

European Institute for
Crime Prevention and Control,
affiliated with the United Nations
(HEUNI)
P.O.Box 157
FIN-00121 Helsinki
Finland

Publication Series No. 36

Women in the Criminal Justice System: International examples & national responses

Proceedings of the workshop held at the Tenth United Nations Congress
on the Prevention of Crime and the Treatment of Offenders

Vienna, Austria, 10–17 April 2000

Edited by Natalia Ollus and Sami Nevala

Helsinki 2001

Copies can be purchased from:

Academic Bookstore
P.O.Box 128
FIN-00101 Helsinki
Finland

Criminal Justice Press
P.O.Box 249
Monsey, NY 10952
USA

ISBN 952-5333-04-3
ISSN 1237-4741

Page layout: DTPage Oy, Helsinki, Finland
Printed by Tammer-Paino Oy, Tampere, Finland

Foreword

The workshop *Women in the Criminal Justice System* was held during the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Vienna, 10-17 April 2000. During the one and a half days reserved for the event, papers were presented on a number of themes connected to women in the criminal justice system. The workshop brought together both academics and practitioners from around the world in order to share models of good practice as well as research findings. This publication includes the prepared presentations given during the sessions.

The initial suggestion to hold a workshop on Women in the Criminal Justice System was made by the Sixth Commission on Crime Prevention and Criminal Justice, held in 1997. The Commission recommended (E/CN.15/1997/21) that four workshops be organised within the framework of the Tenth Congress: Combating corruption, Crimes related to the computer network, Community involvement in crime prevention and Women in the criminal justice system. This recommendation was then passed by the General Assembly in its resolution 52/91, 12 December 1997. In December 1998 HEUNI organised the VI European Colloquium on Crime and Criminal Policy, focusing on the topics of the Tenth Congress.

The responsibility for organising the workshops was placed on the institutes forming the United Nations Crime Prevention and Criminal Justice Programme Network. The workshop on Women in the criminal justice system was organised by the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), in co-operation with the Australian Institute of Criminology (AIC), the United Nations Interregional Crime and Justice Research Institute (UNICRI), the International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR&CJP), the National Institute of Justice (NIJ) and the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD).

The workshop on Women in the criminal justice system was divided into four modules, each focusing on different aspects of women and the criminal justice system.

In the module on *Women as offenders and prisoners*, the presenters introduced practical work done with female perpetrators and prisoners. The presenters shared powerful images of theater as a means of rehabilitation among female prisoners in Australia, illuminated the plight and the importance of recognising the needs of women with a foreign background imprisoned in the United Kingdom and also focused on the mechanisms and structures of how women and children are trafficked for sexual exploitation in Central and South America.

The module on *Women as victims and survivors* presented an overview of the discussions focusing on victimhood and empowerment. The module also highlighted the Philippine experience in preventing and assisting women who are trafficked as well as presented the work and framework of two organisations assisting women in prostitution, one in India and the other in the United States.

The module on *Women in the criminal justice system* presented the international mandate and both international and national measures for combating and preventing violence against women in its different forms.

Module four on *Research and policy issues* first outlined the existing criminological research on women in the criminal justice system. The module presentations then focused on the Canadian survey on violence against women and cross-European research on trafficking in women. The module also presented two on-going international projects, one on combating trafficking in women and the other on a comparative survey of violence against women.

All the modules were accompanied by a lively discussion, giving the representatives of the United Nations Member States a possibility to express their views on the topics and also to present some of the practices used in combating violence against women.

The editors wish to thank all the speakers and our colleagues in the participating Programme Network Institutes who contributed to the success of the workshop. We especially wish to express our appreciation to Professor Frances Heidensohn, who acted as the overall moderator for the workshop. We also wish thank our former colleague Ms Kristiina Kangaspunta for bringing the theme of women in the criminal justice system into HEUNI's agenda. Finally we gratefully acknowledge the assistance of all our colleagues at HEUNI, especially Ms Jaana Ryan, in organising the workshop and in preparing the final report.

Helsinki, 20 March 2001

Natalia Ollus
Research Officer
HEUNI

Sami Nevala
Research Officer
HEUNI

Contents

Foreword	iii
Report from the Rapporteur <i>James O. Finckenuer and Jennifer L. Schrock</i>	1
Rapport du rapporteur <i>James O. Finckenuer et Jennifer L. Schrock</i>	17
Доклад <i>Джеймс О.Финкенауэр и Дженнифер Л.Шрок</i>	35
Introduction to the Collected Papers from the Workshop on Women in the Criminal Justice System <i>Frances Heidensohn</i>	57
Keynote Speech <i>Noël Brennan</i>	59
Framing Statement <i>Julita Lemgruber</i>	69
MODULE 1: Women as Offenders and Prisoners	77
Introduction <i>Christine Alder</i>	77
Working with Women Prisoners from Jamaica, Columbia and West Africa in the United Kingdom: Recognising the Special Needs of Foreign Nationals <i>Olga Heaven</i>	79
Trafficking in Women and Children for the Sex Industry: Women’s Participation in this Crime. A Contextual Approach <i>Tatiana Cordero and Alda Facio</i>	84
Somebody’s Daughter Theatre: Celebrating Difference with Women in Prison; Positing a New Model – Other than Prison <i>Maud Clark</i>	96
MODULE 2: Women As Victims And Survivors	103
Introduction <i>Noël Brennan</i>	103
Prevention, Protection, Prosecution, and Rehabilitation: Advancing the Status of Women Trafficking Victims and Survivors, the Philippine Experience <i>Catherine P. Maceda</i>	104

Trauma and Drug Recovery for Abuse and Prostitute Survivors in the Criminal Justice System <i>Norma Hotaling</i>	110
Consolidating Protection against Ever-escalating Violation: The Case of Prerana’s Intervention for Protection of Rights of Victims of Commercial Sexual Exploitation in India <i>Priti Patkar</i>	113
Women as Victims and Survivors in the Context of Transnational Crime <i>Edna Erez</i>	136
MODULE 3: Women in the Criminal Justice System	147
Introduction <i>Renée Collette</i>	147
Combating Violence Against Women: Challenges in International Co-operation <i>Anne McLellan</i>	149
International Responses to Violence Against Women <i>Evelyn Zellerer</i>	152
Implementing International Standards in the Fields of Crime Prevention and Criminal Justice to Eliminate Violence Against Women <i>Yvon Dandurand and Vivienne Chin</i>	157
Rape – a Violation of Women’s Rights <i>Olive Newton</i>	164
MODULE 4: Research and Policy Issues	169
Research on Women in the Criminal Justice System and Transnational Crime <i>Frances Heidensohn</i>	169
Global Programme Against Trafficking in Human Beings <i>Kristiina Kangaspunta and Paola Monzini</i>	176
Trafficking in Women Through Poland: Analysis of the Phenomenon, Causes of Trans-Migration and Proposals to Tackle the Problem <i>Brice De Ruyver and Kristof Van Impe</i>	183
Enhancing knowledge on violence against women <i>Holly Johnson</i>	198
The International Violence Against Women Survey (IVAWS) <i>Natalia Ollus</i>	214
APPENDIX 1	
Workshop Programme	221

Report from the Rapporteur

Women in the Criminal Justice System

James O. Finckenauer
Director
International Center
National Institute of Justice
U.S. Department of Justice

Jennifer L. Schrock
International Program Specialist
International Center
National Institute of Justice
U.S. Department of Justice

The involvement of women in crime and in the criminal justice system is growing. While the increasing presence of women as victims and offenders, as well as criminal justice practitioners, has triggered more attention from the research and policy communities, the number and complexity of the issues involved requires that still greater attention be paid to them. Much better understanding of these issues-and concerted action to resolve them-are required to help overcome the historically marginal status of women and their often unfair treatment in the criminal justice system.

The advancing problem of transnational crime makes these already ambitious tasks even more difficult. The political, economic and technological changes that are occurring on a global scale present increasing problems and challenges for all levels of society. Transnational crime increases the potential victimization of all people in marginal positions, but this is especially so with respect to women because of their vulnerability to sex crimes.

The trafficking of girls and women has become a highly profitable and organized international criminal business. Their illegal transport for purposes of forced prostitution and other exploitation has been exposed by humanitarian organizations and international law enforcement agencies. More often than not, this trafficking operates with the protection (or at least acquiescence) of corrupt officials at local, regional and national levels. At the same time, the often ignored demand side of this criminal market becomes increasingly insatiable. The sex industry, while certainly not a new social phenomenon, has, as a result of increased demand and supply, moved fully into the international arena.

Their dire economic straits in many developing countries renders women an easy prey for traffickers. And far too often the only criminal justice response – when trafficking victims are apprehended in destination countries – is to incar-

cerate them, or to treat them as illegal immigrants and immediately deport them; whereupon they are often stigmatized, ostracized by their families, and again preyed upon by traffickers.

Given the potential dimensions of these problems, it would seem that any consideration of crime prevention, and of criminal justice policies and practices, must take account of gender. It would seem that research taking account of gender should play an integral role in facilitating greater understanding. It would further seem that local, national and international criminal justice communities must fill the numerous information gaps with policy relevant data and research. And finally, it would appear critical that this knowledge be acted upon in the form of new policies, practices, and programs. These are not, however, universally accepted positions.

It is this gap between needs and problems on the one hand, and the response to these needs and problems on the other, that led to the issue of women in the criminal justice system being one of the priority topics of the 10th United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

Workshop Structure and Purpose

The workshop entitled *Women in the Criminal Justice System* was held during the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Vienna, Austria, April, 2000. The workshop convened for one and a half days on April 13–14, and presented four topical modules. “Women as Offenders and Prisoners”, “Women as Victims and Survivors”, “Women in the Criminal Justice System” and “Research and Policy Issues” were the subjects of the modules. Workshop presenters included a broad range of policy-makers, practitioners, and researchers from 12 different countries.

In accordance with paragraph 11 of the Vienna Declaration on Crime and Justice, the member states participating in the Congress were expected to “commit themselves to the development of action-oriented policy recommendations based on the special needs of women as criminal justice practitioners, victims, prisoners and offenders”. The workshop’s mission was to promote the exchange of information and experiences between States on efforts made to improve the situation of women with respect to criminal justice administration. Specifically, its charge was to facilitate coherent policy development and new types of professional training, to refine research and research methodologies, and to further advocacy.

The subject of *Women in the Criminal Justice System* is directly related to Topic IV of the Congress, “Offenders and Victims: Accountability and Fairness in the Justice Process”. Topic IV addressed fairness and accountability in the relationship between the state and offender, between the offender and the victim, and between the state and the victim. Given the global priority being accorded to transnational crime by the UN Crime Prevention and Criminal Justice Program, it served as the unifying theme for all four modules. Thus in the workshop, issues and concepts specific to women were discussed within the context of the newly emerging forms of criminality, e.g. transnational organized crime, which are posing new challenges to the efficacy of criminal justice systems.

The workshop presenters came at the issue from a number of different perspectives: as a question of criminal law; as a problem of human rights; as an issue of gender; and, as a matter of economic and social development. These were the main perspectives identified by consensus as priority areas for consideration and attention. Likewise, it was agreed that local, national and international strategies designed to prevent and control transnational crime can succeed only if they deal with the special needs and problems of women as offenders, prisoners, victims and practitioners.

This paper will highlight the underlying issues identified as critically relevant to women and crime and justice during the one and a half day workshop, discuss the common themes which emerged out of those discussions, and consider recommended action steps.

Critical Issues Highlighted

Workshop presenters identified several critical research and policy issues. It is paramount that these fundamental issues be addressed on a local, national and international scale if we are to have any hope of improving women's current situation with respect to the criminal justice system.

While there is no "typical" female victim or offender, there are certainly some common characteristics and factors that cut across cultures in this regard. The similarities among women offenders, regardless of their nationality, serve to illustrate the fact that women's socio-economic status and prior victimization can play major roles in the circumstances of their offending. This reality needs to be reflected in the treatment of female offenders.

Women as offenders, prisoners, victims and survivors

Victimization of women is a difficult issue to address. There exist many entrenched cultural ideologies in virtually all countries that serve to support tolerance and even encouragement of the victimization of females. Women throughout the world have been and will continue to become victims of gender-based violence—violence inflicted by the family, sexual abuse of girls in the household, intimate partner abuse and marital rape, dowry-related violence, trafficking, sexual assault and female genital mutilation. This victimization is exacerbated by such factors as poverty, racism and xenophobia. Many women who enter the justice system as offenders have experienced some form of prior victimization. Oftentimes they have had a series of negative relationships with men, including being exploited or physically abused (Janeksela, 1997).

In dealing with female offenders, it is necessary to recognize this unusual duality of criminality and victimization. These two factors often themselves have origins in the same underlying socio-economic conditions and status. Research has found that many women's pre-prison lives have involved economic distress, victimization and self-abuse through drugs and alcohol (Cairo, 1996). If crime and justice policies dealing with women offenders are to be successful, these policies must address this reality.

One stark example of the poverty-crime nexus can be found in the crime of human trafficking. Women who fall victim to trafficking are most likely poor, uneducated and unskilled, and have limited opportunity for making it on their own (IOM, June 1998). Once these women are under the control of traffickers and pimps, they are often subjected to abusive, coercive, deceptive and brutal practices (IOM, June 1996). But even when the criminal justice system does become involved in trafficking cases, all too often the women are either immediately deported or are simply put in jail (IOM, 1995). One of the points of consensus from the workshop was that policies should not further women's victimization – the state should not punish women's attempts to cope and survive in difficult circumstances, nor should it blame them for their victimization.

Women are still clearly in the minority among prison populations, but their numbers are increasing at a faster rate than those of male offenders. In addition, many incarcerated women are non-violent offenders, serving time for drug or property offences (Cook, 1999). While the growth in numbers of female inmates has resulted in marginal improvement in services for incarcerated women, the rapid increase has not been matched by a commensurate increase in programs that are specifically tailored toward women's needs.

Programs and services need to take account of cultural and racial diversity among the growing women's population in prisons and jails. Criminal justice policies and programs must recognize and address their distinctive health needs, their responsibilities as mothers, the cultural barriers and isolation confronting women imprisoned outside their homeland, and their vulnerability to sexual exploitation and human rights abuses by male staff. The workshop presentations and discussions made it clear that this need is greatest in developing nations.

Due to the complex circumstances surrounding women and offending, especially in light of the current problem of trafficking and forced prostitution, incarceration should be the sanction of last resort, and should be reserved only for the most serious crimes. We must develop a wide range of alternative and intermediate sanctions. The workshop also made clear that we do not have adequate programs to meet the special needs of women offenders after their release back to society. There is a pressing need for community-based alternatives and after care programs that help reduce the societal alienation and social stigma most often associated with women offenders and prisoners.

Women as practitioners

Although the issue of women as practitioners was not discussed at length during the workshop, there are some critical issues that were touched upon over the course of the workshop that warrant mention. Participants noted that women have made progress to varying degrees in the criminal justice field in many countries and are increasingly filling positions traditionally occupied by men, e.g. as correctional officers, wardens, attorneys, judges and law enforcement officers.

While many positions in the criminal justice system are moving in a more gender-equal direction, the proportion remains far from equal. There are unique problems and challenges faced by women who work in this predominantly male-dominated profession. In the area of women working as correctional offi-

cers, issues of security, inmate privacy and physical qualifications have been identified as outweighing women's rights to equal opportunity in this field. In addition, there are many institutional barriers women face as practitioners across the board in all criminal justice professions. Some examples of these challenges include barriers to recruitment and advancement; and, there is discrimination in the nature of work assigned to women and men. An NIJ-sponsored study of women in the U.S. criminal justice system looked at gender inequity in the workplace and found that women face major obstacles in such areas as law enforcement and corrections, and find it difficult to become managers. In many cases where women have gained access to a criminal justice profession, they are denied training, lack agency-sponsored opportunities for networking, and are limited by traditional organizational behavior.

Some states have implemented affirmative action-like programs in an effort to reduce the gender gap for women working in criminal justice. If, however, we are to truly attain the goal of gender mainstreaming and improve the status of women as victims, offenders and prisoners, clearly more women need to be working in this field. More proactive employment initiatives should include staff development and training programs for female personnel that address issues of assertiveness and workplace diversity, and sensitivity training that emphasizes the importance of eliminating sexual harassment in the workplace.

Critical Research Issues Identified

Research on women and criminal justice has traditionally focused on a number of important areas such as the gender gap and the gendered nature of crime. While this research has made enormous contributions, there is a great need for further research, particularly for research that is linked to policy and practice. While the growing increase in female offenders is helping to draw more attention in overall research funding, it was made clear during the workshop discussions that there is a requirement for an enhanced level of attention focused toward women's issues in relation to transnational crime. For example, participants noted that there are virtually no comparative or cross-national data on this phenomenon. Gender sensitive and gender-balanced research is essential in order to obtain understanding of the nature and extent of the problem of transnational crime and to produce effective policies.

Because of the nature of the subject, "official data" are inherently unreliable when trying to measure rates of victimization. Clearly, under reporting and official bias combine to render police records and other official sources highly inaccurate reflections of the true nature and scope of the problem. While problems of under representation and obtaining accurate figures are certainly not unique to this specific area of research, they are magnified with respect to women and transnational crime.

Cultural values, including the protection of privacy and family honor, attitudes that minimize or excuse victimization, and lack of confidence in the justice system often militate against women reporting their victimization. Beyond the ideological obstacles that must be overcome, there are also multiple practical barriers to such reporting. With respect to trafficking, for example, immigrant

women experience language and communication problems, lack of information about the legal process or availability of support and assistance, and fear of being deported to their country of origin.

Victimization surveys are helping to fill information gaps about victims and victimization. Even when official data are combined with national and international victimization surveys, however, the result is far from representing the true enormity and complexity of the problem. Victimization surveys have not been able to provide reliable information on women's experiences with violence in particular.

The workshop discussions on the issue of research focused on the need for more comparative, gender-based research. All panel presentations and ensuing discussions reached a consensus that the true extent and nature of the problem can only be measured and assessed with specific data on transnational crime and women that is cross-national in scope. Given the vastly different types of survey instruments and methods of data collection, however, this will prove to be difficult. And, that difficulty will be compounded by the inherent problems in studying the multiple forms of transnational crime that confront researchers.

Summary of Module Discussions

The discussions that took place during the workshop clearly demonstrated that the marginal status of women is a barrier to planning and carrying out specific actions. The presentations in all four modules served to highlight the issues specific to women, crime and criminal justice, and the fact that the crime problems many women face are distinctly related to their gender. Given the complexity of circumstances underlying the problems of women as offenders and victims, it is obvious that both criminal justice and grass-roots efforts must collaboratively develop integrative and creative ways to deal with these circumstances. It is then necessary to evaluate those approaches and incorporate program successes, or "best practices," into pro-active policies.

When criminal justice issues that are unique to women are coupled with the immediate threat posed by transnational crime and the disproportionate impact such crime is having on women globally, it is clear that proactive efforts are required on a local, national and international level. Policy and action-oriented research must address: (1) the duality of criminality and victimization; (2) the lack of basic programs and services required to meet the needs of the growing women's population in prisons and jails; and, (3) the numerous practical and cultural barriers that keep women from turning to law enforcement for help. Taking action on these specific issues in the form of policies and programs is critical to preventing exploitative behavior and various forms of violence against women.

Taking Action: Moving Beyond Declarations

This workshop provided a valuable international forum for practitioners and researchers to discuss the critical issues and challenges involving women and the criminal justice system. Presentations in all four modules confirmed that the is-

sue of gender cannot be considered to be outside the scope of policy development, especially when the problems are domestic violence and such transnational crime challenges as trafficking in women and girls. The importance of continuing to foster an international dialogue on these important topics cannot be overstated. Mere discussion is, however, never enough. The international community is obliged to take aggressive, proactive, collective steps to reduce the disproportionate harm transnational crime is inflicting on women and children. The fundamental question facing us now is how best to do this. What practical steps must be taken? What can be achieved in the short and long terms? And, what can we realistically expect research and policy to achieve?

One of the recommended actions strongly supported in the workshop is the idea that the international community should identify common policies and strategies that work or are at least promising, while at the same time enhancing local cooperation and coordination. Indeed, the very nature of transnational crimes such as human trafficking demands an active international exchange of knowledge and effective practices to mount an even minimally adequate response. It also follows that state-based preventive measures, tailored to each country's socio-political context, must take place simultaneously.

There were three dominant themes which emerged from the four module presentations: 1) supporting international research and analysis; 2) taking international action; and 3) recognizing the importance of international declarations and standards to both research and action. Pursuing all three themes in unison will ensure the most comprehensive approach for countering the threats posed to women by transnational crime and an unresponsive criminal justice system.

Importance of International Research and Analysis

All workshop participants were in agreement on the importance of gaining more policy-relevant knowledge designed to help improve the status of women in the context of crime and justice. Thus, it follows that international collaborative research should be one of the primary steps taken to gain that knowledge. Given the harms inflicted by transnational crime, the international community must ensure that policy responses are based on sound research and knowledge, and that they are not merely symbolic gestures rooted in ideology or constrained by a country's dominant political culture. The international and myriad national criminal justice communities have an obligation to link research and practice so that crime policies, laws and prevention programs are based on "what works" in practical settings.

There was considerable discussion about the research investments and accomplishments achieved thus far regarding women's issues as these relate to crime and criminal justice. This knowledge demonstrates the potential return from enhancing this research investment. Government leaders and policy makers need to be armed with practical knowledge to make informed decisions about resources, programs and practices that are responsive to the unique needs of women as offenders, victims and prisoners.

In addition to the valuable end products that can come from international collaborative research, the very process of developing cross-cultural research has

value in itself. Research relationships facilitate an important first step in establishing co-operation among researchers, NGO's, community groups, and other practitioners. To be most useful, this research must be action-based, and should-in the case of transnational smuggling of persons, goods, or services-involve the partnering of transit, source, and destination countries.

Among the priority areas demanding more comprehensive, as well as more reliable and valid information, is the broad subject of violence against women. Of particular interest are the prevalence, dynamics, and the contexts within which such violence occurs. This type of information is best obtained through the use of victimization surveys. Necessary to the success of these surveys is close collaboration with service providers and victims advocacy groups, such as NGOs, that can provide the necessary confidentiality and "security blanket" for victims.

A second research priority-necessary to fully understanding the victimization of women by transnational crimes-is to address the multiple reasons that lead to there being a hidden aspect to crimes against women. We know from the research that has already been conducted that despite the high prevalence and incidence of women and girls being victimized, and despite the numerous attempts of these victims to resist abuse, in nearly all countries they generally avoid reporting their victimization to the authorities. One major source of this kind of information is again through the use of victimization surveys. The data from such surveys, when used in conjunction with official data, can produce a much more accurate and comprehensive picture of the situation. In addition, standardized data collection across countries allows for valuable cross-national comparative analyses.

A third area for collaborative international study should focus on understanding the extent to which transnational organized crime groups are involved in the criminal market of trafficking in women. One of the characteristics ostensibly contributing to the enormous profits that are apparently being generated by this trafficking, is the fact that, unlike trafficking in weapons or drugs, women can be "recycled"-used to turn over profits again and again. This would seem to make it very attractive to transnational organized crime, but there is very little solid research evidence that would enable us to reach a definitive conclusion. We very much need such evidence.

A fourth priority topic-one that can lead to the improvement of prevention measures-is research leading to the development of social portraits and risk groups. What types of women are most often targeted as crime victims? What types of women are at greatest risk of becoming offenders? Classification of girls and young women into risk groups would help ensure that prevention efforts are targeted on and tailored for those who most need and can benefit from such efforts.

Other subjects identified by workshop participants for global research include (1) examining the various push-pull factors that influence women to become involved in illegal migration and human trafficking; (2) better and more completely documenting the differential causes of both victimization and offending; (3) examining the consequences of victimization and offending and victim/offender subsequent needs; (4) looking at the changing profile of female criminal-

ity; (5) documenting the special problems and needs of female inmates who have small children; and (6) examining the special difficulties faced by female inmates who are foreign nationals. These are all areas where we know very little, or where our information is very narrow, or where what we know may be outdated.

One of the catch phrases, and one of the most popular ideas in any kind of programmatic activity these days, is the identification of what are called “best practices.” In the case of programs for female offenders and victims, there is a need to find out which—among the great variety of programs being implemented in various countries—actually work. But just as important is finding out why they work, with whom, and under what circumstances. Only then will we be in a position to market them as best practices for replication in cross-national settings. Priority targets for this activity are human trafficking prevention programs, and programs to protect and assist victims of trafficking. What works in this area? Once obtained, this information can be used not only in planning and program development, but also in the development of curricula for law enforcement training. In general, a combination of better documentation of problems and needs, with knowing much more about what works, is the key to the improved nexus of research and policy we should be seeking.

Importance of Simultaneous International Action

The increasingly global nature of crime requires a major commitment on behalf of the world community to engage in increased interaction and cooperation. Transnational crime is an international problem that requires an international response. Thus, the second main theme that emerged out of the workshop focused on the importance of collective and concurrent international action. Jointly developed initiatives should include cross-cultural research partnerships and programs that enhance cooperation among states. These cooperative efforts need to involve prevention, prosecution and protection components for victims.

Since the contextual theme of the workshop was transnational crime, much of the discussion revolved around the problem of trafficking in women. To combat this problem, speakers emphasized that countries that are linked by international trafficking must take proactive steps to cooperate on both bilateral and multilateral levels. They must share information and learn from each success and failure in order to gain a better understanding of how best to address women and crime and criminal justice in the context of transnational crime. The core of any effective international strategy must enhance opportunities for cooperation and coordination in order to avoid duplication. Strategies that are jointly developed among source, transit and destination countries will produce more effective methods of solving the problem.

Many countries are affected by the trafficking problem. Unfortunately far too many of them make it easy for the criminal activity to flourish. There is complicity, acquiescence, or at least inadequate response on the part of authorities. The plight of female victims is compounded by the absence of asylum adjudication procedures, by varying immigration policies, and by differing criminal procedures and law enforcement approaches. Too often victims end up being “re-victimized” because of a criminal justice environment that fails to adequately re-

spond. International efforts are needed to protect witnesses who have come forward, and to help guarantee the safety of victims and their families.

Workshop participants generally acknowledged that the complex and unique problems that women face in the context of crime, particularly transnational crime, cannot be realistically solved by the criminal justice system acting alone. Indeed, it is doubtful that this problem can be solved without the commitment and cooperation of law enforcement, NGO's, and the community at large, on both a national and international scale.

While international co-operation is a prerequisite to fighting the global phenomenon of trafficking in women, workshop participants also stressed that there are actions that individual states can and should initiate on a local and national level. For example, as noted by several workshop participants, individual states should take steps towards providing an improved level of support for victims who turn to the criminal justice system for help. Given the reality of the complex circumstances surrounding many female offenders, victims and survivors, policies must be sensitive to the emotional trauma that these women have undergone. Social, community, and system support should merge to prevent any further victimization. Special outreach efforts must be made available to the poorest women to ensure that those women who are already marginalized by society especially receive adequate protection, justice and support.

The ideal scenario and long-term goal for all member states should be to improve the social and economic status of all women. However, law enforcement officials, and the judicial system alone, cannot be expected, nor are they equipped to address the economic and socio-cultural causes and consequences of crimes against women. Simply processing women through the criminal justice system, incarcerating them, or deporting them to their home countries, will not get at the source of the problems. An adequate "just" response includes compensatory and civil solutions, victim support measures, education, advertisement and information programs, and mass media awareness campaigns. Unfortunately, in the meantime, victimization of women will continue to be a problem-one that is not likely to diminish anytime soon.

"At risk" women must be helped to avoid becoming involved in the victim/offender nexus in the first place. Toward this end, the workshop participants stressed focusing on front-end measures involving outreach programs with both at-risk populations of victims and offenders, and with those driving the growing demand underlying the global sex industry.

Prevention efforts need to be focused on two separate, but related strategies: 1) concentrated public awareness campaigns aimed at "at risk" populations that are devoted to the empowerment of women; and 2) focus on the demand side of the problem, the customers who finance the international sex industry. In order to be successful, both strategies require the active participation and collaboration of governmental and non-governmental actors including NGO's, law enforcement, prosecutors, victim service providers, the media and the larger community. In addition, both should use indigenous solutions as a starting point, and capitalize on the practical methods that have already been developed within various local contexts.

Workshop participants discussed specific components of prevention efforts that focus on the empowerment of women, that utilize grassroots efforts and media information campaigns to instill confidence in the criminal justice system, and that warn women about the dangers of trafficking. States should use and continue to encourage development of strategic local solutions that serve to empower and reduce women's vulnerability to victimization. Local solutions, that are already utilizing existing structures, or available services tailored to the special needs of different cultural groups of women should be made available to those at risk and those trying to escape victimization. Many presenters demonstrated how programs that focus on the empowerment of women have helped to reduce their dependency. Other examples of services being provided include night care and crisis centers, hotlines and legal services for victims. More programs are needed to cultivate and encourage community support networks that facilitate the sharing of experiences by survivors. Experience sharing is a powerful medium for empowerment and support, and is among the least costly of intervention strategies.

National and local information campaigns are an essential step in raising awareness and stimulating societal recognition of the involuntary and dehumanizing nature of women's victimization. In particular, domestic violence is a form of victimization that is often hidden behind closed doors. Public awareness campaigns are also necessary to reduce "victim blaming" by offenders as well as the media, judges, law enforcement, and the community. Ignorance and bias against victims serve only to undermine attempts to combat the victimization of women and to weaken the public's condemnation of the behavior. Education is vital if we are to hope to begin to alter the dominant status quo of complacency. Because of the disproportionately harmful impact of transnational crime on women, any effective crime prevention strategy must have the goal of gender mainstreaming as the guiding principle for both international and national actions.

Without the courage and political will of local authorities and the larger community, and without the desire to effectively address the problem, not much will change. Information campaigns must, therefore, illuminate the role that cultural attitudes play in helping to shape the dominant societal reaction, and ultimately the formal system response. Without symbolic outrage from the community, the problems will continue to be ignored and will not be a priority of the justice system. Community vigilance against victimization can be the most vital resource in the struggle.

There was wide consensus during the workshop about the need to develop integrated programs involving law enforcement and the community in coalition building and training. This is a natural starting point for creating community-based approaches to the problem. Integrated interventions are a powerful tool for improving the law enforcement response, and overall prevention efforts. Training is crucial for sensitizing law enforcement officers to women's issues and crime. Incorporating NGO's that have been working with victimized women on a day to day basis is a natural starting point for any training initiative. It is important to capitalize on the progress NGO's have already made, as many have developed the capacity to address women's issues. Unfortunately they may lack the trust of law enforcement officers as being reliable partners. NGO's are

in a unique position to convey to law enforcement the necessity of their playing an active role in the prevention of violence against women. At the same time, NGO's that are providing services to victims, may not always understand the issues and constraints faced by law enforcement, e.g. evidentiary rules.

Not only will NGO/law enforcement collaborations foster a better understanding of the problem among law enforcement, but the development of integrated programs between these two will help legitimize the vital role being filled by NGOs in the eyes of law enforcement. This creates a win-win situation for both law enforcement and the women who become involved in the system. Law enforcement will have better access to victims, and thus will obtain the more accurate information needed to adequately address and respond to the problem, e.g. women will serve as witnesses. This can help prevent the counter-productive law enforcement response of immediate deportation to a home country where women are merely "re-victimized." Women who have been victims must believe that if they contact the authorities, the criminal justice system will be responsive and sensitive to their situation. Too many victims have too much to lose if they come forward-this includes fear of retaliation by traffickers, fear of arrest and deportation if they are in the country illegally, or prosecution if they have participated in illegal activities. Women become empowered when they know that the criminal justice system is on their side. NGO's can aid law enforcement with the special circumstances of victims who require protection.

Under reporting of victimization is especially problematic in developing countries, where women rarely turn to the police for help. Special efforts are needed to foster NGO/law enforcement collaboration in the third world, where prevention is most needed.

The second major focus of our efforts should be on reducing the impetus behind the prostitution/trafficking linkage. After all, it is the customers and the actors managing this industry – the traffickers and the pimps – who are most responsible for the human rights abuses associated with trafficking in women. The sexual exploitation involved in the trafficking of women and girls is primarily driven by the growing universal demand of the sex industry. It is customer preferences that foster the seeking out of women and children from all across the globe. This demand side of the equation must no longer be ignored. Participants noted that it is hypocritical that the demand side of trafficking is rarely given attention or acknowledgment by either researchers or policy-makers. We must recognize the motivating factor behind prostitution and trafficking. Without the seemingly endless supply of clients who fuel this burgeoning industry – clients who are willing to pay top dollars for a sex holiday, mail-order brides, and high-class brothels – the sex industry would lose much of its financial foundation.

Criminal justice policies should focus on both the abuser and the abused, paying closer attention to those profiting from exploitation, and not only to those victimized by it. We should not downplay the legal responsibility and culpability of the traffickers. Neither should we fail to bring to account those who buy sex and thus continue to fuel the market. Individual states should take immediate action to draft legislation that will impose stiffer penalties on human traffickers. The aim is to make this a more dangerous and higher risk criminal activity.

Importance of International Declarations and Standards

The importance of the international community setting universal standards and declarations with respect to women and the criminal justice system was the third theme which emerged from the workshop. Given the credibility, legitimacy and status of the United Nations, there would be great symbolic value in adopting and promulgating such universal declarations. The participants undoubtedly left the Congress more unified and committed to meeting the challenges facing women confronted by transnational crime. An international mandate of global interaction and cooperation demands, however, that we be clear about what these standards are, and that we prove that we are serious about them. Failures to enact national standards should result in real penalties.

Many international declarations and instruments already exist that extol the specific concepts of human dignity, freedom and non-discrimination necessary to ensuring that women and children are protected in a special way against transnational crime. This workshop served as an important forum to promulgate these important principles contained in such documents as the Declaration of the Elimination of Violence against Women, the Beijing Declaration of the Fourth UN World Conference on Women, and the Platform for Action and Human Rights Standards for the Treatment of Trafficked Persons. International human rights law protects all people against abuses of their human rights by private persons.

An important core element contained in all such international declarations is that an adequate policy response to the problem of women and transnational crime must contain both criminal justice and human rights elements. Crimes involving women, especially when viewed in context of the burgeoning trafficking industry, have broader ramifications that require more than just a criminal justice response. It is paramount that all states recognize that all forms of victimization and violence against women constitutes not only a violation of their specific rights as women, but more generally are a violation of their basic human rights. Victims of trafficking who are detained by authorities in destination countries are entitled to be treated with humanity and dignity. Given the already disadvantaged position that many women find themselves in, the two-pronged approach is the only way to prevent and enforce against the underlying crime, and simultaneously meet the needs and protect the rights of those who are victimized and exploited. Workshop participants specifically noted that the magnitude of women's victimization should serve as a barometer for a country's compliance with human rights laws, and a record of its human rights violations.

Universal standards defining acceptable and unacceptable behavior are paramount in preventing the further victimization and marginalization of women in the criminal justice system. Participants made it clear that the international community should set standards, regardless of unique cultural views of women that are used to rationalize certain forms of victimization. Such views should not be permitted to be used to justify the violation of women's rights. These include cultural norms that view women as inferior, as consenting to the abuse, or as willingly engaging in the crimes that lead to their imprisonment or deportation.

No cultural norms or defenses can justify or excuse subjecting women to abuse and trauma.

Universal declarations should be used to enlighten the public by shedding light on how truly dehumanizing women's victimization really is. These universal standards and declarations should establish a zero tolerance policy for the victimization of women. The international community should stand unified in pushing more countries to integrate a number of human rights considerations into their national laws and policies, including assistance and protections for trafficked persons. Enforcement of these standards will help eradicate oversimplification of the problem as merely an immigration or criminal justice issue.

The international community must take strong action in multi-lateral fora to engage recalcitrant countries in serious and sustained efforts to eliminate trafficking and protect trafficking victims. We must recognize the unfortunate reality that declaration and standard setting, in some circumstances, is an exercise in futility. It is important to back up these principles with action in cases where countries are systematically failing to recognize the standards of the international community. In such instances, an international reprimand should include meaningful sanctions.

Final Thoughts

As the criminal manifestations of globalization continue to affect the nature of crime and the status of women, the international community must take proactive steps to adjust and tailor the criminal justice response. That response should incorporate the concept of gender mainstreaming into both research and practice to alter the outmoded notions of women and criminality. Improving the current status of women in criminal justice is neither an unrealistic nor an unattainable goal. It will be achieved, however, only through implementation of aggressive and collective steps, at all policy levels, to reduce the disproportionate harm transnational crime is inflicting on the world's women and children.

Biographical sketches

James O. Finckenauer is Director of the International Center of the National Institute of Justice, of the U.S. Department of Justice. Organized Crime, in both domestic and international contexts, is one of Dr. Finckenauer's major research interests. His latest books are *Russian Mafia in America* (Northeastern University Press, 1998), and *Scared Straight and the Panacea Phenomenon Revisited* (Waveland Press, 1999).

Jennifer L. Schrock is an International Program Specialist with the International Center. Her primary research interests include transnational crime and juvenile delinquency. Current projects include the development of a pilot survey to assess the impact of transnational crime on the U.S. and research on human smuggling in the U.S. for the United Nations Center for International Crime Prevention.

References

- Cario, R. (1996). "Women and Crime: About Women's Positive Resistance to Crime." *Eurocriminology*, 10, 185-200.
- Cook, S., & Davies, S. (1999). *Harsh Punishment: International Experiences of Women's Imprisonment*. Boston: Northeastern University Press.
- Information Campaign Against Trafficking in Women from Ukraine. *International Organization for Migration Research Report*. (2000, July 7). [online]. Available: <http://www.iom.int> [1998, July].
- Janeksela, G. (Fall 1997). "Female Criminality: An Overview." *International Journal of Compared and Applied Criminal Justice*, 21, (2), 181-205.
- Trafficking in Women to Italy for Sexual Exploitation. *International Organization for Migration- Migration Information Programme*. (2000, June 26). [online]. Available: <http://www.iom.int> [1996, June].

Selected Readings

- Alvazzi del Frate, A., Patrignani, A. (1995). *Women's Victimization in Developing Countries*, (United Nations Interregional Crime and Justice Research Institute).
- Brennan, N., (2000). *Framing Statement*, (Prepared for the Workshop on Women in the Criminal Justice System). Unpublished.
- Erez, E., (2000). *Women as Victims and Survivors in the Context of Transnational Crime*, (Prepared for discussion for module on Women as Victims and Survivors). Unpublished.
- Offenders and Victims: Accountability and Fairness in the Justice Process. *Background Paper for the Workshop on Women in the Criminal Justice System*. (2000, May 6). [online]. Available: <http://www.uncjin.org/Documents/10thcongress/10cDocumentation/10cdocumentation.html> [2000, March]

Rapport du Rapporteur

Les femmes dans le système de la justice pénale

James O. Finckenauer
Directeur
Centre International
National Institute of Justice
Département de la Justice des Etats-Unis

Jennifer L. Schrock
Spécialiste Programme International
Centre International
National Institute of Justice
Département de la Justice des Etats-Unis

L'implication des femmes dans le système de la justice pénale est en recrudescence. Si la présence croissante des femmes parmi les victimes et les délinquants, mais aussi comme praticiennes de la justice pénale, a davantage suscité l'attention des communautés de la recherche et de la politique, le nombre et la complexité des questions concernées appellent une attention plus grande encore. Une compréhension nettement meilleure de ces problèmes et l'action concertée pour les résoudre sont nécessaires pour aider à surmonter le statut, historiquement marginal, des femmes et le traitement souvent injuste dont elles sont l'objet, dans le système de la justice pénale.

Le problème croissant du crime transnational rend cette tâche déjà ambitieuse encore plus difficile. Les changements politiques, économiques et technologiques qui se produisent à l'échelle mondiale se traduisent par des problèmes et des défis croissants, à tous les niveaux de la société. Le crime transnational accroît la victimisation potentielle de toutes les personnes en situations marginales; c'est particulièrement vrai dans le cas des femmes, en raison de leur vulnérabilité aux crimes sexuels.

Le trafic des filles et des femmes est devenu un commerce criminel hautement profitable et organisé, de caractère international. Leur transport illégal, afin de les contraindre à la prostitution et à d'autres formes d'exploitation, a été exposé au grand jour par des organisations humanitaires et par les instances internationales chargées de faire respecter la loi. Le plus souvent, ce trafic opère avec la protection (ou du moins avec le consentement) de fonctionnaires corrompus, aux niveaux local, régional et national. Dans le même temps, la demande - souvent ignorée - de ce marché criminel devient de plus en plus insatiable. Par suite

de la demande et de l'offre accrues, l'industrie du sexe, si elle ne constitue certainement pas un phénomène social nouveau, a pleinement gagné la scène internationale.

Leur situation économique désespérée dans de nombreux pays en développement font des femmes une proie facile pour les trafiquants. Et beaucoup trop souvent, la seule réponse de la justice pénale – lorsque les victimes du trafic sont appréhendées dans les pays de destination – consiste à les incarcérer, ou à les traiter en immigrantes illégales et à les expulser immédiatement; là-dessus, elles sont souvent stigmatisées, victimes de l'ostracisme de leurs familles, et elles redeviennent la proie des trafiquants.

Etant donné les dimensions potentielles de ces problèmes, il semblerait que toute considération en matière de prévention du crime, de politiques et de pratiques de justice pénale, doivent tenir compte de la sexospécificité. Il semblerait que la recherche sexospécifique doive jouer un rôle destiné à favoriser une meilleure compréhension. Il semblerait, par ailleurs, que les communautés locales, régionales, nationales et internationales de la justice pénale doivent combler les nombreuses lacunes au niveau de l'information, au moyen de données pertinentes sur le plan politique et de la recherche. Enfin, il semblerait essentiel que cette connaissance trouve son expression dans de nouvelles politiques, de nouvelles pratiques et de nouveaux programmes. Sans pour autant que les positions soient universellement acceptées.

Un fossé sépare les besoins et les problèmes d'une part, et la réponse à ces besoins et à ces problèmes d'autre part; la question des femmes dans le système de la justice pénale est, par conséquent, un des sujets prioritaires du 10^{ème} Congrès des Nations Unies sur la Prévention du Crime et le Traitement des Délinquants.

Atelier, Structure et Objet

L'atelier intitulé *Les femmes dans le système de la justice pénale* s'est tenu durant le Dixième Congrès des Nations Unies sur la Prévention du Crime et le Traitement des Délinquants, qui s'est tenu à Vienne, en Autriche, en avril 2000. Réuni pendant un jour et demie, les 13 et 14 avril, l'atelier a présenté quatre modules thématiques. Leurs thèmes étaient "Les femmes délinquantes et détenues", "Les femmes victimes et survivantes", "Les femmes dans le système de la justice pénale" et "Questions relatives à la recherche et à la politique". Les conférenciers représentaient un large éventail de décideurs politiques, de praticiens et de chercheurs de 12 pays.

Conformément au paragraphe 11 de la Déclaration de Vienne sur le Crime et la Justice, les Etats membres participant au Congrès étaient supposés "s'engager dans l'élaboration de recommandations politiques, orientées vers l'action, fondées sur les besoins spécifiques des femmes exerçant dans le domaine de la justice pénale, des victimes, des détenues et des délinquantes. "L'atelier avait pour mission de promouvoir l'échange d'informations et d'expériences entre les Etats membres sur les efforts déployés pour améliorer la situation des femmes, par rapport à l'administration de la justice pénale. Spécifiquement, sa tâche était de faciliter l'élaboration d'une politique cohérente et de nouveaux types de for-

mation professionnelle, d'affiner la recherche et les méthodologies de recherche, et de favoriser le plaidoyer.

Le sujet consacré aux *Femmes dans le système de la justice pénale* est directement lié au Thème IV du Congrès, intitulé "Délinquantes et victimes: Responsabilité et équité dans le processus de la justice." Le Thème IV a abordé l'équité et la responsabilité dans la relation entre l'Etat et la délinquante, entre la délinquante et la victime, et entre l'Etat et la victime. Etant donné la priorité globale accordée au crime transnational par le Programme des Nations Unies pour la Prévention du Crime et la Justice pénale, il a servi de thème unificateur à tous les quatre modules. Ainsi, dans l'atelier, les questions et les concepts spécifiques aux femmes ont été discutés, dans le contexte des formes de criminalité récentes, par ex. le crime organisé transnational, qui constituent de nouveaux défis à l'efficacité des systèmes de la justice pénale.

Les présentateurs de l'atelier ont abordé la question sous un grand nombre de perspectives différentes: droit pénal; droits de l'homme; sexospécificité; et aspect économique et sociale. Ces perspectives ont été les principales identifiées par consensus comme domaines prioritaires méritant considération et attention. De même, il a été convenu que les stratégies locales, nationales et internationales visant à prévenir et à contrôler le crime transnational ne sauraient réussir que si elles traitent des besoins et des problèmes des femmes lorsqu'elles sont délinquantes, détenues, victimes ou praticiennes.

La présente communication se veut un éclairage des questions sous-jacentes identifiées, durant l'atelier d'un jour et demie, comme des questions pertinentes et critiques concernant les femmes, le crime et la justice; elle reprend les points thèmes communs qui sont ressortis de ces discussions, et elle examine les mesures recommandées aux fins d'action.

Questions critiques mises en lumière

Les présentateurs de l'atelier ont identifié plusieurs sujets critiques de recherche et de politique. Il est indispensable que ces questions soient examinées au niveau local, national et international, si nous voulons nourrir le moindre espoir d'améliorer la situation actuelle des femmes dans le système de la justice pénale.

S'il n'y a pas de femmes victimes ou de délinquantes "typiques", il existe certainement, à cet égard, des caractéristiques et des facteurs interculturels. Les similitudes observées parmi les délinquantes, sans considération de leur nationalité, servent à illustrer le fait que la condition socio-économique des femmes et leur victimisation peuvent jouer des rôles majeurs dans les circonstances des délits les concernant. Cette réalité doit être prise en compte dans le traitement des délinquantes.

Les femmes en tant que délinquantes, détenues, victimes et survivantes

La victimisation des femmes est un problème difficile à aborder. Il existe, dans pratiquement tous les pays, de nombreuses idéologies culturelles, vigoureusement ancrées, qui servent à favoriser la tolérance et même à encourager la victimisa-

tion des femmes. Dans le monde entier, celles-ci ont été et continueront d'être des victimes de la violence sexospécifique – violence infligée par la famille, abus sexuels des filles dans les foyers, abus de partenaire intime et viol marital, violence liée à la dot, trafic, agression sexuelle, et mutilation génitale des femmes. Cette victimisation est exacerbée par des facteurs comme la pauvreté, le racisme et la xénophobie. De nombreuses femmes confrontées au système de la justice pénale en tant que délinquantes ont, sous une forme ou une autre, fait l'expérience de la victimisation antérieure. Souvent ces femmes ont vécu une série d'expériences relationnelles négatives avec des hommes, et ont été notamment exploitées ou physiquement abusées (Janeksela, 1997).

Lorsque l'on traite des délinquantes, il est nécessaire de reconnaître cette dualité inhabituelle de la criminalité et de la victimisation. Ces deux facteurs trouvent souvent leurs origines dans les mêmes conditions et la même situation socio-économiques sous-jacentes. La recherche a constaté que la vie de nombreuses femmes, avant leur détention, fait place à la détresse économique, à la victimisation et à l'abus de drogue et d'alcool par les intéressées (Le Caire, 1996). Si l'on veut que les politiques pénales et de la justice traitant des délinquantes réussissent, ces politiques doivent s'attaquer à cette réalité.

Le crime de trafic des êtres humains offre un exemple des plus purs du lien entre la pauvreté et le crime. Les femmes qui sont les victimes de ce trafic sont, selon toute vraisemblance, pauvres, dépourvues d'instruction et de qualification, et leur possibilité de s'en donner les moyens est limitée (OIM, juin 1998). Une fois que ces femmes sont sous le contrôle des trafiquants et des souteneurs, elles sont souvent l'objet de pratiques abusives, coercitives, trompeuses et brutales (OIM, 1996). Mais, même lorsque le système de la justice pénale est saisi d'affaires de trafic, les femmes sont soit immédiatement expulsées soit, purement et simplement, incarcérées (OIM, juin 1995). L'un des points de consensus résultant de l'atelier était que les politiques ne devraient plus favoriser la victimisation des femmes - l'Etat ne devrait pas punir les femmes pour leurs tentatives de s'adapter et de survivre à des circonstances difficiles, et il ne devrait pas les blâmer pour leur victimisation.

Les femmes restent nettement minoritaires dans les populations carcérales, mais leur nombre augmente à un rythme plus rapide que celui des délinquants de sexe masculin. En outre, de nombreuses femmes incarcérées sont des délinquantes non-violentes, qui purgent des peines prononcées pour des délits de drogue ou d'atteinte à la propriété (Cook, 1999). Tandis que la recrudescence du nombre des détenues s'est traduite par une amélioration marginale des services destinés aux femmes incarcérées, la rapide augmentation n'a pas été suivie par une augmentation proportionnelle des programmes spécialement conçus avec le souci de répondre aux besoins des femmes.

Programmes et services doivent prendre en compte la diversité culturelle et raciale de la population croissante des femmes incarcérées. Les politiques et les programmes de la justice pénale doivent identifier et s'attaquer à leurs besoins sanitaires distincts, à leurs responsabilités maternelles, aux barrières culturelles et à l'isolement auxquelles sont confrontées les femmes incarcérées hors de leur pays natal, à leur vulnérabilité à l'exploitation sexuelle et aux abus contre les

droits de l'homme commis par le personnel masculin. Les présentations et les discussions de l'atelier ont clairement établi que ce besoin est le plus criant dans les pays en développement.

En raison des circonstances complexes qui entourent les femmes et la délinquance, en particulier à la lumière du problème actuel du trafic des êtres humains et de la prostitution forcée, l'incarcération devrait être la sanction envisagée en dernier ressort, et elle devrait être réservée uniquement aux délits les plus graves.

Nous devons élaborer une large panoplie de sanctions alternatives et intermédiaires. L'atelier a aussi clairement établi que nous ne disposons pas de programmes appropriés pour répondre aux besoins spécifiques des délinquantes, après leur mise en liberté et leur retour à la société. Il existe un besoin pressant d'alternatives qui s'appuient sur la collectivité et de programmes d'actions ultérieures permettant de réduire l'aliénation sociale et l'effet des stigmates sociaux qui sont, le plus souvent, associés aux délinquantes et aux détenues.

Les femmes en tant que praticiennes

Bien que la question des femmes praticiennes n'ait pas été discutée en détail durant l'atelier, certains sujets critiques, évoqués durant celui-ci, méritent l'attention. Les participants ont noté que la présence des femmes dans le domaine de la justice pénale progresse dans de nombreux pays; de plus en plus souvent, elles assument des fonctions traditionnellement confiées aux hommes - par ex. fonctionnaires chargés de la correctionnelle, directrices d'établissements, avocates, juges et représentantes d'une instance chargée de faire respecter la loi.

Si, dans le système de la justice pénale, de nombreux postes sont pourvus avec un souci croissant d'égalité entre les sexes, on est encore loin de l'égalité. Il existe des problèmes et des défis uniques auxquels sont confrontées les femmes qui travaillent dans ces professions, essentiellement dominées par leurs confrères masculins. Là où des femmes travaillent comme officières chargées de la correctionnelle, certaines questions de sécurité, d'intimité privée et de qualifications physiques ont été identifiées comme des obstacles à la réalisation des droits des femmes aux chances égales dans ce domaine. En outre, il existe de nombreuses barrières institutionnelles auxquelles les femmes sont confrontées lorsqu'elles exercent des professions de la justice pénale quelles qu'elles soient. On en trouve des exemples au niveau des obstacles au recrutement et à l'avancement, et l'on constate une discrimination dans la nature du travail confié aux femmes et aux hommes. Une étude sponsorisée par le NIJ et consacrée aux femmes dans le système pénal américain s'est penchée sur l'inégalité fondée sur le sexe sur le lieu de travail. Cette étude constate que les femmes se heurtent à des obstacles majeurs dans des domaines comme l'application de la loi et les peines; elle relève aussi la difficulté pour les femmes d'accéder aux postes de direction. Dans de nombreux cas où les femmes ont réussi à accéder à une profession dans le domaine de la justice pénale, elles se voient dénier l'accès à la formation, elles manquent d'opportunités de mise en réseau financées par des agences et, au niveau de l'organisation, le comportement traditionnel est restrictif à leur égard.

Certains Etats ont mis en oeuvre des programmes résolument tournés vers l'action, en vue de réduire le fossé sexospécifique qui touche les femmes travaillant dans la justice pénale. Si, toutefois, nous voulons réellement atteindre le double objectif de réaliser l'égalité des chances pour les femmes et d'améliorer leur situation quand elles sont victimes, délinquantes et détenues, les femmes qui travaillent dans ce domaine doivent être nettement plus nombreuses. Des initiatives d'emplois davantage proactives devraient faire place à des programmes de développement et de formation du personnel féminin, des programmes qui s'attaquent aux problèmes péremptoires et de la diversité des emplois, et à la sensibilisation qui souligne la nécessité d'éliminer le harcèlement sexuel sur les lieux de travail.

Domaines de recherche critiques identifiés

La recherche consacrée aux femmes et à la justice pénale a traditionnellement privilégié des domaines importants comme le fossé qui sépare les sexes et la nature sexospécifique du délit. Si cette recherche a apporté d'énormes contributions, la nécessité de mener d'autres recherches s'impose, en particulier des recherches liées à la politique et à la pratique. Tandis que la recrudescence du nombre des délinquantes permet plus facilement d'attirer davantage l'attention sur le financement de la recherche en général, les discussions durant l'atelier ont clairement fait apparaître qu'il est impératif d'accorder une attention plus soutenue aux problèmes concernant les femmes dans le contexte du crime transnational. Certains participants ont noté, par exemple, que l'on ne dispose pratiquement pas de données transnationales sur ce phénomène. La recherche soucieuse de sexospécificité et équilibrée dans ce sens est essentielle pour comprendre la nature du problème du crime transnational et son étendue, si l'on veut aussi générer des politiques efficaces.

