

FREEDOM FROM VIOLENCE

*Women's Strategies From
Around The World*

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*Women's Strategies From
Around The World*

Edited by Margaret Schuler

Women, Law and Development
OEF International

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Production by Helen Chan and Dennis M. Coluccio,
PACT Communications, New York
Copyedited by Linda Taerea

Printed by Automated Graphics Systems

Cover Graphic Courtesy APDC Women in
Development Programme and ISIS International

Photo Credits: UN Photos, Lori Heise

Distributed by UNIFEM
WIDBOOKS, P.O. Box 20109, Dag Hammarskjold
Convenience Center, New York, NY 10017

Library of Congress Catalog Card Number
92-80009

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Preface

Over the past decade gender violence emerged as an issue and a priority for action on an international scale. Previously unrecognized as a problem, the staggering magnitude and varieties of violence directed against women worldwide are now being recognized by governments and international bodies alike. But the work of finding solutions and shaping strategies to combat gender violence was and continues to be initiated and implemented primarily by nongovernmental, feminist, and sometimes grassroots, organizations. Through their commitment and creativity they have brought the reality of gender violence to the light of day and have crafted responses that confront its concrete ugliness as rape or battery or female infanticide or any of the other forms it takes. They have also searched for ways to confront the roots of gender violence and challenge the underlying values and structures of human society that permit women to be treated as targets of brutality.

Freedom from Violence: Women's Strategies from Around the World is about the search for solutions: for strategies to confront violence in the home, in the street and in the workplace. It follows in the path of *Empowerment and the Law: Strategies of Third World Women*, an earlier initiative to learn from women's strategies globally in confronting structures of inequality in their societies and to identify effective means of transforming them. The purpose of this collection of articles from Asia, Africa, North and South America is to offer an overview of issues and strategies related specifically to gender violence. The variety of cultural contexts and the diversity of forms of violence against women represented in the collection establish the backdrop for dialogue and the emergence of a common perspective for analyzing strategies. The book is directed primarily to women activists and advocates who are engaged in the daily struggle to overcome violence against women through services programs, education and public awareness campaigns, law reform activities or other strategies. Although the book does not focus on any specific form of violence or strategy, the common threads of experience and

analysis drawn from the cases provide a source of inspiration and a resource for action.

The first chapter presents a general overview of the issues and proposes a framework for looking at strategy goals, targets and activities. It also discusses some of the contemporary issues involved in services, law and justice system reform, and education. Since the papers did not break down easily by theme or issue, they are presented by geographical region. The Asian papers appear first, then the African articles, followed by the Latin America case studies, concluding with the article from the United States. The appendices offer a variety of resources.

This book would not exist except for the participation of the authors, all women with enormous commitments and responsibilities, whose generosity and dedication gave shape to the design. Early in the project a core group of contributors met in a planning seminar to identify the issues involved in strategies to combat violence against women and to set the tone and the perspective for the work. Later, each author took time from a very busy schedule to reflect and write about her experiences, or to do further research about other strategies in her country. This meant an additional commitment of time and energy.

However inadequate expressions of appreciation may seem, sincere thanks are offered first and foremost to the authors for all their contributions to the content of the book, and for their patience and cooperation: Radhika Coomaraswamy (Sri Lanka), Govind Kelkar (India), Hina Jilani (Pakistan), Siriporn Skrobaneek (Thailand), Irene Fernandez (Malaysia), Asma M. Haleem (Sudan), Sheelagh Stewart (Zimbabwe), Betsy Shrader Cox (Mexico), Luiza Eluf (Brazil), Sonia Montaña (Bolivia), Nelly Gonzalez (Chile), Lori Heise and Jane Chapman (United States). Special thanks to Nelly Gonzalez for her comments on the Latin American papers and her suggestions regarding services for battered women. Others whose input was appreciated include Lori Heise of the Center for Women's Global Leadership, Dorothy Thomas, of Human Rights Watch, and Sakuntala Rajasingham whose comments were critical to the final shape of the work.

On the production side, a special thanks to Meeru Dhalwala, whose short but very important tenure with the project helped create order out of chaos at a very critical time; to Charlie Roberts for his translation of the Latin American papers from Spanish and Portuguese to English; and to Dennis Coluccio and his team at PACT Communications for their prompt and enthusiastic response, despite many missed deadlines on my part.

I would also like to thank OEF International, particularly Willie Campbell and Cynthia Metzler, who supported the project and saw it through to the end. Finally, sincere appreciation is offered to the Ford Foundation, and in particular to June Zeitlin for backing the project, both morally and financially, and to UNIFEM for supporting the final production stages and agreeing to distribute the book through its network.

Margaret Schuler
Washington, D.C.
January, 1992

Introduction



**Violence Against Women:
An International Perspective**

Margaret Schuler

Violence Against Women: An International Perspective

Margaret Schuler

Gender Violence and the Women's Agenda Worldwide

Gender violence is a pervasive and prevalent problem worldwide, touching all aspects of women's lives—from the home, to the workplace, to the street. Although systematic efforts to understand the nature and global extent of violence against women are recent, activism and theory building on gender violence are in a period of rapid development. Every year, and from every corner of the world, new books and studies appear, conferences are convened, and innovative projects emerge: all aimed at understanding gender violence and advancing strategies to confront it. The 1990 ISIS International Bibliographic Survey of documentation on violence against women in the 1980s identified some 650 entries from around the world. Three hundred and fifty were from Latin America and the Caribbean alone. Despite this momentum, no definitive frameworks have yet emerged for conceptualizing gender violence and how to prevent it—and probably never will, given the dynamic nature of the process. However, the debate among researchers and activists has already contributed significantly to a political resolve to eliminate structural violence in women's lives and to formulate workable strategies to achieve this goal.

The Discovery of Violence Against Women

The discovery of gender violence and its establishment as an important component of the women's agenda took different

paths in different parts of the world. In general, it emerged in the context of activism and research on issues related to the social status of women and their right to participation. The discovery of violence against women as a major issue in Europe and North America coincided with the early stages of *feminist* theory development. In other parts of the world the convergence of *development, human rights, and feminist praxis* produced the framework for discovering the nature, forms, extent and pernicious effects of violence against women.

In Europe and North America, stimulus for the growth of the feminist movement during the 1960s and 1970s was the discovery of rape as a phenomenon affecting large numbers of women (Griffin, 1979). Organized action to raise public awareness about rape, change laws and police procedures, and provide services to rape victims contributed to and reinforced the emerging contours of feminist thought. Discernment of violence as an instrument to control female sexuality became a powerful tool for understanding the mechanisms sustaining violence and framing strategies to undermine it. During this period, the groundwork was set for subsequent initiatives to combat violence against women in Europe, North America and elsewhere.

In other parts of the world, it was the United Nations' Decade for Women (1975 to 1985) that became the primary catalyst for discovering gender violence. For the first time ever, researchers seriously studied women's roles and their contribution to socioeconomic development processes. Ester Boserup's (1972) ground-breaking research on women in African agriculture, and other studies throughout Asia, Africa and Latin America (Bourque & Warren, 1979; Acharya & Bennett, 1981; Staudt & Jaquette, 1983), made it apparent that women's participation was more important to development than was previously conceded. The studies also revealed that despite women's economic contribution, development planners neglected women at both the national and international levels. The studies concluded that women would have to be taken seriously in planning and programming if true socioeconomic development were to take place in a society.

During the Women's Decade, "women in development" (WID) became a legitimate focus of research and action.

International development agencies, local NGO's, and women generally discovered a new role: not only were women mothers and wives, but producers as well. WID initiatives by international development organizations and women's groups in many countries focused their efforts on improving women's status by making women's productive role more effective and functional. WID issues were high on the agenda of both the Inter-governmental and the Non-governmental Conferences in Copenhagen (1980) and Nairobi (1985). Most of the NGO participants who converged on those two cities to debate the Decade's themes of equality, development and peace, primarily explored ways to increase women's productive participation and socioeconomic advantage.

By the mid 1980s, however, the initial euphoria about the beneficial effects of "incorporating women into development" became tempered by the recognition that despite higher rates of participation, women's potential would continue to be thwarted by their subordinate status and low social value. The disappointing results of programs to overcome constraints to women's economic participation forced many to revise their analysis of the roots of women's marginalization. The impact of the lack of economic resources was analyzed from a new perspective. Realizing the importance of understanding the underpinnings of female subordination—legal, cultural, political and economic—women began to develop new analytical perspectives and the skills needed to mobilize economic and *political* resources, to expand and assert rights, and to redress injustices.

During the Decade, the feminist movement had taken off in a dramatic way throughout the Third World. This was also a period of expansion for human rights activism in Latin America, Asia, and Africa. Fueled by outrage at the brutality of military coups and dictatorships in most of the regions, ordinary citizens participated in building a consensus about fundamental rights, removing them from the specialized agenda of human rights and advocacy organizations. Initiatives aimed at the expansion and protection of rights of the most vulnerable sectors of society, including women, were developing everywhere, and women's advocacy work made its appearance. By the late 1970s, reports of the first mobilizations

of the women's movement in India to raise awareness about "dowry deaths" and to press for new laws and police procedures reached the major news media throughout the world. In response to military brutality in Chile, Argentina and Brazil, women were in the front lines of the political challenge to repression. In the process they detected and responded to the oppression in their own lives by shaping a new feminist political agenda (Jaquette, 1987; Kirkwood, 1985).

Asian, African, and Latin American feminists drew their inspiration from theories they perceived to be relevant to their experiences—experiences often seasoned by living within violent and politically repressive societies. Understanding the psychosocial effects of violence in the home and in society, feminist insights about women's status combined the categories of gender, class and race to offer new explanations about how social structures subordinate women.

Curiously, the 1980 Mid-Decade Conference in Copenhagen had few sessions focused on violence, however the official report of the meeting explicitly mentioned the problem of violence in the home (United Nations, 1980). Five years later at the 1985 Nairobi meeting (the last of the "Decade" conferences) violence was on the agenda, although not yet on the same scale as other development issues. Most of the initiatives dealing specifically with violence were new, experimental and unevaluated, and therefore did not attract wide attention. Also, many participants were still resistant to the idea that violence should be considered relevant to development policy.

Beginning with the Nairobi Conference, however, many national and international bodies began to take up the issue of violence against women. At the intergovernmental level, one significant event was the UN meeting on violence in the family held in Vienna in 1986. The UN Publication, *Violence Against Women in the Family* (United Nations, 1989) notes that approval by the U.N. General Assembly of Resolution 40/36 of 29 November 1985 recognizing the importance of violence in the home was a milestone. This resolution advocated "concerted and multi-disciplinary action," both within and outside the United Nations system, to deal with the problem. It also urged governments to adopt specific criminal legislation

to obtain an equitable and human response from judicial systems to the victimization of women. The resolution marked the recognition by inter-governmental bodies that violence against women is an issue affecting all countries and all cultures and should be a priority for national and international action.

At the nongovernmental level, groups and organizations throughout the third world had already begun to comprehend the problem and seek means within their own countries to address it. In Latin America newly formed, overtly feminist collectives in Peru, Mexico, Brazil and other countries responded militantly to the new awareness of the problem of male violence toward women by opening service centers to attend to the problems of battered and abused women. In Asian countries such as the Philippines, Thailand, India and others trade unions, grassroots groups, and development organizations began to incorporate into their established agendas programmatic components dealing with the issue of violence and expand their ideas of the causes of women's disempowerment. Many groups took on culturally specific forms of violence such as dowry murders in India, forced sterilization in Puerto Rico, and female circumcision in Africa, using strategies considered culturally appropriate and feasible in their context.

Networks and Coalitions on Violence

Many factors contributed to the recognition that violence against women should be a priority for action. Networking and exchange among those active in the field of women's rights was an important tool for diffusion of ideas and strategy development. In North America and Europe, where work on rape led to developing responses to domestic violence, new approaches and models surfaced in many and disparate geographical locations. The regional and national coalitions formed from among those working on wife battering and other varieties of abuse became important sources of inspiration for clarifying theory and shaping strategies. Coalitions and networks based in Europe and North America tended to be more specialized—concentrating on one form of violence such as rape—than those in the Third World where groups often coalesced to work on a variety of issues simultaneously.

At the international level, several initiatives played a prominent role in linking women activists in the field and in promoting awareness about violence against women and its connection to development. The First International Tribune on Crimes Against Women in 1976 brought two thousand women together in Brussels from forty countries to testify on crimes against women. In 1984 the "Global Feminist Workshop to Organize Against Traffic in Women" (Barry, Bunch, Castley, 1984) was significant in bringing global attention to the problems of trafficking, forced prostitution, and other forms of sexual slavery. The "Third World Forum on Women, Law and Development" (WLD) (Schuler, 1986) also played a catalytic role internationally, sparking efforts to clarify strategies related to gender violence. At the NGO Forum in Nairobi, the WLD Forum brought together women from around the globe to assess strategies that used the law to improve the status of women in the Third World. Recognizing the urgent need for new and more effective efforts to be developed, the participants called for the role of law to be clarified, particularly its use as a tool for improving the status of women in its social, economic and political dimensions.

Inspired by the dynamism of the debate at the Nairobi WLD meeting, regional organizations subsequently formed in Asia, Africa and Latin America to promote and defend women's rights. The Asia Pacific Forum on Women, Law and Development (APWLD), The Latin American Committee for the Defense of Women's Rights (CLADEM), and Women in Law and Development in Africa (WiLDAF) became autonomous vehicles for continuing dialogue and cooperative action at regional and international levels. These regional networks and their programs institutionalized a collective and continuing "forum" for exchanging and disseminating information, sharing strategies on the defense and promotion of women's rights, and developing mechanisms for coordination. Research on gender and violence, access to justice, human rights, and other related issues provide the basis for designing campaigns for promoting women's rights in all the regions. Other activities target legislative reform, public education, legal literacy, and litigation on test cases.

Combatting gender violence has been in the forefront of these and other international efforts. At the first interregional

meeting of APWLD, CLADEM, and APWLD (Schuler, 1989) all three regional organizations agreed to work on the common theme of violence against women by deepening their analyses of the issue and refining their strategies for confronting the problem in its various manifestations. As a result, over the past couple of years, each region has undertaken a variety of research and action activities on violence against women, including workshops, conferences, publications, and the formation of task forces to work on strategy development and coordination.¹

Among other recent networking efforts is the dialogue initiated by Match International in 1988 between women in Canada and the Third World to develop a global perspective on violence and encourage women to seek community based alternatives to violence. In 1990, two major initiatives created forums for bringing together women working to combat gender violence. In May the Global Fund for Women convened an international forum, "Leading the Way Out," with activists working principally on domestic violence through shelters and crisis centers. In June the Center for Women's Global Leadership held its first institute on women and violence at Rutgers University and pledged to focus on this issue for the next three years. Another significant contribution to work on violence is the ISIS International Bibliographic Survey on gender violence published in 1990. Each of these networking and exchange efforts signal the importance of sharing information and forging linkages across national boundaries in the struggle to end violence against women. As a consequence of these initiatives, gender violence today is taking its place as the major issue around which women are organizing. Acknowledged to be a commonplace phenomenon in every culture and every geographical setting, gender violence has become a priority issue for women worldwide.

Developing Frameworks and Models Rooted in Experience

Inseparably linked to the priority of overcoming violence against women is the urgency of designing and carrying out effective action strategies. As the pervasiveness of violence against women in its various manifestations has unfolded, a sense of urgency in finding effective means to confront violence has also increased. The case studies in this volume are about

the process of building and refining these strategies. They show how experiences in confronting gender violence from different cultures and settings cumulatively contribute to shaping a framework for advocacy work on gender violence and defining an initial set of categories and criteria for creating and critiquing strategies.

There are two major sources of inspiration for strategy development. First, strategies commonly develop as concrete responses to urgently perceived needs. For example, establishment of shelters in the U.S. responded to activists' concerns about the battered woman's vulnerability and urgent need for protection. Later, frustrated by the unresponsiveness of the justice system to the battered woman's situation, activists turned toward a structural approach and focused on making the police and the judiciary responsive to the crime of wife battery (Heise & Chapman).² In India, the Supreme Court's judgement on a specific case in 1979 mobilized the women's movement to initiate its campaign against rape, using an approach that targeted various sectors: the media, the legislative body, the police, the public. Awareness of the number of women killed for delivering insufficient dowry prompted women organizers to convene mass awareness-raising demonstrations; to hold protests against police treatment of cases; and even to maintain vigils in front of the homes of the husbands, in-laws and other alleged perpetrators in specific dowry-murder cases (Kelkar).

Second, strategies build on ideas and models rooted in other contexts and other experiences. Many early shelters established in the Third World derived inspiration from European and North American experiences. The practice of the Royal Canadian Mounted Police proved useful in training Malaysian police in evidence collecting techniques (Fernandez). In Bolivia (Montaño), reform of the rape laws benefitted from the successes and shortcomings of rape reform initiatives adopted in other countries. In Africa, female circumcision is beginning to be regarded as an act of violence toward women, and not solely as a health problem, as a result of developments in conceptualizing gender violence and an ongoing Pan-African dialogue among women affected by this practice about how to approach the problem.

The dynamic interaction of these two streams of inspiration—perceived exigencies of a particular context and models developed elsewhere—is a thread that runs throughout this volume. Generally, strategies derived from one source alone prove lacking. The use of models as “recipes” without regard to local realities produce inappropriate, incoherent, and therefore risky paradigms, while learning totally from experience is tedious, wasteful, and ineffective. Each case study in this book provides a mix of external and internal inputs for the design of specific strategies. In one way or another, the two aspects are present in all of the cases, although the setting and the forms of gender violence targeted differ from case to case.

Treating the subject of gender violence on an international scale, however, does pose a certain challenge. Whether the terms of the dialogue are within a “North/South” or “South/South” framework, learning *from*, not just *about*, the efforts of women in different parts of the world to confront violence requires a special attitude of mind. While domestic violence and rape have become recognized as almost universal forms of abuse, other categories and practices such as *sati*³, bride burning⁴, trafficking in women, female circumcision⁵, female feticide⁶, and infanticide remain associated with particular cultures or regions of the world. Given such distinctive patterns, it is crucial to avoid thinking that there are no lessons to be learned from efforts to combat exotic forms of violence different from those present in one’s own reality. Nor is any form of violence so distinctive or so pervasive that experiences from other, presumably more (or less) violent societies, are irrelevant. Only by understanding the common thread that runs through all forms of violence against women in all contexts, can attention to either “ordinary” or “exotic” forms lead to insights about ways to alter the patterns of violence directed toward women. In fact, by any name, and in any culture, abuse of women is the issue—and the causes and consequences are similar.

This book does not present a single “correct” strategy. Indeed, issues and circumstances delimit what is appropriate and possible to undertake. However, it does share some insights about approaches taken to combat gender violence in various parts of the world, about the sources of inspiration of the work,

about common threads of agreement over the nature of gender violence, about the lessons learned through experience, and about the elements that are beginning to form a framework for the design and critique of strategies to combat violence against women. In sharing these insights from the case studies included, the book is intended to be a resource, offering tools and guidance in the task of building strategies.

Defining the Problem:

Gender Violence

At its most basic and obvious level, violence is “an act carried out with the intention or perceived intention of physically hurting another person” (Gelles and Straus, 1979). Adding the *gender* dimension to that definition amplifies it to include violent acts perpetrated on women because they are women. With this addition, however, the definition is no longer simple or obvious: understanding the phenomenon of gender violence requires an analysis of the patterns of violence directed toward women and the underlying mechanisms that permit the emergence and perpetuation of these patterns.

Coomaraswamy’s article in this volume points out that women are vulnerable to various forms of violent treatment for several reasons, all based on gender.

- 1) Because of being female, a woman is subject to rape, female circumcision/genital mutilation, female infanticide, and sex-related crimes. This reason relates to society’s construction of female sexuality and its role in social hierarchy.
- 2) Because of her relationship to a man, a woman is vulnerable to domestic violence, dowry murder, *sati*. This reason relates to society’s concept of a woman as the property and dependent of a male protector, father, husband, son, etc.
- 3) Because of the social group to which she belongs, in times of war, riots, or ethnic, caste, or class violence, a woman may be raped and brutalized as a means of humiliating the community to which she belongs. This also relates to male perception of female sexuality and women as the property of men.

Central to this analysis are the issues of power and gender relations. As Kelkar (India), Haleem (Sudan), Stewart (Zimbabwe), Jilani (Pakistan), Montaña (Bolivia), Gonzalez (Chile), and others in this book point out, gender violence is embedded in the context of cultural, socioeconomic, and political power relations. These relations, in which male power dominates, reduce women to economic and emotional dependency, the property of some male protector. Societies organized around gendered, hierarchical power relations give legitimacy to violence against women. In such societies gender violence takes shape not only as physical abuse, but as emotional abuse through threats and reprisals, as exploitation, as discrimination, and other forms of control and coercion (Kelkar).

Based on this analysis, many activists have come to accept as a definition of gender violence “any act involving use of force or coercion with an intent of perpetuating/promoting hierarchical gender relations” (APWLD, 1990). The strength of this definition is that it highlights the role of patriarchy in perpetuating violence, but the breadth of the definition is its limitation. While it is important to identify the causes and consequences of violence, it is equally important to specify the acts that constitute violence. The challenge is to move beyond current, narrow concepts that veil the reality of gender-motivated violence without making the word “violence” so broad it encompasses every violation of women’s rights. To do so would dilute the explanatory power of the term “gender violence.” At the very least, what is needed is a functional term to designate those types of violations that involve violent, coercive force, endangering the life or the physical and psychological integrity of women. It is also necessary to expand the notions of civil rights and human rights to incorporate gender violence as a recognizable and functional category.

For the purposes of this book, which focuses on strategies to combat gender violence, there are four major categories of interest:

- 1) *Overt physical abuse* (battering, sexual assault, at home and in the workplace).
- 2) *Psychological abuse* (confinement, forced marriage).

- 3) *Deprivation of resources for physical and psychological well being* (health/nutrition, education, means of livelihood).
- 4) *Commodification of women* (trafficking, prostitution).

Combining these types of abuse with the concept of hierarchical gender relations, a useful way to view gender violence is by identifying *where* the violence toward women occurs. Essentially, violence happens in three contexts—the family, the community, and the state—and at each point key social institutions fulfill critical and interactive functions in defining, legitimating and maintaining the violence.

- 1) The *family* socializes its members to accept hierarchical relations expressed in unequal division of labor between the sexes and power over the allocation of resources.
- 2) The *community* (i.e., social, economic, religious, and cultural institutions) provides the mechanisms for perpetuating male control over women's sexuality, mobility and labor.
- 3) The *state* legitimizes the proprietary rights of men over women, providing a legal basis to the family and the community to perpetuate these relations. The state does this through the enactment of discriminatory laws and policies or through the discriminatory application of the law.

Taken together—the family, the “community,” (as defined above), and the state—constitute not only a pervasive and interactive system for legitimizing violence, but the locus of acts of violence as well. The chart on page 14 outlines the manifestations of gender violence using this framework.

The Family

The family is a major site of violence. A female is vulnerable even from before birth as sex-determination tests now provide the means to selectively abort the female fetus. During childhood she is often deprived of food and medical care in favor of her male siblings, while her mother is systematically disciplined, through beatings, to fulfill her domestic duties toward husband and family. Amartya Sen's 1990 essay, “More Than 100 Million Women Are Missing,” revealed that due to a complex interaction of cultural and economic dynamics, played out largely through decisions made in the home

against the well-being of females, there are in fact regions in the world where the ratio of women to men is dramatically unbalanced. The incidence of incest and sexual abuse within the family in industrialized countries belies the assumption that advanced economic development is key to reducing unfair treatment of women. Overt control of a woman's sexuality, through either forced pregnancy or forced abortion by the male, is another form of gender violence perpetrated within the family. Finally, emotional abuse is a category that affects countless women: whether through threats of reprisals for failing to conform to expected behavioral norms; through confinement (at times reaching the point of false imprisonment); or through forced marriages, those arranged by the family and carried out without the consent of the "bride." The increased incidence of suicide by women unable to cope with of their situation is another facet of the hopelessness resulting from gender violence in the home.⁷

The Community

Moving to the level of the "community," the social, cultural, religious, ethnic, or racial reference groups—those from which people derive their sense of identity and key values—play a critical role in reinforcing the structure of the family and the position of women within it. Beyond defining gender relations within the ideal family, and thereby often setting the stage for female subordination, the social reference group can also perpetrate certain forms of violence. Female circumcision (more accurately described as genital mutilation) occurs not only with the moral support of the cultural community, but by persons regarded as agents of the community, such as local healers or midwives. Witch burning, *sati*, punishment for extramarital sex—including rape—and other forms of physical chastisement are among additional practices of gender violence perpetrated toward women in the name of preserving ethnic or religious integrity. Finally, rape and punishment of female members of "enemy" groups are forms of gender violence used today in many regions of the world where ethnic conflicts are on the rise.

The workplace, either in the formal or informal sectors, is another locus of violence against women. Harassment and

Locus and Manifestations of Gender Violence

LOCUS & AGENT	THE FAMILY	THE "COMMUNITY"	THE STATE
FORMS OF GENDER VIOLENCE	<ul style="list-style-type: none"> ■ Physical Aggression <ul style="list-style-type: none"> • Murder (dowry/ other) • Battering • Genital mutilation • Foeticide • Infanticide • Deprivation of food • Deprivation of medical care • Reproductive coercion/ control ■ Sexual Abuse <ul style="list-style-type: none"> • Rape • Incest ■ Emotional Abuse <ul style="list-style-type: none"> • Confinement • Forced marriage • Threats of reprisals 	<p>Social Reference Group (Cultural, religious, etc.) *Violence directed toward women within or outside the group.</p> <ul style="list-style-type: none"> ■ Physical Abuse* <ul style="list-style-type: none"> • Battery • Physical chastisement • Reproductive coercion/ control • Witch burning • Sati ■ Sexual Assault* <ul style="list-style-type: none"> • Rape <p>Workplace</p> <ul style="list-style-type: none"> ■ Sexual Aggression <ul style="list-style-type: none"> • Harassment • Intimidation ■ Commercialized Violence <ul style="list-style-type: none"> • Trafficking • Forced prostitution <p>Media</p> <ul style="list-style-type: none"> • Pornography • Commercialization of women's bodies 	<ul style="list-style-type: none"> ■ Political Violence (Policies, laws, etc.) <ul style="list-style-type: none"> • Illegitimate detention • Forced sterilization • Forced pregnancies • Tolerating gender violence by nonstate agents ■ Custodial Violence (Military/ police, etc.) <ul style="list-style-type: none"> • Rape • Torture

sexual coercion are commonly tolerated in factories and offices throughout the world, and there are other forms of violence against women practiced there, which relate to women's vulnerable status in the work force. The informal sector also places women at risk of violence, due to the isolation of the women workers and their lack of legal protection. Legal guarantees of safety, at least nominally available to formal sector workers, are totally inaccessible to them. The epitome of workplace violence against women, however, occurs through the commercialization of women's sexuality in organized prostitution and trafficking in women.

Finally, at the level of the "community," the communications media play a role in perpetrating violence against women through overt pornography, or graphic expressions of female sexual subjugation through violence, through exploitative reporting of rape and other degrading injuries, and through portrayals of the female body as a commodity to be bought and sold. The function of the media in sustaining patriarchal values is of critical importance, but specific violent acts may also be attributed to the media when they condone or incite gender violence.

The State

The third location of gender violence is at the level of the state itself, although state culpability is difficult to categorize. Although state responsibility for the behavior of military officers who violate the human rights of prisoners is firmly ensconced in human rights law and practice, establishing state accountability in gender violence is elusive since most states consider acts of violence toward women to be "private" in nature and carried out by nonstate agents. Rape and torture of women in detention by their custodians is the most obvious situation in which the state can be identified as a direct agent of gender violence. Overt government policies, such as forced sterilization or experimentation on women with unsafe drugs, are also examples of state-sponsored gender violence. Finally, the state's culpability in perpetuating violence through *omission*, that is, by failing to take appropriate measures to protect vulnerable women, is becoming increasingly evident. Under this concept, the state becomes blameworthy by *not* passing or enforcing appropriate laws and policies to protect women

from, for example, battery in the home. The state is also guilty of condoning violence when it when it accepts the "honor defense"⁸ and grants men impunity for violence in cases where they murder their wives or lovers. Thus, the state is not just a locus of violence, but under certain circumstances, the perpetrator as well.

The idea of "agency" in the perpetration of gender violence is important, not just at the level of the state, but at other levels also. Violence in the family is not only *located* in the family, but members of the family carry out the violence. Violence in the community occurs within institutions that are not just the setting for violence, but also the agents of the violence. For example, acts of witch burning, whether in the historical cases of colonial Massachusetts or in the contemporary occurrence in the Indian State of Bihar, do not just *happen* in the community. Members of the community are the ones who carry out the violent acts. Whether or not the actual perpetrators receive "official" authorization is irrelevant: the community (religious/political, etc.) provides the justification for their behavior. Similarly, economic enterprises are responsible when—either by design or by neglect—they permit sexual intimidation of women workers and benefit from the submissive and docile behavior of their female employees.

Caveats and Insights

Explaining gender violence in terms of hierarchical gender relations and summarizing its manifestations in schematic form carry certain risks: oversimplifying and universalizing the problem. Violence does not occur in every family or in every culture to the same degree, and the many nuances to the causes of violence in specific cases and contexts must be recognized. Despite that caveat, the framework of unequal gender relations provides a structured way to conceptualize the issues without disregarding additional explanatory categories. There is merit in the thesis that violence is a learned behavior. Similarly, the notions that some subcultures develop more dominant patterns of physical violence than others, and that alcohol and stress resulting from poverty or other causes exacerbate the problem of gender violence, should not be dismissed. The case studies in this book supply evidence to this effect.

Recent empirical research findings on gender violence validate the use of "unequal gender relations" as an analytical framework and provide additional theoretical insight. One notable study is Levinson's *Family Violence in Cross-Cultural Perspective* (1989). Its comparative and statistical analysis of ethnographic data on ninety societies throughout the world found that wife beating was present in seventy-five of the ninety. Most significantly, the analysis yielded four cultural factors that taken together are strong predictors of wife abuse. They include sexual economic inequality, a pattern of using physical violence for conflict resolution, male authority and decisionmaking in the home, and divorce restrictions for women. The study suggests that female economic inequality is the strongest factor, strengthened by male control in the household and the wife's inability to divorce. In effect, women are most vulnerable to violent actions the more total their dependence on men. When their freedom is restricted and they have no options for escape, women are more likely to be abused by their husbands or male authority figures.

In testing this hypothesis, Levinson found one society, the Central Thai, where none of these patterns were present and wife abuse was not a problem. Here nonsexual division of labor was the norm: men as likely as women would carry out household duties including child rearing tasks, and women as likely as men would farm or carry out the family economic enterprise. Divorce was common, people preferring to separate than to live in discord. Physical violence in the community occurred rarely; other methods for conflict resolution being preferred. Interestingly, households tended to be physically distant from one another. Community identity was relatively weak and the community described as "loosely structured." Family composition was unstable and husbands tended to have long absences from the home (P. 104-107). These last two characteristics, plus high divorce rates, are often thought to be associated with higher levels of violence. Levinson's study suggests that the most important factors were avoiding conflict, use of a range of techniques to deal with aggressive feelings, basic respect for all members of the community, and most important, absence of a division of labor by gender in the household.

Although Levinson's thesis will, no doubt, be subject to further research and scrutiny, it provides an indication not only of causes of gender violence, but also a vision of conditions under which violence would be eliminated as a major problem for women. Such a vision offers a useful benchmark in the search for strategies to end gender violence.

Strategies to Combat Gender Violence

A general framework—such as that offered here—represents a point of departure and a means of understanding the parameters of a problem, but it is not sufficient as a guide to action. Structuring a strategic response to a problem requires precise understanding of its context and social dynamics. The twelve case studies in this book highlight three critical issues for designing strategies to combat gender violence: 1) the social and psychological situation of abused women; 2) the cultural values tolerating violent behavior toward women; and 3) the legal system's position and response to the problem. Accurate definition of these three areas provides clues about where to target strategic action.

The Victim. The woman who is raped or sustains abuse in the home or the work place has certain needs that flow directly from the trauma she suffers as a victim of abuse.

- The battered woman is generally dependent, lacks a sense of freedom and self-confidence, and feels trapped both emotionally and financially in her situation. Powerlessness is a common characteristic of battered women. Both her physical and psychological injuries may require immediate care and she may need legal protection (if available) or another form of assistance to safeguard her in the short term. Her long-term needs for security require the existence or creation of viable alternatives to her current situation, coupled with the psychological capacity to perceive such options and make choices.
- The woman who is raped or suffers another form of violence—whether from acquaintances or strangers—also endures physical and psychological wounds requiring immediate attention and support. Hostile and bureaucratic criminal procedures often have the impact of increasing

her distress instead of ameliorating it. Shame may prevent her from revealing her anguish and the effect of this may position her in a situation of continuing or greater danger.

Underlying Values. Shared values, which regard women as inferior to men, are the critical factor in shaping abusive behaviors toward women.

- Traditional values give men proprietary rights over women. In line with a woman's utility as an asset, society highly values virginity in women. Wives are esteemed for their faithfulness to their male protectors and for the productive and reproductive contribution they make to his family. Rape of a woman is regarded as an offense against another male (husband or father). Men are entitled to control the mobility of the women in their charge and to punish the behavior they deem inappropriate.
- These values (shared by men *and* women) are functional in all societies to varying degrees. Some communities sanction practices that permit male authority figures to exercise high levels of physical violence over women. Even in those forms of violence against women carried out by other women—usually some family member—the punitive or disciplinary character of the action reflects the need to maintain gender relations based on hierarchy and the superiority of the male.
- Most societies regard the family as sacrosanct—not to be interfered with by outside individuals or by the state—and the affairs of family members as private. Under a regime of unequal gender relations, women are at a clear disadvantage.
- Even in societies professing equality of all citizens, traditional values often undermine formal affirmations of equality.

The Legal System. The law plays a critical role in sustaining or changing attitudes and practices related to gender violence.

- Law plays the dual role of reflecting fundamental social values and defining or shaping them.
- Laws define rape and other forms of gender violence in accord with society's views about women (traditionally, as subordinate to and the property of men).

- Enforcement and adjudication of these laws by the justice systems (through the police, prosecutors, and the courts) also mirror these values.
- Because law reflects social values, laws can be changed to create new behavioral norms reflecting new values about women.

All programmatic responses to gender violence address one or all of these areas: 1) the needs of the victims; 2) the social values that justify violent behavior toward women; and 3) the socio-legal system charged with protecting the rights of the innocent and sanctioning the guilty.

A Tool for Assessing Strategies

Building on the experiences and insights of the contributors to this book, the chart on pages 22 and 23 proposes a framework for analyzing strategy components and designs. While affirming that all strategies to combat violence against women deal with the three areas mentioned, the papers also reveal the enormous complexity of issues and the range of possibilities for action that program organizers must evaluate in the process of assembling an effective design. Because of the theme's complexity, there is a certain risk implied in selecting one among the many legitimate approaches to the systematic conceptualization of strategies. The challenge of proposing a framework for appraising strategies consists precisely in making it comprehensive enough to capture the complexity of the issues, and yet simple enough to be functional as a tool for planning and assessment. Models and tools of this kind are useful only to the degree that they help elucidate the problem and provide guidance in targeting action for change.

Most of the strategies in this book articulate three distinct but interrelated goals to their work: responding directly to the problems caused by the violence; changing values and behavior patterns in individuals and in institutions; and clarifying the causes and nature of the violence in their particular context. This latter goal is a prerequisite for the other two, but can also be a goal in its own right. The papers also identify several common targets, or subjects, toward which the strategy's goals are directed. These targets include the victim (or

potential victims), the "public," state and social institutions, and the legal system. Activities aimed at understanding violence (research) appropriately touch all of these subjects. Activities responding to the concrete effects of violence, and those geared toward changing the way people and institutions behave in the long term, can similarly cover the range of these targets.

Building on these cues, the framework approaches strategies from the perspective of 1) the individuals and institutions the strategy aims to affect (the vertical axis), and 2) the objectives to be achieved (the horizontal axis). The cells of the matrix describe the essential activities a strategy would include at the intersection of the goals and targets. As a point of clarification, if the strategies framework presented here appears to be lacking a category designated "political," or if no special niche for "education" surfaces, these omissions are not by accident, but by design. Their absence in the schematic chart is meant to emphasize the political nature of all strategies and to affirm the necessity of an educational dimension at every point.

Subjects and Targets of Strategies

- *Victims.* The abused woman is perhaps the most obvious subject to which strategies to combat violence against women are directed. Many strategies make responding to the needs of the violence victims for safety, for redress, and for alternatives to their situation a major priority. Programs with preventive approaches expand the concept of the victim to include potential victims, those who are vulnerable although not yet victims of violence, in addition to already abused women.
- *The "Public."* Most programs at some level want to influence the "public," that somewhat amorphous mass of individuals whose ideas and values must be challenged and changed if social behaviors are to be changed. Awareness raising campaigns through the media and other means of mass communication are the preferred methods for this category of subject.
- *Institutions.* Since people derive and sustain their values from social interaction, a key strategic target are those institutions, organizations and groups with power to

Gender Violence Strategies Framework

		INTERVENTION:	
		<i>Responding to the Violence</i>	<i>Attacking the Roots of Violence</i>
VICTIMS	<i>Actual/potential</i>	<p>RESEARCH: <i>Understanding the Violence</i></p> <ul style="list-style-type: none"> Document and identify: kind and extent of violence; conditions supporting it; effects on women; what is needed to stop it; appropriate programmatic responses. 	<p>EMPOWER women to:</p> <ul style="list-style-type: none"> Develop a social analysis of violence. Understand extent/ limits of the law. Create new options by developing skills (self-confidence, self-defense, employment, political, etc.). Organize for political action.
THE	"PUBLIC"	<ul style="list-style-type: none"> Provide information on the prevalence of gender violence in society. Supply information on available resources/procedures, etc. 	<ul style="list-style-type: none"> Make violence a political issue, relevant to all.
INSTITUTIONS	<i>State/NGO</i>	<ul style="list-style-type: none"> Identify: popular beliefs about causes of gender violence; attitudes of tolerance/acceptance, etc. by men and women. Identify: influential institutions & groups; their mechanisms for affecting social values and attitudes on gender violence. Identify cultural and economic practices that facilitate violence. 	<ul style="list-style-type: none"> Cultivate constituencies and allies in key institutions and groups. Challenge religious, educational, professional, economic authorities to take appropriate action. Engage them in political action. Counter negative institutional influences (through education, dialogue, protest, boycott, etc.).

<p>LAWS/POLICIES</p>	<ul style="list-style-type: none"> • Evaluate laws dealing with violence (ideological base, intent, adequacy) • Identify how laws can be improved, expand women's rights, protections, and alternatives. • Develop a new legal framework to reflect the concepts of gender violence, alternative sanctions, etc. 	<ul style="list-style-type: none"> • Use legal means available to obtain protection or redress. 	<p>At local, national, international levels:</p> <ul style="list-style-type: none"> • Propose more adequate laws. • Introduce new frameworks and arguments. • Mobilize public support through campaigns, protests, etc. • Lobby legislative bodies for passage of new laws, procedures, policies.
<p>ENFORCEMENT AGENCIES <i>Judges/Prosecutors/Police</i></p>	<ul style="list-style-type: none"> • Document how the laws are enforced; frequency of reporting; how victims are treated; frequency of prosecutions; biases of police and prosecutors; etc. • Identify what is needed to improve enforcement of the law. • Document how cases are handled in the courts: number of cases prosecuted; judgments; sentences; bias of judges; etc. 	<ul style="list-style-type: none"> • Pressure police to enforce the law, prosecute gender violence crimes, and be respectful of the victims. • Propose suitable procedures, if needed. • Set up accountability mechanisms. • Identify and use sympathetic courts. • Challenge or confront the courts through legal and political means, to comply with the law. 	<ul style="list-style-type: none"> • Educate police and prosecutors to develop new attitudes & skills in dealing with gender violence. • Monitor police handling of violence cases and police behavior. • Elaborate alternative approaches regarding victims and perpetrators. • Make judges aware of their gender biases and cultivate new patterns of judicial behavior. • Use litigation and test cases to improve behavior of the courts.

influence social thought and behavior. They include educational institutions such as schools and universities, religious and cultural institutions, and the media. They also include those professions whose members come into contact with violence victims such as religious authorities and the healing professions. Identifying key points of institutional influence is critical to any strategy.

- *Laws.* This category covers the content of all laws governing any aspect of gender violence. Since laws prescribe behavioral norms, specify measures of acceptable and unacceptable conduct, and delineate rights and sanctions, they provide a vital opportunity to formalize values of respect for women and intolerance of violence toward them.
- *Law Enforcement Agencies.* Another critical arena for action encompasses the agents of the state charged with enforcing the law: police; prosecutors; and judges. The intended effect of even the best laws can be nullified if they are not enforced. Very often the biases of the police lead them to ignore their responsibilities related to gender violence—sometimes to the point of becoming violators and abusers themselves. Thus, a strategic approach aggressively confronts this level of institutional behavior. The final, often indispensable, target of strategic action is the courts. Through their treatment of women, their handling of gender violence cases, and the biases of judges and magistrates in making judicial decisions—they determine patterns of judicial behavior that will be tolerated in cases dealing with women and violence whether or not justice will be served in specific cases. Thus, the police and the court system are significant targets of strategic action.

Objectives and Goals

The purpose of a strategy is to intervene—to take action—for change. Interventions respond directly to the existence of gender violence. They also seek to establish new value and behavioral patterns in order to improve the way society deals with victims and abusers, and ultimately to eliminate violent acts toward women. As a prerequisite for any of these interventions, research provides understanding about the nature and context of violence.

- *Understanding the violence:* The need for research is a constant factor in all strategies. Without solid data and information, a strategy can only be an intuitive response, a sometimes necessary point of departure, but insufficient as a sole source of information. To move beyond “hit or miss” possibilities for success, organizers must find the means to obtain the needed information. Even before action begins, defining a strategy in any context requires clarity about many issues: What is the extent of the problem? What are the physical and psychological effects on women? What kind of resources are available or needed to confront the distress of abused women or to prevent violence? What opportunities exist for effecting behavioral changes about gender violence at the cultural and structural levels? What about the law as stated and applied? What changes are needed in the law, in institutions? What is the best way to approach the task? What allies or natural constituencies exist to support the strategy? Once action begins, the organization of the strategy itself, its methodology and the results obtained, among other factors, must be systematically assessed to keep it on track. Research and evaluation provide the information and analytical infrastructure upon which to build a particular strategy.
- *Responding to the violence:* Dealing with the effects of actual violence defines the first and most immediate type of intervention. Included under this category is provision of services to the victim: hotlines; shelters; rape crisis or other centers that provide legal, psychological, medical assistance. Intervention strategies also deal with the public and with institutional factors that affect the quality of response the victim will receive. Working with the police, prosecutors, state social service agencies, and the courts all form part of strategies aimed at responding to the actuality of gender violence, whatever its specific form. Response strategies address two principle concerns. The first is with achieving protection for the victim and restraint of the abuser, by whatever means are available through the law or otherwise. The second concern is with defining alternative solutions for the survivor that deal with her physical health, her psychological well-being, her economic and social status etc.

- *Attacking the roots of the violence:* A second type of intervention aims to create a new social ethic related to women and violence. It is both preventive and prescriptive as it seeks to lay down new standards of behavior and new values regarding women. In working with survivors or potential victims, this type of intervention includes activities that empower women to defend themselves by developing new skills and by organizing politically. Work with the public and with key social institutions focuses on breaking the silence about violence and making it a political issue relevant to all, not just to women. A preventive/prescriptive intervention implies cultivating sympathetic allies and constituencies to participate in changing behavioral norms at legal, institutional, and personal levels. Within the legal system, preventive strategies focus on reframing the very basis of the law, in addition to reforming the provision of individual laws. Influencing the police, prosecutors, judges and other actors in the judicial system is an important aspect of prevention since the goal is changing both individual and institutional behaviors and norms.

Creating a "Strategic" Response

Being strategic implies more than a systematic approach to planning and executing a set of organized actions to achieve a specified goal. Being strategic presupposes the presence of several carefully chosen and sharply focused elements. It means having a clear and accurate perspective about the problem and potential approaches in a given context. It means appreciating the relative value of possible goals and methods that could be selected, and then choosing those with the greatest potential for impact. Once the work begins, it also means maintaining a critical view of every aspect of the strategy (perspective, goals, targets, activities, etc.) and a constant awareness of new implications, complexities, and pitfalls that are guaranteed to emerge in action, and being willing to change with the new challenges. The strategic character is a transitory one: it does not remain without renewal and constant evaluation.

These characteristics have several implications for combating gender violence. At a minimum, designing an effective strategy requires sufficient information to form a clear picture of the aspect of the problem to be attacked, its causes and effects, what needs to be changed, and what can be changed in a given context. The clearer the picture, the more likely the strategy will have an impact. The framework presented here suggests that a strategic approach to gender violence incorporates goals that not only deal with the immediate results of the violence, but aim to eliminate socially sanctioned violent behaviors and values at both individual and institutional levels. The framework also suggests that while appreciating the relative value of all of the targets and all of the goals outlined, a strategic approach to gender violence selects those that are appropriate to the context and contain the greatest possibilities for achieving change.

While a comprehensive design is of undoubted value, the importance of being selective must also be underscored, as it is neither possible nor desirable to tackle every option. Whether, how, and when to take on the judiciary, for example, requires careful consideration. The structure of the legal system, the culture of the judiciary, and substance of the law in a given country will largely determine what can be done with the courts. The possibilities vary widely. Using the courts in Pakistan or Sudan, where religious norms override civil, even constitutional law, will require a different strategy from what might be employed in a secular state. Using the courts to attain redress for a rape victim in a country where the laws governing rape are still patently patriarchal, insensitive and discriminatory is probably a misdirected strategy, and efforts would be better spent elsewhere. Perhaps it would be best in that situation to work on changing the law and hold off using the courts until the legal foundation for further gains is established. The very nature of the adversarial system precludes the use of litigation in some matters, although in others it may be a valuable strategy. Restrictions on citizen mobilization will impede certain political activities that might be undertaken in more open contexts.

There are also situations in which the limited resources of a group will restrict the strategy it can develop and the issues it

can tackle. Sometimes it is important to limit the scope of a strategy by choice; centering on a limited aspect can deepen the understanding of issues and develop new insights about methodologies. There may also be “windows of opportunity” that permit great advances in a short period of time, even though the focus remains on a narrow aspect of the problem. The example of the Musasa project in Zimbabwe demonstrates that working on a restricted part of the judicial system at a given moment may be effective, even though it has its limits. Simply put, not every activity can or need be undertaken simultaneously.

The main reason strategies stagnate and lose their vitality or fail to develop at all, however, is that they often center solely on one aspect of the problem or rely on one solution without reference to the total picture. Every paper in this book, without exception, recognizes the limitations of an exclusive focus and cautions against it. Kelkar (India) critiques those elements of the women’s movement that placed too much emphasis on law reform strategies without an appreciation of the other social dynamics underpinning gender violence in India. Fernandez points out that in Malaysia, the women’s movement realized that shelters and crisis centers were not enough without reform of all of the laws dealing with women and violence. In Mexico, some groups working on domestic violence refused to work with government agencies and found themselves overwhelmed and unable to handle the magnitude of services at the scale needed. Thus, the strategic dimension requires incorporating into the response an appreciation of the complexity of the problem.

This affirmation, however, raises another issue. Appreciating the depth and breadth of required changes can be so compelling that organizers try to do too much, and the strategy ends up too broadly conceived and too diluted to be effective in achieving the primary goal. For example, since economic dependence is such a critical factor in violence that occurs in the home, stopping wife battery requires, among other things, improving women’s economic situation. For groups concerned with domestic violence, the dilemma comes in translating this understanding of the problem into action. Should they start an economic enterprise to offer employment

to women trapped in the home? Should they focus on women's education or training to provide the basis for independent economic survival? To do so in most cases would channel energies into areas complex in themselves and requiring resources beyond the reach of most groups. In some circumstances, however, the only way to deal with the problem may be by taking on a related, underlying issue that is not directly concerned with violence per se. For example, where inheritance or land ownership patterns lead to widow abuse, as is the case in many parts of Africa, changing legal norms related to land tenure to circumvent the violent behavior may be required—in addition to setting up support groups or “funeral committees” to protect the well-being of the widow. The issue is not *whether* women's economic vulnerability and the other factors facilitating or perpetuating violence must be addressed: the issue is *how, to what degree, when, and by whom* they should be addressed.

Assembling an effective strategy is a process replete with pitfalls and traps. There are not only strategic targets and strategic goals, but strategic moments. An ineffective design can stem from focusing too narrowly or too broadly on the problem. It can also be the result of attempting to accomplish certain objectives when the circumstances or timing are not optimal. What appears critical in constructing a strategic plan is having a comprehensive view of the needs, together with an appreciation of the contextual possibilities and limitations.

Lessons, Issues and Challenges

The discussion up to this point has focused on identifying the essential elements of a strategy, the targets, goals and actions that can and should be undertaken under optimal circumstances. A theoretical model summarized these elements to provide a point of reference for assembling a strategy. The discussion also emphasized the importance of considering context when framing a strategy, that is, of incorporating into the design the limits and possibilities for action that a context provides. The final section discusses some of the contemporary debates and new insights on gender violence strategy issues raised by the case studies.

Services

One of the themes that emerges throughout the papers is the need for a multidisciplinary, multisectoral approach in responding to the needs of victims. Gonzalez presents an insightful critique of the culture of "experts" which isolates and fragments knowledge to produce a splintered view of the problem of gender violence, alienated from the reality of the victim. By dealing with raped or battered women from their own insulated perspectives, law, medicine, psychology, and sociology end up by providing no solution at all to the victim and, therefore, to the problem.

Fernandez (Malaysia), Shrader Cox (Mexico), and Stewart (Zimbabwe) specifically mention the problem of the insensitivity of the legal and medical professions in dealing with raped or battered women. Training law enforcers, medical, and legal personnel who come in contact with victims to understand gender violence, to appreciate the trauma of the victim, and to take proper evidence for criminal proceedings, becomes among other issues, a priority. It is necessary that they respond to the victim's need to be treated with respect. However, Shrader Cox and Stewart both note the difficulty encountered in gaining the cooperation of professionals for training of this type. Professionals in law and medicine are particularly resistant to learning from anyone outside their specialty. The challenge is for advocates to find ways to crack the rigid shell of superiority surrounding those who have gained entrance to the professional fraternities.

Gonzalez advances an integrated approach in dealing with battered women intended to overcome the fragmentation of the specialists and redefine the practice of the professions. The proposed multidisciplinary alternative has lawyers, psychologists, social workers, and others working together to gain a holistic understanding of each particular case and the needs of the individual victim or survivor. Giving attention to the real life context of the battered woman, her hopelessness, dependency, restricted options, and her consequent need for empowerment underpins the Chilean approach. The aim is to work with the abused woman to develop her capacity to decide her own future, to formulate her own options and make choices. The professions support this process, but do

not control it—a radical departure from the practice of liberal professions. Similarly, the strategy of the Musasa Project (Stewart, Zimbabwe) is one of empowering women to make decisions, to gain the skills they need to function assertively as human beings endowed with dignity and rights. Part of the Musasa approach is making the justice system more “user friendly,” in order to allow the abused woman a measure of control over her own life by recognizing and activating her own legal options to obtain relief or redress. In addition to working with police, the project attempts to influence prosecutors, medical personnel, and others to reframe their concepts about women and violence.

The importance of a holistic vision in responding to the victim and the roots of her problem is a theme echoed throughout the case studies in their discussion of service methodologies. The “professional” issue is a thorny one, however, carrying pressures from within and without to challenge the vision. Heise and Chapman point out that as the battered women’s movement in the United States gained momentum—a movement that pioneered models for rape crisis centers, shelters, and other services for battered women—the sheer extent of the need required it to “professionalize” its services. Providing efficient services meant getting grants, managing budgets, hiring professional staff, and responding to advisory boards and other bureaucratic structures. The result was a tendency toward an overconcern with treating the symptoms of violence rather than dealing with the causes. The enormity of the work demanded by the services themselves, and conditions set for their support, led many programs to lose their creative edge.

The issue of professionalizing services goes hand in hand with the issue of scale; and both have programmatic implications. The need for services increases with the rise in awareness of the problem in public consciousness. Demand for attention escalates as more women realize that crisis centers or shelters provide an immediate response to the distress of their violent experience. The situation of increased demand creates a new dynamic for non-governmental organizations. Since the amount of resources needed go beyond the capacities of most groups and services, they eventually depend on

some form of state support or the state takes over the services. Several of the case studies recognize the inevitability and utility of state involvement. Analyzing the Mexican experience, Shrader Cox notes that "government participation...allow[s] the movement to scale up, providing integrated services to many more women, as well as a large statistical database, higher visibility, and nation-wide networking."

State involvement sets up its own dynamic, however, and many groups are faced with a dilemma. While state involvement is needed to reach the numbers of women requiring assistance, government involvement can dilute the innovative and transformative character of the service. The original inspiration and methodology are often lost, partly through bureaucratization and partly through ideological incompatibility. The challenge facing service programs in many parts of the world today is whether they can simultaneously respond to the many and contradictory requirements for such service. Can they be professional and still transform the nature of professionalism, can they accept government funding, participation and scrutiny and still keep their innovative function in tact?

The Legal System

Closely linked to service strategies are those strategies involving the legal system in all its aspects. This ranges from legislative action and law reform, to law enforcement and prosecution.

Law Reform Strategies. The inadequacy of legal provisions protecting victims or sanctioning violent perpetrators is often the starting point for work on gender violence. Given the public sphere/private sphere dichotomy underpinning most laws, the legal system has failed to recognize various forms of gender violence as unacceptable social behavior. This persuaded many women's movements to focus on criminalizing violence against women and making this the major thrust of their work. In the process of establishing a new legal framework for confronting gender violence, many important gains have been made, but several thorny issues still remain.

In most places, work on gender violence started with the reform of rape laws. Although many of the provisions sought by the women's movement were not incorporated, many of

the new rape laws represent important advances in defining rape and attaching sanctions to it. Rape in most countries is considered a crime and is punishable by prison sentence, but few laws entirely escape being tainted by the ideological frame of reference that still views the crime as being a "sexual" crime, or as an offense against another man or "society," but not as a crime against the victim. Among the cases represented in this book, Mexico, Malaysia, and India offer examples of important gains made through the reform of rape laws. Changes to the Criminal Procedure Code and the Evidence Act in India incorporated the concept of "absence of consent," placing the burden of proof on the accused in custodial rape cases. Mexico's broadened definition of rape to include other forms of sexual assault besides penetration of the vagina by the penis is another example. However, there are countries where rape laws are not only inadequate, but leave rape victims vulnerable to prosecution themselves. The enforcement of Islamic penal law in both Pakistan (Jilani) and the Sudan (Haleem) effectively deprive women of legal protection. If a woman cannot prove her accusation of rape, she herself can end up being accused of illicit sex, a punishable crime.

In the area of domestic violence, the concept of criminalization takes on a different and more difficult cast. Since domestic violence occurs in the home, the role of law in responding to the problem has historically been open to much debate and experimentation. Despite the current tendency to regard domestic battery as a crime, no different from battery committed in the street, there continues to be concern that the punitive nature of penal law makes it an inadequate and inappropriate instrument for dealing with the problem. What most women want is for the violence to stop, not for their husbands to be sent to jail, a sentiment echoed in every paper in this book dealing with domestic violence. The search for the appropriate ground between punishment and reeducation or therapy will most likely continue for some time. Partial clarification has already taken place, however, and a consensus already exists that the law can provide an important escape hatch for women trapped in a violent domestic situation.

Two tendencies in law reform strategies on domestic violence have emerged. One is the creation and use of legal

protection orders. The second is legal provision for aggressive or mandatory arrest and prosecution of abusers. There are two principle advantages of mandatory arrest and prosecution policies for domestic battery. First, it sends a powerful message to the abuser that such behavior will not be tolerated by the law. The deterrent effect of some form of police intervention in most contexts is a useful tool. Second, mandatory arrest and prosecution policies take the burden off the wife in the decision about whether to prosecute. When faced with the responsibility of pressing charges against their mates, many women back out after the immediate danger has passed. The victim's failure to press charges is the excuse many police use for failing to take any action in domestic violence cases, creating a "catch 22" situation. Under mandatory policies, the decision to prosecute is not left up to the victim but to the state. However, the disadvantage of this approach is that, fearing their husbands will be sent to jail, many women will not even *report* the battery. The effect is that no intervention or recourse is available to them during or after their emergency.

