

## PART I: DOMESTIC VIOLENCE

### 1. INTRODUCTION

It is becoming increasingly evident that the physical and mental abuse of women within the household is of far greater magnitude than had been imagined. It is still common, however, for marital abuse to be taken for granted and conclusions to be drawn that little can be done about it.

Violence against women in the family has a long history. In all countries and cultures<sup>1</sup> women have been battered, sexually abused and psychologically injured by persons with whom they should enjoy the closest trust. This maltreatment, in the main, has gone unpunished, unremarked and to a certain extent, as adages such as "A dog, a wife and a walnut tree, the more you beat them the better they be" indicate, received tacit condonation.

Legal systems often gave the husband the right to chastise, or even kill, the wife, if she were regarded as sufficiently disobedient. In his Commentaries on the Laws of England in 1775, Blackstone stated that the husband was empowered to correct his wife "in the same moderation that a man is allowed to correct his apprentice or children"<sup>2</sup>, a power which was confirmed in judicial decisions in England until 1890 when the common law right of a husband to chastise his wife physically was abolished in the case of R U Jackson<sup>3</sup>. However, even after this right was abolished or in those unusual systems where the husband never enjoyed the right, physical abuse by the husband was often justified on grounds such as provocation<sup>4</sup> or if he were punished, his sentence was generally light.

In most systems, husbands were given the right to violate their wives sexually, a right, again, reflected in legal institutions. Thus, in many systems husbands had the right to bring actions against anyone who committed adultery with or seduced their wives<sup>5</sup> and they were not subject to legal sanction if they forced their wives to have unwanted sexual relations<sup>6</sup>.

These legal structures merely mirrored the predominant view of most societies and cultures that the wife was subordinate to and, indeed, the property of, her husband, a view which is not purely historical. Many countries still fail to take the physical abuse of a wife seriously, most refuse to penalise a husband who forces his wife to engage in unwanted sexual activity and a minority are prepared to exonerate a male relative who murders a woman who commits adultery. The view that the wife is subordinate goes hand in hand with the philosophy that the dynamics of a particular family acting within socially accepted structures are private and should be interfered with rarely. Certainly, it will be unusual for such interferences to be on behalf of the wife.

The twin philosophies - that the wife is subordinate to her husband and the family is a private place - served to delay the discovery of the problem of violence against women in the family. Very occasionally liberal philosophers, such as John Stuart Mill<sup>7</sup> and pioneer feminist activists like the British Frances Power Cobbe<sup>8</sup> drew

attention to female victimisation within the family, but it was not until this century, at the beginning of the 1970's, that large scale campaigns to draw attention to the issue were launched. Although these campaigns began in Europe<sup>9</sup> and North America<sup>10</sup>, they quickly spread to other areas of the world, so that in the 1990's it is safe to assert that violence against women in the household is almost a worldwide concern.

Although violence against women in the family is now acknowledged to be a serious problem in both incidence and effect in most countries of the world and has been the subject of much research in the last twenty years, it is nevertheless an issue which remains clouded in mystery. It can be stated confidently that violence against women in the family is an issue which confronts women from all countries, races, creeds, colours and socio economic group and that the violence has multifarious manifestations and serious effects<sup>11</sup>, there are serious gaps in our knowledge of the issue. For example, we are unable to answer questions such as who, apart from women, are at most risk of such violence, who, apart from men, are most likely to perpetrate such violence, what causes the violence, how resources can be allocated most effectively and what sort of treatment and intervention strategies are most useful with any degree of precision<sup>12</sup>. Most importantly, we are unable to discern whether the definition of violence against women in the family is a common one across society and culture or whether it is something which can only be defined against a backdrop of culture, tradition and custom. This final questions is a crucial one when considering strategies for intervention, as it may suggest that strategies used in one society are not helpful on another, or, that strategies that may be valuable where one group in a society is concerned may be of little value with another group. Certainly, this question of definition, at the very least, invites us to be cautious in applying strategies which have been used in one cultural context to another, without considering modification.

Much of the uncertainty surrounding the question of violence against women in the family is due to the fact that the available research into the issue is new, emerging only in the last twenty five years. This research, furthermore, is fragmentary and is, in the main, from Western Europe, North America, Australia and New Zealand. Predominantly, also, these studies have concerned women from the dominant culture, avoiding native populations, immigrant groups and refugee populations. Few studies have been made in the developing world and it is perhaps safe to say that the only comprehensive and systematic study of violence against women in the home which has been undertaken in a developing country is from Papua New Guinea, where the Law Reform Commission has produced four publications on the issue<sup>13</sup>.

Despite the fact that the current state of research into violence against women in the family is imprecise, many countries have introduced strategies with the aim of protecting the individual victim and of eradicating the problem entirely. Accordingly, this chapter outlines the strategies which have been employed, evaluating them, where appropriate. In order to provide a context for an assessment of these strategies, the chapter begins with Part I, which surveys the definition of violence against women in the family, the incidence of the problem

and the causes and effects of the conduct. It then moves on in Part II to examine the legal approaches which have been experimented with throughout the Commonwealth to provide assistance for victims of abuse, which, it will be seen, include divorce, judicial separation, resort to the criminal law, quasi criminal remedies and injunctive relief. Part III surveys the response of the health, welfare and community sectors, while Part IV seeks to draw conclusions from the previous parts, recommending short term and long term strategies to confront the issue of violence against women in the home. The final three parts of the chapter move on to describe how community health workers and those providing social services may encourage women to break their silence and complain of abuse, discuss the relationship of alcohol abuse and violence in the home and provide a practical guide to the establishment of a woman's refuge and other support services.

## 2. THE CONTEXT OF THE PROBLEM

### a) The nature of the violence

Studies indicate that violence against women in the family takes various forms. Most obviously, it consists of physical violation of the woman's body. This can include pushing, pinching, spitting, kicking, pulling the woman's hair, hitting, punching, choking, burning, clubbing, stabbing, throwing acid or boiling water. It can range from minor bruising to murder, often starting out with what appears to be trivial conduct which escalates both in intensity and frequency of occurrence. Physical attack is often accompanied by, or may culminate in, sexual violence<sup>14</sup>.

At a more sophisticated level, the violence may be psychological or mental violence, which can include constant verbal abuse, harassment, excessive possessiveness and depriving the woman of economic, physical and personal resources. Women, for example, are forbidden contact with their families and friends, denied access to the family income, degraded and belittled, either alone or in front of others, threatened with murder or suicide, taunted with threats of divorce, intentions of taking another wife or deportation, in circumstances where their continued residence in a country may depend on the continuance of the relationship. Violent activity also encompasses denial of sexual contact or any other conduct which leads to loss of self esteem. Further, any action which is designed to frighten the women, such as the destruction of her property or pets or any other behaviour which indicates a threat to her or those she cares for, falls within the definition.

While violence against women in the family may take these various forms, it is not to be concluded automatically that isolated minor violent incidents fall within the definition. Although such occurrences are distressing, regrettable and to be condemned, it is the persistence and recurrence of the violence which establishes it as coming within the definition and thus a subject of concern of this Manual. Certainly, an isolated attack with serious consequences falls within the definition, but the particular concern of this Manual is persistent, recurrent and frequent physical, sexual or psychological abuse of a woman by the man with whom she lives.

### b) The victims and the victimisers

Modern studies indicate that, although the term "family" suggests safety and security, a place where its members should be able to coexist in security and harmony, that the family is often, for women, particularly those who are wives, an extremely violent place and that the most likely perpetrator of this violence will be her husband<sup>15</sup>.

Certainly, there are other victims of abuse within the family. The 'battered child syndrome' has been acknowledged since 1961. Young girls are victims of sexual assault within the family, and, to a lesser extent, so are young boys. Elderly family members, particularly elderly women, are vulnerable to their grown up children<sup>16</sup>, as are sick and infirm family members. In polygamous households, wives assault co-wives

and in the extended family, female members are often at risk from both male and female relatives. Further, female domestic servants are at risk both from their female employers and the male members of the employing family. Nonetheless, much family violence is directed at the wife, specifically in her role as wife. Thus, even where a woman is victimised by someone other than her husband, for example, as in India, by her mother in law to extract larger dowry payments from her natal family<sup>17</sup>, this violence finds its roots in the wife's inferior status and subjugation, which makes her victimisation tolerable.

The extent to which husbands are subject to victimisation in the home is a matter of some controversy. Certainly, studies exist which suggest that husband battering is common<sup>18</sup>, but most writers in the area of domestic violence have concluded that while women can be violent to their husbands, this violence is not as common as violence against wives and is usually motivated by self defence and is rarely repeated or causes severe injury<sup>19</sup>. It appears, therefore, that while 'husband battering' is a phenomenon which clearly exists and is to be deplored, wives are victimised in the family to a much greater extent and thus deserve to be the focus of the most immediate remedial steps.

While it can be stated with some confidence that wives are the usual victims of violence in the home and husbands are the usual perpetrators, it is unclear what particular wives and husbands are at particular risk. Studies indicate that marital violence occurs in some communities in as many as one in three marriages<sup>20</sup> and it is always asserted that it is class, colour and culture blind<sup>21</sup>, but little is known of the precise prevalence of violence against women in the home in the general population. Further there is little data in the social characteristics, such as age, class, culture, economic status and ethnic background of abused wives and their partners. Evidence of the problem comes from most Commonwealth countries<sup>22</sup> and from all classes and backgrounds, but much of this is unsystematic and anecdotal.

The reasons for this imprecision are varied. Marital violence is very much a hidden problem, the cause of much shame. Even where it is identified, little information is collected, particularly in developing countries. Again, the usual data base on violence against wives tends to lead to conclusions that may be totally inaccurate. For example, there is an overrepresentation in the literature of victims who are economically disadvantaged or who might be described as lower class<sup>23</sup>. Studies from the United States reveal an overrepresentation of victims who are black or in receipt of welfare benefits, while an unpublished study from Nigeria indicates that victims are most likely to be from polygamous households that are economically disadvantaged<sup>24</sup>. Other studies reveal the victims to be younger, rather than middle aged or old<sup>25</sup>. From this limited data, a typical battered woman, who is young, working class and perhaps, if such is available, on welfare, is revealed.

It must be stressed that conclusions such as the above must be treated with suspicion as they may be the result of the available research data, culled in the main from populations in women's refuges, public hospital, social work records and police information, which may lead to skewed information. Women from the middle and upper classes are

less likely to use women's refuges, while public hospitals are used primarily by the economically disadvantaged, with the wealthy able to take advantage of private doctors and clinics who are less open to researchers. Records from social work or welfare files, in general, contain information about less privileged groups who are more open to the intervention of government officials than the upper classes, who are, similarly, able to insulate themselves from the attention of the police. It could be, therefore, that the 'typical battered woman', as described, is a conclusion based on the available visible research material, thus indicating that anecdotal material and small research samples can be crucial to support the assertion that wife battery crosses all barriers of class, culture and colour.

Although it does appear that there is no culture nor level of society immune from the problem, there is no evidence to suggest that violence against wives is distributed equally amongst all groups in society. It well may be that there is more domestic violence in families that are economically disadvantaged or where the husband has received less education than the wife. Nonetheless, despite the variations that exist, all research that violence economic and social structure and appears to have no cultural barriers. Beyond this, all that can be said is that there is no typical abuser or victim, except insofar as the victim is overwhelmingly female and the perpetrator male.

For the purposes of this Manual, therefore domestic violence is defined as violence perpetrated by a man upon a woman exercising the role of wife in the domestic sphere. The definition is not confined to legally married couples, but extends to conve couples who are cohabiting or lovers living apart. It also covers women, such as mothers or sisters, or co-tenants, who may be the subject of violence from male relatives or friends, where the relationship is a non conjugal one. We therefore define domestic violence in such a way that it includes many women in the Commonwealth who are, at present, excluded from the protection of the law. For the purposes of this Manual our definition does not, however, extend to include other forms of family violence, such as child abuse, which is discussed briefly on pages - or abuse of the elderly or disabled within the home, issues which are serious and acknowledged as requiring further study.

Finally, it must be noted that in the literature, violence against women by their partners is termed spouse abuse, marital violence, domestic dispute, domestic violence and family violence. To a certain extent, these terms are misleading because the evidence that exists indicates that the problem is not one of spouse abuse, but wife abuse. The use of neutral terms obscures the issue, hides the connection between wife battering and male supremacy and suggests that women are as much to blame for the violence as men<sup>26</sup>. So also, the term 'battered wives' or 'wife battery' is misleading, serving to shift the emphasis from the instigator to the victim, allowing her to be blamed for the violence and solutions to be sought in her conduct<sup>27</sup>. The issue is one of violent husbands or wife assault or wife abuse and those, although the term "domestic violence" is used in this Manual, it is acknowledged that this term does not accurately, nor adequately, describe the nature and direction of the activity.

c. Incidence, results and causes

It is extremely difficult to estimate the true incidence of violence against women in the household for a number of reasons, the most important being that the problem is largely a hidden one, often denied by communities out of fear that an admission of the existence of the problem is an assault on the integrity of the family. Further, research into the problem is relatively new, so that until recently available information was so incomplete and disorganised as to be functionally useless. This is particularly so in developing countries where gender specific research is relatively uncommon.

Again, current methods of estimating the statistical level of wife battery are problematic as they rely, in the main, on reported incidents of abuse from, for example, police, welfare and hospital records, populations in women's refuges or self-reports from phone-ins or field surveys.

Statistics gathered from police records and other official sources certainly indicate that wife abuse exists, but these statistics notoriously under represent the problem, both because victims are often reluctant to report that they have been violated, for reasons such as shame and loyalty and also because even where the victim does report, that statistic may be lost because the official fails to record the incident or records it in a way which is meaningless for research purposes. Criminal statistics, for example, although they could be a major source of comprehensive data on violence against women in the home, frequently fail to indicate the sex of the victim and the assailant and rarely record the relationship between the victim and the offender<sup>28</sup>. In these circumstances, it is impossible to distinguish wife assault from any other assault and thus, for statistical purposes, it becomes invisible.

Again surveys based on self-reporting also present problems. Women who have been abused may prefer to keep this to themselves, or where they do respond, they may overestimate or, more commonly, underestimate the amount of violence they have suffered. Thus, for example, such women may consider pushes and slaps to be insignificant and fail to mention such violence. Further, the self-report survey may by its method reduce its data base. For example, if the 'phone in' survey method is used, the data base is immediately restricted to those women who have access to a phone and verbal confidence. Frequently, this will exclude women from ethnic minorities from the data base.

Furthermore, surveys, in general, can never claim to be fully representative. They are limited by the definition of violence used by the researcher, they rely on the researcher's perception of interpersonal relations and they often lose claim to be representative by excluding various groups from the data base. Often, for example, surveys are taken of couples who are currently cohabiting, thereby excluding evidence of violence in relationships which have ended, while any survey of a particular population, such as women who have used a refuge, is automatically unrepresentative as those women have themselves already defined themselves as battered.

Notwithstanding these problems, however, anecdotal and other evidence, from all parts of the Commonwealth, makes it clear that violence against women in the home is a serious social problem<sup>29</sup>. In Canada, based on statistics from doctors, lawyers and social workers and police records, it has been estimated that one woman in ten is abused by her partner<sup>30</sup>, while a survey conducted into community attitudes in Australia in 1987 showed that one in five Australians thought that threatening to hit can be justified<sup>31</sup>. Statistics from Papua New Guinea, one of the few developing countries to have comprehensively considered the problem, indicate that in some areas of the country up to as many as 67% of wives have suffered marital violence<sup>32</sup>.

Clearly, the actual extent of violence against women in the home will never be quantified accurately, but it may be concluded that such violence is part of the dynamics of many family situations in both the developed and developing Commonwealth. In short, the research that does exist reveals that women are murdered, physically and sexually assaulted, threatened and humiliated within their own homes by men to whom they have committed themselves and that this is not uncommon or unusual behaviour.

While it is impossible to gain an accurate picture of the actual extent of marital violence, the results of such conduct is relatively clear. At its most basic level, wife battery causes physical injury to the woman which may range from bruising to death. She may often suffer debilitating health and psychological sequelae, studies indicating that battered women report a significantly higher level of anxiety, depression and somatic complaints than women who have not suffered such abuse<sup>33</sup>. They may often exhibit what is called the 'battered woman trauma syndrome', whereby they display a paralysing terror increased by the stress of an ever present threat of attack<sup>34</sup>. Further, battered women are overrepresented among female alcoholics, drug abusers and women who have mental illness and are twelve times as likely to attempt suicide than women who have not been battered<sup>35</sup>.

The adverse consequences of marital violence are not confined to the victim of the abuse. Indeed, the abuser himself may suffer the consequences of his behaviour, a significant amount of research indicating that women who kill their husbands do so more often than not in response to an immediate attack or threat of attack from husbands<sup>36</sup>. Domestic violence is also hazardous for family members or others who seek to intervene, who may be hurt or killed by the abusive man or who may, indeed, injure or kill the man himself.

Apart from the short term consequences of domestic violence, many commentators point to the effect violence against women may have on children. Children in families where the wife is abused run the risk that they themselves may be injured or killed by the abuser if they become involved in an incident of violence, either by chance or in an attempt to protect their mother. Research suggests, furthermore, that wife assault is one of the major precipitating factors in child abuse, children whose mothers are battered being more than twice as likely than children whose mothers are not battered to be themselves abused, whether by their mothers' attackers or their mothers<sup>37</sup>. Again, it is well established that children from homes where there is violence against the

wife suffer significantly more behavioural problems and lack greater social competence than children where there is no such violence. Further, a high proportion of street children report the incidence of marital violence in their family home, while, clearly, where domestic violence leads a woman to leave the home, taking the children with her, the children suffer psychologically, emotionally, socially and economically.

Wife abuse has serious long term consequences. It is frequently asserted that violence in family of origin begets violence, so that children whose mothers were abused by their fathers go on to repeat this pattern when they themselves establish their families. Thus, it is suggested that young men learn to batter their wives from the behaviour of their fathers while young women learn to become victims of abuse because of the response of their mothers. So also, child abuse is frequently seen as learned behaviour and is regarded as more prevalent in families where the mother or father observed or experienced violence in their families of origin.

Certainly, these assertions are surrounded by some controversy, but<sup>38</sup> there is fairly clear evidence that observation or experience of violence in family of origin may be implicated in later violent behaviour unconnected with the home, one study suggesting that observation of parental conflict and violence during childhood 'were significantly predictive of serious adult personal crimes (eg. assault, attempted rape, attempted murder, kidnapping and murder)' in adulthood<sup>39</sup>.

Beyond the vast personal and human costs of domestic violence, lie the social and economic costs of the conduct. Such social costs include stigmatisations of the individual family, social isolation and temporary or chronic economic and psychological dependence of the woman on support groups or the welfare system. The cost to the community in financial terms is enormous, huge sums being spent on police and court services, health and welfare services, women's refugees and social security benefits, one Canadian estimate suggesting that in 1980 alone, Canadian taxpayers and their governments paid at least thirty two million Canadian dollars for police intervention in wife battering cases and for related support and administrative services<sup>40</sup>.

