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The criminal justice response to male and female victims of domestic violence- An empirical study

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ABSTRACT

Domestic Violence or Domestic abuse is defined as 'An Incident or a pattern of incidents of controlling, coercive, threatening behavior, violence or abuse. It concerns people aged 16 or over who are or have been intimate partners or family members and it can happen regardless of your gender or sexuality.

Domestic violence can include, but is not limited to the following types of abuse i.e. physical, psychological, emotional, sexual and financial. It also includes what is known as honour based violence, female genital mutilation and forced marriage.

The Criminal Justice Response towards Male and Female in different way has always been a topic of debate for the criminal administration, Sociologists and Indian Judicial System.

The present paper focuses attention towards the victimization of male by the criminal justice system and its ignorant and partial approach towards Male as Victims in general.

1. Introduction

Domestic violence affects people of every class, gender, level of wealth, geography, age, race, disability and sexuality. The violence can be begin at any stage of the relationship and may continue after the relationship has ended. It is a pattern of controlling and aggressive behavior that is intentional and calculated to exercise power and control within a relationship.

Domestic violence is usually portrayed as a problem for women at the hands of men. This is not always the case as men can be victims too, very often female on male violence is ignored or just not taken seriously. Common assault according to the Domestic Violence Crime and Victims Act 2004 (part 2 section10:1) states it is now an arrestable offence and police can press charges without the victims consent.

Dobash and Dobash (2000) in Hester et al (2007) claim that women who are violent to men is often as a result of self defence after years of violence at the hands of their partners. This being the usual belief puts men off reporting abuse for fear of not being believed so more often than not men suffer in silence rather than have their indignity exposed resulting in being demasculinised and humiliated. Mankind is one initiative that does take female on male domestic violence seriously, Mankind fights for recognition and support for male victims, it campaigns on behalf of male victims by promoting awareness of such issues as, mental, physical, financial, and sexual abuse, it strives to promote equality within the phenomenon.

In the same line, MsDeepika Bhardwaj, the women who fights for Men`s rights is a well known documentary film maker has setup herself as a role model while fighting against the one sided dowry law in India and its misuse by the womens against man.

Mr. XYZ, a learned counsel at the High Court of Judicature at Allahabad, Lucknow Bench is also an acclaimed personality who fight against this deep discrimination done by Indian Criminal Justice System and unethical practices by it on gender basis.

This Research will be taking a look at how the Criminal Justice System responds to male victims of female domestic violence and to see what the differences are in relation to female victims of domestic violence. This Research will also look at the theories behind violence as a way understanding acts of it; it will look at hegemony, masculinity and femininity to explain the differences between them. A comparative analysis will be carried out in order to compare and contrast any findings and to perhaps add to the Research by provoking further discussion as a direct result of the findings an comparing them to other researcher's findings with regards to male and female victims of domestic abuse. It will also be interesting to see if the courts operate in patriarchal and hegemonic ways and if this masculine culture influences the criminal justice systems responses or processes on the issue of domestic violence.

Domestic Violence is a very common and current feature and an ongoing topic in contemporary society and very often in the press; it evokes high emotion and outrage in both men and women. The problem with domestic violence is that it is very hard to define, some of the most obvious signs are cuts, bruises, from being kicked , punched, slapped, bitten and so on, but there are also the not so obvious signs such as the psychological, emotional (the pains inside) and the financial aspects the hidden issues known only to the victim. Domestic violence covers all forms of abuse and some people do not even know that they are being abused and abusers often do not realise that what they are doing constitutes to abuse. Rape is another form of abuse as often men see sex as their right within marriage (conjugal rights) as according to Clarke (1987) rape epitomises maleness the dominant half of the relationship. Male dominance according to Mooney (2000):84 "crosses all classes" through the power of patriarchy and

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hierarchical beliefs men have about themselves being the dominant sex, race and ethnicity united in the shared understanding that they have power over their women and they are dependent on each other to maintain and reconfirm this status.

This Research will focus specifically on the violence aspect of domestic violence. Marianne Hester et al (2007) states that there is no official definition of domestic violence and because of this there are significant difficulties in getting a conviction through the courts. The Government on the other hand have a different attitude towards domestic violence their definition is as follows: “any incident of threatening behaviour, violence or abuse psychological, physical, sexual, financial or emotional between adults who are or have been intimate partners or family members, regardless of gender or sexuality”, This therefore may go some way towards explaining the introduction of the new major consultation initiative on domestic violence, the strategy called “together we can end violence against women and girls” was launched March 2009. This strategy is designed to promote awareness, understand and tackle acts of domestic violence against women and girls (VAWG). Although the government are not adverse to men’s plights as victims of domestic violence they do stipulate that this scheme is directed at females of all ages, abilities, cultures and backgrounds, quoting “however the (VAWG) strategy is specifically about violence that is directed against a woman because she is a woman”. One of the many aims of the initiative is communication; this is seen as a key role in challenging entrenched views on the subordination of women, views such as attitudes that “support, facilitate, or condone” violence against women.