As many women do not want to prosecute or leave their husbands, civil remedies provide a more satisfactory solution. Protection orders, for example, offer needed and timely safety mechanisms. The effect of the protection order is to remove the threat at the point of danger and allow the woman space to explore her options. It is critical however, that protection orders be available expeditiously and without cumbersome court proceedings. In some places women themselves can file their petitions. Because of the increased economic vulnerability of many women who leave their abusive situations, some jurisdictions are exploring other civil remedies covering rights to domicile and control of economic resources.

An issue of concern to many at a different level of magnitude is the long term social effect of the criminalization strategy. While recognizing the necessity of breaking down the public/private dichotomy as a mechanism preventing women from receiving protection from abuse perpetrated in the family, many fear that increased police authority in that sphere can lead to other abuses. Repression through these means of minority men in the United States is a present danger. Speaking from the Bolivian context, Montaña points out,

When the state and its instruments have penetrated the bedroom only to repress and pillage—such as during dictatorships when their authoritarian and coercive presence through law has been used to legitimize their social regimes—it is quite difficult to debate the problem of domestic violence publicly without appearing to validate their misuse of power.

Despite the danger Montaña concludes, and others concur through their actions, the risk is one that must be taken.

In balance, law reform strategies have been useful, even essential. Few would deny the necessity of establishing a legal basis for dealing with rape and for reconceptualizing the notion of “sex crimes,” and few would consider the energies spent on reforming laws related to domestic violence as wasted effort. However, expressions of caution about overvaluing law reform strategies are also valid. Kelkar points out that the new laws in India did not empower women to halt the increasing violence and destruction in their lives, and that women continue to be judged from the male perspective. Moreover, when the movement was unprepared to respond, laws were reshaped and reinterpreted in terms unfavorable to women, an experience not confined to South Asia. An alarming trend in many areas is the incorporation of particular religious or ethnic standards into civil law, which generally have negative effects on women. The experiences of India, the United States, Malaysia, and other countries where fundamentalism is gaining political strength, exemplify how hard-won gains can be dissipated unless there is constant vigilance over the law’s application and interpretation. Legal reform strategies work best, after all, when the social value base is in concordance with the desired new norms. As long as the old regime of values is in effect, the tasks of making the new norms operative, or activating the educative function of law to change values, will be difficult and require action on many fronts.

Police and Law Enforcement Strategies. Police failure to provide appropriate response to domestic violence and rape has been a major stumbling block and one of the primary targets for change. Part of the enforcement problem is the inadequate definition of gender crimes and police authority to act.

Another part of the problem is police attitudes about violence against women, which they tend to treat as an inconsequential, private matter. Changing police culture regarding gender violence requires strategies that confront both aspects of this problem. Precise legislation defining the crimes and outlining police authority and responsibility addresses the first part. Reeducating the police to eliminate their biases and incorporate a new frame of reference for dealing with gender crimes addresses the second.

Hand in hand with law reform efforts, several countries have initiated direct police training. The tendency in the U.S. is for both training and aggressive or mandatory arrest policies (Heise & Chapman). In Zimbabwe, the Musasa Project works to change police assumptions about women, rape, and domestic violence and develop police skills in dealing with violence cases (Stewart). Police training and the creation of specialized units formed part of Malaysia's strategy (Fernandez). Involving the police in making recommendations for law reform is an additional educational strategy incorporated into these programs. Brazil's innovative answer was to set up "women's police stations," (Eluf) staffed entirely by women, to handle domestic violence and rape cases primarily.

The authors' accounts about how they managed to engage the police and other government agencies in responding seriously to rape and other crimes of violence against women offer lessons about the importance of educational strategies at the institutional level. Curiously, in both Malaysia and Zimbabwe, it was easier to get to the top levels of the police involved than the police "on the ground," yet the officers present in communities are the ones who come into direct contact with gender violence cases and need the training the most. Winning the police over at the top levels, while necessary, is not enough.

Defining the precise role of the police in dealing with gender violence crimes is still an open and somewhat ragged process. Legislative mandates for behavioral change and educational encouragement for attitudinal change both destabilize the status quo. Challenges to the old ways do not automatically create the new patterns, and a process of confusing

readjustment and redefinition is not uncommon. The adage "a little knowledge can be a dangerous thing" appears to be valid in some cases. After their training in Zimbabwe, some police officers began to see themselves as counselors rather than law enforcers, and instead of arresting a wife batterer, would give both wife and batterer some counselling and send them home. At the other extreme, Heise and Chapman note examples of policemen in the United States arresting both the abuser and the abused out of resistance to the mandatory arrest policies. Stewart makes the observation that educational strategies within the system count on the collaboration of the system to change itself. This is a functional strategy only as long as the change does not present too great a challenge. Where there is total resistance to change from within, legislating change as a result of political pressure may be the answer. There may be some places where the political context is such that neither can be effectively used.

Achieving a balance between legislating police behavior and educating police to change their behavior produces a tension in many strategies. Since there are no prescribed means for achieving the needed changes, debate on how to transform police culture is likely to be an issue for some time to come. What is certain is that neither legislation nor education is sufficient as a sole strategy.

Strategies in the Courts. Even where the police act responsibly in gender violence cases, the courts have the final say. Unless prosecutors and judges consistently apply an adequate interpretation of the law, gains made in changing laws and in improving police enforcement of them will be diminished, if not entirely negated. If sanctions against certain violations are not enforced, the message to the public is that these crimes are not serious. The challenge to advocates, however, is to determine how to make a difference at the level of the courts and then how much energy to expend there.

One strategy often used to change court conduct is to contribute to building a new jurisprudence relating to gender violence. Using test cases to introduce new frameworks and new arguments is one way to press the judicial system to alter its treatment of women and its handling of gender violence cases. This approach presupposes, of course, that the laws provide

some basis for victory and, therefore, for influencing court and public behavior. A current issue of public interest in many places is "acquaintance" rape. Using the courts to clarify and reinforce the right of a woman to say "no" to sexual relations and have her word understood as "no" will go a long way in defining both the latitude of socially acceptable sexual behavior and the meaning of rape. Haleem describes how it took only a few cases of women courageous enough to take their complaints of forced marriage to court in Sudan to raise awareness about a woman's right to consent, and put parents on notice that they could not simply marry off their daughter without her agreement.

Another technique, which has the dual effect of raising public awareness and getting the court's attention in order to reexamine its practices as well as the content of the law, consists of monitoring court judgments and treatment of women and then publicizing the findings. This approach has been used in the U.S. for the past ten years (Heise & Chapman). Fernandez also describes the positive effect on the Malaysian judiciary of media attention to biased court judgments. To avoid getting "bad press" or developing a reputation for not being fair, even the most entrenched patriarchal or bureaucratic institutions can be jolted to a positive response out of pure self interest. Of course, these are only partial and often temporary victories, but they allow the movement to get a foothold into institutions normally resistant to change.

On a more direct basis, sensitizing prosecutors and judges to their own personal biases and helping them develop a different framework for dealing with gender issues can be done through more formal educational strategies. In countries where judges are required to keep updated professionally through some form of continuing education program, the inclusion of "gender training" in these programs can have an impact. However, as in the case of the police, the critical factor in this type of reeducation effort is the judges' openness or willingness to change.

Confronting gender bias in the courts is troublesome enough when working with laws that are favorable to women. The task of changing judicial culture is made more difficult in contexts where the legal norms and the judges are gender biased. The difficulty intensifies in countries where

two, or even three, legal systems operate simultaneously. In some regions, religious and customary law (or even customs that would not qualify as law) interface with general law in such a way that the resulting confusion severely disadvantages women. Predominantly male judges or magistrates, schooled in traditional mores and perspectives about women, tend to apply the traditional standards in their rulings. Under these circumstances, educational strategies can only go so far and must be accompanied by other measures to challenge court practice.

One strategy beginning to unfold that may have an impact on court behavior, even at the local level, is the application of international human rights standards to gender violence. Sexual torture and custodial rape are now being addressed as violations of political and civil rights with the force of the international human rights covenants and mechanisms behind them (Jilani). Activating these mechanisms should also provide additional support for the difficult task of confronting the maze of intricate issues related to trafficking in women, which up to this point has had little success in using legal remedies (Skrobanek).

There is also a move, both by scholars and activists, to address from within the human rights framework other forms of gender violence that have generally been regarded as outside the purview of human rights issues and practice, due to their "private" character. Included in this category are those forms of gender violence, including rape and various kinds of violence against women in the home, that are not perpetrated by the state, but by whose failure to take action the state becomes accountable. This initiative seeks to activate mechanisms at the international level to redress such violations and establish measures of state accountability for them. The symbolic and formal value of the link with human rights promises to provide a pivotal tool for the battle within the courts, and for raising awareness about the issues of gender violence generally.

Leadership and Mobilizing for Action

Most of the papers in this collection address the role of leadership in developing strategies to confront gender violence, and the position of the feminist movement vis-à-vis the

public and the state. It is evident that while women's concern about the situation of women is what sparks action to combat gender violence, if that goal is to be achieved, strategies must evolve from direct personal responses into organized, broad-based political strategies.

Both Fernandez and Montaña recognize that building a strategy means building a movement, a highly political task being carried out by women who in many cases are both learning and redefining the meaning of being political in the process of doing it. The small feminist group in a country that first articulates the need and the theoretical framework for confronting gender violence, also becomes the force behind mobilizing women's organizations and other allies to challenge the public, the media, state institutions, and the judicial system to respond to their demands. The case studies of Malaysia, Mexico, Bolivia and India, (Fernandez, Shrader Cox, Montaña and Kelkar) analyze the importance of leadership and its dilemma of giving direction to the movement, while simultaneously encouraging democratic participation; of overcoming the tendency to rely on a small group for leadership and action, and failing to develop a base of support at the grassroots.

Strategies to achieve the cultural and structural changes required to stop gender violence must engage a broad base of self-interested support in the political process at various levels. Whether working to confront the specific manifestations of gender violence, or working to change the underlying social values that sustain violence in the home or the institutions that give structure to life, strategies must confront how people view themselves and the way things should be. Changing either of these means building a base of individuals who think differently and who are willing to challenge and change what society permits as the norm for behavior toward women. Education and consciousness raising only achieve their purpose when gender violence becomes an issue of vital importance to people's lives. Mobilization can only take place when people are willing to act, and people take action only when something is important to them. The educational process of making gender violence relevant to people essentially does three things: it challenges people at the individual level to reexamine and change their own views and behaviors; it

builds a larger pool of people seeking solutions; and it creates a base of political support that functions to pressure for change at the structural level. Thus, the key to success in any strategy, both short and long term, is making gender violence an issue of critical importance to everyone: women; men; the public; institutions; the state.

Final Thoughts, Summary and Recommendations

In the final analysis, the purpose of any strategy to combat gender violence is to create a world where women are free from violence—and free from the *fear* of violence—in the home, in the street, and in the workplace. In the end, this means confronting the material reality of violence in women's lives, the particular conditions that facilitate its existence, and finally, at the deepest level, the way society organizes its beliefs and its institutions to sustain gender violence. Exploring gender violence from a cross-cultural perspective brings these common threads into sharp relief and permits us to gain some clarity about what needs to be done, despite the fact that the manifestations of gender violence vary from culture to culture and even within cultures.

There are several important lessons about strategies to combat violence against women that have emerged from the papers contained in this book. The final section of this introductory chapter will summarize these lessons and make some recommendations related to strategies. They are offered as tools for planning and evaluating strategy designs, and for stimulating further thought and discussion about how to be responsive and effective in creating the world we all desire: free from violence against women.

General Recommendations and Criteria for Strategy Design

1. Strategies that get at the root of the problem confront several common issues: a) the effects of the violence in itself; b) the role institutions (legal, social, religious, cultural, economic, etc.) play vis-à-vis the violence; and c) the underlying social values that shape the behaviors and permit gender violence to be part of daily life. Unless all of these issues are addressed, the response can only be partial.

2. In developing strategies for any of these areas, a range of people and institutions must be addressed: the victim herself; potential victims; abusers; institutions that have responsibility to the victim; law making and law enforcing bodies; and institutions that shape social values and behaviors, such as religious, educational, economic and other organizations.
3. All strategies must include *research* and some form of action or *intervention*. Research serves to elucidate and document the violence; its nature, source, context, justification, incidence, etc. Interventions respond to the violence that already exists and attack the roots of the violence by contributing to building a new ethic—new social and legal norms surrounding violence.
4. Consideration of the social context is critical in shaping a particular strategy, as the needs and possibilities for effective action will vary from situation to situation.
5. A strategy combines these elements to effect change in a given context according to the needs and possibilities for action in the context.
6. The *Political* dimension is present in all strategies, whether serving victims of violence or achieving legislative changes.
7. Strategies that deal with only one part of the problem can still play an important role, as long as they are understood to be partial and part of a larger framework.
8. Strategies that rely solely on the legal system or on education or any other single factor to stop gender violence are doomed to fail.

Evaluative Principles for Specific Types of Interventions

The three most common types of interventions are:

- **Services** programs, which address the needs of the victims of violence.
- **Legal or Structural Reform** activities, which address the legal system, laws and law enforcement.
- **Public Education** programs or campaigns, which address people's values, attitudes and actions related to gender violence. (Education is also part of services and legal reform activities.)

Criteria related to Services

(Shelters, Rape Crisis Interventions, Counseling, Legal Services)

- Services include an integrated, multidisciplinary approach.
- Services staffs work closely with police, hospitals, courts and other agencies of the legal system.
- Education is included at all levels.
- The victims are involved in their own process (psychological, social, legal).
- Effective services include research and evaluation as ongoing sources of data for analysis and development of new approaches.
- Support systems for women are integral to the program.
- The program is fully cognizant of problems associated with shelters and takes care to resolve them, especially: the environment of the shelter; the safety of the others in the house, i.e. the secrecy of the house; and the training of the personnel working with the victims.
- Services respond (to the degree possible) to the underlying causes and factors facilitating the violence (family structure, economic dependency, lack of alternatives, safety issues in the street and workplace, etc.), and attempt to find solutions to these problems.
- Programs should try to attain financial independence, but self-financing schemes are not always feasible.
- Where possible, ancillary government services should be activated to support the program.
- Since direct government support often places limitations on programs—especially on lobbying for change—effort should be made to maintain autonomy.
- Donors should be worked with to help find solutions to financial cost of services.

Criteria related to Legal System Reform

Law Reform (laws and policies)

- Constitutional changes are a priority.
- Alternative legal frameworks, concepts, and arguments for law reform initiatives are formulated to make value base clear and explicit.

- Law reform is linked to larger issues of social justice.
- Concepts of punishment reflect values of nonviolence.
- Both criminal and civil remedies are considered in formulating laws related to domestic violence.
- Where possible, customary law is used as a source for evaluating and constructing the law.
- Gender violence legislation is linked to principles of human rights.
- Law reform initiatives include preventive measures.
- Law reforms accompany other changes in the system.
- Law reform is seen as one aspect of the process, not the final victory, and organizers are aware of the trap of being seduced by political victories.

Law Enforcement (Police, Prosecution, Courts)

- Priority targets for law enforcement strategies are those areas of the system that blame the victim (police, judges, etc.) and make them accountable.
- The work includes education of police and prosecutors to develop new attitudes and methods of dealing with gender violence cases.
- Monitoring police and court handling of gender violence cases provides a base of information to be used to reinforce positive change and pressure for further change.
- The same approach (education, monitoring, pressure, etc.) is used with other persons and professions involved with the issues—judges, legislators, lawyers.
- Litigation is used as a means to improve court behavior and judgments.

Criteria related to Public Education and Mobilization

- Consciousness raising is part of all strategies (i.e., services, law reform, law enforcement strategies) and aims to make gender violence a public issue.
- Public education programs popularize the law to make it accessible to women.
- Content of education on gender violence includes the role of the family and exposes myths about women's inferiority.

- Providing information is insufficient—people learn when involved actively and when the content is relevant to their lives.
- Education is systematic and sustained.
- Research as an educational method is important and should be encouraged.
- Public education strategies target the educational system and other key institutions.
- Lawyers and others in the judicial system are targeted for education about violence against women.
- Educational efforts are evaluated qualitatively and quantitatively.
- Mobilizing people politically involves: bringing the issue to the public; empowering women to take action; gaining allies and encouraging action by others (previously silent); making issues/demands known through protest and alternative actions, including:
 - Sit-ins/resistance
 - Boycotts
 - Hunger strikes
 - Demonstrations
 - Court attendance
 - Informal means
 - Press releases/conferences
- Organizing mass demonstrations is one, but not the only, form of mobilizing.
- The victims/survivors are involved in the mobilization.
- The media is used to call attention to the issue.

ASIA



**Of Kali Born: Women,
Violence and the Law in Sri Lanka**
Radhika Coomaraswamy

**Whose Laws? Human Rights and
Violence Against Women in Pakistan**
Hina Jilani

**Stopping the Violence Against Women:
Fifteen Years of Activism in India**
Govind Kelkar

**Mobilizing on All Fronts:
A Comprehensive Strategy to End
Violence Against Women in Malaysia**
Irene Fernandez

**Exotic, Subservient and Trapped:
Confronting Prostitution and Traffic in
Women in Southeast Asia**
Siriporn Skrobanek

Of Kali Born: Women, Violence and the Law in Sri Lanka

Radhika Coomaraswamy

Kali is the Goddess of Retributive Justice. Professor Gananath Obeyesekere, interviewing women who go to the goddess with their problems, asked them why they did not find redress in a court of law. They looked bewildered; the goddess would understand their problems, but a court of Law, well they were not so sure...

Adrienne Rich, the well known feminist poet writes:

Throughout patriarchal mythology, dream symbolism, theology, language, two ideas flow side by side: one that the female body is impure, corrupt, the site of discharges, bleedings, dangerous to masculinity, a source of moral and physical contamination (the devil's way). On the other hand, as mother, the women beneficent, sacred, pure, asexual, nourishing, and the physical potential for motherhood, that same body with its bleedings and mysteries, is her single destiny and justification in life. In order to maintain two such notions, each in its contradictory purity, the masculine imagination has had to divide women, to see us, and force us to see ourselves, as polarized into good and evil, fertile or barren, pure or impure. (Rich, 1976, p. 13)

The law is no exception. This is particularly evident in the approach of law to violence toward women. The chaste virgin

or mother has to be protected; the impure, independent women has to be shamed. This dichotomy of perception will help us understand many of the law's attitudes and many of the reasons why the law has failed to give redress to women who are victims of violence.

Women are singled out for violent treatment for a variety of reasons. First, because of a woman's sexuality and gender, she is susceptible to rape, female circumcision or genital mutilation, female infanticide, and sex-related crimes. These are fundamentally connected to a society's construction of female sexuality and its role in social hierarchy. Second, a women is subject to violence because of her relationship to a man; domestic violence, dowry deaths, *sati*, crimes of honor, etc. These are animated by a society's concept of women as the property and dependent of a male protector, first her father and then her husband. Third, violence is directed against women because of the social group to which she belongs. In times of war, riots, class and caste violence, women are victims of violence and rape because to rape a women is to humiliate her community. Again, this is linked to male perceptions of female sexuality and women as the property of another man. To attack HER is to exploit your enemy's vulnerability. Finally, there have been studies of the Nazi experience in Germany which have attempted to show that there is a correlation between militarization and increased violence against special types of women (Reich, 1972).

What does the law do about these categories of violence against women? The answer is very little. One main reason is the private-public distinction which pervades all aspects of the law. "A man's home is his castle;" the slogan must have been written by a male lawyer, for the law treads warily into private homes. "The sanctity of the family," another slogan, is a very real obstacle in the case of women and violence. The basic assumption behind this approach is that what happens in the home is a private affair and the law should only intervene if it becomes a public nuisance, such as when a woman cries hysterically through the night when her husband is beating her up, depriving her neighbors of sleep. The same is true about sexual relations between men and women; it is therefore not ironic that prostitution in Sri Lanka is controlled by

the vagrancy ordinance, which is again an aspect of public nuisance.

The purpose of this paper is not to present a comprehensive analysis of all types of crimes where a woman is victim, but to raise issues about the gaps in the law and its inadequacy to deal with many of the problems created by the nature of legal assumptions and the structure of the judicial system.

The Law and Rape

Let us begin with an area where the law has actually tried to intervene; the area of rape. Section 364 of the Penal Code defines rape as "sexual intercourse between a man and a woman without her consent or against her will." In addition, it specifies that intercourse with a girl under the age of twelve is rape with or without her consent (Sri Lanka Penal Code § 364). But what actually happens when the cases come to court?

First, there is a general rule of thumb, no injury, no rape. The woman who is being raped must show utmost resistance to the point of risking her life, with some exceptions as in the case of blackmail, deception, or state of shock (Sri Lanka Penal Code § 363-364). But for the normal case, unless the woman has clawed or maimed her assailant, she had better not bring her case to court.

Second, there is what Brenda Cossman calls a hierarchy of rape (Cossman, 1990). If you are a girl under the age of eighteen who was a virgin and was raped by a man from a lower class, or a minority race or caste group, then you can be sure to get a conviction. But if you are an independent lower class woman, of middle age, raped by an acquaintance, then it is better that you nurse your wounds at home. If you have had past sexual experience and this experience has been with anyone except your husband, then the lawyer, the judge, and the jury will be made to believe that you asked for it.

Kamilini Wijayatilake (1990), in her article, "*A Socio-Legal Overview of Rape as a Form of Violence*," gives abundant examples of Cossman's propositions in the Sri Lankan context. In Sri Lanka, the testimony of the victim need not be corroborated in theory, but in actual fact the court would caution the

jury that it would be unsafe to act on the uncorroborated evidence of the victim unless there is corroboration of some material fact in the victim's evidence (*King v. Athukorale*, 50, *New Law Reports*, 256). However, in relation to crimes such as abduction, kidnapping, etc., where the victim is not always female, corroboration is not required (Wijayatilake, 1990, p. 6).

Wijayatilake (1990, p. 8) ends her discussion with an unreported case of a woman in the lower income group who went to a police officer and complained that when she went to a government office in search of an officer, she was raped by the security guards. The security guards, friends of the police officer, claimed that the woman was loitering so they abused her and the woman was arrested under the Vagrancy Ordinance for prostitution.

This is not to say that there have been no changes. While the Sri Lanka law has been static with regard to rape, the neighboring country, India, has enacted sweeping legislation following certain revelations and incidents in Bihar and Maharashtra (*Indian Evidence Act*, § 155, 4 & § 54). The most important piece of legislation not only does away with corroboration and evidence with regard to a woman's past sexual conduct, but also in the case of women raped in state institutions, i.e., custodial rape, the burden of proof shifts and those in power have to prove that a rape did not take place (*Criminal Law [Amendment] Act of 1983*). This applies particularly to police stations, mental institutions, and other such places where the authorities are custodians on behalf of the state.

One cannot dismiss these occurrences as being peculiar to India; the well-chronicled Ratnapura rape case (Weerasinge, 1985) and the Anuradhapura Prison case (Abeyesekere, 1985) clearly show that there is a great deal of violence directed against women in custody in Sri Lanka, but our legal reformers have chosen not to adopt the Indian mode.

Rape is an area of the law where the state attempts to be interventionist, but in actuality fails to give redress. Kamilini Wijayatilake (1990) argues that social and legal attitudes are the main reason for this failure; the shame attached to the crime prevents reporting; legal attitudes regarding consent; and resistance prevent conviction. There has been much

research into this aspect and perhaps Susan Brownmiller in her book *Against Our Will*, which is an historical study of rape, provides the best interpretation.

Her argument is that the institutions of marriage and family rest not only on the need for human bonding, the positive aspect, but also on the fear of rape. Female fear of rape makes her seek a male protector. The law has historically reflected this. Brownmiller studied in detail ancient Babylonian law, the code of Hammurabi right up to Blackstone, and concluded that rape entered the law books through the back door as a property crime of man against man (1975, p. 18), with women being viewed as the property.

I can think of many who would argue that this is the Western approach to women. I don't know whether one can make those distinctions, but even if they are accurate, the criticism does not apply in the case of the law because the provisions of the Sri Lankan Penal Code and the law of rape came directly out of that so-called Western Tradition. As Blackstone forewarned: one must be skeptical of a woman who claims to have been "ravished" by a man, especially "if she be of evil frame and stands unsupported by others" (Brownmiller, p.30).

The Law and Domestic Violence

Having explored an area where the law attempted to intervene but failed, let us go on to another area where law enforcement is particularly timid; the area of domestic violence. An International Center for Ethnic Studies (ICES) seminar presented results of a study based on cases from the Kandy district in one Kandyan village and one state. The results showed that a high incidence of domestic violence was linked to alcohol abuse and other factors. The only published findings are by Dr. Saravanapavananthan, who questioned sixty women admitted to Jaffna hospital after being assaulted by their husbands.

The findings, published in the *Forensic Science International Journal* in 1982 (Saravanapavananthan, p. 163-166), showed that most of these women had been married for ten years or more before they came to either the hospital or the police.

Over 67 percent had been attacked with a weapon, and the injuries were primarily to the head and upper limbs. Eighty percent of the assaults occurred after alcohol consumption and 20 percent related to accusations of extra-marital affairs on the part of one of the spouses. A third of the women were illiterate, two-thirds had some schooling, but none had a university education.

Police, law enforcement authorities, and the Courts do not like to enforce the law of assault in cases of domestic violence. There are many reasons for this. Cases chronicled in the U.S. show that when police officers come to the home to take the husband away, the wife switches sides when she realizes that the male protector is about to be charged in court (Black, 1981 p. 109-132). For reasons of economics, dependence and children, wives are reluctant to go the full length of the adversarial process which our judicial system envisages.

The Anglo-American system of justice appears to be particularly unsuited for crimes of domestic violence. The reluctance of police officers to enter the domestic arena, and the reluctance of wives to enter the adversarial process and see their husbands sentenced, complicates legal and judicial proceedings. In Sri Lanka this inadequacy is taken for granted as a fact of life. But in other countries there have been some major areas of reform.

In North America and Europe, there are now special police units trained to deal with issues of domestic violence. These units have been set up since the 1970's and specialize in intervening in domestic squabbles. The squads go into a home where there is domestic violence. They are trained by psychiatrists and psychologists to identify different types of violent behavior. They attempt to assess whether the assailant is a habitual offender or if there is a possibility of rehabilitation. In the case of the former, they prosecute, regardless of the wife's opinion; in the case of the latter, they get a court order requiring the assailant to come to the police station on a regular basis for counselling by a psychiatrist or a psychologist, either alone or with his wife. This type of approach guarantees a dual-pronged strategy: where the offender deserves punitive action, the police insist that he be tried in a court of law; in less extreme cases they pursue the approach of

rehabilitation, especially if they feel that the marriage can be saved and that the violence can be stopped. This type of police action has been welcomed by many women's groups (Cossman [discussion], 1990).

Since the 1970's domestic violence has been dealt with at the community level by setting up half-way houses or shelters. In Sri Lanka there are two such shelters, Women in Need and Lanka Sumatrayo, where women who are victims of violence can go to spend time and receive advice and counseling. This has been seen as a major breakthrough in domestic violence. After a period the woman can choose whether to file action against her husband for assault or for divorce.

These recent experiments of the 1970's and 1980's show that the law alone cannot face up to the problem of violence against women. There has to be a concerted effort among law enforcement authorities, the community, and judicial officers if the problem is to be tackled effectively.

Perhaps these successful experiences in dealing with domestic violence cases can provide some insight into other areas relating to women and violence. In North America, Europe, South East Asia and India there are rape crisis centers. Whenever a rape is reported the police immediately call women working in these centers. The women accompany the police to question the victim; they advise and counsel her as to the advisability of bringing legal action, and in the event that the woman agrees, the center works closely with her and the prosecuting attorney in bringing the case to court. The film, "*The Accused*," which won several academy awards, chronicles this process in detail.

What we see emerging in the area of violence is a "third force." Traditionally in law, there is the victim and her lawyer, and the perpetrator and his lawyer battling it out in a court of law in what is often a "no holds barred" confrontation. Given the structure of the judicial system and social mores, the woman has very little chance of succeeding. Community shelters, the third force, help cushion women from the starkness of the adversarial process envisioned by the law. They counsel women on the available options. They also stand by the women if they wish to go to court. With that kind of support and intermediary advice, a woman is more likely to seek

justice and redress than if she is left alone. This third force is perhaps the most important development in feminist law and is responsible for the increasing number of successful convictions in cases involving violence against women.

Ethnicity and Violence Against Women

In addition to crimes of rape and domestic violence which are common to all cultures, there is one form of violence which has a special significance for the women of South Asia, collective violence based on ethnic, religious, caste or class factors. Independence came to South Asia with that inheritance. Partition of India into India and Pakistan led to some of the worst communal clashes in history. That legacy has continued with collective violence punctuating the history of post-colonial South Asia in Pakistan, India and Sri Lanka alike.

In recent times ethnic hostility has been supplemented by armed struggle against the state. Though there is often justification for the initial cause, the militarization of conflict has its own logic and soon the divide between the oppressor and the oppressed, in terms of the means used is scarcely relevant. In the context of collective violence women become the chief victims. They are not only killed like their male counterparts but often gang raped. In addition they are rendered into widows and become childless, often having to witness the execution or disappearances of their husbands and sons.

Sri Lanka may have been spared many of the horrors of North Indian Hindu cultures such as Rajput Satis or dowry deaths. Since the majority of both Sinhalese and Tamil marriages remain kinship based, the extremity of violence of the North Indian experience has not affected us. In addition, Buddhist influence on Sinhalese society may have mitigated against culture specific types of violence. In any event, the question remains, how does the state respond to this type of violence against women without being accused of ethnic chauvinism and without flaming ethnic passions? When culture and ethnicity become tied up with violence against women, there are truly difficult problems.

For example, when Roop Kanwar openly committed *sati* in Rajasthan in 1987, the women's movement called a national

rally of 25,000 women to protest. The next week, the Rajputs pulled out 500,000 to support *Sati* and denounced the women's movement as part of the cultural imperialism of the "Hindi belt." Luckily, the lawmakers in Rajasthan and the Central government decided to outlaw *sati* for reasons beyond the immediate concern of the Rajputs (The Commission of *Sati* [Prevention] Ordinance, 1987).

The Bangladesh War has been a well-chronicled case study of the extremes of communal violence and its effect on women. The reports of Reverend Kentaro Buma of the World Council of Churches, Aubrey Menton of the *New York Times*, and the Bangladesh Central Organization for Women's Rehabilitation confirm that the number of Bangladeshi women raped was 200,000 as the lowest estimate and 400,000 as the highest. Suicide rates among these women were particularly high, with methods ranging from rat poison to drowning (Brownmiller, 1975, p.78).

Bangladesh may have been an extreme case, but it is well documented. Moreover, throughout South Asia there have been little wars, riots, settlement killings, minor insurgencies, etc., and the toll of violence against women and men is so high that it challenges the basic concepts of the right to life and dignity.

In such circumstances, a well known quote states that "during times of war, the laws are silent." There can be no legal recourse except after the fact, and then governments are eager to put the violence behind them and to avoid opening a Pandora's Box. The need to ensure that state security forces do not engage in such acts, and to ensure that they intervene decisively and impartially in any context of civil strife, is the only protection that women have during these times. Increasingly women are beginning to feel that they cannot wait till the men, either on behalf of the state or some non-state actor, acquire a sense of ethics, there is often spontaneous action against such incidents. In some cases, when a rape is feared, women in the neighboring houses come out in the streets and clang their pots and make a huge din so that commanding officers are brought to the scene to take control of some of their errant cadres.¹ Women's peace groups—Mother's Fronts, and Daughters of the Nation, etc.—have been created under different covers. But, from different

vantage points they carry the same message. For when the laws are silent, as they inevitably are during times of war and strife, the only expression left is the expression of moral outrage.

There is a growing body of literature in South Asia which attempts to come to terms with the violence in society; in doing so, "the survivor's tale" has become one of the most powerful aspects of recent anthropological literature. As Amrit Srinivasan writes, "the category of the survivor, its epistemological emergence and heuristic potential will be treated as critical to this valuative exercise". The survivor is then the witness, "whose documentation would compensate for the unexplained residues of rational history writing" (Srinivasan, 1990, p. 307)

Many of these survivors are women. Veena Das, Amrit Srinivasan and Valli Kanapathipillal (1990) have recorded their voices in a recent volume published by Oxford University Press based on a project sponsored by the International Center for Ethnic Studies. The book is entitled, *Communities, Riots and Survivors in South Asia*.

The studies contain a detailed recollection of the type of violence that occurs in these societies. A lower middle-class Tamil woman describes her experience of July 1983

In a while we could hear shouts followed by sounds of glass breaking. We knew the mobs were inside the house. I was terrified. The children were crying. The sound of breaking and smashing seemed to go on for ages. We cowed and waited as quietly as possible. Then I heard a voice from the vicinity of the garage saying, 'There's a beautiful car here, let us burn it.' I heard another voice say, 'poor people do not burn the car' to which the first voice replied, 'if you do not, we will hit you and put you inside the car,' then they set fire to the car for the smell of something burning wafted to our room. I felt trapped. Soon we heard footsteps coming up. There was the sound of banging and pushing on the door. The thugs were trying to get inside. My nephew and I pushed with all our might against the door to prevent it from opening. We were terrified in case they broke open the door. Then with

relief, I heard one of them saying, 'there is no-one here let's go away' (Das, Srinivasan and Kanapathipillal, 1990, p. 334).

The same story is recounted elsewhere in a poor slum area near Delhi,

Some people, the neighbors, one of my relatives said it would be better if we hid in the abandoned house nearby. So my husband took our three sons and hid there. We locked the house from outside, but there was treachery in people's hearts. Someone must have told the crowd. They baited him to come out. Then they poured kerosene on that house. They burnt them alive. When I went there that night the bodies of my sons were on the loft huddled together (Das, Srinivasan and Kanapathipillal, 1990, p. 347).

In this context of ethnic violence, women survivors have lived their own experience which is unique and only now being recorded. The first aspect that Veena Das realized with regard to women survivors after the Delhi riots was that "all around Shanthi a community of women healers was forming. These women healers acted as a pressure group and would help that survivor cope with government bureaucracy, would go with her to make claims, to get grants from NGOs and philanthropists. As Veena puts it, "they become experts in finding out where these distributed and went about in groups claiming whatever goods came their way" (Das, Srinivasan and Kanapathipillal, 1990, p. 366).

These were the women who became empowered after their experiences and formed women's groups, mother's fronts, women's action committees and other such groups throughout South Asia. In the end, these groups transformed themselves into groups for rehabilitation of the victims as well as watchdogs for human rights. No one has documented this systematically but it has become a reality in our lives.

But not all women victims become empowered. Shanthi, the victim in Veena Das' case study, became increasingly more disturbed.

She would get up in the middle of the night and go to the park opposite their house, where she would

gather sticks and make piles which she would then burn. She was unable to explain what she was doing, but some neighbors believed that she was trying to cremate the bodies of the dead.

Without cremation, they must wander around as ghosts and spirits. Finally, she committed suicide (Das, Srinivasan and Kanapathipillal, 1990, p. 356).

Victims of collective violence represent an important new dimension for South Asian women. There has been no comprehensive study of this post-colonial phenomenon. Also, there are very few major efforts aimed not only at material rehabilitation, but also psychological rehabilitation to empower women. In recent years, however, trauma counselling centers have been set up to help this important category of women, but cultural practices still prevent women from seeking such assistance.² Not only is the law silent in this new field, but administrative procedures are cumbersome and unable to cope with the depth or magnitude of the problem. Only NGOs and grass-roots women who work in the field ultimately bring solace to this new and growing category of women.

Shame and the Vindication of Rights

Anthropologists have recently separated societies into litigious and shame-oriented societies. Litigious societies are those in which rights are forcefully vindicated in law courts or in the political process. Shame-oriented societies have a parallel code to the legal system which conditions responses in certain areas of social life. One may debate the validity of the distinction in terms of societies, but there is no doubt that in the area of women and violence, shame is an important component. It prevents women from disclosing the truth and therefore prevents vindication of their rights under any legal system, no matter how progressive it may be in content and form.

How does one tackle shame, for it runs deep, especially in small societies such as ours? In a film made by one of the ICES directors about illegitimacy, the women consented to talk about their problems only as long as the film was not shown in Sri Lanka. Shame will always be a factor that stands in the way of progress, and unless the community and the family

become support bases, it is unlikely that it will disappear from our social life. A woman who is raped, violated or maimed brings shame upon herself and her family, for many in traditional societies believe that she did not have the spiritual power to ward off the evil. A woman is seen as a spiritual center; violence in the family is an aspect of her failure to gain the blessings of the gods. As Yasmin Gooneratne recounts in a poem:

Betrayed by life into a loveless chamber
O may my twitching hands that touch and
pleasure nothing
my shaken gaze
leaping from emptiness to emptiness
and my body, shrivelling quietly beside the
aching cavern
where my soul stood,
never reveal that there has taken place
an act of violence. (Gooneratne, 1987)

Whose Laws?: Human Rights and Violence Against Women in Pakistan

Hina Jilani

The test for the success of any administrative, political or judicial system is the extent to which it effectively provides its people with the security of their person and property, and how well it safeguards the right to life and liberty. Most constitutions contain these guarantees as fundamental rights of the citizen. However, in practice, the exercise of these rights has always depended on the prevailing socioeconomic factors and political conditions. Extreme poverty, deprivation, and social and economic oppression increase the potential for the violation of human rights, and it is under these conditions that people lose the power to protest. If the situation fails to improve, then over a period of time, the society loses even the propensity to be outraged by the most brutal forms of abuse.

While there is a lack of uniformity in the standard of human rights practice due to a diversity of factors, there is also a tendency to ignore the injustice to which a particular class or group may be exposed because of their sex, religion, color or age. Persecution and deprivation on the basis of the above, among other factors, is an unfortunate reality. These distinctions and discriminations have created disadvantaged groups who have been rendered powerless by the forces of oppression.

Victims of discrimination may vary from society to society, but women everywhere are beginning to recognize that they

share one element in common: a frighteningly high proportion of violence directed against them in the home, in the streets, and in the workplace. It is a violence which has been largely invisible, underreported, unrecorded and often tacitly condoned.

Women's Rights as Human Rights

Violence against women has only recently emerged as a crucial issue for women's movements world-wide, and cuts across cultural, regional, religious or economic boundaries. Female-focused violence in societies, ranging from the most primitive to the most modern, has been a constant in women's lives, whether displayed through brutality or in more subtle forms. Yet the collective voice of women against such violence only began to be heard when global trends in women's movements became more aggressive in bringing out social and political issues hitherto considered extremely sensitive. With this consciousness also came the realization that women cannot fight gender-specific violence in an isolated struggle. Not only is there a need for society as a whole to recognize the negative and retrogressive effects of this kind of violence, but it also needs to perceive that, although women may be the victims, the issue itself is not gender-specific, and concern over it must not be restricted to women alone.

Although gender violence is increasingly being addressed as part of the human rights agenda, women are still the ones initiating national and international debate on the issue. Despite the fact that women are the largest group of victims of violence, the issue has not traditionally been considered central to the human rights struggle. Failure to see the oppression of women as political also results in the exclusion of sex discrimination and violence against women from the human rights agenda. Consequently, even the more recognized and universal standards of equality and social justice are ignored or diluted when applied to women.

The responsibility for failing to integrate women's issues generally, and female-focused violence specifically, with human rights concerns also rests with women's movements and groups, many of whom view violence against women as a manifestation of male brutality. This approach limits

perception of the issue and turns it into a male-female conflict, and at the same time, obscures the recognition of factors which are promoting violence in the society. This results in dimming the realization that brutality against women is yet another reflection of social violence perpetrated collectively by members of a violent society.

Women's increased participation in democratic and human rights struggles has corrected the situation to some extent, and the issue of violence against women is beginning to find space among global human rights concerns. Amnesty International, among others, has reinterpreted its mandate to include women's human rights. In a 1990 report published on violence against women, Amnesty highlighted the direct and indirect forms of violence used against women (Amnesty International, 1990). The focus of the report is on state violence for political purposes, custodial rape, and the effects of state action against women family members of political dissidents. The report does not explore the other forms of violence against women, yet it is a significant step toward integrating women's issues with human rights issues. At the national level, these efforts are more pronounced, especially in Third World countries, where experience has shown the necessity for an integrated approach to women's human rights.

Although these efforts have highlighted many aspects of gender violence and have made it more visible, the lack of statistical data has prevented documentation of the issue. Even among industrialized countries, few have embarked on empirical studies that provide a solid basis from which to map the true dimensions of the problem. In the developing world, with a few exceptions, statistics are even more scarce. As a result, remedial measures, both at the social and legal level, have been weak and ineffective.

Violence Against Women

The situation in the developing world is made worse because of the belief among many that larger issues of survival require more serious attention, and therefore action against gender violence takes a lower priority. Another common response is that violence against women is a cultural, private

or individual issue and not a matter which can be remedied by state action, thus relegating the issue to the domain of social reform. Where available, statistics have shown that these responses are totally unjustified.

Violence against women in all its manifestations is criminal and has resulted in death, physical incapacitation and mental derangement. Office statistics and survey data in the United States show that domestic battery is the leading cause of injury among adult women, and rape is committed every six minutes (Carrillo, 1990). In France, 95 percent of the victims of violence are women. In India, eight out of ten wives are victims of violence (Bunch, 1990). These numbers do not even reflect the full extent of the problem, since much of it remains hidden.

The argument that violence is cultural or personal is erroneous. The issue is profoundly political and results from the structural pattern of control and dominance of social institutions. The importance of this control is evident from the resistance to social changes which endeavor to give more control to women through increased social participation. A perpetual fear of violence in the home, at work or in the streets minimizes this participation, and is a major hindrance to women's development. The Mexican Federation of Women Trade Unions reports that 95 percent of women workers are victims of sexual harassment, and complains that the impunity of these crimes limits women's participation in the workforce (Carrillo, 1990). There have been reports of gang rape of women workers in India. Sexual harassment and exploitation of women workers in the Free Trade Zones in Sri Lanka, Bangladesh and other South and South East Asian countries have become matters of grave concern for regional women's groups.

Legal Barriers to Combatting Violence Against Women

While it is not difficult to determine the root cause or the dimensions of violence against women, it has become extremely difficult to devise strategies for combatting this violence. Both social censure and legislative restraints are necessary. However, existing legislation in most jurisdictions

reflects negative social attitudes which makes laws inadequate to deal with violence.

Assault and battery are criminal offenses in most jurisdictions, and at least theoretically, would be applicable to domestic violence as well. Yet in practice, battery of the wife is seen as a normal feature of domestic life and state intervention is discouraged. This is a reflection of societal attitudes toward the abuse of women in a domestic context, which indicates acceptance of a certain level of violence in the family. In jurisdictions where Islamic law is practiced, it is generally accepted that chastisement of recalcitrant women by their husbands is permissible, and is in fact necessary for the betterment of society. This belief is based on a Koranic verse (*Surah Nisa*, Chapter IV, Verse 34) which has been interpreted to mean that a husband is permitted to beat his wife.

This attitude is also reflected in judicial pronouncements on marital disputes. In a judgement by a Pakistani court on a petition for habeas corpus filed on behalf of a woman who alleged cruel treatment, including illegal confinement, by her husband, the judge refused to issue the writ. The judge quoted from the Koran and held:

A very important question arises for determination, namely, whether a woman, who is *sui juris*, can be allowed to accompany her paramour in preference to her husband in the circumstances of this case. On the one hand there is the fundamental right of the woman to be set at liberty, which appears to be on the other [hand], in direct conflict with a clear injunction of the Holy Koran (Quotation from the Koran Verse). This positive injunction of the Holy Koran leaves one in no manner of doubt that under certain circumstances a husband can even go to the extent of giving a beating to his wife, who persists in her rebellious conduct. . . . If in the exercise of her fundamental right of personal liberty she is allowed to make a choice, I am certain that she would go with the petitioner, her paramour, the two having collusively maneuvered to file this petition invoking the discretionary jurisdiction of this court. Under Islamic law, the respondent

being the husband of the woman, is entitled to her custody as her legal guardian. His right of guardianship coupled with the liberty granted to him in the above quoted Koranic verse cannot be allowed to be frustrated by such collusive circumvention. . . . I am not, therefore, inclined to allow this petition. (*Pakistan Legal Decisions Booklet* (PLD), 1971, pp. 129-30)

This case also illustrates how fundamental human rights can be restricted or denied in circumstances applicable to women only.

Domestic violence has taken the extreme form of dowry deaths both in India and Pakistan. The increasing number of incidents involving the killing of young brides by husbands or the marital family for inadequate dowries has evoked strong reaction from women's groups in India. The pressure exerted by these groups on the Parliament resulted in an amendment of the Indian Penal Code. The intended outcome of this amendment is that, if a women dies an unnatural death under suspicious circumstances within a certain period after marriage, the husband and his family will come under interrogation. Whether or not this law has served as a deterrent to dowry deaths is difficult to ascertain because of the lack of statistical data. It is also not known how many cases have been prosecuted under this law.

Concern over the increasing incidence of death of women by burning has been expressed by women's rights groups in Pakistan for the past several years. The deaths are normally attributed to bursting of the stove used for cooking. Investigations are very rarely conducted and the police file the case with the report that death was due to accident or suicide. This occurs even when a woman has made a dying declaration before the attending doctor that she has been burned by the husband and/or his family. The press has played an important role in raising questions and doubts about the methods of investigation in such cases, and has created public awareness of the issue. The high number of these incidents is frightening. The women affected usually belong to low income groups.

Even if the cause of death is bursting of the stove, neglect on the part of the authorities to bring the manufacturers of

the defective and dangerous appliance to book is criminal. Women are considered expendable to the society, so the reaction to these deaths has been slow in coming. The High Court of Lahore has finally taken *suo moto* notice and has directed the police to file cases against manufacturers, as well as interrogate the husband and his family in the case of the death of a married woman (Lahore High Court, 1991).

The practice of *sati* in India, and its recent recurrence in the state of Rajasthan, indicates another frightening aspect of violence against women. Assertion of cultural, ethnic or religious identities has created an almost fanatical support for practices that have subjected women to violence, ranging from forced marriages, to female circumcision and the killing of women as an act of honor. The Revolutionary Command Council of Iraq issued a decree in February, 1990 empowering men to take the law into their own hands when punishing women from their families for adultery. The words of the decree quoted by the press are, "Any Iraqi who kills, even with premeditation, his own mother, daughter, sister, aunt, niece or his cousin on the father's side, for adultery will not be brought to justice" (*Al-Ittehad*, 1990).

This form of enforcing "Islamic morality" is strongly reflected in judicial decisions in Pakistan. In cases where a woman has been murdered by a male member of her own family, sentences have been extremely lenient. Most cases of grave and sudden provocation involve a man who is accused of killing his wife due to her marital infidelity. However, courts have been willing to apply the grave and sudden provocation exception even where the man has not caught his wife in the act. Moreover, the courts generally accept the defense on very little evidence and then drastically reduce the sentence given to the man. In still other cases where grave and sudden provocation cannot be proven, courts rely on concepts of family honor to justify a mitigated sentence for men who kill their wives. In fact the more violent the nature of the crime, the more likely the court is to believe the man's defense. The assumption is that for a husband to kill his wife in such a brutal manner, she must have given some provocation. Courts have accepted this defense even where the provocation is unknown. One such judgement observes:

It is on the record that Ms. Bashiran deceased was an unusual modern and fashionable girl, a like of which is rarely found in village community. Our belief is justified by the apparels, makeup, hairdo and use of underwear and nylon socks found on her person after her death. Therefore, this possibility cannot be excluded that the appellant got provoked as he might have suspected her of leading a wayward life and killed her on this account. Similarly, his frustrated mind must have goaded him to get rid of her as he found her a barren woman incapable of bearing a child he might have got worked up a feeling to commit this crime. (PLD, 1976)

With the revival of Islamic fundamentalism in Pakistan, the attitude reflected in the above excerpt has become even stronger, and the fundamentalists have begun to assert their own standard of social morality more aggressively. Daily edicts are issued by the Muslim clergy on the need to enforce the segregation and seclusion of women. Some have declared that a woman who does not observe the rules of seclusion does not deserve any redress or protection against violence. The conclusion, therefore, would be that if a women is molested in the street, she would find redress only if she can give a "legitimate" reason for being there in the first place.

Protection is guaranteed only within the four walls of the house. This attitude prevails despite the provisions within the Pakistan Penal Code on assault and use of criminal force on a woman with intent to outrage her modesty (Pakistan Penal Code [1860] § 354). An additional provision was added to the Penal Code in 1984, following a public outrage against an incident of stripping women and making them parade naked in the village, as revenge against the male members of their family. Maximum punishment for stripping a woman of her clothes and exposing her to the public view is execution or life imprisonment (Pakistan Penal Code [1860] § 354, Criminal Law [Amendment] Ordinance, 1984). Nevertheless, incidents similar to the one which resulted in the enforcement of this law continue to occur. There has not been a single conviction for this offense after the persons responsible for the above-mentioned were charged and convicted. The law is, therefore,

just paper legislation that has not been enforced and has failed to provide any protection to women.

The crime of rape has been discussed from various aspects and in relation to different jurisdictions. This is an area where the law does intervene on behalf of the victim. Nevertheless, because of the weakness of the law and the judicial system, coupled with the attitudinal biases linked with this crime, the victim seldom finds justice. The perception of rape as a sexual crime is responsible for mitigating the heinousness of the crime to a great extent. Rape is a crime of violence and is, perhaps, the worst form of physical and mental injury that can be inflicted on women. Laws will remain meaningless and ineffective until this realization becomes entrenched in judicial attitudes. Most rape trials turn into a trial of the victim rather than the offender.

The enforcement of the Islamic Penal Law of "zina" (extra-marital sex) has worsened the situation of women in Pakistan (*Zina Ordinance VII, 1979*). The roots of this law lie in the policy of control over the physical person of a woman. Under this law, a woman accused of adultery is stoned to death and a woman accused of fornication receives one hundred lashes in public. The offense of rape (*zina-bil-jabr*) is also dealt with by the same law. The effect of this is that rape has become more of a defense against prosecution for adultery or fornication, rather than being considered as an independent crime. The well known case of Safia Bibi (*New Law Reports, 1985, SD 145*) was the first case to reveal the danger of the situation in which a victim of rape finds herself. Because of the evidentiary requirements it may not be possible to prove rape. The presumption against the victim would be that the sexual intercourse was with consent. The victim could then become an accused and be required to prove her innocence.

It may be pointed out that the *zina* ordinance not only affects the position of women who have filed cases in court. The content of the law has relegated all women to an inferior position in society, and its practical application has made women even more vulnerable to physical attack and violence. That the prison population of women has tremendously increased since the enforcement of this law is evidence of the fact that it has affected the lives a vast number of women.

Studies have shown that most of the women belong to rural areas or the urban poor. Though women of all ages have been implicated in such cases, the majority of such women are between the ages of 13 and 25 (Jahangir and Jilani, 1989). The law prescribes no minimum age of criminal liability and even young children have been known to be charged with the crime of extra-marital sex or rape.

The worst effect on women has been through the biased and derogatory observations against women made in many judgments of the Federal Shariat Court (the Islamic Court). It is important to recognize that the judiciary as an institution should be above social bias and not reflect social attitudes in their judgments. In fact, the judiciary should influence social attitudes by encouraging and promoting positive values. Judicial interpretation, as well as the implementation of the law itself, have resulted in victims of rape being prosecuted for having committed extra-marital sex with consent. Many of the judgments have converted charges of rape against the accused into that of *zina* on the grounds that the prosecutrix (the victim) did not put up any resistance. Therefore, it is presumed that the offense was committed with the consent of the woman. In one of the judgments made against Safia Bibi, the court concluded, "whatever may be the reasons and circumstances Kulsoom Bibi had put no real resistance and it appears that the act had been done with her consent" (*Pakistan Legal Journal* 1987, Federal Shariat Court Decision 4).

The social policy of strengthening male domination and male control over the person of a woman manifests itself in Judicial decisions in cases where women charged under the *zina* law have applied for bail. The courts in Pakistan have held that a woman who is granted bail can only be released on the condition that either her husband or father must become her surety and she would be released in their custody. The woman being a major and *sui juris* is not a relevant consideration in this case. The *zina* law also does not recognize rape within a marriage. Prior to the enforcement of the new law, rape of a wife under the age of thirteen was an offense under the Penal Code. The *zina* ordinance repealed that provision. The view that the courts have taken on this issue is reflected in a judgment of the Federal Shariat Court. An

accused being tried for a charge of rape produced a certificate of marriage and claimed marriage to the victim as a defense. The court, while conceding that medical evidence revealed marks of violence on the body of the woman, held that in view of the marriage certificate, the offense of rape had not been proved. "At best it can be said to be misuse of the wife."

The injustice of this law is apparent in cases of trafficking of women. Women from Bangladesh, and sometimes from India, are abducted or brought to Pakistan on the promise of employment. Once in Pakistan, they are sold into prostitution and are exploited by instilling in them the fear that they are illegal entrants into Pakistan and can be arrested if they expose their captors. Although some brothels have been raided and women have been rescued, these women have not been treated as victims. Instead, they have been charged under the *zina* law and are awaiting trial in various jails of Pakistan.

Despite the apparent injustices of the *zina* law, the protest against it has failed result in repeal. Emphasis on Shariat in Pakistan has also dimmed the chances of its removal. Practices like public hangings and floggings have further contributed to an increase of violence by brutalizing society and making scenes of violence so common that people have lost their sense of aversion to it.

Strategies to Combat Violence

While raising social consciousness is important for combating violence against women, it has become crucial that legal mechanisms be created to counter this violence. An argument which can be advanced against the law is that it has failed both as a deterrent and as an agent of social change. Further, in the case of countries like Pakistan, the law itself has exposed women to exploitation and more violence. However, it is also true that where relief has come, it had been through the law and the invocation of national or international guarantees for protection. The approach toward issues of violence must be changed.

Violations such as sexual torture and custodial rape are now being addressed as violations of political and civil rights.

A more aggressive campaign must also be launched for recognizing that due process requirements apply to a victim of crime just as much as they apply to an accused. Where the law fails to provide equal protection, it must be challenged on that basis. Factors which increase violence, particularly toward women, must be indicated more clearly so that better and more effective strategies can be devised to confront the issue.

This approach needs a forthright and honest confrontation of reality. Women's growing awareness of the injustice of their situation, and their efforts in arousing social consciousness are beginning to bear fruit. Women do not live in an isolated environment, and global trends toward violence may well reduce the beneficial effects of these efforts.

Stopping the Violence Against Women: Fifteen Years of Activism in India

Govind Kelkar

For more than a decade, the women's movement, feminist activists, and scholars in India have engaged in debate with both the state and society over the nature of violence against women. Their major contribution has been to view the problem in the context of understanding intra- and extra-family/household gender relations, and the role of the state in reinforcing patriarchal oppression. The purpose of this paper is to provide an overview of the women's movements in India, to consider the maintenance mechanisms that perpetuate violence, and principally, to focus on the strategies created to combat intra-family/household and social violence against women.

The resurgence of the women's liberation movement has decisively undermined the assumption that women are "apolitical," "naturally backwards" and nurture their own domesticity and subordination. The political issues that women take up confront class, caste and patriarchal relations. Women's struggles for the basic demands of food, water, fuel, health care and preservation of environment have direct political implications. These struggles radically question the process of resource allocation and suggest the need for political participation of the most marginal groups. Further, campaigns against

rape and familial violence are linked to the struggles of poor women against the class-caste hierarchy of landlords, the coercive power of the state (expressed through police rapes, the lax, patriarchal attitudes on the part of the judiciary, and the discriminatory laws against women), and to women's collective actions, across different classes and castes, against male violence and cultural control within the family. The women's liberation movement has not only linked women-specific violence with class and caste issues, but has radically challenged institutional patterns of power and privilege in society, and discrimination within the political system.

Defining Violence Against Women

Gender violence, like all other historical manifestations of violence, is embedded in the socioeconomic and political context of power relations. It is produced within class, caste and patriarchal social relations in which male power dominates. A narrow view of violence may define it as an act of criminal use of physical force. But this is an incomplete concept. Violence also includes exploitation, discrimination, unequal economic and social structures, the creation of an atmosphere of terror (threats and reprisals), and other forms of religio-cultural and political violence. While violence against women is part of general violence found in social structures such as class, caste, religion, and ethnicity, and in the way the state controls people, it also encompasses aspects of structural violence and forms of control and coercion exercised through hierarchal and patriarchal gender relationships in the family and society.

