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Domestic violence

Report of the Secretary-General

Summary

This report has been prepared in pursuance of General Assembly resolution 40/36 of 29 November 1985 and Economic and Social Council resolution 1989/67 of 24 May 1989 requesting the Secretary-General to undertake research, especially comparative studies, on domestic violence as a basis for policy formulation, and to report on the subject to the Eighth Congress. In accordance with these resolutions, attention has been given to the criminal justice measures and other interventions designed to mitigate and help to prevent the problem. Policy options have been identified on the basis of recent research findings and the recommendations of the Expert Group Meeting on Violence in the Family, with Special Emphasis on its Effects on Women, held in Vienna from 8 to 12 December 1986, and convened in response to Economic and Social Council resolution 1986/10, section IV of 21 May 1986.

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## INTRODUCTION

1. Though age-old, domestic violence has only recently received major policy attention. At the outset, public concern focused mainly on child abuse, and then on wife battering, with calls for their penalization. Abuse of the elderly and the disabled has only lately come to general notice. Little attention has yet been given to other forms of domestic violence: between siblings, against teenage youth and by them against their parents, or to violence between homosexual partners or in polygamous or polyandrous households.
2. The increased concern about domestic violence reflects the growing emphasis on human rights and individual well-being, gradual blurring of the boundary between the public and private spheres of life and success of consciousness-raising efforts of professionals and activists urging a more appropriate response. Domestic violence has remained largely outside the purview of the criminal justice system because of emphasis on the preservation of the family, mutual dependence of victims and perpetrators, and reluctance to invoke formal adversarial proceedings in family conflicts.
3. The extent and trends of domestic violence of diverse kinds have been assessed empirically in few countries. The lack of comprehensive, comparative information and the tendency to deal only with certain categories of victims or aspects have limited understanding of the problem and hampered a coherent response. Enough is known, however, to take meaningful action or to consolidate initiatives already underway.
4. The present report provides a brief overview of domestic violence and possible counter-strategies, including criminal justice measures. The subject is considered in its broader context and in an interdisciplinary perspective, drawing on criminological research and other relevant findings. Though specific requirements may vary, there are certain main issues that cut across the various types of domestic violence: these have been considered in a common framework to facilitate overall policy development and integrated action.
5. International concern about domestic violence is evident in the deliberations and decisions of the United Nations congresses on the prevention of crime and the treatment of offenders, the United Nations world conferences on women, the World Assembly on Aging, as well as the World Programme of Action Concerning Disabled Persons and the Convention on the Rights of the Child. These have drawn attention to the plight of women, children, the elderly and disabled as victims of abuse. The problem of domestic violence was discussed at the World Conference of the United Nations Decade for Women: Equality, Development and Peace, held at Copenhagen in 1980, and the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held at Nairobi, in 1985, and in the Forward-looking Strategies for the Advancement of Women. <sup>1/</sup> The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders discussed and adopted a resolution on this question, <sup>2/</sup> endorsed by the General Assembly in its resolution 40/36, which requested the Secretary-General to intensify research on domestic violence from a criminological perspective as a basis for policy formulation, and to report to the Eighth Congress, which was invited to give it special attention.
6. Economic and Social Council resolution 1986/10, section IV, called for convening a round-table meeting on domestic violence to promote research and formulate action-oriented strategies in co-operation with concerned entities. An Expert Group Meeting on Violence in the Family, with Special Emphasis on its Effects on Women, was held in Vienna from 8 to 12 December 1986.

7. Council resolution 1988/27 of 26 May 1988 requested that the recommendations of the Expert Group should be brought to the attention of the Committee on Crime Prevention and Control at its tenth session, and that adequate documentation on this issue should be prepared for the Eighth Congress. In its resolution 1989/67, adopted on the Committee's recommendation, the Council requested the Secretary-General to undertake further comparative research, studies and reports on developments relating to domestic violence against spouses, children and the elderly, from the perspective of criminal justice, criminal law and procedure, taking into account the recommendations of the Expert Group, especially the role of crisis intervention and protection, and of social and other service delivery systems. The Council called for the preparation of a report on this subject, to be considered by the Congress under agenda item 6.

8. At its eleventh session, in February 1990, the Committee on Crime Prevention and Control adopted a draft resolution on the prevention of urban crime (E/1990/31, chapter I, section C, decision 11/102), for action by the Eighth Congress, recommending, inter alia, that Member States take steps to reduce family violence by instituting integrated strategies, including educational programmes and assistance, the criminalization of acts of violence and combating the portrayal of such violence in the media.

9. Council resolution 1990/19, on the first review and appraisal of the Nairobi Forward-looking Strategies, called for urgent and effective steps to eliminate the pervasive violence against women in the family and society.

## I. THE PROBLEM

### A. The nature and extent of domestic violence

10. Research, analysis and informed policy-making on domestic violence have been handicapped by different uses of the term. It is sometimes employed interchangeably with "family violence" and "spouse abuse", but usually includes legal and common-law spouses, cohabiting partners or ex-partners, step-children, parents, siblings and other members of households and extended families. Most definitions of domestic violence refer to "forms of physical violence committed, attempted, or threatened by family members on one another ... that police typically classify as menacing behaviour, recklessness or endangerment, simple assault or aggravated assault, in which offenders and victims are related by blood, marriage or prior intimacy". 3/ Some definitions include intent or perceived intent to do harm. Severe neglect (e.g. of children, the aged and disabled) and sexual abuse (especially of children) are part of the concept. Those victimized are often particularly vulnerable because of their sex (women), age (children and the elderly), disability (premature and underweight infants, the retarded or otherwise handicapped), or their material and/or emotional dependence on the perpetrators. Since chronic psychological abuse can be even more devastating than other kinds, and mental cruelty is a recognized ground for divorce in certain jurisdictions, it deserves to be included in the concept of domestic violence. Thus, the 1986 Expert Group Meeting noted that violence in the family manifests itself in physical mistreatment, often repetitive, which is interrelated with the exercise of mental torture, neglect of basic needs and sexual molestation.

11. In spite of the lack of data on the extent of domestic violence in its various forms and differences between societies, enough is known to arouse widespread concern: in some countries the problem, according to professional

assessments, has assumed "national crisis" proportions. 4/ A survey conducted in the United States estimated that up to 6.9 million children a year were gravely assaulted (1.5 million physically abused) by their parents, and that from 1.9 to 2.1 million women were the victims of severe violence at the hands of their partners. 5/ Elder abuse estimates range from one half to two and a half million persons 6/ (mostly women over 75); with a growing proportion of the aged in the population, it is expected to increase. Eighty per cent of children (3 to 17) assault their siblings, more than half severely, and some 10 per cent, their parents, sometimes fatally. 7/ The overwhelming majority of child victims are killed by their parents or other relatives, infants below one year of age being at greatest risk. 8/ In both developed and developing countries half or more of all murders were found to occur in the family, the victims being mostly female. A consistent pattern of domestic violence has been found across countries. 9/ Though in a few studies that do not consider ex-partners, women seem to have assault rates comparable to men, 10/ because of the latter's physical strength, the harm inflicted is usually much greater. Some violent acts may also be retaliatory or committed in self-defence.

12. Since instances of domestic violence are usually not included as a distinct category in official statistics,\* and constitute a large proportion of the "dark figure" of crime, the actual extent of the different forms of domestic violence is difficult to determine. Traditional practices, such as female infanticide, may be camouflaged in underreported birth rates; dowry deaths have often been listed as suicides, and burnings of women, as accidental. 11/ Preliminary results of limited surveys in Bangladesh, Chile, Colombia, India, Kuwait, Nigeria and Zimbabwe reveal high levels of violence against wives. 9/ Tentative estimates elsewhere have been based largely on secondary sources, such as the figures provided by shelters for battered women and reports of other services for different kinds of victims, which deal only with a fraction of the cases. More recently, victimization surveys and self-reports by perpetrators have been drawn upon to get additional information, and extrapolations made from representative samples to gauge the prevalence of different forms of domestic violence.

