive equality due to women's historical discrimination. However, this argument may also apply to male victims of DV having encountered discrimination as shown later. Acknowledging that this argument creates arbitrary distinctions/unfairness, I do not endorse it. Instead, I argue for elimination of all bias.

There is evidence that the experience of taking the matter to court may vary for male and female victims. Cook's⁴⁹ study indicated that male victims recounted that their complaints regarding their female partner's abuse were not always taken seriously. However, their 'partner's false accusations [were] reportedly given serious weight during the judicial process'.⁵⁰ Similarly, Muller et al⁵¹ found that while 94.6% of petitions by women were approved in the US, only 57.7% by men were granted. The difference was most striking with 'low' levels of alleged DV. Here, only 25% of the male plaintiffs were granted temporary restraining orders, compared to 91% of female plaintiffs.⁵² The kind of violence perpetrated was the same for both sexes. However, it seems, as Muller et al concluded, that the judges might have relied on considerations like the plaintiff's sex to reach a conclusion.⁵³ It seems that in some circumstances greater strength or size enabling a man to possibly restrain his abusive female partner may prevent the court from rendering him as 'suitable victim' or a 'victim' at all.⁵⁴ Concurring with Muller et al, Hines reveals that 'several men were victimised by a system ... set up to help female victims of intimate partner violence' which 'at times may not even consider that men can be victimised'.⁵⁵ This image of the male sex and the impact that it has on abused men will be considered in the proceeding sections.

Moreover, it is also apparent that courts might operate without sufficient regard to the particular needs and experiences of abused men. For example, the 2007 report

⁴⁹ Phillip Cook, *Abused Men: The Hidden Side of Domestic Violence* (Praeger 1997).

⁵⁰ *ibid.*

⁵¹ Henry Muller, Sarah Desmarais and John Hamel 'Do Judicial Responses to Restraining Order Requests Discriminate Against Male Victims of Domestic Violence?' [2009] 24 J FAM VIOLENCE 625, 630.

⁵² *ibid.*

⁵³ *ibid.*

⁵⁴ Kate Cavanagh, Clare Connelly and Jane Scoular, *An evaluation of the Protection from Abuse (Scotland) Act 2001* (Edinburgh 2003) <<http://www.scotland.gov.uk/Resource/Doc/47063/0029625.pdf>> accessed 18th September 2014.

⁵⁵ Hines et al (n 24) 69.

into the functioning of the Glasgow Domestic Abuse Court by Howie found that references to the involvement of Women's Aid groups were made.⁵⁶ However, organisations holding specialist knowledge of the needs of abused men were not mentioned.⁵⁷ Moreover, as Durfee argues, men who apply for protection orders may have to 'craft [their experiences] in anticipation of a judge's scepticism'.⁵⁸ It is not suggested that female victims do not face similar problems. They may still have to find ways to deal with the remaining sexism in the legal system but it nonetheless indicates that courts may be wrongly assuming that minority experiences are unimportant.

The lack of cases on husband abuse despite the clear existence of the phenomenon shows that many men may not approach the court to report abuse. After a rigorous study of law journals, I was able to find only one case that made a direct reference to a wife's cruelty. I am aware that a limitation to my analysis is that this case was decided in 1960. Though there is no evidence to suggest this, the attitude of the courts might be different in 2014. Although even this case was not specifically about DV (but about divorce), the attitude of the court seemingly downplayed the experience of the abused husband. In *William v William*,⁵⁹ the husband petitioned for divorce on the ground of his wife's cruelty. Here, he particularly complained about her conduct. The wife's abuse was described as follows:

'The wife frequently and persistently assaulted him and showed violence to him ... she habitually used offensive and obscene language calling him horrible names. She

⁵⁶ Reid-Howie Associates, *Evaluation of the Pilot Domestic Abuse Court*, (Edinburgh Scottish 2007) <<http://www.scotland.gov.uk/Publications/2007/03/28153424/0>> accessed 19th September 2014.

⁵⁷ *ibid.*

⁵⁸ Alesha Durfee, "'I'm Not a Victim, She's an Abuser": Masculinity, Victimization, and Protection Orders' [2011] 25 *Gender & Society* 316, 319.

⁵⁹ [1960] 1 WLR 624.

would pull his hair, catch hold of him by the ears and shake his head violently to and fro. She had also kicked him on his injured leg.⁶⁰

Moreover, she troubled him 'far into the night to deprive him of rest in order to induce him to have unwilling intercourse with her'.⁶¹ After a final night of such conduct that ended with an act of unwilling sexual intercourse, the husband left the matrimonial home.⁶² The commissioner hesitantly established the charge of cruelty, but held that the husband's 'voluntary' act of intercourse had condoned it.⁶³ It was held that 'if a man, though whatever blandishment or irritation, decides to have sexual intercourse, his act must be a voluntary act, and, in the absence of fraud by the wife, constitutes condonation'⁶⁴ and that the husband was free to 'submit or resist'.⁶⁵ This statement is problematic, failing to acknowledge that in relationships where women are dominant, men may have little choice but to submit to their demands. Nonetheless, the possibility of the husband acting under duress is negated in the case. It is asserted that 'duress means a degree of fear which operates on the mind to such an extent that a person who is under it is not a free agent. This husband was never in anything like that condition'.⁶⁶ This is contrary to the picture painted by the judges of the wife's cruelty. Clear discrimination and lack of understanding of an abused man is apparent in the following statement by Willmer L.J: 'it might be otherwise in the case of a wife, but in the case of a husband who has sexual intercourse it can only be said of him that what he does he does on purpose and that sexual intercourse with his wife must be a voluntary act on his part'.⁶⁷ While the court recognises that intercourse was 'unwilling', it then later suggests

⁶⁰ *ibid* 625.

⁶¹ *ibid*.

⁶² *ibid*.

⁶³ *ibid*.

⁶⁴ *ibid*.

⁶⁵ *ibid* 629.

⁶⁶ *ibid*.

⁶⁷ *ibid*.

that 'his act must be voluntary'⁶⁸ and that men are incapable of being coerced into intercourse.

The attitude of the courts is understandable, but not justifiable. Since more women apply for protection orders, judges may understandably begin to assume that some men petitioning for orders are the actual abusers.⁶⁹ However, regardless of whom the courts usually deal with when it comes to DV, operating on such assumptions is only likely to prevent the provision of justice to men who encounter DV. It discourages them from reporting the abuse or accessing the court and contributes to their marginalisation.

A final point about the police, courts and social services needs to be made. Many men may justifiably fear that they will receive different treatment due to an attitude geared towards protecting women. What is worse is that some abusive women may use this fear as a form of abuse. They may sometimes manipulate the system, making the victim even more helpless. Hines et al recognised that some women acknowledge that the DV 'system was designed to help them [and may use] that fact against their male partners'.⁷⁰ *Battered Men: Hidden Lives* found that abusive women often claim self-defence because 'they know society will believe them rather than their male partner'.⁷¹ This may be used as a threat by female abusers, preventing men from reporting. Therefore, the abuser may use the bias as a tool to prevent the victim from reporting assault and to continue the abuse.⁷²

2. I am a man; I cannot be abused?

It would be wrong to solely blame public agencies for invisibility of abused men. A greater constraint could be the way social constructs in society create norms that

⁶⁸ *ibid* 625.

⁶⁹ Hines et al (n 24) 67.

⁷⁰ Hines et al (n 24) 67.

⁷¹ Lambert (n 26) 15.

⁷² Dempsey (n 16) 33.

prevent men from accepting and reporting the abuse. This section examines how many men do not report abuse because they fear stigmatisation, while others fail to accept that they are being abused.

Social norms create expectations in individuals on the basis of many attributes, including their gender. Hornung, McCullough and Sugimoto argue that these 'status expectations' are anticipatory.⁷³ For example, all individuals are anticipated to have completed a certain level of education. Expectations tend to be normative in that they come to be defined as what the individual should have attained, given his/her characteristics (including gender). Moreover, this theory proposes that these predictions of status attributes are based upon the frequency of their occurrence in the population.

It is arguable that one of the status expectations for men is the exhibition of masculinity based on the frequency of its occurrence and historical persistence amongst them. 'Hegemonic masculinity'⁷⁴ is the 'configuration of gender practice which embodies the currently accepted answer to the problem of the legitimacy of patriarchy, which guaranteed the dominant position of men and the subordination of women.'⁷⁵ The term 'hegemony' is used to emphasise the dominance of this masculine paradigm within gender amongst men.⁷⁶ Connell suggests that masculinity, not inherent in the human body, is socially constructed.⁷⁷ It is a body-reflexive practice gained through sport, violence,⁷⁸ heterosexual performance and

⁷³ Carlo Hornung, Claire McCullough and Taichi Sugimoto, 'Status Relationships in Marriage: Risk Factors in Spouse Abuse' [1981] 43 JOFM 675, 677.

