

[PDF](#) [HTML](#) [XML](#) OPEN ACCESS JOURNALS

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES (DCF) BUREAUCRACIES:
RE-VICTIMIZATION OF MOTHERS WHO ARE
SURVIVORS OF DOMESTIC ABUSE**

Catherine N. Ekwe, Department of Educational Foundations and Counselling, Imo State University, Owerri, Nigeria, Email Address: ekwkay@gmail.com

Abstract

This paper investigated how government bureaucracies re-victimize mothers who are survivors of domestic violence. The paper found that mothers who are victims of domestic violence encounter another kind of victimisation as they seek justice from the legal and judicial processes. This re-victimization occurs when the victim of a crime, in this case, domestic violence survivor mothers are held responsible for the violence committed against them by their intimate partners. These victims are often held responsible for not abandoning the abusive partner, not protecting their children and/or not doing enough to avoid the abuse. Findings from studies show that victims of domestic violence have always felt re-victimized by the legal-judicial system's response to their cry for help over their pain of abuse by their partners. As remedy, domestic violence survivor mothers would want the legal system to understand their experiences of being domestic violence survivors and being re-victimized by the legal-judicial system.

Introduction

Re-victimization describes the experiences of women who are domestic violence survivors who are being penalized after being abused by their intimate partners. It is a second time beaten up of these mothers as they navigate through the legal judicial system. Re-victimization occurs when the victim of a crime, in this case, domestic violence survivor mothers are held responsible for the violence committed against them by their intimate partners. Research has documented that today battered women often face child neglect charges when they seek legal help for domestic violence or it is alleged that the children are exposed to domestic violence (Lemon, 2000).

Also, the practice of arresting both parties involved in domestic violence, dual arrest, letting the courts sort it all out is on the increase. Dual arrest occurs when the police at the scene of a domestic violence incident have difficulty in determining who the victim is and who is the offender. This can be damaging to mothers survivors of domestic violence. Mothers who are survivors of domestic violence that are arrested are not likely to call the police for help in future for fear of being arrested again (Buzawa & Buzawa, 2003). This paper examines how mothers who are victims of domestic violence end up being re-victimized by the bureaucratic procedures of government ministries.

The Evil of Domestic Violence

Domestic violence is one of the most crushing and inescapable problems confronting families and society in the 21st century. It cuts across boundaries of race, gender, ethnicity, religion, education, income, and other spheres (Buzawa & Buzawa, 2003). Domestic violence is both a national and a worldwide problem. Domestic violence is commonly and primarily considered a crime against women, as women are most often the victims. According to a 2000 UNICEF study of the world's female population, 20% to 50% will become victims of domestic violence (Stark, 2003). It is a growing problem in the U.S., available statistics indicate that domestic violence impacts more than 5 million Americans yearly, and that more than 85% of those are female (National Center for Injury Prevention and Control, 2003).

In the criminal justice system, domestic violence is defined differently by different states. In the state of Florida domestic violence is narrowly defined:

... any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. (Florida Statute, XLIII, 2009, §§ 741.28-741.31)

The statute goes on to describe family or household member as including spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common, regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have, in the past, resided together in the same single dwelling unit.

Stark, Flitcraft, and Frazier (1979) state that from the mental health perspective and in keeping with current views, domestic violence refers to any behavior within an intimate relationship that causes physical, psychological, or sexual harm to one or both the partners in the relationship. Such behavior includes slapping, hitting, kicking, beating, intimidation, humiliation, forced intercourse, and various controlling behaviors such as isolating a person from his or her family and friends, monitoring his or her movements, and restricting his or her access to information or financial resources.

Domestic violence counts among its victims' children living in the violent household. The problem of child neglect in families where the mother is the victim of domestic is extensive reviewed over 36 studies and found that approximately 30% to 80% of children whose mothers were being abused were also themselves likely to be abused or neglected. (Gelles, (1997) also found that in 35% of a sample of child neglect cases, domestic violence had occurred in the home. Stark (2004) examined conceptual discontinuities in defining the boundaries of child neglect in relation to domestic violence survivor mothers' failure to protect. The study found a correlation between domestic violence and child neglect and argued that child neglect does not exist in isolation from mother abuse in households or other forms of family violence.

