

Themed Section: National and international responses to gendered violence against women Introduction

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Over the last 30 or so years the problem of violence against women and how states should respond to it, in its myriad of forms, has become increasingly prevalent in academic and policy debates at both the national and international level. An active international women's movement, spanning Europe, the United States and many parts of the Southern hemisphere, including in particular Latin America and South Asia, has facilitated this growing awareness of gendered violence as a social problem requiring intervention. In a separate, but ultimately related, development there has been a growing global concern with extending human rights protection to women as a distinct group with specific concerns and needs. As a consequence of these twin developments, the tendency for gendered violence to be seen as an essentially private affair requiring limited state interference has slowly, but increasingly, been superseded by the recognition that the state has been failing victims.

These shifts are evidenced in countries with advanced welfare states such as the UK, as well as in countries with more limited welfare infrastructures and services, as in many parts of the Southern world. Governments are introducing laws (both criminal and civil), with the dual aims of protecting victims and bringing offenders to justice. Other social policy responses have either been mooted or introduced (for example, in the fields of health and education), in conjunction with changes to the civil and criminal systems of justice. International bodies (for example, the European Union, United Nations Development Fund for Women, World Health Organisation) have had and continue to have an influence on these developments and, indeed, some have implemented their own programmes. At this level, the human rights agenda, especially since the United Nations' adoption of the Convention on the Elimination of Discrimination Against Women (CEDAW) in 1979 and the UN General Assembly's Declaration on the Elimination of Violence against Women in 1993, has played an important role in prioritising gendered violence as an urgent issue. Since these documents such efforts have continued, most significantly with the 1995 Beijing Declaration and Platform for Action, which called upon governments to take integrated measures to prevent and eliminate gender-based violence. Indeed, this pressure has extended to include 'newer' areas of specific concern such as the notion of state responsibility for gendered crimes against humanity (for example, rape, rape as genocide, and forced impregnation). There is, thus, a welcome tendency to extend notions of what constitutes gendered violence against women.

This themed section of the journal is based upon papers presented at the Criminalising Gendered Violence? Local, National and International Perspectives conference organised

by the Inter-Faculty Working Group on Gender and Violence at the University of Bristol.¹ It examines state responses to violence against women by re-assessing the value of legal interventions in the context of scepticism about the law as a means of delivering protection, prevention and behavioural change. The use of the law and the criminal and civil justice systems as tools and mechanisms to resolve complex social problems has frequently been questioned in this and other contexts. The aim of this section is to provide a critical analysis of developments in policy and practice in a number of different jurisdictions, as well as at the global level, in what is a fast changing area.

The section draws upon a broad working definition of gendered violence and includes articles on inter-personal violence, as well as institutional violence. Its contributions reflect a variety of theoretical perspectives (such as different feminisms, and critical criminology) and disciplines (with contributions from social policy, criminology, law, development studies and sociology).

Based on primary research for the Northern Ireland Human Rights Commission and building on established critical research, the first article in the Themed Section by Phil Scraton and Linda Moore focuses on the 'conditions and regimes under which women and girls are imprisoned in the North of Ireland'. It does this by drawing upon the voices of women and girls themselves. Scraton and Moore's article demonstrates the gendered nature of degrading and harmful practices at the Mourne House Women's Unit in Maghaberry Prison, and raises particular concerns regarding the treatment and pathologisation of girls and women with mental health difficulties. Their article ends with recommendations aiming at improving the conditions experienced by women prisoners and ensuring that their human rights are supported throughout.

Moving away from harmful institutional practices to intimate partner violence, Marianne Hester draws upon the most recent and detailed research carried out in the UK examining attrition in domestic violence cases entering the criminal justice system. Focussing on the Northumbria Police Force area, the article discusses points of attrition across the criminal justice system, and how these relate to the experience of victims, the perspectives and practices of the police, prosecutors, the courts and non-criminal justice agencies. Hester concludes that positive shifts in policing attitudes had supported more victims to stay within the criminal justice system, although attrition remained significant at the court stage of the proceedings. Crucially, however, whether or not victims perceived attrition in a positive light depended on whether criminal justice interventions had managed to improve their security.

Since Hester's research into attrition, the Government has passed a measure that makes significant changes to domestic violence legislation in the UK. Emma Hitchings' article examines the extent to which the 2004 Domestic Violence, Crime and Victims Act will provide protection for the victim. In the article, Hitchings argues that one of the main provisions of the Act further blurs the boundaries between civil and criminal law by making a breach of a non-molestation order a criminal offence. Drawing upon a comparison with Anti-Social Behaviour Orders, which are civil orders whose breach is punishable in a criminal court, Hitchings argues that criminalisation may well result in a worsening of the situation for the victim by removing her choice whether or not to proceed with prosecution and placing that decision into the hands of state actors – most notably the police.

Fiona Macaulay further explores the theme of civil versus criminal law, by focusing upon responses to domestic violence in Latin America. She argues that over the last decade there have been, and continue to be, two countervailing tendencies: first, to treat domestic

violence as a serious crime which is punished through the criminal courts and, second, to consign domestic violence cases to other legal arenas, which effectively decriminalise this form of violence against women. The result, she argues, is often a twin-track system of justice that is unable to meet the specific needs of victims of domestic violence.

Looking beyond legal interventions to more holistic responses, Karen Leander considers the impact of a major reform package known as 'Kvinnofrid', adopted in Sweden in the mid 1990s. Included in the reforms were laws criminalising domestic violence, as well as prostitution customers, and the introduction of restraining orders that women could obtain from the courts against violent men. Furthermore, multi-agency working, particularly among the police, health and social services, was strengthened by 'Kvinnofrid'. Leander reviews the progress and effectiveness of this reform package, which aimed to utilise the criminal law alongside other social policy responses, and demonstrates that despite important breakthroughs Sweden still has a long way to go towards achieving gender equality.

The final two articles move away from national perspectives to focus on international responses to violence against women. Jones and Wachala in their article examine the effectiveness of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Although 180 of the members of the United Nations are party to the Convention, 'it is one of the most highly reserved international human rights instruments'. In their evaluation of the Convention, Jones and Wachala focus on three issues: the number of reservations; the lack of an individual mechanism; and the problem of delays. They argue that, despite CEDAW's serious limitations, it can be and has been used by non-governmental organisations in different parts of the world as a means of fighting discriminatory practices and improving the lives of women.

The final article considers responses to sexual crimes in armed conflicts – an issue that has only recently come to the attention of the international community since the atrocities in the former Yugoslavia and Rwanda were first revealed. Following a brief account of the problem of sexual violence against women in armed conflict, the main part of the article by Estelle Zinsstag considers three schemes currently available to address sexual violence in post-conflict situations – criminal justice, transitional justice and reparation. The article ends by considering the ways in which retributive and transitional justice may work in a more holistic paradigm to improve responses to the female victims of sexual crimes.

The 'Themed section' contains two further pieces. Evan Stark provides a review of the work of Linda Mills (a US legal scholar), alongside two reports from the advocacy movement to illuminate US and international debates on the effectiveness of criminal justice interventions in the area of domestic violence. Finally, Helen Jones in 'Some useful sources' offers a short summary of relevant websites on the issue of gendered violence, with a focus on human rights.

Note

1 This was the third in a series of four ESRC funded interdisciplinary and international events on gendered violence organised by the Inter-Faculty Working Group on Gender and Violence, in conjunction with the Violence Against Women Research Group at the University of Bristol. For further details of the events see: www.bris.ac.uk/sps/research/interfaculty/default.shtml