En raison de la nature du sujet, les "données officielles" ne sont pas fiables, fondamentalement, lorsque l'on cherche à mesurer les taux de victimisation. Manifestement, les rapports incomplets et les partis pris officiels se combinent pour donner des casiers judiciaires et d'autres sources officielles des images hautement imprécises quant à la nature réelle et l'étendue du problème. Si les problèmes sont sous-estimés et si l'obtention de chiffres précis ne sont certainement pas uniques ni propres à ce domaine spécifique de recherche, ils n'en sont pas moins exagérés en ce qui concerne les femmes et le crime transnational.

Les valeurs culturelles, notamment la protection de la vie privée et de l'honneur familial, les attitudes qui minimisent ou qui excusent la victimisation, et le manque de confiance dans le système de la justice pénale militent souvent contre les déclarations faites par les femmes, relatives à la victimisation. Au-delà des obstacles idéologiques, qui doivent être surmontés, il existe aussi de multiples obstacles pratiques à de telles déclarations. En ce qui concerne le trafic, par exemple, les femmes immigrées se heurtent à des problèmes de langue et de communication, de manque d'information sur les procédures légales ou sur le soutien et l'assistance disponibles, et la crainte d'être expulsées vers leur pays d'origine.

Les enquêtes consacrées à la victimisation contribuent à combler les lacunes relatives aux victimes et à la victimisation. Même lorsque des données officielles sont combinées avec des enquêtes nationales et internationales sur la victimisation, les résultats sont loin d'illustrer l'immensité et la complexité réelles du problème. Les enquêtes sur la victimisation n'ont pas été en mesure de fournir d'information fiable sur les expériences vécues par les femmes, en particulier en ce qui concerne la violence.

Les discussions consacrées, durant l'atelier, à la recherche ont été centrées sur la nécessité de faire une place accrue à la recherche comparative et sexospécifique. Toutes les présentations faites dans le cadre des tables rondes et les discussions qui ont suivies ont débouché sur le consensus suivant: l'étendue réelle et la nature du problème ne peuvent être mesurés et évalués qu'au moyen de données spécifiques sur le crime transnational et sur les femmes, et dont le champ est transnational. Toutefois, vu les grandes différences entre les types d'instruments d'enquête et entre les méthodes de collecte des données, la tâche sera certainement difficile. Enfin, la difficulté sera compliquée par les problèmes inhérents à l'étude des multiples formes de crime transnational auxquels les chercheurs sont confrontés.

Résumé des discussions consacrées aux modules

Les discussions qui ont eu lieu durant l'atelier ont clairement démontré que la condition marginale des femmes est un obstacle à la planification et à la mise en oeuvre d'actions spécifiques qui leur sont destinées. Les présentations faites dans le cadre de chacun des quatre modules ont servi à éclairer les questions spécifiques aux femmes, au crime et à la justice pénale, et au fait que les problèmes pénaux auxquels de nombreuses femmes sont confrontées sont distinctement liés à leur sexe. Etant donné la complexité des circonstances qui entourent les problèmes aux problèmes des femmes délinquantes et victimes, il est évident que la justice pénale et les efforts sur le terrain doivent conjointement élaborer des approches intégrantes et créatives pour traiter ces circonstances. Il est alors nécessaire d'évaluer ces approches et d'incorporer les réussites des programmes, ou les meilleures pratiques, aux politiques proactives.

Lorsque les questions de justice pénale spécifiques aux femmes sont couplées avec la menace immédiate du crime transnational et avec l'impact disproportionné que de tels crimes ont sur les femmes, en général, il est clair que des efforts proactifs sont nécessaires aux niveaux local, national et international. La politique et la recherche orientée vers l'action doivent s'attaquer: (1) à la dualité de la criminalité et de la victimisation; (2) au manque de programmes et de services élémentaires, qui sont nécessaires pour répondre aux besoins de la population carcérale féminine; et (3) aux nombreux obstacles, pratiques et culturels, qui empêchent les femmes de s'adresser aux agences chargées de faire appliquer la loi pour demander leur aide. L'action déployée dans ces domaines spécifiques, sous la forme de politiques et de programmes, est critique afin de prévenir tout comportement faisant place à l'exploitation de la femme et à diverses formes de violence dont elles sont l'objet.

Mise en oeuvre des mesures: aller au-delà des déclarations

L'atelier dont il est ici question a constitué un forum international précieux, qui a permis aux praticiens et aux chercheurs de discuter les questions critiques et les défis impliquant les femmes et le système de la justice pénale. Les présentations faites dans le cadre de tous les quatre modules ont confirmé que la question du sexe ne peut être considérée comme une question qui ne relève pas de la sphère du développement politique - en particulier lorsque les problèmes sont la violence domestique - et étrangère aux défis liés au crime transnational, comme le trafic de femmes et de filles. La nécessité de continuer à encourager un dialogue international sur ces questions importantes ne peut être exagérée. On ne saurait toutefois jamais discuter suffisamment. La communauté internationale est obligée de prendre des mesures agressives, proactives, collectives afin de réduire le préjudice disproportionné que le crime transnational inflige aux femmes et aux enfants. La question fondamentale, à laquelle nous sommes maintenant confrontés, est de savoir quelle est la meilleure manière d'y parvenir. Quelles mesures pratiques prendre? Que peut-on réaliser à court et à long terme? Enfin, que peut-on, de manière réaliste, attendre de la recherche et de la politique?

L'une des actions vigoureusement recommandées, lors de l'atelier, est l'idée selon laquelle la communauté internationale devrait identifier les politiques et les stratégies communes qui font leurs preuves ou qui, du moins, semblent prometteuses, tout en améliorant la coopération et la coordination locales. En fait, la nature même des crimes transnationaux, comme le trafic des êtres humains, exige l'échange international actif des connaissances et des pratiques efficaces afin d'apporter une réponse appropriée, si minime soit-elle. Il s'ensuit que les mesures préventives initiées par l'Etat, conçues sur mesure dans le contexte socio-politique de chaque pays, doivent être prises simultanément.

Trois thèmes dominants sont ressortis des quatre présentations des modules: 1) soutenir la recherche et l'analyse internationales; 2) mener une action internationale; et 3) reconnaître l'importance des déclarations et des normes internationales, tant pour la recherche que pour l'action. La poursuite, à l'unisson, de ces trois thèmes, assurera l'approche la plus complète pour contrer les menaces que constitue le crime transnational et si le système de la justice pénale n'apporte pas de réponse.

Importance de la recherche et de l'analyse internationales

Tous les participants à l'atelier ont été d'accord sur l'importance de l'acquisition supplémentaire de connaissances pertinentes sur le plan politique et conçues avec le souci de faciliter l'amélioration de la situation des femmes, dans le contexte du crime et de la justice. Il s'ensuit donc que la recherche qui fait place à la coopération internationale devrait être une des premières étapes à franchir pour acquérir ces connaissances. Vu les préjudices infligés par le crime transnational, la communauté internationale doit veiller à ce que les réponses politiques

soient basées sur la recherche et sur des connaissances solides, et qu'elles soient autre chose que des gestes essentiellement symboliques, enracinés dans l'idéologie ou contraints par la culture politique dominante d'un pays. La communauté internationale et une myriade de communautés nationales de la justice pénale ont l'obligation de lier la recherche et la pratique, de telle sorte que les politiques pénales, les lois et les programmes de prévention soient basés sur "les expériences concluantes" dans la pratique.

Il y a eu un débat considérable sur les investissements dans la recherche et les résultats obtenus jusqu'à ce jour relatifs aux questions touchant les femmes et liées au crime et au système de la justice pénale. Cette connaissance démontre le potentiel accru de retour sur cet investissement dans la recherche. Les dirigeants gouvernementaux et la classe politique doivent disposer des connaissances pratiques qui leur permettent de prendre des décisions averties relatives aux programmes et aux pratiques qui constituent des réponses aux besoins exceptionnels des femmes, qu'elles soient délinquantes, victimes ou détenues.

En plus des précieux produits finis que la recherche internationale menée en coopération permet de générer, le processus même de développement de la recherche transculturelle a une valeur en soi. Les relations dans le domaine de la recherche facilitent une première étape importante en instituant une coopération entre les chercheurs, les ONG, les groupes des collectivités et d'autres praticiens. Pour être plus utile, cette recherche doit être basée sur l'action et devrait - dans le cadre de la contrebande transnationale de personnes, de biens ou de services - impliquer le partenariat des pays de transit, d'origine et de destination.

Parmi les priorités qui nécessitent une information plus complète, mais aussi plus fiable et valide, il y a le vaste sujet de la violence contre les femmes. La prédominance de telles violences, la dynamique et les contextes dans lesquels elles ont lieu sont d'un intérêt particulier. Les enquêtes relatives à la victimisation offrent le meilleur moyen d'obtenir ce type d'information. L'étroite collaboration avec les prestataires de services et les groupes de défense des victimes - comme les ONG - est nécessaire au succès de ces enquêtes; cette coopération fournit la confidentialité nécessaire ainsi qu'une "couverture de sécurité" aux victimes.

Seconde priorité de la recherche - nécessaire pour comprendre entièrement la victimisation des crimes transnationaux - la nécessité d'étudier les multiples raisons responsables d'un aspect occulté des crimes contre les femmes. Nous savons, grâce à la recherche déjà menée, que malgré la prédominance et l'incidence de la victimisation des femmes et des filles, dans la plupart des pays elles évitent généralement d'en rendre compte aux autorités. L'une des sources majeures de ce type d'information réside, là encore, dans l'utilisation d'enquêtes sur la victimisation. Les données obtenues à partir de telles enquêtes, lorsqu'elles sont utilisées conjointement avec des données officielles, peuvent permettre de brosser un tableau plus précis et plus complet de la situation. En outre, la collecte de données standardisées, dans les différents pays, permet de précieuses analyses comparatives et transnationales.

Un troisième domaine de recherche internationale menée en coopération devrait chercher à mieux comprendre dans quelle mesure les groupes du crime organisé sont impliqués sur le marché criminel du trafic des femmes. Une des ca-

ractéristiques qui, ostensiblement, contribuent aux énormes profits qui sont apparemment générés par ce trafic, est le fait que, contrairement au trafic d'armes ou de drogues, les femmes peuvent être "recyclées" pour générer des profits, de manière répétée. Il semblerait que ce fait rende ce trafic très attrayant pour le crime organisé transnational, mais il n'existe que très peu de preuves solides, fondées sur la recherche, qui pourraient nous permettre de tirer une conclusion définitive. Une telle preuve nous serait très vivement nécessaire.

Quatrième sujet de priorité - il pourrait conduire à une amélioration des mesures de prévention - la recherche conduisant à l'élaboration de portraits sociaux et de catégories de risque. Quels types de femmes sont le plus souvent la cible qui en fait des victimes du crime? Quels types de femmes sont exposées au plus grand risque de devenir des délinquantes? Une classification des filles et des jeunes femmes en catégories de risques favoriserait-elle le ciblage des efforts de prévention au profit de celles qui en ont le plus besoin et qui peuvent bénéficier le plus de tels efforts.

Les participants à l'atelier ont encore identifié un certain nombre d'autres sujets de recherche globale, notamment (1) l'examen des divers facteurs, influençant à la manière d'un va-et-vient, qui rendent les femmes plus susceptibles d'être entraînées dans l'immigration illégale et le trafic des personnes; (2) la documentation améliorée et plus complète des causes différentielles de la victimisation et de la délinquance; (3) l'examen des conséquences de la victimisation et de la délinquance, ainsi que des besoins subséquents de la victime/délinquante; (4) l'examen du changement de profil de la criminalité féminine; (5) la revue des problèmes et des besoins spécifiques des détenues qui ont de jeunes enfants; et (6) l'examen des difficultés particulières auxquelles sont confrontées les détenues qui sont des ressortissantes étrangères. Tous ces sujets sont des domaines dont nous savons très peu de choses ou sur lesquels nos connaissances peuvent être périmées.

L'une des expressions qui revient sans cesse, l'une des idées les plus populaires également, quelle que soit l'activité programmatique de notre époque, est l'identification de ce que l'on appelle "les meilleures pratiques". Dans le cas de programmes destinés aux délinquantes et aux victimes, il y a nécessité d'établir quel programme, parmi tous ceux qui ont été mis en oeuvre dans les différents pays, a fait ses preuves. Mais il est tout aussi important de comprendre pourquoi ce programme a fait ses preuves, avec qui et en quelles circonstances. Alors seulement nous serons en mesure de faire accepter les pratiques comme étant les meilleures, pour les répliquer dans les contextes nationaux. Les cibles prioritaires de cette activité sont les programmes de prévention contre le trafic des êtres humains et les programmes destinés à protéger et à assister les victimes du trafic. Qu'est-ce qui fait ses preuves dans ce domaine? Une fois obtenue, cette information peut être utilisée non seulement pour planifier et élaborer des programmes, mais également pour mettre au point des programmes de formation spécifiques à l'application de la loi. En général, la combinaison d'une meilleure documentation des problèmes et des besoins, avec une connaissance nettement meilleure des moyens qui ont fait leurs preuves, est déterminante pour le rapprochement de la recherche et de la politique que nous devrions viser.

Importance de l'action internationale simultanée

Le caractère de plus en plus mondial du crime nécessite un engagement majeur, au nom de la communauté mondiale, pour accroître l'interaction et la coopération. Le crime transnational est un problème international, qui appelle une réponse internationale. Ainsi, le second grand thème qui est ressorti de l'atelier a focalisé sur l'importance de l'action collective et internationale concurrente. Des initiatives élaborées conjointement devraient inclure des partenariats et des programmes de recherche transculturelles, qui stimulent la coopération entre les Etats. Ces efforts coopératifs doivent faire place à différentes composantes - prévention, poursuite et protection - en faveur des victimes.

Compte tenu du fait que le thème contextuel de l'atelier était le crime transnational, une bonne partie de la discussion a tourné autour du problème du trafic des femmes. Afin de combattre ce problème, certains orateurs ont rappelé avec insistance que les pays qui sont reliés par le trafic international doivent prendre des mesures proactives pour coopérer aux niveaux bilatéral et multilatéral. Ces pays doivent partager l'information et tirer la leçon de chaque réussite et de chaque échec, afin de se donner les moyens de mieux comprendre quelle est la meilleure manière d'aborder la question des femmes, du crime et de la justice pénale, dans le contexte du crime transnational. Le noyau de toute stratégie internationale qui se veut efficace doit favoriser les possibilités de coopération et de coordination, afin d'éviter les duplications. Les stratégies conjointement élaborées par les pays d'origine, de transit et de destination produiront des méthodes plus efficaces pour résoudre le problème.

De nombreux pays sont affectés par le problème du trafic. Malheureusement trop nombreux sont ceux qui facilitent l'épanouissement de l'activité criminelle. Il y a complicité, consentement ou, au moins, réponse inadéquate de la part des autorités. La situation critique des femmes qui sont victimes tient à l'absence de procédures d'octroi d'asile, à la variabilité des politiques d'immigration, à des procédures pénales et à des approches différentes de l'application de la loi. Trop souvent, les victimes finissent par être "victimisées à nouveau" parce que l'environnement de la justice pénale ne réussit pas à apporter des réponses adéquates. Des efforts internationaux sont nécessaires pour protéger les témoins qui se sont manifestés et pour aider à garantir la sécurité des victimes et de leurs familles.

Les participants à l'atelier ont généralement reconnu que les problèmes complexes et uniques auxquels les femmes sont confrontées dans le contexte du crime, en particulier le crime transnational, ne peuvent, de manière réaliste, être résolus sans l'engagement et la coopération des services chargés de faire appliquer la loi, des ONG et de la communauté dans son ensemble, tant au niveau national qu'à l'échelle internationale.

La coopération internationale est un préalable dans la lutte contre le phénomène mondial du trafic des femmes. Les participants à l'atelier ont également rappelé avec insistance l'existence d'actions, que les Etats individuels peuvent et doivent initier, à l'échelon local et au niveau national. Par exemple, comme l'ont noté plusieurs participants à l'atelier, chaque Etat devrait prendre des me-

sures visant à fournir un meilleur soutien aux victimes qui s'adressent au système de la justice pénale pour solliciter son aide. Etant donné la réalité des circonstances complexes qui entourent les délinquantes, les femmes victimes et les survivantes, les politiques doivent être sensibles aux traumatismes émotionnels que ces femmes ont vécus.

Les différentes formes d'aide - sociale, communautaire et systémique - devraient fusionner afin de prévenir toute nouvelle victimisation. Des efforts particuliers doivent être déployés au profit des femmes les plus pauvres, pour faire en sorte que ces femmes, déjà marginalisées par la société, bénéficient tout spécialement de la protection, de la justice et de l'aide appropriées.

Le scénario idéal et l'objectif à long terme, pour tous les Etats membres, devrait être d'améliorer la condition économique et sociale de toutes les femmes. Toutefois, on ne saurait attendre des seuls fonctionnaires chargés de faire appliquer la loi ni du seul système judiciaire qu'ils s'attaquent aux causes et aux conséquences économiques et socioculturelles des crimes contre les femmes - ils ne sont d'ailleurs pas équipés pour le faire.

Le simple fait de traiter les femmes dans le cadre du système de la justice pénale, de les incarcérer ou de les expulser vers leur pays d'origine n'ira pas jusqu'à la source des problèmes. Une réponse "juste", appropriée, fait place à des solutions compensatoires et civiles, à des mesures d'aide à la victime, à des programmes d'éducation, de publicité et d'information, et à des campagnes de sensibilisation dans les médias. Malheureusement, la victimisation des femmes restera un problème qui, vraisemblablement, n'est pas prêt de diminuer du jour au lendemain.

"Exposées aux risques", les femmes doivent être aidées pour éviter d'être impliquées, en premier lieu, dans la relation victime/délinquante. A cette fin, les participants à l'atelier ont mis l'accent sur la nécessité de mettre en oeuvre des mesures faisant place à des programmes spécifiquement destinés aux deux populations à risque - celle des victimes et celle des délinquantes - et à ceux qui stimulent la demande croissante, laquelle sous-tend l'industrie mondiale du sexe.

Des efforts de prévention sont nécessaires et doivent être focalisés sur deux stratégies, distinctes mais liées entre elles: 1) les campagnes de sensibilisation destinées aux populations "à risque" et consacrées à l'habilitation des femmes; et 2) l'accent sur l'aspect "demande" du problème, c'est à dire les clients qui financent l'industrie internationale du sexe. Pour réussir, ces deux stratégies appellent la participation et la collaboration actives des acteurs gouvernementaux et non-gouvernementaux, y compris les ONG, les services chargés de faire appliquer la loi, les ministères publics, les prestataires de services destinés aux victimes, les médias et, plus largement, l'opinion. En outre, l'une et l'autre stratégie devraient utiliser au départ des solutions locales et capitaliser à partir des méthodes pratiques déjà élaborées dans les divers contextes locaux.

Les participants à l'atelier ont discuté des composantes spécifiques que l'on retrouve dans les efforts de prévention - habilitation des femmes, efforts déployés à la base, et campagnes d'information destinées à inspirer la confiance dans le système de la justice pénale, mettant aussi les femmes en garde contre les dangers du trafic des êtres humains. Les Etats devraient utiliser et continuer

d'encourager l'élaboration de solutions stratégiques locales, qui servent à habiliter les femmes et à réduire leur vulnérabilité à la victimisation. Des solutions locales, qui utilisent déjà des structures existantes, ou des services disponibles conçus avec le souci de répondre aux besoins spécifiques des différents groupes culturels de femmes, devraient être disponibles pour celles qui sont exposées au risque et pour celles qui s'efforcent d'éviter la victimisation.

Un certain nombre de présentateurs ont démontré comment des programmes mettant l'accent sur l'habilitation des femmes ont contribué à réduire la dépendance de ces dernières. D'autres exemples de services ont été fournis, notamment les centres d'accueil pour la nuit et les centres de crise, les numéros téléphoniques S.O.S. et les services juridiques au profit des victimes. Des programmes supplémentaires sont nécessaires pour stimuler et encourager les réseaux d'aide de la communauté; ils facilitent le partage d'expériences par les survivantes. Le partage d'expériences est un puissant moyen d'habiliter et de soutenir, c'est aussi une stratégie d'intervention parmi les moins onéreuses.

Les campagnes d'information nationales et locales constituent une étape essentielle pour accroître la sensibilisation et pour stimuler la reconnaissance par la société du caractère involontaire et déshumanisant de la victimisation des femmes. La violence domestique, en particulier, est une forme de victimisation qui est souvent dissimulée derrière des portes hermétiquement closes. Les campagnes de sensibilisation de l'opinion sont également nécessaires pour réduire "le rejet de la responsabilité sur la victime" par les délinquants mais aussi par les médias, les juges, les instances chargées de faire appliquer la loi, et la collectivité. L'ignorance et les préjugés contre les victimes ne servent qu'à miner les tentatives faites pour combattre la victimisation des femmes et pour affaiblir la condamnation du comportement par l'opinion. L'éducation joue un rôle vital, si nous voulons espérer commencer à modifier le *status quo* de la complaisance. En raison de l'impact du crime transnational contre les femmes, au préjudice disproportionné, toute stratégie efficace de prévention du crime doit avoir pour objectif de faire de l'intégration de l'égalité entre les sexes le principe directeur des actions tant nationales qu'internationales.

Sans le courage et la volonté politique des pouvoirs locaux et, plus largement, de la collectivité, sans le désir de s'attaquer efficacement au problème, les choses changeront peu. Des campagnes d'information doivent, par conséquent, éclairer le rôle des attitudes culturelles et dans quelle mesure ces attitudes contribuent à former la réaction dominante de la société et, finalement, la réponse formelle du système. A défaut d'une intense indignation de la collectivité, les problèmes continueront d'être ignorés et ne seront pas une priorité du système de la justice pénale. La vigilance de la collectivité contre la victimisation peut être la ressource la plus vitale dans la lutte.

L'atelier a fait place à un vaste consensus sur la nécessité d'élaborer des programmes intégrés impliquant les instances chargées de faire appliquer la loi et la collectivité, dans la mise en place d'une coalition et dans sa formation. Il s'agit d'un préliminaire naturel pour mettre en place des approches du problème basées sur la collectivité. Les interventions intégrées constituent un puissant outil destiné à améliorer la réponse des instances chargées de faire appliquer la loi, et à

favoriser les efforts de prévention, en général. Afin de sensibiliser les fonctionnaires chargés de faire appliquer la loi aux questions relatives aux femmes et au crime, la formation est cruciale. Intégrer les ONG qui ont oeuvré, dans leur action quotidienne, auprès des femmes victimisées est un préliminaire naturel à toute initiative en matière de formation. Il est important de capitaliser les progrès déjà réalisés par les ONG, dans la mesure où beaucoup ont développé la capacité de s'attaquer aux problèmes concernant les femmes. Malheureusement, celles-ci peuvent manquer de confiance vis-à-vis des fonctionnaires chargés de faire appliquer la loi et ne pas voir en eux des partenaires fiables. Les ONG jouissent d'une position exceptionnelle pour convaincre les instances chargées de faire appliquer la loi de la nécessité pour ces dernières de jouer un rôle actif dans la prévention de la violence contre les femmes. En même temps, les ONG qui prestent des services aux victimes peuvent ne pas toujours comprendre les problèmes et les contraintes auxquels les instances chargées de faire appliquer la loi sont confrontées, c'est à dire les règles en matière de témoignage.

Non seulement les collaborations entre les ONG et instances chargées de faire appliquer la loi favorisent une meilleure compréhension du problème par ces dernières; mais l'élaboration de programmes intégrés par les unes et par les autres permettra de mieux légitimer, aux yeux des instances chargées de faire appliquer la loi, le rôle vital assumé par les ONG. Ceci crée une situation où tous ont à gagner - les instances chargées de faire appliquer la loi et les femmes qui sont impliquées dans le système. Ces instances auront un meilleur accès aux victimes et obtiendront ainsi davantage d'informations précises, requises pour s'attaquer au problème et y apporter une réponse appropriée, par ex. lorsque les femmes témoigneront. Ceci peut contribuer à prévenir une réponse contreproductive des instances chargées de faire appliquer la loi, consistant à expulser immédiatement vers un pays d'origine, où les femmes sont essentiellement "victimisées à nouveau". Les femmes qui ont été des victimes doivent avoir la conviction que si elles contactent les autorités, le système de la justice pénale sera à l'écoute et sensible à leur situation. Trop nombreuses sont les victimes qui ont trop à perdre à se montrer - y compris la crainte de représailles de la part des trafiquants, la crainte d'être arrêtées et expulsées si elles séjournent illégalement dans le pays, ou d'être poursuivies si elles ont participé à des activités illégales. Les femmes deviennent habilitées lorsqu'elles savent que le système de la justice pénale est avec elles. Les ONG peuvent aider les instances chargées de faire appliquer la loi, eu égard aux circonstances particulières dans lesquelles se trouvent les victimes, qui nécessitent une protection.

L'insuffisance des plaintes faisant état de la victimisation est particulièrement problématique dans les pays en développement, où les femmes s'adressent rarement à la police pour solliciter son aide. Des efforts spécifiques sont nécessaires pour favoriser la collaboration entre les ONG et les instances chargées de faire appliquer la loi dans le Tiers Monde, où la prévention est la plus nécessaire.

La seconde préoccupation majeure de nos efforts devrait chercher à réduire l'élan qui explique le lien entre la prostitution et le trafic. Après tout, ce sont les clients et les acteurs qui gèrent cette industrie – les trafiquants et les souteneurs – qui sont les plus responsables des abus des Droits de l'Homme liés au trafic des

femmes. L'exploitation sexuelle liée au trafic des femmes et des filles a principalement pour force motrice la demande, universelle et croissante, de l'industrie du sexe. Ce sont les préférences du client qui encouragent la recherche de femmes et d'enfants issus de tous les coins de la planète. Ce membre de l'équation ne doit plus longtemps être ignoré. Les participants ont noté cette hypocrisie, à savoir que l'aspect "demande" du trafic retient rarement l'attention des chercheurs ou des décideurs politiques, ou encore la reconnaissance du fait par eux. Nous devons reconnaître le facteur motivant la prostitution et le trafic. Sans la demande des clients, apparemment insatiable, qui alimente cette industrie bourgeonnante - des clients prêts à payer en dollars des vacances consacrées au sexe, des fiancées commandées par la poste et des bordels haut de gamme - l'industrie du sexe perdrait beaucoup de sa base financière.

Les politiques en matière de justice pénale devraient mettre l'accent sur l'auteur et sur la victime de l'abus, en accordant une plus grande attention à ceux qui profitent de l'exploitation et non seulement à ses victimes. Nous ne devrions pas minimiser l'importance de la responsabilité légale et de la culpabilité des trafiquants. Jamais nous ne devrions laisser passer une occasion de demander des comptes à ceux qui achètent le sexe et contribuent ainsi à alimenter le marché. Chaque Etat devrait initier une action immédiate en vue d'élaborer une législation imposant des peines plus lourdes frappant ceux qui s'adonnent aux trafic humain, l'objectif étant de faire de celui-ci une activité criminelle plus dangereuse et plus risquée.

Importance des déclarations et des normes internationales

L'importance de la communauté internationale instituant des normes et des déclarations universelles concernant les femmes et le système de la justice pénale était le troisième thème qui est ressorti de l'atelier. Etant donné la crédibilité, la légitimité et le statut des Nations Unies, l'adoption et la promulgation de telles déclarations universelles revêtiraient une grande valeur symbolique. Les participants, incontestablement, ont quitté le Congrès plus unis et plus résolus à relever les défis auxquels doivent faire face les femmes confrontées au crime transnational. Un mandat international d'interaction et de coopération mondiale exige toutefois que nous soyons clairs sur la nature de ces normes et que nous fassions la preuve de notre sérieux sur ce sujet. Les manquements de légiférer des normes nationales devraient être suivis de sanctions réelles.

Il existe déjà des déclarations et des instruments nombreux qui prônent les concepts spécifiques de dignité humaine, de liberté et de non-discrimination nécessaires pour que les femmes et les enfants soient spécialement protégés contre le crime transnational. Cet atelier a servi d'important forum pour promulguer les importants principes contenus dans des documents comme la Déclaration sur l'élimination de la violence contre les Femmes, la Déclaration de Beijing de la Quatrième Conférence mondiale de la Femme des Nations Unies, ainsi que la Plate-forme d'action et les normes des Droits de l'Homme pour le Traitement

des personnes victimes du trafic. La législation internationale sur les droits de l'homme protège toutes les personnes contre les abus de leurs droits humains par des personnes privées.

Toutes les déclarations internationales de cette nature contiennent cet élément-clé essentiel: la réponse politique appropriée au problème des femmes et du crime transnational doit contenir des éléments de justice pénale et la dimension des droits de l'homme. Les crimes qui impliquent des femmes, en particulier vus dans le contexte de l'industrie florissante du trafic des êtres humains, ont des ramifications plus larges, qui nécessitent plus qu'une simple réponse de la part de la justice pénale. Il est essentiel que tous les Etats reconnaissent que toutes les formes de victimisation et de violence contre les femmes constituent non seulement une violation de leurs droits spécifiques en tant que femmes, mais, plus généralement, une violation de leurs droits humains fondamentaux. Les victimes du trafic qui sont détenues par les autorités, dans les pays de destination, ont le droit d'être traitées avec humanité et dignité. Vu la position déjà désavantageuse dans laquelle de nombreuses femmes se retrouvent, la double approche est la seule manière de prévenir cette violation et de faire appliquer ces droits contre le crime latent, tout en répondant aux besoins et en protégeant les droits de celles qui sont victimisées et exploitées. Les participants à l'atelier ont spécialement noté que l'ampleur de la victimisation des femmes devrait servir de baromètre permettant de mesurer dans quelle mesure un pays observe les lois sur les droits de l'homme, avec tenue d'un registre des violations des droits de l'homme qui y sont perpétrés.

Les normes universelles définissant les comportements acceptables et inacceptables sont essentiels pour prévenir toute nouvelle victimisation et toute marginalisation des femmes dans le système de la justice pénale. Les participants ont clairement indiqué que la communauté internationale devrait, indépendamment des vues culturelles uniques des femmes, fixer des normes destinées à rationaliser certaines formes de victimisation. L'utilisation de telles vues pour justifier la violation des droits des femmes ne devrait pas être autorisée. Elles incluent des normes culturelles selon lesquelles les femmes sont inférieures, consentantes face aux abus ou désireuses de commettre, de leur plein gré, des délits qui conduisent à leur emprisonnement ou à leur expulsion. Aucune norme ou prétexte culturels ne sauraient justifier ou excuser les abus et les traumatismes que les femmes subissent.

Les déclarations devraient être utilisées pour éclairer l'opinion, en faisant la lumière sur le caractère réellement déshumanisant de la victimisation des femmes. Ces normes et ces déclarations universelles devraient instaurer une politique de tolérance zéro en matière de victimisation des femmes. La communauté internationale devrait être unie, pour inciter davantage de pays à intégrer dans leurs législations et leurs politiques nationales un certain nombre de considérations liées aux droits de l'homme, notamment l'assistance et la protection des personnes qui sont l'objet de trafics. L'application de ces normes permettra d'éradiquer cette simplification à l'extrême du problème, qui consiste essentiellement à en faire une question relevant de l'immigration ou de la justice pénale.

La communauté internationale doit mener une action vigoureuse dans les fora multilatéraux, pour susciter les pays récalcitrants à déployer des efforts sérieux

et soutenus afin d'éliminer le trafic et de protéger les victimes du trafic. Nous devons reconnaître la triste réalité qu'énoncer des déclarations et fixer des normes constitue, en certaines circonstances, un exercice futile. Il est essentiel que ces principes soient appuyés par l'action lorsque des pays se refusent, systématiquement, à admettre les normes de la communauté internationale. Dans de telles circonstances, une réprimande internationale devrait prévoir des sanctions significatives.

Réflexions finales

Etant donné que les manifestations criminelles de la mondialisation continuent d'affecter la nature du crime et le statut de la femme, la communauté internationale doit prendre des mesures résolument actives pour ajuster et adapter la réponse en matière de justice pénale. Cette réponse devrait incorporer le concept d'intégration de l'égalité entre les sexes, tant à la recherche qu'à la pratique, afin d'adapter les notions désuètes relatives à la femme et à la criminalité. Améliorer la situation actuelle de la femme dans la justice pénale est un objectif qui n'est ni irréaliste ni irréalisable. Il ne sera toutefois atteint qu'avec la mise en oeuvre de mesures agressives et collectives, à tous les niveaux politiques, afin de réduire le préjudice disproportionné que le crime transnational inflige aux femmes et aux enfants du monde.

Biographies sommaires

James O. Finckenauer est Directeur du Centre international du National Institute of Justice, au Département de la Justice des Etats-Unis. Le crime international, sur le plan intérieur et dans le contexte international, est un des sujets d'intérêt majeurs des recherches menées par le Dr. Finckenauer. Ses ouvrages les plus récents sont "Russian Mafia in America" (Northeastern University Press, 1998), et "Scared Straight and the Panacea Phenomenon Revisted" (Waveland Press, 1999).

Jennifer L. Schrock est une spécialiste du Programme international au Centre international. Ses intérêts de recherche privilégient notamment le crime transnational et la délinquance juvénile. Parmi les projets actuels, l'élaboration d'une étude-pilote destinée à évaluer l'impact du crime transnational sur la recherche américaine en matière de trafic des êtres humains aux Etats-Unis pour le Centre des Nations Unies pour la Prévention du crime international.

Références

- Cario, R. (1996). "Women and Crime: About Women's Positive Resistance to Crime." *Eurocriminology*, 10, 185-200.
- Cook, S., & Davies, S. (1999). *Harsh Punishment: International Experiences of Women's Imprisonment*. Boston: Northeastern University Press.
- Information Campaign Against Trafficking in Women from Ukraine. *International Organization for Migration Research Report*. (2000, July 7). [online]. Available: <http://www.iom.int> [1998, July].
- Janeksela, G. (Fall 1997). "Female Criminality: An Overview." *International Journal of Compared and Applied Criminal Justice*, 21, (2), 181-205.
- Trafficking in Women to Italy for Sexual Exploitation. *International Organization for Migration- Migration Information Programme*. (2000, June 26). [online]. Available: <http://www.iom.int> [1996, June].

Lectures choisies

- Alvazzi del Frate, A., Patrignani, A. (1995). *Women's Victimization in Developing Countries*, (United Nations Interregional Crime and Justice Research Institute).
- Brennan, N., (2000). *Framing Statement*, (Prepared for the Workshop on Women in the Criminal Justice System). Unpublished.
- Erez, E., (2000). *Women as Victims and Survivors in the Context of Transnational Crime*, (Prepared for discussion for module on Women as Victims and Survivors). Unpublished.
- Offenders and Victims: Accountability and Fairness in the Justice Process. *Background Paper for the Workshop on Women in the Criminal Justice System*. (2000, May 6). [online]. Available: <http://www.uncjin.org/Documents/10thcongress/10cDocumentation/10cdocumentation.html> [2000, March]

Доклад

Женщины в системе уголовного правосудия

Джеймс О.Финкенауэр
Директор Международного центра
Национального института юстиции
Министерства юстиции США

Дженифер Л.Шрок
Специалист по международным программам
Международного центра
Национального института юстиции
Министерства юстиции США

Вовлеченность женщин в преступную деятельность и систему уголовного правосудия продолжает возрастать. В то время, как увеличение числа женщин как жертв преступлений и правонарушителей, равно как и сотрудников системы уголовного правосудия, вызвало повышенное внимание со стороны исследователей и политиков, количество и сложность возникающих вопросов требуют еще более пристального внимания. Чтобы преодолеть исторически сложившееся маргинальное положение женщин и зачастую несправедливое обращение с ними со стороны системы уголовного правосудия, требуется гораздо более высокая степень понимания этих вопросов и целенаправленность действий по их разрешению.

Растущая проблема транснациональной преступности еще больше затрудняет достижение и так уже достаточно амбициозных целей. Происходящие на мировом уровне политические, экономические и технологические изменения представляют собой сложности и вызовы для всех слоев общества. Транснациональная преступность увеличивает потенциал виктимизации всех людей в маргинальном положении, однако это особенно справедливо в отношении женщин в связи с их уязвимостью к преступлениям на сексуальной почве.

Торговля девушками и женщинами стала доходным и международным организованным преступным промыслом. Гуманитарные и международные правоохранительные организации выявляют их незаконный провоз в целях насильственного вовлечения в проституцию и другие виды эксплуатации. Чаще случается, что такой провоз осуществляется под прикрытием (или, по крайней мере, при попустительстве) коррумпированных чиновников на местном, региональном и национальном уровнях. В то же время зачастую

игнорируемый спрос этого преступного рынка непомерно возрастает. Индустрия секса, безусловно, не являясь новым социальным явлением, в результате растущих спроса и предложения полностью вышла на международную арену.

Крайняя нужда превращает женщин во многих развивающихся странах в легкую добычу для торговцев людьми. И зачастую единственной реакцией со стороны системы уголовного правосудия в отношении задерживаемых в странах назначения женщин-жертв незаконного оборота является заключение их под стражу или обращение с ними как с нелегальными иммигрантами с немедленной депортацией на родину, где их впоследствии клеймят позором, где они подвергаются остракизму со стороны своих семей и вновь становятся добычей для дельцов от незаконного оборота женщин.

С учетом потенциальных масштабов этих проблем было бы важным, чтобы гендерный аспект¹ принимался во внимание при любом рассмотрении вопросов предупреждения преступности, а также при выработке политики и практики в области уголовного правосудия. Было бы желательно, чтобы исследования с учетом вопросов пола играли неотъемлемую роль в создании атмосферы лучшего понимания проблем. Было бы также целесообразно, чтобы системы уголовного правосудия на местном, национальном и международном уровнях заполнили многочисленные информационные пробелы путем предоставления соответствующих данных и осуществления исследований. И, наконец, важным является то, чтобы на основе этих знаний разрабатывались новые направления политики, практические решения и программы. Однако такая позиция универсально признанной не является.

Именно разрыв между потребностями и проблемами, с одной стороны, и реакцией на эти потребности и проблемы, с другой, привел к тому, что вопрос о положении женщин в системе уголовного правосудия стал одним из приоритетных на Десятом Конгрессе ООН по предупреждению преступности и обращению с правонарушителями.

Структура и цели семинара-практикума

Семинар-практикум по теме «Женщины в системе уголовного правосудия» проходил в ходе Десятого Конгресса ООН по предупреждению преступности и обращению с правонарушителями в Вене (Австрия) в апреле 2000 года. Работа семинара продолжалась полтора дня 13-14 апреля и велась по четырем тематическим модулям. Темы модулей были следующие: «Женщины как правонарушители и заключенные», «Женщины как жертвы и потерпевшие», «Женщины в системе уголовного правосудия» и «Исследования и вопросы

¹ Здесь и далее: основанный на половых различиях (прим.пер.) Термин принят в документах ООН.

политики». На семинаре выступал широкий круг политических деятелей, практических работников и ученых из 12 различных стран.

В соответствии с параграфом 11 Венской Декларации о преступности и правосудии от государств-участников Конгресса ожидалось, что они «будут привержены разработке практических рекомендаций в отношении политики, основывающихся на особых потребностях женщин как практических работников системы уголовного правосудия, как жертв преступлений, как заключенных и правонарушителей». Цель семинара состояла в том, чтобы способствовать обмену информацией и опытом между государствами по мерам улучшения положения женщин с точки зрения отправления уголовного правосудия. В особенности, его задачей было способствовать разработке последовательной политики и новых видов профессиональной подготовки кадров, совершенствованию исследований и научных методологий и дальнейшему развитию защитных механизмов.

Тема «Женщины в системе уголовного правосудия» непосредственно связана с Четвертой темой Конгресса - «Правонарушители и жертвы: неотвратимость наказания и беспристрастность в уголовном процессе». В рамках Четвертой темы рассматривались беспристрастность и неотвратимость наказания в отношениях между государством и правонарушителем, между правонарушителем и жертвой и между государством и жертвой. С учетом того, что в рамках Программы ООН по предупреждению преступности и уголовному правосудию глобальный приоритет отводится транснациональной преступности, она служила объединяющим лейтмотивом для всех четырех тематических модулей. Таким образом, специфические для женщин вопросы и концепции обсуждались на семинаре в контексте возникающих новых форм преступности, т.е. транснациональной организованной преступности, которые представляют собой новые вызовы эффективности систем уголовного правосудия.

Выступавшие на семинаре специалисты останавливались на проблеме с различных точек зрения: как на вопросе уголовного права, как на проблеме прав человека, как на проблеме пола, как на проблеме экономического и социального развития. Это были основные направления, определенные консенсусом в качестве приоритетных и требующих рассмотрения и внимания. Аналогичным образом пришли к согласию, что стратегии на местном, национальном и международном уровнях в целях предупреждения транснациональной преступности и борьбы с ней могут быть успешными, только если они связаны с особыми потребностями и проблемами женщин как правонарушителей, заключенных, жертв и практических работников системы уголовного правосудия.

В настоящем докладе мы остановимся на основополагающих вопросах, которые в течение полутора дней семинара были определены в качестве критически значимых в отношении женщин в контексте преступности и правосудия, рассмотрим общие темы, которые

сформировались в результате дискуссий, и коснемся рекомендованных действий.

Важнейшие вопросы

Докладчики семинара-практикума выявили несколько критических вопросов в области исследований и политики. Если мы хотим надеяться на улучшение нынешнего положения женщин в контексте системы уголовного правосудия, первостепенным является то, чтобы эти фундаментальные вопросы решались на местном, национальном и международном уровнях.

Хотя и не существует «типичной» женщины-жертвы или правонарушителя, все же имеются некоторые общие характеристики и факторы, которые в этом смысле одинаковы для всех культурных формаций. Сходные моменты для женщин-правонарушителей, вне зависимости от их национальной принадлежности, помогают проиллюстрировать тот факт, что социально-экономический статус женщины и предыдущая виктимизация могут сыграть основную роль в обстоятельствах совершения ими преступлений. Эта реалья должна находить отражение в обращении с женщинами-правонарушителями.

Женщины как правонарушители, заключенные, жертвы и потерпевшие

Вопрос виктимизации женщин является трудным для рассмотрения. Существует много укоренившихся культурных идеологий буквально во всех странах, которые служат опорой толерантности и даже поощрению виктимизации женщин. Во всем мире женщины были и будут оставаться жертвами насилия по половому признаку – насилия, порожденного семьей; в результате сексуальных посягательств на девочек в домашней обстановке; злоупотреблений со стороны сексуальных партнеров и насилия в браке; насилия, связанного с приданным; торговли людьми; сексуальных нападений и нанесения увечий женским половым органам. Подобная виктимизация отягощается такими факторами, как бедность, расизм и ксенофобия. Многие женщины, оказавшиеся вовлеченными в систему правосудия в качестве правонарушителей, ранее подвергались определенной форме виктимизации. Зачастую они имели ряд негативных примеров отношений с мужчинами, включая эксплуатацию или физическое посягательство и насилие (Janeksela, 1997).

В обращениях с женщинами-правонарушителями необходимо признавать эту необычную двойственность преступности и виктимизации. Эти два фактора сами по себе часто порождаются одними и теми же базовыми социально-экономическими условиями и статусом. Исследования показали, что у многих женщин дотюремная жизнь была связана с нищетой, виктимизацией и саморазрушениями в виде наркотиков и алкоголя (Каир, 1996). Если мы хотим, чтобы в отношении женщин-правонарушителей политика в области

преступности и правосудия была успешной, то следует обращать внимание на эту реальность.

Ярким примером зависимости преступности от нищеты являются преступления, касающиеся торговли людьми. Женщины, которые становятся жертвами торговцев, в большинстве своем бедны, необразованны и не имеют профессии, а также имеют ограниченные возможности для самостоятельной жизни (Международная организация по миграции, МОМ, июнь 1998). Как только эти женщины попадают под контроль торговцев или сутенеров, они часто подвергаются насильственному, принудительному, вероломному и жестокому обращению (МОМ, июнь 1996). Но даже когда система уголовного правосудия все же привлекается к делам о торговле людьми, слишком часто женщины либо немедленно депортируются, либо просто попадают за решетку (МОМ, 1995). Одним из общепризнанных моментов на семинаре было то, что политические решения не должны способствовать дальнейшей виктимизации женщин – государство не должно наказывать женщин за попытки найти выход из положения и выжить в трудных обстоятельствах, равно как не должно осуждать их за то, что они стали жертвами.

Женщины по-прежнему являются меньшинством среди заключенных, но их число растет более быстрыми темпами по сравнению с ростом числа осужденных мужчин. Кроме того, многие женщины-заключенные осуждены не за насильственные преступления, отбывая сроки наказания за правонарушения, связанные с наркотиками, или имущественные преступления (Cook, 1999). В то время как увеличение числа осужденных женщин привело к заметным улучшениям в условиях содержания женщин-заключенных, этот быстрый рост не сопровождается адекватным увеличением программ, специально нацеленных на удовлетворение интересов женщин.

Программы и условия содержания должны принимать в расчет культурные и расовые различия в растущей численности женщин-заключенных. Политика в сфере уголовного правосудия и программы должны признавать и соответствовать удовлетворению особых потребностей в вопросах здоровья, реализации их ответственности как матерей, в преодолении культурных барьеров и изоляции, с которыми женщины-заключенные сталкиваются за пределами своей родины, и также учитывать их уязвимость с точки зрения сексуальной эксплуатации и нарушения прав человека со стороны мужского персонала. Выступления и дискуссии на семинаре показали, что эта потребность наиболее высока в развивающихся странах.

В связи со сложностью обстоятельств, сопутствующих вопросам женщин и преступности, особенно в свете имеющейся проблемы торговли людьми и насильственным вовлечением в занятие проституцией, тюремное заключение должно стать самой крайней мерой и должно использоваться только за совершение тяжких преступлений. Мы должны разработать широкий диапазон

альтернативных и промежуточных санкций. Семинар также ясно продемонстрировал, что у нас нет адекватных программ, которые бы отвечали конкретным потребностям женщин-правонарушителей после их освобождения и возвращения в общество. Существует насущная необходимость в альтернативных решениях, базирующихся на возможностях общественности, и программах реабилитации, что помогло бы уменьшить социальное отчуждение и социальный остракизм, наиболее часто связанные с женщинами-правонарушителями и женщинами-заключенными.

Женщины как практические работники системы уголовного правосудия

Хотя в ходе семинара вопрос о женщинах как практических работниках широко не обсуждался, имеется все же несколько важных моментов, которые были затронуты и заслуживают упоминания. Участники семинара отметили, что во многих странах в области уголовного правосудия женщинами достигнуты успехи различного уровня и они все чаще занимают должности, традиционно занимаемые мужчинами, например, в качестве сотрудников исправительных учреждений, тюремных контролеров, адвокатов, судей и офицеров правопорядка.

Хотя многие должности в системе уголовного правосудия становятся более сбалансированными с точки зрения гендерного аспекта, соотношение все же остается далеким от равенства. Существуют характерные проблемы и препятствия, с которыми приходится сталкиваться женщинам, работающим в этой преимущественно мужской сфере профессиональной деятельности. Для женщин, работающих в исправительно-трудовых учреждениях, вопросы безопасности, право заключенных на личную жизнь и физическая квалификация объявлены в качестве препятствующих соблюдению прав равных возможностей с мужчинами. Кроме того, существует множество ведомственных препятствий, с которыми женщины сталкиваются как практические работники во всех профессиях уголовного правосудия. К некоторым таким проблемам относятся препятствия при приеме на работу и при продвижении по службе, а также дискриминация в характере работы, поручаемой женщинам и мужчинам.

Спонсированное Национальным институтом юстиции исследование о положении женщин в системе уголовного правосудия США было сфокусировано на проблемах неравенства на рабочем месте по половому признаку и выявило, что женщины сталкиваются с крупными препятствиями в таких областях, как правоохранительная деятельность и исправительные учреждения, и им трудно «пробиваться» в руководители. Во многих случаях, когда женщины получали доступ к профессиям в системе уголовного правосудия, их лишали возможности совершенствовать профессиональную подготовку, осуществлять горизонтальные передвижения по службе, и их ограничивали традиционным организационным поведением.

Стремясь сократить гендерный разрыв для женщин, работающих в системе уголовного правосудия, некоторые государства воплотили в жизнь позитивные практические программы. Однако если мы действительно стремимся к достижению гендерного равноправия и улучшению положения женщин как жертв, правонарушителей или заключенных, очевидно, что в этой области должно работать больше женщин. Должно быть больше инициатив по работе с персоналом, включающих в себя программы повышения квалификации и подготовки кадров и подготовки сотрудников из числа женщин, направленных на их самоутверждение и обеспечения разнообразия специальностей, а также тщательно разработанные тренинги, в которых подчеркивается важность искоренения сексуальных домогательств на рабочем месте.

Выявленные важнейшие вопросы в области исследований

Исследования по вопросам женщин в контексте системы уголовного правосудия традиционно концентрировались на ряде таких важных областей, как гендерный разрыв и зависимость преступления от половой принадлежности. Хотя эти исследования и привнесли большой вклад, существует большая потребность в дальнейших научных работах, в частности в исследованиях, которые связаны с разработкой политики и практики. В то время, как увеличение числа женщин-правонарушителей помогает привлечь большее внимание к общему финансированию исследований, в ходе дискуссий на семинаре было выяснено, что существует потребность в еще более повышенном уровне внимания к вопросам женщин в связи с транснациональной преступностью. Участники семинара, например, отметили отсутствие сравнительных или межнациональных данных по этому явлению. Исследования по гендерному аспекту и гендерному равновесию необходимы для получения представления о характере и масштабах проблемы транснациональной преступности, а также для выработки эффективной политики.

В связи с характером предмета «официальные данные» в своей основе ненадежны, если пытаться проводить измерение степени виктимизации. Очевидно, что сочетание несообщения и официальной предвзятости приводит к тому, что в данных органов полиции и других официальных источников весьма неточно отображены реальный характер и масштабы проблемы. В то время как проблемы недопредоставленности данных и получения точных цифр, конечно, не новы для данной конкретной сферы исследований, они усугубляются в отношении женщин в контексте транснациональной преступности.

Культурные ценности, включая защиту права на частную жизнь и чести семьи, отношения, которые уменьшают или оправдывают виктимизацию, и отсутствие доверия к системе правосудия часто «работают» против женщин, сообщающих о собственной виктимизации. Помимо идеологических барьеров, которые необходимо

преодолевать, существует множество практических препятствий таким заявлениям. В отношении торговли людьми, например, женщина-иммигрант испытывает языковые трудности и проблемы общения, ощущает отсутствие информации о правовых основах или о наличии поддержки и содействия, а также испытывает боязнь возможной депортации в страну происхождения.

Обзоры по виктимизации помогают заполнить информационные пробелы о жертвах и виктимизации. Однако даже если официальные данные сводятся воедино в рамках национальных и международных обзоров по виктимизации, результат далек от представления надежной информации о женском опыте в отношении насилия, в частности.

Дискуссии по вопросам исследований на семинаре-практикуме были сосредоточены на потребности в большем количестве сравнительных исследований с учетом гендерного аспекта. Все доклады и последующие дискуссии подвели к пониманию, что действительные масштабы и характер проблемы могут быть очерчены и оценены только при наличии конкретных данных о транснациональной преступности и положении женщин в ее контексте, которые являются по своим параметрам сопоставимыми на международном уровне. Однако, с учетом большого разнообразия типов инструментария обзоров и методологии сбора данных, это будет трудным. И это будет еще сложнее вследствие проблем, присущих изучению множественных форм транснациональной преступности.

Резюме дискуссий в рамках модулей

Обсуждение, которое состоялось в ходе семинара, ясно показало, что маргинальный статус женщин является препятствием при планировании и осуществлении конкретных действий. В рамках докладов всех четырех тематических модулей были освещены проблемы, относящиеся к вопросам женщин, преступлений и уголовного правосудия, а также был подчеркнут тот факт, что проблемы преступности, с которыми сталкиваются женщины, имеют явное отношение к их полу. С учетом сложности обстоятельств, лежащих в основе проблем женщин как правонарушителей и жертв, очевидно, что и система уголовного правосудия, и основополагающие усилия «на земле» должны совместно вести к разработке целостных и творческих путей устранения этих обстоятельств. Затем необходимо оценить такие подходы и внедрить достигнутые в ходе программ успехи и «положительные примеры» в направления политики и практической деятельности.

Когда вопросы уголовного правосудия, характерные только для женщин, сочетаются с непосредственной угрозой со стороны транснациональной преступности и когда влияние этой преступности на женщин во всем мире возрастает, становится ясным, что требуются активные усилия на местном, национальном и международном уровне. Политика и ориентированные на конкретные действия исследования должны учитывать: (1) двойственный характер преступности и

виктимизации, (2) отсутствие базовых программ и служб, необходимых для обеспечения потребностей растущего числа женщин, содержащихся в тюрьмах и следственных изоляторах и (3) многочисленные практические и культурные препятствия, удерживающие женщин от обращения к правоохранительным органам за помощью. Кардинальным для предотвращения эксплуатации и различных форм насилия в отношении женщин является необходимость осуществления действий в виде политических решений и программ по всем этим конкретным вопросам.

Предпринимать меры: идти дальше деклараций

Семинар-практикум явился важным международным форумом для практических работников и исследователей с точки зрения обсуждения критических вопросов и проблем в отношении женщин в системе уголовного правосудия. Доклады в рамках всех четырех тематических модулей подтвердили, что вопросы пола не могут не учитываться при разработке политики, особенно когда речь идет о насилии в семье и таких транснациональных проблемах, как торговля женщинами и девушками. Невозможно переоценить важность развития международного диалога по этим серьезным вопросам. Простых обсуждений, однако, недостаточно. Международное сообщество обязано предпринимать активные, наступательные и коллективные меры по сокращению громадного ущерба, который транснациональная преступность наносит женщинам и детям. Фундаментальный вопрос, стоящий сейчас перед нами, - как лучше сделать это. Какие практические шаги следует предпринять? Какие результаты могут быть достигнуты в краткосрочной и долгосрочной перспективах? И что конкретно мы можем ожидать от исследований и политики?