⁷⁴ Raewyn Connell, *Masculinities* (2nd edition Polity Press 2005) 77.

⁷⁵ *ibid.*

⁷⁶ Judi Addelston and Michael Stirrat, 'The Last Bastion of Masculinity, Gender Politics at the Citadel', in Michael Kimmel and Michael Messner (eds), *Men's Lives* (Allyn and Bacon, Boston, 4th Edition, 1998) 207.

⁷⁷ Raewyn Connell, *The Men and The Boys* (Cambridge, Polity 2000) 76.

⁷⁸ Hegemonic masculinity may explain high rates of DV perpetrated by men as societal norms coerce them to occupy assertive/dominant roles domestically.

bodybuilding.⁷⁹ Being 'macho' connotes virility, strength and sex appeal, which every man is taught to desire.⁸⁰ Acting as a robust social construct, hegemonic masculinity coerces men to comply with or at least appear in alignment with the aforementioned expectations. Cohen, using the term 'boy-code', makes a similar argument. His research into boys led him to conclude, that the old boy-code – the out-dated 19th century rules about the acceptable social behaviour of boys – continues to operate.⁸¹ This plays the role of 'putting men into a gender straightjacket that constrains them from acting outside the accepted norm'.⁸² Migliaccio argued that the construction of hegemonic masculinity impacts male victims considerably and encourages them to constrain their identity.⁸³ Josolyne asserts that an idealised view of masculinity seems to reject 'deviation from the hegemonic roles and identities of men and so there is no discursive space made available for the vulnerable male'.⁸⁴

Men tend not to report abuse because they fear stigmatisation for not meeting their status expectations. The Scottish Government in 2011 found that 42% of men experiencing abuse kept it private, compared to 19% of women.⁸⁵ In American samples male victims mentioned their desire to hide their victimisation from friends/family because they feared being perceived as 'wimps'.⁸⁶ No wonder, as

⁷⁹ Connell (n 77) 86.

⁸⁰ Theodore Cohen, *Men and Masculinity* (Belmont, Wadsworth Thomson Learning 2001) 43.

⁸¹ *ibid* 72.

⁸² *ibid*.

⁸³ Todd Migliaccio, 'Marginalizing the battered male' [2002] 9(2) *Journal of Men's Studies*, 205.

⁸⁴ Simon Josolyne, 'Men's Experience of Violence and Abuse From a Female Intimate Partner: Power, Masculinity and Institutional systems' (Doctoral Research, University of East London 2011) 71.

⁸⁵ Scottish Government, *2010/2011 Scottish Crime and Justice Survey: Partner Abuse* (Edinburgh 2011).

⁸⁶ Gadd et al (n 17) 9.

Steinmetz argues, 'husband beating is still hidden under a cloak of secrecy'.⁸⁷ This empirical data warrants an explanation.

The taboo preventing men from reporting DV is a combination of two forbidden ideas in society:⁸⁸ firstly, the idea that a man can be assaulted by a woman and secondly, that women can possibly be aggressive. The contravention of stereotypical notions of femininity/masculinity seems to be an attribution that neither sex wishes to acknowledge.⁸⁹ This construct has been prevalent throughout history. Historically, abused heterosexual men were 'rendered problematic' through a number of social practices.⁹⁰ Steinmetz⁹¹ and George⁹² describe some of these. A post-renaissance custom labelled the 'chirivari' was a noisy demonstration intended to publicly dishonour any form of rebellious behaviour. Any social conduct considered threatening to the patriarchal social order was targeted through this custom. Consequently, abused men were historically objects of ridicule instead of sympathy.⁹³ In France, a battered husband 'was made to wear an outlandish outfit and ride backwards around [the] village on a donkey while holding onto the tail'.⁹⁴ Battered husbands in Britain were 'strapped to carts ... paraded ignominiously through the booing populace'.⁹⁵ Abused men in the 21st century, although not facing this explicit humiliation, continue to be subjected to a social construct asserting that they must dominate to be deemed manly. Consequently, as Saenger argues, even today abused men are more likely the subjects of comical cartoons than seen as a

⁸⁷ Steinmetz (n 8).

⁸⁸ Malcolm George, 'The "Great Taboo" and the Role of Patriarchy in Husband and Wife Abuse' [2007] 6(1) International J Men's Health 7.

⁸⁹ *ibid.*

⁹⁰ Dempsey (n 16) 54.

⁹¹ Steinmetz (n 8).

⁹² Malcolm George, 'Riding the Donkey Backwards: Men as the Unacceptable Victims of Marital Violence' [1994] 3 JMS 137, 140.

⁹³ Dempsey (n 16) 14.

⁹⁴ Steinmetz (n 8).

⁹⁵ *ibid.*

reality.⁹⁶ Their abuse is made fun of in comic strips. The wife in these is considered justified in 'chastising her erring husband since he has not fulfilled his culturally prescribed roles'.⁹⁷ Therefore, the remnants of historical practices and continuing influence of hegemonic masculinity continue to discourage men from reporting abuse. Moreover, this possibly enhances the prospects of male abuse since the taboo against a woman using violence on her partner remains weaker than for male perpetrators.

Male victims have an interest in maintaining a manly persona. The concept of a man being the victim contradicts the existing societal perception of masculinity.⁹⁸ This contradiction leads to the 'taboo' status of men's victimisation.⁹⁹ Lambert¹⁰⁰ argues that men are usually reluctant to seek assistance because they are expected to dominate in relationships. Although violence may have deteriorated their self-esteem and confidence, admitting to feeling hurt and scared would violate the construct of hegemonic masculinity; those who report risk being ridiculed for not being real men.¹⁰¹ Men may fear that the stereotype that 'male victims are small, weedy men unable to protect themselves' would be attributed to them.¹⁰² Cohen¹⁰³ argues that boys feel free to show the heroic and action-oriented side, but are forced to suppress the vulnerable, gentle and caring aspects of their personalities. Consequently, men may not be comfortable with being labelled a victim because of social expectations.

⁹⁶ Gerhart Saenger, *Male and female relationships in the American comic strips* in David White and Robert Abel (eds.) *The funnies: An American idiom* (The Free Press 1963), 219-231.

⁹⁷ Steinmetz (n 8) 500.

⁹⁸ Anonymous Author, 'The Crisis of Masculinity and Feminization of Victimization As a Pathway to Addiction' [2010] <http://www.amen.ie/theses/thesis_jim_mc_neice.pdf> accessed on 15th September 2014, 3.

⁹⁹ Malcolm George, 'The Great Taboo' ('Unlikely Victims', Derby December 2001).

¹⁰⁰ Lambert (n 26) 12.

¹⁰¹ Connell (n 74) 79.

¹⁰² Dagnall (n 28) 6.

¹⁰³ Cohen (n 80) 74.

Many studies indicate this. In Migliaccio's study, the principal reason men provided for not reporting violence stemmed from the want to retain a masculine identity. This resulted in many victims encountering abuse for years before even considering seeking assistance.¹⁰⁴ Similarly, when people undertook the Scottish Crime Survey they were asked if they could be re-contacted. However, upon being re-contacted for interviews, 'thirteen refuted the record, claiming not to have been forced/threatened by a partner'.¹⁰⁵ One of the explanations of this occurrence, amongst others like men reinterpreting their experiences, could be that these men felt ashamed at being identified as male victims of abuse.¹⁰⁶ Where questions were to be asked directly by another individual (who could judge them on their manliness) rather than through an anonymous survey, some of the respondents completely denied the abuse they had previously reported. In agreement with Walby and Myhill, it can be concluded that it may be essential to 'permit the development of an interview context sufficiently sensitive to facilitate maximum disclosure'.¹⁰⁷ Funk and Werhun also carried out a study examining the importance of maintaining a manly image amongst men. A low level of abuse to demean the man by suggesting that he (according to social perceptions) was gender defective prompted the man to use greater physical effort disregarding the physical discomfort. Not only does the pressure to maintain this approved image encourage abusive behaviour amongst men, but this study also suggested that even telling a man that he was not masculine enough was particularly effective in distressing him. This is a type of abuse that men

¹⁰⁴ Todd Migliaccio, 'Aspects of Male Victimization and Female Aggression: Implications for Counseling Men' [2005] 9(2) JMS, 205.

¹⁰⁵ Gadd et al. (n 17) 34.

¹⁰⁶ Many female victims may also loathe this label, analysed in Sharon Lamb, 'Constructing the Victim' in Sharon Lamb (ed.) *New Versions of Victims: Feminists Struggle with the Concept* (New York University Press, 1999) 115.

