

# **CEDAW Report on Violence in Marriage**

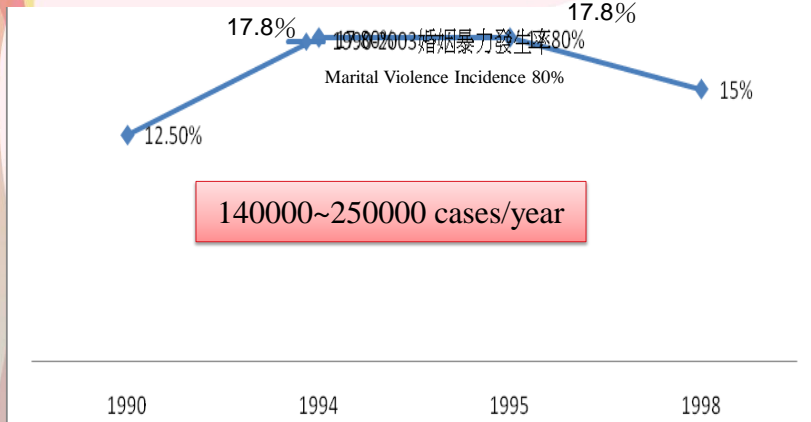
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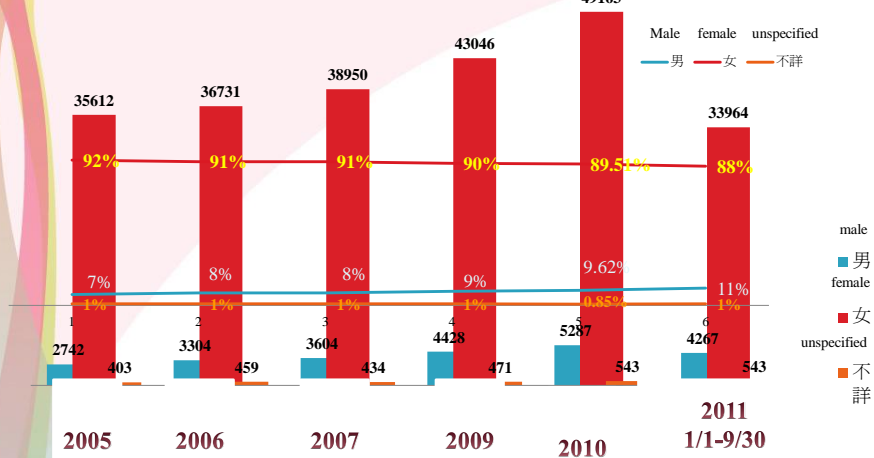
## **CEDAW Provisions Pertaining to Marital Violence**

- Articles I, III, V, VI, XI, XVI
- **CEDAW Article 19 General Recommendations.**  
第十九號一般性建議。(Article 19 Rules of Procedures)

## Statistics of Marital Violence in Taiwan - Female Victims



## Marital Violence Victims in Taiwan by Gender



## Overview of Marital Violence in Taiwan - Legislation

- Civil Laws
  - Domestic Violence Prevention Act (including enforcement guidelines): General Rules (definition of marital violence, applicability, authority and responsibilities, 113 Hotline for Women and Children), Civil Protection Orders, Criminal Proceedings, Parents and Children, Prevention and Treatment, Penalty (including mandatory reporting).
  - Civil Laws: Article 1052, Children and Youth Welfare Law
  - Immigration Law
- Criminal Laws
  - Criminal Assault
- Bill for Support for Families under Special Circumstances

- Guidelines/Procedures/Regulations/Rules
  - Precautions to be taken by the court, prosecutors, and domestic violence prevention centers when handling domestic violence cases.
  - Guidelines for the authorities when executing protection orders or handling domestic violence cases, electronic database, treatment of persons serving domestic violence related sentences, domestic violence offender treatment programs, subsidies for business startup loans (interest subsidies), career counseling, meeting/contact with children and related facilities, domestic cases involving new migrants, and victim sheltering.

