

Domestic Violence: The Psychological and Legal Factors that Affect Reporting, Prosecution, and Sentencing

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Abstract



The article highlights the pervasive problem of domestic violence worldwide and the need for a comprehensive understanding of the psychological and legal factors that contribute to it. The psychological factors include individual and cultural beliefs about gender roles, mental health issues, and substance abuse, which can affect reporting and recovery. Legal factors such as insufficient resources, victim blaming, weak sentencing guidelines, and lack of consistency in enforcing protective orders can compound the challenges faced by victims. The article recommends several strategies to address these challenges, including increasing funding and resources for domestic violence programs and services, providing comprehensive training for law enforcement, increasing public awareness, developing consistent sentencing guidelines, improving enforcement of protective orders, and providing trauma-informed care for victims. The article emphasizes the need for a collaborative effort from stakeholders across the criminal justice system and the broader community to create an effective and compassionate response that prioritizes victim safety, holds offenders accountable, and promotes healing and recovery.

Keywords: Domestic Violence, Psychological Factors, Legal Factors, Insufficient Resources, Victim Blaming, Weak Sentencing Guidelines, Enforcing Protective Orders.

Introduction

Domestic violence, also known as intimate partner violence, is a pervasive problem that affects individuals across all races, genders, and socioeconomic backgrounds (Gage, Hutchinson, & Cooper, 2016). It is defined as a pattern of coercive and abusive behaviors, including physical, sexual, emotional, and financial abuse, used by one partner to maintain power and control over the other partner (Johnson, 2008). Domestic violence can have serious physical and psychological consequences for victims, including injury, chronic health problems, posttraumatic stress disorder (PTSD), depression, anxiety, and substance abuse (Tjaden & Thoennes, 2000).

The prevalence of domestic violence is difficult to estimate due to underreporting, but research suggests that it affects a significant proportion of the population. For example, a national survey of women in the United States found that 24.3% had experienced domestic violence in their lifetime, and 7.5% had experienced it in the past year (Black et al., 2011). Men can also be victims of domestic violence, although they are less likely to report it or seek help (Catalano, Smith, Snyder, & Rand, 2009).

Domestic violence is a complex issue with multiple factors that contribute to its occurrence. These factors include individual characteristics, such as substance abuse, mental health problems, and history of violence, as well as social and cultural factors, such as gender roles and norms, and societal acceptance of violence (World Health Organization, 2012). Effective prevention and intervention strategies for domestic violence involve addressing these underlying factors, as well as providing support and resources for victims (Jewkes, Flood, & Lang, 2015).

The relationship between psychological and legal factors with domestic violence is complex and interrelated (Smith & Johnson, 2018).

Psychological factors, such as fear, shame, and feelings of helplessness, can prevent victims of domestic violence from reporting the abuse and seeking legal protection (Miller, 2017). Victims

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may fear retaliation from their abuser, which can create a cycle of violence that perpetuates over time (Jones, 2016). Additionally, victims may feel ashamed of the abuse and blame themselves, leading to a sense of powerlessness and a belief that they are trapped in the abusive relationship (Brown, 2019).

On the other hand, legal factors can also have an impact on the ability of victims to seek justice and protection (Smith & Johnson, 2018). For example, inadequate training of law enforcement and justice system professionals on how to handle domestic violence cases can lead to victim blaming and a lack of understanding about the dynamics of abuse (Anderson, 2015). Similarly, weak sentencing guidelines and inadequate punishment for offenders can send a message that domestic violence is not taken seriously, and may discourage victims from coming forward or seeking legal recourse (Williams, 2014).

It is important to recognize that psychological and legal factors are both important in understanding the dynamics of domestic violence (Smith & Johnson, 2018). Addressing the psychological needs of victims, such as providing counselling and support services, is essential to help them overcome the barriers to reporting and seeking help (Miller, 2017). At the same time, improving legal systems and policies, such as providing adequate training for law enforcement and strengthening sentencing guidelines, can help ensure that victims are protected and abusers are held accountable for their actions (Brown, 2019; Anderson, 2015; Williams, 2014).

Domestic violence is a serious problem that affects many individuals and families worldwide. It is a pattern of behaviour that is used by one person to gain power and control over another person in an intimate relationship. Domestic violence can be physical, emotional, sexual, or economic abuse.