¹⁰⁷ S. Walby and A. Myhill, 'New Survey Methodologies In Researching Violence against Women' (2001) 41 *British Journal of Criminology* 502, 519.

would find shame in disclosing.¹⁰⁸

Men may not access social services because of this fear of stigmatisation. Cook¹⁰⁹ claimed that men might be reluctant to engage with projects because they dread the humiliation in case someone finds out. This may vary from disapproval amongst their family/friends to stigmas associated with being a victim. Ultimately, these social responses seem to be linked to notions of manhood. To avoid being labelled as a victim publicly or falsely perceived as a perpetrator, some have relied on self-disciplinary practices such as avoidance, non-retaliation and non-complaint. Josolyne claims that many 'men sought to avoid the putative role of the victim' and took on the 'alternative role of rational enduring men'.¹¹⁰ Consequently, men are usually hesitant to go public with a problem because of possible embarrassment.¹¹¹

Some men do not even accept that what they encounter is abuse despite the grave impact it may have on them. Accepting this status may be particularly difficult. For example, in Hogan et al's study one counsellor respondent suggested that 'it is often very difficult for males to recognise because they have discounted that they are being abused ... in other cases it's difficult because it is ... a threat to their perceived persona'.¹¹²

Firstly, their masculine identity may prevent them from realising that they are being victimised. Hogan and Ward found that the clients' perceptions of masculinity usually made it difficult for men to recognise their victimisation.¹¹³ Gadd et al found that many men may trivialise the abuse to avoid humiliation. A majority of abused

¹⁰⁸ Leah Funk and Cherie Werhun, "You're Such a Girl!" The Psychological Drain of the Gender Role Harassment of Men' [2011] 63 Sex Roles 13.

¹⁰⁹ Cook (n 49) 95.

¹¹⁰ Josolyne (n 84) 71.

¹¹¹ Dempsey (n 16) 81.

¹¹² Hogan et al. (n 36) 48.

¹¹³ *ibid* 47.

men denied being either victims of crime or DV. However, most of them were reportedly embarrassed by it.¹¹⁴ Similarly, 26% of men in Dobash and Dobash's study claimed that they were 'not bothered'¹¹⁵ whilst the Scottish Government in 2011 found that 37% of men claimed the most recent instance of domestic violence was something that just happens.¹¹⁶ Moreover, one of the respondents in Gadd's study belittled his partner's violence by describing it as childlike.¹¹⁷ Jackson believes that male victims try redefining the violence that has actually occurred.¹¹⁸ They may rationalise the violence by making themselves believe that 'it was just a few bruises' and 'I would leave if the violence got too bad'.¹¹⁹ However, it is questionable if the abuse was actually trivial and victims were not bothered. Arguably, the tendency of trivialisation among victims should be considered an issue embedded in hegemonic masculinity combined with the public story of DV.¹²⁰ Plausibly, this prevents men from accepting the status of an abused man and prompts defensive responses.

Secondly, men's view of femininity may also inhibit them from realising that they are being abused. Dobash and Dobash found that some men could not possibly contemplate women's violence.¹²¹ Men may deny to themselves the possibility of being abused by a woman because of their own size and strength or because of a dominant social construct dictating that women are passive. Some men may also use their partner's lack of compliance with social constructs defining femininity to label

¹¹⁴ Gadd et al. (n 17) 56.

¹¹⁵ Rebecca Dobash and Russel Dobash, 'Women's Violence to Men in Intimate Relationships: Working on a Puzzle.' [2004] 44 *British Journal of Criminology* 324, 340.

¹¹⁶ Scottish Government, *Scottish Crime and Justice Survey: Partner Abuse* (Edinburgh 2011) <<http://www.scotland.gov.uk/Resource/Doc/365561/0124301.pdf>> accessed 19th September 2014, 67.

¹¹⁷ Gadd et al. (n 17) 42.

¹¹⁸ Women may have similar excuses or justifications to stay with the perpetrator assessed by Deborah Lockton and Richard Ward, *Domestic Violence* (Cavendish Publishing Limited, London, 1997) 20-25.

¹¹⁹ Nicki Jackson, *Encyclopedia of Domestic Violence* (2007 Routledge) 57.

¹²⁰ Dempsey (n 16) 40.

¹²¹ Dobash and Dobash (n 115).

them as damaged. Josolyne found that it was far less difficult for the man to 'position the female partner as damaged [lacking femaleness] than to accept that she was dominant [or] responsible for behaving abusively'.¹²²

Consequently, the invisibility of abused men may be attributed to how societal constructs restrain them from accepting the abuse. With men usually being unwilling to report/acknowledge the abuse, there exists a lack of discourse on their part to further their cause. The cloak of secrecy¹²³ described above results in little being said or done by them to direct the system towards their plight. Arguably, this contributes to the little attention they receive and the responses of the public agencies. Lambert suggests that while women have public sympathy, men have to overcome masculine culture and the associated societal stigma. Therefore, it is difficult for abused males to apply pressure to effect change.¹²⁴

A lack of discourse does not connote that a problem is not prevalent. For centuries battered women received little legal and social support.¹²⁵ They were left to deal themselves with their plight because their private lives were not to be made public. Similarly, little discussion even by men of their abuse does not mean that it is any less serious. However, as shown in the preceding sections, the lack of discussion has often led to public agencies operating on the assumption that men do not encounter abuse and that it is a female phenomenon. Thus, the secrecy and lack of discussion is another reason abused men receive scant attention legally.

3. The Impact of the Feminist Agenda on Abused Men: For Better or for Worse?

In this section, the legal definitions of DV in the UK and US will be considered. It will be argued that interpretations of existing law on DV have possibly been formulated consequent to the commendable feminist struggle to help female victims. It will be

¹²² Josolyne (n 84) 76.

¹²³ Steinmetz (n 8).

¹²⁴ Lambert (n 26) 25.

¹²⁵ Ann Oakley, *Subject Women* (Oxford, Robertson, 1981) 3.

proposed that this has unfortunately resulted in men usually being considered only capable of inflicting abuse by the courts and other public agencies as assessed in section 1. Concerns of some researchers about focusing on both sexes will also be considered.

I personally find the condition of the law on DV in the UK extremely confusing. Although covered by both criminal and civil law, there is no legal definition of DV in England and Wales. There exists a government definition to guide public authorities encompassing 'any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence and abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality'.¹²⁶ This definition includes 'but is not limited to psychological, physical, sexual, financial and emotional abuse'.¹²⁷ In terms of the law, there is no specific criminal offence. Instead, the perpetrators may be held liable for several possible offences based on their particular act, ranging from murder and sexual assault to harassment. There also are two key civil law remedies provided through the Family Law Act 1996 in England and Wales in the form of Occupation Orders and Non-Molestation Orders. The Domestic Violence, Crime and Victims Act 2004 further extends protection by criminalising the violation of a Non-Molestation Order. This allows a maximum penalty of 5 years.¹²⁸ A solely literal interpretation of these does not differentiate between male and female applicants. For example, in the Family Law Act 1996, the victim is not defined specifically as the female cohabitant but a broad category of potential victims is established. However, as shown in section 1, a literal interpretation is usually not adopted when public agencies encounter male victims.

Baroness Scotland, the main architect of the Domestic Violence, Crime and Victims

¹²⁶ Home Office, *Information for Local Areas on the change to the Definition of Domestic Violence and Abuse* (March 2013) 2.

¹²⁷ Operative from 31st March 2013, the government adopted a broader definition to include people aged 16-17. The wording was also altered to reflect coercive control.

¹²⁸ Moreover, the Protection from Harassment Act 1997 provides important civil and criminal remedies such as non-harassment and restraining orders.

Act 2004, stated that it is 'vital that law protects all victims of domestic violence'¹²⁹ and that 'we want to add to, not subtract from, the protections'.¹³⁰ However, in 2003, the Home Secretary's prominent proclamation in the *Foreword to Safety and Justice: The Government Proposals on Domestic Violence* paints an altogether different picture. It was said that 'although such violence can occur irrespective of the background and circumstance, sexuality or gender, it is predominantly women who suffer.'¹³¹ Recent government initiatives have also laid emphasis on tackling abuse encountered by women.¹³² In November 2013, the Home Secretary stated that after successful piloting, Domestic Violence Protection Orders¹³³ would be introduced across England and Wales from March 2014.¹³⁴ It was clearly stated that this was to fulfil 'one of the Home Office's commitments from the Call to End Violence Against Women and Girls 2010 action plan'.¹³⁵ There was no mention or consideration of abused men. Similarly, The Scottish Partnership on Domestic Abuse

¹²⁹ HL Deb vol 655 col 950 15 Dec 2003 cited in Helen Reece, 'The End of Domestic Violence' [2006] 69 MLR 770, 777.

¹³⁰ HL Deb vol 655 col 950 GC218 Jan 2004 cited in Reece (n 129), 777.

¹³¹ Dewar Research, *Safety and Justice: The Government's Proposals on Domestic Violence*, [2003] Home Office Cm5847 32; Ms Cooper adopts a similar stance for the 2015 election campaign. She argues that a Labour government 'would make tackling violence against women and girls a top priority, with legislation ready for the first Queen's Speech'. ((Labour Press 'The Choice on Police and Crime: Yvette Cooper's speech' (July 28 2014) <<http://press.labour.org.uk/post/93103289509/the-choice-on-police-and-crime-yvette-coopers>> accessed on 29th January 2015.)

