

**The 130th International Training Course
(16 May – 24 June 2005)**

1 . Main Theme of the Course

Integrated Strategies to Confront Domestic Violence and Child Abuse¹

2. Rationale

(Background and current situation)

Formerly, public authorities, including criminal justice agencies, did not intervene in violence and/or abuse in the family directed at women and children, even though the violence and/or abuse was serious enough to constitute a severe human rights violation and/or a crime. Historically, a patriarchal family system rooted in Roman law has dominated domestic relations. Male domination and control over females, and parents' domination and control over children, were regarded as natural in a society where patriarchy predominated.

The majority of victims, namely, women and children, had little choice because they depended on the perpetrators, namely, men and parents, for their survival. Thus, they were reluctant to accuse the perpetrators. Also, such behaviour was generally recognized as nothing more than a marital dispute and/or a parents' effort to discipline their own children. Criminal justice agencies, as well as the public, believing that the authorities should not interfere in family disputes, were often unwilling to intervene in such private matters.

On the other hand, substantial research has highlighted the adverse effects caused by such violence and/or abuse in the family. In addition to the immediate effects such as physical injury and psychological damage to victims and economic costs to society, there are also less obvious but equally harmful long-term effects. Victims of child abuse² tend to experience developmental disturbances both physically and psychologically. And there is evidence that a "Cycle of Violence" is created in which childhood abuse increases the likelihood of future delinquency and adult criminality. In some cases, abusive men are killed by their female victims, who, after years of intolerable abuse, finally get their revenge. Thus, it is entirely fair to say that domestic violence and child abuse are serious problems to be confronted in view of the sound development of

¹ **There are several definitions of domestic violence and those of child abuse; some are narrower than others. In this course, however, the term "domestic violence" means violence against women/men by their male/ female partners in an intimate relationship. Also, the term "child abuse" means physical, sexual and emotional abuse and neglect of a child by his/her parent(s) or guardian(s).**

² Including children who have witnessed domestic violence.

youth and in view of crime prevention, especially further family violence of the same kind.

In recent years, due to the seriousness of their effects, domestic violence and child abuse has become an issue of concern to the international community. Although governments make some efforts to alleviate the problem, they are still searching for better solutions. In this context, the sharing of information and experience among nations is highly beneficial.

(UN norms and guidelines)

In 1948, the United Nations enumerated basic human rights in the Universal Declaration of Human Rights³. However, it was not until the 1970s that the United Nations and the world community really focused on the issue of domestic violence and child abuse. Women's Rights and Victims' Rights, which came to be acknowledged by the international community at that time, fostered a worldwide awareness of the issue. In 1978, the General Assembly adopted the "Convention on the Elimination of All Forms of Discrimination against Women" and the State Parties agreed "to pursue by all appropriate means and without delay a policy of eliminating discrimination against woman"⁴. In 1985, the "Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power" was adopted by the General Assembly and it was clarified that "a person may be considered a victim ...regardless of the familial relationship between the perpetrator and the victim"⁵.

As regards protection of child abuse victims, the "Convention on the Rights of the Child" in 1989 stated "States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child"⁶. Also, "United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)" in 1990 required governments to tackle the issue of the prevention of domestic violence and fair treatment to victims of domestic violence "within and outside the criminal justice system"⁷.

³ General Assembly resolution 217 A (III)

⁴ General Assembly resolution 34/180, Article 2

⁵ General Assembly resolution 40/34, Article 2

⁶ General Assembly resolution 44/25, Article 19

⁷ General Assembly resolution 45/112, Article 51. In these guidelines, domestic violence includes child abuse.

The General Assembly resolution on “Domestic Violence” urges Member States to establish and implement multidisciplinary policies to confront the issue. In particular, it specified four aspects to be tackled as follows: (a) prevention, (b) treatment and assistance to the victims, (c) increase of awareness and sensitivity and (d) treatment for the offenders⁸.

The Third World Conference on Women held in Nairobi in 1985 and the World Conference on Human Rights held in Vienna in 1993 highlighted the importance of working towards the elimination of violence against women in public and private life. The “Declaration on the Elimination of Violence against Women”⁹, which was adopted by the General Assembly in 1993, clearly stated that violence against women constitutes a violation of the human rights of women¹⁰. In this declaration, the term “violence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women whether occurring in public or in private life¹¹. It also declares that “States should condemn violence against women”¹². In 1993, the United Nations produced a manual for practitioners on the subject of domestic violence¹³. A large part of the manual discussed the criminal justice approach.

In 1995, the Fourth World Conference on Women held in Beijing adopted the “Beijing Declaration and Platform for Action”. It provides two strategic objectives concerning the issue of violence against women, namely, to “take integrated measures to prevent and eliminate violence against women” and “study the causes and consequences of violence against women and the effectiveness of preventive measures”¹⁴. In the Twenty-third Special Session of the General Assembly held in New York in 2000, governments and the international community reaffirmed their commitment to the Platform for Action and a common development agenda, with gender equality as an underlying principle.

⁸ General Assembly resolution 45/114, Article 1. In this resolution, domestic violence means violence against children, the elderly and “those especially vulnerable because of disability” as well as women.

