
PARTICIPANTS' PAPERS

COUNTRY REPORT - INDONESIA

*By Irene Putrie**

I. BACKGROUND

In recent years, domestic violence and child abuse is no longer a local or a national issue, but has become an issue of concern for the international community. In 1978, the General Assembly of the United Nations adopted the Convention on the Elimination of All Forms of Discrimination against Women and states parties agreed to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women. Other international instruments are:

- Vienna Declaration and Programme of Action (1993)
- Convention on the Elimination of Violence against Women (1993)
- Beijing Declaration and Platform for Action (1995)

As an archipelago state from west to east, Indonesia has 200 million citizens and more than 85% of the population is Moslem. Belonging to nearly 500 linguistic groups and many ethnic groups, Indonesia is also concerned with domestic violence and child abuse.

II. THE CRIMINAL JUSTICE SYSTEM IN INDONESIA

There are four pillars of the Indonesian Criminal Justice System. First, an investigation is carried out by the police. All investigations for criminal cases, except corruption cases, are carried out by the police, but during the investigation, the police have to inform the prosecutor about the case and if they arrest or detain the suspect.

Second, the Prosecution is carried out at the Public Prosecutor's Office. The Public prosecution service is a government institution that executes the state's power especially in the field of prosecution. The Attorney General, who is appointed by and responsible to the President, heads the public prosecution service. The Attorney General's Office is located in Jakarta, the High Public Prosecution Offices are located in the capital city of every province and the District Public Prosecution Offices. In criminal cases, the duties of the Public prosecutor are: to institute a prosecution in criminal cases; to execute a judge's stipulation and law in courts judgment; to supervise the execution of a verdict of parole; and to make a complete dossier of case (s) and to carry out the necessary additional examination.

Third, the pillar of the criminal justice system in Indonesia is Indonesia's judicial power, under the Supreme Court (*Mahatma Agung*) under Act No. 14/1970 and Act No. 35/1999. Indonesia has four types of court: General Court (for criminal cases and private disputes); Military Court; Administrative Court; and Religious Court. Indonesia has neither a jury nor lay judge system. All cases are handled by a three-judge panel.

The Fourth pillar is the execution power under the Ministry of Justice and Human Rights. Actually, the executor in Indonesia is a Public Prosecutor, but the prisons or correctional institutions are under the Ministry of Justice.

III. CURRENT SITUATION OF DOMESTIC VIOLENCE AND CHILD ABUSE IN INDONESIA

A. Domestic Violence

Mitra Perempuan, a Women Crisis Centre in Jakarta through its Hotline Services receives complaints from their clients. In General, the clients do not want to report their cases to the police. In 1998, *Mitra Perempuan* handled 89 domestic violence cases. The cases concerned physical, emotional, psychological, sexual and economic violence. In 1999, 15.2% of its clients chose the criminal court to solve their problems. 45.7% left their homes and went to their parents' or relatives' homes. 23.9% remained silent and did nothing. It is important to note that victims of domestic violence show signs of post-traumatic stress disorder.

* Public Prosecutor, Indonesia.

A survey conducted by the Community Health and Nutrition Research Laboratory at Purworejo District in Central Java in 2000 has shown that many women in Central Java suffer physical and sexual violence from their husbands at different times in their lives. From a sample of the survey are 765 women (approximately 7.5% of the population in that region), data was collected by a longitudinal study on nutrition during pregnancy. Among them, the prevalence of partner violence against women: physical or sexual violence combined are 27%, sexual violence only is 22%, physical violence only is 11% and emotional violence is 34%.

The National Commission on Violence against Woman (*Komnas Perempuan*) stated that in 2003, they dealt with 5,934 incidents of domestic violence (Jakarta Post, June 30, 2004).

There are many “dark numbers” (not reported) of domestic violence. It is because of the perception of people or the community about domestic violence, lack of victim protection and/or rehabilitation programmes and a lack of consciousness of criminal justice agencies. Besides, the victims may be silent about the abuse and violence because of embarrassment, shame, fear that their batterers will hurt them if they tell other people about the violence and economic dependence on the batterers.