This idea of provocation has since been used as a defence mechanism for the male perpetrator in court on a domestic assault charge. This however is to be overhauled; according to Woolf writing for the Independent it is believed that the defence of provocation has discriminated against women for decades. It is argued that too many men who kill their partners are being charged with manslaughter rather than murder, which is lessening the offence. A consultation paper on the issue of domestic violence recommends that killing a partner in domestic environments should be classed as murder. Women who kill can still claim self defence in mitigation for their crime as it usually follows years of abuse even if the killing was not the direct result of abuse at the time of the killing, resulting in a premeditative act, (The Independent June 18th 2003). The consultation paper also suggests that a register should be introduced that should contain the names of people convicted of more than one act of domestic violence the register should be similar to the sex offender register, The Independent (2003).Sparrow writing for the Guardian (2008) ran an article in (2008) stating that Chief Constable Brian Moore an ACPO spokesman declared that lives could be saved every year if there was a register in which perpetrators could be traced, similar to the sex offenders register.

Domestic violence is often classed as a minor common assault even when the injuries constitute actual bodily harm and getting a prosecution depends on a number of factors: whether there is enough evidence to secure a successful prosecution and whether it is in the public’s best interest to proceed. This process is reiterated Hester et al (2007):115 where it states that “the CPS will consider whether to proceed with or discontinue charging a perpetrator after consulting with the police to gain more facts on the case”. Two of the main issues therefore are the evidence which is needed to make the case and the issue of being of public interest, which basically means that if nothing is done to prevent repeating the offensive behaviour, is it likely to cause harm to the public therefore in the public interest. This is reiterated by Hartman and Belknap (2003) Volume 30 No 3. Where it states; that some court officials claim that because of the relationship between abuser and victim they therefore view domestic violence as a victimless crime and proclaiming then that the public order is not affected. Hartman and Belknap (2003) Volume 30 No 3 stress that the police are the gatekeepers to the criminal justice system therefore if they do not arrest abusers then it is unlikely that they will enter the system and proceed to the courts. Hester et al (2007) also argues that the time it takes for domestic violence cases to get to court also puts women off proceeding with court cases as they too long and the victims are often left with inadequate protection from further abuse, however Kennedy (1993) claims the opposite stating that cases are often rushed through the courts and treated as less serious than they perhaps should be. It is also claimed in Hartman and Belknap (2003) that such lenient treatment by the courts trivialising the abuse reinforces the belief that the offenders have done nothing wrong, which can also act as a green light to carry on with the abuse. Judges often assume that victims of domestic violence provoke the abuser and instigate the abuse brought upon them, often putting it down to being a lover’s quarrel whilst trying to talk the woman out of continuing with the case. (Ptacek, 1999: Welch,1994).

Non molestation orders can be given in some instances, which according to Women’s Aid can provide some protection for victims but these orders are often breached. Since the 1st of July 2007 section 1 of the Domestic Violence, Crime and Victims Act 2004, have made it a criminal offence to breach a non molestation order, www.womensaid.org.uk/domestic-violence-articles,asp? It clearly states in the Domestic

2. Objectives of the Study

- To see the concept of 'Right of Equality' in our Criminal Justice System.
- To find out the best measures to eradicate the unethical activities from the Criminal Justice System.

3. Review of literature

Theories behind the causes of violence or the reasons behind violence have been open to interpretation for many years from Lombroso (1839-1909) to present day theorists. There can never really be one theory that explains all aspects of violence or criminal activity just theories or speculation. Biological, Psychological, and Sociological theories are based on the positivist school of thought,(Vold et al 2002) All of these perspectives add something towards an answer at the same time critique one another too. For instance, Lombrosian ideas argue that biological characteristic can increase the probability of criminal behaviour, such as violence and anti-social activities. Although Lombroso does claim that there is a

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possibility that the biological and the sociological theories can be connected, most of his work was based on physical appearances. Lombroso (1835-1909) claiming that many criminal men had large jaws/cheekbones, unusually large or small ears that stood out from the head and protruding jaws and teeth thus they resembled monkeys and chimpanzees. These atavistic features he claims could be present in women in biological terms rather than physiological. Testosterone levels has also been seen as a biological factor relating to violence in men this relating to men naturally being unable to control their "innate aggression" but the theories on testosterone cannot explain why only some men are violent nor do they explain why some women are violent, (Croall1998).

Alcohol is often related to violence, according to Taylor in (Jewkes and Leatherby 2006) the links between violent crime and alcohol has a long history they go onto declare that young men are more likely to be affected by alcohol fuelled violence. Taylor (2006):163 proceeds to claim that the excessive use of alcohol by British men is widely recognised as a "seriously problematic cultural adaptations". Alcohol according to (Croall1998) can affect a person's ability to read behavioural cues and reasonability making a simple comment into an insult, but Croall adds that alcohol does not make all drinkers violent.

According to (Ellen 2009) writing for the Guardian, binge drinking is a major problem for women and girls "drunken young women in miniskirts staggering along provincial high streets with a bottle in their handbags and their knickers hanging off one ankle or rolling around in gutters". This image of women is precisely what Lombroso meant when he referred to women as" less evolved than men and closer to primitive types", (Lombroso and Ferrero in Walklate 1995 and Heidensohn1996). Lombroso and Ferrero argued that women were just big children and the female criminal was masculine and virile. These notions of women show a distinction between the "normal woman" being docile and reserved to the abnormal woman who showed masculine traits, hence the binge drinking culture of today and the female participation.