⁹ General Assembly resolution 48/104

¹⁰ Ibid. preamble

¹¹ Ibid. Article 1

¹² Ibid. Article 4

¹³ “Strategies for Confronting Domestic Violence: a Resource Manual”, United Nations, New York, 1993. In this manual, domestic violence means violence against women, children, the elderly and the disabled within their homes. However, it limits its scope to the violence perpetrated by male partners against their female partners, hoping that the strategies that it presents can also be used against other types of domestic violence.

¹⁴ Ibid. Chapter IV: Strategic Objective and Actions

Such action taken by the United Nations and other international agencies changed the recognition of the international community on the issue of domestic violence and child abuse, namely, it is no more a hidden and perennial social problem to be ignored regardless of its serious consequences. Many governments, on the basis of such renewed recognition, actually started to change their national policy on the issue and introduced preventive measures, including raising public awareness.

(Focal points of the course)

In consideration of the above, it is clear that governments are required to take effective action against domestic violence and child abuse as follows: (a) make a comprehensive plan which fits the reality through reviewing the current situation and clarifying target points to be solved; (b) develop integrated multidisciplinary networking to tackle the issue among related sectors such as criminal justice agencies, health and medical services, educators, social services and the community; (c) have the political will to prioritise the issue, and (d) collaborate on an international level with fellow governments and international agencies such as the United Nations.

Giving due consideration to the above rationale, UNAFEI, as one of the regional institutes of the United Nations for the Prevention of Crime and the Treatment of Offenders, intends to study the issue of domestic violence and child abuse in order to enhance its countermeasures.

The five focal areas of discussion in this training course will be as follows:

(1) Prevention (Primary prevention)

Working to prevent domestic violence and child abuse requires a range of educational activities and an information drive; the main purpose of such activities being to raise public awareness. In other words, the public should acknowledge that the issue of domestic violence and child abuse is not just a private, family matter, but a serious human rights violation which needs to be prevented by the community as a whole. In addition, other types of educational activities might prove useful such as training in parenting for parents and soon to be parents and providing educational and vocational training programmes for women to improve their social status.

(2) Intervention (Secondary prevention) and protection of victims

The authorities are required to stop domestic violence and child abuse as soon as any agency learns it is happening or it is about to happen. Victims or women and children at risk should be identified and these cases need to be reported so that the authorities can take necessary action. Setting up a special drop-in centre for women and children at risk and a hot-line service, which accepts reports from the public, may be useful.

On the other hand, it is often difficult to detect such crimes or dangerous situations

early enough for timely intervention, because they usually occur in private. Governments need to be aware that their actions may be considered an unreasonable invasion of family and personal privacy, and parental rights when they intervene in such cases. In consideration of this, governments are required to establish appropriate legislation and guidelines for practice, and to monitor its implementation. In particular, several issues as follows need special attention: entry into private premises by administrative authorities for investigation purposes; victim protection in the form of forbidding any contact between perpetrators and victims; court-ordered tentative restrictions on parental rights; protection orders that restrain the offender from causing further violence to the victim; and sanctions including criminal punishment for breaches of court orders. Criminal justice agencies must balance two expectations which do not necessarily harmonize, namely: prioritising victims' safety by providing them with appropriate and timely protection; and paying sufficient attention to the perpetrators' rights, including ensuring due process and the right of complaint.

(3) Criminal investigation and sentencing process (Including victim protection)

Criminal proceedings should be the norm in dealing with cases in which domestic violence and/or child abuse appears to constitute a crime, just like with any other act of violence. However, many such cases present special procedural difficulties. It might be difficult for investigators to decide when, and on which evidence, to initiate a formal investigation and arrest the suspects. Especially, in cases in which the victim is not fully cooperative, it is necessary to determine whether to continue the investigation.

In many cases, such alleged criminal activity is "the tip of the iceberg", namely, just a part of a series of similar victimizations which have been repeated over a long period of time. Investigators should endeavour to pursue the perpetrators with appropriate criminal charges which correspond to the gravity of their behaviour as a whole. Thus investigators are required to clarify the entire course of the perpetrator's wrongdoing and evaluate its gravity even if they can prosecute only one or two particular incident(s) due to a lack of evidence.

A lengthy investigation and judicial process may enable the perpetrator to pressurize and intimidate the victim while the victim may become less willing to continue the proceedings. These factors may mislead the investigator and the court into an inappropriate assessment concerning the seriousness of the alleged criminal activity and the likelihood of further offending. Thus investigators and the courts should continue criminal proceedings without delay.

Victims should be provided sufficient protection during the investigation and court proceedings. There are three main measures in order to achieve this goal as follows:

(a) to provide training programmes for the police and prosecutors who deal with cases of domestic violence and child abuse so that they are better able to handle such cases, (b) to establish safeguards for victims who report the perpetrators to the police so that they will not suffer revenge from the accused and social disadvantage, (c) to establish a witness protection programme so that victims who testify in court will be protected from psychological pressure and/or threats by the perpetrator.

