

Responses of the Criminal Justice System to Violence against Women: A Review

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Abstract:

Evidently, various types of sexual, psychological and physical violence inflicts excruciating pain on the female gender in epidemic proportions globally. Such abusive behaviours against women existing in any economic or social class is also a gross violation of the victim's human rights. This is further made worse by the patchy responses and inadequate support services of the criminal justice system of different countries in tackling abuse on women and young girls within their respective societal context. This review focuses on the problems of violence against the female gender with particular reference to the United Kingdom and assesses the responses of the British criminal justice system in dealing with these violent crimes. This review ends by making recommendations on how the justice systems in the UK can promptly and sufficiently deal with this social menace that is a major concern to all and sundry.

Keywords: *violence against women, criminal justice system, abuse, female gender.*

Introduction

Female child exploitation, sexual assault, rape, stalking, female genital mutilation, indecent workplace romance and sexual harassment against the female gender has been a worldwide threat that is almost as old as when humanity began to exist. Subsequently, a worldwide awareness is now increasing the need to improve gender equality and minimise domestic violence that can be defined as any incident of unacceptable behaviours and violence conducts carried out by perpetrators that can result into psychological, physical and/or mental torture of victims (Fontes, 2004). It is also described as a pervasive violation of women's human rights and a major inhibitor of achieving gender equality, feminine development and social peace anywhere it is allowed to thrive (Buzawa and Buzawa, 2003). Although the rates at which the female gender is been exposed to violence vary from one region to the other, past and extant surveys and statistics indicate that violence against women is not an overwhelming problem for only alleged victims but also those who work and research in areas where these victims or clients are survivors of sexual violence (Coles, Astbury, Dartnall and Limjerwala, 2014).

For instance, a British Crime Survey produced a damning report revealing that almost half of women living in England and Wales have at some points in their lives experience various dimensions of sexual abuse (Walby and Allen, 2004). In addition, the sexual violence against women in developing nations such as stories from India show how female gender violence are perpetuated with extreme atrocity and cruelty with reports stating that crimes against women are committed every twenty-nine minutes in a day in some of the inner suburbs in India. This has been attributed to the patriarchal nature of these impoverished societies (Kinnear, 2011). It is also reported that the criminal justice systems have grossly failed to come to the rescue of abused victims in these societies. The fights against female violence is increasing in some nations by intensifying awareness of these crimes against humanity through various global information technologies (e. g. social media platforms). However, there are still many impediments that are preventing the eradication of violence against women in practical terms (Harne and Radford, 2008). As such, the devastating outcomes of violence against women irrespective of the nation where it is perpetuated includes physical health damage, social isolation, societal stigma, marital divorce or even death of victims when such abuse occurs under prolonged circumstances. For instance, in the United Kingdom, an independent appraisal published by the British Women's National Commission (WNC) reportedly gave the British Government an overall low score of 1 out of 10 in aspects of adopting an integrated approach to addressing violence against women (Women's National Commission, 2011).

Speaking from the British perspective, the WNC acknowledged that while there are robust policies in parts of the legal system that addresses rapid responses to violence against women, there were criticisms about some gaps in such policies and services hindering women's protection and access to prompt justice. Some of the generic factors that were found existing in UK for example, are the poor enforcement of criminal laws and regulations (Mama, 1996), diminishing and discriminatory behaviours exhibited among relevant professionals vested with powers to assist these victims. Other gaps were also found to exist within the criminal legal system that allows this despicable crime to remain hidden and concealed by victims from friends, work colleague, family and legal authorities such as the police (Mooney, 1994). Therefore,

some of these failures have resulted in a significant number of cases of violence going unreported and unprosecuted as a result of lack of trust and confidence in the criminal justice systems which may be the reason for the high number of victims whose cravings for help, protection and redress are either ignored or responses falls short of desired expectations (Buzawa and Buzawa, 2003). Therefore, the answers that will be provided in this review intends to critically examine how the various institutions within the criminal justice system have treated and responded to violent crimes that is categorised as not only crime against women but a serious offence against human dignity. Thus, this paper intend to assess how the justice agencies such as the police, the crown prosecution services, the courts, the probationary and prison institutions have dealt with victims, suspects and offenders of violent crimes against women especially in the United Kingdom.

