

For Discussion
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LEGCO PANEL ON WELFARE SERVICES

Subcommittee on Strategy and Measures to Tackle Family Violence

Study on Child Abuse and Spouse Battering

INTRODUCTION

This paper introduces the findings of the Part One of the Study on Child Abuse and Spouse Battering commissioned by the Social Welfare Department (SWD).

BACKGROUND

2. In April 2003, SWD commissioned the Department of Social Work and Social Administration of the University of Hong Kong (the Consultant) to conduct a Study on Child Abuse and Spouse Battering. Part One of the Study aims to estimate the prevalence rate of child abuse and spouse battering in Hong Kong, to analyze the demographic, social, psychological and family profile of perpetrators and victims, as well as to identify elements contributing to effective prevention and intervention, including studying the feasibility and implications of adopting mandatory treatment of perpetrators in Hong Kong and examining the existing legislative measures. Part Two of the Study aims to develop and validate assessment tools to facilitate early identification of cases at risk of child abuse and spouse battering, and to conduct training for frontline professionals on the use of the assessment tools.

3. This paper presents the results of Part One of the Study.

MAIN FINDINGS OF THE STUDY

4. Part One of the Study comprises a territory-wide household survey and a review of the social and legal measures in the prevention and intervention of domestic violence in Hong Kong. The overall report prepared by the Consultant summing up the main findings of the study is at Annex A.

5. In brief, the household survey was conducted between December 2003 and August 2004, and a total of 5,049 adult respondents and 2,062 child respondents were interviewed face-to-face. It was estimated that about 13.9% of adult respondents had ever experienced physical assault, physical injury and/or sexual coercion by their spouses and about 7% had these experiences during the 12 months before the survey. Among the child respondents, about 45% indicated they had ever encountered physical assault (including minor, severe and very severe) by either of or both their parents. The ever prevalence rate for very severe physical assault was about 9%. About 23% indicated they had encountered physical assault (including minor, severe and very severe) by either one or both their parents during the 12 months before the survey. The annual prevalence rate for very severe physical assault was about 4%.

6. In the review of social and legal measures in the prevention and intervention of domestic violence, the Consultant had examined a number of issues, including the context and conditions in providing court-ordered mandatory batterer intervention programmes, reporting of domestic violence cases, the practice of arrest and prosecution, legal support for victims, multi-disciplinary collaboration and legislative changes to the Domestic Violence Ordinance. The Consultant has made a total of 21 recommendations and a summary of the recommendations is at Annex B.

PRELIMINARY ADMINISTRATION'S RESPONSES

7. The household survey conducted in this study was the first of its kind conducted in Hong Kong in terms of scale and coverage. Apart from estimating the prevalence of child abuse and spouse battering in Hong Kong, the findings of the survey provide information on the demographic, social, psychological and family profile of perpetrators and victims. Such information will provide reference for the Administration

in refining the existing policies and measures in tackling child abuse and spouse battering.

8. On the Consultant's suggestions on introducing batterer intervention programmes in Hong Kong, SWD presently has offered group programmes to batterers. It is planning to run a pilot involving a non-governmental organisation on batterer intervention programmes, under which treatment will be provided to batterers joining the pilot programmes on voluntary basis, and batterers put on probation under the arrangement of probation officers. Through the pilot programme, we aim to get more insights of the goal, content, standard and effectiveness of such programmes. The outcome of the pilot programme will facilitate further consideration of the recommendations made by the Consultant.

9. Among other things, the Consultant has recommended a Domestic Violence Serious Injury or Fatality Review. As previously reported to the Subcommittee, SWD has proposed establishing a review mechanism for fatal child abuse cases and is in the process of consulting the concerned parties including the Working Group on Combating Violence and Committee on Child Abuse. Advice from the Department of Justice and the Police is also being sought. The Consultant also made a number of recommendations on the review of the Domestic Violence Ordinance. We note that many of the comments made are similar to the views previously expressed by legislators and other interested parties, and the Government will critically review the need for legislative amendments taking into account all relevant factors.