Lombroso's theories of women and crime depicts the "good" and "bad woman" with the white upper class woman to be the good and most feminine but still beneath the white upper class male, bad women are "whores good women are chaste feminine and not prone to crime" (McLaughlin et al 2006):185. Theories on women and crime tend to be sexualised for, instance explanations of female criminality can be often associated with economic problems leading to prostitution and shoplifting this according to klein (2006) is sexualising women's crimes as prostitution is promiscuity and the shoplifting is kleptomania both brought on by their menstrual cycle. Male shoplifting on the other hand is masculinised by calling it burglary (Klein 2006). Klein (2006) goes on to claim that theories on female criminal behaviour is contradictory, as Lombroso states that when it comes to adapting to new surroundings and survival women are superior to men, but says women lack intelligence.

Freud (1933) sees women as acting in revenge for not having a penis and Pollak (1950) portrays women as cunning and deceitful. Pollack's notion of women being cunning and deceitful is suggest at by Hartman and Belknap (2003) on the issue of courts and pressing charges. For instance Hatman and Belknap 2003) argue that some professional court officials suggest that the only reason some women called the police was for selfish needs so (she) could have some free time to herself, similarly other public defenders have termed this as "weekend divorces" or "convenience divorces". It is therefore implied that some women just want their partners out of the house so they can have the weekend off, by Monday they want their partners back and their cases dismissed, (ibid).

Hegemonic masculinity and emphasised femininity complement one another as "female fragility and compliance to male sexual desires for titillation and ego stroking" plus the natural acceptance of marriage and motherhood all add to subordination and dependence on males, (Messerschmidt in Rafter and Heidensohn 1995):173. Messerschmidt in (Rafter and Heidensohn 1995) also claim that women must recognise their position in society because they are positioned differently to men. Some feminists have argued that gender relations are based on power rather than simply "difference" due to socialisation processes in which men learn to be masculine and women learn to be feminine, (Tierney 2006:268). Furthermore, feminists propose that it is men who dominate society and this privilege enables men to enforce rules to the "detriment" of women (Burke2003):15. Patriarchy and masculinity, according to feminists are the main reasons behind domestic violence against women, male supremacy and female subordination,(Stacey1993). This is also the view of McDonald (2006) Tomson and Mason (2001) in Chakraborti and Garland (2009) but they widen their theory of masculine violence by arguing that male violence is not just against heterosexual women but also against lesbian and gay men. Furthermore they claim that the violence towards this minority group is due to the issue of sexuality rather than just hate. This idea again is argued to be due to the dominant hierarchy of gender, the point of not performing to the roles of their ascribed gender (butch women or effeminate men) so masculinity they believe is the main reason .

Feminists according to Connell (2009):41 have argued that the way society is structured around men and their roles in their domination much of the social positions have somewhat forced women into their homes. Largely due to men occupying all the better jobs such as "government, corporations, media", incomes that command wealth and status therefore providing the means to dominate and dismiss claims for equality. Feminists claim that the term "patriarchy" came into widespread use in the 1970s as a description of the gender bias against women. Another way in which men exercise control over women is through is through the media for example Horley (2000) argues that women are used though television, magazines, pornography and prostitution she claims that all these types of activities devalue women and serve as a weapon of control. Women are often used to sell items exclusively aimed at men for instance women draped naked over bonnets of cars in order to sell the car, or women used in pornographic magazines used to titillate men but to cheapen women. Women who are seen as assertive and confident are seen as going against their gender ascribed role of being

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passive, vulnerable, and meek, and in need of a strong men for protection. Barnes and Maple (1992):7 quoted women were classed as being "submissive, less aggressive, easily hurt, more emotional, less competitive, and easily influenced" the typologies for men were far more flattering completely the opposite to women.

This total domination of women by men started to change in the 1970s through the work of second wave feminism. Feminists concentrated on the issues women were facing every day they turned personal issues into political ones exposing female victims of domestic violence. Male violence was taken up as an issue in the 1970s by the feminist movement with women's groups discussing male violence against women and gender power relations, thus organising something to be done about it (Charles 2000). Battered wives soon made the headlines, (Pearson 1998). Pearson (1998) argues women commit a "fair preponderance of spousal assaults", and yet it is still seen that violence is masculine and men are the cause of it, women and children are victims of it.

Husband battering has been known to produce a "wry grin" according to Freeman (1979):227. Having being more used to hearing of battered women going unreported, battered husbands goes equally if not more unreported. Freeman declares that in this country there is little evidence of battered husbands but the ten years ago few believed that women were beaten by their husbands .Only recently has it been brought to the attention of the public: the phenomenon of brutally assaulted husbands Freeman (1979) goes on to say that when research was produced in 1978 itstunned and amazed and brought upon bouts of laughter at the very thought of abused men.