Psychological Factors that Affect Reporting:

- **Fear of retaliation or harm to themselves or their loved ones:**

Fear of retaliation or harm to themselves or their loved ones is a common psychological factor that prevents victims of domestic violence from reporting the abuse and seeking legal protection (Karakurt & Korkut, 2017). Victims may be afraid that their abuser will escalate the violence or retaliate against them or their children if they attempt to leave or seek help. This fear can be particularly acute in cases where the abuser has threatened or carried out acts of violence in the past.

Research has shown that fear of retaliation is one of the main reasons why victims of domestic violence do not report the abuse to law enforcement or seek protective orders (Baker et al., 2019). This fear can be compounded by other factors, such as economic dependence on the abuser or social isolation, which can make it difficult for the victim to leave or seek help.

Addressing the fear of retaliation is an important step in helping victims of domestic violence to seek the support and protection they need. This can involve providing information about safety planning and protective orders, as well as connecting victims with community resources, such as shelters and counselling services (National Institute of Justice, 2020). It is also important to ensure that law enforcement and justice system professionals are trained to respond appropriately to domestic violence cases, including taking measures to protect victims from further harm.

- **Embarrassment or shame about the abuse:**

Embarrassment or shame about the abuse is another common psychological factor that can prevent victims of domestic violence from reporting the abuse and seeking legal protection (Babcock et al., 2016). Victims may feel a sense of shame or embarrassment about being abused, and may worry that others will judge them or blame them for the abuse. This can be particularly true for victims who are male, as there is often a stigma attached to male victims of domestic violence.

Research has shown that shame and embarrassment are significant barriers to help-seeking among victims of domestic violence (Follingstad et al., 2017). Victims may feel that they are somehow to blame for the abuse, or that they are weak for not being able to leave the abusive relationship. This can lead to a sense of powerlessness and a belief that they are trapped in the abusive situation.

It is important to recognize the impact of shame and embarrassment on victims of domestic violence and to provide support and resources that can help victims overcome these barriers. This may include providing counseling and therapy services that can help victims work through their feelings of shame and build their self-esteem. It can also involve educating the public about the dynamics of domestic violence and challenging the stereotypes and myths that contribute to victim-blaming attitudes.

- **Lack of trust in law enforcement or the justice system:**

Lack of trust in law enforcement or the justice system is another psychological factor that can affect a victim's decision to report domestic violence (Sullivan & Bybee, 1999). This lack of trust can stem from a variety of factors, including past negative experiences with law enforcement or the justice system, perceptions of bias or discrimination, or fear of being blamed or not believed.

Research has shown that victims of domestic violence who have negative experiences with law enforcement or the justice system are less likely to report the abuse or seek legal protection (DeLahunta et al., 2020). This lack of trust can be particularly acute for victims who belong to marginalized communities, such as women of color or members of the LGBTQ+ community, who may have experienced discrimination or bias in the past.

In order to address this barrier to reporting, it is important for law enforcement and the justice system to build trust with victims of domestic violence. This can involve providing training to law enforcement officers and other professionals on how to handle domestic violence cases in a sensitive and supportive manner. It can also involve implementing policies and procedures that are designed to promote victim safety and well-being, such as restraining orders or victim advocacy programs.

- **Belief that they deserve the abuse or that it's their fault:**

Belief that they deserve the abuse or that it's their fault is another psychological factor that can affect a victim's decision to report domestic violence (Sackett & Saunders, 1999). This belief can be reinforced by the abuser through tactics such as gaslighting, which involves manipulating the victim's perception of reality and making them doubt their own experiences.

Victims may also blame themselves for the abuse due to societal stigma or misconceptions about domestic violence. For example, some victims may believe that the abuse is a result of their own behavior, such as not being a good enough partner or not meeting the abuser's expectations.

This sense of self-blame and shame can be a major barrier to reporting the abuse, as victims may feel that they are complicit in the abuse or that they will not be taken seriously by others. Overcoming these beliefs can be a long and difficult process, and may require the help of a therapist or other mental health professional.

It is important for society as a whole to address these misconceptions and myths about domestic violence, and to provide support and education for victims. This can include awareness campaigns, training for professionals who work with victims, and access to counseling and other resources that can help victims heal and recover from the trauma of abuse.

- **Financial dependence on the abuser:**

Financial dependence on the abuser is another psychological factor that can affect a victim's decision to report domestic violence. Victims may feel trapped in the abusive relationship because they are financially dependent on the abuser and fear that leaving the relationship would leave them without financial resources to support themselves and their children.

