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A human-rights approach to adult family violence: a critical analysis of the Domestic Abuse Act (2021) and the need for systems change.

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PhD Title: Risk assessment in the context of adult family violence: police, practitioner, and victim-survivor experiences

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Introduction

Defining domestic violence and abuse, and who constitutes victim-survivors has long been a contested issue. Despite the shift towards a gender-neutral 'domestic abuse', cemented by the Domestic Abuse Act (2021), there remains concerns whether this reflects abuse and the gendered dynamics at work. There is a notable absence of discussion on whether the Act reflects 'adult family violence', whereby the adult perpetrator is not an intimate partner to the adult victim-survivor. This article argues that this silence is resultant of a legacy of a 'public story' or conflation between domestic violence and the heterosexual, battered woman (Donovan & Barnes, 2020). This article argues that this impacts practice and asserts systemic change is needed.

A historic absence

The public attention towards domestic abuse has been attributed to the successes of feminist activism in the 1970's. The plight of victims highlighted the prevalence of violence against women, with feminist academics linking this to wider patriarchal societal and legal structures. However, this scrutiny focused on marital relations and there was little acknowledgement of the absence of legislation recognising violence between adult family members. Whilst the influence of feminist academia on policy cannot be understated, analysis widely concentrated on the constructions of husband-wife gender roles (Dobash & Dobash, 1979) and did not nuance other, gendered familial relationships.

Whilst there has been a more recent focus on intimate partner violence in homosexual relationships (Donovan & Barnes, 2020) and child-to-parent violence (Holt, 2016), there continues to be little work recognising other forms of familial violence between adults. Whilst American sociological approaches discussed 'family violence', including sibling abuse (Straus et al, 1980), this was often discussed in opposition to feminism. Victim-survivors of adult family violence are predominantly women (Bracewell et al, 2021) or perpetrated against those outside hegemonic and heteronormative masculinities (Donovan & Barnes, 2020). Therefore, a feminist lens is needed and furthermore, gender is a golden thread whereby violence constitutes a discriminatory practice based on gender. It is therefore disappointing that literature surrounding human rights and domestic abuse again focuses primarily on heteronormative notions of intimate partner violence (Stark, 2007).

The Domestic Abuse Act 2021

The Domestic Abuse Act (2021) was proposed as a landmark legislation, offering additional protections and inclusive definitions of domestic abuse. The expansion to define perpetrators as those ‘personally connected’, including “immediate biological family, stepfamily and extended family... family members of their present or former... partner” (Section 2, Domestic Abuse Act, 2021), should facilitate a better understanding of adult family violence. However, whilst the statutory guidance discusses ‘personal connections’, sub-sections (a) to (g) are focused on intimate partner violence. In comparison, adult family violence is summed up only by sub-section (g); if “they are relatives” (Home Office, 2022:22). Why is adult family violence not explored further? For example, abuse can be perpetrated during estrangement, by multiple family members, across international contexts, and through systems such as guardianship orders.

The statutory guidance references that adult family violence may differ from intimate partner violence (Home Office, 2022:25) but does not detail what these differences are. It may be beneficial to discuss the intersections between adult family violence and care (Bracewell et al, 2021), however, the Act fails to reference ‘neglect’, aside from a footnote. Although economic abuse is referenced as including asset control (pp. 36), arguably it would be beneficial to refer to the possibility of using familial social care systems, such as deprivation of liberty or guardianship orders, to facilitate abuse. Although there is a welcomed focus on honour-based abuse, conversion therapy and LGBTQIA+ abuse (pp. 24-25), the Act does not fully enhance an understanding of how abuse may be perpetrated through familial webs of coercive and controlling behaviour. This may involve misgendering, micro-aggressions, denying access to services, pathologizing, invoking stigma, involving extended family members and/or physical violence. These webs may look different for different families. For example, the deliberate neglect of a vulnerable family member involves different behaviours and societal contexts than coercion into conversion therapy. However, the Act fails to discuss intersectional and contextual nuances of adult family violence. Given coercive control is an offence, not expanding upon familial use of coercive control remains a missed opportunity.