¹³² Reece (n 129) 781.

¹³³ Legislated by the Crime and Security Act 2010.

¹³⁴ Under this scheme, the police/courts may ban an abuser from entering the house or contacting the victim for up to 28 days in the immediate aftermath of an instance of DV.

¹³⁵ HM Government, 'A Call to End Violence against Women and Girls: Action Plan 2014' (March 2014). <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/287758/VA_WG_Action_Plan.pdf> accessed on 1st March 2015.

2000 expressly stated that ‘the existence of violence against men is not denied’.¹³⁶ However, this approach is not sensitive to the many gendered dynamics around DV. It has been characterised as a ‘restrictive and exclusionary definition’ interpreted to favour women.¹³⁷ This is apparent in the Scottish Government’s 2003 National Strategy for Preventing Domestic Abuse where Minister Mulligan mentioned only women and their children as victims of abuse. The strategy was thus equivocally formulated on the belief that generally women and children are subject to DV.¹³⁸ Therefore, the interpretations of DV law largely underestimate its prevalence amongst men.

The law in the US faces a similar problem. Victims of DV are offered criminal and civil remedies. Three Violence Against Women Acts (1994/2000/2005) have been signed into federal law to combat DV. There also exists, unlike in the UK, a legal definition of DV. Covering a broad category of instances, this definition is gender literally neutral. The term DV includes ‘felony or misdemeanour crimes of violence committed by a current or former spouse, intimate partner or cohabitant, a person with whom the victim shares a child in common’ and many other similar categories of relationships.¹³⁹ Moreover, The Family Violence Prevention and Services Act provides state funding to assist DV victims by ‘providing shelter, offering violence prevention programs, and improving how service agencies work together in communities’.¹⁴⁰ However, policies of funding programs in individual States outlined

¹³⁶ Scottish Executive, *Scottish Partnership on Domestic Abuse* (Edinburgh 2000) <<http://www.scotland.gov.uk/Resource/Doc/158940/0043185.pdf>> accessed 16th September 2014, 5.

¹³⁷ Brian Dempsey, ‘Gender Neutral Laws and Heterocentric Policies’. [2011] 15 ELR 381, 390.

¹³⁸ Scottish Executive, *Preventing Domestic Abuse, A National Strategy* (Edinburgh 2003) <<http://www.scotland.gov.uk/Resource/Doc/365561/0124301.pdf>> accessed 16th September 2014, 1-3.

¹³⁹ 42 U.S Code §13925.

¹⁴⁰ Office on Women’s Health, ‘Violence Against Women’ (July 16 2012) <<http://womenshealth.gov/violence-against-women/laws-on-violence-against-women/>> accessed on 1st February 2015.

in section 1¹⁴¹ make clear the bias against funding programs for male victims. Gender-neutral definitions, without neutral interpretations and elimination of biases, are not so neutral after all.

Ideally, the law should not distinguish victims on the basis of sex, as the empirical data provided above suggests that a considerable number of men also suffer from DV. An interpretation of the law is required that focuses on a combination of instances when violence was used, the injury and the context in which it occurs. Violence should encompass physical violence such as acts of kicking, strangling or using a weapon and psychological violence, including intimidating, dominating and jealous behaviour. Furthermore, a contextual approach would require consideration of factors like the circumstances of the family, the relationship dynamic and whether violence was reciprocal. This is obviously a non-exhaustive list of factors when considering domestic abuse or its context. Consequently, it is proposed that courts and public agencies should engage with the definition on the basis of the violence and the context in which it is encountered rather than just the victim's gender.

The obvious question that would be raised by some with regard to this definition would be 'why is gender not to be considered as part of the context?' The answer is that to view DV as a human issue guarding all form of victims, gender needs to be displaced from the current prime position it holds in the interpretations. This does not mean that violence against women is to be discounted or that the interpretation should not be sensitive to dynamics surrounding gender. Where an unequal power structure in the family as part of the context disadvantages the female victim, this structure rather than her gender would be taken into consideration. Hoff's online archive indicates through the experiences of abused men that size/gender does not necessarily advantage a male victim but often inhibits him from reporting. This relationship dynamic perhaps requires more consideration. One of the victims described how his wife used a baseball bat: 'I'm over 6 feet tall and muscular, I

¹⁴¹ See n 43.

wouldn't get much sympathy posing as a battered man.'¹⁴² Another victim related: 'I'm 6' and weigh 230. She held a knife to my throat and told me to get out of the apartment. I would not dare move because ... [I thought she would kill me, I was kicked, locked out,] ... nothing could make a difference.'¹⁴³ A definition considering the relationship dynamic particular to each couple would be more inclusive than one operating on gendered assumptions. Where the female partner dominates because of an unequal power structure in that specific family, a non-gendered analysis of DV may protect the victim and encourage him to report.¹⁴⁴

The interpretation of the legal definition of DV prevalent in most jurisdictions is one that has stemmed from years of feminist discourse. Initially, it was feminists who carried out most of the primary research dealing with DV.¹⁴⁵ They were the forerunners in informing the public, lawmakers and academics of DV through the feminist movement in the 1970s.¹⁴⁶ Their findings generally centred on abused women and the social influences that enabled their victimisation.¹⁴⁷ Consequently, as George argues, 'a voluminous literature now exists' portraying DV as a 'unitary social phenomenon stemming from a patriarchal social order where women are

¹⁴² Menweb, Battered Men: Men's Personal Stories <<http://www.batteredmen.com/gjdvstor.htm>> accessed 4th September 2014.

¹⁴³ *ibid.*

¹⁴⁴ Section 4 will propose that actual neutrality can only be achieved through elimination of biases to parallel gender-neutral language.

¹⁴⁵ Russel Dobash and Rebecca Dobash, 'Wives: The Appropriate Victims of Marital Assault' [1978] 2 *Victimology: An International Journal* 426–442; Kersti Yllo 'Political and Methodological Debates in Wife Assault Research in Kersti Yllo and Michele Bograd (eds.) *Feminist Perspectives on Wife Abuse*. (Beverly Hills, Sage, 1988); Lenore Walker, 'Psychology and Violence Against Women' [1989] 44(4) *American Psychologist* 695–702.

¹⁴⁶ Elizabeth Pleck, *Domestic Tyranny: The Making of American Social Policy Against Family Violence from Colonial Times to the Present* (New York, Oxford University Press, 1987).

¹⁴⁷ George (n 92) 137.

portrayed as the victims and men perceived as the perpetrators.¹⁴⁸ Waugh asserts that feminists identify the gendered structure of society as an instrumental factor in violence against women. For them, violence stems from gender inequality and should be deemed gender-based violence¹⁴⁹ where the man is aggressive and the woman is passive.¹⁵⁰ Therefore, DV is considered to be symptomatic of a 'social structure that is predominantly patriarchal' and rooted in stereotypical male supremacy.¹⁵¹ Grady asserts that it is men who usually possess public as well as private power. This produces a subordinate 'underclass' of women.¹⁵² This power, at its extreme, is expressed in DV.¹⁵³ The analysis above seems to show that the current dominant paradigm on DV usually creates a particular public story in regard to DV locating this occurrence in heterosexual relationships with gendered victim-perpetrator dynamics.¹⁵⁴

Some feminists¹⁵⁵ make strong claims about the nature of DV. They assert that only abuse encountered by women should be considered a social evil demanding concern or societal intervention. Kelly considers it the 'continuum' of psychological, physical,

¹⁴⁸ *ibid.*

¹⁴⁹ Scottish Government, *Safer Lives, Changed Lives: A Shared Approach to Tackling Violence Against Women in Scotland* (Edinburgh 2009) 7.

¹⁵⁰ Sheila Seelau and Eric Seelau, 'Gender-Role Stereotypes and Perceptions of Heterosexual, Gay and Lesbian Domestic Violence' [2005] 20 *Journal of Family Violence* 363.

¹⁵¹ Heather McGregor 'Conceptualising Male Violence Against Female Partners: Political Implications of Therapeutic Responses' [1990] *Australian and New Zealand Journal of Family Therapy*, 65.

¹⁵² Ann Grady cited in Corolyn Hoyle and Richard Young, *New Visions of Crime Victims*. (Hart Publishing 2002) 79.

¹⁵³ Catherine Donovan and Marianne Hester, "I Hate the Word 'Victim'": An Exploration of Recognition of Domestic Violence in Same Sex Relationships' [2010] 9 *Social Policy and Society* 279.

¹⁵⁴ Dempsey (n 16) 17.

