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Patriarchy, The State and its Effect on the Implementation of the Domestic
Violence Act in the Klang Valley region of Malaysia

Abstract

This paper explores the pressing issue of domestic violence in Malaysia, specifically the implementation of the Domestic Violence Act that was enacted in 1994. Due to strong patriarchal structures that are still prominent in societies, the issue of domestic violence is not seen as a public problem, but as a private issue that should be resolved between partners. This ideology has trickled down to the way authorities like the Police, Social Welfare and Hospitals respond to survivors of domestic violence.

Using a Critical Discourse Analysis approach, the Domestic Violence Act (DVA) and its amendments, interviews with non-governmental organisations and survivors of domestic violence were analysed to investigate the effect of patriarchal structures and its influence on how the Act is implemented. A cohesive mix of theories were used during the analysis, namely using a feminist and intersectional approach, masculinities and the study of patriarchy and theocratization of the State and religion. This paper has identified three patterns that have influenced the way the DVA is implemented – Patriarchal Structures, Power and Control of Authorities and The Relationship between the State, Religion and Patriarchy. Through these themes, the extent of which patriarchal structures has played in influencing the implementation of the DVA is prominent. With the theories employed, research conducted and analysis, the questions that this paper has posed has been explored in detail and addressed.

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Abbreviations

NGO	Non-Governmental Organisation
VAW	Violence Against Women
DVA	Domestic Violence Act
DV	Domestic Violence
GBV	Gender-Based Violence
WAO	Women's Aid Organisation
AWAM	All Women's Action Society Malaysia
SIS	Sisters in Islam
JAG	Joint Action Group
OTI	Order To Investigate
DPP	Director of Public Prosecutions
IPO	Interim Protection Order
PO	Protection Order
EPO	Emergency Protection Order
OSCC	One Stop Crisis Centre
CEDAW	Coalition on the Elimination of all Forms of Discrimination against Women
LGBTQI	Lesbian, Gay, Bisexual, Transgender, Queer and Intersex

CHAPTER 1: INTRODUCTION

1.1 Background

Malaysia is a Southeast-Asian country that was a colony of the British Empire for 83 years up until its independence in 1957. Malaysia is known to be a multicultural state, with a significant population of Malays (who make up most of the population at almost 70% of the population demographic), Chinese (with 6.69 million, 23%) and Indians (with 2.01 million, 6.9%). The Federal Constitution of Malaysia was largely moulded by British colonialism, federalism, and the politics of communalism and ethnic nationalism. According to the Department of Statistics Malaysia, as of July 2018 the population of Malaysia is 32.4 million, with almost half (15.7 million) of the population being female. Kuala Lumpur and Selangor make up the region of the Klang Valley and the population constitutes almost 26% of the population of Malaysia. (Kuala Lumpur 1.89 million and Selangor with 6.52 million) (Department of Statistics Malaysia, 2018; Department of Statistics Malaysia, 2019).

Since the 1980s, Violence against Women (VAW) has been a pressing issue which led to the establishment of non-governmental organisations (NGOs) such as Women's Aid Organisation (WAO), Tenaganita, All Women Action Society Malaysia (AWAM), among others, to address this issue and provide redress for survivors of Gender-based Violence (GBV) due to the lack of a legal framework or protective shelters to help assist women who endured this. According to WAO, an estimate of 39% of Malaysian women have been abused by their partners (Abdullah, et al 1995). Although this is a significant percentage of women affected, domestic violence (DV) is often a hidden social problem. This is widely associated to the sensitivity of the issues surrounding the problem, predominantly the traditional and cultural belief in the privacy of the family and intimacy of marital relations. Domestic Violence is seen as a marital 'problem' that should remain between the partners or family and not discussed openly. This is also the case for marital rape, which is still not criminalised in Malaysia, as of 2019.

WAO conducted a national research survey resulting in the publication of their 45-page report, titled "Battered Women in Malaysia: Prevalence, Problems and Public Attitudes" (Abdullah, et al 1995). It was estimated that in 1989, 1.8 million women over the age of 15 were abused by their husbands or partners. From this number, only 909 women reported the abuse to the police. In the report, women have told their experiences of seeking assistance and

that they were not listened to but were advised to be more patient and not to provoke their husbands (Abdullah, et al 1995).

Malaysia has a two-tiered legal system – the Shariah and Civil Court Systems. With the Federal Constitution and the Penal Code, this falls under the Civil Court System and this applies to the entire population in Malaysia. The Shariah Court system only applies to the Muslim population in Malaysia which follows Shariah Laws and mainly governs matters regarding the family.

Before the enactment of the Domestic Violence Act (DVA) in 1996, legal legislation was not available to domestic violence survivors due to the reluctance to enforce domestic violence as a criminal offence. Legal authorities such as the police and the court were unwilling to act since domestic violence was regarded as a private or family issue. The enactment of the DVA 1994 (DVA) sends a strong message of the seriousness of domestic violence as a crime. However, even with the enactment of the Act and an increase in legal legislations to protect women and children survivors of domestic violence, there is still an apprehension to report the crime.

While the Domestic Violence Act was enacted in 1994 and eventually implemented in 1996, the advocacy for the Act began eleven years earlier in 1985. Women's groups saw the need for this Act and united to form the Joint Action Group (JAG) against Violence Against Women which consisted of individual women and organisations such as WAO, Association of Women's Lawyers (AWL), Malaysian Trade Unions Congress Women's Section, University of Malaya Women's Association and the Selangor and Federal Territory Consumer's Association. Together they organised a two-day workshop to discuss domestic violence and emphasised that it was essentially a form of power and control over women which was sustained by existing patriarchal structures in society in Malaysia (Herbert 1997). Through this workshop, JAG drafted a proposal on the 'Act on Domestic Violence.'

For this paper, the State refers to the government of Malaysia that has the power to pass, implement and monitor legislations under the Federal Constitution and the Penal Code.

1.2 Definition of Domestic Violence

This paper will follow the definition by the Istanbul Convention¹ which defines domestic violence as

“all acts of physical, sexual, psychological or economic violence that occurs within the family or domestic unit between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim.”²

Many scholars have done extensive research on the issue of domestic violence and recognise that it is a hidden problem. This is due to the dearth of reliable information, inability of survivors to report, failure of authorities to take down reports and the social acceptance of intrafamily violence (Women’s Aid Organisation 1997: 3).

As domestic violence happens in the private sphere of the family or domestic setting, there has been a difficulty in making it visible. The very intimacy of the occurrence of the act, that it occurs in a domestic space and relationship, makes it exceedingly difficult to document. Domestic Violence is set apart from other forms of Gender-based Violence (GBV) due to the nature of where it occurs and the relationship between the perpetrators and survivors (Women’s Aid Organisation 1997: 5).

1.3 Domestic Violence Act 1994

The Domestic Violence Act was enacted in June 1994 and implemented in 1996. There are different provisions to this Act and this part of the paper will summarise it.

Firstly, the Act defines domestic violence as an act that

- a) is willingly done to place the survivor in fear of physical injury,
- b) causes physical injury and compels the survivor by force to engage in any act which includes sexual acts,
- c) confines the survivor against her/his will and
- d) causes destruction or damage to property with intent of causing distress to the survivor.³

¹ Also known as the ‘Council of Europe Convention on preventing and combating domestic violence against women’ which was open for signatures in 2011 and as of 2014 has been ratified by 10 countries

² All articles and definitions of the Convention available here:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008482e>

³ Section 2, *Laws of Malaysia: Domestic Violence Act, 1994 (Act 521)*.

The Act defines this deed by a person in the family and does not extend protection to intimate partners who are not married. Although it recognises the act of compelling a survivor by force to engage in any sexual act, however, the definition of rape under the Penal Code contradicts this, as it says "sexual intercourse by a man with his own wife by a marriage which is valid under any written law for the time being in force, or is recognised in the Federation as valid, is not rape."⁴ This therefore contradicts the efforts to achieve legal protection against marital rape. As the DVA is attached to the Penal Code, therefore, married women will not be able to seek redress over sexual violence under this Act.

The Act has classified domestic violence offences following Penal Code sections. However all police procedures are determined by the classification of the case and any offence charged under the DVA is considered a non-seizable offence. Therefore, before police may proceed with an investigation into the majority of domestic violence cases, officers must first receive an Order To Investigate (OTI) from the Director of Public Prosecutions (DPP). This requirement has serious implications for women seeking legal outcomes under the DVA, including protection orders (WAO 1997: 10 - 11).

There are two types of protection orders that can be attained under the DVA – an Interim Protection Order (IPO) and Protection Order (PO). An IPO may be issued while police are carrying out their investigations, but this can only be done once an OTI is received from the DPP. According to the DVA, offenders who are arrested for contravening an IPO or PO "shall be brought before a judge within twenty-four hours of his arrest."⁵ For women who submit a report of domestic violence and are seeking legal protection, however, Section 14 states "[a] complaint pursuant to this Act . . . shall be heard by the court as soon as practicable." This statement does not convey a sense of urgency to protect battered women from domestic violence.

Once the police investigations reach a decision, an IPO stops to be effective. Following this, the accused could be "charged with an offence committed under circumstances that fall within the definition of 'domestic violence'". The court may then issue a Protection Order (PO).⁶ The scope of a PO is greater than an IPO due to additional provisions which may be

⁴Section 375, *Laws of Malaysia: Penal Code (F.M.S. Cap. 45)*. 1995. Kuala Lumpur: International Law Book Services.

⁵Section 7(3), Domestic Violence Act (DVA).

⁶Section 13, Domestic Violence Act (DVA).

attached to the order. Section 5(2) of the DVA enables the court to include a provision in a PO prohibiting the person against whom the order is made from inciting "any other person to commit violence against the protected person or persons."

The steps women must take to have further orders attached to POs are not defined. Under existing procedures, women must arrange IPOs and POs through Social Welfare, without the counsel of a lawyer (WAO 1997: 10-11) It is not clear who, if anyone, is informing women of their right to attach additional orders to IPOs and POs. In addition, it is not clear what guidelines are utilized by the court to determine the necessity of additional orders, or what protection is available to women following the expiration of the PO.

1.4 2012 & 2017 Amendments of the Domestic Violence Act

Both amendments in 2012 and 2017 have contributed greatly to addressing the gaps existing in the Act which was originally drafted and enacted in 1994. Below, essential amendments to be noted include the expansion of the definition of domestic violence and the introduction of the Emergency Protection Order (EPO).

2012 Amendment:

The definition was expanded to include psychosocial, emotional and mental abuse as forms of domestic violence. Furthermore, there was an addition to the definition on the use of a substance without the survivor's consent or if the consent was unlawfully obtained.⁷ The amendment included the provision that the Act "shall be read with the Penal Code (Act 574) or any other written law involving offences relating to domestic violence."⁸ Furthermore, a vital addition to the Act was to include "the pain and suffering of the victim, and the nature and extent of physical injury or psychological abuse which includes emotional injury suffered"⁹ on the provision for Compensation

2017 Amendment:

The definition was further expanded to include

- a) dishonest misappropriation of the survivor's property;
- b) threatening the survivor with intent to cause fear to the survivor or third person;

⁷ Amendment to Section 2 (2012)

⁸ Substitution to Section 3 (2012)

⁹ Amendment to Section 10 (2012)

- c) communicating with the survivor or about the survivor to a third person through any means.¹⁰

A critical and much needed contribution to the DVA was the introduction of an Emergency Protection Order (EPO). The EPO fortifies the existing IPO by including additional safeguards for survivors such as restraining the perpetrator from intimidating or harassing the survivor by not allowing them to come near her/him, or the workplace or safe place, essentially working as a restraining order. An EPO is valid for 7 days and it is not necessary to make a police report to obtain an EPO. An EPO can also be obtained before getting an IPO or PO¹¹.

Furthermore, it has been added that the application for an IPO or PO can be done by the survivor, survivor's lawyer, social welfare on behalf of the survivor and the police on behalf of the survivor¹². Additionally, an important amendment that was added was ensuring the survivor is informed of the status of the police investigation relating to the offence of domestic violence and informing the survivor of the status of her application for an IPO, PO or EPO¹³.

¹⁰ Amendment to Section 2 (2017)

¹¹ Addition of new provision, Part IA (2017)

¹² Addition of new provision, Section 13A (2017)

¹³ Amendment to section 19 (2017)

1.5 Research Questions

This paper seeks to investigate the implementation of this law through analysing the reporting mechanisms present for survivors, such as the Police, Social Welfare and the court system. Through the research conducted, this paper seeks to address the underlying cause of the lack of implementation: strong patriarchal structures and its relationship to the State. This paper focuses on the Klang Valley region of Malaysia which constitutes the states of Selangor and Kuala Lumpur.

This paper seeks to answer the following **research questions**:

- 1. To what extent have patriarchal structures affected the implementation of the Domestic Violence Act of 1994 in Malaysia?*
- 2. What is the relationship between patriarchal structures and the State in Malaysia, and how has this contributed to the implementation of the Domestic Violence Act of 1994?*

CHAPTER 2: LITERATURE REVIEW

The purpose of a literature review is to evaluate what literature and research has been done on this topic and what is lacking. As explained by Hart, a literature review is “the use of ideas in the literature to justify the particular approach to the topic, the selection of methods and demonstration that this research contributes something new” (1999:1). Four existing studies on the topic of Domestic Violence Legislation in Malaysia have been selected for this review and all these papers have been written by scholars from Southeast Asia. For an ease in reading and understanding these papers, this review has been categorised according to the research conducted.

2.1 Combating Domestic Violence in Malaysia: Issues and Challenges by Rahman, A.A. and Ismail, C.T.M

Rahman and Ismail (2013) examine reports from NGOs in Malaysia that actively assist survivors of domestic violence and found that despite the strategies and methods implemented, domestic violence remains a significant issue in Malaysia. One of the main reasons for this is due to the inefficient implementation of the legislation and the lack of protection for women facing domestic violence. Rahman and Ismail (2013) highlight the issues and challenges for the implementation of the law by authorities. They detail the DVA and the protection mechanisms it is purported to provide and highlight that although there is a written act for domestic violence in Malaysia, it must be read along with the Penal Code (Act 574) as the DVA is not a standalone act. (2013: 2) As it is stated in the paper, “domestic violence is not recognised as a specific crime, but it is defined as consisting of a number of abuses” (2013: 3). This is because in order to implement the DVA, provisions of offences in relation to bodily harm under the Penal Code must be invoked. Rahman and Ismail (2013) also brings attention to the issues faced by survivors in court, especially as there is no one ‘family law’ for every citizen in Malaysia. For Muslims, this would fall under the Shariah Court and social welfare assistance will fall under the Islamic Religious Affairs Department, not the Department of Social Welfare which would apply instead for non-Muslims (2013: 2).

Rahman and Ismail (2013) outline two main challenges to the implementation of domestic violence: the weakness of the law and barriers faced by women. Following Section 7(1)¹⁴ of the Act, there are four points related to the weakness in the law, specifically that DVA

¹⁴ states that if the court is “satisfied” that the survivor with the PO or IPO is in danger of further harm and presents evidence of the abuse, the court may attach a “power of arrest”

is not a standalone Act, the lack of legal enforcement of the Act and how power of arrest by police officers is only based on physical harm caused by the perpetrator, which neglects the aspect of emotional abuse. They address that the Act dismisses a huge aspect of domestic violence which is psychosocial and emotional abuse. The last challenge addressed by Rahman et al. (2013) is on how the court has the power to order the survivor and perpetrator to go to a ‘conciliatory body’ to help the couple reconcile. This is stated in Section 11(1) of the DVA (2013: 4). These barriers faced by women experiencing domestic violence are stated in the DVA, according to Rahman and Ismail (2013).

In relation to the barriers faced by women who are experiencing domestic violence, Rahman and Ismail (2013) state the main challenge is related to cultural values and beliefs. There is a strong perception in Malaysia that domestic violence is an issue to be hidden and it is a “marital problem that needs to be solved between the couple” (2013:4). Furthermore, survivors often do not know their rights under the law. The high costs and complicating court proceedings hinder a survivor’s incentive to proceed with the prosecution of the case. A gap in this paper is that it does not include the 2017 amendment to the DVA - how law enforcers implement the law and the behaviour of first-responders towards an incident of domestic violence is lacking.

