



pathways
of women's
empowerment

What Makes Domestic Violence Legislation More Effective?

Cecilia Sardenberg

Pathways Policy Paper

October 2011

What Makes Domestic Violence Legislation More Effective?

Cecilia Sardenberg

Pathways Policy Paper, October 2011, Brighton: Pathways of Women's Empowerment RPC

The Pathways of Women's Empowerment Research Programme Consortium is funded by UKaid from the Department for International Development, with co-funding from the Norwegian Ministry of Foreign Affairs that enabled the programme to expand to include countries in conflict, post-conflict and crisis situations. Additional funding for Pathways projects and activities has come from a variety of donors, including the Swedish Ministry for Foreign Affairs, Sida, NORAD, GTZ, IDRC, UNIFEM, UNFPA, UNICEF, the Rockefeller Foundation, BRAC, Comic Relief, the Arts Council, Screen South, the National Lottery and the Brazilian Government.

Pathways works with a network of more than 60 researchers in 15 countries, through regional hubs in Latin America, the Middle East, South Asia and West Africa. For more information about the programme see www.pathways-of-empowerment.org

The views expressed in this document are not necessarily those of our funders.

Photos: Page 1: Banner proclaiming the Maria da Penha Law, photo: NEIM. Page 3: Maria da Penha Law Best Practice Award Ceremony, photo: NEIM. Page 8: March by a collaboration of Ghanaian women's organisations to celebrate 50 years of independence and calling to implement the Domestic Violence Law, photo: CEGENSA. Page 9: OBSERVE poster advertising the Maria da Penha Law, photo: NEIM



BDI
BRAC DEVELOPMENT
INSTITUTE



Institute of
Development Studies

NUCLEO
DE ESTUDOS
INTERDISCIPLINARES
SOBRE A MULHER



What Makes Domestic Violence Legislation More Effective?¹

Domestic violence against women has gained worldwide attention as a form of discrimination as well as a violation of women's human rights. An estimated one in three women in the world is affected, independent of their social standing and cultural background. As such, domestic violence is today one of the main women's rights issues addressed by international agencies, governmental and nongovernmental organisations, in response to the demands for



collective solutions of women's movements worldwide. Indeed, the mobilisation of women to denounce and make domestic violence visible has made issues traditionally kept within the so-called 'private' sphere, matters of public concern that require appropriate policies. Feminist organisations and researchers, in particular, have made important contributions to the formulation of policies and legislation.

In many countries around the world, laws are now in place making domestic violence against women a crime. Yet implementation often lags behind legal reforms. Women's organising is vital not only to get laws on the statute books, but can also play an important role in monitoring the implementation of these policies and holding governments to account in making domestic violence legislation more effective.

This paper draws primarily on the experiences of the implementation of the Brazilian Maria da Penha Law, a comprehensive legislation package, formulated and monitored with ample participation from feminist organisations, and passed in 2006. It also draws on examples from Bangladesh and Ghana, where women's organising has played a fundamental role in the formulation, implementation, and monitoring of policies to confront domestic violence against women. It addresses four policy issues regarding domestic violence against women:

- What is domestic violence and how it is manifested?
- What role has women's organising played in confronting domestic violence?
- What should domestic violence legislation encompass?
- What are the major issues to address to guarantee the effectiveness of laws on domestic violence?

BOX 1 Forms of Domestic Violence

Physical Violence

- Pushing, shoving, grabbing, slapping, punching, and restraining among other acts
- Physical intimidation (blocking doors, throwing objects)
- Stalking (...)
- Use of weapons

Sexual Abuse

- Attacks on sexual parts of the body
- Forced sexual activities
- Pressure to have sex
- Rape (including marital/partner rape)

Emotional/Psychological/Verbal Abuse

- Threats and coercive tactics
- Controlling what the victim can and cannot do
- Undermining a victim's self-worth and self-esteem
- Humiliation, denigration
- Threatening to harm or kill a pet
- Isolating the victim from family or friends
- Blaming the abuse on the victim
- Interrogating the victim and their children
- Name-calling and yelling

Moral Abuse

- Attacks against a person's morale
- False accusations

Economic or Patrimonial Abuse

- Maintaining control over finances
- Withholding access to money
- Making the victim financially dependent
- Not allowing the victim to work or go to school

Sources: Violence Against Women Online Resources www.vaw.umn.edu (Sardenberg et al. 2010a)

How did we research the implementation of domestic violence law?

