

PRESENTATION OF PRACTICAL MEASURES, STRATEGIES AND ACTIVITIES IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE FOR THE ELIMINATION OF VIOLENCE AGAINST WOMEN

A Paper by the Department of Justice, Canada

BACKGROUND

1. The pervasiveness of violence against women in all countries has become an issue of global concern. Violence against women cuts across all economic, age, ability, religious, racial, cultural, political and sexual orientation spectrums of society. Violence against women is at once a reflection of structural and systemic inequality in society and a contributing factor to that inequality - be it social, political or economic.
2. Violence violates women's fundamental human rights and freedoms. The harm caused by violence undermines their ability to lead autonomous lives, free of fear and coercion, and imposes great costs on society. It has significant repercussions not only on the health and well-being of women, but also impacts on their community as a whole since it leaves them unable to achieve their full human and economic potential. In many parts of the world violence both within and outside the home, has been identified as a barrier to the full participation of women in society.
3. In Canada, the results of a national survey on violence against women, conducted by the Canadian Centre for Justice Statistics, were released in November 1993. The results clearly showed that violence and fear of violence is an everyday reality for many women. Fifty per cent of women reported being the victim of at least one violent incident in their adult life (over the age of 16). The Canadian study also revealed that in addition to physical injury, nine-in-ten incidents had an emotional effect on the woman, with the most commonly reported consequences being anger, fear, increased caution and less trust. We also know that women having experienced sexual abuse in childhood, for example, are more likely to experience depression, to attempt suicide and to succeed.

4. The impact of violence against women extends to their children. There is solid evidence that violent behaviour is passed from generation to generation. Child witnesses of violence in the home are likely to repeat the violence either as victims or as perpetrators. The 1993 survey found that witnessing violence in the home can establish a pattern of aggressive behaviour; sons with violent fathers were three times more likely to assault their partners than sons with non-violent fathers. In the same survey, 39 per cent of women in violent marriages reported that their children had witnessed violence against them.

DEALING WITH VIOLENCE AGAINST WOMEN AT THE INTERNATIONAL LEVEL

5. At the international level, the problem of violence against women has already been addressed by a number of bodies. Several components of the problem have been studied by the Commonwealth, the United Nations Commission on the Status of Women, the United Nations Commission on Human Rights, the Council of Europe and the Organization of American States.

(a) Commonwealth

6. Violence against women has been a major concern for Commonwealth Ministers Responsible for Women's Affairs since their First Meeting in Nairobi in 1985. More recently when they met in Cyprus in 1993, Ministers requested the Commonwealth Secretariat to continue its work as a clearing house on violence against women and girls and to disseminate materials and manuals on women's rights as human rights to Commonwealth governments and non-governmental organizations (NGOs).

7. The new Commonwealth Plan of Action on Gender and Development which was fully endorsed by Heads of Government in Auckland in November 1995, has as one of its key strategic objectives for governments, "to promote and defend women's rights as human rights and outlaw all violence against women and girls". Specific measures for governments under the new Plan of Action relate to "women's rights as human rights, the elimination of violence against women, the protection of the girl child and the outlawing of all forms of trafficking in women and girls".

8. On the part of the Women's and Youth Affairs Division (WYAD) of the Secretariat, a number of training materials on violence against women have been developed, including three manuals which have been widely disseminated and used. There are "Confronting Violence: a Manual for Commonwealth Action", "Guidelines for Police Training on Violence against Women and Child Sex Abuse", and "Violence against women: curriculum materials for legal studies". A Commonwealth annotated bibliography on violence against women has just been published for use in training and public awareness programmes and information on measures being taken by governments, NGOs and other organizations to combat violence against women in the Commonwealth.

(b) United Nations crime prevention and criminal justice programme

9. This issue has never been substantially addressed in the criminal law context, until recently when the United Nations Commission on Crime Prevention and Criminal Justice included it as a priority item on its work agenda and invited the 9th United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider this matter. As one of the two principal sponsors that introduced the resolution concerning the elimination of violence against women at the 9th Congress, Canada wholeheartedly supports the need for more work to be undertaken at the international level to address the issue of violence against women. However, the multifaceted nature of violence against women suggests that different strategies are required to deal with different manifestations of violence and the various contexts in which it occurs.