The police

The police are often the first point of contact in either dealing with reports of domestic violence against women, apprehending offenders and making them face the consequences of their criminal actions. Therefore, the response of the police is very important, as an inadequate response in treating these cases with high priority and with recourse to strict confidentiality normally affects the victims involved. This can subsequently affect the victim's trust in the criminal justice system (Gosselin, 2005). However, documented evidence still reveal that women who experience domestic violence and sexual abuse most times do not report these crimes to the police because of prior experiences of poor police investigations into reported cases. For instance, one of this notorious Indian cases was a gang rape of a 23-year old student on a public bus on the 16th of December, 2012 that sparked large protests and uproar across New Delhi, the capital of India. This public outcry and condemnation drew attention of people in other countries particularly with a focus on the passive responses that such victims encountered when formal complaints were made to the Indian police (BBC News report, December, 2012). Thus, the culture of rape was perceived to flourish in India because of the patriarchal nature of their caste systems that seems to fuel an acceptance of inequality and gender stereotypes in a country with almost the largest population in the world (Shanmugam, 2013). The fact that the Indian police is a male dominated institution

further exacerbates the problem of vulnerable female victims not given due attention needed to effectively prosecute some of these disturbing cases.

Shifting focus to more developed countries like the UK, it is certainly the lead responsibility of the police and other related criminal justice agencies to respond to violence against women. One of the Government's responsibility is to protect women against such crimes (Allen and Walby, 2004). As such, the broad functions of the Metropolitan Police Authority that are similar to those of other police authorities in England under the Police Act 1996 is to play a critical role in keeping police response to violence against women at a minimum time level (Mullender, 1996). However, a UK humanitarian body known as the International Rescue Committee that can be viewed at (<http://www.rescue-uk.org/>) was formed to support women and girls around the world in fighting sexual discrimination revealed a few scenarios where a victims of sexual assault narrated how when they made complaints of sexual abuses in the UK, but alleged that the officers dealing with their cases neither believed their stories nor held the victims serious about the violent crimes reported. It is worth stating that some of this institutional omissions and failures on the part of the police force in promptly responding to and investigating some of these potential or actual abuses have resulted into untold hardship on victims and their families (Gosselin, 2005).

An example of a televised negligent action demonstrated by the London police when a complaint of domestic violence was made occurred in the case of one Banaz Mahmood; a 20 year old Kurdish immigrant, who was reported missing from her South London home in January, 2006 but her decomposed body was found three months later (BBC news, 2010- www.bbc.co.uk/news/uk). Her story reported by the BBC news was that before her gruesome murder, her family forced Banaz, as a teenager to enter an arranged marriage to one of the men of their tribe. However, a couple of years along the line, her marriage broke down irretrievably due to domestic violence and rape allegations that eventually lead her returning to her parent's house. While her divorce case was still pending, she fell in love an Iranian Kurdish man of a different tribe. However, her family showed fierce disapproval of her new lover. She subsequently faced several threats from her family and community where she lived. In December, 2005, reports revealed that Banaz was hospitalised as a result of multiple assaults from

her father who threatened to kill her. Although she made complaints to the police about the series of violent actions and reprisals from her family but little action was taken by the police to stop the abuse. Unfortunately, in January, 2006, Banaz was sexually assaulted and strangled to death by her father and uncle who are currently serving very lengthy jail terms after been convicted for murder (www.bbc.co.uk/news/uk). Following the Independent Police Complaints Commission (IPCC) investigation and review into the London Metropolitan police dealings of Banaz's case, the Commission found that due duty of care was not taken to investigate her case in a timely manner and that the police should have done more in its dealings with Miss BanazMahod's case. This is just one of so many cases where the police service had let down victims suffering from these heinous crimes.