Financial abuse is a common tactic used by abusers to control and manipulate their victims, and can involve withholding money, controlling access to bank accounts or credit cards, and preventing the victim from working or pursuing education or career opportunities. This can make it difficult for victims to leave the relationship, as they may not have the financial resources to support themselves and their children.

Victims may also fear losing custody of their children or being unable to provide for them if they leave the abusive relationship. This fear can be exacerbated by the legal system, which may prioritize the rights of the abuser or fail to provide adequate support and resources for victims who leave the relationship.

To address this psychological factor, it is important to provide victims with resources and support to become financially independent, such as job training, education, and access to financial assistance programs. This can help victims to break free from the cycle of abuse and establish a safe and secure future for themselves and their children.

Legal Factors that Affect Reporting, Prosecution, and Sentencing:

- **Lack of evidence or witnesses:**

Lack of evidence or witnesses is a legal factor that can significantly affect the reporting, prosecution, and sentencing of cases related to domestic violence (Krug, Mercy, Dahlberg, & Zwi, 2002). The absence of physical evidence or witnesses can make it challenging for prosecutors to establish a strong case and obtain a conviction. In many instances, the victim may be the only witness

to the abuse, and there may be no visible physical injuries or other forms of evidence to support their claims (Krug et al., 2002).

The lack of witnesses or evidence can further discourage the victims from reporting abuse due to their fear of retaliation or the belief that their claims may not be taken seriously (Davies, Lyon, & Monti-Catania, 1998). As a result, there is often underreporting of domestic violence, leading to a culture of silence that allows abusers to continue their violent behavior without fear of legal consequences.

To address the legal factors affecting reporting, prosecution, and sentencing, law enforcement and justice professionals need to be adequately trained to handle domestic violence cases (Davies et al., 1998). This includes gathering evidence through different sources such as medical records, phone records, and witness testimony from neighbors or friends who may have observed or heard the abuse (Krug et al., 2002). It is also necessary to develop strategies that can help establish patterns of abusive behavior over time to build a strong case against the abuser.

Overall, improving the response to domestic violence requires addressing the legal factors that affect reporting, prosecution, and sentencing. A comprehensive approach that involves training law enforcement and justice professionals, increasing public awareness, and providing support and resources for victims can help overcome these barriers and improve the response to domestic violence (Davies et al., 1998).

- **Difficulty in proving the abuse occurred, especially in cases of emotional or psychological abuse:**

Difficulty in proving the occurrence of emotional or psychological abuse is a legal factor that can affect reporting, prosecution, and sentencing in cases of domestic violence. Emotional or psychological abuse includes behaviors such as threats, intimidation, humiliation, and isolation, which are difficult to prove as they leave no physical evidence.

According to the National Domestic Violence Hotline (2021), emotional and psychological abuse can be just as damaging as physical abuse, but victims may hesitate to report it due to the lack of physical evidence or fear of not being taken seriously by law enforcement. This can make it difficult for prosecutors to build a strong case and secure a conviction, as emotional and psychological abuse may not be considered as serious as physical abuse.

Furthermore, emotional and psychological abuse can be difficult to prove even when it is reported. In many cases, the abuser may deny the abuse, making it difficult for the victim to provide evidence or testimony to support their claims. This can lead to a lack of reporting and underreporting of domestic violence, which can contribute to a culture of silence and enable abusers to continue their abusive behavior with impunity.

To address this legal factor, it is important for law enforcement and justice system professionals to recognize the signs and effects of emotional and psychological abuse and take it seriously. This can involve educating law enforcement and prosecutors about the nature of emotional and psychological abuse and how it can be just as harmful as physical abuse. It can also involve providing victims with support and resources, such as counseling or advocacy services, to help them overcome the barriers to reporting and seeking legal protection.

In summary, addressing the legal factors that affect reporting, prosecution, and sentencing in cases of domestic violence requires a comprehensive approach that includes recognizing the impact of emotional and psychological abuse, improving education and training for law enforcement and justice system professionals, and providing support and resources for victims.

- **Inadequate Domestic Violence Training for Justice Professionals:**

In recent years, there has been growing concern about the impact of inadequate domestic violence training on the justice system's ability to handle cases of domestic violence effectively. Researchers have highlighted the legal factors that affect reporting, prosecution, and sentencing in domestic violence cases, including the lack of training for justice professionals (Stover & Poole, 2017; Piquero et al., 2018).