Health, Welfare and Food Bureau/
Social Welfare Department
June 2005

Study on Child Abuse and Spouse Battering

Overall Report

(Part One)

**Department of Social Work and Social Administration
The University of Hong Kong
Hong Kong
June 2005**

Study on Child Abuse and Spouse Battering

Overall Report (Part One)

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***This study is commissioned by the Social Welfare Department and
funded by the Lotteries Fund.***

1. Introduction

This report summarizes Part One of the Study on Child Abuse and Spouse Battering commissioned by the Social Welfare Department (SWD) during April 2003 to April 2005, conducted by the Research Team of the University of Hong Kong. (*Report on findings of Household Survey and Peace at home: Report on the Review of the Social and Legal Measures in the Prevention and Intervention of Domestic Violence in Hong Kong*).

2. Study Objectives

2.1 The aim of Part One of this research is to study different types of child abuse and spouse battering, including physical abuse, sexual abuse, psychological abuse, neglect (for child abuse only) as well as multiple abuses. More specifically, this research has the following objectives:

Part One

- a) To estimate the incidence and prevalence rates of child abuse and spouse battering in Hong Kong;
- b) To analyze the demographic, social, psychological and family profile of perpetrators and victims;
- c) To identify the essential elements contributing to effective prevention and intervention (including whether the provision of legislative measures such as the Domestic Violence Ordinance could facilitate prevention and intervention); and
- d) To study the feasibility and implications of adopting mandatory treatment of perpetrators in Hong Kong (including but not limited to mode and definition, manpower, related judicial, administrative and legislative arrangement, etc.) with reference to overseas examples (e.g. UK, USA, Singapore, Canada, New Zealand, Australia, etc.).

3. Report on findings of Household Survey

Background

3.1 The aim of this research is to study different types of child abuse and spouse battering, including physical abuse, sexual abuse, psychological abuse, neglect (for child abuse only) as well as multiple abuses. More specifically, the objectives of the research include, inter alia, to the estimation of the incidence and prevalence rates of child abuse and spouse battering in Hong Kong and the analysis of the demographic, social, psychological and family profile of perpetrators and victims.

3.2 Findings presented in this report, which are based on a territory-wide household survey, provide a comprehensive and up-to-date report on the prevalence and incidence of child abuse and spouse battering in Hong Kong. In terms of scale and coverage, it is the first of its kind ever conducted in Hong Kong. In addition,

survey findings on the profile of perpetrators and victims, as well as risk factors identified in the survey, are presented.

Survey Methodology

Data collection approach

3.3 Information on domestic violence is usually collected through the administrative records maintained by government departments and other welfare agencies dealing with spouse battering and child abuse. To supplement information from administrative channels, information on the victims of domestic violence is also collected through household surveys. The merit of conducting household surveys is that it can include reported and unreported incidents of domestic violence. Through the survey, information on the prevalence of domestic violence can be obtained, based on respondents' recall of incidents that have happened to them.

3.4 To reduce reluctance of the respondents in answering questions on domestic violence, the revised version of the Conflict Tactics Scales (CTS) was used in the study. In administering the Scales, the respondents were first asked items on positive conflict tactics involving reasoning before being prompted for more aggressive and violent acts. This helped warm up the interview. This method could reduce resistance on the part of the respondents in co-operating in the survey. The CTS2 comprises 39 items on 5 sub-scales, namely negotiation, psychological aggression, physical aggression, injury and sexual coercion.

3.5 In addition, the Parent-Child Conflict Tactics Scale (CTSPC) was used to obtain information on child abuse. Apart from physical or non-physical violence, child abuse may also take the form of neglect.

Data collection method

3.6 The household survey method involving face-to-face interview was adopted in the study. By collecting information from the household survey, it is possible to cover both reported and unreported incidents of domestic violence, as well as families with (the violence group) and without domestic violence (the non-violence group). Information obtained from the survey will permit analysis of the prevalence and incidence of child abuse and spouse battering, as well as factors leading to incidence or otherwise of child abuse and spouse battering.

3.7 To facilitate data collection and encourage the respondents to answer the questions frankly and fully, three different interview methods were used, as follows:

- a) For most questions which were not sensitive, the usual, direct interview method was used, during which the interviewers asked the questions and dropped down answers given by the respondents;
- b) For questions which were a bit sensitive, the interviewees were shown the questions and asked to respond by checking the appropriate boxes in the questionnaire, with assistance provided by the interviewers. By doing so, the interviewers did not have to read out the questions;
- c) For questions on sensitive issues, the interviewees were asked to complete a self-administered questionnaire. The completed

questionnaires were inserted into a folder in such a way that the interviewers were unable to know the answers given by the respondents. The role of the interviewers was to explain the questions to the respondents and to remind the respondents of the need to answer all questions.