In terms of economic costs alone, violence against women in the home is a serious issue, requiring effective response. Effective and appropriate response depends, however, on determining the cause of the conduct. Many theories have been advanced to explain the prevalence of violence against women in the home. Most presuppose that an erradicable cause can be isolated to explain the phenomenon. Thus, many studies, for example, draw attention to the close relationship between the consumption of alcohol or drugs and violence in the home<sup>41</sup>. Others suggest that violence is often the result of victim precipitation, mental illness, stress or frustration or underdevelopment<sup>42</sup>, while many conclude that most violent men come from violent families of origin<sup>43</sup>.

Recently, however, the overwhelming pervasiveness and acceptability of violence against women in the family has led some scholars to question the validity of explanations based on an external cause. These scholars, predominantly feminists, have concluded that violence against women in the home has its roots in the structure of society itself and suggest that wife battery is a reflection of the broad structures of sexual and economic inequality in society. Their view is that rather than representing an aberration, violence against women in the home is the norm, being merely an exaggeration of the role society expects men to play in their domestic sphere. In this analysis, the abuse of women in the household can be seen as a naked display of male power, the outcome of social relations in which women are kept in a position of inferiority to men, responsible to, and in need of protection by them<sup>44</sup>. These scholars have led us to ask whether the social, political and economic dependence of women on men provides a structure wherein men can justify violence against women?<sup>45</sup>.

It is clear that there is no simple explanation for violence against women in the home. Certainly, any explanation must go beyond the individual characteristics of the man, the woman and the family and look to the structure of relationships and the role of society in underpinning that structure. In the end analysis, it is perhaps best to conclude that violence against wives is an outcome of the belief, fostered in all cultures, that men are superior and that the women with whom they live are their possessions to be treated as they consider appropriate. The collected scholarship that seeks to explain violence against wives indicates that the causes are complex and certainly multifactorial. Nonetheless, any explanation must be seen against a background of gender inequality, wherein the victim of the violence is most frequently the woman and the perpetrator the man and the structures of society act confirm this inequality.

### 3. LEGAL APPROACHES

#### a) Introduction

Throughout the Commonwealth, the problem of domestic violence has been seen as requiring primarily legal solutions, but the policies that those involved in law making and the approaches those within the legal system have pursued when grappling with the issue have not been uniform. In all countries where domestic violence has emerged as a serious issue, those involved in the law have been forced to confront the central question of **whether the penal or criminal justice system is appropriate in the management of domestic violence.**

Two divergent views have emerged in the context of this question. The first is that in the management of violence against women in the home, the criminal law is at best a blunt instrument and at worst, totally inappropriate. Those of this view favour an approach focusing on mediation or conciliation or a model which is welfare oriented or therapeutic and avoid the intervention of the law enforcement process with its accompanying arrest, prosecution and sentencing. The criminal law, they argue if it has a place at all, should be confined to the most serious cases of wife assault, or, in other words, is perceived as a 'last resort'. Those of the second view, on the other hand, emphasise that domestic assault, notwithstanding the fact that it takes place inside the family and occurs between intimates is a crime and demand that such conduct be treated no differently from any other crime.

These two views underpin all legal responses to domestic violence, such responses moving, in effect, along a continuum, at one end of which is a purely welfare or therapeutic response, while at the other end is an approach which advocates criminal sanction in all cases. It is crucial, therefore, to explore the basis of each philosophy.

Forceful arguments can be raised against the use of the criminal law in the domestic context. The criminal law is punitive, rather than rehabilitative. It looks to past conduct and is rarely concerned with future behaviour. It is rare, therefore, for criminal justice systems to provide support and treatment programs that could, for example, teach the man to control his aggression or provide support for the wife. The criminal law depends for its effectiveness on the actors involved in the penal system - the police, prosecutors and judges - all of whom have notoriously failed to perceive wife abuse as a serious, let alone criminal issue and have, thus, refused to intervene, arrest, prosecute and convict. Even in those cases where police, prosecutors and judges do respond, a criminal conviction is not inevitable, perhaps because there is insufficient evidence to carry the burden of proof. If this is the case and the violent man is acquitted, even on a technicality, he will not necessarily refrain from further victimising his wife. Even where he is arrested, prosecuted, convicted and sentenced, this sentence is likely to be trivial, amounting to a fine or a short period in custody. Further, any sentence will penalise his victim and family as well as himself. In all probability, any fine will be paid out of joint family finances and imprisonment may cause financial hardship because he may be the breadwinner or because he may lose employment permanently.

Again, any sanction, whether by fine or imprisonment in no way guarantees the victim's safety. Certainly, where the man is imprisoned, the woman is temporarily relieved from victimisation, but she may well be confronted with an even more violent man on his release.

Finally, those who oppose the use of the criminal law in the context of domestic violence point to the fact that it has the capacity to harm the family disastrously. This they suggest is particularly so in minority populations and traditional societies where a wife would be isolated by her extended family and community and, in all likelihood, the husband's kin would revenge themselves on her<sup>46</sup>.

In short, critics of a criminal justice response to domestic violence point to the limitations of the criminal law as a means of rehabilitation, the current failure of its personnel to act in accordance with its spirit, its technical limitations and the destructive effect it can have on the victim and her family. They then bolster their arguments by pointing to research which reveals that mediation and therapy is highly successful in reducing recidivism in domestic violence<sup>47</sup>.

Against these objections, those who advocate a criminal justice response marshal highly cogent arguments, some going so far as to make the criminal law the central focus of any treatment of domestic abuse.

Criminal justice model advocates are prepared to acknowledge that the criminal process as it currently operates in the context of domestic violence may well be defective. This, they suggest, is a reflection of societal values that have denied the existence of, or trivialised, the problem of violence against women in the home. They point, first, to the symbolic power of the law, suggesting that arrest, prosecution and conviction, with punishment, is a process that carries the clear condemnation of society for the conduct of the abuser and acknowledges his personal responsibility for it. It is a process that indicates that violent crime within the household is as much a crime as violent crime in the street. As such, the criminal process focuses on the interests of the woman, refusing to subordinate her protection to the preservation of the relationship or the maintenance of the family, which, criminal justice advocates argue, is in contradistinction to the counselling/mediation model which downgrades the violence, seeking to re-establish the relationship and preserve the family. Further, they suggest, that mediation schemes and the current neutrality of the criminal justice system subtly encourages violent men and unfairly places blame on the woman for being involved in the violence. Such schemes, they believe, run the risk of removing the responsibility for the violence from the violent man by creating a context in which the woman is perceived as sharing, although perhaps not completely, the responsibility for the violence directed towards her. This may serve to bind women more strongly to existing violent relationships or create personal involvement where none existed previously. Fundamentally, the advocates of criminal justice model are of the view that the criminal model, unlike the counselling/mediation approach refuses to accept or condone any violence against women in the home, places full blame on the man, and thus avoids further victimisation of the woman and creates a general culture in the community wherein violence in the home is condemned.

Certainly, the symbolic and educative role of the law has important implications for the ultimate eradication of violence against women in the home, as the law can shape and change attitudes, but those who advocate the criminal justice response are able, further, to point to research studies which indicate that this approach has practical, as well as symbolic implications. Here proponents rely on mounting evidence which suggests that the involvement of the police in their law enforcement role, followed by prosecution and conviction is not only the most effective mechanism for stopping acts of violence in the short term, but also has a profound effect on the man's future behaviour. In this context research evidence is cited which reveals, first, that arrest with its associated intimidating procedures, both at the scene and at the police station reduces the risk of recidivism in the abuser and second, that a policy of mandatory prosecution has a positive effect in the management of abuse<sup>48</sup>.

The research into arrest and charging over the past ten years has proved highly influential in the development of policies for the management of domestic violence and has resulted in a number of countries, for example Australia and Canada, instituting policies encouraging arrest in cases of domestic violence<sup>49</sup>, such policies generally advocating a presumption of arrest unless there are good clear reasons<sup>50</sup>, while some have gone so far as to introduce mandatory arrest in domestic violence cases<sup>51</sup>. Indeed, the current popularity of the pro-arrest policy had led one commentator to say that the use of arrest has emerged from the debate surrounding the management of domestic abuse as the preferred response of policymakers, police chiefs and feminists<sup>52</sup>. The charging policy has proved to be similarly popular, thus, since 1983 Canadian policy have been directed to lay criminal charges in all cases of domestic violence, even if the woman would prefer to withdraw the complaint<sup>53</sup> a policy which has also been introduced in New South Wales, Australia<sup>54</sup>.

While the criminal model has proved to be popular in the context of violence against women in the family, it is essential that those involved in policy making in this area should take account of the cultural, economic and political realities of their countries. In all Commonwealth legal systems, physical and some forms of sexual and emotional abuse of a woman within a family are crimes. It is impossible, however, to ignore that although they are crimes they take place within the family between persons who are emotionally and financially involved with each other. Any policy which fails to acknowledge the singular nature of these crimes and which is unaccompanied by attempts to provide support for the victim and help for the abuser will be doomed to failure. In other words, any pro arrest or charging policies introduced into a vacuum without complementary changes in the pre and post arrest stage will be ineffective and may be counterproductive. Thus, for example, policy makers considering the abuse management policy of London, Ontario, often cited as a model for domestic violence treatment, where a charging policy exists, must take account of the fact that there the police force, which receives intensive training on how to deal with wife battering, funds a family consultant service that provides a 24 hour crisis intervention service, while a community service exists which includes a battered women's advocacy clinic to provide legal and emotional counselling for women, as

well as a treatment group for men who batter. In short, policies to deal with violence against women in the family must be appropriate to the country context. Reformers should note, further, that certain communities, for example those that are native or traditional, may find strategies based on the criminal model alien and oppressive and be more familiar and receptive to strategies based on mediation and conciliation<sup>55</sup>.

No matter the approach adopted, it is essential that it be applied flexibly, not rigidly and take into account the needs and desires of the woman, not treating her as incidental to the issue. Flexibility is particularly important in multicultural societies, where certain groups of women may have particular difficulties with the criminal justice system. Aboriginal and immigrant women are often distrustful of a country's legal system in general and criminal justice system in particular<sup>56</sup>, a distrust which may preclude such women co-operating in any strategy based on a criminal model. Again, any strategy must be introduced sensitively and explained both to the community generally and those who will be involved in its management. Thus, the police, lawyers and judges must be trained both practically and in terms of attitude<sup>57</sup>.

In the end analysis, it is clear that no policy introduced to deal with the issue of domestic violence will provide all battered women with all the services they require. Important lessons can be learned from jurisdictions which have adopted particular approaches. For example, Canada opted for the criminal justice model, introducing a pro-charging policy in 1983, but this has not always worked smoothly. Police, for example, have in some cases been reluctant to charge, despite the policy<sup>58</sup> and there are reports that women often asked for charges to be dropped after they had been laid. Further, a number of women expressed the view that the policy left them feeling oppressed and helpless, one woman being quoted as saying:

Participation in the criminal justice system wasn't presented to me as a right. It was an obligation. I was made to feel that I was wrong if I wanted any other kind of support or help<sup>59</sup>.

In Canada, further, rigid application of the criminal justice model has on some occasions resulted in the imprisonment of some battered women because they have refused to testify against their abusive spouses or failed to co-operate in the prosecution process in some other way<sup>60</sup>. Again, in Australia, Aboriginal women have indicated an unwillingness to co-operate in any domestic violence policy which depends on the criminal justice system, a system which they distrust and from which they are anxious to protect their men. Perhaps, in the final analysis, the ideal approach is of the Australian Law Reform Commission:

It is not impossible to accommodate both the criminal and the counselling approach. When it is said that domestic violence offenders must be treated in exactly the same way as other offenders it does not necessarily mean that they should inevitably be gaoled. Other offenders are treated by the

criminal Justice System in a flexible way which takes into account many factors in deciding how the criminal process should proceed and what punishment is appropriate to the particular case<sup>61</sup>.

b) The role of the police

Whether a country follows a welfare or criminal justice policy in its approach to violence against women in the family, it is certain that the role of the police will be crucial. Indeed, the important key to a country's response to domestic violence is the response of the police. The police is the only agency that offers the woman a combination of accessibility and the coercive power of the State. In most countries, the only service available to battered women twenty four hours a day and seven days a week, apart from hospital accident units, is the police. Further, unlike other social services, the police force offers an emergency telephone system and comprehensive geographical coverage. Given that many incidents of wife abuse occur in the evening and weekends, when families are together and alcohol is more likely to be consumed, the police can be expected to be one of the first contacts for many women. Evidence exists from throughout the Commonwealth that the police response in the context of domestic violence is, in general, inadequate.

Police are criticised for failing to offer the woman adequate protection from the violent man, underestimating the violence or fear of violence and dismissing some appeals for help because they are of the view that there are insufficient grounds for intervention. They are perceived as placing too great a value on family privacy and marriage rights, at the cost of the woman's right to be free from assault or fear of assault. They are seen as subscribing to the view that the woman probably provoked the violence in some way. They appear to be unwilling to act and show little interest in a case if they do not see it as leading to a successful prosecution and finally, they are unaware of sources of help and support available to the woman<sup>62</sup>.

Studies indicate that the police practice in cases of domestic violence is to attempt to mediate or counsel the parties and achieve reconciliation rather than to fulfil a role of law enforcement. Police, thus, traditionally prefer not to arrest the violent spouse, even though in other cases arrest would be automatic, even where the woman requests arrest, unless there is some other factor, for example, the violence is severe or the man is belligerent towards the police. Mediating, rather than pursuing a role of law enforcement is particularly likely where the couple are married and living together, rather than cohabiting and is the preferred response in parts of the developing Commonwealth<sup>63</sup>.

A number of factors lead to the police responding in a peace-keeping, rather than law enforcement role in the context of domestic violence. First, recruit-training frequently categorises violence in domestic circumstances as a social, rather than criminal matter. Second, police-officer experience in cases of domestic violence is often frustrating. For example, despite routine beatings, victims remain in violent relationships and even refuse to assist in the prosecution of their abusers, leading police officers to explain their

failure to act as law enforcers as the result of the reluctance of victims to press charges in the initial phases of the investigation and their subsequent failure to give evidence in court. Police, generally unaware of the dynamics of abusive relationships and thus not attuned to the woman's feeling of dependency, fear, responsibility for the children and general helplessness, may quickly conclude that the woman enjoys the abuse and is merely seeking attention<sup>64</sup>. Third, police, like many others in the community, see family violence, which provides them with some of their most dangerous and least liked work, as a normal feature of domestic life, which they consider should not be part of police work at all. In some situations, further, the police may merely reflect the societal view that a man has the right to beat his wife.

There is no doubt that the police role in domestic violence is ambiguous and the task very difficult. Much of this is due to the fact that in most countries there is no clear view as to whether wife assault is criminal activity or whether it is a private family matter, perhaps requiring counselling. This confusion operates to colour the response, not only of the police, but of other actors in the legal system: prosecutors, crown attorneys, magistrates and judges. Ultimately, the ambiguity colouring police response will be resolved only where domestic violence is clearly condemned by the whole of a society. In the short term, however, much of the difficulty confronting the police in this context is remediable.

Poor police response results, to a certain extent, from inadequate or unclear police powers, such as power of entry, power to arrest and power to release on bail. Again, police ineffectiveness is exacerbated by lack of clear police policy, which leaves the individual operational officer with an open discretion to act in particular cases, while the low priority given to training officers about domestic violence, the needs of the victim and the importance of appropriate police response is neither helpful for those who are battered nor officers themselves. Before moving on to consider the legal approaches that have been used in the Commonwealth to confront violence in the family, police powers of entry onto private premises in cases of domestic violence, police powers to arrest the suspected offender, the release of the suspected offender on bail and police training are reviewed.

(i) Police powers of entry

Throughout the Commonwealth, the power of the police and others in authority to enter the private premises of an individual is limited. This limitation, enshrined in national, regional and international human rights documents, is an important guarantee which protects the lives of ordinary women and men from arbitrary State interference. In the context of domestic violence, however, too great adherence to this guarantee can protect the violent man at the expense of the woman.

In most Commonwealth countries, police powers of entry onto private premises are limited to cases where they have reasonable grounds to suspect that a breach of the peace is occurring, is about to occur or they have been issued with a warrant. An actual or potential breach of the peace cannot reasonably be suspected in circumstances where there is

no indication that an assault has or is about occur. In the typical case, police will be called to a case of domestic violence by a family member or a neighbour and they will be met by a member of the household who will tell them that no violence is occurring or has occurred. In the absence of a warrant the police, unless invited in or able to justify their suspicion that a breach of the peace has occurred or is about to occur, by, for example, noise of indications of injury, will have no right to enter. If they enter by trick or force, they may face consequential legal suit from the occupier or a disciplinary hearing within the force.

Some jurisdictions, alive to the dangers that the usual restrictions on police powers of entry can have where domestic violence is concerned, have introduced special strategies. Thus, a number of the Australian States have introduced legislation to clarify and extend police powers of entry to investigate offences of domestic violence. Legislation in New South Wales, Tasmania and the Australian Capital Territory allows the police to enter if requested to do so by a person who apparently resides on the premises or where the officer has reason to believe that a person on those premises is or may be under threat or attack or has recently been under threat or attack or an attack on such a person is imminent<sup>65</sup>. In simple terms, this means if, for example, a child who appeared to live on the premises asked the police officer into the home, the officer would not need to hear or see evidence of breach of the peace and would not require a warrant for entry to be legal. One State, moreover, facilitates police entry into suspect premises by allowing an entry warrant to be acquired over the police radio telephone<sup>66</sup>. The procedure for obtaining a telephone warrant is detailed and, in practice, these warrants are rarely used, the highest number of such warrants being applied for between 1983 and 1987 being eight<sup>67</sup>, but their availability must make it easier for police to secure entry by invitation.

#### (ii) Powers of arrest

After gaining entry, the police may wish to make an arrest. In cases of domestic violence, arrest not only provides immediate protection for the victim, but decides the important policy question raised by such cases, that being whether the issue is a criminal or social welfare one.

As with the question of powers of entry, and again as an essential protection for individual civil liberties, the power of the police to arrest, although varying from jurisdiction to jurisdiction, is controlled, being confined, usually, to matters of some urgency. In most Commonwealth countries, unless the offender has committed or is in the process of committing a breach of the peace or there is a danger that further breaches of the peace or offences will occur, a police officer must have a warrant to arrest. In some jurisdictions, furthermore, arrest is discouraged, proceedings by summons being favoured.

The question of whether an officer has the power to arrest in a given jurisdiction is a technical one. Suffice it to say, although the power to arrest for a domestic crime is the same as for any other crime, officers are often uncertain as to their legal powers and this is the case even in cases of very serious violence.

Many commentators argue that the police should be given special powers of arrest in situations of domestic conflict and that they should be mandated to implement these powers. They believe that arrest not only provides the woman with immediate safety, but gives her a feeling of power, leaving the man with an immediate message that his behaviour is unacceptable, a message which is said to have long-term effects on his future behaviour (see p. 14). Further, they argue, that arrest of the offender gives the woman a period of time when her spouse is absent which allows her to sort out her options as to the future.

In essence the central question here is that of the purpose of and justification for arrest. The most radical advocates for mandatory arrest in domestic violence cases argue that arrest is a means of deterrence, a "short, sharp shock" to modify the man's behaviour<sup>68</sup>. Opponents, on the other hand, suggest that to use arrest in this fashion not only infringes human rights guarantees, but also punishes the batterer before his guilt is proven.