13. Statistical evidence lags far behind the likely extent of the problem, judging from various indices and studies. 12/ Apart from methodological difficulties, arising from problems of definition and recognition of phenomena not socially viewed or legally treated in the same way in various countries, victims may be reluctant to expose a "private family matter", and to be questioned by the police and in court. They may be ambivalent about formally pursuing the case in the face of possible revenge and re-injury, or about penal sanctions for the victimizer with whom emotional and other bonds may still exist. Feelings of guilt, shame, loyalty, fear and hope are likely to militate against a decision to take formal action that can fragment the family, jeopardize subsistence means, disturb the children and have other negative effects.

14. Not only is reporting thus constrained, but also the victim's perception of the act: it has been found, for example, that violent family incidents are much less likely to be revealed, even in research surveys, if they are defined as "crimes". 13/ Underreporting of victimization is pervasive. Maltreatment may not be admitted by a questioned child because of bonding with the parent(s) that persists in spite of the abuse. Teenagers may not report being

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\*This is changing: for example the United States Uniform Crime Reports now include a "domestic violence" category.

ill-treated, fearing the reactions of peers and the likelihood of not being believed by authorities suspicious of "rebellious youth". Violence by siblings is dismissed since the attitude is that kids will fight. The elderly are probably in the most difficult situation, since abuse, neglect, financial or other exploitation may stem from their caretakers - grown children, spouses or home helpers - on whom they often wholly depend. Those who are intellectually diminished or otherwise enfeebled may not even realize that they are being mistreated. This may not actually be the intent of caretakers, who are often the "sandwich generation" burdened by responsibilities towards their kin, both young and old, and who may face a personal crisis.

15. Furthermore, statutes may be lacking or inconsistent and reporting procedures inadequate. Those who could file reports may lack access or be untrained or reluctant to pursue the matter. This has often been the case in non-reporting elder abuse, and one of the main reasons why until recently it has received scant attention. Better recording of cases of maltreatment and sensitization of the professions likely to encounter them are a prerequisite for more accurate and meaningful information. <sup>14/</sup> Confidentiality issues arise, but are not insurmountable. Mandatory reporting procedures, instituted in some jurisdictions, can give a more complete picture but require case follow-up. Some data could be obtained quite easily: for example, official statistics could include information on the relationships and circumstances involved in crimes. Since data on different kinds of domestic violence often stem from different agencies, co-ordination of the sources and incorporation of the information in overall indices would increase its policy value.\*

16. The incidence and forms of domestic violence vary between different societies. In some cultures, there is less restraint on displays of anger and a higher level of violence may be tolerated. Cultural norms may condone the use of violence against "dishonoured" females by male relatives, as well as the sexual mutilation of women. Domestic violence is not inevitable, however. Comparative surveys reveal its prevalence but also confirm the existence of societies where it is minimal,\*\* providing indications for prevention.

#### B. Research needs

17. Various facets of domestic violence have started to be explored in depth, as have the patterns of response. Traditional respect for the family as an institution and its perception as a safe haven have tended to shield it from public scrutiny and official interference, protecting its privacy and inviolability. Though dysfunctional families have been no secret, their more

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\*The collection, dissemination and exchange of relevant information can serve this purpose, furthered by the establishment of national data banks (e.g. Canada), regional clearing houses, for example, United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), and international information networks, for example, Isis International Women's Information and Communication Service, United Nations Criminal Justice Information Network (UNCJIN) and the Women's Information System (WIS) of the Division for the Advancement of Women.

\*\*A recent survey of societies in different regions found that domestic violence, while common around the world, was rare or absent in 15 of the 90 societies studied, David Levinson, Family Violence in Cross Cultural Perspective (Newbury Park, Cal., London, New Delhi, Sage, 1989).

acute manifestations have remained largely hidden. Efforts to preserve the family have not only constrained society's response to the conflicts within it, but also limited the knowledge on which possible options for action could be based. Public attitudes affect the attention given to different kinds of victimization in the family, both in research and policy-making. Child abuse is still a major focus of concern, but parental violence against adolescents has received scant notice, presumably because they may not seem as vulnerable and sympathetic; this may be changing with the increased concern about teenage incest. Violence between siblings, the most common form of violence in the family, and adolescent violence against parents, sometimes by proxy,\* are yet to receive proper attention. Abuse of the elderly, long hidden and ignored, partly because of society's ambivalence towards the aged, is just beginning to elicit the research necessary for more than paternalistic policy-making. The range and dynamics of domestic violence, its prevalence, correlates and effects, are only now being empirically explored. Scientific assessments of the efficacy of different approaches are as yet rare, though some significant initiatives have recently been taken.

18. Research that can guide future policy-making has been conducted by individual scholars and practitioners and also in connection with special task forces, law reform bodies and commissions of inquiry on domestic violence\*\* or on the larger problems of violence in society. Studies of the various kinds of family violence have reflected the interests and orientations of the professions that have drawn attention to them. Thus, child abuse and neglect have been studied primarily by medical and social workers and by psychologists; spouse assault, by activists for women's rights, clinicians and sociologists; other forms of family violence have received little research attention, though elder abuse is beginning to be investigated by social workers. There has been little communication and feedback between the various investigators, who have usually been isolated from criminological researchers and those studying the operation of the criminal justice system. Victimologists, including both criminologists and members of other professions, have provided a bridge, but until recently they have been concerned more with the relationship between victim and offender than with treatment or prevention of the victimization process.

19. Although during the last decade more systematic studies of different aspects of domestic violence have been undertaken, investigations have mostly used small samples and lacked a rigorous research design. Difficulties have also arisen from the different criteria used, problem of control groups required for experimental studies and methods employed, such as victimization surveys and self-reports, which are not always reliable. As a result, the findings have often been limited and inconsistent. 15/

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\*A research team concluded that "children may be the most violent family members", estimating that over 29 million children a year committed one or more acts of physical violence towards a sibling in the United States of America, 19 million attacks were severe enough to be considered assaults if they had occurred outside the family. M. A. Straus, R. J. Gelles and S. K. Sinmetz, Behind Closed Doors: Violence in the American Family (Garden City, N.Y., 1981), p. 81. In some countries, teenage violence against parents (principally the mother) has aroused increasing concern. Government of Japan. Ministry of Justice. Summary of White Paper on Crime, Tokyo (1989), p. 144.

\*\*For example, in Australia, Canada, New Zealand, Papua New Guinea, United Kingdom of Great Britain and Northern Ireland, United States of America.

20. Long-term research strategies require a comprehensive and reliable data base on the various kinds of domestic violence, integrated theoretical frameworks and sound methodologies, including longitudinal studies of the effects of certain interventions. In this perspective, different kinds of studies could still be undertaken (e.g. clinical investigations of the causes of domestic violence and cross-sectional ones to assess police handling of cases). In view of the complexity of the phenomena studied, a combination of methods and indicators might be used more often, including composite or experimentally validated measures, such as the conflict tactics (CT) scales. <sup>16/</sup> An interdisciplinary approach and techniques employed in other kinds of criminological studies and in general violence research could also be utilized.

21. Research on domestic violence, including programme assessment, should be translated into practice, from which it is still largely divorced. The costs need not be prohibitive if the research is well-thought out, included as part of operational procedures and undertaken as a collaborative endeavour, on a subregional, regional or international basis. This is true especially of cross-cultural studies. If it is carefully planned, action-oriented research should ultimately bring about savings, both in remedial service requirements and in reducing the human and social costs.

### C. Dynamics of domestic violence

22. The reasons for the occurrence of domestic violence are manifold. They involve an interplay of psychological, social, economic and other factors, none of which alone can be held responsible for the phenomenon or the suffering it inflicts. Recent analyses have sought to systematize the available knowledge, take it further and provide a theoretical underpinning.