2.2 Domestic Violence Court: A New Model to Combat Domestic Violence Against Women in Malaysia by Mahdzir, Rahman, Rahim & Ismail (2016)

This paper critically evaluates the effectiveness of the domestic violence legislation and protection mechanisms and proposes an alternative way of addressing these cases – introducing a domestic violence court, or family court that would be applicable to every citizen in Malaysia regardless of their race and religion. The paper recognises that there is a clear discord between policy and practice, and this has led to a discrepancy in the number of cases that are reported and brought to court (Mahdzir et al. 2016: 96). Statistics published by the Ministry of Women, Family and Community Development in 2013 show an increase of cases reported. However, the numbers brought to court and prosecuted are very low. This is attributed to the lack of women’s knowledge on their rights under the law (Mahdzir et al. 2016: 96). This paper also reiterates the issue of domestic violence as being a “purely domestic problem that needs to be hidden” (Mahdzir et al. 2016: 97).

The challenges brought up in this paper are the same as in the paper published by Rahman and Ismail (2013). However it introduces a solution by introducing a domestic violence court as being the most effective measure to address the issues related to the prosecution of domestic violence cases. The argument is that it would essentially serve as a ‘One Stop Centre’ in addressing domestic violence prosecution as well as protection matters such as the application for the PO and IPO, power of arrest, among others. The paper suggests modelling this court from the established family courts in Australia where domestic violence cases are heard by the Family Court of Australia (Mahdzir et al. 2016: 102). Although this solution sounds ideal, in practice it would not work in Malaysia due to the two-tier court system – Civil and Shariah – and having a majority Muslim Malay population with strong conservative views, the introduction of this court may be a way to ‘break up the families,’ as the DVA was perceived as.

2.3 Early Detection and Prevention of Domestic Violence Using the Women Abuse Screening Tool (WAST) in Primary Health Care Clinics in Malaysia by Yut-Lin, W. and Othman, S., (2008)

The aim of this paper was to determine the relationship between social aspects of adult patients, domestic violence and subsequent assistance sought if abused. This paper uses the Women Abuse Screening Tool (WAST) which showed significant differences in ethnicity, income and education between those who have screened positive and negative for domestic abuse (Yut-Lin & Othman 2008: 102). 717 patients were identified and consented to be interviewed but only 710 completed the process (Yut-Lin & Othman 2008:106). Patients were interviewed on sociodemographic background, risk behaviours, health services sought, women abuse screening, women’s perceptions towards domestic violence screening and help sought if abused (Yut-Lin & Othman 2008: 105).

The study found that the ethnic distribution of women who had faced domestic violence was 56.9% Malay, 24.9% Indian and 16.6% Chinese. Most of the participants were married and a small portion (3.1%) was not (Yut-Lin & Othman 2008: 107). The study also showed that almost half the patients (49.3%) belonged to the low-income group (monthly household income less than RM1500), whereas 37.7% were from middle income and 11.8% from high income groups (Yut-Lin & Othman 2008: 108). The study also showed that most of the Malay and Indian patients from the study came from low income groups while many Chinese came from middle income earning brackets (Yut-Lin & Othman 2008: 108). Regarding forms of

abuse experienced, 92.5% were emotionally abused, 62.5% were physically abused and 32.5% were sexually abused.

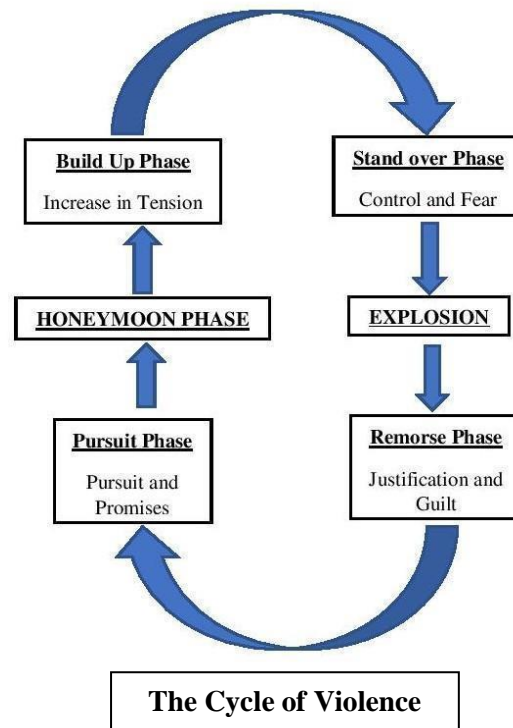
This paper is rich with quantitative data. An important aspect of it is that it has an intersectional approach with the social factors such as ethnicity, education and income, and it analyses how these correlate to domestic violence. The paper also highlights how pregnant women are at a greater risk of domestic violence and stresses on the importance of receiving appropriate care (Yut-Lin & Othman 2008: 113). Furthermore an important recommendation of this paper is on the improvement of health care providers for the treatment of domestic violence survivors. This is important as often, they are the first-responders and if health care personnel do not develop effective intervention and prevention strategies for the survivors, this could prove more detrimental to the survivor (Yut-Lin & Othman 2008: 114).

2.4 A Feminist Critique of Domestic Violence Laws in Singapore and Malaysia by Amirthalingam, K., (2003)

This paper provides strong analysis and critique of domestic violence legislation in Singapore and Malaysia. The focus here is on Malaysia as that is the aim of this research. Amirthalingam (2003) adopts a feminist perspective and validates why this is essential when critiquing domestic violence legislation. He claims that feminist perspectives recognises that “the root cause of violence lies in unequal power relationship between men and women, compounded in male dominated societies” (Amirthalingam 2003: 1). He adds that “the significance of a feminist approach is that it forces a paradigm shift in our way of thinking about domestic violence” (Amirthalingam 2003: 1). He reiterates this by stating the importance of shifting the standard of domestic violence away from the private domain to the public field (Amirthalingam 2003: 1). Amirthalingam (2003) divides his paper into two main parts: Part 1 focuses on the gendered aspect of domestic violence through theoretical and historical perspectives and Part 2 analyses to what extent the feminist lens can address the challenges identified in Part 1 and how to engage national and international frameworks.

In summary, Part 1 addresses essential aspects of domestic violence as a women’s rights issue influenced by historical perspectives. He analyses this through a feminist lens and looks at how domestic violence has been overlooked as it is “culturally and legally accepted or tolerated” (Amirthalingam 2003: 6). This paradigm has contributed to the cycle of violence which inadvertently leads the survivor to believe that she cannot help herself. It is important to

note that Amirthalingam based the concept of the Cycle of Violence on the findings of Dr. Lenora Walker (1979). Below is a diagram breaking down the cycle of violence:



Source: Dr Lenora Walker, 1979, USA ¹⁵

Essentially, the central argument to this is about power and on how people in a position of power exercise control and dominance over others. Amirthalingam validates this point with a quote from Dobash and Dobash stating that “violence in the family should be understood primarily as coercive control” (Amirthalingam 2003: 15). Therefore, violence has been used as an instrument to preserve dominance and control. As his paper focuses on the context of Malaysia and Singapore, he brings in the cultural context which heavily influences the perception of domestic violence. He argues that it is essential to differentiate between cultural and patriarchal practices. When cultural practices perpetuate violence against women, it contributes to the increased level of violence and adds to the cycle of violence (Amirthalingam 2003: 9). Unfortunately in Asia, cultural relativism has been used to resist universal norms to promote the concept of “Asian values,” and this should not be used to defend the act of violence against women (Amirthalingam 2003: 10).

¹⁵ Dr Lenora Walker developed a theory in 1979 called “The Battered Woman Syndrome” where she talks about the “Cycle of Violence.” Her publication has since been the foundation for the development of the Cycle of Violence diagram. Her book can be found here: http://lghttp.48653.nexcesscdn.net/80223CF/springerstatic/media/samplechapters/9780826170989/9780826170989_chapter.pdf

Amirthalingam uses his findings in Part 1 as a basis for his analysis of the legislation included in Part 2. He outlines the DVA and how separate laws governing Muslims and non-Muslims regarding family matters in Malaysia, have contributed to considerable delays in implementation, prosecution of perpetrators and the failure to ensure women are aware of their legal rights (Amirthalingam 2003: 18-19). Amirthalingam (2003) reiterates this through breaking down the DVA and bringing attention to the 90% of domestic violence cases classified as non-seizable offences. This contributes to the delays in prosecution and implementing protective mechanisms like the IPO for survivors (Amirthalingam 2003: 20-21). Furthermore, the idea that domestic violence only occurs in a family unit and not allowing women who are not married to seek redress through the DVA only causes detrimental effects for women in Malaysia. Amirthalingam concludes with a strong sentiment that “the rights and safety of the woman should prevail over the sanctity of the family unit” (Amirthalingam 2003: 22).

Amirthalingam (2003) provides a concise overview and analysis of the DVA which can also be applied to this paper. However, most of these papers rely heavily on existing published information. This research addresses this gap through the interviews conducted with NGOs, Social Welfare and survivors of domestic violence. Furthermore, these papers have been written several years prior to this and provide a baseline on how the implementation of the DVA has been. This allows for a comparison and analysis to ascertain if the implementation of the Act has improved or remained the same.

CHAPTER 3: METHOD

3.1 Type of Research

To answer the research questions, a qualitative study was conducted, specifically the Discourse Analysis. While looking into different qualitative methods which have developed different ways of understanding the social world, a Discourse Analysis was best suited for this research as it takes the next step of embracing a strong social constructivist epistemology (Berger & Luckmann 1986; Gergen 1999). This method focuses on the way the social world is constructed and maintained, reminding the reader that different aspects of discourse are part of the constructive effects of different theories. Discourse analysis allows for the study of individuals in addition to organisations and societies, which is important for this paper. As shared by Fairclough & Wodak (1997: 277), “Discourses are always connected to other discourse which were produced earlier, as well as those which are produced synchronically and subsequently.” This approach allows for the connection of texts to discourses and locates them in a historical and social context (Phillips & Hardy 2002:4). A discourse analysis shares the concern of all qualitative approaches to explore the meaningfulness of social life. This method provides a more profound analysis of the status of meaning through exploring how socially produced ideas and objects are created and maintained.

This paper used a Critical Discourse Analysis, which focused on the role of meandering activity in the development and sustaining of unequal power relations (Fairclough & Wodak, 1997). This method “should describe and explain how power abuse is enacted, reproduced or legitimated by the talk and text of dominant groups and institutions” (van Dijk, 1996: 84). This approach will help in going beyond the linear interpretation of control and attempt to offer an alternative explanation, which has been explored in the Analysis chapter. Furthermore, a Critical Discourse Analysis enables the understanding of the power that is embedded in the way understandings have served to privilege some actors and disadvantage others (Phillips & Hardy 2002:8).

The method used in this paper allows for the uncovering of the practices from the perspective of actors who are actively involved in this field. Developed in social sciences to study social and cultural phenomenon, the method used for the data collection was inductive qualitative interviews with a semi-structured approach. Interviews were conducted face to face with all participants. Furthermore, a document analysis was done specifically on the DVA 1994

and the Monitoring Report of DVA 1997 published by Women's Aid Organisation (WAO). It is important to note that this report also provided case studies from the 90's that were important to reflect on and considered for the analysis. The Monitoring Report provides an account of what has occurred directly after the Act was implemented and allows for a comparison to how the Act was implemented then, to how it is being implemented now.

Qualitative methods have a commitment to seeing the social world from the view of the actor, a theme which is rarely used in quantitative methods. There is a clear emphasis on the commitment of seeing through the "eyes of one's subject." This allows for a contextual understanding of behaviour to be understood in the context of the systems of the particular group or society (Bryman 2003: 12). As this paper focuses on the relationship between patriarchal structures and the implementation of the DVA in Malaysia, it was crucial to ensure that the subject's perspective was the empirical point of departure and this is the justification of this choice of method.

3.2 Method of Data Collection

A total 14 interviews were conducted. To ensure that different perspectives were covered, non-governmental organisations (NGOs) in Malaysia that work with domestic violence survivors and social workers from those NGOs were interviewed. Social Workers scope of work involves the case management of survivor's incident, which included accompanying survivors to the police station, social welfare, courts and hospitals for reporting as well as active follow up with these authorities and this was essential to include to this paper.

The selection of NGOs was not at random and was selected based on their profile and work that they have been involved with. The NGOs chosen to be interviewed have had first-hand experience with dealing with authorities and are aware of the issues and gaps that exist in the system. They have worked with survivors of GBV and assisted them with reporting mechanisms, ensuring effective preventive and response mechanisms were available to survivors. WAO was chosen as the main contributing organisation as they have been advocating and responding to the needs of domestic violence survivors for over 30 years. One of their notable contributions to this paper were the case studies and statistics shared. Furthermore, they have been working closely with the government and the police department on advocacy of introducing a law for Sexual Harassment and including stalking into the Penal

Code. In addition to the Executive Director and Case Manager, two social workers were interviewed as well.

This was similar with the choice of selecting All Women's Action Society Malaysia (AWAM), Tenaganita and Association of Women Lawyers (AWL) to be interviewed. These organisations have been around for at least 10 years and their role in the advocacy for women's rights and the rights of GBV survivors was crucial to the development of the DVA. Sisters in Islam (SIS) was selected as they are the only organisation in Malaysia that works specifically on Muslim women's rights and have been active in promoting their rights especially in the Shariah Court when women are seeking for divorce. This was specifically for domestic violence survivors, as their process of seeking a divorce was more complicated due to the abuse. Furthermore when seeking for divorce, Muslim women must go through the Shariah court, unlike for non-Muslim women who go through the Civil Court system. This perspective was crucial to include in this research as the Malay Muslims cover a majority of the ethnic demographic in Malaysia. It is important to note that all these organisations are part of a women's rights group coalition called the Joint Action Group (JAG) that was formed in the 1990's to push and advocate for women's rights in Malaysia that began with the push for the DVA.

Regarding the validity of the information shared particularly in the interviews by these organisations, they have been actively involved in advocating and working directly with authorities in ensuring the rights of the survivor are prioritised for over 20 years. Their extensive work experience in this field has contributed positively to the field of research in this line and are among the handful of organisations that work on domestic violence in Malaysia.

The NGOs elected a representative to be interviewed, members of their organisation who have actively worked on case management which entails working with authorities and survivors. Furthermore, members were also elected based on their experience on advocacy of women's rights in Malaysia. WAO also allowed two social workers to be interviewed. The selection to interview representatives from the Police, Social Welfare and the One Stop Crisis Centre (OSCC) was made. Since NGOs provided significant information on their experience working with them, it was vital to get the perspectives from government entities as well. Furthermore, it allowed to explore their perspective on traditional gender roles and its impact on domestic violence.

With the help of WAO, three survivors were identified to be interviewed. They were residing at the WAO shelter and had undergone legal mechanisms to seek justice for the domestic violence they experienced. Interviewing survivors of domestic violence was an essential aspect to capture for this paper as it provides a different perspective – the survivor’s perspective. These survivors were able to share their experiences with the police, social welfare and hospitals as well as their perspective of what needs to be improved in the system. Through their interviews, this paper has a better determination of the gaps identified, which have either been established or excluded by the information shared in these interviews. All three cases differed and provided different aspects on how cases are handled by authorities. The three survivors were selected by WAO following certain criteria. The survivor had to be willing to talk about her experience, particularly with authorities and voluntarily willing to be part of this research. The selection of the survivors was not at random either. This was to ensure that different perspectives were included in this paper. All women were of different ethnicities. One was not from Malaysia which allowed for a perspective from a non-Malaysian which gave this paper a more holistic view of how domestic violence is approached by authorities. For this participant, her country of origin will be changed to protect her identity.

The questions for the interview with survivors were drafted in consultation with WAO. This was to ensure that the questions did not reignite the trauma for the survivors. Furthermore, the organisation shared the questions with the survivors to ensure that they knew the content of the interview and were prepared for it. It was also made clear that if they did not want to answer any questions or if they did not want to participate in the research, they were free to withdraw at any point. Through constant consultation with WAO, an action plan was formed to ensure that the survivors interviewed had access to counsellors during and/or after the interview. This was an option provided to the survivors, which was received well. It was essential to establish trust with the survivors which involved building a rapport and establishing trust (O’Reilly 2009: 80).