Women-specific violence functions to keep women where they are; that is, in the house and powerless. Lacking resources, and economically and emotionally dependent, "women become instruments through which the social system reproduces itself and through which systemic inequality is maintained" (Raj and Kelkar, 1985). Women are considered men's property, and their sexuality, fertility and labor are systematically controlled. Violence against women and their submission and subordination is further strengthened and maintained over time by the socialization process, through

which the hierarchic gender relations of the familial structure offer women little or no independent social existence. These relations establish "the possessional rights over women, which men have as husbands or fathers or older male relations. Such possessional rights include promise of protection (whether or not actually fulfilled in reality) in return for submission and exclusive use" (Raj and Kelkar, 1985).

In order to change this situation, women's access to resources is crucial. However, the state not only tends to overlook these structural forms of violence against women, but perpetuates them in the name of cultural legitimacy and the maintenance of "law and order." Moreover, the coercive power of the state (police and army) often uses sexual violence against women in caste and communal clashes and against women in police custody. There are many discriminatory laws that women find very difficult to fight. Agricultural laborers, poor peasants, *Dalit* (the oppressed castes) and *Adivasi* (indigenous) women have repeatedly questioned the Indian state for working in close alliance with patriarchal, fundamentalist forces. The women in the *Nari Mukti Sanghash Sammelan* (Struggle for Women's Liberation Meeting) passed the resolution in February 1988:

Women face specific forms of violence: rape and other forms of sexual abuse; female foeticide; witch-killing; sati; dowry murders; and wife-beating. Such violence, and the continued sense of insecurity that is instilled in women as a result, keeps them bound to the home, economically exploited, and socially suppressed. In the ongoing struggles against violence in the family, society and the state, we recognize that the state is one of the main perpetrators of violence by men against women in the family, the workplace and the neighborhood. For these reasons, a mass women's movement should focus its efforts both inside and outside the home (Omvedt, Gala and Kelkar, 1988).

In December 1990, at the Women's Conference in Calicut, Kerala, over 300 participants raised important feminist issues, not only about the social meaning of sexual attacks and other forms of violence against women in the family, state and society, but about strategies to counter such violence. The

Conference noted:

A woman faces violence from the time she is conceived in the womb. Amniocentesis is the technical way of murdering female children before they can fight back, and the implications are far worse because the mother is coerced through all the available social and psychological pressure on her and values which are antiwomen. Her home is the main area of attack; drunken husbands, dowry hungry in-laws, financial problems and young female children deprived of nutrition exemplify the force with which a woman is attacked within the four walls of her social haven (Purewal, Kapur and Ozha, 1990).

Equally important were the conclusions of the workshop:

Only a systematic process of empowerment of the individual woman by women's awareness-building and solidarity groups can protect her against all forms of violence, and it is only through these networks that the political and legal strategies can be made effective. But when will the law be made accessible to us? How do we protect women activists from attacks by patriarchal forces? Why do we choose to remain quiet when we face violence personally? How do we stop women from becoming the active and passive instruments of patriarchal oppression?

These questions indicate not merely that the law is inadequate, but that the social position of women, far from improving with the years, is actually worsening. Notable since the early eighties is the obvious contradiction between social neglect of women within a strengthened patriarchal system and the protest and resistance of the women's liberation movement.

Results of these activities over the last decade include the enactment of supposedly prowomen government policies and laws to halt crimes against women, a growing consciousness by the media about sexism, the treatment of women-specific violence as a human rights matter, and the expansion of the women's movement. At the same time, however, there has been an increase in the violence against women; a rise in the number of rapes and dowry murders; and sexual and murderous

attacks on young and pregnant women of religious minorities, ethnic groups, *Dalit*, and agricultural laborers during communal and caste clashes.

It is important to note, however, that while the specificity of violence against women requires an analysis of unequal gender relations within the family, it also recognizes the role of the state in providing the legitimizing patriarchal ideology of family-centered male dominance. The state in India has not attempted to effectively outlaw the subordination of women to men or change the dependency relations within the family. Recent data on the increasing incidence of violence against women will elucidate this.

Increasing Violence Against Women

In July 1991, serious concern was expressed in Parliament over government statistics indicating 11,259 dowry related murders during the last few years. The official dowry murder toll has risen steadily from 2,209 in 1988 to 4,835 in 1990. In August 1990, the Minister of State for Home Affairs admitted in the Rajya Sabha (upper houses of Parliament) that despite two amendments to the Dowry Prohibition Act, there was a rise in dowry deaths. In 1983, an average of two women died of burns every day in Delhi (Kelkar, 1987). In Bombay, a survey from two police stations indicated that in a period of eight months in 1984, one woman was burned to death every five days. In Bangalore, suicides and "dowry deaths" nearly doubled in 1984 as compared to the previous year. According to police reports, an average of two women committed suicide every day in 1984. In Madhya Pradesh, records from the largest hospital showed that one woman died of burn injuries every five days. According to various women's organizations, an equal number of burning/suicide cases go unreported. This is due primarily to refusal of the police to register the cases, or when they are registered, the offense is minimized. For example, over 90 percent of the cases of women burnt in Delhi were registered as accidents; only five percent were noted as murders and five percent as suicides (Indian Express, 1984).

The dowry witch-hunt takes its heaviest toll in the middle class urban areas, but the burning of women for more money

and domestic goods in the form of dowry is quite widespread in the slums and rural areas. Investigations have indicated that women burning is prevalent all over the country; it is most acute in Delhi, Haryana, Punjab, the Western Uttar Pradesh and the Saurashtra region in Gujarat.

Police officials admitted to the press in August 1990 that changes in the laws relating to rape have not checked the rise in incidence of rapes. Official statistics gave the following rate of increase: the number of reported rapes in 1976 was 3,893; by 1978, it had gone up to 4,558; by 1980 to 5,023; by 1984 to 6,203, by 1985 to 6,356; and by 1988 to 6,888. According to 1985 review of the Bureau of Police Research and Development, there were roughly 20,000 rapes committed in India every year. This seemed a very conservative estimate. The police officials themselves stated that only one-fourth of the total number of rapes that take place are actually reported by the rape survivors or their families. Furthermore, it is commonly held that the majority of the rapists are set free for lack of adequate evidence.

Mass rapes are used by the upper caste, large land-owning men, to repress poor, peasant, agricultural laborers, *Dalit*, and *Adivasis* when they demonstrate for higher wages or for the implementation of land reforms. In a seminar on Custodial rape in New Delhi in 1982, it was noted that 42.5 percent of rapes committed in rural and tribal areas were by policemen, army officers and forest guards. In February 1988, for instance, a group of 14 policemen, assisted by homeguards, plundered and raped the village of Pasaria, in Bihar. This was done in order to avenge the assault on two of their colleagues, which had taken place a week before. However, a far more significant example of patriarchal crippling of women came a year later in March 1989, when a 72-page judgment, delivered by justice O.P. Sinha, acquitted the policemen on the defense counsel's argument that the women could not be considered "ladies who hail from decent and respectable society" as they were engaged in "menial work" and were of questionable character. The judgment read, "It cannot be ruled out that these ladies might speak out falsehood to get a sum of Rs. 1,000, which was a huge sum for them (Rajadhyaksa, 1990)." The judgment was met with calm and silence, the only exceptions

being the women's organizations which seemed too defeated for a while to stir the movement.

Another escalating form of violence against women is the killing of women as witches, particularly in indigenous communities. In the Singhbhum district of Bihar, 200 women on an average are killed every year because they are thought to be witches (Minimala, 1988). There is an economics of witch-hunting that is related to the development of male control over privatized land and other forms of property, and to the destruction of women's traditional usufruct land rights. According to a recent study of women, land, and forests in the Jharkhand region of Bihar (Kelkar and Nathan, 1991), of 95 cases of Santhals killed by Santhals over a 30-year period, 46 were witch-killings; of which 42 were women, most of them widows with land. The women who were accused as witches were closely related to the accusers as stepmothers, old or young widows. Witch-hunting, like other forms of gender violence against women, cannot be explained at the economic level alone. It was often used by men of the dominant lineage against those who opposed them politically. It was also used to get rid of unwanted females, chiefly widows, but also pregnant women whom the men concerned did not want to marry. In sum, witch-hunting is essential to the process of establishing sociopolitical authority of men in a culture in which this authority was shared.

In recent months, women's organizations, social analysts, and feminist activists showed concern over the results of the 1991 Census. Once again, the official data proved that we are actually engaged in killing women in large numbers. In 1901, there were 1,072 women for every 1,000 men. Since then the female/male ratio steadily declined (with the exception of some increase in 1981) and at present there are 929 women for every 1,000 men. It has been pointed out that during the last 15 years the declining number of women is not merely a biological phenomenon. It is the cumulative effect of social practices and the allocation of family resources in favor of men, i.e., preference for the males in the distribution of nutritional food, health-care, education and economic resources.

Amniocentesis is popular in various parts of India. From 1978 to 1983, 78,000 female fetuses were reported to have been

aborted after amniocentesis tests (Gokhale, 1990). Advertisements for amniocentesis crudely posed the choice between foeticide or dowry saying, "Better pay Rs. 500 now than Rs. 500,000 later."

There is much more to the matter than crass advertising. There are manifestations of political malaise in India and in the organization of the socioeconomic system. The atrocities committed against women within families/households have often been hidden from the public eye by social attitudes which mix apathy toward women with an inexplicable sense of privacy. One of the ways the dominant ideology of the patriarchal social system and the oppression of women within the family is maintained is through secrecy, and by failing to explain the unequal distribution of resources. Foucault maintains:

Power is tolerable only when a good deal of its workings are concealed. Its efficacy is proportional to the degree of that concealment. For power, secrecy is not an abuse but a necessity; and this is not only for its greater efficiency but also for its acceptance (Sheridan, 1980).

The general willingness of women to speak about unequal gender relations in society and violence within the family should not surprise us. Given women's unequal, resourceless position in society and the family, it would be in their interest to concentrate on the positive aspects of cooperation outside the marriage as well as within it. Nonetheless, women and feminist theorists have questioned the normal assumption of development planning and mainstream economics that the family/household is an undifferentiated unit and the members equally share its power and resources. To understand the nature of violence against women in India today, it is necessary to look at women's subordination in the structure of material production. To what extent is the present institution of family in India responsible for creating and maintaining structures and ideologies of subordination and silence, structures that inherently resist the participation of women in decisionmaking, and ideologies created by sexual divisions to maintain existing power relations and forms of exploitation?

The well known economist, Amartya Sen, suggests that "there has to be a clear analysis of the existence of both cooperative and conflicting elements in family relations (1984)." According to Sen, while there are many "cooperative outcomes" that are beneficial for all the members concerned, the different members have "strictly conflicting interests in the set of cooperative arrangements." The respective bargaining power of men and women within the "cooperative conflict" existence depends much on their resources and power outside the family/household. The family/household members who are socially powerless and resourceless (usually women) are likely to remain in their situation even when the outcomes of cooperative conflict are quite unsatisfactory for them. In their existing social situation of resourcelessness, it would be less favorable for women to leave the household. In the case of the breakdown of cooperative arrangements, the fallback position of women (outside the family/household) becomes worse. Women's "breakdown response" is, therefore, reflected in their lack of entitlement to resources, consumption and decisionmaking outside the family/household as well as within it.

It has been argued that the dowry/witch-hunt issue in India stems from women's subordination in the structure of material production, the organization of marriage and family, and the sexual division of labor. This creates gender-specific personalities in which men are valued for their role as the principal one in the national economy, "bread winners," and supporters of the family; while women are excessively undervalued for their dependence, ignorance of the outside world and preoccupation with household chores.

Women's Movement: Strategies for Combatting Violence

Campaign Against Rape

The social position of women in India notwithstanding, it would be wrong to assume that women have passively accepted an ever-increasing oppression within and outside the family. The violence of rape and dowry related women-

burning emerged at the forefront of the women's movement in the early 1980s. The judgment of the Supreme Court on the Mathura Case in 1979 drew country-wide attention to the efficacy of rape laws. Women's organizations mobilized to heighten awareness of rape and its link to the broader issue of women's oppression. In contrast to addressing the problem of rape only as a means of class/caste repression, or as the problem of law and order, the campaign around the Mathura case for the first time posited that "rape is a violation of the human right of a woman to have control over her own body," and "was seen as the most brutal expression of patriarchal power associated with the economic and political power in the society" (Datar, n.d.).

In the Mathura case, the High Court of Bombay had convicted two policemen of raping a minor tribal girl called Mathura, from Chandrapur in Maharashtra. Mathura had complained that she was raped in the police station in the middle of the night. The Supreme Court reversed the judgment of the Bombay High Court and acquitted the policemen. They dismissed Mathura's testimony as a "tissue of lies" because there was no clear evidence that she had actively resisted intercourse with the two men, and there was proof that she was not a virgin. According to the Court, since Mathura was a tribal girl, there was no question of her right to say no, and because of her past sexual conduct she could not possibly have resisted the act of sexual aggression. The class and male perspective reflected in the Supreme Court judgment triggered strong reactions from activists and lawyers.

An open letter from four distinguished experts of law, Upendra Baxi, Vashuda Dhagamwar, Raghunath Kelkar and Lotika Sarkar, asked the Supreme Court to reopen the case. At the same time, there were meetings and rallies by women's organizations, formation of lawyers' collectives, and forums against rape in several parts of India. In Bombay, the Forum Against Rape was formed. It collected 10,000 signatures and petitioned the parliament to reopen the Mathura Case and to amend the rape laws. Equally active were the *Stree Sangharh Sangnatana* (Women's Struggle Forum) in Hyderabad, the *Stree Sanghaarsh* (Women's Struggle) in Delhi, the Federation

of Indian Women, the Student National Wings of the Communist Party of India (Marxist) and the Coordination Committee for Women's Organizations in Pune. "Women's Struggle Day" was celebrated for the first time on March 8, with several thousand women participating in the demonstrations. Poster exhibitions of female oppression and small meetings in schools, colleges, offices, and factories played an important role in educating and mobilizing women. Also effective were street corner plays and songs on women's oppression, and discussions about legal shortcomings and proposed changes.

While the demand for review of the Mathura case was a rallying point, the women's movement also sought official attention for the problem of custodial rape and government accountability for the sexual aggression that takes place in police stations, jails, remand homes, hospitals, schools or by government employees. The women's movement and its feminist allies reformulated and successfully incorporated significant changes into the Criminal Procedure Code and the Evidence Act. The changes specifically provided for rape proceedings "in camera," and the presumption of absence of consent in the prosecution of custodial and gang rape cases, as well as those of pregnant women where the rape survivor proves sexual intercourse occurred without consent.

The enactment of the presumption of absence of consent was not easy to achieve. Upendra Baxi, one of the members of the open letter group, wrote:

There was a lot of opposition on the grounds that such reform will make allegations of rape very easy and the accused will be placed in the unfair, and often impossible, burden of proving that the victim did consent. We won the reform only when it was realized that in customs and fiscal cases and cases of stolen property, such a reversal of burden of proof was already a feature of the Indian Law. It became difficult after a while for those who opposed us to suggest that in the early 80s property offenses required such a special regime, while violence against women did not (Baxi, 1990).

There were, however, failures too. The feminists were unable to gather enough strength to effectively demand legislation in cases of marital rape and "power rape," where a man in a dominant power relation abuses his position to have sexual relations. Some of the charitable, welfare-oriented women's organizations which generally do not question patriarchy or the fundamental aspects of women's subordination within and outside the family, said the legality of marital rape "will endanger the family as a going institution" and that women would lose more support and standing in the institution of marriage (Baxi, 1990). Not surprisingly, these women's organizations did not join the feminist organizations and individuals in their criticism of the family structure and the state, nor did they see rape as "the real crime of annihilation by the man of the woman as a human being" (Griffin, 1979).

Protest Against Dowry Murders

In the wake of the antirape movement and related demonstrations, new awareness emerged of women being burned for delivering insufficient dowry. The initial protest in the form of a big demonstration against the harassment and killing/burning of women because of inadequate dowry came in June 1979. Since then, women's organizations have been pressuring the government to enact more stringent measures to check violent crimes against women; demonstrations and meetings have been organized throughout the country. For the past few years, in Delhi and in other major cities in the country, women's organizations and housewives have held sporadic demonstrations against their husbands, in-laws, lawyers, and police officers involved in the cases of women burning/killing. In early 1982, 30 women's organizations in Delhi, under the name of *Dahej Virodhi Chetna Manch* (Anti-Dowry Consciousness Raising Forum) organized a protest march against dowry. They were joined by several hundred ordinary women and men, including the parents of dowry victims. They questioned police action and tardiness in investigation, highlighting the government's lethargy toward the problem. They demanded that bride-burners/killers be ostracized and appealed to legal pundits and legislators for a system of summary trials for these crimes against women.

These demonstrations served to show the public that the killings and burnings of women by their husbands and in-laws were not suicides or accidental deaths, as many people were led to believe. In addition, the protests pressed for effective changes and better implementation of laws, tightening loopholes in legal procedures, and reorganization of police inquiries. In seeking these aims, the protests fostered the creation of a number of neighborhood action committees, many crisis/support centers, and women's centers where women in distress (rape survivors, harassed daughters-in-laws/young married women, battered wives, etc.) could be helped and could get moral and emotional support, physical relief, shelter, and legal aid.

The demonstrations awakened the interest of the media, progressive political parties, trade unions, professional groups and the non-governmental organizations. Conscious women activists organized *Padyatras* (long-marches), made skits, plays and movies on the dowry murders and oppression of women. A popular street play in Delhi, called *Om Swaha*, dealt with the incineration of young married women in the marital homes. A woman activist, Mira Dewan, made a landmark documentary film on the dowry murders. She interviewed two of the death survivors: one gave a detailed, graphic, traumatic account of the attempt by her husband and in-laws to burn her. In the second interview, one young woman, the mother of two children, a two-year-old daughter and a four-year-old son, was almost buried alive in the courtyard of her home. But her son, who had been hiding somewhere in the house, managed to run out and call the neighbors to rescue his mother.

Women newspaper reporters, who were also members of feminist networks and magazines like *Manushi* (Delhi) and *Baija* (Pune), reported on both the problems of women and their attempts at resistance. Feminist academics, who had been involved in studies on women's roles in mass movements and their participation in nation-building, questioned the limitations of male-biased social scenes in the study of demographic patterns, and observed the female roles in economic production. These studies further pointed out the existing inequalities in the socioeconomic, political system and the

national neglect of women in development programs for women in the fields of employment, health, and education.

The government could no longer ignore organized feminist efforts and responded by amending laws on dowry and setting up Anti-Dowry cells and mobile police squads for women in Delhi and other cities. It is now mandatory for the cells to investigate cases of dowry related harassments and any unnatural death of women within the first seven years of her marriage. Though these measures sought to improve the existing legal issues related to women, they failed to question women's subordination and dependency on men within the institution of marriage and family. The state continued to create the same male-dominated structures and make legislation implying the subordination of women.

Extra-Legal Strategies: Public Shaming and Community Action

The link between the specific oppression of women and the state raises the question in the women's movement whether we, as women, have a voice which is distinct from other voices articulating the dominant ideologies of state and society. Effective intervention on behalf of women in the sociopolitical process is necessary through consistent and systematic pressure to bring into focus women's concerns over violence against women. There were several cases of dowry murders which women brought into community action forums in order to punish the offenders and/or publicly humiliate them. This occurred in cases where the police and judiciary authorities had failed to take action. For instance, in 1982 in a skillfully organized dowry murder case, the husband was set free by the court for lack of adequate evidence. Subsequently, the enraged women activists marched to his house, manhandled and stripped him, and paraded him naked through the crowded market area of Lajpat Nagar, New Delhi, thus publicly shaming him for the murder of his wife.

In the middle of the night of December 13, 1990, Suparna Sengupta, (the mother of a three-year-old) was burned to death in Chitaranjan Park in New Delhi. This act triggered an impressive movement of community action against the crime

and against harassment of women. There was no arrest or investigation on the following day; the local police officer was allegedly bribed. On hearing the news, five women from the area who were members of *Purbosree Mahila Samiti* (Eastern Women's Organization) immediately went to the dowry death house. They noticed that not a single policeman was present and the front of the house was closed. At the gate of the house, the five women were confronted by the younger son of the family, who threatened to unleash a dog on them if they entered. But the five women, by now joined by another 20 people, including five men, refused to stop and entered the house. They were met by an aggressive mother-in-law, who said that Suparna had committed suicide. In a short while, nearly 300 people had collected at the gate. The group shouted slogans and demanded the arrest of the husband and the in-laws, and confronted a local police officer. In the mean time, several police cars and some senior police officers had assembled to pacify the angry mob. By late evening, the police conceded to the demands and arrested all six members of the family. The next day, three were released, but the husband, mother-in-law and father-in-law remained in jail, and the family was not allowed to reenter the house or live in the area. In an impressive display, the younger women of the area were very active in mobilizing the action and organizing the demonstration.

In April 1991, the following report appeared in an Indian daily:

Seven local organizations have together formed an action committee to fight Suparna's case. Almost every day two or three people follow up the case, running to the courts, consulting lawyers, raising funds and keeping tabs on the activity in the home of the Senguptas (Rai, 1991).

The Senguptas were socially ostracized. Pink handbills had been distributed all over the colony appealing to the residents to come together under the Suparna Action Committee. The handbills stated:

We would like to emphasize that our daughters, sisters and daughter-in-law in the colony and women everywhere should not suffer torture and humiliation

in the future. We appeal to every responsible member of the colony that such injustice should not go unpunished and the supposed culprits must be brought to look. It is only with your earnest efforts that we can develop a healthy society of cooperation and fellow feeling.

Toward Breaking Women's Silence in the Family

Women's protest through demonstrations and studies has made the violent crime of burning women visible as a serious social problem. It has opened a whole new vista by calling attention to the oppression, conflict and violence previously hidden behind the superficial portrait of love, support and nurturing in the family. Furthermore, these demonstrations have opened the areas of female subordination and domestic violence to public attention, bringing in a culture of "speak bitterness"—encouraging harassed wives and rape survivors, to speak out. In describing the women's plight, feminist consciousness-raising efforts have particularly suggested a critical scrutiny of the family and the role of the state in reinforcing the familial structure of domination.

The family is one of the primary institutions of society that establishes the unequal social relations that sustain the subordination of women (Kelkar, 1990). The usual tasks for women in the family (i.e., child rearing and house work) are cultural constructs that imprint hierarchical male and female identities on children. Gender hierarchy, combined with generational hierarchy, bestows differential powers on the various members of the family vis-à-vis their ability to act as fully independent beings in relation to one another.

There is a need to look at the familial authority relations from which dowry violence is organized and at the property relations which this authority structure thrives on and maintains. Socioeconomic, gender-based disparities such as lower wages for women, their underreported presence in the labor force, and their reduced access to health care and education have been justified on the belief that women's employment is secondary to that of men. There is, therefore, a parallel between the organization of the family and the politico-economic

system. In other words, in policy making and the organization of the economy, the family concept is used to legitimize the subordination of women.

The Constitution of India declared the equality of sex as a guiding principle and thereby acknowledged that a family should basically be an equalitarian unit founded on equal rights and willing choice by both individuals who form a family. In practice, however, the subordination of women to men and junior to senior pervades family life in all classes and castes of India. The ideology of subordination is required by the economic structure of production; women are subordinate to men (and thereby dependent too) because men may own land and hold tenancies, while women by and large do not. Customary practices preclude women from inheriting land as daughters, except in the absence of male heirs. It is often wrongly believed that women have an equal share of patrimony through dowry at the time of marriage.

Hindu laws of property and ownership of the means of production give women negligible rights, as independent entities, to family income, assets and property. The Hindu Succession Act (which puts daughters on an equal footing with the sons in regard to succession to parental property) and the Dowry Prohibition Act are not "dead letters"; they can be appealed to in certain disputes among families or where the land ceiling provision makes it expedient for large land holdings to be divided "on paper" and thus to waive male or female inheritance. However, in most cases, daughters waive their land rights in favor of their brothers. Otherwise, they would be denounced as "selfish" sisters and would risk alienation or severance of family ties. Women's effective exclusion from the possession and control of land is largely the basis of their subordination and dependence on men in rural India.

There is an absence of satisfactory theory development by the women's movement in India. Family in India has been explained in purely functionalist terms, or in terms of the distinctive culture of the subcontinent. Social scientists have been engaged in debate over whether or not there is a nucleation of joint-family structures in India (Narain, 1975; Kulkarni; Nayar, 1982; *Samyashakhi*, 1990). A few of them

concentrated on studies of the extent of nucleation in urban and rural families. They did not question the complex power relations between gender and generation that underlie family life, the ideology and structure of dependence, or the sexual division of labor that strengthens the patterns of inequality and the oppression of women and children. Further, they overlooked how the family both produces and recasts forms of gender and class/caste inequalities, at the same time that it nurtures children of both sexes.

In recent years, however, the family has emerged as a political issue in India. The Government has formulated policies to further strengthen the family, while the women's movement raised questions about family boundaries. As a result of pressure from women activists and scholars, a concession was made in the government's Sixth Five Year Plan, and a chapter on Women and Development was incorporated. The chapter admits that women are "the most vulnerable members of the family" and will continue to be so for some time in the future. It further promises to give special attention to the interests of these vulnerable members. Nevertheless, the Sixth Five Year Plan insists that "the family is the unit for programs for poverty eradication." The problem of the repression of women in the family was acknowledged, but the family as the basic unit of economic development was maintained, thereby preventing a constructive analysis.

Since the renewal of the women's movement in the 70s, feminist analysts and activists in India have been searching for ways to halt the construction of gender systems and have looked to anthropology and history for explanations of the origins of patriarchy and sexism. They have been intrigued by how systems of inequality and subordination, with all their contradictions, can be reproduced systematically in the Indian family.

The study of Marxism has provided no answers. Although Marx saw production and reproduction as a unified process, Marxist ideology does not recognize a relationship between the two; specifically, it does not address the link between class and women's subordination or the question of "domestic enslavement of women," the first class oppression of the female by the male which is so evident in Marxian analysis

and explicitly in Engel's *Origins of the Family, Private Property and the State*. Unlike many other progressive groups, feminist organizations saw the need for a new theory and action in order to transform social relations radically within the family, and to provide effective dignity and equality for women.

Women's Rights to Land, Property and Inheritance

It has been increasingly debated and promulgated that women-specific violence can be combated only if a fundamental change is made in women's existing lack of property and resources (Omvedt, 1990; Kishwar, 1989; Kelkar, 1989). Grassroots women's organizations in particular, have linked the political and ideological oppression of women to men's inheritance of productive resources or land. To rectify an economic system where women workers earn less than men, women must have inalienable rights to land, property, and inheritance.

Like the sexual division of labor, the sexual division of private property is regarded as natural and therefore unquestionable (Jayawardana and Kelkar, 1989). A woman's desire for productive property or land is satisfied nominally by her relation to her husband, father, or brother, precisely her existence in the household where the man is the head. Discussing the Women's Conference in Patna in 1988 and the *Shetkari Mahila Aghadi* (Peasant Women's Alliance) meeting in November 1988, Gail Omvedt said that the lack of property and resources denies women the ability to defend themselves.

Brutal suppression keeps women in their propertyless and resourceless state. On the hand, the basic economic dependence of women, having no property or resources, renders them fearfully weak in standing up and challenging the violence and power that is used against them in society. In the workforce, women are overwhelmingly relegated to the unorganized sector (as agricultural laborers, unorganized sector wage workers, peasant gatherers and sellers of forest produce, and unpaid subsistence producers) and are economically weak; the Hindu patrilineal and patrilocal family system cuts them off from access to

property except through men; and their resources in terms of education, skills, socialized self-confidence, etc. are much lower than those of men. Thus, it appears that violence keeps women economically dependent and super-exploited, while economic dependence and exploitation render them unable to combat violence. The relation is apparently circular; the question is, how can the circle be broken?

The ideological background of women's oppression and the material relations of gender cannot be so neatly separated. What is important to note is that the family constitutes both the ideological and material ground for the structure of dependence and strengthens the pattern of inequality and women's oppression. Nancy Chodrow advocates a conscious break with the kind of mothering which reproduces contemporary forms of femininity and masculinity, and class/caste inequalities (1978).

The poor peasant women of the people's movement in Bihar in northern India have demanded the reallocation of the sexual division of sociopolitical work and the sharing of housework and childcare (Kelkar, 1989). These women critically questioned the existing sexual division of work politics and the present-day responsibility of the "wholetimers" (full-time political activists) in protecting themselves and putting the entire burden of the household on the wife. To counteract the husbands' unfavorable politics toward Indian wives, the women suggested the whole-timers should 1) share equally and fully the responsibilities and burden of household work and childcare; 2) participate in agricultural work or other production in order to support themselves as well as the dependents of the family; and 3) participate in political work and make full efforts to help women in the family actively participate in mass organizations and political work. Only then could women accept and support the husbands' organization and their political work, and in the process women themselves would be able to participate in the political process of social transformation.

The mass movements and social action groups, like Marxist scholarship, have not hesitated to use the criterion of marriage in determining women's class position. While it is true

that marriage does give women access to material resources, this is not the same as having a direct line to the means of production. For women, class is mediated through their sexual ties and related services to men (Lerner, 1986). If such sexual ties are broken and related services withdrawn, women no longer enjoy access to material resources. Class analysis in India needs to include the mediated class position of women.

If social relations within a community are not gender-neutral, neither are the effects of redistribution of land. Land reform in India has been shown to have differing effects on distinct rural classes, as well as on men and women within each class. By and large, women have been losers in relation to the men of their class. Recent studies in India indicate that planned changes from rural development and agrarian transformation through land reforms did not halt the process of decline in the position of peasant women (Bardhan, 1985; Agarwal, 1986). In a case study of a Palghat district in Kerala, for instance, there was conclusive evidence that changes in land ownership since the 1920s affected women adversely (Sardamoni, 1983).

In the early 1970s, the Committee on the Status of Women in India received many testimonies from women of different states regarding the discriminatory features of some of the new land laws. In a camp of women agricultural laborers in May, 1980, in the Bankura district in West Bengal, similar complaints were made by a number of poor peasant women (Sardamoni, 1983). During field work in 1984-85 in the villages of the Etawah district in Uttar Pradesh, Devi, a bhangi (the scavenger caste) woman sharply remarked: "No women ever control any assets, not even the children they bear. They are known as their father's children. This has been going on for generations." Raj Kumari, a chamar woman, added:

Land is passed on from father to son. Even the jewelry that is a gift to a woman on her marriage is not given to her, it is kept by her parents-in-law. If a man dies or remarries, the woman is completely dependent on others for her survival. A man can gamble or drink away his land but a woman is always concerned about her children. She can never see them starve; she would do all in her power to raise them to

the best of her ability. So land should be owned jointly by both the husband and wife (Kelkar, Forthcoming).

Similar reports came from the rural areas of Bihar, where women have been struggling against the prejudices of state officials and the men of their own community in regard to independent land rights for women. In the 1980s, however, the government reportedly worked out a new policy to make land reforms more progressive and result-oriented. In December 1988, the Ministry of Agriculture proposed that at least 40 percent of pattas (land title deeds) be issued exclusively for women in future allotments of government and ceiling-surplus lands, as well as homestead units. The remaining pattas should be issued jointly in the names of both the husband and wife (*The Times of India*, 1988). However, these provisions were never enacted. Only about 10 percent of the total land was distributed to women in a few pockets of Bihar and Tamil Nadu.

A woman's access to land would mean a significant reduction in her household's risk of absolute poverty, an increase in security, and greater ability to gain credit from institutional sources. It would also mean a substantial rise in the woman's social position and less vulnerability to violence in the family. It has been observed by some grassroots workers in Maharashtra, Uttar Pradesh and Bihar that single women—widowed, divorced, deserted or abandoned—are working as agricultural laborers on the farms of their brothers, uncles and brother-in-laws. Separate land deeds in women's names, therefore, would help ensure that they would not be destitute. The Bodhgaya women who got land reportedly said: "We had tongues but could not speak. We had feet but could not walk. Now that we have land, we have the strength to speak and walk" (Alka and Chetna, 1987).

Women's Critique of the State

The state in India never set out to fundamentally restructure relations of hierarchy and power within the family or to enable women to have independent access to property and other resources. In fact, through the construction of its family-centered development programs, its assignments of productive

and reproductive functions, and above all, its land/property holding and technology control functions given to the (male) heads of households, the state seems likely to further erode rights which women enjoyed earlier. In an early study of the Green Revolution it was observed that the new agrarian technology denies women employment opportunities and stereotypes as purely female all those jobs which pay less and require less skill, thus inhibiting women from taking up other, more enriching jobs (Kelkar, 1981). As a consequence, women as producers in the economy have become less visible and credible, and have lost ground to traditional economic and decisionmaking roles. There was no attempt to redefine the roles of women, and as a result, the division of labor was maintained. A report on the rights of women observed:

The treating of family as a private area governed by religious and social customs, regarding of women as peripheral to economic development by the State, the inability of the legal system to recognize their unique status, the bias of the police and court in relations to crimes against women, are all parts of these social values (*Inside Family, A Report on Democratic Rights of Women*, 1984).

Despite the enactment of some violence shield laws which created an illusion of improvement in women's position, these laws have not empowered women to halt the increasing violence and destruction in their lives. The women's movement has repeatedly criticized the state for policies that reinforce patriarchy and the male-headed private family, as well as its role in perpetuating structures of class, caste and gender. The state has done nothing to delegitimize processes which advance the interests of patriarchy, class, caste, and gendered social structures; nor has it made substantive policies for the development and liberation of women. Social practices and norms which give men rights of possession over women, and the norms regulating legitimacy of offspring continue to denigrate women and treat them as sexual, subhuman objects.

While a number of legislative measures attempted to provide relief against domestic and social violence, in practice the patriarchal assumption of women's subordination and dependence on men continues to affect the law and sociopolitical

processes. The increasing number of dowry murders and rapes demonstrate the fact that the state has done nothing in substantial terms to ensure that women are protected against the experience of familial and social violence. Despite the state's pretensions of enacting progressive laws regarding custodial rape, the court, police and lawyers continue to judge women from the male perspective and even worse, from the viewpoint of the rapist. Moreover, the supposedly prowomen laws were reshaped and reinterpreted when the movement was not as active. For example, in the 1989 case of Suman Rani, women's organizations and feminist lawyers struggled unsuccessfully against the decision of the Supreme Court of India, which reduced the mandatory minimum sentence given to two police officers convicted of raping a woman in their custody from ten to five years (*Chand V. State of Haryana*, 1989). The Supreme Court took into account the woman's medical report which stated that she had a history of "sexual contact of frequent intercourse and that there was no indication of sexual assault violence on any part of her body." Further, the counsel for the two officers noted, "the victim, Suman Rani, was a woman of questionable character, easy virtue, with lewd and lascivious behavior" and that she delayed in complaining of the alleged rape.

As a result of the pressure generated by women's organizations, this counsel had to give up his eminent position in a Civil Rights organization. However, the Supreme Court judgments in the case of Suman Rani intensified the dialogue within the women's movement on the role of the courts, the patriarchal character of the judiciary, and the inherent class and gender character of rights defined under legal liberalism. The case highlighted the long history of relations between the women's movement and the state, and the movement's tendency accept the rights discourse (i.e., the reliance on legal rights to equality and nondiscrimination) as essential to the political advancement of women's issues.

More recently, some feminist analysts have questioned the movement's legal rights approach while advocating a limited use of the progressive laws (Kapur, 1991; Cossman and Kapur, 1991; Kelkar, 1990). It is true that the demand for legal change can be an important goal of a mass movement, particularly in

its early stages of consolidation, since debate around the law often illuminates the complexity of structural inequalities and the patriarchal nature of the state. However, if the demand for legal change consumes the work of the movement, the movement's actions and subsequent goals would be solely in response to the state rather than its own constituents, and it would run the risk of allowing the state to define its agenda. There is also a risk that the movement might become so fixed on the rights discourse that it fails to broaden its scope and concentrate on or effect other issues. It became clear from the Indian experience that women's organizations should be cautious about using legal rights as a strategy for furthering the goals of the women's movement.

In the wake of this self-criticism and caution in dealing with the state, feminist analysts also questioned state establishment and management of women's studies in various universities and colleges throughout the country. State sponsorship of women's studies prohibits any serious analysis of the patriarchal state and alienates women's studies from the movement.

Feminist analysts criticize the state and its patriarchal nature. Nonetheless, certain women continue to prefer to depend on the state rather than on individual men or their families. Women are not only divided by class, caste, ethnicity and other differences, but may enter actual conflict of interests with other women over the nature and relations with the state. There is, for instance, a marked difference between the All India Women's Conference and poor peasant women's organizations over the analysis of state and welfare policies. Unlike the former, poor peasant women involved in the liberation movement have increasingly realized that the phenomenon of violence against women will not be challenged without a struggle to end the subordination of women, and to transform unequal social relations based on oppression and exploitation.

Mobilizing on All Fronts: A Comprehensive Strategy to End Violence Against Women in Malaysia

Irene Fernandez

Context and Origins of the Strategy

“The soul that walks in fear knows no freedom... and the soul of the Malaysian woman is fearful...” statement made by the Chairperson of the Joint Action Group Against Violence Against Women at the opening of a two day workshop-cum-exhibition to launch the campaign against violence against women on March 23, 1985.

With a population of 18 million people Malaysia is multi-ethnic and multireligious. The dominant cultures are Malay, Chinese and Indian; the indigenous communities include the Kadazans, Ibans and Muruts or Bidayu. The women of all these groups, “who hold half the sky” according to a Chinese proverb, are held in low status, discriminated against and seen as subordinate to the men of their communities. During the last two decades, Malaysia has undergone rapid industrialization with the establishment of Export Processing Zones mainly for the “chip” (micro-electronics) industry. The country has also increasingly moved into cash crop cultivation through the development of cocoa, rubber, palm oil and coconut plantations. However, the large majority of women remain marginalized from these developments, exploited and

discriminated against politically, socially, culturally and economically.

Identifying Domestic Violence

In 1982, an ex-Minister who had received a \$100,000 Magsaysay award contributed his prize money to setting up a shelter for battered women. The organization formed was called Women's Aid Organization (WAO). With the formation of WAO, the issue of wife battery was made public, discussed and written about; it became less and less a closet issue as women began to seek help. Within the first year of WAOs formation, 200 women sought refuge and 400 others received counseling via telephone services.

From this first year of experience, WAO identified weaknesses in the law. For example, the women seeking assistance at the center discovered they could get injunctive relief only if they wanted a divorce. Those who were not ready for divorce but only wanted the violence to stop had no legal remedy; and those who did want to go ahead with injunctive relief could only get it in a High Court. Since all High Courts are situated at State Capitals, many women had no access to the Courts due to constraints involving time and transportation. Although limited free legal aid was available to the women, it took a long time before an injunction would be given. If a woman chose to consult a private lawyer, she would have to pay a minimum of \$600. Then, even if she finally did get an injunction, it meant little, as the violence did not stop. There were two cases where the husbands tore up the injunction, stating that it was only a paper law. All that the woman could do was go back to the High Court and make a complaint for contempt of Court and for an end to the violence. She had no access to justice.

It became clear to battered women and to WAO that the law had little or no sympathy for them. The law did not stop the violence; the law could not protect the battered woman. Police officers were unsympathetic, insisting that wife battery was a domestic affair and should be settled within the walls of the home. Police maintained that they could only act if domestic violence was categorized as a "sizable" offense under the Penal Code.

The Social Welfare Department, supported by religious institutions, began to send battered women back to their violent homes with the objective of reconciliation. The Welfare Department and many others feared that if the battered woman left home, families would disintegrate. This consequently would create problems for society. Therefore it was better for one woman to suffer silently. This GO BACK attitude only frustrated women even further and increased the violence.

A Case for Action on Rape

The members of the Association of Women Lawyers (AWL), in their court hearings on rape, realized that there was an increase in rape cases. The AWL began monitoring the cases in Court. They saw that the Courts were very unsympathetic to rape survivors, who at the trial often had to face character assassination. The average sentence was only three years for this vicious crime; many cases were thrown out of Court because of lack of evidence presented by the prosecutor. The police affirmed that rape cases were underreported because of fear, shame and guilt. Only one out of ten cases was reported.

The police who responded to rape calls were not only hard on the victim but were ill-equipped to gather evidence and store it. Since rape was a medico-legal case, the victim was shunted from hospital to police and back, in spite of having undergone a traumatic experience. The whole system, from the police to hospitals to the Courts and the law-making system itself, carried no empathy for the victim.

This situation was further aggravated by the negative attitudes, myths and misconceptions held by families, relatives and friends of the rape victim; and strengthened by public and media opinion. Families blamed the rape victim, felt ashamed, kept the event a secret, and finally even alienated the victim. If she was a virgin, it was even worse as it was thought that her marriage marketability would be greatly affected. Rape victims were sent to the center for wayward girls for rehabilitation. There was generally considerable guilt, shame and fear.

Facing Up to Sexual Harassment

The University Women's Association, in its research on "Women and Employment," saw the increasing subordination and discrimination of women at work. Women's status was continually being eroded. A 1984 seminar, organized by the "Women and Employment" group brought together women workers and researchers who identified areas for concern, action and redress. This seminar concluded that though industrialization gave women greater employment opportunities, it also made them a target for immense exploitation. The rural women who came to the Export Processing Zones were viewed as cheap and docile labor, easily manipulated and controlled.

The participants identified various cases of sexual harassment. Since unionization was forbidden in the electronic sector, the women workers had little or no recourse for action and representation. This situation was addressed by the Women's Section of the Malaysian Trade Union Congress (MTUC), an umbrella body of many unions in the country. The Women's Section had received many cases of sexual harassment, but could not take action as there were no laws controlling sexual harassment, nor was the issue part of collective bargaining. Without supportive laws and systems, the fear of dismissal kept the issue in the dark.

The Media's Role in Strengthening Violence

The public's attitude, values and misconceptions are strengthened by the Media, a powerful tool that can influence, shape and control perceptions. The overall media treatment of women can best be described as narrow. Underlying practically all media images of women is a dichotomy that defines women as either perfectly good or wholly evil; mother or whore; virgin or call-girl; traditional or ultramodern. The media continuously reinforces stereotypic gender roles and the assumption that a woman's function is that of wife, mother and servant of men.

A study of local women's magazines, conducted by the "Portrayal of Women in the Media" group (Selangor and Federal Territory Consumers Association, n.d.), revealed that

85 percent of magazine content emphasized the five F's—food, fashion, family, furniture adding up to Femininity. Analysis of women characters in four cartoons saw Maggie in "Bringing Up Father" as domineering, Gaye in "Gambols" as a scatterbrain, Blondie in "Blondie" as the inveterate shopper, and Hi Noon in "Sun Tan" as the Nagger.

In cases of rape, publicity on the rapist usually highlighted the suffering he and his family would endure if legally charged with a crime. Stories on his life, his childhood, and his psychological position gave further backing to his "plight". All these media images tended to create sympathy or excuses for the rapist.

However, it is pornography that ultimately cements the link between media and violence. Women are seen as sex objects, to be manipulated, beaten and abused; they have no personality. Rape is not shown as an ugly, violent and degrading act; rather the crime is depicted in a way that displays the victim enjoying the dehumanizing treatment and suggesting that she asked for it.

The media has portrayed women in ways which perpetuate negative stereotypes. In its many forms, the media has been used to exploit, subjugate and even promote violence toward women.

Women Unite Against Violence

As women from different organizations met informally or at seminars, they began to recognize that violence against women was increasing in society; laws were either weak, unjust, discriminatory or unenforceable. Violence against women was seen as a stark reflection of women's inequality and lack of freedom and dignity. Ironically, at the end of the Women's Decade, women's status had actually deteriorated. The triple goals of Equality, Development and Peace were not within reach, and although the Decade had drawn attention to the issues affecting women, little more than tokenism was the result. Violence against women had to be stopped. Women themselves had to act collectively to challenge the root causes, make legal reforms, change values and attitudes, and create systems for justice and equality.

The Malaysian Strategy to Combat Violence Against Women

The Violence Against Women campaign, carried out between 1985 and 1990, had a multipronged strategy, which included the basic components of education, mobilization, organization, legal reforms, services, and structural changes; all of these were geared to confronting various forms of violence against women. The actions targeted rape, domestic violence, sexual harassment, prostitution and the negative portrayal of women in the media.

In 1986, the women's groups had at first decided to act on all laws that discriminated against women and give the campaign a broad focus. However, after a dialogue with the Ministry of Justice, the campaign chose to focus on specific aspects of violence. Rape became a significant issue for the campaign and rape cases of young girls and children were highlighted in feature articles. In 1986 and 1987 intensive campaigns were waged on the issue of rape that demanded legal reforms to all laws related to rape. In 1988, the Trade Unions took up the issue of sexual harassment, and in 1989 and 1990 various women's groups delved into the issue of domestic violence.

This paper will focus on the general strategy to combat violence against women and then focus specifically on the strategy on rape.

General Strategy: Education and the Development of Mass Consciousness

In 1985, many women's groups recognized that the campaign on violence against women needed to be both local and national. In their analysis of the situation, they saw that in order for the campaign to take strong root, women's groups needed to collectively take action to have an effect on a wider scale. Thus, the campaign was spawned by five women's groups: the Women's Aid Organization (WAO), a shelter for battered women; the Association of Women Lawyers (AWL); the University Women's Association (UWA); Malaysian Trade Union Congress (MTUC) Women's Section; and the Media group in Selangor Consumers Association. These five groups called themselves the Joint Action Group Against Violence Against Women (JAG).

In planning the campaign, JAG saw a need to raise the public consciousness on two major fronts. People needed to comprehend the phenomenon of violence with a perspective that would debunk the myths that surrounded the issue; and they needed to understand the present weaknesses of the law in order to support legal reforms. It was only at this level of awareness that a public outcry could be raised, which in turn would cause the authorities to move into action to control the number of cases of violence. Thus a nationwide awareness program was initiated.

Step I: *The Organizing Workshop.* A two-day workshop and exhibition was conducted on March 23, 1985 to celebrate International Women's Day. A woman minister was asked to officiate to ensure a government commitment for action, and to get publicity from the state-controlled media. Prior to the workshop, women journalists were contacted to write articles on violence against women. The research done by women on the issues and the cases identified by JAG were given to the media. The press became sympathetic and wrote not only news items but feature articles as well.

As a result there was an overwhelming response from the public for the workshop. More than 1,700 women, men and children came for the two-day program. Four concurrent workshops on Rape and Sexual Harassment, Domestic Violence, Prostitution and Portrayal of Women in the Media were held. Workshop resolutions called for legal reforms, stronger censorship of the media, and modifications of laws dealing with prostitution. It was an encouraging and positive beginning for the fight against gender crimes.

Step II: *Mobilizing Women's Groups.* JAG alone was not enough. It was necessary to involve all women's groups, irrespective of their views, ideology or focus. In June 1986, 50 women's organizations came together for a one-day workshop, with the support of the National Council of Women's Organizations (NCWO), an umbrella body for women's organizations. The participants passed a memorandum calling for reform of all laws that discriminated against women or contributed to women's low status and the violence they experienced. This memorandum encompassed laws related to rape; domestic violence; laws related to marriage, divorce and

inheritance; laws related to labor, social security, maternity benefits, child care facilities, and income tax relief; and laws related to sexual harassment.

Step III: *The Campaign Goes National*. A similar workshop and exhibition involving theatrical presentations was held in various states and in Sarawak and Sabah in East Malaysia. This created more media coverage at the state level keeping the issue alive. Each workshop not only created public awareness, but served as a constant reminder for authorities to take action.

Step IV: *Perspective Development*. As the campaign gained momentum and the media took a greater interest, the women's groups noticed that some reports in the media tended to maintain myths and misconceptions about the violence perpetrated on women; authority figures still tended to "blame the victim." The women's groups identified the need to constantly monitor the media and respond to negative reactions. Since Malaysia is multiethnic and multireligious, they also recognized the need to sharpen their analysis of how culture and religion are used to perpetuate violence and women's low social status. Various workshops with women leaders addressed this issue. In 1987, a national workshop convened more than 12 women's groups to evaluate the campaign, further analyze the issues, and strengthen their arguments against violence. An outcome of this session was the formation of a national committee, set up to further develop the campaign's theoretical perspective, coordinate activities, initiate national actions, and strengthen networking among the groups.

Step V: *Setting Up Services*. Many of the women's groups that became involved in the campaign found that consciousness raising was not enough. The awareness women had developed through the campaign helped them to speak out and search for solutions; however, many did not know what to do or where to turn for relief. This new need that emerged from the campaign required a response. Again, the women's groups were sensitized to the problem; crisis phone lines were set up in five states and a second shelter was opened.

The Rape and Incest Strategy

The issue of rape has seldom been discussed in Malaysia. Women and children who had been raped kept silent and suffered within the walls of their homes. The multiethnic and multireligious character of Malaysia led to differing perceptions of the problem and varying methods of dealing with it in the diverse communities. The Malays and Indians emphasized the importance of maintaining the girl's virginity, while many of the tribal communities took action by demanding that the family or the girl be compensated economically, by giving either land or animals as settlement for the crime.

While incestuous rape seemed more rampant in the rural areas, rape with murder was on the rise in urban centers. Rape was very much underreported. Police and medical personnel were unsympathetic to rape survivors.

Education

A variety of educational programs were developed. Exhibitions and theatrical presentations, including talks and discussion sessions, were made to women's groups, schools, communities and professional groups such as nurses, police and counselors. Many women's groups were mobilized to continue the consciousness raising programs. To enable these groups to develop educational programs, training sessions were held and a campaign kit, pamphlets, and rape counseling booklets were produced as resources. Finally, in order to equip the leaders with the necessary skills for public speaking, representative action and writing, training sessions for them were organized. This not only developed confidence in many women, but helped to create new leaders.

The media's role was emphasized. Articles and reports began to appear in the press. The electronic media also made an effort to have special reports on rape during its prime news time. One newspaper even carried a survey for four continuous weeks with cases of rape victims. With this enthusiastic response, the women's groups recognized that the media had to be closely monitored to identify the extent of the issue and public's response to it. A monitoring training program was developed and implemented. Individuals and leaders from

various groups were taught how to evaluate the media and identify rape cases, and a mechanism for alert action was set up.

Mobilization and Organization

People, from rape victims to the general public, were mobilized for action. Monitoring reports of rape helped to identify the victims. Women's groups then made efforts to meet with them directly, or in the case of children, to meet with the families. Discussions were held on how the case could be handled. Moral support was offered which encouraged parents and victims to speak out. Press conferences were organized.

In order to break the myth that rape was a "women's issue" and to garner the support of the public in general, various NGOs and individuals organized Citizen's Against Rape (CAR). The brutal rape and murder of a nine year old girl in May, 1987 pushed the CAR to take action immediately. A mass demonstration was held in front of the victim's house. Extensive media coverage created public outcry for more protection and safety for women and children, and a demand for changes in the rape laws.

One of the key factors behind the reluctance to report rape was the harshness with which rape victims were handled by the police and medical personnel. Dialogue with these authorities mobilized them for affirmative action. Meetings were held with representatives from women's groups, the police, and the medical profession. This led to the formation of women-only rape squad teams by the police. A policy directive established that only women police officers would handle rape victims. These officers now receive special training to handle this situation.

The Health Ministry set up a Task Force to study how rape victims are handled in hospitals. The study unveiled weaknesses in the system and remedial action called for setting up rape crisis units in hospitals, counseling, and the development of an investigative kit to collect evidence for trial.

Legal Reform

The women's groups, particularly the Association of Women Lawyers, evaluated all the laws related to rape. These included the Penal Code which defined rape, the Evidence

Act and the Criminal Procedure Code. All the laws had a male perspective. Rape was defined as occurring only if there was penetration of the penis into the vagina; all other forms of sexual abuse like cunnilingus and anal intercourse were treated as "unnatural offenses." This pointed to the need for a wider definition of rape.

The Evidence Act put the victim on trial rather than the perpetrator. It gave a free hand to the defense counsel to defame the victim's character. Making her look like a woman of loose morals would lead to a value judgement that, if she had had other sexual relationships, then she could have consented to the alleged rape. The Act did not take into consideration the woman's right to refuse sex and the man's responsibility to respect that decision.

In order to develop an understanding of the proposed legal reforms, various meetings and discussions took place with lawmakers, the Judiciary, and the Bar. Discussions with the Attorney General and the Ministry of Justice were organized, together with the Women's Affairs Division, under the Prime Minister's Department. With support from these various sectors, the rape laws were amended in April 1989.

Services

In Malaysia no specific support services existed for rape victims. These victims were sent to a rehabilitation home for young girls caught in prostitution, where they were often permanently traumatized. Little or no counseling was provided.

Rape victims received poor and insensitive treatment at police stations and hospitals, where they were shunted from one place to the other after the traumatic experience. It became clear that, as a first step, crisis intervention services were needed to more sensitively help women who had been raped. As a result, one-stop crisis centers were set up in hospitals. At these centers a special room in the hospital was designated for the examination of rape victims; the police would be called there to take the report from the victim; only one doctor would examine the victim; and a volunteer from a woman's organization would be called to counsel her during this period and provide her with information and support so that she could make decisions regarding treatment, police

action, etc. In some states, crisis phone line services have helped many victims come forward to help themselves. Although the NCWO has plans to establish a rape crisis center, this has not yet happened.

Analysis of Outcomes and Impact of the Campaign

The Malaysian violence against women campaign has been successful in several ways: it created mass public awareness of the issue; and most people have either read about or are able to identify cases of violence against women.

Surveys conducted by the All Women's Action Society in *The Star*, an English daily and the *Sin Chew Jit Poh*, a Chinese newspaper, revealed that 85 percent of the people who responded to the surveys were conscious of violence, particularly wife battering, and that they did not condone it. 95 percent agreed that women were not to blame for the violence. Interestingly, 64 percent agreed that violence occurred because of lack of respect for women. Support for better laws and for more shelters or centers for victims of violence was overwhelming. More than 100 respondents proposed the need to promote a more humanistic society that recognized women's rights as human rights; the need for women to be financially independent; and the need to set up more counseling centers for women affected by violence.

Heightened awareness levels can also be seen in the growing demand of various groups and NGOs for talks and seminars on violence against women. Many organizations like the Muslim Youth League (ABIM), a large, mass-based organization, held several seminars on the issue and set up counseling programs. During "Concern Week 1989," set aside by the Ministry of Education, many schools organized talks and workshops on rape and violence against women. The YWCA made it one of their key programs for 1988 and 1989. Various mixed NGOs, like the Chinese Youth group, the Young Malaysian Movement, the Rotarians, and the Women's wings of the various political parties, organized programs or public forums on the issue.

The Police

As the campaign developed it began to focus more and more on the issue of rape. The newspapers were reporting

more cases, judges were speaking out on the inadequacies of the law, and the public began to make demands for better action and protection by the police. The Police held dialogues with women's groups and decided to change their procedure for handling rape victims. In response, the Royal Malaysian Police set up a special investigating unit of women officers for handling cases of sexual assault. Three hundred officers, representing all ranks and from different parts of the country, were specially selected and trained to handle rape survivors, to investigate sexual assault on women and children, and to provide counseling during the interviews. The training was carried out with the expert assistance of the Royal Canadian Mounted Police, brought in through the offices of the Commonwealth Secretariat, with financial assistance from the Canadian Government.

Together with the Health Ministry, the police agreed to set up the one-stop crisis units in hospitals, where they would go to interview rape victims. Rape victims were immediately taken to the crisis units instead of to police stations. Previously they would have been taken first to a police station. When the campaign on domestic violence gained momentum, the police and the Association of Women Lawyers organized a one-day workshop with various women's groups and institutions such as the Social Welfare Department and the Ministries, to examine how domestic violence cases were handled. At this workshop, the weaknesses in the laws were clearly identified by the police, who also expressed their inability to act due to inadequate laws. At the end of the workshop, a national committee was formed. The key function of the committee was to prepare a bill to be submitted to the Attorney General. Such a bill submitted by the committee was likely to have credibility and to be acted upon by the Attorney General.

While support and concern for violence against women exists at the top levels, at the ground level, police are still reluctant to handle cases of domestic violence or child abuse because they see these cases as domestic affairs to be settled within the home. There is a continuous need to train and retrain police personnel in handling victims of violence.

The Health Ministry

The Ministry of Health has also made significant contributions to the issue of sexual assault. A special task force, set up in 1987 to evaluate the handling of rape victims in hospitals, found many weaknesses in collecting evidence, handling rape victims, and in the attitudes of health personnel. Based on their findings, the task force recommended specific changes, such as the hospital crisis centers mentioned earlier.