#### 1. Some causes

23. Explanations of domestic violence have usually focused on certain aspects but have not always dealt with the full complex of factors. Governments and organizations concerned with women's rights, seeking to help battered wives and curtail other gender-based abuses, have viewed domestic violence largely as a result of unequal status in family and society. Other explanatory theories have highlighted particular aspects but there is a need for multifaceted analyses as a basis for comprehensive effective strategies.

24. The use of corporal punishment as an "educational" tool is still widespread, and provides a frame of reference for children and parents alike. The limits of "legitimate" violence are tenuous and can easily be exceeded.\* Cultures with non-violent means of social control provide alternatives. The inculcation of more pacific problem-solving techniques is a valid aim of corrective and preventive strategies to reduce domestic violence.

25. Recent research findings dispute some past assumptions. It is often thought that family violence is more prevalent among the poor because of their

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\*See, for example, Monica A. Payne, "Use and Abuse of Corporal Punishment: a Caribbean view", in Child Abuse and Neglect, vol. 13 (1989), pp. 389-401. Research studies have found that the more a child experiences physical punishment, the higher the probability of assaulting spouses later in life. Murray A. Straus, "Corporal punishment of children and crime: a theoretical model and some empirical data" (1989).



deprivation and other frustrations.\* However, economic insecurity, as well as alcohol and drug abuse, have been found to be contributory but not necessarily causal factors. 17/ Violence in the family often focuses on its weakest members: premature, retarded or developmental problem children, frail, elderly and pregnant women. Social isolation, inadequate communication and stress\*\* play a role, but more detailed knowledge of the processes involved would facilitate appropriate action. Domestic violence has also been linked to the characteristics and psychological difficulties of its perpetrators (e.g. rigid, authoritative or immature personalities, with dependency and coping problems) and those of the victims (e.g. the handicapped). Lack of knowledge of child development, aging and disabilities contributes to hostility when unrealistic expectations are not met.\*\*\*

26. Family violence must also be seen in its larger societal context and the processes that affect it, including social change. The breakdown of extended family structures has removed a customary social support network, usually without providing alternatives. The loosening of traditional ties and growth of the nuclear family, with its new roles and lifestyles, has opened up new possibilities but also new areas of potential conflict and stress. Ecological instability has been linked to increased domestic violence and abuse.\*\*\*\* The economic crises affecting developing countries and cutbacks in essential services have compounded the pressures which can prove criminogenic.\*\*\*\*\* Social change also has salutary effects, especially when egalitarian gains are consolidated and new modes of coping developed. Evolutionary and other

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\*Violence in disadvantaged families may more often come to the attention of public agencies; however, recent studies have found that it crosses economic lines, see, for example, Lorna J. F. Smith, Domestic Violence: an Overview of the Literature (London, HMSO, 1989), p. 16 (Home Office Research Study, No. 17).

\*\*Research using a multi-indicator measure of life stress, the State Stress Index, found a strong relationship between stress and primary group homicide, with a higher correlation for women, I. R. Bachman-Prehn, A. S. Linsky and M. A. Straus, "Homicide of family members, acquaintances and strangers, and state-to-state differences in social stress, social control and social norms" (1988).

\*\*\*Disoriented elderly, retarded, hyperactive or autistic children and the marginally disabled may be especially at risk because their problems are not understood. See, for example, M. I. Benedict et al., "Reported maltreatment in children with multiple disabilities", Child Abuse and Neglect, vol. 14 (1990), pp. 207-217.

\*\*\*\*The social indicators of family violence have been identified as markers of ecological instability proposed as an explanatory theory relevant also for developing countries. See, for example, E. B. Wilson-Oyelaran, "The ecological model and the study of child abuse in Nigeria", Child Abuse and Neglect, vol. 13, No. 3 (1989), pp. 379-387, and R. L. Burgess and P. Draper, "The explanation of family violence: the role of biological, behavioral, and cultural selection".

\*\*\*\*\*See, for example, United Nations, "Possible social consequences of the economic crisis: increased violence in the family and in society", paper prepared for the Interregional Seminar on Women and the Economic Crisis, held at Vienna, from 3 to 7 October 1988.

theories have focused on the processes at play. The premises are increasingly being formulated in multi-dimensional terms and empirical verification sought. The "general systems" theory has utilized a positive feedback model to bring together nearly all of the factors that have been mentioned at various times as contributing to family violence. It has also been used as a framework for their cross-cultural analysis. 18/

## 2. Effects

27. Domestic violence often has serious effects, including death. Severe neglect of children and the elderly can also have fatal repercussions. The mental consequences can be long-lasting, especially in multiple victimization (e.g. physical and sexual assault with damage to women and the foetus). Chronic abuse tends to escalate and may provoke counter-violence. Abused women often attempt suicide and are overrepresented among alcoholics, drug addicts and the mentally ill. A pattern of "learned helplessness" tends to emerge, the victims becoming passive, tired and numb, unable to perform but minimal functions; the loss of self-respect, shame and guilt can lead to almost total personality disintegration.

28. The impact of family violence on its members tends to be pervasive, including not only the parties concerned but the entire family constellation and frequently future families as well. Abusive fathers and abused mothers (or single mothers) often victimize their children. Violence has traumatic effects, not only on the direct victims but also on its witnesses, which usually are the children, exposed not only to the occurrences but also to the climate of violence in which they live. Protracted conflict, chronic victimization and the fear of new eruptions take their toll: symptoms of Post-Traumatic Stress Disorder, now included in psychiatric manuals as a clinical syndrome, are observable in both the direct and indirect victims, including children. For the latter, the example of violence as the primary coping mechanism limits the reactive repertoire and social competence, often perpetuating the pattern in the next generation.

29. Evidence suggests that abused children tend to become abusive parents, and that children brought up in violent families are also seriously affected (adult victims have often witnessed violence at home). Recent studies conducted in some developed countries conclude that from one third to one fifth of victimized children become abusive parents. 19/ Further research is needed not only on the epidemiology of the problem but also on the reasons for the differential victim response over time. The findings of longitudinal and other studies should advance knowledge of the inter-generational transmission of violence, with important policy implications.

30. It has been assumed, also in research, that violence between family members is fundamentally different from "street violence" - a factor in the reluctance to criminalize domestic violence. However, a recent analysis of data from three large-scale population surveys shows a link between physical assaults in the family and crimes outside of it. Children who were assaulted by their parents and witnessed assaults between them showed the highest rate of violence outside the family. 20/ The frequent linkages between violence in the home and other forms of criminality reinforce the call for an integrated approach.

31. The material and social costs of domestic violence are heavy, involving loss of productive time away from work, perpetuation of chronic dependence on public or voluntary assistance, law enforcement and related costs, and expenditures on criminal justice, medical, mental health and other social services.

## II. THE RESPONSE

32. Increased recognition of the wide extent and complex nature of violence in the family has spurred the search for measures to curtail and prevent it. Originally directed primarily at specific victim groups (children, women), broader efforts are now being undertaken, but keeping in mind the needs of those particularly at risk. Though intensified research is yielding empirical results that can be utilized in policy formulation, mutual feedback is still rare. The manifold aspects of the problem and their frequent interfaces make it clear that a range of options is required, within a comprehensive framework.

### A. The criminal justice system

#### 1. The criminal law and other legal means

33. The tendency, in the past, to view domestic violence primarily as a medico-social problem, outside the purview of the public mechanisms of control, has helped to perpetuate it. By not condemning domestic violence as a punishable offence, society has indicated a certain level of tolerance for it. Even where laws define domestic assault or other forms of maltreatment as crimes, their application has often been impeded by the reluctance of criminal justice agencies and sometimes of the victims to invoke them.