3.8 For respondents who could not read or understand the questions, the direct interview method had to be adopted. With the use of the above interviewing methods, it is believed that reluctance on the part of the respondents to answer sensitive questions could be minimized.

Sample design

3.9 In the survey, the sampling frame used was based on the frame of quarters maintained by the Census and Statistics Department, which includes the Register of Quarters and the Register of Segments. A two-stage stratified sample design was adopted, with the records in the frame of quarters first stratified by geographical area and type of quarters. For the first stage, a stratified random sample of quarters was selected. In the second stage, all members aged 12 or above in households in the sampled quarters with children and/or spouses were enumerated.

Questionnaire design

3.10 Five different sets of pre-designed structured questionnaires were used in collecting information from different groups of respondents. In designing the questionnaires, reference was made to information obtained from in-depth interviews and focus group discussions and views obtained from Social Welfare Department and the Advisory Group on the Study on Child Abuse and Spouse Battering. The questionnaires were also pre-tested before implementation.

3.11 As discussed above, the revised Conflict Tactics Scales (CTS2) and a number of measurement scales were used in the household survey. Briefly, the questionnaire has three main components: an introductory section with demographic questions, the Revised Conflict Tactics Scales to provide the data on the four aspects of spousal violence, and the Personal and Relationships Profile to provide data on 21 aspects of etiology.

Enumeration results

3.12 The survey was conducted during the period from December 2003 to August 2004. A total of 9,707 quarters were sampled, out of which 1,812 were found to be invalid and 5,565 successfully enumerated. A total of 5,049 and 2,062 respondents were interviewed using respectively the adult and child questionnaires. The overall response rate achieved was 71%. For households enumerated, not all eligible respondents could be interviewed for various reasons. It is estimated that about 78% of eligible respondents were successfully interviewed.

Child Abuse

Ever prevalence and annual prevalence of child abuse

Physical assault

3.13 About 45% of child respondents indicated they had ever encountered physical assault by either of or both their parents. This ever prevalence rate of physical assault was slightly higher for male than for female, but the difference was not statistically significant. The bulk of the physical assault was minor in nature, with about 41% of child respondents indicated that they had ever encountered minor physical assault.

3.14 The ever prevalence rate for very severe physical assault was about 9%. The rate was slightly higher for male than for female respondents, but the difference was statistically not significant.

3.15 About 23% of child respondents indicated they had encountered physical assault by either of or both their parents during the 12 months prior to enumeration. This annual prevalence rate of physical assault was slightly higher for female than for male, but the difference was not statistically significant. The bulk of the physical assault was minor in nature, with about 19% of child respondents indicated that they had encountered minor physical assault during the 12 months prior to enumeration.

3.16 The annual prevalence rate for very severe physical assault was about 4%. The rate was slightly higher for female than for male respondents, but the difference was statistically not significant. The rate of very severe physical assault carried out by mother was also slightly higher for female than for male respondents, and the difference was statistically significant.

Psychological aggression

3.17 About 72% of child respondents indicated they had ever encountered psychological aggression by either of or both their parents. This ever prevalence rate of psychological aggression was slightly higher for female than for male, but the difference was not statistically significant.

3.18 About 58% of child respondents indicated they had encountered psychological aggression by either of or both their parents, during the 12 months prior to enumeration. This annual prevalence rate of psychological aggression was slightly higher for female than for male, but the difference was not statistically significant.

Neglect

3.19 About 36% of child respondents indicated they had ever encountered neglect by either of or both their parents. This ever prevalence rate of neglect was slightly higher for female than for male, but the difference was not statistically significant.

3.20 About 27% of child respondents indicated they had encountered neglect by

either of or both their parents, during the 12 months prior to enumeration. This annual prevalence rate of neglect was slightly higher for female than for male, but the difference was not statistically significant.

Profile of victims of child physical maltreatment

3.21 For the purposes of the present analysis, the victims of child abuse refer to those who were severe physically or very severe physically assaulted. In other words, those who had experienced psychological aggression, neglect and/or minor physical assault only are not included for the analysis given in this section.

3.22 It is estimated that about 29% of child respondents had ever experienced physical maltreatment or severe physical maltreatment. The percentage was slightly higher for male than female, but the difference was not statistically significant. The ever prevalence of physical maltreatment carried out by mothers was slightly higher than that by fathers.