The Social Welfare Department

The Welfare Ministry (now called the Ministry for Community and Social Development) handles many cases of domestic violence and child abuse and has set up a Family Counseling Unit. Although this was a positive move that focused attention on domestic violence within the department, counselors' attitudes and department policy were issues of concern to women's groups. The Welfare Department's main objective in handling cases of domestic violence was to get the couples reconciled. Thus, many women were told to go back to their violent husbands and be more patient and tolerant. When women's groups protested over this method of handling domestic violence, they were called "home-wreckers." The media played up this statement which angered women leaders. Eventually, a dialogue resulted in which women and Ministry Department heads discussed the position of women in families, and women were able to articulate their perspective on violence in family relations.

Since then, the Ministry has developed a program and policy called "The Caring Society." One of the key issues discussed was violence against women with the focus on family violence. Today the Ministry recognizes the issue of violence against women and the need to take appropriate action. However, what constitutes appropriate action has not yet been determined.

The Judiciary

As the campaign garnered support and the media focused more on the issue, one of the first groups to respond was the Judiciary. The Judiciary admitted that the laws were weak and justice was not served in the heinous crime of rape. In fact,

while waiting for the rape laws' amendments to be passed by Parliament, the Lord President held a meeting with Supreme Court Judges and consequently sent a circular to all Judges and Magistrates requesting them to take a stronger position on the question of sexual assault. The awareness and concern could be seen in the records of judgements on rape cases. One Judge, in upholding a judgement in the High Court on October 30, 1989, stated: "When a woman is raped, she is not sexually abused. She is actually abused. There is no sex in rape but pure violence." Stiffer sentences are also being handed down, giving those convicted more than the minimum five years and five strokes of the cane mandated under the new legal reforms.

As for legal reforms, while not all the proposed amendments were passed by Parliament, some major reforms have taken place. These are:

- mandatory jail sentence of five years for convicted rapists;
- age for statutory rape revised from 14 to 16 years;
- maximum jail term for sexual molestation increased from two years to ten years;
- similar penalties when penetration has occurred into any orifice of the body;
- cross examination of victim's past sexual history not allowed except in relation to the accused;
- abortions may be performed on rape victims whose pregnancies threaten the mental and physical health. (In the past, abortions were not given unless the life of the mother was threatened.)

The law still maintained penetration of the penis as the only basis for the definition of rape. Proposals for a wider definition mentioned in the strategy were not accepted. It is clear that there is still a refusal to accept the fundamental concept of rape that covers more than penile penetration of the vagina. Lawyers still tend to argue the case in relation to the hymen being intact or not, and whether the examination of the vagina indicated high or low sexual activity. The right of a woman to control her own body and make decisions on sexual relationships is still not accepted. The judicial perspective is still colored by religious interpretations of women

expressed in terms such as women's need to cover their "aurat".¹

It is not easy to affect change. The reform of rape laws took four years, with many rape cases occurring during that period. But the saddest situation occurred in the Malaysian Parliament during the debate on the amendments to the laws on rape, when many MP's treated the issue with much levity and inane laughter. Issues affecting women directly or otherwise are still not taken seriously in many quarters.

The Women's Division, Prime Minister's Department

There is no doubt that the campaign has had an impact on certain governmental institutions, but it has also had a significant influence on overall government policy toward women. The memorandum, signed by 50 organizations calling for an end to discrimination by making amendments to ALL LAWS that discriminated against women, reflected the increased consciousness created by the campaign. Responding to this awakening, and to facilitate change through means other than legal reforms, the Women's Affairs Division of the Prime Minister's Department formulated a national policy on women. This was accepted by the Cabinet in mid 1990. The policy not only outlined the basic principles on issues that affected women, but also worked out the strategies for action for the Ministries and departments. One of the major components of this policy dealt with the issue of violence against women.

Women's Organizations

As the campaign evolved over the last five years, new women's groups formed throughout the country to respond to the issues it raised. Many of these groups were organized by committed feminists with a feminist/gender perspective. These new groups were different from the older groups, not only in perspective, but also in their method of work. The emphasis was more collective, with a stress on sisterhood. The services that these groups set up, like the Shelter or the crisis phone lines, are not "charities" but women-to-women support for their own empowerment.

At a 1988 evaluation that brought together 32 activists from nine women's groups, many expressed how their new perspective

on violence helped them understand the role of gender in defining social relations. Many saw themselves as potential victims of violence and developed shared visions for change. The campaign helped women search for the root causes of their oppression, and they discovered class, patriarchy and ethnicity as dominant factors. Unafraid of being called feminists, this new generation of women activists is more aware of the need to be gender sensitive and analyze issues with a gender perspective.

The violence against women campaign brought about a different form of networking and closeness among the feminist groups. However, these groups are mainly led by middle class women and by non-Malays. The campaign failed to attract Muslim women to more aggressive involvement, although some individuals played an important role.

Lessons Learned

Based on the campaign's achievements, it is clear that women's groups played a catalytic role in bringing about changes, especially in legal reform. They demonstrated that consciousness raising is an ongoing process that needs to be cultivated at the level of the mass gathering, as well as that of the community group. They successfully brought together women from all ethnic groups, irrespective of class or social standing, around the issue of violence. This is very important in Malaysia where political victories are usually closely aligned with communal and ethnic politicking.

While women's groups perceived the power of the media in both perpetuating violence and in effecting change, they still lacked an adequate strategy for utilizing the media to its fullest potential. When clampdowns on the press occurred, as happened during the political detentions in 1987, women's groups had no viable alternatives for mobilizing public support. Nor have they been successful in projecting through the media that patriarchy, linked with the wider social, economic, and political forces in society, perpetuates and increases violence against women.

Despite the successes of the campaign, the Malaysian women's movement is still small and relatively weak. Those who took leadership developed their advocacy role well but

failed to develop a mass base. During an evaluation held in 1987, various women's groups involved in the campaign saw the need to strengthen solidarity through a national committee based in the capital city. The national committee not only developed networking mechanisms, but also organized national level actions, such as the signature campaign demanding reforms of the rape laws and the enactment of a domestic violence act. Although the concept of a national committee seemed positive at the time, in practice it created certain dependencies. One group recognized that it had become reliant on the committee not only to initiate, but also to implement the strategies. Moreover, national level actions were taking priority over local endeavors. The group then decided that it was best to disband the national committee and develop other forms of coordination and networking. On the other hand, a great deal of responsibility had been shouldered by a few committed women, who after five years are suffering from the "burn out" syndrome.

Some of the women leaders of the campaign are now beginning to see the need for a national coalition of organizations rather than a single-issue ad hoc committee. A national coalition would incorporate organizations rather than individuals into the work. Strategies and the process of consolidation could be better clarified and debated in this format. Such a coalition is seen as a move to strengthen the women's movement in its infancy.

Some of the women are also beginning to emphasize the political dimension of the task. During the last general elections in October 1990, women's groups came out with a women's manifesto (Malaysian Women's Manifesto, 1990) directed to the politicians. They asked:

- Who are those in privileged positions empowered to formulate laws and policies that affect our lives as women and as Malaysians?
- How did they get there? And what can women do as a united front to have better control over who gets into those positions?
- What is the effect of the absence of women in such privileged positions? Where are the women?

The women's movement, although still small and needing a broader class and ethnic base, has undoubtedly begun to clarify more concretely and articulately what we want as women and as Malaysians. But we have yet to discern how we get what we want in the context of present realities: trends that are both global and local; negative reactions and backlashes arising from the success of our campaigns; and the increasing use of religion and culture to justify women's low status within the family, community and society.

Major Events of the Malaysian Strategy

March '85—Two-day workshop/exhibition on Violence Against Women (covering rape, domestic violence, sexual harassment, prostitution and the portrayal of women in the media) passed resolutions for legal reforms and the enactment of the Domestic Violence Act.

June '86—Workshop with 50 women's organizations discussed and ratified memorandum calling for legal reforms to all laws that discriminated against women in the country. The memorandum was subsequently handed to various authorities including the Ministers of Justice, Labor, Social Welfare, Home Affairs, Health and the Prime Minister.

July '85—Nationwide consciousness program carried out by JAG with workshops and exhibitions in five states.

October '85—As a result of national workshops to evaluate campaign, National Committee established to network and develop a coordinated strategy and theoretical perspective.

May '87—Citizen's Against Rape (CAR), a coalition of NGOs and men, established.

June '87—CAR held mass demonstration in the capital to condemn brutal rape and murder of a nine year old girl and spark off media campaign against rape.

The National Council of Women's Organizations launched program of rape crisis units in hospitals combining medical and police intervention for rape. The Police Department, with assistance from the Canadian Mounted Police, initiated a training program

for police officers on procedures for handling rape cases. The Ministry of Health set up a task force to establish rape crisis units in hospitals and develop the rape investigation kit.

October '87—Mass political clampdown took place in which four women activists were detained without trial for a year. Detention order of one activist charged her with participation in the mass demonstration on rape in June, 1987.

May '88—Women's Section of MTUC developed campaign and published booklet on sexual harassment.

April '89—Parliament passed certain reforms to the Penal Code and the Evidence Act related to the handling of rape cases.

May '89—National Committee had a one-day workshop about domestic violence on Mother's Day where battered women told their stories. Initiative spawned campaign on Domestic Violence.

Exotic, Subservient and Trapped: Confronting Prostitution and Traffic in Women in Southeast Asia

Siriporn Skrobanek

Prostitution is certainly not women's oldest profession, but it is a mode of reproduction in a male-dominated society in which women's sexuality is controlled and utilized for male sexual pleasure. Formerly, when women sold their bodies to men, they were considered to be "fallen women" and thought to deserve negative and moral sanctions. Nowadays, as in the past, laws and programs tackling prostitution are based on the same bias against "fallen women." Instead of protecting women, who in many cases are deprived of appropriate means for earning a livelihood and forced into prostitution, most measures tackling prostitution, particularly the laws, tend to protect men from "bad" women. Most people do not distinguish between prostitutes as individual human beings and prostitution, which is an institution. Based on this lack of distinction, the suppression of prostitution is synonymous with arresting and penalizing women who are prostitutes.

This approach neglects other factors in prostitution, such as the criminal syndicates involved in trafficking women, and the rapid socioeconomic and political transformations taking place in Southeast Asia, which are greatly influenced by multinational companies and agencies. In efforts to achieve

rapid economic growth, governments and agencies such as the World Bank, the International Monetary Fund and the United States Agency for International Development (USAID) have encouraged building up the tourism industry in most of Southeast Asia. This increase in tourism, accompanied by the unequal distribution of wealth between rich and poor countries, and between the rich and poor within developing countries, has greatly contributed to an increase in prostitution and the trafficking of women.

With the present world economic order, prostitution is not limited to one national boundary. Impoverished women are traded or sold to rich men the world over. One German marriage agency touts "Happiness without Barriers," but in the lives of many women, the result is "sexploitation without barriers." The direction of trade is not simply South to North. It flows from Latin America to Southern Europe and the Middle East; from Southeast Asia to the Middle East and Central and Northern Europe; and from East Europe to West Europe.

This paper will first discuss the main factors contributing to mass prostitution and the trafficking of women in Southeast Asia, and then focus on case studies of strategies that either have been or should be undertaken to eradicate this form of violence against women.

Socioeconomic Transformation

The development strategy undertaken by Thailand and other Southeast Asian countries aims at integrating its economy into the world market system. In order to attract foreign exchange into the local economy, many governments provide international firms with incentives such as tax free property, exemption from import taxes, and cheap labor. As a result, landless peasants migrate to the cities in search of employment, where they are transformed into wage earners with incomes often insufficient to feed their families.

Increasingly, peasant women are being forced by poverty to migrate to large cities in hopes of finding employment. Those women who find work in factories of international firms, manufacturers or agribusiness find themselves victims of policies that seek high profits from cheap, docile female labor (Vajrathon, 1984, p. 673). Due to their lack of skills,

women receive lower wages and encounter hierarchical relations with male workers. They are considered workers of secondary status in market-oriented production and are in the position of last hired, first fired. Their wages are only considered supplementary to men's. For those women who are either the main or sole breadwinners of their families, supplementary income becomes a necessity. However, for many women, employment opportunities are very limited. Women, especially younger women, are more likely to find jobs in the service sector, and end up working in bars, night clubs, massage parlors and hotels, jobs which often lead to prostitution. In many cases, women take prostitution as an additional part-time job. In the international arena, the biggest demand for women from Thailand comes from the international sex business.

Sex Tourism

One of the main contributing factors to the transnational sexual exploitation of women, especially in third world countries, is the tourism industry. In 1990, tourism accounted for six percent of Thailand's gross domestic product, making it the country's largest earner of foreign exchange.

The late U.S. President John F. Kennedy's view that tourism would facilitate international understanding stimulated the introduction of the industry to developing countries. As a key component of the development strategy for Third World countries during the 1960s and 1970s, major multilateral and bilateral development agencies (such as the World Bank, the IMF and USAID) offered huge loans to develop a tourism infrastructure. Their rationale was that tourists from industrialized countries with purchasing power would introduce foreign exchange and facilitate "international understanding." Tourism became one of the main production sectors in Southeast Asian countries such as Thailand, the Philippines, Malaysia, Singapore, and Indonesia. Many others in the Third World followed this lead in order to increase the flow of foreign currency into their countries.

The tourist industry in Thailand, which works closely with the sex industry (Vajrathon, 1984, p. 673), began approximately twenty-five years ago when U.S. soldiers fighting in Vietnam visited Thailand for rest and relaxation, and helped develop

the now infamous Thai brand of sun, sea and sex. The one attraction for the soldiers then, and international tourists now, is what they consider the subservience of the Thai people, in particular Thai women. While the tourism industry in developed countries sells natural beauty and cultural heritage, tourism in developing countries also sells their people, who are advertised as being domesticated and trained to serve international tourists. This form of tourism, which is advertised by tourist agencies throughout Southeast Asia, is a remnant from the colonial period. The subservience of women may add an additional attraction for some men from industrialized countries, where the economic situation of most women may be better and they are less likely to be subservient.

When men are on business trips or vacations away from home, the guilt and/or social stigma associated with participation in prostitution in their own country may be discarded temporarily. The tourist industry in the countries of Southeast Asia provides a haven for sexual adventures, in which men may contract the service of a sex slave to cater to his needs. Most sex tours come as package vacations offered to European and Japanese men. Although they include airfare, accommodation and tourist attractions, the main feature is providing them with women for their unlimited sexual use. Some include the opportunity for men to purchase the women as wives. Often, these tours are offered by businesses who wish to provide additional work incentives to their male employees (Barry, Bunch and Castley, 1984, p. 38).

Sex tours are a relatively recent phenomena, arising from the combination of increased tourism, poverty, and the unequal distribution of wealth between the industrialized and developing countries. The price of a sex tour, when converted from foreign to local currency, is relatively cheap even for a man of low socioeconomic background in an industrialized country. Although prostitution is illegal in Thailand, it is tacitly accepted by the government because of the revenues it generates. However, it should be pointed out that in most cases the prostitutes keep only a small percentage of their earnings, with most of the earnings going to sex tour guides and hotels, bars, and brothels (Vajrathon, 1984, p. 670). This

situation reinforces the dependency women have on pimps or bosses for their earnings; and the women themselves remain at an economic disadvantage which, along with their status in society as "fallen women," may lead them to believe that they have no other option but to continue working as prostitutes.

Sex tourists try to legitimize their actions by arguing that prostitution is part of the culture of the host country, and that they are merely using the sexual infrastructure already in existence. Further, they argue that they are bringing "development aid" to improve living conditions of women in tourist-receiving countries. Some male analysts display their sexist attitude by claiming that women working for tourists gain more, they earn enough to live, and they have the opportunity to ensure a good future by finding a husband or steady partner from a rich country. Unfortunately, these male analysts have not conducted any further research on these "lucky" women who bear a social stigma and are targets of discriminatory measures. This sexist and racist attitude is exemplified in excerpts from a pamphlet offered to Dutch men for sex tours to Thailand:

They [sex tours] offer meetings with the most beautiful and young Eastern creatures (age 16 to 24 years) in a soft and sexy surrounding and in the seductive and tropical night of the exotic paradise. . . . You get the feeling that taking a girl here is as easy as buying a packet of cigarettes. . . . Many of the girls in the sex-world come from the poor northeastern region of the country or the slums of Bangkok. It has become a habit that one of the nice looking daughters goes into the business. They have to earn money for the poor family. . . . With this little slave you can do practically everything in the field of sex the whole night and you will not be disappointed with the girl. She gives real Thai warmth (translation by Lin Lap in Barry et al., 1984, pp. 123-125).

The International Network in Trafficking Women

Developing in tandem with the sex tours is international trafficking in women and the mail order bride business. As demonstrated in the above excerpts from a Dutch pamphlet,

women of Southeast Asia have been portrayed in Western media as “exotic sexual objects” with oriental beauty and a subservient character; they have no desires for emancipation and they exist only to serve and make men happy. Therefore there is a constant demand for women from Southeast Asian countries, with Thailand and the Philippines the major suppliers.

A number of intermediaries have been set up to fulfill demands of men in rich countries by supplying women from poor countries. Tour and travel agencies, mail order bride companies, and mafia-type networks have mushroomed as never before. They enrich themselves from the labor and sexuality of women in poor countries. Many women have fallen prey to violence and physical abuse as a result of arranged marriages. A number of women are victims of Japanese and European mafia, to whom they become indebted and must pay off large amounts of money for travel costs by working in the sex industry of the industrialized country. Many Thai women work for a long period in bars and mobile brothels without receiving any share of their earnings. Some of them are sold to local bar owners after their arrival in foreign countries.

Life Abroad for the Women

Once displaced to other countries via sex trade networks, the women may end up working as strippers, go-go dancers, performers in sex shows, or hostesses-prostitutes. They also work as prostitutes in clubs or brothels. Women who are married to pimps or to foreign men may end up working as prostitutes in their own homes. Women from third world countries working in the sex industry abroad encounter a multitude of problems in addition to basic problems of language and culture:¹

1. Underpayment—Third World women working in the sex business in Europe are usually paid 40 percent of their total earnings, the rest goes to the bar owners. The women who work for pimps hardly earn anything at all. It is reported that in Japan, 38 percent of the women who have entered the country illegally to work as hostesses, striptease dancers or prostitutes receive no payment in return.
2. Working Conditions—Women working as prostitutes in foreign lands have to depend on their employers a great

deal since they are unable to communicate in the native languages. Because of this, they are unable to protect their own interests and have little bargaining power. They may be shifted from one city to another. In Japan, some women are not allowed to telephone or to venture outside their workplace unaccompanied. They have to work 10 to 12 hours a day. In West Germany, on the other hand, some Thai women are known to have refused work when they felt they were being exploited. However, the leaders of such protests have been fired and their applications to other bars rejected. They have eventually returned to Thailand.

3. **Physical Abuse**—It is common for women to be physically abused by their agents or employers. Some are beaten or battered by pimps. Others are threatened when they refuse to pay protection fees to the local mafia. For example, a woman who rents her place to work not only pays double the average rent, but she is also coerced into paying protection money. If she refuses, then both her safety and her property are at risk. In Switzerland, some pimps and mafia members earn US \$200 to \$500 a night in protection money.
4. **Arrest**—Women who are sent abroad through illegal means obviously run the risk of being arrested and deported. According to the Japanese Immigration Office report, in 1984, 557 Thai women were deported. Often the women face deportation as soon as they arrive at the airports of their destination. Many end up destitute, with all of their savings wasted on expensive brokerage fees and traveling expenses. Having entered a country illegally, and engaged in illegal employment, the women will not approach the police or other government agencies for fear of being arrested. In some cases, state officials themselves are the ones to take advantage of the women. For example, when they raid a bar they may pocket the women's earnings, or sometimes the women under arrest have to service them sexually in order to avoid harassment.
5. **Humiliation**—Prostitutes working abroad are usually looked upon with contempt by native women, especially women whose husbands use prostitutes' services. In

Japan, some Japanese housewives inform the police so that foreign women can be arrested. Some have prejudices, believing that Southeast Asian women are dirty. The foreign women are aware of the ill feelings and racial discrimination from locals. Thai women in Hamburg say that they are looked down upon and are refused help because of the fact that they are prostitutes. Thai or Filipino women married to western men are often asked how much their husband paid in order to buy them. Thai or Filipino women working in Japan lament the fact that only they are arrested, whereas Americans working illegally in language schools are not. Racial discrimination has led to death. Two Filipino women died in a fire that burned down a cabaret club in Okinawa, Japan in 1983. It has been alleged that firemen, realizing that the place was the residence of foreign prostitutes, took their time in breaking open the window bars.

6. Competition—Native prostitutes often resent their foreign counterparts because of the cheaper rates they offer, which undercut their own incomes. Foreign prostitutes are fiercely competitive among themselves as well. Antagonism, quarrels and fights are common. Some Thai prostitutes say that because they are not well versed in the native language, they often resort to physical violence when they quarrel with the native prostitutes.

As can be seen, Thai, Filipino and other women from Third World countries are ill-treated in a number of ways that violate their basic human rights and dignity. This form of exploitation and violence against women can be considered a modern form of slavery.

How to Deal with the Problem

The experiences of Women's Information Center of the Foundation for Women demonstrates that strict measures taken against the women themselves meet with very little success in curbing sex tourism or the trade in women. The women are simply victims of traders and the sex tourism industry. The punishment should go to sex industry promoters and procurers, not the victims. Worse still, some trading

networks have formed connections with people with government power who wish to sustain revenues generated by the sex industry. The only way to solve this problem is to eradicate the sex trade and tourism networks, rather than to punish the women and further marginalize them from mainstream society.

To tackle the problem, legal measures are needed to suppress and punish the traders and owners of trafficking and sex tourism agencies, as well as measures to prevent the women from falling prey to the sex industry. The strategies should be directed to three levels of cooperation; local, national and international. A number of organizations working on this problem have adhered to this view.

Learning from Action

Today the widespread problems of sex tourism and international trafficking of women have become urgent issues for women and human rights groups in various countries. They are a reflection of the sad reality of an international society which aims at economic growth and maximizing profit by exploiting powerless groups in poor countries. The present economic order and its division of labor makes it possible for men to use their own economic advantage to exploit economically disadvantaged women. Therefore, measures tackling this form of exploitation and violence against women have to take into consideration the present global economic structure, so that women in poor countries are not blamed and discriminated against. Women in Asia and some European countries have initiated many actions against this form of exploitation.

1. *Protest Against Japanese Sex Tours*—In 1981, women's groups in Japan, Thailand and the Philippines organized a protest against Japanese sex tours during the visit of then newly elected prime minister, Zenko Suzuki. Fearing that demonstrations at the airport might upset the State visitor and hamper development aid, the Thai government provided a forum for women's groups to voice their views on radio and television. Local media gave full coverage to the demonstrations in front of the Japanese Embassy in Bangkok, and provided background information on Japanese sex tours. This resulted in a promise from Japanese authorities to take action against sex tour agencies in Japan.

2. *Demonstration Against "Development Aid" from the Netherlands*—In April 1982, women in the Netherlands and in Thailand organized a collective action against sex tours. The sex tour operator in Hoorn argued that his operation was another form of development aid to poor women in Thailand. In his brochure (from which excerpts appeared earlier in this paper), he used his Thai wife to advertise sexual journeys to the "Land of Smile" where slaves awaited their masters. The Dutch women organized a demonstration at Schiphol airport on the day of the group's departure. Thai women organized another demonstration at Bangkok airport on the day of its arrival. One of the posters carried the message "Thai women are against development aid from Hoorn." That was the year when Bangkokians were preparing the bicentennial celebration of the present capital. Strong protest came from various government and nongovernmental groups. Authorities from both countries, for the first time, expressed their concern over the problem of sex tours.

3. *Action of "Rote Zora"*—Disturbed by the advertisements and the operation of a mail-order bride company, a women's group in Germany, which called itself Rote Zora, took violent action against the operators of the company. A man was abducted and found naked in a forest with a written message that he would stop trading women from developing countries. This form of action created mixed feeling among the general public. Although some supported this type of action, Rote Zora was criticized for using one form of violence to stop another.

4. *Tonsberg Court Case*—Another joint action against sex tourism is the Tonsberg court case which began in 1988 and can be considered the first court case in the history of sex tourism. A divorced Norwegian man organized sex tours to Thailand under the name of Scan Thai Travelers Club. In his brochure he stated: Getting sick of women's rights fanatics—join Scan Thai. On one hand, he argued that he was promoting Thai culture to his fellow men, but on the other, he obviously considered the information in his brochure to be sensitive. He suggested to club members to treat the brochure as confidential and to hide it from family members. The Women's Front in Norway learned of Scan Thai and obtained

the brochure. The Women's Front protested against Scan Thai in Tonsberg and Oslo and criticized the club for trafficking in women, and for being racist and sexist.

The slogan used in a rally against Scan Thai and published in the March 8, 1988 edition of "*Our Paper*," the group's publication, led the club's owner to file a lawsuit against 14 women of the Tonsberg committee for libel, and demanding US \$145,000 as compensation from the two women responsible for writing the article. Another lawsuit was filed against two members of the Women's Front in Oslo.

The first trial in Tonsberg started in May 1988.² In his brochure, the club's owner gave the impression that Thai women were second class human beings who had no aspiration to be equal to men. By conserving the traditional image of women, the club's owner portrayed Thai women as being nicer and warmer than women in his own society. The overall message from the brochure was that Thai women know much better how to serve men because it is an integral part of their culture. Their rewards for prostituting themselves and fulfilling the subservient role were material gifts from their customers. In this kind of analysis, man is the patriarch in the family and in society, whereas the woman is subordinate and subservient to the man in exchange for gifts.

Superficially, one might consider such information as complimentary to women in poor countries who have been chosen by men from industrialized countries to substitute for women from their own countries. Indeed, in Thailand it is not uncommon to hear local men warn Thai women to be careful and not become emancipated or liberated, otherwise men might shy away from them and choose other, more subservient women.

The owner also countered criticism of women activists that his attitudes were racist, arguing that he is married to a Thai woman and supports her children from a former marriage. Quite possibly, he did not understand that women need not only material benefits, but also dignity. The owner apparently did not understand that the information he had disseminated was insulting not only to the people and customs of Thailand, but that it would also humiliate his own wife.

The Women's Information Center learned of the final outcome of the trial in August 1988, the victory went to the Women's Front. None of the defendants had to pay compensation to the club's owner. To the contrary, the club's owner was required to pay 50 percent of the defendants' lawyer expenses. The court's verdict reads as follows:

Generally one must see prostitution as a form of exploitation of women, as oppression of women. When this oppression of women takes place in the third world and is maintained by mass tourism from Western industrialized countries, an element of racial discrimination is undoubtedly added to the sexism....

5. Lisa's Struggle—Lisa is a Filipino from a rural village. She was offered a job as a receptionist at a five-star hotel in the Netherlands by the Chief Prosecutor of the local Court of Justice, who claimed to be a friend of the hotel's owner. The Chief Prosecutor told Lisa that he and another Dutch man living in the Philippines would make all necessary arrangements for her trip and that she could repay them with her earnings in the Netherlands. Lisa accepted his proposal and left for the Netherlands in October 1981.

After her arrival in the Netherlands, instead of working as a receptionist, Lisa was placed in a brothel. In May 1985 police invaded the brothel, and Lisa decided to press charges in the Philippines against the Chief Prosecutor and the Dutchman who arranged for her to go to the Netherlands. The Foundation Against Trafficking in Women rendered full support to Lisa's efforts to press charges. One of the Foundation's volunteers, Lin Lap, wrote the following account:

The work of the Foundation was just beginning then, and political recognition for the structural incidence of trafficking had yet to be won and the political will to combat trafficking was not yet established. Lisa's case suffered from this. The court was not convinced that there was a *prima facie* case, although the police had interrogated more than 40 persons in the course of their investigations and two women had pressed charges against the main suspect, Dutchman Jan S., for trafficking and rape. On merely formal grounds,

the Public Prosecutor refused to hold the suspect in custody longer than the judicially allowed four days for further investigation. As soon as he was released he fled the country and disappeared. For two years after that nothing happened. Subsequent Prosecutors and Investigating Judges of the Court would not take up the case again, reasoning formally that it was not possible to continue because the accused could not be contacted for further questioning. Informally, it seemed that the Officials handling the case were not clear themselves whether and what they should prosecute, and were confused by the voluminous documents which the suspect was sending [to the court], in which he attempted to present Lisa as a scheming and shrewd woman who had been a prostitute in the Philippines. They also alleged that Lisa had been informed about the work that she would do in the Netherlands.

The case became an example for the ignorance and laxity of the Court. It was cited at all relevant political fora, not only as an illustration of the failure of the penal system to prosecute traffickers, but also as an illustration of the insensitivity toward the victims in such cases. They are actually the ones being punished because of the lack of recognition of the injustice done to them. Questions like "Didn't you really know what would happen to them here?" "Were you really not a prostitute before?" "Couldn't you know that this man was not to be trusted?" were hurtful and degrading.

After a press conference given by Lisa in the Philippines, women Members of Parliament who were sympathetic to her case, questioned the Minister of Justice about the lack of progress in Lisa's case. In January 1988, the Investigating Judge reopened investigations. On the basis of the information that the Foundation and Lisa had gathered in the Philippines, the judge decided that he would form a Rogatoire Commission to conduct investigations in the Philippines, especially to locate and interrogate the accused Dutchman, Jan S., who was still in the Philippines. With the cooperation of the Ministry of Justice and the Dutch Embassy in the Philippines, the Commission succeeded in serving Jan S. with the charges against

him and in interrogating the accused Chief Prosecutor (who by this time was no longer in that position).

Jan S. was expelled from the Philippines, and finally stood trial in July 1988 before the Court of Leeuwarden. He was convicted and sentenced to two-and-a-half years imprisonment.

The new Chief Prosecutor, who had taken the place of the accused, was murdered on August 19, 1988. Suspecting this was connected with Lisa's case, the Foundation and other groups in the Philippines and the Netherlands organized a Petition Action to request the attention of President Aquino for the case. The Petition, with more than two thousand signatures, was presented to the Ambassador of the Philippines in the Netherlands.

The trial slowly continued. The accused ex-Chief Prosecutor denied all charges. After nine years of fighting for justice, Lisa lost the court case. According to the judge, there was insufficient evidence to corroborate the accusation and Lisa's moral background was more than questionable.

What Do We Learn from All These Actions

Many strategies have been applied in fighting against this form of violence against women. Some actions are spontaneous, for example, the demonstrations at the airports. Others involve a long process requiring broad-based cooperation, as in Lisa's court case. The obvious lesson we learn from all the cases is that prejudice against women victims of international trafficking and sex tourism is very strong. The division of "good" versus "bad" women is strongly pronounced. There is no legal protection for "fallen women" because society believes that prostitutes cannot be victims. There are, however, four strategies worth special consideration.

1. Networking

Concerned women and groups can build cooperation between groups in countries affected. In many cases the cooperation goes beyond women's groups and includes political parties, human rights organizations and the media. It is important to have cooperation among various groups, but maintaining this cooperation among women's groups is most important. Frequently, demonstrations are

the starting point for sensitizing the public to the problem and stimulating further action. But this is not always the case; some demonstrations turn out to be ends in themselves. Without followup action and long-term political plans to combat this form of violence, such ad hoc actions and demonstrations very often aggravate the vulnerable situation of women and enforce racial prejudice against the very women they are trying to help.

In order to overcome obstructions to international networking and solidarity, there should be a continuing dialogue among groups the involved countries. Action and collaboration should be based on partnership rather than paternalism.

2. *Political Lobbying*

As we learned from Lisa's struggle, women victims and women's groups alone cannot succeed in fighting against this form of violence. Mafia networks often work hand in hand with influential people in the bureaucracies and the political system. While it is important to provide immediate assistance to women, one has to bear in mind that the goal of this work is not merely to improve the welfare of women victims, but also to achieve political ends. Therefore political lobbying is very important. Information must be systematically presented to politicians who are concerned with the problem and sympathetic to the plight of women victims. International agencies which have the potential to respond to the problem should also be lobbied.

Without direct intervention from politicians, political groups and both governments, Lisa's case would have been put on the shelf. By pressing charges and following through until there was a final verdict, at least a Dutch trafficker was arrested and sentenced to jail for two-and-a-half years. And the ex-Chief Prosecutor, although free, was forced to defend himself in local court.

At present, cooperation with political parties in a few countries has resulted in some progress. A small number of politicians in the industrialized countries have been sensitized and have gradually gained a better understanding of the problem. Punishment is very gradually shifting

from the "fallen" women from poor countries, to those who enrich themselves from this inhumane practice.

3. *Media Cooperation*

Sex tourism and the trafficking of women are selling points for the media in all countries involved. But most of the media coverage of these particular problems is sensational. Prostitutes and victims of international traffic are portrayed in Western media without respect for their basic human rights and dignity. Instead of creating public understanding of the problem and the plight of women, media reports encourage sex tourism in poor countries and legitimize the violence and the racist attitudes.

Nonetheless, there are media groups which try their best to provide accurate information that is sympathetic to women and women's groups. While being allied to these groups is beneficial to the work of women, providing information and cultivating a constant dialogue and understanding with all of the media is crucial. In the past, women tried to implement both strategies. For wider campaigns and actions, information is provided to all media groups. But for sensitive information which may have a traumatic effect on victims if reported in an incorrect or sensationalized way, careful selection of media people is required. It is important that the issue not be sensationalized or the seriousness of the situation neglected.

4. *Public Education*

Of all the strategies to be undertaken, public education is the most important. For over a decade women's groups have worked hard at increasing public awareness of this form of female sexual slavery. The international community has responded positively to the demands and recommendations of women's groups. For example, the Social Council Commission on the Status of Women has addressed the issues of involuntary prostitution, sex tourism and trafficking of women in its 32d session. Some women members of the European Parliament collaborated with European-based women's groups searching for appropriate measures tackling this problem. Presumably, at the policy level there is a certain "movement" toward

addressing this issue, but the problem lies in translating policies into effective actions. During the Tonsberg court case, the Women's Front received criticism from third world women living in Norwegian society who feared that the case would worsen their living situations and increase discrimination against them. After it was explained to them that the Women's Front was attempting to achieve the exact opposite, much of this criticism subsided. It is obvious that movement only at policy level is not sufficient. It is necessary to educate all people, including the victims, on the issues.

More emphasis is needed on public education and understanding in all countries involved. Many women from poor countries who live in industrialized countries have suffered from discriminatory measures stemming from racial prejudice, sexist media and lack of understanding of their vulnerable situations. Without sensitivity to racism, groups working to halt this form of violence against women will only reinforce the prejudice and further aggravate the vulnerable situation of women. And women of different colors belonging to different social strata will again be divided under patriarchal rule.

Finally and most important, popular education aimed at raising awareness among women from developing and industrialized society on this form of violence plays a significant role in promoting and improving understanding among all women. The preconceived notions of good and fallen women will first need to be dispelled from the minds of women from all socioeconomic backgrounds before an international campaign can be successfully undertaken to end sex tourism and trafficking of women. Until all women form a solidarity based on understanding and cooperation, all other strategies aimed at changing the attitudes of men toward this issue, at best, will only be partially successful.

Africa



**Claiming Our Bodies and Our Rights:
Exploring Female Circumcision as an
Act of Violence in Africa**

Asma M. A'Haleem

**Working the System: Sensitizing the
Police to the Plight of Women in
Zimbabwe**

Sheelagh Stewart

Claiming Our Bodies and Our Rights: Exploring Female Circumcision as an Act of Violence in Africa

Asma Mohammed A'Haleem

Throughout the African continent women suffer the genital mutilation known as female circumcision. Although deplored as "brutal," "torture" and "mutilation," it has rarely been addressed as a crime or an act of violence. The phenomenon has typically been studied either as a health hazard or as a problem of tradition. In conferences, seminars and workshops throughout Africa, women actively working against the practice have explored in detail the types of female circumcision, prevalence of each type in certain areas, the health hazards associated with it, and the means of eradication, including the use of law (Babiker Badri Scientific Association for Women Studies, October 21-25, 1984 Workshop, n.d.; International Seminar on Female Circumcision, 1988).

This paper looks at cultural, religious and legal aspects of female circumcision in Africa with special focus on the Sudan. It considers female circumcision in the context of violence against women and human rights, and identifies the religious and cultural underpinnings of female circumcision. It also addresses law reform and litigation strategies as approaches to eradication.

Female Circumcision: The "Loving" Act of Violence

The practice of female circumcision is shrouded in many cultures under the mystifying guise of "the loving act." Loving parents, they reason, could not commit an act of violence or a crime against their own daughters. It is difficult for many to see the contradiction involved in simultaneously viewing an act as a loving gesture and as brutal torture, infringing on human rights.

A brief description of the ritual may explain this conceptual incongruity (Rushan et al. 1983; El-Dareer 1982).¹ A little girl about six or seven years old is prepared for circumcision. She gets some fine, bright new clothes and shoes. A day or two before circumcision day her friends paint henna on her hands and feet. They have a little party in preparation for the event. On the circumcision day itself she is adorned with *jirtig*, a ritual widely practiced on wedding occasions. An older woman puts jewelry on the girl and winds red silk threads around her wrist. This custom is connected with an old belief that *jirtig* is necessary to drive away evil and keep angels by the side of the betrothed or the circumcised.

The child is then taken to a midwife's house, where most operations take place. In smaller towns a midwife may come to the family's home, especially when a group circumcision is to take place. The family may circumcise several girls from the same family on the same day. The scene on circumcision day, whether in the villages or in the city, is more like a funeral than a party. Despite the new clothes and the bridal appearance, complete with *firka*, a bright silk cloth covering the bride, little girls are not impressed or persuaded. Apparently they all know that some sort of amputation will take place.

Afterwards, a feast is given. It includes men if boys are circumcised on the same day. The size of the feast depends on the financial ability of the family. Amid the tears of the pain-ridden child, festivities go on, and children's tunes are played. The child is told that she will soon be better and should join the festivities. Women relatives and neighbors come to say congratulations, implying that what happened to that little girl calls for celebration; it is a happy event! Those offering felicitations usually give the girl a sum of money, which she is free to spend as she wishes.

Covering up the act of mutilation by creating the appearance of a happy occasion is clever cultural artifice. The cover up also extends to the immediate health consequences; the bleeding, high temperature and physical anguish resulting from difficulty in urinating are attributed to some metaphysical origin. Delayed health complications experienced by women who have been circumcised include dyspareunia (pain during sexual intercourse), urinary tract infections, gynecological complications, prolonged or obstructed labor, which can lead to fetal death, chronic pelvic infections, and psychological complications.

Mushahara, the word used to explain accompanying complications, means that the *jirtig* was ineffective, or someone carrying bad luck entered the child's house. Rituals contrary to religious tenets are conducted; a girl may be taken on a trip to the Nile where she immerses her feet and washes her face and arms. Usually this trip is arranged as a protective measure. Other rituals include putting an axe under the bed, placing a gold coin such as a British sovereign under the pillow, or in extreme cases a cross, a Christian religious symbol, may be brought into the house. These traditions are so strong that they overcome even override religious beliefs.

Somalis, Ethiopians and Egyptians share the same traditions, with only a few subtle differences. In the Sudan the same rituals of *Mushahara* are repeated to treat complications resulting from de-circumcision during childbirth, or infertility after marriage. These rituals have begun to disappear in areas where education levels are higher and where better medical services are available. The ritual of the new clothes, gifts and festivities, that is still practiced, will eventually disappear as a result of economic pressure.

Stripping away the pretense of a happy occasion allows the act of mutilation to be seen for what it is—a crime. In the opinion of Sheikh Abdel Razig, President of Al Azhar Mission in Samal:

This practice is committed against an innocent victim and is a crime, and anyone who perpetrates it should be punished. How can anyone imagine in our present-day civilization that a father or a mother would commit such an act against their beloved children (International Seminar on Female Circumcision, 1988).

If an act of violence is defined as one which causes physical and/or psychological harm to a human being, then there is no doubt that female circumcision is such an act. However, defining it as an act of violence provokes strong reaction. Many hesitate to connect female circumcision with violence because of its deep rooted acceptance in culture and religion. However, justification of the practice on religious or cultural grounds is unacceptable since it causes health hazards which can often be fatal. The allegation that the law cannot help to eradicate female circumcision because of its tenacious cultural roots should also be challenged.

Health workers and others have worked to combat female circumcision and as a result, the tradition is being boldly challenged; it is finally coming "out of the closet." While some people will be shocked when accused of violence, it is necessary to confront them so that they clearly see the senselessness of a tradition that causes grievous damage to women. This makes it difficult for them to deny that female circumcision is harmful.

Cultural and Religious Dynamics

Throughout Africa, Muslim communities practice female circumcision, claiming that it is prescribed by Islam. In fact, female circumcision is a manifestation of the male's need to control women's sexuality, and contributes to the historical subordination of women. Rules and laws have always been made or interpreted by men and used to control women. Despite the fact that in the early days of Islam women, especially the prophet's wives, participated in disseminating Islamic teaching, this soon became a man's job. Women were barred from participating in social life under the guise of protecting them.

Islam is no exception when it comes to gender discrimination, which occurs through male interpretation and application of Islamic rules. Koranic verses and *hadith* or *Sunna*² have for hundreds of years been used to dominate or belittle women. Widely accepted *hadiths* stipulating that women are subordinate to men are often used; for example, *hadiths* that affirm that women's religion and minds are diminished or are less developed than men's. "Diminished religion" was the

rationale used by the prophet to absolve women from the practice of religious duties during certain times in their lives. They do not pray during menstruation, for example. No explanation is given for the claim of lesser intellectual capability, which almost all modern scholars dispute.

Another *hadith* is that a nation headed by a woman will never succeed. Carried to its logical consequences, this means that a woman should never be allowed to preside over anything. This was identified as an incorrect interpretation as early as the golden days of interpretation, when the *Hanafī*³ thought that women were as eligible as men to preside or even become judges. Dr. Mohamed Amara (1985) found that the context in which the *hadith* was pronounced shows clearly that it is not about women but about the Persians who had a queen at the time they went to war with Muslims. The Prophet's reference to "the nation governed by a woman" was a descriptive term, not an allusion to the capabilities of women.

Other *hadiths* seem to give justification to those who will not relinquish their controlling power over women. One famous *hadith* called for the protection of women: "women are like glass and so they must be handled with care." This was taken to mean that women are frail and need to be protected by men. At the time of this *hadith* women were vulnerable to customary abuse: little girls would be buried alive; they were not allowed to inherit; and generally were banned from participation in social life. To combat ill-treatment and prevent cruelty to women, the prophet used directives that stopped some types of maltreatment, and direct Koranic verses abolished the hateful traditions.

In general, Islam has called for a gradual approach to changing the situation of women. However, some modern scholars think that the methodology of the prophet in correcting the cruel practices should be carried further with regard to women's status, as in the case of slavery. While slavery is sustained in Islam by clear Koranic verses, the prophet Mohamed treated it as a social evil that had to be abolished. This has been the indisputable understanding of Muslim scholars, such that no one would say that slavery is strategic to the Muslim world or that it is allowed. But for women it

has been different. Control and subordination of women lie deep in the history of mankind. Holding women up as the symbol of the tribe's or the family's honor, validates the idea of complete control over women in Islam.

Women's Treatment in the Law

The traditional view that a woman is to blame for premarital sex is sustained by Islamic judicial standards. Fornication is regarded as a crime or social evil, and male-oriented social norms and legal rules ordain that prevention lies in controlling women's sexuality. She is not treated as a partner or a joint offender but as the cause of the evil. This happens even though Islamic statutes treat men and women involved in premarital sex as joint offenders. They receive the same punishment and are treated in the same way: an unmarried person is punished by flogging (80 lashes); the married or divorced person is stoned to death.

However equal the norms may appear, application of skewed justice is facilitated by the ease with which a crime may be proven against a woman, but not against a man. If a woman is pregnant and unmarried, her participation in sex will be unmistakable and she will be flogged even when she is the complainant. If she starts criminal proceedings against a man for rape and cannot establish a case against him, he is off the hook. But her pregnancy is irrefutable proof that she committed the crime, and if she is married or divorced she gets the death sentence!

In a recent case (Sudan Government v. Elhgga El-Husien 1988, 186) in the Sudan,⁴ the accused was originally a complainant who was raped by two men while collecting wood. She was ashamed to mention it, but when she realized she was pregnant, she became afraid of her family and filed the complaint. She was a divorced woman and her pregnancy was found to be concrete evidence against her. The court of first instance found her guilty of fornication and so did the Court of Appeals. She was eventually acquitted by the Supreme Court because there was no evidence to rebut her claim of rape, and if she was raped she could not be guilty of fornication. However, since her acquittal came after three years of imprisonment and she had passed the four-month

statute of limitations for establishing proof of rape, she could not pursue her complaint. She spent three years in prison and the men got away.

Convinced that they are a source of shame and that they should submit to male control, women blindly take on the burden of practicing control over their own sexuality. Linking the male interpretation of female sexuality to religion makes male control over females invulnerable to attack and acceptable to women. Female circumcision is one of those traditions tied to religion that takes on the appearance of self-inflicted injury, a pain accepted as God's will. Pious arguments subordinating women and giving full control of their lives to men serve to fortify religious regimes around the world. Some countries even pass legislation prohibiting women from driving cars!

In this religious frame of reference, women are viewed as part of the household responsibilities of the man. The woman's role is to be an obedient wife and satisfy her husband's sexual lusts. Her sexuality does not concern her as much as it concerns her husband. Circumcision is a sure way to keep a woman faithful. The religious guise fits nicely when the contract of marriage is interpreted in this primitive way; that is, the wife provides sexual pleasure in consideration of food, clothing and lodging.

Such a crude interpretation leaves out the bright side of the Islamic concept of marriage: a gentle, solemn and loving relationship between husband and wife. But if the marriage contract is interpreted in primitive terms, then the man has the right to avail himself of the woman on his terms. A woman must obey the rules before and after marriage; dependency drives her to secure a husband by proving her virginity.

The Strategy of Reinterpretation

The debate over a modern interpretation of Islamic rules is going on and may be at its peak. In the words of professor Gerda Lerner (n.d.):

When in that process of struggle, at certain historic moments, the contradictions in their relationship to society and to historical process are brought into the consciousness of women, they are then correctly

perceived and named as deprivations that women share as a group. This coming into consciousness of women becomes the dialectical force moving them into action to change their condition and to enter a new relationship to male-dominated society.

Within the legal profession in Muslim countries a female point of view is blossoming. As a group, women are seeking a new interpretation. Disputed *hadiths* are targeted. Most of those disputed *hadiths* were invented to influence political or social life during different eras of Islamic rule and can be challenged on historical and scholarly grounds.

The problem (which also has a positive side) with Islamic interpretation is that not every idea is detailed in the seminal books; only general principles from which norms are extrapolated. Thus, if a principle seems to suggest that women are to be under the protection of men, men come up with practical ideas and rules to achieve that goal and strengthen the notion of control. The positive dimension of this approach to formulating regulations is that women may use the same method to secure just rules. Since the general tenets of Islam are just and tend toward equality, such a strategy seems plausible. The idea that women are intellectually inferior, for example, may be easily defeated on the grounds that Islam equated men and women in punishment in this world and on the last day. If women are inferior they cannot take the same burden of responsibility as men. Control of women's sexuality as a man's business proves to be completely incompatible, if the verses of freedom proclaimed by Islam are juxtaposed to verses of submission of the woman to the man's desire.

A reinterpretation of a *hadith* or principle suggesting that women are to be under the protection of men does not directly address female circumcision, but it does challenge the traditional view of male-female relationships, and attitudes toward women and their role in society. In Islam, the process of introducing new and creative ideas and thoughts for the reinterpretation of existing principles, or deriving new interpretations to address emerging issues within a society, is referred to as *Ijtihad* (El-Ashmawi, 1987, p. 217). An example of where *Ijtihad* could be applied with regard to female circumcision are to those principles pertaining to the contract of

marriage and the sexual relations between husband and wife. Instead of placing importance only on a man's sexual desires and considering the role of a woman to be one of fulfilling them, equal importance should be given to a woman's sexual desires and needs. One interpretation of a principle defined a marriage contract as the husband having the right to his wife's sexual organs (El-Husary, n.d.). By acknowledging that both partners have the right to derive pleasure out of a sexual relationship, the issue of a woman having domain over her own body would also be addressed.

Many reinterpretations come into existence gradually; an undesirable tradition is abolished step-by-step. An example of this is the change in the laws governing marriage.⁵ From the 1940s to the 1960s, Sudanese rules governing marriage stated that a woman was obliged to marry a partner chosen by her guardian. As a first step, women pushed to have this rule changed so that the guardian only had the right to marry off a minor without her consent. Later, women gained the right to void a marriage without consent. The contract of marriage nevertheless continues to be between two men, the guardian and the husband. In order to obtain a final reinterpretation of marriage laws, one that gives equal importance to both marriage partners, women will have to continue to push for their rights.

With regard to abolishing female circumcision, it is important that there be a final religious announcement clearly stating that it is a form of mutilation and therefore forbidden. It is not sufficient for religion to shun female circumcision, for that may be construed by those who promote its practice as tacit approval. Instead, religion should be used as a tool for condemning and preventing its occurrence. Here, the participation of women in the reinterpretation will be crucial.

The problem with correcting such practices and interpretations within the religious mainstream is the terrorism that accompanies reform. The rigid few who enjoy control over the public at large will soon depict reformers as heretics who want to change religion for the purpose of abolishing it. Islamic history is full of persecution of reformers. Rulers brandishing such terrorism usually subdue and punish reformers. The execution of Mahmoud M. Taha⁶ in the Sudan for *Riddah*, conversion from Islam, and the case of Asma Jilani in Pakistan⁷ are the latest.

Under the religious reign of terror people are afraid to dispute issues connected with religion. Control over any behavior in Muslim society is assured if religion provides the rationale. It not only gives men the right to control, but easily passes the burden of that control on to women themselves, who share the idea with men that they should be obedient if they are to attain paradise in the next world.

Reversing Traditional Attitudes

Tradition is another cornerstone sustaining female circumcision in African countries. In most communities it is a tradition that became entrenched because of its fusion to religion. The official religious stand in most African countries seems to be that infibulation is forbidden and religion is against it. Yet one type of female circumcision, excision, is condoned by religious leaders, again because someone cleverly tied it to Islam through a *hadith*. The tradition flourishes because its condemnation by Islam is weak and unenthusiastic.

It is doubtful that this tradition is accepted in most African countries as an affirmation of cultural identity, rendering the groups that practice it different from others. Other traditions kept for identification purposes are disappearing without great fuss; for example, face marks used by different tribes (known in the Sudan as *Shiloukh*). Curiously, male influence played an important role in effecting the change; as men's attitudes toward beauty changed, women quickly threw away the tradition. Songs that used to praise a woman with a marked face were countered with ones praising an unmarked face. Chances of marriage are far better now for a woman with unmarked face.

Men are not playing the same role in eradicating circumcision since they are also trapped in the tradition. It is not just a question of a woman's virginity, it is also a test of the man's virility. Masculinity, manhood and virility are proved by achieving the difficult act of penetrating the circumcised woman. Men who are not afraid of religious fanaticism may be afraid of social criticism; they don't want to be considered incompetent men.

The tradition also seems to be difficult to eradicate because it has the appearance of violence inflicted by women themselves.

They insist on it mostly to secure a husband and get the respect of the community, even if they do not get married. Again, it is a male-dominated society that prescribes the conditions of respectability for women. But the fallacy is being exposed mainly by women. The demands of development call for healthier women who can produce more food and participate effectively in enhancing the economic life of the community. Unfortunately, the psychological factor still remains; people want to keep their ancestral heritage.

Legal Strategies for Eradicating Female Circumcision

Law Reform

In spite of its known harmful effects, there is still reluctance in some circles to make a "direct" attack on female circumcision. But viewing it as an act of violence that inflicts bodily injury allows the law to be used as a recourse. The achievements of eradication advocates and women's active role in this effort have brought female circumcision to light as an unsafe and undesirable practice. Application of the law to punish and/or hold liable for compensation those who practice female circumcision is the next step.

Tony B.E. Ogiamen (n.d.), a lecturer at the University of Benin, Nigeria expressed the view that gradual eradication of female circumcision "Can be made possible if those who carry out the procedure are legally identified, officially recognized and given quasi-professional status." Legal sanction for any type of female circumcision would create more problems. Legal recognition provides the perfect medium for the practice to flourish. In the Sudan, midwives and even doctors who were expressly prohibited by law from practicing infibulation continued to do so secretly under the pretense that they performed the *Sunna* type.⁸ Naming it *Sunna* sanctioned it as religiously required. Legally recognized practitioners may give the impression that female circumcision is legal if practiced by them. If the law is to be used to prevent and eradicate of female circumcision, the practice must be clearly prohibited. Although female circumcision will not disappear immediately, even a gradual process of disappearance has to be framed within clear legal norms.

The experience of the Sudan and Kenya has often been cited to prove the ineffectiveness of law in the process of eradication. Such laws were rejected in both countries because they represented a colonialist attempt to control and oppress people's lives. When perceived in this way, such laws are doomed to failure.

In Kenya, the campaign against the law prohibiting female circumcision was tied to the struggle for independence. Any law imposed by the British was regarded as a tool for the British to control people's lives and tell them what was good for them. It was also regarded as an effort by the British to tarnish or weaken their traditional base. This strengthened the loyalty of the various tribes to their traditions, irrespective of whether or not the tradition was causing harm to members of their society.

In the Sudan, laws passed by the colonial government were viewed as a means of sending people to jail. In 1946, the British Administration added an amendment to Section 284(A) of the Sudanese Penal Code stating that anyone found guilty of committing female circumcision which was not of the *Sunna* type would be punished with up to five years imprisonment and/or fine (El-Dareer, 1982, p. 95). At that time, many Sudanese were not prepared for such a law and it was regarded by those leading the struggle for independence as a way of terrorizing the people. One of the leaders, Mahmoud M. Taha, who was regarded as an advocate of equal rights for women and their protection from harmful acts, was jailed for opposing the law prohibiting circumcision. Taha was not in favor of female circumcision, but was opposed to colonialism and saw this law as a way to keep control over the Sudanese people.

Section 284(A), of the Sudanese Penal Code remains a dead issue after more than 15 years of independence. It is clear that from the beginning, Section 284(A) never had a chance. The application of that section to punish female circumcision practitioners was made difficult, or for some people impossible, on procedural grounds. The Code of Criminal Procedure (1974) links it with a group of other offenses that cannot be tried without a sanction from those specified in the Code. In the case of female circumcision, the sanction has to come from the Commissioner of the Province (P.C.). Section 130(1) (d)

stipulated that no magistrate or court shall take cognizance of any offense punishable under Section 284(A) of the Penal Code 1974 or give information of such an offense except with the previous sanction of the Province Commissioner. The Sanction of the P.C. has to be secured prior to any action in the trial in an offense punishable by Section 284(A) of the penal code, 1974.

The difficulty of implementing this part of the law to bring offenders to trial is clear if we understand that the P.C. is a civil servant responsible for all civil acts and services in the province. His office is situated in the capital of the province. Anyone who lives outside that city must travel there to get a sanction. The Sudan is a large country with a chronic transportation problem. Nobody can be expected to travel to get such a sanction. The argument that the police should seek the sanction is rendered impractical because a charge must be made by a complaint before the judge, who had to have a previous sanction before he can order any criminal proceedings. It is obvious that this restriction was contained in the procedure to maintain the traditional view and prevent anyone from taking legal action.

Usually men are the ones expected to travel and attend to such affairs. With regard to female circumcision, they neither handle it themselves nor allow women to do so; the general view being that anyone should be ashamed to publicly air such intimate questions. The expense and humiliation are enough to deter even the most enthusiastic, assuming that people even know such a law exists.

Linking Legal Awareness with Litigation

Laws cannot be effective if people are unaware of them. It is not unusual for someone to come to court with a simple claim and end up with a complicated and unforeseen judgment based on latin maxims or confusing Sharia techniques. Awareness of protective and preventive laws is increasing in Africa as a result of harsh government penalties for ignorance of the law. But complete awareness by the people of the existence of a law should never be presumed.

One effective way to create awareness is to educate people about laws that already exist. It is more practical to make people

aware of an existing fact, than to make them aware of the hope that such a fact may soon take place. For example, in the case of female circumcision, prevention of the crime must be linked to knowledge of the prohibition. Practitioners need to be aware of the interdiction; since it affects them directly, they will pass the information on to all those who seek their skills to perform female circumcision. The sanction for noncompliance should be harsh, such as revoking the practitioner's license.