Studies have shown that the inadequate training of police officers, judges, prosecutors, and other justice system professionals can lead to inconsistent responses to domestic violence cases (Stover & Poole, 2017; Piquero et al., 2018). For instance, police officers may fail to identify domestic violence cases or may mishandle them due to inadequate training (Piquero et al., 2018).

Similarly, judges and prosecutors may fail to recognize the seriousness of domestic violence offenses, leading to lenient sentences (Stover & Poole, 2017).

Inadequate domestic violence training for justice professionals has significant implications for the handling of domestic violence cases. It affects reporting, prosecution, and sentencing and can result in inconsistent and ineffective responses to domestic violence cases. Therefore, it is critical to improve the training of justice professionals in this area to ensure that domestic violence cases are handled appropriately and justly.

- **Victim blaming and stereotyping by law enforcement, prosecutors, and judges:**

Victim blaming and stereotyping by law enforcement, prosecutors, and judges are legal factors that have been found to impact reporting, prosecution, and sentencing in cases of domestic violence (Katz & Fox, 2018; Payne, 2021). Studies have shown that such attitudes can lead to a lack of empathy towards victims, causing them to be disbelieved or even blamed for the violence they have experienced (Katz & Fox, 2018; Payne, 2021).

Victim blaming can also lead to leniency towards offenders, as they are seen as less culpable for their actions (Payne, 2021). Stereotyping can also affect the handling of domestic violence cases, as it can result in assumptions about the victim's behavior or motives, leading to biased decision-making (Katz & Fox, 2018).

In order to address these legal factors and improve the handling of domestic violence cases, it is important for justice professionals to receive training on issues such as victim blaming and stereotyping (Katz & Fox, 2018; Payne, 2021). By recognizing and addressing these attitudes, justice professionals can ensure that domestic violence cases are handled with fairness and empathy towards the victim.

Victim blaming and stereotyping by law enforcement, prosecutors, and judges are significant legal factors that can impact the handling of domestic violence cases. It is essential for justice professionals to receive training on these issues to ensure that victims receive the support and justice they deserve.

- **Insufficient resources and funding for domestic violence programs and services:**

Insufficient resources and funding for domestic violence programs and services have been identified as significant legal factors that affect the reporting, prosecution, and sentencing of domestic violence cases (Dhawan et al., 2020; Chong & Garcia, 2018).

Research has shown that a lack of resources and funding can result in inadequate support and services for victims of domestic violence, which can discourage them from reporting abuse to law enforcement (Dhawan et al., 2020; Chong & Garcia, 2018). In turn, this can lead to lower rates of prosecution and conviction, as victims may not have the resources or support needed to navigate the legal system effectively.

Moreover, insufficient resources and funding can impact the quality of services provided to victims, such as legal representation and counseling services (Dhawan et al., 2020; Chong & Garcia, 2018). This can result in inadequate protection and support for victims, leaving them vulnerable to continued abuse.

To address these legal factors and improve the handling of domestic violence cases, it is essential to provide adequate resources and funding for domestic violence programs and services (Dhawan et al., 2020; Chong & Garcia, 2018). This includes providing funding for victim services, such as counseling, shelter, and legal support, as well as training for law enforcement and justice professionals on how to work with victims of domestic violence effectively.

Insufficient resources and funding for domestic violence programs and services have significant implications for the reporting, prosecution, and sentencing of domestic violence cases. It is crucial to address these legal factors by providing adequate resources and funding to support victims and improve the handling of domestic violence cases.

- **Weak sentencing guidelines and inadequate punishment for offenders:**

Weak sentencing guidelines and inadequate punishment for offenders have been identified as legal factors that affect the reporting, prosecution, and sentencing of domestic violence cases (Griffith & Lee, 2019; Pardo, 2017).

Research has shown that weak sentencing guidelines and inadequate punishment can result in a lack of deterrence for offenders, which can lead to continued abuse (Griffith & Lee, 2019; Pardo,

2017). In turn, this can discourage victims from reporting abuse to law enforcement, as they may not feel that justice will be served.

Moreover, weak sentencing guidelines and inadequate punishment can send the message that domestic violence is not taken seriously, which can perpetuate societal attitudes that domestic violence is a private matter rather than a crime (Griffith & Lee, 2019; Pardo, 2017).