## Overview of Marital Violence in Taiwan - Measures and Prevention

- **Authorities**
  - Central - Ministry of the Interior (Social Welfare) -Domestic Violence and Sexual Assault Prevention Committee
  - Local - Corresponding Local Administrative Offices (Social Welfare) – Domestic Violence Prevention Centers
- **Measures**
  - Victims: protection and sheltering, subsidies, job placement, schooling for children, case management and counseling from social workers, legal aid, housing, psychological counseling, meeting/contact with children
  - Offenders: Offender service, Care Hotline for Men
  - New Migrants: Care Hotline for New Migrants, Air Ticket Service, and Translation Service

## Measures and Prevention

- Public
- Students/Teachers/Parents
- Networking Personnel

- Mass Promotion
- Niche Promotion
- Networking Personnel Promotion
- Networking Personnel Education

### GO、NGO

- Media
- Seminars
- Plays
- Teaching
- Bookings

- Offender/Victim
  - Finding Help
  - Services

## Difficulties in Marital Violence Prevention I - Marital violence prevention is seen as a social welfare issue

- In Taiwan, domestic violence prevention is seen as an issue of social responsibility or social welfare.
  - Positioning of the domestic violence prevention organization
  - Functions of the domestic violence prevention organization - the domestic violence prevention organization is unable to give direct instruction to the networking personnel (police, education, law enforcement, labor administration)
  - After organizational reform, the domestic violence organization will become a small section under the Ministry of Health and Social Welfare
  - The number of domestic violence cases has been on the rise, but the budget for prevention work has been shrinking over the years. The budget for 2012 has been cut down.
- Domestic violence is a social security issue
  - According to the statistics of criminal cases released by the Police Administration, between 2000 and 2008, “domestic violence” related cases (involving spouse, partner, family members, and relatives) took up 18.09 to 20.15% of all cases of homicide with intent, 12.20 to 24.39% of severe battery cases, ¼ of general assault cases, and ⅓ of all offense cases against personal liberty.

- Domestic Violence is also a Health Issue
  - Several severe domestic violence cases discovered recently involved undiagnosed or diagnosed psychiatric patients.
  - In practice, case workers have discovered that many victims of domestic violence and their children who witnessed the violence have developed symptoms of depression or other physical/psychological issues.

## **Difficulties in Marital Violence Prevention II - The current legal system emphasizes the rights of the defendants and relevant legislation for protection of the victims has seen slow progress.**

- The Domestic Violence Act imparts the police or district attorneys the power to act against domestic violence perpetrators as a mean to proactively stop violence and protect the victims and their families.
  - Although Article 31 of the Domestic Violence Act stipulates that domestic violence offenders or those subject to restraining orders, who are not required to be detained after questioning by a prosecutor or judge and ordered to be released with bonds or restricted residence, may be subjected to restrictions against violence and harassment or ordered to stay away from the victim(s) and/or certain family members, ...
- In fact, ...
  - Very few prosecutors/judges adopt this article to secure the safety of the victim(s).
  - The law enforcement often worry about violating the rights of the defendant.
  - Domestic violence perpetrators are often released soon after their arrest.
  - The law enforcement often make the decision of whether to take action or not depending on whether a protection order is in place.
  - The victims are often worried that the domestic violence perpetrators will take revenge after they come home.

- **Requesting Protection Orders and Enforcement**  
According to statistics released by the Judicial Yuan, from February to April 2010, the average time taken to issue protection orders has ranged from 3.6 to 17.49 days, depending on type.

- General protection order - 9.13 days
- Temporary protection order - 17.49 days
- Emergency protection order - 3.6 days.

Although protection orders are issued in expedited time nowadays (please see above), the time taken is still too long since protection of personal safety is an extremely urgent matter.

- Emotionally involved couples or partners who do not share residences are not eligible to request protection orders in the case of continuous abuse.
- The ratios of granting temporary custody of children under protection orders and approving victim treatment programs are relatively low.

