DOMESTIC VIOLENCE IN INDIA : LAWS AND POLICIES

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Family and domestic violence is a gendered crime. Approximately 95 per cent of the victims of family and domestic violence are female, and 90 per cent of the perpetrators are male (Bagshaw & Chung, 2000). Gender is a critical factor for understanding the aetiology and experience of violence as well as the social and cultural factors that influence its proliferation.

A note on the definition: Family and domestic violence as described above refers to a very specific pattern of behaviour including intentional and systematic use of violent and abusive tactics to create fear and to obtain power and control. It is this behaviour that the background paper, the Department's family and domestic violence policy and case practice guidelines refer to. However, it is acknowledged that there are many other types of unhealthy and sometimes violent behaviours that occur in intimate or familial relationships. Recognition of this has led to the development of 'typologies' in the family and domestic violence field. Typologies allow for the delineation between different kinds of unhealthy or violent behaviour that might occur in an intimate or familial context. 'Coercive controlling violence' and 'violence resistance' as described below are consistent with the definition and understanding of 'family and domestic violence'. Situational violence and separation

instigated violence provide useful descriptors for violent or abusive behaviours within intimate or familial context that do not occur within a broader context of power and control. Understanding the different typologies will assist with guiding an assessment

process to determine the most appropriate response to families.

- Coercive controlling violence is an ongoing pattern of use of threat, force, emotional abuse and other coercive means to unilaterally dominate a person and induce fear, submission and compliance in them. Its focus is on control, and does not always involve physical harm.

- Violent resistance occurs when a partner uses violence as a defence in response to abuse by a partner. It is an immediate reaction to an assault and is primarily intended to protect oneself or others from injury.

- Situational couple violence is partner violence that does not have its basis in the dynamic of power and control. Generally, situational couple violence results from situations or disputes between partners that escalates into physical violence.

- Separation instigated violence is violence instigated by the separation where there was no history of violence in the relationship or in other contexts.

THE INTERFACE BETWEEN FAMILY AND DOMESTIC VIOLENCE AND CHILD PROTECTION

The Department has responsibility to promote the safety and wellbeing of children, young people, individuals, families and communities affected by family and domestic violence. It is estimated that family and domestic violence is now one of the most common reasons for

notification to statutory child protection services and is prevalent (but often hidden) in ongoing child protection case loads. Humphreys (2007) suggests that more than 60 per cent of all statutory child protection cases involve family and domestic violence.

Despite the prevalence of family and domestic violence and its impact on child protection systems nationally and internationally, it is an issue that does not always neatly fit into a child protection response framework. Some of the challenges for child protection systems in managing the safety of children exposed to family and domestic violence include:

- identifying family and domestic violence when it is not the presenting issue
- prioritising complex needs and/or managing family and domestic violence when it is not the primary source of harm or issue of concern;
- managing the safety of an adult victim as well as the child both in terms of their contact with the Department as well as their safety and wellbeing in the short, medium and long term;
- managing the delicate balance between promoting protectiveness while not putting the adult victim at further risk;
- recognising that a protective adult victim cannot and does not reduce the risk posed by the perpetrator;
- promoting perpetrator responsibility and accountability but recognising that behaviour change is long term;
- recognising that intervention, in particular supported separation will likely escalate the risk for the adult and child victim of family and domestic violence;
- acknowledging that family and domestic violence is chronic and cyclical – victims of family and domestic violence might leave their partner and return on a number of occasions;
- working closely with other agencies to facilitate safe and holistic responses to the adult victim and child and the perpetrator; and

- dealing with attitudes and behaviours within the community that normalise or minimise family and domestic violence.

IMPACT OF FAMILY AND DOMESTIC VIOLENCE ON CHILDREN

Children growing up in violent homes experience ongoing and pervasive fear, worry, confusion, self-blame and exposure to multiple insidious forms of violence and abuse.

The impact that this has on children can be devastating, affecting all aspects of health and wellbeing from conception through to adulthood. It includes (but is not limited to) insecure attachment to the primary care-giver, high rates of emotional distress, presence of trauma symptoms and social and behavioural issues (Osofsky, 1999; Perry, 2007).