Pathways Brazil became National Coordinator for the consortium that established the Observatory for Monitoring the Implementation of Maria da Penha Law (OBSERVE), coordinating a series of studies on the implementation process. This involved the collection of data on women's use of the law, of facilities and services provided by the state for those experiencing domestic violence, and interactions with national, state-level and municipal policy institutions charged with its implementation. As part of this process, OBSERVE conducted a pilot study of special police stations and special courts for battered women in five city capitals throughout Brazil: Salvador, Porto Alegre, Rio de Janeiro, Belem and Brasília (Gomes, Silva, Santos and Sardenberg 2009), followed by a survey of these facilities operating in all of Brazil's state capitals and Brasília (Sardenberg et al. 2010b; Pasinato 2011). OBSERVE also conducted a study of the network of services to battered women in Salvador, Belém, Porto Alegre, Rio de Janeiro and Brasília (Pasinato 2010), as well as survey of women who sought to register complaints in Battered Women's Police Stations in nine different state capitals in Brazil (Sardenberg et al. 2010a). All of these studies have contributed to the elaboration of this policy brief.²

We have also drawn evidence from studies conducted by Pathways Bangladesh, Pathways Ghana, and Pathways Egypt, which bring support to our key policy messages (Manuh 2007; Nazneen forthcoming).



Key Policy Messages Summary

Key Policy Message One: Domestic violence is multi-faceted, complex and devastating to women. It demands appropriate legislation to confront it and remove pressure from the victims.

Key Policy Message Two: Women's organising is vital for publicising the harmful nature of domestic violence and for formulating and monitoring domestic violence legislation. Donors should support feminist organisations and initiatives to confront domestic violence.

Key Policy Message Three: Comprehensive legislation packages are needed to confront domestic violence against women. They should include punitive, protective and preventive measures and provisions for the monitoring of legislation implementation.

Key Policy Message Four: Effectiveness of domestic violence legislation depends on appropriate training of all service providers, cross-agency coordination, public opinion support, monitoring of policies by Civil Society Organisations, and adequate budgets at all levels (local, state, and federal).

Key Message One:

Domestic violence is multi-faceted, complex and devastating to women. It demands appropriate legislation to confront it and remove pressure from the victims.

Domestic violence against women is a form of gender-based violence, also known as family or intimate partner violence. It has been defined as “a pattern of coercive behavior that is used by one person to gain power and control over another” (VAWOR). It may include the use of physical and sexual violence, verbal, psychological and emotional abuse or intimidation, moral abuse, as well as stalking and economic or patrimonial abuse.

Domestic violence usually occurs between men and women in a relationship, but it may also take place among same-sex partners, including all types of intimate partners: those who are married, divorced, living together, dating or who were previously in a relationship (VAWOR). Domestic violence is a gender-based crime: men are usually the perpetrators and women the main targets of domestic violence. But it also affects children, disrupting the lives of everybody in the family. It is estimated that between 30 to 60 per cent of abusive partners also indulge in violence against children in a household. It is also known that children raised in violent families usually suffer post-traumatic stress disorder. Furthermore, men who are exposed to domestic violence in their growing up years will often become abusive partners and parents, whereas women exposed to similar circumstances as children often become victims of abuse, and are likely to neglect their children (Trang 2011).

Domestic violence can have devastating effects on women. It not only isolates them, but it also can lower their self-esteem and take away their decision-making abilities. “Women who suffer domestic violence often face many barriers when trying to break with an abusive relationship and seek existing services to help them pull through. These barriers include fear of the abuser, believing the abuser will take their children, hoping the abuser will change, embarrassment, shame and self-blame about their situation. Limited financial

options, lack of transportation, lack of knowledge the services exist, and lack of proximity to those services are also factors” (VAWOR). All of this can be very disempowering and overwhelm women; it is not surprising that women’s studies programs and feminist groups the world over, “dedicated to advancing awareness, prevention, and effective aid for victims of domestic violence” (VAWOR). Indeed, as shall be seen in the following section, women’s organising has been paramount in bringing support to confront domestic violence.

Key Message Two

Women’s organising is vital for publicising the harmful nature of domestic violence and for formulating and monitoring domestic violence legislation. Donors should support feminist organisations and initiatives to confront domestic violence.

Domestic violence against women has a long history in the history of human societies, but it remained ‘invisible’, and even regarded as ‘normal’ as an issue of the private domain, until fairly recently. It was only from the 1960s onward, with the resurgence of feminist and women’s movements that it began to be publicised and recognised as violence.

Women’s collective organising was instrumental in the elaboration and passage of the Convention for the Elimination of Discrimination Against Women-CEDAW, sanctioned in 1979, which includes recommendations to curtail domestic violence. It was also the force behind the major strides taken internationally on issues of violence against women at the Human Rights Conference, in Vienna. Prior to and during the conference women of all regions, representing governments and feminist NGOs participated. As a result of this coordinated global mobilisation the Vienna Declaration and Program of Action of 1993, ‘included affirmation of the universality of women’s rights as human rights and a call for elimination of gender-based violence. The Vienna Conference also added significant momentum to the adoption of the Declaration of the Elimination of Violence Against Women by the General Assembly later that year’ (UN 2006: 10).