- The Initial Report of the Republic of China (15.2, 15.3) states that the Domestic Violence Protection Act stipulates 13 types of protection orders, and specifies that women subject to violence may request restraining orders to prevent the counter party from obtaining information regarding the household, school, and income of the victim and underage children who are under temporary custody of the victim. At the same time, the government has also added a term to impose fines on the heads of household who refuse to hand over the household registration book.

According to Article 15 of the Domestic Violence Act, the General Protection Order is issued for a period of one year or less and may be extended once upon request.

The victims may request confidentiality on their household/tax information and their children's school information by requesting a protection order. However, once the protection order expires, offenders who are continuously violent or harassing may locate the victims through their rights as a spouse and continue to inflict violence or harassment on the victims.

For new migrants, expiration of the protection order means removal of all means of protection. They immediately fall into the situation that they have to return to their spouses' residences and often encounter problems when the need to apply for or renew residency arises.

### **Difficulties in Marital Violence Prevention III - Although more victims' rights have been legislated, the effectiveness of enforcement still depends on resources available to individual county/city administration and domestic violence prevention networks.**

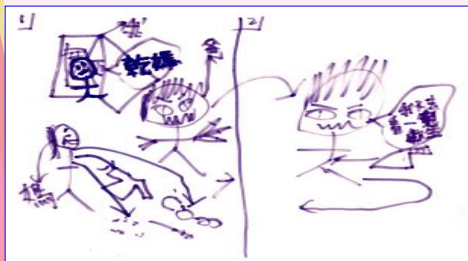
- 5.21 of the Initial Report of R.O.C states that a court procedure for handling domestic violence cases, domestic violence case database, report and counseling hotline, and human and other resources, and a mechanism for extended case treatment have been established.
- 16 and 16.7 of the Initial Report of R.O.C. has put forward the services and prospects for domestic prevention works.
- Nonetheless...
  - Each person is only eligible for emergency aid once in a lifetime (with exception of a small number of counties/cities).
  - Emergency and mid-to-long term sheltering programs have been established, but there is a general shortage of available housing units and application for rent subsidies takes a long time to process (local governments receive unevenly distributed resources).
  - There are daycare subsidies and resources but highly insufficient.
  - Social workers are subjected to high case loads and high-hazard cases.
  - Medical facilities are found to have poorly set-up procedures and unfriendly services, as well as unevenly distributed resources.
  - It is difficult for domestic violence prevention officers to accumulate professional experience.



## Difficulties in Marital Violence Prevention IV - Career planning for abused women have not been taken seriously and resources have not been consolidated.

- Career services to abused women have indeed been legislated, but consolidated planning and sufficient funds are not yet in place.
- Availability of daycare resources indeed influences abused women's motivation and ability to enter the job market.
- Currently, the "Spread the Wings" program hosted by the Bureau of Employment and Vocational Training (Executive Yuan) provides a job placement service for temporary employment for abused women, but since it is under the "Diversified Employment Development Program", the special circumstances of the abused women are not taken into consideration and therefore relevant funds cannot be planned in the relevant budget.

## What are the rights of the children who witnessed domestic violence?



Hao Hao, a fourth grader, tried to tell what he saw through his drawings. "This is my father. He is holding a knife. He broke the glass and threw my mothers clothes out. My mother was crying and bleeding. Her hand was hurt. I came home after school and saw my mother hurt, so I went to my godmother and asked for help.  
[1] The Garden of Hope Foundation (2004)  
Words from the Children- Care for Children who Witnessed Domestic Violence

- 1/3 of children who witnessed domestic violence become abusers or victims later on in life.
- Children who witnessed domestic violent are not protected in court.
- Children who witnessed domestic violence may suffer from trauma after their parents are divorced.
- Government budget for such children is barely sufficient; therefore, most children in such circumstance are not helped.