It is unusual for the police to be mandated to arrest in cases of domestic violence. However, in a number of Commonwealth countries, police powers to arrest have been clarified so that officers are no longer confused as to their powers. Thus, for example, in England, the London Metropolitan Police issued a force order in June 1987 which encouraged the use of arrest in domestic violence cases, while policies in Canada and Australia have been described on page 14. In a number of jurisdictions, moreover, civil injunctions have been introduced to protect victims of abuse and it is common for a power of arrest to be attached to such an injunction where it is breached (see page 29).

Nevertheless, even in jurisdictions where police are encouraged to arrest or their powers to arrest have been clearly spelled out, it is not uncommon for officers to prefer to mediate rather than arrest. Thus, for example, in the United Kingdom where legal powers of arrest are frequently attached to civil injunctions, police prefer to mediate.

In the end analysis, whether the police arrest in cases of domestic violence is a reflection of force policy, which, in turn, is a reflection of wider societal attitudes. If the wider community perceives domestic violence to be a crime and this is reflected in prosecution policies and judicial sentencing patterns, police training will reflect this and officers will be more inclined to arrest. Whether an officer arrests can also be affected by social pressure, campaigns and vigilant response from activists where arrest powers are not used. In this context, two cases from the United States are instructive.

In the first, Bruno v Codd<sup>69</sup>, 12 New York City women who had been beaten by their husbands sued the Police Commissioner and others for failing to provide them with protection against their abusive husbands. Specifically, they objected to the implementation of the New York Family Court Act 1962, which had empowered the Family Court to issue injunctions to battered women whose husbands had been violent against them. The maximum penalty, rarely imposed, for violation of the orders was six months imprisonment. Police routinely refused to arrest the husband unless the wife secured a Family Court Order; however, the Family Court refused to issue such orders. The Manhattan Supreme Court

refused to dismiss the suit against the Police Commissioner and ultimately the Police Department entered into a voluntary arrangement with the women to treat wife abuse in the same manner as any other assault, and to remain at the scene of the attack long enough to stop the violence and to secure any necessary medical treatment for the woman.

A similar action was taken in Scott v Hart<sup>70</sup>, where four women sued on behalf of a class of married and unmarried women in Oakland, who, when they telephoned the Oakland Police Department for assistance and protection against physical abuse from the men with whom they were involved received either no response or one that was inadequate. This, they argued, discriminated on the basis of sex, encouraged violence and was based on assumptions that what a man does in his home is not the State's business and that a man had a legal right to punish his wife. As in the first case, the Police Department entered into a settlement with the women wherein it guaranteed that domestic violence would be treated like any other criminal behaviour and the police discretion not to arrest would be curtailed. This case also proved to be effective in putting pressure on agencies to change their policies in the area of domestic violence. Training programs were introduced for police, large sums were given to provide shelter for women and a Battered Women's Resource Card, explaining the legal rights of battered women and resources available to them was designed so that it would be carried by police and issued to women at risk.

### (iii) Bail

In most Commonwealth countries, a person who has been arrested has the right to be released on bail either by the police or by a judicial officer. Frequently, he will be required to lodge a sum of money or produce a person to act as surety, promising to forfeit a sum of money if the arrested person does not appear.

In many cases of domestic violence, immediate release of the offender may be dangerous for the victim and, certainly, release of the offender, without prior warning to this victim, may have serious consequences for her.

The offender's right to bail is an important part of his civil liberties, but his right to release must be weighed up carefully against the right of his victim to be safe. A number of Australian jurisdictions attempt to strike a balance between the interests of the offender and the victim by allowing conditions which are designed to protect the victim to be attached to the release of the offender. In New South Wales, for example, a special bail form, providing a pro forma for conditions which may be imposed on the person to be released, is used by police in cases of domestic violence. Hence, the offender can be released on condition that he does not drink alcohol or approach his spouse, while bail may not be granted where the offender has previously broken protective bail conditions, unless the person granting bail is satisfied that the conditions will be complied with<sup>71</sup>. Legislation in New Zealand has wider effect, providing that in cases of sexual violation or other serious assault or injury, the prosecutor should convey to the judicial officer any fears held by the victim about the release on bail of the alleged offender<sup>72</sup>.

(iv) Training

Domestic disputes provide the police with a large part of their work. This work is unpleasant, difficult, sometimes dangerous and always stressful for police officers. To a large extent, also, legal intervention ranging from initial arrest to enforcement of orders that may be issued by a court depends on the action of the police. However, very few countries provide specific training for police on the subject of domestic violence, or if they do so, this training is inadequate.

To an extent the effectiveness of police intervention depends on the personality and maturity of the individual operational officer, but training at all levels can help to change police attitudes to domestic assault and can also alert officers to operational techniques which can be helpful. Police must be made aware that domestic violence is a serious issue which is neither a normal part of family life nor a private problem that will not profit from police intervention. Operational training should encourage officers to refer the victim to support services, such as medical and legal services and women's refuges.

Some Commonwealth countries have introduced police units that have been specially and intensively trained for the purpose of dealing with spousal assault. These units, which are sometimes multi-disciplinary and include social workers, testify to the commitment of those countries to battered women, but such units are beyond the resources of many countries and may not be appropriate in all situations. Small communities may find that the establishment of a special unit is too expensive, while large communities may find that it is impossible to provide sufficient specialised units to cater for the demands of the community. Care must also be taken where these specialised units are established that training in domestic violence is still given to all police officers, and not just the specialised officers, as in most countries officers are sent to calls on a random basis and not in accordance with special knowledge. It is common, further, for training in issues directly related to women to be confined to female officers. This can be dangerous, also, as there is no guarantee that the operational officer at the time of a domestic violence offence will be a trained female.

Allied with the question of training for police officers is the issue of appropriate record keeping. Much research indicates that police officers, perhaps as a reflection of their attitudes to wife assault, either fail to record the fact that they attended the scene of domestic violence or if they do so, the record is inadequate<sup>73</sup>. Adequate record keeping is essential for successful prosecution, important to increase our knowledge of domestic violence and indicates that the problem is viewed seriously. While training should instil the importance of record keeping into officers in the long term, in the short term, the goal of accurate record keeping can be achieved by devising a form to record such offences, which officers could be mandated by legislation to use.

c) Current Legal Strategies

Although the legal response to domestic violence throughout the Commonwealth varies from country to country, a common pattern of remedies can be discerned:

- \* Most countries allow for **divorce and judicial separation**, remedies which may well be the principal responses to domestic violence, but which are, of course, applicable to married spouses only.
- \* All countries in the Commonwealth provide that physical assault between spouses is as criminal as if such activity had occurred between strangers. In all countries, **criminal prosecutions** may be sought by the state or by the victim.
- \* **Quasi criminal** remedies (actions midway between civil and criminal law) derived from breach of the peace provisions exist in most Commonwealth jurisdictions. Their potential as a remedy for domestic violence has been developed in some jurisdictions.
- \* **Injunctions** are available in all Commonwealth countries as ancillary proceedings to a matrimonial cause or a civil action. A number of countries have, however, gone further and enacted special legislation so that injunction proceedings can be taken independently of other proceedings. This is in order to provide protection for women who are the subject of domestic abuse.

Each of these remedies is discussed in the sections that follow.

(i) **Divorce and judicial separation**

Ending a marriage through divorce or judicial separation is the most basic remedy for domestic violence in circumstances where the parties are married. The law relating to matrimonial causes differs from country to country and, sometimes within a country from group to group, thus it is impossible to give a short description of the grounds for divorce and judicial separation which exist in the Commonwealth.

In general terms, however, three varieties of marriage law exist. The first is the general law, based on a European model, such as the English common law, Roman law or Roman Dutch law. The second is customary law and the third is religious law, such as derived from Islamic law. A short description of matrimonial law is complicated further by the fact that in some countries, parallel systems of legal regulation exist. For example, in Malaysia, Muslims are governed by Islamic law, certain indigenous groups are governed by customary law, while the balance of the population is governed by general law principles derived from English common law<sup>74</sup>. In the countries of Commonwealth Africa, plural matrimonial causes law exists, so that some are governed by customary principles, others by principles derived from religious law and others by general law principles<sup>75</sup>.

Despite the legal pluralism matrimonial causes law throughout the Commonwealth exhibits, it is possible to make some generalised comments about the availability of matrimonial relief in cases where there is violence against women in the home.

Where a couple's marriage is governed by a customary law regime, marriages can be dissolved, but such dissolution is discouraged and is a matter between the families of the couple who will first attempt to reconcile them. This is particularly so on customary systems where dissolution of marriage will oblige the woman's family to return the bride price which has been paid by the husband<sup>76</sup>. Although dissolution will be discouraged, persistent cruelty by the husband will be accepted as grounds for dissolution of a customary marriage<sup>77</sup>. Dissolution of a customary marriage may not be allowed, however, for minor physical cruelty or emotional abuse. Similarly, in those jurisdictions where marriages are governed by religious law, a woman who has been treated with cruelty by her husband can divorce him<sup>78</sup>.

The general law governing divorce and judicial separation throughout the Commonwealth appears to fall into one of three models. The first allows for divorce where the other party is guilty of some fault, the second allows for divorce where the marriage has broken down irretrievably and there is some evidence to show this, evidence which is usually very like fault, and finally, divorce where the marriage has irretrievably broken down either because the parties assert that it has or because they have separated for a period of time which is taken to prove this breakdown<sup>78</sup>. In jurisdictions which follow the latter two models, any woman who wishes to divorce her husband for physical, emotional or sexual abuse, will have no difficulty in achieving her aim. Where the law fits into the first model, however, she may face difficulties.

In some Commonwealth jurisdictions, legislation will only allow a woman to divorce her husband where he has changed his religion and gone through a form of marriage with another woman; where he has been guilty of incestuous adultery or bigamy with adultery where he has married another woman; where he has been guilty of rape, sodomy and bestiality or adultery coupled with desertion without reasonable cause for two years<sup>80</sup>. A man, on the other hand, need only to prove that his wife is guilty of adultery.

Most Commonwealth countries retain the decree of judicial separation, which relieves the petitioner of the duty to cohabit with her husband, but does not involve her in divorce<sup>81</sup>. This decree is usually allowed on the same grounds as divorce, so that a married woman who was the subject of domestic abuse could obtain such relief.

The fact that a woman who is the subject of domestic maltreatment may proceed for divorce or judicial separation may be a hollow solution to her. First, legal separation and even divorce do not guarantee that the woman will be protected from violence, a number of studies reveal that a woman may well be victimised by her ex husband after divorce<sup>82</sup>. Second, many women who are the subject of domestic violence are not married or if they are they may not wish to separate from or even divorce their husbands. Their priority is to end the

violence in their relationship, not the relationship itself. Further, a woman may shun matrimonial relief out of shame, because divorce is culturally and socially unacceptable or in order to keep her family together or maintain her and her children's standard of living. Finally, even in cases where she wishes to end the marriage she may face legal obstacles.

Except in those jurisdictions where divorce is available on assertion of breakdown or on proof of separation, the petitioner will have to show that grounds for divorce exist. In these cases, the burden of proof is on the petitioner and this burden must be carried to the satisfaction of the judge. This may be a difficult task where the judge is dedicated to the concept of the sanctity of marriage or is of the view that a husband has the right to discipline his wife. In simple terms, the marriage will not be dissolved even in cases of domestic violence if the judge is of the opinion that the battered woman's circumstances do not indicate that her marriage should be brought to an end.<sup>83</sup>

In some countries, furthermore, couples who wish to divorce must attempt to reconcile before the courts will countenance an application for divorce. In Malaysia, for example, it is compulsory for couples to attend reconciliation sessions where certain ground for divorce are relied on<sup>84</sup>. A woman who has been the victim of abuse in such a jurisdiction is in the unhappy situation, when she decides to end her marriage, of having to meet with and attempt to agree with her attacker before she can separate from or divorce her husband. Finally, in many jurisdictions a divorce petitioner has to await the elapse of a time bar before divorcing or separating from her husband. Effectively, this may keep a battered woman bound to the man, unless she can prove her circumstances are exceptional for, in some cases, up to five years<sup>85</sup>.

#### (ii) Criminal law remedies

In all Commonwealth countries all forms of physical domestic violence and some forms of emotional abuse such as threats of physical injury and demands for dowry<sup>86</sup>, are crimes, as a man is not entitled, by reason of marriage or cohabitation, to inflict violence upon his wife.

In principle, therefore, the criminal law may be invoked in the form of a state or private prosecution<sup>87</sup> against a violent spouse for common assault, assault occasioning actual bodily harm, assault occasioning grievous bodily harm, unlawful wounding, manslaughter, murder or any other criminal act<sup>88</sup>. In some Commonwealth countries, furthermore, new criminal legislation has been introduced to meet the challenge of certain objectionable conduct. Thus, for example, India and Bangladesh have passed statutes establishing severe criminal penalties for those who are violent in the context of dowry. In the majority of Commonwealth countries, however, it is not a crime to rape or sexually assault a woman to whom one is married and from whom one is not legally separated<sup>89</sup>.

In practice, the criminal law has proved to be of little assistance to the victim of domestic violence. Traditionally, the police have been blamed for the gap between the victim's abstract legal

rights and her remedies in practice. The courts, also, have been criticised for their reluctance to view violence between spouses as a crime comparable to crime between strangers and for their willingness to accept the premise that traditional criminal law is inappropriate in the context of intimate relationships.

The appropriateness of the criminal justice system to and the role of the police in the context of family violence have already been canvassed, and the response of the courts and their personnel will be addressed shortly. At this point it is important to remember that the criminal court is concerned primarily that the guilt of the offender be established beyond all reasonable doubt and for this purpose cogent evidence will be required.

Crimes against intimates present serious evidentiary difficulties. Domestic violence usually occurs in private, so the victim will often be the only witness. Her evidence will, therefore, be crucial in proving the guilt of the accused. In many situations the victim will continue to live with or, at the very least, be in contact, with the offender until the trial occurs. She is, thus, susceptible to threats and pleadings encouraging her to withdraw her complaint or fail to give evidence when the charge is heard.

Common wisdom suggests that a disproportionate number of women withdraw criminal charges against their spouses, wisdom which is often offered to justify inaction on the part of the criminal justice system in cases of domestic violence. Studies indicate that there is no greater withdrawal of charges by wives than any other crime victims<sup>90</sup>, and some jurisdictions have introduced changes in prosecutorial policy to circumvent any problem of this nature that might exist. In Canada, New Zealand and some of the states and territories of Australia, therefore, police and prosecutors have been instructed to proceed with domestic violence cases as though they were cases between strangers, even in situations where the woman indicates that she would prefer the case not to proceed<sup>91</sup>.

In some Commonwealth countries, criminal prosecution of domestic violence is seriously hampered because wives are precluded from giving testimony against their husbands or, if they are allowed to give such testimony, they need not do so if they do not wish to. In legal terms, wives are often incompetent to testify against their husbands, or if competent are not compellable.

In those jurisdictions where wives are not competent to testify against their husbands, evidence of violence sufficient to convince a criminal court will be almost impossible to obtain. If she is a competent, but not compellable witness, her husband may be able to convince her to refuse to testify. In a number of Commonwealth jurisdictions, including England, Canada and most Australian states<sup>92</sup> legal provisions have been introduced to make the wife a compellable witness either in all cases or in domestic violence cases only, thereby putting her in the same position she would be in were she not married to the defendant. In most cases, the legislation allows a wife to be excused if she can show that the circumstances are exceptional and she can show she has not been intimidated.

Reforms such as the pro-charging policy and those that make a woman a compellable witness serve to remove some of the important technical difficulties that stand in the way of a successful criminal action. Even with these strategies, however, it is difficult to obtain a conviction in any criminal action, a difficulty compounded in the context of domestic violence. It should be noted, furthermore, that legislative reforms such as those making wives compellable witnesses are not necessarily effective. Thus, for example it has been suggested that in some jurisdictions, judicial officers have undermined the provisions by allowing many women to be excused from the obligation<sup>93</sup>. Moreover, even if the woman is a compellable witness, there is practically nothing that can be done to force her to testify, although recalcitrant women have been imprisoned for contempt of court in Canada<sup>94</sup> and England.

Because of the difficulties of obtaining criminal convictions in domestic violence cases, many Commonwealth jurisdictions have sought other legal solutions for the problem of domestic violence. While most jurisdictions have turned to the civil law for such solutions, a number have developed quasi-criminal remedies to confront the issue.

### (iii) Quasi Criminal remedies

In most Commonwealth jurisdictions, there is a procedure whereby someone can complain to a magistrate or a justice that violence has taken place and the violent party is then requested to enter into an undertaking (recognizance), with or without a pledge of money to keep the peace or to be of good behaviour. This remedy, often called a "bind over" is usually available in proceedings commenced by a complainant who has "just cause of fear that another will...do 'him' some corporeal hurt"<sup>95</sup>. If the undertaking is breached, the offender forfeits a specified sum of money or he may be imprisoned. Essentially, the remedy lies between the criminal and civil law. The process is criminal, but the standard of proof is lower. Binding over can occur before any actual violence has taken place and thus it has particular potential in the context of violence in the home.

In most countries, this remedy has not been exploited in the domestic context as it has been seen to be of limited usefulness in its current form because the offender cannot be excluded from the home and the court is unable to attach any conditions to regulate the conduct of the perpetrator. Moreover, commentators have questioned the effectiveness of this process in providing future protection for a victim of domestic violence, pointing out that enforcement for breach requires a further court hearing, brought by the original complainant and not by the police, in which the judge or magistrate has limited coercive powers. They suggest, further, that it may be difficult to identify or prove a breach of the original order because of the vagueness of the expressions "keep the peace" and "be of good behaviour" and argue that the peace complaint may be of limited use in situations of harassment falling short of actual violence<sup>96</sup>.

Despite these criticisms, the "bind over" may provide some women with appropriate relief, particularly in those jurisdictions where there is no special domestic violence legislation. Further, legislatures may find it easier to modify the existing "bind over" procedure so as to provide a remedy for women, rather than initiate completely new processes.

Law reformers in Australia, for example, recognised the potential of the breach of the "bind over" process in domestic violence. Some jurisdictions, therefore, modified and strengthened the existing process to make it more applicable to such cases, while others, although taking their inspiration from the "bind over", introduced a procedure aimed specifically at domestic violence. These procedures have been called "protection orders".

The legislation governing protection orders in Australia varies from jurisdiction to jurisdiction<sup>97</sup>. Thus, there are differences in the individuals who are able to apply for protection orders, the definition of domestic violence differs, as does the criteria and procedure for obtaining orders and the types of orders available. In general terms, however, the Acts provide for a court order, obtained on the balance of probabilities, protecting the victim against further attacks or harassment. Breach of the order is a criminal offence and police may arrest, without warrant, a person who has contravened a protection order. The man does not have to be present in court and the order is granted if it is shown that it is more probable than not that he caused or is about to cause damage. Orders that can be made include forbidding the offender to approach the woman and limiting his access to premises, even the matrimonial home that he legally owns.

Protection orders appear to offer the victim of domestic violence a viable response for her situation. Procedures for obtaining the orders is quick and cheap and the enforcement process is effective. The order can be specifically tailored to deal with the woman's particular situation and is not confined to conduct which is classifiable as "criminal" or "tortious". Response to the orders has, however, been mixed.