If existing laws do not directly address female circumcision, it may be possible to interpret them in a way that includes the concept. For example, Section 284(A) was abolished in 1983 when new laws, claimed to be based on Islamic law, were passed, eliminating explicit sanctions to female circumcision. Yet the sections included in the 1983 Penal Code regarding bodily injury may be interpreted to include female circumcision. Section 287 punished any intentional amputation with *Gisas*, amputation of the same part of the body of the convicted, or *Dia*, compensation for the victim. If the amputation caused inability to perform coitus (intercourse) it was punishable. Apparently the section was intended to address the ability of an injured male, but since it does not expressly state this, it can be applied to any person. While the strategy has not yet been pursued, perhaps provoking a dispute over the interpretation of this section may be enough to bring about an express section that deals with female circumcision as an offense. The same argument may be used with other penal codes that punish bodily injury.

A new penal code was introduced in the Sudan in March 1991. While its predecessors contained over 400 sections, the Sudanese Penal Code of 1991 contains only 186. Subsequently, only general descriptions of crimes are given. Although there is no specific section addressing the issue of female circumcision, Section 138 of the new penal code defines injury as the amputation of an organ, rendering the mind or one of the senses dysfunctional, or causing cuts or wounds to the body. Female circumcision can be classified as a criminal act under this section. The lack of attention given to female circumcision by lawmakers may be due to declining pressure from groups and individuals who advocate its eradication.

Alternative Strategies

There appears to be a general belief among many activists that the law on its own is mostly ineffective when it deals with a practice that is tied to tradition. The Sudanese Paper in the October 1984 workshop on female circumcision held in Khartoum (Babiker Badri, 1984) expressed the following view:

First, it is extremely difficult if not impossible for legislation to wipe out such a deeply rooted tradition as female circumcision. Second and more important, laws and other similar measures do not give due consideration to such factors as the political climate and the socio-cultural way of life of the communities concerned. Finally, if it is deemed necessary to introduce laws to combat a sensitive custom such as female circumcision, a genuine attempt must be made to grasp the full socio-psychological implications of these laws in order to avoid their undesirable results or unintended consequences.

When we discuss the role of the law in female circumcision most of the time it is done in the criminal context. However, the problem may also be dealt with by a civil action or even a constitutional action. The issue may be treated as one of human rights, the right to be protected from violation by others. Female circumcision is just one of the vehicles for the control of females, and should be treated as an infringement of a basic right.

Civil law preserves the right of a child to seek civil remedy, when she or he attains puberty, for harm done during childhood. If a woman has the right to sue when she is a grown up person, this may be a deterrent to the practitioner. A woman who would not execute a judgment against her parents still will have no problem executing it against a midwife. Knowing that may discourage midwives. Women successfully sued to enforce their right to refuse compulsory marriage. If supported by law women would more likely stand up for their rights. Although few resorted to court in the case of compulsory marriage, the majority benefitted from those who did: because families became afraid of having daughters go to court, the practice of compulsory marriage subsided. Similarly, knowing

that their husbands have no right to beat them, women have resorted to police action in most African countries.

Calls for eradication of female circumcision voiced in conferences and publications seem to agree on the falsity of religious sanction of the tradition. They call for legal action against perpetrators. To move the struggle forward we cannot shy away from identifying female circumcision as an injury, a harmful bodily interference, and a violent act that should be punished just as any other crime. It should not be treated, as one woman said, the way we treat cigarette smoking, i.e., as a harmful act and health hazard. It should be treated as drug abuse, i.e., punishable despite the fact that it is self-inflicted. Moreover, religions should champion the attack on female circumcision, rather than remain silent or merely proclaim their guiltlessness. Religion should put its full weight to cause of prevention.

Working the System: Sensitizing the Police to the Plight of Women in Zimbabwe

Sheelagh Stewart

The Musasa¹ Project was set up to take action on the problem of violence against women in Zimbabwe. Through counseling, support, consciousness raising, public education, and training, the organization aims to empower women who have been raped or beaten to mobilize the community on these issues.

Two Zimbabwean women, a lawyer and a psychologist, initiated the project in early 1988. Both women had worked in rape crisis organizations elsewhere before returning to live in independent Zimbabwe in the mid-1980's. Both believed that there was a need for such an organization in their own country, but were aware that a previous attempt to organize a rape crisis group shortly after independence had not succeeded due to the unsettled political and social climate of the newly independent nation. Knowing that violence against women was a controversial issue in Zimbabwe, they conceived of their task in cautious terms and gave major attention to the initial needs assessment.

Before initiating any direct action, they set out to determine the extent to which domestic violence and rape were perceived as serious social problems, and whether there was sufficient support for the idea to warrant the formation of an organization focused on addressing these issues. Having established the need, and aware that program models from more developed settings might be unsuitable in Zimbabwe,

the next major task before them was designing a model for action to combat domestic violence and rape appropriate to the Zimbabwean context.

Paradoxically, the same social and political climate that worked against the earlier attempt to set up an organizational response to rape provided a conducive environment for the development of the Musasa Project several years later. After Zimbabwe became independent in 1980, the newly-formed nation found itself pressed to rectify past inadequacies and produce responsive state structures for its population of approximately ten million. Fortunately, its unique process of nation building, characterized by flux, change and experimentation, produced certain institutional traits atypical of older, entrenched bureaucracies that were conducive to social innovation. The effect of the process on the legal system,² is a case in point.

While legal structures remained practically intact at independence, significant changes in law and policy have occurred over the period of Zimbabwe's short history. The process of articulating these changes affected the key players in such a way that traditionally conservative sectors, such as the judiciary and law-enforcement agencies, developed a very positive view of change. The police, for example, aware that they were regarded with deep suspicion by the general population prior to independence because of their repressive role, strove to present a new sympathetic image to the masses. Post-independence openness to new ideas, willingness to try fresh approaches, and accessibility of public figures all provided an advantageous context for social innovation in Zimbabwe, and specifically for the work of the Musasa Project. Because many of the issues under discussion are new, they have not yet been coopted by the government which has been willing to cooperate in many aspects of the program. In fact, government validation of the Musasa Project's credentials in this area has been a necessary condition for implementing many aspects of the program.

Cultural and Economic Roots of Violence in Zimbabwe

Zimbabwean women earn their place in society because they give birth to the children who are vital for survival. In

Zimbabwe, as in other traditional societies, the more children each family has, the more laborers there will be during planting and harvesting, and the more food there will be on the table and available for sale as surplus. Such attitudes, while criticized by the modern sector as outdated and dysfunctional, are in fact sustained by modern economic structures. Enlightened development policies even contribute to their maintenance. Today, as in many African countries, inflation among poor Zimbabweans runs at a rate higher than the official figures; structural adjustment policies deregulating certain commodities principally affect the grassroots levels, and foreign exchange earnings are declining on an almost daily basis, limiting the supply of resources (George, 1988, pp. 86-105). The result of such conditions is that children become the only pension option available to the majority of Zimbabweans.

The Concept of Lobola and the Value of Women

It is the perception of women's economic worth in relation to her child-bearing abilities that sustain the system of *lobola*, or bridewealth, found throughout the Southern African region. *Lobola* is crucial to an understanding of the position of women in Zimbabwe. It consists essentially of payments in livestock and cash made by the "groom" to the bride's family in order for the marriage to take place. Once *lobola* is paid the woman and her child-bearing and earning ability is entirely owned by the husband. In the event that the woman fails to produce children (for whatever reason) or if she leaves her husband and returns to her family, the *lobola* has to be repaid. If she is married a second time the loss of her virginity impairs her value even if she is able to bear children.

Many Zimbabweans believe that *lobola* has become commercialized and that in the past the "payment" of a hoe was merely a token of respect. Other Zimbabweans (usually those in who have daughters of marriageable age) point out that the hoe in question had an iron head and argue that an iron-headed hoe would be worth Z\$15,000 today. Clearly the high financial value placed on a woman's child-bearing capacity does not protect her from abuse. Having paid *lobola* for her, a husband could demand that she never see her own family again and that she pay no allegiance to them in any form from the time of marriage onwards. While this probably stems from the historical

circumstances in which the marriage outside the clan effectively meant that the woman did not see her family again because of the distance involved, the potential injustice in an era of greater mobility and access is clear.

Lobola operates against the backdrop of a strict totem system. Every Zimbabwean has an animal totem of some kind, to which he or she belongs for life. The totem system operating in conjunction with *lobola* is a devastating combination for Zimbabwean women. Upon marriage, a woman does not become part of the husband's totem, although her children do. In effect, she loses ties to her natal family because of *lobola* and remains an outsider in her (husband's) home for the rest of her life because of totem: her economic and social position is entirely dependent on the existence of her marriage. This is true to the extent that when the husband dies and the marriage ceases to exist, the woman under customary law has no right to her husband's property, which remains in the family. In extreme cases, the husband's relatives will not speak to her at the funeral because she is no longer linked with them in any way. Traditionally she has no place with the mourners from the husband's family. If during the marriage the woman separates from her husband or there is a divorce, the children remain with and belong to the husband if *lobola* has been paid, and they are part of his totem.

The coexistence of *lobola* and the totem system condition the family's perspective on the gender of any child born to it. A boy will potentially contribute to the family income and well-being for the rest of his life, both financially and through his marriage by producing children. A girl on the other hand will produce one sum of money through payment of *lobola* and thereafter will contribute nothing to her family of origin, since *lobola* buys both the economic potential and the woman herself. The general effect of this system is that money is more readily invested in male children, especially in their education, for they are seen as an investment which will yield consistent, long-term profit.³

The economic position of women clearly reflects their social position. In spite of an equal rights clause in the Zimbabwean constitution and government's stated commitment to women's rights,⁴ women cannot own land or have access to

credit. This is similar to the settler regime's policy of disempowering and controlling a sector of the populace (which is traditionally difficult to control) by denying access to the economy. Existence of such policies ten years after independence, however, indicates that the current government has followed a similar practice with relation to women as the colonial regime did with regard to the indigenous population.

Social Consequences of Lobola

Lobola has two consequences which impinge directly on the problem of domestic violence. The first is the general male belief that, having paid for a wife, to beat her is well within a husband's rights. Illustrating this attitude was a message the Musasa Project received on its telephone answering machine after an article on the project appeared in the national press.

"Who do you think you are, you people? She's my wife and I can hit her if I want. I paid for her, I can do what I want with her."

This attitude has been expressed, albeit less abusively, in practically every context where the Musasa Project has discussed the issue of domestic violence. It is reinforced by other familiar-sounding attitudes which make a universal appearance in all literature on domestic violence: "Women need a smack when they get above themselves." "Women are like children: if you love them, you discipline them."

The second consequence is strong social pressure for women to stay in their abusive situations. Once *lobola* has been paid, if the woman returns to her family, for whatever reason, the *lobola* becomes forfeit. This means that women are often sent back to their husbands regardless of the treatment received at their hands, because her family either cannot or will not repay the *lobola*.

The Vulnerability of Women

Other factors besides *lobola* affect how women are treated. Population shifts from rural areas to the cities has exacerbated the problem of violence against women. Since the shift to the cities generally coincides with an increase in family poverty, the stress caused by a deteriorating economic situation is often vented on the wife. Concomitant with the process of

urbanization is the breakdown of the extended family. And while no one asserts that the context of the extended family prevented wife-beating, the general consensus of opinion is that with thin walls and a small community "excessive" beating was prevented. The crowded, anonymous situation of the city deprives the family of familiar structures for dispute settlement and the recognized hierarchies for regulating daily life that existed in the village, making the wife even more vulnerable than she was in the traditional setting.

The effect of total social and economic dependence on men is that women either cannot or do not believe that they can change their own situations. Many of the women interviewed at the Musasa Project not only believe that they have no control over being beaten, they also believe they have no control over anything else that happens to them. Much of the research on domestic violence in the West points to the existence of this phenomenon of powerlessness, but the point is made that the major cause is violence. Our experience in the Musasa Project has been that domestic violence is just one more factor adding to a woman's sense that life is something which happens to her. The general lack of education for women leads not only to illiteracy, but to "legal illiteracy." Legal illiteracy is a combination of lack of understanding and a perception of inability to change things. This perception is continuously reaffirmed from outside as the woman comes into contact with an unresponsive and often hostile bureaucracy in conjunction with unfavorable laws and practices. This is particularly true for victims of domestic violence and rape.

Developing the Musasa Strategy

In formulating goals and objectives of the Musasa strategy⁵ it was crucial to be aware of the major problems and to design an approach taking these problems into consideration. Although the Musasa Project works on both rape and domestic violence, we will deal here only with the domestic violence component. Two major problems were apparent: the tenacious strength of *lobola*, and the weakness of the extended family caused by urbanization. Linked to these problems are two factors perpetuating them. First, survivors of abuse who are disempowered not only by the abuse but by their vulnerable

social and economic status, tend to be apathetic to their own situation, having no concept of being able to change their circumstances. Second, the legal system (police, courts, hospitals) perpetuates and increases this inertia by being at best unresponsive and at worst hostile.

Disempowered Women

As we attempted to respond to the powerlessness of women, we felt overwhelmed by the sheer massiveness of the inertia and did not have a very clear idea about how to tackle the problem. We explored the traditional shelter/counseling response, and, initially, because we could not raise money for a shelter, started only a counseling service. In retrospect it has become clear that a shelter would not be appropriate in the Zimbabwean context.

The purpose of the counseling service was to provide women with a resource for discussing their problem and possible solutions to it. It was clear from the start that the women we saw were immensely relieved at being able to speak with us and with each other about the problem. In the majority of cases, however, the women we saw did not believe that they could change their situation and were unable to summon the energy to do so. In many cases we have been left with the feeling that providing a counseling service alone merely provides a place where a woman derives sufficient energy to be better able to "cope" with abuse and to go back into the abusive situation.

Unresponsiveness of the Legal System

The problem of unresponsiveness and hostility of the legal system, while huge, seemed far less overwhelming than the inertia of disempowered women. In our initial nine-month pilot study we maintained extensive contact with the Zimbabwe Republic Police. Shortly after the first phase of the project began, we were invited by them to conduct a five-day workshop with their Community Relations Liaison Officers (CRLOs). This was a starting point for developing a strategy for working with the legal system.

Initially the objective was to extend the Musasa Project's "helping" role by encouraging the police to treat the whole issue

of domestic violence more methodically and sensitively. We felt that if a woman who has been systematically abused and disempowered throughout her life finds that the legal system will come to her aid, it would have an instantaneous and automatic empowering effect which cannot be duplicated in any other way. A woman who manages to get the police to remove her husband until the violence stops, to acquire a peace order, and to have her maintenance assured, is a woman who has learned that she can effect change. A woman who helps herself through the legal system, possibly the most "expertified," mystified, and top-down societal phenomenon known, acquires a sense that nothing else could possibly be a problem.

Providing insight into this phenomenon was the case of a woman who had been thoroughly and systematically beaten by her husband for seven years. She was on one of her regular monthly visits to the project, where she had often explored options for change but had not actually been able to make any changes. At one point she asked a question about property rights. Since we didn't know the answer, we asked if she would be prepared to get the answer and write it out for us. She changed visibly in front of our eyes and went off with a sense of purpose and direction which we had never seen before. She returned several days later with crucial practical information about divorce and property procedures and the news that she had left her husband. She subsequently negotiated a return on a no-violence basis and the last we saw of her approximately eighteen months later, the violence had not recurred. She told us that she felt that her newfound legal knowledge had persuaded her husband that she would leave if he continued to beat her.

Framing Objectives

In developing our analysis, we found that using Friedman's approach (Schuler, 1986, p. 23) to the structure and interactions of the legal system provided a useful framework for clarifying the problems of systemic inertia and nonresponsiveness. By breaking the system down into three components: substantive (the content of the law); structural (the courts, enforcement and administrative agencies of the state); and cultural (shared attitudes and behaviors toward the law) we viewed the problem in a new light and targeted a strategy

that would respond effectively (Schuler, 1986, p. 26). We realized that while the police are part of the structure of the law, the special problem with domestic violence is the attitudes and behaviors around the law which are shared by both the police and the women trying to use the law. This insight led to a number of clearly articulated goals and objectives.

Our overall goal was to empower women: to develop their sense of power over their own lives. This would be accomplished primarily by making the legal system recognize and respond to the problem of violence against women and by providing simple, easy to understand information on how to work the legal system. Specifically, we sought to raise awareness about domestic violence through all the levels of the legal system. Through dialogue at each level of the system we hoped to identify specific problems and assign responsibility within the system itself, through task forces, for working on the problems.

Raising Awareness Within the Legal System

Raising awareness about violence against women within the system involved a process of working at one level and using that level to get to the next. The first step was a workshop held with the Community Relations Liaison Officers of the Zimbabwe Republic Police. We recognized that it would be important in this type of work to understand the agendas of the groups with whom we wanted to work and identify points of convergence and how they might serve our purposes. We discovered that the Community Relations Liaison Branch of the police force was formed to counteract the image of being the "people's enemy" inherited from a previous regime. Its mandate was to create a positive public image for the police force which had received sharp criticism during the decade since independence.

This was obviously an excellent place to begin consciousness raising.⁶ We used a method that presented common beliefs about domestic violence from a new angle and challenged the old beliefs. (For example, it is a widely held conviction that wife-beating is necessary to maintain authority and prevent "backtalk." In this context, pointing out that the President both maintains his authority and prevents backtalk

without beating the Vice-President, is an amusing way of suggesting that there might be alternatives to beating.) Generally, our policy has been to win the police over by giving good press to a much-maligned police force. During the educational process, we also encourage the police to talk about their problems in dealing with domestic violence. This not only affirms the value of the police, but also has the effect of isolating practical problems which can then be worked on and solved, often by the police themselves in conjunction with the Musasa Project.

We were elated by the success of the first workshop, but soon realized that we had only scratched the surface. The police who actually dealt with the cases were not the educated Community Relations Liaison Officers we worked with in the workshop. In many cases, the "successful" workshop didn't seem to make any difference in the treatment that women received when actually reporting, unless there was an intervention by the Musasa Project via the relevant Liaison Officer. Our approach was functional on one level, in that we were making the system work a little better. On another level, however, it was apparent that this type of intervention only increased the woman's sense that she couldn't manage on her own and needed someone to "help" her.

The next phase implemented a program of intensive education directed to the policemen on the ground. For six months the Musasa Project conducted three afternoon workshops per week at different police stations. As the program progressed, we began to get feedback that women who unaware of the Musasa Project were receiving sympathetic and prompt assistance at the police stations, and were then referred to us. Some women spoke of how encouraging it was to arrive at a police station and find a Musasa Project poster and a sympathetic policeman who took their report and acted on it promptly. In one particular instance one husband was so shocked by the appearance of the police and his removal to the police station on charges of assault, that he has not used violence since.

We were elated by the success of this phase but again realized that more was needed when we heard the story of the man who was fined Z\$500 (US \$200) for beating his wife to death. The reason for such lenience: she had "provoked" him by refusing to go home early from a party and prepare his

food. This brought home the need to expand consciousness-raising activities to magistrates, prosecutors and other officials. But how? Traditionally, legal professionals don't believe that anyone can tell them anything, so we were challenged to find a workable approach.

We invited a group of prosecutors to participate in a three-way debate on who contributed the most to the plight of victims of domestic violence. What could have been a mud-slinging exercise turned into an extremely constructive discussion on how the police and prosecutors could liaise to improve the situation. We had found a way to educate within the legal system—invite lawyers to “help” with police workshops. Prosecutors attended police workshops and the police hosted (and paid for) a workshop for thirty prosecutors in the Harare area.

The process of approaching the police through the public relations unit taught us an important political lesson: while the police may appear to support an issue, they may really be playing a smart public relations game. Moreover, the public relations group of a police force has little say on policy matters. Our experience showed that it was necessary to work with the officers in charge of crime units as well as the Liaison Officers in order to have access to those who could make policy changes. From this, we learned that to justify the time, money and energy invested in a strategy which targets the police force, it is crucial to get to know how the internal structures work and then to exploit this knowledge to the greatest extent possible.

Through this experience we established a foothold for educating the legal system about the problem of violence. The specifics of an educational strategy aimed at legal professionals must be very carefully devised. In many cases, credibility must be ensured by involving a legal professional in the education process, and the content must be highly dependable and informed. Another effective technique is to facilitate a workshop with one part of the legal system acting as host to another (prosecutors and police, for example). It is also more strategic for police or the judiciary to pay costs for their own workshops, since it raises their level of commitment.

This training strategy is well suited for use in workshops with a variety of officials on any topic in which the inefficiency

or inadequacy of the system has prevented women from being able to enforce their legal rights. It could be effectively used with medical personnel on evidence; with police and prosecutors on correctly filling in affidavits; and with lawyers and legislators on legal definitions of rape and penetration.

Involving the Police

The series of workshops held with the police used a participatory educational methodology that encourages dialogue. In addition, time is spent in every workshop on small group discussions to generate a list of problems experienced by the police related to the issue of domestic violence. A typical problem raised by the police is that battered wives often withdraw the cases, thereby giving the police a bad name. Analyzing a problem like this in a group setting sharpens understanding of the problem and raises new possibilities for solutions. For example, in discussing why battered women often withdraw their cases, the group may realize that criminalization of domestic violence is not necessarily appropriate in every case. They might then decide that, although criminalization is inappropriate in some cases, in the absence of some sort of family code, it is necessary to find ways to make the criminal system work better. Having come to this point, the police are then asked to make recommendations to improve the situation.

Once recommendations have been made the group is asked to take responsibility for them. As a result of this methodology, some suggestions have gone directly to the Ministry of Justice in the form of police proposals for improving the position of battered women. Having a proposal come directly from the police is significantly more effective than having the same suggestion emanate from an organization such as the Musasa Project.

Other recommendations emerging from this process became the subject matter of police task forces. As a result, we have seen changes in the way the police handle cases at the station level. We know, for example, that it is becoming routine for the police to remove a potentially violent husband, administer a strong warning, and let him go. Previously the police were not prepared to act unless there had been a violent episode. The overall effect of this type of approach is that not

only are the police responding sympathetically, they have a new vision of themselves as a force which can be proactive in shaping solutions to the problem. Ultimately this means that the police are taking responsibility and approaching the problem both as a police force and as members of society. We hope that if this method continues to work, the structure will change itself from the inside and that any necessary substantive reform will follow as a matter of course.

Empowering Women

Our program draws a distinction between intervention to help women (no matter how sympathetic and well-intentioned), and working toward a situation where the system becomes so accessible that the women can work it themselves. The last component of our program is intended to reinforce the idea that a legal system belongs to everybody by providing basic how-to information and tips on the way a woman can make the legal system work for her.

One of the issues on which we have made the most progress is maintenance after dissolution of marriage, an issue of pressing importance to women. The substance of the law does not pose a problem, but both the cultural and structural components do. A woman who does not go to court with every item of expenditure priced to the last packet of soup will have her maintenance cut to ridiculously low levels. Once maintenance is cut to this point, any further maintenance is granted on the basis of the amount awarded previously, so a woman might find herself at a permanently low level. The problem is easily overcome if the woman makes a trip to a supermarket the day before the court case. There she must make a list of what she needs to buy on a monthly basis, price it and get the manager to verify that the prices are accurate. This can then be handed in at the court. The maintenance official or magistrate may question some of the items, but cannot cut down the amount arbitrarily. A woman can easily accomplish this task and it can make a considerable difference to the outcome.

Our legal literacy work is based on the idea of empowering women by providing them with attainable legal goals which significantly affect legal outcomes. This part of the program

fits very neatly with the police and prosecutor training and further promotes a joint effort to provide solutions. Providing legal literacy pamphlets reduces the hostility of policemen and prosecutors who are themselves insecure about correct procedures.

New Directions

The Musasa Project strategy is based on the belief that it is easier to make existing structures change from the inside. This assumption, however, is debatable. It is hard to believe that change will continue to come from the inside once those in authority realize the political nature of the issue. In many ways the success in Zimbabwe has been possible because there is such a deep-seated belief in the complete inferiority of all women. A group like ours and its educational strategy, is not seen as posing a threat to the status quo.

With that in mind, a decision to use an "internal change" strategy requires taking into account several very important political considerations. First, those directing this type of strategy must realize that success depends entirely on winning over large numbers of people. In turn, influencing people requires extensive knowledge of the culture, the issue in question, and the internal functioning of the structure to be changed. Finally it requires endless patience in dealing with tenaciously held negative attitudes about women and offensive repetition of obnoxious jokes condoning violence.

The goal of empowering women by ensuring that the legal system is responsive is gradually being realized through the workshops with the police and prosecutors. Unfortunately, most of the progress has been confined to Harare. Thus, we need to expand the parameters by making the educational campaign more extensive. Moreover, gaps remain in the system which require vigilance. One example involves two uniquely third world phenomena: expatriate physicians; and a court backlog of eighteen months or more for domestic violence cases. A typical scenario is one where a woman has been beaten and wishes to file charges. She takes the police medical affidavit to a doctor who either can't be bothered or doesn't know how to have an affidavit sworn correctly. Eighteen months later she comes to court and her case fails because the affidavit has inconsistent dates and signatures

and the doctor, whose contract is up, has left and cannot be called to clarify the situation. This problem is being addressed through legal literacy pamphlets, but there is also a need to educate doctors about affidavits, possibly by including this in the university curriculum.

Perhaps the biggest problem and weakest link in our strategy is dealing at the level of policemen who work on the ground. It is boring, repetitive, energy-draining work, but if these policemen are not reached, the strategy begins to lose its impetus. To keep up momentum successfully requires highly skilled, flexible educators who are prepared to wait for the process of change, and do not feel the need to harangue the police force or other parts of the legal system on their inadequacies.

Another problem is the way that the police view themselves. One result of striving to be a peoples' police force has been that the police are often viewed as elders within a community and asked to intervene in everything from misplaced birth certificates to family disputes. Police in Musasa workshops have enthusiastically embraced the idea of "counseling" as a solution to domestic violence. As a result, there have been examples of police spending half-an-hour "counseling" a couple at the station and then sending them home, when in fact the man should have been taken into custody. A connected problem is the possibility that counseling will be aimed only at the woman, telling her to behave.

A more general problem is that donors, at least in Africa, like to fund training workshops. As a result many people spend a significant proportion of their time attending workshops. To be effective, workshops must be extremely well prepared, be task oriented, and set goals that can be achieved by participants.

The Musasa Project strategy with the police has been an extremely successful starting point. However, the extent to which the legal system is prepared to change is still debatable. What has been demonstrated by Musasa's experience is that it is possible, under certain circumstances, to work very effectively through the existing system. One observer familiar with the project summed it up most succinctly when she said "At best the system will change itself from the inside, at worst there is a breathing space within which women can be empowered to take the issue further."

Latin America



**Developing Strategies: Efforts to
End Violence Against Women in
Mexico**

Elizabeth Shrader Cox

**A New Approach to Law Enforcement:
The Special Women's Police Stations in
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Luiza Eluf

**Long Live the Differences, With Equal
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Developing Strategies: Efforts to End Violence Against Women in Mexico

Elizabeth Shrader-Cox:

Violence against women is a global problem, affecting both industrialized and developing nations. Worldwide, gender-related violence assumes many forms, among them sexual assault, spouse abuse, sexual harassment, coerced sterilization and childbearing, criminalized abortion, and female circumcision. However, "women and violence issues" are generally omitted from the agendas of health, economic development, and human rights organizations ostensibly concerned with improving women's status. This omission is partly because the physical, psychological, economic, and social repercussions of actions such as rape and battering are not easily subsumed under a single rubric of "maternal child health" or "women in development" or "human rights abuses."

Another reason why issues of women and violence have not been adequately addressed in national policy and international development circles is that it is difficult to determine their importance relative to other, more commonly recognized priorities. For instance, given the urgency of maternal mortality and fertility control in developing countries, can violence against women be considered a priority health issue? Given the need to increase female literacy and income generating capabilities, should women and violence be considered a women's

development issue? Given the imperative of documenting and curbing state-condoned torture, abduction, and assassination, is this a priority human rights issue? Or, because the vast majority of victims are women, is it strictly a feminist issue?

In fact, the problem of women and violence touches on all these concerns. It is a priority health issue because one out of every two to three women (National Coalition Against Domestic Violence, 1988; Valdez and Shrader, 1991) are at risk for victimization by sexual or domestic violence, with physical and psychological consequences that profoundly affect the woman, her children, and the health care system. It is a priority women in development issue, because as long as women feel unsafe in their homes and on their streets, they cannot fully participate in the evolving economies of less developed nations. It is a priority human and civil rights issue, not only because thousands of women are systematically beaten, tortured, raped, and even murdered, but because the state, by neglecting to enact appropriate legislation or enforce existing laws, condones these violations of women's most basic human rights. Any thoughtful strategy for improving women's health status, for guaranteeing a more equitable share of the benefits of economic development, or for creating a society where fundamental human rights are respected, must acknowledge the related problems of women and violence. For all these reasons, this subject deserves greater attention and funding for research, policy analysis, and direct services for treatment and prevention.

The focus of this chapter is on rape and wife battering in Mexico¹, but the observations and conclusions are applicable to many developing countries. The case of Mexico serves both as an indicator of the magnitude of the problem and as an example of innovations in service delivery and legislative reform. Mexican women face many obstacles in order to receive assistance, and private and public sector agencies have developed several program strategies to overcome these obstacles. The Mexican experience provides important insights regarding community organizing, public policy, and judicial reform strategies that may benefit the movements addressing violence against women in other countries.

Defining the Problem

Statistical Profile of Rape and Battering

Experts in Mexico are just beginning to define rape and battering in quantifiable terms and their estimates are widely divergent. Rape statistics suggest that in this country of 85 million people a rape occurs every 5 to 15 minutes, that between 80,000 (CAMVAC, 1989) and 160,000 rapes are committed annually, and that the incidence of rape is 125 per 100,000 inhabitants (*Procurador de Justicia del Distrito Federal de Mexico*, 1990). These admittedly underreported figures do not include instances of date rape or conjugal rape.

Profile statistics of those who filed sexual assault charges in Mexico City in 1990 indicate that 96 percent of the complainants were female. Demographically, 24 percent were age 12 or younger, 53 percent were between 13 and 18 years of age, and 23 percent were over 18. The average age of the woman filing charges was 15 years. Almost 70 percent were single and in 43 percent of the cases, they were accompanied by their mother. Two-thirds of the complainants knew their assailant and 49 percent of the assaults occurred in the woman's home. Almost half the women brought charges within 24 hours of the assault (*Procurador de Justicia*, 1990).

These statistics do not reflect the profile of the woman who is raped, only the profile of the woman who files charges and, not coincidentally, of the woman whom Mexican society deems as an "appropriate" rape victim. She is very young, unmarried, has never been sexually active, knows her assailant, and has her family's support.

In private rape crisis centers, the profile is somewhat different. Women of all ages, marital histories and circumstances, who may have been raped months or years previously, seek counseling while knowing it is unlikely they could ever convict their rapist. Only eight percent of women seeking services from a rape crisis center reported the rape within 24 hours, and some reported the rape up to 15 years after the assault. Less than two-thirds actually filed a complaint, while 15 percent reported becoming pregnant as a result of the rape (*Asociacion Mexicana contra la Violencia a las Mujeres*, 1991).

A recent study suggests that domestic violence, and wife battering in particular, is probably more prevalent than rape. In a population-based survey of 342 women residing in Ciudad Nezahualcoyotl on the outskirts of Mexico City, one in three said that they had experienced at least one violent relationship; one in four said that they had an abusive relationship with a husband or boyfriend (Valdez and Shrader, 1991).

The abuse by a partner took several forms. Of the women who identified themselves as abused, 66 percent had been physically battered, 76 percent had been verbally abused, 47 percent had been emotionally abused, and 21 percent had been sexually abused. Physical abuse was often life-threatening. One quarter of the battered women had been assaulted with a weapon and 40 percent had sustained serious injuries. Women were often battered in physically vulnerable areas: 70 percent had been beaten about the head or face; 19 percent in the stomach; and 20 percent had been beaten in the stomach while they were pregnant. Physical abuse may appear to be the more grievous injury; however, case histories of battered women in therapy indicate that many consider verbal abuse and emotional manipulation to be more damaging to their self-esteem and self-image with profound implications for their psychological recovery (Valdez and Shrader, 1991).

Domestic violence is an "invisible problem," yet many assaults take place outside the home or before witnesses. Women were beaten in their homes in 92 percent of the cases and in public areas in 32 percent of the cases. One half of the women were beaten in front of someone, whether a child, another family member, or a neighbor (Valdez and Shrader, 1991).

The majority of battered women did not passively accept their abuse, but rather sought to remedy the situation in some way. Two-thirds defended themselves with fists or weapons, 21 percent filed charges against the abuser, 20 percent sought medical attention and half of these women informed their physician of the source of their injuries. While there are no battered women's shelters in Mexico, over 40 percent of the battered women abandoned their homes, though 92 percent were forced to return either for economic considerations or because of their children (Valdez and Shrader, 1991).

Although the silence of battered women contributes to the invisibility of the problem, more than half the abused women in the study had confided in someone about the abusive relationship. Battered women confided most frequently in friends (65 percent) and family members (42 percent), but also turned to psychologists (18 percent), priests (15 percent), and physicians (10 percent) (Valdez and Shrader, 1991).

Obstacles to Receiving Assistance

These findings indicate that people in the community are aware that rape and domestic violence are pervasive. Yet many obstacles exist that make it difficult for women to seek help or to prevent the violence. First is the underreporting of gender violence. Crimes of violence against women often go unreported for a myriad of reasons that include hostile and judgmental social perceptions of women, a legal system unresponsive to the needs of women, and a medical system unprepared to handle the particular traumas associated with rape and battering.

The lack of accurate data that results from underreporting makes it difficult to clearly define and understand the problems and seek appropriate solutions. Negative attitudes toward women and stereotypes of rape and domestic violence situations are perpetuated because there is little information that can be used to educate the public. A vicious circle is created: women do not report violations of their rights because they are ignored by authorities; the problem goes unreported and therefore does not exist; the "nonexistence" of the problem allows authorities and the public to ignore the problem. No one claims responsibility for dealing with the results of violence directed toward women, much less with the need for preventing such violence.

A second obstacle is the negative social attitudes that influence the context in which rape and battering are perceived. Many view women as the property or possession of a man, whether he is her father, her husband, or her male employer. This relationship justifies men's coercive behavior toward women, including violence, as a way of obtaining something from women. A woman's status is dichotomized as either that of a "virgin" or a "whore," implying that any "nonvirginal"

behavior she displays automatically relegates her to the latter category and therefore somehow deserving of coercive sexual advances. Nonvirginal behavior may include wearing certain kinds of clothing, walking at night, appearing in public unescorted, or working outside the home; in short, participating in many activities women must perform to fulfill their roles as homemakers, wage earners, and mothers.

Attitudinal studies show that many Mexicans think that by definition only virgins can be raped and that any woman who really wants to can defend herself against rape. A woman who fights back cannot be raped, therefore any woman who is raped must have encouraged the attack in some way. Taken to its extreme, a woman who is sexually assaulted should be willing to give up her life rather than survive a rape, for her mere survival is proof that she provoked the rape. Women are therefore placed in a double bind because they are not taught to fight back or assert themselves in the presence of men, who are socially acknowledged as dominant.

Despite existing laws, some authorities do not consider rape or battering to be crimes. Several years ago, a Federal District prosecutor suggested that one way to alleviate overcrowding in Mexican jails was to release those convicted of "lesser crimes" such as rape. Similarly, a man who rapes or beats his wife is exercising a marital right, and the woman who attempts to file charges against him is ignored, ridiculed, or harassed.

In recent debates on legal reforms for gender-related crimes, some feminist organizations have chosen to limit the discussion to rape, regarding it as the issue that might generate the most support from the broadest possible spectrum of public interests. Although focusing on rape may be a good organizing strategy, an unforeseen negative result may be that many will equate the issue of violence against women only with rape, and ignore related issues of domestic violence, sexual harassment, and negative media images of women. Focusing exclusively on rape is the form of violence least challenging to the prevailing attitude of woman as man's possession, where the act of rape is the violation of one man's property by another. Legal and social reforms concerning battering, however, would challenge many assumptions about the

traditional roles of men and women and enter the sacrosanct realm of judging a man's behavior within his own home.

In class-conscious Mexico, violence against women, especially wife beating, is considered a problem of the lower classes and therefore not of real concern to society. In fact, anecdotal data from Mexico and literature from other countries universally indicates that women from all socioeconomic backgrounds may be raped or beaten. Most organizations working with rape victims and battered women appropriately target low income women, some to the point of explicitly excluding middle and upper class women from receiving assistance. Because most obstacles to receiving support are similar for battered women with or without economic resources, there arises the incongruous situation where upper class Mexican women may be as marginalized as low income women where this issue is concerned.

A third obstacle for Mexican women is the unresponsiveness of the legal system. Legal definitions of rape and battering victimize and blame women seeking legal redress and fail to protect their rights. For example, until recently rape was legally defined as a sexual act, not an act of aggression, and the definition of rape did not include forms of sexual assault other than vagino-penile penetration. For a woman to file rape charges, she must produce physical proof of forced vaginal intercourse obtained through a legally-approved physical examination. Victims of other violent crimes are not required to submit to a physical exam simply to file charges.

In some cases, if a man agrees to marry a minor female he has raped, he cannot be prosecuted for the crime. A rape survivor may sue her assailant for civil damages, but only for direct and immediate costs, such as the price of a torn shirt, and not for associated costs such as continuing medical and psychological treatment. Some jurists assert that conjugal rape is a felony, yet few are willing to prosecute these cases. A man who beats his wife is charged under the assault statutes, but the assailant's relationship to the woman is not taken into account. Legally, a woman may get a restraining order against her husband, but they are very difficult to enforce.

Those working within the legal system manifest negative and hostile attitudes toward women and fail to enforce the

few laws that do exist. In Mexico, the police are notorious for ignoring or violating the rights of women. A woman who appears to file a complaint against a batterer or rapist runs the risk of being ignored, humiliated, threatened, or sexually assaulted by police officers ostensibly there to serve them.

Few defense attorneys and prosecutors are sympathetic to the needs of battered women and rape survivors. Many accept the predominant view that the woman must have done something to provoke the incident or deserve the beating. Prosecutors frequently discourage women from pressing charges because they believe that women will not follow through with the entire legal process. Judges rarely convict rapists, or batterers or they hand down light sentences that do not reflect the seriousness of the crime. Judges almost never award civil damages to rape survivors. While a woman is entitled to a court-ordered abortion in the case where the pregnancy is the result of a rape, judges are slow in responding and rarely approve the order in time for the woman to undergo pregnancy termination.

Certainly, there are police officers, lawyers and judges willing to improve the way the legal system handles violent crimes against women. Recent legislation drafted by attorneys has attempted to address issues of legal definitions and sentencing. Few opportunities exist, however, for training and educating professionals regarding rape and domestic violence that would allow them to improve their services for women.

As with the legal system, professionals in the medical system have few opportunities to receive training in the health-related needs of rape survivors and battered women. What contact women do have with medical professionals is often degrading and is intended to service the needs of the legal process rather than the needs of the individual. The rape survivor's contact with the *medico legista* is an example of professional indifference to the woman's needs. The *medico legista* is a physician trained in forensic medicine whose responsibility is to perform a physical examination to determine whether a woman has been legally raped. A *medico legista* is assigned to each delegation in Mexico City and each state capitol in Mexico. In order to press charges, a woman must present a

sworn statement from the *medico legista* and must have physical proof of the rape.

The expressed purpose of the physical examination is to discredit a woman's account of the attack. The *medico legista* is instructed to consider that the woman has not been raped and to look for inconsistency in her story or evidence that contradicts her allegations. For example, if the woman exhibits no bruises or cuts, the *medico legista* may consider that as evidence that she was not raped because she did not obviously struggle and could not have been physically coerced. The *medico legista* usually receives no training in the treatment of rape survivors. The physical examination is often degrading, where the *medico legista* is concerned not with the woman's psychological or physical wellbeing, but only with establishing the presence of cuts, bruises, semen, and so forth.

Facilities available in delegation or state capitol buildings are not equipped to handle a medical emergency resulting from a beating or rape. Women seeking emergency health care from a hospital or private physician find there is no referral network and little coordination of services among health care professionals in the treatment of raped and battered women. A physical examination in a hospital or by a private physician may not be substituted for the examination by the *medico legista*, and is not accepted in a court of law. Health professionals receive virtually no training in handling these sensitive cases.

A final obstacle is the limited availability of services for women throughout Mexico. The rape crisis and battered women's services that now exist unfortunately cannot begin to meet the demand. Furthermore, the majority of these services are concentrated in the capital, leaving women in rural areas and secondary cities virtually without recourse or representation.

Strategies for Overcoming Obstacles

These obstacles are formidable, but several strategies exist to overcome them in an effort to curb gender-related violence. First is the importance of research and information gathering on issues regarding rape and battering. Dissemination of such

information will combat the invisibility of the problem and will challenge prevailing stereotypes.

A second strategy is the development of in-service training programs for professionals who come in contact with women in violent situations, or who are in a position to influence public perceptions. Target populations for training should include medical and paramedical personnel, attorneys, judges, police officers, teachers, social workers, psychologists, and journalists.

Public education that confronts harmful stereotypes and behaviors is an important preventive strategy. Public education programs make the community-at-large more aware of the problem and influence public opinion to support services and legislation for rape and domestic violence issues.

Legislative reform is a key strategy toward protecting the rights of rape survivors and battered women. Changes in legal codes may include recognition of various forms of sexual assault, reclassification of rape as a crime of violence rather than a crime of passion, stiffer penalties for convicted rapists and batterers, enforceable restraining orders for battered women, and the creation of victims' assistance programs.

Until these strategies succeed in favorably altering the political and social climate, services will always be needed for those directly or indirectly involved in a violent relationship. Medical, legal, and psychological counseling services should be integrated, so that battered women and rape survivors and their families do not have to expend time, money, and energy going from one service to another. If integrated services are not available, a comprehensive, up-to-date referral network may smooth the way for those in crisis. Finally, programs are needed not only for victims of violence, but for those who may perpetuate violence; psychological counseling for rapists, batterers, and children from violent homes is vital to prevent further incidents of abuse.

Recent Initiatives

These strategies have been employed by various organizations working in the antirape and battered women's movement in Mexico. Feminist grassroots organizations and more recently, public sector agencies, have used a combination of

direct services, public education and training, political lobbying, and data generation to increase the visibility of the problem and provide medical, psychosocial, and judicial solutions. Although the movement's growth has not been completely smooth or linear, the activities of the last decade promise increased responsiveness in the next decade.

Private Sector Participation in the 1980s

The early feminist movement in Mexico was the foundation for initiatives that have taken place in the last few years. In the 1970s, Mexican feminists identified rape, battering, sexual harassment, and abortion as the most neglected issues affecting Mexican women. Recognizing its limited resources, the feminist movement chose to focus efforts on antirape activities, a decision that has influenced the direction of the violence against women's movement ever since. The antirape movement has come to dominate the discussion of violence against women, and has been successful in creating organizations, building coalitions, and lobbying for legislative reform.

The decade of the 1980s saw inroads made primarily by private sector initiatives. The burgeoning feminist nongovernmental organization (NGO)* sector was the first to provide services and create a space for public dialogue regarding rape and, to a lesser extent, battering. Feminist organizations developed culture-specific psychotherapeutic models for rape survivors and battered women, and created innovative programs for legal advocacy. They also lobbied public officials to recognize these problems and reform the laws, and sponsored public education and in-service training programs for police officers, attorneys, and medical personnel to improve existing services for women.

The first rape crisis center in the country was founded in Mexico City in 1979. Known as the *Centro de Apoyo para Mujeres Violadas, A.C.*, or CAMVAC, it provided crisis counseling, legal assistance, and medical services for women who had been raped. At that time, CAMVAC chose not to engage in public education activities and, for security reasons, did not publicize its location. Instead, women contacted CAMVAC by phone, and two CAMVAC workers would go out to

*For the purpose of this paper, NGOs refer to private, community based organizations.

meet her in a public place such as a restaurant or park. This first meeting, often so crucial to resolving a crisis, was sometimes inhibited by the public setting. Nevertheless, many rape survivors were grateful for the existence of this organization which helped them in many ways.

As a pioneering organization, CAMVAC played an important role in the early movement. Many CAMVAC workers went on to form other rape crisis and battered women's organizations. Its commitment to feminist ideology was its strength and, in later years, contributed to its disintegration. CAMVAC was often suspicious of other antirape groups, particularly from the public sector, and sometimes refused to work with them. In the last few years, CAMVAC has been struggling to maintain itself with a diminishing staff, caseload, and funding.

Filling the leadership void left by CAMVAC's disintegration, the *Colectivo de Lucha contra la Violencia hacia las Mujeres, A.C.*, or COVAC, also provides rape crisis services, but with an emphasis on preventive public education and training activities as well as psychological, medical, and legal counseling for rape survivors. Founded in 1984 in Mexico City by former CAMVAC workers, COVAC has grown steadily in terms of funding, staff, and services provided. COVAC's organizational longevity is partly attributable to its willingness to work with agencies from both the public and private sector. COVAC has played an instrumental role in forming coalitions of women and violence groups nationwide to lobby legislators and publicize the issues, and a COVAC attorney worked closely with the Attorney General's office drafting Mexico's antirape legislation discussed below. While some critics charge that COVAC is being coopted by these activities, the staff remains committed to its feminist orientation. They seek to empower women by preventing violence through community education and in-service training, and by providing treatment for rape survivors that acknowledges the trauma of rape, while helping develop the emotional tools to overcome the crisis.

COVAC's concern with preventive strategies to end violence against women is mirrored in the innovative legal training program developed by the *Servicio, Desarrollo y Paz, A.C.* (SEDEPAC) women's program in 1987. The program's goal is

to train women as *defensoras comunitarias* in their legal rights as women, wives, and mothers. The women entering the training program must be members of some other community-based organization working for social change. The legal training has the express purpose of enabling the *defensoras* to return to their organizations prepared to help them become more responsive to the needs of their women constituents. The *defensoras* would also be available to counsel women in the community regarding legal issues that affect them, such as how to obtain a divorce, how to get child support from a delinquent father, or how to file charges against a wife beater. SEDEPAC wrote and illustrated several handbooks on women's legal rights that presented the topics in a way that was understandable to women with less than primary school education. To date, SEDEPAC has trained over 50 *defensoras* as a way of providing accessible legal information for women.

Until the late 1980s, virtually all direct services were targeted for rape survivors, with little assistance available for domestic violence victims who had nowhere else to turn but the rape crisis hotlines. However, the increasing need for services for battered women has brought about changes in several organizations. For instance, although COVAC staff wanted to specialize in rape issues, they found in recent years that 50 percent of their caseload were battered women, causing them to modify their activities. Similarly, up to 20 percent of CAMVAC's crisis calls were from battered women, but due to limited resources, the organization was unable to meet their specific needs. In response, two CAMVAC workers left that organization in 1987 to form Mexico's first battered women's group, called the *Centro de Investigacion y Lucha contra la Violencia Domestica, A.C.*, or CECOVID.

CECOVID began organizing women in lower-middle class and marginalized neighborhoods in Ciudad Nezahualcoyotl. Recognizing the controversial nature of their efforts, CECOVID attracted women by offering adult literacy and youth tutoring classes. During the sessions, CECOVID workers would approach the subject of spouse abuse, and soon community women began a "self-help" support group on this issue. CECOVID sponsored community fairs to raise money and generate support for activities that included a hotline,

psychotherapy for battered women and their children, public education, legal advocacy and referral networking. CECOVID established a relationship with the community health clinic, providing in-service training for clinic personnel and conducting research on the prevalence of domestic violence among the clinic's population.

CECOVID's staff was interested in the idea of opening Mexico's first battered women's shelter, based on the U.S. concept of a safehouse, with an undisclosed location that would provide room, board, counseling and advocacy services for several weeks or months to battered women and their children in crisis. After an extensive feasibility study that included site visits to several battered women's shelters in the U.S., CECOVID staff decided that the "shelter model" was not the most appropriate for their clients. CECOVID found that Mexican women tend not to need long-term housing with staff supervision and protection. Instead, they and their children usually need safe lodging for up to three nights while they make travel arrangements to stay with family members. CECOVID has raised funds to purchase an apartment for short-term lodging, but the 1985 earthquake has made Mexico City's housing shortage even more acute.

One drawback to the women and violence movement has been the concentration of services and activities in the capital. Women in provincial cities and rural areas generally do not have access to services, and Mexico City's women's organizations, rape crisis groups and battered women's services have noted that they receive clients from distant states. Some services do exist outside Mexico City, however, most notably the *Centro de Apoyo a la Mujer* (CAM) founded in 1986 in Colima, a provincial capital of 750,000 inhabitants located about 50 miles inland from the Pacific port city of Manzanillo in the state of Colima.

In 1982, Colima elected a progressive woman governor who supported the efforts of CAM's precursor, the *Colectivo Feminista Coatlicue*, as a women's information and referral center. The governor incorporated CAM by state decree, thereby assuring the fledgling organization its salary support, office space, and some protection from antagonistic detractors. In response to the community's needs, CAM's staff of

physicians, attorneys, social workers, and psychologists began focusing their efforts on providing integrated legal, medical and psychological counseling services for rape and incest survivors. CAM's reputation spread throughout the state, and increasing numbers of women from Colima's other cities and rural areas sought assistance in diverse areas such as domestic violence, prostitution, divorce, and child support.

Colima's succeeding governor in 1988 was not supportive of CAM's efforts, and he threatened to rescind the decree that established the organization. At that time, CAM estimated that two to three percent of the state's female population had contacted them at some time. CAM mobilized this community support, and the women of Colima forced the governor to maintain the decree and increase salaries of CAM workers.

To date, CAM is the most successful of the provincial organizations, and several aspects of its experience have been replicated in other groups working outside Mexico City. The *Colectivo Feminista de Xalapa*, in the state of Veracruz on the Gulf of Mexico, also began as a women's center and due to public demand, eventually concentrated most of its efforts on women and violence issues. It is primarily a referral center for medical, legal, and psychological services, and its staff sponsors public education seminars on feminist issues related to gender violence.

In the border region, the *Centro de Orientacion y Apoyo contra la Violencia* (CECOV) in Nogales, Sonora, addresses violence against women and children that affects the predominantly female workforce of the *maquiladora* industry. CECOV reports that many workers are single mothers, and that rape, battering, prostitution, sexual harassment on the job site, and child neglect and abuse are common problems in Nogales. As with many provincial organizations, CECOV is "the only game in town" and has been forced to deal with these myriad problems due to lack of availability of other services.

For many years the provincial organizations, as well as those in the capital, lacked a sophisticated network that would allow an exchange of information, ideas, and lobbying efforts. In 1987, a coalition of some 25 feminist, trade union, opposition party, and women and violence groups formed the *Red Nacional contra la Violencia hacia la Mujer*, headquartered in

Mexico City. The *Red Nacional* was primarily an antirape coalition that organized public demonstrations, lobbied public officials, and participated in drafting reform legislation. One of the *Red Nacional's* first successes was getting the maximum sentence for rape raised from five to eight years, thereby requiring judges to set bail for accused rapists.

The *Red Nacional's* activities culminated in 1988 with its sponsorship of the first National Forum on Sex Crimes held before the House of Deputies in the capital. More than 100 Mexican organizations participated, presenting 88 papers and testimonials over a four-day period that highlighted the nation's concern over what until then had been essentially invisible problems: domestic violence; rape; incest; child abuse; sexual abuse as human rights abuse; and sexual harassment. Public officials were forced to recognize the pervasiveness of the problem and the inability of the system to either make or enforce laws to protect women. The *Red Nacional* succeeded in placing gender-related violence on the national agenda, thereby forcing public officials to confront these issues.

Meanwhile, many women's groups and community-based organizations throughout Mexico had expressed an interest in developing rape crisis centers and battered women's projects, and requested training seminars from organizations such as COVAC and CECOVID. However, most grassroots organizations do not have the funds to expand training and services. Private sector initiatives are invariably fueled by a deep moral and political commitment, and most staff volunteer their time while maintaining second jobs. This so-called "triple day," combined with low pay and work stress, often leads to professional "burn out," a problem that organizations tend to confront only after it has contributed to an organizational crisis. Such crises are often exacerbated by an unarticulated operational structure and a lack of management tools. Many feminist organizations, who admirably wish to do away with oppressive patriarchal constructs such as hierarchical, non-participatory decision making, fail to develop coping mechanisms when conflicts arise regarding hiring, firing, grievances, or program development.

Recognizing the potentially damaging combination of scarce funding, staff burn out, and dysfunctional management

styles, several SEDEPAC workers left that organization in 1989 to found the *Centro de Investigacion y Capacitacion de Mujeres*, A.C. (CICAM) to provide much needed technical assistance in program development, fundraising, and personnel management. This type of technical assistance is critical to the women and violence movement as it shifts from a nascent period of defining parameters and strategies, to a maturing stage that focuses on achieving long-term change in social perceptions and judicial reform.

Academic institutions have played a somewhat limited role in the movement to date. Activism generally centers on campus rape or the mandatory year-long volunteer service professionals must complete before receiving their undergraduate degrees. Several NGOs have mentored students writing undergraduate theses on women and violence, and there appears to be an increased receptivity in universities toward using these as research topics. There are individual courses taught on campuses in law, psychology, or women's studies departments, and women's studies libraries have a bibliographic section on women and violence. Yet there are no academic or research institutions actively dedicated to investigating these complex issues or compiling comprehensive data banks.

Mexico in the 1980s has seen a raising of the public's awareness regarding rape and spouse abuse, and a welcomed increase in the number of organizations working on women and violence issues. Unfortunately, the growth of the movement has led to competition among private sector agencies for scarce funding, leadership participation, and public recognition. The private sector is dynamic and innovative, but with most agencies averaging a caseload of five to 20 clients per month, the NGO sector cannot hope to "scale up" its efforts to adequately serve all the women in need. The movement's higher profile, coupled with the importance of scaling up anti-rape and battered women's programs, has led to the inevitable increase in participation by public sector agencies.

Public Sector Participation in the 1990s

Several developments in Mexico's political arena have resulted in an increased interest on the part of government

agencies in gender-related violence. Opposition parties are receiving more public support and more women, both from Mexico's ruling PRI party and opposition parties, are being elected and appointed to local, state, and national office. Encouraged by private sector lobbying and public education activities, public officials are more inclined to support legislative reform and direct services, particularly for rape survivors.

An early public sector endeavor was the *Centro de Orientacion y Apoyo a Personas Violadas* (COAPV), begun in 1987 by the municipal government in Mexico City. With offices located in police headquarters, COAPV provided integrated legal, medical, and psychological counseling services for victims of sexual assault. If a woman could not come in to the police station, COAPV had at its disposal a police van that would transport staff to her home, where she could have a physical exam and police escort should she choose to file charges. In six months, COAPV had attended to over 300 sexual assault cases.

COAPV also provided sensitivity training for law enforcement personnel handling rape and domestic violence cases. Interestingly, COAPV staff found that on attitudinal pre and post-tests, police officers were more likely to show an increase in awareness of women's needs and had higher average post-test scores than doctors, lawyers, or psychologists who attended similar sensitivity training. COAPV staff hypothesized that this difference was due to the fact that the latter professional groups had received more formal education and therefore did not perceive that they needed any further instruction, particularly from those outside their profession.

Because of its close association with the police force, COAPV achieved program innovations that were unavailable to private sector agencies. COAPV was able to conduct periodic follow-up sensitivity training sessions and pre and post-test attitudinal evaluations for police officers. COAPV and the police shared information regarding rapists' crimes, pinpointing neighborhoods in the city where a certain rapist was likely to strike, and conducting public awareness forums for women in that neighborhood.

But COAPV's relationship with the police had its disadvantages as well. Situating itself in police headquarters may have

assured COAPV a level of protection and access to information, but the reputation of the police for brutality and sexism tainted COAPV's activities and jeopardized its acceptance by more experienced private sector groups. Although COAPV's director, a well-known feminist lawyer, solicited support from Mexico's antirape and feminist community, most chose not to endorse COAPV because of its association with the police force. With no private sector support, and no other similar public sector institutions functioning at that time, COAPV was weakened institutionally. Moreover, financial support apportioned by the city was inadequate to meet the growing demand for services. Despite its innovations in integrated services, data collection and information retrieval, COAPV closed within eighteen months of first providing services to rape survivors.

In 1988, in COAPV's tenure, the newly-elected Assistant District Attorney for the Federal District of Mexico City appointed Dr. Maria de la Luz Lima de Rodriguez to head the Commission on Violence. Lima, who has dedicated her professional life to the study and representation of women in the penal justice system, was given *carte blanche* to decide in what ways she would define the problems of violence against women, and the strategies she would employ to address these problems.

Lima's first strategy was to introduce the concept of "specialized agencies" into several ministerios publicos, Mexico City's municipal subheadquarters. The specialized agencies provided sexual assault victims with integrated legal, medical, and psychological care in a dignified and confidential atmosphere. An architect and a psychologist were consulted during the design phase to ensure a comfortable, hospitable environment for rape crisis services. The specialized agencies located in private, airy, well-lit offices, are separate from the rest of the ministerio publico.