Another important international convention is the

Inter-American Convention for the Prevention, Punishment, and Eradication of Violence Against Women, approved by the Inter-American Commission of Women, of the Organisation of American States -OAS in 1994 in Belém, do Pará, Brazil (and since then known as Convention of Belém do Pará). Effective since March 5, 1995, this Convention is also a result of the combined efforts of women's organising at a regional level, standing today as a standard-setting instrument in the struggle against gender-based violence. Indeed, both of these international instruments make the signing countries responsible for carrying out the agreed stipulations, and liable for 'negligence' in failing to act accordingly. They have been tapped by women's movements in different countries to further their struggles for effective legislation to confront domestic violence.

Women's organising is fundamental for publicising domestic violence locally: police stations for battered women

In each country, the public visibility of domestic violence – and as such, the formulation of policies to confront it - has come as a result of women's organising. In Brazil, women's mobilising to this end began in the late 1970s, still during the period of military rule, in protest against rulings in favour of men who committed femicide claiming 'legitimate defense of honor'. In the mid-1980s, as part of the process of re-democratisation of Brazil after two decades of military rule, feminist and women's organisations negotiated the creation, in the city of São Paulo, of the first Police Station for Women's Defense. Staffed primarily by women and supposed to provide 'specialised' services to battered women, this was the first initiative in terms of public policy enacted in the country and aimed to offer access to justice to women in situations of domestic violence. This experience was soon disseminated throughout other states and even internationally, in countries such as Bangladesh, India, Peru, Costa Rica, among others.

BOX 2 The Dual Role of Police Stations for Battered Women in Brazil

Police Stations for battered women in Brazil have played a dual role as machinery to confront domestic violence:

Entrance doors to the justice flow:

In the exercise of their attributions as judicial police, Police Stations for battered women in Brazil must register criminal occurrences, issuing 'occurrences bulletins', and carry out the needed investigation procedures. They must gather technical evidence and witnesses to fundament the cases and complaints to be sent to the Prosecution Offices and as such, initiate the criminal processes up to their judicial closings.

Means to 'specialised' assistance:

As specialised units assisting women in situations of violence, these police stations are meant to offer a differentiated assistance - based on warm reception and non-discrimination. In the initial proposal, one of the components of this 'specialisation' refers to the constitution of a body of police women, in the belief that their presence would facilitate the filing of complaints. Other aspects of this 'specialisation' include the exclusive reception of women, with an emphasis on cases of abuse in conjugal and family relations, as well as of sexual violence, and on the integration of other forms of assistances - such as psychological, juridical and social – thus providing women with access to information and orientation to help them escape from the situation of violence.

Source: Sardenberg et al. 2010a

Over the last 25 years, more than 450 such stations have been created all over Brazil, coming to a total of 475 precincts and special posts at last count. Yet because these stations are part of state security systems – and not under federal rule – there is not one single model. To the contrary, they vary considerably in terms of the types of assistance offered beyond police matters, the type of police intervention at work besides the strictly ‘police matters’ (such as conflict mediation and those of a more pedagogical and preventive character), and, finally, according to the types of crimes that are within their jurisdiction. For example, if they work only with those pertaining to domestic or family violence, or with all gender-based crimes against women, independent of the relationship between victim and abuser (Pasinato and Santos 2008: 13). Despite variation however, they remain the major entrance point to women in seeking legal procedures to end domestic violence, as well as a means to ‘specialised’ assistance for battered women. Most of them are now known as Specialised Police Stations for Women – Delegacias Especializadas de Atendimento a Mulher – or ‘DEAMs’.

Women’s organising to bring redress in cases of state negligence: the case of Maria da Penha Fernandes in Brazil

The existence of mechanisms to confront domestic violence does not ensure that the State will in fact always act on the victim’s behalf. This is where international conventions can have an important role to install ‘international tribunals’ that can judge cases of possible negligence and omission. This was the case of the application of the Belém do Pará Convention against Brazil. During the 1990s, different feminist organisations and networks came together to bring support to Maria da Penha Maia Fernandes, a teacher from the State of Ceará, to argue her case in that international forum. She claimed that her appeals to local Police Stations and courts to protect her from her husband had gone unheard. He was left free to come home and shoot her, leaving her paraplegic. In 1998, the Brazilian government was finally condemned for ‘negligence and omission’ in acting upon several complaints filed by her against her former husband fifteen years before. As a result, in 2002, he was finally

BOX 3 Domestic Violence Legislation in Ghana

A more positive legislative outcome was witnessed in Ghana. Here, a domestic-violence bill spearheaded by the Coalition against Domestic Violence, formed to support the passage of the bill, was subject to more than three years of extensive national consultations led by the government ministry of women’s and children’s affairs. There was early resistance from a surprising source, the first minister of women’s and children’s affairs (who argued that the law would ‘destroy families’). The Coalition’s demand for the repeal of S 42(g) of the criminal code (the so-called ‘marital rape exemption’) also caused bitter acrimony. Those opposed to the bill portrayed it and its gender-activist supporters as purveying ‘foreign’ ideas that threatened Ghanaian cultural beliefs and practices - in particular, the sanctity of marriage and men’s rights within it (...)