Domestic violence often happens together with child neglect in most cases. The co-occurrence of domestic violence and child neglect refers to a child's witnessing or directly experiencing his or her mother being abused by an intimate partner in the home. Based on the growing understanding of the impact of domestic violence on children, many state legal systems have moved vigorously toward strict accountability domestic violence. Some states have enacted specific statutes criminalizing failure to protect the child from exposure to domestic violence, whether or not the child experienced or witnessed the violence. Instead of focusing on the perpetrator for abusing the mother and the child, this strict accountability has been applied toward both the abuser and the mother who is often the abused (Gelles, 1997). Following the presumption that witnessing domestic violence harms children, a disturbing trend has emerged: women are being criminally charged with failure to protect under child endangerment statutes because of the violent, abusive actions of their partners.

Combating Domestic Violence

Under the laws and practices of many jurisdictions, women with children may be criminally prosecuted for failing to leave their abusers or for failing to report or seek help for the abuse that they and their children suffer. This practice by the state and its agencies, of is fueled by the gender bias favoring men in many patriarchal societies (Coker, 2001). According to Cambell, *et al* (2003), patriarchal ideologies are widespread in the legal response to domestic violence. Child Protection Services (CPS) has arguably tended to build on traditional gender assumptions that view the role of the mother as primary caregiver. Child Protection Services considers women almost exclusively as mothers, interprets their needs only in relation to the needs of their children, and provides services designed to support domestic violence survivor mothers' capacities as caretakers (Stark, 2003).

As Coker (2001) points out, caring has been and continues to be socially constructed as women's work. Consequently, a breakdown in care is attributed to the mother. The dominant discourse on women and women's roles suggests that nurturing is carried out by mothers. In keeping with the patriarchal mentality, absent nurturing must thus be a problem of mothering. In addition, battered women are seen by many court officials and child protective service workers as culpable for the crimes inflicted on them (Cambell, *et al* 2003). This view persists because battered women are believed to have either "provoked" the perpetrator into violence or failed to avoid the criminal assault by accommodating the perpetrator's demands (Hawkins,1987). Hawkins (1987) maintains that battered women are often viewed by the police, the prosecutor, judges, jurors, and probation/parole staff as responsible for the crimes committed against them. The trend by the judicial system of removing children from their mothers, the non-offending parent, because they witnessed their mothers being beaten by husband or boyfriend, is also on the rise. This practice by the judicial system of removing children from their mothers, survivors of domestic violence is condoned by the law.

Bureaucratic Re-victimization of Survivors of Domestic Violence

The re-victimization of domestic violence survivor mothers occurs at different points of their encounter with the legal-judicial system: law enforcement, child protective services, and court system. Re-victimization is conceptualized as victim blaming. It includes but not limited to victim blaming and inappropriate post-assault by legal-judicial system and other entities.

Examples of re-victimization include psychological abuse that may ensue in a survivor's interactions with authorities such as law enforcement personnel, the courts, or therapists.

Re-victimization is the second time abuse of these mothers through the responses of individuals and institutions. It is well documented that women are likelier than men to contact the police in domestic violence incidents when they fear for their lives (Lemon, 2000). The police are the gatekeepers to the criminal justice system. Subsequent domestic violence legal interventions hinge on the attitudes of police toward domestic violence and their discretions to make arrests (Buzawa & Buzawa, 2003). To combat domestic violence against women in the U.S., the criminal justice system placed the police as gatekeepers. The law enforcement resorted to mediation or couple separation, at the beginning, then progressed to pro-arrest and making arrests (Buzawa, Hotaling, Klein, and Byrne, 1999). Buzawa, *et al* (1999) characterized police response attitude to domestic violence by indifference or unresponsiveness, leniency, and victim-blaming. Accordingly, the attitudes and behaviors of police who hold authority to refer, arrest, and investigate have a strong impact on women's experiences of the legal system because they influence battered women's access to other parts of the criminal justice system and various social service agencies (Buzawa, *et al* 1999). However, research shows that often the police do not handle domestic violence cases effectively (Johnson, 2007). Furthermore, Stephens and Sinden (2000) noted that police officers often minimize domestic violence situations and doubt the victim. The attitude of police responders to domestic violence can be characterized by indifference, leniency, and victim-blaming. Johnson (2007) explored battered mothers' perceptions of their interactions with child protective services workers and found that most women felt misunderstood and unsupported by their child protective workers.