10. The Fourth Conference on Women, held in Beijing in September 1995 adopted a Platform for Action to deal with several issues related to women, including violence against women. Canada believes that the section of the Platform for Action dealing with violence against women should be implemented in all disciplines (social services, health, education, etc.), particularly in the field of crime prevention and criminal justice. Crime prevention and the criminal justice system at both the national and international levels have a central role to play in the elimination of violence against women and the creation of just and equitable societies.

11. In all countries, the message must be clear: no matter what the context, violence against women is unacceptable, and such violent acts are reprehensible and must be dealt with accordingly. However,

punishment is not enough. Preventing such acts and treating the victims are equally important. Furthermore, the alarming statistics in respect of the inter-generational transmittal of violent behaviour clearly indicate that the rehabilitation of perpetrators of violence against women and the education and sensitization of children, particularly boys, is an essential step on the road to eliminating violence against women.

12. Canada is submitting the attached document (Annex), concerning practical-oriented measures, strategies and activities that can be introduced in the field of crime prevention and criminal justice to address the problem of violence against women, in order to facilitate discussion on this issue at the Commonwealth Law Ministers Meeting. This document has also been submitted to the Secretary-General of the United Nations as a Canadian proposal to be discussed at the next session of the United Nations Commission on Crime Prevention and Criminal Justice, which will be held in May 1996.

13. More specifically, the Meeting might wish to urge governments to implement the Commonwealth Plan of Action on Gender and Development, especially the measures dealing with violence against women. It might also wish to ask the Commonwealth Secretariat to monitor the implementation of these measures.

14. Both at home and within the international community, we must continue working to ensure that women's rights are recognized as human rights and that in concept and practice, these rights acknowledge the realities of women's lives and women's continuing efforts to achieve equality. By working together to achieve this goal, we might be able to better confront violence against women and find solutions contributing to its elimination.

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PRACTICAL MEASURES, STRATEGIES AND ACTIVITIES IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE FOR THE ELIMINATION OF VIOLENCE AGAINST WOMEN

CANADIAN PROPOSAL

The multifaceted nature of violence against women suggests that different strategies are required for different manifestations of violence and the various settings in which it occurs. This document suggests various measures, strategies and activities that can be introduced in the field of crime prevention and criminal justice to address the problem of violence against women.

Recalling the definition of violence against women in the United Nations Declaration on the Elimination of Violence against Women and reiterated in the Beijing Platform for Action, this document builds on the measures adopted by governments in the Platform for Action to prevent and eliminate all forms of violence against women.

Acknowledging specifically the need for an active policy of mainstreaming a gender perspective in all policies and programmes related to violence against women, these measures, strategies and activities can be undertaken by member states and other entities, as appropriate, in order to assist governments in their efforts to address the various manifestations of violence against women.

CRIMINAL JUSTICE SYSTEM

Member states are urged to:

1. Review their criminal law to ensure that the following acts of violence against women are prohibited and, if not, to adopt measures to do so:
 - (a) rape and other sexual assaults within or outside marriage;
 - (b) harmful traditional practices perpetrated on women and girl children, including female genital mutilation;
 - (c) sexual exploitation and abuse of girl children;
 - (d) trafficking in women and girl children and forced prostitution.
2. Adopt legislation to:
 - (a) regulate the acquisition, possession, ownership, storage in the home and use of firearms, including their surrender pending trial;
 - (b) prohibit and restrain individuals from harassing, intimidating or threatening women;
 - (c) deal with the problem of nationals travelling abroad in order to sexually exploit girl children.
3. Review their criminal procedure to ensure that:
 - (a) the responsibility for initiating prosecutions does not rest with victims;
 - (b) women are entitled to testify as witnesses in court proceedings;
 - (c) measures to protect the identity of women and girl children complainants or witnesses, as well as measures to facilitate the testimony of women and girl children victims of violence, are available, at their request and as appropriate, in cases of violence against women;
 - (d) police have adequate powers to enter premises and conduct arrests in cases of violence against women;
 - (e) violence against women is taken into account in bail and conditional release applications;
 - (f) the victim of violence against women has a right to seek restitution.
4. Ensure that specific rules of evidence and defences, for example that of honour or provocation, do not have a negative impact on women.
5. Consider the introduction of judicial mechanisms that are sensitive to the needs of

women victims of violence and which facilitate prompt processing of cases involving violence against women.

