

Domestic Violence in China: Research, Intervention and Prevention

Newsletter

Issue Three

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About the Newsletter

As usual, the present newsletter is a new issue of the bi-monthly publication of the project *Domestic Violence in China: Research, Intervention and Prevention* (hereafter sometimes referred to as the "anti-domestic violence project"). It covers briefs on meetings, seminars, workshops, visits and other events. It highlights exchanges of experience, ideas, theories and methodologies in the area of domestic violence as well as opinions and suggestions on how to improve project performance. The newsletter also introduces to readers updated legislation on control of domestic violence in China. Last but not the least, it provides a channel through which project network partners can share results, supervise project implementation and urge more project participation from each other.

The newsletter is distributed to all project participants, relevant organizations, agencies and departments free of charge.

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Briefs on Recent Activities

1. On the afternoon of November 2, 2000, three officials from the Swedish Embassy visited the Project Office and the Resource Center and were hosted by members of the Project Management Committee and some sub-project directors.

The management committee members gave an update on the progress of the project and major challenges still ahead. The director of the Asian section of the Embassy was curious as to what extent men were involved in the project and whether the project was designed to include or exclude men. Ms. Guo Jianmei, a sub-project director, frankly replied, "The project will be a success even without men's participation. However, participation of men can help coordinate work, accumulate support and raise awareness. We are actively promoting the participation of men in the project." Officials from the Embassy expressed overall satisfaction with the project's performance.

(by Liu Xiaojun)

2. On the evening of November 2, 2000, a joint meeting was held by the Project Management Committee and all sub-project directors. 39 persons attended the meeting including a project official. Discussions were focused on difficulties, requests and problems that arose at the present stage. Attendants also deliberated over the fulfillment of working schedules, use of funds and preparations for an anniversary conference on the International Day for the Elimination of Violence Against Women on November 25, 2000.

(by Liu Xiaojun)

3. On the afternoon of November 24, 2000, the anniversary conference on the International Day for the Elimination of Violence against Women was held in the Multi-function Hall of the China Law Society office building. The conference was honored by the attendance of Mr. She Mengxiao, executive vice president of China Law Society, Ms. Ding Lu, director-general of the Rights and Interests Protection Department of the All China Women's Federation, Chairing Justice Mr. Yang Lixin with the Administrative and Civil Tribunal of the Supreme People's Court, Ms. Phyllis L. Chang, Ms. Mi Xiaolin and other friends.

Participants vigorously discussed such subjects as sex, equality, development and peace. They expressed a strong will to unite in their struggle to make the home a safe place for women.

(by Liu Xiaojun)

4. On November 25, a seminar on Project Network Partners Outside Beijing was held in the Resource Center in the China Law Society office building. 11 delegates representing different organizations such as the women's federation, social science institutions and media came from different provinces and autonomous regions from all over the country, including Liaoning, Shaanxi, Hunan, Hubei, Inner-Mongolia, Zhejiang and Gansu. Many project management committee members were also present at the seminar.

Most delegates agreed that it was crucial to develop an anti-domestic-violence network. It was decided that a regional network outside Beijing would be set up so as to encourage open, equal and sincere cooperation among partnership organizations outside Beijing that were interested in initiating programs against domestic violence. Participants may voluntarily join or withdraw membership from the network. Deliberations were also held over the use of funds and procedures for applying for funds.

(by Ao Yi)

5. It was decided that the next project assessment would be conducted by Phyllis L. Zhang and Edith Zhang from February 20 to March 5, 2001.

(by Liu Xiaojun)

6. A training workshop on gender, social surveys and technical questionnaires was conducted by both the Domestic Violence in China Survey Sub-project and the Judicial Survey and Research Sub-project from November 26 – 28, 2000 at the Chinese Women's College. The workshop attracted 18 representatives from three provinces.

(by Liu Xiaojun)

7. A training workshop on domestic violence and gender awareness was conducted by the Pilot Urban Community Intervention Sub-project from December 8 – 9, 2001. Over 50 interested doctors and medical administrative staff, over half of which were male, attended the workshop. Responses from doctors were enthusiastic and better than expected.

(by Liu Xiaojun)

8. Beijing's Yanqing County has been selected for the location of the pilot Countryside Sub-project. Sub-project officials visited the Liubingbao Township of Yanqing County and held meetings with township officials and local peasants.