Domestic violence is rooted in a male dominating culture. In Indonesia, a patriarchal family system dominates domestic relations. Male domination and control over females, and parent’s domination and control over children, were regarded as natural in the society where patriarchs predominate. The role and status of men and women is influenced by the interpretations of Islamic teaching: men are the heads and the leaders of the family and women are the household keepers. State policy emphasizes the importance of maintaining harmony and unity in the family.

Very few people identify themselves as abusers or victims. They may remain silent about the issue because of the havoc domestic violence creates in their workplace and family lives. Abusers may minimize their actions or blame the victims for provoking the violence. Both victims and abusers may characterize their experiences as family quarrels that “got out of control”.

There is no typical victim. Domestic violence occurs among all ages, races and socio-economic classes. It occurs in families of all educational backgrounds. Individuals may be living together or separated, divorced or prohibited from contact by temporary or permanent restraining orders. The majority of victims had little choice because they depended on the perpetrators for their survival.

Domestic (husband-wife) and gender violence are also common among socio-economically middle and high-class people with higher education. Some Indonesians argue that the law in Indonesia has failed to protect women from sexual abuse (ranging from verbal to physical abuse) because of the “phallic-centrism culture”, which is still dominant in the country. Another consequence of a phallic-centrism culture is that most traditional women in the culture are not used to expressing their own will, making them unable to differentiate between voluntary intimate relationships and rape. The research conducted by CHNRL in 2000 shows that most of the women who had been battered or sexually abused are those who accept traditional sex roles and most of the men who have battered or abused women are the ones who endorse more traditional gender roles. However, *gender violence and child abuse is not typical to Indonesian. Domestic violence prevails across racial and socio-economic boundaries.*

B. Child Abuse

The most well known case of child abuse in Indonesia is the case of Arrie Hanggara, who was just 10 years old when he died after being tortured by his own father in the early 1980s in Jakarta. The boy’s mother did not help him. The neighbours, who had heard Arrie’s screams for days, also neither intervened nor called the police, because they considered it as a domestic affair. When interrogated by the police, the father justified himself by saying that his intention was just to discipline his son, which is not unusual for socio-economically lower class people like him. He even did not understand how his treatment of his son could cause his son’s death.

Although this case concerns people from the lower class, it does not mean that violence happens only among the lower class.

Child abuse, such as the Arrie Hanggara case, is certainly under-reported in Indonesia. Partly it is because child abuse within the family is considered a private family affair and not a subject for outside intervention. Secondly, most of the abuse cases among lower class people are generally outside of the social work services. Thirdly, most caregivers failed to identify the children as being abused when they meet the abused mothers. Fourthly, many physicians also have barriers in the assessment of assault violence. Moreover, especially in Indonesia, medical services are hardly available to most lower class people.

The issue of child abuse is rife but the government has yet to take any necessary measures to reduce the number of cases across the country. Media reports in 2003 provide a figure of 2,184 child abuse cases, in which most victims were female. Most cases have been settled in court, but no measures have been taken to prevent future cases.

Hard data concerning the number of such children in Indonesia is non-existent, but the rate can perhaps be extrapolated from the number of cases of wife abuse.

For children, the impact of witnessing domestic violence can be devastating. Children may witness acts of domestic violence by being present in the room during the abusive incidents, by hearing the violence from another room or by seeing their mother's bruises, black eyes or broken limbs. Some children are so traumatized they need intensive therapeutic interventions after witnessing the abuse, while others may require only removal from the situation and support. Clearly, the impact of living in a home where domestic violence is present is detrimental to the emotional, developmental and physical well-being of such a child.

Children may be inadvertently injured during a violent episode. The children may lie terrified in their beds as the violence rages outside their bedroom doors or cower within the safety of a closet or other hiding place. In the worst case scenario, children may suffer serious injury or be killed in the batterer's continuing endeavour to control his victim completely.

