
REPORTS OF THE COURSE

GROUP 1

INTRODUCING AND PROMOTING EVIDENCE-BASED PRACTICE (EBP) IN THE TREATMENT OF VIOLENCE AGAINST WOMEN AND CHILDREN (VAWC) OFFENDERS

Rapporteur: Ms. Liusuavai Kelisiano (Samoa)

Co-Rapporteurs: Ms. Mijin Kim (Korea)
Ms. KIMURA Yayoi (Japan)

Chairperson	Mr. Mujahid Rahim	(Pakistan)
Co-Chairperson	Mr. Francis Kiri	(Solomon Islands)
Members	Mr. Eriky Ferigino	(Indonesia)
	Mr. Wing Naing Lin	(Myanmar)
Visiting Expert	Dr. Franca Cortoni	(Canada)
Advisers	Prof. FURUHASHI Takuya	(UNAFEI)
	Prof. KITAGAWA Mika	(UNAFEI)
	Prof. OTANI Junichiro	(UNAFEI)

I. INTRODUCTION

In the last four decades, the traditional criminal justice systems slowly but inexorably inclined towards a reformative approach and have steadily given up orthodox punitive approaches. The debate of “what works” to prevent recidivism led researchers to develop scientific methods to identify effective programmes and policies for rehabilitation of offenders. By now it is imperative to have “scientific evidence” or “empirical evidence” regarding effectiveness of a programme before its implementation in many developed criminal justice systems. This is what is known as “evidence-based” programmes or practices.

This paper focuses on the concept of EBPs, significantly effective programmes prevailing in different jurisdictions, the challenges and limitations of EBPs and how we can introduce and promote EBPs in our jurisdictions with special reference to VAWC.

II. HISTORY AND CONCEPT OF EBP

In 1974, an American sociologist, Robert Martinson published his research article “What Works” regarding effectiveness of rehabilitation programmes for offenders. In his research, he concluded that “nothing works” in the rehabilitation of offenders. This “nothing works” doctrine attracted a lot of criticism from criminal justice experts, and it triggered further research in this field. Ultimately, many experts concluded that something works for the rehabilitation of offenders. The conflict of “nothing works” and “something works” led the proponents of “something works” to devise scientific methods to ascertain the effectiveness of a particular programme. The information about the effectiveness of a programme “the evidence” and effectiveness” is the potential of a programme to prevent recidivism. The programmes and practices are considered as evidence based when their effectiveness is identified through empirical evidence by excluding any other explanation. The empirical evidence is the objective information about the effectiveness of a programme obtained through high quality methods, by excluding personal beliefs, thoughts and opinions of an individual. The reliable scientific methods are Randomized Control Trials (RCTs), quasi experiments, systematic review and meta-analysis.

In the late 80s, two Canadian physiologists, James Bonta and Don Andrews, developed the theory of “risk, needs and responsivity (RNR)”, which is the most influential and celebrated invention in the sphere of EBPs. The RNR model focuses on the assessment of the criminogenic needs of an offender and appropriate response to those needs through empirically proved intervention. The ‘Risk principle’ denotes the assessment of risk of recidivism in an offender on the basis of static and dynamic risk factors. The need principle explains the

criminogenic needs of the offender. The criminogenic needs are directly related to the offending behaviour of the offender; hence, it is a key part of the RNR model. The responsivity principle means, what works for a group of offenders keeping in view their criminogenic needs or in other words, the suited treatment to the offenders in accordance with their criminogenic needs through empirically proved interventions. This RNR underpins the whole structure of evidence-based practices.

III. CURRENT PRACTICES IN DIFFERENT JURISDICTIONS FOR VAWC

The group had extensive discussion sessions on the prevailing best practices based upon contemporary theories and research for tackling violence against women and children. This is an inescapable fact that the women and children are the most vulnerable segments of society across the world. The most usual offences against women and children are sexual offences and domestic violence (DV) cases.