Whilst there is little evidence on the abuse of men there has been some, the non reporting of this abuse is a problem. The Family Violence Survey conducted by Straus et al (1979 cited in Mooney 2000) were highly contentious surveys because the results showed that men were just as in danger of violence from their wives as the wives were from their husbands. The survey concluded that men were Just as likely to suffer from domestic violence as women were on this evidence they argued that there was a battered husbands syndrome. Feminists were angered by this survey which was later to be called the Conflict Tactics Scale, this approach caused feminists to strongly oppose the findings stating that there was no distinguishing between defensive and offensive acts, meaning that very often that women use violence as a means of self defence, Mooney (2000).

Straus (1976):133 in Freeman, (1979) declared that there is a greater understanding of underreporting of violence by husbands rather than by wives, furthermore stating that "to be violent is not unmasculine but to be physically violent is unfeminine". Both men and women have different reasons for not making their abuse known, women may be afraid to report their abuse whilst men may be ashamed to report their abuse (Freeman 1979). Some experts have argued that society tolerates violence against men more than it tolerates violence against women therefore it is underreported and often ignored or even reported as self defence on the woman's part. Some experts according to Berry (2000) have even suggested that the violence from women is almost equal to that of men and it is on the increase.

Culpability and Victim precipitation create major arguments with regards to domestic violence cases, as many believe women bring their abuse on themselves by provoking their male partners. This is often evident within the courts when faced with prosecution, "a court is entitled to take into account anything occurring within the relationship as a whole, which may reveal relevant aggravating or mitigating factors", Sentencing Guidelines Council (2006). Victim precipitation is the work of Wolfgang 1958 he declared that victims have a role to play in their own victimisation, Wolfgang believed that acts of violence are often precipitated by the victim as they play a direct role therefore culpable for their own victimisation, (Goodey 2005). Von Hentig (1948) and Mendelsohn (1956) were also pioneers of theories they concerned themselves with individual roles the self agencies of people with regards to victim proneness. Both Von Hentig and Mendelsohn's theories claim that there was such a thing as a completely innocent victim to the guilty victim with regards to their own victimisation, culpability and blame.

Researchers such as Erin Pizzey caused considerable outrage in the 1970s when she after helping founder the Chiswick refuge for battered women and creating national and international publicity for their plights then claimed that men are just as susceptible to being victims as women are. Pizzey (1982) claims that people who worked in women's refuges were caring and understanding therefore horrified at the attitudes of many of the women entering the refuges to the point where a selection process had to be followed. Erin Pizzey was soon to part company with the women within the women's refuge movement, this was mostly because she refused to give in to feminism, and their claim that domestic violence was solely a women's issue. Pizzey maintained that domestic violence was in fact a social issue not just a female issue as domestic violence has no boundaries. Pizzey argued "women possess an almost equal potential for violence towards their partners as men do" (Kirsta 1994):234.

Despite Erin Pizzey pushing for recognition of male victims and not wholly accepting the feminist approach research is still mostly done for the benefit of women sufferers. It is still women who are researched the most when it comes to domestic violence issues. A Merseyside project was established, Merseyside Health Action Zone initiated the "Zero Tolerance" campaign to tackle the issue of domestic violence with women and children being of utmost importance, Bond (2003) issue no: 51. The research was measured by the funders and managed by Narco, it involved researching survivors of domestic abuse within relationships including children, men and minority groups and professionals such as the police, health, housing and volunteer groups such as women's aid. As a result of the Zero Tolerance campaign all those that were studied showed an understanding of the factors surrounding domestic violence, thus confirming that raising awareness works and should continue at a societal level, Bond (2003) issue no:51.

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Harriet Harman has produced the latest government initiative to tackle the issues of domestic abuse from a feminist perspective causing some controversy. This initiative is aimed at targeting school children as young as mostly boys with the intention of teaching them how to behave with regards to family life and their attitudes towards abuse of women and girls. According to James Slack writing for the Daily Mail: Harman proposes to have lessons taught to 5 year old about the evils of wife beating this includes teaching boys that they must not beat their partners or any other female. Considering that the differences in statistics between the genders of victims is very close as 1 in 4 are female victims compared to 1 in 6 male victims, (Mankind Initiative (2006). With the gap in statistics being so small surely that must be reason enough to promote the education programme of domestic violence awareness in schools regardless of gender. If it is to be taught in schools, that husbands should not beat their wives or boys should not beat girls then it should also be taught that women and girls should not beat men or boys thus promoting gender equality within the home and make for a happier environment.