Одним из рекомендованных усилий, которое активно было поддержано на семинаре, является предложение, чтобы международное сообщество выявило общие политические решения и стратегию, которые «работают» или во всяком случае являются перспективными, при этом оно бы продолжало укреплять сотрудничество и взаимодействие на местном уровне. Действительно, сам характер транснациональных преступлений, таких как торговля людьми, требует активного обмена знаниями и положительным практическим опытом, чтобы организовать даже минимально адекватное противодействие. Также следует, что одновременно должны приниматься превентивные общегосударственные меры, которые бы отвечали социально-экономическому контексту каждой из стран.

Из докладов в рамках четырех модулей семинара вытекали три доминирующие темы: 1) поддержка международных исследований и анализа, 2) осуществление действий на международном уровне и 3) признание важности международных деклараций и стандартов как для исследований, так и для действий. Одновременное действие в рамках этих трех тем обеспечит всеобъемлющий подход в противодействии

угрозам, которым подвергаются женщины со стороны транснациональной преступности и неадекватной системы уголовного правосудия.

Важность международных исследований и анализа

Все участники семинара признали важность получения знаний, максимально ориентированных на выработку политических действий, направленных на улучшение положения женщин в контексте преступности и правосудия. Из этого следует, что международное сотрудничество в области исследований должно стать одним из основных шагов для получения таких знаний. С учетом наносимого транснациональной преступностью ущерба международное сообщество должно обеспечить, чтобы политика основывалась на точных исследованиях и сведениях, и чтобы она заключалась не просто в символических жестах, укоренившихся в идеологии или ограниченной доминирующей в стране политической культурой. Международное и многочисленные национальные сообщества в сфере уголовного правосудия обязаны увязывать исследования с практикой таким образом, чтобы политика в уголовных вопросах, законы и программы предупреждения преступности основывались на том, что «работает».

Состоялось обсуждение инструментария исследований и результатов, достигнутых на настоящий момент в отношении вопросов о женщинах в связи с преступностью и уголовным правосудием. Это знание продемонстрировало, каким потенциалом обладают исследования при условии усиления их финансирования. Лидеры государств и политические деятели должны быть вооружены практическими знаниями для принятия обоснованных решений относительно ресурсов, программ и практических действий, которые соответствуют особым потребностям женщин как правонарушителей, жертв и заключенных.

Помимо ценного конечного продукта, который может быть получен в результате международного сотрудничества при осуществлении исследований, ценностью обладает сам процесс разработки исследований на стыке национальных культур. Взаимоотношения между исследователями создают новую важную основу развития сотрудничества между учеными, неправительственными организациями, общественными формированиями и другими практическими работниками. Научные исследования, чтобы быть наиболее полезными, должны ориентироваться на практические действия и в вопросах транснациональной торговли людьми, товарами или услугами должны включать в себя взаимодействие между странами транзита, происхождения или конечного назначения.

К приоритетным областям, которые требуют более широкой, а также надежной и ценной информации, относится широкий круг вопросов о насилии в отношении женщин. Особенно важны аспекты распространения, динамики и контекста, в рамках которых совершается такое насилие. Такой вид информации легче получить в результате

обзоров по виктимизации. Для успеха данных обзоров важно создать атмосферу тесного сотрудничества с службами поддержки и группами защиты интересов жертв, такими как неправительственные организации, которые могут обеспечить необходимую конфиденциальность и «безопасное прикрытие» для жертв.

Второй приоритетной для исследований областью - необходимой для полного понимания виктимизации женщин в результате транснациональной преступности – является изучение множественности причин, которые приводят к тому, что является скрытым аспектом преступлений в отношении женщин. По результатам уже проведенных исследований известно, что несмотря на значительную распространенность и масштабы виктимизации женщин и девушек, и несмотря на многочисленные попытки жертв противостоять этому насилию, почти во всех странах женщины-потерпевшие избегают сообщать властям о собственной виктимизации. Основным источником получения такой информации опять-таки являются обзоры по виктимизации. Данные, полученные в результате таких обзоров, при их использовании в сочетании с официальными данными, могут воссоздать гораздо более точную и полную картину существующего положения в данной области. Кроме того, стандартизированный сбор данных по странам позволяет осуществлять ценный межнациональный сравнительный анализ.

Третьей областью для сотрудничества при осуществлении международных исследований может быть сосредоточение внимания на понимании масштабов вовлечения транснациональных преступных групп в преступный рынок торговли женщинами. Одной из характерных особенностей, по всей вероятности, способствующей громадным прибылям, которые, очевидно, извлекаются в результате торговли людьми, является тот факт, что в отличие от незаконного оборота оружия или наркотиков, женщин можно «пускать в оборот вновь и вновь», что позволяет осуществлять оборот доходов неоднократно. Похоже, что это делает торговлю женщинами весьма привлекательным для транснациональной организованной преступности, но имеется слишком мало научно обоснованных доказательств, чтобы прийти к определенному заключению. Такие доказательства очень нужны.

Четвертой приоритетной темой, которая может привести к совершенствованию превентивных мер, является осуществление исследований по уточнению социальных портретов и групп риска. Какой тип женщин наиболее подвержен риску стать жертвой преступления? Какой тип женщин наиболее подвержен риску стать правонарушителем? Распределение девочек и девушек по группам риска поможет выработать превентивные меры, которые были бы разработаны и ориентированы на тех, кто наиболее нуждается в таких мерах и может получить от них пользу.

К другим вопросам, выявленным участниками семинара в качестве предмета для глобальных исследований, относятся: (1) изучение

различных мотивационных факторов, которые влияют на вовлеченность женщин в сферу незаконной миграции и торговлю людьми; (2) улучшение документирования различных причин как виктимизации, так и совершения преступления; (3) изучение последствий виктимизации и совершения преступления и последующих потребностей жертвы/правонарушителя; (4) изучение меняющегося профиля женской преступности; (5) документирование особых проблем и потребностей женщин-заключенных, имеющих маленьких детей; и (6) изучение особых трудностей, с которыми сталкиваются содержащиеся в заключении иностранки. Все это - сферы, в которых нам известно очень мало, где наша информация весьма ограничена, или где то, что нам известно, уже устарело.

Одной из ключевых фраз и одной из наиболее популярных идей в любом виде программной деятельности в наши дни является определение того, что называется «положительным опытом». В случае с программами в отношении женщин-правонарушителей и жертв существует необходимость выяснить, какие программы из великого разнообразия осуществляемых в различных странах действительно «работают». Не менее важно определить, почему они работают, в отношении кого и при каких обстоятельствах. И только потом мы будем в состоянии предлагать их в качестве положительного опыта для распространения в различных национальных условиях. Приоритетными в этой работе являются программы по предупреждению торговли людьми и программы по защите жертв такой торговли и по оказанию им помощи. Что действительно в этой сфере? Как только эта информация будет получена, она может быть использована не только для планирования и разработки программ, но и для составления учебных планов при подготовке сотрудников правоохранительных органов. В целом, сочетание хорошего документирования проблем и потребностей с большим объемом знаний о том, что действительно, является ключевым фактором улучшения взаимосвязи между исследованиями и политикой, которого мы добиваемся.

Важность одновременных действий на международной арене

Возрастающий глобальный характер преступности требует значительных усилий со стороны мирового сообщества по укреплению взаимодействия и сотрудничества. Транснациональная преступность является международной проблемой, которая требует адекватного реагирования на международном уровне. Поэтому, второй основной темой, выявленной в результате дискуссий на семинаре, стала необходимость коллективных и координируемых по времени международных действий. Совместно разрабатываемые инициативы должны включать в себя взаимодействие исследователей из разных стран и программы укрепления сотрудничества между государствами. Эти совместные усилия должны охватывать элементы предупреждения, уголовного преследования и защиты жертв.

Поскольку контекстуальной темой семинара являлась транснациональная преступность, значительная часть дискуссии была посвящена проблеме торговли женщинами. Для борьбы с этой проблемой, как подчеркивали выступавшие, страны, которые связаны такой торговлей, должны предпринимать активные шаги по организации сотрудничества как на двусторонней, так и на многосторонней основе. Они должны делиться информацией и изучать успех и неудачи друг друга, чтобы достичь лучшего понимания того, как наиболее эффективно разрешать проблемы женщин и преступности и уголовного правосудия в контексте транснациональной преступности. Суть любой эффективной международной стратегии должна быть направлена на расширение возможностей для сотрудничества и взаимодействия, дабы избежать дублирования. Более эффективные методы решения проблем должны появиться в результате выработки стратегий, совместно разработанных странами происхождения, транзита и назначения.

Многие страны страдают от проблем, связанных с торговли людьми. К сожалению, слишком многие из них попустительствуют процветанию преступной деятельности. Со стороны официальных властей отмечается соучастие, молчаливое согласие или, по меньшей мере, неадекватное реагирование. Незавидное положение жертв женского пола усугубляется отсутствием судебных процедур по непредставлению убежища, разнообразием подходов к решению иммиграционных вопросов, различиями в уголовном процессе и подходах со стороны правоохранительных органов. Слишком часто жертвы подвергаются повторной виктимизации вследствие недостатков системы уголовного правосудия, которая оказывается неспособной к адекватному реагированию. Требуются усилия на международном уровне для защиты свидетелей, отважившихся дать показания, и для обеспечения безопасности потерпевших и их семей.

Участники семинара в целом признали, что сложность и уникальность проблем, с которыми женщины сталкиваются в контексте преступности, в особенности транснациональной преступности, не могут быть реально разрешены за счет одной системы уголовного правосудия. В самом деле, сомнительно, чтобы проблема разрешилась без усилий и взаимодействия правоохранительных органов, неправительственных организаций и общества в целом, как на национальном, так и на международном уровне.

Признавая, что международное сотрудничество является предпосылкой для борьбы с глобальным явлением торговли женщинами, участники семинара также подчеркнули, что существуют действия, которые отдельные государства могут и обязаны предпринять на местном и национальном уровне. Например, как отмечалось некоторыми участниками семинара, отдельные государства должны предпринять меры по обеспечению дополнительной поддержки потерпевших, которые обращаются к системе уголовного правосудия за помощью. С учетом реальной сложности обстоятельств, возникающих

вокруг женщин-правонарушителей, жертв и потерпевших, политические решения должны принимать во внимание эмоциональные травмы, которые эти женщины переживают. Для предотвращения любой последующей виктимизации требуется объединить усилия социальной сферы, населения и системы уголовного правосудия. Особые дополнительные меры должны быть предоставлены наиболее нуждающимся женщинам, с тем чтобы эти женщины, обычно подталкиваемые в маргинальную зону самим обществом, получали адекватную защиту, правосудие и поддержку.

Идеальным сценарием и долгосрочной целью для всех государств-членов должно быть улучшение социального и экономического положения женщин. Однако, невозможно ожидать только от представителей правоохранительных органов и судебной системы, чтобы они в одиночку устранили экономические и социально-культурные причины и последствия преступлений в отношении женщин, тем более, что они и не имеют необходимых ресурсов для этого. Простая «обработка» женщин в системе уголовного правосудия, заключение их под стражу или депортация на родину не дают возможности добраться до источника проблем. Адекватное «справедливое» реагирование включает в себя решение вопросов компенсации и социальных вопросов, меры по поддержке жертв, обучение, программы по распространению знаний и повышению информированности, а также информационные кампании в средствах массовой информации. К сожалению, в настоящее время, виктимизация женщин будет оставаться проблемой, которая в ближайшее время не уменьшится.

Женщины группы риска должны получать помощь, чтобы, в первую очередь, не попадать в ситуации, когда они становятся потерпевшими/правонарушителями. В этом отношении участники семинара отметили необходимость обращать внимание на всеобъемлющие меры, включая конкретные программы в отношении тех слоев населения, находящихся в группах риска стать как жертвами, так и правонарушителей, а также в отношении тех, кто способствует растущему спросу, лежащему в основе глобальной индустрии секса.

Профилактические меры следует концентрировать на двух отдельных, но связанных между собой стратегиях: 1) целенаправленные информационные общественные кампании, обращенные на группы риска и нацеленные на расширение прав женщин; и 2) проблема спроса и потребителей, которые финансируют международную индустрию секса. Для достижения успеха обеим стратегиям требуется активное участие и сотрудничество государственных и неправительственных формирований, включая неправительственные организации, правоохранительные органы, органы прокуратуры, службы содействия жертвам, средства массовой информации и широкие слои общества в целом. Кроме того, обе стратегии в качестве отправного момента должны использовать решения на местном уровне и закреплять успех в практических

методологиях, которые были уже разработаны в рамках различных местных контекстов.

Участники семинара-практикума рассмотрели конкретные компоненты профилактических мер, которые направлены на расширение прав женщин, основываются на усилиях на самых начальных уровнях и информационных кампаниях в средствах массовой информации по созданию атмосферы доверия к системе уголовного правосудия и которые предупреждают женщин об опасности торговли людьми. Государства должны использовать и поощрять разработку стратегических решений на местном уровне, которые служат расширению прав женщин и уменьшению степени их уязвимости с точки зрения виктимизации. Решения на местном уровне, в которых уже используются существующие структуры или имеющиеся службы, созданные для удовлетворения особых потребностей групп женщин, принадлежащим к различным культурам, должны быть доступны для тех, кто принадлежит к группе риска и стремится избежать виктимизации. Многие выступавшие показали, как степень зависимости женщин помогают уменьшить программы, направленные на расширение их прав. К другим примерам служб относятся центры по оказанию содействия в ночное время и по преодолению кризисов, линии горячей связи и юридическая помощь потерпевшим. Больше программ требуется для дальнейшего развития и поощрения сети общественного содействия, которая способствует обмену опытом между потерпевшими. Обмен опытом является мощным средством для расширения прав женщин и их поддержки, он же является наименее затратным среди стратегий посредничества.

Информационные кампании на национальном и местном уровнях являются важным шагом в повышении уровня информированности и для развития общественного понимания насильственного и негуманного характера виктимизации женщин. В частности, насилие в семье является формой виктимизации, которая часто находится за закрытыми дверями. Кампании по повышению уровня информированности общества также необходимы для уменьшения «обвинения жертв» со стороны правонарушителей, а также средств массовой информации, судей, правоохранительных органов и общественности. Невежество и предвзятость в отношении жертв только подрывают усилия в борьбе с виктимизацией женщин и ослабляют общественное презрение за такое обращение с женщинами. Жизненно необходимыми являются образовательные программы, если мы надеемся изменить доминирующий статус-кво в отношении виновности. Из-за громадного негативного воздействия транснациональной преступности на женщин любая эффективная стратегия предупреждения преступности должна иметь в качестве руководящего принципа гендерное направление для действий как на международном, так и на национальном уровне.

Мало что может измениться без мужества и политической воли местных властей и широкой общественности и без желания эффективно

решать проблемы. Поэтому информационные кампании должны освещать роль, которую культура играет в формировании доминирующей реакции в обществе и в конечном итоге в реагировании со стороны официальной системы. Без значимого негодования со стороны общественности проблема будет по-прежнему игнорироваться и не станет приоритетной в системе правосудия. Ключевым ресурсом в этой борьбе может быть озабоченность общества проблемой виктимизации.

В ходе семинара участники пришли к единому мнению о необходимости разработки комплексных программ, включая деятельность правоохранительных органов и общественности в формировании коалиции и проведении тренинга. Это является естественным отправным моментом для выработки подходов к проблеме, которые основываются на участии населения. Объединенные усилия являются мощным средством улучшения уровня реагирования со стороны правоохранительных органов и профилактических мер в целом. Важнейшим для повышения «настроенности» сотрудников правоохранительных органов к проблемам женщин и преступности является соответствующая подготовка кадров. Для любой инициативы по повышению профессиональной подготовки кадров естественным исходным фактором является привлечение неправительственных организаций, которые работают по вопросам виктимизации женщин на повседневной основе. Важно развивать успех, уже достигнутый неправительственными организациями, поскольку многие из них приобрели опыт по решению проблем, касающихся женщин. К сожалению, им может не хватать доверия со стороны сотрудников правоохранительных органов как к надежным партнерам. Неправительственные организации находятся на особом положении по доведению до правоохранительных органов необходимости их более активной роли в предупреждении преступности в отношении женщин. В то же время неправительственные организации, оказывающие помощь жертвам, не всегда понимают проблемы и условия, в которых приходится действовать правоохранительным органам, например, правила сбора доказательств.

Совместная деятельность неправительственных организаций и правоохранительных органов будет способствовать лучшему пониманию проблем сотрудниками правоохранительных ведомств, а разработка совместных программ между этими двумя сторонами поможет узаконить ту важную роль, которую играют неправительственные организации. Это создаст положение, при котором все являются победителями: как правоохранительные органы, так и женщины, оказавшиеся в рамках этой системы. Облегчится доступ правоохранительных ведомств к жертвам, и в результате будет получена более точная информация, необходимая для адекватного рассмотрения проблемы и реагирования на нее, например, женщины будут выступать в качестве свидетелей. Это поможет справиться с таким контрпродуктивным реагированием со стороны

правоохранительных органов, как немедленная депортация на родину, где женщины просто вновь становятся жертвами. Женщины, которые оказались жертвами, должны верить, что если бы они обратились к властям, система уголовного правосудия отреагировала бы надлежащим образом и была бы восприимчивой к их ситуации. Слишком многое могут потерять жертвы, если обратятся к властям, это включает и страх возмездия со стороны дельцов от торговли людьми, страх ареста и депортации, если они находятся на территории страны незаконно, или уголовного преследования, если они принимали участие в противоправной деятельности. Женщины чувствуют себя увереннее, когда знают, что система уголовного правосудия на их стороне. Неправительственные организации могут помочь правоохранительным органам, сообщая об особых обстоятельствах, связанных с жертвами, которым требуется защита.

Несообщение властям о виктимизации является особенно острой проблемой в развивающихся странах, где женщины редко обращаются в полицию за помощью. Нужны особые усилия, чтобы укреплять сотрудничество неправительственных организаций и правоохранительных органов в странах третьего мира, где профилактика особо необходима.

Вторым основным моментом наших усилий должно быть сокращение начальных предпосылок возникновения связи между проституцией и торговлей людьми. В конце концов, мы имеем дело с потребителями и движущей силой управления этой индустрией – дельцами от торговли людьми и сутенерами – вот кто более всего несет ответственность за нарушения прав человека в связи с торговлей женщинами. За сексуальной эксплуатацией, связанной с торговлей женщинами и девочками, стоит в первую очередь повсеместно растущий спрос на услуги индустрии секса. Усилия по поиску женщин и девочек по всему миру определяется предпочтениями потребительского спроса. Спрос – как одну из составляющих этого уравнения – больше игнорировать нельзя. Участники семинара отметили как цинизм то, что исследователи и политические деятели редко уделяют внимание спросу на торговлю женщинами или не признают его наличие. Мы должны признать существование мотивационного фактора, стоящего за проституцией и торговлей. Без похоже бесконечного наплыва потребителей, которые подпитывают эту разрастающуюся индустрию – клиенты, готовые платить большие деньги за сексуальные каникулы, заказываемых по почте невест и высококлассные бордели. – индустрия секса потеряет основу своего финансового благополучия.

Положения политики уголовного правосудия должны фокусироваться как на нарушителях, так и на тех, кто подвергается злоупотреблениям, обращая особое внимание на тех, кто получает прибыль от эксплуатации, а не только на тех, кто стал жертвой. Не следует недооценивать юридическую ответственность и наказуемость дельцов от торговли женщинами. Не стоит также забывать привлекать к ответственности тех, кто покупает сексуальные услуги и, таким

образом, продолжает подпитывать этот рынок. Страны должны предпринять немедленные меры по разработке законодательства, которое предусматривало бы значительное наказание за торговлю людьми. Задача состоит в том, чтобы отнести этот преступный промысел к категории наиболее опасных и наиболее уголовно наказуемых деяний.

Важность международных деклараций и стандартов

Третьей темой, которая была выявлена по результатам работы семинара-практикума, является важность установления международным сообществом универсальных стандартов и деклараций в отношении женщин в системе уголовного правосудия. С учетом авторитета, легитимности и статуса Организации Объединенных Наций принятие и распространение таких универсальных деклараций будет иметь большую символичность. Участники семинара, несомненно, отметили большую сплоченность и целеустремленность участников Конгресса в решении проблем, которые стоят перед женщинами в связи с транснациональной преступностью. Международный мандат по глобальному взаимодействию и сотрудничеству, однако, требует, чтобы мы ясно представляли себе, что это будут за стандарты, и чтобы мы могли доказать серьезность наших намерений в отношении их разработки. Отказ от введения национальных стандартов должен заканчиваться реальными наказаниями.

Уже имеется много международных деклараций и инструментов, которые расцветивают конкретные концепции по защите человеческого достоинства, свободы и искоренению дискриминации, что является необходимым для обеспечения особой защиты женщин и детей от воздействия транснациональной преступности. Настоящий семинар послужил важным форумом для распространения этих важных принципов, содержащихся в таких документах, как Декларация по искоренению насилия в отношении женщин, Пекинская декларация Четверной Конференции ООН по положению женщин и Платформа действий и стандартов прав человека по обращению с жертвами торговли людьми. Международное законодательство в области прав человека защищает всех людей от злоупотребления их правами со стороны частных лиц.

Важным ключевым элементом, содержащимся во всех таких международных декларациях, является то, что адекватное политическое реагирование на проблемы женщин в связи с транснациональной преступностью должно содержать как элементы уголовного правосудия, так и соблюдения прав человека. Преступления в отношении женщин, особенно если их рассматривать в контексте разрастающейся индустрии торговли людьми, имеют более широкие последствия и требуют большего, нежели просто реакция со стороны системы уголовного правосудия. Абсолютно необходимо, чтобы все государства признали, что все формы виктимизации и насилия в

отношении женщин являются не только нарушением их особых прав как женщин, но также и нарушением их фундаментальных прав как личности. Жертвы торговли людьми, которые задерживаются властями в странах назначения, имеют право на гуманное и достойное обращение. С учетом бесправной позиции, в которой оказываются многие женщины, единственным способом является двойной подход - предотвращение лежащих в ее основе преступлений и борьба с ними и одновременное удовлетворение потребностей и защита прав тех, кто подвергся виктимизации и эксплуатации. Участники семинара особо отметили, что многообразие виктимизации женщин должно служить барометром соблюдения страной законов в области прав человека и фиксацией нарушения ею прав человека.

Всеобщие стандарты, определяющие приемлемое и неприемлемое поведение, являются необходимыми в предотвращении дальнейшей виктимизации и маргинализации женщин в системе уголовного правосудия. Участники семинара ясно показали, что международное сообщество должно установить стандарты вне зависимости от особых культурных доктрин в отношении женщин, которые используются для оправдания определенных форм виктимизации. Такие взгляды должны быть запрещены к использованию при попытках оправдать нарушения прав женщин. Сюда относятся догмы норм культуры, которые рассматривают женщин как существа низшего порядка, соглашающихся со злоупотреблениями в отношении себя или желающими участвовать в противоправной деятельности, которая приводит к лишению свободы или депортации. Никакие культурные нормы или защита не могут оправдать действия, при которых женщина подвергается насилию или травмируется.

Всеобщие декларации должны использоваться для просвещения общественности путем высвечивания того, насколько действительно негуманной является виктимизация женщин. Эти всеобщие стандарты и декларации должны определить нулевой уровень толерантности в отношении виктимизации женщин. Международное сообщество должно быть единым в «подталкивании» большего числа стран к включению ими ряда положений о правах человека в свои законодательные своды и политику, включая оказание помощи и защиту лиц, подвергшихся торговле. Внедрение этих стандартов в жизнь поможет искоренить чрезмерно упрощенный подход в виде представления проблемы в качестве просто вопроса иммиграции или уголовного правосудия.

Международное сообщество должно предпринимать активные действия в ходе многосторонних форумов для привлечения упорствующих стран к серьезным и обоснованным усилиям по искоренению торговли людьми и для защиты жертв такой торговли. Мы должны признать горькую действительность, что выработка деклараций и стандартов в определенных обстоятельствах является бесплодным предприятием. Важно подкреплять эти принципы действиями в случаях, когда страны систематически игнорируют стандарты

международного сообщества. В таких случаях международное осуждение должно включать осязаемые санкции.

Заключительные замечания

Поскольку криминальные проявления глобализации продолжают оказывать влияние на характер преступности и положение женщин, международное сообщество должно предпринимать активные меры по изменению и совершенствованию реагирования со стороны уголовного правосудия. Такое реагирование должно включать в себя концепцию гендерной направленности как при осуществлении исследований, так и в практической деятельности, чтобы изменить устаревшие понятия в отношении женщин и преступности. Улучшение настоящего положения женщин в системе уголовного правосудия нельзя считать нереальной или недостижимой задачей. Однако, она будет достигнута только посредством проведения на всех уровнях политики активных коллективных шагов по уменьшению громадного вреда, который транснациональная преступность наносит женщинам и детям в мире.

Биографические шчерки

Джеймс О. Финкенауэр является директором Международного центра при Национальном институте юстиции Министерства юстиции США. Организованная преступность, как в национальном, так и в международном контексте, является одним из основных научных интересов доктора Финкенауэра. К его последним книгам относятся «Русская мафия в Америке» (издание Северо-Восточного университета, 1998 г.) и «Искренний страх и феномен призрачной панацеи» (Уэйвленд Пресс, 1999 г.)

Дженифер Л. Шрок является специалистом по международным программам Международного центра. К ее основным научным интересам относятся транснациональная преступность и преступность среди несовершеннолетних. В настоящее время работает над пилотажным исследованием по оценке влияния транснациональной преступности на США, а также над изучением проблемы контрабандной переправки людей в США для Центра ООН по предупреждению международной преступности.

Библиография

- Cario, R. (1996). "Women and Crime: About Women's Positive Resistance to Crime." *Eurocriminology*, 10, 185-200.
- Cook, S., & Davies, S. (1999). *Harsh Punishment: International Experiences of Women's Imprisonment*. Boston: Northeastern University Press.
- Information Campaign Against Trafficking in Women from Ukraine. International Organization for Migration Research Report. (2000, July 7). [online]. Available: <http://www.iom.int> [1998, July].
- Janeksela, G. (Fall 1997). "Female Criminality: An Overview." *International Journal of Compared and Applied Criminal Justice*, 21, (2), 181-205.
- Trafficking in Women to Italy for Sexual Exploitation. International Organization for Migration- Migration Information Programme. (2000, June 26). [online]. Available: <http://www.iom.int> [1996, June].

Избранная литература

- Alvazzi del Frate, A., Patrignani, A. (1995). *Women's Victimization in Developing Countries*, (United Nations Interregional Crime and Justice Research Institute).
- Brennan, N., (2000). *Framing Statement*, (Prepared for the Workshop on Women in the Criminal Justice System). Unpublished.
- Erez, E., (2000). *Women as Victims and Survivors in the Context of Transnational Crime*, (Prepared for discussion for module on Women as Victims and Survivors). Unpublished.
- Offenders and Victims: Accountability and Fairness in the Justice Process*. Background Paper for the Workshop on Women in the Criminal Justice System. (2000, May 6). [online]. Available: <http://www.uncjin.org/Documents/10thcongress/10cDocumentation/10cdocumentation.html> [2000, March]

Introduction to the Collected Papers from the Workshop on Women in the Criminal Justice System

Professor Frances Heidensohn - overall workshop moderator
Department of Social Policy and Politics
Goldsmith University London
United Kingdom

The papers in this collection record the range of contributions made during the Workshop on Women and Criminal Justice which formed one of the major themes of the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. They also reflect the key themes which characterised, and were developed in, this section of the Congress and in turn, these illustrate the present states of criminal justice systems as they affect women, as far as both policy and research are concerned. Among these key themes were a series of contrasts: between localism and globalisation, theory and practice and activism and victimisation.

Four linked modules formed the Workshop: on research and policy issues, women as offenders and prisoners, as victims and survivors and in the criminal justice system. While general issues were addressed and discussed in the sessions, the focus was, in keeping with the overall aims of the Congress, on transnational crime, particularly on the trafficking of women for sexual and other exploitative purposes.

During the intense and lively sessions, it became clear on how common are many of the problems faced by women in criminal justice, because of their poverty, responsibilities for children and since they have relatively low rates of offending. This in turn proved the need for more research following on the lines of offending. This in turn proved the need for more research following on the lines of international surveys of violence against women, so that the dimensions and character of the issues can be established and compared. Distinctive problems faced by the poorest women in some parts of the world include increased risks of being exploited through the growing trade in human trafficking for sexual purposes. Local and international solutions to these problems ranged from the formidable and comprehensive, to the most minimal. In the latter cases, it was often voluntary effort which stepped in with ideas and resources.

The volume of research on these workshop topics, while there are still major gaps in its coverage, showed how much progress has been made and how much can be achieved. Examples of good policy practice provided excellent models of

what can be done, often from modest beginnings; strikingly, these organisations had often started from the needs and actions of women, whether offenders or victims, themselves.

While the participants and all their contributions were very diverse, the form of the workshop organisation, the enthusiasm of all who took part and their commitment to promote debate, consider innovations, evaluate and research issues, made for a very positive event. The papers in this volume illustrate these themes well. The true measure of a successful workshop will be marked in the longer term by impact and outcomes. Will practice change to that of the best examples? Will benchmark studies continue? Will gender mainstreaming ensure that these matters are always on the international agenda?

Everyone who took part acknowledged the value of such international cooperation: in research, in action and in declaration and standards. These are vital factors for any group in the criminal justice system. The workshop emphasised how crucially important they are for women, so long the 'Cinderellas' of the system. Now that the needs of women are acknowledged, the central issue remains the need to respond to them appropriately and with a central basis for policy, rather than one formed without evidence.

All those involved with the workshop, and especially those who gave papers and presentations, wish to record their appreciation of the formidable task undertaken by the staff of HEUNI in organising the workshop and providing support throughout. Our thanks especially to Terhi Viljanen, Natalia Ollus and Sami Nevala.

Keynote Speech

Women in the Criminal Justice System¹

Julita Lemgruber²
Director
Center for Studies of Public Security and Citizenship
City of Rio de Janeiro
Brazil

This paper addresses a few of the most important issues related to the theme of Women in the Criminal Justice System and suggests areas of research which urgently need to be dealt with. This is not an attempt to explore these issues thoroughly but to stress a few basic questions, frequently overlooked, and also to emphasize the need for gender mainstreaming within the criminal justice system.

Women in prison: an overview

Women generally average 50% of the population in different countries and still only 5% of the prisoners.³ Nevertheless, in most countries the female prison population is growing very fast and in some regions of the world much faster than the male prison population. In countries such as the United States and England the number of women in prison is growing at double the rate for men.

The growth of female criminality has been the focus of numerous studies and although explanations for the phenomenon have varied over time, it is now accepted that the larger participation of women in different spheres of life resulted in new opportunities, including opportunities for committing crimes, and that a harsher sentencing climate in many countries and a different approach to women criminals within the criminal justice system has also contributed to these changes. It is often argued that policemen, prosecutors and judges are less prone today to overlook some of the less serious crimes committed by women and this is certainly an area which needs being researched.

On the other hand, it is also argued that *dark figures* (the difference between the number of crimes committed, calculated from victimization surveys, and the

-
- 1 I would like to thank HEUNI for inviting me to give the keynote speech in the workshop “Women in the Criminal Justice System” which took place during the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in April 2000, in Vienna. This paper transforms the presentation (in Powerpoint) into text form.
 - 2 Julita Lemgruber, a sociologist, is director of the Center for Studies of Public Security and Citizenship in the city of Rio de Janeiro, Brazil, former director of the prison system in the state of Rio de Janeiro and former Ombudswoman for the police in the same state.
 - 3 For a general view of women in prison around the world see Vivien Stern, *A sin against the future*, Penguin Books, London, 1998, Part Two.

number of crimes which come to be known by the police) may be much greater for women than for men, since a lot of women crime occur inside the home.

Studies of the female prison population in various countries show that tough drug laws have had a profound impact on the growing number of women in prison, although women in the drug business hold peripheral positions and often go to prison because of the involvement of male relatives or partners, or because they are used by drug dealers as *couriers* taking drugs from one country to another, often for very small amounts of money. In the United States, the number of women incarcerated for a drug offense rose 888% from 1986 to 1996, in contrast to a rise of 129% for non-drug offenses.⁴ In Rio de Janeiro, Brazil, 20% of the women in prison in 1976 were in for drugs as compared to 47% in 1997.⁵

It has also been emphasized that since women hold peripheral positions in the drug business, very rarely can they bargain their way out in countries having *plea bargain* strategies, because generally they do not have inside information. Where the police is frequently very corrupt or unofficially exchanges freedom for information, which is the case in Brazil, women in the drug business are also in a very unfavorable situation: besides not having information that counts, they do not have large amounts of money to satisfy greedy policemen. Investigation is also a must if we want to understand the dynamics of this relationship in various countries.

Who the women in prison are

Basic characteristics of female prison populations are similar across countries and, as a general rule, apply equally for male prisoners. Thus, like men, women in prison are mostly under 30 years of age, overwhelmingly poor, uneducated, unskilled workers and likely to be unemployed at the time of arrest. Minorities are over represented both in women and male prisons. In most countries women are in prison for a nonviolent, property or drug offense: they are in for those crimes known as “crimes of poverty”. When a violent crime is committed, it is mostly against someone close to them.

In some countries in Southeast Asia there is a very high number of women in prison for murder. Such is the case of India, where a large proportion of women are in prison for murdering their spouses after years of domestic violence and a lot of old women are deprived of liberty for killing their daughters-in-law, on account of dowry disputes.

In contrast to men, women in prison are often single parents, most have dependent children, they are less likely to be repeat offenders and between 1/3 and 2/3 were physically or sexually abused prior to being in prison. Research by the National Institute of Justice in the United States showed that 43% of women inmates had been physically or sexually abused before admission to prison as compared to only 12% of men.⁶

4 Marc Mauer, *Gender and Justice: women, drugs, and sentencing policy*, unpublished paper, 1999.

5 Julita Lemgruber, *Cemiterio dos Vivos-analise sociologica de uma prisão de mulheres*, Forense, Rio de Janeiro, 2nd edition, 1998.

6 Morash, Bynum and Koons, *Women offenders: programming needs and promising approaches*, National Institute of Justice, Research in Brief, August 1998.

Since women are often single parents, their children are more likely to end up in foster care as compared to male prisoners. The study mentioned above also found that more than two-thirds of women in prison had children under the age of 18 and among them only 25 %, versus 90% for the men, said their children were living with the other parent.

It should also be noted that as far as HIV infection and mental illness studies in different countries show, the rates are higher among women as compared to men in prison.

Special attention should be given to the hidden costs of incarceration in the case of women prisoners - this is an area of study and research which needs a lot of investigation. It is very difficult to measure the cost of prisoners and different countries employ different methods. Although it is not difficult to agree on a number of variables that should be added up to calculate the cost of a prisoner, there are several kinds of expenses which are often not considered. There are also hidden costs that are very difficult to measure and a good example, concerning female prisoners and their small children is what happens to the children that are separated from their mothers and end up in foster care. A thorough followup study of these children's lives would probably help us measure some of the hidden costs of incarcerating mothers who are single parents and have dependent children, although it is already known that children in foster care have increased risk of delinquency and are more likely to be incarcerated in the future.

Prisons for women

Prisons are basically designed for men and their rules and regulations are defined by men. Since women are always a much smaller proportion of prisoners everywhere, they most often occupy a separate or adjacent unit in a male prison and subjected to the same general rules that end up not addressing women's specific needs or interests. Having to share space with male prisoners and being a minority group means there are fewer programs for women and limited recreational facilities, including fewer hours outside their cells.

In many countries where there are prisons for women only, these are single units in a very large geographical area. Sometimes there is only one women's prison in the whole country and many different kinds of prisoners are mixed together. Thus, geographic isolation, being far away from one's home, means less visits and more abandonment. Bearing in mind that women often have dependent children, isolation is a much harder burden on women. Since there are so few female prisoners, medical, educational and vocational programs very rarely meet their needs as they are basically designed for male prisoners.

It is widely accepted that the stigma associated with criminality is far greater for women. In some countries, stigma and shame extend to the family and women criminals are rejected by their families and the community. What was believed to be true in 1864 still seems to hold today: "when a woman has thrown

aside the virtuous restraints of society, and is enlisted on the side of evil, she is far more dangerous to society than the other sex.”⁷

During my years dealing with women prisoners I have often heard about men telling children that their mothers had died when they were incarcerated⁸ or that a mother does not have “the right” to be a criminal but a father does. Once I even heard a staff member mention that a woman criminal who is a recidivist should be sterilized and not permitted to bear a child. When asked what kind of action he would take with a man criminal and recidivist he plainly stated that men are different.

Women who commit crimes are actually viewed as having committed a double infraction: they have dared to challenge the laws of the land and they have also challenged the laws of the family by refusing to fulfill the expected role of “good wives and mothers”. They are thus submitted to a double punishment: they are deprived of their liberty, just like men, but they are more closely observed, controlled and punished inside prisons. There is also more discrimination, as far as conjugal visits, and as a general rule the reinforcement of passivity and dependency is a common characteristic of female prisons.

All of the above issues help point out the extreme urgency of gender mainstreaming as far as prison policies are concerned. Moreover, when we deal with programs of rehabilitation, it is never enough to insist that they also have to be gender-specific to account for the issues of stigma and rejection by the community.

Prison authorities often justify there being no programs specially designed for women by saying that there are so few women that it is not economical to meet women’s specific needs. It is very clear that women in prison have different needs from those of men and it is even clearer that in this area gender parity means different treatment. The simple fact that women prisoners have, in much larger numbers, dependent children and a history of sexual and physical abuse, are more likely to have been or to be involved with drugs and to suffer from mental illnesses, should be enough to justify programs which are tailored to tackle issues.

Women as foreign nationals in the prison system

Transnational organized crime affects all regions of the world and it has largely contributed to a significant increase in the numbers of women offenders as foreign nationals in the prison system of many countries.⁹ They are basically drug couriers, often called “mules”, are paid very little and are practically abandoned when caught by the police.

While in prison they face very particular problems, not being familiar with the local language and not understanding formal and informal prison rules, and thus,

7 Dobash, Dobash and Gutteridge, *The imprisonment of women*, Basil Blackwell, Oxford, UK, 1986, page 109.

8 This is a common occurrence in many countries. For the United States, see Jean Harris, *Stranger in two worlds*, Macmillan, New York, 1986.

9 In Rio de Janeiro, Brazil, only 1% of the female prisoners were foreigners in 1976 as compared to 11% twenty years later.

linguistic and cultural isolation means added burdens in an already difficult situation. Most often these women prisoners are thousands of miles away from home and they will serve their entire sentence without ever receiving a visit.

Generally there is no support from the country of origin or from the host country and they end up with no effective legal assistance. Mostly because of their illegal status it is very difficult to obtain some of the legal benefits easily granted to nationals and in some countries, like Brazil, it is almost impossible for foreign nationals in prison to be granted parole and progression of regime.¹⁰

Trafficking in human beings

Over one million women and children are trafficked each year. There are estimates indicating that this is a multibillion dollar business generating between five to seven billion dollars each year and is the third largest source of profit for organized crime. Nevertheless, the trafficking in human beings tends to be regarded as less serious than trafficking in drugs and fire arms.

Women are involved in this activity both as victims and as offenders although very little research has been done to establish the extent of the participation of women in recruiting other women that end up trafficked into the sex industry or in selecting children who are also trafficked to different countries.

There are no accurate and reliable statistics on trafficking in human beings mainly because most of those who are trafficked are never detected by immigration authorities and most countries do not regularly collect related data. On the other hand, the threat of deportation usually prevents women who are victims from seeking help from governmental authorities.

Efforts should be made urgently so that different countries work out similar definitions as to what is considered trafficking in human beings, legislation is drawn up to deal with the issue accordingly and the public is informed of the magnitude of the problem.

Women as victims: the issue of domestic violence

Research on domestic violence has been systematically undertaken in the United States, Canada and Europe since the 1960s. In many areas of the world, and Latin America is a good example, nothing was done until twenty years ago and in some countries data on domestic violence is still quite unknown. Victimization surveys specifically designed to investigate violence against women are not common and comparative analysis between countries is very difficult due to different definitions or even lack of definitions of domestic violence, violence against women or gender-based violence.

It is a well-established fact that violence against women is underreported for various reasons: the woman who is abused is frequently very much ashamed to

10 Depending on the crime, parole is granted in Brazil when either half of the sentence or three-quarters have been served. Progression of regime is granted at different times, considering the nature of the crime and the behavior of the prisoner, and it means that time may be spent outside the prison for working, studying or visiting the family.

she is often threatened by her male partner not to do so and she fears the economic implications of the arrest and conviction of a breadwinner. On the other hand, where the police does not receive specific training as to how to deal with domestic violence, it may happen that a policeman will not register a case of violence against a woman because he feels it is a family matter.

Nevertheless, campaigns have been launched in many countries to raise public awareness on the issue of gender-based violence and domestic violence. As it gains more visibility, more people learn to recognize these forms of violence as crimes, tend to report them more and, consequently, official rates go up.

It is generally accepted that every third or fourth woman in the world is abused by her husband: in some countries these numbers result from well-conducted surveys, in others they are suppositions and the scenario may be much worse.

A lot of very detailed and impressive information on domestic violence is collected in the United States and it has been reviewed by Barbara Soares¹¹:

- in the United States one out of seven women is a victim of physical aggression;
- one woman is battered every 15 seconds;
- women are the victims in 95% of the cases of aggression by a partner;
- everyday 4 women are killed by their husbands;
- the length of a prison sentence for men who kill their partners (wives, girlfriends, etc.) averages 2 to 6 years, while for women who kill their husbands, boyfriends, etc., it averages 15 years;
- only 18% of the cases of rape and sexual assault that victimize American women are committed by strangers;
- women who are victims of domestic violence are more physically hurt than those that are attacked by strangers.

Recent research in Latin America has indicated that in some countries women are victims of domestic violence in very large numbers. Twelve percent of the women interviewed in Santiago, Chile, and 28% of those in Managua, Nicaragua, admitted to having suffered severe physical violence. In Mexico, research conducted in 1992 found that 33% of the sample had been battered and 20% of those had been beaten while pregnant.¹²

There is no doubt that serious efforts must be made to decrease the vulnerability of women to being victims of violence. This will only be fully achieved when discrimination against women is eliminated and we are entitled to the full range of rights in a society: civil, social, economic, political and cultural. But it is also clear that some actions must be taken immediately if we are to produce short-term results. Bearing this in mind, it is important to admit that effective strategies and campaigns to reduce domestic violence will only produce results if we have reliable quantitative and qualitative data and also data that may serve as grounds for comparison between countries.

11 Barbara Soares, *Mulheres invisíveis*, Civilização Brasileira, Rio de Janeiro, 1999.

12 Maria Teresa Traverso, *Violencia en la pareja*, Banco Interamericano de Desarrollo, Washington, 2000.

Themes for research as a final word

There is a lot of research to be developed on the themes covered here. Among them, a few should be stressed since various questions remain to be answered:

A. In the area of women criminality

1. *Does the substantial increase in the rates of incarceration of women reflect an equal substantial increase in the number of crimes being committed or does it reflect a different attitude towards women within the criminal justice system in various countries?*

Here there is need to crosstabulate data from arrest rates and the number of prison sentences with victimization surveys. Qualitative research must be undertaken: in-depth interviews with people who “operate” the criminal justice system (policemen, prosecutors, judges) is a must. Investigation into the practical results of a harsher sentencing climate and how the numbers reflect changes in criminal justice policies is decisive.

2. *How is the profile of female criminality changing?*

In many countries there are no historical series available to track changes through time and efforts must be made to develop such a data base. From an international perspective, it is vital to establish some of the striking changes that have been going on and how general a phenomenon it is.

3. *Are dark figures higher for women?*

The fact that most female crime occurs inside the home suggests that this is true but it must be investigated. On the other hand, if it becomes a proven fact that dark figures are indeed higher for women, we may have to admit that general crime rates for women are not that much different from those for men.

4. *Have tough drug laws produced similar results in different countries as far as the increase in women prisoners is concerned?*

See the second page in this text.

B. Women prisoners/dependent and small children

1. *What are the most appropriate arrangements to deal with small children of female prisoners? Are there ideal age limits for a child to remain with her mother in prison?*

In this area a lot of qualitative research is long due and some comparative analysis between countries that employ different strategies to deal with this issue is urgent. In Great Britain research showed that the cognitive and motor development of young children who spent four months or more with their mothers in prison was retarded.¹³ In most Latin American countries children stay with their mothers until 3, in Russia and Poland also until 3, in Sweden until 2. In the United

13 Andrew Coyle, *The prisons we deserve*, Harper Collins, London, 1994, page 49.

States women are generally separated from their babies after one or two days and the reasons given for this kind of policy have to do with security risks and management problems - there is no concern for the well-being of the babies or their mothers. What is the best age limit for a baby to remain in prison with the mother? What is the best arrangement? Nobody really knows.

2. *Comparing hidden costs of incarceration for male and female prison populations*

See the third page in this text.

C. Domestic Violence

1. *What are the best police strategies in dealing with violence against women?*

The creation of special police units (precincts) in the last few years in some of the 26 Brazilian states has proved very successful as far as dealing with violence against women, basically domestic violence and rape. Often staffed by specially trained policewomen, these precincts have grown in number, mostly in Rio and Sao Paulo. In the latter, there are already more than 200 of these units spread throughout the state. Besides registering and investigating cases, some of these special units work together with different governmental and non-governmental agencies in an effort to keep the women safe from being further abused. Critics of the strategy say that a service such as this should be offered in each and every precinct. What is the best approach? No doubt some research in this area would help clarify these issues.

2. *What are the best penal responses in dealing with violence against women, more specifically domestic violence?*

Different countries deal with men involved in violence against women, most specifically domestic violence, in different forms. In some countries, very rigid legislation ends up keeping women who are abused from speaking out and registering their complaints. Whenever the male partner is the only breadwinner in the family, the fear of his arrest, conviction and ultimately serving a prison sentence, contributes to impunity. In a few countries there are creative and alternative ways of punishing men who are guilty of an act of violence against women, mainly when he is not a recidivist, and the most effective strategies generally mix community service, as an alternative to prison, with psychological treatment or even experimental theater. And it is never enough to insist that arrests may actually increase violence against women, so urgent research is needed.

3. *International surveys on violence against women*

HEUNI is already planning an international survey, with a standardized questionnaire and the same methodology for participating countries, which is the only way to produce data that will allow for substantive comparison

D. Women as practitioners in the criminal justice system

1. *How does the rapid growth in the number of women in different careers in the criminal justice system affect public policies?*

Qualitative research is the only way to determine the influence of the growing number of women as policewomen, prosecutors and judges on public policies.

2. *Is it true that women judges tend to be more rigid when judging women offenders as compared to men that commit crimes?*

Qualitative research on the subject would help clarify the generally accepted knowledge, in some countries, that women judges and women prosecutors are much harsher when dealing with women criminals.

There is no doubt that a lot of research needs to be undergone in the area of women in the criminal justice system and the above suggestions point to just a few. The fact that various United Nations institutes are presently involved in the effort of researching and reducing violence against women and trafficking in human beings is a most significant initiative that merits a coordination governmental and non-governmental human and material resources if it is to be successful.

Framing statement

Noël Brennan
Principal Deputy Assistant Attorney General
United States Department of Justice
Office of Justice Programs
United States

Good afternoon. I am honored to participate in the Tenth United Nations Conference here in beautiful Vienna and to address this distinguished audience. As a Deputy Assistant Attorney General in the part of the United States Department of Justice that does research and development on crime and justice, I have particularly enjoyed the conversations with my colleagues and the researchers and practitioners gathered here. Our discussions have been productive and I hope they will continue beyond this conference.

I want to thank the European Institute for Crime Prevention and Control for inviting me to participate here in this workshop – and the opportunity to help foster the international exchange of knowledge about issues related to women in criminal justice. I particularly want to thank Terhi Viljanen of the Institute, and the Institute staff for their enormous effort in coordinating and putting together this Workshop.

Overview

My charge this afternoon is to set out the framework for the discussions during this Workshop. In my remarks, I will aim to accomplish two objectives: first, I will briefly provide you with some thoughts on issues related to women in the criminal justice system from an American perspective; and second, I will describe how gender issues pose unique challenges for all of us working on crime and justice issues. However, having said this, we all know gender issues are not detached from crime prevention and criminal justice and cut across all the workshops of the Congress.

In the United States, we have seen heightened attention to issues of women and crime. Yet despite the advances of women, we still face great challenges in the U.S. on issues of women and girls and in bringing strategic thinking and coordinated effort to the national, international and transnational arena. This Workshop offers a significant opportunity to discuss some of the important issues that cut across our national boundaries.

About the Office of Justice Programs

Before I talk about some of these issues from an American perspective, I should first explain the unique federal role in addressing crime in the U.S., as well as the

function of my own agency within the Department of Justice – the Office of Justice Programs. Ninety-five percent of criminal cases are handled at the state and local level in our country. And for the past 30 years, our federal government has provided funding to encourage innovation in state and local criminal justice systems. This year my agency – the Office of Justice Programs – will administer nearly 4 billion dollars in Federal grants to state and local agencies, and non-profit organizations – an amount that has increased from \$900 million just six years ago.

We provide federal leadership in developing the nation’s capacity to prevent and control crime, improve the criminal and juvenile justice systems, increase knowledge about crime and related issues, and assist crime victims. We provide funding for law enforcement, prosecution, courts, probation, parole, victim advocacy, crime and violence prevention, drug abuse treatment and prevention, prison construction, numerous community-based problem-solving initiatives, and research on a range of criminal justice and juvenile justice issues.

Women in Criminal Justice - An American Perspective

Much has changed in the United States experience on issues related to women in criminal justice in the last five years. In the U.S., the topic of women and crime is the subject of much attention. This is due, in part, to several factors. First, women have assumed leadership positions in all three branches of our government. Second, women are a significant voting block and this can influence political discourse. Third, unfortunately, greater numbers of women and young girls are becoming involved in crime. And finally, this Administration in the United States has placed a priority on issues related to women and children.

I’d like to take a moment to outline some of our specific priorities as they relate to issues we will be discussing over the next day-and-a-half.

Experience with Women Offenders

With respect to women offenders in the U.S., we have seen in the last decade an enormous increase in both the number and proportion of them. In the last 10 years, the arrest rate for women grew by 158 percent – nearly three times faster than for men. And even though the incarceration rate for women continues to be far lower than for men, the number of women in state and federal prisons has risen more than fourfold since 1980.

At the same time we haven’t done a very good job of gearing the justice system, services, or programs to meet the special needs of female offenders – needs that are often quite different from their male counterparts.

Twenty years ago, working in corrections reform I saw first-hand how few programs existed for women. This situation has changed some but huge unmet needs exist. To address some of these problems, we at the U.S. Department of Justice have undertaken a number of research and development efforts to look at the particular needs of women offenders in the criminal justice system. These have included a nationwide survey of women offenders, a survey of programs for women offenders, reviewing how our states are dealing with female juvenile

offenders, and convening a national symposium on women offenders – a national conversation – that involved criminal justice officials, women’s and victims’ advocates, and others responsible for policy decisions regarding the women offender population – focusing on the range of issues and challenges we face in this area. Recommendations from the symposium are being incorporated into our spending priorities.

We are making progress. We are learning what needs to be done, but the challenges in this area remain large.

Efforts on Violence Against Women and Trafficking

Combating and preventing violence against women is a priority issue for this Administration in the U.S. The level of violence against women in my country is unacceptable.

With the rise of the victims’ and women’s movements over the last two decades, and the growth of many local efforts, increasing attention has focused in our country on violence against women. And with research pointing the way, we have made substantial progress in the United States over the last few years.

One major achievement at the federal level in our country has been the passage of the Violence Against Women Act – which was part of major federal legislation in 1994. It contains important federal legal protections for victims of domestic violence and sexual assault, toughens penalties for sex offenses, and provides funding to support research and development of state and local comprehensive approaches to address spouse abuse, sexual assault, and stalking.

Since the passage of this law, the federal government has distributed nearly 1 billion dollars in funding. With these funds, law enforcement, prosecutors, victim advocates, and service providers are working together in their communities to build comprehensive efforts to protect victims of domestic violence, sexual assault, and stalking, while at the same time holding offenders accountable for their abusive behaviors.

The work to stop violence against women continues with the benefit of research and the experience of the efforts made by hundreds of communities.

In a recent hearing on trafficking before the United States Senate, one witness testified that between 50,000 and 100,000 women and children from Asia, Latin America, and Eastern Europe are brought to the United States each year. In the area of trafficking, the United States, through the Department of State and the Department of Justice, has undertaken a number of efforts focused on the prevention of this activity, the protection of the victims, and – the prosecution of the traffickers. They include:

- work with other countries on developing economic opportunity and social development programs for women in source countries;
- providing assistance to other countries for services to trafficking victims;
- working to get assistance to victims in the United States; and
- enhancing efforts to prosecute and enforce against traffickers, working both within the U.S. government and with other countries.

We are making progress but, here too, the challenges remain substantial.

Research as a Priority

Over the past few years at the U.S. Department of Justice, we have made research a priority. Research is a critical component of every major effort we support, such as those efforts on violence against women, child abuse and neglect and juvenile delinquency.

We have worked to create knowledge and share information by expanding research and development, integrating research into our programming, fostering research-practitioner partnerships, and ensuring that criminal justice policy and practice is based, to the greatest extent possible, on the results of sound research and evaluation.

Establishment of International Center

Finally, I'd like to briefly note that the U.S. Department of Justice – through the Office of Justice Program's National Institute of Justice – has created an International Center to coordinate our international activities. This Center is headed by Dr. James Finckenaue, who is serving as the Rapporteur for this Workshop. I'd like to thank Jim and his staff for their work in coordinating this panel and for the work they do in maintaining OJP's international relationships on crime and justice.

Workshop on Women in Criminal Justice - Introduction

Now I would like to turn to the issues for our discussions over the next day-and-a-half. On a personal note, during my preparation for this Congress, and most importantly in my conversations with many of you over the past few days, it has become clear that we struggle with so many of the same problems and issues related to women as offenders and victims. Women are often not treated with equal emphasis by a system that was not created by women or with women in mind. Because we confront common problems, I believe we can learn from each other as we explore strategies in addressing these issues.

During this Workshop we will explore the theme of "Prevention of Crime and Treatment of Offenders" from several perspectives including research and policy on women in the criminal justice system, women as offenders and prisoners, women as victims and survivors and women in the criminal justice system. We will have the opportunity to hear from many criminal justice researchers, practitioners, and policy makers who have substantial expertise from which we all can benefit.