Demographic characteristics

3.23 Children in the physical maltreatment group were younger and naturally were attending lower grades at school, as compared with those in the non-physical maltreatment group. The great majority were attending school. Female accounted for a slightly higher proportion in the physical maltreatment group than male. About 18% of the physical maltreatment group was not born in Hong Kong. For those who were not born in Hong Kong, slightly more than half (53%) of them were new immigrants who were in Hong Kong for less than 7 years.

Other characteristics

3.24 The survey data also show the following:

- a) For children in the physical maltreatment group, their attitude towards discipline by parents was less favourable than those in the non-physical maltreatment group, and the difference was statistically significant;
- b) Children in the physical maltreatment group had a lower self-esteem than that for the non-physical maltreatment group, and the difference was statistically significant;
- c) The physical maltreatment group tended to manage their anger violently, as compared with the non-physical maltreatment group. Probably this is the impact of child abuse on the physical maltreatment group, by making them more aggressive to others.

Profile of perpetrators of child physical maltreatment

3.25 Consistent with the approach adopted in classifying victims of child abuse, for the purposes of the present analysis, perpetrators of child abuse refer to their adult respondents who admitted that they had ever physically maltreated or severely physical maltreated their children. This group of perpetrators accounted for 10% of adult respondents who had children. The survey findings also show that about 10% of adult respondents had ever physical maltreated their children; 2% had ever severely

physical maltreated children.

Demographic characteristics

3.26 The socio-economic characteristics of perpetrators of child physical maltreatment were quite similar to those of non-perpetrators, except that perpetrators of child physical maltreatment had relatively lower level of education, as compared with non-perpetrators; and that a relatively higher proportion of them was self-employed and recipients of CSSA. To distinguish perpetrators from non-perpetrators, other factors will have to be examined, and this will be discussed in the section below.

Risk factors

Violence between parents of victims

3.27 A much higher proportion of children in the physical maltreatment group had seen domestic violence between their parents, compared with those in the non-physical maltreatment group. About 48% of those in the physical maltreatment group had seen physical assault between their parents during the 12 months prior to enumeration, as compared with about 10% for the non-physical maltreatment. About 29% of the physical maltreatment group had seen physical injury resulting from battering between their parents during the past 12 months prior to enumeration, as compared 3% for the non-physical maltreatment group. 84% of the physical maltreatment group had seen psychological aggression between their parents during the 12 months prior to enumeration, as compared with 51% for the non-physical maltreatment group. The difference between the physical maltreatment and non-physical maltreatment groups was statistically significant.

Dual violence of perpetrators

3.28 About 37% of perpetrators of child physical maltreatment admitted that they were also perpetrators of spouse battering. The percentage was higher than that for non-perpetrators (14%). The difference between the perpetrator and non-perpetrator groups was statistically significant.

3.29 About 36% of perpetrators of child physical maltreatment admitted that they were also victims of spouse battering. The percentage was higher than that for non-perpetrators (13%). The difference between the perpetrator and non-perpetrator groups was statistically significant.

Personal and relationships profile of perpetrators

3.30 The average scores in the personal and relationships profile of physical maltreatment group were lower than those of non-physical maltreatment group only in respect of social desirability, self-esteem, support and anger management, and the difference was statistically significant. For other sub-scales, the average scores of the physical maltreatment group were higher than those of non-physical maltreatment group. The difference was statistically significant for all sub-scales, with the exception of the sub-scales face.

Spouse Battering

Ever prevalence and annual prevalence of spouse battering

Physical assault

3.31 The percentage of respondents who reported that they were ever physically assaulted by their spouses (9.6%) was slightly lower than the percentage of respondents who said that they had ever physically assaulted their spouses (10.8%). Female respondents had a slightly higher rate of having assaulted their spouses than male respondents, and the difference is statistically significant. Most physical assaults were minor in nature.

3.32 About 4.5% of respondents reported that they were physically assaulted during the 12 months prior to enumeration, which was lower than the percentage of respondents who said that they had physically assaulted their spouses (5.5%). Most of physical assaults were minor in nature. The difference between male and female respondents was not statistically significant.

Physical injury

3.33 The percentage of respondents who reported that they were physically injured caused by their spouses (3.7%) was slightly lower than the percentage of respondents who said that they had physically injured their spouses (4.3%). Female respondents had a slightly higher rate of having been injured by or having assaulted their spouses than male respondents. Most physical injuries were minor in nature. The difference between male and female respondents was significant for the rate reported by perpetrator on minor, severe and all kinds of injuries.

