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ABSTRACT

Domestic violence is a crime which may result in injury or even death for the victim, but oftentimes the victim is unwilling to report these incidents to law enforcement. This paper will review the history of domestic violence, incidents of domestic violence, and the response by the criminal justice system to domestic violence. This paper will also attempt to examine the critical feminist theory as it relates to domestic violence, both causation and victimization, and implications for the criminal justice system.

CRITICAL FEMINIST THEORY AND DOMESTIC VIOLENCE:

Domestic violence, unlike many other violent crimes, is an invisible crime, often occurring in the homes of the victims and perpetrated by an intimate partner. Oftentimes the victims of domestic violence fail to report these incidents to police, and many of the victims choose not to leave the abusive situation immediately. Domestic violence affects not only the offender and the victim, but costs society as well. The Centers for Disease Control and Prevention estimate the costs for domestic violence in 1995 was an estimated \$5.8 billion (Centers for Disease Control, 2006). Clearly the need to understand and deter domestic violence is important not only for the safety of the victims, but for the betterment of society in general.

In today's society, there are many types of intimate partner relationships; however, this paper will attempt to examine the causation of domestic violence within the largest category of violent intimate partner relationships: men as offenders and women as victims.

History of Domestic Violence

Domestic violence is not a phenomenon unique to our society. In fact, domestic violence has occurred throughout recorded history. In ancient Rome, men had the legal right to physically assault their wives for such acts as walking in public without their face covered, drinking wine, or attending public events without permission (Siegel, 1986). This acceptance of a husband's legal and moral obligation to physically control their wife's behavior continued into the modern era (Siegel, 1986).

By the end of the 19th century, England passed laws to protect wives from being physically assaulted by their husbands, but these laws were overshadowed by the traditional portrayal of wives as subordinate to their husbands and subject to the physical control of their

husbands (Siegel, 1986). Husbands who physically assaulted their wives were subject to public ridicule, but limited chastisement was still the rule (Siegel, 1986).

It was not until 1882 that the act of “wife-beating” was considered a crime in the United States (Minnesota Center Against Violence and Abuse, 1999). However, domestic violence was not viewed as serious social problem until the 1960’s and 1970’s during the women’s liberation movement (Minnesota Center Against Violence and Abuse, 1999).

In essence, history has contributed to the societal approval for a man to physical control a woman (Siegel, 1986).

Incidents of Domestic Violence

Each year women are the victims of 4.8 million physical assaults and rapes at the hands of their intimate partners (Centers for Disease Control, 2006). The National Institute of Justice reports that 1 out of every 5 women in the United States have been the victim of domestic violence sometime in their life (Tjaden & Thoennes, 2000).

These figures account for the number of victims of physical assaults only; however, domestic violence may not be limited to physical assaults. Domestic violence involves an array of behaviors. The Centers for Disease Control (2006) list four types of behaviors that encompass domestic abuse:

1. Physical abuse
2. Sexual abuse
3. Threats of physical or sexual abuse
4. Emotional abuse

When one expands the definition of domestic violence to include all of these behaviors, the true extent for which women are abused may never be known.

Research into incidents of domestic violence has provided factors that may predict domestic violence. Siegel (2005, p.255) list these factors as follows:

1. Presence of alcohol. Excessive alcohol use may turn otherwise docile husbands into wife abusers.
2. Hostility toward dependency. Some husbands who appear docile and passive may resent their dependence on their wives and react with rage and violence; this reaction has been linked to sexual inadequacy.
3. Excessive brooding. Obsession with a wife's behavior, however trivial, can result in violent assaults.
4. Social approval. Some husbands believe society approves of wife abuse and use these beliefs to justify their violent behavior.
5. Socioeconomic factors. Men who fail as providers and are under economic stress may take their frustrations out on their wives.
6. Flashes of anger. Research shows that a significant amount of family violence results from a sudden burst of anger after a verbal dispute.
7. Military service. Spouse abuse among men who have served in the military service is extremely high. Similarly, those serving in the military are more likely to assault their wives than civilian husbands. The reasons for this phenomenon may be the violence promoted by military training and the close proximity in which military families live to one another.

8. Having been battered as children. Husbands who assault their wives were generally battered as children.
9. Unpredictableness. Batterers are unpredictable, unable to be influenced by their wives, and impossible to prevent from battering once an argument has begun. Batterers can be classified into two distinct types: men whose temper slowly simmers until it suddenly erupts into violence, and those who strike out immediately.

Domestic violence also occurs more frequently in certain social conditions than others.

DeKeseredy and Hinch (1991, pp. 26-28) discovered that:

1. Married women are more likely to be beaten than unmarried women.
2. Women aged 18-34 are more likely to be victimized than women of other age groups.
3. Low-income men are more likely to assault their wives than males in higher income groups.
4. Unemployed men are more likely than both employed men and part-time men to abuse their wives.