To a great extent, the usefulness of protection orders depends on the police and magistrates. Except in those cases where the obtaining of the order acts as a deterrent, the order is useless if not properly enforced. In one Australian jurisdiction, the police have been quick to see the advantages of the order and have been vigorous in their pursuit of it<sup>98</sup>, while in some others they have not been so helpful<sup>99</sup>. Police response can be best assured by training and involving them very early in an initiative. In some jurisdictions, victims have tended to view the orders negatively<sup>100</sup>, although in others they have been enthusiastic and sought orders on their own behalf<sup>101</sup>. Legal and welfare workers have been responding positively to the orders, seeing them as a necessary complement, but not a substitute, for the criminal law, providing victims with a "softer" response than immediate criminal prosecution, but nonetheless, providing the offender with a clear warning<sup>102</sup>.

Despite mixed response to the orders, no Australian jurisdiction has sought to dismantle the legislation. Indeed, New South Wales has amended its legislation a number of times, extending the availability of the order beyond spouses, initially, to those who share or have shared a common residence with the offender, thus acknowledging the fact that siblings, parents and others in intimate relationships may be the subject of abuse and, ultimately to any person fearing violence from another, thereby rendering the order of general application. Moreover, NSW evaluated the impact of the legislation from its introduction in 1983 to 1988.

The evaluation revealed that the number of domestic violence matters being dealt with by the police and the courts had increased markedly since the introduction of the legislation. The police appeared to be increasingly responsive to the issue and the community had become aware of the relevant legislative provisions. Indeed, while only 22 protection orders had been sought by the police on behalf of victims in 1984, 270 had been sought in 1987. Further, this had not been at the expense of criminal proceedings, as there had been an increase of police prosecutions in domestic violence cases from 485 in 1984 to 1,088 in 1987. Again, the proportion of police, rather than the women laying charges had increased from 56.3% in 1980 to 86.7% in 1987<sup>103</sup>.

It is clear that strategies in the nature of protection orders offer significant possibilities in certain cases of domestic violence. Like other legal strategies, however, they do not provide a solution for all cases. Unlike a criminal conviction, a protection order does not immediately penalise the offender. Arrest and prosecution will follow only in those cases where he repeats his conduct. Clearly, such an order will be ineffective in those cases where the offender has no respect of the law and where he is extremely violent and unpredictable. Moreover, legislation on these lines will be ineffective where the police and the courts have not been sensitised to view domestic violence seriously.

#### (iv) Civil law remedies

Law reformers in many countries have responded to the general concern with violence against women in the home by improving civil, rather than criminal, remedies.

Most legal systems provide an aggrieved person with personal remedies at civil law for any wrong that has been done to her or him. Thus, if a person is assaulted by another, in any context, she or he can proceed against the attacker at civil law, tort or delict, for monetary compensation. In principle, therefore, a wife is able to bring an action in tort or delict against a husband who assaults her or commits any other civil wrong against her. However, in a number of Commonwealth countries women are denied this right.

In some countries of the Commonwealth women are considered to be perpetual minors and must sue under the guardianship of a man, their father or brother if they are unmarried, or their husband if they are married<sup>104</sup>. This effectively serves to block off any claim by such women in the context of domestic violence. In other systems, although women are fully competent to bring legal actions, they are denied the right of bringing actions against their husbands, as husband and wife are viewed as one and for one to sue the other would be to sue oneself. Finally, even in those systems where a civil suit is allowed between spouses, actions can normally be stopped by the court if it does not consider that any benefit will arise from the litigation<sup>105</sup>.

Apart from the difficulties thus presented, it is questionable whether much benefit can be gained from suing in tort where domestic violence is concerned. The object of such an action is financial compensation that must be provided by the defendant. There is thus no

therapeutic or punitive aspect to the action, beyond the fact that the offender will suffer financially. Unless the defendant was possessed of financial resources which were independent of the resources used to maintain the woman or the rest of the family, there would be little to gain from such an action as, in general terms, it would serve only to reduce the finances available to maintain the family.

Financial compensation for victims of domestic violence is not only available in civil actions, but is also available under government funded criminal compensation schemes that exist in some Commonwealth countries. Unfortunately, these schemes are often of limited value to battered women because compensation is usually available only where certain preconditions are met. Thus, for example, the scheme in the United Kingdom excludes claimants who continue to live with their assailants and claimants who fail to co-operate with the police, while schemes in other countries incorporate a blanket provision excluding the availability of compensation in cases of domestic violence. Some battered women have, however, benefitted from compensation schemes of this nature. In Australia, for example, a woman who had been the victim of long term violence from her former cohabitant and now suffered from anxiety, symptoms of panic, insomnia and nightmares, was awarded \$A 45,000 under such a scheme<sup>106</sup>.

Civil law remedies are not confined to compensation. Commonwealth legal systems provide a remedy that is known variously as an injunction or an interdict, which is used to support a primary cause of action. Thus, for example, an injunction or interdict can be granted to stop the sale of a house, the ownership of which is in dispute or to direct an individual to desist from conduct which is classified as a nuisance. Where domestic violence is concerned, an injunction or interdict can be granted as incidental or ancillary proceedings for divorce, nullity or judicial separation or other civil proceedings, such as assault or battery. Such incidental relief, for example, could take the form of an order directing that the husband refrains from making contact with his wife or that he vacates the shared matrimonial home.

In many Commonwealth countries, injunctions or interdicts can only be awarded in this incidental fashion. In other words it is not possible for a woman to get a court order ordering her spouse not to molest or harass her unless she also applies for primary or principal relief, such as a divorce, or sues him for a civil wrong. In these countries, which include Malaysia<sup>107</sup>, while it is possible for a woman to acquire an order preventing her spouse from interfering with her from the courts, the circumstances in which the remedy is available limits her protection to situations where she wishes to apply for matrimonial relief. If she prefers not to seek such relief she is without remedy.

Some Commonwealth jurisdictions have enacted legislation removing the requirement of application for principal relief and allow the woman to apply for injunctive relief independently of any other legal action. These jurisdictions include Australia, Hong Kong, Jamaica, St Vincent and the Grenadines, the Turks and Caicos Islands, England and Wales, Scotland and New Zealand, Northern Ireland and various of the provincial jurisdictions of Canada<sup>108</sup>. Naturally, the legislation that has been introduced differs from jurisdiction to jurisdiction. However, they do display similar characteristics that can be described and discussed.

In general terms, two sorts of orders can be given to the woman by the court. The first prohibits the man from molesting or harassing her, terms which have differing definitions and are usually subject to judicial interpretation, but have been held to encompass threats, constant following, telephone calls and contact. The second, variously called an "exclusion", "eviction" or "ouster" order is more draconian, providing that the man can be excluded from a part or all of the matrimonial home, or under certain statutes, the area in which the home is situated, even if he legally owns it. The orders are usually supported by a provision entitling the police to arrest the man, without warrant, if he breaches the order. Here, under some statutes, a power to arrest is automatically attached to the order, in others this is a matter of judicial discretion, or is only available if the victim requests the attachment of an arrest provision. New Zealand's provision is unusual. There if the man breaches the order he is arrested and compulsorily imprisoned for 24 hours, a provision that has been criticised as amounting to a violation of the man's rights in that he is denied the right to appear before an adjudicatory body and is so held guilty without trial<sup>109</sup>. Penalties on arrest are also various, but the ultimate is imprisonment.

The aim of the injunction procedures is to provide the woman with a short term measure which falls short of a criminal sanction where she has been, or is potentially, the victim of domestic assault. The remedy has a number of advantages in this context. The legislation indicates unequivocally to the man that his behaviour is unacceptable and it usually provides the Police with effective power to act if the violence reoccurs. Generally, also, the legislation allows orders to be applied for in the absence of the attacker and in an expedited fashion.

The legislation and its implementation are not, however, without problems. Very often, the remedies are limited by the statutes that authorise them. Some countries continue to allow the remedy as an ancillary process only, and in some countries the coverage of the legislation is not universal. The Malaysian provision, for example, is not available to Muslim or aboriginal women, who must depend on their own personal laws for relief. Some statutes limit their effectiveness by their definition of abuse. Few, for example, include emotional, psychological or sexual abuse. Again, the statute may apply only to certain relationships. It may apply to married couples only, require parties to be adults, be confined to those who are in a sexual relationship or those who are or have lived with each other. This excludes large sections of the population from the remedy and these exclusions may well be arbitrary. For example, most statutes exclude couples who have never lived together, thereby ignoring the reality that some couples have longstanding relationships and, possibly, children, but have always lived separately. Many statutes do not cover divorced couples, again failing to recognise that incidents of violence are very common between divorced couples, often occurring on occasions where the man seeks to exercise access to his children<sup>110</sup>.

The procedures required by the legislation may similarly limit access. There may be a court filing fee and the procedures may be too complex for a lay person who may be forced to seek legal assistance. Here the woman may confront further difficulties. Legal assistance may

be scarce or expensive, or if available, lawyers may not be aware of the remedies. Legal aid may not be available in the jurisdiction or if it is, the woman may be disqualified from it because her eligibility may depend on the level of her husband's income. Finally, sanction procedures may not be clear or strong enough.

Protective injunctions, like all other legal remedies used in the context of domestic violence, depend, ultimately, for their effectiveness on the co-operation of the official actors involved. Here again, the role of the police and the courts is critical. This can be seen particularly in the case of England and Wales. There extremely comprehensive, albeit complex, legislation exists to provide women with injunctive protection but police and judicial response has been disappointing, thus weakening the scheme. Police are often unaware of the existence of protection orders and reluctant to intervene even if they are aware of them<sup>111</sup>. Furthermore, judges and magistrates are usually unwilling to grant non molestation orders that last more than three months and are extremely reluctant to exclude a man from his home unless there is evidence of severe violence<sup>112</sup>.

#### (v) Conclusion

In many Commonwealth countries, laws to protect women who are the subject of domestic violence are technically in place. At every level, however, the implementation of the law is fettered by the attitudes of those involved in the legal system: the police, prosecutors, judges and magistrates. Throughout the system, there is reluctance to intervene in the family unit, a reluctance that reflects the twin ideologies of the sanctity and privacy of the family.

Like police, prosecutors, tend to view their role in cases of domestic violence as one of mediation, rather than prosecution and they will often to seek to pressurise a woman into dropping her complaint or they will attempt to divert her case to a civil or family court.

To a large extent, also, the protection of women depends on the reaction of judges. Judges have the ultimate legal authority in the legal system. If they place credence on pleas of provocation based on "flightiness" or "nagging" or trivialise family violence by sentencing lightly, they reinforce dominant ideologies and the victim will receive neither protection nor justice. The individual man will perceive his behaviour as insignificant or even justified, he will continue to abuse and the community will continue to view domestic violence as acceptable. The success or failure of innovative legal strategies also depends on the judiciary. Very often legislation is open to interpretation and narrow interpretation may emasculate a statute. Here the example of the Domestic Violence and Matrimonial Proceedings Act 1976 (England and Wales) is particularly instructive. Here the Act was widely worded, allowing for judicial discretion. Initially, response by the judiciary was sympathetic, but later interpretation became narrower being coloured but attitudes towards the family, the position of the woman as a mother and the property rights of the man<sup>113</sup>.

Effective legal response is dependent, therefore, on all levels of the legal system, from the police to the judiciary. Inadequate response stems from a combination of factors.

Generally, all levels of the legal system are ignorant of the dynamics of domestic violence. Most police, prosecutors, magistrates and judges adhere, in some cases unconsciously, to traditional values that support the family as an institution and the dominance of the male party within it. This makes it difficult for them to break out of the traditional belief that the family is vital for healthy society and thus, conciliation and the preservation of the family, becomes the primary aim.

Members of the legal system face frustration, furthermore, because of the disposition of cases at other levels of the system. Arresting officers, for example, become disillusioned if prosecutors fail to pursue cases, while the prosecutor, in turn, becomes frustrated, if the defendant is acquitted on technical grounds or, if convicted, receives a nominal sanction only. Much of this frustration is the result of the fact that approaches to wife abuse are unco-ordinated, but some is the result of the fact that sentencing options available to justices at the end of the process appear inadequate.

To many judges, the traditional punitive response of the criminal justice system appears totally inappropriate to cases of domestic crime. Fines and imprisonment affect not only the offender, but the victim and her entire family. Judges, thus, impose sanctions that are lenient. The man is usually discharged, conditionally or absolutely or released on probation. Fines are occasionally levied and incarceration is rare.

Because of this, diversion or mediation schemes, which defer or suspend prosecution if the man agrees to enter into a mediation/conciliation process with his wife, so that they can reach a voluntary and mutually satisfactory agreement have been advocated. Typically, such schemes require the man to enter into a program of counselling.

Diversion occurs before any adjudication of guilt and, in the schemes that currently exist, divert the man from the criminal process at one of two stages: at the time when an arrest would normally have been made, thus being police initiated; or prior to trial, on the request of the prosecutor.

The schemes are based on the premise that families should be protected from the intrusiveness of the justice system and that problems in families are best solved through informal remedies that help the parties communicate more effectively<sup>114</sup>. The schemes are attractive because they promise a more humane approach to domestic violence than available legal strategies. They are not, however, unproblematic, and have received serious criticism.

The schemes place the parties on an equal footing and ask them to negotiate an agreement for future behaviour. This means that the assailant is not formally punished for his crime and, to a certain extent, it may suggest that the victim shares responsibility for his actions. It suggests that she should modify her behaviour in exchange for his promise not to abuse her further. Any agreement that arises out of the mediation or conciliation is voluntary and unenforceable, thus the woman is given no guarantee that she will be protected from future violence.

Commentators have argued that the forum in which mediation occurs and in which agreements are reached is inadequate. Most mediation is conducted in private, no records are kept, or if they are, they are confidential, thus protecting the process from public accountability. Both parties are usually present, representation is rarely allowed or, if allowed, parties do not take advantage of this right. Hearings are usually short and mediators are of varying competence. Some cases are mediated without reference to the violence and many abused women are reluctant to bring it up in the presence of their husbands.

Perhaps the most important drawback of mediation schemes is that they cater more directly to the needs and desires of the abuser than those of his victim. He has the most to gain from a satisfactory settlement and will, therefore, appear co-operative. She may acquiesce in the settlement because of her unequal position both in the relationship and in the mediation process generally. She may thus suffer further victimisation, receiving the message that society considers the abuse to be trivial, while her abuser is subtly informed that he can get away with his actions.

Diversion schemes, therefore, present some difficulties. This is not to say, however, that all approaches to domestic violence based on mediation and conciliation are necessarily productive or serve to implicate the woman in the abuse. In certain societies, mediation and conciliation are part of the cultural structure and can be as effective a sanction and shaming device as arrest and prosecution are in others. For example, the intervention of the Village court in Papua New Guinea or conciliators in African countries may be enough to show the man that his violence is unacceptable and should not be repeated. No matter what approach is used the essential factor is that the man must be given the clear message that he alone is responsible for his actions and the woman must be absolved from all blame. In many systems, this message is given most clearly by arrest and prosecution.

Sentencing on conviction need not, however, be confined to traditional punitive options, such as incarceration and fines. It can, for example, take the form of weekend or evening incarceration and can incorporate effective treatment for the abuser. Here the 1987 amendment to the New Zealand Domestic Protection Act which gives the court the power to direct that the man participate in counselling, is particularly interesting.

In the context of domestic violence, legal remedies are insufficient. Strategies must be introduced to close the gap between the formal legal rights of battered women and their rights in practice. If the law is to be used to its best advantage there must be a change in the attitude to family violence, which can be best brought about by a clear commitment from governments who must ensure that adequate resources are available to provide for battered women, that education and training schemes for police and all those involved in the system are introduced and that public education measures to raise the general level of awareness of domestic violence are initiated.

Women and men in the community must be well informed about domestic violence, the conduct must be clearly condemned and the strategies available to deal with its occurrence well publicised and easily accessible. Moreover, legal strategies must be well co-ordinated

#### 4. THE HEALTH, WELFARE AND COMMUNITY SECTORS

##### a) Introduction

Domestic violence has been viewed primarily as a problem requiring legal solutions and it has been regarded as critically important that legal strategies should be introduced so that the woman is provided with a framework of rights which guarantee her immediate protection and the promise of future security. Nonetheless, it is important to understand that legal change alone will not prevent violence against women in the family, nor necessarily protect a woman at risk.

In practice, even in those Commonwealth countries which provide comprehensive legal remedies for domestic violence, the law is the last resort for abused women. Victims of violence follow a familiar pattern in their search for help. First, informal sources, such as family or friends are approached. Then, perhaps, they will go outside the family and seek assistance from, for example, a priest, pastor or mullah. Then, they may ask nurses, doctors and social workers for help. It will only be as a last resort, generally where the abuse is very serious and frequent, that police and lawyers will be approached.<sup>115</sup>

Given this pattern, it is important to examine the response of individuals who may come in contact with women who are abused within their families. As the first outside contact is usually a doctor, we will begin with an examination of the response of the health sector. This will be followed by a consideration of the welfare sector response. Finally, community level response will be examined, concentrating on the shelter movement and "battering men's" programs.

##### b) The health sector

Although available evidence suggests that the medical practitioner will be the first formal source of help that a victim will approach, the response of doctors has, in the main, proved to be unsatisfactory.

In general, the medical profession is not sensitised to the issue of domestic violence and is not aware of its nature and incidence. Frequently, women who present themselves with symptoms are misdiagnosed. Women often do not tell the doctor that they are abused, but complain of depression, anxiety and other complaints.<sup>116</sup> Even in cases where it is clear that the woman has sustained physical injury, doctors misdiagnose, accepting the woman's fictitious account of how she was injured, that she will produce because of shame or because she is fearful of wasting the practitioner's time. Doctors, who may suspect that the woman's story is untrue and that she is a victim of abuse, may prefer not to inquire further, perhaps because they do not wish to become involved in marital conflict.<sup>117</sup>

In cases where the doctor is forced to face the stark reality that the woman is abused, response is frequently inadequate. Commentators in the United States have documented the approach of the American medical professional which tends to exacerbate, rather than relieve the problem. The woman's immediate complaint is treated, but the cause of her complaint - the

battering is ignored. When she first presents, her physical injury is treated sympathetically and as a legitimate medical problem, but as she returns for further treatment, after continuing assaults, the doctor will reassess his or her response and categorise the abuse as arising from social or psychopathological causes. The original diagnosis shifts and the focus becomes not the abuse or the abuser, but the woman who is labelled as alcoholic, a drug abuser, depressive or hysteric. She is then prescribed antidepressants or in some situations diagnosed and treated as seriously psychiatrically disturbed.<sup>118</sup>

Generally, in those cases where the medical profession has recognised abuse, it has defined it as a problem requiring individual solutions. The root cause of the woman's problem is rarely addressed. She is not referred to social service agencies or supportive organisations. Most often, she is prescribed drugs that may be inappropriate or harmful. The abuse is seen as her problem, rather than that of the batterer.