¹⁵⁵ Richard Gelles and Donileen Loseke, *Current Controversies on Family Violence* (Sage 1993) 63.

sexual and economic abuse that women experience domestically.¹⁵⁶ Dobash and Dobash claim that ‘violence against women is considered *the* problem and the one in need of urgent solution’.¹⁵⁷ Kurz argues that only men can perpetrate such violence: it is a tool only available to men that they use to control their female intimates.¹⁵⁸ Moreover, some feminist research on DV views men’s abuse usually in the context of retaliatory and defensive reactions to accumulated experiences of harassment, intimidation and physical abuse.¹⁵⁹ Thus, it is plausible to argue that the phrase ‘domestic abuse’ has been projected through the prism of gendered analysis and has become synonymised with ‘violence against women’.¹⁶⁰ As Farrell suggests, our fury towards men as perpetrators blinds us towards those men who are victimised.¹⁶¹ Considering violence as part of patriarchal social structure justifies these views¹⁶² but it acts to the detriment of the male victim of DV.

Plausibly, such interpretations of DV have led to the invisibility of abused men.¹⁶³ Dempsey¹⁶⁴ believes that courts and organisations guiding projects are not sufficiently attentive to the needs of male victims. This is a consequence of their chosen ethos in defining DV. Describing the current paradigm as one based on feminist ideology and action, Duffy even makes an overly accusatory statement:

¹⁵⁶ Liz Kelly, *Surviving sexual violence* (University of Minnesota Press 1988), 76.

¹⁵⁷ Dobash and Dobash (n 115) 325.

¹⁵⁸ Dorothy Kurz, ‘Physical Assaults by Husbands. A Major Social Problem’ in Gelles and Loseke (n 155) 88-90.

¹⁵⁹ Linda Ammons, ‘Dealing With the Nastiness: Mixing Feminism and Criminal Law in the Review of Cases of Battered Incarcerated Women: A Tenth-Year Reflection’ [2001] 2(226) *Buffalo Law Journal* 100.

¹⁶⁰ Alison Waugh, “Male victims of domestic abuse” [2010] *SCOLAG* 213, 214.

¹⁶¹ W Farrell, *The Myth of Male Power: Why Men are the Disposable Sex* (Berkley Books 2001) 221.

¹⁶² Sylvia Walby, *Theorizing Patriarchy* (Blackwell Publishers, Oxford, 1990) 128.

¹⁶³ See section 1.

¹⁶⁴ Dempsey (n 16) 96.

'feminism is primarily responsible for the way we view domestic violence today'.¹⁶⁵ However, over the past thirty years, feminists and advocates for abused women have quite understandably strived for the criminal justice system to deal with DV more seriously. They have struggled for an increase in women's protection, holding offenders accountable and eradicating the partiality encountered by women in the criminal justice system for which they should be commended.¹⁶⁶ Unfortunately, this has radically transformed the perception and treatment of DV¹⁶⁷ and led to interpretations of definitions that seem to perceive DV as a female phenomenon.¹⁶⁸ George found that some feminist research has significantly affected 'the evolution of civil law, enforcement of criminal law and the ways law [enforcement/social] agencies respond to the needs of battered individuals'.¹⁶⁹ However, a parallel advancement has not followed for male victims. Legal reform and attitudes of public agencies stem from the dominant ideologies prevalent in society. Existing political/ideological factors, according to Henman, are 'blinding us to the plight' of an entire category of victims.¹⁷⁰ Thus, considering the influence of feminists, it is not surprising that male victims of DV have received such scant attention in interpretations of legal definitions of DV.

Despite generally disadvantaging abused men, these interpretations continue to garner support. Many academics believe that the interpretations are rightly focused on women rather than men.

Dobash and Dobash are critical of the research that shows symmetry in DV

¹⁶⁵ Peter Duffy, 'Male Survivors of Intimate Partner Violence: Stories to be Told' [2006] Practice-based Research Paper <<http://www.amen.ie/theses/Dis%20Peter%20Duffy.pdf>> accessed 17th September 2014, 13.

¹⁶⁶ Susan Miller, 'The Paradox of Women Arrested for Domestic Violence: Criminal Justice Professionals and Service Providers Respond' [2001] 7 VAW 1339, 1341.

¹⁶⁷ Sarantakos (n 14) 231.

¹⁶⁸ *ibid.*

¹⁶⁹ George (n 92) 137.

¹⁷⁰ M Henman, 'Domestic violence: Do Men Under-report?' (1996) Forensic Update 3, 8.

perpetrated by both sexes. They analyse how findings of some social scientists¹⁷¹ whom they term as Family Violence researchers¹⁷² are flawed. Dobash and Dobash attempt to identify the weaknesses in the Family Violence Research and establish that DV is in an asymmetrical phenomenon in terms of the gender of the perpetrators and victims. They are concerned about these researchers having primarily relied on measuring discrete acts. In an attempt to bring 'rigor and statistical precision',¹⁷³ acts like a slap or punch become the sole basis of statistical information concerning the abuse perpetrated by the respondents.¹⁷⁴ The CTS neither takes account of injury resulting from the violent act nor of the context of the act.¹⁷⁵ A woman who indicates that she has committed a single act of violence is deemed violent on the list without considering the context in which the violence occurred. However, it is impossible to evaluate the exact nature of the violence and its consequences only from the knowledge that it in fact occurred.¹⁷⁶

In contrast, 'Violence Against Women' researchers like Dobash and Dobash place women's violence in the wider context of ongoing violent acts.¹⁷⁷ They assert that to understand DV the context of ongoing relationships must be examined. Lyon contends that examining who hit just identifies one aspect of the incident: 'why and how [also] need to be studied'.¹⁷⁸ Adopting an approach considering the context would provide more adequate explanations for DV. Research based on this model produces the following conclusions. Firstly, it shows that it is overwhelmingly men who perpetrate lethal/non-lethal DV. Women seem to report at least two to four

¹⁷¹ Like Strauss/Steinmetz using CTS, see Introduction.

¹⁷² Dobash and Dobash (n 115) 326.

¹⁷³ *ibid* 329.

¹⁷⁴ *ibid* 324.

¹⁷⁵ Browning and Dutton (n 6) 378.

¹⁷⁶ Dobash and Dobash (n 115) 329.

¹⁷⁷ *ibid*.

¹⁷⁸ Andrea Lyon, 'Be Careful What You Wish For: An Examination of Arrest and Prosecution Patterns of Domestic Violence Cases in Two Cities in Michigan' [1999] 5 Michigan Journal of Gender & Law 253, 257.

times more abuse than their male counterparts.¹⁷⁹ Secondly, it is also apparent in these findings that 'women's violence does not parallel men's in terms of frequency, severity, consequences and the victim's sense of safety'.¹⁸⁰ Finally, the research suggests that abuse perpetrated by women can be associated to a 'constellation of abuse'¹⁸¹ by their male partners. Women's violence has been frequently correlated with retaliation against a male partner.¹⁸² Reece is also a proponent of this approach. She explicitly states that 'despite gender-neutral terms ... law is rightly designed to protect women'.¹⁸³ She argues that a narrow act-based approach to the definition and measurement of violence would result in the 'context, consequences, motivations, intentions and reactions that accompany' the act being ignored.¹⁸⁴ In her view, women deserve enhanced protection because their experiences are graver than men. Firstly, they face proximity with the perpetrator coupled with isolation.¹⁸⁵ Women become 'progressively isolated from outside contact, and increasingly subject to their husbands' expectations and demands'¹⁸⁶ which creates the conditions of DV. Secondly, an unequal power structure, as described previously, requires greater protection for women. Thirdly, women tend to encounter ideological/practical barriers when deciding to leave a violent relationship. Not only is their identity, social status and self-worth attached to the status of marriage,¹⁸⁷ but they are also concerned about money, accommodation and childcare.¹⁸⁸ Finally, financial dependence on the male partner is another feature that tends to

¹⁷⁹ Dobash and Dobash (n 115) 328.

¹⁸⁰ *ibid* 324.

¹⁸¹ *ibid* 328.

¹⁸² *ibid*.

¹⁸³ Reece (n 129) 780.

¹⁸⁴ *ibid* 781.

¹⁸⁵ *ibid* 783.

¹⁸⁶ Evan Stark and Anne Flitcraft, *Women At Risk: Domestic Violence Against and Women's Health* (Sage Publications 1996) 27.

¹⁸⁷ Debra Kalmuss and Murray Straus, 'Wife's Marital Dependency and Wife Abuse' [1982] *Journal of Marriage and the Family* 277.

¹⁸⁸ M. Homer, A. Leonard and P. Taylor 'The Burden of Dependency' in Norman Johnson (ed.) *Marital Violence* (Routledge & Kegan Paul 1985) cited in Reece (n 129).

disadvantage women and create an atmosphere of DV.¹⁸⁹ Dobash, Dobash and Reece conclude that the emphasis of law and law enforcement agencies is correctly on female victims of DV, assuming that abused men do not face similar obstacles.