34. Victims' legal options are increasing, however. Though civil and criminal law dispositions vary among countries, they usually provide some means of recourse. Legal and administrative provisions generally offer some protection to the victim by seeking to ensure at least short-term safety. Injurious acts involved in domestic violence, such as assault (simple or aggravated), manslaughter, murder or other harmful conduct, are legally defined as crimes in most countries. The family context has in the past kept some acts, such as rape, outside the ambit of criminal law, but this seems to be changing: in an increasing number of jurisdictions, rape and sexual assault are now considered crimes also in marriage. Greater consciousness of the problem of domestic violence has spurred new legislation in a number of countries; in others, draft legislation is under consideration. Sometimes, it has been introduced in the context of family law reforms (e.g. El Salvador, Guatemala, Honduras) or of measures designed to promote the rights and equality of women (e.g. Costa Rica). Elsewhere, specific statutes have been drawn up (e.g. Argentina). However, in many cases the laws adopted lack enforcement power, and information on them has not been widely disseminated. To serve its purpose, legal reform must be accompanied by suitable implementation means and public awareness campaigns, as well as acquainting professionals with the new procedures.

35. The main features of the new domestic violence legislation, at least in common law countries where it has been introduced (principally, Australia, Canada, New Zealand, United Kingdom of Great Britain and Northern Ireland and United States of America), are: specification of the range of offences constituting domestic violence; extension of police entry powers to dwellings where a domestic violence offence is suspected to have occurred; encouraging the police to institute proceedings rather than depending on the victim to bring charges; availability of a court protection order in cases of actual violence or reasonable fear of it (regardless of whether it is a marriage in law or the partners are cohabiting); making the onus of proof rest on the civil standard of "balance of probabilities"; extension of protection orders to cover others in the household, particularly children; compelling spouses to be witnesses; and making the breach of a protection order a criminal offence

and automatic grounds for arrest. 21/ The significance of prior relationships in the definition and grading of offences involving violence is also germane to criminal law reform, as is the development of a jurisprudence of family violence, which is raising important issues concerning the scope of criminal law and its role in regulating intimate human relations. 22/

## 2. The police

36. Although domestic disputes are among the most frequent calls for police assistance, the traditional police role in responding to domestic assault complaints has been one of limited intervention, reflecting society's attitudes. Officers have been disinclined to answer such calls and have seldom laid charges unless the violence occurred in their presence or the victim was seriously injured. In many places this attitude persists, and even though the procedure exists for charging a perpetrator of a domestic assault, it may not be utilized; if an arrest is made, it is often on other grounds, such as drunkenness, being a public nuisance or resisting an officer.

37. The results of a series of surveys have traced the reluctance of police officers to exercise their arrest powers to a number of reasons, including a lack of understanding of the victim's psychic injuries; fear that police intervention will inflame an already volatile situation, increasing the probability of violence to the victim and the officer; the notion that the criminal justice system should not interfere in family matters unless of a very serious nature (i.e. involving major physical injury); feeling that police action in domestic assaults, other than to separate the parties, is futile and does not resolve the problem; and the belief that victims of assault do not wish intervention by police officers or initiation of the judicial process other than to stop the immediate incident, and that police charges will not be supported by either the victim or other parts of the criminal justice system. Furthermore, many police departments lack specific guidelines for dealing with cases of domestic violence and officers generally receive little or no briefing on the dynamics of domestic assaults or on why victims often do not take action. 23/

38. A number of factors may discourage victims or potential victims from calling the police for assistance and involving the criminal justice system. They include an often realistic fear that the perpetrator will not be arrested, particularly when there is a history of abuse but no police action was taken in the past; mistrust of the legal system and apprehension of an inappropriate police response, especially among the poor or minorities. Victims may also be afraid that they might face arrest for drug or alcohol-linked acts, 24/ or that their children will be taken away.

39. Since the police are the agency with which the victim usually has the first and most critical contact, their attitude and behaviour are particularly important. They have a key role to play in assessing the emergency needs, administering or summoning first aid and establishing the basic facts of the case. In many of the large number of homicides perpetrated within the family, law enforcement officers have had previous contact with the family members. If advantage could be taken of these early contacts to intervene preventively, defuse the conflict and refer the parties for help in dealing with their problems, the frequency and severity of domestic violence might be significantly reduced. This opportunity is not always seized because of heavy police workloads and failure to fully appreciate the potential for influencing the situation. Police officers are often unfamiliar with the available social services or reluctant to enter into partnership with them, an attitude that tends to be reciprocated. This gap can be bridged by routinely providing

information on the available community resources and encouraging closer collaboration with social service providers. Policy and procedural changes that encourage police action against domestic violence can help to contain potentially explosive incidents and to enhance the protection available to victims.

40. Among the features of a domestic violence situation contributing to a decision to arrest, some have been identified as particularly important: the commission of a felony, serious injury to the victim, use of a weapon, violence against the police, presence of the parties at the scene, third party requests for intervention, alcohol abuse, likelihood of future violence and the victim's willingness to sign a complaint. The main factor identified by police officers as leading to a decision not to arrest was the victim's refusal to press charges. <sup>25/</sup> In spite of women's prevalence among the victims, police work continues to be mainly a male profession, though this seems to be gradually changing.\* In Brazil, for instance, some 20 special police stations "in defence of women" have been set up in large cities since 1985, entirely staffed by women, collaborating with female lawyers, judges and social workers in the prosecution of cases. <sup>26/</sup> The Economic and Social Council, by its resolution 1990/15, annex, has recommended that the number of women at all levels of law enforcement, legal assistance and the judicial system should be increased.

41. In some countries, self-help efforts have been the response to perceived police inactivity or insensitivity to the occurrence of domestic violence, through mutual defence groups (e.g. Peru). <sup>27/</sup> In China, "habitant groups" take measures to prevent domestic violence from escalating by placing the victim with another family for a short period and disciplining the offender.\*\* "Neighbourhood watch" programmes and other community self-help programmes can effectively expose and intercede in maltreatment, diminishing the level of tolerance for it. The importance of providing immediate protection for the victim has been borne out by cross-cultural studies highlighting the readiness of kin or neighbours to intervene in violent or potentially violent situations in societies with low rates of wife-beating and non-violent child-rearing practices. Delayed intervention, even by removing the victim from the situation, seemed to be ineffective as a preventive tactic, leading to the conclusion that such informal social controls can be the main restraint or a valuable adjunct, but where they are not available, swift action by the criminal justice system or other means is necessary to control domestic violence. <sup>28/</sup>

42. This has not been the case in most countries where the police and the criminal justice system as a whole still tend to minimize the problem. In some, class actions have been brought against police departments for their alleged failure to intervene. But in a growing number of jurisdictions they

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\*A United Nations survey of 24 countries, carried out in 1980, found that women in the police force averaged 4.7 per cent. A 1989 comparative survey, conducted by the Police Study Centre in the Netherlands found the average for 18 countries to be 7.15 per cent. See the report of the International Conference for Policewomen, Noordwijkerhout, the Netherlands, 19-23 March 1989.

\*\*See Wu Han, "Forms of crisis intervention and types of immediate and structural measures to render assistance to women assaulted in the family", a case study prepared for the Expert Group Meeting on Violence in the Family, with Special Emphasis on its Effects on Women, held at Vienna from 8 to 12 December 1986 (BAW/EGM/86/CS.15).

are increasingly doing so: the police response has mirrored the shift in policy and public attitudes, though differences in approach persist. In some places, arrest is now encouraged as the preferred response to domestic violence (e.g. large metropolitan areas in Australia, Canada, United Kingdom and United States). The evidence from operational studies, conducted mainly in some developed countries, suggests that the arrest of the perpetrator is more effective as a deterrent than advisement, separation or no action in reducing subsequent violence in the case of misdemeanors involving violence against family members (primarily by male partners). It is not clear, however, if these results reflect specific deterrence, a displacement effect, or some other processes, and if the effect is lasting and holds for more serious offenders. Certain other questions remain, including whether a mandatory arrest policy is sufficient in itself; whether it will discourage victims from calling the police; and how it will affect the criminal justice system: baseline studies are being conducted to explore some of those issues and to permit a more informed and co-ordinated response. 29/

43. The mandatory arrest policy has also been challenged by those who feel that it does not always help victims or protect citizens' rights, especially when the victim does not want to press charges, and that it may aggravate the situation, increasing family stress and the risk of further violence. It has been proposed that, rather than eliminating police discretion in domestic violence incidents, it should be structured in accordance with clear guidelines and improved by appropriate training. The trend towards greater police accountability and closer police-community relations is also reflected in the new policy measures.