The response of the medical profession finds its origin in doctors' perspectives on wife abuse. Like all the helping professions, the medical profession sees the maintenance of the family unit as an important goal. Moreover, the many members of the profession see treatment of marital abuse as treatment of marital problems which they regard as the work of counsellors, rather than "real medicine", which is constituted of diagnosis and treatment of illness and injury.<sup>119</sup> This perspective stems from current medical training, which stresses individual case history and pathology, rather than an holistic approach. In other words, most medical students are taught to treat a patient's symptoms, not experience or situation.

Although the response of the medical profession can be explained, inappropriate response in the context of domestic violence reinforces the woman's victimisation and must be addressed. Education and training of the profession at undergraduate and postgraduate levels and through refresher programs is the key to attitude change. Student doctors must be made aware of the dynamics and incidence of family violence and must be taught to ask appropriate questions of patients who may be abused. Refresher programs concerning wife battery should be initiated, the issue should be addressed in professional and academic journals and protocols, which assist in the identification of abuse and suggest appropriate treatment for battered women, should be developed and used in hospitals and doctors' surgeries.

c) The welfare sector

Social and community workers, like doctors, have tended to regard abuse as a private event within a family brought about by some external cause, such as alcoholism or social deprivation. Many workers are unaware of the complexities and ramifications of the problem and they are often not attuned to the ambivalence the woman may feel and find it difficult to understand, for example, why the woman will not immediately leave her husband.

The welfare sector tends to be committed to a traditional view of the family and emphasises its maintenance through reconciliation.<sup>120</sup> Further, if the woman has children, welfare professionals are very likely to concentrate on the welfare of the children, thereby marginalising the woman's problems.<sup>121</sup> Studies reveal, moreover, that assumptions concerning the woman's role in the family very often lead welfare workers to offer her little positive support.<sup>122</sup>

Again, inadequate response in the welfare sector can be attributed to current patterns of training. In many countries, violence against women in the family is not a priority in social work training. Concentration is on child welfare and child abuse. Moreover, workers are taught to work with "families" and to seek solutions within the family context.

The welfare sector is a critical one and should have a crucial role to play in helping battered women. Community workers have access to women in need and should have the knowledge to provide information on the law and law enforcement, the available financial and other support offered by the state and the process of acquiring such support and other organisations, such as refuges, that might offer assistance. Community workers should be able to play a pivotal role and act so as to co-ordinate support for the woman.

Again, training is critical, as are protocols and guides to assist workers already in the field. Training must emphasise, however, that the woman herself must make her own decisions. It may take some time for a battered woman to decide whether she will leave or remain with her spouse. Community workers must be made aware that this is not because of weakness, but because the woman is in an ambivalent position. Further, each woman is different and will make her decisions in her own way and in her own time.

#### d) Shelters

The first shelter for battered women was established in 1971 in England. Initially, it was conceived of as an advice centre for women with troubled marriages, but it was broadened to provide residential accommodation. In the years since the establishment of this shelter, the shelter movement has become international so that now there are shelters in such varied countries as Canada, Australia, Malaysia, Zimbabwe, Trinidad and Tobago and India. Although the movement is international, shelters for women in crisis do not exist in every Commonwealth country. Further, in those countries where they do exist, they are frequently overcrowded, not funded, or funded poorly and staffed by unpaid volunteers.

The shelter movement has had two effects. First and most importantly, it has provided a haven for women who are abused. Second, it has drawn attention to the fact that wife assault is a real social problem.

The movement is not without its critics. Some argue that the availability of refuge in a shelter speeds the breakdown of marriages. Research does not support this assertion. Studies indicate that the refuge is a place of last resort and that women will exhaust all mechanisms of informal support and only then turn to the refuge. Indeed, women who use refuges are often socially isolated and live long distances from relatives. Again, research reveals that women who stay in refuges are very often at the end of their relationship with the man. They may return to him, but they will usually eventually leave him. The evidence is, thus, that women will use a refuge when their relationship is ending, but the end may be slow and painful.<sup>123</sup>

There is little systematic research to date into the functioning of shelters or their impact on an abusive relationship. Further, there is little information on what happens to women after they leave the shelter. One study does suggest that a stay in a shelter does have a beneficial effect on the violent man, but this may depend on the attributes of the woman. If her stay in the refuge makes the woman appear to be actively taken control of her life, this may dramatically reduce the likelihood of further abuse, but in other situations, the shelter stay may have no impact or, indeed, trigger new violence.<sup>124</sup>

Further research into the impact of shelters on abusive relationships is important. It is clear, however, that abused women must have somewhere safe to go. This does not have to be a structured refuge, on the model of the first refuge, but advantage could be taken of safe places, such as churches, that may exist in countries. What is essential is that the woman has a safe haven. This must be appropriate to the cultural context and not be a slavish adaption of current shelter systems that exist elsewhere.

A refuge can be many things for women. It provides survival, safety, support, self esteem and information. A stay in the refuge can be a turning point for a woman. It can be a place where she can recover from her shame and isolation and where she can gain support, help and friendship.

Without alternative accommodation, battered women are to make the many decisions that concern their relationships. Hence, some form of shelter system is crucial. Care must be taken, however, that the shelters are of a decent standard, well funded and well staffed. The refuge must be well planned and take into account religious and cultural differences that may exist between residents. For example, religious food rules need to be considered. Provision must be made for women with particular needs, for example, immigrant women, aboriginal women and women with disabilities. The refuge must provide access to other services, such as counselling and alcohol and drug programs. Guidance must be available to assist the woman to find more permanent accommodation and employment.<sup>125</sup>

The shelter must be confidential. The location of the shelter should be kept as secret as possible and protection should be available for residents and staff, as violent men have been known to assault their wives who have taken shelter, other residents and shelter workers. Protection for shelters is best guaranteed by a close relationship between shelter management and a sympathetic police force. Co-operation and co-ordination between the police and the shelter movement exists in a number of Commonwealth countries, including Canada.

Finally, any shelter or refuge system must be viewed only as a component of co-ordinated and multifaceted approach to domestic violence. It is essential that the shelter program is not overstretched or used as an excuse to relieve other sectors of their responsibility in combatting domestic violence.

e) Batterers' programs

Treatment programs for batterers have been established in a number of Commonwealth countries, such as Canada and Australia.<sup>126</sup> Most of these programs began as community based responses to the problem and many were linked to women's refuges.

The rationale behind batterers' programs is laudable. Their primary aim is to reduce recurrent violence, research revealing that recidivism is high within the current relationship, if it continues, or in any succeeding relationship. The programs also seek to address the fact that the criminal justice system has a paucity of sentencing options where men are convicted of offences in the context of domestic violence. The most common disposition is discharge or suspended sentence, in effect little sanction. This discourages the police and the victim from pursuing charges and gives the appearance that the system and, by implication, society tolerate the violence.

Terms of imprisonment, although punitive and expressive of abhorrence towards the violence, present difficulties. Goals are often overcrowded, place the man in an environment conducive to the maintenance of his violence in the family and frequently, imprisonment goes against the victim's wishes. Offender treatment, provided by "batterer's programs" is thus the logical alternative. It satisfies the desire of the justice system for rehabilitation and contributes to the victim's goal of eliminating the violence in her relationship. In practice, moreover, offender treatment in such programs may be part of a diversion scheme or part of the court sentence.

Batterers' programs are justified on rational and moral grounds. They do present a number of problems, however. First, on the whole, they are voluntary and underfunded and are usually unevenly distributed in the community, being found primarily in urban centres.

Second, the clinical work in this area is new and formal training differs. The groups follow various models. Some use two counsellors, some one, some stress the gender of the counsellor, while others do not. Further, a range of psychotherapy skills and techniques are used.<sup>127</sup>

Finally, there has been no well designed analysis of the effectiveness of the programs. Proponents are confident that programs work for at least some percentage of the men they see. However, most are unable to make conclusive generalisations about the overall effectiveness of the programs. They are unable, apart from anecdotaly, to predict the sort of men that are amenable to programs or how long changes will last.<sup>128</sup>

It is important that the real effect of these programs is explored systematically. Anecdotal accounts of effectiveness are insufficient. Moreover, it is important that resources are not diverted from programs for battered women to support programs for their abusers. Such an approach would amount to further victimisation and continue support of the structural gender inequality that supports violence in the home.

f) Conclusion

The response of the health and welfare sectors of the community to domestic violence has, like the responses of all other sectors, been coloured by traditional beliefs that value the maintenance of the family and perpetuate the inferiority of the woman to the man within the family unit.

Education is the key to improved response. Health and welfare professionals must be educated in the dynamics of wife assault, they must be taught to take an holistic approach to the issue and specifically guarded against the view that the problem is the woman's alone and of her own making. They must be trained to protect the woman and see her problem as central. Her children's welfare, although an important consideration, must not be emphasised so as to make her plight marginal and secondary. She must be protected and her dignity and wishes respected. She must not be sacrificed in order to maintain the family unit.

Grass roots responses to family violence have been most effective in bringing the issue to public attention and providing safety, shelter and support for women at risk. These responses must be supported and strengthened. The effect must be examined and they must be provided with adequate government support and funding.

No one response is sufficient, however. The response to violence against women in the home must be a co-ordinated, multi-faceted and interrelated one. Just as the issue itself has many dimensions, so must responses.

## 5. CONCLUSION

Violence against women in the home has many causes and the problem is complex. It is not, however, insoluble. Research in the United States, for example, has revealed a substantial drop in the incidence of violence against women in the home during the 10 year period from 1975 to 1985, a drop that is attributable to a combination of changed attitudes and norms. The researchers point to the effect of strategies that have been introduced in the United States to confront family violence that have provided women with alternatives and provided treatment and strategies for prevention. They indicate, further that the period has seen a marked swing away from the social acceptability of violence as a method of resolving conflict in the family.<sup>129</sup>

The complexity of domestic violence indicates that it is a problem that requires multiple strategies from many disciplines who must act collaboratively. Strategies must, however, be compatible with the conditions and resources of the country under consideration. All societies must recognise the issue as a serious one and ensure that domestic violence is condemned by those in authority, be they state or religious leaders or law enforcement agencies. Formal condemnation of itself is not, of course, sufficient. This must be accompanied by a clear manifestation of a resolution to act against abuse and to deal effectively and appropriately with both the abuser and the abused.

Improving responses to violence against women in the family will involve a number of strategies, crucial among which is the development of appropriate attitudes to (wife assault in particular) and respect for women in general, based in the principles contained in the Nairobi Forward Looking Strategies, the Convention on the Elimination of All Forms of Discrimination Against Women and on accurate information, rather than myths and stereotypes.

### a) Research

The importance of research cannot be underrated. In many countries research into family violence has not progressed beyond the rudimentary. Where research has been undertaken the information has often been limited by the method or the research sample. Many studies, for example, use limited samples such as women in refuges, police statistics, samples from marriage counselling bureaux and divorce statistics. Conclusions from such samples are drawn, therefore from small groups and groups who are defined as being from troubled relationships. They are not random surveys of functioning relationships. There is a clear need for wider and deeper research so that wife assault can be understood more clearly so that appropriate strategies to confront can be formulated.

Research into existing strategies is also required. For example, the effect of shelters must be explored, as must the effectiveness of taking a criminal justice, rather than welfare, approach to family violence. Specific legal initiatives must be evaluated. For example, the impact of pro-charging policies, injunctions and protection orders must be explored. So also, the impact of programs for abusive men must be monitored.

## b) The legal system

At the front line of response is the police. Police must develop adequate protocols and act to eliminate the existing ambiguities and gaps in the law that deprive women of adequate legal recourse. Police practice must be improved and there must be clear and explicit departmental policy which governs the treatment of domestic violence. Ideally, police policy should indicate that wife assault is to be treated like assault in any other context and arrest and charge should be considered. Police at all levels must be provided with special training so that they are aware of the dynamics of the issue and they are equipped with techniques of crisis intervention.

Women must have assured access to legal remedies should they wish to use them. Any legal provision which suggest that violence against women is excusable or tolerable must be repealed, as must any provision discriminating against women on the basis of sex. Access to the law must be simple and cheap. Any legal disability, such as legal minority, preventing women from bringing legal proceedings should be removed and any evidentiary discrimination, such as the non competence of spouses, should be repealed.

The attitudes of those involved in the law towards wife assault must be scrutinised. It is most important that if any legal strategy is available for women, all the actors involved – prosecutors, lawyers, judges and magistrates – should implement it in good faith. There must be no gap between the law in theory and the law in practice.

Although important, improvements in legal remedies and procedures will not provide a panacea for domestic violence. In some cases, a legal response may not be what the woman wants or be inappropriate. Each woman is different and each woman will require a different response. Some women may be seriously harmed by an over-legal approach to their situation. Flexibility is essential. A rigid approach will only cause further victimisation.

The ultimate goal of any short term strategy is to protect the individual woman. She will need safety, shelter, compassion and information. She may require financial help, housing, advice with regard to her immigration status<sup>130</sup>, the services of an interpreter, help with her children, counselling and assistance with the law. The woman should be able to take advantage of an integrated and co-ordinated service. She should not be constantly referred from agency to agency, lost in a bureaucratic maze, shunted between the legal, health and social sectors. Countries should consider the introduction of services to serve as a link between the police, medical, social welfare, health and women's refuge services.

## c) Education

Short term measures to confront violence against women in the home must merge with long term strategies. Education and training can provide this link.

Many commentators are of the view that domestic violence is supported by the social structure and it will only be when that structure changes that it will be eradicated. They believe, further, that long term social change can only come about through education. Education instils traditional norms and values and has played a crucial role in the maintenance of female and male stereotypes. It has had a key role in the continued victimisation of women. It can, however, be used as a positive force for change and progress. Education must be used at various levels in the fight against family violence.

Formal education in schools from the primary stage can be used to eliminate stereotypical attitudes to the social, economic and cultural roles of women and men. The subject of family violence should be part of the formal curriculum and peaceful methods of conflict resolution explored. Teaching materials have been developed for school teachers in Australia, Papua New Guinea and Canada to suggest how these issues might be approached in the classroom.<sup>131</sup>

Informal methods of education can also be used, first, to advise women of available options and support systems and also to convey the message to both women and men that family violence is to be deplored. Here attention should be paid to the particular national and cultural context so that appropriate strategies can be used. In some countries, it may be appropriate to produce simple booklets. In others, a poster campaign may be appropriate. Kenya, for example, mounted a national poster campaign with posters placed in buses, railway stations, schools and other public places. Poster displays have been used in Malaysia and Papua New Guinea. In some countries, videos and television advertising have been used. Where literacy is high, newspaper campaigns can be effective, as can public speaking and essay writing competitions. Papua New Guinea, for example, has mounted a multi-pronged education campaign, consisting of the dissemination of posters and leaflets to all aid posts, health centres, clinics, hospitals, schools, post offices, banks and churches and radio advertising and radio plays. To cater for the non-literate population, street theatre and video has been used, an approach which has also been taken in Jamaica. Other countries have relied on traditional forms of folk theatre. In India, for example, special puppet shows have been developed which deplore violence against women and the inferior position of women in the Indian family.

The crucial role of education in widest sense in the combatting domestic violence has been appreciated in Australia. There the Federal Government initiated a National Domestic Violence Education Program, which operated from 1987 to 1990. The aims of the Program were four fold: to raise awareness of domestic violence as an issue of community concern, provide accurate information on domestic violence, encourage widespread community participation in the campaign against domestic violence and change attitudes which cause such violence.

In the first year of the Program, a national survey was undertaken to provide information on community attitudes to abuse. This revealed that one in five of the respondents condoned the use of physical force by a man against his wife under some circumstances, one third of the respondents regarded domestic violence as a private matter, more than a quarter would ignore a case of domestic violence in their neighbourhood and nearly half personally knew either a victim or a perpetrator of domestic violence. In other words, the research revealed that the Australian community considered domestic violence to be a private, non-criminal matter.

The Program sought to address community attitude to domestic violence by a National Domestic Violence Month. Activities were co-ordinated at a local level as a lead-up to this month, so that there was a great deal of local activity and debate, with the preparation of information kits, posters and pamphlets. The Month was launched by the Prime Minister, thus testifying to Government commitment to the problems of battered women. Particular attention was paid to the development of materials for Aboriginal and Torres Strait Islander women, immigrant women, women living in isolated and rural communities and young women. Videos, booklets and radio programs were

developed for women in these groups. The Program concluded with a National Forum on Domestic Violence Training attended by over 500 people. The Forum stressed the need for training for those who work with or are in a position to assist domestic violence victims.

The Program testifies to Australian Government commitment to the eradication of domestic violence. It, further, established an important momentum which will affect any further domestic violence strategies. The Program used the written, spoken and visual media to great effect and did result in increased government funding for domestic violence programs. Most importantly, the Program indicated the need for co-ordination, not only at the government level, but at the local and service level. Certainly, the Australian community has been exposed to the issue of domestic violence and no longer views it disinterestedly.<sup>132</sup>

Education must also be aimed at specific groups who come into contact with domestic violence professionally. Training for teachers, social workers, doctors, nurses, paramedics, lawyers and the judiciary is crucial. This training must encompass and address attitudes, the dynamics of abuse, diagnosis, intervention, referrals and treatment.

The media is a powerful agent for education and social change. It has the capacity to preserve, record and define human culture and history. Currently, like education, it tends to project images of women and men that are stereotypical and it supports male values. It could be used as a powerful force to foster sexual equality and fight against spouse abuse.

Research has not proven conclusively that there is a link between media representations of violence and violence against women generally and in the home in particular. It is clear that the media does reflect cultural values and reinforces ideologies of masculinity and femininity that suggest that while man is "naturally" aggressive, woman is the "natural target" for his aggression. The media can thus contribute to a cultural climate which regards violence against women as acceptable. The media must act responsibly in this context. Positive images of women, stressing female equality and worth, should be fostered and encouraged. Most importantly, incidents of violence against women should be deplored and not reported in such a way as to suggest that the woman deserved violence, nor should they be recounted sensationally or salaciously.

d) Structural change

Dobash and Dobash suggest:

"In a way the entire community ... is responsible for the continued assaults on women and in some cases their deaths: the friends and the neighbours who ignore or excuse the violence, the physician who does not go beyond the mending of bones or the stitching of wounds, the social worker who defines wife beating as a failure of communication and the police and court officials who refuse to intervene. The violence is meted out by one man but the responsibility goes far beyond him."<sup>133</sup>

This responsibility must be accepted. Domestic violence must become an issue of public concern. It must be condemned in the most vehement of terms by those who lead and shape public opinion. Non-formal agents of support,

such as relatives, friends and neighbours must be encouraged to intervene on the woman's behalf. Governments must allocate adequate resources to strategies to combat such abuse.

Ultimately, as violence against women in the family and elsewhere is essentially the product of female inferiority, the inferior status of women as opposed to men must be addressed. Women must be assured of social, legal and financial equality and they must be guaranteed an equal place with men in intimate relationships.

Violence against women is the product of the subordination of women. Short term measures, such as protection orders and refuges, may have an important short term effect in the context of spouse abuse, but they will not address the root cause of domestic violence. In the long term, domestic violence will not be eradicated until there is a fundamental change in the social and economic structures that maintain the subordination of women within marriage and in society generally. Fundamental change is an ambitious and complex project. Perhaps it can be best initiated by respect and implementation of the ideals and goals of the Nairobi Forward Looking Strategies and the Convention on the Elimination of All Forms of Discrimination Against Women.