There are a few myths about wife battering, one such myth is that domestic violence is a working class and lower class phenomenon, with that in mind Straus did some research into this issue. He found through his work that there was more of a tendency within the marriage of blue collar workers than that of white collar workers, he found that the white collar workers did have issues of domestic violence but that the consistency of the violence discovered within the blue collar workers was far greater and more serious,(Straus in Freeman 1979). Straus 1979:134 also noted the way in which the group researched claimed that the violent outburst within their families was deemed by themselves to be “good, normal and even necessary”. Straus believes as a direct result of this research that the lower classes live in situations where violence is present and often “necessary for self preservation” however the lower classes do not like violence anymore than the middle classes but claim it is a fact of life whether liked or not. Why do people stay in violent relationships is a question always asked when discussing domestic abuse. The answer to that question is, for any number of reasons. Both men and women appear to have very similar reasons for staying in abusive relationships they range from financial reasons, to fear. Ferrero (1991):19 in Barnett and LaViolette (1993) states that even “financially independent women still have a tendency to return to violent husbands even though money is not an obstacle to overcome”, thus indicating to Ferrero that loneliness plays a part in the decision to return. Turner and Shapiro (1986) agreed with this hypothesis claiming that of women who, left abusive partners 70% returned due to feelings of loneliness and loss similar to that of mourning the death of a loved one. Other reasons according to Varvaro (1991):20 included “status, safety, everyday routine, father figure for their children, love and caring for their spouse, and possessions” amongst others. These reasons all appear to be positive excuses for staying with abusive men the opposite side of the positive is the negative developing rationalised coping mechanisms to keep within the relationship trying to convince the self, some of these reasons include: belief in commitment, being married by law, not wanting to hurt their partner by leaving, fear of not finding another available partner, the idea that they can make the relationship better, not wanting to be a quitter, and telling the self that all relationships have their ups and downs, Vaughn (1987).

Men on the other hand although experiencing similar reasons for staying in abusive relationships such as the sanctity of marriage and the idea that they can change their partners behaviour. They also have the threat of their children being used as pawns. Families Need Fathers cited in Kirsta (1994):242 a men’s support group claim that men put off leaving their wives or partners for fear that she will make formal allegations of his instability in the hope that he loses contact with his children. A man’s response to his wife’s violence can have such a massive impact on the outcome of his future, thus women can still be in control of their men even though they may be estranged. Women often push for restraining orders to keep punishing their men, especially if they know that their relationship is over. Family courts have got such bad reputations with regards to fathers and children, children are usually said to be better off with their mothers, (Mankind Initiative 2009).

4. Scope of research work

The concerned research may bring the following scope for the reader and the prospective researchers :

1. The reality of the criminal Justice System in India.
2. The different factors underlying the discrimination in criminal justice system, if any.

5. Formulation of the problem

Ultimately the main focus of this research paper will be to investigate, retrieve information and to find the answers to three key research questions that will eventually build this Research.

1. What are the official processes and actions taken by the Criminal Justice System with regards to domestic violence cases?
2. What are the views from below, the voices of victims and survivors of domestic abuse?
3. Are there any main gender differences, (are male victims treated differently to female victims), are patriarchal and hegemonic overtones on display within the criminal justice system?

6. Formulation of Hypotheses:

Null Hypothesis (Ho): There is no significant relationship between the Gender and theCriminal Justice response.

Alternate Hypothesis (Ha): There is a significant relationship between the Gender and the Criminal Justice response.

7. Research Methodology

7.1. Interview Method:

A critical Social Research approach was adopted for this Researchasfavoured by Harvey (1990):19 who states that “Critical Social research is an extremely varied methodology”. Semi structured questions were asked so that the interviewee could convey a rich source of qualitative data and were not restricted to one or two word answers enabling the interviewee to be more free to express himself.

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Due to the way in which critical social research is structured appeared to be the most appealing and most appropriate process to use for this study. This approach offered a non biased approach and was the most adaptable to both controlled and non controlled situations.

7.2. Non- ParticipantObservation:

Non- Participant observation has been done by having five Court Visits on different dates to seek the maximum data for the best research results along with a Semi - structured Questionnaire was prepared to be asked to Learned Counsel, Mr. XYZ and it proved very particularlya useful technique in the gathering of qualitative data. Stating, conducting in-depth interviews allowed the interviewer to become "immersed in the subject", seeing qualitative methods as more sensitive way of researching meanings and cultural settings. Critical social researchers believe that knowledge is the best way of moving towards an understanding of the world and what shapes the structures within it by "going beneath dominant frameworks to discover the reasons behind the practices that shape society" (Harvey 1990):4. Critical social research prefers observation or experience with regards to material collected, as long as it provides an insight into the subject of inquiry. Questionnaires and Surveys typically rely on honesty and measurability plus questionnaires and surveys can be constructed in a calculating way in order to achieve desired results, for instance Jupp (1989) claims that questionnaires can be complied to target certain social classes.

8. Survey

8.1 Interview with Mr. XYZ (March 18, 2019, 3:00 pm)- Questionnaire based:

Mr. XYZ, Learned counsel at High Court of Judicature at Allahabad, Lucknow bench agreed to be interviewed, acting as an advocate for male victims of domestic violence as men are often laughed at to some degree or just ignored altogether. Female on male domestic violence is common, but not as realised as it should be due to "lack of reporting, lack of education, communication and more often than not embarrassment on the part of the men involved". This research was vital to the issue of male victims as so many men suffer the indignity in silence rather than tell someone due to the stigma attached. Men often feel ridiculed for being un-masculine and not attaining the hegemonic masculine ideals ascribed to them.