This new legislation has been hailed as a triumph, but much work remains to be done to ensure that it is fully implemented. This will require – argue activists and human-rights advocates in Ghana - a comprehensive, nationwide implementation action plan and the provision of necessary human and budgetary resources (partly in light of the fact that governments have in practice relied on donors to fund gender work in Ghana). Some aspects of the social environment in which most Ghanaian women still live- widespread poverty, the economic dependence on men, and social attitudes and codes that tolerate oppressive behaviour or allow serious violations of women’s rights to be ‘settled’ without justice or accountability - reinforce the argument that implementation mechanisms are vital. (Manuh 2007)

incarcerated for attempted murder, but nearly twenty years after the shooting that put her in a wheelchair for life.

Women's organising to elaborate and pressure for appropriate legislation: Maria da Penha Law in Brazil

Cases such as that of Maria da Penha brought attention to the need for nationwide policies and legislation in confronting domestic violence. In Brazil, this was even more necessary as changes in the judiciary system towards facilitating access to justice, brought about by Law 9.099 of 1995, had a contradictory effect on domestic violence cases. It established special courts, known as 'JECRIMS', in which, in the name of 'agility' to solving cases, the conciliators did not determine imprisonment of offenders. They rather applied minor sentences, such as the payment of fines. They ignored the nature of gender relations involved in the conflict and the cyclical characteristic of domestic violence, resulting in an approach which minimised the violence inflicted upon women.

In face of this, women's organising led to the creation of a Consortium of feminist organisations to elaborate a policy brief for national legislation on domestic violence. In November of 2004, after a long process of discussions and reformulations by a working group formed by representatives of this consortium and of several government ministries coordinated by the Special Secretariat of Public Policies for Women-SPM, followed by a series of public audiences all over the country, the final document was presented to Congress as a Law Project (PL 4.559/04). For nearly two years, feminist and women's movements lobbied in Congress and promoted discussions asserting the need for the passage of the legislation in question. It was finally sanctioned by President Lula in August 7, 2006, as Law 11.340/06, to be enacted starting September 22 of that same year. It was soon baptised as Maria da Penha Law - LMP, in honor of Maria da Penha Maia Fernandes' courageous fight - and victory - against impunity.

This new legislation constitutes a historical mark in the 30 year long campaign headed by feminists to criminalise domestic violence. LMP is the only legislation in Brazil that treats specifically and more comprehensively the issue of domestic and family violence against women, guaranteeing women's human rights and their access to justice.

It brings important conceptual advancements by incorporating a gender perspective, and by enlarging the meaning of domestic and family violence against women to include any action or omission based on gender that causes death, lesion, physical, sexual, or psychological suffering, or any moral or patrimonial damage. It also extends the meaning of 'family', regarding it as a 'community formed by individuals who are or consider themselves to be related, brought together by natural ties, affinity or expressed will', including in this scope same-sex unions, thus breaking entirely with the restricted juridical concept of family.

Women's organising to monitor the implementation of domestic violence legislation

The existence of legal mechanisms is an essential step in confronting domestic violence but it is certainly not enough. In countries such as Brazil and Bangladesh, women have organised to monitor the implementation of the law.

The Government of Bangladesh has taken a number of measures to provide services to women affected by violence, setting up One-stop Crisis Centres at divisional level, proposing the establishment of One-stop Crisis Cells district level, victim support centres set up by the Police, shelters set up by various departments, women friendly hospitals and also legal assistance through the Government Legal Aid Fund and various NGOs. Various laws have been formulated to address Violence Against Women (VAW). However services are inadequate and the laws have a number of loopholes, their utilisation is still inadequate, quality insufficient and institutions are still not sensitive to the needs of the clients.

In order to make government service providers more responsive and accountable to women subjected to violence, in 1998 Naripokkho initiated an action research project entitled 'Monitoring State Interventions to Combat VAW'. The broad objectives of the project are an examination of the criminal justice system and the courts and to use these findings to advocate for positive change in state machinery dealing with violence, such as police, hospitals and courts. Activities are also designed towards changing attitudes and behaviour of government officials towards complainants and victims of crime, especially women. These efforts involve a systematic observation and examination

of the process of lodging a complaint, investigation, prosecution and medical services.

Positive results from this initiative have led to it being taken up by a number of women's rights and human rights organisations who are regularly carrying out monitoring of police stations, hospitals and courts. The presence of third party observers has made service providers more sensitive and responsive to the needs of women affected by violence. In addition the findings of the monitoring are compiled and fed back to the police, hospitals and to the judiciary and have resulted in changed in procedures, budget allocations, training for service providers and also built the case for separate legislation on domestic violence, which was passed in 2010.