3.34 About 2% of respondents reported that they were physically injured by their spouses during the 12 months prior to enumeration, which was about the same as the percentage of respondents who admitted that they had physically injured their spouses (2%). Most physical injuries were minor in nature. The difference between male and female respondents was not statistically significant.

Sexual coercion

3.35 The percentage of respondents who reported that they were sexually coerced by their spouses (6.9%) was slightly lower than the percentage of respondents who said that they had sexually coerced their spouses (7.3%). Female respondents had a slightly higher rate of having been sexually coerced by their spouses than male respondents. Most of sexual coercion was minor in nature. The difference between male and female respondents was significant for the rate reported by perpetrators and victims on minor and all kinds of sexual coercion.

3.36 About 3% of respondents reported that they were sexually coerced by their spouses during the 12 months prior to enumeration. The percentage was almost the same as that for respondents who admitted that they had sexually coerced their spouses (3%). Female respondents had a slightly higher rate of having been sexually coerced their spouses than male respondents. Most of sexual coercion was minor in

nature. The difference between male and female respondents was significant for the rate reported by perpetrators and victims on minor and all kinds of sexual coercion.

Overall spouse battering

3.37 It is estimated that about 13.9% of respondents were ever battered by their spouses. The percentage of respondents who reported that they had battered their spouses was slightly higher, at 15.1%. A relatively higher proportion of female respondents reported that they had battered or had been battered by their spouses. The difference between male and female respondents was significant for the rate reported by victims.

3.38 In some households¹, either the male or female respondents are victims of spouse battering, while in other households, both spouses are victims (as well as perpetrators) of spouse battering. Thus, if households are taken as a unit of analysis, the percentage with spouse battering was higher than the percentage of respondents who had ever battered or had ever been battered by their spouses. It is estimated that there were about 20.8% of households with respondents who reported to have ever been battered by their spouses. The percentage of households with respondents who reported to have ever battered their spouses was slightly higher, at 21.7%.

3.39 About 7% of respondents were battered by their spouses during the 12 months prior to enumeration. The percentage of respondents who reported that they had battered their spouses was slightly higher, at 8%. A relatively higher proportion of female respondents reported that they had battered or had been battered by their spouses during the 12 months prior to enumeration. The difference between male and female respondents was not significant for the rate reported by victims.

3.40 It is estimated that there were about 10.6% of households with respondents who reported to have been battered by their spouses. The percentage of households with respondents who reported to have battered their spouses was slightly higher, at 11.9%.

Profiles of victims and perpetrators of spouse battering

3.41 For the purpose of the present analysis, the abused group includes those respondents who reported to have ever physically assaulted, injured or sexually coerced their spouses, or having been physically assaulted, injured or sexually coerced by their spouses. About 18% of the adult respondents belonged to the abused group (including respondents who were victim only, perpetrator only and both victim and perpetrator), and the remaining 82% the non-abused group.

Demographic characteristics

3.42 Compared with the non-abused group, a relatively higher proportion of victims, perpetrators and those who were both victims and perpetrators were in the

¹ A household consists of a group of persons who live together and make common provision for essentials for living. Hence, a household may have more than one respondent. If any respondent in the household reported he/she had battered or had been battered by spouse, the whole household unit would be classified as household with respondents who had battered or had been battered by spouses.

age range of 25-55. Perpetrators and those who were both victims and perpetrators were relatively more educated. However, a relatively higher proportion of victims had no schooling. Besides, a higher proportion of perpetrators and those who were both victims and perpetrators were employed. A relatively higher proportion of victims were homemakers. When comparing the monthly income among the non-abused group, victims, perpetrators and those who were both victim and perpetrator, a relatively higher proportion of perpetrators had higher monthly income. For victims and the non-abused group, a relatively higher proportion of them had no income.

Help seeking behaviour

3.43 The help seeking behaviour of the abused group was different from that of the non-abused group. For emotional disturbance, conflicts with spouses or children, a relatively higher proportion of the abused group, as compared with the non-abused group, would seek help. On the other hand, for more serious conflicts like fight with spouses or children, conflicts or fight with other family members, a relatively lower proportion of the abused group would seek help.