In addition, two women’s rights activists were interviewed. They are Ivy Josiah and Betty Yeoh. They were selected to be interviewed as they have been actively advocating for the rights of domestic violence survivors since the 80s and the 90s. Their experience and knowledge of this field was imperative to get a perspective, especially, on the struggles they faced when advocating for the enactment of the DVA. During the interviews, they explained

the difficulties and resistance that they faced from the government. This has been explored in more detail in the analysis.

As mentioned above, the initial planning process involved interviewing Social Welfare, OSCC and the Police particularly the D11 division. This division specifically handles cases of GBV and Child Protection. However, this was not possible despite numerous attempts that were made to contact the division. They were not willing to be interviewed and no reason was provided for their decision. This was similar with a representative of the OSCC at University Malaya Hospital. However, this was due to conflicting schedules. Nonetheless, an interview with a representative of the Social Welfare Department in the Klang Valley region was conducted and this interview led to many questions being answered.

In addition to the information gathered during interviews, information was obtained from NGOs and governments. This has been used for the analysis. Statistics have been collected from WAO, AWAM and SIS on the occurrence of reported cases of domestic violence to their organisations. Furthermore, WAO has provided a monitoring report that was drafted in 1997 on the implementation of the DVA. From there, a case study has been chosen for the analysis. To allow for a comparative study, an additional case study has been provided by WAO (which is also published on their website) from the recent years. This will allow for an analysis on whether the implementation of the DVA has changed from 1997.

Government statistics from the Social Welfare Department were acquired and used for the analysis. It must be noted that the latest statistics available is from 2016 and the latest statistics from the last two years has not been published. Part of data used for this paper was the DVA itself and the amendments made in 2012 and 2017. An analysis of the law in correlation with the other information gathered has provided a more complete view of the implementation.

3.3 Ethical Considerations

It was essential to maintain discretion when conducting research and applying research methods that were best suited in approaching this topic. Individual interviews allowed for more privacy with the survivor and discretion to be maintained. The survivors real names were not used in this paper or in the research. In the analysis, the survivors have been labelled through a numerical system (Survivor 1, Survivor 2). Hence, the consent form was essential to include

all the important details. Furthermore, the name of the Social Welfare Officer has been changed at her request. One ethical consideration that had to be considered and ensured that it was not overlooked was with the idea of '*going native*'. (Weiss 1998: 267) This concept was well used, especially among ethnographers and fieldworkers, and it refers to the danger for researchers to become too involved in the community under study, thus losing objectivity and distance (O'Reilly 2009: 87). This is problematic in two different ways. Firstly, it can lead to bias and how it might make the researchers take sides. Secondly, it shows how power relations are almost inescapable in research, since the evaluator might act like a saviour and instil hope in the participants. While conducting the interviews, it was essential to ensure that the principle of neutrality was followed to avoid participants feeling any form of bias and to maintain the professionalism throughout the data collection.

3.4 Data Analysis

The interviews brought about essential data to be analysed. To do this, thematic analysis will be applied. Thematic analysis is the process of identifying patterns or themes within the qualitative data collected. According to Braun & Clarke (2006: 78), this qualitative method should be learned as “it provides core skills that will be useful for conducting many other kinds of analysis.” An advantage of using this method of analysis is that it is not linked to any epistemological or theoretical perspective. This allows for a more flexible approach which is a considerable advantage for this research. (Braun & Clarke 2006; Clarke & Braun, 2013).

One of the main goals of thematic analysis is to identify themes, such as patterns in the data collected that are of significance. Using these themes, addressing the research and analysing the qualitative data collected will be optimised. Furthermore, using this method is not just about summarising the findings of the research, but interpreting the results and making sense of them. However, one drawback of this method is typically researchers use the main interview questions as the themes. (Clarke & Braun, 2013) This is something that is looked at in this research. However, the themes and subthemes will not only be based on the main interview questions, but through the results of the interviews and common patterns identified. The themes were selected through coding of the information gathered from the interviews. From this, three main themes have been identified. They are: **Patriarchal Structures, Power & Control of Authorities and the relationship between the State and Religion.**

Through thematic analysis there are two types of themes: Semantic and Latent themes. This thesis will be using latent level themes, which looks beyond what was said in the interviews and “starts to identify or examine the underlying ideas, assumptions and conceptualisations – and ideologies – that are theorised as shaping and informing the semantic content of the data” (Braun & Clarke 2006: 84).

Braun & Clarke (2006) differentiated between a theoretical thematic analysis and an inductive thematic analysis. According to them, the theoretical approach was determined by the research questions and was a more top-down approach while an inductive approach has been determined by the data itself. For this paper, the interviews were driven by the research questions and therefore the analysis focused on a theoretical approach. Through the thematic analysis, the data has been identified and classified into themes which were then developed on. Leininger reflected on this as he says that themes were identified by the “bringing together of components or fragments of ideas or experience, which often are meaningless when viewed alone” (1985:60). Through the interviews conducted, themes emerge and pieced together to form a full image of the participants collective experience. The “coherence of ideas rests with the analyst who has rigorously studied how different ideas or components fall together in a meaningful way when linked together” (Leininger 1985:60). This point was reiterated by Conostas who stated that the “interpretative approach should be considered as a distinct point of origination” (1992:258). Essentially, through the analysis of the data collected, ideas come about that can be better understood under the guidance of a thematic analysis. Once the data was coded and catalogued into themes and sub themes, a more detailed analysis through a theoretical thematic approach can be achieved.

CHAPTER 4: THEORETICAL FRAMEWORKS

This paper applied five theoretical frameworks to analyse the data collected to answer the research questions. Core concepts and theories underpin the analysis of the extent to which patriarchal structures affect the implementation of the DVA. The application of a combination of theories to the data collected will support or refute the hypothesis.

This paper refers to women who have undergone domestic violence as ‘survivors’ instead of ‘victims.’ The rationale behind this comes back to the way women are seen when they have gone through domestic violence. There has been a conception that agency and victimisation were each known by the absence of the other (Bograd 1988). This was explained by Bograd (1988) as he said, “the trauma of domestic violence is further amplified by victimisation outside the relationship.” By focusing on victimisation, it inadvertently functions as a mechanism of control and therefore takes away agency from women who have experienced domestic violence (Collins 1998: 928). By using the survivor-empowerment approach in this paper, the agency of these women will be returned, and this paper “assumes strength even in the most devastated survivor or the most troubled current victim of violence, oppression and degradation” (Browne 1998: 97). This paper intends to acknowledge the existence of victimisation and agency among women who have gone through domestic violence and how these factors contribute differently depending on social and historical circumstances (Sokoloff & Dupont 2005: 55).

4.1 Domestic Violence through a Feminist Lens

It is important and essential to look at domestic violence through a feminist lens. As mentioned by Amirthalingam in his paper, “the significance of a feminist approach is that it forces a paradigm shift in our way of thinking about domestic violence” (2003:1). He reiterated this by stating the importance of shifting the standard of domestic violence away from the private domain to the public field. Thus, this paper has analysed the domestic violence legislation through a feminist lens.

Yllo and Bograd (1988) have three claims that suggest a common ground to this approach in their book. They are:

1. Family Structure can promote and maintain family violence;
2. An understanding of the women’s experience is essential in order to conceptualise and understand domestic violence;

3. The feminist position on domestic violence is dedicated to establishing theories that talk about the subjection of women, forwarding position and how to promote societal change.

According to Yllo (1993), Violence Against Women (VAW) is a consequence of socially constructed and culturally approved gender inequality. Bograd (1999) suggests that domestic violence is not a monolithic phenomenon and that “intersectionalities colour the meaning and nature of domestic violence, how it is experienced by self and responding to by others, how personal and social consequences are represented and how and whether escape and safety can be obtained” (1999: 276).

4.2 Intersectionality

With that being said, Kimberlee Crenshaw (1995) proposes that domestic violence is a form of oppression and social control and exists in the context created by the intersections of power such as gender, class, ethnicity, race and sexual orientation. The intersections of the systems of power like race, class and gender have created social contexts and oppressions like prejudice, gender inequality and class stratification. Gender inequality itself is modified by its intersection with other systems of power and oppression.

The real-life consequence of this intersectionality can be seen for women who have experienced domestic violence and are seeking safety. Bograd reflects that “individuals may have internalised ideologies antithetical to disclosure of violence” (1999: 281). This can be interpreted to how certain cultures and religions have normalised domestic violence, and interpreted since it occurs in the private sphere, it should be dealt with in the private sphere not the public. This can be seen and reflected upon with NGOs that have been interviewed such as Sisters in Islam (SIS), who spoke about how the government has viewed the organisations as ‘deviants’ as their work scope is to provide protection for Muslim women who have undergone domestic violence and ensuring that the rights of these women are protected. They have constantly been criticised by the State and Malay communities and have been perceived as ‘breaking up the family unit,’ due to their advocacy for Muslim domestic violence survivors.

The intersectional approach gives ways to legitimise the experiences of women who have been marginalised and hidden from dominant cultural discourses of domestic violence. These voices and experiences “must be heard across different perspectives from different

theoretical disciplines and in different forms” (Kanuha 1996: 46). In the end, for the analysis of domestic violence, there is no universal explanation and therefore solutions must reflect these differences and different intersectionalities. Kimberlee Crenshaw (1995: 96) articulated this well arguing that “strategies based on the experiences of women who do not share the same class and race backgrounds will be of limited utility for those whose lives are shaped by different obstacles.”

Multicultural perspectives on domestic violence supports the use of culturally competent services for both survivors and perpetrators. Cultural competence requires an understanding of cultural differences of the clients as well as the cultural and structural needs that the communities have. This can be seen in the Indian and Malay communities living in the estate housing in Malaysia. As mentioned during interviews with NGOs, they have received many reports of domestic violence among these communities living in this housing. They have noted that there was insufficient awareness of knowledge by the community on the available response mechanisms and the rights women have. Furthermore, Indians are the minority population¹⁶ in Malaysia and this adds tension as there is a lack of understanding of the cultural and structural needs of this community (Sokoloff & Dupont 2005: 51). Prevalence of domestic violence cannot be measured without considering how different cultures define domestic violence differently (Yoshihama 1999). It is essential to look at sociocultural contexts as perceptions of violence may differ from mainstream definitions from the way violence has been experienced. Yoshihama (1999) suggested that the conventional definition of domestic violence does not take into the account the specific forms of abuse that are particular to women’s cultural backgrounds.

Race, class and gender perspectives represent a rapidly emerging area of scholarship that attempt to address social problems and to represent the interests and voices of a vast array of marginalised peoples (Mann & Grimes 2001). According to Mann and Grimes (2001:11), “race, class, and gender are structures of oppression that are somehow larger than the individuals who produce them.” Therefore, analysing race, class and gender through an intersectional approach shapes different group experiences which also involves the issue of power, privilege and equity. This means more than just knowing the cultures of an array of

¹⁶ 6.9% of the total population in Malaysia as of July 2018 according to the Department of Statistics Malaysia

groups but recognizing and analysing the hierarchies and systems of domination that permeates society and that systematically exploit and control people (Andersen & Collins 2001: 5-6).

4.3 Structural Violence

An important concept that will be used for this framework is structural violence. In the context of Malaysia and the DVA, it is evident that violence has inadvertently been institutionalised and structured in the laws and in the way these laws and protection mechanisms are implemented (Anderson & Collins 2001: 39-40). Using a structural approach, the “analysis and criticism of existing systems of power and privilege; otherwise the understanding of diversity becomes one more privilege for those with the greatest access to” resources and power (Collins 1998: 149). This calls for a greater emphasis on the structural causes of domestic violence. Collins (1998: 149) argues that the treatment of cultural differences must not “erase the need to look at structural power.” By doing that, it will undercut the social change or political activism needed for a substantial change in the perceptions of domestic violence and policies governing it. The way different communities culturally experience violence is mediated through structural forms of oppression such as racism and colonialism needs to be addressed. Culture may be used to justify violence against women (VAW) creating a danger of presenting the role of culture in domestic violence as a purely negative force although some practices and beliefs can serve as protective mechanisms (Sokoloff & Dupont 2005: 46).

There has been a struggle to achieve a balance between the role of culture and structure and to ensure that culture is not confused with patriarchy and how patriarchy operates differently within different cultures (Sokoloff & Dupont 2005: 47). It has been observed that traditional patriarchal customs that men have practiced, women have accepted for generations and is the product of male domination. Essentially traditional patriarchal customs are also derived from hegemonic masculinity (Sokoloff & Dupont 2005: 47). There is a deeper relationship between gender and power and how “being a man is focused on the privileges within different cultural settings and exposing the reality of subordinate or ‘subaltern’ variants of masculinities (Carrigan 1985).

4.4 Hegemonic Masculinity and Patriarchy

Hegemonic masculinity explains the role of masculinity in oppressive gender orders and relations, including its oppression of subordinate men. (Connell & Messerschmidt 2005),

Freidrich Engels (1884) and Max Weber (1922) argued that family-centred patriarchy was also the underlying model for a more general dominance of men in society and the concept gradually became more used in the broader sense of the rule of men in society. Twentieth-century feminist popularised the term and emphasised patriarchy's associated systematic oppression and subordination of women (Patemen 1988). While patriarchy involves aspects of male supremacy, male privilege and the subordination of women, it is not the same nor should it be reduced to either one of those. It is understood that the notion to centre on some form of power systems where gendered hierarchies of power relations are structured is related to some form of male or masculine lines of logic, which tends to result in male privilege. This is especially the privileging of some men and the subordination of all others to various degrees. This is further emphasised by Kelbert & Hossain (2014: 23) who attempt to illustrate a common situation for men's 'traditional' expectations of control and patriarchal dividends becoming undermined. Marc Peters also highlights this and how systematic patriarchal benefits confer abilities as well as incentives to ignore the unprivileged and how this contributes to the systems of oppression (Peters cited in Edström, et al 2014: 7).

Traditional patriarchal social structures further influence how laws are implemented. This perception is still dominant in cultures in Malaysia and influences social perceptions that domestic violence is a private issue and would not fall under the public sphere. This in turn affects the way authorities address cases and leads to underreporting of domestic violence cases. As domestic violence occurs within the private sphere of the family, making it visible is exceedingly difficult (Hajjar 2004: 3). It is the very intimacy of domestic space and relationships that makes such violence difficult to study and document. This is seen in communities in Malaysia, particularly the Malay and Indian communities that approach domestic violence within marriages as a 'household issue' (Women's Aid Organisation 1997). This notion was constantly reiterated during all the interviews conducted and further explored in the analysis. In principle, an outcome to this was to open the private sphere to increased state intervention, by establishing prohibitions and punishments for violence between family members (Hajjar 2004: 5). If prevailing social beliefs about family relations include the idea that men have a right or obligation to punish and discipline family members, then these tactics are perceived as necessary to maintain order at home and society (Hajjar 2004: 6).

Criminalisation undermines the ability for perpetrators to claim that what they do at home is private, therefore bringing the issue of domestic violence into the public sphere (Hajjar

2004: 9). The establishment of the DVA of 1994 was meant to criminalise the act of domestic violence. However with lack of implementation, the perception that domestic violence is a private matter as it happens in the home, is still prominent especially among law enforcement. This was demonstrated through the Monitoring Report on DVA that was published by WAO in 1997. The case studies in this report demonstrated the lack of initiative and response by authorities to domestic violence and this trend has continued over the years. WAO publishes a report yearly documenting case studies which unfortunately reveals this pattern. Although there are good practices by the police and social welfare in Malaysia, they are often placed in the shadow of the bad practices due to their prominence. Thus, although criminalisation of the act of domestic violence exists, the act of implementing this has been lacking. This is further explored in the chapter on analysis.