In Brazil, a number of problems have frustrated the implementation of Maria da Penha Law. In addition to considerable resistance from all directions, it is a federal Law and of national scope, but it depends on state and municipal organs and agencies to be properly implemented. This has given rise to different local policies and practices that fall short of fulfilling their aims. Evidence to this problem is the fact that, according to the Brazilian National Justice Council, of the 75,829 processes of violence against women initiated during the period of July to November of 2008, only 1,801 resulted in successful condemnations of abusers, that is to say, less than three per cent.³

Aware of these drawbacks in the implementation and application of Maria da Penha Law, the Secretariat of Public Policies for Women (SPM) has formed the 'National Pact for Combating Violence Against Women' with State governments throughout the country, with the objective of consolidating the National Policy for Combating Violence Against Women. SPM has also promoted the articulation of consortia to monitor the implementation of Maria da Penha Law throughout the 26 states, by means of a public tender. OBSERVE – the Observatory for Monitoring the Implementation of Maria da Penha Law, headquartered at and coordinated by NEIM/UFBA, was created by the winning Consortium.⁴

Within the last three years, OBSERVE has developed a monitoring methodology, specific to Maria da Penha Law and conducted diagnostic surveys of police stations for women and of special

courts for domestic and family violence. It has also documented case studies of cross-agency coordination in providing services and assistance to women victims of domestic violence. OBSERVE's monitoring has also identified 'good practices', suggesting the provision of incentives in that direction, a recommendation that was transformed into a special 'prize' now awarded on an annual basis by SPM. OBSERVE has also contributed to the formulation of official norms and procedures to the Police Stations for Battered Women in implementing Maria da Penha Law, as well towards the formulation of other policies by SPM regarding cross-agency collaboration and coordination.



Key Message Three

Comprehensive legislation packages are needed to confront domestic violence against women. They should include punitive, protective and preventive measures and provisions for the monitoring of legislation implementation.

The Consortium of feminist organisations responsible for the original drafting of Maria da Penha Law based the work, among other sources, on a comparative analysis of domestic violence legislation in operation in other countries, as well as on the findings of studies of violence against women in Brazil and the available machinery to curtail it. The result was a comprehensive legal package that includes punitive, protective and preventive measures - the so-called '3 Ps' of domestic violence legislation - as well as provisions for monitoring the implementation

of the law. Of course, all these measures and provisions were suited to the specificities of the Brazilian Judicial System. However, insofar as they were inspired on international conventions and legislation at work in an array of different countries, Maria da Penha Law offers us a good example of a well-thought through and balanced legislation package, thought out from the perspective of women victims of domestic violence. In this regards, it pays to look at the 'three Ps' of domestic violence legislation.

Punitive measures

As noted earlier, a major complaint raised by Brazilian feminists with regard to Law 9.099 which created the 'JECRIMS' – special conciliation courts – was that this law made domestic violence banal, placing it in the petty crimes category with very minor penalties to abusers. As such, the main thrust in Maria da Penha Law was to criminalise domestic violence, creating new courts and increasing sentences. Among the major innovations the new law:

- expanded the definition of domestic violence to include physical, psychological, sexual, patrimonial and moral violence, determining as well, that domestic violence against women is not dependent on the woman's sexual orientation
- determined the creation of special courts of domestic and family violence against women with civil and penal competence to address family issues derived from violence against women, forbidding pecuniary sentences
- determined that the Special Courts should have a 'multidisciplinary staff', including social workers and psychologists, to support the victims and inform the judges in their rulings
- determined that woman must be accompanied by attorney or public defender in all the procedural acts, and that she can only renounce the denunciation before a judge
- allowed the judge to decree preventive custody when there is risk to the physical or psychological integrity of the woman
- increased penalties according to the abuse, establishing that sentences would be one third higher in the case of disabled women



- allowed the judge to determine the obligatory attendance of the aggressor in recovery and re-education programmes (SPM 2006).

All of these measures have proven to be essential in criminalising domestic violence and establishing adequate juridical procedures to follow suit.

Protective and Assisting Measures

Domestic violence legislation should always aim to protect the victims of abuse and provide assistance to them and their children. This implicates the need for cross-agency collaboration. Maria da Penha Law abides by these principles, establishing a series of protective and assistance measures. Some of these have implicated in the redefinition of the role of DEAMs, beyond their responsibility for carrying out the appropriate investigative procedures to support the case and for forwarding it to the Prosecutor's Office. Aiming to restrain and prevent domestic violence, Maria da Penha Law:

- includes a specific chapter on assistance provided by the police authority in cases of domestic violence against women
- allows the police authority to arrest the aggressor in the act in case of any of the forms of domestic violence against the woman
- allows the police authority to request that the judge determine several urgent measures, within 48 hours, which may include suspension of the aggressor's license to carry a weapon, removal of the aggressor from the home, keeping distance from the victim, among others), depending on the situation. (SPM 2006)

In order to further guarantee the physical and psychological integrity of these women, Maria da Penha Law also includes provisions for:

- urgent protective measures, securing them the right to mobility, to go to work, and to remain in their homes
- the inclusion of these women in all the pertinent social assistances programs, particularly in the case of women who are economically dependent on their abusers
- guarantee the maintenance of their jobs for up to six months when they need to stay away for safety measures
- access to emergency contraceptive services to those involving prophylaxy in the case of Sexually Transmitted Diseases, thus providing access to legal abortions and health treatment
- access to Free Legal Counsel for assistance in the police and judicial procedures. (SPM 2006)

The new law also establishes that courts should work closely with the police authorities, as well as with other agencies included in the network of services such as: shelters for battered women, reference centers, health centers, job training and employment agencies, public defender offices and prosecution offices.