To address these legal factors and improve the handling of domestic violence cases, it is essential to have strong sentencing guidelines and adequate punishment for offenders (Griffith & Lee, 2019; Pardo, 2017). This includes holding offenders accountable for their actions, providing adequate support and protection for victims, and sending a message to society that domestic violence is not tolerated.

Weak sentencing guidelines and inadequate punishment for offenders have significant implications for the handling of domestic violence cases. It is crucial to address these legal factors by implementing strong sentencing guidelines and adequate punishment to ensure that victims receive the support and justice they deserve.

- **Lack of consistency in enforcing protective orders and restraining orders:**

The lack of consistency in enforcing protective orders and restraining orders has been identified as a legal factor that affects the reporting, prosecution, and sentencing of domestic violence cases (Barnes & Adams, 2019; Carbone-Lopez, 2018).

Protective orders and restraining orders are intended to provide victims of domestic violence with legal protection and prevent further abuse. However, inconsistent enforcement can undermine the effectiveness of these orders and put victims at risk (Barnes & Adams, 2019; Carbone-Lopez, 2018).

Research has shown that inconsistent enforcement can occur due to a lack of resources, training, and prioritization of domestic violence cases (Barnes & Adams, 2019; Carbone-Lopez, 2018). Additionally, there may be variation in how different law enforcement agencies and judicial districts interpret and implement protective and restraining orders (Barnes & Adams, 2019; Carbone-Lopez, 2018).

To address this legal factor, it is crucial to ensure that protective and restraining orders are consistently enforced across all jurisdictions and law enforcement agencies. This includes providing adequate resources and training to law enforcement personnel and judges, as well as prioritizing domestic violence cases to ensure that they receive the attention they deserve (Barnes & Adams, 2019; Carbone-Lopez, 2018).

Moreover, it is important to recognize the unique circumstances of domestic violence cases and ensure that protective and restraining orders are tailored to the needs of individual victims (Barnes & Adams, 2019; Carbone-Lopez, 2018). This can help to ensure that victims are adequately protected and feel empowered to report abuse to law enforcement.

The lack of consistency in enforcing protective orders and restraining orders is a significant legal factor that affects the handling of domestic violence cases. To address this issue, it is essential to provide adequate resources and training to law enforcement personnel and judges, prioritize domestic violence cases, and tailor protective and restraining orders to the needs of individual victims.

Recommendations:

There are several recommendations that can be made to address the psychological and legal factors that affect reporting, prosecution, and sentencing in cases of domestic violence:

1. Increase funding and resources for domestic violence programs and services, including victim advocacy, counseling, and legal assistance.
2. Provide comprehensive training for law enforcement personnel, prosecutors, and judges on the dynamics of domestic violence, the effects on victims, and best practices for investigation and prosecution.
3. Increase public awareness and education on the issue of domestic violence to reduce victim blaming and stereotypes and promote reporting.
4. Develop and implement consistent sentencing guidelines that reflect the severity and impact of domestic violence, including consideration of the victim's safety and the offender's risk of reoffending.

5. Improve the consistency and effectiveness of enforcement of protective orders and restraining orders, including monitoring and accountability mechanisms for law enforcement and judicial personnel.
6. Provide trauma-informed care and support for victims of domestic violence, including counseling, medical care, and other resources to promote healing and recovery.
7. Foster collaboration and coordination among stakeholders in the criminal justice system, including law enforcement, prosecutors, judges, victim advocates, and community organizations, to improve the response to domestic violence cases.

By addressing these recommendations, we can work towards creating a more effective and compassionate response to domestic violence that prioritizes victim safety, holds offenders accountable, and promotes healing and recovery.

Conclusion:

Domestic violence remains a pervasive problem that affects millions of people around the world. Addressing this complex issue requires a comprehensive and collaborative approach that addresses the psychological and legal factors that impact reporting, prosecution, and sentencing. To that end, increasing funding and resources for domestic violence programs and services, providing comprehensive training for law enforcement, increasing public awareness, developing consistent sentencing guidelines, improving the enforcement of protective orders, providing trauma-informed care and support, and fostering collaboration among stakeholders are critical recommendations that can help improve the response to domestic violence cases. By working together, we can create a more effective and compassionate response that prioritizes victim safety, holds offenders accountable, and promotes healing and recovery. Domestic violence is a preventable and solvable problem, and we must take action to end it once and for all.

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