Women as Offenders and Prisoners

The number of women offenders is growing.

Women offenders have needs as the principal caretakers of minor children. These women often have been victims, with significant histories of sexual or physical abuse – abuse which often began when they were young. They often

have drug and alcohol problems – like male offenders – but we know that the treatment needs of women are different.

Most women are non-violent offenders; often they are serving time for drug or property offenses. Economics typically plays a role in their criminality. Women offenders face unique issues related to housing and homelessness, employment, health and mental health.

The different circumstances of female offenders point to the need for different program approaches and perhaps even the application of different theories for managing for them. But the plain fact is that programs for females are still too few and far between.

Even where services are available, too often they are considered in a vacuum without consideration of the other services being provided or the individual who may be receiving them. Coordination and integration of services is more efficient, but the benefit, in human terms, is immeasurable.

Women as Victims and Survivors

Women around the world are victims of gender-based violence. This violence takes many forms – intimate partner abuse, trafficking, sexual assault, female genital mutilation, to name a few.

The Ninth U.N. Congress in Cairo noted that domestic violence is one of the greatest problems in crime worldwide. Reports from that Congress highlighted surveys showing that 25 percent of the women in the world are violently abused in their own homes. In the United States, it was found that domestic violence is the biggest single cause of injury to women, accounting for more hospital admissions than rapes, muggings, and road accidents combined.

Across all types of violence against women worldwide we see a resistance to reporting – for a range of reasons. These include threats by the abuser, fear of stigma, cultural values, lack of confidence in the justice system, and language barriers. Special barriers exist for immigrants such as language and communication problems, as well as a lack of information about the criminal justice system or the availability of victim services.

Ending physical and sexual violence requires long-term commitment and strategies involving all aspects of a society – the criminal justice system, health and mental health professionals, community organizations, faith-based organizations, social services, employment, housing, and so on. There is a great need for education in this area on the issues of violence against women – for policy makers, law enforcement, prosecutors, and the judiciary. We cannot underestimate the role of education in the formation of policy on women and criminal justice.

Women in the Criminal Justice System – International Challenges

Violence against women is a problem of worldwide concern that touches women as victims, survivors, and offenders. It poses challenges for all of us nationally and internationally.

Trafficking in women and girls has become one of the fastest growing criminal enterprises in the world and this increasingly serious problem is having an impact on all nations. Reports estimate that one to two million women and girls are trafficked annually around the world for the purposes of forced labor, domestic servitude, or sexual exploitation.

Traffickers in women, much like narcotic traffickers, operate boldly across international borders, using modern means of communication and trade. They lure victims with advertisements and false promises of jobs as nannies, waitresses, sales clerks, and models. It is a modern form of slavery frequently involving force, deception, and coercion. Sometimes women start their journey by choice. Seeking a better life they are lured by local advertisements for good jobs in foreign countries at wages they could never imagine at home. Women become goods and services in an industry without national borders and are treated as moveable property.

We know from our experience in the U.S. that statistics on trafficking are difficult to assess because so much of the activity is underground and victims are kept hidden. In addition, victims have much to lose if they come forward. They fear retaliation from their traffickers if they flee, arrest and deportation if they are aliens who have entered the country illegally, or prosecution if they have engaged in unlawful activities. Some victims who may want to come forward to return home face not only violence against them or their families but also stigma in their home communities if they were forced to work as prostitutes.

These factors make the investigation and prosecution for trafficking difficult in any country. Effective enforcement of trafficking laws requires national attention and interagency coordination at the federal level as well as at the regional, state, and local level. Additionally, coordinating enforcement at the international level is also essential to the prevention, investigation, and prosecution of trafficking.

Criminal justice systems around the world face several challenges in providing services to trafficking victims. The needs of trafficking victims are immediate and often extensive or complex. For example, most need to be provided with shelter, medical care, and culturally appropriate mental health counseling; minors may need assistance completing their education and job training. Finally, issues around the provision of services may result in no services being provided to victims or services are provided, but they are inadequate.

With the issue of trafficking, there is the added complexity in that our countries often approach those who are victims as offenders – such as for immigration violations and prostitution. As a result, those arrested often do not receive the assistance they need.

Trafficking is an area which we must approach nationally and internationally from both a criminal justice and human rights perspective – both in order to enforce and prevent the underlying crime involved and to protect the rights and meet the needs of those who are victimized and exploited.

Research and Policy

The challenges I have discussed so far may raise varied responses, yet we can all agree that there are major gaps in what we know in all of these areas. There is a tremendous need for more information on women and crime. This need exists for us nationally and internationally – particularly in the context of transnational crime.

Because we confront common problems, we also must share information about strategies to address them. And research plays a critical role – in partnership with criminal justice practitioners – in identifying effective crime control strategies. Crime and justice in a changing world demands partnerships between research and practice and policy at a level unprecedented in the past.

As researchers, policymakers and professionals in criminal justice, we have the responsibility to ensure that the crime policies, laws, and programs in our countries are based on what we know from research and evaluation and not on politics. We must use our work, our research, our practice, and our voices to ensure that criminal justice policies around the world do not fall victim to “subjective and unstructured wisdom”, but are based on sound, scientific data and knowledge and documented experience.

The goal of integrating research and practice into criminal justice policy is essential for the future of crime control worldwide. One of the critical challenges I see for the international research community in criminal justice – and this is especially true for issues related to women and crime – is to help refocus the debate on crime in legislatures and other policy-making institutions worldwide. We need to educate our policy makers. Decisions about resources, programs, and practices need to be informed and governmental leaders need to understand more about the needs of women as victims and offenders.

Conclusion

I know I have just touched the surface and I hope you have found some of these thoughts and observations helpful as we proceed into our discussions. This Workshop provides an important forum for the exchange of ideas on the wide range of issues related to women in criminal justice. Strategies designed to prevent and control transnational crime or, indeed, crime in general can succeed only if they take into account the underlying issues of women whether as offenders or victims or as practitioners in the criminal justice system.

We have achieved much, but we have far to go. You have my commitment that the Department of Justice will continue to cooperate with you on the challenges these issues pose to all of us.

Thank you.

MODULE 1:

Women as Offenders and Prisoners

Introduction

Moderator
Christine Alder
Reader and Associate Professor
Department of Criminology
University of Melbourne
Australia

The imprisonment of women for transnational crimes is the focus of the three papers in this section. Women imprisoned away from their homelands for such offences face particular problems. However many features of their situation are shared by most women in prison, who are in general from the most economically and socially disadvantaged groups in society. The majority of women in prison is under 30 years of age, has dependent children, is unemployed, and is relatively low educational attainment. In general, their offending is related to their economic circumstances.

Overall, women constitute a relatively small proportion of all criminal offenders. Their offences consist predominantly of less serious forms of property crime and rarely constitute a violent threat to the community. Consequently, women constitute a minority in most prison systems that are predominantly designed, organized and administered with the predominantly male population in mind. Reviews and evaluations of women's imprisonment consistently identify problems with inadequate/inappropriate health services (especially in relation to pregnancy) and more limited access to programs than men. Separation from her family and particularly her children, and anxiety about their wellbeing are major issues for women prisoners in many countries. The stigma associated with criminality is far greater for women than for men; communities are often far less forgiving of a criminal woman. Women may not only be rejected by their community but also by their families. A major concern is the significantly disproportionate number of women of ethnic and racial minorities who are in prison around the world.

Women convicted of transnational crimes are often imprisoned away from their homelands. These women, along with other women of ethnic and racial minorities, face particular problems as a consequence of not speaking the language, including understanding the formal and informal rules of the prison. They are confronted not only by linguistic and cultural isolation, but also by racism from both staff and other prisoners and may be separated by great distance from their

children. Programs and services need to be implemented to meet the needs of the increasingly culturally and racially diverse women's prison population.

Three separate investigations by Amnesty International, Human Rights Watch and the Special Rapporteur on Violence Against Women, have identified significant abuses of women's human rights while in custody. Attention is drawn to the rape and sexual abuse of women in prisons by male prison guards. Each report recommends that states should fully implement the Standard Minimum Rules for Treatment of Prisoners, which include calls on governments to prohibit custodial sexual abuse and provide prisoners with an effective means of complaint.

As illustrated by the three papers in this section, addressing the situation of women in prison requires action at many different levels. Somebody's Daughter Theatre involves working with women in prison. While Maud Clarke argues that producing drama has significant benefits for the women themselves it also facilitates public expression of their voices, thereby breaking down barriers between women inside and outside of prison. Working specifically in the interests of women imprisoned away from their homelands, Olga Heaven describes the work of Hibiscus in addressing the immediate needs and circumstances of the women in prison. Hibiscus also works to bring about change in broader government policies and practices in both the country in which the women are imprisoned and their countries of origin. In drawing attention to women's participation in the international trafficking in women for the sex industry, Alda Facio points out that not only do we know little about this phenomenon, but any understanding of it will need to take into account broader structural factors relating to economic, social, religious, cultural and political contexts. We hope that these papers will both inform and inspire the development of further actions in the interests of the many and diverse women who are imprisoned around the world.

Working with Women Prisoners from Jamaica, Columbia and West Africa in the United Kingdom: Recognising the Special Needs of Foreign Nationals

Olga Heaven
Director
Female Prisoners' Welfare Project
HIBISCUS
London
United Kingdom

Introduction: Imprisoning Gender

Honourable chairperson, distinguished guests, fellow participant, the Female Prisoners Welfare Project and HIBISCUS are deeply honoured that you have invited me, their director, to share experiences in this very important area of working with women in the criminal justice system.

The female Prisoners Welfare Project was set up in 1986 to cater for the special needs of women in prison. Women were helped to maintain contacts with their families, especially dependent children; with obtaining their rights within the criminal justice system; and educated on how to cope with the demands of life within prison, so as to reduce stress and the likelihood of re-offending.

Gender: Nationality, Race, Class and Ethnicity

Experience gained from working with large numbers of women prisoners revealed the special needs of particular groups of women. Gender problems were compounded by class, ethnicity, race, and nationality. Women prisoners were disproportionately from the poorest classes in society, and from ethnic minorities, who constituted nearly 25% of the prison population, but less than 5% of the general population.

The women with the most special needs of all, however were foreign nationals arrested mostly for acting as drug couriers, who constituted a significant percentage of the total population of prisoners. The derogatory and dehumanizing term 'mules' indicates their special status even within the confines of the prison. As poor, foreign women they became the pariah focus of gender, class, racist, and xenophobic prejudice.

Isolated, stressed, cut off from families and friends thousands of miles away, ignorant of their rights, inarticulate, intimidated by an alien and unsympathetic system of officials, they have the profiles of victims, whatever criminal offences they might have committed. Faced with these conflicting realities HIBISCUS was set up in 1991, as a branch of the Female Prisoners' Welfare Project (FPWP) to:

1. provide advocacy services for foreign women in the criminal justice system;
2. provide and help maintain family links with children and other relatives;
3. provide information for pre-sentence and Home Circumstance report; and
4. enlighten women prisoners, personnel in the criminal justice system, government agencies and the general public on the real causes of their crimes, and the most humane and effective ways of correcting them.

Over the years since its establishment, HIBISCUS has focus on the following special needs of foreign women prisoners in UK prisons:

- a. to keep in touch with children and other family members: 90% have children (average 3.5), mostly young and are particularly stressed by the fact of being sole providers as single parents;
- b. to cater for the material needs of these children in societies with poor or non-existent systems of social welfare;
- c. to obtain fair and humane treatment in the criminal justice system: although first offenders, most receive very harsh custodial sentences because of ignorance of their personal social circumstances, institutional racism, xenophobia, and the fixed tariffs established by Lord Lane, based on the quantity and purity of the drugs, which were meant to act as deterrents;
- d. to learn their rights and how to obtain them, principally their rights to competent counsel of their choice;
- e. to sensitize personnel in the criminal justice system to the different cultures, religions, languages, and dietary preferences of foreign women;
- f. to acquire education and skills to aid rehabilitation and reduce the probability of re-offending;
- g. to have human contacts: foreign women are isolated in prisons that are spread all over the UK in closed regimes because of long sentences, far removed from embassies of their countries, and communities of their fellow nationals who could visit them; and
- h. to have forums to discuss their problems: HIBISCUS holds regular (weekly, fortnightly, or monthly) meetings in most prisons where foreign women are held.

Home office Data indicate that the majority of foreign women prisoners are held for drug offenses, and come predominantly from Jamaica, West Africa, South Africa, and Columbia.

On the 30th of December last year the number of foreign prisoners in England and Wales, either serving a prison sentence or on remand was 4,664, out of which 1,735 persons of European nationality. The total prison population in 1990 was 45,636, in 1996 it was 46,889 and at the end of last year 63,500 prisoners. Over this period the number of foreign prisoners has risen by 44%.

The experience of FPWP/HIBISCUS confirmed this, and most of the findings on special needs listed above are derived from Jamaica, West Africa, and Columbia.

Case Studies: Women in Jamaica and Nigeria

The social conditions of women in these two countries in West Africa and the Caribbean, ostensibly so different on the surface, share similarities which help explain their participation on the drug trade. Nigeria, a country of almost a million square kilometers, with enormous human and material resources, have a population of over 100 million, consisting of over 250 ethnic groups. The majority groups are the Hausa, Yoruba, and Ibo.

Most of the Nigerian women in prison are Yoruba and Ibo, the most educated, urbanized, and independent of the major ethnic groups in the society. The Southern Ibo and Yoruba women have much greater economic responsibilities in running the household and taking care of the children.

Jamaican women, being from a very small and poor country, share some of these characteristics. In the conditions of slavery and colonialism in Jamaica, economic pressures on men left an even greater responsibility for bringing up children on women.

The economic crises in Nigeria and Jamaica had far greater impact on women, who tend to be unemployed, employed part time, employed in the informal sector, or in low-paid, marginal jobs in the civil service, light industry, and services. Depression, recession, inflation, serial devaluation, and austerity programs rendered the precarious situations of single mothers into catastrophes for themselves and their children.

Many of the Nigerian women come from the slums of huge, chaotic cities such as Lagos and Enugu, while the Jamaicans come from the ghettos of Kingston, called 'garrison' constituencies because of tight control by political thugs connected to the main political parties.

Many of the women complained of coercion by these 'dons', the dons who took control of the ghetto communities during the political troubles of the 1970's when the CIA used guns and drugs to create a class of political criminals who later developed into the 'Yardies'. Some women showed signs of bruising caused by forced enemas to ease the insertion of drugs.

HIBISCUS officers in Kingston and Lagos employ experienced social workers to keep in touch with the families of the women, provide information on their well-being, and assistance with school fees, food, clothes, and rent. In addition our workers prepare Pre-sentence and Home Circumstances reports to assist in trials and parole hearings.

In London FPWP/HIBISCUS holds regular meetings with prisoners, liaise with officials in the prison service, probation, customs, and immigration, as well as with defence lawyers. HIBISCUS also arranges visits to their nationals for High Commission staff willing to speak to their imprisoned citizens.

Within our limited resources, FPWP/HIBISCUS also helps with necessities such as phone cards, luggage, clothes, and transport fare on release. We also as-

sist in smoothing the process of deportation to avoid released prisoners serving an additional sentence in immigration detention centers.

The Power of Information

One of the most important function performed by HIBISCUS, however, is to provide information to prisoners, government officials, and the general public to help them make fair, objective, and decisions in the politically and socially sensitive area. One of the reasons for the sad treatment of these mostly first time offenders is the hostile climate of public opinion created by the media.

This largely right-wing media pursues its own agenda which is racist, xenophobic, and anti-women, and aimed to deter third world immigration and the promotion of women. The sensational covering of poor, foreign, women drug couriers with a few grams of cocaine hide the fact that tons of drugs are imported by rich, organizers mainly men in HGVs, ships, trains and planes.

The Jamaican and Nigerian media generally take the lead of their British counterparts, adopting a very hostile attitude because of the negative image created for their countries by the shameful manner in which the drugs are often concealed. Public opinion therefore tends to be biased against these women, unlike British women drug couriers imprisoned abroad.

The women themselves tend to be ignorant of the fate awaiting them in the UK, which has the toughest drug laws in Europe, and which target poor, uneducated black women with new passports. Although not all the women can be believed, it is true that some were unaware that they were carrying drugs.

HIBISCUS' strategy has therefore been two-pronged, aimed at government functionaries to counter the biased media, and at the women to make them aware that smuggling drugs create problems, not solutions, to their poverty and special needs. Contacts with policy makers meeting and other consultation initiatives also help to create a more accurate picture of the problem.

Through personal contacts, workshops, seminars, films, interviews, letters, and poster campaigns in the UK, Nigeria and Jamaica, Hibiscus has had some influence on how women prisoners are treated here, and some impact on deterring some women who might have otherwise tried their luck. Many prison officers, the probation services, judges, and immigration officials now have a more realistic perception.

Jamaica, with a democratic government, has been very receptive to approaches about its nationals: its High Commissioner and his staff have paid very useful visits to the prisons, and there is evidence that the government is attempting to control the 'dons' and dismantle the 'garrison' constituencies in West Kingston. There is also evidence that the message is getting to some potential women recruits to the drug trade.

Nigeria is far more problematic. Government officials remain very hostile to the women, refuse all contact with them and, through Decree 33, threaten to jail them when they serve their sentence aboard and are deported.

HIBISCUS' film 'Mules' shown today, made by the BBC about Nigerians couriers in 1994, had a very profound impact in Nigeria. Nigerian women saw

the suffering of couriers in prison, the conditions of their abandoned children in Lagos, and also that the regime's 'war' against drug was a sham. Many women were deterred and the regime forced to take meaningful action.

By targeting the drugs barons instead of the couriers, the problems were dealt with at the source. The numbers of Nigerian women couriers in prisons here have dropped as pressure on the barons, including imprisonment and asset seizures, drove them to Ghana and South Africa.

At the same time the numbers from Jamaica have risen, raising questions as to whether a democratic Jamaican government is finding it more difficult to target drug barons through the courts, or by applying existing laws which allow them to seize the expensive cars, real estate, and laundered money of the dons.

Conclusion: Looking to the Future

The ideal future for a charity like FPWP/HIBISCUS, is one in which there is no women in prison, making our continued existence unnecessary. Until that happy time we shall continue to do what little we can to make life more bearable for these women and those dependent on them.

To do so we need continued funding from those individuals and agencies who have contributed generously in the past. In addition to helping foreign nationals in prisons, FPWP/HIBISCUS also gives good value for money. For less than it costs to keep a single women in prison, the Charity runs offices in two countries, rendering priceless services to poor, vulnerable women. If even one woman is deterred from this grim trade, UK tax taxpayers save money.

Thank you.

Trafficking in Women and Children for the Sex Industry: Women's Participation in this Crime. A Contextual Approach¹

Tatiana Cordero and Alda Facio
Women, Gender and Justice Program
ILANUD
Costa Rica

Introduction

We would like to start by saying that this paper is based on a very small research project our program has begun with the support of the Women's Gender Equity Area at UNICEF's Regional Office for Latin America and the Caribbean. The end product of this small research is a grant request for an in-depth project researching women's participation in the traffic of persons for the sex industry. We understand that this crime is committed for many other purposes, such as domestic work, but we felt that not limiting the study to a specific industry or type of exploitation would complicate even further an already very complicated issue.

We would also like to add that our objective is not the criminalization or incarceration of more women, but the need to comprehend more fully this crime so preventive measures can be implemented. Because our program has worked for the past ten years in various women's prison's in the region, as well as on the subject of violence against women, we know that incarceration is not the remedy for ending any social problem.

Having said that, we would like to remind ourselves that traffic in human beings for the sex industry is one of the outstanding social phenomena marking the 20th Century which explains why there is an ever-growing body of research on this topic. Unfortunately, much of this research is not done from a gender perspective which results in the treating of the women involved in this crime as passive victims who are not permitted to participate in the search for a solution to the problem of trafficking. Much research is also done without understanding that the construction of gender plays the most important role in what men and women perceive as "erotic" or sexual. Our program is convinced that this crime should always be analysed from a gender, economic and historical perspective from both the receiving countries and the sending countries of the persons being trafficked as well as those participating in this crime, including in this category not only the traffickers of both sexes but the male clients as well as the role of the me-

1 This article was originally written in Spanish. It was translated into English by Marcos Bogan.

dia, the pornography industry and, in Latin America, the Hierarchy of the Catholic Church.

Starting with this vision, it is possible to see the magnitude of the traffic in women and young girls throughout the Region, the mechanisms used by the traffickers and trafficking networks, and society's response from the international, regional and national milieus.

Finally, in this paper, emphasis is given to the strategies that must be undertaken to counteract this crime.

Background

After the early eighties, the social phenomenon of the traffic in persons has garnered importance for the international community.

Up to that point in time, human trafficking had been relegated to “white slave trading”, which referred exclusively to prostitution. This can be seen in the treaties and conventions from the first half of the 20th Century: the International Agreement on White Slave Trading of 1904; the International Convention for the Elimination of White Slave Trading of 1910; the International Convention for the Elimination of Traffic in Women and Minors of 1933; and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949.²

From the seventies onward, there have been tremendous changes in the attitudes toward the sex industry, particularly in Europe. On the one hand there are abolitionist policies, and on the other the need for a response to control and regulate prostitution.

According to Licia Brussa, this period is characterised by undercover activities, expansion of the terrain for intervention, a search for new markets, creation of a “corporate” multinational sex industry, penetration of this “sector” into broader activities and formation of international networks, thanks to the structural insertion of these sex industries into each country.³

In addition, changes in the structure of the sex industry in the European countries and its internationalisation at a global level have brought about changes in migration patterns. These two processes necessarily imply that the traffic in persons must be analysed in all of its multiple dimensions.

2 According to Brussa L., the first three Agreements and Conventions respond to a regulatory system while that of 1949 responds to an abolitionist system, see pp. 6-9. “*Rapport sur la prostitution, la migration et la traite des femmes: donnes historiques et faits actuels*” Séminaire sur la lutte contra la traite des femmes et la prostitution forcée en tant que violations des droits de la personne humaine et atteinte à la dignité humaine. Comité européen pour l'égalité entre les femmes et les hommes, Conseil de L' Europe, Strasbourg 1991.

3 Op. cit., p. 32-33.

Labour, Capital and Discrimination: A Complex Weave

Until the Second World War, migration flows tended to be from the North to the South, but in the seventies these streams reverted. At the outset, in Latin America and the Caribbean, the migrations occurred due to dictatorial regimes in the countries of origin, and during the eighties, due to the worsening of the living and labour conditions during the so-called “lost decade”.

It was basically the women, as a result of the feminisation of poverty, who migrated on a voluntary, induced or forced basis in search of employment as domestics, in prostitution or for arranged marriages.

In this context, both the conditions causing the migration as well as those that women must confront once they reach their destination, are the key to understanding their extreme vulnerability. That is, they are “recruited” as cheap labour in the service sector or as sexual objects availed of the least possible rights.⁴ This situation is worsened in the case of young women and girls, since all of their rights are violated.

This reality reveals that there are several social dynamics which determine and influence this human trafficking. Thus it is insufficient to merely tie it to prostitution and leave untouched the particular living conditions of the women and girls from the so-called “Third World” or the construction of male sexuality and the social and religious mores which contribute to the objectification of women and girls.

By bringing trafficking onto the analytical stage, the spectrum of analysis and the treatment of this crime are also expanded. The phenomenon responds to economic, social and cultural systems of logic,⁵ which in turn are bisected by the North-South relationships of power among countries, those between men and women, among racial or ethnic groups and between adults and children.

The Political Economy of Trafficking in Persons

Although there are many different reasons for trafficking (for different services or activities), the existence of a sex industry in continuous growth and diversification, compels the organisations within civil society, nations and the United Nations family of agencies to pay special attention to this type of traffic.

In this sense, the sex industry should be understood as the structuring of the sex trade in its different transnational manifestations (pornography, sexual tourism, sexual exploitation, trafficking in persons for this industry) and their organisation within each national setting.

4 Potts L., cited by Gallardo Gina, “*Historia y conceptualización sobre tráfico y migración*”, a paper presented in the Regional Workshop for Latin America and the Caribbean on Human Rights of Women within the Context of Trafficking and Migration”, Dominican Republic, 1998.

5 Cordero T. “*Situación de la prostitución forzada y el tráfico de mujeres en el Ecuador*”, a paper prepared for the Regional Preparatory Meeting for Latin America and the Caribbean, in preparation for the International Report on Trafficking in Women, San Juan, Puerto Rico, 1996.

The sex industry, although based on social problems, does have an economic basis for those seeking an alternative survival strategy, for those who trade in sex and for those who benefit individually or collectively from this trade. The sex industry in Asia, for example, was based on militarism during the first half of the 20th Century⁶ and later on the tourism industry.⁷ Today, it has grown to become another sector of the economy.⁸

In Europe, according to estimates by the International Labour Organization, trafficking in women represents a movement of around seven million dollars and, according to Anita Gradin, former European Commissioner for Justice and Immigration, involves between 250 and 500 thousand women from Latin America, Africa, Asia and Eastern Europe.⁹

Latin America and the Caribbean: an "Export Zone" for Women and Children?

The internationalisation of capital and the growth of the sex industry are also evident in Latin America and the Caribbean.

The best known centers for sexual tourism are the Dominican Republic, Brazil, Colombia, Cuba and some of the Anglophone Caribbean islands. The best-organised national sexual tourism industries can be found in Suriname, in Curaçao¹⁰ and Panama.

Since the eighties, records show that the largest numbers of women trafficked have been from Colombia, Brazil, Uruguay and the Dominican Republic to the Netherlands, Germany, Belgium, Italy, Spain, Greece and Japan.¹¹

In the nineties, as the sex trade networks grew, living conditions deteriorated in the countries of Latin America and the migration streams increased, with the consequent trafficking in women, including Mexican¹² and Ecuadorian¹³ women.

In Latin America and the Caribbean, existing data for the countries of origin and destination of the women being trafficked, show that the traffic in women and girls for the sex industry is growing.¹⁴ Although there is more data on adult women, it is known that there is also traffic within national borders, among neighbouring countries, within the Region and with adolescent girls.

6 Perpinan S., "Military Prostitution" in *Poverty and Prostitution* ISIS No. 24, 1990-1991.

7 Troung T., *Sex, Money and Morality: the political economy of prostitution and tourism in Southeast Asia*, Zed Books, 1990.

8 Lean Lim L., "The sex sector: Economic incentives and hardships fuel growth" in *World of Work: ILO Magazine*, No. 26, 1998.

9 García M.I., "Comercio Explosivo" in "La economía del sexo" *Perspectivas* No. 14, ISIS, 1994.

10 Kempadoo K., "State Pimping: Regulating Prostitution in the Dutch Caribbean", University of Colorado, USA, 1995.

11 Casas *et al.*, Empowerment Project, 1989.

12 Colimoro C., Paper prepared for the Regional Preparatory Meeting for Latin America and the Caribbean, in preparation for the International Report on Trafficking in Women, San Juan, Puerto Rico, 1996.

13 In Cordero T., *Op. cit.*, p. 2, 1996.

14 ISIS Internacional, Latin American and Caribbean Feminist Network Against Domestic and Sexual Violence, in "En América Latina y el Caribe aumenta el Trafico de Mujeres" Boletín No. 20, 1998.

According to the information from *Pro Niña y Niño de Centroamérica* (Pronice, “In Defence of Girl and Boy Children in Central America”), 2,000 girls were sexually exploited by trafficking networks in 1996, 1,200 were Salvadoran, 500 Honduran and Nicaraguan and more than 300 Guatemalan. Furthermore, the CIMAC organisation has revealed that young women, among whom some were as young as 14 years old, were trafficked from Mexico for the sex industry in the United States offering them promises of safe employment. They were physically beaten and raped when they refused to be sexually exploited or after any attempt at escape. They were even obligated to abort after becoming pregnant, thus increasing the “debt they owed”. This network was discovered after two 15-year-old girls were able to escape.¹⁵

In the Caribbean, in the Dominican Republic, according to research carried out by COIN (Center for Orientation and Integral Research), there is information indicating upwards of 100,000 persons in the sex industry, of whom 25,000 are minors of both sexes. There is no information disaggregated by age for the persons that have left the country. Of this group of 100,000, however, it is believed that 40,000 are outside the country. For this reason, the Dominican Republic is considered the fourth most important country in “female exports”, after the Philippines, Thailand and Brazil.

This data means that the Region has the dubious honour of holding two of the countries with the largest number of women in the international sex industry and that are most susceptible to trafficking in persons.

With regard to the Andean region, as revealed by the sexual workers themselves, sexually exploited young women, and the health services, there is a great deal of mobility among Colombia, Venezuela and Ecuador, and to a somewhat lesser extent on the borders with Peru.¹⁶

Organisation of the Sex Trade and Mechanisms for Trafficking in Persons

The sex industry is one of the most malleable and changing “sectors”. The structures, organisation, methods and mechanisms adapt to the changes in social and economic structures, at the same time that they produce and exhilarate sexual fashions and tastes.¹⁷

Over three decades, the industry has diversified, passing from the small brothel in rural and urban areas, to a globalised industry with particular characteristics in each region. As it diversified, it has taken advantage of all the myths and stereotypes of feminine sexuality, Asian and Latin American Indigenous women as soft and docile, Africans or those of African descent as savages, Europeans and North Americans as liberated and the young ones as the most amenable, “fresh and untouched”.

15 In ISIS, *Op cit.*, p. 13.

16 This data comes from the sexual workers’ organizations and research on sexual exploitation in three cities in Ecuador, developed by the Women’s Communication Workshop, 1999.

17 En Brussa, *Op. cit.*, p. 36, 1991.

Technology has also gone into service, from the national and international telephone sex “hotlines”, to sexual services and advertisements of all kinds on the Internet. In this industry, any sexual practice is possible; it is an industry without limits or borders.

Just as sexual trade has diversified its organisation and structure, the methods and mechanisms for recruiting women and children into the industry have diversified in a similar fashion.

Currently there are three operative methods through large-scale and medium-sized networks and individuals.¹⁸

The first are highly structured and hierarchical, with diverse personnel handling everything from recruitment to the mobilisation of the women and girls from one country to another. They are aware of the possibilities and legal obstacles in the countries of origin and destination, with legal fronts that allow them to carry out the traffic (travel and marriage agencies or tourism and artistic operations). They have some degree of access to the social, political and economic structures of the countries of origin of the women being trafficked; and, in most cases, they even enjoy the complicity of corrupt authorities.

The second type operates in a manner similar to the largest networks. The difference arises from the destination of the women. In the first type of operation, once the traffic has been completed, they sell the women, adolescents and young girls to the sex dealers in the country of destination. The second system recruits them for their own “businesses”.

The third type corresponds to the small organisations that have neither the capital nor the organisational structure to develop the whole trafficking process. Their business is built on the local sex dealers, and the latter are always looking for different ways to keep the traffic going. Until the eighties, the method used was arranged marriages, especially in former Dutch colonies. Due to the tightening of the law on marriage to foreigners in the Netherlands, this method has declined.

Based on research carried out in the Netherlands, Spain, Germany and Italy,¹⁹ after the mid-eighties, another method was discovered for recruiting women and children from the Region into the sex industry, through families, relatives, and friends.

This data is also confirmed by research carried out in Switzerland and the Dominican Republic. Once the woman becomes involved in the sex industry, a “chain migration” takes place. The woman, as a friend or relative that knows the drill, invites her cousin or sister and makes the contacts necessary for the latter to reach her destination. Travel agencies also form a part of this type of informal circuit.²⁰

18 There are different typologies that are used to define the methods for structuring trade in sex. Here we have selected the one developed by Licia Brussa, since we feel that it takes into account the dynamics of its functioning at the international level, see in Brussa, *Op. cit.*, p. 45, 1991.

19 Data from projects carried out by non-governmental organizations, Casas *et al* “Project Empowerment” 1989; Brussa L. and Cordero T. “Calidad de los Servicios de Salud para las Trabajadoras Sexuales, en la ciudad de Alkemaar”, Graaf Stichting 1992; Brussa L. “TAMPEP” 1993, Polonia F. “Fundación Esperanza” 1994.

20 Imbert C., “Tráfico de Mujeres: Visión de una nación exportadora” p. 15, *CE-Mujer* 1994; Rosario S. *et al*, “Trabajadoras sexuales migrantes y no migrantes: características sociodemográficas, condiciones de vida, expectativas y experiencias” COIN, 1994.

Although there is sufficient information to reveal that women participate in all three of the operative methods, we do not have the answers to a series of questions. At what level of power or decision making are these women found? What kind of relationships do they establish with the recruiters or intermediaries? Do they receive some remuneration for their contacts? Or are they induced or forced into this activity by other means. What percentage of the contacts result in traffic? How many of them have been tried by the courts for this type of criminal activity?

What we do know is that from information gathered from women's prisons in the six Central American countries and Ecuador, there are no women incarcerated for the crime of trafficking in persons, mostly because this crime is not included in the criminal codes of most Latin American countries. Nevertheless, we do have some information that reveals that some women who have been trafficked are later used by traffickers to recruit other women into the sex industry. From stories told to us by women who have been trafficked and who have themselves participated as recruiters, we now know that some of these recruiters have been incarcerated for other crimes.

Additional elements in the mechanisms and methods for trafficking in persons involve drug trafficking, as a way of entangling the trafficked groups, or adoptions. Also from stories told to us by women in prison, we know that women participate in the crime of trafficking of women for the sex industry, by presenting themselves as intermediaries for families wanting to adopt a girl child. The sex industry uses women as intermediaries or recruiters because they know that because of the gendered construction of men and women, women are perceived as more trustworthy.²¹ In fact, most of the trafficked women from the Dominican Republic say that they were first contacted by an older woman who presented herself as a motherly figure interested in promoting the careers of the younger women.

Society's Response in the Face of Trafficking in Women

Starting in the seventies,²² women's and feminist organisations placed the topic in the limelight, and since then, they have nourished the concept, the analysis and the rights of the individual in the face of this crime.

In spite of the fact that this social phenomenon was a part of a growing social awareness from the seventies onward, it was only in the nineties that it was defined as a type of modern-day slavery²³ (forced labour and slave practices) and violence against women.²⁴

21 In Brussa, *Op. cit.*, p. 36, 1991.

22 VENA Newsletter: "Traffic in women", Volume, 1, Nr. 2, 1989.

23 GAATW et al, 1996, Informe sobre Tráfico Internacional de mujeres, para prostitución, trabajo doméstico y matrimonios arreglados.

24 Acosta Vargas G., "La prostitución forzada como fenómeno global desde una perspectiva de los Derechos Humanos: Caso Colombia". Paper prepared for the Regional Preparatory Meeting for Latin America and the Caribbean, in preparation for the International Report on Trafficking in Women, San Juan, Puerto Rico, 1996.

Thus, once again the concepts of human dignity, freedom and non-discrimination proposed in international and regional instruments²⁵ are brought to the forefront, and women and children²⁶ are protected in a special way against this type of crime.

The most important efforts in the international and regional milieus have been those of the Council of Europe, the Governments of the Netherlands and Belgium, the United Nations System and international organisations in defence of women and children.

The Council of Europe called a consultative meeting in 1991, with experts from different continents to approach this problem. The Dutch Government, furthermore, given the increase of “Third World” and Eastern European women trafficked to Holland, has held consultative meetings throughout the decade with experts from NGOs, in order to reach a policy to prevent trafficking.²⁷

In 1996, in Stockholm, Sweden, an international meeting was held on the Commercial Sexual Exploitation of Young Boys and Girls, and in Brazil, during the same year, there was a regional meeting.

The United Nations has played a fundamental role during the nineties with regard to trafficking. It was the topic of the 16th Session of the Task Force on Contemporary Forms of Slavery, which gave rise to a Proposed Plan of Action for the Prevention of the Traffic in Persons and Prostitution of Others. In 1994, by means of Resolution 49/166, the General Assembly condemned the traffic in persons and in 1996, the Human Rights Commission implemented the proposal of the Task Force on Contemporary Forms of Slavery.²⁸

The Vienna Conference on Human Rights in 1993 is a significant landmark in the trafficking topic, since it redefines the concept of Human Rights. The Conference recognised for the first time that the rights of women and girls are Human Rights,²⁹ and that violence in the private and public spheres is an attack against these rights. Within this context, trafficking is understood as a form of violence directed specifically against women.

The Fourth World Conference of Women in Beijing, in 1995, is another important moment. In this Conference, trafficking was expanded to encompass its new meaning, i.e., not just linked to prostitution, but to other forms of trafficking and slave practices.

In both conferences, through their Plans of Action, international cooperation is encouraged and the Governments are encouraged to adopt the necessary measures to eliminate trafficking. The Beijing Platform for Action includes a broad spectrum of actions. It takes into consideration the countries of origin, transit and

25 Universal Declaration of Human Rights, 1948; American Declaration of the Rights and Duties of Mankind, 1948; American Convention on Human Rights (Pact of San José), 1969; Convention on the Elimination of All Types of Discrimination Against Women, 1979; Additional Protocol to the American Convention on Human Rights on Matters of Economic, Social and Cultural Rights (Pact of San Salvador), 1988.

26 Convention on the Rights of the Child, 1989; Inter-American Convention to Prevent, Sanction and Eradicate Violence Against Women (Convention of Belem do Pará), 1994.

27 The last meeting was held in the Netherlands in 1997: European Conference of NGO's for presentation to the Ministerial Conference of the E.U.

28 See Wijers M. and Lap Chew L., “Trafficking in Women: Forced Labour and Slavery-like practices in Marriage, Domestic Labour, and Prostitution” p. 22. International Report presented to the Special Rapporteur for Violence Against Women, STV/GAATW, Utrecht-Holland, 1997.

29 Point 18 of the Vienna Declaration and Program of Action.

destination, as well as regional and international organisations, in order to contribute to an approximation to the causes of the traffic in women and children. It also aims to strengthen national legislation to improve the protection of women and children and to punish the perpetrators.³⁰

During the 90's, both the International Organization for Migration and the International Labour Organization begin to approach the topic, but the difficulty lies in that the different forms of trafficking are not included and the terminology of trafficking in women is not used.³¹

The Special Rapporteurs on Violence (1997) and on the Sale of Children, Child Prostitution and the Use of Children in Pornography (1996) of the Economic and Social Council of the United Nations constitute an irreplaceable reference framework and a significant contribution in the fight against trafficking in persons and forced prostitution. These two rapporteurs have aided in defining both these social phenomena in a broader sense and in formulating appropriate actions.

Finally, there is a vast framework of rights established to protect and guarantee the rights of the trafficked women and children. In particular, these include the Convention on the Elimination of All Types of Discrimination against Women (Art. 6), the Convention on the Rights of the Child (Art. 34-36) and at the regional level, the Inter-American Convention to Prevent, Sanction and Eradicate Violence Against Women (Convention of Belem do Pará)(Art. 2).

But in this growing knowledge about traffic in persons, there is very little on women as the offenders and not the victims. We think that until we know more about this, trafficking of women for the sex industry will continue to grow. We need to know all the facets of this crime in order to prevent it from expanding. Again, only by analysing the facts from a gender perspective will we be able to know how this crime is committed. The way this crime has been treated in the past shows that most researchers think of women mostly as passive victims instead of as agents who can and do participate in this and other crimes.

Conclusions and Recommendations

In Latin American and the Caribbean, the traffic in women and young girls is a social phenomenon on the increase. However, any efforts carried out are centered fundamentally in the receiving countries, and in particular European ones and most policies focus on the victims of trafficking, leaving out the male clients, the men and women who voluntarily work for the sex industry, the police and other functionaries who directly or indirectly affect this international crime, etc. Most policies leave untouched the sexual mores and the social, cultural and religious values which promote or tolerate these types of crime .

Within the Region, the efforts are isolated or respond to initiatives that are not based on requirements defined by the Region itself. In this sense, an initiative arising from the Region is indispensable, to give account of itself in this specific context in a more articulate manner. There are still missing aspects and impor-

30 Platform of Action, Strategic Objective D 3, paragraph 130.

31 See Wijers M., and Lap Chew L., *Op. cit.*, p. 27-28, 1997.

tant lacunae in the analysis of this social phenomenon, as well as significant weaknesses in understanding the dynamics of the traffic in women and young girls within the Region and between continents.

Most of the data concerns adult women, and there is but fragmented knowledge about the realities of adolescent and young girls.

The characteristics and type of participation of women in these crimes is another missing piece of the puzzle, although their participation is evident when making reference to the mechanisms of labour contracting or recruitment. This is the piece that the Women, Gender and Justice Program would like to focus on because it is within our mandate to work with women who are incarcerated or who have been criminalized. Nevertheless, in order to focus on these women we need to understand the whole problem.

From this perspective, it is important to approach trafficking in women and children for the sex industry in the Region from a contextual focus, taking into account the structural factors. These are the economic, social, cultural, sexual and political aspects that configure this international crime, its causes and consequences and the process whereby women participate in this crime.

We at ILANUD are really looking forward to getting funding for qualitative research on trafficking in women and children for the sex industry in the countries or localities of origin, transit, and destination. Research will compile and analyze national policies from each country and make a comparative juridical analysis of national legislation and definitions utilized for the traffic in women and children by NGOs in the region so that we can all talk on the same level. But we hope this research will be only one piece of a broader project which will look at other factors as well. One that is usually overlooked is male sexuality. Why do men want sex with a woman or child who does not voluntarily want sex with them? Why do women collaborate with men in this crime? Why do officials at all levels of government give such little importance to this social problem? Why doesn't the Hierarchy of the Catholic Church, which is so active against any effort at sexual education in our region, take a more forceful stance against this crime? What is the link between pornography, trafficking in women and children for the sex industry and prostitution? In our region at least, is there such a thing as voluntary prostitution?

Also, given the ongoing difficulties and contention with regard to the 1949 Convention on Trafficking in Persons and Prostitution of Others, since many women and scholars think it is victimising, discriminatory against women in prostitution and insufficient to combat the traffic in persons, a key aspect to finding a solution is the promotion of debate and discussion within the Region on this Convention and its scope. To not discuss the significance of this Convention for each Region would be to leave untouched this reality that affects the women and children from each region or continent in a particular manner.

These are all questions that have to be addressed if we are to prevent this crime from spreading. Hopefully, there will come a day when sexual relations can be voluntary ones between two equals and not the exploitation of those made more vulnerable by the structures which discriminate human beings because of their economic, racial, gender, ability or any other status. I sincerely hope that each and every one of us will find the will to stop these atrocities.

Bibliography

- Acosta Vargas G, "La prostitución forzada como fenómeno global desde una perspectiva de los Derechos Humanos: Caso Colombia". Paper prepared for the Regional Preparatory Meeting for Latin America and the Caribbean, in preparation for the International Report on Trafficking in Women, San Juan, Puerto Rico, 1996.
- Brussa L., "*Rapport sur la prostitution, la migration et la traite des femmes: donnes historiques et faits actuels*" Séminaire sur la lutte contra la traite des femmes et la prostitution forcée en tant que violations des droits de la personne humaine et atteinte á la dignité humaine, Comité européen pour l'égalité entre les femmes et les hommes, Conseil de L' Europe, Strasbourg, 1991.
- Brussa L. and Cordero T. "Some elements for consideration in drafting a Policy to Combat Trafficking in Persons". Paper presented at the International Symposium of Experts on the Traffic in Persons, organised by the Netherlands Institute of Human Rights, 1992.
- Brussa L. y Cordero T. "Prostituzione in Olanda", *Sicurezza e Territorio*. No. 14, 1994.
- Casas et al, "Here one gives one's life", Empowerment Project, 1989.
- Colimoro C., paper prepared for the Regional Preparatory Meeting for Latin America and the Caribbean, in preparation for the International Report on Trafficking in Women, San Juan, Puerto Rico, 1996.
- COIN, Ferreira Francisca. "Prostitución y tráfico de mujeres en República Dominicana". Paper presented at the Encuentro Regional del Caribe, Centro y Sudamérica, organised by the Fundación Contra el Tráfico de Mujeres", República Dominicana, 1996.
- Cordero T. "La prostitución forzada como fenómeno global desde la perspectiva de los derechos humanos: Caso Colombia". Paper presented at the Regional Meeting on Trafficking in Women and Forced Labour in the Caribbean, Central and South America. Puerto Rico, May 24-26, 1996.
- Euro-Info, "Sexual Tourism: what do the Europeans think? Communication activities by the EU to combat tourism affecting children", Brussels, 1998.
- Díaz, E "Turismo y prostitución en Cuba". Facultad Latinoamericana de Ciencias Sociales Programa Cuba. 1996.
- Gallardo G. "Historia y conceptualización sobre tráfico y migración". Paper presented at the Regional Workshop for Latin America and the Caribbean on "Human Rights of Women in the Context of Trafficking and Migration", Dominican Republic, 1998.
- García M.I., "Comercio explosivo" in: "La economía del Sexo", *Perspectivas* No. 14, ISIS, 1994.
- Imbert C., "Tráfico de mujeres: visión de una nación exportadora", p. 15, CE-Mujer 1994; Rosario S. et al, *Trabajadoras sexuales migrantes y no migrantes: características sociodemográficas, condiciones de vida, expectativas y experiencias*, COIN, 1994.
- ISIS, "La economía del sexo", *Perspectivas* No. 14, 1999.

- ISIS, "En Latinoamérica y el Caribe aumenta el tráfico de mujeres", *Boletín* No. 20 Chile, 1998.
- ISIS, "Poverty and Prostitution". *Women's World* No. 24, ISIS, Geneva 1990, Articles: "Children and Prostitution" and "Military Prostitution".
- Kempadoo K., "State Pimping: Regulating Prostitution in the Dutch Caribbean" University of Colorado, USA, 1995.
- Lean Lim L., "The sex sector: Economic incentives and hardships fuel growth" in *World of Work: ILO Magazine*, No 26, 1998.
- Perpinan S., "Military Prostitution" in *Poverty and Prostitution*, ISIS No. 24, 1990-1991.
- Truong T., *Sex, Money and Morality: the Political Economy of Prostitution and Tourism in South East Asia*, Zed Books, 1990.
- Vena Newsletter. "Traffic in Women", p. 2, Volume 1, No. 2, 1989.
- Wijers M. and Lap Chew L. "Trafficking in Women: Forced Labour and Slavery-like Practices in Marriage, Domestic Labour, and Prostitution" p. 27-28. International Report presented to the Special Rapporteur on Violence Against Women, STV/GAATW, Utrecht-Holland, 1997.
- Universal Declaration of Human Rights, 1948.
- American Declaration of the Rights and Duties of Mankind, 1948.
- American Convention on Human Rights (Pact of San José), 1969.
- Convention on the Elimination of All Types of Discrimination Against Women, 1979.
- Additional Protocol to the American Convention on Human Rights on Matters of Economic, Social and Cultural Rights (Pact of San Salvador), 1988.
- Convention on the Rights of the Child, 1989.
- Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women (Convention of Belem do Pará), 1994.
- European Conference of NGOs for presentation to the Ministerial Conference of the E.U.
- Vienna Declaration and Programme of Action.
- Beijing Platform of Action.
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949.
- Report of the Special Rapporteur, Radhika Coomaraswamy, On Violence against Women, Including its Causes and Consequences, Human Rights Commission, Economic and Social Council, UN, 1997.
- Report of the Special Rapporteur, Ofelia Calcetas Santos, On the Sale of Children, Child Prostitution and the Use of Children in Pornography, Human Rights Commission, Economic and Social Council, UN, 1995.

Somebody's Daughter Theatre: Celebrating Difference with Women in Prison; Positing a New Model - Other than Prison

Ms Maud Clark
Artistic Director
Somebody's Daughter Theatre
Victoria
Australia

I no longer believe in the necessity of prisons, I see the model of 'prison' as archaic and totally ineffective, the system itself simply reinforcing and compounding issues that have brought women to prison.

My understandings come from working directly and intensively with women prisoners and ex-prisoners in Melbourne in theatre for 20 years. In this work I have witnessed the power of theatre to activate questioning about current structures and policies that directly impact on women and to posit other possibilities other than prison.

When I first went into prison as a drama student over 20 years ago I only knew what I had been trained to believe about prisons and prisoners. It took me some time to understand what prison actually does to women and how important it is to our society for people like me to believe in the myth of the necessity of prison and the necessity of keeping 'prisoners' separate. These myths about prison and prisoners are the only way such abuse of fellow human beings can be tolerated.

But most importantly, I had no idea that I believed the myth that prisoners were *different* to me, that somehow they were *different* from 'normal' women and that this belief defined me as not being one of 'those' women. Being not one of 'those' women gave me power and protection. Believing prisoners were 'different' meant I was safe and that what happened in the prison world was OK.

It is actually a body memory for me when I realised that I held this prejudice – I was standing in a circle of women prisoners in a workshop and knew that I was not different, that the women standing around me were not different, that in fact I could be them. It was a frightening and a defining moment and I recognised that the bottom line was that I had not seen these woman as equals. This realisation made me suddenly unsafe.

Over the years I have come to understand just how unsafe being one of 'those' women can be. Back then, I didn't even know that there was such a thing as a strip search or being urined, naked; I had no comprehension of the devastation of separation from those you love – and, if I'd been told, I wouldn't have recognised it because it was happening to them and they were different, they somehow wouldn't feel it in the same way as I would. When I realised I was no different it

meant I or anyone I knew could be a prisoner, it forced me to confront the brutality and inhumanity that is the life of a woman prisoner.

This memory is important because in the main the people who control these women; the decision makers that determine the laws and conditions that keep our prisons in operation and audiences who do not question the necessity of prisons believe as I used to. There are beliefs and expectations that go with the label prisoner, crim, junkie, murderer that separate these people from being woman, lover, mother, sister that keep us from seeing the person and keep us comfortable with the fact of prisons. There is a belief that somehow women choose to be prisoners and that in the same way that women have made choices to arrive at the prison, that these women will have choices when they are released.

Also the women in the prison expect those that work with them will carry this belief of difference/separation, they do not expect to be met equally – and in most cases they are right.

Also I have come to understand that for most women in the prison system this ‘separation’ has started many years before they came to prison, and that this ‘separation’ in the main affects the poorest and most vulnerable in our society. We punish our most powerless.

For transnational prisoners the separation, prejudice and isolation that they suffer in effect places these women in a prison within a prison. They are isolated because of race, language and culture – the stereotyping and separation that happens to these transnational prisoners based on ‘difference’, in fact happens to all women prisoners.

Of course the separation for women from other countries is much harsher and more clearly underlined. I think of a Japanese woman who was in prison for 3 months before a dictionary was procured. From the moment she had been picked up at the airport, throughout police questioning, court proceedings, to sentencing and imprisonment not only was there no-one that she knew, there was no-one that she could talk to; it was many months before she was able to communicate. Most women brought straight from the airport to prison are couriers.

There have been a number of Lebanese women imprisoned, two have been released recently, one imprisoned for 9 years; she had 5 children, 5 children she did not see for 9 years. The other was imprisoned for 7 years, in that time her father died, her mother died and her daughter grew to be a young woman. When her mother died she lost any connection with her daughter through phone or letter as the fathers family shunned her. At the end of their sentences these women were driven to the airport and deported.

In Melbourne, Vietnamese women are placed together because they look the same and come from the same general geographical area, it is presumed they will understand each other, will want to be together, that it will be better for them to be together. In fact it is simply easier for the system for them to be clumped together and in doing so it isolates this community more from the mainstream of the prison hence strengthening already strong prejudice. This presumption that these women want to be together is wrong – often there is great conflict – e.g. with women from North and South Vietnam huge tensions exist.

It is the same set of presumptions operating when we clump women together in prison – there is the presumption of sameness. In the same way that prejudice

against the Vietnamese women grows in the prison community because of this isolation, in the wider community outside of the prison our perceptions of prisoners similarly become more distorted because women in prison are so isolated.

The understandings that in fact unite women in prison come from their shared experiences of separation, of disempowerment, of the continual physical abuse they face daily in the prison environment.

Prison management is able to discriminate against women from other countries because they have less power in the prison community and therefore they are usually more compliant. A Vietnamese woman has her day leaves reduced from 8 hours to 2 hours, the next week the day leave is cancelled altogether. This would not happen to more vocal members of the prison population. Again it is exactly why our prisons still operate – prisoners have no voice in our current structures.

The decisions made that control these women's lives are based on the world views and experiences of individuals who have no comprehension of the experiences and lives of the women concerned.

What real understanding do we have of the woman who is a courier when that is the only way she can feed her child, or the woman who has killed the violent partner that has abused her for years. What understanding of the woman who steals or prostitutes for the money to pay for her drugs, who has been abused since she was a child and finds it impossible to function without deadening the pain. When she is placed within the prison she is medicated so highly on medication from the medical centre in the prison that when she is taken to court the judge refuses to hear the case. Women are imprisoned for drug use and are released addicted to psych medication officially administered to them.

A very spirited 25 year old woman, who has been in and out of institutions and prisons since she was 9, was at her work place in the prison when she jumped onto a table and started singing along with the radio, "Never gonna give you up, never gonna let you down" – other women sang with her, the officer in charge was beside himself and sent her out. Within minutes she heard herself called to the medical centre – her medication was increased considerably, immediately. Yet she was imprisoned for her drug use.

So where does theatre fit in and particularly for women from other countries?

To begin, working truly creatively you can't work with inequality. There can be no 'us' and 'them' – working creatively means an equal meeting place. It means really 'seeing' and really 'hearing' someone. This might sound pretty basic and that this is what happens in all human interaction - unfortunately it does not and it is less likely to happen in situations where there is a strong imbalance of power. You have to really 'see' someone to catch the source of their creative spark – to feed it, to nurture it. This is a great privilege because you are actually working with the heart of someone – you are working with soul.

In really 'seeing' and 'hearing' there can be no room for stereotypes, you can play with stereotypes, play with masks but that is all they are; the faces we use to survive. Working with women from other countries this is even more potent because we carry so many conceptions about who someone is based on race; which is exactly the same stereotyping that occurs in belief about prisoners.

Ironically it is through the meeting as unique individuals that true connectedness takes place. When we did the play 'The Malways' a number of Vietnamese women performed, they told the story of their journey as 'boat people' to Australia – after the performance the attitude of the prison population had changed from one of prejudice to inclusion.