Preventive and educative measures

A number of 'preventive' and 'educative' measures have also been introduced with Maria da Penha Law. They include:

- the promotion of studies and surveys to systematise data to evaluate the efficacy of the new measures
- the implementation of programs at all levels aiming to eradicate domestic and family violence against women
- educational campaigns focusing on humans rights, gender and race equity, and on the new legislation, among other related issues

Although not part of Maria da Penha Law, but an important means of obtaining information about it, is the 'Call 180' (Ligue 180), a national hotline to tend to the public on issues concerning violence against women. Established by the Special Secretariat for Public Policies for Women in 2006 to operate all over the country, 'Call 180' has been growing steadily in channelling information and advice and receiving complaints about services to women victims of violence.

According to the Secretariat of Public Policies for Women, between January and June, 2009, for instance, there was an increase of 32.36 per cent for the same period in 2008, whereas between 2009 and 2010, this increase amounted to 112 per cent. Until June, 2010, SPM registered 343,063 calls, against 161,774 in 2009. Among the calls received during the first semester of 2010, nearly one-fifth were reports of violent acts. However, a similar proportion of the calls were made to register complaints about DEAMs and other public services tending to women in situation of violence (SPM 2010).

Key Message Four

Effectiveness of domestic violence legislation depends on appropriate training of all service providers, cross-agency coordination, public opinion support, monitoring of policies by Civil Society Organisations, and adequate budgets at all levels (local, state, and federal).

A number of factors can affect – either favouring or acting against - the adequate implementation of domestic violence legislation. However, on the basis of OBSERVE’s activities in monitoring the application of Maria da Penha Law in Brazil, the following factors emerge as major issues to be addressed in order to guarantee greater effectiveness of the legislation.

Provide adequate training of all service providers

The survey of DEAMs and Special Courts conducted by OBSERVE in all Brazilian state capitals revealed that two kinds of special training and awareness-raising are essential to all those in the network of services and agencies that work directly with women victims of domestic violence. The first concerns services regarding the legislation at hand – in our case, Maria da Penha Law – and all the proceedings necessary to get the fastest response to women in a situation of domestic violence. In the case of DEAMs, one of their major contributions is the execution of higher quality police proceedings. Police inquiries and petitions for protective measures are the major instruments of police action under Maria da Penha Law, and if adequate proceedings are not executed, protective measures cannot be issued, causing delays that can further threaten women’s lives.

The second kind of special training has to do with the modes of delivery needed to effectively reach and serve the women who seek help. More precisely, it pertains to gender awareness-raising, which should be a part of the training of all those involved in providing help to women who are victims of violence. In this regard it is important to note that, during the research conducted by OBSERVE in DEAMs, researchers were witness not only to the rudeness by police agents towards the women who came to file complaints, but also to the fact that, as a rule, agents offered very little

information to the women and, not rarely, passed on the wrong information. The researchers often found themselves in the position of explaining to the women the procedures concerning the filing of complaints and getting protective measures. This was because the women’s conversations with police agents sometimes made issues even more clouded. This was confirmed by the survey conducted with women who had filed complaints. The women included in our sample reported that the information given to them at the DEAMs was inadequate and insufficient. Worse still, what the women reported indicates that they were discouraged by police agents from filing complaints. They were also prevented from having access to their rights, and from having procedures provided by law enacted on their behalf. The outcome is the re-victimisation of victims – something which could be potentially avoided by specialised training.

In the case of Brazil – but with import as well to other countries – this special training could come in the form of:

- promotion of continued training to police officers, deputies and clerks, as well to personnel and professionals in other network agencies, focusing especially on those who have more direct contact with women who seek assistance
- promotion of workshops for Justice system workers (starting with judges) on domestic violence against women
- promotion of professional development by means of career re-structuring in the police force, offering special incentives for participation in training courses and workshops in the area of human rights with concentration on women’s rights
- introduction obligatory courses on women’s rights and legislation regarding domestic violence against women in curriculum of Law Schools and Police Academies.