(by Liu Xiaojun)

Empirical Comments

Observation of a domestic violence court trial

On November 14, 2000, I observed an appeal of a domestic violence case at the Tianjin First Intermediate People's Court. The Jing County People's Court, the court of the first instance, had already rendered judgment in favor of the plaintiff, a 26-year-old housewife abused by her husband. Her husband, the defendant, refused to accept the judgment and lodged an appeal with the Tianjin Intermediate People's Court.

The young housewife, married to a young peasant in Jing County of Tianjin City for almost 2 years, was beaten by her husband because she was said to be slow in caring for her diseased mother-in-law. The battered wife lodged a criminal suit with incidental civil claim against her husband with the Jing County People's Court. Forensic experts of the Jing County People's Court identified a fracture on her fifth rib, caused by violence from the defendant. The court then sentenced the defendant to 10 months in prison with 1 year's probation, in addition to a fine of 2,000 *yuan* to cover legal fees, medical care expenditures and damages suffered by the plaintiff.

The defendant then appealed to the Tianjin Intermediate People' Court, contending that he had not beaten his wife's breast and that the fractured rib that she had suffered was due to other causes. It was the first case ever heard by the Domestic Violence Criminal Collegiate Tribunal since its establishment within the Intermediate Court. The appellate court nominated a lawyer from a legal aid agency for the appellant and the Tianjin Women's Federation recommended two lawyers from the Federation's affiliated law firms for the appellee. There were over 100 visitors in the courtroom, including family members of the parties, women's federation leaders, judicial administrative officials and law school students. The court hearing was broadcast live by Tianjin Television Station. The final judgment of the appellate court was in favor of the decision made by the court of first instance. As this was a domestic violence case, the appellate court conducted an additional legal education lecture before the completion of all the proceedings.

Though it is not a complicated case, we can make the following generalizations about the legal proceedings:

1. The appellee had a number of fortuitous circumstances that helped her win her case. Her husband honestly confessed to the court that he did actually beat his wife, and the village clinic doctor and other villagers testified that they knew about the violence. If

the case had occurred in a city, it would have been difficult for the private prosecutor to collect evidence from witnesses because urban residents live behind closed doors and are less likely to be concerned about other people's business. Also, hospitals normally do not keep records of treatment for patients with minor wounds.

2. The decision of the court of the first instance largely depended upon the findings of a forensic expert that the victim suffered a fractured rib due to external violence. The perpetrator of domestic violence (the husband) could have evaded clinical inspection by beating a less obvious part of the women's body, by imposing less serious injury and by emotional abuse over time. This is especially the case since so many (abused) women often will not go to the doctor unless medical care is clearly necessary for recovery of the wounds.

3. The revised Chinese criminal procedural law adopts the principle of "innocent until proven guilty," which makes the victim of domestic violence bear a heavy burden of proof if she chooses to prosecute. Due to the notion that domestic matters are private and the relationship between the violent male and the abused woman is still an intimate one, it is often difficult to obtain evidence of a violent incident and its results, as well as the relationship between the two.

4. It is found from the above-mentioned case that evidence provided by relevant professionals, such as doctors, is extremely important in order for women to be protected through legal mechanisms.

5. It is not unusual in cases of domestic violence for people to express understanding of, and sympathy with, the violent male. For example, an elderly female who attended the court hearing of the above-mentioned Tianjin case expressed sympathy for the abusive husband, saying, "I found the woman (the appellee) too aggressive and deserving of beating. The husband looks really pitiful!"

6. We are curious about how the appellant will pay the 2,000 *yuan* in damages. He must make the payment out of his own family resources, which, according to Chinese law, are jointly owned by him and his abused wife. This means the violent male is using part of his wife's property to pay damages to her. There are still many problems to be researched regarding the legal solution of domestic violence cases.

(by Wang Kairong)

Challenges to lawyers handling domestic violence cases

As a female lawyer who has represented many female clients who have suffered abuse by their husbands, I believe that I not only have a much deeper knowledge than other lawyers about the depressing and humiliating situation to which battered women are subjected, but also more personal experience of the difficulties a domestic violence lawyer has to face. Examples of such difficulties are: ineffective procedures, the shirking of responsibilities by law enforcement departments, restrictions on lawyers who are collecting evidence and conventional ideology about domestic violence.