Prosecutors also play an important role in domestic violence cases. Prosecutors determine how offenders in domestic violence cases will advance through the legal-judicial system (Hartman & Belknap, 2003). A few studies show that court officials perceive domestic violence as a victimless crime because of the relationship between the abuser and the victim. In addition, prosecutors may tend to view women survivors of domestic violence as uncooperative, and fail to provide them adequate support and information. It has been suggested that prosecutors, like police officers, often exhibit victim-blame attitudes in responding to domestic violence. Like the police, many prosecutors consider abused women as uncooperative, weak, and unreliable. Court officials often fail to provide women with information about what they should expect from the trial process and about their rights as witnesses (Hartman & Belknap, 2003). In a study by Erez and Belknap (1998), the majority of the women participants verbalized that criminal justice officials discouraged them from proceeding with prosecution of their partner.

In a study on systemic obstacles to domestic violence survivors' participation in the judicial system, Gillis *et al.* (2006) studied twenty female survivors of domestic violence from 21 to 54 years of age participated in the study. The study found that many women felt further traumatized by ambivalent attitudes and practices prevalent within the system meant to defend them. The study revealed dissatisfaction on the part of all participants in the study. The participants reported that they would be reluctant to involve the legal-judicial system in future domestic violence cases. Further, the study found that most women felt intimidated by courtroom proceedings, as they had little knowledge concerning the legal-judicial system. Koples and Sheridan (2002) examined reported appellate cases from various jurisdictions in which battered

mothers did not abuse their children but were penalized for failure to protect their children from violence by their partners. Koples and Sheridan found that in many situations, mothers pose no direct danger to their children. These authors argue that the civil and criminal sentencing of non-abusive mothers for failing to protect their children adds legal insult to the physical injuries they have already suffered.

The overlap between domestic Violence and child neglect has raised tensions between Child Protective Services (CPS) workers and female survivors concerning the rights and safety of children versus the rights and safety of female domestic violence survivors (Stark, 2003) suggested that battering, most of the time, works against female survivors, when there is a question of attributing responsibility for exposing a child to violence survivors. Stark, (2003) noted that child welfare workers have strong views about battered women's responsibility for their children's safety and for putting an end to the battering. For example, Buzawa and Buzawa, (2003) found that mothers are often held to a higher level of responsibility than male partners to protect their children. It has also been suggested that often the responsibility for violent behavior is deflected away from the person who commits it. Under the laws of many states, the failure of a domestic violence survivor mother with children to leave her abuser may result in criminal prosecution, incarceration, or loss of custody of her children to her abuser. The literature on domestic violence shows that it correlates with child neglect. For the most part, women abused by intimate partners also often have children who are neglected. Although domestic violence correlates with child neglect, for the most part, an abused woman may not have control over the child witnessing her abuse by the partner. This tendency to hold mothers strictly accountable for their own actions of engaging in domestic violence as well as for the actions of their partners has made the legal system a source of implicit danger to battered mothers, rather than one of assistance (Buzawa and Buzawa, 2003).