6. Ensure that if mediation is used in the context of an abusive relationship, it is premised upon the informed consent of the victim and an acknowledgement of the criminal nature of such violence.
7. Encourage, where appropriate, prosecution of cases of violence against women by specially designated and trained prosecutors.
8. Ensure that the perspective of the victim is represented in the court process by, for example, victim impact statements, victim advocates or other means.
9. Develop, through professional associations, enforceable standards of practice and behaviour, for judges, lawyers, advocates and paralegals, which promote justice and equality for women.
10. Strengthen the application of protection and restraining orders and, if not already in place, to establish a registration system for such orders so that police and other criminal justice workers can quickly determine whether such an order is in force.

POLICE

Member states, in collaboration with the police, are urged to:

11. Create and implement policies, programmes and procedures in relation to the police to:
 - (a) ensure that police procedures, decisions on arrest, detention and terms of any release give priority to the safety of the victim and the prevention of revictimisation;
 - (b) remove, wherever possible, the abuser from the home, rather than the woman and her children, in the context of domestic crime;
 - (c) recruit more women, including women from minority and indigenous populations, to operational and management positions throughout police services;

- (d) ensure that police respond to cases of violence against women in a timely fashion;
- (e) establish a fair and accessible police complaints process to hold police publicly accountable for their actions;
- (f) establish, wherever possible, dedicated police units, composed of specially trained police officers and persons from other disciplines to deal with violence against women;
- (g) establish multidisciplinary police and community advisory groups;
- (h) develop investigative techniques which reduce intrusiveness to the victim while maintaining standards for the collection of the best evidence.

SENTENCING AND CORRECTIONS

Member states are urged to:

12. Examine sentencing practices and strategies to ensure that:
 - (a) they have the goals of holding offenders accountable for their actions related to violence against women, of stopping violent behaviour, of reducing the impact of the sentence on victims and family members, and of promoting sanctions which are comparable to those for other violent crimes;
 - (b) they take into account the severity of both physical and emotional harm associated with violence against women, particularly in cases of no obvious physical injury;
 - (c) a full range of sentencing dispositions exist to ensure the protection of the victim and society and that the sentencing judge can impose a sentence that affords the possibility for treatment or rehabilitation of the offender during periods of incarceration, probation or parole;
 - (d) firearms can be confiscated upon conviction of the perpetrator of a crime of violence against women;

- (e) victims of violence against women can submit victim impact statements to courts in order that the impact of victimisation may be taken into account in setting appropriate penalties;
- (f) the victim is notified of the release on parole of the offender or at the end of the offender's sentence where the interest of the victim in such disclosure outweighs any invasion of the offender's privacy.

13. Review correctional policies and practices to:
 - (a) examine whether there are appropriate measures in place to eliminate violence against women in detention;
 - (b) encourage the development and evaluation of treatment programmes for offenders who commit violence against women, aimed at reducing the likelihood of further violence.

HEALTH AND SOCIAL SERVICES

Member states and, as appropriate, the private sector, foundations, non-governmental and community organizations, women's equality seeking organizations and research institutes are urged to:

14. Introduce, through relevant professional associations and training facilities, mandatory professional training for doctors, nurses, ambulance attendants and other health sector personnel to promote an understanding of and an appropriate response to the issue of violence against women.
15. Integrate questions on gender-based violence into national health surveys and into ongoing research.
16. Establish, fund, co-ordinate, support and staff, where they are not already in place, services such as toll free information lines, counselling and crisis intervention services and support groups to benefit victims of violence against women and their children.
17. Sponsor programmes to discourage alcohol and substance abuse, given the frequent presence of alcohol and substance abuse at the time of incidents of violence against women.

18. Establish, where they are not already in place, facilities for temporary residential accommodation for women and their children who are at risk of violence.