1. Ineffective procedures

When met with a domestic violence case, law enforcement departments tend to think, "It is a domestic matter. Reconciliation is the best solution." Even if the police intervene in the case, they do not conduct inspection, investigation, evidence collection and witness inquiry as seriously as they do in other kinds of criminal cases. It was reported recently that a female from Shaanxi who was working in Beijing and who had been seriously beaten by her husband was told by the police only to initiate private prosecution for an injury that could clearly be identified as a "light wound." In such cases, according to the Rules on Procedures for Handling Criminal Cases by Police, a "light wound" should be justification for the police to directly handle a case and transfer relevant evidence and material to the court.

2. Shirking of responsibilities by law enforcement departments

Examination of injuries and conclusions made afterwards are important pieces of evidence for victims who seek justice. According to relevant rules, judicial authentication agencies conduct examinations and render conclusions only when commissioned by the police, the procuratorate or the court exclusively. When both the police and the court intend to shirk responsibility in handling domestic cases, it is extremely difficult for the victim to have her injury examined and any conclusions made by judicial authentication agencies.

3. Restrictions on lawyers collecting evidence

Normally the victim should take the initiative in seeking prosecution of a domestic violence case. The lawyer representing the victim is then asked by the court to produce evidential material because the plaintiff, in this case the victim, must bear the burden of proof. When violence is first reported to the police, they are supposed to hold materials as evidence after on-site inspection and inquiries. However, it is usually difficult for lawyers to obtain any evidence from the police.

4. Conventional ideology about domestic violence

Domestic violence most frequently happens at home. When lawyers ask other family members of the abused woman to serve as witnesses, they are often refused. Neighbors, friends, colleagues and relatives who happen to witness the violence often feel reluctant to cooperate with lawyers either because they are afraid of the perpetrator or because they do not want to interfere into another family's business. Even brothers and sisters of the abused woman often feel it is inappropriate to intervene. (by Liu Donghua)

Theoretical Reflections

International development of research on domestic violence

Research on domestic violence has been rapidly developed internationally over the last 30 years. The 1960s and 1970s witnessed new feminist movements and flourishing networks of refuges and shelters for abused women in countries like the UK and the USA. The problem of domestic violence and abused women's needs came to the attention of society and the public. The following is a brief on research and theories related to domestic violence in foreign contexts.

1. What is domestic violence?

Definitions of domestic violence include:

Domestic violence happens between family members and causes physical and/or psychological injury to the victim. Violence can be any type of action that leads to fear, insecurity and conflict.

Types of domestic violence may include:

- a. physical violence such as pushing, beating, slapping, kicking, or using utensils or other items in an assault;
- b. verbal degradation;
- c. sexual violence.

Domestic violence may also be classified in terms of perpetrator-recipient relationships, including:

- a. abuse of children, including physical abuse, sexual abuse, neglect or degradation, which may seriously harm children physically and/or

- psychologically.
- b. abuse of the elderly, including beating, scaring, threatening, neglecting, refusing care or substandard care.
 - c. abuse of brothers and sisters

2. Theoretical explanations

Human perspectives

- a. Individual psychological theories (Green, 1984; Steinmetz, 1980; Kantor & Strus, 1987; Maiuro, Cahn & Vitalino, 1986; Dutton, 1988; Rosenbum & Gibberson, 1991)

Some researchers ascribe violence against woman to the psychological features and character of the abused woman, such as low self-respect, use of drugs, character inadequacy, aggressiveness and incompetence in coping with pressure. These theoretical models, which were adopted by large-scale social surveys of the 1970s and 1980s, still prevail in psychiatric practice today.

- b. Learned helplessness (Walker, 1979)

Walker suggests that women learn over time that they cannot do anything to prevent violence and thus develop a survival strategy of passivity in coping with the situation. Once helplessness is learned, a woman may become completely passive and lose any sense of control over her own life. She might also develop self-loathing and not attempt to change her life, thereby further strengthening the violent relationship.

- c. Cycle of violence (Walker, 1970s)

Violence may be repeated in a cycle consisting of three stages: pressure (conflict accumulation), violent incident and honeymoon. With the development of each cycle, the violence becomes more severe and more frequent.

- d. Survival theory (Condolf and Futcher, 1988)

According to survival theory, in contrast to the theory of passivity, as violence escalates, a woman actively pursues survival as she becomes increasingly worried about threats to both her children and herself. In an increasingly violent situation, a woman tries to pursue every possibility to seek help and overcome fear, depression and financial pressure in order to ensure the survival of her children and herself.