Regarding the specific demographics of victims, women of all races and ethnic origins are at risk for becoming a victim of domestic violence. As stated by the National Coalition Against Domestic Violence (n. d.), "There is not a typical woman who will be battered - the risk factor is being born female."

Domestic Violence and the Criminal Justice System

Traditionally, the criminal justice system had not considered domestic violence a high priority crime, classifying violence committed by an intimate partner less seriously than crimes committed by strangers (Toth, Crews, & Burton, 2008). The victim's lack of cooperation,

unwillingness to testify in court, and state law restrictions on misdemeanor arrest procedures for police officers further served to keep domestic violence cases a low priority in the criminal justice system (Toth et al., 2008).

As stated earlier, domestic violence was not considered a serious social problem until the women's liberation movement during the 1960's and 1970's. Law enforcement had to change the way it responded to domestic violence, and between 1976 and 1981 the Law Enforcement Assistance Administration began funding projects specifically for assisting victims and prosecuting offenders (Toth et al., 2008).

The Minneapolis Domestic Violence Experiment conducted by Lawrence Sherman and Richard Berk between 1981 and 1982 measured the effectiveness of police mediation, ordering the offender to leave the residence, or arresting the offender (Siegel, 2005). The results from this experiment showed that repeat offending decreased 50% when the offender was arrested (Toth et al., 2008). However, these results could not be duplicated in other cities (Siegel, 2005). Studies in other cities showed that arresting the offender resulted in three different outcomes: the violence used by the offender escalated, some offenders were deterred from reoffending, or no deterrent effect at all (Toth et al., 2008). The deterrent effect of arrest may initially have prevented some reoffending because of the fear of punishment, but this fear may be replaced with anger toward the victim when the case does not result in severe punishment (Siegel, 2005). These offenders may also be aware of police reluctance to make an arrest unless the victim has received or has a significant chance of receiving further injury (Siegel, 2005).

The willingness of a victim to report incidents of domestic violence to law enforcement is also a major issue faced by criminal justice agencies. In their study of victim satisfaction with the

criminal justice system, Buzawa and Hotaling (2006) discovered that the more control the victim felt they had over the actions of the criminal justice system, over ending violent incidents, and over the offender's future, the more satisfied the victim was with the criminal justice system and the more likely to report future incidents of domestic violence. The study also revealed that of the 17% of victims who expressed dissatisfaction with the criminal justice system, 49% admitted that they had been revictimized (Buzawa & Hotaling, 2006).

The study also discovered that women who were sexually abused as children were least likely to report domestic violence incidents, coinciding with previous research suggesting a link between the victim's history of abuse and likelihood of reporting domestic violence (Buzawa & Hotaling, 2006). Victims who took advantage of victim services programs had higher levels of satisfaction, especially when the victim utilized nonprofit and community-based agencies with resources available from the criminal justice system (Buzawa & Hotaling, 2006).

Now that the history of domestic violence in society, information regarding incidents of domestic violence, and the response by the criminal justice system has been reviewed, the critical feminist theory of causation and victimization may be explored.

Critical Feminist Theory

Critical feminist theory is a social conflict theory based on gender inequality caused from men's dominance in a capitalist society (Siegel, 2005). In a male dominated society, women are considered a commodity, similar to money or land (Siegel, 2005). Critical feminists view the patriarchal system (male control of the division of labor and women's sexuality) as the most important relations in any society, with all other relations, such as social class, deriving from male-female relations (Beirne & Messerschmidt, 2000). This theory is also based on the following rationale by Jaggar & Rothenberg (1985, p. 86):

1. Women were, historically, the first oppressed group.
2. Women's oppression is the most widespread, existing in virtually every known society.
3. Women's oppression is the deepest, in that it is the hardest form of oppression to eradicate and cannot be removed by other social changes such as the abolishment of class society.

The critical feminist theory links gender conflict in society to the causation of criminal behavior by men and the heightened risk of women victimization (Siegel, 2005). It also maintains that a capitalist society promotes the continued exploitation of women by excluding women from the labor force, furthering male domination over women sexually and economically (Siegel, 2005). Although attempts by legislation have been made to bridge the economic inequalities between men and women, women still on average earn less than their male counterparts for the same labor, and remain a minority in corporate administration.

Men as offenders.

The critical feminist theory asserts that when lower-class men are excluded from economic opportunity, they attempt to compensate by reinforcing their self-image, usually by committing violent crimes against women (Siegel, 2005). This need to prove their masculinity by dominating women is the most convenient way for these men to prove their manhood, due to the fact that women are physically weaker (Siegel, 2005). Furthermore, in a discussion of men who engage in domestic violence, Hanser (2007) describes patriarchal terrorism, the need of men to be in control of a relationship by abusing women, as based on the idea of “male privilege,” or the rights inherent to men based on their historical dominance in society. This need for control is evident in the different behaviors which encompass domestic violence; these actions are based on the need to control the victim.