Mr. XYZ waved the right to anonymity, stating that he is a public figure and wanted his name to be used in this Research because it is a subject he is passionate about. Mr. XYZ was asked a series of lengthy questions, which are stated in Appendix One along withhis responses.

The interview was an excellent way of gaining valuable insights into the three key research questions that were discussed in the introduction. Mr, XYZ was asked Fourteen questions ranging from his personal opinion to his professional opinion due to his experience on gender inequality surrounding domestic violence issues.

8.2 Five Court Visits

The Non- Participant observation was carried out at Family Court, Lucknow on five different dates i.e. March 11, 2019 (Monday, 2:00 pm); March 26, 2019 (Tuesday, 12:00 pm); March 28, 2019 (Thursday, 11:00 am); April 02, 2019 (Tuesday, 12:00 pm); April 03, 2019 (Wednesday, 2:00 pm) to see the different cases of victim reporting and the response of criminal justice system towards male and female victims in varied way.

One of the main reasons for choosing Non- participant observation was because it appeared more fitting to this type of study, as we can see the subjects of the research in their natural environment This was also chosen in the hope of gaining a clear insight into how the courts operate with regards to male and female victims and perpetrators of domestic violence, to see if equality exists for both sexes. Permission was granted by the higher authority of the court just in once after it was explained why it was necessary.

The courts were visited on five separate occasions in order to get a good qualitative account of how the courts operated the results of which can be found in Appendix Two. The prosecution, defence counsels and probation services are there for justice, plus the added advantage of gaining qualitative data made it the perfect option to take above all others.

Although the court visits were quiet informative there werealso bouts of tedium, there were long lapses in between cases. This was one of the drawbacks explained by Baldwin (2000):254 where it states that "delays adjournments and administrative inertia can disappoint and quell any enthusiastic researcher". Nevertheless, numerous cases did get resolved, the results of which are in appendix two. Simple little things such as feeling out of depth, intimidated and small were also a down side to researching the courts. The power difference was felt "researchers are in a similar position to defendants ..... they may feel a sense of exclusion, estrangement and alienation" (ibid). Often being asked by Barristers the reason for being there then him whispering to the judge explaining the reason for the extra presence, being blatantly talked about is not an all inspiring feeling. Once again, although the courtroom was at times not really a pleasant place to be, the extra presence did eventually go unnoticed. Within a short period of time the extra presence became accepted and respected by the court officials.

9. Result

9.1 Results come out of Interview with Mr. XYZ:

1. Mr, XYZclaims that "women having more equality is not a bad thing" but stressed that the problem was more about women having more rights than men, he argues that the new equity bill "effectively legalises discrimination against men" not only in the workplace but also in other areas such as "health were huge amounts of resources is ploughed into researching breast cancer but nothing into researching prostate cancer or testicular cancer".

2. Mark Brooks highlights the notion of brainwashing perfectly because he said during an hour long interview that "you often find in a lot of propaganda from the government and the local authorities that during research,

such as the British Crime Survey the figures showed that (of the reported violent crimes) 52% are women therefore 48% are men in the year 2007-2008. But when it comes to publicising the reports only the female figures are used they "forget" to use the equivalent figures for men, therefore "a conscious decision has been made to ignore men altogether even though it is part of the very same research.

3. When asked about the criminal justice response to victims of domestic violence in India - Mr, XYZ stated quite firmly that he believed that the biggest problem he believes is the fact that "the Police and the Judicial System do not take male victims seriously". The fact that the Police do not take men seriously he suggests is what prevents cases getting to court, and if they do get to court very often more evidence is required for men than what is required in the cases with female victims".

4. On the subject of evidence Mr, XYZ went on to discuss the India Crime Survey figures and the use of propaganda, he states firmly "that although the same research is used when it comes to publicising the results of it, the government and the local authorities choose to use only the female figures, they "forget" to release the male figures which come from the same source of data" see chapter two (Goodey 2005).

5. On the subject of criminal justice responses to domestic violence, Mr. XYZ put his belief that the criminal justice system and the police are the biggest problems, as he does not think that these two professional disciplines take male victims of domestic violence seriously enough to bring their cases to court. This is also supported by (Hartman and Belknap 2003) (as seen in chapter one) as they claim that the police are the gate keepers to the criminal justice system if they do not arrest then no court action can take place.

9.2 Results come out of Court Visits (Non-Participant Observation):

1. A male being charged with breaching arestriction order had been in contact with his estranged wife, but what actually transpired was that the estranged wife had been to him. The man facing the charge had been in hospital at the time of the alleged breach of the order, so otherwise unable to do what he was being accused of. The judge in this case asked the defence to seek and produce the hospital visitors signing in book as proof. The defence also argued that his client's estranged wife appears to be setting traps for his client and ringing the police all the time to report him, but similarly she can breach her own order by approaching him (hence the hospital visit).