44. The studies conducted so far have focused on police responses to family violence, generally, and on violence between spouses, ex-spouses and cohabiting adults, specifically. There is hardly any research on police responses to child or elderly abuse,\* since the police are rarely involved in the identification and reporting of such cases (unless murder is suspected). If at all, then they generally come to the attention of medical and social workers and, for child abuse, increasingly to that of teachers and school guidance counsellors.

### 3. Prosecution and sentencing

45. The judicial process in domestic violence cases suffers from certain constraints even when it is initiated. Since the offender's release on bail may threaten the victim's safety, the risk has to be carefully assessed and reduced as much as possible. Release of the offender without warning to the victim is to be avoided and safety measures taken. Seeking to balance the rights of the victim and the offender, some jurisdictions call for brief arrest and/or attach certain conditions to bail (e.g. restraining orders enjoining the offender to stay away from the victim) whose breach can lead to re-arrest.

46. Obtaining evidence in domestic violence cases presents further problems and constraints. Usually, there are no other witnesses present and injuries are not always visible or readily ascribable to the abuse. Those most vulnerable, infants and the infirm aged, cannot, or often do not adequately,

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\*For the reasons for the rare police involvement in elder abuse and ways of increasing their partnership with protective services, see, for instance, M. C. Sengstock and M. Hwalek, "Domestic abuse of the elderly: which cases involve the police?", Journal of Interpersonal Violence (vol. 1, No. 3, Sept., 1986), pp. 335-349.

convey their hurt, and the offenders are understandably reluctant to do so. Even if they are able to testify, victims may be ambivalent about it or intimidated. Child victims may find the experience particularly traumatic, and ways of buffering it are being increasingly used (e.g. through videotaped statements). The professionals involved may be untrained in evidentiary matters or opposed to invoking the judicial process as contrary to the exigencies of confidentiality and inimical to the goal of family conflict resolution.

47. In the past, there seemed to be an established pattern of the majority of cases referred for prosecution by the police or on victim-initiated complaints being dismissed. But though research in this area is limited, the available findings on the prosecution of family violence cases as compared with crimes of violence between strangers tends to support the contention of differential prosecution policy, linked primarily to differences, or perceived differences, in victim/witness co-operation, and only secondarily, to the quality and quantity of the physical evidence available. In some jurisdictions wives cannot testify against husbands or be compelled to do so. Elsewhere, the assumption has been that they do not follow through; this has been borne out by some research findings, but not by others. The presumed effect of the victim/witness's relationship with the offender appears to be a key factor in the differential prosecution rate in domestic violence cases. Innovative programmes combining victim support with prosecutor-initiated proceedings have been found to reduce the case attrition rate. 29/

48. The fact that in many jurisdictions the legal procedures employed in the prosecution of family assaults categorized as misdemeanors require the victim to be the plaintiff, and not just a witness, can create special problems for the victim who, in addition to an understandable reluctance to play an active prosecution role, may also become more vulnerable to threats and retaliation from the assailant. Another reason for dropping proceedings is the possible loss of income if the offender is the primary wage-earner, and the fact that victims of family violence are often ineligible under victim compensation statutes. There is also a frequent lack of adequate information on the prosecution process, the expectations of the victim and the help offered by the system.

49. Some of these problems are faced by all victims. Ways of reducing the "second injury" often inflicted by the criminal justice process have been introduced in a growing number of countries. General measures to assist crime victims/witnesses are designed to offer them protection and support through victim advocates, counsel or ombudsmen, increased use of depositions (instead of court appearances), victim impact statements and victim notification of progress in the case (see E/AC.57/1988/3 and E/AC.57/1990/3). Special measures have also been taken to help victims of domestic violence. In some jurisdictions, the courts are authorized by law to establish special services. Often cases are brought to a family court, which offers the advantage of an informal setting and private proceedings conducive to negotiation; in some countries the family court can also handle criminal proceedings; elsewhere it can make referrals to other courts, of which it sometimes constitutes a chamber. In some places (e.g. New South Wales, Australia), community justice centres discharge a similar role. The large proportion of female judges in some countries\* increases empathy in the system's response. In others,

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\*See Tatiana N. Nikolaeva, "Forms of crisis intervention and types of immediate and structural measures to render assistance to women assaulted in the family", a background paper prepared for the Expert Group Meeting on Violence in the Family, with Special Emphasis on its Effects on Women, held at Vienna from 8 to 12 December 1986 (BAW/EGM/BP.2).

special family violence prosecution units have been created (e.g. Canada). These prosecute family violence cases vigorously, signing the complaints and serving as plaintiffs, or continuing the case even without the victim's co-operation, with significant conviction rates.

50. There are few empirical studies on the effectiveness of prosecution, conviction or sentencing in deterring subsequent family violence. Their findings suggest that prosecution is effective in reducing the likelihood of subsequent violence by less serious offenders, but no evidence has been found of the effectiveness of prosecution for those with a history of more serious violence. The deterrent effect of civil restraining orders has also been investigated: the majority of the women considered them effective in achieving their aim, but the actual findings do not support the premise that such orders reduce the probability of subsequent violence, especially when there is weak enforcement. <sup>30/</sup> Further research could usefully assess the deterrent effect of sanctions of different severity on perpetrators of domestic violence.

51. A number of other questions merit evaluative research, for example, whether successful prosecution is any more effective than the threat of prosecution alone, and whether mandatory prosecution may not have an effect opposite to that intended, by constraining rather than empowering the victim. An array of measures is needed to deal with the continuum of those who resort to violence, with more severe sanctions employed where there is a persistent pattern of abuse. Consistent sanctions are a more effective potential means of deterrence than the present largely nominal penalties.

52. The criminal justice process reflects the larger society of which it is a part and can promote the process of change designed to increase equity, protect the victim and manage the offender, so as to reduce human suffering, increase family viability and minimize social costs. The system of justice can also be the springboard for other kinds of interventions, and though compartmentalization and some mutual distrust between criminal justice personnel and other service providers persists, they have increasingly been working towards common objectives and complementing each other. Treatment for the offenders may be ordered as part of the sentencing disposition, or instead of a custodial sanction, or as a form of pre-sentence diversion. Though the success of most forms of treatment depends on the offender's motivation and readiness to seek it, its coercive origin need not preclude success.

#### B. Provision of services and prevention

53. Apart from the criminal justice system, or often in its context, programmes or specific measures have been instituted to protect and assist victims of domestic violence and to treat the offenders. Since their aim is as much to prevent further abuses as to provide relief from the existing situation, they are considered together. Among the measures taken, some are immediate and short-term, others necessarily of longer duration. But since the time-frame is not their main distinguishing feature, they are considered together.

##### 1. Emergency facilities and crisis intervention

54. Emergency telephone lines serve different types of victim or other troubled persons, including possible offenders, and assure a sympathetic ear; they are staffed mostly by paraprofessionals and volunteers. Hot-lines for child abuse cases\* and for battered women have often been provided in

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\*In some places there are special "child phones" that can be used even by small victims.



connection with shelters. Though the anonymity of callers, which makes follow-up impossible, has impeded the evaluation of the efficacy of such measures, quantitative estimates indicate that they compare favourably with the intake of social service agencies, to which they often refer calls. The problem, however, is that, particularly in developing countries, telephones may not be available and the victim may be isolated also from other means of communication; local women's networks or an ombudsman can literally provide a lifeline in the case of need.