TRAINING

Member states and, as appropriate, non-governmental organizations and women's equality seeking organizations, in collaboration with relevant professional associations, are urged to:

19. Improve existing and develop new standardized protocols and procedures (both interdisciplinary and intra-disciplinary) to assist professionals in all relevant disciplines to detect and respond to all forms of abuse, including physical, sexual, emotional and financial abuse.
20. Take steps at the national level, through multidisciplinary training, to:
 - (a) educate and sensitize law enforcement officers, law students, lawyers, paralegals, judges, prison guards and other public officials with regard to issues concerning violence against women, particularly in respect of specific problems women face when seeking help from the criminal justice system;
 - (b) introduce mandatory cross-cultural and gender sensitivity training modules for these officials that address the unacceptability of violence against women, the social context of violence against women and the impact of violence and the consequences for women subjected to it;
 - (c) develop rules of practice and conduct for these officials that promote justice and equality for women.
21. Provide, through relevant professional associations, special training for teachers, including training in conflict resolution, to promote an understanding of and an appropriate response to the issue of violence against women.

RESEARCH, EVALUATION AND STATISTICS

Member states and, as appropriate, United Nations institutes, research institutes, non-governmental organizations and women's equality seeking organizations, are urged to:

22. Gather from victims, hospitals, police community agencies, community groups and other sources, data and information on a gender-disaggregated basis for analysis and use, together with existing data, in needs identification and policy making in the field of crime prevention and criminal justice, in particular concerning:
 - (a) the different forms of violence against women, its causes and consequences;
 - (b) the extent to which economic deprivation and exploitation is linked to violence against women;
 - (c) the effect of the criminal justice system on women;
 - (d) the relationship between the victim and offender;
 - (e) the extent of violence in the home;
 - (f) the rehabilitative or anti-recidivism effect of the criminal justice system on the individual offender and on the reduction of violence against women.
23. Include detailed questions in national crime surveys to allow more analysis of the nature and extent of violence against women.
24. Evaluate the effectiveness and efficiency of the criminal justice system in addressing the needs of women who are subjected to violence.
25. Review and evaluate police services and investigations concerning crimes of violence against women, particularly taking into account the victim's perspective.
26. Monitor the rates of arrest, charging and prosecution, as well as the disposition of cases of physical and sexual violence against women, and issue annual reports on these rates.

27. Research the extent of the relation between victimization or exposure to violence and subsequent violent activity and take it into account in the development of legislation, procedures, programmes and policies.

EXCHANGE OF INFORMATION AND PUBLIC EDUCATION

Member states and, as appropriate, private institutions and foundations, professional associations, educational institutions, community organizations, non-governmental organizations and women's equality seeking organizations, are urged to:

28. Establish a system or means for the national distribution and dissemination of information on the prevention of violence against women, and to maintain and disseminate statistics on violence against women.
29. Develop relevant and effective public awareness and public education programmes which promote equality between women and men and address the prevention of violence against women.
30. Disseminate, to community service providers, information on the availability of programmes designed to eliminate violence against women, in a manner appropriate for a given audience.
31. Support initiatives of women's equality seeking organizations and non-governmental organizations to raise awareness of the issue of violence against women and to contribute to its elimination.
32. Encourage the media to examine the impact of gender role stereotypes, including those perpetuated by commercial advertisements which foster gender-based violence and inequalities, and how they are transmitted during the life cycle.
33. Invite the media, media associations, media self-regulatory bodies, schools and other relevant partners, while respecting the freedom of the media, to consider developing public awareness campaigns and appropriate measures and mechanisms, such as codes of ethics and self-regulatory measures on media violence, to contribute to the eradication of violence against women and to enhance respect for their dignity

by promoting a violence free society and discouraging the stereotyping of women.

34. Develop, disseminate and implement manuals on different forms of violence against women directed at all sectors, including the indigenous community, in all languages, which, like the manual "Strategies for Confronting Domestic Violence: A Resource Manual", draw together best practices and strategies.
35. Develop public education programmes that raise awareness about the status, role and contribution of women and men in the family and in society in order to promote equality, co-operation, mutual respect and shared responsibilities between girls and boys and between women and men.

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