The crown prosecution services

Despite the British Government's strategies to tackle violence against women and girls by bringing perpetratorsto timely justice while victims are supported, there has equally been reports of lapses and gaps in the persecution system (Hague and Malos, 2005).The Crown Prosecution Service (CPS) are the enforcement institution that prosecutesuch violent offences once the policeinvestigation is completeand a prima facie case is established against offenders. However, the CPS responses to domestic violence have been criticised in the past of how some ofthese cases are handled. This has also resulted in some victim's unwilling to support the prosecution and as a result, offenders have been allowed to slip through the nets of justice (Harne and Radford, 2008).Some of these cases are not even prosecuted by the CPS on grounds that some reports are speculative and a waste of time. For instance, a survey carried out by Amnesty International, UK, a non-governmental organisation that campaigns for human rights protection for women with over seven million members and supporters worldwide revealed that about 30% of women surveyed were of the view thatwomen and young girls sexually abused are mostly blamed if alleged victims are under the influence of alcohol or drugs. This drunkenly disorders and other anti-social behaviours are thought to likely result to a nonchalant attitude from those working in the criminal justice system about reported cases(www.amnesty.org.uk).It was even found that the very week that this survey was made public, a rape trial of a 21 year old female complainant collapsed

because she claimed that she was excessively intoxicated as at the time of the incident and unconscious of the sexual activities between her and the sex offender (Harne and Radford, 2008). Although this was inconsistent with the law that provides that an individual must be an adult (e.g. must be 18 years and above) capable of giving free consent to sex. Consequently, some of these cases were later found to lead to a miscarriage of justice.

This example and many other cases have been unsuccessful due to some of these issues that have proved to be a serious challenge in bringing the sex offenders to face the law. Moreover, for many years, there has been criticism in the way rape cases are prosecuted. This has generated concerns on the legal skills, knowledge and expertise of lawyers that are instructed by the CPS to successfully prosecute cases of violence against women (Radford and Gill, 2006). This is why some of the victims are unwilling to pursue their cases because of the public stigma that some will have to live with when their cases are unsuccessful but have already gone public and irretrievable from the glare of all and sundry. Giving some of these criticisms, the British CPS has to confront some of these loopholes by taking more pro-active measures in gathering credible evidence and create an effective system in prosecuting violent cases even without the victim's consent and disallowing external factors such as public opinions to contaminate potential cases (Cook, Burton and Robinson, 2006). For example, in 2001, the British CPS formed a network of domestic violence specialists to provide expert coordination and advice to the CPS on cases of abuse. By 2006, a total number of forty-three coordinators were appointed to work closely with the main body of CPS in the UK (Harwin, 2006). In addition, these coordinators are delegated to also work in conjunction with other government agencies in identifying and sharing good practice. Accordingly, Matczak, Hatzidimitriadou and Lindsay, (2011) pointed out that these coordinators were carefully selected to hold due consultations with women's specialist services and other agencies to develop policy and guidelines" and ensuring that all prosecutors are well trained in prosecuting cases relating to domestic violence against women.

Her Majesty courts, tribunals and special domestic violence courts

In order to adequately deal with cases of violence against women in the UK, there are other courts empowered by legislation to support the traditional criminal courts

of justice. For instance, Her Majesty Courts and Tribunals Service overlook courts in England and Wales by providing management and assistance to the county courts, magistrates' courts, the crown court and the appellate courts such as the High Court, and Court of Appeal (Radford and Gill, 2006; Matczak, Hatzidimitriadou and Lindsay, 2011). As such, domestic violence victims can apply for either civil or criminal remedies. This gives the victim a choice on what line of action (either as a criminal or civil matter) to pursue in prosecuting their own cases. However, Sundari, (2008) was of the opinion that the legal choices available depends on the criteria including the nature and severity of the crime, the type of relationship existing between the perpetrator and victim as at the time the crime was committed, the burden of proof needed to secure a conviction and what protection is required by the victim. In the UK, sexual offences are crimes covered by the Sexual Offences Act 2003. Furthermore, most of the courts that treat most of the sexual cases especially against women are the traditional courts of original jurisdiction which are the magistrates' courts and the crown court. But because of the high number of cases in these lower courts and the fact that some of these courts are already over-stretched due to the limited judicial officials to sit and deal timeously with rape cases have also raised concerns in the past by policy makers (Matczak, Hatzidimitriadou and Lindsay, 2011).