## **Rights of aboriginal and new migrant women are to be reevaluated**

- Domestic violence is a serious issue among aboriginal tribes, but law enforcement often handles the cases from the viewpoints of mainstream Han ethnic values. Very few have taken approaches incorporating aboriginal values.
- Tribal cultures and lifestyles are often not taken into consideration when planning policies, services, and funds for indigenous peoples.
- Only a small portion of funds is allocated for family services among aboriginal tribes and most of the services revolve around education and simple care. There is a general shortage of direct shelter or violence protection services among aboriginal tribes.
- There is a general shortage of job opportunities for aboriginal tribes; therefore, many abused women return to abusive relationships since they are unable to find work.

## **Who Benefits More from Psychological Treatment - The Offender or the Victim?**

- The ratio of granting admittance to the Offender Treatment Program is low.
- Resources for the Offender Treatment Program are insufficient.
- The design of the Offender Treatment Program is unfriendly.
- The evaluation process prior to approval takes too long.

## **The media, law enforcement, and medical professionals still have stereotypes towards domestic violence and gender.**

- Prosecutors and judges generally see domestic violence cases as “family disputes” and hold gender stereotypes when processing cases.
- Medical professionals often think that domestic violence prevention is the social workers’ job; however, social workers are often the least valued group of professionals in a medical institution. Very few small hospitals implement domestic violence prevention training.
- Inadequate and over-exaggerated media reports cause the public, law enforcement, judges, and other professionals to have deeply-rooted biases against abused and new migrant women.

## **Recommendations**

1. We recommend relevant authorities to closely observe CEDAW Articles I, III, V, IV, XVI, and general recommendations in Article XIX.
2. The central government must see domestic violence as a serious social problem, not just a social welfare issue, and upgrade the Domestic Violence Prevention Committee to the Ministry Level. Only an agency at this level will be able to coordinate and consolidate the relevant preventive networks for effective prevention of domestic violence.
  - 2.1 The central government should take the opportunity of government reform to set up a unit of higher level which is empowered to coordinate the corresponding judicial, police, health administration, labor administration, education, and social welfare administration units.
  - 2.2 Domestic violence prevention should be seen as a social and health issue and the directly involved units, including judicial, police, health administration, labor administration, education, and social welfare administration agencies, should see domestic violence prevention as part of their responsibilities, not just a request for coordination. Each unit should also allocate sufficient human resources and fund for the relevant works.

- 3. Myths of domestic violence still exist in the society, especially bias towards the aboriginal and new migrant women. The government should take the initiative to prevent the law enforcement and involved professionals from inflicting further injuries to the abused women and take actions to eliminate bias and discrimination against families and victims of domestic violence through public education.
- 3.1 We recommend the government to continuously publicize the available resources for victims of domestic violence and work to eliminate the myths of marital violence, as well as gender bias, through public education.
- 3.2 Proper education and training should also be implemented for the law enforcement to eliminate the myths in domestic violence.
- 3.3 We recommend the government to provide domestic violence prevention education to the offenders and potential abusers/victims, for examples, discussion of domestic violence from the viewpoints of crime prevention and health hazard.
- 3.4 We recommend the government to provide education to the physicians (especially physicians of obstetrics/gynecology, pediatrics, family medicine, surgeries, and rehabilitation departments) and nurses to medical institutions of all scales to eliminate the myths in domestic violence and increase their sensitivity in detecting domestic violence.
- 3.5 We recommend the government to provide training courses to the teaching staffs in all educational institutions to increase their sensitivity and responsiveness towards domestic violence. Staffs in educational institutions should be trained to discover possible domestic violence cases occurring to the students and refer the cases to the professional social workers immediately.