Whilst ‘domestic abuse’ has a statutory cross-government definition, the UK government rejected to provide ‘honour-based’ abuse, a form of violence often perpetrated in families, with this and furthermore rejected to provide firewalls for insecure victim-survivors (Home Office, 2023). These protections would increase multi-agency understanding and therefore protection against complex, international familial abuse. This contrasts the increased criminalisation of offences associated with intimate partner violence, such as revenge porn (Section 69, Domestic Abuse Act, 2021). Furthermore, Domestic Violence Disclosure Schemes (DVDS) (Domestic Abuse Act, 2021) are a key focus of the Act. However, these are only available to those requesting information about an intimate partner. The absence of additional protections for ‘adult family violence’ leaves victim-survivors to internalise responsibility. Gill (2005) highlights, in the context of honour-based abuse, responsibility is often placed on racialised notions of community, furthermore, highlighting that the Act primarily represents a heteronormative, white model of intimate partner violence.

Implications for practice

The lack of public attention to adult family violence subsequently impacts identification. Benbow et al (2018) assert that intimate partner homicide data provides the foundations for risk assessment, therefore, risk factors which may trigger high-level response are associated with intimate partner violence, as evidenced in the commonly used DASH tool¹. As a result, we may question whether risk factors for adult family violence are reflected. Bates et al (2022) highlights that within risk assessment tools' "the risk posed to a suspects care... or severe mental illness... could be under-identified" (pp. 77). Therefore, are risk assessments adequately identifying and supporting adult family violence?

As well as disparities in response, there are many systemic factors which may enhance perpetration and curate barriers to support. Cutbacks in national budgets have led access to specialist services to be a postcode lottery, limiting support for marginalised groups. Underfunding in care may increase informal carers, significant for adult family violence given intersections with care in homicide data (Bracewell et al, 2021). This arguably could provide an opportunity for systems, such as guardianship orders, to perpetrate economic abuse, and a lack of consistent professional involvement may decrease early identification.

Systems change.

Disparities in support represent violations of human rights through denying victim-survivors access to services which would enhance liberty, freedom, and life. Therefore, adult family violence is a human rights issue. This perspective is especially needed in consideration of the current hostile climate in the UK towards marginalised groups. It can be suggested that systemic decisions, such as proposed changes to migration, as evidenced by the 'Rwanda Scheme'², or public hostility to trans communities, enhanced by the UK Conservative Party conference³ may curate violence and stigma to marginalised groups. Under these narratives, it is concerning that family violence may become structurally justifiable. If the system denies these experiences, how can individuals be protected in the 'home'? By turning our attention to current systems, we can begin to undertake change. Framing adult family violence within a human rights framework holds systems to account.

¹ The 'DASH' refers to the 'Domestic Abuse, Stalking and Honour Based Violence' Risk Identification, Assessment and Management Model. This was implemented in all police forces from 2009 and has been adapted for front-line use in other professional services. See: <https://safelives.org.uk/node/516>

² The 'Rwanda Scheme' was proposed by the UK Government to prevent migration via small boats by deporting migrants to countries of origin or a third country, such as Rwanda. The scheme was highly criticised over its contradiction of human rights, especially those seeking asylum based on harm due to sexuality or gender identity. The scheme was deemed unlawful by the Supreme Court in November 2023. See: <https://www.aljazeera.com/news/2023/11/15/whats-the-uks-unlawful-rwanda-immigration-plan>

³ This refers to the 2023 Conservative Conference in Manchester, UK. The UK prime minister, Home Secretary and Health Secretary referenced anti-trans sentiments in their speeches. There have been critiques of these comments, highlighting the potential danger and harm they may pose to trans communities. See: <https://www.ft.com/content/0832548c-3750-4500-82c2-455e6f92faa7>

A feminist lens on risk assessment

My PhD focuses on spaces for change in current domestic abuse systems. The process of risk assessment, usually facilitated by a police officer or practitioner, is often an initial encounter between victim-survivors and professional services, therefore represents a key touchpoint.

Whilst research has focused on the effectiveness of risk assessment, my PhD focuses on the interactions between victim-survivors and risk assessors, examining the embodied and purposive practices of discretion, such as how risk assessors use body language, tone of voice or rewording of questions to support victim-survivors. The PhD is inspired by a feminist ethics of care approach, prioritising active listening, empathy, and interactional justices (Mulvill et al, 2018) over quantifiable outcomes.