The modern legal justice systems moved quite far ahead in devising, evaluating and implementing the effective interventions for rehabilitation of sexual offenders. Under the RNR model, the experts bifurcate risk factors (risk of recidivism) into “static risk factors” and “dynamic risk factors” The static risk factors are those which cannot be changed by any intervention, like age, criminal history, marital status etc. The dynamic risk factors (i.e. physiological dispositions) are the factors, which are amenable to change and unique to different offenders like anti-social behaviour, anger problems, physiological distortions etc.

Each jurisdiction has its own way to assess the risk of recidivism, but most of the countries, in essence, follow STATIC-99 as a tool for assessment. Dynamic Risk Factors (DRF) are the primary reasons of the offending behaviours. The identification of dynamic or criminogenic factors demonstrates the probability of reoffending in an offender. Once the level and reasons of the risk are evaluated through risk assessment tools, it is easier to respond to the criminogenic needs of the offenders through an effective treatment programme. This model of evidence-based practices has revolutionized the criminal justice systems of Canada, New Zealand, the UK, the USA, Japan, and Korea etc. It was observed that in all these countries, rates of reoffending have been reduced substantially. After assessment of risk and determination of criminogenic needs, said countries are using Cognitive Behavioural Therapy (CBT) as the most effective tool or practice for the treatment of sexual and DV offenders. The research has established that the prime reason of the sexual offences is related to cognition. CBT focuses on the change of sexual behaviour, interests, enhancing self-management skills, addressing cognition distortions, and social difficulties. The better the assessment and identification of the needs of an offender, the better the response to the criminogenic needs of the offender through effective programmes.

The group has also identified Family Group Conferences (FGC) as a best practice for juvenile offenders and in domestic violence cases. FGCs are diversion measures whereby a meeting of victim, offender and their families is arranged. FGC's are helpful in preventing the juvenile offenders from rigors of ordinary trials and stigmatization by making recourse to counselling, settlement, pardon, compensation to victim etc. The meta-analyses of different research established that FGCs are very effective at preventing reoffending, raising the level of satisfaction of victims, and helping the offender to understand the agony of the victim and also to provide an opportunity to the offender to show remorse to the victim directly. FGCs were originally started in New Zealand; later, the concept was borrowed by many other countries including the USA, Australia etc.

IV. CHALLENGES AND RECOMMENDATIONS

As the group has discussed the promises of EBPs at length with regard to their efficacy towards public safety, prevention of reoffending, increased accountability and cost effectiveness, they still face challenges in introduction, development and implementation. In the discussion, the group participants highlighted the following challenges and issues they are facing in the implementation and development of EBPs and also suggested some recommendations to cope with those challenges.

A. Stakeholder Awareness

There are several challenges in the introduction of EBPs in traditional justice systems as it is difficult to crack the hard nut of traditional philosophies imbedded in those systems. In such criminal justice systems, the popular belief is that only harsh punishment could deter the offenders from recidivism. The group

members are in agreement that as a first step, the very philosophy of traditional systems should be challenged with awareness and by disseminating the benefits of EBPs including public safety, prevention of reoffending and cost effectiveness. The awareness of the stakeholders can pave the way for the introduction of EBPs.

B. Creation of Human Resources and Capacity-Building

The creation and development of human resources including specialists and trained staff in the jurisdictions where EBPs have recently been introduced or where EBPs are yet to be introduced is a challenge. As discussed above, the introduction and implementation is a specialized job based upon scientific principles; hence, the specialists and trained staff are the core part of the EBPs. The group suggested creating academic and legal studies in law schools. Moreover, for training and specialization, these services of certified specialists can also be hired. The cooperation of non-governmental organizations can be sought for promotion and development of EBPs.