- e. Social learning theory ((Rosenbum & O'Leary, 1981)

Social learning theory suggests that violence is learned, particularly in childhood during the process of socialization. It also implies that violence can be passed down from generation to generation. Children who witness or experience domestic violence are more likely to resort to violence later when they are adults.

Social perspectives

a. Resource theory (O'Berien, 1971; Gelles, 1976)

Resource theory suggests that violence is the result of dynamics such as family resources and family decision-making power. It has been found, for example, that when men with low social status dominate family affairs or when the traditional role of men is challenged by the heightened status of women, violence against women is adopted as a solution to the discrepancy between the contribution to family resources and the domestic power structure. This explains why abuse of wives often occurs in families in developing countries where men's power is challenged as the family status of wives is raised.

b. Exchange theory (Strube, 1988)

Exchange theory postulates that a man beats his wife because he stands to lose nothing if violence by men is accepted by both cultural and social institutions. Women bear such violence and choose to remain in the violent relationship based upon a benefit analysis under such cultural and social institutions. This theory precisely explains why it is necessary to impose legal penalties in order to change the loss-benefit dynamics so as to eliminate motives for violence.

c. General system theory (Giles-Sims, 1983)

General system theory proposes that violence takes place in a family system, in which both husband and wife are interrelated. Individual characteristics of the perpetrator and recipient of violence as well as the family environment all contribute to the occurrence of violence.

Social institutions perspectives

Feminists focus their attention on social institutions, culture, tradition and public attitudes in their research on domestic violence. They therefore believe that domestic violence is a product of patriarchy and is a tool by which men control women. Studies of violence against women should then consider conventional notions held by society about sex and sex power relationships. Male-centered culture, tradition and law support the domination of men over women in families,

making women excluded from public life. Conventional expectations regarding women's role in family matters and women's economic status restrict women to maintaining responsibility for the family and force women to put up with violent relationships. Therefore, it is crucial to reform male-oriented social institutions and structures to eliminate violence against women.

We hold that the above-mentioned theories are valuable in the sense that each contributes to our understanding of domestic violence from a particular and varied standpoint. It seems that we should adopt a comprehensive perspective for domestic violence research, taking into account factors such as social institutions and cultural background. We can then develop a model adapted to Chinese social and cultural traditions and find proper methods to protect women from domestic violence.

(by Liu Meng)

Updated Legislation

The Decision of the Hunan People's Congress Standing Committee on Prevention and Eliminating Domestic Violence

On March 31, 2000 the 14th Session of the Standing Committee of the 9th Hunan Province People's Congress adopted the Decision of the Hunan Province People's Congress Standing Committee on Prevention and Eliminating Domestic Violence. Important stipulations of the Decision include:

- * Prevention and eliminating domestic violence should be incorporated into a comprehensive program of social security overseen by the government.
- * Extensive publicity and educational activities should be conducted to improve the awareness among people regarding laws stipulating protection of women, children, the elderly and disabled.
- * Grassroots judicial administrative agencies, village committees and urban community residential committees should mediate over family disputes in a timely manner in order to prevent the escalation of conflict.
- * The people's courts, the people's procuratorates and the public security agencies should accept and handle domestic violence complaints according to law and should advise the complainant where to go if it is found that the case does not fall within the jurisdiction of the organization first approached by the complainant.

* Public security agencies should handle domestic violence cases according to regulations governing penalties for public security offences and should impose penalties in light of the circumstances of the offence. If the violence is deemed to constitute a crime, it should be investigated and prosecuted as such.

* The people's procuratorates should review domestic violence cases in a timely manner, lodge public prosecution and approve arrest of the perpetrator if it is justified by law.

The people's procuratorates should exercise their duty of supervision over police performance and the court in handling domestic cases.

* Victims of domestic violence should be rendered legal aid if it is justified according to relevant rules.

* State agencies, social organizations, enterprises and institutions should actively respond to complaints and demands of domestic violence victims and should provide assistance in investigations.

* Those who are obliged to stop domestic violence and handle such cases but who instead allow the escalation of violence leading to severe consequences should be investigated in legal terms.

* Citizens have the right to reconcile, stop and report domestic violence.