4.5 Shariah Law, Religion and Patriarchal Structures

Violence has been accepted through institutionalised laws like Shariah Laws for Muslim women in Malaysia, where these laws are heavily influenced by religion and cultural norms and patriarchal structures. This in turn has trickled down to the way laws are drafted and implemented by law enforcement, social welfare and hospitals (Hajjar 2004: 10-11) For example, marital rape is another form of domestic violence whose justification can be found in the Shariah. Although rape is a punishable crime in every Muslim society, nowhere is the criminal sanction extended to rape within the marriage, as sexual access is deemed elemental to the marriage contract. Marital rape is seen as ‘un-criminalisable’ under dominant interpretations of Shariah and this has been institutionalised in national law (Hajjar 2004: 10). This is seen in Malaysian legislation where marital rape is still not a crime and considered to fall under the ‘private sphere.’

There are contexts where violence is prohibited by the law but as they are not enforced, perpetrators enjoy social impunity. Impunity suggests a reluctance or resistance to recognising and dealing with intrafamily violence as violence (Hajjar 2004: 3). This is highly visible in the case of Malaysia and the implementation or the lack thereof of the DVA. Although the DVA was enacted as an act in 1994, it was only implemented in 1996. This was due to the fear of the Act hindering on the rights of the majority Malay population (Women’s Aid Organisation 1997: 4). Furthermore, through the case studies published by WAO, it is evident that the implementation of the law has been heavily influenced by social impunity. This was also seen

in the information gathered during the interviews which will be further analysed in the next chapter.

The problem with impunity is that it is exacerbated by social and legal constructions of the family as private and popular perceptions of male power which includes the domination and aggression towards women as normative (Hajjar 2004: 3-4). Shariah law functions both as specific legal rules and as a general religion-cultural framework for Islamic norms and values. Efforts to implement law reforms to enhance the rights and protection of women within the family are bound up in contestations over the role and the jurisprudence of religious law. In turn, social acceptance or reforms is contingent on their perceived compatibility with religious beliefs (Hajjar 2004:4).

There needs to be an explanation of the relationship between religious law and the State as it thumps on the permissibility or prohibition of violence within the family and the rights of women (Hajjar 2004:4). The State nationalises religion by incorporating Shariah principles into the national legal regime. However the role of the State is to prohibit and punish violence. The prevalence of domestic violence signals an enduring difficulty to activate a legal solution (Hajjar 2004: 9). However, the prospect of prohibiting and punishing domestic violence heavily depends on the State's willingness and capacity to reform criminal and family laws. In most Muslim societies, Shariah is interpreted to allow or tolerate some forms and degrees of intrafamily violence. This stimulates debates on what religion 'says' about the rights of women (Hajjar 2004: 9-10). Dominant interpretations of Shariah accord men the status as heads of their families with the responsibility and guardianship over women (Hajjar 2004: 16). This is evident in the case of Malaysia and shown during my interview with SIS which has been further analysed in the next chapter.

This hierarchical and highly patriarchal relationship is based on the Quranic principles of qawwana (authority and guardianship) and ta'a (obedience), from which gender-differentiated rights and duties are derived (Hajjar 2004: 10). This has been used to assert men's rights or option to discipline women who are 'disobedient.' Although most countries with a majority Muslim population have signed CEDAW, they have entered reservations intended to preserve Shariah on a matter of personal status. In Malaysia it was declared that the State's "accession is subject to the understanding that the provisions of the Convention do not conflict with the provisions of the Islamic Shariah law and the Federal Constitution of Malaysia. With regards

to this, the Government of Malaysia does not consider itself bound by the provisions of articles ... 9(2), 16(1)(a), 16(1)(f) and 16(1)(g) of the aforesaid Convention. In relation to article 11, Malaysia interprets the provisions of this article as a reference to the prohibition of discrimination on the basis of equality between men and women only.”¹⁷

The relationship between religion and the State is informed by the history of state formation and development, as well as the demographic composition of the population. Experiences of different groups like male and females, LGBTQI and different ethnicities are heavily influenced by the legacies of colonial rule. This is also influenced by the trajectory of national independence, integration and development. This has informed the State on the perspective of their implementations and agenda, specifically to gender, family relations and women’s rights (Hajjar 2004: 19). The Constitution and Penal Code in Malaysia was drafted during British colonization in Malaysia (Malaya at that point) and heavily influenced by colonial Britain’s laws at that time. For example, the Sedition Act and the criminalisation of Sodomy.

Family and social relations are patriarchal in nature and the Shariah laws further bolster these arrangements. Lisa Hajjar (2004) characterises this relationship into three - communalization (religious laws, institutions and authorise accorded semi-autonomy from the state), nationalisation (religious laws and jurisprudence are incorporated into or influential over the state’s legal regime) and theocratization (the state based its own authority on religious law and jurisprudence) (Hajjar 2004: 19). In Malaysia, we see a mix of two characteristics - communalization and nationalization. Before explaining why Malaysia is a combination of these characteristics, it is important to understand what these characteristics mean.

A) Communalization:

In countries where members of different religious communities are subject to separate systems of personal status laws, there are two tiers of law. The laws and legal institutions governing family relations are not only legally separate from the state but also regarded ideologically as outside the state’s domain (Hajjar 2004: 20). In these situations, the populations are religiously diverse and the national political and legal systems are supposedly nonreligious. The two-tiered system was introduced at a time of independence as part of an

¹⁷ Malaysia reservations, declarations and objections to CEDAW, available here: http://www.bayefsky.com/html/malaysia_t2_cedaw.php

initiative state-building to accommodate religious and social differences and dependency on the State by religious authorities (Hajjar 2004: 20). This gives State policies a means in preventing religiously based resistance by religious minorities to the new State. Communalization of personal status laws that are discriminatory toward women deprives them of equal citizenship rights (Hajjar 2004: 20).

B) Nationalization:

Any state that identifies Islam as the official religion and draws religious law to shape national legislation and policies but does not derive or base its own authority on Shariah would fall under this category (Hajjar 2004: 24). The nationalization of religion blurs the line between religious law and the State. This blurring strengthens the importance of religious law but also opens space for debate over the relationship between Shariah and other bodies of law (Hajjar 2004: 24). Regarding women's rights, there is room for manoeuvre to seek state intervention and legal reform through reference to criminal and constitutional laws.

In Malaysia, we see this with the two-tier system of civil laws and Shariah laws. Both legal systems are applied to different parts of the community – Shariah for the Muslim population and Civil applies to every citizen of Malaysia. The DVA is a standalone Act and applies to every person in Malaysia, regardless of religion or race. However, in terms of seeking divorce, Muslim women need to go through the Shariah court system which has proven to be difficult and impartial towards women (Women's Aid Organisation 1997: 5). Furthermore as mentioned in Chapter 1, it is seen that the citizenship rights of women are unequal to men and marital rape is still legal. This can be interpreted as having been influenced by religious institutions like Shariah laws along with strong cultural and patriarchal social structures.

CHAPTER 5: ANALYSING THE EXTENT OF INFLUENCE OF PATRIARCHAL STRUCTURES ON THE IMPLEMENTATION OF THE DVA 1994

The analysis on this paper seeks to answer research questions, mainly to what extent does patriarchal structures affect the implementation of the domestic violence legislation in Malaysia? To answer this, the information gathered from the interviews with participants, statistics and the Monitoring Report 1997 by WAO being analysed through a feminist framework and through the theories identified in Chapter 4 were brought in. Firstly, the main themes identified for this analysis are:

1. Patriarchal Structures and its part in setting gender roles
2. Power and Control of Authorities
3. The Relationship between the State, Religion and Patriarchal Structures

These themes were identified through close examination of the material gathered from interviews and the common themes that were prominent there.

Before delving into the analysis, it is essential to reflect on the official and non-official (NGOs) statistics to note the occurrences of domestic violence as well as the inconsistencies with the recording of this data. It is important to note that the latest statistics available by the Social Welfare Department is for 2016 and they have not released the statistics for 2017 and 2018. Furthermore, during the interview it was clarified that these statistics does not include survivors who had retracted their statements or report, therefore it is not a holistic figure of total number of people who had experienced domestic violence. According to the Social Welfare Statistics Book of 2016, they received a total of 852 reports, 134 from Selangor and 111 from Kuala Lumpur (Jabatan Kebajikan Masyarakat, 2017). The statistics was also disaggregated according to the ethnic group where the highest reports were received by Malay, followed by Indian, Chinese and others. It should be noted, that it was reported that 254 Malay women sought for an IPO, 76 Chinese women and 59 Indian women. Out of these, only 20 Malay women received a PO, 6 Chinese women and 12 Indian women (Jabatan Kebajikan Masyarakat, 2017). Furthermore out of all these cases, there were only 3 cases that went to civil court which means that the majority of cases did not manage to get the full extent of justice. As mentioned, reports that were retracted are not included in these statistics. Therefore these are cases that did not receive the full extent of justice from the legal system. Moreover, it should be noted that 85 cases received counselling at the Social Welfare Office (Jabatan Kebajikan Masyarakat, 2017). The statistics does not specify if this counselling was with or

without their spouse and what type of counselling this was. Additionally, the Police Department does not have statistics on the reporting of domestic violence available on their website neither does the Ministry of Statistics. However on the WAO website, they have published statistics, where the source cited is from the Police Department. According to that, in 2017 there were 5513 and in 2016 there were 5769 reports. In 2017, Kuala Lumpur received 424 reports and Selangor received 775 reports (Women's Aid Organisation, 2019).

In comparison, in 2016, WAO Refuge had 117 women residing there out of which 79% experienced domestic violence. Most survivors experienced both physical and psychosocial abuse, where half experienced financial, social and sexual abuse. 22.9% of women did not seek police help before coming to WAO. Some stated they were not sure of what help they needed and lacked information. WAO assisted 22 women with lodging police reports. In terms of welfare, 76.6% of women did not seek help before coming to WAO and this was mainly because of lack of information on the Social Welfare and some did not know they could go there. Through their hotline, they received 1640 landline calls. Out of these, 56.77% were on domestic violence issues while 35% were on seeking advice on legal issues. WAO has a WhatsApp and text messaging hotline called TINA WhatsApp, which attended to 699 conversations where 38.2% were on domestic violence while the rest were on issues with family members and advice on divorce proceedings (Women's Aid Organisation, 2017).

In 2017, the WAO refuge had 63 women residing there, where most women experienced domestic violence. Most survivors experienced physical and psychological abuse while less than half experienced financial, social and sexual abuse. Through their hotline, they received 2078 landline calls. Most of the calls were on domestic violence issues while the rest were on GBV issues such as sexual harassment and rape. On the TINA hotline, they received and responded to 1698 messages which is more than double from 2016. In 2017, the WAO case management team began recording their case interventions where it is estimated that they assisted 977 women (Women's Aid Organisation, 2018).

The statistics provided by AWAM is not as comprehensive as WAO but that is mainly because they do not provide shelter services. In 2016, they received 520 women seeking help. Out of these, 29.56% were seeking help as they were undergoing domestic violence and 14.97% for assistance with civil divorce cases (AWAM, 2017). In 2017, they received 304 cases where 20% sought help for domestic violence. Most of their clients were seeking help with legal matters whereas the rest were seeking counselling services (AWAM, 2018).

SIS had their statistics updated to 2018 on their website. In 2018, they received 576 clients with 411 new clients. Most of the clients contacted them through their hotline, email, Facebook or face to face. Most clients sought help regarding marriage and family. According to 17.6% of the clients, their main reason of the breakdown of marriage was the inability to communicate with their spouse. This was followed by the act of domestic violence that caused the breakdown of marriage and this was from 16.3% of their clients (Sisters in Islam, 2019). In 2017, SIS received 709 clients, 560 being new clients. Domestic Violence was the main reason for the breakdown of marriage according to 24% of the clients. This was followed by infidelity at 21%.¹⁸

It is important to keep these numbers in mind, to show that the occurrence of domestic violence is not a small matter in Malaysia. The fact that the police department does not share these statistics openly on their website is troubling. Furthermore, the fact that the Social Welfare Department has not updated the available statistics since 2016 is alarming. This gives the perception that the importance of giving the public information on this issue is not present.

5.1 Patriarchal Structures

Patriarchy is centred on the notion of power systems that are gendered hierarchies of power relations. These hierarchies are structured through some form of hegemonic masculinity, which tends to result in male privilege. The role of oppressive gender relations that are unequal, often leads to the dominance of one gender in society and falls back to hegemonic masculinity (Connell & Messerschmidt 2005). Unfortunately, in many Asian cultures being born male is seen as a superior position over being born as a woman. This is explained by Amirthalingam in his paper. He says, “in many jurisdictions and particularly in Asia, domestic violence is seen as a private matter and considerations of family, culture or religion tend to prevail over women’s interest” (Amirthalingam 2005:685). This notion is further emphasised by the Asian Human Rights Charter that says

“the roots of patriarchy are systematic, and its structures dominate all institutions, attitudes, social norms and customary laws, religions and values in Asian societies, cutting across the boundaries of class, culture, caste and ethnicity...is most evident in sexual slavery, domestic violence.”¹⁹

¹⁸ A physical copy of the statistics of 2017 was provided by SIS as it is not online.

¹⁹ Article 9.2 of Asian Human Rights Charter (1998) , available at www.ahrchk.net/charter/mainfile.php/eng_charter/.

In most ethnic groups in Malaysia, family-centred patriarchy is dominant in the way the household and families are operated. Engels and Weber (1884 & 1922) speak about how this is an underlying model for greater dominance of men in society. This has been seen in the way domestic violence is not only perceived, but in the way that it is responded to by society, families and authorities.

The system of oppression contributes to the way laws are passed and how they are implemented. There is a superiority that is granted over women and this gives men the power to both 'protect' and 'discipline' others. Inherently, these power relations are embedded in hegemonic masculinity and the ability to frame laws, establishments and legislations. This position of power translates into gendered institutions and how legislations are developed and implemented (Smart 1995). This can be seen in Malaysia where laws are heavily influenced by patriarchal structures and the structure of oppression. To name a few, marital rape is not considered as a criminal act in the Penal Code, women are not allowed to confer their nationality to their husband (if he is not Malaysian) nor to their child if born outside of Malaysia²⁰ and the fact that intimate partners do not fall under the DVA. Therefore, if an incident of domestic violence were to occur between a couple who are not legally married, she or he will not be able to seek justice or legal redress under this Act.

The process to pass the DVA in 1994 was met with intense resistance by the government, the authorities and conservative voices. During the interview conducted with Ivy Josiah (who actively advocated for the DVA from 1985 until it was passed in 1994), she explained that there was a lot of resistance especially from the State as domestic violence was not seen as something that happened to Malaysian women and there was this denial that Malaysian men abuse their wives. She added that Malay men did not like the Act being passed as this took away the right for Muslim men to discipline their wives. She added that there was even resistance posed by a group of Shariah lawyers who were advocating that the DVA should not be applied to Muslim women.

Although the Act was passed into parliament in 1994, it took two years before it was finally implemented (Women's Aid Organisation 1997: 2). Essentially this came back to the resistance coming from conservative voices, leading to the lack of the implementation with the reasoning that it was not a Muslim issue.²¹ It comes back down to the strong patriarchal

²⁰ Article 14(1), 15 (1) & Part II of Second Schedule of Federal Constitution in Malaysia

²¹ Mentioned during interview with Ivy Josiah (2019)

structures that has dominated the way society practices its cultures and interprets their religion. Lutze and Symons (2003: 321) echo this concern in their paper as they say that “in patriarchal systems, institutions of the criminal justice system tend to favour male perspectives and approaches.” They further added that this disconnection illustrates the powerlessness of women’s experiences in comparison to powerful institutions “that distort what victims of domestic violence need and want versus what the system will provide through policy and service delivery” (Lutze and Symons 2003: 321). This was clearly seen with the lack of the implementation of the Act, which was only done after a public protest was held by AWAM in 1996 (Women’s Aid Organisation 1997: 3). Furthermore, Josiah pointed out that only once the Islamic Religious Department publicly said that they agreed with the Act and that the DVA would not hinder on the rights of Muslim men, was the Act finally implemented in 1996.