Buzawa and Buzawa (2003) argue that no man has ever been prosecuted for failing to protect his children from an abusive mother. Critics argue that this strict accountability should instead focus only on the perpetrator. Another study, Stark (2008) examined how domestic violence advocates respond to domestic violence survivor mothers. He noted that the failure of a battered woman with children to leave her abuser may result in criminal prosecution, incarceration, or termination of her parental rights. Also, Stark pointed out that without persuasive proof that victims have entered the CPS case load because of behavioral and mental health problems, referrals to counseling, parenting education, or other CPS services send the message that the domestic violence survivor mother and not the abuser is responsible for her victimization. Furthermore, Johnson and Sullivan (2008) explored battered mothers' perceptions of their interactions with child protective services workers. The aim of that study was to increase understanding the negative and positive effects that child welfare workers and police have on women's and children's lives. Twenty mothers who are survivors of domestic violence participated in the study. The study found that most of the participants felt misunderstood and unsupported by their child protective workers. Also, they thought that this treatment from their child protective workers harmed them and their children.

In recent times, in the U.S., women have represented the most growing segment of America's prison population. The majority of women in jail today are domestic violence survivors and many of whom have been imprisoned for fighting for their own survival. Such example includes

cases in which a battered woman kills her abuser, the boyfriend, husband or partner. In most cases, the abuse they suffered in the hands of their intimate partners led to their alleged misdemeanors.

In a recent research done by (Ekwe, 2011), twelve domestic violence survivor mothers charged with child neglect and court-mandated to counseling volunteered to participate in the study. They were mothers between the ages of 20 to 45 years old, who were in a heterosexual relationship, and had a minor child or children at the time of the domestic violence incident. All of the participants in this study revealed that they felt battered again by the legal-judicial system in different ways. Participants felt victimized and penalized by law enforcement, Florida Department of Children and Family Services (DCF), and the court. It is one thing to be beaten up by their husband or boyfriend and an entirely different thing to be beaten up by the system that is supposed to defend them. The twelve women described their experiences as having been both re-victimized and penalized. This study reveal that these mothers experienced the legal-judicial system's response to their abuse as re-victimizing interventions that seemed to hold them liable for the actions of their abusers.

The theme of re-victimization was characterized in different ways in the participants' stories. The study participants felt re-victimized and overwhelmed with the extensive requirements DCF placed on them. Some could not work or attend academic courses because of DCFS mandated groups. Accordingly, these domestic violence survivor mothers felt chastised for something their partners did to them. They expressed disappointment over the treatment they received from the legal-judicial system that they had hoped could help them.

Conclusion

Findings from studies have shown that victims of domestic violence have always felt re-victimized by the legal-judicial system's response to their cry for help over their pain of abuse by their partners. In addition, the findings indicate that the victims felt placed into many regimented programs that limited personal time to search for jobs or attend school to better themselves. Furthermore, they felt psychologically tortured by being forcefully separated from their children and not getting detailed information from DCF workers about the condition of their children. Also, the findings of the study reveal that the participants were denied voice in court, not allowed to talk or explain themselves to judges during their case hearings. Thus, a place they thought would give them voice, instead, drowned their cry of pain for help from abuse. They felt victimized a second time.

As remedy, domestic violence survivor mothers would want the legal system to understand their experiences of being domestic violence survivors and being re-victimized by the legal-judicial system. They felt they were held responsible for their abusers' actions, cry for help muted, and their pain of abuse discounted with child neglect charges and court-mandated to counseling. They felt re-victimized by some police, some DCF workers, and the judiciary. Participants' stories reveal unmet expectations from the legal-judicial system. An important role for the legal system is to enforce domestic violence laws as well as to protect them from further victimization and to hold perpetrators accountable for their behavior. Domestic violence survivor mothers are being criminally charged with child neglect for the violent behavior of their abusive partners.

Participants' stories reveal unmet expectations from the legal-judicial system. Common barriers found in the narratives of the participants were the police not responding to domestic violence calls on time, DCF workers not giving them adequate information about the condition of their children removed, lack of their knowledge about court system, relaxed attitude culture in court system, having to deal with different public defender each court hearing, and their cry for help muted in courtroom as they were not allowed to explain themselves in court or to talk to the judge. While child neglect is a legitimate issue, the bigger question for all entities concerned is how does one protect one's children while being beaten up by both one's partner and the system meant to defend the person?