For example, the Independent Newspaper of the UK contained a story of how the Members of the British Parliament sometimes in 2013 contested in the wake of the Rochdale and Jimmy Savile sexual scandals that laws should be passed to give more powers to new specialists' courts particularly for children (mostly girls) who are been abused in silence (www.independent.co.uk/new). It was claimed that this special domestic court sittings can be modelled like those already in place to hear violence cases like rape charges. It was further debated that policies should be made to ensure that specially trained court judges and agencies are assigned to support young victims and their witnesses. High standards of care should also put in place to protect victims and their potential witnesses from the accused (Ministry of Justice, 2009). In Britain, one of the Members of Parliament interviewed in past on this matter said "Children do not approach communication in the same way as adults and the same research also revealed that half of all young witnesses said they were unable to understand some of

the questions they were asked in court. This rises to 90% in those aged under 10." (www.independent.co.uk/new). This statements was also in line with concerns raised by Sir Peter Fahy, a Chief Constable of Greater Manchester in a news interview were he said the "police force have significantly improved the way that victims are treated but the fact that many victims do not come forward or if they do are reluctant to support a prosecution. This highlights another issue in the way our adversarial court system treats victims." This are areas that still needs improvement in the UK judicial system for satisfactory decisions to be achieved in bringing perpetrators of abuses against women to book (Ministry of Justice, 2009).

Probation and prison services

Once a prima-facie case is established and proved in court, there is a likelihood that a custodian order or a prison sentence is meted out to the offender of sex crimes and other violent charges. Men are mostly perpetrators of these crimes than women. However, it is believed that it is rare for women to commit these heinous crimes but when they do, these are minor or smaller offences that attracts shorter supervisory or custodian sentences (Neyroud and Disley, 2007). Katz, 2012). An insignificant number of females commit violent offences while it is too rare for women to commit sexual crimes. Gillian and Samson, (2002) pointed that where females are found committing such sexual or violent crimes against others are sometimes as a result of the female offender having a past record of victimisation experiences, mental health, drug, substance and alcohol abuse. Subsequently, a 2003 statistical report from the UK Home Office on reasons why offenders irrespective of gender commit extreme violent sex crimes was revealed that "a history of abuse is one factor among others contributing to a risk of offending and of a range of associated problems, including drug and alcohol problems, mental health problems and self-harm". Certainly, in most sex crimes or any other domestic violent cases that occur around the world, men represents a significant number of offenders and found that most of the probation and prison services are fashioned to meet the needs of male offenders while the minority female of offenders seems ignored.

For instance, in the UK, where female offenders have primary caring needs, it is reported that there is a lack of general facilities for such child care needs (Flatly,

Kershaw, Smith, Chaplin and Moon, 2010). Further, Justice and Equality review on Women and the Criminal Justice System of 2005 annual review in the UK also revealed that “women on mixed sex probation programmes report intimidation and harassment by male offenders, a serious issue particularly for those who have a history of being abused by men”. Thus, it was established that some of these factors are likely to work against female offenders that can likely lead them to offend again. It was also found that there are no crime intervention agendas tailored to meet the needs of female offenders and help them leave a life contrary to a life of crimes against partners, family members or the general public at large. In other broad terms, the minority female offenders are generally overlooked in making sure that the corrective measures for them in custody are put in place like that of their male counterparts so that they do not re-offend.