Information of important events

Sharing experiences and coordinating forces for developing a Chinese model against domestic violence: Brief on the First Annual Conference on the International Day for the Elimination of Domestic Violence against Women and the Second Network Conference of the Anti-Domestic Violence Project

On the afternoon of Nov. 24, 2000, nearly 100 researchers, activists and officials from different departments, organizations and fields came from across the country to attend the First Annual Conference on the International Day for the Elimination of Domestic Violence against Women and the Second Network Conference of the Anti-Domestic Violence Project. Organizations represented at the Conference

included the China Law Society, the UNIFEM Beijing Office, the All China Women's Federation, the Supreme People's Court, the Supreme People's Procuratorate, the China Female Judges Association, the Ford Foundation and the Chinese Academy of Social Sciences. Attendants exchanged information, experiences and ideas and put forward various suggestions for developing a Chinese model for preventing domestic violence.

Mr. She Mengxiao, Executive Vice President of the China Law Society, said in his keynote speech that the China Law Society, as sponsor and organizer of the project, highly values cooperation and assistance from all walks of life in the struggle against domestic violence. He called for the participation of different departments and organizations in this project in order for it to have widespread influence.

Ms. Chen Lanyan elaborated on the background of the International Day for the Elimination of Domestic Violence against Women and the work of the UNIFEM Beijing Office. She stressed the coordination of different forces against domestic violence and men's involvement in anti-domestic-violence efforts.

Ms. Ding Lu from the All China Women's Federation reviewed the history of movements against domestic violence in China and pledged that the Federation is committed to taking the initiative in promoting anti-domestic-violence campaigns in China. She also urged the participation of both government departments and voluntary organizations.

Ms. Chen Mingxia, Coordinator-general of the Project and professor of law with the China Law Society and the Chinese Academy of Social Sciences, spoke about the background, development, progress and achievements of the present project. She stressed that no organization could eliminate domestic violence by itself. She called for cooperation and coordination of all interested organizations, agencies and departments in a persistent struggle against domestic violence in China.

Mr. Lu Yaogang, a journalist from *China Youth News*, introduced to delegates his personal experience as a reporter on domestic violent incidents and said he was astonished by the ignorance and carelessness of local officials and law enforcement personnel in domestic violence cases.

Ms. Zhou Wanlin, director of the Beijing University Legal Aid Center, discussed experiences and achievements of the center in helping victims of domestic violence.

She said she believed that the revision of the marriage law and other law-making efforts would provide a helpful legal environment in which domestic violence cases could be handled more effectively in a lawful manner.

Ms. Rong Xiuqin from Hunan Province's Women's Federation elaborated on enforcement of pioneering local regulations against domestic violence Hunan Province. Hunan was among the first to formulate laws to curb domestic violence.

Mr. Jia Xiaogang, a key prosecutor from the Supreme People's Procuratorate, made a comparative analysis of judicial intervention into domestic violence in the United States and China. He found that American judicial forces are more active in intervening in domestic violence. He said he was more conscious of the problem now and pledged to do more to eliminate domestic violence in China.

Ms. Gao Xiaoxian from the Shaanxi Women's Federation suggested that it was crucial now for China 1) to improve legislation against domestic violence; 2) to strengthen training of law enforcement personnel on awareness and sensitivity about domestic violence and; 3) to set up agencies that specialize in providing services to women.

Ms. Feng Yuan from *Chinese Women's News* and other delegates working in minority nationality regions also shared their experiences with the delegates.

The conference was chaired by Ms. Guo Yanqiu, who closed the conference by calling for unification and devotion of all people to make home a safe and happy place
(by Zhang Qi)

The United Nations in Action

On March 8, 1999, a globally televised Conference was sponsored by UNIFEM with the theme "For A World Free of Violence against Women."

In November of 1999, the General Assembly of the United Nations passed a motion initiated by UNIFEM making every future date of November 25 the International Day for the Elimination of Violence against Women.

For the 16 days following November 25, 1999, UNIFEM organized the widely publicized "16 Days Action." A large number of publicity campaigns against domestic

violence was seen in the Asia Pacific region, Latin America, Africa, the Caribbean and other regions of the world. The "16 Days Action" put domestic violence at the forefront of the public agenda in several countries. It also concentrated government efforts to prevent domestic violence, fund shelters and create pro-active policies for police intervention into domestic violence incidents.

In response, UNIFEM's Beijing Office organized a conference and invited representatives from news media, women's organizations, public security agencies, the procuratorate, the court, research institutions and international organizations to discuss how to promote work against domestic violence in China. As a result of the conference, an anti-domestic-violence union was developed by the conference participants.

(by Chen Lanyan)