Theatre is about voice – this is very important in a prison situation where women don't have one. Having your own voice, not someone speaking for you, about you and defining who you are, be it – lawyers, judges, psychologists, policy makers – but speaking your own truth and being heard. As one woman says – 'people are talking about me, my life, but getting it wrong, not saying the truth. It's not me. But I'm not allowed to talk'.¹

A lot of time is spent on breathing, finding your own breath, finding your centre. To breathe deeply puts us in contact with what we're really feeling, for many women this has never been safe – to stay with what they are really feeling.

Much of the work is body work – being in your body, allowing the body to be massaged, allowing the body to run, roll on the floor. Many women have been abused – 80% of the women have been sexually abused and if we look at physical abuse that figure is in high 90s. How often women echo the words, "fly away, numb myself ...I must leave myself Never enter my body".² The first time incest was mentioned was in 1988 at Fairlea in Melbourne. It was thought that it would be best if a woman who had not been abused perform the particular scene. Again I was totally ignorant of the extremity of this abuse. Out of 8 performers 7 were incest victims. After the performance many women in the prison started talking about their own abuse for the first time. The psychologist was inundated. The cone of silence had been lifted.

Theatre work is about being totally inside the body – reclaiming your own body – feeling your cells come alive. Trusting your body, trusting someone to massage your body. This work is extremely potent in an environment where your body is not your own - where it can be invaded with strip searches, handcuffed, observed through cameras.

Theatre is about creating a world woven with women's own stories – that's the bridge, that's the meeting point. Not moving away from who they are, where they have come from but claiming it – not having their experiences dissected for meaning but finding their own knowings.

Many want to dismiss our work in art, music, theatre as 'therapy', therefore it is not real art – not to be taken seriously. In dismissing the work as 'therapy' it thereby diminishes the worth, the creativity of prisoners, again separating these women from ourselves. I am not here diminishing the work of therapists but this is not what we are, there is no pretence of wanting to dissect experiences for therapy but for creation. This is extremely important for the women as there is no judgement, no reporting. It is therapy only in so far as art, music, theatre have been therapy for our communities for centuries and some of the most talented, artists, performers, writers are in our prisons. I cannot tell you how many times

1 Call My Name - Somebody's Daughter Theatre 1994

2 Call My Name - Somebody's Daughter Theatre 1994

people have said – but these people have to be professional actors they can't be prisoners. Why can't they?

Finally and very importantly if theatre is working, audiences will be taken on a journey, they will feel what the character feels, their heart will be engaged their imagination awakened, they will understand the experience not only from their head but the very cells in their body. This is where theatre can activate change and to posit possibilities for structures other than prison. The myths that we hold about prisons and prisoners can be broken down. And if this journey is made with actors who happen to be prisoners or ex-prisoners it is breaking down some very strong world views held by audiences.

I will not only hear but feel what it is for a 17 or a 70 year old woman to stand naked while an officer inspects her body, feel the officers eyes inspect her scars, flinch as she lifts her breasts, separates her legs further. Feel how much harder it is for her if she is bleeding when she has to wee into a jar, naked with her hands in the air. Feel the violation as a 57 year old woman, who was in a domestic violence situation for years, is made to bend over and part her cheeks, repeatedly and then stand as officers stare at the scars on her body, particularly interested in the one that looks like a ships anchor.

In making that journey with her, I am no longer separate and observing, I feel it.

I feel the violation, the rape. As an audience I am likely to find this abuse intolerable and then start to look more closely and discover that 80% of women in prison have been sexually abused. Discover that this abuse is usually extremely violent and usually started in childhood. I might begin to understand that women don't choose prison and gain understandings of the pathways that have led them there. In making a journey with a woman I will feel the devastation of being separated from her children and might come to question why this happens, understand that the children are being punished as well as the mother. I might begin to see that we can accept all of this only if we see these women as different and that they deserve punishment. If I then come to question 'punishment' I might begin to understand that our structures need to be changed. That prison is not an answer.

Theatre does have this power, to illuminate what we could not see before because it is about finding connectedness as human beings. The very connectedness that women in prison have been denied.

A female teacher worked closely with a woman who had had her child with her in the prison for the first three years of her daughters life. It was time for her daughter to leave the prison and her mother still had 4 years of imprisonment. It was only when this teacher came to a performance some 8 years later and made the journey through the performance that she said she understood the excruciating pain of that separation. Last year we performed in Canberra, the DPP came to the performance and immediately went home and faxed every judge and magistrate in the state to say – 'you must see this!' A Federal MP went away from the performance to try to arrange a performance at Government House. They understood that the individuals making decisions about womens lives needed to have some real understandings of their lives. We see it as imperative to work with schools, not only because it might help teenagers who are heading down the

same paths as the women themselves, but also because these are the decision makers of the future, the men and women who are going to be making decisions that will determine the conditions and possibilities of prisoners lives.

Prison does not work, it is a brutalising, archaic system whose violence perpetuates itself. Working in small communities does work – where individuals can be actually seen. In the end it doesn't matter whether a woman is fired by art, music or economics, what matters is that she has real choices, finally what matters is that we are brave enough to try other ways.

An officer came to see the play, "Call My Name" a play exploring women's experiences in prison, the officer came stumbling from the theatre saying, "If this is what I've been doing - it's wrong."

The Video³

This video is about the work of Somebody's Daughter Theatre, a unique Australian theatre company based in Melbourne, Victoria. Somebody's Daughter Theatre works with women in prison and women with a history of imprisonment, presenting theatre productions and exhibitions to the general public both inside and outside of the prison. The central base of the work of Somebody's Daughter Theatre has always been the arts and it is through this medium that issues pertinent to the women's lives are explored.

Somebody's Daughter has established itself both as a unique model for grappling with issues that directly stem from drug addiction and imprisonment and as a powerful new force in Australian contemporary theatre. The company is recognised and respected by not only the arts community, but by the legal, welfare and health professions as one of the truly authentic voices in Australia today which provides, through de-mystification, a public understanding of issues related to drug abuse and imprisonment.

Maud Clark, artistic director, has been working with the company as director/writer since its inception in 1980.

³ Ms Clark's presentation included a video introducing the work of Somebody's Daughter Theatre.

MODULE 2:

Women as victims and survivors

Introduction

Moderator
Noël Brennan
Principal Deputy Assistant Attorney General
United States Department of Justice
Office of Justice Programs
United States

The purpose of the panel on "Women as Victims and Survivors" was to engender a discussion about issues that relate to women as victims and survivors and to share information about some programs around the world that are having an impact in their communities. It is hoped that as a result of this information sharing and raising of awareness that positive action will be taken to respond to the needs identified. The issues touched upon during the discussion cut across all countries around the world.

The discussions at the Congress addressed many large criminal justice and crime prevention issues. What this particular workshop made clear was that strategies designed for crime control and prevention must recognize that women victims and offenders pose quite different challenges from those posed by men. Programs and management approaches for women offenders and victims need to be responsive to their circumstances if they are going to be effective. The four presenters in this module shared their vast knowledge, experience and expertise about issues concerned with women who are victims and survivors. Three of them described in detail their own programs B each of which is designed to meet some pressing needs of women who have been victimized.

The presenters on this panel represented three different countries – the Philippines, India and the United States. They are practitioners who are well-grounded in the real world – confronting on a daily basis the myriad issues that women who have survived violence face in their communities. They discussed how the work of their respective organizations is responding to the needs of survivors of sexual exploitation, trafficking and prostitution – a population of women not always viewed as victims. These victims have a range of profound needs – housing, education, employment, substance abuse treatment and as mothers, to name only a few. This panel examined these issues from an advocacy and program perspective, as well as from a policy perspective.

Prevention, Protection, Prosecution, and Rehabilitation: Advancing the Status of Women Trafficking Victims and Survivors, the Philippine Experience

Catherine P. Maceda,
Deputy Executive Director,
Commission on Filipinos Overseas,
Republic of the Philippines

Madam Chairperson, distinguished delegates,

I am pleased to be given this opportunity to address this workshop on “Women as Victim and Survivors.” My presentation will focus mainly on trafficking of women and children as a global issue that strikes at the core of humanity, gender equality and human rights.

Nature of the Problem

Trafficking in human beings is modern-day slavery at work. It is a manifestation of violence against women. Its victims, predominantly women and girls, suffer the brunt of this insidious form of violence. It is about abuse, exploitation, coercion, deception, abduction, rape, physical and mental abuse, prostitution, forced labor and indentured servitude. It is about high profits and low risks. In certain cases, it is even about death.

Trafficking is a violation of human rights. It is, by the very least, anathema to development.

The Philippines equally shares the concern of the global community over the increasing tide of trafficking. It recognizes trafficking both as a “women’s issue”, and as a transnational crime whose profits feed into the wider spectrum of illegal activities perpetrated by organized crime groups, at the expense of human rights.

Scope of the Problem

Our government’s concern over the issue of trafficking is anchored on the fact that at least seven million Filipinos, or ten percent of our population are currently residing or working overseas.

CFO (Commission on Filipinos overseas) estimates show that there are nearly 7.3 million Filipinos overseas as of December 1999. Almost three million of these are overseas workers; 2.37 million are permanent residents overseas and nearly two million are considered irregular migrants. Women account for at least 58% percent of our regular migrants.

In my agency, we counsel between 14,000 to 19,000 fiancées or spouses of foreign nationals every year. Over 33% of them are matched through pen pal arrangements, pen pal clubs, marriage bureaus, through the Internet, or through public advertisements.

Beyond these seemingly innocent figures lie the fact that some of our migrants are victims of trafficking. How much of them are actually trafficked is something we have yet to clearly establish. On the basis of cases brought to our attention, it is estimated that they are present in no less than 46 countries.

From 1995 to early 2000, the Philippine Department of Foreign Affairs and the Commission on Filipinos Overseas have attended to no less than 690 trafficking victims. There are, of course, thousands more, left unreported.

A review of these cases helped us establish some trends and features of the problem. Allow me to share this with you:

The number of trafficking cases has been increasing, with 1999 accounting for at least 38% of the cases;

- 64% of the victims are women;
- 20% of women victims were forced into prostitution;
- 48% were trafficked to Asia Pacific countries, 29% to the Middle East, and 20% to Europe;
- 42% were forced to work in slavery-like conditions;
- victims paid as much as \$7,000 to recruiters;
- 33% of the victims were repatriated.

The trafficking routes, as we have documented from these cases, are complex. Many of these countries, we have noted, do not have laws against trafficking. For a few that have, enforcement is weak and unsustaining. The absence of “harmonized” sanctions, and the existence of permissive legal regimes along the migration routes, unfortunately, have been capitalized by human traffickers.

Trafficking assumes various forms and character. It can occur through legal or illegal means. Many cases involve coercion and even abduction. Some of the victims were aware of the risks and the pitfalls; others were lured by false promises. In many cases, however, the migrant’s freedom of choice is significantly impaired by economic desperation. In all these cases, however, there is only one indisputable fact – women and children have been sold for profit.

Philippine Response to the Problem

The Philippines addresses the issue of trafficking through four core areas of intervention, namely: Prevention, Protection, Prosecution and Reintegration.

Our government has taken serious efforts to address trafficking in human beings. The United Nations Office for Drug Control and Crime Prevention, in a rapid assessment report it released in November 1999, noted that “considerable administrative and legislative efforts to address problems associated with migration” already exists in the Philippines.

The principles and fundamentals of our programs to promote the well-being of Filipino migrants are enshrined in the Migrant Workers and Overseas Filipinos Act of 1995. To underscore the Philippine Government’s commitment to address the issue of trafficking in human beings, President Joseph E. Estrada issued in March 23 of this year Executive Order No. 220, creating an “Executive Council to Suppress Trafficking in Persons, Particularly Women and Children”.

Our preventive agenda is anchored on promoting growth with social equity and the dispersal of development initiatives. The root causes of our migration problems are founded on limited opportunities for gainful employment at home and we intend to address this.

As part of our preventive agenda, my agency has been undertaking, since 1987, community awareness and information program on the realities of migration.

President Estrada also launched in December 1998 the Migrants Advisory Information System which stores information on at least fifty-nine countries, including its immigration policies, culture, welfare policies and other information of import to prospective migrants. Through this system, we hope to be able to provide accessible and accurate information to the public on the migration laws of other countries.

In today’s world, battles are won not just through numbers. They are won through information and education.

As such, we have systematically integrated “International Migration and Development” as a learning area in the curriculum of primary and secondary students. The Catholic Bishops Conference of the Philippines is actively supporting this initiative through the training of teachers in private schools. To date, we have trained no less than 43,000 school teachers nationwide. We are doing this with the hope that we may educate our youth on such matters as social responsibility, love for one’s country, human rights and other intrinsic values that should make them more responsible citizens of the country and of the global community.

The Department of Foreign Affairs has likewise pursued a more vigorous campaign against passport irregularities. Secretary Siazon announced this January that machine-readable passports and visas are expected to be issued by the DFA this year.

Diplomatic channels have been utilized to advocate for more relevant international instruments to protect migrants. In 1996, the Philippines initiated the “Manila Process” to provide a forum for continuing dialogue among countries in the region on migration-related issues, including trafficking of women and children. Just recently, the Philippines, in cooperation with the United States, hosted the Asian Regional Initiative Against Trafficking Meeting. The meeting produced the Regional Plan of Action Against Trafficking in Women and Children.

Trafficking of persons, as a transnational crime, requires more than just the creative response of one or two governments. Individual efforts of countries will have to be harmonized and coordination among source, destination, and transit countries, improved. Ultimately, it is the collective resolve of nations that will define the outcome of our battle against trafficking.

Our preventive agenda seeks to promote informed decision-making and the empowerment of migrants through information. Pre-departure and pre-employment seminars are extended by the government to departing workers, immigrants and even prospective migrants. More than 200,000 workers and 50,000 immigrants avail of pre-departure seminars conducted by our government every year.

Counseling services are systematically provided, as a matter of government requirement to people in inter-marriages. Through these counseling sessions, would-be traffic victims are easily detected.

We have developed a serial sponsors database that enables us to identify foreigners who traffic men and women abroad under the pretext of intermarriage. An average of 100 individuals are counseled every day by our agency and no less than 400 individuals are on hold, at any one time, due to suspicions of fraud or irregularity in their documents.

As part of our protection agenda, we have heightened our monitoring capabilities through the establishment of information systems such as the case monitoring system. This gives us the capability to monitor the development of specific cases, identify particular action officers, and process data for policy formulation purposes. We have started in February this year, the computerization of trafficking-related cases reported to our Foreign Affairs Department.

To enhance information sharing, sixteen agencies of our government signed in December 1999 a Protocol for the development of the Shared Government Information System. This will allow agencies of our government to share information on migration, thereby enhancing law enforcement capabilities.

As part of our Prosecution efforts, stricter enforcement of special laws related to migration have also been initiated through the assignment of special prosecutors to handle these cases. The Philippine Center on Transnational Crime was established to address the extensive and international character of trafficking. A legislative measure on the suppression of trafficking in women and children has recently been passed by the Philippine House of Representatives on April 4. The Philippine Senate is currently deliberating on a counterpart measure. This bill defines the various acts that constitute trafficking and provide heavy penalties against offenders.

Our Embassies and Consulates are engaged in continuous networking activities with governments and the civil society. It is through these linkages that we hope to be able to promote better coordination on matters involving the arrest and prosecution of traffickers, as well as better treatment for our migrants.

As part of our reintegration agenda for victims and survivors of trafficking, our government provides repatriation assistance. The Department of Social Welfare and Development has also developed a Special Project for Women in Especially Difficult Circumstances. This project aims to enable victims to resolve their problems and be restored to normal functioning. Trafficking victims

suffer from serious physical and emotional effects resulting from their experiences. Medical and health problems are evident in many trafficking victims. Post traumatic stress disorder is common as are intense feelings of guilt, fear, shame, anger, depression, disorientation, betrayal and distrust.

It is important to note, however, that services of this nature will also have to be provided in the host countries. This is where the assistance of the civil society, the NGOs, the business sector and the academe is considered essential.

Conclusion

Madam Chair, distinguished delegates,

A collective approach, both at the national and international level, is an essential and indispensable component of the campaign to address trafficking in women and children, as well as all forms of violence against women. Service providers, community leaders, judicial, law enforcement, medical authorities will have to work together to address the multidimensional and complex problems resulting from violent acts against women and children.

The four core areas of prevention, protection, prosecution and reintegration will have to be simultaneously addressed by existing and future efforts. Any intervention that fails to consider this will be an exercise in futility. An international standard should be developed and adopted to secure the protection and well-being of traffic victims.

Technical cooperation should be pursued, particularly in investigating the extent and forms of trafficking, as well as in the development of skills in the area of investigation, law enforcement, service delivery, and prosecution. It is for this reason that I am pleased to announce the Philippine participation in the UN Global Programme Against Trafficking in Human Beings. The UN Office for Drug Control and Crime Prevention, through the Center for International Crime Prevention and the UN Inter-Regional Crime and Justice Research Institute are cooperating with the Philippine Government as part of efforts to improve the effectiveness of law enforcement functions and criminal justice processes. It will extend technical assistance for capacity building and training among law enforcers, prosecutors and service providers. The program is also looking at ways to support the other institutional initiatives that I have covered in my discussions earlier.

Policies that encourage civil participation and cooperation from trafficking victims in the prosecution of traffickers will have to be developed. The present restricting environment which discourages trafficking victims from escaping from their conditions of abuse and vulnerability will have to be modified to one that facilitates cooperation and promotes empowerment of victims of violence. Laws will have to provide penalties against traffickers, including provisions for the confiscation of earnings or profits to compensate victims and survivors of trafficking. At the same time, laws should ensure that trafficking victims are not further stigmatized by an insensitive investigation and prosecution process.

Both source and destination countries should provide mechanisms for judicial remedies for trafficking victims. They should be extended witness protection and opportunities to institute criminal and civil proceedings for damages against traffickers. States of destination should make available a system for social support and grant residency permits to trafficking victims on humanitarian grounds.

Madam Chairperson, distinguished delegates,

The tasks seem daunting, but we have no other recourse but to move forward and to move fast.

We have no alternative but to make things happen for the sake of the victims, the survivors and those who may yet be the next victim of this crime against women, children and the rest of humanity.

Thank you.

Trauma and Drug Recovery for Abuse and Prostitute Survivors in the Criminal Justice System

Norma Hotaling
Executive Director
Standing Against Global Exploitation (SAGE)
San Francisco, USA

My name is Norma Hotaling and I am the co-founder of the First Offender Prostitution Program and Executive Director and Founder of the Standing Against Global Exploitation Project, Inc (SAGE). The First Offender Prostitution Program and SAGE was awarded the 1998 Innovations in American Government from the JFK School of Government at Harvard, and the Ford Foundation for the programs that we have created for women and girls who are victims of violence in the criminal justice system.

SAGE is organized by and for survivors of abuse, prostitution and trauma (most of the staff have had criminal histories, severe drug addictions, and were formerly homeless), and within our various programs, we counsel over 350 women and girls per week. Interwoven in the staff are peer and drug treatment counselors, therapists, acupuncturists and social work and therapist interns. The personal knowledge and experience possessed by many of the staff enables us to effectively provide support and engender trust without re-traumatizing even the most fragile of clients. Through advocacy, educational programs, and as a direct service provider, SAGE has assisted in raising public awareness concerning the sexual exploitation of women and girls. SAGE's direct service programs often focus on the most exploited victims who are therefore the highest users of the medical, social, mental health, and criminal justice systems. As a result of our interventions, SAGE has assisted over 700 women and girls in exiting the criminal justice system, escaping prostitution, recovering from abuse and acquiring appropriate services such as medical and mental health care, substance abuse treatment, case management, educational and vocational training.

SAGE is a unique collaboration between law enforcement, public health and private agencies created to shift local government's approach to prostitution, aiding women and girls to permanently exit the criminal justice system. SAGE is a dynamic departure from the previous practice of revolving door arrests of prostitutes with little or no services for women and girls. The former approach resulted in extremely high recidivism rates (80% of prostitutes arrested are repeat offenders), continuing sexual exploitation and violence, and enormous costs to the criminal justice and public health systems. Because the average age of entry into prostitution is 13–14, the issue is not only one of violence against women but also the sexual abuse of children and trafficking in young girls.

Everyday in densely populated, urban areas girls of color, ages 12–17 are lured from our local high schools by violent pimps. Poor and vulnerable Asian and Russian women and girls are smuggled, raped, tricked and coerced by traffickers and organized crime syndicates into the highly invisible, and mobile sex trade that includes strip clubs, escort, massage parlors, brothels and street prostitution. Vulnerable and naive 13 and 14 year-old blond, blue eyed, white girls are brutally and cunningly recruited from our schools, streets, shopping malls of the mid-west and Canada and delivered to major cities all through the US to fill the demand side of prostitution: comprised mostly of educated, middle and upper class men.

In prostitution we witness the fragility of the human mind. We see it brutally manipulated and molded to serve the purposes of perpetrators. Universally we experience the victims being targeted, blamed and punished.

Vanessa who came to us at eighteen said "My pimp knocked me out with a baseball bat. I woke up and he was sewing my head up. He wouldn't even take me to the hospital. How could I get away? He'd kill me first, besides he was all I knew. I had been with him since I was 12."

Through SAGE we shed light on a subject that thrives in darkness, secrecy and silence and shame.

I work with the extraordinarily dedicated team who comprise SAGE and I founded this venture because 11 years ago this month, I was exiting the criminal justice system. I had been going to juvenile halls, jails, psychiatric hospitals, emergency rooms and drug treatment programs since I was 12. No one ever asked me about my life, about prostitution, being beaten, raped or kidnapped. I was just a whore, a criminal. How could I get out? No one ever treated me like a person. No one asked me if I hurt or why.

Like 90% of our clients, I experienced sexual abuse including child prostitution.

Like 82%, I had been brutally assaulted.

Like 84%, I had been homeless.

Like most of my clients, I suffered severe symptoms of post-traumatic stress disorder and I desperately wanted to get out of prostitution and a life that made no sense to me.

Women and girls like myself, if untreated, cycle endlessly, most often until they die, through medical, mental, social services, criminal justice systems as high users, costing cities billions.

San Francisco is the first jurisdiction to ever focus its law enforcement efforts on the demand side of prostitution. The First Offender Prostitution Program (FOPP) of which I am the co-founder with the San Francisco Police Department, and the San Francisco District Attorney's Office has diverted over 3000 customers of prostitutes from the court system to an educational and rehabilitation experience in lieu of criminal prosecution. 98% of the 3000 men remain arrest free. Fees collected from these men fund a full range of services to women and girls who are the real victims of prostitution and sexual exploitation.

Wrap around services for women and girls include:

- prevention
- early intervention

- crisis care
- mentorship
- individual therapy
- language skills
- legal advocacy
- health care
- housing.

Treatment is provided to women such as Kristine, a former SAGE client who now works at SAGE as the Director of Services. And Agnes who provides sexual and physical trauma counseling to over 200 women and girls per week or Leslie who began treatment in jail paid for from FOPP funds. She now co-ordinates jail programs working for the Sheriffs Department. They now pay taxes, have health care, are building healthy families and are giving back to the communities and live lives that matter and are free from abuse.

SAGE has been replicated or is in the process of being replicated in over 25 other jurisdictions in the US, Canada and Europe.

In SAGE we measure success in terms of:

- real outcomes
- real results.

Utilizing the peer empowerment model, former prostitutes provide treatment and support. We achieve dramatic decreases in:

- post-traumatic stress disorder
- depression
- suicide
- recidivism rates
- re-victimization,

and increases in:

- self-esteem
- confidence
- overall health
- ability to take charge of their lives
- get and keep legal jobs
- advance in education
- recover from drugs.

What is harder to measure but is palpable is the

- compassion
- bravery
- courage to survive against all odds
- triumph of the human spirit and heart.

Just imagine what we know to be true:

- She could be your daughter.
- She could be gone: lost forever.
- Ask yourself “How can that be measured?”

Consolidating Protection against Ever-escalating Violation: The Case of Prerana's Intervention for Protection of Rights of Victims of Commercial Sexual Exploitation in India

Priti Patkar
Executive Secretary
PRERANA
Mumbai
India

Paper by Priti Patkar & Pravin Patkar

Introduction

Prerana is a voluntary organization working primarily in the state of Maharashtra in India on the issues of Commercial Sexual Exploitation (CSE) and trafficking for the past 14 years. It started working in the red-light district of Kamathipura Mumbai which is infamous as the most dreaded and largest red-light district in India. Although it started as a school social project, Prerana started responding to the challenges of the situation prevailing in the world of the flesh trade that surrounded the school. Prerana has evolved over time but has retained its basic characteristic of responding creatively to the situations affecting the victims of CSE.

Some of the achievements of Prerana

- Over 715 children have benefited through our Night Care Centre;
- Over 1,000 children have benefited through our Education Support Programme;
- Over 375 children have benefited through our Institutional Placement Programme;
- Over 5,000 women have benefited through our variety of programmes and activities including health intervention, social education, empowerment, nutrition, etc.;
- Prerana insisted that the Government of India and every other responsible body recognize the women and children in prostitution as the Victims Of Commercial Sexual Exploitation (VOCSE). The “Plan of Action to Combat

Trafficking and Commercial Sexual Exploitation of Women and Children – Government of India 1998” is the first national policy and programme of the Government of India on this issue which refers to these women and children as Victims Of Commercial Sexual Exploitation. The intervention programme it suggested is largely based upon Prerana’s activities and acknowledges the contribution of Prerana in this field.

Prerana

- Started the first ever project to eliminate second-generation trafficking of *children into CSE*;
- Started the first-ever Night Care Centre for the children of the red-light district;
- Started the first-ever comprehensive Institutional Placement Programme for the children of women VOCSE in India;
- For the first time in India managed to get ration cards for the women (VOCSE).

Prerana works with

1. a professional, participatory and multidimensional approach;
2. a responsive and responsible manner;
3. consistency of commitment;
4. an evolutionary manner in response to the challenges;
5. creative solutions.

Prerana networks with the Government, NGOs, INGOs, CBOs, other federal bodies, the press and other media, elected representatives and others. Prerana carefully avoids operating through agents of the flesh trade and carefully maintains conceptual clarity.

Women in prostitution are the victims of:

- **certain predisposing factors**, such as poverty, indebtedness, recurrent migration, social uprootedness, community and family disintegration, exploitative social customs, natural disasters, recurrent droughts, marital desertion, widowhood, sexual exploitation (non-commercial, -intra-household or otherwise), employment in a sexual exploitation-prone wage sector, labour market depression and sudden unemployment.
- **certain precipitating factors**: In the majority of cases of VOCSE, force, coercion, deception and fraud were operative, but they are rarely found operating alone. They could become effective in the context of the operation of the predisposing factors. Attributing the phenomenon to or focusing the intervention on any of these factors alone is a mistake.

Prerana is guided by one dominant understanding, i.e. the prevalence of women as victims of CSE and the social reproduction of the phenomenon is an outcome of a complex interplay of several factors. It would be a conceptual error to treat it merely as a law-and-order problem. In the sphere of prevention, intervention in the current situation and social reintegration Prerana operates with this perspective.

Yet another important canon that guides Prerana is that CSE is a social, complex and chronic problem the resolution of which cannot be left entirely to the efficacy of a bureaucracy, an enforcement agency or a few NGOs. The social intervention process to tackle CSE and trafficking has to be socialized. In the unidirectional process of specialization of social tasks, the integration and socialization of social tasks are still ignored.

Prerana admits that there is a serious and widespread lack of political will on the part of the state, the bureaucracy and the enforcement agencies in India. However, we must place on record the fact that commendable sensitivity and performance have been exhibited by a few bureaucrats and police officers without crossing the limits of their mandate and this was mainly due to their personal social commitments and values.

Prerana’s activities:

- Night care centres (NCC)
- Day-care centres (DCC)
- Institutional placement programme (IPP)
- Educational support programme (ESP)
- Non-formal education (NFE)
- Social reintegration programme (SRP)
- Women’s empowerment programme (WEP)
- Health intervention project including HIV/AIDS (HIP)
- Sensitization and training programme (STP)
- Legal training programme (LTP)
- Human rights initiative (HRI)
- Intervention in post-rescue operations (IPRO)
- Anti-trafficking initiative (ATI)
- Anti-trafficking centre (ATC)
(supported by UNIFEM)
- Social-awareness programme (SAP)
- Information clearing house (ICH)
(supported by UNIFEM)
- Networking (domestic and international) (NTW)
- Capacity building and federalization (N&F)
- Research and documentation (R&D)
- Advocacy and lobbying (A&L)
(influencing legislation, conventions, rules, policies and programmes - domestic and international)
- Community animators’ project (CAP)
(supported by UNICEF)

Prerana Field Projects

- Kamathipura red-light district
- Khetwadi (Falkland Rd) red-light district
- Vashinagar (Turbhe) red-light district
- Bhiwandi red-light district

Co-operative projects

- Lonavala Residential Care Centre (with ISC Mumbai)

Founder member and Coordinator of

- NACSET: Network Against Commercial Sexual Exploitation and Trafficking
- FACSE : Forum Against Child Sexual Exploitation

Prerana is a national affiliate of ECPAT International.

Premises of Prerana's Work

These premises are not prejudices or pre-hoc assumptions. Our observations and insights have evolved over a period of 14 years of close and constant interaction with the innumerable women in India who have been found in a lifestyle commonly referred to as prostitution. The observations and insights have consistently converged to evolve into these premises.

- a) The women in prostitution in India are the victims of Commercial Sexual Exploitation (CSE) and are not in the flesh trade out of their free will.
- b) They are trafficked into prostitution as a result of deception, force, compulsion, lure, misguidance, kidnapping, sex scandals, abduction and the nefarious activities of the traffickers and other agents of CSE.
- c) These women do not *choose* to remain in prostitution. They continue to remain there as they are often criminally confined there and in most cases they do not have any feasible, viable, sustained and dignified alternate means of livelihood, protection against re-victimization and/or any subjective hope of social acceptance.
- d) They do not consider life in prostitution as a desirable lifestyle for themselves or for their children.
- e) They are made vulnerable to being trafficked into CSE by their socio-economic conditions such as acute poverty, recurrent migration, natural disasters, recurrent droughts, community and family disintegration, marital desertion, widowhood, non-commercial sexual exploitation (intra-household or otherwise), employment in a sexual exploitation-prone wage sector, labour market depression and sudden unemployment and any event that is in the subjective perception of the person, as well as in the immediate culture of the person which is considered an undesirable and unfortunate situation and therefore a mishap.

- f) Women from the upper class, the upper caste, who are educated and are socially well-exposed, politically well-connected and primarily urban do not constitute the mainstream of prostitution in India.
- g) Women who have had none of these or similar “mishaps” in their life, or even women who have been, in their own subjective perception or in the understanding of their own explicit immediate culture, witnessing “fortunate events and situations” and a sense of accomplishment do not find themselves in prostitution.

This being the dominant reality of the Indian situation, it is incorrect to state that women in India willingly join prostitution, or give consent to being trafficked into prostitution, or choose to remain in prostitution or consider it to be a career or a state of empowerment or emancipation. Any contrary projection of women in CSE in India is essentially a misprojection and a misrepresentation, based upon misperception and misdiagnosis of the Indian reality.

Any indicator of the rare case of high income of girls serving the upmarket customer is no proof against the fact of their having been trafficked. Any statement in their name implying that they are emancipated, empowered or subjectively happier than a woman in her own household is ill-founded. When the victims of CSE are quoted to have said that they would not like to leave prostitution, the situation under which the response is sought needs to be carefully examined.

When the outside situation is not receptive with the civil society hostile and full of contempt, the victim is obviously apprehensive about venturing to leave CSE. The history of the attempts (state- or NGO-led) to “rehabilitate” the rescued women largely suffered from certain major drawbacks. Most of them have relied singularly upon imparting some primary technical skills in tailoring or candle-making. Little or no entrepreneurial input was given and no backward and forward linkages for ensuring viable self-employment were established. When the victim was expected to work on only a paltry wage without any provision for housing or reasonably decent shelter, the emergency assistance package of rehabilitation proved inherently nonviable. Similarly, these rehabilitation packages were offered without any guarantee or hope of social acceptance whatsoever, without any restoration of dignity and without any protection against re-victimization. Presuming that the victim has any capacity to accept or reject a package out of the sheer need for self-preservation, she would reject it.

Regardless of one’s stand on prostitution and one’s ultimate goal vis a vis prostitution, one has to address the day-to-day survival problems of these women. Prerana acknowledges that all these women need to have their reality addressed and their daily struggle supported.

While doing so Prerana operated on the following planes:

- provision of immediate relief: material, social and psychological;
- linking the victim to a group effort in self-development;
- providing assistance in getting:
 - a) long term direct input
 - b) long term indirect input
 - c) collective insulation against re-victimization
 - d) hope for the future

- e) trust in transformation
- f) a collective identity
- g) a rights perspective
- h) a new self-identity.

Methodology of working

Most of Prerana's accomplishments have been secured through constant interaction with these women. This interaction took course through a wide range of events and situations such as one-to-one discussions, small group discussions, large group sessions, residential camps, picnics, expeditions, issue-based meetings, planning meetings for action programmes or events, interacting with visiting groups of women from other organizations, visiting other field projects and a host of other activities.

Evolution of activities

The activities of Prerana have evolved along the following premises:

- a) they are need-based;
- b) they address a given need directly;
- c) they evolved through constant consultation and interaction with the women;
- d) they are designed with open, balanced and democratic consultation and interaction where these women have a right to reject any proposal without any fear of repercussions;
- e) they can be standardised, made into routines and can be transmitted;
- f) they are aimed at enhancing the capacity and self-reliance of the victims rather than generating new dependence;
- g) they never violate or diminish any other right.

They should:

1. not create a situation of conflict of rights;
2. not in the short or the long run be self-defeating;
3. be based on the fact that these women do not have access to information, evaluation, experiences, experimentation and other scientific techniques of decision-making and hence maximum efforts must be made to give adequate access to all of these.

The idea of the possible institutional placement of their children is not totally alien or unknown to these women. Nevertheless, hearsay, rumors, beliefs, myths, misperceptions and erroneous information abound, which in the first instance influence their decision-making when they are confronted with the need to remove their child away from the undesirable environment of the red-light district. They also fear permanent loss of the child legally and emotionally. The mass media and public opinion usually support such fears and the legal provisions in India also take away from a prostitute mother the right to keep her child. Added to that are the obstacles generated by previous failures and negative antecedents. An NGO has to overcome all of these but without, in any manner, acting

as a messiah. The NGO must supplement not mere facts but also hopes for the future.

Yet another example is the Night Care Centre. A night is not merely a natural physical phenomenon. It is a psychological and cultural phenomenon. The red-light district assumes vicious forms in the night where evil is dressed like angels and unknown guests evict households into the streets. Children witness their mothers being raped night after night by ever-changing strangers and learn not to seek their mother's company even in the dead of the night since the stranger has the first claim on their mother.

Working with Women Victims

Prerana firmly believes that the social reintegration of the victim cannot be complete without suitably changing the self-perception of the victim and the perception of the society. *Prerana aims at changing both, the self-perception of the victim and how society sees her.*

By changing the victim's self-image/self-perception: Prerana approached the women and they in turn interacted with Prerana in their role of mother. This was an identity independent of "being seen all the time as a whore/bad woman". In all subsequent discussions and interaction with Prerana this newly bestowed identity was strengthened as it was full of psychological pay-offs.

On another plane the NCC helped establish a communication channel through which Prerana and the women could interact without the supervision, manipulation or influence of the other agents of the flesh trade.

To the mother it provides:

- a sense of hope;
- a sense of support and companionship;
- a sense of belonging to some support system;
- trust in an alternate nonexploitative society;
- a sense of future security;
- some freedom from a sense of guilt;
- positive relief from the humiliating routine of the flesh trade;
- reinforcement of her self-perception as a mother;
- a positive addition to her self-identity;
- a sense of responsibility;
- a sense of direction to life;
- a sense of empowerment;
- a change in the balance of power;
- the basics of child care;
- the basics of child development;
- special knowledge on child care and development usually not available to lay women;
- an answer box for a lot of her factual queries on day-to-day life;
- a growth centre

- opportunities for getting positive feedback for oneself;
- a laboratory to try out alternative behavioral forms.

The Mother – NGO relationship

The Mother-Prerana relationship was a canvas on which unfolded the process of a more decisive and deeper transformation in the life of these women.

Channel of communication:

- space to interact;
- a matrix for interaction;
- partial insulation from the brothel-based constraints e.g.:
 - a) interception
 - b) interference
 - c) monitoring
 - d) editing
 - e) censorship
 - f) manipulation etc. by the trafficking agents, madams, managers, clients;
- facilitates formation of a collective identity (even as victims);
- makes collective thinking feasible;
- opens up direct uninterrupted communication between the NGO (interventionist) and the victim;
- helps them understand the structure of power relationships in the sex trade in an analytical manner;
- prepares grounds for comradeship;
- opens up information channels;
- direct and exclusive knowledge input helps their empowerment back into the brothel situation;
- direct and exclusive knowledge input helps their empowerment vis a vis the clients,
- minimizes their dependence on the trafficking agents and clients as the only support system in times of crisis;
- generates an alternate social support system which reduces their vulnerability and overall dependence on their exploiters.

All this is possible if the Night Care Centre is not run with the narrow view that it has just limited time-bound physical custody of the children like any other creche with the only difference being that the children come to the creche at night instead of during the day.

Prerana encouraged school enrolment of their children. Initially at the time of enrolment the school used to insist on entering the name of the father in its register. This demand discouraged many women from approaching the school. At that stage Prerana actively cited an important court ruling and consequent government orders not to insist on the father's name. Every incidence of discrimination of these children in a scholastic, institutional or any other situation was ve-

hemently opposed through the singular or united action of these women. Slowly however they were helped to appreciate themselves as women quite independent of their role as mothers. This was achieved through a variety of programmes and measures which helped the women to:

- **overcome** self-contempt, self-devaluation, diffidence in communication and self-expression, distrust in the civil society and a fatalistic attitude;
- **gain** confidence, rational self-appraisal, a positive perception about the society, trust in transformation, hope for the future, knowledge of individual rights, confidence in their negotiation abilities and a positive self-image both as victims of criminal action and as wronged by indifference.

Obtaining Ration Cards

The VOCSE unfailingly find their names registered on the voters' list. The brothel keepers deal with the candidates with their literally captive votes. In India a ration card is a basic identification document. It is also important for the poor as it gives access to the Public Distribution System (PDS) i.e. to the authorized ration shops where subsidized grains, sugar, kerosene, oil, cloth and a few other provisions are supplied to the cardholder. More importantly, it is an important document that establishes one's residential status. No VOCSE ever had a ration card in her name. They could not produce any proof of residence to secure a ration card. The brothel keepers never allowed that. Not having a ration card in their name or their name on any ration card deprived these women of their civic identity in addition to the benefits of the PDS. Prerana took up this issue and after two years of effort managed to get these women ration cards in their name despite of their being unable to produce any proof of residence. This fight was also based upon the rights perspective.

A ration card has a magical spell. It is an identity of belonging to a nation, a basic documentary recognition of existence, an access to a range of subsidized essential commodities. Getting a ration card was not the end of the fight. A ration shop is a place ill-reputed for a variety of malpractices. The women were also encouraged and supported in continuing their collective action against this cheating and violation. Women now approach the ration shop and get malpractices corrected without waiting for any leadership from Prerana.

Prerana disseminated all the relevant information to many other NGOs and women's organizations to encourage them to take up similar action to obtain ration cards for women in their areas. Recently, the state government has issued a Government Order mentioning that women in prostitution would be given ration cards even if they cannot fulfill the documentary proof of their residence etc.

In April 2000 approximately 100 women from the red-light district of Kamathipura participated in a protest march against the rise in the prices of essential commodities at the ration shops. They were a part of a group of 15,000 marchers coming from all over the state of Maharashtra under the banner of a federal action committee of NGOs, the *Rationing Kruti Samiti*, working on issues related to ration cards and the Public Distribution System. This was the next

step. The women came back with expressions of happiness and pride on their faces. They proudly reported that

- they wholeheartedly participated in the protest march;
- they courted arrest;
- no one in the march identified them as women from the red-light district;
- hence no one treated them with any discrimination;
- with the treatment received during the march they forgot their identity as women in prostitution and became members of the civil society like the rest of the marchers who had gathered from all over;
- they now feel confident that the specter of being in prostitution is not unconquerable and it is possible to live outside its haunting shadow and work jointly with the other members of society.

The organizers of the march were aware of the background of the women who had joined the march representing Prerana and credit also goes to them for handling this participation sensitively.

Prerana is now helping these women to prepare for events where they will have to interact with people who might come to know about their identity. Gradual and well-planned exposure to positive situations of social interaction and participation in socially important and responsible actions is a very important measure Prerana is taking to build social reintegration.

Health

The enormously funded AIDS Control and Prevention programme came as an onslaught on the red-light district women in prostitution. They became the targets of all possible experimentation by the secular administrative, professional agents like health officials, doctors and enterprising researchers. The stories of the havoc caused by them in the lives of the victims are now surfacing one by one. The red-light district women were viewed as anything but human beings under the AIDS Control and Prevention programmes.

Prerana started its work on HIV/AIDS control and prevention in 1989 when it was discovered that the prostitutes seeking treatment were being forced or deceived into giving blood samples to public health service centres. We informed the women that they had every right to seek an explanation from the public health functionary about the purpose of collecting blood samples, and to refuse to give blood for testing if a proper explanation was not forthcoming.

The woman VOCSE was and continues to be considered a source of HIV/AIDS. The entire programme and its supportive state measures put her in the defender's box and tried to submit her to a variety of inhuman and humiliating situations. Prerana from the very beginning stood up against this victimization in the name of HIV/AIDS control and prevention.

Without any understanding of the microlevel political reality of the red-light district they were entrusted with the responsibility of negotiating with the customer about using a condom. It was named the Peer Group Education Model.

Prerana placed the entire issue before the women and kept them informed from time to time about the policies and other such information. On their part they shared with us the new dynamics initiated by the AIDS control and prevention activities within the red-light districts.

The women thoroughly questioned the feasibility of the Peer Group Education Model. They felt that the model did not have a sound basis. It had not taken into consideration the microlevel sociopolitical reality of the red-light district situation. They observed that they did not have any power to insist upon the client's using a condom. Today, they observe, many of the clients themselves insist on using a condom but their own fancy man never agrees to use one.

Prerana and the women are currently engaged in fighting the public hospitals which refuse to give any health service to these women when they know or suspect that they have an HIV positive status.

Many enterprising NGOs which had sprung up merely in response to the stunning funds dispersed by the control and prevention programme entered the red-light district and started working hand-in-glove with the agents of the flesh trade. While most worked to distribute condoms exclusively through the brothel keepers, few propagated apparently radical paradigms printed in glossy booklets funded by international agencies. NACO Phase I flopped miserably, since the Peer Group programme was immaturely conceptualized. Phase I, however, did succeed in bestowing upon the brothel keepers and pimps a new social identity of "social worker", a new status and access to the higher circles of decision-making. People who should have been seen cooling their heels behind bars were found flying from one high-class hotel to another attending conferences and workshops on AIDS with their tickets and stay funded by the prestigious international funding agencies. This had a direct effect upon the objective and subjective chances of liberation of the victims as the victims could now see their brothel keeper being celebrated, empowered and crucially linked to the decision-makers.

The women's organizations in India have ultimately conveyed to the Prime Minister their strong objection to the immoral policy of NACO in working with the agents of the flesh trade and thereby legitimizing CSE. Prerana was perhaps the only NGO that had from day one openly and consistently criticized the inappropriateness of Phase I (the peer group or targeted intervention approach of AIDS control and prevention), and the socially undesirable effects of the indiscreet single point condom-popping programme of NACO in the name of AIDS control and prevention. Prerana continued telling the truth: "if a condom is to be used by the men then tell the men to use them. It is incorrect to put the onus on the already overburdened shoulders of the VOCSE to negotiate with the clients, the 'kings of the flesh market'".

Prerana stood by the women and assisted them in articulating their humiliation and shock against the blood sample sucking researcher/doctors at the private and public hospitals who were singularly interested in these women because of their HIV/AIDS agenda. It is important to note that the exploitation and ill treatment at the hospitals was not only considerably checked but it was achieved through the women's assertion of their rights.

The women used to be quite unhappy over the offensive and insensitive approaches by the bandwagon of condom poppers under the HIV/AIDS programme. The unhappiness of the women was also articulated in terms of the violation of their basic human dignity and rights. And it worked. The state following the long tradition of the health department keeps coming out with legislative or programmatic measures to regulate prostitution in order to control HIV/AIDS and invariably the step it proposes is extremely offensive and violative of any human dignity, let alone positive rights.

The latest attempt was a bill that was to be tabled before the legislative assembly called “The Protection of Maharashtra Commercial Sex Workers Act”. It was a bill extraordinarily offensive to the women in prostitution and violated every conceivable feature of a civil democratic society. Besides enumeration, registration and regular compulsory medical inspection it also provided for branding the women on their body with tattoos for effective identification and monitoring. It sought exemption from all sensible judicial reviews, constitutional obligations and also sought creation of an autonomous board as the ultimate authority to settle the issues against the prostitutes. Prerana carried out three rounds of discussions on this bill with the women joined by some lawyers. A substantive critique was prepared and the inappropriateness of the entire issue was presented by the women themselves before the members of the State Commission for Women. Prerana presented the feelings of the women to the Maharashtra Government’s Secretary for Women and Child Development.

Women strongly condemned the idea of the state physically branding them and questioned why the state did not think of branding the clients and submitting them to periodical medical inspection. The critique was also made public. This bill was subsequently quietly dropped.

Action against Police Atrocities

In the beginning of 1999 there was a spate of police brutalities on women in prostitution in major cities in the state of Maharashtra. Under the pretext of having solicited in public places the police went around attacking the women brutally. Several women in the Zone II area of Mumbai suffered indescribably grave physical injury. Prerana had also been working in close collaboration with the Deputy Police Commissioner of that Zone, which contains the most brothels in the area. When the atrocities were brought to the notice of the Deputy Police Commissioner he effected some positive changes in the situation temporarily but soon the beating resumed. Subsequently, Prerana discussed this issue with the women which resulted in a meeting of approximately 300 women with the Deputy Police Commissioner. The women were helped to realize that there was something called a conflict of rights under which the police were compelled to act against them under certain circumstances. The women sought redress for their grievances. Many of them challenged the propriety of physical beating by the police by stating that the police could arrest them and produce before the courts for further action.

The Deputy Police Commissioner and the women entered into an understanding that the women would stick to the inner lanes of the red-light district for soliciting, and in turn the police would never beat them, also because it was their right not to get beaten. The Deputy Police Commissioner said that he had to protect the other civilians' rights to move around freely without having to face any soliciting situations. The Deputy Police Commissioner also asked them if they could help him in checking trafficking and CSE of minors and children by communicating any such case to the police. All women agreed that no children or adults should be forced into prostitution. However, a minority refrained from giving any commitment to the police to actively help the police by communicating the incidence of children and minors. Subsequently the police kept their word.

What were the striking features of this meeting? First and foremost all the 300 women who attended the meeting were *victims and not a single brothel keeper or pimp was allowed to be present*. All women spoke unitedly. It was the first time the victimized women realized that they could not only talk to but even effectively negotiate with the police without any intermediation or support from the brothel keepers and the pimps. The police acknowledged the right of these women against physical violence.

Some brothel keepers *later* tried to break this solidarity by creating fights between the women trafficked from Bangladesh and the other Indian women. For the former it is often a do or die issue, hence their reactions are also often extreme. The Indian women felt that they were pushed away from the red-light district for soliciting due to a large influx of women trafficked from Bangladesh.

The detailed discussions with the women after the meeting with the Deputy Police Commissioner brought to the surface a few analytical points. It was mentioned that a large number of women and girls were being brought to the red-light district and a large majority of them were from Bangladesh. The net rise in the number of women victims had resulted into an extra compulsion from the brothel keepers on the "not so hot-selling" women to cross the ever-widening peripheries of the soliciting areas with the core of the red-light district at the centre. The brothel keepers were most unwilling to let the "hot-selling girls" solicit at places far away from the brothels. The discussion subsequently covered the point that all women who were trafficked were victims regardless of their place of origin and they should act unitedly.

These women always become targets of the police action. A few human rights activists often summarily condemned the police crackdown. Ironically however the agents of the sex trade were most delighted with the actions of the human rights activists. Little did the activists realize that with their actions against the police crackdown they were in fact making available larger physical areas for the brothel keepers to operate their trade.

The police carry out raids and rescue operations with varying intensity. This is not to say that the raids and rescue by the police follow any rational, professional scale and quality. The raids and rescue operations are most often frustrated by the appalling post-rescue scenario. Prerana has filed a Public Interest Litigation in the Mumbai High Court against the State of Maharashtra for the subhuman infrastructural and managerial conditions at the Rescue Homes and the virtual

absence of any viable programme of economic rehabilitation in the Rescue Homes, let alone for social reintegration. The appalling condition of the post-rescue operations in most parts of the state is often used by the police as an excuse not to enforce the anti-trafficking laws.

Exploitation by Clients and Others

There are incidences of women being brutally beaten by their clients and others. The police was in the habit of dismissing any complaint by the women as an internal matter. This state of affairs was discussed with the women during many of the empowerment sessions. They were introduced to their rights against physical beating, rights to be heard at the police station and their right to lodge a complaint.

For some time Prerana workers accompanied the women to the police station to get their complaints registered and to complete the procedure. Slowly but surely the women were encouraged to handle the process entirely on their own with only occasional active help from Prerana. Today most of the women handle the procedure of filing the FIR (First Information Report) at the police station. In cases of physical beating they first go to the nearest public hospital without any delay to get a medical report and then go to the police station to file the FIR.

Right to Collectivization

Prerana discussed with these women, time and again, that they not only have individual rights but a right to collectivization also. As wronged individuals or as individuals affected by any organized criminal activity or even as individuals affected by the indifference of the state they can and should unite and act unitedly. It is unfortunate that the need of these women to express themselves collectively or to act unitedly in order to get their grievances redressed from the state and the civil society has been unfairly used by some interventionists at the cost of the women's true identity as victims.

The VOCSE, powerless that they have been for years, without any grain of self-determination, have a large number of age-old grievances which have not been redressed by the state or the civil society. They have the right to collectivization, a collective voice and collective representation which must not be denied. Some unscrupulous elements and unholy alliances of the agents of the flesh trade have however offered collectivity to the VOCSE in return for their true identity of victim. The VOCSE seem to have been misguided into thinking that their grievances could only be redressed if they were recognized as "workers" like any other workers. In the absence of any other name, identity or banner some of them agreed to the use of the term worker with the singular hope of gaining some humane treatment and redress.

Prerana has all along staunchly opposed this christening of the sex slaves as "sex workers" from its very first expression. Prerana feels and propagates that

the grievances of the VOCSE can and must be redressed by recognizing them as Victims of Commercial Sexual Exploitation (VOCSE).

Calling the VOCSE sex workers is an antisocial design to distort and camouflage the reality, shield the perpetrators of the flesh trade, give them a clean chit, and if possible, endow them with social status and power.

It has been our observation that many individuals and organizations have started using “sex workers” to refer to the persons whom they earlier referred to by the term prostitutes out of sheer innocence. In many cases this was based on the uninformed good intention of wanting to avoid using the offensive term “prostitute”.

Prerana has been taking a strong objection to the indiscreet use of the term “sex workers” or “commercial sex workers” by some groups and individuals. A worker is a desirable member of any society which the society wishes to sustain, encourage and honour. A society makes a conscious provision and effort in the socialization of its young members so that they can eventually assume their positions in the job market. A worker makes his own choice to join a category of work and any discrimination in the job sector based on birth, caste, class etc. is condemned by the civil society. Workers leave their occupation without carrying along with them any social stigma or disqualification in their subsequent life. Any civil society would want its children to join the category of worker as they grow. Do women in sexual slavery fit this definition?

A girl who is trafficked, inducted, coerced, deceived or circumstantially compelled into the flesh trade as an object of sexual exploitation does not fit this meaning of the term “worker”. The Indian reality by and large indicates that an overwhelmingly large majority of the girls, women and children found in the flesh trade as the objects of sexual exploitation are there as a result of deception, fraud, force, coercion, misguidance, sex scandals and sexual exploitation by antisocial and criminal elements. While these are the precipitating factors, the predisposing factors are many, such as resourcelessness, family disintegration, community disintegration, natural disasters, marital desertion, intradomestic physical violence, sexual exploitation, etc.

The term “commercial sex workers” clearly blurs the distinction between the slaves in sexual slavery and their masters (brothel keepers, pimps, procurers, traffickers, managers, etc.). It tries to club the identities of the two truly mutually antagonistic components of the flesh trade together and seeks legitimacy for the perpetrators of sexual slavery, thus misguiding society. As has been noted by researchers, sociologists and other experienced social workers, most of the formations advanced in the name of the so-called “sex workers” have been initiated and controlled by the masters of the sexual slave trade.

More fundamentally, there are the structural factors such as the gender-structured, patriarchal and inegalitarian social arrangement which has little concern for children and women. Where the gender-based, class-based, and caste-based inequalities conspire against women and children it is inhuman and exploitative to state that girls (and women) join and continue in this “profession” “out of their free will”. In a society where women truly do not enjoy any right to self-determination it is meaningless to state that they consent to being trafficked into CSE or to staying there.

We seriously question the logic of “consensual trafficking” as it completely fails to explain the preponderance of low-caste (mostly ex-untouchable castes), low class, illiterate, uneducated women, mostly coming from the perennially drought-prone, technologically backward and industrially depressed areas, mostly after a social event usually called a mishap, among the women found as the objects of the flesh trade.

Indian society has adopted an abolitionist stance vis a vis commercial sexual exploitation. In practice, it has tolerated it in the confines of the red-light districts. Although these double standards are condemnable they are not proof of consensual trafficking or justification for the continuation of CSE in the name of “work”.

We also strongly feel that in the abhorrent world of the flesh trade, the interests of the victims and the perpetrators are exactly opposite and thus any organization or collectivization which does not make this conflict of interest explicit is more likely to be the device of the perpetrators of the flesh trade to misuse the right of the victims to seek collective redress. The collectivization of the victims must be carefully guarded from the control, manipulation or influence from the agents of the flesh trade such as the brothel keepers, pimps, procurers, premise owners, financiers etc.