3.44 A significant proportion of the abused group considered that the various social services like counseling, education or economic support were useful in dealing with domestic violence. The percentage who considered legal aid useful was lowest, at around 22%, while that for those who considered family counseling useful was highest, at around 67%. The percentage of the non-abused group who considered the various social services useful was similar. The percentage was also highest, at 65%, for those who considered family counseling useful, and was also lowest, at 23%, for those who considered legal aid useful.

Risk factors

Personal and relationships profile of perpetrators

3.45 The average scores of the personal and relationships profile the abused group, including victims, perpetrators and those who were both victims and perpetrators, were lower than those of non-abused group only in respect of social desirability, self-esteem, support (except for the perpetrator only subgroup) and anger management. For the other sub-scales, the average scores of the abused group were higher than those of non-abused group. The differences among their average scores for the various sub-scales were statistically significant.

Relationship with spouse

3.46 The relationship with spouses of the abused group was in general worse than that of the non-abused group. About 60% of the abused group admitted that they had never been disturbed by their spouses in the 12 months prior to enumeration, and the corresponding percentage for the non-abused group was much higher, at 86%. The difference between the abused and non-abused groups, in terms of the frequency of their having been disturbed by their spouses, was statistically significant.

3.47 About 69% of the abused group said that they had never been afraid of their spouses in the 12 months prior to enumeration, and the corresponding percentage for the non-abused group was much higher, at 88%. The difference between the abused and non-abused groups, in terms of the frequency of their having been afraid of their spouses, was statistically significant.

3.48 About 37% of the abused group said that they had never neglected the need and feeling of their spouses in the 12 months prior to enumeration, and the corresponding percentage for the non-abused group was much higher, at 72%. About 14% of the abused group even admitted that they had always neglected the need and feeling of their spouses while the corresponding proportion for non-abused group was only about 2%. The difference between the abused and non-abused groups, in terms of the frequency of their having neglected the need and feeling of their spouses, was statistically significant.

3.49 The majority of both the abused and non-abused groups said that they had never made their spouses feel unsafe in the 12 months prior to enumeration. The percentage of abused group who had sometimes or always made their spouses feel unsafe (at 10%) was much higher than the corresponding percentage for the non-abused group (1%). The difference between the abused and non-abused groups, in terms of the frequency of their having made their spouses feel unsafe, was statistically significant.

3.50 The majority of both the abused and non-abused groups said that their never stayed away from home in the 12 months prior to enumeration. The percentage of abused group who said that their spouses had sometimes or always stayed away from home (at 18%) was much higher than the corresponding percentage for the non-abused group (5%). The difference between the abused and non-abused groups, in terms of the frequency of their spouses having stayed away from home, was statistically significant.

Battering between parents

3.51 A higher proportion of the abused group, as compared with the non-abused group had seen battering between their parents. The difference between the abused and non-abused groups was statistically significant. For psychological aggression, physical assault and injury, a relatively higher proportion of both the abused and non-abused group had seen their fathers being the perpetrators and their mothers being the victims.

4. Peace at home: Report on the Review of the Social and Legal Measures in the Prevention and Intervention of Domestic Violence in Hong Kong

- 4.1 There are two objectives of the review. The first is to identify the essential elements contributing to effective prevention and intervention (including whether the provision of legislative measures, such as the Domestic Violence Ordinance, could facilitate prevention and intervention). The second is to study the feasibility and implications of adopting mandatory treatment of perpetrators in Hong Kong (including, but not limited to, mode and definition, manpower, related judicial, administrative and legislative arrangement, etc.) with reference to overseas examples (e.g. UK, USA, Singapore, Canada, New Zealand, Australia, etc.).
- 4.2 In identifying the essential elements contributing to effective prevention and intervention of domestic violence, the Public Health Approach advocated by World Health Organization is adopted. It stipulates that the violence prevention depends upon social policies and programs, and the coordinated community and legal efforts in the building of peaceful society and family. The Consultant gives views on the overall strategies in prevention and intervention of the problems before leading to the specific discussion on the effective legal measures, including mandatory treatment of perpetrators.
- 4.3 Based on the findings from the studies conducted for this review, and the review of literature and legislations in other Jurisdictions, a number of issues related to legal measures were examined. The legal measures include the context and conditions in providing court-ordered mandatory batterer intervention programmes, reporting of domestic violence cases, the practice of arrest and prosecution, legal support for victims, multidisciplinary collaboration, reform of Domestic Violence Ordinance (Cap 189), utilization of the injunction orders, child protection and risk assessment.
- 4.4 The making of a government policy which states clearly the commitment of the government to tackle domestic violence, philosophy in combating domestic violence, and the strategies in fighting against and preventing the domestic violence is recommended. The policy shall include a holistic and inter-agency coordinated community and legal approach in the prevention and intervention with domestic violence.
- 4.5 The context of a coordinated criminal justice system plays a significant role in making effective the mandatory programmes for perpetrators of domestic violence. The provisions of BIPs under the existing system and through the reform of laws are recommended. A time-limited pilot project is recommended to implement the court-mandatory BIP in Hong Kong.
- 4.6 Active support and participation from the legal system is the most crucial in making mandatory BIP feasible. A number of legal remedies are recommended for closer examination, including reporting domestic violence cases, the policy and practice of arrest and prosecution, setting up a specialized domestic violence court and a domestic violence serious injury