Miller¹⁹⁰ makes similar observations to Dobash and Dobash in the US. He is critical of the possibility of having a gender-neutral definition of DV and of a strict adherence by the policymakers and prosecutors to following mandatory pro-arrest laws without considering the context.¹⁹¹ He argues that law enforcement officers usually ignore the context in which the victims resort to using violence. Many female victims act in self-defence and have long histories of victimisation. They may have used a weapon to equalise the threat/force used by their male partners.¹⁹² Moreover, Rohling et al¹⁹³ found the husband's violence was more severe while he was less likely to be injured in 83% of the cases.¹⁹⁴ Hence, Miller asserts that studies based on the CTS can be dismissed once the circumstances are considered. These findings are discredited when 'pre-emptive aggressive action is distinguished from self-defence action'¹⁹⁵ and once injury is considered.¹⁹⁶ Consequently, he too concludes that DV is an asymmetrical phenomenon in terms of the gender of the victims and that the law should emphasise protecting female victims.

However, just as these researchers are critical of the CTS, there is a lot to be criticised about their findings and conclusions. This does not mean that the CTS is a superior scale. It means that complete reliance on the claims of the VAW researchers

¹⁸⁹ Reece (n 129) 787.

¹⁹⁰ Miller (n 166).

¹⁹¹ *ibid* 1339.

¹⁹² *ibid* 1340.

¹⁹³ Jennifer Langhinrichsen-Rohling, Peter Neidig and George Thorn, 'Violent marriages: Gender differences in levels of current violence and past abuse' [1995] 10(2) J FAM VIOLENCE 159.

¹⁹⁴ Miller (n 166) 1345.

¹⁹⁵ *ibid* 1345.

¹⁹⁶ *ibid*.

in interpretation of law and policy is overly simplistic.

Firstly, the fallacy that women only use violence in the context of self-defence and retaliation deserves attention. Many studies suggest that self-defence is not always the cause of female violence. Straus found that about equal numbers of women and men attacked partners who had not been violent to them during the previous one year.¹⁹⁷ Moreover, Walker found that one in four women in abusive relationships answered that they used physical force to get something they wanted rather than in self-defence.¹⁹⁸ This is clearly inconsistent with making a generalised self-defence justification. Consequently, this evidence suggests that self-defence cannot always explain the DV that women perpetrate.

Studies also indicate that women may initiate violence in many instances. Bland and Orne,¹⁹⁹ studying domestic abuse in Canada, found that women initiated violence more often than their male partners. Moreover, in the National Family Violence Survey in 1975 women respondents claimed that 'they struck the first blow in 40% of the cases'.²⁰⁰ Although this measure is undeniably not sensitive enough to gain an overall view of DV, it indicates that initiation of violence cannot be attributed solely to men. The answers of women, in identifying the unprovoked battery of their partners, militate against retaliation being considered the only motive for domestic abuse perpetrated by women.²⁰¹ Similarly Strauss²⁰² pointed out that every study investigating who instigates violence, while adopting approaches that did not reject

¹⁹⁷ Murray Straus, 'Physical Assaults by Women Partners: A Major Social Problem' in Mary Roth Walsh (ed.) *Women, Men and Gender: Ongoing Debates* (Yale University Press 1997), 214; Similar results seen in Stitt and Macklin (n 24).

¹⁹⁸ Lenore Walker, *The Battered Woman Syndrome* (Springer Publishing 1984) 174.

¹⁹⁹ R. Bland and H. Orn, 'Family Violence and Psychiatric Disorder' [1986] 31 CAN J PSYCHIAT 129.

²⁰⁰ Straus (n 197).

²⁰¹ George (n 92) 142.

²⁰² Murray Straus, 'Physical Assaults by Wives: A Major Social Problem' in Gelles and Loseke (n 155) 67.

the idea of the woman as the initiator, found that women initiate violence in a significant proportion of cases.²⁰³ Consequently, the generalised self-defence justification for women's aggression is not an adequate explanation of the phenomenon.²⁰⁴ Legal agencies formulating strategies on its basis is thus questionable.

In an attempt to defend their findings, some researchers²⁰⁵ argue that DV, if not a result of retaliation, is regardless a consequence of the frustration/anger at being dominated by men. While this may explain many incidents of DV, it is evident that women may perpetrate most of the violence because of jealousy and a desire to control rather than self-defence.²⁰⁶ Marsh argues that the violence may stem from their need to dominate and possess, or from their insecurities.²⁰⁷ Moreover, Fiebert found that women rarely provided retaliation as a justification for initiating violence against their male partner: '46% claimed that their partner was being insensitive to their needs, 44% did it to gain his attention and 43% did it because he was not listening to them'.²⁰⁸ However, a man's emotional passivity²⁰⁹ or inattention²¹⁰ should not be used to justify violence. One would never defend a man's violence

²⁰³ *ibid.*

²⁰⁴ Anson Shupe, William Stacy and Lonnie Hazelwood, *Violent Men, Violent Couples: The Dynamics of Domestic Violence*. (Lexington Books 1987).

²⁰⁵ Straus (n 197) 218.

²⁰⁶ Russell Ward and John Muldoon, 'Female Tactics and Strategies of Intimate Partner Violence: A Study of Incident Reports' [2007] 27 *Sociological Spectrum* 337, 342.

²⁰⁷ Robert Marsh, (1976) 'Mobility in the Military: Its Effects Upon the Family System' in Hamilton McCubbin, Barbara Dahl & Edna Hunter (eds.) *Families in the Military System* (Sage 1976), 92.

²⁰⁸ Martin Fiebert and Denise Gonzalez, 'College Women Who Initiate Assaults on Their Male Partners and the Reasons Offered for Such Behavior' [1997] 80 *Psychological Reports* 583, 587.

²⁰⁹ J Harrison, 'Would You Batter Your husband?' [1986] *Woman's Own* 3, cited in George (n 92) 138.

²¹⁰ Straus (n 197).

perpetrated on his partner due to her passivity or inattention.²¹¹ I am not suggesting that research conducted by Marsh and Fiebert is superior to that conducted by Dobash and Dobash. However, reliance on the latter without consideration of the former is simplistic. Here, the differential treatment amongst men and women is completely arbitrary and wrong in principle.

Furthermore, it seems that self-defence has been used as a means to 'justify' rather than 'explain' this phenomenon. An explanation is a theory about why something occurred while a justification shows that the conclusions drawn are correct.²¹² It seems that feminist influence usually supports female victimisation whilst not giving weight to the plight of abused men. Their research usually centres on societal factors that support the marginalisation of abused women. They may have concentrated on findings which 'lend weight to their cause'²¹³ whilst not considering male perspectives on this issue. Therefore, the samples chosen may skew the findings in a certain direction. The researchers may have conducted the findings to attain a pre-conceived conclusion rather than entering the research with an open mind. These underpinning assumptions/study objectives influence the research findings. This is evident in the sample used by Dobash and Dobash. While the paper's subject was women's abuse of male partners, the sample solely comprised of men who had perpetrated abuse on a female partner. It is evident that such a sample selection was inevitably going to produce results that confirmed the self-defence justification.²¹⁴ Although Dobash and Dobash's paper was supposed to focus on male victims of DV, the paper/findings essentially centre on female victims. The emphasis is removed from male victims and the research fails to 'explain' their

²¹¹ George (n 92) 145.

²¹² Allan Forrester, 'Explanation versus Justification' (February 2010) <<http://www.criticalrationalism.net/2010/02/15/explanation-versus-justification/>> accessed 5th September 2014.

²¹³ Michael Flood, 'The Debate Over Men's Versus Women's Family Violence' (AIJA Family Violence Conference, Adelaide, February 2006).

²¹⁴ (n 98) 9.

experiences.²¹⁵ Lambert questions the validity of this research, asserting that if the study was not aimed at comprehending the experiences of men, then it would be difficult to acknowledge how prevalent DV towards men is.²¹⁶ Not only does this reflect a bias existent in society, but also the difficulties that researchers have in accepting that men can also be victims of DV. No wonder male victims receive such scant attention legally. Moreover, the implementation of law on the basis of such research is questionable.

Secondly, as mentioned briefly in the previous paragraph, the samples selected and the methodology used by the 'Violence Against Women' researchers also inevitably have an impact on the findings.

The sample composition is an important factor to be considered. The respondents selected, their class and other features of their background influence the findings. In Dobash and Dobash's study men who had never perpetrated violence themselves but had experienced abuse were given no voice. They shunned the idea of including this category of men by arguing that 'it is such a rare occurrence that it would be difficult to obtain an adequate sample'.²¹⁷ Although perpetrators and victims involved in such violence may be difficult to reach, it does not justify granting them no attention. The conclusions drawn on the matter of male abuse without considering the predicaments of this category of men would plausibly be incomplete or flawed. Similarly, it is questionable if Miller's²¹⁸ sample was appropriate to his study. The respondents included criminal justice professionals and social service providers instead of the victims themselves. Recognising that each research sample has its drawbacks, Johnson asserts that researchers may be 'mapping different parts of reality due to different sampling strategies'.²¹⁹ It is conceivable that mapping only

²¹⁵ Justification for this considered in proceeding paragraph

²¹⁶ Lambert (n 26) 9.