Today, we have reasons to believe that the agents of flesh trade are desperately trying to seek license for their illegal trade by popularizing the term “sex workers” and by creating a façade of unionized sex workers. Every such attempt must be nipped in the bud by the state and the civil society. Slaves are not workers, sexual slaves cannot be sex workers and as a society we should not endorse sexual slavery in the name of sex work. We should never allow the agents of the flesh trade to misdirect or misuse the rights and opportunities of collective representation of the victims of CSE to their own unholy antisocial goals of perpetuating sexual slavery.

Conceptual Clarity

Prerana arranges for regular and intensive conceptual clarity workshops for these women (VOCSE). The resource persons for such workshops include a wide variety of feminists, activists and ideologues. We believe that the women should be exposed to critical discussions on all available schools of thoughts on prostitution. The exposure should never be manipulative and should not aim at indoctrinating them.

Women representatives of Prerana visited the Sonagachi Durbar Mahila Samavay Samiti which used the slogan “Sex Work is Real Work”. A delegation from a formation which called itself a Forum of Sex Workers recently visited Prerana. On such occasions our women interact directly with these groups representing divergent and at times conflicting views. They exhibit an extraordinary ability to debate and discuss and invariably carry the day.

Socioeconomic Reintegration

Prerana keeps access to counselling open for the victim on a continued basis. We operate on the following guidelines in the area of economic rehabilitation:

- **Economic rehabilitation:** Economic rehabilitation is an important and essential but only partial requirement in attaining the goal of the social reintegration of the victim.

- **Vocational guidance and training:** Vocational rehabilitation is an important but only a partial requirement in the process of attaining the goal of economic rehabilitation. Vocational guidance and training must be designed very scientifically and professionally. This is particularly so since this aspect has been very unprofessionally and haphazardly handled so far by many governmental and nongovernmental agencies.

Imparting certain traditionally feminine skills without proper consideration to viability and marketability factors and also without giving the essential complementary entrepreneurial input often results in compounded frustration on the part of the victims as well as the agency staff.

Labour market analysis, area skill demand surveys, area development plans, district development plans, etc. are some of the sound bases on which vocations should be selected for a given area.

Personality resources, education, abilities, aptitude, background, exposure, vulnerability, social skills and social orientation, etc. are some of the sound bases on which vocations should be selected for a given victim.

- **Entrepreneurial training:** Very often only technical training is given to the trainees but they are still expected to become successful entrepreneurs. It is forgotten that even the most qualified, resourceful and well-connected entrepreneurs go through teething problems and for many the emergence of crises and the process of overcoming them is a permanent characteristic of their management. The same should be provided for these victims also.

In this case we are aiming at individuals who are low on all scales: resources, education, exposure, connections, entrepreneurial culture, family background, backup, information and experience.

Decisions regarding vocations must take into consideration many factors besides those related to imparting technical skills. Personality resources, aptitude, background exposure, vulnerability, social skills and social orientation, etc. play an important role in determining the success of vocational rehabilitation.

- **Placement:** Training is an important but only a partial requirement of vocational rehabilitation. A trained candidate has to be properly placed in the labour market. A study of the suitability of the workplace, how it corresponds to the candidate, is an important consideration in economic rehabilitation.
- **Follow-up:** Follow-up of the women going through the process of rehabilitation/socioeconomic reintegration is an indispensable activity. We see to it that the peculiar background of the victim is kept confidential and not re-

vealed without the explicit and informed consent of the victim. Follow-up must be done with due care to this fact. In absence of a matching change in social perception and a protective environment such exposure might be used by hostile social elements resulting in distress to the women.

Access to Short-stay Homes

The government of India has in principle agreed to sanction a short-stay home for Prerana for the benefit of the victims, potential victims and to meet the occasional needs of those who are being socially reintegrated.

Crises in one's personal life are a normal feature of every individual's life. Individuals coming from a traumatic background, a history of exploitation, a socially stigmatized identity and resourcelessness are more prone to crises. In the case of the victims of CSE with their special background the chances of the trafficking agents trying to cash in on their vulnerability and crisis situation are high. Minimally short-stay homes should be available to them to tackle the crisis in their life. The need for short-stay homes exists not only in the initial phases but should be a facility unconditionally available for victims who are in the higher stages of socioeconomic reintegration.

The process of economic rehabilitation or social reintegration is very complex. At Prerana we base these programmes on the firm, close and continued involvement of the women. As a result the women are fully aware of the pros and cons of every decision they make and face the consequences with determination. We go only as far as the woman is prepared to go on a sustained basis. This results in a minimum of failures. We also feel that in a society which is in transition every entrepreneur is passing through ups and downs. The situation of the victim who embarks upon any self-employment activity or enterprise, howsoever small, is likely to face such ups and downs. We help her understand that some of the crises are common and not all crises are due to her peculiar background.

Victimization through Ideologies

There is a school of thought which argues that, regardless of a history of violent trafficking, once women have been in prostitution over a period of time they think that they are more empowered, more emancipated and enjoy higher subjective happiness as compared to women in their own households living in a patriarchal family. This is a hazardous argument.

It is hazardous because it attempts

- to underplay the criminal element of trafficking;
- to take society's attention away from the violation of human dignity, rights and freedom;
- to justify such extreme violence by arguing that its long-term effect is positive;
- to establish an abnormal link between a horrific experience of ultimate violence with future personal happiness;

- to seek social support for the trafficking of vulnerable women;
- to establish a general moral principle in which extreme physical violence and oppression of a woman is justified if at a later date it is compensated by social dignity or recognition.

It is flawed because

- it is not a true representation of the factual conditions of the women trafficked into CSE;
- it is not an authentic representation of the subjective experiences and feelings of the women trafficked into CSE;
- the claim of the subjective sense of being empowerment, emancipated and “happier than the other women” is erroneous. It is not made by the victimized women but by the agents of the flesh trade on behalf of the victims.

We have never come across any victim of CSE who corroborates this. We have discussed this point even with the women belonging to the fronts and alliances advancing slogans like “Sex Work is Real Work” or distributing glossy booklets printed in English language which they do not speak and claiming empowerment, emancipation etc. It is our repeated observation that none of them corroborated this claim made by the leaders of the fronts and fora organized in their name.

This becomes particularly evident when they emphatically and consistently reply to the questions we ask them about their children, namely

- Do you want your son or daughter in prostitution?
- Do you want your son or daughter to be recognized outside as a child of a prostitute?

At the end of the eight countries’ conference “Trafficking and Prostitution: The Hidden Realities” in which 125 women representatives took part, a representative of Durbar Mahila Samanvay Samiti stated, “Think of how much it hurts a mother’s heart to hear her child being referred to as a Randiki Bachchi (a Whore’s daughter). It is difficult to talk to the children about the work their mothers do. They are uncomfortable about it. Some burst into tears when questioned too closely.” (Indian Express April 3rd 1997)

During an in-house training programme conducted by their own organization SANGRAM the women members of the organizations stated, “We do not want our children to go through what we have been going through. Hence we would educate them or get them married.” (Page 34), “ We shall not put our children in prostitution. We do not want them to have the same fate that we have suffered from.” (Page 35)(Muktatechi Bharari (Flight of Freedom Page of VAMP a front for women in prostitution organized by SANGRAM Sangli India)).

However, the organizational leadership states, “Girls should be brought into prostitution 3 to 4 years after they start menstruating. If put into prostitution earlier than that they have to face many difficulties. As it is, their body is not adequately grown, they do not know much about condoms and they have to undergo stitches, suffer from STD and other diseases.” (Page 29 Op. Cit)

The same organization echoing yet another international position states, “We believe that when involuntary initiation into prostitution occurs, a process of socialization within the institution of prostitution exists, whereby the involuntary nature of the business changes increasingly into one of active acceptance, not necessarily with resignation, this is not a coercive process.” (Page 27 of *Veshyas, Vamps, Whores, and Women*). VAMP holds that once in prostitution women like to remain in it since they experience more empowerment, an emancipated status and subjectively more happiness as compared to women in their own households.

Without any prejudice to the position we have taken, which is mentioned above and constantly reflected in the text of this paper, even if we presume for a moment that the women in prostitution at a later date state that they would like to continue to remain in prostitution, this

- can in no way be used to justify the violent situation of trafficking;
- can in no way be used to justify the subsequent violence meted out to the victim of CSE;
- is not to be treated as the manifesto of the women victimized in CSE;
- is not a choice taken in an open situation with several realizable options and hence it is a negative choice;
- is not a life desired by them;
- is a very specific reaction given to the perceived impossibility of being accepted by the society, let alone being recognized;
- is a kind of defence mechanism (rationalization) used to retain emotional harmony and self-esteem.

When the victim

- is subjectively convinced that the society is not prepared to accept her back into the society;
- is unaware or unsure about and unequipped with any other means of earning a livelihood;
- is told repeatedly and has thus internalized that being trafficked into CSE is a one-way ticket;
- has not witnessed any successful cases of the social reintegration of VOCSE;

then it is only natural that the victim will declare that she wishes to remain in prostitution.

A fact often ignored is that there is something called *readjustment to the situation of freedom* which not only depends upon the objective external conditions but also strongly upon the subjective conditions and perception of the victim. The severity and the chronicity of victimization impairs the victim’s ability to accept situation of freedom.

Many times such responses are sought or collected at an inappropriate time and projected in a wrong manner. E.g. if a colony of agrestic slaves catches fire and theorists approach them apparently to help but ask a general question, “What do you want?”, the slaves will in all probability ask for a blanket, a piece of cloth, restoration of a roof or for some grain. They are not likely to ask for freedom, let

alone enfranchisement, new laws in the parliament or appropriate changes in the International Conventions about slavery.

If approached at any other time with a casual inquiry under a facade of giving some small relief, they are most likely to state that their shackles made of spiked iron could be replaced by non-spiky aluminum shackles and they could be given a small break at noon for rest. If anyone collates these expressions and portrays them as the Charter of Demand of the slaves or the Manifesto of the Slaves, she is not only committing an error of logic but being insensitive and inhuman to the victims of slavery.

Implementation of the Anti Trafficking Laws

As a voluntary organization Prerana cannot implement the anti-trafficking laws and it makes no attempt to replace the police or to duplicate the efforts of the police. It believes that a broader social awareness in the society and the creation of political will among the leaders of the state and the bureaucracy can effect implementation of the anti-trafficking laws. The sensitization and training of enforcement agencies and political leaders can facilitate proper implementation of the anti-trafficking laws and hence Prerana undertakes such activities extensively.

Prerana works with the state and other professional bodies on a regular basis for the evolution of appropriate legislation, convention, policies, rules and programmes.

Speedy disposal of cases: Justice delayed is justice denied. Prerana has been seeking several reforms in the criminal procedure, prosecution and judicial procedures in order to facilitate faster justice to the victim and to prevent re-victimization of the victims.

Implementation of legal provisions for the treatment of victims: *A drastic overhaul and updating of Post-Rescue Operations (PRO).* Prerana is currently fighting a case under Public Interest Litigation at the Mumbai High Court against the State Government of Maharashtra for improvements in the post-rescue operations.

Some of the areas which need overhauling are preparation/drafting of the charge sheet, citing appropriate laws and collecting and sustaining witnesses. Collecting proper evidence using recorded witness, setting up of special courts and setting up a time frame for disposal of the case are crucially important for giving relief and justice to the victim.

A special police force exclusively for the enforcement of anti-trafficking laws: Recruitment in the special force should be on professional grounds, of professionally trained personnel, with a supervised independent line of authority with little scope for interdepartmental transfers except at the top level.

Changing Social Perception

Socialization of intervention

A complex, chronic and serious problem like trafficking and CSE cannot be left to the bureaucracy, enforcement agencies or any NGO for its resolution. It is a social problem the resolution of which must become the responsibility of the entire society. From this point of view Prerana has now started a campaign for the socialization of social intervention on CSE and trafficking.

This includes breaking monopolies, overcoming social apathy and raising awareness that being indifferent is being culpable.

Sensitization and training

Many well-meaning visitors to our projects visit the red-light district brothels and look at the small cot that barely fits into the miniature room in a dingy corner of the brothel where the mother is raped every day and then say, “Oh! Is that all that belongs to her?” We correct their impression by telling them that these women have no right even over that single cot and it is shared by many women who are taken there in turns. This is the beginning of correcting the social perception.

Prerana arranges sensitization and training programmes for a variety of special functionaries. This component of our work is currently being augmented because of its intimate and crucial role in the Prevention, Social Intervention, and Social Reintegration of the Victims including the Post Rescue Operations.

The victims of CSE are often repeatedly re-victimized at the police stations, public hospitals, boarding homes (where their children are/can be placed) and civic offices, etc. Better understanding on the issue of CSE and trafficking attained through sensitization and training programmes goes a long way in minimizing such re-victimization.

Our preliminary efforts at sensitization and training of the police and of bus drivers and conductors have shown some very positive results in a better understanding and coordination between these two groups, further resulting into effective referrals of the missing, potential trafficked victims and victims of suspect trafficking situation, etc.

Prerana is now working on sensitization and training of the legislators across political party lines. It is proposed that it be followed by sensitization and training of the members of the civil bodies. We meet a large number of the press and media people and take every opportunity to sensitize them. This facilitates the handling of the issue of CSE in a more mature manner by the media.

These modest attempts at socialization took Prerana to such a wide array of functionaries, almost all of whom showed a keen interest in knowing more about the domestic and global CSE and trafficking situation and shared our concern with a willingness to actively support the cause. They included legislators,

Members of Parliament, the collector (the district head of government administration), the superintendent of police, editors of the Railway Police Press, district project officers in the Integrated Child Development Project, superintendents of remand-and-rescue homes, representatives from juvenile homes, a district vocational and technical training officer, representatives from the principal industrial training institutes, the president of the local self-government, trade union leaders, district agricultural officers, representatives of women's organizations, coordinators of social service branches of undergraduate colleges, bus depot managers and controllers, NGOs, CBOs, cooperative society leaders, managers of industrial development complexes, local business association officers, auto-rickshaw drivers, phone booth owners and local cable-TV operators.

Currently, Prerana is undertaking the training of trainers with the hope that what was tried and accomplished on a small scale by Prerana in a few districts could be achieved in the entire state if we take this issue to more and more people. The social perception and attitude towards prostitution cannot be totally changed in a limited time span but our experience showed that it can certainly and effectively be changed to a great extent and this extent of change is capable of offering great relief to the victims. The process starts with using the right word and discrediting the misguiding terms and theories.

Intervention in the situation of the women and children VOCSE is going to be a comprehensive and long-term process considering the complex and ever-escalating problem of human trafficking for CSE. It is not sufficient to have the participation of these women in carrying this intervention further. They should be on the forefront in designing, planning and carrying out this activity. From this point of view Prerana has with the help of UNICEF Maharashtra taken up a pilot project of enabling 25 of our women in taking over as community activators. They will be equipped to carry forward the mission of establishing the victims' rights and take up active anti-trafficking work. This could turn out to be their future whole-time activity. This is expected to generate the paraprofessional womanpower required for the broader work of social intervention in the situation of the VOCSE.

We at Prerana strongly believe that with the concerted and determined efforts of all of us here at this April gathering, we can some day wipe out the abhorrent social curse of CSE and human trafficking. Let us all solemnly note that we are involved in a historical mission. Human civilization has overcome several evil practices in the past. History should serve as a source of support, hope and confidence for us in this mission. History is kind enough to reserve some of its pages for everyone. It is up to us to write our names and actions on them.

Women as Victims and Survivors in the Context of Transnational Crime¹

Edna Erez
Professor and Chairperson
Justice Studies Department
Kent State University
USA

Introduction

Transnational crime is now recognized as a pressing global problem. With diminishing barriers of language, communication, information, technology transfer and mobility, and with the ever-increasing globalization of the economy, there has been a growing transnational character of crime (including organized, financial, immigration, computer and sex-related criminality).

Transnational crime presents intricate problems of victimization for all vulnerable people, but it has had a disproportionately adverse impact on women. For instance, it is well documented that migration exacerbates the gender-linked vulnerability of women; it makes them further dependent on, and at times at the mercy of, husbands, sponsors or employers, nuclear or extended families, and their own ethnic/racial communities (Erez, 2000). The United Nations Population Division and the UN High Commission for Refugees (1993) estimate that at a minimum two percent of the world's population are migrants. This estimate translates into a large number of women who are affected by migration. Furthermore, the rapid globalization of the world's economies and politics will ensure that the number of migrants, at least half of whom are women (in some countries women actually account for the overwhelming majority of migrants), will increase substantially in all of the world's major geographical regions well into the 21st century (Teitelbaum and Russel, 1994).

Victimization of women, however, is one of the most difficult issues to redress because it is related to deep-seated gender ideologies (e.g., prevalent notions that women are inferior to or dependent on men) which often tolerate, and in some instances even encourage, victimization. Poverty, racism and xenophobia interact with such ideologies and exacerbate women's victimization (e.g. Daly, 1994). Current global economic strategies and the power divide between first and third world countries reinforce or heighten these conditions, although their impact on women may differ between regions. For instance, the "democra-

1 This paper was prepared for discussion in the module on "Women as Victims and Survivors" organized by the National Institute of Justice. This module was part of the workshop on "Women in Criminal Justice" presented in the 10th United Nations Congress on Crime Prevention and The Treatment of Offenders in Vienna, Austria, April 10-17. Comments and suggestions by Liz Kelly, Kathy Laster and Jim Finckenauer on earlier drafts are highly appreciated.

tization” of formerly socialist countries has resulted in huge losses for women at the social, economic and political levels, evidenced by women’s higher unemployment rates, or the elimination of child care options due to the breakdown of socialist infrastructures. These changes have also made women from these countries particularly vulnerable to trafficking and exploitation². Because these phenomena transcend geographical borders, the international community has a shared interest in collectively addressing the problem.

Women’s Victimization and Transnational Crime: Definitions and Strategy Issues

No single agreed upon definition of women’s victimization exists, but a range of activities is commonly subsumed under this concept. Women’s victimization commonly includes violence against women, which is sometimes referred to as gender violence, and sexual exploitation (Kelly, 1999). This victimization is perpetrated by a variety of offenders in the private and public spheres, and encompasses, but is not limited to, physical, sexual and psychological harm occurring in or inflicted by:

1. The family (for instance, woman battering, sexual abuse of girls in the household, dowry related violence, marital rape, genital mutilation, honor killing and other traditional practices harmful to women such as sati, nonspousal violence and violence related to exploitation).
2. The community (for instance, rape, sexual abuse, harassment or intimidation at work, in public, or in educational or other institutions, trafficking in women and forced prostitution).
3. The state (violence perpetrated or condoned by the State, such as rape during armed conflicts or cultural wars, forced abortions or sterilization, custodial rape and sexual harassment by police and prison guards, secondary victimization upon reporting crimes to the police). (ICCLR, 1999)

Sexual exploitation commonly refers to trafficking (quasi-voluntary and involuntary) of women and girls for the international sex industry, prostitution, entertainment, and pornography, and is now increasingly understood to encompass domestic help, forced or arranged marriages, “mail order” brides, temporary wives or marriages of convenience.

2 Norma Hotaling of SAGE (Standing against global exploitation) in San Francisco, one of the presenters in the module of “women as victims and survivors”, has noted in her presentation the increase in the streets of American cities in the numbers of Russian and other Eastern European women who were forced into prostitution. The recent NBC Dateline program with Maria Shriver aired on April 28, 2000 also presented the plight of Ukrainian women and the way they were lured by false promises for good paying domestic help jobs or similar respectable occupations, and then were trafficked to become sex slaves in the Czech republic, in other European countries or the USA. The recent phenomenon of trafficking in women from Eastern European countries has been associated with the lifting of the iron curtains from the former Soviet Union. Trafficking of women from other parts of the world, particularly Third World ones, has had a longer history.

Just as important as reaching a consensus on definitions of victimization, is arriving at an agreement on universal standards about acceptable and unacceptable behaviors. It is also critical to address the more invisible barriers to freedom from victimization. For instance, research demonstrates that there are frequent attempts to defend victimizing behavior solely on the grounds that it has cultural meaning or significance. Uncritical acceptance of perpetrators' excuses or justifications of their acts open the door for misplaced perceptions of victim "consent," "voluntary" participation, or contribution. Victim-blaming attitudes are held not only by offenders but also by judges, juries, the media, the community or the legislature. These responses and attitudes undermine attempts to combat women's victimization and weaken the public condemnation of the behavior involved.

The starting point for a discussion of women's victimization must be the protection of women and girls from any form of victimization. Researchers and activists have noted that acts that constitute victimization violate women's integrity and dignity, and result in a reduction in opportunities, quality of life, health, freedom, and autonomy. The 1993 UN World Congress on Human Rights has defined some of the facets of women's victimization as a violation of human rights³ (see also Coalition against Trafficking in Women, 1999).

A high priority is providing women and girls safe communities in which they can realize their potential and exercise their social, legal, and human rights. To address this priority, it is important to understand the connections in terms of causes, consequences and victim needs between all forms of women's victimization. Failure to address these issues in the development of policy and responses would result in missed opportunities to create change at optimal levels. For example, research suggests that the same kinds of attitudes towards women underpin diverse acts such as rape, sexual harassment, honor killings, or bonding girls for sexual servitude. Therefore, linking these issues and priorities in public awareness campaigns and prevention work in schools or communities is not only the best use of scarce resources, but also the presentation of a strong and coherent message. Similarly, studies suggest that domestic violence and child abuse commonly occur in the same household, so forms of child protection can also serve as woman protection. Likewise, developing ways to support women and girls when they report crimes against them, and later give evidence in court, should be integrated across all forms of women's victimization which are invasions of the integrity and dignity of women and girls. Currently, reforms that offer support are specific to categories of victims; for instance, only available for children, or for sexual offenses, or for domestic violence, or are dependent on victims' immigration status or the way they have entered the country.

3 Amnesty International in its recent report (May 2000) has, for the first time, listed trafficking in women as human rights abuses. Trading in women, along with torture, slavery and jailing "prisoners of conscience" are considered human rights violations. The Amnesty International report used Israel as a case study to describe and analyze the various factors that shape the extent and methods of trading in women, particularly women from the former Soviet Union and east European countries. It outlines the mechanism by which hundreds of women a year are smuggled, imprisoned, exploited, raped continuously, blackmailed and physically and sexually abused, and the reasons for the little attempts made to combat this human right violation.

Issues Concerning Law Enforcement and Support Services

A critical issue in addressing the victimization of women is awareness and understanding of the link between criminality and victimization in women's lives. Research has demonstrated that women and girls who commit crime often have had a long history of victimization (Chesney-Lind, 1998)⁴. For instance, sexual and physical abuse at home, or poverty, push young women to the street, where they survive by petty theft, by selling their bodies, or numb their pain by using drugs. Studies reveal that immigrant women, both documented and undocumented, are often pressured to violate the law by the men upon whom they depend for their stay in the country. They are threatened that their immigration status will be compromised or that they will be deported (Orloff, 1996; Narayan, 1995). Some women are forced to steal in order to provide for their children when, as part of their abuse, the father does not pay child support, while others are too afraid to enforce court orders.

Similarly, research suggests that trafficked women are often physically and psychologically coerced into the sex and marriage industries or their compliance has been obtained with false promises for happiness, glamour or stable income (e.g. Altink, 1995; Kempadoo and Doezema, 1998; Coalition Against Sexual Exploitation of Women, 1995a; 1995b; 1999). While internationally they are seen as victims, locally they are treated like criminals. Research demonstrates that attempts by victims to resist rape and exploitation, or defend themselves against violence perpetrated by family members, intimates, sponsors or employers commonly result in their becoming offenders.

To combat women's victimization, particularly in the context of transnational crime, it is necessary to address the multiple reasons that allow the crime to remain largely unreported. Research has confirmed that, despite the high incidence, prevalence and severity of the victimization of women and girls, and their creative attempts to resist abuse, victims avoid reporting the crime to authorities.

Studies have identified cultural values that militate against women reporting their victimization. These values include the protection of privacy, family honor or solidarity, a lifelong commitment of women to their family as daughters, wives or mothers, and expectations that women self sacrifice for their families or demonstrate stoic forbearance in the face of conflict or abuse (e.g. Huisman, 1996; Shalhoub-Kevorkian, 1997). But research has also identified multiple practical concerns and barriers to reporting. In addition to difficulties encountered by all abused women, such as threats by abusers, cultural attitudes that minimize or excuse victimization, and lack of confidence in the justice system, immigrant women experience unique barriers. They include: language and communication problems, a lack of information about the legal process or availabil-

4 Members of the module on "women in prison" discussed the victimization that led many of the women serving time in prisons in Europe and Australia to be involved in crime. The speakers provided numerous examples for the way these inmates were recruited to commit crime and their secondary victimization by the criminal justice system

ity of support and assistance, perceived or anticipated racism, xenophobia, and discrimination by the justice system, a fear of accessing the system based on historical or prior negative experiences, or of being deported or returned to their home countries (Erez, 2000; Narayan, 1995). For women who are undocumented, or have been forced to engage in illegal activities, including forced prostitution, the barriers to report victimization are compounded. These barriers to reporting crime must be eliminated so that women, who manage to overcome their fear of authorities, or cultural prescriptions not to disclose abuse, and make the difficult decision to report their victimization, are supported.

Studies also document that assistance and support is often not forthcoming from victims' homeland, nor is it available from the host country⁵. Existing services are commonly not suitable for the special circumstances or needs of these victims. For instance, research demonstrates that law enforcement policies and support services are generally geared to the local mainstream population or culture, and that battered women shelters often do not have staff that speak the victim's language, nor do they cater to other special needs, e.g. serve the special foods to which women from other countries are accustomed (Ciurak, 1985; Huisman, 1996)

From Victims to Survivors: Concluding Observations and Policy Recommendations

Women and girls who are victimized should be afforded fundamental rights such as protection, justice, and support at a minimum. Work on prevention is also a key issue, although it is important to ascertain that reference to "prevention" does not lead in any way to victim blaming (e.g., for not avoiding it, for allowing it to happen, or for somehow "provoking" it).

To create a safer world for women and girls, the international community must address ways to reduce women's vulnerability, as well as discover indigenous strategic solutions that reduce exploitation and abuse. It is also important to shift classifying women and girls as "victims" to viewing them as "survivors," thus recognizing the many creative ways in which victimized women cope and survive. This shift will preserve women's ability to resist victimization, allow them to be helped on their own terms, and recognize that women themselves can and should fashion their own ways of coping. Because the victimization of women and girls is not likely to vanish quickly, the empowerment of women is a key in women's survival. Solutions to manage or reduce women's victimization need to address two distinct levels:

5 The Amnesty May 2000 report on trading in women describes the indifference of the criminal justice system to the plight of traded women, and castigate Israel for its passive policy, which encourages trade in women. It points out the lack of relevant legislation to deal with trafficking in human beings and the practice of punishing the women for their victimization. Similarly, Priti Patkar of PRERANA and Norma Hotaling of SAGE described in their talks at the workshop the way in which criminal justice agents are passively or even actively involved in facilitating or assisting in the exploitation of trafficked women.

A. On the *micro* level: National and local campaigns to raise awareness and recognition of the invidious, involuntary and dehumanizing nature of women's victimization should be conducted. It is imperative to highlight the exploitative character of this victimization by noting the power differential between those involved, their divergent socio-economic attributes, or the general inferior status of women in the particular context. As cultures are always changing, it is vital to emphasize that women's victimization cannot be defended on cultural grounds.

Countries need to examine their policies and practices for their potential to help victims prevent, resist or escape further victimization, and eliminate conditions or requirements that entrap women in abusive relationships or exploitative situations. Countries also need to revisit efforts to mainstream forced or involuntary prostitution (including euphemistically referring to it as "work"). Attempts to glamorize the sexual exploitation of women and girls through efforts to technologize (e.g. Hughes, 1999) and medicalize (Coalition against Trafficking in Women, 1997) the sex industry, particularly when those who benefit from the exploitation are charged with the task⁶, also need to be closely monitored. To reach these ends, non-cumbersome legal processes and corruption-free administration of law are vital. The criminal justice system has to empower particularly female victims who are marginal (e.g., poor, uneducated, and with limited language and work skills or resources), and outside the social and legal protection of their own systems. The justice system must focus equally on the abuser and the abused, paying attention to those profiting from exploitation and not merely those victimized by it. Perpetrators should be sanctioned, not only "treated," and certainly not excused. At the same time, the underlying victimization of women who resorted to crime in order to cope or survive needs to be recognized and considered in justice decisions. Women are empowered when they are confident that the justice system is their ally and a resource at their disposal to help them resist or escape victimization.

Collective responses should be the rule in addressing women's victimization, and all support services should be based on human rights principles, respecting the dignity and integrity of girls and women. Coordinated support, resources and services should be made available to victims, regardless of their immigration status or the circumstances of their arrival. Indigenous solutions, which utilize existing structures, or available services tailored to the special needs of different groups of women should be available to those at risk and those trying to escape victimization. It is particularly important to cultivate community support networks that facilitate the sharing of experiences by survivors. Research has shown that sharing their experiences with other survivors is one of the most effective and least costly forms of support. In the light of the magnitude of the problem, there will never be enough resources to respond to every victim. Therefore, establishing community support networks is vital. Lastly, community op-

6 Priti Patkar of PRERANA, the social welfare agency that cares for the welfare of the women victims of commercial and sex exploitation and their children in Mumbai, has discussed in her presentation at the workshop situations in which owners of brothels were charged with providing condoms to the women who worked in their operations. This act provided legitimacy to the exploitation, thus enhancing the control of the brothel owners over the women under their charge.

position to victimization can be the most critical resource in struggles to decrease its prevalence.

B. On the *macro* level: Concerted efforts to reduce power differentials and close economic gaps between the first and third world can alter the conditions that facilitate economic and sexual exploitation of women and girls. Strategies and efforts on the international level, accompanied with meaningful resources such as monetary aid should be targeted to remedy circumstances of countries dependent on their women to earn hard currency⁷. Aid should also be provided on the condition that women's social and legal status is considerably improved. Establishing gender equality and especially sustainable economic options for women, is a key issue in addressing victimization, particularly trafficking and migration into exploitative situations. Lastly, developing common strategies and strengthening communication networks between governmental agencies and non-governmental organizations across sending, transit and destination countries would provide more effective support to women who resist victimization.

The extent of women's victimization should serve as a barometer for the country's compliance with human rights laws, or conversely, as its record of human rights violations. Visions for international cooperation on ways to reduce women's victimization, empower women and girls, increase their independence and autonomy, and preserve their integrity and dignity, should be a top priority of the international community.

Bibliography and Selected Readings

- Altink, Sietske (1995). *Stolen Lives: Trading Women into Sex and Slavery*. London: Scarlet Press.
- Ammar, Nawal (1997). "Domestic Violence: A Move Away from Silence Toward Systematic Studies." *Women and Criminal Justice* 9 (1): 87-99.
- Anderson, Michelle J. (1993). "A License to Abuse: The Impact of Conditional Status on Female Immigrants." *Yale Law Journal* 102 (6): 1401-1430.
- Bargen, Jenny and Elaine Fishwick (1995). *Sexual Assault Law Reform: A National Perspective*. Canberra: Office of the Status of Women.
- Barry, Kathleen (1985). *Female Sexual Slavery*. New York, New York: University Press.
- Breckenridge, Jan and Moira Carmody (1992). *Crimes of Violence: Australian Responses to Rape and Child Sexual Assault*. Sydney: Allen and Unwin.
- Briere, John (1992). *Child Abuse Trauma: Theory and Treatment of the Lasting Effects*. London: Sage.

7 Catherine Maceda of the Philippine Foreign Ministry, Department for Filipino Overseas, has commented that there is a need to acknowledge the existence of, what she termed, a "reverse developmental aid". She referred to the brain drain from developing countries, like the Philippine, to developed countries like the USA. This situation occurs, for instance, when Filipino nurses or physicians who were trained at great expense at their home country, are emigrating to the USA or other developed countries that can offer better pay and working conditions.

- Caldwell, Gillian, Steven Galster and Nadia Steinzor (1997). "Crime and Servitude: An Expose of the Traffic in Women for Prostitution from the Newly Independent States." Global Survival Network.
Available: <http://www.globalsurvival.net/femaletrade/8711russia.html>.
- Canadian Panel on Violence Against Women (1993). *Changing the Landscape: Ending Violence - Achieving Equality*. Ottawa: Ministry of Supply and Services.
- Chan, Janet B.L. (1992). *Policing in Multicultural Society: A Study of the New South Wales Police*. Final Report to the New South Wales Police Service, School of Social Science and Policy, University of South Wales.
- Chin, Ko-Lin (1994). "Out of Town Brides: International Marriage and Wife Abuse Among Chinese Immigrants." *Journal of Comparative Family Studies* 25 (1): 55-69.
- Ciurak, Irene (1985). "Problems Facing Migrant Women in Domestic Violence" in Suzanne E. Hatty (ed.) *Domestic Violence*. Proceedings of a National Conference, Australian Institute of Criminology, Canberra. 1: 37-40.
- Chesney-Lind, Meda (1998). *The Female Offender: Girls, Women, and Crime*. Thousand Oaks, CA: Sage.
- Coalition Against Trafficking of Women (1998). "Health Effects of Prostitution." Testimony submitted by CATW: CEDAW Hearings, General Recommendation on Health. N. Amherst, MA.
- Coalition Against Trafficking of Women (1995a). "Proposed United Nations Convention against Sexual Exploitation." N. Amherst, MA. Available: <http://www.uri.edu/artsci/wms/hughes/catw/conven.htm>.
- Coalition Against Trafficking in Women (1995b). "Report to the Special Rapporteur on Violence Against Women." Presented to the United Nations. N. Amherst, MA.
- Coalition Against Trafficking in Women (1997). "Sexual Exploitation and Trafficking on the Internet." Presented at: *Policing the Internet- Combating Pornography and Violence on the Internet: A European Approach*. Available: <http://www.uri.edu/artsci/wms/hughes/catw/dhpolice.htm>.
- Coalition Against Trafficking in Women (1999). "Sex: From Intimacy to 'Sexual Labor,' or Is it a Human Right to Prostitute?" CATW - South East Asia. Available: <http://www.uri.edu/artsci/wms/hughes/catw/crereports.htm>.
- Corrin, Chirs (1996). *Women in a Violent World: Feminist Analyses and Resistance Across 'Europe.'* Edinburgh: Edinburgh University Press
- Counts, Dorothy Ayers, Judith K Brown and Jacquelyn C. Campbell (eds) (1992). *Sanctions and Sanctuary: Cultural Perspectives on the Beating of Wives*. Oxford: Westview Press.
- Currie, Janet (1995). "Ethnocultural Minority Women, Spousal Assault and Barriers to Accessing and Problems in Using the Justice System." A Technical Report by the Research and Statistics Section and the Law Reform Fund, Department of Justice Canada. pp. 1-57.
- Kempadoo, Kamala and Jo Doezema (eds.) (1998). *Global Sex Workers: Rights, Resistance and Redefinition*. New York: Routledge

- Kathleen Daly (1994). "Criminal law and justice system practices as racist, white, and racialized," *Washington & Lee Law Review* 51(2): 431-464.
- Das Dasgupta, Shamita, Sujata Warriar (1996). "In the Footsteps of 'Arundhati'" *Violence Against Women* 2 (3): 238-259.
- Davis, Robert C. and Edna Erez (1996). *Immigrant populations as Victims*. A report submitted to the National Institute of Justice.
- Davies, Miranda (ed.) (1994). *Women and Violence: Realities and Responses Worldwide*. London: Zed Press.
- Derks, Annuska (1997). "Trafficking of Cambodian Women and Children to Thailand." Geneva: International Organization for Migration.
- Dworkin, Andrea (1993). *Letters from a War Zone*. New York: Lawrence Hill.
- Dobash, Rebecca and Russell Dobash (1992). *Women, Violence and Social Change*. London: Routledge.
- Dobash, R.P., Dobash, R.E., Wilson, R., And Day, M. (1992). The Myth of Sexual Symmetry in Marital Violence." *Social Problems* 39: 71-79.
- Donat, Patricia and John D'Emilio (1992). "A Feminist Redefinition of Rape and Sexual Assault: Historical Foundations and Change". *Journal of Social Issues* 48 (1): 9-22.
- Erez, Edna (2000). "Immigration, Culture Conflict and Domestic Violence/Woman Battering". *Crime Prevention and Community Safety: An International Journal* 2(2): 17-21.
- Edleson, Jeffrey and Zvi Eisocovits (1996). *Future Interventions with Battered Women and their Families*. London: Sage.
- Enloe, Cynthia (1993). *Sexual Politics at the End of the Cold War*. London: University of California Press.
- Farley, Melissa, and Howard Barkan (1998). "Prostitution, Violence and Posttraumatic Stress Disorder." *Women and Health* 27 (3): 37-49.
- Giobbe, Evelina (1998). "A Comparison of Pimps and Batterers." Available: <http://www.uri.edu/artsci/wms/hughes/catw/batterer.htm>.
- Goldman, Maurice (1999). "The Violence Against Women Act: Meeting its Goals in Protecting Battered Immigrant Women." *Family and Conciliation Courts Review* 37 (3): 375-392.
- Hass, Giselle Aguilar, Mary Ann Dutton, and Leslye E. Orloff (2000). "The Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications." *International Review of Victimology* (forthcoming).
- Hazelhurst, Kathleen M. (1987). *Migration, Ethnicity and Crime in Australia*. Canberra: Institute of Criminology.
- Heise, Lori, Kirsten Moore and Nahid Toubia (1995). *Sexual Coercion and Reproductive Health: a Focus on Research*. New York: Population Council Inc.
- Heise, Lori (1994). *Violence Against Women: The Hidden Health Burden*. Washington DC: World Bank Discussion Paper, pp. 255.
- Herman, Judith (1994). *Trauma to Recovery: From Domestic Abuse to Political Terror*. London: Pandora.
- Hodgin, Deanna (1991). "Brides and Disaster Made to Order." *Insight* 7 (15): 20-21.

- Hughes, Donna M. (1999). "Pimps and Predators on the Internet: Globalizing the Sexual Exploitation of Women and Children." N. Amherst, MA: Coalition Against Trafficking of Women.
- Hughes, Donna M. and Claire M. Roche (1999). "Making the Harm Visible: Global Sexual Exploitation of Women and Girls - Speaking Out and Providing Services." N. Amherst, MA: Coalition Against Trafficking Women.
- ICCLR (International Centre for Criminal Law Reform and Criminal Justice Policy) (1999). *Strategies to Eliminate Violence against Women: A Resource Manual* Vancouver, Canada (in conjunction with CICIP/ODCCP, HEUNI, and ILANUD)
- Jang, Deean, Lee, Debbie and Morello-Frosch, Rachel (1990). "Domestic Violence in the Immigrant and Refugee Community: Responding to the Needs of Immigrant Women." *Response to the Victimization of Women and Children* 13 (77): 2-7.
- Kelly, Linda (1998). "Stories from the Front: Seeking Refuge for Battered Immigrants in the Violence Against Women Act." *Northwestern University Law Review*. 92 (2): 665-705.
- Kelly, Liz (1999). *Violence Against Women*. British Council, London.
- Lim, In-Sook (1997). "Korean Immigrant Women's Challenge to Gender Inequality at Home: The Interplay of Economic Resources, Gender, and Family." *Gender and Society* 11 (1): 31-51.
- Maglizza, Eliose (1985). "Migrant Women and Domestic Violence: The Dilemma of Whether to Stay or Leave." In Suzanne E. Hatty (ed.) *Domestic Violence*. Proceedings of a National Conference, Australian Institute of Criminology, Canberra. 1: 35-36.
- Meeker, James W. and John Dombrink (1988). "The Undocumented and Their Legal Needs." *Humboldt Journal of Social Relations* 15 (2): 105-132.
- Migration Information Programme/International Organization for Migration (1996). "Trafficking and Prostitution: The Growing Exploitation of Migrant Women from Central and Eastern Europe." Budapest.
- Migration Information Programme/International Organization for Migration (1996). "Trafficking in Women from the Dominican Republic for Sexual Exploitation." Budapest.
- Migration Information Programme/International Organization for Migration (1996). "Trafficking in Women to Italy for Sexual Exploitation." Geneva.
- Migration Information Programme/International Organization for Migration (1997). "Two Reports on the Situation of Women and Children Trafficked from Cambodia and Vietnam to Thailand." Geneva.
- Migration Information Programme/Office of the Austria Minister for Women's Affairs (1996). "Trafficking in Women to Austria for Sexual Exploitation." Vienna.
- Mullender, Audrey (1997). *Re-thinking Domestic Violence: The Probation and Social Work Response*. London: Routledge.
- Narayan, Uma (1995). "'Male Order' Brides: Immigrant Women Domestic Violence and Immigration Law." *Hypatia* 10 (1): 104-119.

- Orloff, Leslye E. (1995). "Addressing the Needs of Battered Immigrant Women." *Network News*. 20 (2): 3-4.
- Pavet, Tezza, Aurora Javate-de Dios, Cecilia Hoffman, Charrie Calalang, and Tet Arpa. "Trafficking in Women and Prostitution in the Asia Pacific." Available: <http://www.uri.edu/artsci/wms/hughes/catw/asaipr1.htm>.
- (1998) "Prostitution As Violence Against Women: NGO Stonewalling in Beijing and Elsewhere." *Women's Studies International Forum* 21 (1): 1-9.
- Raymond, Janice G. (1998). "Legitimizing Prostitution as Sex Work: UN Labor Organization (ILO) Calls for Recognition of the Sex Industry." N. Amherst, MA: Coalition Against Trafficking in Women.
- Reichert, Elizabeth (1991). "Perceptions of Domestic Violence Against Women: A Cross-Cultural Survey of International Students." *Response to the Victimization of Women and Children* 14 (78): 13-18.
- Shalhoob-Kevorkian, Nadera (1997). "Tolerating Battering: Invisible Methods of Social Control." *International Review of Victimology* 5 (1): 1-21.
- Stark, Evan and Anne Flitcraft (1996). *Women at Risk: Domestic Violence and Women's Health*. London: Sage
- Supriya, K. E. (1996). "Confessionals, Testimonials: Women's Speech in/and Contexts of Violence." *Hypatia* 11 (4): 92-106.
- Teitelbaum, Michael S. and Sharon Stanton Russell (1994). "Fertility, International Migration, and Development," in Robert Cassen (ed.) *Population and Development: Old Debates, New Conclusions*, New Brunswick (USA) and Oxford (UK): Transaction Publishers, 1994, pp. 229-252.
- United Nations High Commissioner for Refugees (UNHCR). *The State of the World's Refugees: The Challenges of Protection*, New York: Penguin Books, 1993, p. 153.
- Watanabe, Kazuko (1994). "Militarism, Colonialism, and the Trafficking of Women: 'Comfort Women' Forced into Sexual Labor by Japanese Soldiers." *Bulletin of Concerned Asian Scholars* 24 (4): 3-16.
- Whalen, Mollie. (1996). *Counseling to End Violence Against Women: A Subversive Model*. Special issue of Canadian Journal of Criminology. London: Sage.
- Wikler, Norma (1987). "Educating Judges About Gender Bias in the Courts." In L. Crites and W. Hepperle (Eds.) *Women the Courts, and Equality*. Newbury Park, CA: Sage
- Women's Network of the Red River Valley (1979). "Harmful Secondary Effects of the Sex Industry to the Community." Available: <http://rrnet.com/~wnrrv/landuse.htm>.
- Yayori, Matsui (1999). "Eliminating Trafficking in Asian Women." Available: <http://www.alternatives.com/crime/Asiawom.html>.
- Yoon, Youngik (1995). "International Sexual Slavery." *Touro International Law Review*. pp. 417-36.

MODULE 3:

Women in the criminal justice system

Introduction

Renée Collette
Première vice-présidente/Executive Vice-Chairperson
Commission nationale des libérations conditionnelles/
National Parole Board
Canada

Le 3e module des ateliers portant sur les femmes et le système de justice pénale a examiné comment le système de justice pénale peut prévenir la violence faite aux femmes.

Les participants à cet atelier étaient:

- L'honorable Anne McLellan, ministre de la Justice et procureure-générale du Canada;
- Olive Newton de Soroptimist International, Royaume-Uni;
- Dr. Evelyn Zellerer, professeure, École de criminologie et de la justice pénale, Université de l'État de Floride, États-Unis; et
- Yvon Dandurand et Vivienne Chin du Centre international pour la réforme du droit criminel et la politique en matière de justice pénale, Canada.

L'importance du rôle du système de justice pénale a été souligné à Beijing (Beijing Platform for Action) et par la résolution adoptée par l'Assemblée générale des Nations-Unies qui comprend les Stratégies et mesures concrètes relatives à l'élimination de la violence contre les femmes dans le domaine de la prévention du crime et de la justice pénale.

Plusieurs des instituts des Nations-Unies ont travaillé ensemble afin de produire un manuel de ressources en stratégies de prévention du crime pour éliminer la violence faite aux femmes, de même qu'un compendium des meilleures pratiques.

L'honorable Anne McLellan nous a résumé quelques-uns des défis réels auxquels les systèmes de justice à travers le monde font face. Elle a présenté quelques-uns des principaux éléments de la stratégie du gouvernement canadien. Elle a fait appel à l'action.

Olive Newton a traité de femmes victimes de viols. Elle a conclu que ces victimisations sont loin d'être traitées uniformément en tant que crimes graves et violations des droits humains, ce qu'ils sont. Elle a fait la promotion d'une approche intégrée en justice pénale face à cette problématique.

Dr. Evelyn Zellerer a fait plusieurs observations sur les pré-requis pour que les efforts internationaux en vue de la part du système de justice pénale soient couronnées de succès. Elle a soulevé la question de l'implantation des instruments internationaux existants. Elle a décrit un projet qu'elle co-dirige au Kazakhstan sur la formation policière en matière de violence conjugale. Elle a souligné le manque d'évolution des pratiques en justice pénale et leur impact sur la violence faite aux femmes.

Yvon Dandurand et Vivienne Chin ont noté certains progrès en prévention du crime et dans le domaine de la justice pénale, du moins dans quelques pays. Il n'y a qu'une seule convention internationale traitant spécifiquement de la violence faite aux femmes, soit celle de Belem do Para adoptée par l'Organisation des États américains. Ils ont commenté brièvement l'examen qu'ils font de l'implantation de cette convention par les 29 pays qui l'ont ratifiée.

Comme dans les autres modules des ateliers, plusieurs ont parlé des graves impacts de certaines formes de la criminalité transnationale, en particulier le trafic des femmes et des enfants et ont fait appel à des mesures et pratiques plus efficaces.

Dans ses remarques finales, la modératrice du 3e module a souligné la spécificité du rapport des femmes à la justice pénale. Se référant au thème général des ateliers, elle a parlé de la contribution particulière des membres du panel à la discussion sur la violence faite aux femmes et sur certaines approches pour lutter contre cette triste réalité de vie d'un nombre effarant de femmes et de filles. Elle a fait remarquer qu'il y a une très mince frontière entre la victimisation et la criminalisation quand il s'agit des femmes. L'expérience de la violence subie par les femmes en conflit avec la loi et/ou dans les milieux correctionnels, se retrouve dans une très forte proportion: par exemple 70 à 80% des femmes incarcérées au Canada ont subi de la violence au cours de leur vie. Elle a fait appel à tous les éléments du système de justice pénale pour qu'ils travaillent en collaboration pour agir sur le plan national et en coopération internationale.

Combating Violence Against Women: Challenges in International Co-operation

The Honourable Anne McLellan
Minister of Justice and Attorney General of Canada

As we begin the 21st century, it is disheartening to realize that the battle for women's equality has yet to be won. In all regions of the world, women are still forced into prostitution, coerced into situations of exploitation, considered as commodities and sexually abused. It was suggested, as recently as yesterday, at the Congress, that two million women are trafficked world-wide each year for the sex trade, and that this trafficking has replaced narcotics as the favoured activity of illegal trade.

As long as women live with the fear of violence, their options will be restricted and their movements curtailed. Any analysis of violence against women must include recognition of the complex ways in which inequality and power imbalances affect the lives of women.

Violence against women is a reality regardless of age, race, religion, culture, economic status and sexual orientation. It is at once a reflection of structural and systemic inequality in society and a contributing factor to that inequality. The harm caused by violence undermines women's ability to lead autonomous lives, free of fear and coercion, and imposes great costs on society. It has significant repercussions not only on the health and well-being of women, but also on their community as a whole, since it leaves them unable to achieve their potential through full participation in society.

Because of their multifaceted nature, gender-based crimes must be addressed through human rights strategies, criminal justice processes and other perspectives. Crime prevention and criminal justice systems, at both the national and the international levels, have a central role to play in this respect. At both the national and international levels, these systems need to be reassessed, in cooperation with organizations seeking women's equality, to better address the needs, rights and interests of women.

It is only quite recently that the international community decided to address the elimination of violence against women in the context of the criminal justice system. In 1995, the United Nations Commission on Crime Prevention and Criminal Justice included the elimination of violence against women as a priority item, and invited the 9th United Nations Congress to consider this matter. At that Congress, Canada was one of two principal sponsors that introduced a resolution urging Member States to develop and promote crime prevention strategies that reflect the realities of women's lives and address their distinct needs. This prompted the adoption of the Model Strategies and Practical Measures by the United Nations Commission on Crime Prevention and Criminal Justice in 1997. Canada was proud to play a leadership role in the formulation and adoption of

this essential instrument that is before you today. We are also pleased to announce the release of the Resource Manual on the Model Strategies, produced by the Vancouver-based International Centre for Criminal Law Reform and Criminal Justice Policy, in cooperation with other United Nations institutes and the United Nations Secretariat.

The Model Strategies are to be used as guidelines by governments, and other entities, in their efforts to address the various manifestations of violence against women. They refer to all aspects of the criminal justice system, including sentencing and corrections, support and assistance for those victimized and crime prevention. They provide a new impetus for concrete reform and international cooperation.

An example of the implementation of the Model Strategies, on a national level, is Canada's Policy Framework for Addressing Personal Security Issues concerning Women and Girls. On another, but related level, in 1998, Canada launched the second phase of its national strategy on community safety and crime prevention. This strategy is aimed at developing community-based responses to crime and victimization. It addresses the personal security concerns of women and girls. These concerns are central to their physical, emotional and economic sense of well-being.

The components of our policy framework include:

- public awareness and education;
- research on projects and evaluation mechanisms that advance gender-specific approaches to prevention and intervention;
- the development of crime prevention models for both girls and women;
- improving the development of research and knowledge; and
- the development of tools and resources to safeguard women's and girls' personal security.

Another example of Canada's implementation of a United Nations criminal justice standard is our Policy Centre for Victims' Issues. This Centre is an office within the Department of Justice, the mandate of which is to develop and co-ordinate federal initiatives to strengthen the voice of victims in the criminal justice system. The Centre's mandate reflects recommendations that were made in the Guide to Policy Makers on the Use and Application of the United Nations Declaration of Basic Principles of Justice for Victims of Crime. This guide has been made available at this Congress.

Canada's recognition of the needs of victims is also reflected in the Handbook for Police and Crown Prosecutors on Criminal Harassment, which was released by the Department of Justice this past December. The handbook promotes an integrated criminal justice response to cases of criminal harassment, and identifies the safety of the victim as a priority. Information in relation to the handbook is available at the Canadian kiosk during the congress.

Canada is convinced that national measures must attack the deeply rooted societal attitudes and behaviours which make girls and women "acceptable" targets for crime. International efforts must achieve the same goal. While the Model Strategies are an important and valuable international tool, further national and international measures are required. We need to ensure that criminal justice in-

stitutions adopt strong measures to protect women against gender-based exploitation and violence, including that associated with organized criminal activities. We also have to ensure that our criminal justice systems do not result in further victimization of women. We must also remember that the majority of women in prisons have themselves been victims of violence. Canada's correctional policies take this reality into account.

The growing threat posed by transnational organized crime makes it necessary to consider specifically the protection of women against organized crime. Transnational organized crime, by its nature, calls for innovative responses from criminal justice systems. Among other things, it requires greater international cooperation than is usually necessary to control and prevent other forms of crime. It also requires measures that recognize the special needs of women victims, who are made more vulnerable to violence because of multiple factors, such as race or ethnic background or their status as illegal migrants or refugees.

According to the Special Rapporteur on Violence against Women, little has been accomplished to date to combat effectively the flourishing trade in women, despite the fact that trafficking has been of international concern since the beginning of this century.

The Beijing Platform for Action, developed at the Fourth World Conference on Women in 1995, formulated a strategic objective aimed at eliminating trafficking in women and, helping those who are its victims by addressing the root causes of trafficking and by allocating resources for programmes to help victims. The Platform for Action also advocates increased cooperation and action by law enforcement authorities in order to dismantle trafficking networks. We look forward to the special session of the general assembly on Beijing Plus Five, in June 2000, to review progress made on the Platform for Action.

More specifically in the field of criminal justice, the International Convention against Transnational Organized Crime, which we hope will be submitted for adoption to the millennium United Nations general assembly this year, will enable member states to fight more effectively the various aspects of international organized crime. As we all know, a draft protocol, which will supplement the Convention, is being developed to prevent, suppress and punish the trafficking in women and children. The proposed new protocol is significant because it will provide, for the first time, a universal instrument that addresses all aspects of trafficking in persons. The protocol includes a broad and comprehensive definition of slavery - which involves trafficking for the purpose of sexual exploitation and forced prostitution - as well as all forms of servitude generally.

In all countries, the message must be clear: no matter what the context - trafficking, slavery, sexual abuse or forced prostitution - violence against women is not acceptable. Both at home and within the international community, we must continue working to ensure that women's rights are recognized as human rights. In concept and practice, these rights must acknowledge the realities of women's continuing efforts to achieve equality. We must step out of the vicious circle of violence to build just and equitable societies based on respect for individuals. By working together to achieve this goal, we will ensure that the downward spiral of violence is stopped and reversed.

International Responses to Violence Against Women

Evelyn Zellerer, Ph.D.
School of Criminology and Criminal Justice
Florida State University

Introduction

Violence against women is a complex problem of epidemic proportions. Credit for bringing this issue to global attention must be given to the women who had the courage to speak about their abuse as well as to the various organizations, especially non-governmental organizations, who work on their behalf.

