

Global Partnerships on Domestic Violence Legal Reform

excerpt

Cheryl A. Thomas, J.D., Director, Women's Program, The Advocates for Human Rights

Introduction and Background

Since 1993 the Advocates for Human Rights' Women's Program has been working with partners internationally to address domestic violence through an improved government response, particularly, better laws and more effective implementation of those laws. Many of these partnerships have become long-term collaborative efforts that respond to evolving needs and developments in a given country. We believe these partnerships have contributed to a better legal system response to domestic violence and to a new prioritization of victim safety and offender accountability.

Of all the forms of violence against women, domestic violence¹ is one of the most insidious and widespread throughout the world. The Council of Europe reports that domestic violence is the major cause of death and disability for women aged 16 to 44 and accounts for more death and ill health than cancer or traffic accidents (European Parliament Association, 2002). Nearly one in four women in the United States reports having experienced violence by a current or former spouse or boyfriend at some point in her life (CDC, 2008). On average, more than three women a day are murdered by their husbands or boyfriends in the United States (Catalano). A United Nations agency for women estimates that globally at least one of every three women will be beaten, raped, or otherwise abused during her lifetime. In most cases the abuser is a member of her own family (Family Violence Prevention Fund, 2011). A 2005 World Health Organization study found that the percentage of women who had experienced physical or sexual intimate partner violence in their lifetimes ranged from 15 percent in Japan to 71 percent in Ethiopia (Family Violence Prevention Fund, 2011).

Despite these alarming statistics, the United Nations reported in 2006 that 102 countries were not known to have any specific legal provisions on domestic violence (UN, 2006).

The mission of the Advocates for Human Rights (AHR) is to implement international human rights standards to promote civil society and reinforce the rule of law.² The work of AHR's Women's Program focuses on domestic violence as a violation of fundamental human rights. One of the most important components of efforts to address domestic violence is policy and law reform that promotes victim safety and offender accountability—which are principles articulated in numerous human rights instruments. This reform must be accompanied by reforms in all other sectors of government and civil society, including the health sector, social services, education, and the economic sector. This view is shared by our international partners and provides the basis for our collaborative efforts.

Partnerships to Document the Government Response to Domestic Violence

Global partnerships can strengthen efforts to address domestic violence. By bringing their own unique knowledge and experience to a collaborative effort, NGOs can empower each other, enrich the advocacy work, and move more efficiently toward the full realization of women's fundamental human right to be free from violence. Partnerships allow organizations to reach across local and international borders to share expertise, lessons learned, and strategies.

One contribution that AHR has brought to its partnerships has been the long-standing experience of Minnesota and the United States in addressing domestic violence.³ To illustrate, many of AHR's partnerships have developed in countries in Central and Eastern Europe and in the former Soviet Union (CEE/FSU). In the early 1990s, when AHR first began working in the region, there was little experience in addressing domestic violence. There was minimal documentation of domestic violence in the legal system or research on the issue of any kind. There were also few, if any, services for victims, such as shelters, hotlines, or legal services. There were no particular laws on domestic violence, so victims were trying to access the justice system through criminal assault laws, divorce laws, and other laws not specific to domestic violence. Many legal system authorities were reluctant to use these laws in domestic violence cases, explaining that it was not their role to be involved in "family matters." There was no training for medical professionals, legal professionals, or civil society on effective responses to domestic violence. Frequently, legal professionals, advocates, and others would repeat myths or misinformation about domestic violence. A common belief, for example, was that the violence was caused by alcoholism.⁴ Another frequently stated view was that couples counseling could resolve violent behavior.⁵ These mistaken beliefs could result in ineffective policy making on domestic violence.

Many of our reforms in the United States were initiated in the 1970s, and by the early 1990s a great deal of knowledge and expertise on domestic violence had developed. One of the first battered women's shelters in the nation opened in St. Paul, Minnesota, in 1972. In this period several states passed laws specifically addressing domestic violence and offering a new order-for-protection remedy.⁶ Minnesota passed its Domestic Abuse Act in 1979, which provided this remedy and included other reforms to Minnesota's laws. Beginning in the 1970s, criminal law reform resulted in new policies and procedures for police and prosecutors aimed at ensuring that domestic violence cases were treated more seriously than had been done in the past. In the same decade advocates and government officials in Duluth, Minnesota, created the Coordinated Community Response to domestic violence, often referred to as "the Duluth Model," which was a groundbreaking strategy to improve the community's response to domestic violence.⁷ These early reforms led to years of increasing experience by advocates and justice system officials in implementing laws on domestic violence. They also led to research and statistics on the nature and extent of domestic violence, its causes and consequences, and the strength and weaknesses of the new laws.⁸ AHR has been

able to share these resources with international partners through workshops, training sessions, consultations, and on-line technical assistance.