55. Crisis intervention is increasingly being provided by trained police units responding to domestic violence calls, although there is some question about combining a law enforcement and mediating role. In some jurisdictions, therefore (e.g. Netherlands), social workers accompany the police to fulfil this function or there are teams of police and trained volunteers (e.g. Canada); elsewhere, the police call them in if necessary, or court-appointed mediators or arbitrators are used to facilitate dispute settlement. In developing countries, where customary mechanisms still exist, they are also used for this purpose (e.g. the village court in Papua New Guinea), as are interventions by members of the extended family. More structured conflict resolution schemes operate in some countries, including the Yugoslav conciliation boards, Chinese neighbourhood committees and alternative dispute resolution schemes introduced in an increasing number of jurisdictions in Australia, Canada, New Zealand and the United States, with promising results. In France, a co-ordinating body, the National Institute for Aid to Victims and for Mediation (INAVEM), *inter alia*, creates structures for mediation and promotes their use in conflict resolution.<sup>31/</sup> Most mediation schemes seek to maintain the family if possible; they can also crystallize positions and feelings, leading to its dissolution, but under more equitable terms. However, mediation and negotiation do not automatically ensure safety; the criminal justice framework should serve this function.\*

56. The first shelter for battered women was established in England some two decades ago. Conceived as a centre to provide advice for women in problem marriages, it soon included also residential accommodation. The function of shelters as a refuge from violent abuse, source of support, mutual help and practical advice has led to their rapid growth: there are over 700 in one developed country alone, and similar facilities, on a more limited scale, exist in many countries, including some developing ones. Usually sponsored by women's organizations and community groups, the shelters are sometimes publicly assisted but more often rely on self-financing and volunteers, some of whom offer "safe houses". The availability of space lags behind the demand, and even where they exist, shelters are often overcrowded, particularly since many women flee with their children. Multi-purpose centres, offering information, counselling and legal aid, sometimes also provide emergency accommodation that is usually even more cramped.

57. In the few evaluations conducted, shelters have been highly rated by the women who have used them, as have centres providing supportive counselling and legal advocacy, whose reach-out efforts often include a public education function. Residential facilities for other groups, such as abused children,

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\*There has been a tendency to view crisis intervention and arrest as alternatives. This need not be the case: some jurisdictions, for example, in London, Ontario, a model is used that combines them. See, also, "Mandatory mediation and summary jury trial: guidance for ensuring fair and effective processes", *Harvard Law Review*, vol. 103, No. 5 (March 1990), pp. 1086-1104.

exist in certain countries (e.g. Belgium). Men involved in domestic violence (mostly, but not always, as perpetrators participating in treatment programmes) have sometimes been included. Multi-client facilities exist, for instance, in Finland where "safety homes" accommodate, in addition to women and children, also men and old persons subjected to violence by their adult offspring. Critically important as such shelters are, however, they are not enough. Long-term arrangements must often be provided. For children, alternatives are needed to traditional child foster care with its shortcomings. The maltreated elderly can be transferred to nursing homes but this can be traumatic and substitute institutional for domestic abuse. New options can be utilized, including day centres, out-placements for vulnerable adults and semi-independent living, with medical care and community supports, as well as in-the-home relief.

## 2. Respite care

58. Respite care offers a means of relieving the burden and stress of family caretakers, which increase the likelihood of victimization, particularly of children or the elderly. At the same time, it can afford at least some monitoring and protection for the victims. Short-term emergency day-care for abused children and adolescents, designed to meet their special needs, can be supplemented by social learning programmes for parents. Visiting nurses, homemakers and other helpers can provide much needed respite for caretakers of the elderly and follow their situation, but they themselves should be monitored to avoid irregularities. Assessments of respite care have found it helpful in reducing physical and emotional abuse and in countering neglect of the elderly; it should be complemented by effective means of preventing financial abuse and other infringements of basic rights.

## 3. Other assistance

59. The requisite medical and mental health care may have to be provided in many cases, both as a means of treatment and prevention. Vocational training and social learning can develop coping skills and provide education for life. Gainful employment for the victim and/or offender may be a key to greater independence and reduced abuse. Separate longer term living quarters may be required, with priority given to victims of domestic violence in public housing. Legal aid and financial assistance are also necessary to be able to leave an abusive relationship. Though domestic violence cases are usually excluded from victim compensation schemes, in some jurisdictions it is possible under an ex gratia clause (e.g. United Kingdom), if certain conditions are met (e.g. offender prosecuted and not to benefit from the award). The extension of compensation orders to victims of domestic violence should be further pursued.

## C. Treatment modalities

60. Different treatment modalities, based as much on professional orientations and theoretical perspectives as on treatment needs, have been utilized to deal both with the victims and perpetrators of domestic violence. Some focus on treating the "dysfunctional family" as a whole, seeking to resolve family conflicts and to improve the functioning of the family as a psychosocial system.

### 1. Counselling and therapeutic programmes

61. Counselling services for victims usually offer practical advice and psychological support; some also include job readiness training and other

means of fostering the victim's independence. Comprehensive programmes of this kind have shown considerable promise. They may be offered by specialized facilities, such as those concerned with abuses against women, or by multi-purpose victim services. Psychotherapeutic treatment varies with particular victim groups and type of abuse, but there are enough common features to identify some principal orientations. Mainly, these are the self-help, cognitive-behavioural or social learning, educational, psychodynamic or family-systems approaches. <sup>32/</sup> They are not entirely distinct, can be used in combination and have also been employed to treat the offenders.

62. Family counselling and reconciliation programmes and family therapy of greater depth have been used largely for multi-problem families and cases of child abuse in the hope that change in the parents will also benefit the children. They include briefings on child development and needs, and seek to improve coping skills through insight and social learning. <sup>33/</sup> They are predicated on the interactional nature of much abuse and sometimes accompanied by individual treatment, including the child victims, in recognition of the emotional damage that maltreatment can cause. Treatment of abusive parents employing the psychodynamic model focuses on the presumed personality disorders deriving from an early lack of nurturing, and attempts to work through repressed conflicts. In-depth family therapy seeks to respond to both the problems within the family and its interfaces with other social systems conducive to victimization, but which can also be drawn upon for remedial purposes. While the family systems approach makes it difficult to identify the "active ingredient" responsible for positive change, the results indicate a measure of success.

63. Cognitive-behavioural treatment of battered women has been used to some effect, but the results are not unequivocal. Group therapy for this category of victims, often provided through self-help affinity groups, has been deemed helpful because it permits the sharing of painful experiences, provides a social support network that offsets the victims' frequent isolation and increases their empowerment.

64. Play therapy has been used with abused children (also as a diagnostic means) but its efficacy has not been assessed. Favourable results have been obtained for methods based on social learning theory, used to decrease the withdrawn behaviour of maltreated children, but the transferability of the findings is limited by the small sample size. New techniques for treating Post-Traumatic Stress Disorder have been used with both adult and child victims, but their efficacy is only beginning to be assessed. There are no real treatment initiatives for the abused elderly, apart from home visitors' programmes (nurses, social workers), which may provide a modicum of help.\* The failure to develop appropriate means of psychosocial support for those who are not only easy prey to abuse but also face the tribulations of sickness and fear of impending death is an indication of institutional reluctance to invest effort where there are limited prospects of future returns.

65. Treatment programmes for the perpetrators of domestic violence have been offered as an alternative to prosecution or incarceration. Some success is reported, but further evaluations are necessary. Some programmes are

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\*Measures on behalf of the elderly may pose an additional problem. They have been modelled largely on child-protection policies. Protective means that are respectful of older people's dignity and basic human rights as well as their special needs must be developed and more widely applied.

government sponsored, 34/ though many are run by voluntary organizations. They may be administered by social service agencies or facilities such as shelters, and include a mixture of insight and non-violent problem-solving, as well as anger control techniques and aversive training. 35/ Behavioural methods may produce displacement effects or superficial desistance instead of genuine deeper level change. Successful treatment requires motivation rather than merely the willingness to complete court-mandated programmes in order to avoid imprisonment. One of the main positive factors is the encouragement of partners who welcome the treatment option in lieu of mere incarceration.