DV survivor mothers recommend that the legal-judicial system hold the abuser responsible, not the abused, and to be more reasonable about requirements levied on them. Also, they requested that children removed from their parents be placed with relatives of the child instead of being placed in the hands of a total stranger in foster care.

References

- Buzawa, E. S and Buzawa, C. G. (2003) *Domestic Violence: The Criminal Justice Response*. New York: Sage Books.
- Buzawa, E., Hotaling, G. T., Klein, A., & Byrne, J. (1999). *Response to Domestic Violence in a Proactive Court Setting*. Lowell: University of Massachusetts.
- Cambell, J. C., Webster, D., Koziol-McLain, J., Block, C., Campbell, D., Curry, M., et al. (2003). Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study. *American Journal of Public Health*, 93, 1089-1097.
- Coker, D. (2001). Crime Control and Feminist Law Reform in Domestic Violence Law: A Critical Review. *Buffalo Criminal Law Review*, 4(2), 801-860.
- Ekwe, C. N. (2011) Experiences of Domestic Violence Survivor Mothers Charged with Child Neglect and Court Mandated to Counselling. Dissertation. United States of America. Barry University.
- Ekwe, C. N. (2019) "Professional Counselling: A Possible Andragogical Tool for Promoting Learning with Adults of both Genders Engaged in Adult Education in Nigeria." *CWGS Journal of Gender Studies* 1(5).
- Erez, E. and Belknap, J. (1998), "In their Own Words: Battered Women's Assessment of the Criminal Processing System's Responses." *Violence and Victims* (February 1998)13 (3):251-268.
- Florida Statute, "Definition of Domestic Violence" XLIII, 2009, §§ 741.28-741.31.
- Gelles, R. (1997). *Intimate Violence in Families* (3rd ed.). Thousand Oaks, CA: Sage.
- Gillis, J. R. et al. (2006) "Systemic Obstacles to Battered Women's Participation in the Judicial System: When Will the Status Quo change?" *Violence Against Women* (December, 2006) 12(12):1150-68.
- Hartman, J. L. and Belknap, J (2003), "Beyond the Gatekeepers Court Professionals' Self-Reported Attitudes about and Experiences with Misdemeanor Domestic Violence Cases." *Criminal Justice and Behaviour* 30(3):349-373
- Hawkins, D. (1987). Devalued Lives and Racial Stereotypes: Ideological Barriers to the Prevention of Domestic Violence among Blacks. In R. L. Hampton (Ed.), *Violence in the Black family* (pp. 189-207). Lexington, MA: Lexington Books.
- Johnson, Ida M. ((2007), Victims' Perceptions of Police Response to domestic violence Incidents" *Journal of Criminal Justice* (September-October 2007), 498-510.

Lemon N.K.D. (2000) "Custody and Visitation Trends in the United States in Domestic Violence Cases." In Geffner, R.A. Jaffe, P.G. and Sudermann, M (eds) *Children Exposed to Domestic Violence: Current Issues in Research, Intervention, Prevention and Policy Development*. New York, NY: Haworth Press: 329–343.

Stephens B. J. and Sinden, P. G (2000), "Victims' Voices" *Journal of Interpersonal Violence* 15(5)534-547.

Stark, E. (2003). "Race, Gender, and Woman Battering." In D. Hawkins (Ed.), *Violent crime: Assessing race and ethnic differences* (pp. 171-197). New York: Cambridge University Press.

Stark, I. (2004) *Insults, Injury, and Injustice: Rethinking State Intervention in Domestic Violence Cases* New York: Sage Books.

Stark, E., and Flitcraft, A. (1996). *Women at Risk. Domestic Violence and Women's Health*. Thousand Oaks: Sage.

United States National Center for Injury Prevention and Control, (2003) *Report on Domestic Violence in the US*. 2003.