There are good practices of how the DVA is implemented. For example, due to the prevalence of GBV cases the police department established a department called D11 that deals solely with cases of GBV that occurs to women and children.²² However, this department is not accessible to every person who reports as the D11 is not present at all police stations. Furthermore, the outcome of most cases of domestic violence depends on the front liners who take down the report. Lutze and Symons emphasise this point by talking about how police who are often first responders “often do not view domestic violence as a police matter so officers were reluctant to respond, if they responded they did little once on the scene and often left the incident without taking any formal action” (2003:322). This is seen with the prevalence of Police and Social Welfare forcing reconciliation between domestic violence survivors and their husbands, refusing to take down reports or inappropriate line of questioning like “did you anger him, did you clean the house properly.”²³ This was heavily reported by Social Workers from WAO during their interviews, that often they witnessed police officers asking inappropriate questions to survivors and calling the husbands to mediate. There have even been instances of Ministers publicly saying degrading comments about women and not seeing the fault in it.²⁴ This comes back down to the patriarchal mindset and the position of power and control where parliamentarians use this to pass laws and authorities decide how to implement the DVA. Innately, violence has been structured and institutionalised in the legislation and therefore seen

²² The Star Online (2016) Joining forces to prevent child exploitation, available at: <https://www.thestar.com.my/news/nation/2016/06/14/joining-forces-to-prevent-child-exploitation/>

²³ Reported by one of the survivors during her interview

²⁴ Malaysiakini (2015) Rizalman: In Malaysia, a woman’s smile is an invitation to follow, available at: <https://www.malaysiakini.com/news/322185>

as being normalised. The authoritative agencies function to enforce the cultural and legal bias that are determined by the law (Lutze & Symons 2003: 322).

During the conducted interviews, most participants talked about how patriarchy is very much based on the family and the family is always headed by the male figure. This is due to the male figure being perceived as the ‘breadwinner,’ the figure that supports the family and the role of women in the family is to take care of the domestic matters and of the household. This emotional labour that is expected of the female figure to uphold, is not seen as work. When she does not live up to her expectation of her gender role, it results in conflict and this was noted during interviews with survivors. They spoke about how their husbands had control of all the decisions at home which included finances and decisions regarding their children, as well as taking away their financial freedom and access to their families. Survivors reported their money being taken from their husbands even if they worked, their bank cards being withheld, and their every movement being tracked. Furthermore, two survivors noted that they were not allowed to contact their families or even have friends. This was controlled by their husbands through confiscation of their phones. This translates back to the patriarchal structure that exists in the home and how the male figure has all the power and therefore can control their every action and what happens to them such as domestic violence. One survivor spoke about living with her in-laws who witnessed all the abuse she had endured and never helped her. Instead, they put every fault on her. She mentioned that this was the same with her parents who knew about the abuse but told her it was her decision to get married, hence she must deal with the problems on her own. This overt patriarchal model has made power and control become the norm (2005: 694). It is evident that the patriarchal ideology of marriage and the husband having the power and control to do what he pleases is prominent even within the family. This was further highlighted by NGOs during their interviews, where representatives spoke about patriarchy being inherently part of the norm and culture of societies.

The patriarchal structure is prominent with authorities as it was demonstrated when they ask survivors questions like “Did you provoke your husband” or “what did you do that made your husband so angry?”²⁵. Questions like these seem to give the idea that this is a justification for the abuse that they receive. The traditional gender roles and patriarchal structure returns to the concept of power and control - in the household, by authorities and how they chose to use this power. As Merry (2003: 350) notes, “violence is a sign of the struggle

²⁵ Questions that were asked to survivor 3 when she lodged a police report

for the maintenance of certain fantasies of identity and power.” This relates to the argument that women become men’s responsibility through marriage and therefore they have the right to assert their power in the home in whatever means seem necessary to achieve this control (Lutze & Symons 2003: 321). Connell and Messerschmidt (2005) explain that hegemonic masculinity describes the role of masculinity in oppressive gender roles, and this in turn can be viewed as ownership of space and women’s bodies. Laws and legislations pertaining to women’s right have been written and passed by men and therefore the power and control over women’s bodies have been structurally ingrained in the legislation and how they are practiced.

The NGOs interviewed spoke about how gender roles are forced on girls even before birth. This always returns to the concept that boys must grow up to be the breadwinners of the family, must support and protect the family and this inadvertently puts pressure on men to assume this role. While for a woman, her role is to be the domicile and she can’t have an independent life especially after marriage.²⁶ Since birth, there is this sense of control over her, over her decisions and her role in the family. The Penal Code in Malaysia emphasises this with the passing of laws like the Citizenship Law,²⁷ marital rape not being a criminal offence and the Shariah Law that governs how women should behave in the family and as wives.

5.1.1 Power and Control

As seen above, the perception that the male figure in the home must be the breadwinner and the female figure has to be the domicile has been ingrained in the way many societies in Malaysia were raised and replicated. Domestic violence comes back down to power and control and the unequal gender roles that is not only prominent but has been institutionalised in the structure of the legislation. Traditional masculinity but also traditional femininity has been replicated generation after generation and this relates to the way culture is practiced in families.

Due to the power and control that authority figures like the Police and Social Welfare Department hold, it is hard to hold them accountable for the (in)actions they do. As authority figures, they possess more power over normal citizens and this often leads to abuse of power as well. This all translates back to how strong patriarchal structures are found in law enforcement and how the authorities have the power to choose if they would like to implement the laws in place. Even with a good set of laws in place, if the authority figure chooses not to implement them, the issue of who will protect these survivors and hold the authority figures

²⁶ This was said during interviews with AWAM, Tenaganita and WAO

²⁷ Article 14(1), 15 (1) & Part II of Second Schedule of Federal Constitution in Malaysia

accountable comes in. In this regard, the role of NGOs and activists is essential. With monitoring reports like the one published by WAO in 1997 and NGOs functioning as the watchdog, authorities know that their inaction will not go unnoticed. Survivors who were interviewed noted that only when WAO social workers were present and involved in the case did the Police and Social Welfare take their cases more seriously.

The power and control brought by patriarchal structures unconsciously dictates how survivors respond to domestic violence. Louise from AWAM talks about this during the interview. She shares from her experience of working with survivors on how some responded to the option of lodging a report. Some say, “I can’t do that to my family, to my children, I can’t break apart my family, what would my father say.” She reflects that this seems like a psychological lock around the stigma of seeking divorce and the notion of breaking apart the family. There is this innate fear of lodging a police report due to the perception that it would tarnish the family name.

Survivor 1 & 2 spoke about how they gave their husbands multiple chances to change, but consequently they felt trapped in a cycle of violence that would not end. Furthermore, they felt that staying with their husbands would be the best option for their children. They only broke this cycle when they saw that the violence was affecting their children. Survivor 2 spoke about how she was not allowed to have friends, go out of the house except for work. Even then her husband forced her to quit and she could not even contact her own family. Furthermore regarding financial decisions and control of the money, she said her husband had control of all of it and even took back money he would give her. This was echoed by Survivor 1 and 3 as well. Survivor 3’s husband even told her that as he is the one earning the money, everything belongs to him. Although she was working as well, he never saw her work as contribution to the household and he used to take the money she earned. This was not seen as domestic violence or abuse of power by the survivors. They only realised this when WAO spoke to them about their rights and that this extreme financial control is considered abuse as well.

Sisters in Islam summarised this well during the interview. They said,

“Society feeds into the insecurities and there is this expectation on men to always be the breadwinner, to always be the protector. Our society does not see women as being equal and this is all related to one another. They will always see women one step lower, no matter how good they are.”

5.2 Power and Control of Authorities

There have been reported incidences by NGOs from their experience working with authorities where police explicitly say they do not want to investigate cases of domestic violence. NGOs reported that they in turn advocate for them to act, where the police respond defensively stating that NGOs do not have the authority to tell them what to do.²⁸ In response to this, Josiah suggested to the Inspector General of the Police that there should be a police commission that monitors the grave injustices done by the police, but this suggestion was rejected. This unequal distribution of power between authority agencies and NGOs determined the boundaries of their relationship (Lutze & Symons 2003: 325). Fundamentally the police institution does not want to be held accountable and they do not want to be transparent.²⁹ This element of power and control by authorities is based on patriarchal structures that is so strong in the structure of authorities. During the interview with the Social Welfare Officer, she spoke about this power dynamics between authority figures like the Police, Social Welfare and Ministries. She said, “It all comes back to power and that’s why there is so much abuse of power in the police. When people have power, they will abuse it.” She ends this sentiment with the fact that the authorities are failing their clientele such as survivors of DV because of the strong presence of power mechanisms.

According to the DVA Monitoring report published by WAO in 1997, two big gaps with filing for an IPO was identified. The first relates to the prolonged process which occurs for several reasons such as the public prosecutor not receiving the written letter from the authorities and numerous documents that need to be filed with different departments like Police and Social Welfare Departments before it can proceed to court; The second gap identified refers to the inconsistencies on the procedures for applying for an IPO. There is no standardisation of procedures for governing the orders to investigate (which is essential for getting an IPO) between states and districts. This is further highlighted by the interviews with survivors who spoke about how they had been sent to numerous agencies and were not told adequately about the procedure. This happened to Survivor 2 up to the point where she was misinformed regarding procedures to attain protection against her husband and this resulted in the inability to acquire an IPO.

²⁸ Interviews with NGOs (2019)

²⁹ Interview with Ivy Josiah (2019)

In the span of 22 years since the Monitoring Report on DVA was published, the inconsistencies noted by WAO then are still present now. The manner in which laws are being implemented by the Police, Social Welfare Department and the One Stop Crisis Centres (OSCC) has not changed. The OSCC is supposed to function as a one-stop for survivors to get all the protection needs such as police intervention, social welfare and medical. However in the interviews with social workers from WAO, they noted from their experience that, this “One-Stop” practice is not being implemented. There is no communication between departments and this results in the survivor travelling between different agencies to get the assistance she needs. It seems clear from these interviews that the OSCC is failing to implement its one-stop principle.

According to Esqueda and Harrison (2005), extensive research on domestic violence decisions has been done and this gives an outlook to the cultural biases regarding DV actors and the beliefs around the need for police and medical interventions (822). A statement in the UN Declaration on the Elimination of Violence Against Women clearly sums up this issue. It says,

“violence against women is a manifestation of historically unequal power relations between men and women, which has led to domination over and discrimination against women by men...violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.”³⁰

This unequal power relations translates to the institutional prejudice towards the way the issue of domestic violence should be handled, and this has affected the way legislation has been created and implemented (Lutze & Symons 2003: 321). These agencies have been given the power to respond to domestic violence and have used this power to enforce their own cultural and legal bias (Lutze & Symons 2003: 322). This is seen through the way the Police, Social Welfare and hospitals respond to reports of domestic violence.

5.2.1 Private vs Public Sphere

Through a feminist lens, domestic violence has been analysed to be a norm due to it being culturally accepted and legally tolerated. This is about the power dynamics and how this power is exercised to control and dominate over others. Authorities have adopted a family-focused method in addressing domestic violence. This attitude is not only seen in the behaviour

³⁰ A/RES/48/104. Declaration on the Elimination of Violence against Women"(1993). Retrieved from <http://www.un.org/documents/ga/res/48/a48r104.htm>

but entrenched in the laws in Malaysia. Women are not valued as individuals of their own merit but only seen as wives, mothers and daughters (Amirthalingam 2005: 691- 692). Furthermore, as domestic violence occurs within the private sphere of the family, making it visible has been noted to be difficult. The very nature of this type of violence occurring in the domestic space and relationship makes it difficult for it to be studied (Hajjar 2004: 8). In principle, a solution to this would be to open up the private sphere through increased intervention by the state and authorities, through the establishment of legislations that punish violence in the family sphere (Hajjar 2004: 9). However, as has been analysed in this chapter, that has proven to be exceedingly difficult.

Through interviews, social workers from WAO explained experiencing first-hand mediation by authorities. For example, the police calling the perpetrators when a survivor reports domestic violence. Police officers have told the social workers that they see this matter as private and their role is to mediate and ensure that the family unit is intact. Furthermore, there have been instances as reported in the interviews by NGOs where the police officers have just told the survivor to go home and listen to their husband, and instances where the authorities ask what the survivor did to provoke their husband. There is a long history of the notion that survivors have somehow participated in the abuse and have been labelled as the ‘tormentors’ who provoke men to violence (Rasche 1990). Lavoie, Jacob, Hardy & Martin (1989) reflected that some police officers believe that a woman is more responsible for the abuse as she has demonstrated ‘verbal antagonism.’ This perception reduces the reality of the seriousness of domestic violence which hinders the efforts to have an effective implementation system (Hatty 1987). SIS reflected on clients they have had from the lower housing flats. From their experience, the survivors reported that they hear and see abuse happening all the time in their housing estate, but they choose to shut an eye to it because “it’s their private matter.” So it is not only authorities who see domestic violence as a private matter, but also pockets of the society.

The DVA Monitoring Report in 1997 reported that a government official asserted that the basic concept of the DVA is to “guarantee the harmony of the family” (Women’s Aid Organisation 1997: 31). This official reasserted that authorities did not want the Act to be perceived as destroying the family, therefore the primarily role of Social Welfare would be to try and reconcile the family before initiating any court or criminal proceedings (Women’s Aid Organisation 1997: 31). The pressure by Social Welfare to reunite rather than seek justice or explain the rights of the survivor comes into fold seeing that the family should stay as one unit

rather than separated, even if there is abuse. This was mentioned by survivors who were interviewed for this research as well. They mentioned that the police constantly asked them if they really wanted to report against their husband. Survivor 1 talked about how her police report against her husband was retracted by her husband and mother-in-law. When she asked the police how they could allow this to happen, the police reasserted his power as an authority figure and told her she cannot be asking questions to a police officer.

In the interview with the Social Welfare officer, she admitted that it is better for the family to remain intact. Her statement was

“The ministry is such that will look into a family and how a functional family will be and how a child will be more functional when it comes from a whole family. What we’re telling is it is better for us to have the family together.”³¹

This statement gives the impression that authorities not only have the notion that domestic violence is a private matter but that children should remain in the nuclear family, even if there is violence. However, this statement does not consider the detrimental effects that domestic violence has on children in the household. For example during the interviews with Survivor 1 and 2, they spoke about the effects of the abuse on their children. With survivor 1, her husband had threatened to kill her son, and her son thought the father was playing with him and now thinks that it’s a game that people play. This was similar with survivor 2 who said that “even my children now joke around and take a knife and say they are pretending to kill me because they see their father do that to me.” This clearly shows the profound impact of children witnessing abuse in the household and how the act of violence is somehow normalised and seen as an act of play and emphasises that domestic violence does not only influence the survivor, but this act affects children and the community. There is an urgent need to shift the paradigm of viewing it as a private issue because it happens in the confines of the home and to bring it out into the public sphere.

Survivor 2 spoke about how once she called the police to the house after her husband severely abused her. The police came to the house but refused to enter the house, even though all the evidence of the abuse was present in the house. She said that the police office said to her “Why don’t you both just make up. You are husband and wife in the end and I do not want to take off my shoes and come in.” She was told multiple times to “just move on” when the

³¹ Direct quote from interview with Social Welfare Officer (2019)

police told her they could not open the IPO due to lack of evidence. This was said to her by Social Welfare officers as well. Furthermore, when survivor 1 wanted to lodge a police report, the police officers refused to open an investigation or even do a report as they said, “it was a family matter and they told me to go home and give him another chance.”

5.2.2 Moral Policing

Domestic Violence remains as a hidden problem due to several reasons: the inability of survivors to report violence, the refusal or failure of authorities to take down reports and the social acceptance of certain forms of family violence (Hajjar 2004: 8). Often there is a reluctance by authorities to take down a report as they do not believe the survivor and instead accuse them of lying. They tend to lean on believing the husbands perspective more. This was mentioned during the interviews with survivors and the Social Welfare Office.

Fundamentally, the difference in gender roles and the stereotypes of it produces different culpability assignments for women who have undergone violence (Billingham & King 1991; Saunders, Lynch, Grayson & Linz 1987; Willis et al. 1996). Traditional gender ideology has led to greater blame to the survivor and less blame to the perpetrators. Consequently, this has influenced the way police respond to domestic violence (Hormant & Kennedy 1985; Saunders & Size 1986). There is more blame on the survivor and less change of authorities expressing professional concern over the domestic violence.