or fatality review, education for the public and training for legal actors, and legal support for victims.

- 4.7 Reform of the Domestic Violence Ordinance (Cap 189) is recommended to expand the scope of protection and strengthen the laws in the prevention of and intervention with domestic violence.

Chapter 9

Summary of Recommendations

Recommendation 1

We recommend that:

The batterer intervention programmes (BIPs) could be launched under the existing systems.

- (a) Voluntary participation enhanced by the coordinated referral system and public publicity of the programmes;
- (b) A sentencing condition attached to a probation order enhanced by the coordination with the court and the probation officers; and
- (c) Prison-based BIPs enhanced by the coordination with the Correctional Services in providing the structured treatment programmes to the domestic violence offenders. (*Chapter 6*)

Recommendation 2

We recommend that:

The Court can make mandatory counselling order for the batterers to attend a BIP by the following ways:

- (a) As a condition attached to the non-molestation order under the DVO (Cap 189);
- (b) As a condition attached to a bind-over order; and
- (c) Placing a counselling order separately in criminal proceedings. (*Chapter 6*)

Recommendation 3

We recommend that:

To make BIP an order issued by the Court, the laws to be amended include the DVO (Cap 189), the Section 109I of the Criminal Procedure Ordinance (Cap 221), the Section 41 of the Offences Against The Person Ordinance (cap 212), and the Section 61(1) of the Magistrates Ordinance (Cap 227). (*Chapter 6*)

Recommendation 4

We recommend that:

The content of the counselling order in legislation shall include the order for the offender to participate in and successfully complete a BIP, standards for BIPs and the punishment for the breaching of order. (*Chapter 6*)

Recommendation 5

We recommend:

To launch a time-limited pilot project to implement the court-mandatory BIP in Hong Kong. The following strategies are recommended:

- (a) A group including the police, medical practitioners, social service practitioners, probation officers, prosecutors, judges and academia should be formed in preparing, monitoring and evaluating the pilot project;
- (b) The steering group will work out standards for the BIP and consult service providers;
- (c) The steering group will certify a list of piloted BIPs; and
- (d) The steering group will prepare the formation of the Batterers' Intervention Programme Authority. (*Chapter 6*)

Recommendation 6

We recommend that:

A set of strategies required for the implementation of BIP:

- (a) All BIPs should share common goals of reducing the re-offending rate, increasing victims' safety, holding batterers accountable for the violence used and stopping their abusive behaviour.
- (b) Pre-intervention risk assessment and the psycho-social assessment of the batterers is recommended to inform the specific designs of the BIPs.
- (c) The BIPs should have written policies and strategies to secure the safety of victims.
- (d) The BIPs could last from 24 to 52 weeks, with a 1.5 hour session each week. Evaluation of the effectiveness of programmes with different durations should be conducted to provide empirical support for the programme duration.
- (e) Programme evaluation of the effectiveness of the programmes should be conducted, with the criteria of success defined as ending violence as reported by victims, reducing the

re-offence/recidivism rate, increasing victim safety, and reducing drop out or the attrition rate.