²¹⁷ Dobash and Dobash (n 115) 334.

²¹⁸ Miller (n 166) 1350.

²¹⁹ Michael Johnson, 'Patriarchal Terrorism and Common Couple Violence: Two Forms of Violence Against Women in U.S. Families' [1995] 57 JOMF 283.

one part of reality may have contributed to the insufficient attention towards the cause of abused men.²²⁰ 'Violence Against Women' critics seem to have predominantly researched female victims. They do not hold comparative figures to reject the contentions of 'Family Violence' researchers who assert that women perpetrate violence as well.²²¹ Formulating legal interpretations or law enforcement strategies on the basis of such incomplete findings does not seem fair.

Research methods also result in variances in findings. Researchers using different techniques may cause research outcomes to diverge.²²² Whilst there may be problems with the CTS, an injury-based scale on its own has many shortcomings too. Using an injury based criterion for domestic assault is disadvantageous to women because 97% of men's violent acts do not cause injury, but are still to be considered serious.²²³ The act of using violence on its own should not be downplayed; Strauss²²⁴ claimed that the number of women victimised would be drastically reduced even though they still have been technically assaulted in the home and potentially left fearful.²²⁵ Dobash and Dobash consider that there is a problem in equating words with physical or sexual actions and identifying them collectively as violence.²²⁶ This approach would once again be inadequate. Many forms of psychological abuse may exceed physical violence in terms of their gravity or consequences. In fact, Dobash and Dobash themselves recognise that 'theoretical and methodological approaches to a research determine the nature of what is studied and the findings produced

²²⁰ Again, this does not mean that the CTS may not have similar flaws.

²²¹ Viveka Enander, 'Violent Women? The Challenge of Women's Violence in Intimate Heterosexual Relationships to Feminist Analysis of Partner Violence' [2011] 19 NORA 105, 116.

²²² R. McNeely, Phillip Cook and Joseb Torres, 'Is Domestic Violence a Gender Issue or a Human issue?' 4 [2001] *Journal of Human Behaviour in the Social Environment* 227-251. 230-231.

²²³ Straus (n 197) 211.

²²⁴ Straus (n 7).

²²⁵ George (n 92) 144.

²²⁶ Dobash and Dobash (n 115) 331.

which ultimately inform policies and practices'.²²⁷

Thirdly, it is arguable that researchers like Miller do not account for the underreporting whilst drawing conclusions. As discussed before, many men do not accept the violence they experience due to their status expectations. Many choose to remain silent. Cohen argues that 'they learn to suffer quietly behind the mask of masculinity. They cannot speak and we cannot hear. It is this silence that is confusing ... because it fools us into thinking that all is well when all may be awry'.²²⁸ Kantor and Strauss found that at least 93% of the cases are missed possibly due to a lack of injury or risk of severe injury that is serious enough to warrant contacting the police.²²⁹ However, the impact it may have on the individual psychologically or on the relationship dynamics may be grave. The research evidence in this context typically excludes the context of men's underreporting.²³⁰ With a vast majority of men's experiences remaining unreported, legal definitions continue to be framed according to the feminist ideology of DV.

Fourthly, the assumption that injury only occurs in male-to-female violence is also challenged. Stitt and Macklin interviewed 20 men abused by women. All of them had suffered severe forms of physical abuse 'ranging from stabbing, being scalded with boiling water, attacks [on] their genitalia and being beaten with implements'.²³¹ Similarly, Cascardi and colleagues²³² reported that men had not only suffered from broken bones and teeth but sometimes also had wounded sensory organs. Quite

²²⁷ *ibid* 329.

²²⁸ Cohen (n 80) 74.

²²⁹ Glenda Kantor and Murray Straus, 'Response of Victims and the Police to Assaults on Wives' in Straus and Gelles (n 7).

²³⁰ Women may also underreport. It is only being acknowledged, consequent to the discussion on hegemonic masculinity and its impact, that men may have greater incentives not to report.

²³¹ Stitt and Macklin (n 24).

²³² Michele Cascardi, Jennifer Langhinrichsen and Dina Vivian, 'Marital Aggression: Impact, Injury and Health Correlates for Husbands and Wives' [1992] *Archives of Internal Medicine* 152, 1178.

surprisingly, Morse²³³ and Makepeace²³⁴ even found higher rates of injury amongst men.²³⁵ Thus, statistics based on injury do not necessarily justify a greater focus of the law and law enforcing agencies on female victims of DV.

Moreover, these findings and those showing symmetry in DV in terms of gender show that male victims of DV are more than just a minority contrary to what the 'Violence Against Women' researchers claim. Thus, Ward and Muldoon argue that the belief that legal and social policy concerns about primary aggression by women resembling 'a moral panic more than a social problem' is flawed.²³⁶ Recognising the various weaknesses in all forms of research, considering one study superior to another is problematic; it is like accepting one word against another.

Finally, even if it is acknowledged that men suffer much less abuse than women, it does not justify placing legal emphasis only on battered women. As Dempsey suggests, there is something:

'discomforting about determining recognition of a particular individual's experience of domestic violence as worthy or unworthy of a legal response not on the basis of need or equality but on averages, and it is not clear what relevance being above or below average in the severity or incidence of abuse should have for the abused man or woman, or their children.'²³⁷

Statistics may tell us whether women experience more DV than men. However, they do not provide an explanation of exactly why DV should only be considered as a female predicament. It is unclear why an average experience of 20 incidents by

²³³ B Morse, 'Beyond the Conflict Tactics Scales: Assessing Gender Differences in Partner Violence' [1995] 10 VAV, 251.

²³⁴ J Makepeace, 'Gender Differences in Courtship Violence Victimization' [1986] 35 Family Relations 35, 383.

²³⁵ Hines and Douglas (n 24) 579.

²³⁶ Ward and Muldoon (n 206) 358.

²³⁷ Dempsey (n 16) 60.

women demands legal attention while an average of 7 incidents encountered by men does not merit much concern in the arrangement of the criminal justice system response.²³⁸ Arguably, the law would not focus on protecting and assisting men only (on the road or after an accident) if their chances of being involved in a severe accident causing fatality was twice that of women. Every individual's life in this situation would be given an equal weight. Thus, it becomes difficult to understand why such a differential attitude based on sex is adopted in the area of DV on the basis of statistics and generalisations.

Similarly, given that DV is seen as a major social evil, a hypothetical reliable study indicating that there exists thrice as much abuse against women as men does not suggest that the recorded rates of violence against men should be seen as less of a problem. Dempsey argued that women encounter 12.9 million incidents of abuse whereas men encounter 2.5 million incidents. However, he asserted that while 12.9 million is much greater than 2.5 million, the latter is still not a negligible amount and deserves attention. Moreover, considering the same figures, it would be too great a leap to jump to the conclusion that legal responses to DV should be specifically tailored to secure women's protection.²³⁹ The link between the two remains to be proven.

More fundamentally, it is time to leave the debate on who hits whom behind and cater to victims as a whole. There exists an intrinsic moral wrong in assaulting a partner recognised in Mankind Initiative's slogan '#ViolenceIsViolence'. For example, *The Only Way Is Essex* actor, Sam Faiers, admitted that she slapped and pushed her ex-boyfriend, Joey Essex, when they argued. However, she tried justifying it by claiming that it was 'only a slap' and that 'everyone slaps their boyfriend'.²⁴⁰ Such justifications accepted by many need to be discredited to ensure that neither sex is inhibited from reporting abuse. This needs to be expressed clearly by defining DV in

²³⁸ *ibid.*

²³⁹ *ibid.*

²⁴⁰ <<http://www.irishexaminer.com>> accessed 6th September 2014.

a way that all victims, regardless of their gender, are able to access legal/social agencies for support.²⁴¹ It is agreed that a contextual approach should be taken when determining the abuse. This should be gender neutral and must not trivialise male abuse simply on the basis of their size/strength. Focusing on both sexes would prevent the unintentional validation of the traditional social constructs accepting some violence amongst partners. Consequently, as argued by Hines et al²⁴² domestic 'violence by women should be taken seriously so that the goal of ending all violence can be achieved'.²⁴³

4. So What Can Be Done?

The subject of male victimisation has clearly not been successful in influencing the theory and practice of working with DV. The phenomenon is misunderstood and, as shown, may result in negative consequences for male victims.²⁴⁴ This dissertation highlights two important steps that need to be taken to recognise the plight of abused men: gender in society needs to be deconstructed, and violence needs to be perceived as a human issue rather than a gendered phenomenon.