The specialized agencies employ female personnel to handle rape cases on a 24-hour basis. A woman who wishes to file sexual assault charges is seen first by a social worker, who screens her case to determine what short and medium-term services she will need. If the woman is not in immediate danger, she is then seen by a psychologist who provides crisis

counseling for the woman and any friends or family who may accompany her. When she is ready, the woman speaks with the prosecutor, who will order the physical exam by the *medico legista* if the woman files charges. The specialized agencies employ female forensic physicians who receive training in rape crisis issues. If the woman requires longer-term psychotherapy, she is referred to a counseling center run by the Attorney General's office and staffed by trained female psychologists, where she may receive free counseling services for up to six months.

A rape crisis counselor accompanies the woman throughout all legal and medical proceedings, including the forensic exam, the *careo* (formal accusation by the woman, where she must face her rapist in the courtroom), and the trial. Counselors will also coach women in strategies for testifying, preparing them for grueling cross-examinations by unsympathetic defense attorneys.

Five specialized agencies have opened since 1989, and each processes up to 40 cases a day. Lima acknowledges that they serve only a small proportion of the women in need of services, but feels that the program would be doomed to failure if it tried to attend to the needs of all cases of violence against women. For example, the specialized agencies do not handle spouse abuse cases because these situations tend to occupy many institutional resources and are difficult to resolve through the legal system.

In the future, Lima would like to extend services to battered women and to replicate the specialized agency model in each of Mexico's 31 state capitals, but she realizes that she needs more political and public support and, above all, more financial resources. A major step toward this goal was the passage, in July 1990, of legislation that reformed laws regarding rape and battering.

The legislation addressed changes in legal terminology and definitions. *Delitos sexuales* ("sex crimes") would be called *delitos contra la libertad* ("crimes against a person's liberty") and would include sexual harassment. Rape and sexual assault were broadened to include anal, oral or vaginal penetration by a part of a man's body or by an object.

The legislation sought stiffer penalties for rapists and more just treatment of rape survivors. Sentences were increased to eight to 14 years for rape, and 50 years to life imprisonment for aggravated rape. A man who raped a female minor could no longer avoid prosecution by offering to marry her. In the case of pregnancy resulting from a rape, a judge was required to hand down a ruling on court-ordered abortion within five working days of filing the request.

The reform legislation is interesting both for the clauses that were omitted from the original draft, and for those that were approved. The *diputados* chose to exclude articles that guaranteed more far-reaching services for rape survivors. First was the creation, from government revenues, of a victims' compensation fund that would have paid for treatment of injuries. "Injuries" was broadly defined to include those sustained during the attack and any long-term physical or psychological consequences. Funds were also denied for government-sponsored vocational training, welfare support and housing for rape survivors. Since these services are available for the wives of men in prison, the rationale was that it was unfair that a rapist's family would enjoy benefits denied to the rapist's victim. A clause regarding sentencing of batterers was also dropped. This clause stated that any man convicted of beating his wife would have his sentence proportionally increased because of his relationship with the victim.

Soon after the passage of the reform legislation, two more public sector agencies opened in Mexico City in the fall of 1990. The *Centro de Apoyo a Violencia Intrafamiliar* (CAVI), and *Atencion a Victimas de Violencia Intrafamiliar y Sexual* (AVISE) provide legal and psychological counseling services in domestic violence cases and sexual assault cases, respectively. Although it handles any form of intrafamilial violence, CAVI's caseload is 95 percent battered women. CAVI provides individual and family therapy, but has found that group therapy for battered women does not seem to function well. Significantly, CAVI provides group therapy for batterers, probably Mexico's first treatment program for violent men. CAVI's existence is notable because it is the public sector's first recognition of its responsibility to address the problem of battering.

Lessons Learned and Future Directions

This review of private and public sector initiatives, by no means exhaustive, is nevertheless illustrative of the strengths and weaknesses of Mexico's violence against women's movement. There are several lessons to be learned from these experiences, and directions the movement may want to pursue to solidify its advances.

First, it is important to acknowledge the symbiotic relationship between the public and private sectors. Organizations from both sides need each other if the movement is to succeed, yet conflicts and competition have often hindered productive relationships among nongovernmental organizations (NGOs) and government agencies. The NGO sector, principally feminist organizations, provides the stimulus, the lobbying, the creativity in treatment models and research methodologies, as well as a safe haven for women who do not wish to go public with their violent experiences. Government participation would allow the movement to scale up, providing integrated services to many more women, as well as a large statistical database, higher visibility, and nation-wide networking. In the Mexican experience, organizations that did not elicit support from the other sector often failed. Similarly, the most successful organizations have been those that worked with representatives of the other sector in the exchange of ideas, drafting legislation, or lobbying efforts.

Second, NGO and public sector agencies need to involve other sectors such as academic, health, women in development, and human rights institutions, in the movement's activities. Academic institutions could take a leading role in generating and disseminating much needed research. Participation by the health sector has been minimal, although there has been discussion within the Mexican Social Security Institute (IMSS) of developing a training module for medical personnel on risk assessment and treatment of rape survivors and battered women. International organizations are just beginning to place gender-related violence on their agendas, and most Mexican-based women in development programs have not made the connection between these issues. Human rights organizations acknowledge the severity of violence against women, but due to limited resources are able to focus their

efforts only on those cases where sexual assault is used as a form of torture by state representatives. Multisectoral participation will broaden public support and build more powerful coalitions.

Third, the movement needs to increase its attention on other forms of violence against women, particularly battering. To date, the issue of rape has received more publicity and consequently the antirape movement has made more significant advances. The Mexican movement runs the risk of having "violence against women" equated in the public's mind with "rape," thereby allowing other, perhaps more difficult issues of gender violence to remain invisible. Toward this goal, services for battered women have increased just within the last year, and antirape groups are beginning to acknowledge the related issues of rape and battering, while recognizing that their treatment and prevention strategies are not identical.

Fourth, recent advances, especially in the public sector, may be nullified if the movement does not overcome sexenio politics. The CAM experience highlights the fact that public agencies need grassroots organizations to assure continuity when the administration changes, with the resignations of civil service employees that will accompany it, in 1994.

Fifth, there is a desperate need to expand services throughout the provinces and in rural areas. Rape and battering are not simply urban problems, and there is little information regarding the plight of rural women. While it is logical that in the megaloccephalic urban structure of developing countries services would be concentrated in the capital, the time has come to expand the movement nationwide. This expansion would require developing networks for training, information gathering, and strategizing, as well as financial support.

This leads to the sixth point, which is the need for increased funding if the violence against women's movement is to bring about permanent social change. Increasingly, international donor agencies have expressed an interest in supporting NGOs, while multilateral agencies may be tapped to encourage public sector endeavors. Few advances can be made in the public arena, however, without the continued commitment of government revenues and resources to the issues of rape and domestic violence.

Finally, Mexican activists will want to continue their efforts to internationalize the movement by attending conferences and networking with staff from rape crisis and battered women's organizations in other countries. Efforts to create a Latin American coalition have so far been somewhat stagnated, although many groups are in contact with each other. Mexico, and every individual country, must find its culture-specific methods of psychotherapeutic treatment, political organizing, legal reform, and education and public relations strategies, but there are experiences to be shared among all national movements from developing and industrialized nations.

A New Approach to Law Enforcement: The Special Women's Police Stations in Brazil

Luiza Nagib Eluf

Introduction

Violence against women resulting from a male need to dominate and subjugate them is being challenged by women everywhere. Today's women are no longer willing to tolerate the abuses to which they have been subjected. Rather, they have set out to attain equality and justice, full recognition of their intellectual abilities, respect and equal pay for their work, free exercise of their sexuality, and the social protection and support that should be available to all mothers. As part of the world-wide women's movement organizing to bring about the social transformation needed to achieve these goals, Brazilian women are also seeking mechanisms to make it possible for women to advance.

The Brazilian Women's Movement

Work on combatting violence against women initially developed in the state of Sao Paulo; from there it spread to the rest of the country. Beginning with the democratic transition in 1985, after 21 years of military dictatorship, the women's movement started gaining strength nationwide. As early as 1982, with the political ferment associated with direct elections for state governments, activists of the women's

movement began to organize and put forth their demands. Several political candidates supported proposals of the women's movement and as a result, the State Council on the Status of Women was established on April 4, 1983. It was instituted by Decree 20,892/83 for the purpose of:

- proposing measures and activities aimed at defending women's rights, eliminating discrimination against women, and ensuring their full insertion in socioeconomic, political, and cultural affairs;
- undertaking studies and research projects and generating debate on the status of women;
- incorporating concerns and suggestions emerging from society at large, and giving its opinion on denunciations channeled to it; and
- supporting activities and projects undertaken by government agencies and nongovernmental organizations and entering into agreements with related institutions and organizations.

With the establishment of the State Council on the Status of Women, women's grievances could be put forth more forcefully. As the workload expanded, the Council received an office of its own with a significant number of women on the staff, both as council members and office personnel. During its initial phase of research and needs assessment, the Council defined priorities with greater specificity, and the government committed itself to a serious effort to address the status of women. Later, in response to the demands of the state councils throughout Brazil, and the women's movements in general, the National Council for Women's Rights (NCWR) was established August 29, 1985. The NCWR was similar to the state councils, but operated at the federal level with links to the Ministry of Justice.

The NCWR's inauguration marked the beginning of the first national public network formed to address the status of women in Brazil. The objective was to integrate the work that was being done by women activists nationwide; yet because of its place within the government civil service structure, the difficulties it experienced were immense: political fluctuations directly affected the functioning of the councils; availability of funds was erratic; council members had no assurance

they would remain in their posts; and the staff, as always, was insufficient. Yet despite these difficulties, the women's councils became an effective channel for seeking redress of grievances, an excellent forum for debate, and a viable instrument for participation of women in national politics.

Women's Defense Councils

In Brazil, with its pervasive economic difficulties, it is unusual for nongovernmental organizations to be formed to work for public interest causes. Women's clubs and other organizations sustained by private funding which are common in the First World seldom exist in countries where available resources are very limited. Thus, the vast majority of financing for work on women's initiatives depends on the government. One such situation where government funding was provided resulted in the creation of Women's Defense Councils. As hybrid entities, they consist of representatives from both public and private sectors, the scientific and academic communities, trade unions, and the business community. Their decisions are made democratically by the governing body and are binding on the government. These unique characteristics make them an excellent forum for debate on pressing issues related to women's status. While there are other influential and important women's organizations in the country, the Women's Defense Councils represent the "Brazilian model" for taking action on pressing social issues, among them the question of women's oppression.

The decisive role of the Sao Paulo section of the Brazilian Bar Association must also be acknowledged. The Association has offered invaluable support to women and their claims arising from unfair or unequal treatment. The determined commitment of women lawyers spawned a women's division within the Bar Association in March 1988 exclusively dedicated to issues relating to women lawyers, their profession, and their struggles.

Taking Action on Violence Against Women

The work of the State Council on the Status of Women and other entities representative of the women's movement focused on one key issue: the widespread practice of violence,

physical, sexual, and psychological, against women. While there was some public awareness of crimes against women the problem was highlighted when the women's movement took on the issue. Women had been burned, beaten, raped, mutilated, and murdered on a scale much greater than one could imagine. And the attackers circulated freely, with no punishment in most cases, even though their acts were defined as crimes carrying stiff penalties.

Murder committed in the name of love is considered a crime of passion. Such crimes generally involve feelings of possession, jealousy and frustration. They typically occur when a man feels rejected or betrayed by his wife or girlfriend and thus attempts to kill her. Until the 1980s, this justification for absolving defendants accused of murdering women was widely used by defense attorneys and generally accepted by juries. Even though the Brazilian Criminal Code makes no exception for crimes of passion, some defense attorneys used the unusual concept of "legitimate defense of honor," to justify killing a wife or companion considered unfaithful (even when the crime took place after the couple had separated!). Furthermore, trials for beating, rape, exploitation, and other practices commonly directed against women rarely ended up with guilty verdicts.¹ Nevertheless, it is important to note that not guilty verdicts in such cases have been a result of distortions of the law made in judgements rendered in jury trials.²

In the case of disputes between spouses resulting in assault on the wife, the attitude of the judicial system was one of extreme indifference. If the couple continued to cohabit, no criminal proceeding would get anywhere. If the evidence was strong, it was alleged that finding the husband guilty would be inadvisable, considering the prevailing interest of the state in preserving the family. In many cases, the wives agreed with this point of view.

Analyzing the social situation of women and their response to the application of justice helped to focus on the circumstances in which that specific violence was occurring. It was evident that the attacks, in all their forms, resulted from the sense of possession and property that men feel for women once they enter into a relationship. The man's "rights" over his female companion or spouse "authorize" any type of aggression, and in certain cases

even death, even though the law states precisely the opposite. Judicial rulings that validated "custom" promoted prejudice and discrimination. Thus, while the legal system set out theoretically to treat all individuals as equal before the law, in practice there was a desperate struggle to maintain an indefensible system of fundamentally unequal relations.

From police treatment of the victims—who ended up feeling guilty for the crimes committed against them—to the highly discriminatory basis for "not guilty" verdicts, the entire process brought to light the reality that women, always the victims of discrimination, subject to the abuses of fathers, brothers, and husbands, were also dealt with by those who meted out justice as if they were second-class citizens.

This approach to the issue began to change only when women organized and publicly demonstrated their indignation. No longer considering their oppression as a "natural" occurrence brought about a major advance in the social (and consequently judicial) conception of the place of women. With the support of the National Council on Women's Rights, an in-depth study was carried out by Danielle Ardaillon and Guita Grin Debert (1987) on the specific issue of how women were dealt with by the police and in trials. This study made clear the need to "reveal the moments at which the equality of men and women breaks down within the police and legal apparatus."

The problem of violence calls for urgent measures. Although there is a need to change social attitudes and behaviors so that relations between men and women might be rid of the aberrations that lead to violence that goal will only be accomplished over time. As a more immediate concern, women's attention focused on analyzing the means of combatting the violence.

The police were seen as the most immediate solution since their role is to fight crime. The existing police structure should provide effective assistance in crimes against women. This was not the case and the reasons seemed clear. First, the police who responded to complaints were always men. It is understandable that they would seek to defend the social structure which gave men exorbitant rights over women and justified men's aggressive attitude. In the vast majority of cases, the trend was to try to put the woman "in her place."

Second, women themselves were reluctant to seek a police officer of the opposite sex to demand assistance in cases in which their rights, even in their own minds, were considered "dubious." They asked themselves such questions as: "Can I request that an aggressor be punished if he is my husband?" "What will another man think of this?" Many women, apparently discouraged by such reasoning, failed to turn to the police.

Third, it is difficult for a woman who is the victim of sexual violence to give a report of what happened to a man; she may find it extremely embarrassing and humiliating. This is yet another reason why often crimes related to sexual violence are not reported to the police. Violence against women is met with impunity.

State Response: The Women's Police Stations

Given the need to improve the efficacy of police intervention in cases of crimes against women, several representative sectors of society joined the debate, led primarily by the Sao Paulo State Council on the Status of Women, and supported by other organizations such as the Brazilian Bar Association-Sao Paulo Section, Downtown Women's Home (*Casa da Mulher do Centro*), Black Women's Collective, Brazilian Women's Center, SOS Mulher, Center for Legal Orientation and Direction for Women (COJE), and the Sao Paulo Women's Union. When the issue was brought before the Secretary for Public Safety, Michel Temer, it was concluded that a specific police jurisdiction for protecting women's rights should be established. The professionals who worked in this jurisdiction would have to be women, eliminating the reluctance to present complaints, and facilitating the access of female victims to competent police authorities. It was important to make clear that the violence commonly practiced against women was not merely a question of domestic disputes, but more importantly, a question of public safety.

On August 6, 1985, a pilot project was implemented with the establishment of the first Police Station for the Defense of Women, in downtown Sao Paulo. From the outset, the station had two full-time police officers, eight investigators, three clerks, and two jail-keepers; all of them women. The decree

issued by the state governor establishing the specialized police jurisdiction was decree no. 23,769, dated August 6, 1985. Article 2 of this decree stipulates as follows:

The Police Jurisdiction for the Defense of Women shall investigate and determine the findings in crimes against females set forth in the Special Part, Title I, Chapters II and VI, Section I, and Title VI of the Brazilian Criminal Code, where the perpetrator is known, uncertain, or unknown, which occur in the Municipality of the Capital [Sao Paulo], concurrently with the Police Districts.

In the terms of Brazilian legislation, the crimes mentioned in the decree include rape, violent indecent assault, sexual possession through fraud, seduction, enticement, abduction, consensual abduction, assault and battery, illegal duress, threat, kidnapping and false imprisonment, and reduction to slavery.

The first women's police station was so successful that within a short time requests poured in for new women's police stations in other parts of the city of Sao Paulo and in the interior of the state. The success was due to the fact that the performance of the professionals in charge of attending to the victims outstripped expectations and women, now encouraged to turn to the police, formed long lines at the doors of these new police stations.

There were some chilling cases never before presented. The press gave ample coverage to such investigations, with television reports showing in detail the violence women suffered. Most of the TV networks showed serious interest in the subject, examining the day-to-day work of the women's police stations. In one way or another the entire population, even children, became very well informed about police activities geared specifically to women.

The increase in the number of women who gained the courage to come forth to report violent acts against them revealed just how alarming the situation was.³ There are now 41 women's police stations in Sao Paulo. Conclusions drawn from this experience are outlined in the section "Lessons from the Women's Police Stations."

Overview of Activities of Police Stations

The women's police stations typically take the following steps when dealing with a case: 1) attend to the victims;

2) write an official complaint report (*Boletim de Ocorrência*) which initiates investigation of the crime; 3) fill out a police inquiry, which records all of the evidence pertaining to the crime and includes the names of eyewitnesses, accounts of the victim and the assailant, and other relevant information; and 4) channel the complaint report and police inquiry to the Office of the Attorney General (*Ministerio Publico*), where the final decision is made on whether or not a criminal action is filed.

Women in all social classes are victims of violence. But it is poor women who generally turn to the women's police stations. When a middle or upper class woman seeks police assistance because of violence inflicted on her, she has usually already separated from her spouse; an incident report or police inquiry could have a decisive impact on alimony, division of property, or custody of children. In the vast majority of cases, the women who turn to the special women's police stations are semiliterate, range from 25 to 45 years of age, have several children, believe they are financially dependent on their spouse or partner even if they work outside the home, and have been abused for a long time.⁴ In general, the partner is alcoholic, and when he works he spends his earnings on liquor. If the woman objects, he beats her. If she says nothing, he also beats her. She is the scapegoat for all of his frustrations. He believes that he has every right to dominate her, and constantly abuses her. In some localities, Monday is the most active day at the women's police station. Some officers have reported, "it's like a hospital emergency room: fractures of all sorts, bruised eyes, all types of injuries" (Preston, 1990, p. 13).

A large share of the grievances brought to stations are not strictly police matters. In countries such as Brazil where services for the general public are so precarious, the police are commonly sought to solve all sorts of problems. In 1986 when the first women's police station was established in Rio de Janeiro, there was an average of 50 cases per day, of which only five were truly police matters (Preston, 1990, p. 13). Women came to seek employment, schooling for their children, psychological counseling, and medical care. By 1990 this situation was changing; approximately 20 women came to the same station each day, and of these, only two were not

involved in police matters. In any event, the stations are prepared to channel all of the concerns brought before them, with the help of a social worker on the staff.

To more effectively address the social problems victimizing women, the women's police stations are presently seeking to establish a network that would guarantee comprehensive services. The first step in this direction was the establishment in Sao Paulo of a shelter for women facing particularly serious threats, but with nowhere to go. This shelter was established in 1989 and won official recognition in 1990. Its address is kept secret to guarantee the safety of the women staying there. Today, however, it is facing serious financial problems.

The women's police stations also have a social assistance service, but this service alone has not been sufficient to address the range of grievances and problems reported by women victims of violence. In response, the State Council on Women's Status raised this issue with the Governor of the state of Sao Paulo and requested that the services offered by the women's police stations be expanded. On February 7, 1991, the governor signed Decree No. 32,959, instituting a state Program for Comprehensive Care for Women Victims of Violence. This Program seeks to establish of a more complete social service, including legal services, medical care and psychological counseling. These would be part of the operations of the women's police stations and would involve activities of the various state secretariats and the respective areas that they cover.

The objective of the State Council on Women's Status is not only to prevent future violence against women, but also to ensure that the victims of violence find a new place for themselves in society. It appears that police intervention alone is not enough to minimize the suffering of women victims of violence. Thus far, the women's police stations have been unable to offer preventive services; but this type of service is foreseeable in the future.

To date, these projects have received no financial support from other sectors of the community, or from the business community. Rather, they have depended exclusively on the government. In the interior of the state of Sao Paulo, the women's police stations are normally established at the request of the municipal governments, which also contribute in one way or

another—from providing a locale to transferring personnel. Support is forthcoming since the women's police stations also yield considerable political dividends, which are evident in recent years' elections. This support corroborates the position held by the women who sit on the State Council on the Status of Women that establishment of the specialized women's police stations is a popular demand and meets a real need.

Lessons from the Women's Police Stations

Statistics from the police stations reveal violence on a scale even more frightening than was previously imagined. In many cases, violence had become a part of women's day-to-day experience. They turned to the police to safeguard their physical integrity, or even their very survival. The first women's police station, which can be used as a baseline example since it is the longest standing and attends to the largest number of women (70,000 in 1989), had the following figures for 1989:

Types of Crimes Reported at the Women's Police Stations		
Type	Percent of Police Investigation	
Crimes against individuals:	91.89%	
Crimes against customs:	7.66%	
Miscellaneous crimes:	0.30%	
Crimes against the family:	0.15%	
Assault and Battery Incident Reports Registered with the Police		
	Actual	Threatened
City of Sao Paulo	32.0%	37.3%
Outskirts of capital	36.4%	29.8%
Interior of the state	45.8%	18.3%
State average	40.2%	26.0%
Incident Reports of Rape Compared to Other Crimes in 1990		
Sao Paulo/Capital:	2.1%	
Outskirts of capital:	2.2%	
Interior of the state:	1.5%	
State total:	1.8%	

Source: Coordinating Body for Analysis and Planning, State Secretariat for Public Safety, Sao Paulo, November 1990.

The overwhelming majority of crimes reported are crimes against individuals in the form of assault and battery and threats. Crimes of rape have appeared on a small scale, as indicated in the table above. In a way this is surprising. Hypotheses can be suggested about the low incidence of rape in Sao Paulo, though none of them has yet to be confirmed:

1. Rape is less often reported because, in fact, this crime has occurred on a lesser scale.
2. Rape cases are less often reported because the victims are so traumatized that they do not turn to the police to describe the aggressor or the circumstances in which the crime took place.
3. Rape cases are less often reported because the victims' families exert a great deal of pressure to ensure that the crime not be made public.
4. Rape cases are less often reported because women are extremely reluctant to subject themselves to a criminal physical exam at the Legal Medical Institute, where most of the medical examiners are men.

In any event, this situation calls for reflection. Brazilian men appear to be very aggressive and given to beating their wives or partners, venting all of their frustrations on these women. And such frustrations cannot be small scale, given the constant economic crises in which they live. But the data does not support the thesis that abusive Brazilian men are also rapists.

Reflections on the Experience

The establishment of the women's police stations constituted a major advance in the struggle for justice, but clearly did not solve all the problems of violence. As a result of the women's police stations, there has been a decline in crimes commonly committed against women, but there is not yet sufficient research on the subject to determine the extent. Furthermore, it is recognized that more effective measures to combat such crimes are being adopted. Even with the insufficiency of the services provided (the specialized police stations have not yet been established in all parts of the state of Sao Paulo; coverage in other states is more restricted; and those that have been established are not always sufficiently equipped), the mere existence of a service such as this compels reflection on the situation of women.

The issue of violence against women is so broad and complex that it cannot be adequately addressed by merely strengthening law enforcement. The women's police stations themselves have placed importance on providing psychological counseling to those who seek it. In organizing courses for husbands or male partners who have attacked their wives or companions, they emphasize the importance of respecting women's rights, citizenship, and physical integrity.

The more the police work with battered women and their partners, the more it becomes clear that a relationship based on machismo is perhaps the norm. The services of the women's police stations cannot by themselves change this reality, but they can diminish the impact by protecting the victims. Even women facing death threats have a shelter where they can take refuge with their children; such shelters never existed before the women's police stations were established.

In addition, the work of the women's police stations has been monitored closely by the State Council on the Status of Women to ensure that the historic objective of this effort, which is so important for women's emancipation, not be lost. There is no intention of having the activities of the women's police overlap with those of the social workers, as each has a distinct role within the police precinct. But once a woman has opted to turn to a women's police station, it should be possible for law enforcement actions to be taken, even if they are drastic. That should be a responsibility of the women police officers, who have the exact same standing as any other police officer within police ranks.

One issue sometimes raised has to do with the advisability of resorting to violent means to combat the violence that women repudiate. From the female point of view, combatting violence with violence is a typically male way of solving the problem. Even though women seek to end all forms of oppression, they risk reproducing the machista model of problem solving through the women's police stations. Although this argument merits reflection, in reality the need for an effective and immediate means of protecting female victims circumvents the discussion. Only the prompt action of the police can yield positive results in confronting the violence.

Women are working toward the day when the women's police stations will no longer be necessary; i.e., the day of equality, of justice, of solidarity. However, until that moment, women in Brazil cannot do without state protection or the women's police stations. Without this resource, women would continue to be the victims of growing violence. Recognizing the early indications of effectiveness of the special police stations as well as their limitations, and with the partial achievement of objectives, the struggle has not come to an end; rather, it has just begun.

Police Jurisdiction for the Defense of Women

Summary of the Women's Police Stations established and implemented during the Quercia administration, from March 1987 to July 1990

In 1987	2
In 1988	10
In 1989	6
In 1990	9
Total	27

Total of Women's Police Stations implemented as of July 1990

Quercia administration	27
Previous administration	14
Total	41

Location

Capital	7
Greater Sao Paulo	4
Coastal region	2
Interior	28
Total	41

*Source: Secretariat for Public Safety,
Office of the Secretary, Press Office*

**Women's Police Stations Established
During the Quercia Administration**

1987

April 24 Marilia
April 29 Aracatuba

1988

Feb. 2 Araraquara
April 28 Santos
May 27 Jundiai
June 23 Franca
Sept. 5 Campinas
Oct. 14 Avare
Nov. 11 Osasco
Nov. 12 Sao Carlos
Nov. 12 Piracicaba
Nov. 13 Taubate

1989

Sept. 13 Americana
Sept. 15 Garca
Dec. 7 Guarulhos
Dec. 8 Ourinhos
Dec. 21 Fernandopolis
Dec. 27 Itu

1990

March 7 Jau
March 9 Itapeva
March 13 Assis
April 6 Tupa
May 4 Pirituba
June 22 Sao Joao da Boa Vista
July 5 Andradina
July 12 Sao Vicente
July 26 Itaquera (Vila Jacui)

Long Live the Differences, with Equal Rights: A Campaign to End Violence Against Women in Bolivia

Sonia Montaña

General Context:

The Long Road from Dictatorship to Democracy

On September 11, 1990, the campaign “Long Live the Differences, with Equal Rights”¹ (to raise awareness and reform laws relating to sex crimes) was publicly launched. It was organized over the course of one year by the Women’s Platform (La Plataforma de la Mujer) of Bolivia in response to the challenges of an incipient democracy attained after 10 years of military dictatorships and political instability in Bolivia.

In Bolivia, where most of the population is indigenous, women played a leading role in the struggle for human rights, democratic freedoms, and an end to torture. The fall of the military dictatorship was sparked, during the Christmas holidays of 1982, when the hunger strike of four women miners inspired massive acts of civil disobedience, which in turn led to the restoration of constitutional guarantees and democratic processes, all in the midst of Bolivia’s worst economic crisis.

Over the past forty years women have typically chosen the path of direct struggle and action in the form of marches, strikes, and clandestine organizing. In recent decades, pivotal

mobilizations of peasant and mining women² occurred in Bolivia (Arauco, 1984; Mejia, 1984; Viezzer, 1986). Their survival struggles for adequate food supplies, wage increases for their husbands, fair prices for agricultural goods, and the right to assembly and free expression, engendered organizations that became a critical force in taking up the demands of the trade unions and banned political parties. With a generosity characteristic of women's movements elsewhere, Bolivian women put off many of their gender-specific demands and assembled under the mantle of the "popular" movement which they influenced through their unquestionably female forms of organization and democratic participation. After the restoration of democratic institutions, women turned to domestic and family issues, becoming disenchanted with power politics.

When democracy was reestablished in Bolivia, the United Nations Women's Decade (1975-1985) had already taken place, and new gender-focused organizations had made their appearance in the country. In the context of an incipient debate with the Marxist left, class-oriented trade unions and women's organizations allied with the popular movement undertook numerous actions which, while sharing similar objectives, were generally not well-coordinated.

In the context of a highly centralized system that had failed to recognize the cultural rights of indigenous groups in Bolivia, home to an unrecognized diversity of cultures, it was not surprising that voting rights and respect for life unfolded as central issues. The current process among ethnic groups of affirming cultural identities is challenging both constitutional law and an Andeanist, ethnocentric view of society. Vigorous national, cultural, and territorial conflicts highlight the demand for recognition of differences as the principle on which true democracy must be based.

As in other countries of the region, Bolivia has experienced an ever more acute feminization of poverty syndrome. Economic crises, structural adjustment policies, privatization of services, and efforts to curtail coca production through militarization, with support from the United States, are all part of the context in which women wage their struggle for equality.

Strategy of the Women's Platform:

Context and Components

The Women's Platform is the most recent effort by the women's movement to advance the struggle for equality through political action. Its specific proposal is to transform the legal system and bring the nation's laws into line with the Convention to Eliminate All Forms of Discrimination Against Women, to which Bolivia is a signatory. The legal reform strategy is part of the Platform's broader effort to build new social and gender relations.

Formed on March 8, 1989, the Women's Platform brought together activists from nongovernmental organizations, trade unions, professionals, students, and activists from other organizations interested in promoting women's rights. The founding of the Platform marked the beginning of a debate on domestic violence which had long been suppressed. The decision to organize around legal reforms concerning violence rested on political criteria in accord with the goals of the women's movement. Taking on violence as an issue in the public arena would highlight the point that political democracy is not enough. The slogan, "Democracy in the Nation and in the Home" was designed to keep this principle in the forefront. Violence also provided a subject on which consensus could be built in principle, and on which alliances could be forged with many social sectors.

For the Women's Platform, it was necessary to begin the debate by removing obstacles resulting from widespread prejudice and stereotypes. Though there are no official police or court statistics available, it is widely thought that more and more cases of domestic and sexual violence are being reported. According to data provided by the police chief of the city of El Alto, there are more complaints filed about these crimes than any other under his jurisdiction. It is estimated that one of every five, or 20 percent of crimes committed in Cochabamba, are domestic violence cases and usually involve sex crimes (Oficina Juridica Para la Mujer de Cochabamba, 1990). According to Aída Camacho, attorney for the Center for Information and Development of Women (CIDEM), denunciations

of abuse, beatings, and psychological pressure, among others, either precede or include acts of sexual violence involving injuries, statutory rape, and rape.

According to preliminary data from CIDEM, only 15 percent of cases reported to the police end in trials; and only 5 percent of the accused are found guilty. Yet the sentences are usually suspended before they are completed. The list of prisoners given amnesty after a campaign promoted by the wife of the Minister of Interior during the Christmas season of 1990, includes five convicted rapists.

The Bolivian judicial system, plagued by bureaucracy and corruption, appears to embody all prejudices against women. As a result of the serious shortcomings in criminal procedure, most victims of violence do not lodge complaints for such crimes. Thus they avoid having to be seen by unspecialized medical examiners, who often subject them to degrading questions that compel them to relive the brutal attacks.

The communications media has been more open to addressing the issue of domestic violence, although according to a study by Virginia Ayllon and Fernando Machicao (1990)³ in La Paz, the subject continues to be relegated primarily to sensationalist coverage. In 1990 there were several cases of cruelty in which girls raped in La Paz, Cochabamba, and the Pando were killed. These crimes mobilized public opinion on a mass scale; in contrast to the past, the women's movement participated actively, defining its position in such a way as to generate support and avoid sensationalism. The women's approach, particularly in Cochabamba, was to organize in self-defense and to mobilize grassroots centers and clubs to actively participate. As a result, several groups were involved in capturing one of the criminals. This mobilization drive was accompanied by the professional counsel of women attorneys, making it possible for the violence issue, which was approached politically for the first time in 25 years, to win greater legitimacy.

The Women's Platform decided to initiate its action with a drive to reform those sections of the Penal Code covering sex crimes. The drive would be carried out in the framework of a broad campaign against the structural and ideological underpinning of such crimes: violence and discrimination against women. This decision was based on an analysis of attitudes

in political circles; of the threat to society brought about by unchecked violence as experienced by neighboring countries such as Peru and Colombia; and of the possibility of beginning the debate with a consensus position. The women of the Platform decided to address specific points of law for which the movement already had proposals, while simultaneously working on other reforms of the Codes and the Constitution. The movement endorsed the idea of viewing the drive for reforms as part of the political struggle to spur women to active participation, and to get society at large focused on issues of concern to women. While it is important to change laws, it was said, it is more important that changes result from heightened awareness of the problem in civil society. Thus, it was apparent that the main effort had to be geared to communication and public education.

Responding to a proposal initiated by Julieta Montaña, Director of the Legal Office for Women of Cochabamba, several jurists came together to draft two bills to reform the Penal Code and the Code of Criminal Procedure⁴ with respect to sex crimes. The bills were drafted in consultation with specialists from other disciplines in order to test out and enrich the various arguments.

The campaign for legal reform had been conceptualized in a comprehensive political context and included several complementary components. Although the issue was defined in terms of violence, its causes, and its manifestations, all from a gender perspective, the discussion addressed other problems, such as the demands for cultural affirmation and ethnic rights. The slogan "Since I want Others to Respect me, I Respect Others," displayed alongside an indigenous woman, was one strategy used to call attention to these other points.

The Campaign: Images and Movement

The campaign was based on an understanding that the communications media play a key role in shaping attitudes and behavior, and that it is possible and desirable to go beyond the concept of "alternative media" in order to run quality "alternative messages" in the mass media.

Bolivia is undergoing a major process of privatization of television. The city of La Paz alone, with a population under

one million, has eight TV stations, some thirty radio stations, and five daily newspapers. This could be construed as a disproportionate supply; but it is an indication of the growing importance of such media as sources of information for the population, which for the most part is illiterate and has had only limited schooling. Women's centers have had several experiences that illustrate the importance of the communications media in women's lives. They recognize that use of the media which engages the public in consideration of the issues has an inherent democracy-building component, a fact acknowledged even by the campaign's critics. Although far from believing in the omnipotence of the media, and aware of the complexity of the process of transmission and reception of messages, the Women's Platform also recognized that the mass media have a key role to play in the process of building a democratic citizenry in a society accustomed to authoritarianism. Furthermore, urgency of producing high-quality products, and the belief that the so-called alternative media (a legacy of popular education efforts) tend to come and go before they have an impact, led women to choose a campaign model based on the major media.

Taking advantage of a significant opening in the media to address topics of violence, maternal mortality, and women's political participation, the Platform proposed to use the media in the campaign to challenge people to raise questions about their everyday experience, the use of violence, and discrimination in the home, and to appeal to victims to break their silence. Messages of victimization were avoided; the images projected emphasized women's diversity. Men were involved through a series of dialogues with parliamentarians and national figures, which had the dual impact of winning allies and creating an a priori consensus among the leaders of the various political groupings, which then publicly backed the campaign.

The main thrust of the campaign was to denounce violence and focus attention on discrimination; few messages alluded to the legislative bill under consideration. The campaign never lost sight of the main interlocutor, "public opinion," as the true reflection of a culturally heterogeneous society that has been rendered uniform by authoritarianism and machismo. The campaign attempted to build dialogue with the actors involved in the violence; it did not accuse them, but

rather raised questions, some of them painful, such as discrimination against women. One month of air time at hours when there was a large audience sufficed to expose the population nationwide to critical messages on violence and inequality. The slogan "Long Live the Differences, with Equal Rights" was widely disseminated.

In addition to television, the campaign used radio broadcasts, special supplements, and editorials in national circulation newspapers to disseminate the messages. When the campaign was inaugurated, there was unprecedented coverage of women's issues.

The media campaign proved useful not only for opening up the debate on violence and machismo, but also for reaching consensus prior to the legislative debate, since the leaders of all the political parties represented in the national Congress, trade union leaders, and women leaders appeared on TV screens to voice support for the legal reforms and to publicly back the Platform. This media coverage would prove invaluable when discussing the proposed reforms in the Chamber of Deputies and the Senate.

Mobilization

The other component of the strategy was to mobilize and organize women. This initiative brought together women's groups from every department of Bolivia that had been working to halt violence against women and uphold women's rights. The campaign spawned a network of women's organizations which, while maintaining their individual autonomy and identity, joined forces in a campaign to collect signatures denouncing violence. More than 40,000 signatures were collected in one month. They were presented to the National Parliament, and included the signature of President Jaime Paz Zamora, whose name appeared at the top of the document as a citizen endorsing the campaign.

Casting a net much wider than the world of nongovernmental organizations, which generally initiates women's organizing efforts, the Women's Platform campaign made it possible for many more women's groups and organizations to come together. In addition, the network expanded to embrace human rights organizations, government agencies, civic associations, and the Bolivian Workers' Central (COB).

Only in geographically remote departments where it was not possible to generate public debate on the reforms prior to the bill being considered in the legislature was the work limited to gathering signatures.

The Proposed Reforms

While legal reforms were only part of the Platform strategy, it was clear that one of the most difficult battles, which has yet to be resolved, was being waged in the arena of law reform. Entering the legal debate meant not only challenging aspects of legal doctrine and calling for its reform, but also lobbying in the National Congress, studying the legislative mechanisms, obtaining updated information, and ensuring that women from the movement would actually go to the legislature and make their presence felt.

The basic proposal was to modify the Code of Criminal Procedure and all articles of the Penal Code having to do with sex crimes. The proposed changes would bring the Penal Code into line with the Constitution, which protects individual freedom and integrity, and with the Convention to Eliminate All Forms of Discrimination against women. In the Platform's view these changes would contribute to ending the impunity which the perpetrators of violent attacks enjoy. Finally, and this objective was easily achieved, the intent was to interest jurists and lawyers in reviewing and critiquing the laws and the principles on which they are founded.

The law currently states:

"Whoever has Carnal Access with another person using violence and intimidation shall receive a sentence of four to ten years imprisonment; this sentence shall be more severe if the victim is incapacitated or is 10 to 20 years old; and if death is caused, the sentence imposed shall be the same as that which corresponds to murder."

It further states that the rapist who uses seduction and deceit to obtain carnal access with an "honorable woman" who is pubescent and under 17 years of age shall serve a sentence of two to six years.

Finally, dishonorable abuse refers to libidinous acts that do not constitute carnal access; they carry a sentence of one to three years imprisonment.

The Bolivian Penal Code considers sex crimes to be crimes against "good customs" (*Delitos contra las buenas costumbres*), yet does not include the crime of rape in marriage because it considers carnal access to be a conjugal duty. If the rapist marries the victim no sentence is imposed; legal practice shows that the victim's honor is often subject to an economic transaction (Montaño & Camacho, n.d.).

The Platform's first proposal is to change the title of the respective chapter of the Penal Code from "Crimes against good customs" to "Crimes against sexual freedom," since the legal subject offended is the sexual freedom of the victim, irrespective of gender, not "good customs."

Second, it proposes that the category of crimes be reconceptualized in the following terms: "A person of either sex commits rape if he or she, through physical violence, threats, intimidation, or any form of limiting the victim's freedom, has carnal access through acts of genital, anal, or oral penetration, or penetration of objects of any nature." The proposal also seeks to have those who commit the crime of statutory rape defined as persons who, through seduction or deceit, have carnal access with a person of either sex under 18 years of age. Mention of the victim's moral status would be deleted. Finally, the concept of "dishonorable abuse" should be considered a form of attempted rape, in the understanding that libidinous acts of molestation (touching or fondling) are part of the act of violating one's sexual freedom and will.

Third, in the area of procedure, the Platform is working to have rape classified as a criminal matter in all cases, independent of the victim's age. This is considered to be in accord with the constitutional rights protecting life and physical integrity. The Platform notes the need to broaden procedural reforms, including possible measures to guarantee closed hearings without this precluding the participation of the Office of the Attorney General.

Fourth, it is suggested that the aggravating factors listed in the Code should include rape in situations in which the victim has been deprived of liberty, as occurs in all types of prisons. In sum, the Platform's proposals are aimed primarily at making rape a criminal matter in all cases, independent of the victim's age; changing the title to highlight that it is the person

and her freedom that are harmed, and not so-called "good customs"; deleting the reference to the victim's moral status; and finally postulating a new conception of rape that views sexuality as associated with the entire body, not simply the genital organs.

The Campaign in Balance: Issues and Challenges

Critiques of the Proposal and Responses

We recognize that one weakness of the Platform's proposal is that it does not adequately counter procedural limitations in the judicial system itself. A doctrinal basis must be established that demonstrates how prejudices and pre-conceptions affect the model of procedure. Since proving rape is very difficult, coming up with new ways of doing so is a challenge for women. One issue the Platform has not challenged with sufficient force is the evidentiary requirement for lodging a complaint. Currently, legal evidence of rape is required before a complaint can be filed with the police, contrary to legal practice in other jurisdictions where evidence is not required for a complaint but only needs to be presented in the trial. Nor has the Platform proposed mechanisms to guarantee that a trial be open to the public if the complainant so requests. Finally, the Platform's procedural and evidentiary proposals may not sufficiently safeguard the victims' dignity.

The main argument against the Platform's position is that maintaining the classification of rape as a matter of private law protects the victim from moral damages and loss of prestige, matters which in the view of some jurists are more serious in the case of a male (Miguel, 1990). Conventional wisdom has not yet evolved to the point of questioning the legitimacy of guilt and shame associated with these crimes; it is difficult even for women speaking among themselves to see the crime of rape as an attack in which the victim is not at fault. The critique goes on to say that it should be left to the discretion of the person harmed whether to press charges against the rapist, in the understanding that the trial may be more painful than the attack itself. The Platform's response is that such excessive caution corresponds to the view of sexuality as sinful and a cause of dishonor. In a trial on attempted homicide the surviving victim

no doubt will suffer on recalling relevant events perhaps equally traumatic as those associated with rape.

In the case of rape there is also fear that the woman or man raped may be stigmatized. It is asked whether anyone carrying the ignominy of being branded a "rape victim" can be happy. Again, the Platform responds that this position envelops the discussion in taboo and encourages shame and hypocrisy. What is needed is to rid sex of the puritan values associated it, to distinguish the difference between sex and rape, and to denounce rape as a crime. The Platform also argues that to defend the principle of privacy for the sake of honor fails to recognize a serious contradiction in the law which admits the public nature of statutory rape and even mandates the intervention of the Office of the Attorney General.

Other criticisms raised to invalidate the Platform's proposal suggest it constitutes a violation of "legal doctrine." In no debate was this concept explained to our satisfaction; nor was the dogma that legal doctrine must be taken as a point of reference when legislating. The Platform advances the view that the law must be accessible to those it is meant to serve and that reforming the Codes must serve this purpose. Therefore, legal doctrine must keep pace with emerging social needs in order to provide adequate protection to all citizens.

The Language Taboo

The Campaign made it possible to publicly address, albeit not very directly, issues related to sexuality. Calling things by their name, without using euphemisms and at times in an unabashed manner, was too much for more than one traditional lawyer who could not take the tone of the statements women made. It was clear that, for many eminences of the law, the debate on the nature of the criminal action has thrown light as never before on deep-seated concepts associated with guilt and shame over sexuality.

The debate on procedure quickly gave way to heated discussions on the phantoms of sexuality, the body, and the right to control it. The issue brought out reductionist views on sexuality, which made it difficult to convey a message of healthy sexuality while denouncing cases of violence and presenting the victims' testimony. Arguments from opponents of the

campaign reinforced machista notions of women found in traditional sayings;⁵ viewed rape as a problem only because it might cause pregnancy; held that molestation is not so serious; and justified certain notions grounded in the so-called study of victims, or "victimology," which tend to depict woman as the seducing animal and man as incapable of controlling himself. All of these culturally and socially rooted concepts are difficult to eradicate.

The Platform faced the challenge of defending the legitimacy of the concepts upon which its proposals were based. In advocating enlightened concepts of sexuality and of rape, the Platform was put in the position of having to prove that a person's entire body can be an erogenous zone and that therefore women's right to defend it from assault is legitimate; that it is not just a question of avoiding sexual intercourse, but that women have the right to control over their entire bodies, and that attacking any part of the body constitutes a form of sexual aggression. The Platform was challenged to make women's experiences consistent with legal doctrine. In that process it was forced to negotiate away conceptual nuances to the point that the draft is more conservative than the analyses put forth by the women of the grassroots who understand very well what rape is all about.

So profound is the traditional view of sexuality that even progressive women ridiculed the proposal saying that "a stolen kiss was nothing serious, and that thanks to the Platform's struggle, no one would whistle at us in the street." According to sociologist Bertha Pooley (*Oficina Juridica de la Mujer*, 1990), the problem lies in the conception of a woman's body, even in the mind of women, as an object, and above all, that the main purpose of a woman's body is to satisfy men. She notes that the mere fact of being a woman is a risk factor, and all types of sexual, social, and psychic violence are justified on the basis of women's alleged inferiority. We must continue to demystify traditional notions about the rapist and victim to explode the recurring myth that rape only happens on the street and to raise awareness that in most cases rape is committed by someone close to the victim, who is familiar with her home and daily routine.

One idea dear to our society is that of the family as the place where intimate matters are processed: Love, sexuality,

food, disputes, and personal changes should be resolved without harming the image of this fundamental cell of society. In times when the state and its instruments have penetrated the bedroom only to repress and pillage, such as during the dictatorships which coerced the law to legitimize their authoritarian regimes, it is quite difficult to publicly debate the problem of domestic violence without appearing to endorse the misuse of power. However, concern about domestic violence brings together diverse social currents, from feminists to traditionally religious women who are permeated with a staunchly puritan view of what it means to be a woman. Voices of equity and dignity together with voices of protectionism and victimization join in the struggle against domestic violence. The demand to end such violence thus transcends social boundaries and sectors.

Limits of the Campaign

The campaign has had financial support from a multilateral donor agency⁶ and the voluntary work of many women. Nonetheless, the Platform raised only enough to cover one month of television publicity; even though the coverage was offered at a reduced cost. The second major limitation was that the women senators, who submitted the bill to enact the reforms, did not actively participate in the movement, and therefore did not have sufficient theoretical and conceptual background to defend it in the Congress. The third major limitation has to do with the weaknesses of an unstructured, spontaneous women's movement, subject to the ups and downs of activists who come and go. Support from non-governmental women's organizations continues to be decisive although it constitutes a limiting factor as well, since there is a tendency to place too much trust in the institutional capability of the women's centers and to down-play the consciousness and organization of the masses of women. Also, the campaign's leadership has been identified with a single person and it must be recognized that the proposal itself has not been taken up by all with the same conviction.

Moreover, while the campaign has sparked the active solidarity of 30,000 citizens and many institutions representative of civil society, women and women's organizations have wavered between abstention of support to irrational attack on the proposal.

This raises the recurrent argument that lack of solidarity among women is the Achilles' heel of any democratic struggle.

The women's movement developed as an expression of what is now called civil society. In Bolivia there is an emerging discussion about the nature of movements such as ours: Are they political, civic, or pre-political? Considering its opposition to force, and its interest in influencing policy and gaining access to decision-making positions, the movement is no doubt political. Nevertheless, the return to rule by democratic institutions has made the parties the privileged if not exclusive vehicles of political action. Bolivia has had considerable experience with politicized institutions (the Army, and the Civic Committees) which became explicit protagonists in the political struggle as they directly held power. While these times seem to have come to an end and the parties have taken on greater importance, women's participation in the parties is very limited because the parties have not taken the women's movement seriously.

When taking final stock of the experience, we must look seriously at the women's movement in Bolivia with respect to several key criteria: consistency, structure, abilities; levels of democracy in the movement, mechanisms for consulting the grassroots, and leadership. We can note that an initiative such as the Platform's campaign involves certain risks. Since there are no formal channels for broad-based participation, decisions are ultimately in the hands of activists, and there are no formal channels for choosing new leaders or building new leadership structures. One of the endemic problems of women's organizations is the way they handle power. All this leads us to the position that political debate among women is crucial when struggling for our rights: beyond all contingent strategies, we must develop the ability to visualize our problems in the framework of a political context, and to begin to occupy positions that allow us to formulate and promote political theses and strategies and to become a force in major decision-making levels.

The Women's Platform, in its struggle to reform laws on sex crimes and to mount strategies on a variety of fronts, has attempted above all to be a point of convergence for the political, legal, and social dimensions of our struggle.

A New Concept of Mediation: An Interdisciplinary Approach to Domestic Violence in Chile

Nelly Gonzalez

Summary

This article describes the development of the Legal Office for Women in Santiago, Chile and its work with women abused by their spouses or companions. The article analyzes the historical, political, economic, and legal context of the country; the origins of the battered women's work; the theoretical justification for the Office's interdisciplinary approach; and the different aspects of its strategy. It also analyzes the impact of the work to date.

Historical, Political and Economic Context

From the early years of the 20th century, until 1949 when Chilean women won the right to vote, they participated actively in trade union and political struggles. After 1949 women's political activities waned as they passed through a twenty-year period described by Kirkwood (1985) as the "phase of women's silence." By 1970, women were no longer struggling for gender-specific demands, but had joined a process of overall liberation under way and directed by the political parties. From 1970 to 1973 women's political involvement took on varied forms depending on the priorities of the party or movement with which they were affiliated (Kirkwood, n.d.).

The political situation changed abruptly in 1973, moving from a period of political effervescence to cessation of overt political activities and repression. The profound economic, social and political crisis brought about by the military coup led by General Pinochet was exacerbated by an already-existing legal crisis (Novoa, 1965; Aylwin et al., 1988). This period saw the resurgence of women as a social force in their own right; their political struggles were aimed at both rebuilding democracy and pressing for responses to gender-specific concerns. The motto "Democracy in the country and in the home" called for changes in the sociopolitical conditions of life as a nation, and for a transformation within the family and the home. The return to democracy in 1990, after 17 years of military dictatorship, ushered in a new and more egalitarian social context where themes relating to women, organizations, and demands for respect and equality became part of the political discourse at every level.

Paradoxically, the emergence of women's issues in the political arena began with their participation in matters that did not pertain especially to women. The traditional image of women was one depicting dedicated housewives characterized by sacrifice and abnegation, an image having nothing to do with working women, their personal interests or their economic autonomy. The military regime worked to reinforce the symbolic concept of woman as "mother" (Lechner and Levy, 1984), but the changes in self-concept that women were beginning to experience could not be stopped by military decree.

The Resurgence of Women as a Social Force

Dictatorship is not just government without democratic elections; it is a set of changes reordering all aspects of national life, including how people organize politically in trade unions, professional associations, and political parties. Under Chile's dictatorship, these institutional vehicles for expressing opinions were censored. Indeed, participation in such organizations and institutions was explicitly prohibited. However, as history shows, attempts to stifle the expression of an entire population have never met with success, as was the case in Chile. Invariably, new and concealed relationships emerge that ultimately consolidate the very forces that dictatorships try to isolate.

In Chile, women played a key role in the process of creating new forms of expression and denunciation. The break with democracy sent hundreds of women wandering through hospitals, morgues and jails searching for their detained or "disappeared" relatives. In the institutional and political vacuum of the period, women's demands for answers sparked creation of the first organizations for protecting basic rights such as the right to life, and the right to physical and psychological integrity (Brown, 1987).

Despite the political situation in which Chileans were living, new women's organizations were formed throughout the country. These groups brought together professional, middle-class women, as well as lower-class women, who organized themselves to confront the economic crisis. True, women were not the only group to rise up; there were also youth, slum-dwellers, and other groups carrying out the clandestine political activity advanced by the parties opposing Pinochet. But what is important is that in pressing their proposals, women sought and found new and different forms of public participation to express social protest (Cleary, 1987).

The Economic Crisis Triggers Women to Organize

The imposition of a neo-liberal economic model dependent on the international economy had major repercussions for the economically weaker sectors of the population. Two sharp recessions, one in 1975-1976, and another in 1982-1983, brought about abrupt and sustained declines in employment. In 1983, 31 percent of the labor force was unemployed; this figure rose to between 75 percent and 80 percent in the urban popular sectors. In real-life terms, this meant that four out of five persons had lost their jobs. In situations where the breadwinner of the family became unemployed, the wives were the ones who had to confront the problem. Their husbands were either out of work or, if they had jobs, they were with lower pay and reduced benefits, or were in part-time, lower productivity occupations (Serrano 1988; Raczynski and Serrano 1985).

While women responded to their predicament in different ways, the double workday became a part of family life. Their responsibilities for keeping up the home continued as before, but now they also had to provide financial support for the

family even though "ordinary" jobs were not available. Women were forced to turn to alternatives: working in sewing shops; selling paper and paperboard; and making bread and other homemade food products, such as flavored ice cubes and empanadas, which they would sell in the neighborhoods. Other women worked outside the home cleaning other homes, washing, weaving, and selling second-hand articles. Still others were forced to pawn the couple's few belongings.

In affective and emotional terms, the clear differentiation of roles that had characterized Chilean families was broken into a thousand pieces. Wives (legal or common-law) no longer limited their lives to the private sphere; they worked, using their ability to earn income and contribute financially. The unemployed husbands or male companions perceived themselves to be somehow inept, and the women saw their men caught between frustration and self-pity. The emotional and financial dragnet that stalked families in the solitude of their need was only broken when women made the decision to seek a collective way out by joining community soup kitchens, health groups, women's workshops, or other community self-help groups. These "popular organizations" became perhaps the most important and effective collective conduit developed by women at the grassroots level.

Rediscovering Women's Problems as Gender Issues

The collective initiatives arising from economic and social needs contained special characteristics that brought about changes in the women themselves. They allowed women to participate in workshops on self-perception, relaxation, sexuality and bodily expression, among others; themes that influenced women's self-esteem and values, and helped them break out of their private space and develop their abilities to make decisions, learn new skills, and share with other women. Because the activities carried out by women were intimately linked with self-sufficiency, they began to deeply question the framework of their lives. On the one hand, they recognized the inability of the economic system to meet their minimal needs; on the other hand, the economic model itself highlighted the cultural impositions of male authoritarianism.

In this context, a new recognition of problems, such as denial and lack of familiarity with female sexuality (Rodó, 1986), violence, and the exploitation of the female body, accompanied open questioning of the notion that women should stay home while men occupied the public space. This new awareness represented a profound change among both slum-dwellers, and the middle strata that involved breaking down stereotypic gender roles in relationships (Covarrubias, Muñoz and Reyes, 1988).

Women and the Legal Crisis

While we may speak of crises that emerge at certain historical periods, the legal crisis appears to have a permanent character. The legislative, judicial and penitentiary system require urgent changes.

In our view, modern life proceeds with extreme mobility in our societies as a result of scientific and technological progress; industrial and economic growth; the influx of new social and political conceptions; and cultural changes. Yet the legal system tends to preserve concepts that date back to the 18th and 19th century, even at times to Ancient Roman Law, and reflects an absolute inability to bring the law into line with contemporary social needs (Novoa, n.d.).

Chilean law is made up of two types of laws: those contained in the substantive codes, all issued in the 19th century and maintained with some modifications to date; and more contemporary legislation that accompanies the Codes. However, the laws that apply to domestic violence are contained in the Criminal Code that has been in effect since 1873.

This archaic characteristic of Chilean law places it out of step with reality in issues relating to women, to effective access to justice for broad sectors of the population, to legal protection for the indigent, and to needed legislation in important areas affecting human life such as environmental protection and regulation of computer technology.

The Chilean judicial system remains a static body of norms for regulating human behavior. Its formalism is supported by a legal dogmatism which, far from weighing the three elements

of legal phenomena—facts, values, and laws—relies solely on the latter, giving rise to what has been called a legal unidimensionalism. Thus the law, instead of acting in relation to reality, takes the place of reality. The formalism and unidimensionalism of the legal system is in large part a result of professional training. There is a tendency to train jurists to believe only in the laws and to think that solutions can be found in the laws alone.