- (f) Programme standards should be explicitly stated, with the collaborative effort of service providers and the SWD. *(Chapter 6)*

Recommendation 7

We recommend that:

A governmental domestic violence policy is made to state clearly the commitment of the government to tackle domestic violence, philosophy in combating domestic violence, and the strategies in fighting against and preventing the domestic violence. *(Chapter 7)*

Recommendation 8

We recommend that:

- (a) Education for professionals like physicians, nurses, lawyers, teachers, social workers, psychologists etc. on the risk assessment of suspected cases is needed. Appropriate and prompt referral should be made; and
- (b) More empirical studies on the reporting practice are needed. With the empirical support, strategies in improving reporting from professionals, including mandatory measures, should be examined. *(Chapter 7)*

Recommendation 9

We recommend that:

Improvement on the practice of arrest is enhanced by providing clear policy and practice guidelines on arresting domestic violence crime. Including:

- (a) Evidence gathering;
- (b) Investigation;
- (c) The report of the case investigation should be filed to the Department of Justice for the consideration of prosecution;
- (d) Providing support to victims;
- (e) Information system; and
- (f) Training. *(Chapter 7)*

Recommendation 10

We recommend that:

Improvement on the prosecution practice is made by adopting independent/proactive investigation. (*Chapter 7*)

Recommendation 11

We recommend:

To set up a domestic violence court in Hong Kong that would handle all criminal and civil cases involving allegations of domestic violence or a violation of an injunction order. (*Chapter 7*)

Recommendation 12

We recommend:

To set up a Domestic Violence Serious Injury or Fatality Review to conduct a thorough review on domestic violence serious injury and fatality cases with regards to the causes of death, service provision and psycho-social risk factors. (*Chapter 7*)

Recommendation 13

We recommend that:

Education for the public and training for legal actors is needed as a strategy of prevention of domestic violence. (*Chapter 7*)

Recommendation 14

We recommend that:

The existing support services for victims and witnesses should be well coordinated with and supported by the legal system. (*Chapter 7*)

Recommendation 15

We recommend that:

- (a) Violence, defined in the DVO (Cap 189), includes physical assault, sexual violence, psychological abuse, neglect (for

- children and elderly), stalking and exposing a child to domestic violence;
- (b) Psychological abuse involves psychological harm or trauma, caused by physical or sexual violence, or the threat of physical or sexual violence, or coercive tactics;
 - (c) Neglect should be included as a type of violence under the DVO (Cap 189). For the definition of neglect in legal terms, it should be carefully studied and publicly consulted;
 - (d) Stalking in domestic relationships should be criminalized, as recommended by the Law Reform Commission; and
 - (e) The making of a child witnessing domestic violence by a perpetrator of domestic violence should be regarded as a form of criminal child abuse. (*Chapter 8*)

Recommendation 16

We recommend that:

- (a) The scope of provision of the protection of the DVO (Cap 189) should include an applicant who is “associated with” the respondent/defendant if: -
 - (1) They are or have been married to each other; (including married or divorced couple)
 - (2) They are cohabitants or former cohabitants; (including heterosexual and same-sex couples)
 - (3) They live or have lived in the same household, otherwise than merely by reason of one of them being the other’s employee, tenant, lodger or boarder;
 - (4) They are relatives;
 - (5) They have agreed to marry one another
 - (6) They are parents in relation to any child; or have or have had parental responsibility for the child;
 - (7) They are parties to the same family proceedings
 - (8) Relevant child
- (b) A child should have the right to apply for an order on his or her own with the Court’s permission. If the child finds it difficult to work on his or her own, he or she can be represented by the SWD, with his or her consent, to apply for the restraining orders; and
- (c) “Cohabiting” in the same household could be used as one of the criteria to identify intimate relationships. However, it should not be the pre-requisite of defining relationships. (*Chapter 8*)

Recommendation 17

We recommend that:

- (a) The power of arrest is attached to an injunction if:
 - (1) There is actual bodily harm inflicted by the respondent; or
 - (2) Molestation (violent or non-violent) is inflicted by the respondent; or
 - (3) There is non-physical psychological damage caused by the behaviour of the respondent; or
 - (4) The respondent persistently disobeys injunctions and makes nuisances to the other party and to others concerned.

- (b) Breach of a non-molestation order and exclusion order is a criminal offence and is punishable by imprisonment. (*Chapter 7*)

Recommendation 18

We recommend that:

The judge has the discretion to grant restraining orders for a specified period or until further order. (*Chapter 8*)

Recommendation 19

We recommend that:

Support to mentally incapacitated persons, dependent elderly and children should be offered in the application of the restraining orders. (*Chapter 8*)

Recommendation 20

We recommend that:

All relevant ordinances related to domestic violence shall be pulled together to integrate the criminal and civil laws. (*Chapter 8*)

Recommendation 21

We recommend that:

The restraining orders shall be placed in criminal proceedings. (*Chapter 8*)