Consequently, in Britain, a body called the National Offender Management Service are vested with the responsibilities of developing accredited and efficient domestic programs for all offenders irrespective of gender and prison sentences given in accordance to the Criminal Justice Act of 2003 (Gosselin, 2005). Robinson, (2007) further alleged that some of these corrective programmes were compulsory for all offenders (both male and female) and failure to attend or complete these agendas will result in the offender being taken back to court (Neyroud and Disley, 2007). Furthermore, Matczak, Hatzidimitriadou and Lindsay, (2011) declared that there are Home Office policy guidelines on how the probation and prison services can offer more enhanced help and support to female victims of domestic abuse. Furthermore, some of these policy guidelines also contains a framework that outlines the degree of guidance, support and direction given to all those involved in working with female offenders and women at risk of offending. The purpose of these Home Office policies is to enable the authorities to respond more adequately to those who have been affected by abuse (Matczak, Hatzidimitriadou and Lindsay, 2011).

From the foregoing, it is established that domestic violence against women remains a despicable crime that poses a lot of challenges to the criminal justice system. Harne and Radford (2008) rightly suggested that individuals involved in these domestic and social crimes needs to recognise that such actions are unacceptable. Subsequently, domestic violence against women has to be recognised as a serious

crime and perpetrators brought to justice. It is believed that women who are scared and not able to speak out or report abuses should be encouraged and supported by the criminal justice system. Confidence in the criminal system can also help disabled women and vulnerable young girls who are easy targets, to report cases of abuse. However, the gaps identified earlier in the responses of the criminal justice system to violence against women still poses a formidable problem in achieving the eradication of hate crimes against women in any society that it is perpetuated.

In essence, this review suggests that violence against women is a threat of pandemic proportions that impedes physical, social, financial and psychological well-being of victims. In addition, reports on female violence has also shown that victimised women will often live in a perpetual atmosphere of fear. Based on these fears, there is a tendency for women to feel inferior especially when they are continually exposed to social norms that make them think they are inferior to men. Women in patriarchal societies for example may suffer abuse in silence and unwilling to report such cases because of the feeling that the police may not even take them serious. Therefore, more attention should be given to the lapses in the British criminal justice system used a reference case in this current review. It is believed that the system needs major reforms and the following recommendations are suggested.

Recommendations

As earlier argued, the response of the police is very crucial in dealing satisfactorily with violence against women. Certainly, inadequate responses always affects the confidence of female victims and likely to impugn on their trust in the criminal justice system as a whole (Edwards, 2000). Using the UK as an example, the police must always engage in proactive interventions in relation to domestic abuse especially in cases reported by female victims. This means that in all cases, police officers are required to take robust actions to assist victims by treating each case with a high level of professional empathy and offering practical advice that will make victims confident and interested in prosecuting their cases without any fear of being publicly stigmatised (Allen and Walby, 2004).

Furthermore, officers in the UK must consider reported incidences holistically by focusing efforts from the onset, on prioritising the protection of victims and other

vulnerable persons such as children. Then thereafter, gathering evidence in order to charge and build up a prima facie case that does not rely entirely on the victim's story or statement but also on all other credible witnesses and circumstantial evidences that are strong enough to secure a conviction (Cook, Burton and Robinson, 2006). This means that all crimes of domestic abuse should be investigated vigorously while there is a need for action to be taken at every stage of police responses. It was also recommended that for rape cases in the UK for example, there should be an allocation of specially trained officers to handle the severity and sensitivity of these cases. Mooney, (1994) was of the opinion that more female officers should be allowed to deal with female victims given the fact that they may be able to relate to victims on gender basis. Female officers should also be responsible for support and liaison duties in treating cases of child and young girl's abuse. In addition, the report from the British Government Fawcett Society's Commission on Women and the Criminal Justice System of 2004 further recommended that the creation of sexual assault referral centres should be established to cover almost all police areas so that victims are reachable within the shortest possible time when such victims call in to lodge a complaint of domestic or sexual abuse. Public awareness campaigns, guidance and counselling should also be prioritised for the safety of women and the general public at large.