In the Monitoring Report, it was stated that although there were legislations available to provide survivors with justices and legal interventions, “domestic violence was regarded as a private family matter, and the police and the courts were generally unwilling to take action against batterers.”

In relation to this the Social Welfare Officer who was interviewed said

“Because with the Domestic Violence Act, let me tell you another truth about DVA cases. Like the case we got just now, it is a custody battle. The victim tends to fabricate stories, I understand if you say that this is perception and all that. But I have been doing the cases. Some are really genuine, but some are just using this provision for them to win custody or win dispute within the family. The misuse of this act is high.”³²

³² Direct quotation from interview conducted with Social Welfare Officer (2019)

Her justification for this statement was “I’ve seen the people and I talk to them. There is no compromise.” This statement is based on her own subjective perceptions and experiences. This relates back to during the interviews with survivors and how they spoke about not being believed or accused of lying by authorities and Social Welfare. Unfortunately, the concept of victim-blaming is clearly prominent in law enforcement agencies. Josiah echoed this when she talked about how women had to constantly ensure they had evidence of the abuse and there was this notion that women lie. Survivor 2 said that this happened to her. She lodged a report numerous times and during the last time when she reported, she said that the authorities did not believe her even with the photos of bruises she showed them on her phone. Furthermore, as the hospital failed on their part to properly document the medical aspects of the abuse (such as photos of the bruises for the medical report) when she went to them after the abuse, they failed to provide her with a medical report. This resulted in her being unable to seek legal redress.

Domestic violence happens within the four walls of the home hence why it is seen as a private matter. With the patriarchal ideology being so entrenched in the perception of authorities, they see domestic violence as problems that happen in the marriage and therefore should stay in the marriage. It should not come out in the public as it would bring a bad name to the family and it is the norm that this is not discussed in public.³³ Furthermore, with emotional and psychological abuse, there is no clear evidence of this occurrence although most survivors have reported experiencing this, and this is seen as a private issue. This perception is strong among the authorities and they are the ones who have the power and control to act. When they do not act, that is when the lack of implementation comes in. Josiah also reflects that authorities have prioritised maintaining this power and control. Inherently, authority structure is a product of patriarchal structures and this is noticeable within the police and with the hierarchy of police officers.

Although not explicitly said to be victim-blaming, there have been instances where police officers call the husband of the survivor to inform them that their wife is lodging a report. This has been experienced by all NGOs. During interviews with them, they mentioned cases where they were assisting survivors at the police station and the husband had showed up at the police station as the officer had called them. This breach of confidentiality was experienced by survivor 3, who said that her husband got the number of her Social Worker at WAO from police officers and this resulted in the continuous harassment through phone calls to try and ascertain

³³ This was mentioned during interviews with SIS and WAO (2019)

where survivor 3 was. The DVA Monitoring Report also mentions this issue. The report talks about the Ministry of National Unity and Social Development published a list of designated shelter and the locations in a national newspaper, *News Straits Times* in 1996 (Women's Aid Organisation 1997: 35). Although the intention was to inform survivors of the services of these designated shelters, by publishing the location this jeopardises the safety of the survivors and their children and puts them at further risk.

5.3 The Relationship between the State, Religion and Patriarchal Structures

Charrad (1990:20) explains that state formation has affected women's position in society, particularly in the way the state mediates gender relations to the law. This is done through "attempts to foster or inhibit social change, to maintain existing arrangements or promote gender equality for women in the family and the society." The history of State and religion has informed the way the State projects and formulates agendas regarding women's rights. As seen above, there is a prominent notion that the family unit is seen as something that should not be broken, even if there is the presence of violence. The relationship between the State and religion is essential to analyse and how this has influenced the way the state nationalises religious laws. For instance in the case of Malaysia, the Federal Constitution states that Muslims are governed by the Shariah law in all matters regarding the family. In 1988, the Federal Constitution was amended to include Article 121(1A), in which "the High Court shall not have jurisdiction in respect of any matter where the Shariah Court has jurisdiction" (Ahmad 1990: 314).

During the advocacy for the passing of the DVA, there was intense resistance and objection against civil society. Particularly the insistence that for Muslims, domestic violence legislation should fall under the Shariah jurisdiction. This was further emphasised by Islamic Religious Department who claimed that the Shariah Law had adequate remedies to protect Muslim survivors of domestic violence (Women's Aid Organisation 1997). The report published by WAO in 1997 notes the frequent complaints by women and Shariah lawyers seeking to address cases of divorce and polygamy in the Shariah courts and how the court interprets the laws differently. Through the divide of how domestic violence should be handled within different societies, there is a risk of "annihilating groups based on concepts of gender, race and class" (Mann 2000). If laws are applied differently to Muslims and non-Muslims, this gives states the power to endorse their own laws and limits the consistency of legislations among states. This would result in the potential of creating gaps for evading the law.

In most states in Malaysia, the Islamic Family Law does state that a man can be punished for ill-treating his wife.³⁴ However, there was a huge resistance faced in implementing the DVA when it was passed in 1994. As reported in the Monitoring Report in 1997, there was unwillingness to test out the law as “some quarters felt that there was a conflict of jurisdiction where Muslims were concerned between the Shariah Court and the Act.”³⁵

In the DVA 1994, there is a provision on “Conciliatory Body,” which is defined as counselling services established by the Social Welfare Department.³⁶ However, for Muslims this would fall under the Islamic Religious Department³⁷. It has been noted that these services have been functioning more as a mediatory means to maintain the “harmony of the family” (Women’s Aid Organisation 1997: 31) which could prove to be more harmful for the survivor. This essentially places the survivor back into the cycle of violence where she feels that she may not have other means or other choices as these services are court mandated. Furthermore regarding the Islamic Religious Department, it would follow principles from the Shariah Law and the Quran. There is a verse in the Quran Surah an-Nisa verse 4:34 which has been commonly used to justify domestic violence in Muslim societies. However, this comes down to interpretation of the verse. The verse does state that “As for those from whom you fear *nushuz*,”³⁸ admonish them, then banish them to beds apart and strike them. But if they obey you seek not a way against them.” (4:34) This statement has been interpreted to mean that a wife must obey her husband and that if she does not, her husband can “strike” her. Sisters In Islam published a paper where they researched the different interpretations of the Quran that has been used as justification to abuse wives and explained that this is one interpretation, however there are others (Masidi, 2009:5). Furthermore, one verse cannot be considered on its own. The paper also talks about The Hadith which is a record of the sayings of the Prophet and one of the sayings is “The best of you is he who is best to his wife” (Masidi 2009: 5). Lisa Hajjar (2004: 12) emphasises that “interpretations of religion are social and have a history.”

When the rights of women have been positioned as part of cultural onslaughts, women’s experiences of violence were justified and defended (Hajjar 2004: 15). Unfortunately, the traditional interpretation of the 4:34 verse is prominent among the Malay society in Malaysia,

³⁴ Section 127 of Islamic Family Law (Federal Territory Act, 1984

³⁵ Othman, Muharyani, Pang Yin Fong, Juneita Johari and Alina Rastam. 14 March 1996. "Objections put the Act in limbo," *New Straits Times*: 6.

³⁶ Section 10(3), DVA.

³⁷ Section 11(4), DVA.

³⁸ According to Syed Qutb in the Shade of the Quran, *nushuz* is a disruption of marital harmony

as mentioned during the interview with SIS. Although SIS has provided a different interpretation of it, it may not be taken as seriously. This is also due to the notion that SIS is seen as deviant by the government as they question the interpretations of the Quran that is prominent in society and seen as breaking apart the Malay households. This is because they delegitimise the experience of women who experience domestic violence frames as servicing social stability, male authority and in some context, adherence to religion and tradition. As a result, the practice that allows for domestic violence to continue (Hajjar 2004: 15) According to Kandizoti (1991: 7), the promotion of these cultural traditions is to “maintain and reinforce hierarchical gender relations and male power over women as authentically Islamic.” For example, Malaysia has ratified CEDAW, however has entered reservations to preserve the Shariah laws especially on matters regarding the family.

This relationship between the state and religion is inherently patriarchal and the Shariah Law is intended to bolster these arrangements (Hajjar 2004: 19). As mentioned in the theoretical framework chapter, there are variations in the relationship between religion and state. For Malaysia, this falls under communalisation³⁹ and nationalisation⁴⁰. Therefore, Malaysia has a two-tier legal system, both applying to different religious and race groups in the country. This system was institutionalised to accommodate different religions and social differences and inherently to encourage loyalty and dependence on the state and religious authorities (Hajjar 2004: 20).

According to Hajjar (2004: 24), nationalisation of religion and laws blurs the boundaries between religious laws and state power, and this strengthens the importance of religious law and the debate between Shariah and other forms of law in the state. During the interview with SIS, they reflected that in the end the Shariah court is “trying to show their power and they do not want to be seen inferior to the civil system.” They added that recently there has been a social movement among the Shariah court community to be equal to civil court. To this date, all criminal matters are handled by the civil system. However, if this sentiment and movement grew stronger and prevailed in the way the State institutionalise laws, this would prove further problematic for survivors of domestic violence.

Domestic violence is an issue that affects not only one community, but it is a social problem (Abraham 1995, 2000). An intersectional approach would allow for the legitimising

³⁹ Religious laws, institutions and authorities are accorded semi-authority from the state

⁴⁰ Religious laws and jurisprudence are influential over the state’s legal regime

of the experiences of women especially those from marginalised communities and women from cultures with strong discourses on domestic violence (Sokoloff & Dupont 2005: 49). This segregation based on race and religion is not only seen in the two-tiered legal system but in the way, it is implemented. Crenshaw (1995: 96) emphasises this when she says, “Strategies based on the experiences of women who do not share the same class and race background will be of limited utility for those whose lives are shaped by a different set of obstacles.” The Social Welfare Officer spoke about how her social workers do not trust NGOs and this is because of race and religion. She mentioned this in relation to children who are abused and in need of shelter, “In the end, a lot of my staff do not believe in NGOs and do not trust NGOs. And the race and religion thing is a very big thing in the end. Majority of the kids and women who are having problems and have to go to shelter and my workers are worried about race and if the NGOs is not Islam based, there is no trust there, so they tend to fill up government shelters.”

Essentially, the issue of domestic violence in the legislation is cross cutting with both Shariah and Civil Court. The criminal proceedings would go through Civil Court but the family aspect such as divorce and custody would go through Shariah. Furthermore, the evidence of the abuse would come from the Civil Court with the IPO or the police reporting (Women’s Aid Organisation 1997: 35 - 36). However, SIS has reported that sometimes the Shariah court does not consider the violence aspect even if there is a court order from the Civil Court. This shows an unwillingness of the Shariah court system to acknowledge violence as an issue or a basis for divorce and the legitimacy of the civil court system in their eyes. SIS did emphasise that this also depends on which officer and judge is presiding on the case. Really, it’s a flip of a coin on how the case would be handled. There are no standard operating procedures for survivors of domestic violence seeking divorce at the Shariah court, which causes inconsistencies in the way it is implemented. Furthermore, as different districts have different procedures for the Shariah Court, there are several uncertainties on how the case would be handled. The Shariah Court is determined by the Islamic Religious Department of the State and some may be more conservative than others.⁴¹

Collins (1998: 149) argues that cultural differences and its treatment must “erase the need to look at structural power.” This will result in the undercutting of social change. It is essential to address how different communities experience violence especially through the cultural ideologies that mediate structural forms of oppression towards women. Fundamentally,

⁴¹ This information was provided by SIS during their interview and is based on their experience

the challenges in implementing legal protections for women who have undergone domestic violence are inextricable from the national struggles over power, priorities and the law of the state (Hajjar 2004: 27).

5.4 Summary

Although legal measures are available for survivors to seek justice, this is hampered by several factors. Firstly by the reluctance to enforce domestic violence as a criminal offence and this comes back to the perception of it being a private family matter, the inconsistencies with what documentation and procedures is followed by authorities. Although there is a standard operating procedure to follow, the moral policing by authorities due to strong patriarchal ideologies is still prominent. These gaps were noted in the Monitoring Report in 1997 and still exist today as seen during the in-depth interviews with NGOs, survivors and the Social Welfare Officer.

Criminalising domestic violence “has a powerful symbolic value as it is a clear indication of society’s abhorrence of the abuse” (Dairiam 1995). If the DVA was properly implemented and domestic violence was considered a criminal act rather than a private one, this would have a huge impact in the change of perceptions of it and how DVA would be handled in the future. However, this ultimately comes back to the State as it is responsible for regulation, restriction and punishment of violence, including violence that occurs in the family setting (Hajjar 2004: 31). When the State does not reinforce the importance of implementing these laws, it essentially fails to assume its responsibility to protect its citizens from any form of violence and this failure inherently serves to bolster the patriarchal family relation (Mernissi 1995; Sharabi 1988).

CHAPTER 6: CONCLUSION

Through the collected data and thematic analysis, there is clear evidence that patriarchal structures that are still strong in communities in Malaysia have deeply affected the implementation of the DVA 1994. Moreover, there is a clear connection between this structure and the State as well. From the Monitoring Report published by WAO 22 years ago, there has not been much difference in the way the laws are being implemented today. The additional amendments made to the DVA in 2012 and 2017 have helped bolster and fill in the gaps in the legislation itself. However the most jarring gap itself is how the DVA is not implemented effectively. There is a clear need for resources to be made available to all women from all classes and races. This includes ensuring women from the poorest and most disadvantaged social sphere are made aware of their fundamental rights. Furthermore, coalitions like JAG need to ensure to act as a watchdog for violence against women, to help bring institutional reforms by monitoring police, Social Welfare and OSCC, as well as to be advocates for the needs of survivors of domestic violence. However it must be recognised that there would be a more powerful impact if the change came from the top of the chain, for example the Attorney General or Head of the Police to publicly announce how serious the DVA should be taken.

The impact that patriarchal and social structures have on families, its link to traditional gender ideology and the impact on domestic partnerships must be acknowledged. It is essential to break the notion that domestic violence is a private matter and the stigma against reporting. Domestic violence is still prevalent and accepted as the norm in pockets of society, and a more grassroots level awareness raising on women's rights is needed. In addition, to ensure more effective implementation police officers, social welfare offices and hospitals should be aware of the DVA and its provisions and ensure it is properly implemented. This would be possible with yearly gender and GBV sensitization training throughout all departments of law enforcement that domestic violence survivors will go to for help.

Fundamentally, the State is responsible for protecting survivors of domestic violence, and if it does not commit its resources to combat this problem, the State has failed to protect part of the society. To delegitimise the justification of cultural beliefs used for violence, it is essential to bring in culturally relevant arguments to defend women's safety and wellbeing, and to challenge laws and ideologies that see harmful practices as vital for society. This is necessary to bring about a strong change to the way domestic violence is perceived and criminalised in

Malaysia. Furthermore, it is important to recognise the importance of international conventions such as CEDAW and how it can extend to the private sphere to address the needs and vulnerabilities of women in Malaysia. This would create a clear consensus of women's rights in both public and private life and brings violations by individuals within the purview of international laws by making the states responsible for the actions of private parties.⁴²

As seen in the theoretical framework, masculinities are socially constructed and therefore they can be reconstructed. Gender ideology is constantly evolving, and it is essential to engage men and boys in this. It is also important to recognise the cost of toxic masculinity on men itself. A way to bridge this gap in gender inequality is to work and engage men and boys, rather than blame them for the harms of patriarchy. By engaging men and boys in gender equality campaigns, the idea of masculinity could evolve, and this can be done through different interpretations of culture and religion as well.

6.1 Research Limitations:

This paper focused on the Klang Valley region of Malaysia which means that the experiences of survivors in other regions are not covered in this paper and may not be generalised. It must be noted that NGOs interviewed reported that response of authorities and implementation of the DVA in the Klang Valley, is much better due to the access and active advocacy by NGOs. However in other regions such as Sabah and Sarawak, where the presence of NGOs is not large, there is barely any monitoring done for the implementation of the DVA and experiences of women. The results of this study are limited to the population of women identified within the Klang Valley region of Malaysia.