One of our greatest challenges is to effectively respond to violence and ultimately, prevent its occurrence. This presentation focuses on criminal justice intervention and the implementation of international instruments. Although the justice system is important, it alone cannot end violence. We must solve the root causes of violence, which require coordinated, multi-disciplinary approaches at the international, national and local community level.

I want to remind you that we are not just talking about a “political” issue. Millions and millions of women and children are being beaten, raped and murdered as we speak. These are our mothers, daughters and grandmothers. We must respond and I urge you to make this a priority.

International Instruments and Implementation

Significant progress has been made, although we still have a long road ahead. International standards and declarations have been developed which promote equality and call for the elimination of all forms of discrimination against women. For example, building upon previous United Nations work, the General Assembly adopted a resolution in 1997 which contained a number of approaches to address violence, entitled *Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice*.¹ Member States are urged to ensure that effective and fair responses to all acts of violence against women are in place.

United Nations instruments such as the *Model Strategies* are stepping stones. The challenge is to implement them. At the end of 1998, forty-five experts gathered in Vancouver, Canada to assist implementation by developing a *Resource*

¹ This is an Annex to the *Resolution on the Elimination of Violence Against Women*, first adopted by the United Nations Commission for Crime Prevention and Criminal Justice in April/May 1997. General Assembly Resolution 52/86 of December 12, 1997.

*Manual and Compendium of Promising Practices.*² These are practical tools for policy makers, officials and other concerned groups.³

I will highlight three critical issues surrounding implementation - moving from vision to practice, respecting diversity and resources. I will then offer an example of an action research project.

(i) From Vision to Reality

After we adopt instruments like the *Model Strategies*, we still have to determine how they can be translated into practice within specific locations. This requires an honest assessment of what is currently occurring in each setting.

For example, one model strategy urges Member States “To empower the police to respond promptly to incidents of violence against women” (article 8(d)). We need to ask questions such as: What powers do the police currently have and how do they exercise those powers? What prevents police from responding promptly? What are the consequences of police response for victims and offenders?

One problem is the extensive under-reporting of crimes against women. Women are still not safe to come forward; they are brutalized and threatened, blamed instead of supported. The following quote from an interview with an Inuit woman in the Arctic could be from any abused woman: “I’m terrified of him ... I know for sure he’s going to kill me. I’m not laying any charges against him”.⁴

In the case of transnational trafficking, many victims are never identified. A compounding problem is that victims are often seen as offenders and deported because they do not have their documents, valid visas or work permits. Deportation only makes women more vulnerable. The safety of women who are trafficked is all the more urgent yet difficult given the possible links to organized crime and threats to their families back home.

The police and other judicial officials themselves are sometimes part of the problem. For example, they may not see certain acts of violence against women as a crime or treat such cases seriously. Women may not trust police, sometimes for good reason. This is particularly true of minority women and women who are trafficked. There is the perception that some police and government officials collude with traffickers. Whether or not this is true and to what extent demands urgent attention.

2 The meeting and subsequent documents were prepared by the *International Centre for Criminal Law Reform and Criminal Justice Policy* (ICCLR) in cooperation with *The Centre for International Crime Prevention, United Nations Office for Drug Control and Crime Prevention (CICP/ODCCP)*, the *European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI)*, and the *Latin American Institute for Crime Prevention and the Treatment of Offenders (ILANUD)*. The Government of Canada provided financial assistance.

3 They are available as conference documents and on CD-ROM. The *Compendium* is also posted on the World Justice Information Network website (www.wjin.net). For more information, contact the International Centre for Criminal Law Reform and Criminal Justice Policy, 1822 East Mall, Vancouver, B.C., V6T 1Z1, Canada. Phone # (604) 822-9875; E-mail: icclr@law.ubc.ca

4 Quotes are from my research on violence against Inuit women in the Canadian eastern Arctic (1992-1996), with funding from the Social Sciences and Humanities Research Council of Canada, Aboriginal Justice Directorate of the Department of Justice, and Department of Indian Affairs and Northern Development.

Corruption within the justice system, overall, must be uncovered and confronted if there is to be any hope for reducing violence by criminal justice intervention. The violence sometimes experienced by women at the hands of officials is unconscionable. Complaints need to be taken seriously and it is preferable to have mechanisms for external review of misconduct.

Crimes against women need to be efficiently and fairly processed through the justice system. Criminal justice intervention should result in victim safety and offender accountability through the imposition of appropriate sanctions. While severe sanctions may be necessary in certain cases, it is important to note that the inhumane treatment of offenders is never warranted. Stopping violence with further violence is not an effective or acceptable solution. One need only reflect on the sad irony of hitting children to teach them not to hit. We must proceed within a framework of non-violence.

(ii) Respecting Diversity

The second issue is respecting diversity. There cannot be a generic model because responses occur in extremely diverse settings. What works in one jurisdiction may not necessarily work in another. There is also not one strategy that is able to confront all the multiple forms of violence against women. For example, a strategy to confront domestic violence will differ from one for transnational trafficking. Recognition must also be given to the fact that women do not comprise a homogenous group. We need to consider the specific needs and experiences of refugee women, physically and mentally challenged women, women in detention and rural women, to name just a few.

We must respect and learn from diverse cultural and legal traditions. However, this does not mean allowing excuses for violence against women. Men do not have a right to “discipline” women. While respecting differences, we must none-the-less continue building an international consensus that violence against women is wrong.

(iii) Resources

The third and final issue is that human and financial resources are required for the development and implementation of justice strategies. Unfortunately, there still remains great disparity in the world in the allocation of and access to resources. In some jurisdictions, for example, there is no easy access to police, court, public transportation or even the basic necessities for healthy living. Such barriers are especially acute in rural isolated areas.

Resources are required for training and public awareness programs. Officials and practitioners require gender-specific, cross-cultural training on violence against women. A particular challenge posed by trafficking is the need for cooperation between officials and agencies within different jurisdictions since cases may involve a country of origin, transit country and country of destination.

Training and collaboration, for example, has to extend to immigration officials. Communities and women at risk need to be told about the tactics and danger of traffickers. Various methods such as radio, television, community meetings and theatre should be used to reach as many people as possible, including those who do not read.

Financial assistance is needed to meet the needs of victims and sanction offenders but, as a nurse in an Arctic community said, “Most people who come in are looking for quickies ... But it is incredibly complex ... and simplistic thinking actually is quite dangerous ... if you have a problem, go to government, get a quarter of a million dollars, throw it at the problem and expect results. I mean this has been done time and time again and it simply doesn’t work.”

Resources need to be accompanied by a commitment to sustainability and the empowerment of communities to effectively respond to violence.

Case Example: An Action Research Project

All three issues – moving from vision to reality, respecting diversity and resources – require an exchange and sharing rather than a “transfer”. It is not that someone “owns” the solution. We must listen to and respect each other and learn from what works, what is not working and what looks promising. An action research approach is an ideal way to develop, implement and evaluate responses to violence.

I am currently co-directing an action research project on violence against women in the former Soviet Union funded by the U.S. State Department.⁵ A goal of the project is to facilitate bringing leaders of the NGO community and officials within the justice system together to develop effective responses to violence. Collaborative relations are being developed between individuals from Central Asia, North America and the Russian Federation.

One component of this project is an inter-cultural action model for police training on domestic violence. As part of the process, practitioners and officials from Kazakhstan are coming to the United States to learn about responses to violence and to participate in police training. In Kazakhstan, a working group of experts from the U.S. and Kazakhstan will then modify the U.S. police training model and create a curriculum appropriate for a post-socialist and culturally diverse context. A pilot training of Kazakhstani police will be conducted and evaluated, building on the “training of the trainer” (“TOT”) approach by adding another layer or completing the circle (“TOTOT”). A capital trainer teaches their expertise to a local individual. The local expert, in turn, provides insight to the capital trainer. Both trainers then provide training, with the local trainer taking the primary role as the capital trainer departs.⁶ Both trainer and the “trained”

5 “Improving the Response to Domestic Violence in Kazakhstan”, co-directed by Evelyn Zellerer, Edward Snajdr and Dmitriy Vyortkin, School of Criminology and Criminal Justice, Florida State University. Funded by the U.S. State Department (grant #S-OPRAQ-97-H-N-177).

6 This model is being developed by Greg Saville, University of New Haven, Connecticut, United States, and Gerry Cleveland, Toronto School Board, Canada, and used for field training of police officers.

share knowledge in this kind of an action research process, which is the key to successful implementation.

The strengths of an action research project like this include building on local expertise, developing collaborative relations and acknowledging the unique cultural, economic and political context.

Conclusion

In conclusion, I have only touched on a few of the innumerable issues that require attention. Obviously, there are no easy solutions. We must always listen to the voices of victims and women's groups who work with them to gain a better understanding and develop realistic solutions.

We must immediately intervene when violence occurs but our ultimate goal is the prevention of violence. The political, economic and cultural impediments to women being full participants in and respectful members of a society need to be challenged. We must not only eliminate sexism but all forms of oppression, including racism, homophobia and poverty. In other words, we need to create a vision of a non-violent society and then work towards realizing that vision. I believe we can succeed if we continue with our united front against violence.

Implementing International Standards in the Fields of Crime Prevention and Criminal Justice to Eliminate Violence Against Women

Yvon Dandurand
Director - Human Rights Program
International Centre for Criminal Law Reform
and Criminal Justice Policy
Vancouver, Canada

Vivienne Chin
Consultant
International Centre for Criminal Law Reform
and Criminal Justice Policy
Vancouver, Canada

It may have taken a long time, but eventually the international community has arrived at a consensus on a definition of violence against women. The latter was recognized as both a gender-based form of crime and a violation of the basic human rights of women. There still remained, however, the crucial question of identifying the best courses of action to eliminate the phenomenon. You may say that the stage was set for a more strategic form of thinking about how best to mobilize member states, non-governmental organizations and communities in a joint effort to eliminate violence against women.

In fact, during the last decade or so, the international community has progressively articulated a number of standards and strategies to guide our actions at all levels of intervention¹. A problem that was once defined as essentially belonging to the domain of private life came to be understood as a public issue requiring public attention. In the process, the nature and extent of the state's responsibility to take action to prevent, punish, and eliminate violence against women were more clearly defined.

Progressively the doctrine of the state's obligation to exercise due diligence in protecting women against gender-based violence gained broad acceptance. That was indeed a crucial development, but it also left many states in a bit of a predicament in terms of their newly recognized obligation. What exactly would constitute due diligence? How far would Member States and their law enforcement and criminal justice agencies have to go to denounce the phenomenon of gen-

¹ See the table at the end of the paper, based on a compilation by UN Inter-Agency Campaign on Women's Human Rights. UN document can be found on <http://www.undp.org/rblac/gender/index.html>

der-based violence against women? How far would they have to go, to prevent violence from occurring, to deter potential offenders, to defend women's right to a life free of violence and to offer effective protection and assistance to women victims?

During the last decade, these questions were gradually addressed as the expectations of the international community became clearer through the development of various declarations and international standards.

In 1993, the General Assembly adopted the United Nations Declaration on the Elimination of Violence Against Women and expressed a clear expectation that national governments and others take concrete actions to address the problem. In 1994, the Belém do Pará Convention was adopted by the Organization of American States. That Convention, or if you prefer, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, is a binding treaty creating specific obligations for the 29 States Parties that have ratified it.

In 1995, the Beijing Platform for Action articulated some concrete strategies to eliminate the problem. As a result of these and other initiatives, the crime prevention and criminal justice field was directly challenged to re-examine its own practices. It was challenged to ensure, firstly, that these law enforcement and criminal justice practices did not themselves further victimize women, and secondly, that they offered women prompt access to justice and effective protection against gender-based violence.

Efforts to eliminate violence against women should be guided by some basic principles, including the paramountcy of safety for victims, the empowerment of women, and a respect for the dignity of all persons. It is human dignity and the rights that derive from it, including non-discrimination and gender equality, that are at the heart of the normative framework and legal context for combating all forms of violence against women. The language of human rights, as used concerning violence against women, is not that of protection as a matter of political will, nor that of a privilege accorded. It is a language of human rights and obligations, entitlements and duties, a language full of terms of accountability.

In December 1997, the General Assembly adopted a Resolution on the Elimination of Violence Against Women² which reiterated some of these principles and offered, in an Annex, a number of concrete suggestions to the crime prevention and criminal justice sector. These "suggestions" took the form of a number of model strategies and practical measures that countries can employ to ensure that every aspect of their criminal justice system addresses the problem of violence against women or, at the very least, that it does not contribute to it.

Not all Member States welcomed their newfound duty to take concrete action to eliminate violence against women. It is fair to say that many of them were and are, to this point, only begrudgingly recognizing their obligations in this regard. Many more, however, did not resist change but were understandably bewildered by the complexity of the task. Even when the political will existed, the technical expertise and financial resources required to implement the necessary cultural and institutional reforms were often lacking.

2 General Assembly Resolution 52/86 of December 12, 1997.

The Model Strategies and Practical Measures adopted by the General Assembly went a long way to explain more concretely what could be done in the crime prevention and criminal justice field to eliminate violence against women. To refresh your memory, copies of the Model Strategies, in English and in French, are available here today. The Model Strategies document does not constitute a legally binding instrument. In fact, many organizations have indeed deplored the fact that the United Nations has not yet seen fit to proceed with the elaboration of a binding instrument, a convention against violence against women, along the lines perhaps of the Inter-American convention.

The Model Strategies, although not a legally binding instrument, do nevertheless provide a sort of checklist against which one can begin to assess whether a Member State is demonstrating due diligence in preventing violence against women and offering effective protection to the victims of these crimes.

The Model Strategies recognize the multifaceted nature of violence against women and adopt a multidisciplinary approach to preventing and combating the crime. The Model Strategies cover all components of the criminal justice system, from crime prevention, to law enforcement, to courts, sentencing, and corrections. They also offer a number of suggestions concerning research, role of the media, education, dissemination of information, raising of public awareness and outreach programs. They are designed to help bring about changes to ensure the appropriate “fair treatment” response on the part of law enforcement and criminal justice institutions to women victims of violence.

Under the rubric of “follow-up activities”, the Model Strategies also called upon the members of the United Nations Crime Prevention and Criminal Justice Programme Network of Institutes (as well as Member States, United Nations bodies, and other relevant organizations) to utilize the Model Strategies as a basis, a policy reference and a practical guide for activities aimed at eliminating violence against women. They also contain an invitation to design training programmes and manuals for criminal justice officials based on the Model Strategies and to assist governments, at their request, in reviewing, evaluating and revising their criminal justice systems, including their criminal law.

As you have already heard, several members of the United Nations network of institutes have been involved in various activities to promote the use and implementation of the Model Strategies. They were involved, among other things, in training and criminal law policy reform initiatives in their own region.

In addition, the International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR), the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), and the Centre for International Crime Prevention (CICP/ODCCP), with the financial support of the Government of Canada, have worked together to produce a Resource Manual and a Compendium of Best Practices to assist the implementation of the Model Strategies. The Resource Manual was made available during this Congress, in French and English, to all delegations. The compendium and the manual are also available on the internet and on CD-ROM. For copies of the Resource Manual, visit www.iccir.law.ubc.ca/html/publications.htm.

The International Centre for Criminal Law Reform has also worked closely with the International Association of Prosecutors (IAP) to develop Model Guidelines for the Effective Prosecution of Crimes Against Children.

Manuals and other tools, as you can see, have been developed and made available to policy makers, communities and criminal justice officials committed to the fight against violence against women. But how much of all that has actually had an impact?

The several excellent reports of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, are clear reminders that the battle against violence against women is far from being won. The “Beijing Plus Five” exercise which will be completed in June of this year may allow us all to fully appreciate how little progress has been achieved with respect to many of the most insidious aspects of the phenomenon of violence against women.

Some progress may have been achieved in the crime prevention and criminal justice field, at least in some countries. However, there are few places in the world where the fight against gender-based violence has received all the attention it deserves within the criminal justice field. There is probably not one country in which the prevention, the punishment and the eradication of violence against women is given the same level of priority as drug interdiction, money laundering, the fight against organized crime and many of the more traditional forms of crime fighting.

Nearly three years after their adoption by the General Assembly, the Model Strategies are still largely unknown, even within the United Nations Organization itself. The Model Strategies are still not readily available in all the United Nations official languages. Member States hardly ever make reference to them in their own plans of action or policy statements. Furthermore, their importance has not generally been recognized by donor agencies and, as a result, financial assistance is seldom provided to countries wishing to implement them.

Recently, the International Centre for Criminal Law Reform and Criminal Justice Policy, together with the Commission of Women of the Organization of American States (OAS/CIM) and the Latin American Institute for Crime Prevention and the Treatment of Offenders (ILANUD) have undertaken a review of the implementation of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belém do Pará Convention). A brief description of the project is available among the documentation for this workshop. During this review of the thirty-four member countries of the OAS, the Model Strategies are used as a reference point to assess the progress accomplished within the field of crime prevention and criminal justice. Those of you who are interested will find, among the documents distributed today a table of concordance (in English and Spanish) relating every component of the Inter-American Convention to the various model strategies.

Although we would have liked to, we cannot share with you today the findings of the review as the study is still in progress. However, it is already clear to us that even in cases of countries bound by a treaty obligation, change is slow and resistance is strong at almost every step of the way.

We have talked a lot about the Model Strategies and, obviously, we feel that they have not received the attention they deserve. Disappointingly, they have not become the powerful instrument of criminal law and criminal justice reform that they were intended to be.

Addressing Transnational Forms of Violence Against Women

One could argue that only a few among contemporary forms of transnational crime actually involve gender-based violence and exploitation, but some of them definitely do. This is clearly the case of various organized criminal activities relating to trafficking in women and children for the purpose of various forms of exploitation. There is clear evidence of women's and children's particular vulnerability to certain forms of transnational organized crime. There are also reports of increasing recruitment of women into criminal organizations.

Under the United Nations' current definition, "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life³. Although the primary focus of that definition seems to be on traditional forms of violence at the domestic level, it is nevertheless a broad definition which includes violence related to exploitation, forced prostitution and trafficking, all of them crimes which are often committed across borders and are likely to involve criminal organizations.

Crime prevention and criminal justice institutions must offer women real and effective protection against violence, exploitation and discrimination. Whether such crimes are committed across borders or not is only relevant to the extent that the transnational nature of the offences may call for different prevention or control strategies. Punishment, prevention and protection (including human rights protection) must all remain the main pillars of an effective strategy to combat trafficking in human beings.

While it will obviously continue to be important to examine how the criminal justice system can help prevent exploitative behaviour and various traditional forms of violence against women, the growing threat posed by transnational organized crime makes it necessary to specifically consider the issue of women's access to protection against organized crime. Women certainly do not currently receive the level of protection they are entitled to expect from the criminal justice system against the many forms of exploitation and violence they suffer at the hands of transnational criminal organizations. Furthermore, the impact that criminal law, the criminal justice process and crime prevention strategies generally have on women's lives continue to deserve urgent and careful scrutiny.

3 See: *Declaration on the Elimination of Violence Against Women*, United Nations, A/Res. 48/104., article 2.

During this Congress, renewed attention is being given to transnational forms of violence against women, in particular trafficking in persons. The Model Strategies, as even a cursory review would reveal, do not offer much guidance with respect to the implementation of specific measures to address these transnational forms of violence against women. The proposed additional protocol concerning trafficking in persons will likely set the broad parameters of the expected international cooperation in the fight against that crime. However, it will likely also leave many Member States without the practical means to effect the necessary reforms and contribute fully to the international crime control effort.

The effective implementation of the proposed new Convention against Transnational Organized Crime and, in particular, its additional Protocol on Trafficking in Persons, Especially Women and Children, cannot be taken for granted.

Had the implementation of the Model Strategies been a success, we would certainly be recommending to you today that we build on them, to ensure that they address the challenges of combating trafficking and other transnational forms of violence against women. However, in light of the recent experience with the Model Strategies and their apparent failure to have an impact on criminal justice policies, it is probably fair to say that we will have to find other means to achieve our goals.

TIMELINE: PROGRESS AGAINST GENDER VIOLENCE

YEAR	EVENT
1948	Signature of the Universal Declaration of Human Rights (UDHR)
1966	International Covenant on Civil and Political Rights.
1966	International Covenant on Economic, Social, and Cultural Rights
1975	The First UN World Conference on Women in Mexico City
1980	The Second UN World Conference on Women in Copenhagen
1981	Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) entered into force.
1985	The Third UN World Conference on Women in Nairobi
1990	The O.A.S. Commission of Women (CIM) publishes the "Conclusion and Recommendations of the Inter-American Consultation on Women and Violence".
1992	The UN Committee to End Discrimination Against Women (CEDAW) adopts "Recommendation No. 19 on Violence Against Women" affirming that violence against women is a form of discrimination against women, and calling upon Member States to eliminate violence in every sphere.
1993	The World Conference on Human Rights (Vienna) (1) recognizes that violence against women and girls constitutes a severe violation of rights; (2) recognizes that women's rights are human rights, whether perpetrated in the public or private sphere; (3) calls for gender integration as well as the development of gender-focused mechanisms on international, regional and national levels to eliminate violence and discrimination against women.

1993	The UN General Assembly adopts the "Declaration on the Elimination of Violence Against Women".
1994	The UN Commission on Human Rights adopts a resolution calling for gender integration at all levels of human rights and programmatic activity at the international, regional and national levels.
1994	The UN Commission on Human Rights appoints the first UN Special Rapporteur on Violence Against Women.
1994	On 9 June 1994, the Organization of American States (OAS) adopts the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará).
1994	The International Conference on Population and Development, in Cairo: reproductive rights are recognized as human rights; gender violence is recognized as an obstacle to women's reproductive and sexual health, their rights, their education and their participation in development.
1994	Approval of the Regional Programme of Action for Latin American and Caribbean Women, 1995-2001 during the Preparatory Conference (Mar del Plata, September 25-29, 1994).
1995	The IV World Conference on Women in Beijing. (Beijing Platform for Action)
1997	UN General Assembly Resolution 52/86 (12 December 1997) adopts the Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice
1998	UN Commission on the Status of Women (March) reviews four key human rights sections of the Beijing Declaration and Platform for Action: Human Rights of Women; Violence against Women; Women and Armed Conflict; and the Girl Child.
1998	UN Commission on Human Rights (June) reviews the implementation of the Vienna Declaration and Programme of Action. Also, marking the five-year anniversary of the World Conference on Human Rights.
1999	Resource Manual to the Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice are adopted at the 8th session of the UN Commission on Crime Prevention and Criminal Justice, April 1999
1999/ 2000	Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime addressing the issue of trafficking in women and children
2000	A five-day Special Session of the UN General Assembly, 5-9 June 2000: Women 2000 - Gender Equality, Development and Peace for the Twenty-first Century, an event that will mark the official UN five-year review of the Fourth World Conference on Women and follow up on what countries have done to follow up and implement the Beijing Platform for Action. Also known as the Beijing Plus Five.

Rape - a Violation of Women's Rights

Ms Olive Newton
Justice of Peace
& Soroptimists International

Good afternoon. To use a metaphor from my days as a teacher, this is the last lesson on a Friday afternoon at the end of a long working week, and so may I thank you all for being here.

As I am sure we are all aware, in December 1997, the United Nations General Assembly urged Member States to promote an active and visible policy of integrating a gender perspective into the development and implementation of all policies in the field of crime prevention and criminal justice. This may assist in the elimination of violence against women, so that before decisions are taken, an analysis may be made to ensure that they entail no unfair gender bias.

The Assembly adopted the "Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice" as a model of guidelines to be used by Governments in their efforts to address, within the criminal justice system, the various manifestations of violence against women. It urged them to be guided by these to eliminate violence against women and to promote women's equality within the criminal justice system.

When I was afforded the privilege of speaking in this workshop, as a Practitioner, working as a United Kingdom Justice, right at the coalface so to speak and through my organisation, Soroptimist International, having had the opportunity to see for myself the plight of women worldwide – as prisoners, offenders, victims – I should, to quote the delegate from Fiji on the opening day of Congress, "get away from the broad brush strokes and address the details."

I therefore decided to focus on the treatment of women who are victims of crime and on this one specific crime of rape because I considered that it could well illustrate the differences that exist in countries' approaches to female victims of crime, the confusion in terms and procedures, the gender bias and the desperate need for an integrated approach to criminal justice as a whole.

Before I begin to explore this topic may I make it clear that I do not intend to deal with the rape of male persons or to the rape of juveniles. My remarks will refer only to the rape of adult women, that is over the age of 18 years and my comments will be drawn from my own experience as a Justice of the Peace in the United Kingdom, from research documents of the United Kingdom Home Office, from the United Nations Model Strategies and Practical measures for the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice and from extensive work done by members of Soroptimist International whom I represent here.

Time forbids me to pursue the special crime of rape as a war crime.

Rape as defined in the law of England and Wales is gender neutral “sexual intercourse with a person who at the time of intercourse does not consent to it or is reckless as to whether that person consents”.

“Consent” may be withdrawn at any time before or during the sexual act and it cannot be given after the act

and a mistaken or genuine belief that the woman is a “consenting party” is a defence to a charge of rape as shown in a much quoted example case.

“Rape is not proved if the man may have believed that the woman was consenting, even if that belief was unreasonable.”

Are you confused ? Imagine how confused the victim is.

In Scotland it is defined as “the carnal knowledge of a female by a male person obtained by overcoming her will”.

Among European countries, in Malta it is classified as a crime against public morals; in Greece a crime against sexual liberty.

Some countries recognise rape within marriage, some do not.

Rape is not considered a serious crime in a number of African and Latin American countries and in others, action taken is dependant upon the degree of physical injury.

I am sure I could devote the whole of the time allowed to me to taking other countries’ definitions and seeing how the law can confuse and in some cases be manipulated to suit the offender.

So, as a graduate in English and to suit my purpose here, I take the Oxford dictionary definition which says that rape is “to take by force, to ravish, to force, to violate.”

We must consider rape as a clear act of violence against a woman. It is a brutish crime which results in injury not just to the sexual organs but often a woman will have been beaten, kicked and subjected to a horrific attack. She may well have been bound, gagged, held prisoner and the lasting trauma of such treatment is impossible to measure.

Make no mistake it comes under the umbrella of violent crime.

It is also a violation of her human rights. Despite certain cultures believing in the “ownership” of a woman by her husband, a woman is not an article to be used at will and subjected to indignities, degradation and abuse.

The United Nations Universal Declaration of Human Rights states that:

- All human beings are born free and equal in dignity and rights;
- Everyone has the right to life, liberty and security of person;
- No-one shall be held in servitude;
- No-one shall be subjected to cruel, inhuman or degrading treatment.

It is abundantly clear that a woman subjected to rape has lost all these rights.

And as we are taking this topic under the heading of Women in the Criminal Justice System I must therefore also put it into context as a gender issue.

It is a fact that women can find the procedures to be hostile, lacking in adequate provision of support, follow-up and communication and it is a sad state of affairs that the research of the UK Home Office and of our own members is alike in finding that there is often a “laddish attitude” to the investigations carried out by law enforcement officers – frequently but not exclusively male. They do too often consider that a woman who dresses provocatively, who allows herself to be drawn into a compromising situation, who perhaps has a reputation for sexual activity – a prostitute perhaps – is “asking for it” and the complaint may not be pursued as vigorously as it should be.

Certainly it is a disturbing fact that there appears to be a falling rate in the conviction for rape.

To take just two examples – in England and Wales in 1985 it stood at 24% which was not that good but in 1997 this had fallen to 9% which gives cause for alarm. The Russian Federation statistics show rape as 14.1% of recorded crime in 1991 falling to 8.7% in 1995 and this picture may well be typical of others.

Indeed there does seem to be concern over the effective prosecution of rape world-wide. I am sure that the incidence of rape has not declined to this extent, if at all.

So what is going wrong?

There is a changing nature in rape cases that come before the courts which seems to be common in today’s society. The recorded number of “stranger rapes” has been far exceeded by those of “acquaintance” and “intimate” rapes i.e. committed by partner or ex-partner, a family member, friend or a “date rape”. Rape will also come to light when investigating domestic violence or conversely may be the final straw that reveals years of subjection to such violence.

It would appear on the surface that women feel more able to report the incident even though they may be citing a known friend, her partner or husband. However after reporting it they do not always wish to continue right through to conviction and sentence.

What is clear is that the investigation of the latter can often be more difficult, less clear-cut than that of “stranger” rape. The woman even after reporting it is often unwilling to provide the evidence needed for conviction. Out of fear, self-disgust (for she will often blame herself) or for other reasons, she finds it hard to follow through to conclusion. After all perhaps she felt affection for the man; he may be the father of her children; at the last moment the thought of the court proceedings is too much and she withdraws the charge leaving him free to repeat the offence.

Frustrating – yes. Understandable – yes.

So how can we make the system more “user friendly” to women? How can we incorporate gender sensitive strategies into our work as practitioners?

It may help if I run briefly through the process of our system in the United Kingdom and indicate some of the shortcomings.



Figure 1. Flow Chart of United Kingdom Procedures.

Note: At all stages the case may be discontinued for various reasons. In a United Kingdom research exercise it was found that of 100 charged only 19 were convicted of rape.

This process can break down at any stage and be discontinued for a variety of reasons.

In a United Kingdom research exercise it was found that of 100 cases charged only 19 were convicted of rape.

The process can take months from the time of report to the conclusion and my first recommendation has to be that the procedure should be revisited and speeded up.

Then the law should undertake certain reforms :

1. Definitions of terms must be revised, standardised, made clear and free from interpretation.
2. Consistency of sentencing should be agreed.
3. The public and especially the media should be excluded from the hearing of rape cases.
4. There should be no admission of sexual history evidence allowed.

However the most fundamental change should be that rape must be regarded by all countries as a serious crime and investigated as such.

There are also some very basic things which can be done to improve the victim's experience which do not require changes in legislation and this is where the NGOs have a role to play, in raising awareness, in lobbying, and monitoring and by giving appropriate practical help.

1. There should be rape/vulnerable witness suites available for victims.
2. The first concern should be for the woman's well-being especially in providing medical attention.
3. More women police surgeons should be appointed.
4. As far as possible the first police officer who take the initial statement should be a woman and she should then be present at all ensuing interviews.
5. The victim should be informed of all the support services available to her.
6. She must be kept informed of the progress of the case.

7. She must be appraised of the court procedures; given the opportunity to visit the court if she wishes to familiarise herself.
8. At the time of hearing she should be given anonymity; protected from facing her aggressor and protected from too vigorous cross examination.
9. She should be informed of the sentence and if it is a custodial sentence, she should be informed of the prisoner's release date.
10. The security of the victim and her family should be always protected.

These comments are drawn from my own practical experience and relate specifically to the treatment of a woman victim of the crime of rape but they are applicable to all forms of violence against women and mirror the recommendations of the Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice.¹

Many countries are making efforts to address these matters but the overriding issue to be addressed is that of "attitude" and that is not so easy.

To achieve this change, there is a need to give appropriate training to all the personnel within the criminal justice system – police, lawyers, justices, court administrative staff, support services. This should be regularly updated and a system of appraisal set up.

In addition there is a clear case for incorporating more women into the criminal justice system – at least 25% to be effective. In particular there should be more in senior management positions where they may be influential in bringing about a more gender sensitive approach.

None of this is beyond the scope of all countries, albeit there may be need to introduce changes more slowly where cultures require and resources are few but in essence it is realistically achievable.

The criminal justice system must offer fair and just treatment for women and it should use its powers to ensure the safety of women as victims, as offenders and as members of society.

Governments of all countries must provide the resources for the realisation of these aims which not only will bring about an improvement for women but for all people.

As practitioners we have an obligation to familiarise ourselves with:

- the United Nations Declaration of Human Rights;
- the Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice;
- the Convention on the Elimination of all forms of Discrimination Against Women;
- the Platform for Action from the 4th World Conference for Women;

and to reflect these in our decisions and actions.

It is within our power to prevent crime and to protect society and it is our duty to administer justice fairly and without any form of discrimination.

Rape is a violation of a woman's rights – she has the right to say "No", she has the right to be listened to and she has the right to be believed.

1 Specifically, paragraphs 7 c), 8 a) b) c), 9 a) h), 10 a) b) c) d), 11 d) e) f), 12 a) b), 13 c), 14 b) 15, 16 a) d) (General Assembly resolution 52/86, Annex).

MODULE 4:

Research and Policy Issues

Research on Women in the Criminal Justice System and Transnational Crime¹

Frances Heidensohn
Professor of Social Policy
Goldsmiths College, University of London

Introduction

The beginning of a new millennium has caused many people to look back at past events, as well as forward to the future and to consider possible parallels. For the topics which are the subject of my paper today, the position of women in the criminal justice system and in relation to transnational crime there are indeed some significant links which are worthy of attention. There are also important differences, notably in the strength and development of research in some key areas, and these will be my main focus.

The late nineteenth century saw striking growth in concerns about moral reform, leading particularly to the forming of organisations which sought to abolish government regulation of prostitution led by the British pioneer, Josephine Butler, an international abolitionist federation campaigned against systems, such as the *maisons tolérées*. They were particularly motivated by a wish to suppress trafficking of young women and girls, who were said to be regularly sold into sexual slavery and traded across Europe, and more widely.

Social purity movements flourished in Europe and North America from the 1880's until the early 1900's. They promoted temperance and moral reform and supported causes such as the employment of women as police officers; the arguments for the latter related particularly to the need to control the 'vice' trade and the exploitation of women and children. The First World War caused the cessation of much of this activity, although some of it was revived and promoted in the 1920's under the auspices of the League of Nations.

From the 1980's onwards we have seen a renewed concern about human trafficking, with a particular focus on women's involvement and, once again, the

¹ In preparing this paper, I am most grateful for the help and advice of my colleague Alice Bloch at Goldsmiths, of Pat Dowdeswell, Jessica Harris, Pat Mayhew, Alastair Smith and Maggie Pearson at the Home Office and of Liz Kelly and Linda Regan at the University of North London.

founding of a range of organisations whose names indicate their aims, just as they echo those of a century before: Coalition Against Trafficking in Women, Global Alliance Against Trafficking in Women. There are obvious and basic differences between these two periods. In the nineteenth century and early twentieth century, it was so called 'white slavery' which was of concern, the enforced prostitution of young women from western countries taken across Europe or overseas. In the twentieth century, it is the exploitation of women from developing nations or countries in transition which is seen as the problem.

Nevertheless, there are significant coincidences which others, sometimes controversially have observed. Feminists, of the first and second wave respectively, have played leading roles on both occasions and have influenced the agendas of discussions. Some of the key policy approaches put forward today are clearly descended from the abolitionist position of earlier times. However, the main and most striking difference lies in the fact that today, when we consider an issue such as trafficking, we can do so in the context of a substantial body of research on women and criminal justice. Findings from this research can be applied to transnational crimes, including those of trafficking, although such analyses are still unusual. In the next section of this paper I shall highlight key conclusions from research and go on to discuss their application.

Women and criminal justice

Studies of women and crime and of women's experiences of the criminal justice system, only really flourished in the last three decades of the twentieth century. There has been a notably fruitful period in this field since that time and, while there are still many gaps, it is now possible to outline under four major headings findings which are relevant to this discussion.² These headings are:

- the gender gap;
- the gendered nature of much crime;
- questions of agency and rationality;
- Cinderella status in criminal justice.

The gender gap

It was once famously observed that if men would only behave like women, the courts would be idle and the prisons empty. That is too reckless a claim, but it does convey the notable differences in the recorded male and female share of crime which have been observed since figures for offending were first recorded. These differences persist and seem to have some robustness. Through studying their range, trends and persistence, criminologists have subjected them to scrutiny and produced a range of related concepts which have framed research around

- equity studies

² Most of the work on which I shall draw has been carried out in the English speaking world and/or published in English. It is obviously important to discuss how far such studies apply to other nations and cultures, as indeed an earlier HEUNI publication makes clear (Joutsen, ed., 1999).

- chivalry
- stigma
- double deviance
- liberation debate.

Both the USA and Britain now regularly publish analyses of their criminal statistics on a gender basis. In their most recent forms these publications address aspects of what have been called *equity studies*, the range of attempts to explore whether women do commit fewer offences and of a less serious kind than men. Recent trends in both countries, and in a number of other nations, show an increasing female share of recorded crime, especially where young people are concerned. Measures such as self report studies have been used to assess the size of the hidden iceberg of female crime and have uncovered more of it.

In the course of such explorations, criminologists have developed concepts, some of them mutually exclusive, to explain the female ‘deficit’. Thus for an early generation of scholars, the notion of *chivalry* was held to be the key: male criminal justice staff-police officers, prosecutors and judges - all treated women far more leniently because of their sex and hence produced lower official crime rates. Debates still flourish on this topic, and some studies have shown differences, but many of the most vigorously controlled do not. Others stress the problems of making comparisons on a level playing field and of assessing police activities, in contrast to court decisions. Further, in recent times the development of standardised sentencing protocols in the US and in Scandinavia have reduced the variations.

An alternative view is taken by many modern feminist criminologists who have argued that women’s lower criminality is a product of much higher levels of *social control*, formal and informal, which impact differentially on women. Family and cultural expectations, behavioural prohibitions and civil barriers all result in socialising more women than men, thus this argument. When some girls and women do transgress, they are likely to be heavily *stigmatised* and to receive harsher treatment in the criminal justice system, thus suffering from the effects of *double deviance*.

An early result of some of these approaches was the *liberation causes female crime* debate of the 1970’s, in which alleged increases in female crime rates were causally linked to second wave feminism then making an impact in some western countries.

Most of these issues remain unresolved and scholars in many cases have declared them less interesting than other topics. Deeper questions about what gender equity might mean in practice and whether it is appropriate to see men as the norm against whose behaviour women are measured, have been raised. In addition, *masculinities* have been highlighted as problematic in relation to delinquency and crime, rather than taken for granted. Intersections of ethnicity and gender are also increasingly the focus of research.

The lasting impact of what can be called gender gap studies has been to shift perspectives. Earlier views of female offending focussed on sexuality and individual psychopathology, little serious analysis of existing data was carried out and women, paradoxically, were regarded as deviant because their levels of conformity seemed to be higher.

Gendered crime

The most significant and lasting impact of modern research on women and criminal justice has undoubtedly come from the synergy between activists and researchers who have demonstrated the gendered nature of much crime and victimisation. This work is amply represented elsewhere at this Congress and thus I will not dwell on it here. It is hardly an exaggeration to say that through the work of victim and survivor groups, as well as the huge development in victimisation studies, we now have a much fuller picture of the range of domestic violence, sexual assault and rape. National studies and, more recently, international work under UN auspices, show incidences as well as connections with other socio-economic factors.

In the quite recent past, many of these offences were not regarded as crimes, nor, even where they were, were they likely to be recorded or offenders processed through the criminal justice system. Chastisement of wives was seen as appropriate, only excesses might be punished.

Agency and rationality

One result of the paradigm shift which engendering much crime has caused is that girls and women may more often be seen as victims of crime and hence passive, men as perpetrators and more active. This takes away the notion of agency from women who do break the law and can underplay the possibilities of resistance for those women who are victimised. A great deal of recent research has demonstrated that women are active in many fields of crime, as drug dealers for example, or that they can devise strategies of resistance against their abusers whether in their own families or in criminal justice agencies. An interesting tension can develop in seeking to link these two last perspectives and see the possibilities of women being both offenders and victims. Violence is often the key clouding factor here since for many scholars in this field, coercion by violent partners and associates, or the fear of potential harm to themselves and their children, is deemed to be the cause of women's actions.

Cinderella status

Their low levels of official criminality have not generally led to women being more favourably treated in criminal justice systems nor by penal policies. Historic and current research studies draw two types of conclusions. In many jurisdictions the relatively small numbers of women in custody or under other types of sentences have been fitted uncomfortably into systems devised for the male majority and with little or no regard for their needs. This can result in wholly inappropriate and inadequate conditions, abuse and additional punishment because the women are 'too few to count'. An alternative pattern offers specialised institutions for females with separate and distinctive programmes, often premised on gender stereotypes which do not meet their needs.

Criminal justice agencies and their associated professions have, in most countries, been overwhelmingly staffed by men and often, in law enforcement for in-

stance, been characterised by their strongly macho cultures. This has changed somewhat in the late twentieth century and is an area on which researchers have focused both to map the problems and to analyse their roots and their persistence. Again UN sponsored work on tools such as the gender balance index provide a model here.

Transnational crime in perspective

I want now to turn to transnational crime and to suggest ways in which I believe it can be helpfully viewed through the perspectives outlined above. One of the most striking features of contemporary concerns about women and transnational crime is how concentrated they are; indeed it could be said trafficking in women is the single key issue in this area. I shall return to this topic below. Yet, there are many other dimensions to transnational crime, both specific *types* of crime, such as trading in drugs, money laundering, terrorism and *forms* of crime e.g. organised crime. In addition, there are because of both modern political (as in Europe) and economic development, distinct phenomena of transnational crime, policing and criminal justice agencies. Yet gender aspects are almost entirely absent from consideration where these issues are raised and researched. Yet, to take just two examples of areas where there are some relevant research studies with gender dimensions - drugs and transnational policing – these are highly relevant both to the experiences of women as victims and as offenders. Using the framework reminds us to ask more questions about the results of recent studies, to explore the gender gap and to examine whether these crimes really are as gendered (that is ‘male’ crimes) as they are often portrayed.

However, it is the issue of trafficking which has attracted by far the largest amount of interest and debate. It is claimed to be a multi billion dollar industry, to be the ‘better’ alternative to the drugs trade to support organised crime, it is said to be increasing in every part of the world. Causes for this increase are variously described as due to the demands of the sex industry and the vulnerability of victims, or to the major shifts in geopolitical and economic conditions of the late twentieth century. The flow of women from the countries of the former Soviet Union and other Eastern European nations has been particularly highlighted; it has even earned its own name ‘the Natasha trade’. A mass of information has been collected in the form of reports, resolutions, personal accounts of trafficked women, estimations of the rates, trends, patterns and aetiology of the trade. Yet, while some of this work is soundly based, much of it is speculative, or derived from extrapolating from small samples.

It is self-evidently extremely hard to undertake research on trafficking. To all the usual problems of conducting criminological studies are added the extra difficulties of a transnational phenomenon which disappears across frontiers, where the trafficker and the trafficked may collude in keeping silence. A more basic issue is that there may not even be a specific offence, rather a series of categories of prostitution-related crimes. Not surprisingly, there is considerable debate about the term ‘trafficking’ and how it can be defined. Some definitions distinguish between ‘willing’ and ‘innocent’ or ‘unwitting’ victims.

While there is now a mass of material of this type, there is less which offers analysis of the problem. Those which do so successfully, such as those presented here, tend to focus on the complexities of demand and supply factors, recognising that economic rationality may play a part. From this perspective it is possible to consider the apparently vast gender gap and the question of gendered crime. Are trafficked women largely a sub-section of trafficked migrants, following financial imperatives in richer countries, or are they the subjects of extreme forms of gendered violence which coerce them into enforced prostitution? Both views can be found in the literature in this field. Research studies are growing in number and sophistication. The answers to these questions should help to provide the basis for policies to combat the problem and/or to assess whether those already in operation are having any effect.

The position, in so far as interest and information are concerned is much more fully documented than when the trafficking of women was a major issue a century ago; however, there are still major gaps in our knowledge and understanding of the problems. It is perhaps too automatic a reaction for an academic to argue that more research is needed on a topic. Yet this is clearly the case here, especially as far as analysis of existing data and reports are concerned and in considering the key assumptions of the participants in debates on this subject. At today's event, as with many similar congresses and reports of recent times, we can note one considerable advance, that we are joined by some of the women who have survived these experiences and have their own stories to tell.

References

Research on Women and Criminal Justice

- Adler, F. (1975). *Sisters in Crime*. New York: McGraw-Hill.
- Brown, J. and Heidensohn, F. (2000). *Gender and Policing*. Basingstoke: Macmillan.
- Daly, K. and Tonry, M. (1997). 'Gender, Race and Sentencing' in M. Tonry (ed.) *Crime and Justice. A Review of Research* Vol. 22. Chicago: University of Chicago Press.
- Daly, K. (1994). *Gender, Crime and Punishment*. New Haven, USA: Yale University Press.
- Heidensohn, F. (1992). *Women in Control? The Role of Women in Law Enforcement*. Oxford: Oxford University Press.
- Heidensohn, F.M. (1996). *Women and Crime* (2nd Edition). Basingstoke: Macmillan.
- Heidensohn, F.M. (1997). 'Gender and Crime' in M. Maguire, R. Morgan, R. Reiner (eds.) *The Oxford Handbook of Criminology* (2nd Edition). Oxford: Oxford University Press.
- Home Office (1999). *Statistics on Women and the Criminal Justice System*. London: RDS Home Office.

- Jeffreys, S. (1985). *The Spinster and Her Enemies: Feminism and Sexuality 1880-1930*. London: Pandora.
- Petrie, G. (1971). *A Singular Iniquity: The Campaigns of Josephine Butler*. London: Macmillan.
- Rafter, H. N. and Heidensohn, F.M. (eds.) (1995). *International Feminist Perspectives in Criminology - Engendering a Discipline*. Buckingham: Open University Press.
- NCJRS (1998). *Women in Criminal Justice: A Twenty Year Update*. NCJ 173416. Rockville, Maryland, USA: NCJRS.

Trafficking

Much material can be found on the Internet. The most useful sites are:

- The Center for the Study of Transnational Crime
<http://www.american.edu/transcrime>
- International Office of Migration <http://www.iom.int>

Publications, from the above sites and elsewhere as indicated

- Caldwell, G., Galster, S. and Steinzor, N. (1997). Of *Global Survival Network*. 'Crime and Servitude: An Expose' of the Traffic in Women for Prostitution from the Newly Independent States. www.globalsurvival.net
- Foundation Against Trafficking in Women (STV). Quarterly Journal. www.bayswan.org/foundtraf
- Global Alliance Against Traffic in Women (2000). 'Trafficking in Women in the Asia Pacific Region: A Regional Report'. www.inet.co.th/org/gaatw
- Harding, J. (3 Feb. 2000). 'The Uninvited'. *London Review of Books*, Vol. 22.3, pp. 3-25
- Hughes, D.M. (2000). 'The "Natasha Trade" - The Transnational Shadow Market of Trafficking in Women'. *Journal of International Affairs*. www.uri.edu/artsci/wms/hughes

International Organization for Migration (1996a and b)

- Trafficking in Women to Austria for Sexual Exploitation.
- Trafficking in Women to Italy for Sexual Exploitation.

- Ruggiero, V. (1997). 'Trafficking in Human Beings: Slaves in Contemporary Europe'. *Internat J. of Soc. of Law*, 25, pp. 231-244.
- Salt, J. and Stein, J. (1997). 'Migration as a Business: The Case of Trafficking'. *Internat. Migration*, Vol. 35(4), pp. 471-491.
- Sheptycki, J.W.E. (1998). 'Policing, Postmodernism and Transnationalization'. *Br. J. of Criminology*, Vol. 38(3), pp. 485- .
- Sheptycki, J.W.E. (1995). 'Transnational Policing and the Makings of the Postmodern State'. *Br. J. of Criminology*, Vol. 35, No. 4, pp. 613-35.

Global Programme Against Trafficking in Human Beings

A joint presentation by Kristiina Kangaspunta and Paola Monzini.

Kristiina Kangaspunta
Research Officer
Centre for International Crime Prevention
United Nations Office for Drug Control and Crime Prevention
Austria

Global phenomenon: The extent of trafficking

Trafficking in human beings, especially women, can be viewed as a global phenomenon. Women are usually trafficked from regions where economic changes have a negative impact on women's living conditions to more affluent countries. It is difficult to give an accurate estimate of the scale of trafficking since it is problematic to use traditional means of data collection on trafficking¹. Some estimates suggest that 700,000 to 2 million women and children are trafficked globally each year (O'Neill Richard, 2000). According to research by IOM, in 1997, it was estimated that 700,000 women and children were smuggled across international borders, some 175,000 from Newly Independent States (Gushlak and MacPherson, 2000).

In Europe no overall figures are available of the total number of victims trafficked to European Union countries each year, but there are reasons to believe that they could amount to several thousand (Europol, 1998). The Federal Criminal Police Office (BKA) of Germany reports that in 1999, 257 trafficking cases were investigated involving 801 victims. Nearly all of them were women, only 2 victims were men, and of the victims, 22 % were from Ukraine, 14 % from Poland, 11% from Russia and 11% from Lithuania. The other major countries of origin include the Czech Republic, Belarus, Hungary, Bulgaria, Slovakia and Lithuania (Federal Criminal Police Office, 1999).

It is also estimated that from 45,000 to 50,000 women and children are trafficked to the United States each year, of which 30,000 are from Southeast Asia, 10,000 from Latin America, 4,000 from Newly Independent States and Central and Eastern Europe and 1,000 are from other regions (O'Neill Richard, 2000).

The United Nations Centre for International Crime Prevention has established a database containing information on trafficking routes and trends in different regions. The database will eventually allow the Centre to map the global trafficking situation.

¹ See for example Kelly and Regan, 2000, and IOM, 2000.

Defining trafficking: Protocol against Trafficking in Persons

Several definitions can be found on trafficking which focus on different aspects of the problem. The United Nations General Assembly adopted the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in November 2000². For the first time, the international community has adopted an agreeable definition on trafficking³. Essentially, the Protocol against Trafficking in Persons is intended to “prevent and combat” trafficking and strengthen international co-operation against trafficking.

According to the Protocol, trafficking in persons includes a range of cases where human beings are exploited by organized crime groups. An element of duress and a transnational aspect, such as the movement of people across borders, or their exploitation within a country by transnational organized crime groups, is also noted under the term of the Protocol.

The key definition, “trafficking in persons” includes “recruitment, transportation, transfer, harbouring or receipt of persons” if this uses improper means, such as force, abduction, fraud, or coercion, for the purpose of exploitation, such as sexual exploitation, forced labour, servitude or slavery. Countries which ratify the Protocol are obliged to enact domestic laws making these activities criminal offences, if such laws are not already in place.

The Protocol also requires states to take steps to protect and support victims of trafficking who should be entitled to confidentiality and have protection against offenders. This should include general protection and protection when a person is providing evidence or assistance to the police or appears as a witness in a prosecution. Social benefits, such as housing, medical care and legal or other counselling are also provided for.

Global Programme against Trafficking in Human Beings

The United Nations Centre for International Crime Prevention (CICP) launched a Global Programme against Trafficking in Human Beings in March 1999. The Programme consists of an integral package of research, technical co-operation, evaluation and the formulation of an international strategy against trafficking in

2 The full text of the Convention and the Protocols can be found on:
http://www.odccp.org/crime_cicp_convention.html

3 “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

human beings. The programme will be carried out by CICIP together with the United Nations Interregional Crime and Justice Research Institute (UNICRI), as well as with other international and national entities working with human trafficking issues.

The Programme is aimed at enabling countries of origin, transit and destination to develop joint strategies and practical actions against trafficking in human beings. By this, the Programme will contribute to empowering donor and recipient countries to address a common problem to their mutual benefit in a manner that transcends a purely bilateral approach. Given the transnational character of trafficking in human beings, effective and efficient criminal justice related responses can be developed only through international co-operation.

In addition to the research component, one of the main features of the Global Programme consists of a series of technical co-operation projects in selected countries. Activities to be carried out in co-operation with the national counterparts are based on the assessment of the situation regarding the involvement of organized crime in the trafficking of human beings. A database containing best practises will be established so that the collected information can be used by policy makers, practitioners, researchers and the NGO community. During the evaluation process, impacts and possible side effects of the projects will be analysed. The final phase of the Programme includes the development of a global strategy against trafficking in human beings which will be presented for adoption by the international community at a global forum.

The first technical co-operation project was initiated in the Philippines by CICIP together with UNICRI. The project, entitled “Coalition against Trafficking in Human Beings in the Philippines” is meant to serve as a pilot project in the framework of the Global Programme. The start-up mission visit, in July 1999, has enabled CICIP to prepare a rapid assessment and to provide a detailed plan for the project activities. Technical assistance activities in the Philippines are divided into two phases. Project activities range from establishing a national co-ordination mechanism, support in developing a database on organized crime involvement in trafficking, awareness-raising and training for law enforcement officers, to increasing protection and support provided to victims and witnesses.

A technical co-operation project against trafficking in human beings has also begun in Eastern Europe. The project covers the Czech Republic and Poland. Austria, Finland, Germany and the Netherlands are participating in it as partner countries. The project will test the implementation of the Protocol against Trafficking in Persons in the Czech Republic and in Poland and will assess the action needed for the ratification of the Protocol. At a national level, the project aims at improving the effectiveness of law enforcement functions and other criminal justice responses to trafficking through strengthening the capacity of each jurisdiction’s justice system, alongside support to non-governmental organisations. Support to victims and witnesses is an integral part of the project. In addition, the project aims at improving the existing level of information, providing a tool for better policy planning and action by assessing trafficking flows and the involvement of organized crime groups therein. At the regional and international levels, the project aims at promoting co-operation among key agencies of countries of origin, transit and destination. The project concentrates its activities in local

communities in the Czech Republic and Poland. The project will be extended to the Slovak Republic in 2001.

A technical co-operation project in Brazil for the Latin-American region has been initiated on the request of the Brazilian Government. The Brazilian project will assess the involvement of organized crime in the trafficking of human beings, existing national legislation and international agreements on criminal matters, migration flows and problems encountered by law enforcement agencies/the criminal justice system. The project also aims to strengthen the capacity of law enforcement through establishment of a specialised police unit to fight trafficking.

A project on trafficking in human beings is under development for a number of countries in the West African region. This project will assess and analyse trafficking flows and the existing responses of governmental and non-governmental organisations in Benin, Nigeria and Togo. The project aims at raising awareness on trafficking in human beings and strengthening the countries' institutional capacity to combat the criminal activity behind it.