2. Another case that was quite hard to rationalise was the case of a young man,resident of Alambagh, Lucknow who had been accused of attacking his partner and her daughter whilst in a drunken stupor. It transpired in this case that, he had allegedly returned home drunk (after his partner had sent someone to the pub to get him out) he attacked his partner for embarrassing him, hitting her, biting her, and dragging her around, her daughter wasalso hit when she tried to intervene. After the guilty plea was made the accused spoke of the incident and he stressed (through floods of tears) that he was provokedand he had been punched in the face (the result of which was a rather large visible black eye) by his partner kicked when on the ground and bitten on the back (of which police had taken photographs as proof of injury). These injuries were not shown to the court, he was attacked by his partner, her daughter and a male who went to get him from the pub.

3.Another case involved a man basically from Gomti Nagar, Lucknow and working in Dubai who accepted that he was going to plead guilty to an offence he claimed he did not commit because he said that travelling from Dubai to India all the time was too expensive, (see appendix two). During the hours spent in court witnessing events unfold it was a surprise as to how many men were treated quite unfairly and trapped, not with regards to the violent side of the problem as such, but with regards to their children. Restraining orders were handed out quite easily often adding to the grief of these men (see chapter two). This Coincides with what is written in Chapter two that why a lot of men do not report abuse nor leave as most stay to be with their children.

4.The thing that was particularly noticeable was the way in which the judges treated the offenders. On the five separate occasions of the research visits the judge was a female for three times, once male judge. The female judges appeared expressionless and devoid of compassion.

10. Conclusion & Suggestions

10.1 Conclusion:

1) In addressing the three questions above it appears that men do get a raw deal from within the criminal justice system, it seemed when sitting in the courtrooms in Lucknow, that women were in fact favoured over their male counterparts and it was also felt that the issue of criminal damage was favoured over women.
2) The female judge was ruthless compared to the male judges witnessed and somewhat sarcastic with it. The female judge along with her left and right associates of the bench although very thorough with her case was more bothered about money, compensation, criminal damage, and fines for court fees than the actual domestic violence issue.
3) The restraining orders destroyed the male offenders more than any other punishment as some of the men emotionally broke down.
4) One man had not seen his seven year old son for a number of weeks and was told he could not see him until he applied to his ex-wife via his solicitor for visiting arrangements to be organised without seeing her.
5) Men according to Mr. XYZ are treated unfairly, this was also evident in the courtroom observation.
6) Men on the other hand did not have police called as witnesses even though they too had photographs of their injuries, these photographs were not to be shown.
7) Witnessing the courtroom action was excellent for this Research as it proved that the expert used to produce this Research was right with regard to how the courts

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operate and how they are conducted on a hierarchical scale.

Hence, the Alternate Hypothesis is proved and verified.

10.2 Suggestions:

The various suggestions that I would like to give after having in depth Survey are:

1) The mental stature of the public towards gender issues has to be broadened as need of the hour.
2) There is a need of more and more counseling for the both genders in the society to understand the relationship with a concept of totality, not only complementary.
3) The police and judicial system should pay more needed attention to male victims and avoid the old thumb rule method.
4) The NGO`s should come up at faster rate with their social activities to make society aware about illness of Domestic Violence.
5) Such as Censes curriculum from the beginning of study is required for boys and girls where they start understand the concept of being human at first rather gender identification.
6) The government initiatives should be much more to wipe off the gender differences.
7) The criminal judicial response towards male victims should be moderate enough to that male victims get courage to bring their victimization to the across of court.

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APPENDIX I

INTERVIEW WITH MR. XYZ: LEARNED COUNSEL AT HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH ON MARCH 18, 2019 (MONDAY; 2:00 PM)

Questions:

1) Interviewer..... Do you think that dominant features of masculinity plays a part in the non reporting of domestic violence? If so what in particular?
2) Interviewer..... In your experience what to you feel is the main form of abuse that men suffer from, physical, mental emotional, sexual, financial and how does this compare with women?
3) Interviewer.....Due to popular assumptions and stereotypes in society it is assumed that women due to social constructions and their ascribed gender roles are the only visible victims of domestic violence, weak, damsels in distress.

4) Interviewer.....Research has been done that caused controversy it has been argued that some women need to be hurt going from one abusive relationship to another liking to be the centre of attention similar to that of Munchausen Syndrome, would you agree with this statement?
5) Interviewer.....Dominant ideas of male control is a strong argument in debates about domestic violence, women and girls were seen as properties of their fathers, Just been passed through parliament that men can temporary loss of control which reduces a murder charge to that of manslaughter on the grounds of provocation women cant because theirs has usual been after years of abuse therefore it is classed as premeditated, in your experience do you think that this idea of loss of control versus premeditation is gendered to the detriment of women?
6) Interviewer.....Women who have suffered for years at the hands of males and domestic violence and not reported it but go on to kill their husbands has no police record therefore no defence and it works the other way around for the men , no reporting, no defense.
7) Interviewer.....Charming man syndrome versus charming woman syndrome, nice in public putting on a face in private, do you believe in this?
8) Interviewer.....Men and boys over the age of 16 are not allowed into women's refuges, is it the same for male refuges (women and girls not allowed) if not why not ?
9) Interviewer.....Why do men stay with abusive partners in your experience?
10) Interviewer.....Do you go into court rooms at all? If so, Do you think the male orientated environment influences proceedings and outcomes or indeed put men off taking cases of domestic violence to court?
11) Interviewer.....In your opinion (domestic violence has no boundaries) do you see any determining/ distinguishing characteristics such as age, class, race, religion, sexuality impacting on the reporting of domestic violence- do any of these groups of people within society hardly ever if ever report being victims.
12) Interviewer.....Why is it that more often than not when the police are called to a domestic violence issue it is usually the man that is removed even when it is evident that he is the one being abused?
13) Interviewer..... What is your overall submission towards response of CriminalJustice system towards Male as Victim?