In reference to women, Chile has yet to adopt (as few countries have) a legal framework that allows women to freely participate in all spheres of social life. To date, no aspect of the wide-ranging social, political and economic struggle waged by women has been reflected in substantive legal changes. This is not a reflection of a temporal crisis in the system, but of a total dysfunction of the system with respect to women: some laws are prejudicial to women alone, others to the entire family.

One case in point is the absolute permanency of matrimony; marriage is the only indissoluble contract in Chilean law. It is an accepted principle that laws should reflect the reality of society's needs, appropriate ethical ends, and respect for the beliefs of its subjects. It is unclear what the law seeks to achieve by declaring marriage indissoluble, when with each passing day the number of couples who cannot go on living together increases. The serious consequences of this legal anomaly are evident in the large numbers of "illegitimate" children, the relationships of concubinage it engenders, and the ambiguity of rules regulating alimony, custody (*patria potestad*), property, and the family home (Malio and Serrano, 1968, p. 68).

In criminal law the punishment for crimes varies depending on whether they were committed by men or women. For example, article 375 of the Criminal Code, which defines adultery as a crime, states "Adultery is committed by a married woman who sleeps with a male who is not her husband and by a man who sleeps with such a woman knowing that she is married, even if afterwards the marriage is nullified." The punishment is imprisonment for 61 days to five years. In contrast to married women, married men cannot commit adultery by virtue of their civil status. A married man only commits adultery when sleeping with a married woman other than his wife, or if the two are living together in scandalous fashion.

The penalty is 61 days to 540 days (Chilean Criminal Code [1873], 1974, pp. 31, 97-98).

In the area of labor law, women bear the full burden of postnatal care, making it impossible for couples to share child rearing from the first days of life. There is no provision enabling the father to request a postnatal leave, or even to request a leave when the child is ill. It is even more unlikely that a father could stay home during the postnatal period, even if he wanted to.

In another area of convoluted legal reasoning, in situations where no laws exist infractions are punished using the concept of "closest" law. For example, since domestic violence is not identified as a crime, the sanction corresponding to the crime of "injury" (*lesiones*) is applied, considering injury and domestic violence to be of equal magnitude, with no reference to the specific nature of the attack. Thus, being attacked by an unknown person is equated with being attacked by one's husband or companion.

While women are not excluded from the law in Chile, they are treated as marginals, for women's rights are not spelled out in relation to their needs as individuals; instead the law takes into account only their functions in society. This concept is not new, nor is it limited to a given geographic area; rather, the magnitude of importance attached to this principle depends on the context in which it is applied. Indeed, none of the concepts, assumptions, or hypotheses that guide the law are ever that obvious or inherent since the law itself is an historical construct, the result of practices determined by those holding power. For example, one of the key assumptions underlying all law, especially family law, criminal law, and labor law, is to protect women as property legally valued for their ability to generate human life. But how legally-valued goods are determined is an ambiguous area of the law (Gonzalez, 1990).

In the case of discrimination against women and the difficulties that stand in the way of achieving equality, it is not enough to clear up legal questions or speak of legal reform; it is imperative to explore the quotidian—the "ordinariness of daily life,"—for it is within the framework of daily life that we find what is unquestioningly accepted as immutable or "natural" (Schutz, 1967). To understand the law's assumptions it is

imperative to visualize the daily small violations, infractions, displacements, and restraints; and to consider what it means to be secondary, to always be served second. It is imperative to pay attention to what is "usual," to that which is not spoken until something unusual happens. One only has to scrutinize "the normality in everyday life," to observe that the law never notices the small infractions because it takes for granted that inequality and discrimination are part of a woman's lot.

Therefore, inequality in the law prolongs the injustices of day-to-day life. The socially constructed role a woman inherits is one defined as secondary to others, implying that doing something for herself is rebellion, chaos, and disorder. In turn, the "order" constructed on the basis of sexual stratification is supported by a process through which education, religion, and the family forge and mutually reinforce skewed gender identities. And since political power also plays an important delimiting role in creating the concepts of order and disorder in society, women's roles as determined by governments must also be examined (Munizaga and Letelier, n.d., pp. 95-181).

In terms of the laws themselves, the thinking underlying the legal codes did not arise from the experience of everyday relationships. Rather, the laws were the work of experts occupying a protected niche in society's ideological apparatus, since the task of framing the law is only entrusted to those who are part of the group that runs and controls society, regulates and upholds its functions, coordinates its work, and runs its economy.

What this means is that how we think about ourselves and our society is shaped by those in positions of power. That these positions are occupied almost exclusively by men means that our view of the world emanates from a place where there are no women. The means available to us for thinking about, imagining, and acting on our experience have been made for us, not by us. There is a gap between our current situation and the vehicles we have to express ourselves and take action. Thus, the concerns, interests, and experiences that form "our" culture are those of the men who hold power who have construed them on the basis of women's silence and the silence of others (Smith, 1986, p. 21).

The Problem of Women Abuse and the Law in Chile

The Study

The first legal survey on domestic violence in Chile, carried out between October 1987 and December 1988,¹ revealed the tip of an iceberg for a problem that had previously been hidden below the surface. The study analyzed the files of court cases tried in three jurisdictions, (the municipalities of Providencia, Quinta Normal, and Conchalí) which represented upper, middle, and lower social strata, respectively. In all cases the legal proceedings were initiated by complaints filed in 1986 for the crimes of injury, parricide, and homicide of a wife or companion.² The study also reviewed the rulings of Courts of Appeals and the Supreme Court, published in the *Revista de Derecho, Jurisprudencia y Ciencias Sociales*, from 1900 to 1986, for the same crimes listed above.

The Findings

The case research pertaining to various jurisdictions in the lower courts established several correlations relating to differences; for example, degree of aggressiveness,³ similarities, such as the impact of alcohol (in all cases, independent of social stratum, when the assailant was inebriated the battering was more serious),⁴ and the outcomes of the trials (all ended in temporary stays, i.e., in no case was a punishment set for the assailant).⁵ Review of the rulings of Courts of Appeals and the Supreme Court, 1900-1986 revealed no major developments in judicial reasoning. This was due to the peculiar situation in the lower courts where there were no trials that ended in a verdict. There were, however, some 115 rulings published over 86 years, which revealed two useful findings.

The first related to information taken from court documents, revealing correlation between alcohol and assaults or the similarity in motives for aggression. The second related to the trends in jurisprudence during that period.

The study's analysis of the legal discourse—the discourse of patriarchal power—reveals a series of subjective, extralegal aspects interwoven with legal reasoning. Only by using an interdisciplinary approach, in which psychology and sociology

are particularly important (González, 1990), can this discourse be understood. The relevant elements from these disciplines include descriptions of the accused's intentions (note 130), categorization of individuals' psychological makeup (p. 78), descriptions of the victim and assailant (p. 78), assessment of emotions and feelings (p. 79, notes 131-137), and intentions and purposes (pp. 80-82, note 138) among others. The study's analysis of the motives given for the assaults suggested that the existence of battery in a couple's relationship might be explained by the patriarchal requirement that the man be the one to ensure that women's socially assigned roles are carried out. This occurs in a context where entire families are socialized to violence, where cultural norms legitimize such a reality, and where society and the family are organized along sexist lines.

The study found that women's attachment to their role as mothers contributes to their becoming accomplices in the assaults against them. This was reflected two ways: either they did not go to the courts at all; or they turned to the courts but then denied that anything happened when the spouse or companion was arrested because of the serious nature of the injuries. Beyond the personal consideration of their right not to be assaulted, women passively accepted abuse if they felt that legal action on their part would destabilize the home.

From the women's vantage point, a punishment restricting their spouse's freedom was no solution at all. Women displayed a clear tendency to reject possible legal solutions, considering them inappropriate; what women wanted was a change in power relations within the family. Yet these relations remain unchanged even when the assailant is sanctioned. From the perspective of the legal system, women's passivity is a clear reflection of the lack of any law that classifies and sanctions violence against women in an appropriate manner. With the current legislation, an effort is being made to classify, under the legal definition of "injuries," a problem that cannot be qualified solely in terms of its material result. The procedural logic highlights the material event, not the relationship, forcing women to make decisions related only to the battering they have experienced and not to the accepted relationship between the sexes. In this sense the law has a

negative impact, limiting them merely to seek reparation, which in Chilean law in most cases is done through punishment.

The Judges of the Superior Courts of Justice adhered closely to the ideology reflected in the system of laws that they must enforce, revealing the power of sociocultural values over judicial decisions. The judicial decisions did not vary in the slightest in their assessment of the facts, despite the historical, economic, and social changes that have taken place in relation to women. It was found that both Chilean legislation and the criteria used by some judges included aspects that could be considered useful for the exercise of patriarchal power.

The Significance of the Study

Beyond the social, economic, and cultural aspects associated with domestic violence, the study revealed an important relationship between domestic violence and the judicial system itself. As stated above, lacking any legal definition of the problem, domestic violence falls under the crime of injuries. That this is a highly inappropriate legal context for domestic violence became strikingly clear from the findings that in the lower courts charges were dropped by the victims in every case. This situation raises some important questions.

The founders of the *Oficina Legal de la Mujer* focused attention on two guiding questions: 1) How can the current legislation and means of defending women be used? and 2) Is it possible to specify those aspects or principles articulated in the law which support discriminatory concepts and practices?

The first question led to the development of strategies for defense and action which, using current legal means, would be useful for protecting abused women. The second led to a search for new strategies that would overcome the theoretical and practical fallacies of a legal discourse constructed on the basis of a world view of human relations from a male-centered perspective.

These two major questions and their responses are related yet distinct. One targets the problem of the system's separation from real life; the other targets critical analysis of the law's values whose abstract expression is stated as "equality of all people before the law," but in practice discriminates against women.

The Proposed Interdisciplinary Approach

An interdisciplinary approach was proposed as the most appropriate model for work on domestic violence. If solutions are to be found, merely setting forth conceptual distinctions and categories for legal defense is not enough. The law and its value judgments are not separate from the social world; it is of no use to attempt to reflect on the law in isolation of reality and values.

In our opinion, measures must be taken so that support and legal defense of the domestic violence victim form part of a coherent and integrated strategy for joint action. At the political level, this means that changing legal discourse is not enough, since the discourse is itself linked to cultural, social, and economic domination.

This position bears no relation to the old belief that “if everything isn’t changed, nothing is changed.” Rather, it is a position which is mindful of the ideology of law and keeps in sight both the areas needing reform, and possible solutions—always cognizant of the individuals affected (men who abuse, women who are abused, and children who observe or are also abused).

One of the specific characteristics of domestic violence as a social phenomenon is that it is located at a crossroads in which various disciplines (law, medicine, psychology, etc.) respond within their own logical frameworks, carry on parallel discourses, and propose mutually-contradictory solutions. As an example of this, medical intervention provided to battered women through the certification procedure offered by the *Instituto Médico Legal* is inappropriate to the situation. In this case, officials accustomed to evaluating causes of death, view injuries of a person who comes for a diagnosis on his or her own feet as less serious than those of someone who must be carried in. In turn, the legal discourse, shaped by a logic of litigation, views each member of the couple as an adversary, and proposes sanctions that usually take the form of fines and incarceration. Neither of these approaches responds to what women would like: to have the violence to cease; and to be able to have a different, peaceful life.

Within the family, cultural values also come into play, having evolved over generations through language and a way of seeing

and understanding the world. These include religious experiences, socioeconomic factors, images of femininity and masculinity, etc., which constitute a heterogeneous and complex whole.

These conflicting frames of reference require a new concept of mediation capable of relating the legal system to the everyday world, making interdisciplinary work possible. This new concept is not a form of intervention between one system and another, or between the system and the real-life world; rather it is a medium for overcoming limitations and drawing upon the relevant features of the different disciplines in order to articulate a new and more adequate response. In many ways, domestic violence is situated in a privileged place; one which can enable us, with the appropriate tools, to see the causes and forms of expression of each of the disciplines. However, an essential requirement of this new mode of operation is to renounce the logic of total comprehension as an approach. This is not to say that by letting go of the logical positivism that enables us to understand the system, we will find a model that shows us the real-life world—for we would then be forced to choose between them. It is in the effort to find the threads that tether the system and the real-life world that we encounter the appropriate ground for finding new propositions. It is precisely in the marginal regions of the system, where the subjects remain hidden or almost invisible, that new potential for emancipation and renewed proposals are to be found.

Classifying and evaluating the complexity of expression contained within domestic violence requires adopting a theoretical perspective on the everyday realm, both alien and our own, that situates it at the crossroads between macro and microsocial processes (where it becomes possible to study social processes at their most basic level), and between the concrete actions of human beings and their objective, contextually determined value (Lechner, 1988a, p. 12). This theoretical approach contains an expanded concept of reason, which is open to learning through diversity, and which structures communication as the recognition of differences. Such an approach enables us to discover the potential existing at the various levels that could provide alternative solutions to the problem. In this context it is necessary to break open the cultures of experts (the refuge of esoteric approaches) and link

them with every day life through communication (Habermas, 1985, p. 27). By questioning the boundaries between the internal and the external, the political and the social, the public and the private, the female and the male, the boundaries among the social sciences are also eroded (Lechner, 1988b, p. 66).

Understanding women and the law in Chile requires emerging from the narrow confines of each area of science, using the tools of all of them to gain historic insight and a thorough appreciation of the issues. The existing gap between the legal system and the real-life world thus challenges each discipline to set aside fragmented approaches so as to arrive at a conceptual whole capable of naming and making sense of the situation.

That is the significance of the interdisciplinary approach adopted by the Legal Office of Women. It is not just a question of bringing together experts, such as lawyers, psychologists, and social workers, but of observing the problem from a holistic perspective, emphasizing each particular case, and at the same time, when necessary, undertaking group reflection and/or fostering the work of self-help groups.

This practice has obliged us to abandon the usual ways of understanding the practice of the different professions. Similarly, there is no ideal and set solution for all the cases, nor a normative pattern of functional adaptation. Therefore, the channeling of the problem and possible solutions are to be found through a joint effort on the part of the various professionals, the woman affected, and her family. The interdisciplinary perspective is put into practice by undertaking different actions that interrelate for the purpose of bringing about changes at different levels; each of the actions is part of the strategy.

The Strategy Components

In our work, the activities targeting changes in the culture and structure of the legal system are covered through a strategy of interdisciplinary attention. One part of the strategy focuses on changing the content of the law by working jointly with governmental and nongovernmental organizations to develop a legislative proposal on domestic violence, and to press for its adoption by mobilizing women and sensitizing

the public through the media. This plan, geared toward assuring proper application of the law, is being carried out at the national level by the Southern Cone Network Against Domestic Violence and by CLADEM (Latin American Committee for the Defense of Women's Rights) through a campaign of activities in each country to gather and publicize data on domestic violence.

The Strategy of Interdisciplinary Attention

Our approach to services begins with recognition of the community's responsibility toward the battered woman and the family (that is, the community's obligation to deal with such issues as the effects of domestic violence on children, the need for appropriate therapy for the batterer, and training programs for the police, etc.). Within that context, our strategy endeavors to define the most appropriate means to end violence in the lives of the women who seek our help. Responding properly to these issues requires developing new attitudes toward the battered woman, breaking down sustaining myths and beliefs which emphasize the culpability of the victim, and clarifying the characteristics and needs of the battered woman. All this is necessary to be able to offer effective counsel, support, and if necessary, legal and integrated assistance in a framework of interdisciplinary collaboration.

One of the greatest obstacles abused women face when they decide to seek professional services is the general lack of knowledge about the scope and incidence of violence against women, as well as insensitivity toward the psychosocial effects of such violence on those affected. Addressing the needs of abused women can be facilitated in different ways.

The first way is to raise awareness about domestic violence as a serious social problem. Socio-culturally ingrained attitudes and values regarding women and violence regard women as having greater worth than men. Violence against women must be recognized as a social problem that many Chilean women experience frequently, not as an isolated problem affecting only certain couples. Likewise, the intergenerational patterns involved must be understood. Many men who beat their wives also suffered violence at the hands of their fathers, or saw their mothers beaten when they were children. Most women who

Main categories of the Strategy/Strategies

(Schuler, 1984, p. 19)⁶

	Culture	Structure
Goals	<p>Promote awareness of women's potential.</p> <p>Affirm their right to a legitimate defense.</p> <p>Affirm their belief in themselves as people and women who are subjects of rights.</p>	<p>Make the legal system accessible and functional in cases of battered women.</p> <p>Accompany legal services with psychological and social services, as necessary.</p> <p>Where possible, work with the spouse and the entire family.</p>
Objectives	<p>Sensitize women to:</p> <ul style="list-style-type: none"> • their perception of the problem • their rights as spouse or companion • their rights to bring civil and criminal actions against their abusers • the structure and context of the law • the discrimination implicit in the law • the limitations of the law <p>Demystify the legal system</p>	<p>Opening up access to the legal system in order to:</p> <ul style="list-style-type: none"> • secure exercise of the law when it has been violated to the detriment of women • redress injustices that women suffer as the result of violence • counsel and defend women individually and collectively • support the legal, psychological, and social changes that may be entailed in intervention
Activities	<ul style="list-style-type: none"> • Use of consultation as an instance for recognizing and sensitizing battered women. • Working with psychologists and social workers to help women understand their processes. • Sensitizing law students and lawyers to this issue. • Publishing studies and research projects on the subject, based on our own experience as a team. • Seminars and workshops for those working in or about to work in this area. 	<ul style="list-style-type: none"> • Legal, psychological, and social services for women abused by their spouse or companion, and for the children when needed. • Use of the most appropriate litigation or extrajudicial solutions. • Use of protection orders as a means of pressuring the judicial system to demonstrate its ineffectiveness in this area. • Use of temporary shelter when the woman's life is in imminent danger. • Training of the entire team for crisis intervention by telephone.

Content	Application
<p>Winning passage of a specific law on domestic violence.</p>	<p>Effective use and application of laws and policies meant to benefit women.</p>
<p>Eliminate the current treatment of violence against women as cases of injury attributed to third parties.</p> <p>Create more just laws and policies in relation to women.</p>	<p>Ensuring enforcement of laws and policies related to the problem.</p>
<ul style="list-style-type: none"> • Legal and sociological research on laws and policies. • Organization and creation of battered women's groups to promote specific legislation. • Public pressure through the communications media. • Collective actions with other nongovernmental organizations to inform public opinion as to the problem. 	<ul style="list-style-type: none"> • Monitoring enforcement of laws, especially in criminal cases against spouses or companions. • Creation of a database from cases handled by the Legal Office of Women. • Preparation of different strategies and arguments for defense in presenting cases in the courts. • Participation in CLADEM (Latin American Committee for the Defense of Women's Rights).

have sought assistance from the Office were abused by their fathers, brothers, or boyfriends.

Second, there are many myths regarding violence against women which need to be demystified in order to expose the facts behind them. In doing so, an approach that does not pass judgment on the abused woman becomes imperative. Women who have been abused by someone they love often have low self-esteem; this can be aggravated if the woman decides to seek help and is met with indifference, or is blamed for the violence of which she has been the victim.

Women's self-esteem should be boosted to help them envision a different future. This cannot be done quickly; it is a slow process that can only be facilitated by someone who understands the complexity of the situation of abused women and who is not inclined to censure women's decisions. Improving self-esteem requires listening to the woman; not having expectations of quick or drastic changes in her life; accepting her decision to return home after having left, or to stay there, unable to make a decision that would improve her chances of making a new life for herself; convincing the woman that so long as she thinks she is too weak to confront the violence, she will continue to be so, but that if she draws on her strength, she can seek help to emerge from the rut that her relationship has become. Assisting lawyers should help women see the potential for change in their own decisions. Many women have a very hard time making the decision to seek help. Some women who have received assistance have spent years rationalizing their lives and problems. Using an interdisciplinary approach and drawing on the team's experience should help provide the motivation women need to examine their personal problems and work on them in tandem with the legal problem. The value of such actions must not be underestimated. For a woman, changing the cycle of violence and personal deprecation requires a profound break. Therefore, such women need positive reinforcement and protection when they decide to end their silence and assume the risks of insecurity that such a decision entails.

Women should be given help to accept their feelings of pain, resentment, guilt, and especially fear, which are perfectly understandable and valid in light of their experience. But

once this process is unleashed, they also need psychological support to ensure that it not become self-destructive, and to facilitate appropriate expression of their feelings.

A means should be developed for women to achieve self-determination. One psychological effect that some women reported was a dependence on others (children, relatives, friends) for the simplest decisions. The inability to make decisions contributed to a progressive loss of self-esteem. In order to overcome this dependency, women should develop a sense of responsibility toward themselves by making their own decisions and assuming responsibility for their actions.

Legal advice should include:

- a) A detailed description of the different legal options (if any), and their advantages and disadvantages;
- b) Showing women how they can pursue such options;
- c) Allowing women to determine the option they wish to pursue;
- d) Encouraging women to follow through with the option selected;
- e) Intervening in the process to ensure follow-through on the option chosen if insurmountable obstacles should arise, since this is a task of the lawyer;
- f) Making sure women understand the legal procedures involved, and if appropriate, the impossibility of obtaining a legal solution to the problem and thus the need to seek alternative options.

The abused woman must be counselled to understand that she is the one making the decision at every moment, the one choosing the option she desires to pursue, even if the choice is inaction.

Abused women often have very confused emotions about themselves, the different aspects of their lives, other people involved, and their abusive partner. Feelings may swing from fear, intense displeasure for the abusive companion, and a strong desire to abandon the relationship, to a deeply-rooted dependency on the spouse or companion. This dependence is manifested in the relationship in personal and emotional terms as well as economic terms, giving rise to a feeling of not being able to survive on one's own.

These feelings may be complicated by failure to clearly perceive what is meant by "love." A woman may perceive and label a given situation as "love," yet slowly and painfully begin to realize that she is involved in a relationship that causes her suffering and is neither healthy nor a love relationship.

In both individual and group therapy, women have the opportunity to explore and understand their emotions and experiences, which is one of the major goals of interdisciplinary work. Only through self-understanding and resolution of the confusion can women become capable of defining what they want by themselves, describing their role and who they really are, and developing a plan of action for taking control of their lives. This exploration of feelings should involve three facets: her feelings about herself; her feelings about her spouse or companion; and her feelings about the relationship.

Women need to be given assistance to admit that they have been victimized; this makes it possible to analyze the suffering. Another important goal of the interdisciplinary strategy is to give women a clear sense of what it means to be a battered woman, what it entails, how it redefines their lives, and how it affects the relationship. Assistance should also help women to relate the incidents of abuse and violence, explore their feelings as victimized women, and work for a future strategy to get out of the oppressive relationship.

To become a full person, the battered woman must learn to stop being a victim. Her sense of self should be strengthened through this process of self-discovery; throughout, it should be stressed that responsibility for the abuse must always be borne by the abusive spouse or companion. The woman's responsibility is to come up with a response to the problem.

The extent to which the woman can integrate the meaning of the abuse and its effects on her life depends on her ability to understand the patterns of rationalization of the violence and her role as victim, which she has developed in order to deal with these circumstances.

Thus, the interdisciplinary team of the Legal Office for Women is also responsible for providing the battered women who seek assistance from the center with extra-legal support—beginning with their pain, fear, and confusion. Becoming capable of confronting their passive acceptance of

the attacks and resulting victimization involves a process of self-awareness that may lead to a strong emotional response characterized by feelings of vengeance, guilt, shame, and depression. The team must be prepared to support the woman as she develops and expresses these emotions. Given the importance of supportive psychological work, the team professionals maintain close coordination.

When the woman's accumulated pain is triggered, when she begins to "break down" and see her life as it is, she may see suicide as a way out, considering her anguish vis-à-vis the lack of legal or social solutions. Also, repressed aggression may lead a woman to commit an act of violence against the abusive man or other family member. Strategies must be designed and developed in the case evaluation sessions to recognize and assess the woman's signals.

In working in women's groups, certain techniques become valuable instruments for expressing experiences and feelings. These include role playing, hot-chair techniques used in gestalt therapy, drawings, oral recounting of experiences, or a diary written on a regular basis.

The process of developing self-awareness involves finally freeing oneself from fears, attaining the security needed to leave behind the abusive relationship, integrating new information about possible legal or extralegal solutions, and taking concrete action. The battered woman's decision to initiate legal action, leave the abusive situation, and find a job to support herself (and usually her children as well) is a key step in beginning to live for herself, in developing self-esteem, and in feeling secure at her success in bringing about change. Some couples begin therapy separately but then move on to joint therapy, as each decides to change the relationship or separate for a time.

A goal of interdisciplinary attention is to give battered women the tools they need to participate in solving their problem that can be internalized and used regularly to address other situations in the future. Initially they feel unable to take action, a sense that is constantly reinforced in the domestic situation which is controlled by the male companion who makes the major household decisions, thereby maintaining the woman as a psychological invalid. She has no sense of competence, has

not been able to make decisions on her own, and has usually been subjected to verbal abuse, reminding her of her helplessness and dependence on him. If the situation has persisted for many years, the woman sinks ever further into pessimism and passivity.

Women need to feel empowered. The crushing sense of passivity, inability, and immobility of the battered woman is often accompanied by expressions of frustration for not being able to make decisions on the spot. Thus, an important principle of the interdisciplinary approach is to work with the women, not for them, making clear that it is they who must make the important decisions. In general, the most important decision a woman makes is whether or not to leave her abusive relationship. Helping her develop a self-perception that includes independence and the ability to make decisions is a key goal of the interdisciplinary team. Since each woman will progress at her own pace it is important not to push her toward independence before she is ready. Encouragement will only prove effective if it is part of the process of building up the woman's self-reliance.

It is important to discover the woman's potential, as well as the motives underlying her decisions. If she decides to continue in the relationship, or return to the spouse or companion after a period of separation, she will probably have learned a great deal about how to make a conscious decision, explore her motivations, and accept responsibility for her choice. In applying an interdisciplinary approach to domestic violence, the delimitations among professional roles become blurred, giving way to a more holistic and supportive professional approach.

The Legislative Strategy

A legislative proposal against domestic violence was brought before the National Legislature in 1991. Article 1 states "All persons suffering minor injuries or physical or psychological abuse by another family member who lives in the same domicile may file a report of such occurrences with a competent civil court judge in accordance with the law."

The bill introduces a procedural novelty for Chile; the first report may be submitted orally or in writing, with or without

an attorney. This "submission" (the term indicates that the matter is neither a traditional civil lawsuit nor a criminal complaint) may include a request for urgent precautionary measures, such as protection orders to keep the batterer away from the home.

The process is to be substantiated in accordance with the rules of summary procedure, but with certain changes to expedite the process. For purposes of case reporting, both officers of the court (receivers) and the police (*Carabineros*) are considered competent. In the first hearing the judge should rule on the request for precautionary measures, if any, and order those deemed appropriate. Likewise, the judge should order medical and psychological examinations as well as a visit by a social worker. Moreover, members of the immediate family (until now disqualified from testifying) may be witnesses.

The provisional measures which may be decreed by the judge include ordering the expulsion of the abuser from the family's home; prohibiting access of the accused to the woman's home, place of work, or place of study; ordering the person who had to leave because of the violence directed against her or him to return to the home; setting provisional child support, if appropriate, in accordance with the situation; and establishing provisional custody of the children. Also, if the victim is a minor, custody and care can be entrusted to whoever is suitable for such a function.

Three alternative measures are also being considered in our legislation: fines to be awarded to the victim; compulsory educational programs for the abuser; and the performance of community work. In the case of injuries, the matter is brought before the criminal court which may decree the same related provisional measures described above.

At present this bill is a utopia that has nevertheless been made possible by the constant mobilization of and collective pressure brought to bear by women's groups in recent years.

The growing consciousness of Chilean women that the problems they face have a political component has been key to their mobilization. Learning to express their needs in political terms and understanding that meeting those needs means they must have greater access to power has been a difficult process. Even so, the government ministerial-level women's

bureau, SERNAM, together with the political parties and women's organizations, is working to provide channels of public expression.

The Networking Strategy

The regional office of CLADEM (*Comité Latinoamericano para la Defensa de los Derechos de la Mujer*) prepares eight quarterly information sheets as a means of internal dissemination, informing the regional liaisons and regular contacts of progress in carrying out the regional plan. Four quarterly newsletters are published to provide information on the social and legal status of women in the region. Materials are sent to the national organizations to facilitate clear and expeditious reporting of their work and actions.

Activities to bring pressure to bear and monitor the status of women include broadening and consolidating the Latin American Solidarity Network (for collective responses in the region); denunciations in short-term emergencies and sustained pressure in the medium-term; and organizing regional campaigns on certain issues important to women (in 1990 the campaign opposed violence against women).

Research activities include organizing a regional resource archive; undertaking comparative research on criminal law and women or other selected topics; and publishing research results. Training and advisory services include organizing and carrying out national workshops to organize CLADEM country by country, and providing internships for women from different organizations to obtain training through visits to organizations in other countries of the region. Networking thus entails communication among the organizations of one country, and with the member groups in other Latin American and Caribbean countries.

At present, the Network has members and liaisons in 14 countries, including five in which national level CLADEMS have been established: Honduras; Panama; Argentina; Brazil; and Peru. In Chile, funds have been received to begin a concerted work program. A survey of organizations that work on women's rights issues was conducted (including groups that give legal training workshops). Over half the organizations that responded (34 groups and institutions) are currently

undertaking research on women and the law, but only two litigate on behalf of women. A large number of organizations respond to inquiries or give workshops. A key task is to overcome fears and defend women with appropriate legal strategies in which the law is specifically combined with women's issues.

Analysis of Impact

Reflections on the Outcomes and Lessons Learned

Violence against women is one of the most politically and emotionally charged issues in the social sciences today. Indeed, it was the women's movement that raised the issue, bringing it out of the home. There is a notable tension between those who consider themselves feminists, and researchers whose emphasis is on the family (Kersti and Bogred, 1988). In Chile today the central emphasis is not on confrontation but on convergence, and on the profound liberating potential for women to open up and share with others a painful situation that has been endured in silence.

Of the lessons learned to date, the most important is recognizing the limits and failures of the predominant legal discourse. Showing how legal discourse conceals an existing conflict through a system of symbols is very complex (Legendre, Entelman and others, 1982). For example, the legal paradigm has been constructed on the basis of written discourse. This means that in the courts events are reconstituted based on a set of rules that dictate how discourse must be generated and organized to be considered legitimate. What would happen if the courts were to accept oral presentations? In that case they would become "the place" (in a logical sense) for bringing social events into the legal sphere. We need the law to be accessible and comprehensible, especially to women. We will achieve specific goals by opening up the debate among legal workers and educating women as to their rights.

The Effect of the Program on the Status of Women

Machismo is very strong in our male-dominated culture. A woman may feel the need to free herself from a violent companion, but if she thinks of her own needs she feels guilty, for she has been condemned culturally to a secondary role in

which she constantly denies herself and her own needs. Women are gradually learning to earn money; still, when they terminate the relationship, their first concern is supporting the children. If they do not feel secure, they may remain in the relationship until the children reach adulthood.

The women who come to the Office are generally from one of two age groups. First, those up to approximately 38 years of age seek help because they have decided to "separate" because they do not want their children to live in such an environment, or because they do not want to continue in a relationship with their companion. In this case, the children come first; in the second, the women come first.

The second group of women are over 45 years of age and state that they want to separate because the children are grown up now and their maternal role has ended. In most cases, protecting the children and self-sacrifice are key factors in the lifestyle. From an educational standpoint, not only must women be aware of their rights, they must also know how to use them. Thus, women's Information Centers (three) have been established to provide information and orientation. A change is needed in education from an early age so that we can stop educating the new generations to adapt to certain roles and stereotypes, and so that civic education courses can include not only the abstract idea of equality between men and women, but also their specific rights.

The outcome of the cases taken on by the Office is a function of the extent to which each woman feels herself to be a woman with rights. Whatever the solution—abandoning the home, or deciding to separate by mutual agreement (in Chile there is no divorce, and nullification is costly)—there is one constant: once the cycle of violence begins, it is difficult to stop it, and relations gradually deteriorate until reconciliation becomes impossible. Those who work with abused women are struck by their pain, frustration, repression, and exhaustion, for beyond the serious physical battering, the psychological impact is immeasurable.

All the teams that have participated in working groups on violence over the last four years in Chile have had conflicts, with members coming and going. We believe this is because it becomes too painful for the workers due to the limited

possibilities for assisting abused women: the police pay little attention; the law provides no adequate remedy; and there are no shelters to refer women to, even when they have to leave the home immediately. In sum, women have abandoned such projects because they feel they have few tools.

This raises questions such as is the working model defective? Is the problem the lack of appropriate therapies for abused women and women who work with them? Is it the small number of self-help groups to which women can turn? Do structural factors come into play? Which ones? Other as yet unresolved questions include why do men beat women? How is family violence related to social violence?

Responses from different countries, including Chile, have included educating the police, establishing specialized centers to provide care in domestic violence cases, entering into support agreements, and working with the ministries of health and education. New results and responses will have to be found in this context, within a holistic view of the problem.

In asking ourselves, "which of these lessons are relevant?" we return to our belief in the value of the interdisciplinary approach. Interdisciplinary work poses the challenge of "lowering epistemological barriers," specifically to assist and work with women until attaining their empowerment. We must also confront this long-standing problem with the vital need to change not only the standards of those seeking care, but our own standards as well. Providing services for abused women involves a flow of energy and knowledge that nourishes us as women. We should also become aware that women's problems are political problems, and everyday confrontations should be considered political as well. In this context, we should try to make the law work for women, rather than as a means of repressing women.

These lessons have emerged not only from our work, but from the work of thousands of women the world over with whom we share an experience with battered women. And in this world in which hope is sometimes hard to visualize, we have also learned to affirm life.

North America



**Reflections on a Movement:
The U.S. Battle Against Women Abuse**
Lori Heise and Jane Roberts Chapman

Reflections on a Movement: The U.S. Battle Against Women Abuse*

Lori Heise and Jane Roberts Chapman

Introduction

As recently as 1974, a battered woman in the United States had little chance to escape. She was often completely isolated, her plight hidden behind the cloak of "family privacy." There were no shelters or support groups; no legal clinics or special laws to protect her. She was alone in a world that not only ignored her predicament, but also blamed her for the beatings she endured.

Today, thanks to the creative energy of thousands of feminists, lawyers and activists, many of them formerly battered women, this situation has changed. "Domestic violence" is now a household word and the United States has more than 1,500 programs providing services for battered women. In many areas, the legal system no longer treats domestic violence as a "family matter," but prosecutes wife assault as it would assault by a stranger. Through the symbolic force of law, society has declared wife abuse unacceptable and is holding violent men accountable.

*In addition to published sources, this chapter is based on over 40 in-depth interviews with activists, researchers and policy makers involved in the U.S. battle against domestic violence. We have attempted to serve as scribes, recording the history of the movement and offering advocate's own reflections and assessments of what has been achieved to date.

The U.S. battered women's movement began as a grassroots effort to provide emergency shelter and advocacy for women who were beaten by their partners. It was a political movement, operating outside existing institutions, with a radical vision for social change. Today that vision is less clear and effort is more focused on systems change; it remains to be seen whether this "reformist" strategy can reduce the level of violence against women in American society.

More than any other ideal, it has been women's safety that has established the movement's focus and guided its stance on controversial issues. The emphasis on "sheltering," for example, reflects the primacy of women's safety as does the movement's focus on justice reform. Recognizing that shelters alone could not protect women, activists in the late 1970s agitated to make police and courts responsive to women's needs.

Indeed, the United States has taken a decidedly "law and order" approach to intimate violence. Activists have worked hard to frame wife assault as a crime, rather than as a social or mental health problem. They have looked to the justice system when fashioning remedies for abuse, rather than to the "helping professions," or to more informal community-based sanctions.

The overriding principle has been to hold men strictly accountable for their violence, and the accompanying strategy has been to get the sanctioning arm of society, the justice system, to take violence against women seriously.

The Movement's Early Years

By defining the "personal as political," the resurgence of feminism in the late 1960s set the stage for the "battered women's movement." It was in feminism's early consciousness-raising groups that women realized that the politics of male dominance operated not only in the public realm but in the private sphere of the family as well. The medical community's "discovery" of child abuse in the 1960s also helped open the family to outside scrutiny and laid bare the myth of the family as a haven of love and support.

The battered women's movement, however, owes its most direct legacy to the antirape campaign that dominated feminist

attention in the early 1970s. Antirape activists were the first to raise violence against women as a public issue, and the first to articulate violence as a way that men maintain power and control over women. Through their work on rape, women learned to write grants, run organizations and achieve results within police and justice agencies. Such experiences gave battered women and their advocates an analysis of violence, and the skills and political sophistication necessary to push for reform.

Most importantly, the antirape movement gave women both the permission and the means to name the violence in their lives. It was through rape crisis hotlines that many abused women first reached out for help. In greater and greater numbers, battered women came forward in the mid-1970s, telling their stories to crisis-line workers, to feminist lawyers and to other sympathetic ears. Suddenly, battered women were visible, and their needs were overwhelming.

The most pressing need for women and their children has been to find a refuge from violence. As recently as 1976, New York City, with more than eight million people, had only 45 beds for homeless women, and no special shelters for women fleeing abuse (Schechter 1982). To breach this gap, women around the country took battered women into their homes; others began the long and arduous task of garnering the funds and the community support necessary to open local shelters. Often a group began with a crisis line or counseling project, and slowly built toward a shelter.

In many cities, action on behalf of battered women began as women committed to ending violence—lawyers, social workers, psychologists and activists—met in coalition to set an agenda for reform. Progress depended largely on the skill mix of each coalition; but almost universally groups identified shelter as a top priority, along with legislative and police reform.

As shelters and counseling services multiplied, activists began to link up through newsletters, conferences, and state coalitions. Coalition-building at the state level was an important step in moving beyond assisting individual women by joining forces for legislative and systemic change. Coalitions provided the opportunity to hone skills, plot strategy, and

share political vision. Many were instrumental in achieving major legislative gains. By 1980 all but six states had enacted some form of domestic violence legislation that variously provided funding for shelters, established more effective court procedures, and/or created "protection orders," a legal mechanism that prohibited men from abusing their wives.

During this same period, feminists in Washington pressed for and won significant legislative victories on other women's issues. But domestic violence was a different sort of problem. The subject was almost taboo among policymakers who saw it as not only unpalatable, but unrelated to their public responsibilities. It was a personal, family matter, and there they wanted it to remain.

Advocates in Washington nonetheless persevered, striving to put domestic violence on the federal agenda. Sympathetic members of Congress and the Civil Rights Commission conducted hearings on battered women in 1978, but it was not until 1984 that the first federal legislation on domestic violence passed (see timeline). During the late 1970s, advocates were able to marshal some federal dollars through the Department of Justice's Law Enforcement Assistance Administration (LEAA), and for a short time, there was a Federal Office of Domestic Violence in the Department of Health and Human Services (DHHS). But neither program survived the ascendancy of the Reagan administration's fiscal and moral conservatism.

Today, the federal government remains unwilling to treat domestic violence as a major problem demanding a solution, spending roughly 25 times less on wife abuse than on child abuse.¹ But there is some renewed activism in Washington around a proposed bill that would increase funding for domestic violence programs and define violence against women as a violation of women's civil rights.

Battered Women's Shelters

Shelters are the linchpin of the American response to domestic violence. Most often, shelters are old homes with many bedrooms where battered women and their children can stay for up to several months. Residents participate in the running

of the house, taking turns cooking and cleaning. Each shelter has its own rules about drugs, curfew, child care, and attendance at house meetings to discuss problems and chores. As a rule, the location of shelters are kept secret, to protect the safety of residents.

A typical shelter has a 24-hour hotline and is accessible at all hours, seven days a week. It provides free food, access to free clothing, basic child care, and some form of public education and community outreach. Most shelters run support groups for residents and many offer support and advocacy for nonresidents as well. Increasingly, shelters offer professional counseling for women in addition to the more traditional "self-help" groups.

Some better-funded shelters also provide legal assistance to residents and often have staff actively involved in police training or some other type of institutional reform. They are likely to have programs that meet the special needs of battered women's children, many of whom have been abused themselves and are often uprooted from school and friends during their shelter stay.² Occasionally shelters provide job training and offer "second-stage" housing for women who need more time before setting off on their own.

When the movement began, shelters in the United States were more than emergency housing; they were a liberating space for battered women, a springboard for social activism, and a grand experiment in consensus decision making. Their philosophy and organization reflected their largely feminist roots. Early shelters were run as collectives, with few if any professionally trained staff. Their central tenet was that battered women needed support, advocacy and survival skills, not treatment or counseling.

Shelters were both service providers and agents of social change. The goal of most early shelter workers was to make their jobs obsolete by creating a world safe for women and their children. Activist staff saw their role as helping women understand the societal origins of male violence, in addition to helping them sort out their lives. A political context for violence helped women dispense with self-blame and move forward as individuals, and collectively as women, to challenge the social institutions that perpetuated abuse.

It was in battered women's "self-help" support groups that this consciousness was formed. In telling their stories, women broke through their isolation and found affirmation of their experiences. They came to see that their stories shared common elements, that society colluded in making them feel responsible for their own abuse. In time, they looked beyond their individual abuser to see how society and institutions reinforced his behavior.

Feminist founders also pioneered the model of "women's advocacy" that remains pivotal to the U.S. response to domestic violence. Building on the experience of the rape crisis movement, shelter advocates defined their role as helping women explore their options in order to decide what is best for them. Advocates also helped women deal with the legal system, welfare offices, and other government bureaucracies. They accompanied them to court, helped set up appointments, and provided a sympathetic ear. When necessary, they "advocated" on a woman's behalf, pressing the system to respond to her needs and rights.

While today's shelters retain a commitment to women's advocacy, the dominant objective of most groups is to provide quality services for battered women, not to transform society. As shelters struggled to survive in the late seventies, many accepted funding from government or other sources that demanded they adopt a more traditional structure (with executive boards, a director, and professional staff), and more of a "social service" approach to assisting victims. Others became less radical and more professional in order to gain "credibility" and earn the trust and support of their communities. Still others never intended to lose their activist edge; it merely evaporated in the daily grind of keeping shelter doors open.

As the issue of abuse gained legitimacy and funding became available, more established groups and mainstream professionals became involved in providing services. By the early 1980s, less than half of all shelters were explicitly "feminist" and the emphasis had shifted from social change to social work.

Some see this shift as positive. "We can't use battered women to fight political battles," argues one staffer. "When politicization is an issue, women often lose." Others see the

shift as a necessary concession to guarantee that at least a reasonable percentage of battered women get the services they need. But for many veteran organizers, today's emphasis on service marks a fundamental shift from fighting the causes of violence to treating its symptoms.

Activists also worry that the influx of professionally trained psychologists and social workers is redefining violence as a "family relations problem," not a crime perpetrated by men against women. They see battered women being treated as victims in need of psychotherapy instead of survivors in need of empowerment and support. While most acknowledge the benefits of professional counseling for certain women, they object to the therapy models gaining currency today that see women as copartners or "codependents" in a "dynamic" of abuse.

Counseling that empowers, like feminist therapy which considers both the personal and political dimensions of women's problems, can be an important addition to traditional shelter services, but therapy should not replace peer advocacy or self-help groups. Nor should professional "credentials" supercede the value of personal experience or the authority of battered women to make their own choices.

Despite the emphasis today on service, there is still an acute lack of emergency housing for battered women, especially in rural areas. Advocates estimate that up to one third of all rural areas have no services at all. Perhaps another third are nominally covered through a loosely managed system to transport women to the nearest urban shelter. The final third have their own domestic violence project, often consisting of a hotline and crisis center, and a network of "safe homes" where local residents temporarily hide victims from their abusers.

Urban areas have had their own coverage problems. In 1987, nearly 40 percent of battered women in need of housing were turned away due to lack of space. In some states, two women are turned away for every one that is sheltered (DHHS 1991).³ According to a 1990 national needs assessment conducted by the Pennsylvania Coalition Against Domestic Violence, funding available for domestic violence projects fell \$300,000,000 short of the amount needed just to maintain existing services. As a result, shelters had to lay off

staff, cut valuable programs, and in some places close down (Kelley-Dreiss 1990).

Indeed, it is the cost and difficulty of maintaining shelters that is perhaps the greatest drawback in using them as a strategy for protecting battered women. Yet most advocates agree that in the United States' context, providing shelter and services to battered women was an important and appropriate first step in the movement to end violence. If women had focused entirely on protest, political organizing, and prevention (to the exclusion of services), activists would have lost credibility among battered women who could not support a movement that failed to address their most immediate needs.

Shelters also gave fledgling activist groups a concrete project around which to organize and first-hand experience with the brutal realities of battered women's lives. As movement organizer Jann Jackson (1991) observes,

Given that there was nothing, that battered women were invisible, shelters were an extraordinary source of social change in and of themselves. Nothing more dramatically tells a community that there is a problem than the presence of a shelter that is constantly full and turning people away.

Nonetheless, shelters are at best a short term alternative for women in crisis. Few can offer women the job training or transitional housing they may need to set forth on their own. And while vital for women's safety, shelters by their very nature make the victim of violence, not its perpetrator, suffer the emotional and physical upheaval of being displaced from home.

Regrettably, many shelters do not even offer a workable short-term alternative for women with special needs. Most, for example, do not accept women with alcohol or drug problems or women who may be mentally ill. Few are equipped to handle women with physical disabilities, elderly battered women, or the special language and cultural needs of immigrant women. Within the last five years, "traditional" shelters have made a move to hire more Spanish speaking staff, and a few special programs for immigrant women have sprung up. But the unmet need is still vast. In the entire United States, for example, there are only three shelters that respond to the particular needs of Asian women.

Justice Reform

As battered women came forward in the mid 1970s, advocates became acutely aware of how the justice system failed to protect them. Police had little authority to arrest men unless they witnessed an assault, and even then often failed to exercise that authority. Prosecutors and judges trivialized wife assault and refused to interfere in what they saw as a "domestic" matter. Faced with daily horror stories of official indifference, shelter workers and feminist lawyers set out to make the justice system responsive to women's needs.

They began with the police, who were in the best position to protect women's immediate safety. Through training, and when necessary, law suits, advocates sought to make police take domestic violence seriously. Others worked to pass legislation expanding police arrest powers and creating "Civil Orders of Protection," a new safety option for women. More recently, there has been a shift toward increased reliance on criminal prosecution of abusers, both for its symbolic value (wife assault is a crime and will not be tolerated) and its ability to shift responsibility for action from the victim to the state. Accordingly, advocates have sought to reform both the court's handling of domestic violence cases and the attitudes of prosecutors and judges.

The following section explores each of these efforts in turn: Police, Civil Protection Orders, and Criminal Justice Reform.

The Police Response

Until the 1970s, police department practices toward domestic violence reflected the attitude that family violence was a private matter. The Detroit police department, for example, had a written policy that directed officers to "recognize the sanctity of the home and diplomatically end the 'disturbance' without making an arrest" (Finesmith 1983). If and when the police did respond they merely separated the parties and left. Officers considered domestic calls a nuisance, dangerous and not "real" police work.⁴

In the late 1960s and early 1970s, however, researchers began to document the perfunctory and totally inadequate response of police to domestic violence calls. Law reformers and psychologists began to call for a new "crisis intervention"

approach to domestic violence. Police were to "mediate" family disputes, not ignore them. By 1977, with financial backing from the U.S. Department of Justice, 70 percent of large police departments (100 or more officers) had established training programs for officers in mediation and conflict resolution. In less than a decade, mediation became the preferred law enforcement response, and arrest rates for battering hit an all-time low (Sherman & Berk 1984).

In the late 1970s, however, women's groups and activists began to press for a stronger criminal justice approach to domestic violence. Battery, they argued, was a crime and should be treated like any other crime. Batterers should be arrested, not pacified. To do any less denies a woman her basic rights as a citizen and increases her likelihood of serious injury.⁵

In recent years, police departments have come a long way toward accepting advocates' pro-arrest stance. By 1987, over half of the large police departments had adopted a pro-arrest policy, up from 10 percent in 1984 (Pennsylvania Task Force 1989). But most have not come willingly. As activist Ellen Pence (1988) observes, "... most police departments have been pushed prodded and dragged into [these] policies by battered women advocates who have put pressure on them to change...."

In many cities, pressure came in the form of lawsuits against departments for failure to arrest. At various times, the police in New York City, Oakland, California, and Dallas, Texas all operated under court orders requiring them to treat domestic violence as a crime (Pleck 1987). Elsewhere, advocates used negotiation, the threat of suit, or training to encourage reform. In the late 1970s, advocates spent countless hours trying to "convert" their local police by educating them in the dynamics of abuse.

In addition, women's groups lobbied legislatures to broaden the arrest authority of police in misdemeanor assault cases. As a result, all but one state (West Virginia) now authorize police to arrest batterers when they have "probable cause" to believe that an assault has occurred. Previously, officers had to actually see an assault before they could arrest a batterer without a warrant.

In 1984, three events added weight to advocates' push for arrests in domestic violence cases. The first was a court decision, *Thurman v. Torrington*, which held that individual officers as well as police departments could be held liable for failure to protect battered women. Tracey Thurman, a battered woman, was awarded \$2.3 million in damages for wounds her husband inflicted on her after the Torrington, Connecticut police failed to intervene despite her repeated calls for help. The threat of similar suits motivated many municipalities to adopt more aggressive arrest policies to protect them from liability. Secondly, researchers released findings from a study in Minneapolis that suggested that arrest actually deterred batterers from future violence.⁶ Finally, the U.S. Attorney General issued a report endorsing a strong criminal justice approach to domestic violence.

Originally activists thought that police behavior could be reformed through training alone. But as low arrest rates continued under discretionary standards, activists moved to "legislate" police behavior (instead of trying to change police attitudes through training). Today at least 15 states and numerous cities have laws or policies mandating arrest for felony (and sometimes misdemeanor) assault; an additional eight require arrest for violation of a protection order (Woods 1991).

While advocates agree that batterers should be arrested, they disagree on whether policies should be "mandatory." There is little doubt that such laws do change police behavior. After Washington state enacted its mandatory arrest law, arrests increased fourfold, the number of cases doubled, and the number of cases prosecuted tripled (Buzawa & Buzawa 1990). Nonetheless, some advocates and researchers have reservations about possible side effects of a mandatory approach.

Opponents argue, for example, that by expanding police power, such laws increase opportunities for harassment of minority men. In some locales, new arrest policies have also increased the number of minority children taken into state custody (arrest for violence is selectively used against minority parents as evidence of parental negligence). Proponents counter that elsewhere mandatory policies have actually reduced the proportion of minority men arrested.⁷ Critics

believe that it is unwise and poses a danger to women for mandatory arrest laws to be passed unless the rest of the system is prepared for an upsurge in cases, and women have adequate access to legal advocacy and shelter. Others argue that the law must flood the system first; only then will communities respond with additional funding for shelters and court advocates.

Actual experience with mandatory arrest, however, reveals some areas of concern. In almost every jurisdiction, police antagonism toward the policy has resulted in many "dual arrests," where both the man and the woman are arrested.⁸ There is also concern that mandatory arrest policies make women less willing to call the police because they do not want their partners arrested. In Wisconsin, 68 percent of women victims who called the police after the mandatory arrest law passed said they would not call the police in the future. By contrast, 77.5 percent of victims who called before the law said they would call again (Stafne 1989).

Finally, police can easily circumvent unpopular arrest laws by simply not pursuing offenders when they leave the scene. Studies in Omaha and Phoenix show that roughly half of all offenders have left the scene by the time the police arrive (Buzawa and Buzawa 1990). Regrettably, police seldom pursue such men.

Civil Protection Orders

Prior to legislative reforms creating orders of protection, a battered woman had few options short of divorce or going to a shelter. Traditional restraining orders were available only to women filing for divorce. Protection orders were created to meet the needs of battered women who did not want to leave their husbands or their homes.

The civil protection order, now guaranteed by law in all 50 states and the District of Columbia, is a legally binding court order that prohibits one individual from abusing another. It is a crucial remedy for the battered woman because it provides a readily available, court-sanctioned instrument which she can seek on her own, without a lawyer. Temporary orders can be issued without the presence of the abuser until a hearing for a permanent order can be scheduled. In many states, orders can be issued based on threats of violence in addition to actual incidents of past violence.

Protection orders are now the remedy of choice for many women needing protection from violence. Under today's most progressive statutes, judges can require a man to leave his home, establish temporary custody and visitation arrangements for children, make the husband pay financial support, forbid telephone threats or harassment, conscript weapons, and order the batterer to attend counseling. Many women prefer protection orders to criminal prosecution because they do not want their abuser jailed, or they wish to avoid the ordeal of an adversarial proceeding (Schneider 1990).

But protection orders are only as effective as the sanctions that back them up. While many statutes consider violation of an order a criminal offense, studies document that there is considerable resistance in all government sectors—police, prosecutors, courts, clerks, and judges—to the enforcement of orders (Commonwealth of Massachusetts 1985). Police, for example, seldom pursue a man who has violated his order if he leaves the scene before they arrive, even when a warrantless arrest is within their authority. Judges further undercut the effectiveness of orders by not imposing serious sanctions, such as jail time for violations. A National Institute of Justice Study found that many judges fail to order jail time even for serious repeat offenders (Finn & Colson 1990).

Judicial attitudes toward domestic violence often result in refusal to issue orders in the first place. Many judges minimize the violence and question the validity of the woman's testimony. They are reluctant to evict a man from his home, even when a woman's safety demands it. Hostile judges have even issued mutual protection orders, requiring an abused woman to stop "harassing" her husband. The National Council of Juvenile and Family Court Judges condemns this practice, noting that it smacks of "gender bias" (National Council 1990). Such concerns reinforce the need for better monitoring of enforcement practices and more training for civil and family court judges. Advocates and law reformers repeatedly cite judges as the weakest link in processing domestic violence cases. They are both more isolated from the brutal realities of wife assault and more insulated institutionally from outside pressure or review. A more sympathetic and informed judiciary is key to making protection orders a viable safety option for women.

Even in the best circumstances protection orders cannot reliably protect all women. Advocates and researchers estimate that for perhaps one-third to one-half of abusers, the mere presence of an order deters abuse (women tell stories of men who waited an entire year, and then beat them the day the order expired). Another significant portion might be deterred if police and judges created a credible fear of enforcement. For a small subset of intractable and very violent cases, only criminal prosecution and detention can guarantee a woman's safety.

Prosecution and Court Reform

In recent years, interest has increased in improving the prosecution of wife abusers. As advocates successfully pushed for more aggressive policing, they realized that their gains would mean little unless prosecutors and judges took domestic violence seriously.

Unfortunately, prosecutors and judges have traditionally treated wife abuse differently from other crimes. Prosecutors have avoided domestic violence cases, considering them "unimportant" and difficult to try. They have discouraged women from filing charges and have quickly dropped cases if a victim's resolve faltered. Judges have minimized domestic violence by denying women's experience or subtly blaming them for their abuse.

Advocates have used a variety of strategies to expose and then challenge this blatant double standard. Grassroots groups and shelters have organized "court watching" projects to document the biased attitudes and shoddy treatment of battered women. They have shared this information with the press to leverage public pressure for reform. Occasionally, advocates have even used condemning information to undermine the political campaigns of certain prosecutors and judges.

On a national level, feminist lawyers organized the Judicial Education Program to Promote Equality for Women and Men in the Courts (NJEP). This program has successfully encouraged over half of all states to form "gender-bias" task forces to uncover and attack sexism in the courts. Composed of both judges and community representatives, these task forces have amassed devastating testimony from battered women about their treatment in the courts.

Such efforts have resulted in increased demand for more training of prosecutors and judges. While police training has been widespread, only a handful of prosecutors and even fewer judges have been formally trained in the dynamics of abuse and the legal intricacies of domestic violence cases. A few states and cities have organized their own training, but these programs are the exception.

Despite the entrenched prejudices of the judiciary, various communities have shown that it is possible, given sufficient will, to vastly increase the successful prosecution of domestic violence cases.⁹ In the late 1970s, several progressive jurisdictions began experimenting with ways to improve their handling of wife assault. Three innovations emerged that greatly facilitate the prosecution of domestic violence: special prosecution units; expanded use of victim advocates; and the availability of batterer's treatment programs.

Special Prosecution Units

Special prosecution units ensure that domestic violence cases get the attention they deserve. Prosecutors working exclusively on wife abuse can develop the expertise and sensitivity necessary to successfully prosecute battering cases. A woman normally works with a single prosecutor during all phases of her case instead of three or four different attorneys as is otherwise the case. This continuity helps build trust and reduces confusion. Moreover, advocates can track cases and monitor the performance of prosecutors more easily when cases are handled by a single unit.