(4) Treatment for perpetrators

After sentencing, some perpetrators will be imprisoned while others will be put under probationary supervision in the community. Under either treatment framework, namely, the institutional setting or the community setting, the offenders should be punished according to their criminal responsibilities and should also be treated so that they will change their behaviour and attitude. Better results will be achieved if the treatment providers understand the nature of these types of offences and the offenders.

Many of them are perpetrators and, at the same time, victims. In other words, many of them have unresolved psychological conflicts within them, often as a legacy of their childhood victimization. Therefore in such cases it is not necessarily appropriate to apply to them established treatment methods for offenders in general. Thus, it is important to develop effective and evidenced-based treatment programmes which are tailored to their own needs. Some treatment programmes, using a group format based on the cognitive behaviour approach, appear to be promising.

(5) An integrated approach to the issue of domestic violence and child abuse

Given that each stage mentioned above should have consistency and requires integrated networking among related agencies and the community, it is clear that governments should take a national initiative and formulate a comprehensive plan. Governments need to raise the public's awareness so that the issue becomes recognized as an important social problem, and have the political will to prioritise it, and pass the necessary legislation.

Criminal justice agencies are required to develop an integrated approach and to implement it in practice through networking with related sectors such as health and medical services, educators, social services and the community, as well as internal coordination. It is expected that evidence-based research will develop and help to enhance the comprehensive plan mentioned above, in particular, improving both victim protection and a treatment programme for perpetrators.

In consideration of the above mentioned, the participants are required to seek feasible measures to tackle the issue.

ANNEX

Possible discussion points in this training course will be as follows:

(1) Domestic violence

(a) The current situation and problems concerning the prevalence of domestic violence in the respective countries

(b) The current legislation and its limitations in the respective countries

- Outline of legislation
- Mechanisms for the early identification of domestic violence cases and measures to provide immediate protection to victims/women at risk
- Legal measures for victims' physical safety
- Legal measures that restrain the perpetrator from causing further violence to the victim
- A legal framework supporting a perpetrator treatment programme
- Ensuring due process for perpetrators and their right to make a formal complaint against disadvantageous court dispositions and administrative orders
- Legal assistance for the victims
- Victims' participation and representation in the criminal process
- Offering information to the victim on the status of the case and whereabouts of the accused
- Victim support, including compensation
- Outline of applicable punishments and sanctions against perpetrators

(c) The current situation of criminal proceedings (investigation and sentencing) and their limitations

- When and on which evidence to initiate an investigation
- Difficulty in dealing with cases in which the victim is the only witness or the other witnesses are all family members
- Difficulty in collecting evidence in cases in which a series of violence/abuse has been repeated over a long period of time
- Deciding whether to continue the criminal proceedings when the victim is unwilling to cooperate, despite numerous incidents of violence/abuse
- Witness protection
- How to progress criminal proceedings with due process and without delay
- Fostering networking with related agencies and the community

(d) The current treatment programmes for perpetrators and their limitations

- Institutional treatment
- Community-based treatment

- Promising treatment programmes, including those by other agencies or the private sector

(2) Child abuse

(a) The current situation and problems concerning the prevalence of child abuse in the respective countries

(b) The current legislation and its limitations in the respective countries

- Outline of legislation
- Mechanisms for the early identification of child abuse cases and measures to provide immediate protection to victims/children at risk
- Legal measures for victims' physical safety
- Legal measures that restrain the perpetrator from causing further violence to the victim
- Legal measures for perpetrator treatment programmes
- Ensuring due process for perpetrators and their right to make a formal complaint against disadvantageous court dispositions and administrative orders
- Legal assistance for the victims
- Offering information to the victim on the status of the case and whereabouts of the accused
- Victim support, including compensation
- Outline of applicable punishments and sanctions against perpetrators

(c) The current criminal proceedings (investigation and sentencing) and their limitations

- When and on which evidence to initiate an investigation
- Difficulty in dealing with cases in which the victim is the only witness or the other victims are all family members
- Difficulty in collecting evidence in cases in which a series of violence/abuse has been repeated over a long period of time
- Deciding whether to continue the criminal proceedings when the victim is unwilling to cooperate despite numerous incidents of violence/abuse
- Issue of confidentiality of child victims such as using closed hearings and limiting media exposure
- Witness protection
- How to progress criminal proceedings with due process and without delay
- Fostering networking with related agencies and the community

(d) The current treatment programmes for perpetrators and their limitations

- Institutional treatment
- Community-based treatment
- Promising treatment programmes, including those by other agencies or the private sector

(3) Effective preventive measures against domestic violence and child abuse

- (a) Awareness raising and educational activities
- (b) Establishing and running a special drop-in centre and/or a hot-line service
- (c) A range of services for women and children offered by health and medical services and social services.
- (d) How to cope with offenders who have unresolved psychological conflicts within them as a legacy of their childhood victimization

(4) An Integrated approach to domestic violence and child abuse

- (a) National initiatives as a comprehensive plan
- (b) Measures to foster multidisciplinary networking
- (c) Measures to enhance collaboration with the community
- (d) Evidence-based research which provides a basis for policymaking