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CONFLICTING DEFINITIONS OF DOMESTIC VIOLENCE: THE VIEW FROM SCOTLAND

IMPRODOVA



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What's in a term?

- Naming and defining domestic violence is by no means a politically neutral process (Groves and Thomas, 2014).
- The outcome of this process varies between countries and the institutions within them according to a range of ideological and pragmatic concerns.
- Yet the way in which domestic violence is defined has significant implications for how it is understood, measured and responded to.
- The particular term adopted reflects the temporal, political and cultural space in which it is used.

Scottish Government definition

Since 2000, Scottish Government adopted a gendered definition of domestic abuse:

*“Domestic Abuse, as gender-based violence, can be perpetrated by partners or ex-partners and can include **physical abuse** (assault and physical attack involving a range of behaviour), **sexual abuse** (acts which degrade and humiliate women and are perpetrated against their will, including rape) and **mental and emotional abuse** (such as threats, verbal abuse, racial abuse, withholding money and other types of controlling behaviour such as isolation from family and friends.)”*

The Scottish approach to understanding and defining domestic abuse

- Use of the term 'domestic abuse' reflects the fact that physical violence is only one aspect of what constitutes this abuse
- Based on United Nations Declaration on the Elimination of Violence Against Women
- A gendered definition
- Explicitly positions domestic abuse as both a cause and a consequence of gender inequality.

Importance of gender

The Scottish Government:

“firmly places the different forms of violence against women within the gendered reality of men’s and women’s lives, what it means to be a man and a woman in our society and the status and privileges which are afforded to us depending on whether we are born a man or a woman.”

A gendered approach entails:

- recognising the social construction of masculinity, femininity and gender relations within wider structures of gender inequality.
- understanding ‘who does what to whom’ (Hester, 2013)

A 'bespoke' criminal offence of domestic abuse

- Creation of a new specific statutory offence of domestic abuse intended to better reflect the experience of victims
 - by recognising the **impact and consequences** of all types of abusive behavior, **improve** the criminal justice response and **facilitate access** to justice.
- Draws draws on the concept of 'coercive control' (Stark 2007)
- Stark's work (2007; 2009) emphasises the importance of power and control in relationships characterised by domestic abuse;
- Coercive control is
 - a cumulative form of subjugation that uses a range of tactics - physical abuse alongside a pattern of non-physical abusive behaviors such as threats, intimidation, stalking, destruction of personal property, manipulation, psychological abuse, economic oppression, limitations on movement and restrictions on liberty – that both isolate women and 'entrap' them in relationships with men by making them constantly fearful (Stark 2007).

Domestic Abuse (Scotland) Act 2018

Under the Act, abusive behavior' is that which is

- 'violent, threatening or intimidating' and would be considered by a 'reasonable person' likely to have the effect of: making a partner or ex-partner dependent on or subordinate to the perpetrator; isolating them from friends, relatives or other sources of support; controlling, regulating or monitoring their day-to-day activities; depriving or restricting their freedom of action; or frightening, humiliating, degrading or punishing them.

'at least two occasions'

'reasonable person' test

Focus on ***perpetrator intent***

- intentionally causing harm or reckless as to the causing of such harm.

Policing coercive control: challenges around identification, recognition and response

Not incident-based but a process (cumulative, ongoing)

- Requires understanding of the complex nature of abusive behavior and the inherent gender dynamics inherent

Tactics of coercive control can be hard to identify

- 'Normative' behaviour

Challenges in corroborating a 'course of conduct' of abusive behaviour

- as well as corroborating emotional and psychological abuse, due to its inherently private and individual nature.

Meeting the challenge

Act represents a radical attempt to align the criminal justice response with contemporary (feminist) conceptual understandings of domestic abuse as a form of coercive control

- Ambitious and widespread police training
- Gender dynamics, power/control, coercive tactics
- Specialist response /Task Force
- Risk assessment
- Intelligence-sharing
- Partnership working



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