The current system reflects a particular narrative of domestic abuse, therefore, without a strategic and caring interactions, systems risk stigmatisation for those who do not fulfil this narrative. For example, by risk assessments focusing on risk factors of pregnancy or children. My PhD will use mixed methods to enhance understanding of adult family violence. Participatory methodologies will aim to illuminate best practice in risk assessing adult family violence from the perspectives of victim-survivors, police officers and practitioners.

Conclusion

This article believes that adult family violence has been historically overlooked. This article does not wish to purport that adult family violence should replace intimate partner violence research (Benbow et al, 2018) but rather seeks to expand knowledge. As an intersectional, feminist issue, we must scrutinise how narratives of domestic abuse, constructed by policy, impact systems and furthermore, identify spaces for resistance and change. This article has aimed to highlight that risk assessment occupies a key opportunity for change whereby improving knowledge of adult family violence may lead to more informed practice and compassionate interaction. By focusing on care and how risk assessment is done rather than the why holds potential impact for improving experiences of all forms of gender-based violence.

References:

- Bates. L, Hoeger. K, Stoneman. M. J and Whitaker. A, (2022), "Vulnerability Knowledge and Practice Programme (VKPP) Domestic Homicides and Suspected Victim Suicides During the Covid-19 Pandemic 2020-2021", available at: <https://www.vkpp.org.uk/vkpp-work/domestic-homicide-project/>
- Benbow, S.M., Bhattacharyya, S. and Kingston, P. (2018) 'What's in a name? Family violence involving older adults', *The journal of adult protection*, 20(5/6), pp. 187-192 Available at: 10.1108/JAP-08-2018-0016.
- Bracewell, K. and Jones, C. Haines-Delmont, A. Craig, E. Duxbury, J. Chantler, K. (2021) Beyond intimate partner relationships: utilising domestic homicide reviews to prevent adult family domestic homicide, *Journal of*

Gender-Based Violence, vol XX, no XX, 1–16, available at: DOI: 10.1332/239868021X16316184865237

- Domestic Abuse Act, (2021), c.17, available at: <https://www.legislation.gov.uk/ukpga/2021/17/introduction/enacted>
- Dobash, R. E., & Dobash, R. P. (1979). *Violence against Wives: A Case against the Patriarchy*. New York, NY: Free Press
- Donovan, C. and Barnes, R. (2020) 'Help-seeking among lesbian, gay, bisexual and/or transgender victims/survivors of domestic violence and abuse: The impacts of cisgendered heteronormativity and invisibility', *Journal of Sociology* (Melbourne, Vic.), 56(4), pp. 554-570, Available at: 10.1177/1440783319882088.
- Gill, A. K, (2005), 'Governing violence: Gender, community and state interventions', *Safer Communities*, 4(2), pp. 37-48. <https://doi.org/10.1108/17578043200500013>
- Holt, A. (2016). 'Working with adolescent violence and abuse towards parents: Approaches and contexts for intervention'. London, Routledge.
- Home Office, (2022), *Domestic Abuse Act 2021: Statutory Guidance*, available at: <https://www.gov.uk/government/publications/domestic-abuse-act-2021>
- Home Office, (2023), 'Domestic Abuse Commissioners 'Safety Before Status: The Solutions' report: government response', available at: <https://www.gov.uk/government/publications/response-to-the-safety-before-status-the-solutions-report/domestic-abuse-commissioners-safety-before-status-the-solutions-report-government-response-accessible#recommendation-6-include-the-domestic-abuse-commissioners-definition-of-immigration-abuse>
- Mulvihill. N, Gangoli. G, Gill. A. K, & Hester. M, (2019), 'The experience of interactional justice for victims of 'honour'-based violence and abuse reporting to the police in England and Wales', *Policing and Society*, 29:6, 640-656, DOI: 10.1080/10439463.2018.1427745
- Stark, E. (2007) *Coercive Control: How Men Entrap Women in Personal Life*. Oxford: Oxford University Press.
- Straus, M. A., Gelles, R. J., Steinmetz, S. K. (1980). *Behind Closed Doors: Violence in the American Family*. Garden City, NY: Anchor/Doubleday