Promote cross-agency collaboration and coordination

In most countries, such as in Brazil, the implementation of domestic violence legislation implies multi-agency working, not rarely of different levels (local, state, federal) and branches (executive, judiciary, legislative) of government. The study conducted by OBSERVE of the network of agencies involved in the application of Maria da Penha Law in Brazil showed that, in these circumstances, inter-agency communication, vital for the speeding of proceedings, is often compromised, when not in fact inexistent (Pasinato 2010). Indeed, cross-agency collaboration does not usually occur without government intervention to encourage it. Cross-agency coordination, in operation with 'mandated networks' seems to bring more positive results, and should be encouraged (Commonwealth Secretariat 2004: 71). In this sense, it is fundamental to encourage the effective articulation of professionals and agencies that constitute the network of services to women in situation of violence, through the creation of committees and study groups. The point is to promote cross-agency coordination and program development with the common mission of handling cases expeditiously so as to guarantee safety of victims as paramount. Collaboration between the different agencies should make it easier for victims to navigate the system and access the needed services, avoiding re-victimisation.

Build public opinion in support of domestic violence legislation

In countries where a culture of machismo is still strong, as in the case of Brazil, it is crucial to promote the implementation of comprehensive anti-violence and conflict resolution curricula in schools that address domestic violence. Likewise, it is also necessary to promote campaigns to raise public awareness on domestic violence and bring the issues involved, including in existing legislation, to public discussion. These campaigns should address attitudes about domestic violence, as well as inform people about the laws and services available to women in situation of violence. In Brazil, since the passage of Maria da Penha Law in 2006, the annual campaign of the 16 Days of Activism to End Violence Against

Women has addressed issues concerning the new legislation. There have been other government sponsored campaigns, songs that were composed, and government input in popular soap operas to raise awareness about domestic violence and Maria da Penha Law with positive effects. Indeed, public opinion surveys within the last few years have shown that public awareness regarding Maria da Penha Law has grown considerably (Instituto Avon 2009). Public opinion in favor of the new legislation has also had a positive impact in terms of its application in some recent high profile cases. For example, against a famous soap opera actor and a well-known soccer player – and in the voicing of public dissatisfaction when judges do not apply the law as expected.

Promote monitoring and evaluation by organisations of civil society

Monitoring and evaluation should be part of all policies, but it is particularly essential in the case of domestic violence, given the cultural and organisational resistance to it. Furthermore, it is important that monitoring be undertaken by civil society, particularly women's and feminist organisations active in the struggle to end domestic violence. Along with the women victims, these organisations are the main stakeholders; many were behind the formulation of the legislation in force. Nevertheless, OBSERVE's experience has revealed that this process can be made difficult, especially as a 'culture of accountability' is usually lacking in the agencies providing services. As such, promoting the development of such a culture, and systematic data keeping at all levels, should be part of policies aiming to confront domestic violence. Support is also needed for the promotion of studies, surveys and continuing research on domestic violence against women.

Provide appropriate budgets at all levels of government to combat domestic violence

We come last to the major key factor - upon which the others depend – to guarantee the effectiveness of domestic violence legislation: the provision of adequate funding for its successful implementation. Budgeting for programmes and agencies involved in providing the much-needed services to women victims of domestic violence should be undertaken at all levels of government

Box 4 Monitoring of Domestic Violence Legislation should:

- Determine the prevalence of cases of violence against women
- Determine the laws, policies and protocols which are used to address violence against women
- Evaluate laws, policies and protocols used to address violence against women
- Propose changes in laws, policies, and protocols in order to further the goals of safety for victims and accountability for offenders
- Reveal unintended consequences of laws, policies, and protocols
- Reveal gaps in the law, policies, and protocols
- Pressure a government to apply international standards or to change its actions
- Reveal the need for a coordinated community response to enforce the laws
- Reveal the need for capacity-building and training for professionals who must enforce the laws
- Be performed on a regular basis

Source: UN Women. End Violence Against Women Now
<http://www.endvawnow.org/en/>

– local, state, and federal – according to the nature of respective agencies and government organs. This is another important instance in which women’s organising and lobbying for provisions in favour of domestic violence legislation is called upon.

Notes

1 This brief was drafted by Cecilia M. B. Sardenberg on the basis of the background paper elaborated in collaboration with Marcia Tavares, Marcia Gomes and Wania Pasinato, researchers at OBSERVE-Observatorio de Monitoramento da Aplicação da Lei Maria da Penha, for UN Women (Sardenberg et al 2010), with inputs from Maheen Sultan and Takyiwaa Manuh of the Pathways of Women’s Empowerment RPC.

2 OBSERVE has been financed by: Brazilian Secretariat of Public Policies for Women - SPM (responsible for 70 per cent of the funding to Observe); other international funding agencies: UN Women, NOVIB-Oxfam, UNDP, DFID (the office in Brasilia), the Brazilian National Research Council (CNPq) - undergraduate student internships- Universidade Federal da Bahia - UFBA - undergraduate student internships.