Some special units handle both felonies and misdemeanors. Felony-only units are more common, since logic indicates that resources should go to the more serious cases. However, the argument for focusing on misdemeanors is compelling. There are many more misdemeanors than felonies. They are plagued with evidentiary problems, and are thus less likely to get attention outside a special unit. Moreover, "...a unit focused on misdemeanors provides an opportunity for prosecutors to intervene before the violence escalates..." (Goolkasian 1986)

While all advocates encourage aggressive prosecution, consensus breaks down over what to do if the victim wants the charges dropped. Some offices have adopted "no-drop" policies

which require proceeding with the case even if the victim withdraws her support. Those opposing no-drop policies argue that they inappropriately increase the justice system's authority over the victim and may decrease her safety. Occasionally battered women have been jailed on contempt charges for refusing to testify against their abusers. Proponents say that the state has the responsibility to proceed regardless of the victim's wishes. The potential consequences of "no drop" policies are less severe in systems that include advocates for victims, valid batterer's programs, shelters, and prosecutors who are sensitive to the victim's concerns.

Victim Advocates

When left to face the justice system alone, a high percentage of women end up withdrawing their support for prosecution either by requesting that the charges be dropped or refusing to testify against their abusers. Cities have been able to dramatically increase victim cooperation, however, by providing advocates for battered women.

Advocates explain the justice process to women, help them understand their options, and tell them what to expect. As Barbara Zeek-Shaw (1990) of Denver's Project Safeguard observes, "victims who feel safer and more supported will in turn cooperate more with the system and make better witnesses when they do." The first year San Francisco introduced advocates they found that 70 percent of women who initially wanted charges dropped, agreed to cooperate once advocates addressed their concerns. "They weren't reluctant," notes project director, Esta Soler (1991), "they were confused."

Advocates can work from within the justice system attached to the police, prosecutor's office or the court. They can also be employed outside the system by a shelter or domestic violence project. Independent advocates are better positioned to address the full range of women's needs including housing, child care, and emotional support. They are freer to advocate on a woman's behalf because they can challenge the prosecutor directly and need not balance a victim's desires with the institutional needs of the court. In the ideal situation, there are advocates both inside and outside of the justice system.

Batterer Programs

The recent proliferation of batterer treatment and education programs has increased prosecution of abusers by offering a sentencing option other than jail time. Women often prefer that their partners receive "help" rather than punishment, and courts prefer a sentencing option that does not further crowd jails. Today there are roughly 200-250 such programs, many of which receive court-ordered clients. Most court-mandate programs meet weekly for 12 weeks, but others vary from as few as six sessions to over eight months in length (Gondolf, 1991).

There are widespread concerns about the effectiveness of these programs and their use as an alternative to prosecution. Advocates object to pretrial diversion of cases, arguing that counseling in place of prosecution establishes a second class justice system for women (Hart 1988). At best, they see treatment as a sentencing option, after a man pleads guilty or is convicted of assault.

Most treatment approaches are based on the idea that violent behavior is a learned and socially reinforced behavior. Counseling styles vary from highly structured classes that educate men on the power dynamics of battering, to free flowing "self-help" groups run by experienced facilitators. Some groups concentrate on improving men's ability to handle emotions while others go further to directly challenge men's perceived right to control women through violence. In addition, many programs include training in relaxation, education on male socialization, and behavioral techniques like "time out" to interrupt escalating anger (Stordeur & Stille 1989).

Only recently have researchers attempted to evaluate the effectiveness of batterer programs. Treatment appears to reduce the physical violence of some men, but it is likely that other variables (like interaction with the justice system) partially account for this effect.¹⁰ Studies show that six months to one year after completing treatment, 60 to 84 percent of men have not physically abused their partners (Eisikovits & Edleson 1989), whereas perhaps two-thirds of nontreated men will have recidivated. These same studies also indicate that even "non-violent" men continue to use verbal threats and psychological abuse to control their wives. As one author

speculates, "many men who end their violence may resort to the use of threats as a 'legal' but hardly less terrorizing form of control" (Edleson & Grusznski 1988).

Moreover, "success" rates in such studies apply only to "program completers." Since more than half of all men drop out before completing their treatment, it remains unclear how successful programs are across a wide range of men (Saunders & Azar 1989). Regrettably, failure to complete treatment results in few, if any, consequences for court-ordered clients. Currently, monitoring and coordination between courts and treatment programs are so poor that lack of attendance usually goes unnoticed. Where careful monitoring exists, it is generally because a local domestic violence project has of its own accord taken on this "watchdog" role.

Battered women's advocates are still divided in their opinion of male treatment programs. Some see them as dangerous because they may give women a false sense of security. Indeed, one study found that a man's decision to attend counseling was the single greatest predictor of whether a woman returned home after a shelter stay (Gondolf 1988). Others see batterer programs as competing for resources that are desperately needed for shelters. Most, however, are primarily concerned that programs be held to certain standards of quality and that courts monitor and respond swiftly when men fail to attend or reoffend. Some states, among them Colorado, Massachusetts and Wisconsin, have established standards for batterer programs and several others are attempting to do the same.

Coordinated Community Intervention

Perhaps the greatest innovation in the U.S. approach to battered women has been the development of community intervention projects that coordinate every aspect of a community's response to domestic violence. Early on, advocates began to realize that single innovations, like mandatory arrest, could not be effective without full cooperation and coordination among all players in a community's response to abuse. As Jann Jackson (1991) observes, "What we need is an integrated community response where every single legal and social institution has policies, procedures and resources to do the right thing by battered women."

In the early 1980s, several communities, most notably Duluth, Minnesota, began to experiment with a new, integrated model for responding to domestic violence incidents. Activists from the nonprofit group, Domestic Abuse Intervention Project (DAIP), lobbied justice officials and relevant agencies to convince them to adopt a strong "criminal justice" approach to battering. With support from some key "insiders" (e.g., a sympathetic judge and several probation officers), activists were able to negotiate strong mandatory arrest and prosecution policies along with an agreement to revamp the community's entire way of responding to domestic violence calls (Pence & Shepard 1987).

Today Duluth's model of response is one of the most progressive in the nation. Officers must arrest the batterer if there is evidence of an assault and injury to the victim. Once arrested, a batterer is automatically held in jail overnight so that advocates from the DAIP can visit the victim and offer her support and information about shelters, protection orders, and support groups. Advocates continue to support women through their interaction with the courts, welfare agencies etc. Another DAIP volunteer is sent to the jail to encourage the batterer to participate in counseling. Every other day, DAIP reviews police reports of all calls not ending in arrest, so that they may contact these women as well.

As an autonomous agency, the DAIP also functions as a "watchdog" group to monitor the implementation of existing policies and ensure coordination between actors. Representatives of all relevant groups including police, probation officers, shelters, prosecutors, and mental health practitioners, meet bimonthly to discuss individual cases. DAIP also uses this opportunity to challenge any group that may not be living up to their written policies. Advocates note, however, that their success as "watchdogs" derives in part from the willingness of Duluth's public agencies to open their records to outside scrutiny.

In 1984, after accepting testimony from all over the country, the U.S. Attorney General issued a report endorsing the concept of coordinated justice intervention as the cutting edge of reform. Shortly thereafter, the U.S. Department of Justice gave impetus for more cities to improve their responses by funding demonstration projects in 11 cities. In each, one actor

in the community, either a judge, the prosecutor's office or a local domestic violence project, took the lead to reorganize their community's response to domestic violence.

Generally, cities have followed a similar path in their process of reform. Each organization first assigns a person with policy-making authority to a domestic violence task force. The task force then meets regularly to negotiate a new, more aggressive approach to family violence cases. It often takes a year or more to hammer out all the needed policy and coordination agreements. At that point, some task forces disband and others convene a working group to monitor the implementation of the agreements and ensure coordination among actors (see Box for a description of the generic elements of the intervention).

In one form or another, this model has been replicated in perhaps 75-100 communities; it is likely to become even more common because the Department of Justice (which gives large "block grants" to states for justice-related projects) plans to make coordinated intervention one of the model programs eligible for such funding (U.S. Department of Justice 1991).

There can be no doubt that where coordination exists, the system is more responsive to women's needs. But community intervention as currently implemented has some important limitations. First, many communities have concentrated almost exclusively on coordinating the response of their police, shelters, and courts. True community-wide coordination involves policies and interaction with many other participants including local hospitals, divorce courts, welfare departments, and treatment programs for batterers. Coordinating court intervention in wife abuse with ongoing child protection cases is especially critical. Given its mandate, Child Protection Services (the agency that deals with child abuse) is often already involved with children from violent families before the woman herself seeks protection.¹¹

Second, community "intervention" is not the same as community "prevention." Task forces must expand their agendas from managing today's problems to preventing tomorrow's. This might include working with educators to introduce antiviolence curricula in local schools, or working locally to expand low-income housing for women and children.

Components of a Model Community Intervention Project

1. A coordinating council/task force initially comprised of representatives with policy-making authority from battered women's groups, law enforcement, prosecutor's office, judges, child protection services, batterers' programs, and other relevant agencies. Once policies are developed, lower level representatives can be assigned to meet regularly to oversee implementation and coordination of the response.
2. A written commitment to a common analysis of violence that recognizes both the power dynamics of battering and how social institutions sometimes collude in this abuse.
3. Written policies within each agency (e.g. pro-arrest, pro-prosecution) and agreements for data sharing and coordination.
4. A paid coordinator to manage the council and oversee the processing of cases.

Other essential elements:

- Victim's Advocates, preferably located outside of the justice system, to help battered women negotiate the court system and other social agencies.
- Local shelters or safe homes.
- Treatment programs for batterer and court monitoring of compliance.
- Training for all relevant staff on the dynamics of abuse and on the procedures and policies they are expected to follow.
- Institutional advocacy—active monitoring to ensure that each agency is following its policy and coordinating properly with other actors. Preferably an autonomous advocacy group would undertake this function.

Third, as currently conceived, community intervention is essentially an urban model. Yet 79 percent of U.S. counties are rural, and the courts that serve them affect almost a quarter of the nation's population. More innovative rural models are needed to ensure that battered women get the protection they need and the justice they deserve (Fahnestock 1990).

Likewise, many jurisdictions have copied Duluth's approach to coordination and its use of women's advocates, but few have successfully duplicated its approach to "institutional advocacy." Only a handful of cities, among them Denver, Minneapolis, and San Francisco, have autonomous advocacy groups like DAIP that monitor and pressure institutions to remain responsive to battered women. As Barbara Zeek-Shaw (1990) of Denver's watchdog group observes, "Without the constant monitoring and input of Project Safeguard, the policy changes we negotiated simply would not have been made." In communities where a working group remains operative, shelter representatives can sometimes challenge agency implementation; but advocates agree that institutional advocacy is best handled by an independent group committed to that task.

Finally, coordination is neither self-sustaining, nor adequate in itself. Even the most active task force cannot make up for gaps in services like the glaring need for more lawyers to represent battered women or the need for more shelters. Unless communities come forward with adequate and sustained funding for such things as training, special prosecution units, and victim advocates, coordination will have only a limited impact on women's safety.

Reforming Other Institutions

There is a growing consensus among activists that advocacy must expand beyond legal reform and shelters to focus on society's other institutions: health care, social service agencies, education, and the church. Anne Menard, Executive Director of the Connecticut Coalition Against Domestic Violence, estimates that Connecticut's elaborate network of shelters and legal advocacy projects still reaches only about 10 percent of victims. "The other 90 percent," notes Menard,

"interact with institutions that have not been taught to recognize abused women or respond to their needs." As with the justice system, change will come only when advocates mount a concerted campaign for reform.

The Health Care Response

Despite often blatant evidence of abuse, the medical community has only recently begun to acknowledge battering and to organize a response. Studies have repeatedly shown that health care workers rarely identify battering even though women have been willing to admit abuse when questioned in private.¹² Further, battered women consistently rate doctors as particularly unhelpful even in cases where women admit their abuse (Bowker 1986).

Several observers, however, consider medicine poised on the brink of constructive reform. In the last two years, articles on battering have begun to appear in mainstream medical journals and the major medical associations have started to sensitize their members to battering by offering information and workshops.

Domestic violence gained important credibility as a medical issue during the tenure of Surgeon General C. Everett Koop, who considered violence a national health priority (the Surgeon General is the United State's most highly visible public health official). Recently, after lobbying by battered women's advocates, the Federal government formally recognized the significance of battering by setting a national goal to reduce abuse of women to fewer than 27 cases per 1000 couples by the year 2000 (DHHS 1991). The government's blueprint for health priorities, "Healthy People 2000," also includes goals to expand shelter services, to increase the number of schools offering training in nonviolent conflict resolution, to extend coordinated, community intervention projects to more jurisdictions, and to institutionalize emergency room protocols for identifying and responding to victims of abuse.¹³

Through a creative strategy, the Philadelphia Coalition On Domestic Violence (PCDV) has helped assure that one goal of the Healthy People 2000 report, hospital protocols, will become standard throughout the United States. Distressed by

the medical community's inadequate response to battering, the coalition convened a task force to explore how to force the system to reform. Task group members decided that instead of pressuring individual hospitals, they would lobby the national Joint Commission on Hospital Accreditation to include standards related to family violence among those used for making accreditation decisions (insurance companies will not reimburse nonaccredited hospitals, making accreditation absolutely essential for U.S. hospitals). In March 1991, the accreditation board approved new standards requiring both written protocols for handling suspected cases of abuse and training for all emergency room and ambulatory care personnel.¹⁴

Battered women's advocates in the United States and abroad can learn much by PCDV's approach to institutional reform. Rather than try to reform hospitals and doctors one-by-one, the task force found a way to "tweak" the system to get hospitals themselves to undertake training and reform (and to have implementation evaluated by the accreditation board every two years). Also, hospitals wanting to meet accreditation standards will likely become a new source of funding for domestic violence workers who are obvious candidates to develop and implement training.

Emergency rooms, however, should not be the only focus for health care intervention. By the time a woman needs emergency care, health care workers have likely missed several opportunities to intervene, for instance during prenatal care appointments, normal office visits or through family planning clinics. It is now widely recognized that intervention must expand beyond the emergency room to include improved practices by all health care workers.

Two model programs in Connecticut and Colorado are taking a first stab at sensitizing the wider health community. In Connecticut, the Domestic Violence Training Project teaches health workers how to identify battered women and how to develop policies to coordinate their institution's response to abuse. The program requires that at least three representatives from any one institution attend, so that when they return to their clinic or hospital they have the organizing potential to push for reform.

Rather than organize institutions, the Colorado State Department of Health is helping communities build bridges between health workers and other aspects of the community's response to domestic violence. During a previous wave of reform, many Colorado communities formed domestic violence task forces to coordinate how the justice system, batterer programs and local shelters responded to cases of abuse. The Department of Health's current project is to integrate health workers into the community's ongoing response by training them to identify and refer battered women to existing services. To facilitate such referral, the project arranges panels so that doctors and nurses can meet the members of their local domestic violence task force.

Formation of activist networks within the nursing profession is another positive development. Since 1984, the Nursing Network Against Domestic Violence has been working to raise awareness of battering among nurses. Today, thanks largely to the Network's efforts, family violence is included in most nursing curricula, and licensing exams contain questions on wife abuse. By contrast, in 1989 fewer than half of all medical schools had any course work on domestic violence. Those that did averaged fewer than three hours of instruction (Centers for Disease Control 1989).

The Social Services Response

Battered women regularly interact with different social service agencies welfare offices, community mental health centers, and family welfare clinics, among others. Few of these agencies have been sensitized to the needs of battered women or educated about the dynamics of battering. But it is Child Protective Services (CPS), the state agency that deals with child abuse and neglect, that is most in need of reform.

Research indicates that in almost half of all child abuse cases the mother is also battered (Stark and Flitcraft 1988). But CPS workers remain largely unaware of this link, and their "intervention" plans rarely consider the safety needs of the mother. Worse yet, many battered women lose their children to state custody because they "failed to protect" them from their father's violence. CPS workers seldom investigate whether battering may have affected a mother's ability to intervene.

Several pilot projects are underway to train CPS workers to identify and refer abused women to local battered women's advocates. Elsewhere, activists are lobbying to station advocates for battered women directly within the CPS network.

Public Information and Education

Since the movement began, battered women and their advocates have spent countless hours at local churches, rotary clubs, and other community groups educating the public about domestic violence. Indeed, today's greater public awareness and understanding of battering derives largely from the community outreach campaigns of neighborhood shelters. While significant and widespread, such programs are necessarily limited, influencing only people within easy reach of existing shelters.

Surprisingly, there have been few large scale efforts to harness the media to change public attitudes. A few states and cities have sponsored media campaigns around family violence, among them New Jersey, Connecticut, Baltimore, and San Francisco. But the United States has yet to mount a nationwide public awareness campaign on wife abuse as it has on smoking, drunk driving and illegal drugs (although a privately funded national campaign is currently being developed). Mass media have generally been used to advertise the availability of services such as hotlines or shelters, not to reshape attitudes or challenge myths about family violence.

On the local level, however, activists have used the media to publicize women's stories and highlight efforts to combat abuse. News stories have helped raise awareness of violence and gain support for initiatives like shelters and legislative reforms. The entertainment industry has also picked up the issue of its own accord. In 1984 an estimated 75 million television viewers saw the "Burning Bed," a dramatic account of one battered woman who struck back in self-defense. At the same time, movies and television continue to glorify violence and portray women as acceptable targets of abuse. While feminists have organized against pornography and other sexist portrayals of women, the battered women's movement has yet to focus on this issue.

Advocates, however, are giving increased attention to changing attitudes of children, adolescents and college-aged students. Within the last five to seven years, several innovative curricula have been developed for elementary-age and high school students that explore gender stereotypes, examine family violence and teach skills for violence-free relationships. Although certain progressive schools and teachers have adopted these curricula, they have not yet been widely institutionalized.

More commonly, local domestic violence projects offer workshops and training directly to students in area high schools. For years, shelters have given occasional lectures in nearby schools; recently, however, some shelters and male batterer programs have raised money to fund special school prevention projects, allowing them to greatly expand their coverage. The Teen Violence Prevention Project in Contra Costa County, California, for example, spends two days in each local high school conducting workshops and providing students with advocacy and crisis counseling.

Although such programs are excellent, they are still highly localized. Kentucky and Minnesota are the only states that have incorporated prevention education throughout their public school system. Minnesota's Coalition for Battered Women has trained over 400 teachers in 146 school districts to use, "Skills for Violence-Free Relationships," a special violence prevention curriculum. By training teachers in this way the coalition is able to reach 20,000 students annually without an ongoing commitment of coalition staff.

Reforming Religious Communities

Not surprisingly, many women in crisis seek counseling and spiritual guidance from their priest, minister, or rabbi. A national study of 1,000 battered women found that more women reached out to clergy (33 percent) than to either shelters (26 percent) or women's support groups (21 percent) (Bowker 1986). Too often, however, women encounter skepticism, victim blaming or empty reassurance rather than support from their religious community. They are told: "Turn the other cheek; try to be a better wife." Such encounters leave women feeling even more guilty, isolated, and trapped.

In the press of other business, advocates have largely ignored clergy in their push for institutional reform. Two exceptional projects, however, are working to sensitize religious communities to the safety and spiritual needs of battered women. Since 1977, the Center for the Prevention of Sexual and Domestic Violence in Seattle has worked to equip clergy with the knowledge and skills they need to minister to abuse victims. The center offers training workshops and has developed publications and a sexual abuse prevention curriculum for church groups and parochial schools.

In New Jersey, Womanspace, Inc. places seminary students in local shelters, an approach that sensitizes future clergy to battered women's issues and provides pastoral counseling to women residents. Under contract with the state of New Jersey, Womanspace Inc. has also developed a guide for clergy on counseling battered women and has conducted training for religious and lay leaders.

Regrettably, these projects reach only a handful of clergy, but some denominations seem interested in taking greater responsibility for the issue. Some groups have produced materials on abuse and the United Council of Churches, a consortium of mainline protestant churches, passed a resolution in 1990 encouraging their members to address domestic violence in whatever ways they can.

Where Do We Stand?

In the last 15 years, the battered women's movement has achieved much it can be proud of. Through careful lobbying and persuasion, it has marshalled economic support for battered women's services from every level of government. In so doing, it has helped hundreds of thousands of women regain their dignity and their lives. It has raised public awareness of abuse and successfully made battering a public, not a private, problem. And it has made important strides toward reforming how the legal system responds to battered women and their abusers.

The establishment of shelters also broadened the constituency of the women's movement. Until the "rediscovery" of wife abuse, the beneficiaries of modern feminism were mostly white, middle-class women with access to education

and professional careers. Through shelters, many battered women became politicized and feminists came to recognize the class and racial barriers that poor and minority women faced daily in their struggle to survive.

But still today, a battered women's options and how society's institutions treat her depend largely on where she lives. Reforms, though impressive, have been uneven. Some states today are roughly where cutting-edge states were in the late 1970s. Others appear progressive on paper, but have yet to implement their reforms in real life. The response a battered woman receives depends largely on how well organized advocates are in her area. Where activists have pushed for reform and held the police and courts accountable, a battered woman faces one reality. When she is alone against "the system," she faces quite another.

Where they exist, battered women's services and legal reforms have created a reasonably successful "escape" system for women in crisis. But overall the United States has been less successful in creating viable long term options for women fleeing abuse. As family violence historian Elizabeth Pleck (1989) observes, "Efforts to help abused women are only as good as the living conditions for single mothers and their children." By this measure, the United States has a long way to go in providing real alternatives for battered women. Our nation still lacks sufficient low income housing, affordable child care, or adequate job training for women. Clearly, these deficiencies go far beyond the attention or inattention of battered women's advocates; but many activists cite missed opportunities to work in coalition with other groups for a wider agenda of reform.

Indeed, as the movement passes its fifteenth year, activists have begun to ask themselves some deeply searching questions. Justly proud of their accomplishments, many nonetheless feel that prevention has not received the attention it deserves. "Until we begin consciously, strategically challenging the roots of all this," notes Anne Menard, "we will just continue responding to individual acts of violence. Sure, we are responding faster and helping women to escape earlier, but are we reducing the overall level of violence?"

At its heart, this query questions the ultimate utility of a largely justice system approach to violence. As Ellen Pence, one of the original architects of the community intervention model, observes,

The successful implementation of the Domestic Abuse Intervention Project makes us painfully aware of how limited such a strategy is in our ultimate goal of ending battering. This work can and does make individual women safer. It can and does save women's lives...but there is a difference between reforming institutions and transforming society (Pence & Shephard 1988).

There is even concern that institutional reform, if it excludes other social change work, ultimately only allows the problem to be "managed," rather than solved. In fact, well-oiled intervention may actually decrease support available for other alternatives by making the problem "appear" to be less pressing.

This is not to say that reform work should stop, or that quality services should be sacrificed to social activism. But most advocates agree that in addition to assisting individual women, the movement must reclaim its political vision of making the world safe for all women. For some, this means fighting the gender inequalities that allow sexist violence to persist, challenging the sex-role stereotyping in schools, legislating equal pay for women, and uprooting cultural beliefs that devalue women. For others, it is teaching children nonviolent ways to resolve conflict, reducing glorification of violence in the media, and creating social norms that define violence against women as unacceptable. Ultimately, it means moving beyond preventing any one man from battering, to creating a generation of individuals who see violent behavior as inappropriate.

That prevention has taken a back seat to services, however, should come as no surprise. In their willingness to engage in searching self-reflection, activists forget that the Reagan/Bush years led to a period of reduced social activism on all fronts. Many movements lost their political steam in the 1980s as workers tried desperately to fill the gaps left in public services by the almost total retreat of Federal dollars. As Schechter (1982) observes, "In a society that fails to adequately provide

for the well-being of its citizens, there are no easy answers to the dilemma of how much energy to devote to services and how much to building a movement."

There are legitimate questions, however, about the long-term costs of the movement's heavy focus on justice system reform, especially the recent trend toward greater reliance on criminal prosecution. Prosecuting offenders sends the important symbolic message that violence toward women is unacceptable, and in some cases, jailing the man may be the only way to ensure a women's safety. But in many cases, incarceration is neither necessary nor desired by the women, yet criminal courts can offer few other remedies save a requirement to receive counseling (which is often inadequate even when enforced). In some respects, this raises the question of how much energy to devote to criminal justice reform versus improving civil remedies (like protection orders or suits for damages), or to other strategies totally outside of the justice system.

The headlong rush toward aggressive prosecution, moreover, has had serious consequences for women who have had to face the system as defendants. Regrettably, hundreds of women each year must resort to killing their partners in self-defense. But courts primed to be "tough" on male violence deal heavy sentences to women who kill, with little or no regard for the defensive nature of the act.

Finally, there is a disturbing contradiction in a strategy that seeks to address violence by strengthening the justice system, an authoritarian arm of the state known to be sexist and racist. Some would argue that no amount of "reform" can make these institutions useful for combatting violence; they must be fundamentally transformed.

While not all advocates take such a radical stance, even those who strongly back justice system reform recognize that the movement must begin to throw its "safety net" more widely. It has become increasingly clear that the universe of abused women is larger and more diverse than previously thought. The existing advocacy system reaches only those women, who call domestic violence hot lines or seek police or legal assistance. But studies show that many women, especially those who have reason to distrust or fear the justice

system (e.g. immigrant or undocumented women, lesbians, prostitutes), reach out in other ways to counselors, clergy, doctors, or friends (Jang et al. 1991). The movement's justice focus has meant that such groups have received little education, so members seldom refer women to available services.

Especially lacking in the United States has been any effort to create a strong social expectation that family, friends, neighbors and employers have a duty to intervene if a woman is beaten. In some cultures, a woman's extended family, friends and community are her best source of defense. But in the United States, no one wants to get involved. Ten years ago, most Americans would not jeopardize a friendship by questioning a drunk friend's ability to drive. Today, a new ethic has evolved: friends don't let friends drive drunk. The movement must encourage a similar ethic of collective responsibility around women's safety.

By many accounts, the movement must also embrace more fully its own ethic of empowerment. Despite rhetoric to the contrary, the movement has seldom empowered battered women themselves or women of color (minority women) to assume positions of leadership (partly because activists lacked experience in a community organizing approach to social change). Acting "on behalf" of battered women instead of in solidarity with them robs women of opportunities to grow, and the movement of important experience and insight. Likewise, racism and homophobia have been a potent and dividing force in the U.S. battle against abuse. It remains to be seen whether white women will relinquish enough power to give women of color true influence over the agenda and future direction of the battered women's movement.

Beyond Battering

Examine the ways that violence works on women's lives and it becomes clear that all women's issues eventually converge. By all measures women are economically disadvantaged in the United States as well as around the world. This limits their power in the family and their survival opportunities outside of it.

The cruel choice often posed to women in violent relationships is whether to be beaten or to be poor. And the latter means that women bring their children along with them into

poverty. Leaving a violent marriage can be a financial disaster: The standard of living of women who divorce in the United States drops by 73 percent the first year, while a man's improves 42 percent (Congressional Caucus 1991). And child support is at best an undependable source of income; in 1987, U.S. husbands owed women \$4.6 billion in unpaid child support (Evans 1991).

The simple truth is that if women had more equal power in the world, they could escape violence. But this requires addressing the conditions of race, gender and class bias that make women and their children the majority of the world's poor. During the 1970s millions of women confronted the violence in their relationships, but their liberation was incomplete. Until economic opportunities and economic power are equalized for women and people of color, the movement offers battered women few real choices.

The profoundly deep roots of women's poverty, dependency and oppression explain much about the difficulty of rooting out the one problem, violence, without addressing the others. If we want nonviolence for women, we must work for economic justice.

Highlights of the U.S. Battered Women's Movement

1972: First rape crisis hotlines begin in Berkeley and Washington D.C.

1974: The first battered women's shelter, Women's Advocates opens in St. Paul, Minnesota.

1975: First treatment program for batterers established.

1976: 20 shelters listed in Ms. catalogue of services.

Pennsylvania passes the first Protection Against Abuse Act and establishes the first state coalition against domestic violence.

1978: Senate, House and U.S. Civil Rights Commission hold hearings on battered women.

National Coalition Against Domestic Violence, a coalition of grassroots groups fighting violence, is organized.

Minnesota becomes the first state to allow probable cause (warrantless) arrest in cases of domestic violence.

- 1979: President Carter establishes the federal Office on Domestic Violence.
- 1980: All but six states have passed Protection From Abuse Acts.
- 1981: Federal Office of Domestic Violence closes, victim of budget cuts, conservative backlash, and the “pro-family” bias of the Reagan administration.
- 1982: Roughly 300 shelters exist and there are coalitions in 48 states.
- 1984: U.S. Attorney General issues report calling on all justice agencies to treat domestic violence as a crime.
Congress passes the Family Violence Prevention and Services Act, providing federal funding for domestic violence programs.
Tracy Thurman, a battered women, wins liability suit against Torrington, Connecticut police department for failing to protect her.
- 1985: U.S. Surgeon General issues report identifying domestic violence as a major health issue.
- 1986: U.S. Department of Justice funds community intervention projects in 11 cities.
National Domestic Violence Hotline launched. Staffed 14 hours a day/ 7 days/week for information and referral.
- 1988: Federal domestic violence programs reauthorized through Child Abuse Prevention, Adoption, and Family Services Act of 1988.
- 1990: New Federal domestic violence legislation fails to pass Congress.

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(Note: All references with a 1991 publication date connote personal interviews)

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Notes

References

Organizations

Publications

Facts and Statistics

- **Fact Sheet on Gender Violence Globally**
- **UN Report on Domestic Violence**
- **Rape and Battering in Mexico and the United States**
- **Violence Against Women in India**

Notes

International Perspective

1. See Resources List at the end of this publication.
2. References to articles in this book are indicated by placing the author's name between parentheses, e.g., (Heise & Chapman). No date appears either within the parentheses or in the text. Reference to other material follows the APA convention of listing the author's surname together with the year of his or her publication.
3. *Sati* is a traditional practice in which a widow joins her husband in death by burning herself on his funeral pyre. Outlawed in India 1829, the practice has recently been promoted by fundamentalist religious factions as a religious right protected by the constitutional guarantee of freedom of religion. A celebrated case in 1987 challenged the women's movement in India to organize political and legal responses to this new test of its own strength.
4. "Bride burning," "dowry death," and "dowry murder" are terms used to refer to the murder or suicide of a young wife as the result of harassment by her in-laws to produce more income to the family in the form of dowry. Such deaths are often the result of kerosene burns. See Jilani and Kelkar's articles in this volume and the journal *Manushi* (New Delhi) for a further discussion of this issue.
5. "Female circumcision," the cultural practice of surgically altering female genitalia, is of three types: *excision* (removal of the prepuce of the clitoris); *clitorectomy* (removal of the clitoris) and *infibulation* (removal of the entire clitoris, labia minora and labia majora). It is still practiced in many parts of the world, particularly in the Middle East and in Africa.
6. Female feticide is a term used to designate the selective abortion of the female fetus. It is practiced in those areas of the world where a daughter is considered a liability to a family.

7. For a discussion of the problem of suicide, see Heise, L. "Violence Against Women: The Missing Agenda" in *Women's Health: A Global Perspective*. M.A. Koblinsky, J. Timyan & J. Gay (eds.) Westview Press, forthcoming, 1992.
 8. The "honor defense" permits a full or partial excuse for homicide or bodily injury inflicted on a woman by her husband (or any direct male relation) who surprises her in the act of illicit sexual relations. The concept still exists in the penal codes of several Middle Eastern and Mediterranean countries and is used even where there are no provisions for it in law. (See Laure Moghaizel, "The Arab and Mediterranean World: Legislation Towards Crimes of Honor," in Schuler, 1986).
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Asia

Sri Lanka

1. Eye witness accounts from Nallur Jaffna, November, 1987.

Malaysia

1. "*Aurat*" refers to those parts of the body that a woman should be ashamed to expose. It is also the word for woman in the urdu language.

Thailand

1. Based on information gathered by Women's Information Center in Bangkok, which provides information and assistance to women who are working or have worked as prostitutes in Thailand and abroad.
2. The author (Siriporn Skrobanek) was requested to be one of the main witnesses for the defendants because her name and the organization in Bangkok of which she was co-founder, Women's Information Center, were mentioned in the club's brochure as references. This in itself was a surprise and an embarrassment since the Women's Information Center is an advocate of women's rights and works against sex tourism. She went to Norway and witnessed the trial first hand.

Africa

Sudan

1. The description is also based on the author's personal observation of such rites in both rural and urban settings in the Sudan.
2. *Hadith* refers to a collection of the traditions and sayings of the Prophet Mohammed and his companions. It developed into a framework for defining the community. Different groups have differing interpretations of the *hadith*. *Sunna* refers to the following of the tradition of the Prophet.
3. Imam Abu Hanafi, a Muslim scholar born in 700 a.d. was founder of the Hanafi School, which was the authoritative code of law in the public life and official administration of justice in all provinces of the Ottoman Empire.
4. Sudan is one African country that applies Sharia or Muslim law.
5. Personal law in the Sudan was governed by Judicial circulars from the Grand Judge of Sharia courts (later by the Chief Justice. The code for personal law was passed in July 1991, but has not yet been printed.
6. Mahmoud Mohamed Taha was executed in January 1985. He was accused of *Riddah*, conversion from Islam, because he introduced an unprecedented method for interpretation of Islamic rules (Uchida, 1991).
7. Asma Jilani is a Pakistani lawyer who had to face a strong campaign against her. She was accused of making derogatory remarks about the prophet Mohammed (Babiker Badri Scientific Association for Women Studies, n.d.).
8. The *Sunna* type of circumcision is the mildest and consists of removing the tip of the prepuce of the clitoris. It is considered to be the type recommended by Islam, yet it is the least practiced form of circumcision (El-Dareer, 1982).

Zimbabwe

1. "*Musasa*" is a Shona word for a large tree, common to Zimbabwe, connoting temporary shelter.
2. The phrase "legal system" is used to connote the whole structure within which the law courts operate. It includes the police and medico-legal aspects of the health service.
3. This is currently an issue because one of the first measures of World Bank structural adjustment policies to be implemented is the introduction of primary school fees (primary school education has been free since independence). It is widely believed that the immediate effect of this will be to remove girls from primary school in families which cannot afford to educate all of the children.
4. The "Preamble to the Zimbabwean Constitution" enshrines the equality of women, while other pieces of legislation such as the Matrimonial Causes Act (1985), and Labour Relations Act (1984), result from the commitment to women's rights.
5. For the purposes of this paper, I wish to use Schuler's (1986, p. 21) definition. A strategy: has clearly articulated goals and objectives; has a series of planned activities, not spontaneous or serendipitous, designed to fulfill these goals; is carried out over a period of time in a systematic fashion, not occasionally or sporadically; is carried out by a group in a collaborative and organized fashion.
6. For a detailed description of the process of consciousness-raising with the police, see Stewart and Sheelagh 1990.

Latin America

Mexico

1. This chapter is adapted in part from a paper presented at the 18th Annual Conference of the National Conference of the National Council on International Health, Crystal City, Virginia, 23-26 June, 1991 and an article entitled "Mexico: Women Force a Government Response," *Connexions* 34,

1990. The author wishes to acknowledge the contributions of staff from the *Colectivo de Lucha contra la Violencia hacia las Mujeres*, A.C. (COVAC) and the *Centro de Investigacion y Lucha contra la Violencia Domestica*, A.C. (CECOVID) in Mexico City.

Brazil

1. For specific examples of the "legitimate defense of honor" argument, see proceedings for following court cases: a) Lobato case, 1984, Minas Gerais, (also published in *Shopping News*, March 24, 1991, Sao Paulo); b) *Domingos Sávio Lemos*, 1987, Rondonia; c) *Eduardo Gallo*, 1977, Sao Paulo.
2. Case of Joao Lopes, 1988, Paraná. In an unprecedented decision, the Superior Court overruled the "legitimate defense of honor" justification made by an all-male jury and confirmed on appeal by the Court of Justice of the state of Paraná for acquitting a man accused of murdering his wife. According to the Superior Court of Justice, "homicide cannot be considered a normal and legitimate means of responding to adultery, for in such crimes what is defended is not honor, but self-adulation, arrogance, and the pride of a man who considers his wife to be his property." The Superior Court of Justice annulled the trial and decided to hold another one. For further information on the case, see *Jornal do Brasil*, March 13, 1991, Rio de Janeiro.
3. In 1985, when there was just one Women's Police Station in Sao Paulo, there were officially 67 rapes in the state. In 1989, the 30 Women's Police Stations tabulated 739 cases of rape. In 1985, the Women's Police Station counted 451 formal cases of threats against women. In 1989 this figure had increased to 10, 816 cases. These figures are based on information provided by the Advisory Office to the women's police stations of Sao Paulo and were published in *Shopping News*, March 24, 1991, Sao Paulo.
4. This is based on the testimony of the Women's Defense Delegates of Rio de Janeiro, with whom I maintained personal contact. See also Preston, 1990.

Bolivia

1. The title of the campaign is taken from the slogan of the Brazilian Women's Movement for its campaign to reform the Constitution.
2. These mobilizations refer to the struggles of the Barzolas in the 1952 revolution within the Revolutionary Nationalist Movement; to the Miner's Housewives Committees which were always present in the miner's union struggles, particularly the national hunger strike which restored democracy in 1978; and to the actions of the Bartolina Sisa Federation of Bolivian Peasant Women, which since 1980 has become the women's arm of the Peasant Movement.
3. This study was based on articles on domestic violence that were published in the following newspapers: *Chuquiago Marka*, *Presencia*, *Hoy*, *Ultima Hora*, *Los Tiempos* between March and October 1989.
4. The reform of the Penal Code, Article 308, Title XI of the second book, and reform of the Code for Penal Proceedings, Article 7.
5. An example of one traditional saying expressed was, "A woman is like a violin, it depends on who plays her." In Spanish the word for play (*tocar*) is the same for touch, giving a double meaning to the phrase that is difficult to translate into English.
6. The initiative was supported by a grant from UNICEF.

Chile

1. This was possible thanks to a research fellowship from the Latin American Council of Social Sciences (CLASCO), as part of the Latin American Program for Training in Research on Women.
2. Number of lawsuits found: Court of Providencia, 3; Court of Quinta Normal, 29; Court of Conchalí, 26.
3. In Providencia the three suits dealt with injuries of different

degrees: one moderate, one less serious, and one serious attack. In Quinta Normal, of a total of 29 assaults, 24 were moderate, five were less serious, and one was serious. In Conchalí, 22 were moderate and referred to the Court of the Local Police, three were less serious, and one was serious.

4. In those cases in which the assailant was inebriated the figures were as follows: Providencia, one serious injury, and one less serious; Quinta Normal, two less serious injuries and one moderate; and Conchalí, two less serious injuries.
5. Article 409, no. 1 of Chile's Code of Criminal Procedure (Book II, Part One, Title XII) states: "There shall be a temporary stay: 1) When perpetration of the crime is not fully justified so as to constitute a motive for bringing charges."
6. Please note Schuler's (1987, pp. 28-29) definition: "A strategy has clearly articulated goals and objectives; has a series of planned activities, not spontaneous or serendipitous, designed to fulfill these goals; is carried out over a period of time in a systematic fashion, not occasionally or sporadically; and is carried out by a group in a collaborative and organized fashion."

North America

United States

1. According to an analysis of the President's FY 1992 Budget proposal performed by the Children's Defense Fund in Washington, D.C., the federal government spent over \$650 million on child abuse related services, training and research in FY 1990. By contrast, the federal government allocated only \$8.4 million to the Family Violence Prevention and Services Act, the primary statute authorizing services and training related to women abuse. In addition, in FY 1989 (the last year data are available), the Office of Victims of Crime of the U.S. Department of Justice distributed roughly \$15.6 million that was used by states for services (e.g. counseling, victim advocate programs) that benefitted victims of domestic violence, among others. The National Institute of Mental Health spent \$1.7 million on research and training related to family violence over two

years, 1990 and 1991. Likewise, the Department of Justice allocated 4.2 million over five years (1986-1989) to domestic violence research, averaging less than \$800,000 a year. All told, the Federal government spent roughly \$26 million on services, research and training related to woman abuse in 1990.

2. While most shelters provide some form of structured activities for children, far fewer have counseling or other programs to deal with their emotional needs.
3. The United States has more than three times as many animal shelters as shelter for battered women (Buel, 1990).
4. It is a widely held belief, based on injury and death statistics, that domestic disturbance calls are very dangerous to the responding officer. Recent studies, however, refute this finding and conclude that "domestic violence calls do not appear to constitute an especially dangerous activity to police" (Buzawa & Buzawa, 1990).
5. The nature of domestic violence is such that it tends to be recurrent and to escalate in frequency. Studies suggest that police arrest early on can reduce the chance of abuse escalating to spousal homicide. (In 1988, 1,429 women were killed by a male partner, according to FBI figures.) In Newport News, Virginia, the percentage of homicides resulting from domestic violence dropped from 57 to 19 percent within three years of implementing a mandatory arrest policy (Lang, 1986).
6. During a six month period police in two precincts randomly assigned all misdemeanor violence calls to one of three interventions: arrest, separation, or advice/mediation. Results showed that six months later, only 19 percent of arrested men had been violent again to their partners, compared with 33 percent of separated men and 37 percent of men in the mediation group. Recent replication studies conducted in Omaha, Nebraska and Charlotte, North Carolina did not duplicate the Minneapolis findings. Police intervention appears to have a positive impact, but it remains unclear which type of intervention, arrest, issuing a summons, or separation is the most effective at reducing recidivism (Uchida, 1991).

7. In Duluth, Minnesota minority men accounted for 32 percent of all arrests for domestic assault under a discretionary arrest standard and only 8.5 percent of arrests under a mandatory standard (Miletich, 1990). Activists point out, however, that mandatory standards may not operate in this same positive way in towns with less oversight of police activities. In Duluth, an outside "watchdog" organization reviews police response to all domestic violence calls.
8. In Washington state, one-third of all arrests were dual (Epstein, 1987); in Connecticut, the rate was 19 percent (Epstein, 1988). States have responded with training or statutory language that instructs police to arrest the "primary physical aggressor" only.
9. The first year after San Francisco reformed their criminal response to domestic violence, the number of abusers charged increased 136 percent, the number of cases successfully disposed increased 171 percent, and the rate of conviction rose to 80 percent. In 1980, 29 percent of domestic violence cases filed in Duluth, Minnesota resulted in conviction. In 1983, after justice reform, 87 percent of abusers were convicted and sentenced (Miletich, 1990).
10. Recent research conducted in Baltimore County compared the future violence rates of three groups of men, those who had no interaction with the courts, men who had been found guilty but did not attend treatment, and men who were mandated to attend treatment. Interaction with the justice system reduced future rates of violence with treatment offering no additional benefit. This suggests that benefits attributed to treatment in other studies may in fact reflect the influence of justice involvement and not treatment per se (Harrell, 1991).
11. Researchers have determined a coincidence of at least 810,000 families with both spouse abuse and child abuse (Roy, 1988). In Denver, a cross check between offender's files and the records of Child Protection Services found a 30 percent overlap (Dept. of Justice, 1991).

12. When Planned Parenthood of Houston and Southeast Texas added four abuse-assessment questions to their standard intake form, 8.2 percent of women self-identified as physically abused (Bullock et al., 1989).
13. Healthy People 2000: National Health Promotion and Disease Prevention Objectives is the U.S. government's policy document that sets health priorities for the nation. Established objectives influence funding levels, federal grant distributions, and state and local programming decisions. A working group composed of relevant federal and state agencies and nongovernmental groups is formed to help achieve each objective.
14. The new standards mean that hospitals can be cited for lack of training and protocols, but hospitals do not have to meet every standard to receive accreditation.

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Publications

Newsletters and Journals Dealing with Violence Against Women

Speak Out/Taurai/Khulumani

Women's Action Group
P.O. Box 135
Harare, Zimbabwe

Manushi: A Journal About Women and Society

c/202 Lajpat Nagar 1
New Delhi 110-024
India

FEMPRESS

Casilla 16-637
Santiago 9, Chile

Manuals and Other Resources for Practitioners

Sexual and Domestic Violence: Help, Recovery and Action in Zimbabwe (312 pages)

Women's Law in Southern Africa Project
P.O. Box 171 Union Avenue
Harare, Zimbabwe

Men, Women and Violence: A Handbook for Survival (120 pages)

Association for Research and Action (AWARE)
Tanglin P.O. Box 244
9124 Singapore

Violence Against Women: An Action Pack for Campaign on Legal Reforms

All Women's Action Society (AWAM)
37 Jalan 20/2
46300 Petaling Jaya
Selangor, Malaysia
Tel: (603) 703-7334

Hilos, Nudos y Colores en la Lucha Contra la Violencia Hacia la Mujer (248 pages)

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Violence Against Women in Latin America and the Caribbean
Bibliographic Catalogue

Isis Internacional
Casilla 2067
Correo Central
Santiago, Chile

Preventing Wife Battering: Towards a New Understanding

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Facts and Statistics

Fact Sheet on Gender Violence

Source: Fact Sheet Compiled by Lori Heise, Violence, Health and Development Program, Center for Women's Global Leadership, Rutgers University, New Brunswick New Jersey.

- In Papua New Guinea, 67 percent of rural women and 56 percent of urban women have been victims of wife abuse, according to a national survey conducted by the PNG Law Reform Commission.
- Every minute and a half a woman is raped in South Africa, totaling approximately 386,000 women raped each year.
- In Bangladesh, assassination of wives by husbands accounts for 50 percent of all murders.
- 61 percent of Mexican housewives are physically abused by their husbands or partners, according to a study conducted by the Federal District's Department of Justice.
- In a detailed family planning survey of 733 women in the Kissi district of Kenya, 42 percent said they were beaten regularly by their husbands.
- A survey done in Santiago, Chile indicates that 80 percent of women have suffered physical, emotional or sexual abuse by a male partner or relative; 63 percent report that they are currently being abused.
- In a random sample of Norwegian gynecological patients, 25 percent of women who had ever lived in a relationship had been physically and/or sexually abused by their partner.
- A statistical survey conducted in Netzahualcoyotl, a city adjacent to Mexico City, found that one in three women had been victims of family violence; 20 percent report blows to the stomach during pregnancy.
- In Canada, a government commission estimated that 1 in 4 female children and 1 in 10 male children will be sexually assaulted prior to the age of 17 years.

- A study, using children as informants, reported that 57 percent of wives in San Salvador were beaten by their husbands.
- According to the World Health Organization more than 80 million women have undergone sexual surgery ("female circumcision") in Africa alone.
- Discrimination against girl children is so strong in parts of the world that girl children aged 2 to 4 die at twice the rate of boys 26. Among 45 developing countries for which recent data are available, there are only two where mortality rates for girls ages 1-4 are not higher than that of boys.
- Data from the U.N. High Commission on Refugees on violence against Vietnamese boat people indicates that 39 percent of women are abducted and/or raped while at sea. These statistics likely underestimate the problem given women's reluctance to admit violation and the difficulty of documenting abductions.
- In one study of an Indian village more than 75 percent of men from scheduled classes admitted to beating their wives.
- In a country-wide survey on violence in Colombia, one out of five women were beaten by their partners, one out of ten raped, and one out of three had been mentally abused.

Health Effects of Gender Violence

- One out of every three women who come to hospital emergency rooms in Peru are victims of domestic violence.
- A recent survey by the Inter-Africa committee estimates that half of Kenya's maternal mortality rate of 170 per 100,000 live births is due to circumcision or other harmful traditional practices.
- In Shanghai, domestic violence is the cause of about six percent of serious injuries and death.
- 17 percent of urban wives surveyed in Papua New Guinea needed hospital treatment for injuries inflicted by their husbands. In PNG where many women have enlarged spleens due to malaria, a single blow can kill them.

- One study of amniocentesis in a large Bombay hospital found that 95.5 percent of female fetuses were aborted.
- In one study of 33 infibulated Somali women, all had to have extensive episiotomies (cutting) during childbirth, and their second stage labor was five times longer than normal; five of their babies died, and 21 suffered oxygen deprivation due to the long and obstructed labor.
- In Matlab thana Bangladesh, six percent of all maternal deaths are due to homicide and suicide motivated by male censure of female behavior or shame related to rape or premarital intercourse. Violent deaths rise to 22 percent of maternal deaths if one includes botched abortions, many motivated by shame of pre-marital pregnancy.
- In Matlab thana, Bangladesh (1976-1985) 18 percent of maternal deaths of teenage girls aged 15 to 19 were due to injuries and violence, rivaling abortion (16 percent) and postpartum hemorrhage (15 percent). On average, death from injuries (suicide, homicide, complications of induced abortion, accidents and assault) were 130 percent greater among unmarried vs. married teenage women suggesting the "possible occurrence of rape or abuse of unmarried teenage girls and deliberate violence toward those who become pregnant."
- A study of rape in rural and urban areas of Bangladesh from 1983-1985 reports that 84 percent of victims suffered severe injuries and/or unconsciousness, mental illness or death following the rape incident.

Domestic Violence: UN Report

Source: Compiled by the Division for the Advancement of Women, Centre for Social Development and Humanitarian Affairs of the United Nations Secretariat, from national reports to the United Nations in 1988. In The World's Women: Trends and Statistics: 1970-1990, United Nations, 1991.

Domestic violence, the dark side of family life, is inflicted on a family's weakest members – women, children, the very old and the disabled. It manifests torture, deprivation of basic needs and sexual molestations. Secrecy, insufficient evidence, and social and legal barriers continue to make it difficult to acquire accurate data on domestic violence against women, which many criminologists believe to be the most underreported crime. Most data on violence against women are compiled from small studies, giving only a glimpse of what is assumed to be a worldwide phenomenon. They cannot be used to provide precise indicators on the extent of violence against women, but they do show that violence in the home is common and that women are most frequently the victims.

Domestic violence against women exists in all regions, classes and cultures. The United Nations Secretariat's Division for the Advancement of Women compiled available information on domestic violence in 36 countries in the mid-1980s:

- In Austria in 1985, domestic violence against the wife was cited as a contributing factor to the breakdown of the marriage in 59 percent of 1,500 divorce cases. Of those instances, 38 percent of working-class wives called the police in response to battering, while only 13 percent of middle-class women and 4 percent of upper class women did.
- In Colombia during 1982 and 1983, the Forensic Institute of Bogotá found that of 1,170 cases of bodily injuries, one of five was due to conjugal violence and 94 percent of those hospitalized were battered women.
- India had 999 registered cases of dowry deaths in 1985, 1,319 in 1986 and 1,786 in 1987.
- Of 153 Kuwaiti women asked if they had ever been assaulted, a third answered yes. Asked if they knew of friends or relatives who had been victims of such violence, 80 percent responded yes.
- In Thailand, 25 percent of the malnourished children at a Bangkok rehabilitation center treated during the first half of 1985 were from families where the mother was regularly beaten by her spouse. More than 50 percent of married women studied from Bangkok's biggest slum and construction sites were beaten regularly by their husbands.
- In the United States of America in 1984, 2,928 people were killed by a family member. Of female homicide victims alone, nearly a third died at the hands of a husband or partner. Husbands were responsible for 20 percent of women killed in 1984, while boyfriends were offenders in 10 percent of the cases.

To compile information more systematically, the Committee on the Elimination of Discrimination against Women asked countries to report on laws they have enacted to protect women from violence and to provide statistics on the incidence of violence against women.

Type of violence against women reported

	Domestic Violence	Incest	Homicide in Family	Sexual Assault and Rape	Sexual Harass- ment
<u>Developed regions</u>					
Australia	X		X		
Austria	X		X		
Belgium	X	X		X	X
Canada	X		X	X	X
Finland	X	X		X	X
France				X	
Germany (Fed. Rep. of Germany)	X	X	X		X
Greece	X		X	X	
Italy		X		X	
New Zealand	X		X		
Poland	X				
Portugal				X	
Spain					X
United Kingdom	X			X	X
United States	X	X	X	X	X
<u>Africa</u>					
Kenya	X		X		
Nigeria	X				
Uganda	X				
<u>Latin America and Caribbean</u>					
Argentina	X				
Brazil	X			X	
Chile	X	X	X		
Colombia	X	X		X	
Dominican Republic			X		
Ecuador	X				
Jamaica	X	X		X	
Peru	X				
Puerto Rico	X		X		
Trinidad & Tobago	X	X		X	
Venezuela				X	
<u>Asia and Pacific</u>					
Bangladesh	X		X		
China		X			
India	X		X	X	X
Israel	X				
Kuwait	X				
Malaysia	X		X		
Philippines			X		
Thailand	X		X		

Many countries are now recognizing that there is significant violence against women both in and out of the family.

Immediate protective measure taken to assist abused women

	Police	Shelters	Nongov. orgs.	Legal aid	Financial assist.	Housing assist.
<u>Developed Regions</u>						
Australia	X	X	X	X	X	X
Austria	X	X				
Belgium	X	X	X	X		
Canada	X	X	X		X	
Finland		X	X			
Germany (Fed. Rep. of Germany)	X	X	X	X		
Greece		X	X	X		
Poland			X	X		
United Kingdom		X			X	X
United States	X	X	X			
<u>Africa</u>						
Egypt		X				
Kenya						
Nigeria				X		
Uganda	X					
<u>Latin America and Caribbean</u>						
Brazil	X		X			
Chile						
Colombia	X		X			
Jamaica		X	X		X	
Trinidad & Tobago		X	X			
<u>Asia and Pacific</u>						
Bangladesh		X	X	X	X	
China			X			
India	X			X		
Kuwait	X					
Malaysia			X	X		X
Thailand	X	X		X	X	

Comparative Data on Rape and Battering Mexico 1990 and the United States, 1970 and 1990

(Source: Elizabeth Shrader Cox, "The Battered Women's Movement in Mexico and the United States: An Examination of Strategies and Possibilities for Future Cooperation," NCIH Conference, Crystal City, Virginia, 17-20 June, 1990)

Statistic	Mexico	United States	United States
	1990	1970	1990
Portion of Women who will experience a battering relationship (with husband or boyfriend) at least once in her lifetime.	1 in 3/a	*	1 in 2/b
Portion of women who will experience sexual assault at least once in her life	*	1 in 3/c	1 in 3/c
Battering occurs once every	*	*	15 seconds/b
Rape occurs once every	5-15 mins./d	*	6 minutes/c
Estimated number of women beaten annually by their husbands	*	*	18 million/b
Estimated annual number of reported rapes	20,000 (1987)/e	37,700/f	130,000/g
Percentage of rape survivors who report the rape	3/f	5-10/c	10-20/c
Incidence of rape, per 100,000 people	125 (1977)/e	18.7	37.4
Total population (in '000s)	88,598/i	205,051/i	249,235/i
Total female population (in '000s)	44,393/i	104,697/i	127,668/i
Number of battered women's services	2	0/j	2,000/k
Number of rape crisis centers	15	0/c	400-500/c
Rape considered a crime of sexual fulfillment, not a crime of violence	yes	yes	no
Woman's sexual history admissible in rape defense	yes	yes	in some states
Woman can legally prosecute her husband for rape	no	no	in some states
Woman must undergo legally-approved medical examination to file rape charges	yes	no	no
...to file assault charges	no	no	no
...to file robbery charges	no	no	no
Woman may get a restraining order against her husband	no	no	yes
"Battered woman's syndrome" accepted as a legal defense in a murder case	no	no	in some cases
Minimum/Maximum sentence, in years, for convicted batterer	not applicable battering is not a crime	variable from state to state	
Minimum/Maximum sentence, in years, for convicted rapist	1/8	variable: 0-5/0-20 (in Minn)/c	variable: 50 months 20 yrs.(in Minn)/c

*Data not available

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- k. "Women's International Network News," 15(1) Winter 1989

Statistics on Violence Against Women in India

Source: Kelkar, G., *Violence Against Women: An Understanding of Responsibility for Their Lives and Bala, K. Marriage and Violence: An Analysis of Cruelty Related to the Practice of Dowry, in Women and Violence. Sinha, N. (Editor). (1989) New Delhi, India: Vikas Publishing House, PVT LTD.*

- In Delhi, two women die of burns per day.
- Over 90 per cent of the cases of women injured with burns reported in Delhi in 1983 were registered as accidents; five per cent were registered as murders and five per cent as suicides.
- In Bombay, according to a survey by two police stations that covered a period of eight months in 1984, one woman died of burns every five days.
- In Bangalore, suicides and dowry deaths almost doubled in 1984 in comparison to previous years.
- In Madhya Pradesh, according to records from one hospital, one woman died of burns every five days.
- According to women's organizations, an equal number of burning related cases go unreported.
- Registered Cases of Violence Against Women in Bihar, India

Year	Rape	Bridal Burning	Dowry Murder	Dowry Assault
1981	357	211	09	54
1982	318	262	12	109
1983	336	210	15	57
1984	492	*	20	125
1985	441	*	29	187
1986	524	*	153	274

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