APPENDIX 2

COURT VISITS (NON - PARTICIPANT OBSERVATION)

Case 1:March 11, 2019 (Monday, 2:00 pm)

Domestic Violence on 2 counts pleading guilty to one. Arrested also for breach of bail, offender changed plea from not guilty to guilty.

Pleading guilty to assault on wife but not guilty to assault on step daughter. Prosecution argued that he originally pleaded guilty to both counts.

Offender broke down in tears stating that he was actually attacked first. Before anonymous phone cal was made over the disturbance, hearing verbal abuse and witnessing criminal damage, claiming man grabbed, punched and bit the wife, while the step daughter punched man in the face causing a black eye. Step daughter was left with a bump above the eye claiming the defendant hit her too she also had redness of the skin. The wife was bitten on the head and back, had cuts bruises and redness of the skin, she was take to Southport A&E for observation and check up.

A third charge was brought against this defendant, a charge of criminal damage.

In defence of this man it was claimed that although he claimed he caused the criminal damage to the car he did not know as he was drunk so he just assumed it must have been him and as there were no witnesses there was no conclusive proof. The mitigating circumstances where that he was drunk and very emotional admitted to offences that he did not full understand. Although provocation was not a defence it was seen as a contributing factor, as his partner went "mad" because he had had a drink she (the complainant) punched him in the face first and then she and her daughter continued to assault the defendant. Self defence that went too far, the defendant was left with a black eye, scratches down his back and on his face, the police did take photographs of the injuries received by the male but these did not get shown in court.The defendant had already been given a custodial sentence before for breaching conditions of discharge, breaching a community order in which he received 6 months in custody and he was also given 6 months in custody for common assault, he committed serious battery offences in 2007 also.

Case 2: March 26, 2019 (Tuesday, 12:00 pm)

Man appearing before the judge accused of assaulting his wife to which he pleads not guilty, claiming self defence.

Male is calling for police officer and witnesses to court, trail date was set for March 19, 2019. Residential bail conditions set defendant is to remain at his home address and have no further contact with his wife or children. Man broke down after being told he is not allowed to see his 7 year old son, claiming for leniency as he has not seen the child for weeks already. He has breached his bail conditions via text claimed the prosecution. The original condition was that there could be no contact by text which is what the defendant did but only after the wife started to text him first therefore breaching her own order as happened in an earlier court case stated above.

Case 3:March 28, 2019 (Thursday, 11:00 am)

Guilty plea for criminal damage on January 08, 2019 and drunken disorderly on 5th October 2018.

Complainant is the ex partner by whom he has fathered 3 children but still resides in the marital home. Offender wanted to reconcile but complainant did not as she has met someone else, complainant wanted the estranged husband to leave the house. Accused got drunk

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and started to throw paint around the house in front of his children. A claim for compensation has been applied for, for the sum of Rs. 50000/- and court costs of Rs.3000/-. The defence in this case was that the offender now has a new address and a new partner. Claiming he was not responsible for his actions that he was provoked into his violent mood that he was constantly used as a live in babysitter, also claiming that his ex-wife also had love bites all over her body from her new partner and that she often flaunted them in front of him (offender). The question being asked in this case was can a person criminally damage their own home. The answer was a resounding yes on the grounds that it was jointly owned. The offender showed genuine remorse for his actions.

He is a painter and decorator that is why the paint was so readily available to be thrown around the house. He has been currently out of work due to recession but has work on the way via a contract. He poses no risk to the public and his defence asked for a suspended sentence with community service or perhaps a curfew. Verdict: conditional discharge for 12 months, a 2 year community order, 200 hours unpaid work, Rs. 2500/- as compensation for the criminal damage, and Rs. 300/- court costs.

Case 4 : April 02, 2019 (Tuesday, 12:00 pm)

Domestic Violence Case, with a guilty plea.

Charged of beating his wife where the Chair apparently was kicked which hit his wife causing bruising to her legs. No medical treatment necessary, defendant was cautioned by the police. Defendant also has previous convictions, court has the power to issue restraining order to which the defendant has no problem with. The defendant was pleading guilty just because he had to go back to Bangalore, his job station otherwise he could have suffer a job loss.

Case 5 :April 03, 2019 (Wednesday, 2:00 pm)

Criminal Damage, Harassment and Intimidation.

Compensation has been asked by the defendant to break the partners car friend assuming it of hers. At the time of this act, he was drunk too which was proved in medical examination.Also charged for harassing his partner by calling and abusing over phone calls several times. The defendant showed the court his evidences against his partner that how his partner provocatinghimby putting messages on his number but the judge and the police were shown no soft corners to male party.

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