Research demonstrates that there is no measurable difference in outcomes (emotional, social, behavioural) between children who have been physically abused and children who have been exposed to family and domestic violence (Kitzmann, Gaylord, Holt & Kenny, 2003).

Children growing up in homes where there is family and domestic violence are also vulnerable to other forms of child abuse including physical and sexual abuse and neglect. For example:

➢ Physical abuse: Approximately 60 per cent of physical abuse occurs in homes where there is family and domestic violence (Moloney, et al., 2007). This includes children who are harmed during an assault against the non-abusive adult victim (e.g. if the child is being held or tries to intervene in the violence) and intentional harm of children as a means to punish the adult victim (scape-goating).

➢ Child sexual abuse: There is a high correlation between child sexual abuse and family and domestic violence. In these instances, the perpetrators use of violence against the non-abusive adult victim contributes to their ability to conceal the child sexual abuse

(Brown, 1998; Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, 2007).

➢ Neglect: Examinations of child deaths associated with neglect in WA revealed that family and domestic violence was a significant contributing factor in over 80 per cent of the cases reviewed (Francis, Hutchins, Saggers & Gray, 2008). Neglect is commonly associated with family and domestic violence for a number of reasons including:o financial abuse – perpetrator control of household funds might limit access to adequate food and medical needs; o control and isolation – perpetrator may limit access to supportive friends or family and/or support services; and o jealousy – perpetrators of family and domestic violence can see their children as 'competition' for their partner's time. This can lead to undermining the adult victims parenting including actively stopping them from responding to the child's needs through intimidation and violence.

➢ Pregnancy is commonly associated with an escalation in family and domestic violence which can cause miscarriage, complications, low birth weight and injuries and/or trauma symptoms in-utero and after birth (Bogat, et al., 2006; Carrington & Philips, 2003).

It is important to note that there are individual and familial factors that moderate the impact of violence. For example, age of onset, frequency and severity of violence and the level of support outside of the family can influence the impact of the violence on the child. Similarly, the emotional health and wellbeing of the non-abusive parent is positively related to child outcomes.

IMPACT OF FAMILY AND DOMESTIC VIOLENCE ON ADULT VICTIMS

Adult victims of family and domestic violence experience a range of consequences including (but not limited to) physical injury, chronic health issues, emotional distress and social isolation (Tually, Faulkner, Cutler & Slatter 2008; World Health Organisation, 2000). The

impact of ongoing family and domestic violence is traumatising particularly where the victim experiences death threats or lethal behaviours (Campbell, et al., 2003).

Despite often horrific experiences of violence, the decision to leave and remain separated from the perpetrator can be complex. One of the biggest challenges in supporting an adult victim to leave is overcoming the emotional and traumatic impacts of the abuse (McKinnon, 2008). Most women who have experienced family and domestic violence report that, in hindsight, the emotional abuse that occurred was far more debilitating and destructive than any of the physical assaults that occurred as it causes pervasive feelings of worthlessness, shame, self-blame, fear and helplessness (Arias & Pape, 1999). These emotional consequences can create complex barriers to a woman's escape from violence, including fears about their ability to cope without the perpetrator, their safety if they try to escape, not being believed, exclusion from their social networks or community, and issues related to child custody including presumptions about 'shared care' (Patton, 2003).

It is therefore important that interventions recognise that the non-abusive parent is as much a victim of the violence as their children and that the perpetrator must be held responsible and accountable for the violent behaviour. Effective intervention is likely to reduce the risk of future harm and locate responsibility for the violence with the perpetrator. Effective intervention helps to counteract the impacts of the emotional abuse on the adult victim and children by reducing feelings of self-blame and hopelessness.