Another contribution AHR has been able to offer to its partners is the ability to raise the profile of local issues. As an international human rights organization with credentials in the United Nations, AHR's reports and recommendations can often reach a broader audience than the partners would be able to do alone.

Finally, international partners have been able to use AHR's expertise in documenting domestic violence as a human rights violation and advocating for change. Particularly in the early years of collaboration, when women's advocacy groups were new in CEE/FSU, AHR shared the resources and skills needed to document domestic violence as a human rights abuse and assisted in using that documentation to achieve changes in laws, policies, and practices.

In a successful global partnership, the leadership of local partners is essential to any domestic violence reform effort. The years of experience and the profile of international human rights groups would contribute little to real progress internationally without the vision and the hands-on work of local partners. In the context of legal reform, the knowledge and guidance of local partners is critical to a comprehensive understanding of the language of relevant current laws and the workings of the legal system. Many of AHR's local partners are lawyers with whom AHR has worked closely to parse through laws and legal procedures to identify weaknesses and areas for possible improvement.

Local advocates largely define and prioritize the needs and the appropriate advocacy strategy for their communities. They consider strategies that have been used in other communities and countries, but it is their firsthand information that provides critical guidance on any advocacy plan. That information includes the dynamics of the local legal system and other sectors, local and national social and political situations, inherent risks to victims with a given strategy, and other factors. Also, when the time comes for lobbying for changes to laws and policies, it is the local advocates who do the daily work of garnering support for the reform.

Today, although though there is increasing acknowledgement internationally that domestic violence is a pervasive human rights violation with devastating consequences, there is still an urgent need for technical assistance in drafting and implementing new domestic violence laws and amendments to existing laws. AHR's more recent partnerships with local advocates are based on this need.

Conclusion

AHR's experience partnering with NGOs from other countries to improve the government response to domestic violence has been a very positive one. AHR has been privileged to work with extraordinary women and men whose vision for ending domestic violence has propelled their countries forward and resulted in better laws and policies. Although significant work remains, AHR is confident

that these changes will continue toward the ultimate realization of women's fundamental human right to be free from violence.

For the complete article, see:

http://www.stopvaw.org/uploads/global_partnerships_on_domestic_violence_legal_reform_in_preventing_violence_against_women_and_children.pdf

¹ For the purposes of this paper, the following definition of domestic violence provided by the United Nations is used: "Domestic violence is the use of force or threats of force by a husband or boyfriend for the purpose of coercing and intimidating a woman into submission. This violence can take the form of pushing, hitting, choking, slapping, kicking, burning, or stabbing." U.N. Centre for Social Development and Humanitarian Affairs. 2003. *Strategies for confronting domestic violence: A resource manual*. Available at http://www.unodc.org/pdf/youthnet/tools_strategy_english_domestic_violence.pdf (accessed April 30, 2011). This definition reflects data indicating that women are the primary victims of domestic violence.

² AHR was founded in 1983 by a group of Minnesota lawyers who recognized the community's unique spirit of social justice as an opportunity to promote and protect human rights at home and worldwide. The organization involves volunteers in research, education, and advocacy, building broad constituencies for human rights in the United States and select global communities. AHR holds special consultative status with the United Nations.

³ The movement to address domestic violence began more than 30 years ago in the United States, and other countries have comparable legacies. Minnesota's efforts began in the early 1970s.

⁴ Although alcoholism can exacerbate violent behavior, studies show that it is not the cause of domestic violence. Cf. http://stopvaw.org/Other_Causes_and_Complicating_Factors.html.

⁵ Research has in fact shown that counseling or mediation can be dangerous for domestic violence victims. Furthermore, counseling and mediation is often not an appropriate response to domestic violence cases because it presupposes that both the victim and perpetrator are equal when, in fact, we know that the offender exercises power and control over the victim. For further discussion of these issues, see http://stopvaw.org/Domestic_Violence_Explore_the_Issue.html.

⁶ Laws containing the civil order-for-protection remedy were first introduced in the United States in the mid 1970s. The goal of these laws was to provide an immediate remedy to women and their children that would keep them safe while allowing them to stay in their home. As is the case today, many victims did not want to involve the criminal justice system and see their partners go to jail; rather, their priority was stopping the violence. These laws allow a victim to petition the court for an order directing the violent offender to leave the home. Cf. http://stopvaw.org/Orders_for_Protection.html.

⁷ The Duluth Model of Coordinated Community Response is now being replicated around the world. See http://stopvaw.org/Coordinated_Community_Response.html.

⁸ Minnesota's Domestic Abuse Act has been amended every year since it passed in 1979—reflecting the developing knowledge about what legal system responses work to promote victim safety and offender accountability and what responses do not work.