For the crown prosecution services in the UK, it is recommended that the CPS should appoint only barristers and advocates who have taken proper training in the area of criminal prosecution and legal specialists in cases of gender abuse. The CPS should also ensure that the legal firms appointed for these cases have a deep understanding of gender equality and diversity ethical codes of practice (Gosselin, 2005). Additionally, all other issues raised in the earlier discussions with regards to the CPS should also be addressed adequately. With regards Her Majesty courts, tribunals and special domestic violence courts, it is recommended that more of these specialist courts should be established across Britain so that such violent cases can be expedited in the best secure environment for victims. It is also important that all gaps and issues raised earlier as causing serious concerns when these cases get to court should be addressed properly. In addition, it is also important to mention that of the National Health Service (NHS) in the UK for example cannot be ignored in assessing how well they

provide physical, mental and psychological health services to female victims who have suffered adversely from abuses. Like in the United States, it was suggested that medical routine inquiry checks should be done on victims (Harwin, (2006). Also, the NHS specialised units should be trained to attend to domestic violence victims on a long term basis.

For instance, Matczak, Hatzidimitriadou and Lindsay (2011) reiterated how sometimes in 2005, the Department of Health in the UK published a hand book on responding to domestic abuse for health professionals containing vital information on responding to and caring for female victims, including women with special needs, minority or migrant women and disabled females. Notably, since the NHS is perceived as a public health institution that victims of domestic abuse are mostly likely to come into contact with at some point in their lives, it is paramount that the NHS is properly equipped to deal adequately with the sensitive nature of abuse cases and promptly identify victims with mental health problems arising from cases of abuse (Sundari, 2008). Matczak, Hatzidimitriadou and Lindsay (2011) also pointed out that professional health service bodies in the UK such as the British Medical Association, the Royal College of Obstetricians and Gynaecologists and the Royal College of General Practitioners have all well prepared and issued guidelines as toolkits to “identify, manage and deal with ethical issues in domestic violence cases”.

Furthermore, the Non-Governmental Organisations (NGOs) have also been found to play an important role in helping to shape domestic violence policies in the UK. Some of these NGOs like the Women’s National Commission in the UK identified earlier in this paper, represents one of the prominent bodies that engaged in feminist activism in uncovering various crimes against women. Some of these NGOs have even helped to campaign for policies that is aimed to reform laws, securing welfare benefits, housing provision and emergency assistance for victims of violent domestic abuses (Radford 2004). Some other very important NGOs in the UK mentioned by Matczak, Hatzidimitriadou and Lindsay (2011) that have been instrumental in combating female abuse are: “Action on Elder Abuse; Broken Rainbow; Citizen Advice Bureau; Domestic Violence Intervention Project; Everyman Project; Greater London Domestic Violence Project; Justice for Women; ManKind Initiative; Men's Advice Line; National Centre for

Domestic Violence; Prostitute Outreach Workers; Rape Crisis England and Wales; Refuge; Rights of Women; Standing Together Against Domestic Violence; Survivors UK Ltd; The Zero Tolerance Trust; Victim Support and Women's Aid." All these organisations were primarily created for purposes of combating violation of the human rights of women by male sex predators while most work with government bodies to see that violence crimes are decisively dealt with especially in the UK.

Conclusions

In conclusion, it is proposed further that a wide range of control measures should be put in place for victims experiencing domestic violence. Setting up of specialist public helplines across UK is also an appropriate step in the right direction. The legal system that combats domestic violence should be robust enough. There should also be tougher measures put in place by the police that provides a consistent and sensitive approach such as partnership working and information sharing with communities, local councils and other agencies of abuse cases while data protection laws should be strictly observed to protect victims. Other public awareness measures can be put in place to prevent domestic violence from occurring such as educating young people especially who were between the ages 16 - 25 and mostly vulnerable and susceptible to the risk of domestic violence. Also, there should be public campaigns and sessions in schools (e.g. primary schools, colleges, Universities) in the UK and educational institutions in various countries about the dangers of experiencing abuse and not reporting it. Men are noted to have higher statistics of being perpetrators, so more robust educative measures should be made available to young men by warning and counselling them about the criminal implications of being caught in such abusive tendencies against women.

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