PERPETRATORS OF FAMILY AND DOMESTIC VIOLENCE

Perpetrators of family and domestic violence are very much in control of the behaviour and are ultimately the only ones that have the capacity to change the situation (No to Violence, 2005). This is most clearly demonstrated in the fact that assaults are often planned and deliberate. Many victims of family and domestic violence (adult and child) report that the perpetrator can be like 'jekyll and hyde' – able to provide a public veneer of charm, love and

protectiveness but behave in cruel, violent, undermining and manipulative ways in private. This is further demonstrated in that many perpetrators of family and domestic violence are not violent in their workplace, social network or community but choose to use violence at home. There are individual, community and familial factors that contribute to a person's decision to use violence. These factors should be considered in assessments of risk and the development of responses (risk management) but they should not obscure that the responsibility for violence, including the capacity to change, is always located with the person using violence. Historically, responses to family and domestic violence have focused on securing the safety of the adult victim and child. It is now well established through research that a purely victim focus is not effective for achieving sustainable safety. Typically, the violence and abuse continue and/or the perpetrator forms a new relationship in which they continued to use violence, creating a new victim in need of protection. This often creates a revolving door for child protection and other services. Good practice now advocates for an equal focus on securing the safety of the non-abusive adult victim and child and addressing the source of the harm – the perpetrator of the violence

Perpetrators as Parents

There is a commonly held myth that perpetrators of family and domestic violence can at the same time be a 'good parent'. This myth is widely refuted by research in Australia and internationally (Bancroft & Silverman, 2002; Edleson, Mbilinyi & Shetty, 2003). Generally speaking, men who use violence see the children as an extension of the adult victim – a means or mechanism through which they can further control or harm. As a result, their parenting style is typically characterised by the following:

1. Undermining the parenting capacity of the adult victim (usually the children's mother);

2. Controlling and authoritarian parenting style including the use of fear and intimidation;

3. A strong sense of entitlement; and

4. Treating their partner and children as possessions (Bancroft & Silverman, 2002; Edleson et al., 2003).

The influence of these behaviours on parenting and in turn the children typically include:

➢ creating a role model that normalises the use of violence in intimate relationships;

➢ undermining the authority of the non-abusive parent which can result in the children similarly dismissing or ignoring the attempts of the adult victim to control the children's behaviour;

➢ retaliating against the non-abusive parent for her efforts to protect the children. This can cause children to believe that the violence is their fault or in situations where the adult victim ceases these protective behaviours over time, for the children to believe that she no longer cares about them;

➢ creating divisions within the family including the use of favouritism and manipulation to escalate sibling conflict or familial tensions; and

➢ using the children as weapons against the non-abusive parent. This can include harming the children or their belongings, threatening to kidnap or take custody of the children, or using the children to monitor and report on the adult victims behaviours. In extreme cases children are actively groomed to participate in the abuse (Bancroft & Silverman, 2002; Edleson et al., 2003).

UNDERSTANDING AND ASSESSING PAST HARM AND FUTURE DANGER

Where the concern for a child arises within the context of family and domestic violence, the risk to the non-abusive adult victim must also be assessed (Campbell, 2003). In family and domestic violence cases the non-abusive adult victim and child should be considered a common 'unit'. The risks to the adult victim provide a direct predictor of the risk to the child (Harris-Johnson, 2005; Humphreys, 2007). Likewise, increasing the safety of the adult victim will in most cases increase the safety of the child. In order to assess the past harm and future danger (risk) to the child and adult victim the following approach should be used:

➢ consideration of evidence based risk indicators;

➢ asking the adult victim what they believe the level of risk to be; and

➢ professional judgement (Department for Child Protection, 2011).

In undertaking this approach it is critical that assessment focuses on the history and pattern of behaviours rather than individual or discrete incidents. Similarly, the insidious covert behaviours are as relevant to the assessment as the overt behaviour e.g., physical and sexual assaults, verbal and emotional abuse.

Perpetrators of family and domestic violence cannot be considered a reliable source of information for assessment of past harm and future danger. It is appropriate to engage perpetrators for the purposes of gauging their level of insight to the impact of the violence and also their readiness to change but this should be used as 'additional information' only and should not be included in an assessment of the risk (No to Violence, 2005). This is due to the following characteristics and dynamics:

- Manipulation, denial and minimisation – perpetrators of family and domestic violence are manipulative and often present very well to services (often described as 'charming'). Their explanations for violent and abusive behaviour are often entrenched in denial, minimisation and blaming of outside factors or third parties.

- Collusion and victim blaming – as a result of the above characteristics it can be very difficult to engage in an assessment without inadvertently colluding with the perpetrator. For example, worker silence or non-response to a claim that "she was exaggerating" or "that never happened - she's losing her mind" can be interpreted by men who use violence as implicit endorsement of the behaviour or agreement with their explanation for the behaviour (e.g., victim or child blaming).