1. United Nations, Violence Against Women in the Family, New York, 1989, Sales No. E.89.IV.5 (hereinafter referred to as UN Report) 11; Davidson, "Wife beating: a recurring problem throughout history" in Battered Women: A Psychosociological Study of Domestic Violence, M. Roy, ed. (London, Von Nostrand Reinhold, 1977)
2. W. Blackstone, Commentaries on the Laws of England (1775)
3. (1890) 1 A.B 671
4. Edwards, "Male violence against women: excusatory and explanatory ideologies in law and society" in Gender, Sex and the Law S. Edwards, ed. (London, Croom Helm, 1985) pp 189-191.
5. Edwards, loc. cit., pp. 191-192
6. See infra p. 78ff
7. The Subjection of Women (London, Virago Edition, 1983)
8. "Wife torture in England" Contemporary Review, April 1878 drew attention to the plight of working class wives in Liverpool and was indirectly responsible for the 1878 Matrimonial Causes Act allowing women who had been abused by their husbands judicial separation with maintenance.
9. The British activist Erin Pizzey is credited with bringing the problem to public attention in 1971 when she opened the first women's shelter. See, E. Pizzey, Scream Quietly or the Neighbours will Hear (London, Penguin, 1974)
10. The US campaign dates from 1975 with the establishment of a Task Force on Battered Women by the National Organisation for Women.

11. UN Report pp. 13-31
  12. UN Report pp. 51-80
  13. S. Toft, ed. Domestic Violence in Papua New Guinea, Monograph No 3 (Boroko, Papua New Guinea Law Reform Commission, 1986); The Papua New Guinea Law Reform Commission has produced three other reports: A Discussion Paper on Domestic Violence and Domestic Violence in Rural Papua New Guinea and Domestic Violence in Urban Papua New Guinea.
  14. M.D.A. Freeman, "Doing his best to sustain the sanctity of the marriage" in Marital Violence, N. Johnson, ed., Sociological Review Monograph (London, monograph Routledge and Kegan Paul, 1985), p. 124
  15. R.E Dobash and R. Dobash, "Wives: the "appropriate" victims of marital violence?", Victimology, No. 2, 1978, p. 426
  16. See, for example, the Report of the New South Wales Domestic Violence Committee of 1985 which reported that a radio talk back show in Sydney revealed that four out of ten callers were mothers who had been battered by their sons: New South Wales Government, Women's Co-ordination Unit, 9 September 1985, p. 53.
- See also, Domestic Violence, Report of the Secretary-General to the Eighth United Nations Congress on the Prevention of Crime and Treatment of Offenders, A/Conf. 144/17, 20 July 1990 which notes at page 7 "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."
17. See infra p. 129ff
  18. S.K. Steinmetz, "The battered husband syndrome", Victimology, No. 2, 1978, p.499; S.K. Steinmetz, "Women and Violence: Victims and Perpetrators", American Journal of Psychotherapy, No. 34, 1980, p. 334. Steinmetz's articles were so attractive to the media that Time Magazine, which had previously devoted only a few paragraphs to wife abuse, devoted a full page to the plight of "battered husbands" in their issue of March 20, 1978.
  19. E. Pleck and others, "The battered data syndrome: a comment on Steinmetz's article", Victimology, No 2, 1978, p. 680; M.D. Fields and R.M. Kirchner, "Battered women are still in need: a reply to Steinmetz", Victimology, No 3, 1978, p. 216.
  20. M. Borkowski, M. Murch and V. Walker, Marital Violence: the Community Response (London, Tavistock 1983), p. 11
  21. See, for example, Borkowski, Murch and Walker, op. cit; J. Pahl, ed., Private Violence and Public Policy: The Needs of Battered Women and the Response of the Social Services (London, Routledge and Kegan Paul, 1985); L. MacLeod, Wife Battering in Canada: The Vicious Circle (Ottawa, Canadian Advisory Council on the Status of Women, 1980)
  22. Delegates at the Third Meeting of Commonwealth Ministers for Women's Affairs held in Ottawa, Canada in October 1990 spoke movingly of the problem, indicating that it was a common concern of Commonwealth countries.

23. The studies undertaken by the Papua New Guinea Law Reform Commission (see note 13) reveal that domestic violence was more common in the lower and rural classes. See also, D. Marsden, "Sociological perspectives on family violence" in Violence in the Family, J. Martin, ed. (Chichester Wiley, 1978)
24. No comprehensive research has been undertaken in Nigeria into the problem, however, an unpublished paper by J O Akande prepared for the United Nations in 1987 revealed that police sometimes received complaints from women who came, in the main from poor and polygamous homes and the Social Welfare Department had similar cases on its files. Professor Akande did conduct an informal study amongst educated women and found that they too were susceptible to abuse.
25. P. Montgomery and V. Bell, Police Response to Wife Assault: A Northern Ireland Study (Northern Ireland Women's Aid Federation, 1986) p. 21.
26. R. E. Dobash, "Where non-sexist language is sexist", in Battered Women's Directory, B. Warrior, ed., 9th edition (Richmond, Earlham College, 1985) p. 198.
27. E. Wilson, The Existing Research into Battered Women (London, National Women's Aid Federation), pp. 5-6; Jan Paul in the Introduction to Private Violence and Public Policy: The Needs of Battered Women and the Response of the Social Services (London, Routledge and Kegan Paul, 1985) p. 5 remarks that describing violence against wives as the issue of "battered wives" is as though the "the problem of international terrorists hijacking aeroplanes was described as the 'problem of hostages'."
28. Lorna Smith in her Domestic Violence (Home Office Research Study 107, London, HMSO, 1989) at page 8 reports that with the exception of homicide, United Kingdom Criminal Statistics do not provide information on the sex of the victim nor is the relationship between the victim and the offender routinely recorded.
29. See, UN Report op. cit., pp.18-20 and Lorna Smith, op. cit. pp.9-14
30. L. MacLeod, Wife Battering in Canada: The Vicious Circle (Quebec, Government Publishing Centre, 1980) p. 21
31. Office of the Status of Women, Community Attitudes Towards Domestic Violence in Australia, Australian Government, Social Survey Report, Public Policy Research Centre, February 1988.
32. See note 13.
33. P. Jaffe and others, "Emotional and physical health problems of battered women", Canadian Journal of Psychiatry, No 31, 1986, p. 625.
34. E. Hilberman and F. Munson, "Sixty battered women", Victimology, No 2, 1978, p. 460 464-465.
35. E. Stark, A. Flitcraft and W. Frazier, "Medicine and patriarchal violence: the social construction of a private event", International Journal of Health Services, No 9, 1979, p. 461.

36. L. Bacon and R. Landsdowne, "Women who kill husbands - the problem of defence", paper delivered at the 52nd ANZAAS Conference, Sydney, 1982; K. O'Donovan, "Defences for battered women who kill" Journal of Law and Society, Volume 18, No. 12, 1991, p. 219.
37. E. Stark and A. Flitcraft, "Woman-battering, child abuse and social heredity: what is the relationship?", in Marital Violence, N. Johnson, ed., Sociological Review Monograph No 31 (London, Routledge and Kegan Paul, 1985), p. 147 at 159-160.
38. See note 43.
39. D. G. Fischer, Family Relationship Variables and Programs Influencing Juvenile Delinquency (Ottawa, Canada, 1985) p. 41
40. L. MacLeod, Battered, but not Beaten : Preventing Wife Battering in Canada (Ottawa, Canadian Advisory Committee on the Status of Women, 1987) p. 35; see also, G. Roberts, "Domestic Violence; costing of service provision for female victims-20 case histories", Beyond These Walls (Queensland Domestic Violence Task Force, Queensland, 1988) who indicates that the cost of service provision for 20 victims alone was well over 1 million Australian dollars.
41. UN Report, pp. 26-27; Lorna Smith, op. cit., p. 29-30.
42. UN Report, pp. 28-30.
43. UN Report, pp. 27-28; Lorna Smith, op. cit., p. 30.
44. R. Dobash and R.E. Dobash, Violence Against Wives: A Case Study Against the Patriarchy (Open Books, London, 1980)
45. Lorna Smith, op. cit., pp. 23-30; UN Report, op. cit. pp. 25-33.
46. L. A. Long, "Cultural considerations in the assessment and treatment of intrafamilial abuse", American Journal of Orthopsychiatry, no 56, 1986 p. 31.
47. A. Lazlo and T. McLean, "Court diversion: an alternative for spousal abuse cases", in the United States Commission on Civil Rights Consultation, Battered Wives: Issues of Public Policy (Washington D.C, January, 1978)
48. L. Sherman and R. A Berk, "The specific deterrent effects of arrest for domestic assault", American Sociological Review, No 49, 1985, p. 261; R. A. Berk and P. J. Newton, "Does arrest really deter wife battery?" An effort to replicate the findings of the Minneapolis spouse abuse experiment" American Sociological Review, No. 50, 1985, p. 253; A. Jolin, "Domestic violence legislation: an impact assessment" Journal of Police Science and Administration, No. 11, 1983, p. 451; E. Pence, The Law Enforcement and Criminal Justice System. An Intervention Model for Domestic Assault Cases (Duluth, Minnesota, Police Department, 1985); P. Jaffe and other, "The impact of the police laying charges in incidents of wife abuse", Journal of Family Violence, No. 1, 1986, p.37.
49. All Provinces and Territories of Canada have charging policies and in 1984 the Royal Canadian Mounted Police announced a policy instructing all officers to lay charges in cases of domestic assault. In Australia, the

Position Paper of the National Committee on Violence Against Women stresses the criminal nature of domestic violence and policies have been introduced to encourage the police to proceed in the laying of charges and the prosecution of offences.

50. Lorna Smith, op. cit., p.60.

51. UN Study p. 53 and p. 81, note 13.

52. Betsy Stanko, "Missing the Mark? Police Battering" in J. Hanmer et al., Women, Policing and Male Violence (Routledge, London, 1989) p. 46 at 46.

53. Federal/Provincial/Territorial Report in Wife Battering to the Meeting Responsible for the Status of Women, Niagara on the Lake, Canada, 28-30 May, 1984.

54. Susan Hatty, "Policing male violence in Australia", in J. Hanmer et al., Women, Policing and Male Violence op. cit., p. 70.

55. L. MacLeod, Battered But Not Beaten (Ottawa, Canadian Advisory Council on the Status of Women, 1989) p.6.

56. R. Weiler and P. Drennan-Sewson, "Native crime victims research" (Ottawa, Canadian Council on Social Development, 1984, unpublished); Judy Atkinson, "Violence in Aboriginal Australia" Refractory Girl, Issue no 36, August 1990, p. 21 at p. 24.

57. See the essays in Jalna Hanmer et al., op. cit, which describe a number of jurisdictions where policy initiatives have been introduced at the top levels of police forces that have failed to affect the behaviour of operational police who refuse to arrest and charge and come to situations of domestic violence with stereotypical attitudes of male and female behaviour and family violence generally.

58. L. MacLeod, Preventing Wife Battering: Towards a New Understanding (Canadian Advisory Council on the Status of Women, 1989) p. 6.

59. Ibid. p. 8

60. L. MacLeod, Battered But Not Beaten (Ottawa, Canadian Advisory Council on the Status of Women, 1987) p. 87

61. Australian Law Reform Commission, Domestic Violence, Report No. 30 (Canberra, AGPS, 1986) p. 14.

62. V.G. Binney and others, Leaving Violent Men (Women's Aid Federation, 1981); N. Oppenlander, "Coping or copping out", Criminology No 20, 1982, p. 449; D. Bell, "Domestic violence: victimisation, police intervention and disposition", Journal of Criminal Justice, No 13, 1985, p. 425; Report of the Committee to Investigate the Response of the London Metropolitan Police Force into Domestic Violence, 1986, unpublished; Edwards, S.S.M., The Police Response to Domestic Violence in London (Central London Polytechnic, London, 1986); Lorna Smith, op. cit., pp. 39-62.

63. This was made clear by participants at the Third Meeting of Commonwealth Ministers for Women's Affairs held in October 1990 in Ottawa, Canada.
64. Police often allege that they are reluctant to take a law enforcement role in cases of domestic disturbance because the woman is more than likely to withdraw her complaint and thus they will not be able to get a conviction. While certainly, complaint withdrawal by the woman presents the police with severe practical difficulties in pursuing an action, recent research suggests that there is no greater withdrawal in domestic violence cases than in other actions, or if there is, the police have been instrumental in the withdrawal: Lorna, Smith, op. cit., pp. 56-58; F. Wasoff, "Legal protection from wife-beating: the processing of domestic assaults by the Scottish prosecutors and criminal courts", International Journal of the Sociology of Law No. 10, 1982, p. 187.
65. Justices Act s. 1959 (Tas) 106F; Crimes Act 1900 (NSW:ACT) s349A; Crimes Act (NSW) s. 375F. It is to be noted that the legislation in Tasmania and the ACT is more general than that in NSW, which specifically caters for domestic violence cases, and that of NSW appears to provide greater safeguards for integrity of the premises in that entry is prohibited where the occupier expressly forbids entry unless the victim of violence invites the officer to enter or the officer secures a warrant.
66. Crimes Act 1900 (NSW) s. 357F(4).
67. Julie Stubbs and Diane Powell, Domestic Violence: Impact of Legal Reform in NSW (NSW Bureau of Crime Statistics and Research, Attorney General's Department, Sydney, 1989) p. 38.
68. K. Waits, "The criminal justice system's response to battering; understanding the problem, forging the solutions", Washington Law Review, No. 60, pp. 267 at 308.
69. 396 NYS 2d. 1974 (Supreme Court of NY County)
70. P. W. Gee, "Ensuring police protection for battered women: the Scott v Hart suit", Signs, No 8, 1983, p. 554.
71. Bail Act 1978 (NSW) s. 37; Bail Act 1980 (Qld); Bail Act 1985 (SA), s.11; Bail Act 1982 (WA); Domestic Violence Ordinance 1986 (ACT) s.24. Evaluation of the NSW bail legislation between 1983 and 1987 indicates that police grant usually impose conditions on bail: Julie Stubbs and Diane Powell, op. cit., p. 15ff.
72. Victims of Offences Act 1987, s.10.
73. Lorna Smith, op. cit., pp. 40-42
74. Islamic Family Law Acts (1985); Law Reform (Marriage and Divorce) Act (1982)
75. A. Phillips and H. P Morris, Marriage Laws in Africa (Oxford University Press, 1971); T. W Bennett and N.S. Peart, "The dualism of marriage law in Africa" in Family Law in the Last Two Decades of the Twentieth Century, T.W Bennett, ed. (Cape Town, Juta, 1983) p. 145

76. S. C. Bradley, "Attitudes and practices relating to marital violence among the Tolai of East New Britain", in Domestic Violence in Papua New Guinea, S. Toft, ed., Monograph No. 3 (Boroko, Law Reform Commission of Papua New Guinea, 1985) p. 34

77. See, for example, with respect to Zimbabwe, E.G. Bello, The Status of Women in Zimbabwe (Harare, 1985) pp. 12-14; See also J. O. Akande, Law and the Status of Women in Nigeria (UN, 1979)

78. See, for example, A. Ibrahim, Family Law in Malaysia and Singapore (University of Malaya, 1978) pp. 206-222; Islamic Family Law Acts (Malaysia) 1985, s. 52.

79. An example of the first model is the Sierra Leone, Matrimonial Causes Act (Cap 35); the second, England and Wales, Matrimonial Causes Act 1973 (which is currently under review) and the third, Barbados, Family Law Act No 29, 1981.

80. Divorce Act (Uganda) 1964, s. 5. Evidence exists to indicate that informal separation is far more common in Uganda than formal divorce proceedings. See L.E.M. Mukasa-Kikonyogo, presentation delivered at the International Federation of Women Lawyers, Sydney, Australia, 26-31 August, 1984. Ms. Mukasa-Kikonyogo indicated that there are rarely more than 100 divorce petitions to the High Court each year.

81. Some countries have abolished judicial separation. See, for example, Australia, Family Law Act (1975 (Cth) s. 8.

82. J. Giles-Sims, Wife Battering: A Systems Theory Approach (New York, Guildford Press, 1983) p. 128

83. Particular problems may face such a woman in jurisdictions where physical chastisement of a wife is enshrined in the law or accepted culturally. See, for example, Northern Nigeria, where S. 55(1)d of the Criminal Code justifies a "reasonable amount" of physical chastisement of a wife. See also, S. Atkins and B. Hoggett, Women and the Law (Oxford, Blackwells, 1984) p. 127 who cite a number of English decisions where divorce was not allowed even though the wife was the subject of cruelty.

84. Law Reform (Marriage and Divorce) Act 1982, s.103

85. Malaysia, for example, bars divorce, unless the circumstances are exceptional, until the marriage has lasted two years: Law Reform (Marriage and Divorce) Act 1982, ss. 53 and 54; Trinidad and Tobago for five years unless there are exceptional circumstances: Matrimonial Proceedings and Property Act Cap. 45:51. In England and Wales the bar is absolute and is one year: Matrimonial Causes Act 1973, s. 3(1).

86. See p. 129ff.

87. In all Commonwealth jurisdictions, victims of crime have the options of pursuing private prosecutions where the police or state prosecutors fail to prosecute. In practical terms, this option is of little value to the victim of domestic violence. The victim of the crime must gather the evidence herself and be in charge of the conduct of the case. Many Commonwealth countries do not allow the legal aid scheme to aid a private prosecutor. Thus, such an action will be costly, emotionally taxing and fraught with the same difficulties that apply to public prosecutions.

88. The statutes establishing the crimes are different in each jurisdiction. Most do not provide for a specific crime of wife assault (an exception here is Malaysia: Islamic Family Law Act (Federal Territory) 1985, s. 127) but allow for prosecution of such an offence under the general statutory scheme. The English Criminal Justice Act 1988, s. 39 and the Offences Against the Person Act 1861 ss. 20 give an indication of the sort of provisions that are viable in the domestic context. Criminal provisions which aim to protect property or goods may be useful where the abusive spouse has damaged property or pets.
89. See p. 78ff.
90. See note 64
91. See p. 18ff
92. Police and Criminal Evidence Act (England and Wales) 1984, s. 80; Evidence Act (Canada) RSC 1970, CH E-10, s. 4; Crimes Act 1900 (NSW) s. 407AA; Crimes Act 1958 (Vic) s. 400; Evidence Act 1977 (Qld), s. 8(5); Evidence Act 1929 (SA) s.21.
93. NSW Domestic Violence Committee, Report April 1983 to June 1985 (Sydney, NSW, Government Printer) pp. 31-32.
94. L. MacLeod, op. cit., p. 87
95. Hawkins, Pleas of the Crown, Book 1, Ch 60; See, for example, Canadian Criminal Code, RSC 1970, s. 745; Scotland, 'law burrows'
96. Australian Law Reform Commission, Domestic Violence, Report No. 30 (Canberra, AGPS, 1986) para 85.
97. The first edition of this Manual describes the legislation on pages 21-23. See also, N. Seddon, Domestic Violence in Australia (Federation Press, Sydney, 1989), Chapter 5 and Country Report on Violence Against Women, presented to the Commonwealth Ministers Responsible for Women's Affairs, Ottawa, 9-12 October 1990 by Helen L'Orange, Office of the Status of Women, Department of the Prime Minister and Cabinet, Canberra, p. 14 ff. The relevant legislation is Crimes Act 1990 (NSW) Part XVA; De Facto Relationships Act 1959 (Tas) s. 106; Domestic Violence Ordinance 1986 (ACT); Justices Amendment Act (No 2) 1988 (NT) ss.99-100.
98. N. Naffin, Domestic Violence and the Law: A Study of s.99 of the Justices Act (South Australia) (South Australia, Women's Adviser's Office, June 1985), p. 127
99. NSW Domestic Violence Committee Report, April 1983-June 1985 (Sydney, Government Printer, 1985) p. 21.
100. N. Naffin, op. cit., p.116.
101. Julie Stubbs and Diane Powell, Domestic Violence: Impact of Legal Reform in NSW (Sydney, NSW Bureau of Crime Statistics and Research, Attorney General's Department, 1989), p. 29ff.

