

A Private Member's Bill, *Preventing and Combating Violence against Women and Domestic Violence (Ratification of Convention) Bill*, went before the House of Commons on 16th December 2016 and was passed by 135 votes to two. This was reportedly¹ in spite of an attempt by Philip Davies MP to stop its passage on the grounds that it focused only on violence against women. He argued that men are also victims of domestic violence and should have equal treatment.

The Bill imposes an obligation on the Government to take steps² to enable the UK to become compliant with the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). The UK has already signed, but has not yet ratified this treaty, indicating that it will do so once necessary changes to the law have been made.³ If it is ratified, the Convention will become binding and the UK will be undertaking to fulfil the positive obligations in it. These are, 'to exercise due diligence to prevent and protect against violence against women, to prosecute and punish perpetrators and to provide reparations for victims'.

Contrary to Mr Davies contention, there is good reason to focus specifically on violence against women. In particular, there are gender differences in the prevalence and in the nature of domestic violence. In addition, the response of the criminal justice system to the problem has, historically, been poor. Critics have pointed out that lack of understanding of the nature and seriousness of domestic violence has led to bad practice among the police and the judiciary and this can affect outcomes of cases. It can also, as a Joint Parliamentary Committee stated in a 2015 report, affect compliance with the Istanbul Convention.⁴

Domestic Violence

The findings of the Crime Survey for England and Wales for the year ending in March 2016 have been published by the Office for National Statistics. The statistics are compiled from the answers to a self-completion questionnaire filled in on a computer by respondents aged 16-59. The report states that, 'Women were more likely to say they have experienced domestic abuse than men, with an estimated 1.2 million female victims compared to 651,000 male victims'. It also notes that 'the difference between the number of male and female victims (506,000) is at its lowest compared with previous years'.⁵ In fact, self-completion questionnaires generally show smaller differences in prevalence than other research methods because they do not explore context, motive or the seriousness of the incident. As Dobash and Dobash point out, a slap or a kick is treated the same whether or not injury results.⁶ Other research studies have demonstrated that domestic violence is most often perpetrated by men upon women.⁷ And, while there are male victims of abuse, it is

¹ R Mason 'Tory MP tries to derail bill to tackle violence against women' The Guardian 16 December 2016.

² <http://www.publications.parliament.uk/pa/bills/cbill/2016-2017/0012/en/17012en02.htm>

³ <http://www.publications.parliament.uk/pa/bills/cbill/2016-2017/0012/en/17012en03.htm>

⁴ <http://www.publications.parliament.uk/pa/jt201415/jtselect/jtrights/106/106.pdf>

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<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendingmarch2016> p7

⁶ Dobash and Dobash, 1992 *Women. Violence and Social Change*

⁷ <http://www.nr-foundation.org.uk/downloads/Who-Does-What-to-Whom.pdf>

overwhelmingly women⁸ who suffer post-separation abuse, serious abuse, multiple attacks, severe injury, sexual abuse and death.⁹ The Femicide Census¹⁰ records that 936 women were killed by men in England and Wales between 2009 and 2015. Sixty-four percent were killed by current or former partners. Seventy-six percent of these victims were killed during the first year after separation and a significant proportion were killed within a month. The Census quotes ONS statistics showing that 44% of female homicides were killed by partners or former partners, compared with 6% of male victims. Killing, it says, is the ‘ultimate act of control’.

Women’s motivation for using violence and the form it takes differs from men’s. Men’s violence can more often be conceived of as coercive control. This is a pattern of behaviour that was described one researcher, Johnson, as ‘intimate terrorism’.¹¹ Violence is used as part of a strategy to control the victim and includes ‘isolation, intimidation, degradation and micro-regulation of everyday life’; abuse can be psychological as well as physical.¹²

The Criminal Justice System

The law has changed to reflect this type of control. There is now a new offence of controlling or coercive behaviour¹³ and this covers most of the behaviour encompassed by ‘intimate terrorism’ that was not previously categorised as criminal. In addition, police powers of arrest under have expanded.¹⁴ There are also now Domestic Violence Protection Notices and Orders which enable the police to remove the perpetrator from the home and to ask the magistrates court for an order.¹⁵

However, it is the implementation of the law that continues to attract criticism. A report of an inspection by HMIC of police performance¹⁶ shows that problems have persisted. Police attitudes have improved but there were cases where negative attitudes gave rise to reluctance on the part of victims to report again. Police failed to identify repeat victims. They were not building evidence-led cases instead of relying on the victim’s support, which might not be forthcoming. They did not take emotional abuse seriously. Arrest, charging and caution rates varied. They did not act on breaches. Most importantly, police did not understand the dynamics of domestic violence and this led to poor risk assessment. While a decision to charge was made in 70% cases referred by police to the CPS and a conviction followed in 68% of these,¹⁷

⁸ <http://womensaidorkney.org.uk/wp-content/uploads/2014/08/Home-office-research.pdf>

⁹ <https://1q7dqy2unor827bqjls0c4rn-wpengine.netdna-ssl.com/wp-content/uploads/2016/12/The-Femicide-Census-2016.pdf>

¹⁰ <https://1q7dqy2unor827bqjls0c4rn-wpengine.netdna-ssl.com/wp-content/uploads/2016/12/The-Femicide-Census-2016.pdf>

¹¹ <https://www.amazon.co.uk/Typology-Domestic-Violence-Situational-Northeastern/dp/1555536948>

¹² <https://www.justiceinspectrates.gov.uk/hmic/wp-content/uploads/increasingly-everyones-business-domestic-abuse-progress-report.pdf>

¹³ <http://www.legislation.gov.uk/ukpga/2015/9/section/76/enacted> s76.

¹⁴ S24 Police and Criminal Evidence Act 1984. See also <http://www.legislation.gov.uk/ukpga/2010/17/contents> s24ff; ¹⁴

<http://www.legislation.gov.uk/ukpga/2004/28/contents> s10

¹⁵ <http://www.legislation.gov.uk/ukpga/2010/17/contents> s24ff

¹⁶ <http://www.justiceinspectrates.gov.uk/hmic/wp-content/uploads/increasingly-everyones-business-domestic-abuse-progress-report.pdf>

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<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendingmarch2016>

almost all convictions were the result of guilty pleas. Failure to convict was usually the result of evidential difficulties. And when there is a conviction, media reports suggest that sentencing may be lenient.¹⁸

Conclusion

It is possible that the need to comply with the Istanbul Convention may be the catalyst for addressing these shortcomings and this will benefit all victims of domestic violence. But there can be no doubt that it is women who most need change and so it seems fitting that the focus is on them.

¹⁸ <https://www.theguardian.com/society/2016/mar/08/domestic-abuse-court-female-victims-bbc-documentary>
<https://www.theguardian.com/society/2014/sep/26/police-commissioners-inquiry-judge-leniency-domestic-abuse>