- Confrontation – the other extreme of collusion is confrontation. A confrontational approach to assessment e.g., overtly challenging perpetrators denials or

minimisations can result in them feeling that they are losing control of the situation and may result in an escalation in violence.

▪ Use of the system to further abuse – perpetrators of family and domestic violence are often skilled at using services and 'systems' to further abuse and/or facilitate sustained contact e.g., using the trauma being experienced by the adult victim as 'evidence' that they are „mental/losing it" and that they are making false claims about the violence and are not fit to care for the children. Other examples of this are perpetrators that seek criminal charges of assault against a partner who retaliates

with physical violence (however minor) after years of abuse or a perpetrator that delays/draws out family or other court proceedings in order to sustain contact with the victim.

ASSESSING PROTECTIVENESS – DOES IT MITIGATE THE RISKS?

It is accepted that in situations of family and domestic violence the non-abusive adult victim has responsibility for the safety and welfare of their child. However, the responsibility for the use of violence and stopping the violence is with the perpetrator. In cases of family and domestic violence the protectiveness of a non-abusive adult victim may not in itself mitigate the risks posed by a perpetrator. Increasing protectiveness does not necessarily improve the safety for the child or reduce the risk. Therefore, responses must equally look to promoting safety of the adult victim and child as well as manage the risk.

SAFETY PLANNING & CASE MANAGEMENT

Responses to cases of family and domestic violence must be informed by the following key principles: safety for the victim (adult and child) and worker; accountability of the perpetrator and 'the system'; and empowerment of the adult victim. Key considerations for the Department when managing risk in cases of family and domestic violence are:

• Supporting the safety of the non-abusive adult victim enhances the safety for the child;

- Responding to the source of harm (perpetrator) will help to reduce the risks for the adult and child victims;

- In almost all cases, perpetrator accountability (risk management) will involve multiple agencies;

- On its own, separation is rarely an effective strategy for securing a child's safety. Separation must be carefully managed with ongoing risk assessment and safety planning;

- Safety plans should identify and capitalise on the strengths and existing safety strategies being used by the adult victim and child;

- A protective parent/caregiver (e.g., mum) does not always mitigate the risks posed by the perpetrator of family and domestic violence (e.g., dad). Similarly,a protective parent should not be asked or expected to secure the safety of a child in situations where the risks posed by the perpetrator have not been managed. Safety planning and risk management will be required in these cases;

- A protective parent/caregiver should not be asked to undertake strategies that might jeopardise their safety e.g., seek a violence restraining order in circumstances where they know that this will escalate the risk;

- A protective non-abusive adult victim cannot be held responsible for changing or stopping the perpetrators behaviour; and

- Engaging family and friends in the safety planning process should be considered carefully. They may not be aware of the abuse and/or may not understand the full extent of it. They might overtly or covertly condone the violence and/or there may be risks to their safety. Anger management courses, mediation nor couples counselling are appropriate responses for men who use violence and should not be offered or recommended in family and domestic violence cases. Integrated responses to family and domestic violence

Family and domestic violence is a complex problem requiring a multi-agency response .Across both state and Commonwealth government departments and the community services sector. Coordinated responses are important because very few agencies have the capacity to achieve victim safety and perpetrator accountability without the involvement of other services and agencies.

The WA Strategic Plan for Family and Domestic Violence 2009-2013 (the Strategic Plan) was developed in consultation with an across government Senior Officers' Group and provides integration as a key focus.
 Key features of the integrated response are the Department's Family and Domestic Violence Case Management and Coordination Services (CMCS) which operates across the state. This response includes a practitioner group that undertakes case management of high risk family and domestic violence cases, and a regional managers group that discusses systemic barriers to integration. In addition a common framework for screening and the assessment, management and monitoring of risk has been introduced in WA.

THE DEPARTMENT'S ROLE IN ADDRESSING FAMILY AND DOMESTIC VIOLENCE

The Family and Domestic Violence Policy outlines the role of the Department in responding to family and domestic violence and clear information about the approach that should be utilised.

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