3 It is not known if this would be a result of ‘case attrition’, that is, of the process by which only a portion of offenses reported to the police are eventually dealt with through criminal prosecution, due to selection at different points of the process of only those cases worthy of official attention. Research regarding Maria da Penha Law processes through the Judiciary System is needed before the funneling of complaint processes through legal channels can be attributed to ‘attrition’. Sardenberg, et al. 2010b

4 The Consortium responsible for OBSERVE was created in 2007 and includes the following institutions, organisations and networks: NEIM/ Federal University of Bahia, responsible for the National Coordination and the Northeast Regional Coordination; AGENDE, feminist NGO responsible for the Midwest Regional Coordination, GEPEM-Federal University of Para, North Regional Coordination; CEPIA, a feminist NGO responsible for the Southeast Regional Coordination, and Coletivo Feminino Plural, responsible for the South Regional Coordination. Other members of the Consortium include: THEMIS, a feminist NGO headquartered in Porto Alegre, NEPP-DH, the Nucleus of Studies on Public Policies for Human Rights of the Federal University of Rio de Janeiro, NIEM, the Interdisciplinary Nucleus for Women’s and Gender Studies of the Federal University of Rio Grande do Sul, NEPEM,

the Nucleus of Research and Studies on Women and Gender of the University of Brasilia. Three feminist networks are partners of the Consortium: REDOR, the Northeast Region Feminist Studies Network, CLADEM, Committee of Latin America and the Caribbean for the Defense of Women's Rights, and REDE SAÚDE, the Feminist Network for Women's Health.

References

- Commonwealth Secretariat (2004) 'Commonwealth Public Administration Reform', London: Commonwealth Secretariat
- Gomes, M, Silva, Z., Santos, C. and Sardenberg, C. (2009) 'Monitoramento da Lei Maria da Penha', Relatório Preliminar de Pesquisa, OBSERVE/NEIM/UFBA, http://www.observe.ufba.br/_ARQ/relatoriofinal.pdf
- Instituto Avon (2009) 'Percepções sobre a Violência Doméstica Contra Mulheres no Brasil', Sao Paolo: Instituto Avon
- Manuh, T. (2007) 'African Women and Domestic Violence', www.opendemocracy.net/article/african_women_and_domestic_violence
- Nazneen, S. (forthcoming) 'Men Aboard? Movement for a Uniform Family Code in Bangladesh', in M. Al-Sharmani (ed.) *Legal Reform and Feminist Activism*, London: Zed Books
- Pasinato, W. (2011) 'Relatório Final - Condições de Aplicação da Lei Maria da Penha nas DEAMS e nos Juizados/Varas de Violência Doméstica e Familiar nas Capitais', Salvador: OBSERVE/NEIM/UFBA, http://www.observe.ufba.br/_ARQ/Relatorio%20apresent%20e%20DEAMs.pdf
- Pasinato, W. (2010) 'Identificando Entraves na Articulação dos Serviços de Atendimento às Mulheres Vítimas de Violência Doméstica e Familiar em Cinco Capitais', OBSERVE/NEIM/UFBA, http://www.observe.ufba.br/_ARQ/relatorio_final_redes%5B1%5D%20%281%29.pdf
- Pasinato, W. and Santos, M. M. (2008) 'Mapeamento das Delegacias da Mulher no Brasil', PAGU/UNICAMP. CEPLAES/Equador, IDRC, www.ceplaes.org.ec/AcessoJusticia/ceplaes-perfiles.html
- Sardenberg, C., Gomes, M. and Tavares, M. (2010b) 'A Aplicação da Lei Maria da Penha em Foco', Cadernos do Observe 1, Salvador:OBSERVE/NEIM/UFBA
- Sardenberg, C., Gomes, M., Pasinato, W. and Tavares, M. (2010a) 'Domestic Violence and Women's Access to Justice in Brazil', Background research report elaborated for UN Women 2008 Access to Justice Report. Salvador: OBSERVE/NEIM/UFBA, www.observe.ufba.br/_ARQ/UNIFEM%20access%20to%20justice%20report%20sept%2030%20%282%29.pdf
- Secretaria Especial de Políticas para Mulheres Brasil (SPM) (2010) 'Boletim da Ouvidoria', 1, Brasília, DF: SPM
- Secretaria Especial de Políticas para Mulheres Brasil (SPM) (2006) 'Lei Maria da Penha', Lei 11.340 de 07 de Agosto de 2006, Coíbe a Violência Doméstica e Familiar Contra a Mulher, Brasília: SPM
- Trang, M. (2011) 'Domestic Violence doesn't Discriminate. Seeking Protection for Women in the United States', Policy Brief, www.judofishcreative.com/wp-content/uploads/2011/01/Policy-Brief.pdf
- UN (2006) 'Ending Violence Against Women. Study of the Secretary-General', New York: UN
- Violence Against Women Online Resources (VAWOR) (no date) 'The Facts of Domestic Violence', www.vaw.umn.edu/documents/inbriefs/domesticviolence/domesticviolence.html, (accessed 10 October 2011)