C. Education of Staff

During discussion, it surfaced that in certain jurisdictions, some of the staff members still believe that nothing works in rehabilitation of offenders. Resultantly, lack of interest and empathy prevails in the working environment, especially in the implementation phase. This environment of empathy affects the sustainability of EBPs. Moreover, it also provides strength to their existing belief that nothing works in the rehabilitation of offenders. The group has suggested steps to improve interests of the staff through awareness and trainings by sensitizing them about the significance of EBPs in terms of reduction of recidivism and increasing public safety. Again, it is very important to implement the EBPs with fidelity, and the outcomes, can be helpful for change in their traditional beliefs.

D. Fidelity and Adaptation

One of the challenges is a varied and limited result of programmes after implementation with certain adaptation. The implementation of EBPs with fidelity, on account of many reasons, remained a challenge. The researchers are in agreement that only the implementation of programmes with fidelity can bring optimal results, and adaptation of certain programmes with too many changes may be ineffective or even could have negative impacts on the offenders. A battle between fidelity and adaptation should be balanced for maximum results. A detailed manual should be drafted for guidance, training and proper implementation of EBPs in line with the strategy, methodology and scheme used at the time of test and evaluation.

E. Disparity between Research and Reality

Normally, the efficacy of interventions, programmes and policies is tested by the experts in ideal and controlled atmospheres under well trained and controlled staff, whereas such facilities are not equally available at practical sites. The group is in agreement to suggest that the inventors/researchers should adopt a more practical environment as exists in the correctional facilities.

F. Inter-Agency Cooperation

Another hurdle in the implementation of EBPs is the lack of coordination between stakeholders. It is the usual complaint of the correctional officers that they find it difficult to gather information from the judiciary and investigation agencies. However, many countries have resolved this issue by adopting intra-agency meetings. The group has suggested that statutory backing to these meetings can help this cause.

G. Motivation of Offenders

Another challenge usually faced by the correction officers is the lack of interest on the part of the offenders. By now, it has been established that motivation of offenders for change is a paramount factor in their rehabilitation process. Lack of motivation has different causes ranging from psychological to long incarcerations. It has been observed that the offenders punished with long imprisonment terms had little urge for change and rehabilitation. The group has suggested that coordination with judges at the time of passing of sentences may help them impose appropriate sentences keeping in view their criminogenic and rehabilitation needs. Moreover, certain incentives to the offenders in the shape of meetings with family members, friends or early release and remission or some facilities in the incarceration centres may help improve their motivation to participate in the rehabilitation programmes. It is recommended to correctional officers to build trust with offenders before implementation of programmes.

V. CONCLUSION

Evidence-based practices and policies are now central to every modern criminal justice system and introduced science in criminal law. EBPs are making major contributions in terms of public safety, prevention of reoffending, and increasing accountability and cost effectiveness in the administration of criminal justice. The evidence-based interventions have been developed in the recent past and are still evolving phenomena; therefore, they provide a great opportunity for traditional legal systems to adopt and adapt this concept. The challenges faced in the implementation are resolvable keeping in view the following recommendations.

- A. *Firstly* and foremost, the task should be to challenge the existing philosophy and efficacy of existing legal systems by highlighting the advantages and benefits of the evidence-based interventions. In a nutshell, as a first step, it is imperative to change the way of thinking and the mentality of the legal intelligentsia/legal fraternity. Only in this way can we foster the development of EBPs into the traditional legal system.
- B. *Secondly*, as a pilot project, it is always effective to identify an area of work. For instance, in many countries, sexual offences and domestic violence cases are rampant and any of these areas may be selected for introduction of effective interventions, the effectiveness of which is established through empirical evidence.
- C. *Thirdly*, the next step should be the development of human resources. For proper application of risk and criminogenic need assessments, to run the effective programmes and to evaluate the effectiveness of the programmes, specialists are required. The only way to develop specialists is education and training.
- D. *Lastly*, “adaptation”. Adaptation of certified effective programmes in accordance with the local needs and requirements without changing main themes of the programme, is the last step. However, awareness and acceptance are central for change. As *Mark Caine* said, “*The first step towards success is taken when you refuse to be captive of the environment in which you first find yourself*”.