102. N. Naffin, op. cit., p. 116: "According to this survey group the chief advantage of the orders is that they deter persons who are normally law-abiding from engaging in further acts of violence. To a limited extent, the orders are effective. The main problem with the orders – their principal disadvantage – is that they fail to deter persistent offenders who have developed cynical attitudes towards the law. It follows that the attitude of the respondent is all important. The extent to which the respondent takes the order seriously is the extent of its effectiveness".
103. J. Stubbs and D. Powell, op. cit., Chapter 2.
104. This is the case with African women. R. Hirschon, ed., Women and Property, Women as Property (London, Croom Helm, 1984) Introduction. This has been changed in Zimbabwe by the Legal Age of Majority Act, 1982.
105. For example, England and Wales: Law Reform (Husband and Wife) Act, 1962. The court is allowed to stay proceedings if no substantial benefit would accrue to either party from the continuation of the proceedings.
106. Canberra Times, 22 May 1991.
107. s. 103 Law Reform (Marriage and Divorce) Act 1982.
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## 6. BREAKING THE SILENCE

The roles ascribed to women and expectations of appropriate behaviour in specific societies, coupled with the fact that women are often dependent on men economically and in social status, make women particularly vulnerable to violence in the household. However, the violence is behind closed doors and there is a range of restrictions and controls of women which tend to make violence tacitly accepted. It is, therefore, the responsibility of people with a public/professional role in the community to break through this silence, in order to make heard the voices of women and girls who have been abused in a wide range of domestic contexts.

Health workers and those working in association with health care services have a particular responsibility to make themselves aware of the signs and signals that might indicate that violence is occurring in the home. They must also know what steps to take in order to help women who are being abused.

If a worker is to be effective in detecting domestic violence, it is vital that he or she recognises the extent to which violence is accepted, even by the woman at whom it is directed. Attitudes which justify violence towards women often include distinctions between women and men which are made on the basis of whom it is acceptable to abuse and whom not. People must examine the way women are treated in their own society and their own personal attitudes. We need to start with a belief in the right of all women to live free from violence or from the threat of violence.

This chapter describes basic guidelines for community health workers and medical helpers to enable them to recognise abused women and to help these women break the silence about the violence they are suffering.

### The Contexts and Range of Violence

The stereotype of violence towards women in the household is of a drunken man beating up his wife. Whilst there is some truth in this, it is only one of a range of contexts and relationships in which violence takes place. Not all men are drunk when they attack women. In the same way, the class and standard of living of families in which violence takes place can vary widely. Many different kinds of men abuse women.

Domestic relationships are by definition private, and this is why, here, violence can be invisible. But it is not just husbands who beat up their wives; women and girls are also at risk from brothers, fathers and other male relations. Any woman who is confined in a household, (for example, a domestic servant), is at risk from male members of that household.

The type of violence women and girls might experience includes:

- \* physical assaults (ranging from punching the face and/or body to life-threatening use of weapons)
- \* sexual coercion and humiliation (ranging from sex under pressure to repeated rape and sexual torture)

- \* emotional and psychological torture (ranging from depriving the woman of sleep to forcing her to do things against her will through threats to herself or her children and relations)

Evidence from many countries demonstrates that violence towards women and girls in the household is much more widespread than is apparent. It is not noticed both because it is hidden and because people do not know the signs that might suggest abuse.

### Why the silence?

Because abuse of women by those in power over them is so commonplace in so many societies, women often feel they have no right to complain. Violence is often seen as an acceptable way of controlling women in certain circumstances, and it is assumed that women must have done something to deserve it. There are two ways in which women are blamed for the violence they experience. Firstly, they are seen to have directly provoked the man, often by challenging his views or behaviour. Secondly, they are seen to have overstepped social limits for women's behaviour and the man, therefore, feels justified in using violence to control her future behaviour. Whilst many aspects of traditional behaviour are important to preserve, those which involve the abuse of large groups within any society must be questioned. There are a number of reasons why women might be reluctant to reveal the fact that they are experiencing violence:

- \* they may feel ashamed and/or worry about the shame and dishonour that telling someone may bring upon their family
- \* they may fear that they will be blamed for the violence
- \* they may feel that if they try to tell someone, that person will not want to listen
- \* they may be minimising the severity and frequency of the violence and its impact on their physical and mental health as a coping strategy
- \* they may be focussing solely on surviving from day to day
- \* they may be afraid because of threats made by the man about the consequences of telling anyone
- \* they may simply accept the violence as a right of discipline or authority over them
- \* they may realistically be concerned about the few options open to them if they do tell someone

### The Conflicts Around Which Violence Emerges

The situations in which violence occurs often arise out of conflicts about particular issues. It is important that health workers in the community are aware of these. For example:

- \* conflicts over fertility including contraception, abortion, spacing of children, number and sex of children, infertility, or disputed paternity
- \* the increasing age of the woman and the decision by the man to take another wife
- \* conflicts over the possibility of divorce/separation
- \* the woman's separation from her relations or other support networks and/or her confinement within the household
- \* conflicts between younger and older women/members of the man's family
- \* the woman's inability to cope with children/housework/job/ relatives/husband
- \* conflicts about whether girls should be educated and/or whether the woman herself has access to education
- \* conflicts about the women's children from a previous relationship
- \* conflicts about the woman taking a paid job outside the household or her involvement in community or political activity
- \* conflicts over money, possessions and the allocation of resources within the household
- \* conflicts over expectations of women's role, particularly her performance of household tasks
- \* resistance by the woman to the sexual demands of her partner
- \* conflicts about alcohol use

This is not a comprehensive list and the form the conflicts we have highlighted take will vary between societies. We have included them to alert you to the range of issues that can precipitate violence and to enable you to think which are most applicable to your society.

### **Recognising the Danger Signs**

Whilst health workers may come across evidence of violence in any setting, it is most likely that it will be encountered in one of these situations:

- \* hospital accident
- \* hospital outpatient clinics, especially gynaecology clinics, ante- and post-natal clinics, paediatric clinics, clinics for sexually transmitted diseases, psychiatric clinics and orthopaedic clinics
- \* family planning clinics
- \* maternal and child health centres/clinics
- \* mental health institutions

If you are in a junior position and a woman talks to you about the violence she is experiencing, you should seek her permission to tell a more senior colleague who can take appropriate action. If you suspect that a woman is being abused, you should express your concern to someone who you feel would be sympathetic and is in a position to do something about it. If you are in a senior position, you should make it clear to all the staff you work with that you want them to take the possibility of violence seriously and share any information with you. The staff must also know the steps they should take in such cases to preserve and ensure the woman's confidence and dignity, and to help her talk freely without fear or shame.

There are a number of different kinds of situations in which you may be in a position to help or enable women to speak out about the violence they are suffering:

- \* You may be presented with a crisis situation in which there is clear evidence of physical injury. Even in this context women may explain their condition without referring to violence. If there are bruises or other injuries, they may say that they fell, walked into a sharp object, had an accident, or that something fell on them. Any one of the following physical indicators should lead you to take the possibility of violence seriously:
  - any external bruising
  - wounds from weapons (guns and knives)
  - marks possibly caused by whips, sticks or belts
  - hair pulled out
  - injury to the face
  - burns, especially those apparently caused by lighted cigarettes
  - broken limbs or ribs
  - head injuries possibly caused by banging of the head against floors or walls, or by a stone or hammer signs of possible internal injuries that could be the result of punching/kicking
  - unexplained vaginal bleeding
  - unexpected threatened or spontaneous miscarriage

- \* The woman may be in a state of acute emotional distress; the long term impact of living with a violent man may affect a woman's mental health. If she is very distressed, she may not be able to give a coherent explanation at all, or she may talk generally about not being able to cope with her life. Any of the following indicators should lead you to take the possibility of violence seriously:
  - long term depression
  - anxiety and fearfulness
  - suicide attempts
  - disturbed sleeping patterns
  
- \* The woman may be seeing you about a seemingly separate issue, but may talk to you about feeling very unhappy, feeling generally unwell, that she can't cope with life, that she is always tired, that she doesn't feel herself, or that there are money problems.

She may be using these general complaints as a way of talking indirectly about violence in order to get access to help and advice. In any situation where you suspect violence might be occurring you should look for evidence of previous violence like badly-healed fractures, old scars and physical disability (limping).

### **How to Break the Silence**

We have noted some of the signs and situations which might indicate that violence is occurring in the home. Because of the pressures on women not to name the violence directly, it is important to create a safe context in which the woman can speak out. The first step in this process is to gain the woman's confidence so that she feels you will be sympathetic to whatever she tells you and that you will not betray her trust. She needs the security of knowing that you will not hold her responsible for the violence, so that she is able to describe humiliating experiences without feeling blamed or shamed. It is also your responsibility to have time to listen, to give advice and to take appropriate action where necessary to protect the woman from further violence.

Given that the violence women experience is invariably from men whom they felt they should be able to trust, a woman may feel unsure talking to a male professional about the violence. If you are male and feel that there is no possibility of a female colleague conducting the interview, you could offer the woman the possibility of another woman being present. This could be a female friend or relative of hers if someone has accompanied her or is nearby, or a female member of staff. Be careful to make sure that this is the woman's choice; she may in fact not want anyone else present.

During the interview, the woman should be treated at all times with respect and made to feel comfortable. It is important that you conduct the interview in a quiet and private place where you will not be disturbed. You should convey that you have time to listen to what she has to say and that you will be neither shocked or judgemental. You should indicate that your primary concern is for her, her health and her safety. If the woman is distressed, you must calm her down and support her before asking any direct questions.

The following are a few suggestions as to how you might raise the question of violence with a woman. We stress that these questions should always be asked in a respectful, but open and direct, way.

- \* If the woman has external injuries or bruising and you suspect her explanation is not the whole truth, you could ask, 'Is that really what happened?'
- \* If the woman has internal injuries that could be caused by punching or kicking, or has had mysterious miscarriages, you could say, 'These things are sometimes the result of violence'.
- \* If the woman is expressing general distress but giving explanations that you feel are hiding something, you could say, 'Is that really what is worrying you, or is there something else that you have not told me yet?'
- \* If the woman is raising issues of conflict within the household you could say 'What is your husband's/father's attitude to these matters?'

The woman may open up as soon as she feels you have given her permission to talk, but you may have to follow up your initial questions. In some situations, however, whilst you still suspect that violence is occurring, the woman may refuse to confirm it. Her reticence may be because she doesn't yet trust you or because she is frightened of the consequences of telling anyone. In these situations, you should try to convey to the woman that if she wants to talk to you in the future about anything she can. She should know how and where she can contact you in confidence.

It may be possible in some circumstances to talk in private with the woman's children, if she has any. They often witness violence to their mothers and may, provided they are not too afraid of the man themselves, be able to help you find out if violence is occurring in their home.

If the woman or her children confirm that violence has occurred, or if you have strong suspicions, you should explain to the woman what is likely to happen next, such as:

- \* she may need to have a medical examination
- \* samples may have to be taken
- \* other tests may also have to be carried out
- \* it may be necessary to admit her into hospital so that further tests and treatment can be done

You should also raise the possibility of her taking legal action and discuss the implications of that. At this point, you should consider whether you should refer her to a social worker, a shelter or some other community support agency.

Any injuries should be recorded, and suspicions and findings regarding violence should be entered on the woman's personal and confidential health record. As well as being essential for the woman's health, this will both

help you to build up a picture of violence in particular cases and enable you to assess the prevalence of violence in your community. It will also be invaluable if you are required to give or provide evidence in a subsequent legal case.

## **A Safe Place**

One of the ways to protect women and children from further violence is to enable them to find a safe place to stay where the violent man cannot contact them. The possibilities will vary according to the degree of injury and the available resources in your community.

If a woman comes to you in a crisis situation needing medical treatment and you suspect that she is the victim of violent assault from a member of her household, you could try to use your professional position to remove her temporarily from the violent situation, for example, by admitting her into a hospital or into clinic for tests. This time should be used positively to explore ways of protecting her and her children from future violence.

Where violence is confirmed, you should discuss with the woman the places where she feels she might be safe. These might include:

- \* the home of members of her family, or friends
- \* a shelter for abused women
- \* a religious institution, for example, a convent
- \* a hostel for the homeless

## **The Other Side of the Silence**

All too often, the focus of professionals is on the women and, therefore, on the consequences of violence. Seldom is the perpetrator of violence made accountable for his behaviour. Where men are contacted by professionals, their denials and rationalisations are often too readily accepted. If violent men are not made to take responsibility for their actions we, to all intents and purposes, condone their behaviour. A direct challenge to a violent man may protect the woman in future. Even if the woman separates from the man and therefore is to some extent protected, if the man has not been challenged he may treat another woman in exactly the same way.

It is part of the responsibility of any professional who detects violence to ensure that someone focusses on the man in question. It is probably best if this person is also a man - it could be a health worker, social worker or community leader. Whoever it is must be prepared to challenge the perceived right of a man to use violence as a way of exercising control and authority over women and children in his household.

## **Moving On**

Once you become sensitised to the occurrence of violence and the way in which women approach outsiders about it in your community, you will undoubtedly discover that it is much more prevalent than you had previously thought. Your skills in detecting it will improve and you will find ways of

raising the issue with women that suit your personality and the specific situation you work in.

In taking on this issue and helping to break the silence, your responsibility extends beyond intervention in particular situations. You must also, through your social and professional role, become part of a process in which the aim is to make violence an unacceptable part of personal relationships. The kinds of actions you could take involve sensitising others to the issues and supporting other individuals and groups who have similar aims. You could, for example:

- \* argue for policy and procedural guidelines in your area/country for dealing with domestic violence within health provision
- \* organise training sessions of other health professionals/colleagues to sensitise them and to train them so that they may recognise signs of violence and know how to deal with it
- \* organise educational events to sensitise others (for example, teachers and community workers) to the problem and to share experiences
- \* support and create a network with women's groups and community groups which are/intend providing alternative services like shelters or self-help groups
- \* develop strategies in your community for challenging violent men.

## 7. ALCOHOL-RELATED VIOLENCE

Research has shown that there is a close relationship between alcohol, the abuse of women and other forms of domestic violence, and that alcohol is often used as an excuse for such acts as beating and rape.

It is essential that careful research into alcohol abuse and its causes is undertaken, and that practical strategies are implemented to improve the position of women who victims of alcohol-related abuse.

Action to combat alcohol abuse and its related domestic violence is threefold:

- (a) introduction of legislative measures to provide heavier penalties where alcohol is related to violence, and to supplement and strengthen existing laws for the protection of women and children.
- (b) regular organisation of intensive education programmes/campaigns showing the results of alcohol abuse. This can be done through the Department of Health, through schools and through the broadcasting media.
- (c) organisation and financial support for programmes which offer counselling, rehabilitation services and shelter to help both victims and offenders.

Alcohol-related violence is an issue of major concern in particular areas of the Commonwealth, most noticeably, in the Commonwealth Pacific. Women's groups throughout the Pacific have recognised the problems of alcohol abuse and have urged governments, church and non-governmental organisations to do research, educate people and develop programmes to deal with the rise in alcoholism. As a result of this concern, the South Pacific Commission and the World Health Organisation sponsored a joint Conference on Alcohol-Related Problems in Pacific Island countries in September 1985. The Conference produced the following specific recommendations, which may also be of value to other regions of the Commonwealth:

- \* a survey of alcohol-related domestic problems and violence should be sponsored by the appropriate government departments, non-government organisations and international and regional agencies; the information gathered should be made public.
- \* governments should promote awareness of alcohol-related violence amongst the population by holding meetings which include the use of audio-visual aids; the programme should be continued in small sessions in homes and villages.
- \* stricter legislation should be introduced for the protection of families against alcohol-related violence (e.g. imposing heavier fines and longer terms of imprisonment on offenders); offenders should also be encouraged to undergo counselling and psychiatric evaluation and treatment, as required.

- \* government should regard the fact of being under the influence of alcohol at the time of committing a crime or unlawful act as an exacerbating factor, and provide for stricter penalties in such circumstances.
- \* women's organisations (in parallel with their existing activities) should pursue the organisation of courses on alcohol-related violence; governments should provide the necessary structural, financial, and personnel assistance to enable them to achieve the above.
- \* governments should aid and assist the appropriate bodies (including religious organisations) to implement relevant activities towards enhancing family life for the prevention of violence.
- \* international and regional organisations should be utilised as a source of supplying the relevant information, expertise, skills and personnel in support of the above.
- \* governments should review, where necessary, existing legislation with respect to all forms of alcohol-related violence.
- \* SPC, WHO and governments should promote ideas, at all levels, which progress beyond the sexist antagonism that sustains violence in the home and in the culture.
- \* governments should promote mental health by support of counselling and methods that assist with the encouragement of dialogue between people at all levels.
- \* governments should support the establishment of rehabilitation centres that can provide counselling and maximum support services to the victim and to families who experience the effects of alcohol-related violence, as well as to the aggressor.
- \* governments should give financial aid to establish shelters for the victims of violence resulting from use of alcohol; and that the shelters should be staffed by specially trained personnel.
- \* governments should promote centres for preparing for marriage, and encourage action by marriage guidance counsellors to help couples who are experiencing difficulties.
- \* governments should cease to countenance the easygoing attitude of the authorities responsible for applying the law to offenders who commit alcohol-related crimes and unlawful acts, and ensure the effective and strict application of the law everywhere.

## 8. REFUGES AND SUPPORT SERVICES

The right to live one's life free from violence and intimidation is a basic human right. Yet, daily, millions of women throughout the world are totally denied that right by their partners, partners who should be a major source of love and support throughout their lives and who, if we are to believe the teaching of our society, are there to protect and defend their wellbeing.

This chapter looks at ways of providing practical support to abused women and their dependent children. It draws on the philosophy, structures and experiences of a feminist approach to the problem of violence against women in the home which defines it as a political rather than individual problem, needing political solutions. A major part of that political solution within the past 15 years has been the establishment of thousands of refuges and support services for battered women and their children throughout the world, based on the principles of self-help and collective action. This network is now an international movement which can be used to exchange ideas on ways of working and to provide support and information for new groups trying to develop services in their area. We look briefly at the sort of support services currently available to battered women and their effectiveness, and give some ideas on how to go about setting up these services. This is by no means a comprehensive study of the subject and it is certainly not a blue-print for action. In fact, many aspects of the support services detailed here may be totally inappropriate or unworkable in other circumstances, given the very different political cultural and economic barriers which face battered women worldwide. Individual responses to these problems will vary greatly; the needs of battered women and their children cannot be met without reference to the local community. This chapter is about providing a framework in which local responses may be developed. But it is also about recognising that women, worldwide, are victims of male oppression and that we are all part of that oppression.