This paper mainly focuses on the experiences of Malaysian women; however it is important to note that refugee women such as Rohingya women experience domestic violence as well but as Malaysia is not a signatory of the Refugee Convention, refugees are unable to access the protection from the DVA. Furthermore, there is a vast population of migrant women who come to Malaysia mainly as domestic workers. Tenaganita mentioned during their interview that they have had many reports of domestic workers who experience abuse and sexual assault at the home where they work and live. However, migrant women do not fall under the protection of DVA. This paper was unable to capture their experiences. Refugee and

⁴² Article 2 of CEDAW

migrant women face different vulnerabilities, with no legal framework to protect them even if they experience violence. Moreover, refugees are regarded as illegal and if caught by authorities, they would be arrested and sent to Immigration Detention Camps.

Lastly, being unable to interview the Police Department (D11) and OSCC was a limitation. It would have contributed greatly to this paper to include their experiences working with NGOs, survivors and their perception of patriarchal structures. Due to time constraints, OSCC was unable to be involved. D11 were unwilling with no reason provided.

BIBLIOGRAPHY

1. Abdullah, R., Raj-Hashim, R. and Schmitt, G. (1995) *Battered women in Malaysia: prevalence problems and public attitudes. A summary report of Women's Aid Organisation. Malaysia's national research on domestic violence.*
2. Abraham, M. (1995). *Ethnicity, gender and marital violence: South Asian women's organizations in the United States.* *Gender & Society*, 9, 450-468.
3. Abraham, M. (2000). *Fighting back: Abused women's strategies of resistance.* In M. Abraham (Ed.), *Speaking the unspeakable: Marital violence among South Asian immigrants in the United States* (pp. 132-153). New Brunswick, NJ: Rutgers University Press
4. Ahmad, S. (1990) *Towards a Common Law on Domestic Violence for Malaysians.* *Malaysian Law News*: 314.
5. Al-Ali, N. (2000) *Secularism, Gender and the State in the Middle East: The Egyptian Women's Movement.* New York: Cambridge University Press.
6. Al-Hibri, A. (1997) *Islam, Law and Custom: Redefining Muslim Women's Rights.* *American Journal of International Law and Policy* 12:1-44
7. Amirthalingam, K. (2003) *A feminist critique of domestic violence laws in Singapore and Malaysia.* Asia Research Institute.
8. Amirthalingam, K. (2005) Women's rights, international norms, and domestic violence: Asian perspectives. *Human Rights Quarterly*, pp.683-708.
9. Andersen, M., & Collins, P. H. (2001). *Introduction.* In M. Andersen & P. H. Collins (Eds.), *Race, class and gender: An anthology* (4th ed., pp. 1-9). Belmont, CA: Wadsworth.

10. AWAM (2017). *Telenita Statistics*. [online] Available at:
<https://www.awam.org.my/web/wp-content/uploads/2012/11/S-2016.pdf> [Accessed 18 Mar. 2019].
11. AWAM (2018). *Telenita Statistics 2017*. [online] Available at:
<https://www.awam.org.my/web/wp-content/uploads/2018/08/2017-Telenita-Statistics.pdf> [Accessed 17 Mar. 2019].
12. Badawi, J. (1995) *Gender Equity in Islam: Basic Principles*. Plainfield, Ind.: American Trust Publications.
13. Berger, P. L., & Luckmann, T. (1967) *The social construction of reality: A treatise on the sociology of knowledge*. Garden City, NY: Anchor.
14. Billingham, P. & King L.A (1991) *Sex-role egalitarian and heterosexual violence*. Paper present at meeting of Midwestern Psychological Association, Chicago, IL.
15. Bograd, M. (1999) *Strengthening domestic violence theories: Intersections of race, class, sexual orientation, and gender*. *Journal of Marital and Family Therapy*, 25, 275-289.
16. Braun, V. & Clarke, V. (2006). *Using thematic analysis in psychology*. *Qualitative Research in Psychology*, 3, 77-101.
17. Browne, A. (1998). *Recognizing the strengths of battered women*. In E. Gondolf (Ed.), *Assessing woman battering in mental health services* (pp. 95-131). Thousand Oaks, CA: Sage.
18. Bryman, A. (2003). *Quantity and quality in social research*. Routledge.

19. Carrigan, T.; Connell, R.W. and Lee, J. (1985) *Towards a New Sociology of Masculinity*, *Theory and Society* 14.5: 551–600
20. Connell, R.W. and Messerschmidt, J. (2005) *Hegemonic Masculinity: Rethinking the Concept*, *Gender and Society* 19.6: 829–59
21. Coker, D. (2000). *Shifting power for battered women: Law, material resources, and poor women of color*. *University of California Davis Law Review*, 33, 1009-1055.
22. Coker, D. (2001). *Crime control and feminist law reform in domestic violence law: A critical review*. *Buffalo Criminal Law Review*, 4, 801-860.
23. Collins, P. H. (1998). *The tie that binds: Race, gender and U.S. violence*. *Ethnic and Racial Studies*, 21, 917-938.
24. Charrad, M. (1990). *State and Gender in the Maghrib*. *Middle East Report* 19–24.
25. Chatterjee, P. (1995) *Religious Minorities and the Secular State: Reflections on an Indian Impasse*. *Public Culture* 8 (1): 11– 40.
26. Coomarswamy, R. (1996) *Further Promotion and Encouragement of Human Rights and Fundamental Freedoms for Women*. Report to the UN Commission on Human Rights. E/CN.4/1996.
27. Coomarswamy, R. (1999) *Violence against Women in the Family. Report to the UN Commission on Human Rights*. E/CN.4/1999.
28. Coomarswamy, R. (2000) *Combating Domestic Violence: Obligations of the State*. In *Domestic Violence against Women and Girls*. Florence, Italy: Innocenti Research Center, UNICEF.

29. Clarke, V. & Braun, V. (2013) *Teaching thematic analysis: Overcoming challenges and developing strategies for effective learning*. *The Psychologist*, 26(2), 120-123.
30. Constat, M. A. (1992). *Qualitative analysis as a public event: The documentation of category development procedures*. *American Educational Research Journal*, 29(2), 253-266.
31. Crenshaw, K. (1995) *Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color*. In *Critical Race Theory: The Key Writings that Formed the Movement*, ed. Kimberle Crenshaw, Neil Gotanda, Gary Peller, and Kendall Thomas. New York: New Press.
32. Dairiam, S. (1995) *Some critical issues relating to the proposed DV Bill, 10-5-1994*, extracted from the paper *The Struggle for Women's Rights in Malaysia: A Review and Appraisal of Women's Activism in Malaysia in the Eighties and Nineties*.
33. Department of Statistics Malaysia (2018). *Press Release: Current Population Estimates, Malaysia, 2017 - 2018*. [online] Available at: <https://www.dosm.gov.my/v1/index.php?r=column/pdfPrev&id=c1pqTnFjb29HSnNYNUpiTmNWZHArDz09> [Accessed 12 Mar. 2019].
34. Department of Statistics Malaysia (2019). *Demographic Statistics: Fourth Quarter 2018, Malaysia*. [online] Available at: https://www.dosm.gov.my/v1/index.php?r=column/cthemByCat&cat=430&bul_id=UzliaFYxbW1nSFovbDYrLzFFR29zZz09&menu_id=L0pheU43NWJwRWVVSzk1WdzQ4TlhUUT09 [Accessed 11 Apr. 2019].
35. Dobash, R. E., and R. P. Dobash. (1980) *Violence against Wives: A Case Study against Patriarchy*. London: Open Books. Page 24, 15
36. Dobash, R. E., and R. P. Dobash (1992) *Women, Violence and Social Change*. London: Routledge.

37. Dawson, M. and Dinovitzer, R., (2001) *Victim cooperation and the prosecution of domestic violence in a specialized court*. Justice Quarterly, 18(3), pp.593-622.
38. Dugan, L., (2003) *Domestic violence legislation: Exploring its impact on the likelihood of domestic violence, police involvement, and arrest*. Criminology & Public Policy, 2(2), pp.283-312.
39. Edström, J., Das, A., & Dolan, C. (2014). *Introduction: Undressing Patriarchy and Masculinities to Re-politicise Gender*. IDS Bulletin, 45 (1), 1-10.
40. Engels, F. (1884) *Der Ursprung der Familie, des Privateigentums und des Staats* [available in English (1972) *Origin of the Family, Private Property and the State*, Pathfinder Press]
41. Eissa, D. (1999) *Constructing the Notion of Male Superiority over Women in Islam: The Influence of Sex and Gender Stereotyping in the Interpretation of the Qur'an and the Implications for a Modernist Exegesis of Rights*. Occasional paper no. 11. Montpellier, France: Women Living under Muslim Laws.
42. Esqueda, CW, & Harrison, LA (2005). *The influence of gender role stereotypes, the woman's race, and level of provocation and resistance on domestic violence culpability attributions*. Sex Roles, 53 (11-12), 821-834.
43. Fairclough, N., & Wodak, R. (1997). *Critical discourse analysis*. In T. A. van Dijk (Ed.), *Discourse as social interaction: Volume 1* (pp. 258–284). Sage: London.
44. Ferraro, K.J. and Pope, L., (1993) *Irreconcilable differences: Battered women, police and the law*. Legal responses to wife assault: Current trends and evaluation, pp.96-126.

45. Gergen, K.(1999). *An invitation to social construction*. London: Sage.
46. Hamadeh, N (1996) *Islamic Family Legislation: The Authoritarian Discourse of Silence*. In Yamani
47. Hajjar, L. (2004) *Religion, state power, and domestic violence in Muslim societies: A framework for comparative analysis*. *Law & Social Inquiry*, 29(1), pp.1-38.
48. Hatty, S. (1987) *Woman battering as a social problem: The denial of injury*. *The Australian and New Zealand Journal of Sociology*, 23(1), 36-46.
49. Hart, C. (1999) *Doing a literature review. Releasing the social science imagination*. London: Sage Publications.
50. Hirschel, J.D., Hutchison, I.W., Dean, C.W. and Mills, A.M. (1992) *Review essay on the law enforcement response to spouse abuse: Past, present, and future*. *Justice Quarterly*, 9(2), pp.247-283.
51. Homant, R. J., & Kennedy, D. B. (1985). *Police perceptions of spouse abuse: A comparison of male and female officers*. *Journal of Criminal Justice*, 13, 29–47.
52. Jabatan Kebajikan Masyarakat (2017). *Laporan Statistik Jabatan Kebajikan Masyarakat 2016*. pp.128 - 133.
53. Kandiyoti, D. (1991) *Introduction to Women, Islam and the State*. Philadelphia: Temple University Press
54. Kanuha, V. (1996). *Domestic violence, racism and the battered women's movement in the United States*. In J. L. Edelson & Z. C. Eisikovits (Eds.), *Future interventions with battered women and their families* (pp. 34-50). Thousand Oaks, CA: Sage.

55. Kelbert, A., & Hossain, N. (2014) *Poor man's patriarchy: Gender roles and global crises*. *IDS Bulletin*, 45(1), 20-28.
56. Leininger, M. M. (1985). *Ethnography and ethnonursing: Models and modes of qualitative data analysis*. In M. M. Leininger (Ed.), *Qualitative research methods in nursing* (pp. 33-72). Orlando, FL: Grune & Stratton.
57. Lutze, FE, & Symons, ML (2003). *The evolution of domestic violence policy through masculine institutions: From discipline to protection to collaborative empowerment*. *Criminology & Public Policy*, 2 (2), 319-328.
58. Mann, S. A. (2000). *The scholarship of difference: A scholarship of liberation?* *Sociological Inquiry*, 70, 475-498.
59. Mann, S. A., & Grimes, M. (2001). *Common and contested ground: Marxism and race, gender & class analysis*. *Race, Gender & Class*, 8, 3-22.
60. Mahdzir, N., Rahman, A.A., Rahim, A.A. and Ismail, C.T.M., (2016) *Domestic violence court: a new model to combat domestic violence against women in Malaysia*. *UUM Journal of Legal Studies*, 7, pp.95-105.
61. Masidi, Y. (2009) *Are Muslim Men Allowed to Beat Their Wives?* [online] pp.4 - 23. Available at:
https://www.sistersinislam.org.my/files/downloads/are_muslim_men_allow_to_beat_their_wives_v12-1.pdf [Accessed 8 Mar. 2019].
62. Mayer, Ann. (1995) *Rhetorical Strategies and Official Policies on Women's Rights: The Merits and Drawbacks of the New World Hypocrisy*. In Afkhami
63. Merry, S.E., (2003) *Rights talk and the experience of law: implementing women's human rights to protection from violence*. *Hum. Rts. Q.*, 25, p.343.

64. Mernissi, F. (1991) *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam*. Reading, Mass.: Addison-Wesley.
65. Miller, S., (2000) *Arrest policies for domestic violence and their implications for battered women*. *It's a crime: Women and justice*, pp.287-310.
66. O'Reilly, K. (2009). *Key Concepts in Ethnography*. SAGE Publications.
67. Pateman, C. (1988) *The Sexual Contract*, Stanford: Stanford University Press
68. Phillips, N., & Hardy, C. (2002). *Discourse analysis: Investigating processes of social construction* (Vol. 50). Sage Publications.
69. Pleck, E.H., (1987) *Domestic tyranny: The making of social policy against family violence from colonial times to the present* (p. 150). New York: Oxford University Press.
70. Rahman, A.A. and Ismail, C.T.M (2013), *Combating Domestic Violence in Malaysia: Issues and Challenges*.
71. Rasche, C. E. (1990). *Early models of contemporary thought on domestic violence and women who kill their mates: A review of the literature from 1895 to 1970*. *Women and Criminal Justice*, 1, 31–53.
72. Saunders, D. G., & Size, P. B. (1986). *Attitudes about woman abuse among police officers, victims, and victim advocates*. *Journal of Interpersonal Violence*, 1, 25-42
73. Saunders, D. G., Lynch, A. B., Grayson, M., & Linz, D. (1987). *The Inventory of Beliefs About Wife Beating: The construction and initial validation of a measure of beliefs and attitudes*. *Violence and Victims*, 2, 39–56.

74. Seager, J. (1999) *The State of Women in the World Atlas*. London: Penguin Books.
75. Sharabi, H. (1988) *Neopatriarchy: A Theory of Distorted Change in Arab Society*. New York: Oxford University Press.
76. Sisters in Islam (2019). *Telenisa Statistics & Findings 2018*. [online] Selangor, pp.1-8. Available at: https://sistersinislam.org/wp-content/uploads/2019/04/Telenisa_booklet_en_FA_reduce-compressed.pdf [Accessed 12 Mar. 2019].
77. Smart, C. (1995) *Law, crime and sexuality: Essays in feminism*. Sage.
78. Sokoloff, N.J. and Dupont, I. (2005) *Domestic violence at the intersections of race, class, and gender: Challenges and contributions to understanding violence against marginalized women in diverse communities*. *Violence against women*, 11(1), pp.38-64.
79. van Dijk, T. A. (1996). *Discourse, power and access*. In C. R. Caldas-Coulthard & M. Coulthard(Eds.), *Texts and practices* (pp. 84–104). London: Routledge.
80. Volpp, L. (2005). *Feminism versus multiculturalism*. In N. J. Sokoloff (with C. Pratt; Eds.), *Domestic violence at the margins: Readings in race, class, gender, and culture*. Piscataway, NJ: Rutgers University Press.
81. Weber, M. (1922) *Wirtschaft und Gesellschaft: Grundriß der verstehenden Soziologie* [published in English (1978) *Economy and Society*, Berkeley CA: University of California Press]
82. Weiss, C. H. (1998) *Evaluation: Methods for Studying Programs and Policies/ 2.*, [rev] ed, Prentice Hall

83. Willis, C. E., Hallinan, M. N., & Melby, J. (1996). *Effects of sex role stereotyping among European American students on domestic violence culpability attributions*. *Sex Roles*, 34, 475–580.
84. Women's Aid Organisation (1997) *Monitoring the Domestic Violence Act 1994, Malaysia*. Researched and written by Laura Herbert and supervised by Ivy N. Josiah
85. Women's Aid Organisation (2017). *WAO Annual Report 2016*. [online] Petaling Jaya, Selangor, pp.12 - 16. Available at: <https://wao.org.my/wp-content/uploads/2018/08/WAO-Annual-Report-2016.pdf> [Accessed 11 Mar. 2019].
86. Women's Aid Organisation (2018). *WAO Annual Report 2017*. [online] Petaling Jaya, Selangor, pp.2 - 11. Available at: https://wao.org.my/wp-content/uploads/2018/08/WAO_Annual_Report_2017.pdf [Accessed 11 Mar. 2019].
87. Women's Aid Organisation. (2019). *Statistics of Domestic Violence in Malaysia - Women's Aid Organisation*. [online] Available at: <https://wao.org.my/domestic-violence-statistics/> [Accessed 9 Feb. 2019].
88. Yllö, K. E., & Bograd, M. E. (1988). *Feminist perspectives on wife abuse*. In National Conference for Family Violence Researchers, 2nd, 1984, U of New Hampshire, NH, US. Sage Publications, Inc.
89. Yllo, K. A. (1993). *Through a feminist lens: Gender, power and violence*. In R. J. Gelles & D. R. Loseke (Eds.), *Current controversies on family violence* (pp. 47-62). Newbury Park, CA: Sage.
90. Yoshihama, M. (1999). *Domestic violence against women of Japanese descent in Los Angeles: Two methods of estimating prevalence*. *Violence Against Women*, 5, 869-897.