Many children exhibit signs of post-traumatic stress disorder after witnessing domestic violence. Symptoms may include inability to sleep throughout the night, bedwetting, anger acted out through temper tantrums or anger directed inward manifested in such ways as withdrawal or disassociation. As children grow older, they may experience feelings of guilt for not protecting their mothers and may turn to drugs or alcohol to numb these feelings. School-aged children tend to have poor academic performance, are absent frequently from school and may have either behavioural or psychological problems such as withdrawal and disassociation.

Children who grow up in homes where domestic violence occur are also more likely to abuse others or become victims of abuse as adolescents or adults. At a very early age, male children who have witnessed their fathers' abusive behaviours may begin to behave similarly toward their mothers and female siblings. By age five or six, some children are disrespectful of the victim of domestic violence for her perceived weakness and begin identifying with the batterer. Female children learn early that their mothers are subjugated by the abusiveness of their partners. Unfortunately, those perceptions are normalized and children actually begin to believe that their experiences are no different from the experiences of their friends or classmates.

Witnessing violence can trigger an array of problems in terms of physical health, as well as cognitive, emotional and behavioural aspects. The impacts of conjugal violence on children vary, are multi-dimensional, and also depend on their emotional and intellectual maturity.

The more visible impacts upon these children are manifested in so-called mood related disorders such as excessive crying, sadness and anxiety. The child may suffer from sleeping and eating disturbances due to the disruption of the normal routine at home. The aftermath of violence also fosters lack of responsiveness to adult stimulation.

IV. REGULATION OF DOMESTIC VIOLENCE AND CHILD ABUSE AND LIMITATIONS

A. Regulation of Domestic Violence and Child Abuse

In the Indonesia Penal Code, there are several offences that may be applicable to domestic violence and

child abuse. They are:

- Violence (Article 89)
Using physical violence - when one person uses force to inflict injury
- Harassment, stalking (Article 284, 289)
- Rape (Article 285)
- Abuse (Article 351-354)

These offences are still general and not specific enough to deal with domestic violence and child abuse. For example, the term “rape” does not include marital rape. This means marital rape is not a crime under the Indonesian Criminal Code. The Code defines rape as an act of forced penetration that takes place outside of marriage. So the “rape” occurs only between a man and a woman who is not the man’s wife. Article 285 explicitly states this, *“Those who...force a woman to have intercourse outside of marriage are under threat of imprisonment....because they have committed rape”*.

Indonesia has ratified the international documents concerning domestic violence and child abuse. The international documents that have been mentioned above influence Indonesian regulations.

The last decade has been marked by an increasing awareness of domestic violence and child abuse in Indonesia. On September 22, 2004, the country enacted the Domestic Violence Protection Act No. 23/2004 (*UU Perlindungan Kekerasan Dalam Rumah Tangga*), which aims at protecting and ensuring the safety of family members from violence within the domestic environment. This Act legally assures the protection of wives, husbands, children, relatives, domestic workers and any others who work and/or reside within the family.

However, Indonesian law does criminalize domestic violence specifically through the Domestic Violence Protection Act. Under this Act, the definition of domestic violence is:

When the family members use physical violence, psychological violence, sexual abuse, and abandonment of family

The offence of marital rape is enacted in Article 5 and Article 8 of the Act. Domestic violence in the Act includes physical, psychological and sexual violence and the abandonment of family member(s).

Victim’s protection and rehabilitation programmes are included in the Domestic violence Protection Act. In Article 16, the victim’s rights are:

1. protection from family, police, public prosecutor, court, advocate, social institution, or other party, for a while or based on court stipulation;
2. medical treatment;
3. special investigation related to victim’s secrecy;
4. social advice and advocacy through the legal process; and
5. Religious advice.

In 1997, the country enacted the Child Protection Act (Act No. 23/1997). A child is someone below 18 years old and includes the unborn baby. In Article 13-16, the child’s rights are protection from: discrimination; exploitation, economical or sexual; neglect; violence, abuse; unfairness; and others.

B. Treatment of Offenders

Besides imprisonment and fines, Judge can give additional punishment such as:

- An order to refrain the offender from approaching the victim;
- An order to the offender to vacate if it is necessary to prevent the victim from having to meet the offender;
- An order for the offender to follow a counselling programme.