In challenging male violence, we experience common problems and obstacles. The barriers which stop women leaving violent men may vary, but they are still barriers. Unwillingness to acknowledge domestic violence as a serious problem is worldwide; a lack of political will in governments to provide resources and support services for battered women and their children is commonplace. However, our most powerful asset as women is our ability to support each other; collective support exists within the refuge, safe house or phone network whether in Africa, Asia or Europe. This is the tool which denies men the right to abuse us.

### **Violence Against Women in the Home: A Worldwide Problem**

The phenomenon of wife-abuse has, throughout history, been a commonplace feature of all known societies. It is often both socially and legally condoned. The abuse of women in their own homes, like the problem of violence against women generally, is on a worldwide scale affecting women irrespective of their age, class or religion. Even today in countries where legal protection for battered women and their children is fully available and where an official recognition of violence against women in the home has been obtained, the suffering of large numbers of women and children within the home is still largely ignored. In other countries, domestic violence is still a 'hidden' problem which goes unacknowledged both in public and in private, leaving thousands of women enduring systematic violence and brutality at the hands of their partners.

## The Women's Aid movement

Until very recently, few women publicly admitted to being abused by their partners. Yet within the past 15 years the abuse of women has become an issue for both public and governmental debate. As well as media interest in the topic, there has been significant activity in academic research. The origins of the battered women's movement has direct links with the development of the women's movement in the early 1970s, when women began to come together to openly confront the oppression of women as a class. Many women's centres began to emerge as a result, and although they did not set out to give refuge to battered women and their children, it soon became the main focus of their work, this being a primary need of many women who contacted them. In the UK, groups which came to specialise in this work adopted the name 'Women's Aid'. Significant improvements have since been made in many parts of the world, and a number of choices are now available. In Belfast, for example, within a relatively short space of time, dramatic gains have been made, in addition to the comprehensive support network established there for battered women.

### Why Women's Aid?

If a solution to the problem is to be found, effective alternatives must be offered to battered women and their children. This means alternatives which not only respond to the needs of battered women but which take into account the nature of the problem, so that women can make real choices in the decision about their individual situations. This chapter uses the Women's Aid model when looking at ways to establish support services for battered women and their children. Why? Quite simply, because within the last 15 years, Women's Aid has proved to be the most effective way to empower women to challenge male violence within their relationships. There are several reasons for this. Firstly, the vast majority of women will identify easily with the non-professional and non-hierarchical service models offered by Womens' Aid. Secondly, by using the method of self-help, individual women are given the opportunity to develop on a personal basis, which in turn also strengthens collective action. Thirdly, the emphasis on a flexible, non-judgemental approach in responding to individual women, and the right of each woman to make her own decisions and be supported in them, means that a large range of needs can be met within a Women's Aid environment. Finally, Women's Aid refuges are essentially about sharing experiences and ideas and about living together; many argue that a sharing community is the only context in which women can gain the lasting confidence and courage necessary to reduce their dependence on violent men.

Other forms of support services obviously do exist for battered women. These may be more hierarchical and more highly structured; a small number of women may need such support. Although the Women's Aid model may not be totally appropriate within all communities, many aspects of it will be; the model can be used to help clarify how support services should be structured and developed within particular areas. Indeed, the broad-based principles and objectives to be found within Women's Aid can culminate in a surprisingly wide range of aspirations, whether in terms of personal motivation of group members or in the political structures within a particular area. What is of crucial importance, whether or not the Women's Aid model is used, is that common principles and goals are identified from the beginning, so that a coherent response to the problem can be established.

In order to agree on what perspectives should be adopted by a group, some basic questions must be answered:

- \* Why are women abused in marital relationships?
- \* Why do men abuse women?
- \* What role does violence play in the oppression of women generally?
- \* How should women organise to stop male violence?
- \* Do men have a role in this?

To assist in the process of developing a response to the questions proposed above, a brief summary of the perspective of Women's Aid and the methods of working follows.

### **Women's Aid: Philosophy, Principles and Practice**

From its inception, Women's Aid had viewed violence against women in the home as directly related to the pressures that women face generally in society. For the organisation as a whole, this has meant making choices from the very beginning. These are choices about how groups and refuges should be structured: that they should be women only, that they should operate along the lines of self-help and mutual support and that structures should be non-hierarchical, giving women who have experienced violence direct control over decision-making processes and therefore over the development of the organisation. The choices that have been made are validated by the thousands of women who continue to come to Women's Aid each year, whom we know are being offered a real alternative to their violent domestic situation.

The aims of Women's Aid are:

1. To provide temporary refuge to women and their children suffering mental or physical harassment
2. To encourage a woman to determine her own future whether this involves returning home or beginning an independent life.
3. To recognise and care for the emotional needs of the children involved.
4. To offer support and advice to any woman who asks for it, whether or not she is in a refuge, and to offer supportive aftercare to any woman leaving the refuge.
5. To educate and inform the public, the media, the police, the courts, social services and other authorities, always mindful of the fact that the battering of women is a direct result of the general position of women in our society.

## Self-Help

Self-help has been proved to be the most effective way of providing support to battered women both as a method of working and as a political strategy. Women's Aid recognises that women who have experienced violence in their relationships are often best equipped to help others in the same situation. The importance of helping women to take control of their own lives, of encouraging self-determination, and of giving power to women whose experience has mainly been one of powerlessness is crucial in Women's Aid.

Women who have been abused, degraded and have all but lost their self-respect can build this up in themselves each other by learning skills or management of the refuge and by taking part in group activities and policy planning. The care and support received through this method of work we believe to be crucial to the women themselves. It allows development and personal growth beyond the period spent in the refuge; many women choose to remain part of the group, working as volunteers. They join with those who came into the group because they wanted to help women discover that working for change brings change. Changes benefit not only abused women and their children but have the potential to transform the community beyond the refuge when women take these skills and attitudes back into the community.

## Why Women Only?

Women's Aid groups operate a women-only policy for two reasons. Firstly, to ensure the mental and physical wellbeing of women and children coming to use our advice centres and refuges. Physical and mental fear of men which many women understandably feel as a result of their experiences cannot be underestimated. It is only by providing a women-only environment that Women's Aid can offer complete protection to women and children. The second reason is linked to the political perspective in which Women's Aid views male violence. By operating on a women-only basis we are giving women the opportunity to develop skills and confidence and to rely on each other and thus help redress the imbalance of inequality between men and women in our society.

## How Refuges Work

A refuge is a house where women who have experienced violence in the home can live with their dependent children. The definition of violence given by Women's Aid includes mental, physical and sexual violence.

The availability of refuges is only one step in ending violence against women but it is a crucial one, strengthening women both on an individual and collective basis, allowing some women an escape from violence and others a means of stopping it, through the threat and action of leaving home.

In a refuge, women are guaranteed protection from violent partners. They can gain peace of mind and a particular type of support and understanding which acknowledges the needs of battered women. There is no

limit to the length of stay; women can stay as long as they need to in reorganising their lives. The most important function of the refuge is to give women the opportunity to assess their situation without pressure, and to decide about the future of their relationships. In refuges it is strongly felt that only the individual woman has the right to make the decision about her future; whatever decision is made, whether it involves returning home or starting a new home elsewhere, she will be supported in this.

### **Structures within a Refuge**

A sense of community and co-operation is encouraged in refuges, enabling women to share tasks rather than to exist in isolation. Mutual support is stressed as an important step towards women gaining self-confidence and being able to cope when they leave the refuge. Each woman has responsibility for her own children, but many facilities such as cooking and laundry are shared on a communal basis. Although it is not always possible, we try to give each woman her own bedroom so that she has some degree of privacy. Most support groups meet weekly and all women living in the refuge are encouraged to attend. This is where the work of our group is discussed. There are also weekly house meetings where women living in the refuge get together to discuss the general running of the refuge and any problems that may have arisen during the week.

### **Paid and Unpaid Workers in Refuges**

The emphasis of involving women who are living in the refuge or who have lived there has led many groups to opt for unpaid workers rather than to run a refuge with permanent staff. Other groups have decided to employ permanent staff, arguing that women should be properly paid for the work being done within refuges and that self-help can exist within this structure. Most refuges do not have night staff, so that women living in the refuges are given direct responsibility in running them.

Women have been socialised to be dependent and often go from dependence on parents to dependence on a man. To arrive at a refuge which is highly structured and which has a warden would allow the women to become dependent once again. Women living in refuges are therefore encouraged to run the refuge and to work collectively with other women to take control over their own lives.

### **Alternatives to Refuges**

Refuges are unique. In contrast to 'homes for battered wives' they offer a lot more than accommodation and also offer different solutions. Such structures also tend to be more restrictive, for example there may be a time limit on how long women and children can stay or more rules and regulations about the day-to-day running of accommodation; the place may be more hierarchically structured in terms of staffing. There may also be emphasis on a particular solution to the problem, for example, reconciliation. It would be wrong to deny that the need for such provision exists but it should be stressed that it is totally inappropriate for the majority of battered women in terms of offering a long term solution to their problems.

The value of refuges is that they enable women to relate to each other as women, irrespective of their religious, cultural or class differences; what unites them is their experience of male oppression.

### **Establishing Local Support for Battered Women**

There are many ways in which support may be established for battered women and their children. Several factors should be taken into consideration when thinking about appropriate action:

- \* It is important to remember that it is **men's behaviour which is the problem**. It is only when men learn that violence/threatening behaviour towards women is totally unacceptable that the problem will abate. Since we are still a long way from that position, priority must be given to the victims of men's behaviour, to women and children. For the majority of women and children this means first and foremost **physical protection** either by getting the woman away from the violent situation i.e. into a refuge, or by removing the violent man and effectively keeping him away whether on a temporary or permanent basis.
- \* Geographical location – a very rural or isolated community with poor transportation and communications networks will offer a very different service to battered women than one in an urban setting.
- \* What support systems if any, presently exist to deal with domestic conflict? Are support systems within the family or religious structures effective in responding to the needs of battered women? Or do they in fact prevent women from finding solutions? How can existing support systems be made more effective in terms of offering women support and condemning the man's violence?
- \* What about more formal networks, for example, social welfare organisations? Do they offer any support at present to battered women and their children? How can that help be made more effective?
- \* What about provision for protection for battered women within the law? (See chapters 3, 8 and 9).

### **Getting Started**

Once you have taken local factors into consideration, you can decide on what service you can offer. Be realistic about what can be achieved. For example, if there is virtually no awareness about the abuse of women within the family, a lot of groundwork in terms of raising and debating the issues involved will have to take place before much can be achieved.

The overall objective of any group or individual should be to provide support for women and to make men realise that the use or threat or violence against women is both unacceptable and illegal. The ways in which that objective may be achieved should be outlined in order to make a choice about what priorities you wish to concentrate on in your area. The list below is by no means comprehensive!

## **Direct Support Services for Battered Women and Their Children**

### Informal Support and Advice Networks

It may be that the practical options open to you are so limited that no formal service as such can be established. However, there is a growing awareness about the problems faced by women generally, even in very rural areas, so some attempts should be made to raise awareness on the problem. Perhaps as a topic it could be raised publicly and women may begin to come forward. Even at an informal level, if there is some focus for support (not necessarily public), it will be of great value. If one or two women are identified within a group, this will be important in breaking down the sense of isolation and guilt many women experience. This can also be the basis on which a more elaborate support system may be developed in the future.

### Formal Support and Advice Networks

- \* Telephone line: a confidential telephone number is required (day and night if possible) which can be operated by volunteers on a rota basis.
- \* Advice and support centre: you will need to acquire premises (ideally they should be your own, but perhaps you would have use of existing premises once or twice a week). Women can then either ring up or visit the centre.
- \* Safe house: this is like a short term refuge. A group of people will offer their homes to individual women and children in a crisis situation for them to stay on a short term basis. It is crucial that people who are offering their houses should have some awareness of the needs of battered women and their children.

These facilities may be interim measures whilst trying to get a refuge established, or may be more permanent if establishing a refuge is not feasible. In addition to providing a public focus, they can offer women emotional support, practical help and information on legal and other rights. As with all direct services, a caring, empathetic, non-professional approach is one which will be most effective. Building up a sense of trust and confidentiality will be important if women are to use services and if services are to gain credibility not only amongst women but with other agencies. Some basic information and training for volunteers and workers running these facilities may be necessary. The suggested areas for training are: understanding the needs of battered women and children, self-help counselling, and women's legal rights.

## Refuges

By offering women individual support whether through a phone line, an advice centre or safe house you are enabling women to reject their partner's behaviour. For many women, whether they have had months or years of abuse, this will simply not be enough. These women need help, not just so as to reject their partner's behaviour, but to cope with all the implications that that decision brings: the break-up of a marriage or long-standing relationship; the break-up of the family; bringing children up alone; securing economic independence; finding somewhere to live; building up a home - and these are only the initial steps.

In a refuge, the individual experience can be transformed to a collective one where women, through mutual support, regain their strength, self-respect and ability to cope with whatever decision they make. Refuges should be homes. They are the homes of women and children who live there; this should be respected at all times. In a refuge the atmosphere should be a friendly, caring and positive one in which women and children feel safe and secure. This does not always happen automatically; it has to be worked at by the support group and by women living in the refuge.

## Running a Refuge

Living in a refuge is not easy. Lack of privacy, lack of resources and overcrowding are all constant problems within refuges. Women and children initially coming to the refuge may be very distressed. It may be their first experience of communal living. It is important that refuges offer women and children real alternatives; they should offer a safe, warm, clean environment and should operate on democratic lines. Committed workers, whether paid or unpaid, who work directly with battered women and children must have a full awareness of their needs. They themselves as workers will need support.

To establish a refuge, several factors should be taken into consideration - the design, size and location of the property; the features that must be included; safety; and security measures.

## The Property

The refuge property should be of a high standard, located near to essential services (schools, doctors, shops, etc). It should be of adequate size so that overcrowding will not be a problem. Most refuges would not exceed accommodation for more than fifteen families. The refuge design should allow for a degree of privacy; each family should have its own bedroom if possible. There should also be a degree of communal facilities such as kitchen, laundry, and children's playroom.

## Essential Features

- \* well-equipped playroom
- \* adequate cooking and laundry facilities (durable equipment is essential)

- \* office/sitting room space where women can talk privately
- \* adequate washing and toilet facilities
- \* adequate fire precautions
- \* furnishings, furniture and play equipment should, if at all possible, be new and be replaced regularly
- \* a garden, if possible

### **Making a Refuge Safe and Secure**

The physical appearance and upkeep of a refuge is essential. With such large numbers of women and children, maintaining the refuge to a suitable standard is no easy task. But a clean, warm, safe environment is crucial for the mental and physical wellbeing of the women and children living in a refuge and can also ensure that the refuge has credibility as a facility. This is important both in terms of women needing to come in to the refuge and for liaison with outside agencies.

A high standard of hygiene is essential for the physical health of all women and children, particularly for the health of young children and infants. Physical safety is also an important factor in refuges. Not only is it important to be aware of the normal risks such as fire and accidents, but there is the added danger from husbands and boyfriends looking for women and children. Particular attention should be given to the outside of the house so that it is totally secure i.e. reinforced glass in windows; strong doors and locks on doors. No children should be allowed to answer the door at any time. The address of the refuge should also be kept as confidential as possible and everyone coming in and out of the refuge should respect this.

### **House Meetings**

Working democratically - this means involving women in the decision-making processes of the group and in the work of the refuge, giving advice, participating in discussion, and so on. A democratic, self-help structure minimises the risk that women will become dependent on a particular worker/volunteer; it also enhances the smooth running of the refuge. It means that women are much more able to cope after they leave the refuge in terms of making decisions and leading independent lives, whether this means returning home or starting a new home up elsewhere. The function of regular house meetings in running the house democratically is crucial. House meetings can discuss the day-to-day running of the refuge, any problems within the house, the sharing of practical tasks, babysitting arrangements and the general work of the refuge.

### **Outside Agencies**

The majority of refuges do not offer formal counselling to women. Women will mostly get support from other women living in the refuge, from workers or from volunteers. If the need for more formal counselling arises, then a woman can be referred to an outside agency. Developing

good working relationships with outside agencies is crucial if women and children within the refuge are to be effectively supported. Where possible, liaison should be made with police stations, social services departments, health workers, doctors, child-care agencies, solicitors and housing agencies.

## Children

Children coming into refuges have a lot to cope with - leaving their fathers, their schools, their home and friends, as well as encountering a new and confusing situation. The majority of children adapt extremely well and generally settle down to enjoy life at the refuge. It is important to be aware that a mother needs time to settle down and to think about the future, but it is of equal importance that workers should not take over total responsibility for her children. Particular features should be noted in responding to the needs of the children: the need for space of their own i.e. a playroom, stimulating play materials, organised play sessions and good child care workers. It will be important for the child care workers to realise the special needs of the refuge. At a refuge, families will be frequently arriving and leaving, so it may be difficult to establish the usual routine operated in other playgroups. Older children attend local schools but the under fives seldom get a break from the refuge environment. On some occasions, both mothers and children coming into the refuge feel very depressed or upset as a result of their experiences at home. In such cases, the role of the childcare worker to both mother and child will necessitate much care and patience.

It is important for children to understand as far as possible the reasons why they are living in a refuge and the decisions being made that will affect their future. If workers talk to children and make themselves available to them, and if the children have lots of discussion and chats with their mother, the children will have the opportunity to work through any problems or fears that they may be experiencing. There are many misconceptions about the needs of children in refuges - with love, patience and understanding, children's needs as well as women's can be mostly fulfilled in the refuge. Many children will look back on time spent in the refuge as extremely happy.

## Funding

Once you have some evidence of the needs of an area and you have decided upon the extent of the service you wish to establish, you should identify possible sources of funding. You will need an estimate of the costs involved and you should have your arguments for the need and extent of the service clear before approaching any such bodies. Possible sources include: charitable bodies, trusts, government voluntary agencies, central and local government funds and, of course, fund-raising events. You should decide what the long term funding of the service should be and put your efforts into developing good working relationships with that body.

## Education and Research

Some education and publicity will be necessary not only for reaching battered women but also in building up credibility with agencies involved. Education work with different agencies such as police, social workers, doctors and hospital workers will be useful in developing more effective agency response to the problem. Public education in terms of going out to give talks to youth groups, community groups, women's groups, and so on, is also useful.

It will be important to do some research on the extent and nature of women locally. This is not only in order to produce evidence for funding bodies and other agencies, but also to help assess what services should be provided. A questionnaire could be circulated to relevant agencies in order to gain the relevant information or a research worker could be commissioned to do more in depth studies.

### **Conclusion**

The needs of battered women and children wanting to leave violent men can be met at a relatively low cost. This cost must be weighed up against the misery and unhappiness of thousands of women and children throughout the world today who are trapped in violent relationships in the home. It is only through initiatives to provide physical safety and real support for women and children, through legislation that will criminalise violence in this context, and through social condemnations of male violence towards women that the cycle of misery can be broken.