66. Self-help efforts, such as Batterers Anonymous, are similar to other affinity groups that use "rap" sessions and mutual support, but they usually employ trained counsellors to guide and advise the group leaders. They have shown promise, particularly in overcoming the frequent isolation of batterers by the creation of networks emphasizing friendship and sharing, which also foster communication and a reorientation of traditional male attitudes.\* Collaborative arrangements between self-help efforts and services for both partners can enhance their efficacy.

## 2. Towards an integrated approach

67. For more effective policies, the partnership between the criminal justice system and other service providers needs to be strengthened and possible conflicts of interest resolved. There are still basic conceptual and practical differences in approach, with proponents, respectively, of privatization, contingent and compulsory intervention. No single model is likely to serve all situations; a flexible approach depending on the circumstances and requirements of the case might well be introduced within broad policy guidelines. Each country and each society must look to its own culture and mores for possible answers that will serve the purpose: there is a wealth of indigenous approaches and traditions that can be drawn upon for preventive mechanisms and means of support, assistance and redress. These can be reinforced in the light of the suggested principles, as adapted to national and local realities. Congruent actions have been facilitated by the establishment of special government units or focal points in some places (e.g. co-ordinating committees or contact persons).\*\* Synergistic efforts can maximize the often limited resources, drawing on both governmental and non-governmental support and on public participation.

68. Official mechanisms and financial sponsorship underscore a Government's commitment to action against domestic violence and provide an essential source

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\*In New Zealand, more than 30 such groups now exist in major cities and for Maoris. Their aim is to increase understanding, stop violence and change social structures that support and endorse violence. A loose network of men's groups co-ordinates activities nationally (Wellington, Family Violence Prevention Co-ordinating Committee Report, 1987).

\*\*Where the problem has been highlighted and the response firmed up, the rate of family violence has apparently declined. See, for example, the results of the 1985 National Resurvey of Family Violence in the United States.

of aid.\* In some countries, the ministries of justice and those for family and/or women's affairs have taken the lead in this regard,\*\* issuing directories and guidebooks, sometimes in co-operation with international agencies or voluntary organizations. 36/ The latter have played a pioneering role and are still instrumental in spurring action in this sphere, which can be further advanced with suitable official backstopping. No less important is proper co-ordination between all the services concerned, especially in areas where there may be multiple agencies and competence dispersed, as in the case of elder or child abuse. 37/ The use of multidisciplinary teams is proving especially useful in this connection.\*\*\*

69. In order to be more effective than they have been in the past, attempts to curtail and prevent family violence must be part of an integrated effort pursued in the context of both family policy and criminal policy, within a framework incorporating also relevant aspects of policies concerned with women, children and youth, the aged and disabled. Specific interventions can be planned in such a holistic perspective that takes into account not only the often interrelated problems of dysfunctional families but also other pertinent programmes and broader issues of social justice, income security, access to housing, education and employment, health policy and human resources planning.

#### D. Training, public education and attitude change

70. Specialized training for those dealing with domestic violence is an exigency cutting across professional lines and service delivery systems, involving different types of personnel, including paraprofessionals and volunteers. The accumulating knowledge of various aspects of domestic violence permits a clearer perception of their roles in providing redress and forestalling future victimization. Clear policy directives and sensitivity training, along with other ways of increasing police awareness of the requirements and their crisis intervention skills, can enhance the police function and victim satisfaction. In a number of countries special training programmes have been instituted to upgrade police capabilities and responsiveness. The introduction into police curricula of material on victim assistance and conflict management is helping in the development of expertise in the techniques to be used in family violence situations, with specific victim and offender groups.

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\*The provision and promotion by the State of special medical and welfare services for victims of acts of domestic violence and other abuses were recommended in the Abuja Communique, adopted at a National Conference on Victims held in Nigeria in 1989.

\*\*See, for example, Commission for the Prevention of Violence against Women, established in the Secretariat for Human and Family Development (Ministry of Health and Social Action) of Argentina (CEDAW/C.5/Add.39/Amend.1); and Primer Encuentro Nacional de Centros de Prevención de la Violencia Doméstica y de Atención a la Mujer Golpeada, Chapadmalal, Argentina, from 24 to 26 November 1988.

\*\*\*The use of multidisciplinary teams of caretakers - from the medical, mental health, social service and legal professions, whenever possible, along with the utilization of supportive community resources that provide in-home services, respite and stress reduction for high-risk families - was recommended in the World Medical Association's Declaration on the Abuse of the Elderly (Hong Kong, September 1989).

71. The courts have made some strides, but still view victims, including those of domestic violence, primarily as witnesses to provide the substantiating elements of a case. Although measures are increasingly being taken to minimize the inconvenience and further trauma to victim-witnesses and to reflect their viewpoints, victim advocates are rarely an integral part of the judicial system. The perspective they offer can help to sensitize the courts, but wider training efforts for members of the judiciary are required to promote understanding of the problems and dilemmas faced by victims of domestic abuse. The protective task of the justice apparatus can be enhanced by a better perception of the consequences of decisions taken, risks involved and necessary precautions. Sentencing guidelines, special training and refresher courses for prosecutors and judges would foster more appropriate and consistent dispositions in domestic violence cases. Available research results should be communicated, and emphasis placed on the application of sanctions commensurate with the gravity and persistence of the abuse, rather than using them largely symbolically, which may suffice only for less serious offenders.

72. Since punishment per se has little re-educative value, and in view of the significant attrition rate of voluntary or unsupervised programmes for perpetrators of domestic violence, where institutionalization is mandated, it could be used for appropriate treatment and, if made a condition of probation, then proper supervision provided. Here, again, professional education must provide this added dimension likely to affect the outcome of the judicial process and of the verdict rendered.

73. Close co-operation between the criminal justice and social service delivery systems can foster the cross-fertilization of knowledge and experience as well as co-ordinated action. Each system has much to offer and can broaden the perspective of the other: joint seminars and training courses in areas of common concern can augment expertise, facilitate communication and increase co-operation. An ongoing dialogue, through shared issue-oriented training, would infuse new insights and competence into the detection and handling of criminal family violence cases.

74. Special training materials can help this process, including the development of core curricula for the different specialties concerned with domestic violence (see, also, A/CONF.144/18). This has been done in the treatment of Post-Traumatic Stress Disorder, relevant to the whole spectrum of victimization subsumed under domestic violence. In those developing countries where the infrastructure and qualified personnel are as yet lacking, training could be provided in the context of primary health care and basic social services,\* as well as in the framework of the criminal justice system and customary justice mechanisms. There is also a need for training researchers on domestic violence.\*\* Collaborative initiatives in this field can help to pool available expertise and limited resources: some have been taken subregionally; 38/ they could be replicated and expanded.

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\*A WHO sponsored initiative is seeking to do so; see, also, M. K. Jinadu, "Combating child abuse and neglect in developing and newly industrializing countries: a unique primary health care approach", Child Abuse and Neglect, vol. 10 (1986), pp. 115-120.

\*\*It is being provided by some research centres active in this field (e.g. Family Violence Laboratory of the University of New Hampshire, United States), but could be extended to participants from developing countries.

75. If domestic violence is to be reduced and its victims helped, then not only official and professional attitudes must change, but also public opinion. This requires widespread educational efforts designed to deglamorize and censure the use of violence, including the focus on it by the mass media. Placing a premium on peaceable ways of handling interpersonal disputes from an early age on and using the family and school as a training ground would help to inculcate non-violent values and to promote a life-style relying on this form of conflict resolution as well as a sense of justice and empathy.

76. Cross-cultural research, which has identified the factors typical of societies without family violence, or where it is minimal, has yielded important cues for social policy-making and the direction of educational efforts. The key elements are equality and closeness in marital relationships, co-operation, commitment and respect for human dignity. In such societies, there are apparently no rigid sex roles: husbands and wives share in domestic decision-making; wives have some control over the fruits of family labour; marriage is monogamous and both parties can divorce easily, though divorce is rare; there is no pre-marital sex double standard; disputes are resolved peacefully (and anger handled alternatively), with immediate third-party intervention at any sign of violence or impending violence. <sup>39/</sup> More research of this kind is needed, but it will remain a scholarly exercise if the knowledge gained is not applied.