91. Yut-Lin, W. and Othman, S. (2008) *Early detection and prevention of domestic violence using the Women Abuse Screening Tool (WAST) in primary health care clinics in Malaysia*. *Asia Pacific Journal of Public Health*, 20(2), pp.102-116.

APPENDIX

Appendix 1:

Consent Form for Interviews

Information Sheet

I am currently pursuing my Master's Degree in Social Studies of Gender at Lund University and conducting research for my thesis. This research is focused on investigating how patriarchal structures and traditional gender ideologies have influenced the implementation and effectiveness of legal legislation and reporting mechanisms such as the police and court system in Malaysia for domestic violence survivors. Through this research, I would like to identify the gaps in these systems and potential best practices that could be applied to the system in Malaysia.

This consent form may contain words that you do not understand. Please ask me to stop as we go through the information and I will take time to explain. If you have questions later, you can ask me. This research will involve your participation in a semi-structured interview which will take approximately 30-60 minutes.

If you agree to participate in this interview, I will meet you in a comfortable place of your own choosing. The interview can take place in your home or a friend's home or at any place of your choosing, if it makes you more comfortable. If you do not wish to answer any of the questions during the interview, you may say so and the interviewer will move on to the next question. The entire interview will be recorded but no one will be identified by name on the recording. The information recorded is confidential and no one else except me will have access to the recordings.

As I will be asking you to share some personal information and opinions with me, if you feel uncomfortable about talking about some of the topics you do not have to answer the questions. You do not have to give us any reason for not responding to any question or refusing to take part in the interview.

Confidentiality

I will not share any information about you to anyone who is not part of this research team. The information that I collect from this research project will be kept private. Any information about you will be substituted with a different name or number on it instead of your name. It will not be shared with or given to anyone.

Right to Refuse or Withdraw

Your participation in this research is completely voluntary and you may choose to discontinue your participation at any time. Your decision to discontinue will not influence the nature of any kind of relationship with researchers or staff members of Lund University either now or in the future.

Who to Contact

If you have any questions, you can ask them now or at a later stage. If you wish to ask questions later, you may contact Ashereen Jessy Kanesan at ashereen5@gmail.com.

Certificate of Consent

I, _____ have been invited to participate in the thesis research on the ‘influence patriarchal structures and traditional gender ideologies on the implementation and effectiveness of legal legislation and reporting mechanisms’ of and agree to the following statements:

1. I understand that the student will use the information collected from this interview for her master’s thesis project
2. I understand that my name and personal information will be changed or omitted in the thesis project
3. I understand that I have the right to refuse to answer certain questions during the interview as well as withdraw from the interview entirely, at any point.

I have read the aforementioned information, or it has been read to me. I have had the opportunity to ask questions about it and any questions I have asked, have been answered to my satisfaction. I consent voluntarily to be a participant in this research.

My signature below indicates my consent.

Print Name of Participant

Signature of Participant

Date: Day/Month/Year

Print Name of Researcher

Signature of Researcher

Date: Day/Month/Year

Appendix 2:

Consent Form for Access to Case Documents

Information Sheet

I am currently pursuing my Master's Degree in Social Studies of Gender at Lund University and conducting research for my thesis. This research is focused on investigating how patriarchal structures and traditional gender ideologies have influenced the implementation and effectiveness of legal legislation and reporting mechanisms such as the police and court system in Malaysia for domestic violence survivors. Through this research, I would like to identify the gaps in these systems and potential best practices that could be applied to the system in Malaysia.

This consent form may contain words that you do not understand. Please ask me to stop as we go through the information and I will take time to explain. If you have questions later, you can ask me. This research will involve the analysis of case studies and by signing this consent form, you are allowing me to analyse notes of your case by WAO for my thesis analysis.

With your consent, I will use information from your case processing and focus more on the effectiveness of the response services of police, court system, hospitals and JKM. As your file will contain personal information such as your name, address and family history, I will ensure that these details will remain confidential and only I as the researcher will have access to these details.

Confidentiality

I will not share any information about you to anyone who is not part of this research team. The information that I collect from this research project will be kept private. Any information about you will be substituted with a different name or number on it instead of your name. It will not be shared with or given to anyone.

Right to Refuse or Withdraw

Your participation in this research is completely voluntary and you may choose to discontinue your participation at any time. Your decision to discontinue will not influence the nature of any kind of relationship with researchers or staff members of Lund University or WAO either now or in the future.

Who to Contact

If you have any questions, you can ask them now or at a later stage. If you wish to ask questions later, you may contact Ashereen Jessy Kanesan at ashereen5@gmail.com.

Certificate of Consent

I, _____, have been invited to participate in the thesis research on the ‘influence patriarchal structures and traditional gender ideologies on the implementation and effectiveness of legal legislation and reporting mechanisms’ of and agree to the following statements:

1. I understand that the student will use the information collected from my case files at WAO for her master’s thesis project
2. I understand that my name and personal information will be changed or omitted in the thesis project
3. I understand that I have the right to refuse to answer as well as withdraw from this research entirely, at any point.

I have read the aforementioned information, or it has been read to me. I have had the opportunity to ask questions about it and any questions I have asked, have been answered to my satisfaction. I consent voluntarily to be a participant in this research.

My signature below indicates my consent.

Print Name of Participant

Signature of Participant

Date: Day/Month/Year

Print Name of Witness

Signature of Witness

Date: Day/Month/Year

Appendix 3:

Interview Guide - NGOs

Introductory questions

1. What is your name?
2. Which organisation do you work for?
3. How long have you worked at your organisation?
4. How long have you worked in the line of gender equality/women's rights?

PART 1

Traditional Gender Role Ideology/Patriarchal Structures:

1. In your opinion, what are the social structures that exist in communities in Malaysia?
2. What is patriarchy/traditional gender ideology to you and your organisation?
3. Is patriarchy a concept that still dominates culture in Malaysia?
4. Is this a concept that dominates people's perception of gender equality?
5. Do you think this traditional gender ideology has trickled down to how domestic violence is approached?
6. Do you think structural patriarchal violence exists in the Malaysian legislation?
7. What is traditional masculinity to you?
8. In your opinion, do you think traditional masculinity is still prominent in Malaysian society, particularly with law enforcement?
9. Is this concept/perception dominant within different Malaysian communities? If so, which one?
10. Do you think there is a resistance to change this behaviour?
11. Is there evidence to say that traditional gender role perception/ideology influences the way authorities respond to domestic violence?
12. Has violence against been accepted in Malaysian communities and if so, why do you think?
13. Does religion or the interpretation of it influenced this?
14. Do you think that governments, police see DV as a private matter? If so, why do you think it is viewed in this manner?

PART 2

Response by authorities:

1. How many cases (estimate) per month does your org handle that reaches the authorities?
2. How many clients would you assist to lodge a police report per month?
3. Do you have any clients who do not want legal assistance? If so, why?
4. How are DV cases handled by the authorities?
5. How are DV cases handled at hospitals/OSCC?
6. Have there been any issues that you have face while assisting a client in reporting to the police? If so, what are the issues face?
7. How have you overcome these issues?
8. Have there been any issues that you have faced while assisting a client in reporting to OSCC at the hospital?
9. Has your organisation faced push back from the government, authorities because of the work represented at the organisation?
10. How is your working relationship with government officials, particularly the police?

PART 3

Moving Forward:

1. To you, what are the distinct gaps in the reporting system for DV survivors?
2. In your opinion, how can these gaps be addressed?
3. As Malaysia is a multicultural country, do you think that an intersectional approach is optimum? Please explain your response.

4. In your opinion, how can the right of DV survivors be prioritised when it comes to authorities handling their cases and in the legal aspect?

Appendix 4:

Interview Guide - Social Workers

Introductory questions

1. What is your name?
2. Which organisation do you work for?
3. How long have you worked at your organisation?
4. How long have you worked in the line of gender equality/women's rights?

PART 1

Traditional Gender Role Ideology/Patriarchal Structures:

1. What is patriarchy/traditional gender ideology to you?
2. Is patriarchy a concept that still dominates culture in Malaysia?
3. Is this a concept that dominates people's perception of gender equality?
4. Do you think that governments, police see DV as a private matter? If so, why do you think it is viewed in this manner?
5. Does religion or the interpretation of it influenced this?
6. Has violence against been accepted in Malaysian communities and if so, why do you think?
7. Is there evidence to say that traditional gender role perception/ideology influences the way authorities respond to domestic violence?

PART 2

Response by authorities:

1. How many cases (estimate) per month did you handle as a Social Worker that reached the authorities?
2. How many clients would you assist to lodge a police report per month?
3. Do you have any clients who do not want legal assistance? If so, why?
4. How are DV cases handled by the authorities?
5. How are DV cases handled at hospitals/OSCC?
6. Have there been any issues that you have face while assisting a client in reporting to the police? If so, what are the issues face?
7. How have you overcome these issues?
8. Have there been any issues that you have faced while assisting a client in reporting to OSCC at the hospital?
9. Has your organisation faced push back from the government, authorities because of the work represented at the organisation?
10. How is your working relationship with government officials, particularly the police?

PART 3

Moving Forward:

1. To you, what are the distinct gaps in the reporting system for DV survivors?
2. In your opinion, how can these gaps be addressed?
3. As Malaysia is a multicultural country, do you think that an intersectional approach is optimum? Please explain your response.
4. In your opinion, how can the right of DV survivors be prioritised when it comes to authorities handling their cases and in the legal aspect?

Appendix 5:

Interview Guide - Survivors

PART 1

1. Did you have any say at home with decisions regarding money?
2. Did you have any say at home with decisions regarding your children? (if you have children)
3. Was there the expectation for you to not argue with your spouse in regard to decisions that he makes?
4. Was there the expectation for you to maintain the household duties even if you have a full-time job?
5. Was there a good divide of responsibilities at home between you and your husband?
6. Were you able to talk to anyone in your family about the issues you faced with your husband?
7. If so, what was their reaction or response?

PART 2

Response by authorities:

1. Have you lodged a police report before in regard to the abuse?

If yes...

- a. How many times did you lodge a police report?
 - b. How was your case handled by the police?
 - c. How was your case handled by JKM?
 - d. How was your case handled by OSCC?
 - e. When reporting the case, how did the police approach the case and talk to you about it?
 - f. Were there any issues that you faced when lodging the police report? If there was, what were the problems that you faced?
 - g. Were you offered protection by the police when lodging the report?
 - h. Were your health needs met after lodging the report?
 - i. Did you feel discriminated against in any way by the police, court systems or OSCC when seeking assistance?
2. If no, were there any particular reasons why you did not want to lodge a police report or seek legal assistance?
 3. Did you seek assistance from other sources (family, friends, NGOs)?
 4. If yes, from where did you seek assistance and how was the response that you received?
 5. How did you hear about WAO?
 6. Did you know about your legal rights and what you could do to seek legal redress before coming to WAO?

PART 3

1. In your opinion, how can the police, hospitals, courts improve their response or their behaviour so that survivors would feel more comfortable lodging a report?
2. Would you approach the police if an incident were to occur again? If no, why?
3. Would you recommend seeking legal redress to anyone else facing DV after your experience with the police?
4. Would you recommend that the survivor go on their own or seek assistance from NGOs like WAO?

Appendix 6:

Interview Guide - Women's Rights Activists

Introductory questions

1. What is your name?
2. How long have you worked in the line of gender equality/women's rights?
3. How did you start working in this line and why?
4. What are the notable advocacy work that you have done?

PART 1

Advocacy for DV Act 1994

1. What was the process like when you were advocating for this act in the 90s?
2. How many other NGOs and activist did you work with?
3. During that time, was there any conditions that the group had to forgo when advocating for this Act?
4. What were the challenges that you faced?
5. What push-back did you face from government, police authorities during this time?
6. During the 80's and 90s when the women's rights organisations were being formed, what was the main challenges that you faced and how did you overcome this?

PART 2

Traditional Gender Role Ideology/Patriarchal Structures:

1. In your opinion, what are the social structures that exist in communities in Malaysia?
2. What is patriarchy/traditional gender ideology to you and your organisation?
3. Is patriarchy a concept that still dominates culture in Malaysia?
4. Is this a concept that dominates people's perception of gender equality?
5. Do you think this traditional gender ideology has trickled down to how domestic violence is approached?
6. Do you think structural patriarchal violence exists in the Malaysian legislation?
7. What is traditional masculinity to you?
8. In your opinion, do you think traditional toxic masculinity is still prominent in Malaysian society, particularly with law enforcement?
9. Is this concept/perception dominate within different Malaysian communities? If so, which one?
10. Do you think there is a resistance to change this behaviour?
11. Is there evidence to say that traditional gender role perception/ideology influences the way authorities respond to domestic violence?
12. Has violence against been accepted in Malaysian communities and if so, why do you think?
13. Does religion or the interpretation of it influenced this?
14. Do you think that governments, police see DV as a private matter? If so, why do you think it is viewed in this manner?

PART 3

Moving Forward:

1. To you, what are the distinct gaps in the reporting system for DV survivors?
2. In your opinion, how can these gaps be addressed?
3. As Malaysia is a multicultural country, do you think that an intersectional approach is optimum? Please explain your response.
4. In your opinion, how can the right of DV survivors be prioritised when it comes to authorities handling their cases and in the legal aspect?

Appendix 7:

Interview Guide – Social Welfare (JKM)

DV - Domestic Violence

Introductory questions

1. How long have you worked at JKM?
2. How did you start working in this line and why?

PART 1

Traditional Gender Role Ideology/Patriarchal Structures:

1. In your opinion, what are the social structures that exist in communities in Malaysia?
2. What is patriarchy/traditional gender ideology to you?
3. Is patriarchy a concept that still dominates culture in Malaysia?
4. Do you think this traditional gender ideology/patriarchy has trickled down to how domestic violence is approached?
5. What is traditional masculinity to you?
6. In your opinion, do you think traditional masculinity is still prominent in Malaysia?
7. Is this concept/perception dominate within different Malaysian communities?

PART 2

1. How many cases of domestic violence does JKM handle per month (on average)?
2. Could you explain how DV cases are handled at JKM?
3. How many of these cases end up retracting their case?
4. Is there a particular reason why?
5. How many Social Workers are there assigned for Domestic Violence cases at JKM in the Klang Valley region?
6. Do you think there's enough?
7. What is the biggest struggle that JKM faces with dealing with DV cases?
8. What do you think are the gaps in the JKM system?
9. How do you think it could be improved?
10. How can NGOs or govt provide more support?
11. And what principles/guidelines that JKM follows when dealing with DV cases?
12. What are the main challenges with running JKM?
13. How did you go about these challenges or overcome them?
14. What are the main issues with coordinating with other agencies?
15. Have the JKM been trained on how to handle DV and sexual assault cases?
16. Do you think this training is effective or helpful for JKM?
17. How is your working relationship with NGOs that you work with?

PART 3

Moving Forward:

1. To you, what are the distinct gaps in the reporting system for DV survivors?
2. In your opinion, how can these gaps be addressed?