- 4. In practice, we found that intervention of public authorities is indeed effective in containing the frequency and degree of abuse. While upholding the human rights of the defendants, we recommend the judicial system to take the special condition of domestic violence into consideration and give the victims and their children proper protection for their human rights.
- 4.1 The police should act to implement arrest of domestic violence perpetrators and persons in violation of a protection order, as well as actively collect related evidences, instead of asking the victims to collect evidences.
- 4.2 The prosecutors and criminal court should enforce Article 30 to 42 or the Domestic Violence Act, especially to domestic violence offenders repeatedly investigated, indicted, or sentenced.
- 4.3 Judicial personnel who are involved in handling domestic violence related cases should have adequate knowledge in the areas of domestic violence, control issues, gender issues, and relevant regulations.
- 4.4 Adequate number of judges should be allocated to handle the increasing number of requests for protection orders and the terms for issuance of protection orders should also meet the needs of the petitioners/victims.
- 4.5 Professional training should be provided to the judicial administrative officers to upgrade the efficiency and quality of case evaluation.
- 4.6 Serious attention should be paid to the children because fear may develop from witnessing domestic violence; therefore, a higher ratio of children should be granted of temporary custody to other trusted persons and restraining orders to the abusers.

- 5. Protecting the rights of domestic violence victims should be an issue cared by administrative offices nationwide. It shouldn't become an issue raised only during election campaigns. The central government should request all local administrative offices to take domestic violence issues seriously and provide the victims, as well as the offenders, full social services in all places. Victims living in different places should be treated on equal terms.
  - 5.1 All local administrative offices should be requested to enforce Articles 8 and 58 of the Domestic Violence Act and allocate sufficient funds for the relevant works.
  - 5.2 The central government and all local administrative offices should pay attention to the work overload problem in social workers and allocate sufficient budget to recruit sufficient human resources.
  - 5.3 Medical institutions should set up facilities friendly to the victims of domestic violence.
  - 5.4 We recommend the government to reinforce implementation of the Offender Treatment Program. An integrated system, joining the judicial, medical, social administration, and labor administration systems, should be set up to create a flexible and friendly program. Such program will ensure success of implementation and prevent the participants from being forced to leave their jobs due to the Offender Treatment Program.
  - 5.5 The government should encourage development of diversified service models for services to the victims of domestic violence.

- 6. The government should emphasize the rights of the children who witnessed domestic violence and the abused women and plan a set of viable measures to prevent the children from becoming victims or abusers in the future. A set of measures should also be set up to help abused women to become financially independent, so that they are equipped to stay away from the violence.
  - 6.1 The government should allocate a budget for job placement services for domestic violence victims and plan an employment system based on their needs.
  - 6.2 The labor and social administration departments should set up coordinated daycare services for the domestic violence victims to remove some of the obstacles during the employment seeking process or employment.
  - 6.2 Domestic violence awareness should be raised in the businesses, so that the businesses will be aware of the impact and equipped to handle domestic violence incidents. This will effectively prevent the domestic violence victims from being forced to leave their employment due to domestic violence incidents.
  - 6.3 The government should pay attention to the rights of the children who witnessed domestic violence and allocate sufficient fund to provide services to the children.

- 7. The government should pay attention to the rights of abused aboriginal and new migrant women and take their cultural differences into consideration.
  - 7.1 The Council of Indigenous Peoples should allocate sufficient fund and human resources to provide active services for domestic violence prevention.
  - 7.2 The government should design a flexible and direct domestic violence prevention service model for the aboriginal tribes, for example, using the tribes' elders/emirates systems.
  - 7.3 The rights of abused new migrant women, including the rights to work, claim residency, and take residence, should be protected.

- 8. **Laws should be amended to expand the applicability of the Domestic Violence Act to include unmarried couples and grant them the rights to petition for protection orders and seek aids from the networking personnel.**

- **Document Compiled by The Garden of Hope Foundation**
- **The following organizations participated in the discussion: Taiwan Coalition against Violence, Taipei Women's Rescue Foundation**
- **The following groups have been actively involved in domestic violence prevention works: Good Shepherd Social Welfare Service, National Organization for Women, Modern Women's Foundation, and private organizations nationwide providing services to victims of marital violence**

**Thank You**