### III. CONCLUSIONS: STRATEGY FOR THE FUTURE

77. By resolution 44/82 of 8 December 1989, the General Assembly proclaimed 1994 as International Year of the Family. In its resolution, the Assembly recalled previous resolutions on the need for enhanced international co-operation in the protection of and assistance to the family. In this connection, the General Assembly decided that activities should be concentrated at the local, regional and national levels, assisted by the United Nations system.

78. The United Nations policy-making bodies and offices concerned with crime prevention and criminal justice, the advancement of women, aging, the disabled, youth and the family are contributing to this endeavour. The 1986 Expert Group on Violence in the Family adopted a series of recommendations urging action on various fronts.\* The present report has traced the gains made in some areas and the most pressing needs, in light of the results of empirical research. The Eighth Congress has a special opportunity of influencing the direction of future efforts. In so doing, it will no doubt be aware that progress has been uneven, and that in spite of the prevalence of domestic violence, there are still sustained attempts to relegate it to "the privacy of the home".

79. It is clear, however, that the process cannot be reversed. Member States and the international community as a whole have expressed their concern about violence in the family as an urgent problem deserving attention and concerted action. In adopting a common strategy and putting it into effect, all relevant parts of the United Nations system have a role to play. A strategy for the future would necessitate sustained efforts at various levels, including the following measures.

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\*Comprehensive recommendations on measures against domestic violence have also been adopted by intergovernmental organizations, such as the Council of Europe (see Recommendations No. R (85) 4 and No. R (90) 2 of the Committee of Ministers).

A. National and local measures

1. Criminal justice system and other legal means

(a) Periodic reviews of legislation, procedures and practices, and introduction of reforms to ensure concordance with international conventions and norms proscribing domestic violence; definition of violent acts in the family as crimes punishable with sanctions comparable to those imposed for such acts committed outside the family, the term to include cohabiting partners and separated or divorced persons;

(b) Adequate procedures to protect the victim's interests (including access to and custody of children), safety and independence, with the possible removal of, and enforceable protection orders against, the presumed offender or alternative accommodation for the victim(s), and such other emergency and financial provisions as may be necessary;

(c) Effective police investigation, recording and intervention in domestic violence cases, with sensitivity to the problems, awareness of the victims' needs and respect for the dignity and privacy of the parties;

(d) Crisis intervention and other means of conflict resolution by trained police officers or special mediators, with appropriate referrals to other agencies and/or initiation of criminal or other proceedings;

(e) Notifying the victim of the available options and relevant developments in the case, including conditional release of the defendant on bail, and adequate protection in such cases;

(f) Utilization of family courts or other judicial mechanisms to permit informal proceedings, private hearings and prompt processing of cases involving domestic violence;

(g) Prosecution of family violence cases ex officio by specially designated prosecutors, on the basis of evidence comparable to that used in non-family violence cases;

(h) A full range of sentencing dispositions to ensure maximum protection of the victim and society and socialization of the offender, with special conditions, such as participation in psychotherapy, substance abuse treatment, educational or job training and/or self-help programmes, removal from the common domicile, financial or other compensation of the victim, community service and public apology;

(i) Due consideration, in intra-family homicides or other serious crimes, of the defendant's possible recourse to retaliatory violence after repeated victimization.

2. Treatment interventions and service delivery

(j) Provision of emergency facilities and crisis intervention mechanisms, with public support and community involvement;

(k) Incorporation of diagnostic procedures and services for victims and perpetrators of domestic violence in primary health care and basic social services, where other facilities may not yet be available;



(l) Development of treatment modalities to deal with the overall problems and special aspects of domestic violence, including family therapy and programmes for the respective victim groups, especially those that have received inadequate treatment attention in the past (e.g. the elderly), as well as programmes to promote desistance by the offenders;

(m) New forms of service delivery in cases of domestic violence, including self-help and community initiatives, and comprehensive, multidisciplinary efforts involving public agencies and non-governmental organizations, utilizing both professionals and volunteers;

(n) Systematic innovation in this field, through pilot projects with built-in evaluation schemes, regular monitoring and replication of fruitful approaches;

(o) Promotion of coherent policies for treating and preventing domestic violence in the context of broader socio-economic policies and the furtherance of equity and justice.

### 3. Training, education and attitude change

(p) Promotion of pre- and in-service training on ways of detecting and dealing with domestic violence in its various forms, including special courses for health, educational, social service and criminal justice personnel in victim needs and the available options, joint training initiatives and multidisciplinary training for treatment providers;

(q) Use of specialized cadres (e.g. female police units); development of criteria, codes of practice and training materials for the various professions and auxiliaries involved, with victim input, and of interdisciplinary, issue-oriented curricula;

(r) New staff utilization patterns, including multidisciplinary teams and collaborative efforts involving the various systems, including criminal justice;

(s) Sensitivity training and consciousness-raising for professionals, paraprofessionals and volunteers, as well as the general public, including focused educational programmes and multimedia campaigns designed to increase awareness of domestic violence problems and ways of curtailing them through official means of recourse and community-based initiatives;

(t) School courses and out-of-school education on parenting and family planning, as well as on non-violent means of conflict resolution;

(u) Public education campaigns, including media programming, designed to deglamorize and decrease the depiction and use of violence, as well as to reduce sex-based and age-based discrimination and other inequitable practices and attitudes;

(v) Promotion, through formal and informal educational means, of respect for basic human rights, equality, dignity and worth of all persons, of tolerance and partnership values, and of co-operative approaches to problem-solving.

4. Information and research

(w) Better reporting, recording and data systems on the various aspects of domestic violence, using standardized and comparable definitions and classification criteria (including information on perpetrators and victims and circumstances of the offence), supplemented by assessments of the "dark figure" of such crimes;

(x) Intensification of research on all aspects of family violence and the response to it, with emphasis on more rigorous research designs and controlled studies, longitudinal analyses and evaluation of the effectiveness of the different approaches and measures taken;

(y) Inclusion in crime and justice data bases and clearinghouse facilities of information in this area, with special emphasis on promising developments and research findings;

B. International measures

(z) Collaborative cross-cultural research studies on the various facets of domestic violence, its linkages and ways of dealing with it, as a guide to policy-making and programming;

(aa) Comparative victimization surveys and other means of determining the real extent of domestic violence in its various forms, and development of sound methodologies for assessing needs in this field and the effectiveness of the modalities of response;

(bb) Seminars for criminal policy makers, legislators and criminal justice administrators, to promote the necessary reforms and ensure a multiplier effect;

(cc) Training courses for criminal justice personnel and other relevant staff to highlight major issues in this field and promising approaches as a way of training the trainers. Problem-solving workshops on non-violent conflict-resolution techniques, including crisis intervention, mediation and arbitration;

(dd) Seminars for educators, media representatives, social psychologists, clergy and victim advocates to propagate strategies for effecting attitude change and promoting more equitable, just and peaceful societies, responsive to the plight of victims;

(ee) Technical co-operation and assistance in applying the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34, annex, of 29 November 1985, utilizing also the Guide for Practitioners of the Declaration (A/CONF.144/20), implementation principles and training curricula developed in this connection, as well as the present recommendations;

(ff) Development of model legislation, pilot schemes and demonstration projects designed to promote redress for, and assistance to, crime victims, including victim support schemes and treatment programmes especially applicable to cases of domestic violence;

(gg) Collection and dissemination of information, and professional and scientific exchanges in this field;

(hh) Mobilization of governmental and non-governmental support for comprehensive efforts in this area, and of seed money for relevant activities;

(ii) Promotion of collaborative initiatives by the United Nations system to ensure integrated action and effective follow-up of the decisions of the United Nations policy-making bodies and other international recommendations in this field, especially those of the Eighth Congress, including the convening of the meeting proposed by the 1986 Expert Group on Violence in the Family, as part of the preparations for the International Year of the Family and the Ninth Congress.

#### Notes

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