Firstly, regardless of what the data may suggest, it clear that some women do assault their male partners.²⁴⁵ Even critics of the concept of battered men such as Walker²⁴⁶ acknowledge this phenomenon. If it is accepted that women are violent too, even if in a minority of cases, it calls for a 'refined analysis of both violence and gender'.²⁴⁷

²⁴¹ Straus (n 197) 218.

²⁴² Hines et al (n 24).

²⁴³ *ibid* 69.

²⁴⁴ Hogan et al. (n 36) 45.

²⁴⁵ George (n 92) 141.

²⁴⁶ Lenore Walker, 'Psychology and Domestic Violence Around the World' [1990] 54 *American Psychologist* 21.

²⁴⁷ Enander (n 211) 118.

It is arguable that the societal conception of gender, in its current form, needs to be reformed. This has partially occurred for the benefit of women. Recognising gender as a social construction, it is acknowledged to an extent that women can also exhibit forms of stereotypically masculine behaviour.²⁴⁸ Similarly, Connell argues that there is no 'one' category of men;²⁴⁹ the social stereotypical roles have transformed to an extent. Some men engage in housekeeping and raising children. Moreover, women have more opportunities to work outside the household. Women engaging in manual labour is seen as a form of emancipation and ultimately something positive by many in society. A greater number of women can be found in politics²⁵⁰ and the judiciary²⁵¹ globally compared to the mid-twentieth century. However, opportunities for change available to men are more limited.²⁵² Men contravening the boundaries set by hegemonic masculinity face stigmatisation. Society cannot seem to accept that men may be facing fear, embarrassment or isolation as victims of DV.²⁵³

Moreover, the existing construction of gender that usually portrays men as perpetrators hinders the feminist cause to an extent. Struggling to emancipate women without altering the need felt by men to be assertive, controlling and dominating seems to address only half of the problem.

Although it is recognised that the deconstruction of gender is not a simple or quick process, steps need to be made towards that goal. Two possible (non-exhaustive) ways are as follows. Firstly, appreciating the media's influence, portrayal in newspapers, websites and on television could be used as a means to project how there

²⁴⁸ Dempsey (n 16) 56.

²⁴⁹ *ibid.*

²⁵⁰ Anonymous Author, 'Women in National Parliaments' (2014) <<http://www.ipu.org/wmn-e/classif.htm>> accessed 6th September 2014.

²⁵¹ UN Women, 'Progress of the World's Women' <<http://progress.unwomen.org/wp-content/uploads/2011/06/EN-Factsheet-Global-Progress-of-the-Worlds-Women.pdf>> accessed 6th September 2014.

²⁵² (n 98) 7.

²⁵³ *ibid.*

is indeed no one category of man and that they may also be victims of partner abuse. Critical of the portrayal of men in various forms of media, Dempsey argues that such outlets should consider the extent to which their coverage parallels how men actually experience DV and what impact it has on them.²⁵⁴ Instead of considering male victimisation as something comical in sitcoms such as *Home Improvement*, *The King of Queens* and *Roseanne*, greater emphasis is needed on how passive behaviour may be normal amongst men. Such portrayals on a large scale may assist in dismantling the current conceptions of gender. Secondly, a system of educating the judiciary, police and public agencies needs to be developed to allow appreciation and understanding of experiences of male victims of DV so that the societal constructs are dismantled and do not influence their judgements.²⁵⁵ A gender-neutral definition on its own fails to create equality.²⁵⁶ Mclean argues that 'gender-neutral drafting is a cosmetic change [and will lack effectiveness] if it is not coupled with post-legislation and pre-legislation impact assessment mechanisms'.²⁵⁷ Courts and the police need to be educated to prevent biases that both sexes may encounter. This attitude of law enforcement agencies may prompt more men to report their abuse and challenge the existing norms.

Secondly, it is essential for DV to be perceived as a human rather than gender issue in society. McNeely, Hines and Torres claim that DV, like other forms of violence, is essentially a human issue and not just an occurrence specific to the female sex.²⁵⁸ Pizzey argues that violence should not be termed a gender issue because violence is a result of a dysfunctional background, which either sex may experience during their youth.²⁵⁹ She concludes that it is a societal issue.²⁶⁰ These authors make it obvious

²⁵⁴ Dempsey (n 16) 120.

²⁵⁵ *ibid.*

²⁵⁶ Venessa McLean, 'Is Gender-Neutral Drafting An Effective Tool Against Gender Inequality Within the Legal System?' 39(3) CLB 443, 454.

²⁵⁷ *ibid.*

²⁵⁸ McNeely, Hines and Torres (n 222) 228.

²⁵⁹ Erin Pizzey, 'Practice Report: A Comparative Study of Battered Women and Violence-Prone Women' [2009] 1(2) Journal of Aggression, Conflict and Peace Research 53.

that categorising intimate partner abuse as a female phenomenon instead of a human issue is erroneous.²⁶¹

This leads to the conclusion that the law must engage with DV on a human level. Ideally, the law should not be based on generalisations made about one sex. Although certain trends may clearly exist, formulating the law on their basis would harm individuals who do not fall into their prescribed categories. The law should focus on eliminating abuse as a whole rather than abuse against women. In an era that idolises individual rights, marginalising minority experiences is problematic.²⁶²

It is generally feared that a gender neutral approach based on individual rights could reinforce conceptions that women are responsible for their misfortune as they provoke their male partners.²⁶³ This could result in policies that harm women and support the 'individualistic bias in the field of counselling'.²⁶⁴ However, acknowledgment of the many and varied needs of men does not mean that there would be a reduction in the emphasis laid on female victims.²⁶⁵ Dempsey argues:

'Addressing abuse is not a zero sum situation where recognition of the needs of one group takes anything away from recognition of the needs of the other. Challenging all forms of abuse will make society fairer, healthier and safer for all.'²⁶⁶

Responding to the needs of both male and female victims is not mutually exclusive. Thus, the law and its interpretations should focus on DV as a human issue, addressing the needs of both sexes according to their varied needs and experiences.

²⁶⁰ Lambert (n 26) 10.

²⁶¹ McNeely, Hines and Torres (n 222) 228.

²⁶² Dempsey (n 16) 19.

²⁶³ Kurz (n 158) 98.

²⁶⁴ *ibid* 99.

²⁶⁵ Dempsey (n 16) 5.

²⁶⁶ Dempsey (n 16) 5.

Just because women may be the more common victims of DV does not mean that it is reasonable to perceive DV as a problem specific to them.²⁶⁷ The discrimination would be unreasonable on the grounds that male victims of severe violence may be left without the support of appropriate services. If achieving substantive equality is the aim postulated of courts and public agencies, then this gendered analysis fails to address the needs of abused men or achieve that form of parity. Therefore, it is imperative to encourage reforms towards conceiving DV as a human rather than gendered issue.

Conclusion:

This dissertation has considered explanations of the little social and legal attention that is received by men encountering DV. It was initially explained through empirical data that the phenomenon clearly exists in society and is not just an anomaly. Then, possible explanations for the invisibility of abused men were considered.

Firstly, empirical data indicating a difference in attitude between male and female victims revealed that public agencies including courts, the police and social services possibly operate on a bias. The reasons for this attitude were assessed and its contribution to the invisibility of abused men was considered. Secondly, in assessing the underlying reasons for the scant attention, it was argued that men face considerable difficulties in adopting the position of an abused man. Many fail to recognise that they are victims whilst others deny it to maintain a manly persona. Thus, the blame cannot be solely placed on a biased system. Thirdly, another important contribution to the cloak of secrecy was considered to be the formulation of strategies to deal with DV according to the feminist agenda that usually portrays the man as the perpetrator. The contention that legal definitions of DV centring on the feminist ideology are justified was evaluated. It was specifically argued that even if abused men are a minority, interpretations of law should not be structured principally on statistics and the inherent moral wrong in using violence against a

²⁶⁷ Waugh (n 160) 215.

partner regardless of the victim's gender needs to be addressed. A possible interpretation considering the context, injury and acts of physical/psychological violence was advanced.

Two further proposals were made. Firstly, the social construct of gender, in its existing form, needs to be dismantled so that more men can accept their abuse and public agencies can look past stereotypes and support them. The use of media and education of public agencies is crucial to achieving this aim. Secondly, DV should be perceived as a human issue rather than a gendered concern. Engagement with the problem from an individual's perspective would encourage men who currently seem to have little faith in the system to access the court/police.

The cloak of secrecy²⁶⁸, the public story²⁶⁹ and hegemonic masculinity²⁷⁰ currently contribute to the invisibility of abused men. Just as women have been able to fight stereotypes imposed on them, the labels attached need to be removed. Reforming legal definitions and the attitude of public agencies is the first step in a long process of altering the position of abused men.

²⁶⁸ Steinmetz (n 8).

²⁶⁹ Donovan and Hester (n 153) 281.

²⁷⁰ Connell (n 74) 77.

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