This theory is supported by several factors that may predict domestic violence examined earlier in this paper. Hostility toward dependency may reflect the man’s internal rage toward the inability to compete in a capitalist society; therefore this rage is reflected onto the symbol of inadequacy, the man’s spouse. In a capitalist society dominated by men, it is socially unacceptable for a man to be financially dependent on a wife’s income. Excessive brooding and obsession with a woman’s behaviors may indicate a need to limit a woman’s activities outside of the home. Part of a wife’s capital lies in work completed inside the home, such as cleaning and cooking, and the more time spent out of the home, the less work is completed inside the home. Social approval believed by some men to batter their spouses also supports this theory, as history has already shown a social acceptance of this practice, and law enforcement, a mainly male-dominated profession, has been historically reluctant to arrest men who physically assault women.

This theory is further supported by the increased frequency of domestic violence in certain socioeconomic conditions, such as low-income men more likely than higher income men to batter women, and unemployed men more likely than both full-time and part-time employed men to batter women. This leads back to the assertion that lower-class men are more prone to commit violent acts against women to reinforce their image of “manhood.”

Women as victims.

In a capitalist society, the division of labor determined by the male dominated society left many women responsible for unpaid “domestic work” (Siegel, 2005). Even when women were allowed to enter the workforce, they were paid less than their male counterparts, leaving women exploited both inside the household and in the workforce (Siegel, 2005). This in turn left women dependant on a man’s income (Siegel, 2005).

Women were historically viewed by society as “property” of their husbands (Toth et al., 2008), and even in today’s society, women are encouraged to take their husband’s surname when married. When women marry, typically their independent financial resources become tied to their husband’s. In many cases, victims of domestic violence cite financial reasons for not leaving the abuser, including limited marketable skills, child care issues, costs of legal assistance, and lack of financial resources (Beirne & Messerschmidt, 2000).

This theory is supported by the increased frequency of domestic violence in certain socioeconomic conditions, such as the fact more married women are victims of domestic violence than unmarried women. This theory also supports why women age 18-34 are more at risk for becoming victims of domestic violence than other age groups; this age bracket coincides

with the typical age for women in their child-bearing and child-rearing years. Women in this age bracket must rely upon the income of a man to support the costs of caring for children.

This theory is also supported by higher reports of victim satisfaction and lower rates of revictimization when a woman is able to utilize nonprofit and community-based agencies to provide resources not normally obtainable without assistance. These resources help the woman find some measure of economic independence from the abuser, providing a means to escape the abuse without becoming devastated financially for doing so.

SUMMARY AND CONCLUSION

Domestic violence is a complicated crime in which the offender targets those intimately closest to them and a crime in which the victim is oftentimes unwilling to report to law enforcement. By examining the history of domestic violence, incidents of domestic violence, and the response by the criminal justice system to domestic violence, the critical feminist theory relating to domestic violence, involving both causation and victimization, can be clearly related to domestic violence. This theory leads to several implications for the criminal justice system.

Social acceptance of domestic violence was a major factor for the critical feminist theory. For the criminal justice system, this factor indicates the need to aggressively address the criminal nature of domestic violence by arresting violators without hesitation. Reluctance on the part of law enforcement in arresting violators has only reinforced the offender's belief that domestic violence is, at best, considered a minor violation of the law and acceptable in some situations. Although mandatory arrest laws have proven to only minimally deter some offenders, arrest does allow immediate, if not short term, protection for the victim. The court system should re-examine sentencing practices for domestic violence cases and consider stricter punishments for those offenders who continue to recidivate. Some offenders may respond to counseling programs, but for those offenders who continue to reoffend, incapacitation may be the only viable option for these offenders.

Although the historical acceptance of domestic violence cannot be altered, the criminal justice system should cooperate with religious, educational, and social institutions to educate the general public on the social costs and potential dangers of domestic violence in order to establish intolerance towards any form of domestic violence.

The critical feminist theory also highlights the need for victims to have some feelings of control before they are able to leave an abusive relationship permanently and reduce their risk of future victimization. For the criminal justice system, this indicates a need to involve the victim at every stage of the criminal justice process and to direct the victim to the appropriate agencies to assist with maintaining economic independence and other necessary services. This cooperative effort between nonprofit agencies, community-based agencies, and the criminal justice system must be able to provide services to the victim immediately, or the victim may be pressured to return to the abusive situation due to lack of resources.

In conclusion, changing societal attitudes regarding domestic violence and empowering victims of domestic abuse are the best approaches for deterring future incidents of violence and reducing the cost to society in general.

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