C. Legal and Implementation Problems

Domestic violence is recognized as a criminal act, but it is still considered rather a family affair because the husband is seen as the leader who has the right to educate or to correct his wife. Besides, cultural attitudes toward the law do not support woman’s demands for legal rights.

Although Indonesia enacted the Domestic Violence Protection Act, the court process is not easy. Domestic violence is an offence that warrants a complaint (offences on complaint). The victim can give rights to her family to report the violence but still needs to frame it as a “victim” report. This means that if the victim does not report the incident of violence to the investigator, there is no case.

It must be noted that domestic violence in general is an under-reported crime. The actual number of incidents would be far greater if there was not such a strong social stigma attached to it, in addition to the limitation of services available to victims. However, based on the aforementioned statistics, we can assume that the number of children who suffer in silence from the effects of domestic violence is also significant.

In Indonesia, every criminal case is tried in a general court. There is no special court such as a family court to handle domestic violence cases.

V. STRATEGIES TO CONFRONT DOMESTIC VIOLENCE AND CHILD ABUSE

In recent years due to the seriousness of their effects, domestic violence and child abuse is not just a local or a national issue, but has become an issue of concern to the international community.

In consideration of the above mentioned, domestic violence seems to be an interdisciplinary problem relating to politics, socio-culture, economics and others. A patriarchal family system has dominated domestic relations.

The strategies to confront domestic violence and child abuse, it is recommended, should be aware of three aspects of law: substance, structure and culture.

A. Substance

Law reform especially the Domestic Violence Protection Act and Marriage Act.

B. Structure

- Governments need to be aware that their actions may be considered an unreasonable invasion of family and personal privacy and parental rights when they intervene in such cases. Governments are required to establish appropriate legislation and guidelines for criminal justice practice and to monitor its implementation. (Article 11, 12).
- Criminal justice agencies are required to develop an integrated approach and to implement it into practice through networking with related sectors. This should include an integrated programme for victims witness protection and rehabilitation.
- Create Crisis Referral Services.

Another recommendation is to create local hotline or crisis referral services that can take calls from women or family members or concerned neighbours regarding a given case or incident, or an inquiry about legal, medical or psychological services. Such a service would allow organizations to reach those women who are less willing to come in person to a station or centre to access services and information. It would also give others the opportunity to speak on behalf of frightened women/children.

C. Culture

The public should acknowledge that the issue of domestic violence and child abuse is not just a private, family matter, but also a serious crime, which needs to be prevented by the community as a whole.

It appears that proactive or holistic efforts to address domestic violence through community development schemes, women’s self-help collectives, efforts to raise public consciousness on the issue of domestic violence and on the economic and political empowerment of women, are also important. These strategies attempt to change conditions that might be responsible for domestic violence. These efforts can potentially reach the vast majority of women who do not or cannot come forward to complain about domestic violence.

Violence is a learned behaviour. Domestic violence is cyclical, which is often transferred across generations. This is a form of multigenerational violence and people just attempt to eradicate its prevalence through prevention, rehabilitation and advocacy. Nevertheless, it is recommended that woman’s and children’s activists in particular continue to promote this issue, otherwise we will be guilty of sanctioning

the legacy of multigenerational violence in our societies.

- Raise public awareness of women's rights through legal training:
Public awareness programmes that are carefully imagined, designed and coherently oriented around economic and political initiatives, and that include gender sensitization components ought to be utilized in a variety of settings. In order to accomplish this, networks between organizations, between activists, and between state officers need to be strengthened; funding needs to be channelled towards improving mutual contact and communication between the state and voluntary sectors; and meetings and conferences to address strategies need to be systematically encouraged.
- Address physical and emotional trauma of victims and perpetrators:
An awareness of the relationship between violence and trauma, the complexities of psychological health and/or the need for longer-term counselling is an important component, which needs to be further examined. Furthermore, efforts to reach the batterer or perpetrator of violence are currently nearly non-existent, yet important to develop.
- Raise awareness of criminal justice agencies.
- Raise awareness of the mass-media.