References

- Europol, 1998. Trafficking in Human Beings General Situation Report. Focusing on Sexual Exploitation
- Federal Criminal Police Office, 1999. Trafficking in Human Beings, Situation Report 1999 of BKA , Germany
- Gushlak and MacPherson, 2000. Health issues associated with the smuggling and trafficking of migrants, *Journal of Immigrant Health*, Vol 2 (2), 2000
- IOM: Migrant Trafficking and Human Smuggling in Europe, 2000.
- Kelly and Regan, 2000. Stopping Traffic: Exploring the extent of, and response to, trafficking in women for sexual exploitation in the UK. *Police Research Series*, Paper 125, Home Office.
- O'Neill Richard, Amy, 2000. *International Trafficking in Women to the United States: A Contemporary Manifestation of Slavery and Organized Crime*, Centre for the Study of Intelligence, CIA, April 2000

Paola Monzini
Associate Research Officer
Project Officer for the Global Programme
against Trafficking in Human Beings
UNICRI
Italy

As you heard earlier from Ms. Kangaspunta, the Global Programme against Trafficking in Human Beings aims to combat the involvement of organized crime groups in the smuggling and trafficking of persons and promotes the development of effective criminal justice responses. It will also assist Member States, especially transit and origin countries, to improve their capacity to counter smuggling and trafficking networks.

The Global Programme has been developed jointly by CICP, the Centre for International Crime Prevention and UNICRI, the United Nations Interregional Crime and Justice Research Institute. From the beginning, the Programme has been designed by both organisations, ensuring that policy-oriented research activities were complementary to targeted technical co-operation activities.

We operate on the principle that greater knowledge of problems has a positive impact on the capacity to respond to them. To increase the effectiveness of anti-trafficking policies and practices, and to find out new best practices to be implemented with the maximum of effect, it is extremely useful to assess the main problems – that may differ from area to area, from country to country – and the responses given to them. Thus, current trafficking trends, principal routes used and the structure of criminal networks involved, as well as all the various kinds of responses already being applied are analysed, to the extent possible.

The research approach requires the commitment and involvement of civil society, national governments and international organisations. The learning process is vital to us all.

Because the root causes of smuggling of and trafficking in human beings are diverse - and because of the underground nature of the trafficking networks - a multi-faceted approach has been developed. Sources of information are different, and data on trafficking is often non-existent. For this reason all perspectives are considered:

- legislative provisions regarding organized crime, smuggling and trafficking, border controls and immigration procedures;
- available statistical information;
- institutional reports, as well as non-governmental reports and reports compiled by international organisations;
- interviews: semi-structured interviews are carried out with key persons in the agencies (law enforcement, immigration) involved in dealing with the trafficking-related problems. Information is also collected from the victims themselves;
- files on judicial cases;
- data and information is collected first at a local level, within the framework of the demonstration projects.

The main questions to be answered can be summarised as follows:

- a) as regards the problem, some basic questions are:
 - Who are the victims?
 - How are they trafficked? What are the routes used?
 - Who are the traffickers?
- b) as regards the degree of effectiveness of responses, the main questions are:
 - What kind of instruments already exist?
 - How are they working?
 - What are the main needs in each specific situation?

In the Philippines, where the first pilot project has started information and data - for the time being - have been collected from all agencies dealing with smuggling and trafficking problems, as well as from NGOs, research institutes and different media sources.

As a result of a first mission to Manila, a rapid assessment of the situation, as regards the problems and the responses already at play, has been prepared and partially published ⁽⁴⁾.

The general conclusion is that much has been written about the phenomenon of ‘trafficking’, even due to the attention paid by the Filipino government to the issue. At the same time, as it happens in several countries, relatively little information has been systematized on the involvement of transnational organized crime in human smuggling or trafficking either in the Philippines or in the destination countries of trafficked people. There is an urgent need to fill this gap in the analysis of human smuggling and trafficking.

Even if the trafficking issue is on the political agenda, and new anti-trafficking legislation has been designed, information is lacking on transnational organisations organising the business of smuggling and trafficking of persons, especially in women. Moreover, more information is needed on the international routes and on what happens in destination and transit countries.

The next objective for the assessment activities is a survey to collect direct information from agencies dealing with the different aspects of the huge problem of trafficking in persons, as well as NGOs and private sector actors. In close collaboration with a local research institute, a questionnaire will be distributed to NGOs and associations active in anti-trafficking practices all over the country and a database will be constructed to collect the results.

4 See A/CONF.187/CRP.4, “Human Smuggling and Trafficking: a desk review on the trafficking in women from the Philippines”, authored by Fiona David, the Australian Institute of Criminology (AIC), and Paola Monzini, United Nations Interregional Crime and Justice Research Institute (UNICRI), 7 April 2000. As regards the response given to the trafficking problems by the Government of the Philippines, see Catherine Paredes-Maceda, Deputy Executive Director, Commission on Filipinos Overseas, “Prevention, Protection, Prosecution, and Rehabilitation: Advancing the Status of Women Trafficking Victims and Survivors, the Philippine Experience”, April 2000.

The focus of the database is on recruitment methods and the involvement of organized crime in the international trafficking networks. The aim is to get a picture of

- how these illegal networks are working, and
- what are the main problems encountered during the efforts of prevention and what are the best practices.

As soon as the database is set up, the third objective will be the progressive extension of the work of collection of data and information to three destination and/or transit countries. Assessment activities, carried out in cooperation with research institutes in these countries, will focus on collecting evidence on how the transnational trafficking networks operate, in order to supply different kinds of labour markets. As a result, weaknesses in the international responses will be singled out.

Another pilot project will start in Central Europe, in the Czech Republic and Poland. The project involves other European countries, such as Germany, the Netherlands, Austria and Finland. This project will focus mainly on the trafficking of girls and women for the purposes of forced prostitution.

A detailed overview of current trafficking practices and responses will be prepared in both countries, with special attention to the application of international co-operation instruments. A database will be created to collect data and information from the Czech Republic, Poland and their western European partners, as well as best practices, to be shared at the international level. The next objective will be to extend the assessment activities towards the East, including the main origin countries, to identify the best technical co-operation activities to be implemented in these countries.

As regards the other projects, the same methodology will be applied, with necessary adjustments to each situation. The assessment of the problem and the identification of best practices is one of the major objectives of the Global Programme.

Based on the first experiences of the pilot projects, a global inventory including information material on trends,

best practices and special legislation to combat organized crime involved in trafficking will be set up jointly by UNICRI and CICP. A part of this information will be made available through our websites.

Trafficking in Women Through Poland: Analysis of the Phenomenon, Causes of Trans-Migration and Proposals to Tackle the Problem¹

Prof. Dr. B. De Ruyver and K. Van Impe
Research Group Drug Policy
- Criminal Policy - International Crime
Ghent University
Belgium

Introduction

Worldwide, the desire to migrate is continuously increasing. However, the legal means to do so are, especially in the United States and Europe, smaller than ever. Migrants who often lack access to the necessary contacts, knowledge and financial or logistic means, feel compelled to appeal to specialised networks in order to accomplish the final steps to their country of destination. Consequently, the black market – criminal organizations in this case – answer this demand by offering an *illegal* market of *migration* possibilities.

Nevertheless, practices of migrant *smuggling* always hold a certain risk for the person appealing to the smugglers. Putting him/herself into a subordinate position, he/she loses completely control over the situation, as a result of which migrant smuggling may too easily degenerate into the *trafficking* of persons.

As far as *trafficking* in human beings, and more specifically *in women*, is concerned, four general waves can be distinguished in the direction of the European Union and the United States. A first wave manifested itself from 1992 on and involved Asian women, especially from the Philippines and Thailand. In 1993, a second migration wave arose, consisting of South American women. The majority of them originated from the Dominican Republic and Colombia. A third wave of women, commencing as well in 1993, came from Africa, predominantly from Ghana and Nigeria. Finally, since 1994 the largest share of the trafficked women appears to consist of Central and Eastern European nationals, such as Hungarian, Polish, Czech, Russian, Romanian, Albanian, Ukrainian and Latvian women.²

Particularly alarming is the sharp growth in less than a decade in the number of victims from Central and Eastern European countries who are trafficked to the

1 See for a more extensive study: N. Siron, P. van Baeveghem, B. de Ruyver, T. vander Beken and G. Vermeulen, *Trafficking in Migrants through Poland. Multidisciplinary research into the phenomenon of transit migration in the candidate Member States of the EU, with a view to the combat of traffic in persons*, Maklu, 1999, 326p.

2 IOM, *Trafficking and prostitution: the growing exploitation of migrant women from Central and Eastern Europe*, IOM, May 1995, 8.

European Union.³ An estimated 500,000 women a year are trafficked from the former communist countries to Western Europe alone.⁴

In the field of trafficking in women, since 1989, when the communist regime collapsed, Poland has been functioning increasingly as a *transit* country.⁵ Especially women from Ukraine, Russia and the Baltic States are brought to Poland, where they may be introduced into the prostitution business, after which they are resold to brothel owners in European Union countries, as well as in Switzerland and Israel.⁶ Still, from 1998 on, Poland appears to have lost a considerable part of its attractiveness as a transit country.⁷ In fact, the transit route from the Newly Independent States, either as sending countries or as a transit point, to the West, appears to have moved significantly to the Czech Republic.⁸

In recent years there has been growing concern about the rise in the number of women who are trafficked for sexual exploitation to the countries of the European Union.⁹ The more the phenomenon of trafficking in human beings has become apparent during the last decade, the more policy makers have been under pressure to react in accordance.

Inter alia the European Union has been very active in supporting measures to combat trafficking in women and in raising awareness of the problem within the European Union Member States. On 29–30 November 1993, under the Belgian Presidency of the European Union, the Justice and Home Affairs Council passed five recommendations to support further action to combat trafficking in humans for the purpose of sexual exploitation.¹⁰ In December 1995, the European Parliament approved Ms. Colombo-Svevo's "Report on Trafficking in Human Beings".¹¹ Then, at the initiative of European Commissioner Gradin, the European Commission organised a European Conference on Trafficking in Women on 10–11 June 1996, the results of which led to Commissioner Gradin's Communi-

3 G. Caldwell, S. Galster and N. Steinzor, *Crime & Servitude: An Exposé of the Traffic in Women for Prostitution from the Newly Independent States*, Moscow, Global Survival Network, 1997, 10.

4 UNDP, *Human Development Report 1999*, 89.

5 According to the IGC TIES database, nowadays, Poland would figure among the top five countries from where migrants leave for their final destination, i.e. the so-called last embarkation point. IGC TIES (Inter-governmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia Trafficking Information System) database, Period January-May 1998, Tables 6 "Top ten last embarkation points" and 7 "Top ten last embarkation points by land". However, these statistics have to be put into perspective, as they are almost exclusively based on data submitted by Australia, Belgium, Canada, Germany, Norway, Spain, Sweden, United Kingdom and the United States.

6 T. Oleszczuk and S. Buchowska, "The Pretty Woman Syndrome", in T. Kootstra (ed.), *One year La Strada - Results of the First Central and East European Program on Prevention of Traffic in Women*, s.l., 1996, 26 and 29.

7 This is attributed to the coming into force of the more stringent Act on Aliens of 25 June 1997, as well as to the increased efforts and efficiency of the Polish border guards in the field of border control.

8 N. Siron, P. van Baeveghem, B. de Ruyver, T. vander Beken and G. Vermeulen, o.c., 24;. See also: Polish Border Guard Headquarters, *The Border Guard of the Republic of Poland*, Warsaw, 1998, 8, proving that the number of persons, readmitted to Poland shows a downward tendency.

9 IOM, *Analysis of Data and Statistical Resources Available in the EU Member States on Trafficking in Humans, Particularly in Women and Children for Purposes of Sexual Exploitation*, A Project of the International Organization for Migration (IOM) for the European Commission's STOP Programme, 1998, 4.

10 Council of the European Union, 1710th Council Meeting, Justice and Home Affairs, 10550/93, Annex IV, 18.

11 M.P. Colombo Svevo, *Report on trafficking in human beings*. Committee on Civil Liberties and Internal Affairs, European Parliament, DOC EN/RR/228/288916, 14 December 1995, 32p.

cation of 20 November 1996.¹² Under the terms of the Third Pillar of Maastricht in 1996-1997 three Joint Actions¹³ were agreed upon. Next to these Joint Actions, attention must be focused on the Resolution on the Communication from the Commission to the Council and the European Parliament on Trafficking in Women for the purpose of sexual exploitation of 16 December 1998.¹⁴ On 15 and 16 October 1999 the European Council held a special meeting in Tampere on the creation of an area of freedom, security and justice in the European Union. One of the Tampere milestones¹⁵ is the development of a common active policy, in close co-operation with countries of origin and transit, for the prevention and repression of all forms of trafficking in human beings, with special emphasis on the problems faced by women and children.

Causes of (Trans-)Migration

Socioeconomic causes

The socioeconomic situation in the country of origin as well as in the country of destination lays down the condition for a number of pushfactors such as poverty, unemployment, low earnings, and a lack of opportunities, and a number of pullfactors such as the prospect of employment, higher earnings, better opportunities and social insurance. The collapse of the former Soviet Union in 1991 and the economical upheaval in Central and Eastern Europe since the fall of the Berlin Wall in 1989 produced many radical changes for its inhabitants.¹⁶ The chaotic transition caused a rapid socioeconomic decline after 1991, which led to mass social disruptions and social insecurity.

Besides the fact that women are more heavily affected by unemployment than men - some experts estimate that 80 % of those who became unemployed in the past few years, were women¹⁷ – they also earn less than men. Similarly, women

12 A. Gradin, Communication from the Commission to the Council and the European Parliament on Trafficking in Women for the Purpose of Sexual Exploitation, Official Publication, COM (96) 576, final.

13 The first Joint Action concerns the STOP-Programme and is directed at the use of this Third Pillar's budget to finance research, studies, practical training and exchanges for the benefit of those responsible for the fight against human trafficking and sexual exploitation of children (see Official Journal EC, no. L 322, 12 December 1996, 7). Within this Joint Action three research projects have been carried out by my research team (B. de Ruyver, W. van Eeckhoutte, J. Meese, K. van Impe and S. Vanheste, Multidisciplinary research on the phenomenon of trafficking in human beings from an international and national perspective: a pilot study with Poland and Hungary, research group Drug policy - Criminal policy – International Crime, Ghent, 1998, 168p.; B. de Ruyver, P. Zanders, G. Derre and G. Vermeulen, Research on the feasibility and opportunity of the systematic collection and administration of data concerning disappeared minors, minors who are victims of sexual offences against minors, research group Drug policy - Criminal policy – International Crime, Ghent, 1998, 280p.; N. Siron, P. van Baeveghem, B. de Ruyver, T. vander Beken and G. Vermeulen, Trafficking in Migrants through Poland. Multidisciplinary research into the phenomenon of transit migration in the candidate Member States of the EU, with a view to the combat of traffic in persons, Maklu, 1999, 326p.

14 Official Journal EC, no. C14/39 of 16 December 1998.

15 <http://presidency.finland.fi/frame.asp>, 3.

16 UNDP, Transition Report 1999, 2.

17 G. Caldwell, S. Galster and N. Steinzor, o.c., 17; IOM, Trafficking and Prostitution: the growing exploitation of migrant women from Central and Eastern Europe, Budapest, MIP, 1995, 12.

are more affected by impoverishment than men.¹⁸ Several factors explain this gender-related difference. First, Human Rights Watch released a report in March 1995, entitled 'Neither Jobs nor Justice', stating that women in Russia faced widespread employment discrimination on the basis of gender practised, condoned and tolerated by the Russian government.¹⁹ Second, mainly women suffer from the decline in provision of social service. For instance, they lost many social achievements such as a long-term maternityleave with a guarantee of employment afterwards. Also as a consequence of the financial deficit, economic stagnation and structural adjustment programmes, public services in general deteriorated markedly and social services which were exclusively financed by the government, declined.²⁰ Mainly women were employed in the social branch. This "feminisation of poverty" quite understandably impelled women to look for any kind of work or for other ways to improve their situation.²¹

However, a distinction must be made between two types of migration, namely "survival migration" and "opportunity-seeking migration". Most women who are driven by economical motives and passing through Poland migrate not to escape extreme poverty, but rather to gain a higher social status or a higher standard of living.²²

It needs to be stressed that not only the actual economic situation in the sending country could cause migration, but also the expectations for successful migration are important. A large part of the mass emigration coming from the former Soviet Union after the transition was caused by unrealistic expectations and even fantasies about employment opportunities and living conditions in Western Europe²³. Especially women hoping to better their standard of living are susceptible to economic optimism.²⁴

Cultural and social causes

Another important push factor influencing women to migrate to the West is their search for independence and emancipation. After the Communist authorities had been set aside, the new establishment propagated the conservative family model. This development together with ever-present violence in families and alcohol abuse in many families only reinforced the intentions of many young women to go and look for a new and better future, with guaranteed employment, in the rich

18 UNDP, Transition Report 1999, 6.

19 Human Rights Watch, *Neither Jobs nor Justice*, 1995.

20 UNDP, Human Development Report 1999, 7.

21 M. A. Lebed, 'A few Observations about Trafficking in Women by a Criminologist', in *Traffic in Women in Postcommunist Countries of Central and Eastern Europe*, La Strada Ceska Republica, 1998, 113. See also M. Wijers, 'Causes of trafficking in women according to the Hague Declaration', in *Traffic in Women in Postcommunist Countries of Central and Eastern Europe*, in La Strada Ceska Republica, 1998, 135.

22 B. Limanowska, 'Trafficking in Women - Report from Poland', in *Sim special*, 17, 61; M. Okolski, "Migratory Movements from countries of Central and Eastern Europe", in *People on the move. New migration flows in Europe*, Council of Europe, Strasbourg, 1992, 83-116.

23 B. Ghosh, *Huddled masses and uncertain shores: insights into irregular migration*, The Hague, Martinus Nijhoff Publishers (Kluwer), 1998, 67.

24 B. Ghosh, o.c., 35; IOM, *Transit migration in Ukraine*, Budapest, Migration Information Programme, 1994, 13; IOM, *Information campaign against trafficking in women from Ukraine*, Geneva, 1998, 7; S. Kupryashkina, 'It's not our problem: Society attitudes to prostitution and traffic in women in Ukraine', in *One Year La Strada*, STV/La Strada, 1996, 47.

West. They are therefore not only attracted by the myth of welfare and prosperity, but also by the prospects of (financial) independence and a stable family life based on the 'partnership model' where men and women are seen as equal.

One could consider the former Soviet Union to be a very prudish country. Sex was a taboo subject and was absolutely banished from public life. Prostitution was considered irrelevant in a society where every woman is offered a decent job by the authorities.²⁵ However, that did not alter the presence of underground prostitution, even in an organised way.²⁶ Today, most young girls do not consider prostitution as dirty, unhealthy or socially intolerable as their parents were forced to believe under the communist regime.²⁷ Prostitutes earn good money compared with the average monthly income and this is of great importance in newly liberalising economies of the Newly Independent States. Moreover the idea of working abroad, even as a prostitute, is very attractive and is even an ultimate dream for girls coming from the countryside.²⁸

With this in mind, it needs to be stressed that not every woman is 'lured' into prostitution. Many women are perfectly aware of the fact that they will work abroad as a prostitute. They become prostitutes looking forward to making good money in a short time and then going back home.²⁹ Often they are already active in the sex industry in their home country. However, they often underestimate the harsh conditions in Western prostitution businesses run by pimps and criminal organizations, or they are misled about the labour conditions.³⁰ Once they are working, they are frequently unable to escape their situation.³¹

On the other hand, there is a second group of women who are lured to the West under false pretences, using deceptive artifices or who are simply deceived. In other words, the desires of these women are abused. In reality they are victims lured by these prospects into a web of dependency and obligation. They are victims, employed in prostitution, in cleaning companies, sewing workshops etc. where they are held and exploited based on blackmail and violence.

25 S. Kupryashkina, 'It is not our problem': Society attitudes to prostitution and traffic in women in Ukraine', in *One Year La Strada*, STV/La Strada, 1996, 45.

26 J. Balliauw, *Het verloren paradijs, de ontwrichting van Rusland*, Antwerpen, Hadewijch, 1994, 84.

27 S. Kupryashkina, 'It is not our problem': Society attitudes to prostitution and traffic in women in Ukraine', in *One Year La Strada*, STV/La Strada, 1996, 45.

28 T. Oleszczuck, and S. Buchowska, 'The Pretty Women Syndrome', in T. Kootstra, S. Buchowska, T. Oleszczuck, J. Garnier, I. Dawid, B. Butterweck and S. Kupryashkina, *One Year La Strada. Results of the First Central and East European Program on Prevention of Traffic in Women*, Stichting tegen Vrouwenhandel, September, 1996, 27.

29 IOM, 'Trends - Slavic women trafficked into slavery', *Trafficking in Migrants* no. 18 June 1998; Irt-Non - Internationaal Politie Instituut Twente - Universiteit Twente, *Mensenhandel vanuit Centraal- en Oosteuropa*, Enschede, De Admiraal, 1997, 76.

30 T. Kootstra, 'I thought I would be the lady-companion of one man, The background of victims of traffic in women in the Netherlands', in T. Kootstra (ed), *One Year La Strada*, Dutch Foundation Against Traffic in Women (STV)/La Strada Program, 1996, 15; S. Tangelder, *Battered, beaten but not broken, What the police do to combat violence against women around the world*, 121; I. Brand, l.c., 46.

31 IOM, *Trafficking and prostitution: the growing exploitation of migrant women from Central and Eastern Europe*, Budapest, MIP, 1995, 17.

Freedom of movement

Since the fall of the Berlin Wall and the political transition in Central and Eastern Europe, the freedom of movement for the inhabitants of these countries increased sharply. This freedom of movement has a bipartite character. Firstly, there is the judicial component, namely a liberalisation of the legislation relating to travelling and migration. Secondly, there is a physical component. The stringent border controls at the outside borders of the former Soviet Union during the Cold War weakened gradually, while no new tight border controls were introduced within the territory of the NIS.³²

Although after the transition, a liberalisation of migration legislation was opted for, many Central and Eastern European countries did not have the necessary technical, legal, administrative and human capacities to control these streams of migrants.³³

One can say that at this moment the borders of the Russian Federation are open for immigrants and transit migrants coming from other Newly Independent States countries, Africa, Asia and the Middle East.³⁴

Furthermore, one of the main problems after the transition in the former Soviet Union, has been the insufficient information about the liberalisation of the migration legislation provided by the authorities. Freedom to travel does not mean one is allowed to travel abroad without permission given by the destination country, as for instance a visa or a residence permit.³⁵

The existence of criminal organisations

Due to the collapse of the former Soviet Union and more specifically, the resulting chaotic transition into a capitalist market economy without the necessary regulation, a vacuum of power originated in these new countries. However this was rapidly compensated by various criminal groups that use corruption, extortion and underground networks. One of the most important reasons why these criminal organizations flourished so fast is because organized crime was already an obstinate reality during Communism, supporting a sizeable black market and thriving on corruption.³⁶

32 Background paper submitted by the Government of the Russian Federation, 'International response to trafficking in migrants and the safeguard of migrants rights', Eleventh IOM Seminar on Migration 'International response to trafficking in migrants and the safeguarding of migrant rights', 1994, Geneva, paper no. 35,1.

33 M.A. Gramegna, "New migration challenges after the cold war and the international responses", presented on the International Conference on the trafficking of nis women abroad, Geneva, IOM, 1997, 2.

34 Some regions, for example Stavropol and Krasnodar which are facing mass flows of migrants, are enforcing discriminatory restrictions on residence and visitor's permits. See also the chapter about war, internal conflicts and minorities and human rights violations.

35 M.A. Gramegna, 'New migration challenges', 2.

36 D.J. Godfroid and Y. Vinckx, *Mensensmokkel*, Amsterdam, Meulenhoff, 1999, 35.

It did not take long before the Russian organized crime groups discovered that the sexindustry is a lucrative business.³⁷ The combination between high earnings and low risks³⁸ makes this business very attractive.³⁹

The overall risk of trafficking in human beings is considered very low compared to other forms of trafficking, in particular the trafficking of drugs.⁴⁰

The business of trafficking in human beings to Western Europe is increasingly controlled by Russian, Ukrainian and Georgian organized crime groups, operating both in the country where the recruitment takes place as well as in the destination country. The organisations are characterised by a high degree of specialisation, extreme violence and involvement in other lucrative criminal activities such as vehicle theft and trafficking in arms and drugs.⁴¹

Analysis of the phenomenon

1. Profile of the transit migrants in Poland

The transit migrants in Poland can be divided into three groups depending on the duration of their stay in Poland and the extent to which they infiltrate Polish social life.⁴² A first group consists of persons migrating because of political, ethnic or social persecution. This is, for example, the case for most people coming from

37 K. Shiffer, *Migrationsprostitution und Frauenhandel. Strukturwandel der europäischen Sexindustrie*, Mr. A. de Graaf Stichting, January, 1995, 42-44; IOM, *Trafficking of women to Countries of the European Union: Characteristics, Trends and Policy Issues*, Conference on trafficking in Women for Sexual Exploitation, Vienna, June, 1996, 10-11. See also U. Sieber, "Internationale Organisierte Kriminalität. Eine Bestandsaufnahme.", *Kriminalistik*, 2/98, 97-98. W. Flormann "Rotlichtmilieu - Menschenhandel als Teilbereich der Organisierter Kriminalität", *der Kriminalist*, 4/95, 178-179; *Frauenhandel und Prostitutionstourismus. Eine Bestandsaufnahme zu Prostitutionstourismus, Heiratsvermittlung und Menschenhandel mit ausländischen Mädchen und Frauen*, Anhang: Rechtsexpertise zur Situation in der BRD, Aktionsgemeinschaft Gegen Internationale und Rassistische Ausbeutung (AGISRA), Trickster, 44-48; U. Sieber und M. Bogel, *Logistik der Organisierter Kriminalität. Wirtschaftswissenschaftlicher Forschungsansatz und Pilotstudie zur Internationalen Kfz-Verschlebung, zur Ausbeutung von Prostitution, zum Menschenhandel und zum illegalen Glücksspiel*, Wiesbaden, 1993, 204-208.

38 White women such as Russian and Ukrainian women are very sought after in Western Europe. In addition, it is cheaper and easier to recruit women in Eastern Europe, since distances are shorter and bringing these women across the border is less difficult. The physical appearance of Eastern European women - which is very similar to Western European women, makes it easier to skirt control by police and border guards. Moreover one has to bear in mind that women who are exploited make a permanent source of income for the perpetrator, while narcotics or arms can only be sold once.

39 IOM, *Trafficking and prostitution; the growing exploitation of migrant women from Central and Eastern Europe*, Budapest, 1995, 13; IOM, 'Organised crime moves into migrant trafficking', *Trafficking in Migrants*, no.12 June 1996; C. Feenstra, 'Trends in mensensmokkel', in W.J. de Bruin, H.C. de Jong, H. Pauwels and I.M. Voorhoeve, *Mensensmokkel naar Nederland, 's-Gravenhage, Elsevier bedrijfsinformatie*, 1999, 10.

40 EUROPOL, 'Room Document on trafficking in women for the European Conference Expert Group's meeting on 13 November 1998', The Hague, 11 November 1998, 4.

41 "Migrant Trafficking. Overview. Migration and Organized Crime", in *Trends in Organized Crime, Transaction Periodicals Consortium Rutgers University*, New Brunswick, New Jersey, with the Regional Strategy Information Center, Winter 1996, Vol. 2, no. 2, 58-90.

42 In addition to these three groups, one could distinguish a fourth kind of transit migrants in Poland, namely, migrants that are working on Polish territory for a limited period of time, after which they return to their country of origin. Their only aim is to collect the necessary resources for funding emigration to America, for instance. They differ from the second group in that they return to their mother country in order to commence their journey to the country of destination.

Romania and the former Yugoslavia. They have the highest potential for moving quickly to the West. For this purpose, they make use of their own resources, networks or contacts in Poland or in the West. They remain in Poland as briefly as possible and make few social contacts.⁴³ A second group, including most people from Africa, the Baltic Republics and the Middle East, consists of people who spend a considerable time in Poland before moving further to the West. In Poland they try to gather the necessary financial and logistic means in order to enable further migration. To this end they make the necessary social contacts and possibly find a job. If for the moment there is no possibility to move further to the West in a legal way, they often wait for the opportunity to do so; in the meantime, they search for illegal employment. Should the chance of legal migration fail to come, then they either stay in Poland or use illegal channels to travel to the West.⁴⁴ Finally, a third group consists of people for whom further migration to the West is not an immediate goal, but may only be a long-term purpose. In this group are people from countries having a common border with Poland, such as Bulgaria and Russia, and people from the Middle East, the Far East and Africa.⁴⁵

Victims of trafficking in human beings constitute a particular category within these groups of transit migrants, and they have a specific profile. As noted earlier, in the last few years the victims of human trade found in Western Europe have been mainly Central and Eastern European women.⁴⁶ Especially women from Ukraine, Russia and the Baltic States are frequently trafficked via Poland, where they may have already been forced into prostitution.

In addition, a relevant group of victims originating from the developing countries remains. Also for these women, Poland is sometimes on the transit route, via Eastern Europe.

Comparing the profiles of the two groups of women, striking differences are found. For instance, the Central and Eastern European women are younger than those from the developing countries, namely between 21 and 23 years of age on average. Especially the Central European women, and in particular the Czech women, are often still minors between 15 and 18 years of age.⁴⁷ On the one hand, this is attributed to the strong demand for increasingly younger women on the international sex market, caused among other reasons by the spread of the AIDS epidemic and the current fear of sexually-transmitted diseases.⁴⁸ On the other hand, emigration intentions seem to decrease as people grow older.⁴⁹

43 IOM, *Transit Migration in Poland*, 2.

44 *Ibid.*, 2.

45 *Ibid.*, 3.

46 Concerning the profile of the victim, one has to bear in mind that not only women become victims of trafficking in human beings, but also unwitting men are frequently forced into hard labour.

47 Internationaal Politie Instituut Twente (IPIT), *Mensenhandel vanuit Centraal- en Oost-Europa*, Enschede, Drukkerij De Admiraal, 1997, 59; see also: IOM, *Trafficking of women to countries of the European Union: characteristics, trends and policy issues*, Conference on trafficking in women for sexual exploitation, Vienna, June 1996, Geneva, IOM, 1996, 12; IOM, *Trafficking and prostitution: the growing exploitation of migrant women from Central and Eastern Europe*, Budapest, MIP IOM, 1995, 15; Polish Ministry of Justice, *Combating illegal migration and human smuggling by the Polish law enforcement authorities*, s.l.n.d., 3.

48 "Trafficking in children: exploitation across borders", *Trafficking in Migrants (Quarterly Bulletin)*, Geneva, IOM, 1996, no. 10, 1.

49 IOM, *Information Campaign against Trafficking in Women from Ukraine*. Research Report July 1998, Geneva, IOM, 1998, 22-23.

Women from the Central and Eastern European countries are mainly single and childless,⁵⁰ while women from the developing countries are more frequently married and have children.⁵¹ The Central and Eastern European women, in general, seem to have a higher level of education than those originating from developing countries, and they more often speak a second language.⁵²

2. Mechanisms of recruiting and contacting

How victims are recruited or clients contacted depends on several factors, such as the profile of the perpetrator and the level of 'organisation', on the one hand, and the profile of the victim, on the other. Large-scaled international networks apply several recruiting methods which often seem legal at first, such as impresarios, agencies offering house personnel, marriage agencies and travel agencies.⁵³ However, criminals trafficking occasionally or who traffic in a less 'organised' manner will approach their victims more informally.

There are several examples of recruiting and contacting methods. When a woman decides to migrate abroad in her search for a better future, she often has to deal with numerous difficulties such as having no financial means to pay for the trip, no contacts to get a job abroad, no knowledge about migration regulations, no visa or passport. To overcome these difficulties she can 'turn to a seemingly reputable firm which is specialised in placing women with foreign employers'.⁵⁴ These firms promise to pay for the travel costs in advance and to deliver the necessary documents such as a visa or a passport. Once working abroad, these costs have to be paid back, if not paid beforehand. The inability to pay off these often astronomical loans is frequently the reason why smuggling results in trafficking, as clients are exploited until they have completely paid for their debts.⁵⁵ Modeling agencies specialise in creating large data bases of attractive and ambitious young women seeking work abroad and are therefore an ideal recruiting base for trafficking operations. Usually these agencies offer training to become a model, a hostess or a dancer first. Afterwards they are brought into contact with numerous malafide employers offering work abroad. Marriage

50 Polish Ministry of Justice, Combating illegal migration and human smuggling by the Polish law enforcement authorities, 3.

51 M. Gramegna, "Statement at the EU Conference on Trafficking in Women for Sexual Exploitation", in Report by the European Commission of the Conference on Trafficking in Women, Vienna, 10-11 June 1996, 28; IOM, Trafficking of women to countries of the European Union: characteristics, trends and policy issues, Conference on trafficking in women for sexual exploitation, Vienna, June 1996, 12.

52 IOM, Trafficking of women to countries of the European Union: characteristics, trends and policy issues, Conference on trafficking in women for sexual exploitation, Vienna, June 1996, 12.

53 IOM, 'Trafficking of women to countries of the European Union: characteristics, trends and policy issues', conference paper submitted at the Conference on Trafficking in Women for Sexual Exploitation, Vienna, June 1996, 11.; Irt-Non - Internationaal Politie Instituut Twente - Universiteit Twente, Mensenhandel vanuit Centraal- en Oosteuropa, Enschede, De Admiraal, 1997, 56.

54 M. Wijers, 'Vrouwenhandel en de overheid', in wocd Justitiële verkenningen, Mensenhandel en -smokkel, Arnhem, Gouda Quint, 1/1996, p.11; G. Caldwell, S. Galster and N. Steinzor, o.c., 20.

55 Sometimes illegal aliens who cannot pay the cost of the trip are forced to commit transnational crimes such as the smuggling of drugs, arms and money laundering. 'Dutch police crack down on Asian alien smuggling group, International Enforcement Law Reporter, Volume 14, Issue 12, December 1998, 522; PAG-ASA, Jaarverslag 1998, 6; See also Division D. Means of coercion, used by traffickers.

agencies located in the country of origin and selling 'mail-order brides' in the country of destination are also an ideal recruiting place and cover-up for traffickers in human beings. Besides that, 'travel agencies' in the countries of origin or transit countries are also often used as a recruitment technique.

These marriage agencies, modeling agencies and travel agencies make themselves known to the public by advertising in newspapers and magazines and even on television.⁵⁶ Thanks to various information campaigns, the real nature of these advertisements is becoming more commonly known.⁵⁷ Unfortunately the perpetrators are still succesful in rural areas where people have less access to objective information and are 'rather inexperienced in the matter of evaluating the legitimacy of the advertisement'.⁵⁸

In addition to advertisements, women are also directly approached in bars and discos by friends, acquaintances or strangers telling them beautiful stories about living and working conditions in the West, and promising them an attractive well-paying employment opportunity abroad as model, hostess, entertainer, singer, dancer, au pair or waitress...⁵⁹ Sometimes young women are dazzled by the possibility of marrying a rich foreigner and escaping their poverty in a romantic way. Other girls are offered a free holiday or an opportunity to study in the West.⁶⁰

Proposals to Tackle the Problem

When there are powerful push factors in countries of origin or pull factors in receiving countries, and especially when the two fully converge, restrictive measures alone cannot stop trafficking in human beings. To be effective, a strategy to combat trafficking in human beings needs to be comprehensive enough to address both push and pull factors in a coherent manner.⁶¹ There is no easy or

56 I. Kurolenko, 'Report on theme A: NGO's participation in action against trafficking in human beings for the purpose of sexual exploitation: the objectives, the role, the tasks and main obstacles encountered', International seminar on action against traffic in human beings for the purpose of sexual exploitation: the role of NGO's, Strasbourg, 29-30 June 1998, p. 3-4; G. Caldwell, S. Galster and N. Steinzor, o.c., 24; IOM, Trafficking and prostitution: the growing exploitation of migrant women from Central and Eastern Europe, 17; PAG-ASA, Jaarverslag 1998, A.

57 For example, IOM organised an information campaign in 1998 in the Ukraine to sensitise young women. IOM, Information campaign against trafficking in women from Ukraine - Research Report, Geneva, 1998, 35p; IOM, Information campaign against trafficking in women from Ukraine - Project Report, Geneva - Ukraine, 1998, 33 p.

58 M. Specter, 'Contraband Women - A Special Report. Traffickers' New Cargo: Naïve Slavic Women', New York Times 11 January 1998; I. Kurolenko, 'Report on theme A: NGO's participation in action against trafficking in human beings for the purpose of sexual exploitation: the objectives, the role, the tasks and main obstacles encountered', International seminar on action against traffic in human beings for the purpose of sexual exploitation: the role of NGO's, Strasbourg, 29-30 June 1998, 4.

59 IOM, 'Incidents - Ukraine-France', Trafficking in Migrants, no.10, March 1996.

60 IOM, Trafficking and prostitution: the growing exploitation of migrant women from Central and Eastern Europe, 19; Internationaal Politie Instituut Twente, Mensenhandel vanuit Centraal- en Oost-Europa, 56; I. Brand, 'Politie en mensenhandel, een praktijkstudie', in WODC Justitiële Verkenningen, Mensenhandel en -smokkel, Arnhem, Gouda Quint 1996, nr. 1, 46; S.M. Altink, 'Handel en wandel, malafide migratiebemiddeling van vrouwen', in WODC Justitiële Verkenningen, Mensenhandel en -smokkel, Arnhem, Gouda Quint, 1996, nr.1, 63.

61 B. Gosh, Huddled Masses and Uncertain Shores. Insights into Irregular Migration, IOM, Martinus Nijhoff Publishers, The Hague/Boston/London, 1998, 146-147.

unidimensional solution to human trafficking since it is influenced by a complex set of factors, often in combination with one another. An effective strategy to combat it must take due account of these various causal factors and attendant circumstances. It must combine and balance punitive measures and protection of basic human rights, stricter border control and removing root causes of irregular population movements, and as far as possible, it must also harmonize measures between the sending and receiving countries. There is a real danger at the moment that in order to curb human trafficking as quickly as possible, the receiving industrial countries might attach a disproportionate importance to a set of narrow and ad hoc measures, focusing on short-term cures through border control and punitive action. It would be unfortunate if in the process, preventive action to remove the root causes is neglected or receives only scant attention.⁶² The only correct approach with regard to the legal options available involves dealing with the problem on an interdisciplinary basis, whereby repression through criminal legislation must be reserved, as a last resort, for combating excesses. Prevention and repression are thereby inextricably linked and must be developed within an integrated concept.

In this respect, in the context of the European Union, preventive measures must first be established in the field of *administrative law* in order to obstruct the considerable misuse of the various channels of migration.⁶³ This requires the European Union to develop common policies on immigration, while taking into account the need for a consistent control of external borders to stop illegal immigration. As far as this is concerned, the Tampere European Council also stressed in its presidency conclusions the importance of the effective control of the Union's future external borders by specialized professionals. Moreover, the European Council emphasized the need for more efficient management at all stages of migration flows. It calls for the development, in close co-operation with countries of origin and transit, of information campaigns on the actual possibilities for legal immigration and for the prevention of all forms of trafficking in human beings.⁶⁴ In this respect the diplomatic and consular missions have a crucial role to play. First of all, they should be better equipped to obtain an overall view of the phenomenon, this by means of the (further) computerization of their services, the encouragement and/or imposition of the development of (additional) consultation structures and a more efficient use of visa registers and diplomatic annual reports. In addition, a 'de facto' uniform and detailed policy should be pursued with regard to the treatment of visa applications in the diplomatic missions, so as to prevent 'embassy shopping'. Still, prudence is called for when delineating such measures. Indeed, if too severe or draconian action would be taken in the

62 Ibid., 146-147.

63 These channels of migration are mostly legal, though they are not being used according to the intention of the law. Besides the abuse of labor licenses for cabaret artists, following abuses of residence titles are possible: transit visas, visas for tourists, visas for purposes of family reunification and the phenomenon of mail-order brides, authorization of temporary residence for au-pair purposes, the use of special identity cards for technical staff of functionaries in embassies and international organizations, and finally the use of faked documents, the abuse of refugee status, adoption, student status, the regulations for minors, all aspects related to the employment-status in the framework of the European Union.

64 Presidency Conclusions, Tampere European Council 15 and 16 October 1999, <http://presidency.finland.fi/frame.asp>, 2 and 4.

administrative field, this could actually increase the migrant's need for assistance by traffickers and smugglers and have a countereffect. This dualism is one of the most important challenges in the contemporary migration debate.

As seen from the analysis of the phenomenon, there is a close connection between smuggling and trafficking in women and (il)legal employment. The *social law approach* therefore also plays an important role in combating phenomena such as transit migration, smuggling and trafficking.⁶⁵ First, the accessibility of the labour market in transit and destination countries will influence the level of migration by women for economical reasons. A closed market will lead to more illegal migration than an open one, and therefore more cases of smuggling and trafficking in women will occur. Secondly, trafficking in women frequently goes along with creating false constructions without any formal abuse of legislation at first sight. For instance, the Belgian experience pointed out that women who were officially granted work permits as cabaret artists were in fact, forced into prostitution by traffickers. Thirdly, one of the reasons why foreign women are forced into prostitution and hard labour conditions is because their administrative and social legal situation is, as a rule, more precarious than that of nationals, especially when they are illegal employees or residents. Finally, the social law approach plays an important role in prosecuting traffickers. Co-operation between victims and the police and justice is very important to gather the necessary evidence against the perpetrator. Therefore the legal system should gain the confidence of victims by giving them administrative and social rights. As far as this is concerned more attention should be given to the legal position of women in prostitution in order to eliminate their precarious situation.

Only in as far as preventive actions fail in obstructing the phenomenon of human trafficking should a solid arsenal of *criminal legislation* be brought to the task. Trafficking in women for sexual exploitation, and to a lesser extent trafficking in children and trafficking in human beings, are in many countries not sufficiently well defined in the criminal code, if at all.⁶⁶ Therefore, the European Council urges the adoption of legislation foreseeing severe sanctions for those who are engaged in the trafficking of human beings and the economic exploitation of migrants.⁶⁷ Indeed, the rational approach implies that the chances of being caught and punished should be enhanced, and that high penalties must be attached to trafficking in women, in order to maximise the expenses that have to be taken into account. Severe penalisation not only has a repressive effect, it also has a preventive function since it makes trafficking and smuggling less profitable and more risky.

65 N. Siron, P. van Baeveghem, B. de Ruyver, T. vander Beken and G. Vermeulen, o.c., 1999, Maklu, 171-184.

66 One of the reasons for the lack of data on convictions is that in countries without trafficking legislation, offences against trafficking are usually dealt with under associated legislation. This means, however, that convictions against traffickers are rarely recorded as trafficking cases.

67 Presidency Conclusions, Tampere European Council 15 and 16 October 1999, <http://presidency.finland.fi/frame.asp>, 4.

With regard to national criminal law, efforts to agree on common definitions, incriminations and sanctions should be focused on trafficking in human beings, particularly on the exploitation of women and sexual exploitation of children.⁶⁸ As far as this is concerned, the Joint Action⁶⁹ of 24 February 1997 intended to harmonize the legislation of the European Union Member States in relation to trafficking in human beings and the sexual exploitation of children more effectively. Apart from measures to be taken on the national level, the Joint Action stipulates a number of provisions concerning international cooperation between Member States, thereby simplifying police and judicial cooperation in this area.

However, trafficking in human beings is a crime that, by its very nature, is of an international nature. The fight against it necessitates not only coordinated action on a national level, but also necessitates a global, multi disciplinary approach on the international legal scale. The European Union needs a comprehensive approach to migration, addressing political, human rights and development issues in countries of origin and transit. Partnership with the source and transfer countries concerned will be a key element for the success of such a policy.⁷⁰ Therefore it is to be recommended that functional links are created between European Member States and candidate Member States at the institutional level in order to combat and prevent trafficking in persons. This is of particular importance in the area of Justice and Home Affairs, and in the light of the Schengen Implementing Convention, given the fact that the candidate Member States will ultimately become responsible for maintaining adequate border controls and preventing human trafficking on the European Union's eastern border.⁷¹

In the larger international context, there is a generally felt need to make the partly outdated UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of March 21 1950⁷² more up-to-date. In this context it is worth mentioning that on 1 January 2000 the Ad Hoc Committee on the Elaboration of a Convention against Transnational Orga-

68 Presidency Conclusions, Tampere European Council 15 and 16 October 1999, <http://presidency.finland.fi/frame.asp>, 7.

69 Article 31, under c and article 34, under 2b of the consolidated Treaty on European Union give the Council, in order to promote co-operation between the Member States, the opportunity to ensure by common action the compatibility in rules applicable in the Member States and to adopt framework decisions for the purpose of approximation of the laws and regulations of the Member States. The Treaty on European Union gives the Council, in Article K3, paragraph 2(b), the authority to decide on joint action at the initiative of a Member State. This form of intergovernmental co-operation is situated within the third pillar of the European Union, where the areas of justice and internal affairs and questions of common interest for the Member States are considered and must therefore be placed within a single legal framework. http://europa.eu.int/eur-lex/en/treaties/dat/eu_cons_treaty_en.pdf

70 Presidency Conclusions, Tampere European Council 15 and 16 October 1999, <http://presidency.finland.fi/frame.asp>, 3.

71 IOM, Analysis of Data and Statistical Resources Available in the EU Member States on Trafficking in Humans, Particularly in Women and Children for Purposes of Sexual Exploitation, A Project of the International Organization for Migration (IOM) for the European Commission's STOP Programme, 1998, 6.

72 United Nations Treaty Series, 1951, D., 96, no. 1342, 271-316.

nized Crime in its seventh session adopted a Revised (draft) Protocol⁷³ to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime. The purpose of this (draft) Protocol is to promote and facilitate co-operation among State Parties to prevent, investigate and punish international trafficking in persons⁷⁴ for the purpose of forced labor or sexual exploitation, with particular attention to the protection of women and children. According to the (draft) Protocol, State Parties will have to adopt effective measures to promote cooperation between States Parties, prevent trafficking of human beings⁷⁵ by informing and educating the public, ensure that victims of trafficking receive appropriate assistance and protection⁷⁶ and provide in appropriate cases for the safe and voluntary return of victims⁷⁷ to their countries of origin.⁷⁸

Penal measures may, however, not be restricted to the penalisation of trafficking in women alone. The various facilitating offences, such as corruption⁷⁹ or the forgery or theft of official documents (passports, visas...), have to be tackled as well. This has an indirect preventive effect, since it causes important tools of the traffickers to be less usable or accessible. As a result the entire criminal project becomes harder and – at least potentially – more expensive, so that it loses some of its attraction.

Finally, to hit human trafficking at its very base, notably big money-making, *financial tackling* should be more emphasized. Nowadays, it is commonly ac-

73 A/AC.254/4/Add.3/Rev.5. The proposal was submitted by the Governments of Argentina and the United States of America, pursuant to the commitment they undertook at the first session of the Ad Hoc Committee (see A/AC.254/9). It supersedes the proposal submitted by the United States (A/AC.254/4/Add.3) and the proposal submitted by Argentina (A/AC.254/8), and takes into account comments made on those two proposals at the first session of the Ad Hoc Committee (A/AC.254/5/Add.3).

74 For purposes of this Protocol, 'trafficking in persons' means the recruitment, transportation, transfer, harboring or receipt of persons, by the threat or use of kidnapping, force, fraud, deception or coercion, or by the giving or receiving of unlawful payments to achieve the consent of a person having control over another person, for the purpose of sexual exploitation or forced labor, Option 1: A/AC.254/4/Add.3.

75 Each State Party shall establish (obligation to criminalize) as criminal offences under its domestic law trafficking in persons and shall impose penalties taking into account the grave nature of those offences.

76 For instance, each Party shall consider providing immigration laws that permit victims of trafficking to remain in its territory, temporarily or permanently.

77 In view of inducing victims to give their vital cooperation to judicial inquiries, State Parties should develop, thereby following the examples set by Belgium and the Netherlands, a system to provide the victims with temporary (or even permanent) residence permits. However, if the victim expresses the wish, after having cooperated with the inquiry, to return to the country of origin, local resocialisation should be prepared as well as possible. The payment of a reintegration bonus in the country of origin can undoubtedly play an essential role in this respect. To prevent abuses and to reduce the "attraction effect", the development of a formal payment structure is a crucial requirement. Therefore, contact between various NGOs in countries of origin and destination should be stimulated.

78 In regard to the Commission's communication, minimum standards should be drawn up on the protection of the victims of trafficking in women, in particular concerning the victims' access to justice and their rights to compensation for damages. In addition, national programmes should be set up to finance measures, public and nongovernmental, for assistance to and protection of victims (witnesses). Also the European Council calls for assistance to countries of origin and transit to be developed in order to promote voluntary return as well as to help the authorities of those countries to strengthen their ability to effectively combat trafficking in women, <http://presidency.finland.fi/frame.asp>, 5.

79 J. Winer, "Alien Smuggling: Elements of the Problem and the U.S. Response", Trends in Organized Crime, 1998, no. 3, 5.

cepted that the best way to deal with organized crime is through a *proceeds-oriented approach*. This approach implies the imposition of serious monetary penalties, including measures to confiscate criminal proceeds, and maximum suppression of money laundering.⁸⁰ The need for criminals to hide their source of income means that through anti-money laundering measures, authorities may attempt to prevent, or at least hamper, the execution of financial transfers from the illicit to the licit economy⁸¹. This, of course, adds an extra negative weight to the cost-profit-analysis that precedes the commitment of the offence.⁸² Therefore, such measures have a repressive and a generally preventive effect.

General Conclusions

Trafficking in women is preferably lodged in the larger context of illegal migration flows. It must be analyzed against the backdrop of worldwide economic and political changes. It is a structural problem caused by a diverse set of economic and social realities, commonly called “the gap between the rich and the poor”. It implies that criminals are playing upon the victims’ ultimate concern of finding a better life in a new country by exploiting their vulnerable, often illegal situation. The central question is how can this phenomenon be tackled without undermining the position of the victims.

Control measures alone cannot stop the flow of trafficking in women. Even more, a legal approach relying on only one area of legislation (be it criminal, social, administrative law etc.) would be too narrow. Only a harmonized, multidisciplinary approach, both in the countries of origin and destination, which integrates all relevant parts of legislation and which respects the balance between punitive measures and human rights can contribute to a policy which can bring appropriate, multifaceted responses to the problem.

80 Council of Europe and the Commission of the European Communities, “Corruption and Organised Crime in States in Transition (Octopus) Conclusions, Multilateral Conference, Sofia, 12-14 December 1996”, *Trends in Organized Crime*, 1997, no. 4, 51; European Conference on Trafficking in Women, Recommendations from the Working Group on Judicial Cooperation, Vienna, 10-11 June 1996.

81 G. Möbius, “Money Laundering”, *International Criminal Police Review*, 1993, no. 48, 2.

82 E. Weigend, “Geldwäsche im polnischen Strafrecht”, *Zeitschrift für die gesamte Strafrechtswissenschaft*, 1996, heft 2, 420.

Enhancing knowledge on violence against women

Holly Johnson, PhD
Canadian Centre for Justice Statistics
Statistics Canada

Introduction

Crimes of violence occur in varying degrees in countries around the world. However, one consistent pattern is that experiences of violence occur under different circumstances for men and women. Violence for women is a problem of intimate violence and of male violence. Violence for men is also predominantly a problem of other males, but it occurs most often under situations involving acquaintances and strangers and much less frequently intimate partners.

Violence in various forms occurs against women in both developed and developing countries. This can take many forms, including assaults by spouses and other intimate partners, sexual assault, rape in war, child marriage, dowry-related murder, female infanticide, trafficking of women, forced prostitution, and female genital mutilation. Increasingly, these various forms of violence are recognized as important criminal justice, health and human rights issues because of the grave emotional, physical, social and economic repercussions they can have for victims and their children. Governments in many countries have responded in a variety of ways through laws, policies and services designed to assist victims, through public education and through prevention programs. One important development has been improvements to research methods and the availability of comprehensive information describing the dimensions of violence against women.

Statistical data about the prevalence, dynamics and contexts of social problems is a fundamental need of policy makers, researchers, and legislators worldwide. Yet until recently, data describing women's experiences of violence have been extremely limited. The more highly developed countries have had limited data available from the police on incidents reported to them, or information provided by hospitals or other support services for victims. As few abused women report these crimes to the police or use other medical or social services, these data were biased and incomplete and gave the appearance that violence against women was not a serious social problem. Apart from homicides, the majority of which are known to the police, it is impossible to be sure whether increases or decreases in recorded crimes reflect real changes in the level of crime in society or changes in the willingness of victims to report to the police. An additional problem is the lack of detail in police statistics in which the gender of victims and perpetrators, the relationship between them, and other contextual information is frequently missing.

Random sample surveys of the population emerged as a social science tool in the 1970s. Criminal justice researchers began exploring the “dark figure” of crime through the use of victimization surveys that go directly to samples of the population to ask people about their experiences with crime and the criminal justice system. These surveys attempted to overcome the limitations of under-reporting and bias inherent in police statistics by circumventing the police and obtaining first-hand information from people about their experiences. These surveys provide a more complete picture of victims, the consequences of crime, and victims’ decisions to involve the criminal justice system. This is extremely useful information that cannot be obtained any other way. These surveys are used regularly in many countries, including Canada, the United States, Great Britain, the Netherlands and others as a tool to aid in research and policy making. An International Crime Victimization Survey (ICVS) was developed in the late 1980s as a collaborative effort between UNICRI, the British Home Office and the Dutch Ministry of Justice. This survey applies a standardized questionnaire to well over 50 countries with 3-4-year intervals and yields comparative data on the prevalence of a number of crimes, and on public perceptions of the criminal justice system.¹

Over time, however, researchers have recognized that crime victimization surveys, although proficient at measuring public perceptions of the criminal justice system and property crimes, are limited in the extent to which they can reliably measure crimes of violence. Domestic violence and sexual assault, in particular, pose special problems for survey takers. The limitations of traditional crime surveys as tools for measuring women’s experiences of violence include:

- The wording of questions typically does not take account of the very sensitive nature of intimate violence, and many victims are reluctant to talk about it to interviewers.
- Interviewers receive no special training and, in some cases, male interviewers are used.
- There is no consideration for the safety of respondents who might be reporting on domestic violence, or for the emotional trauma that might be triggered by these questions.
- Crime victim surveys orient respondents to think about *crime* in their communities. Women assaulted in the context of marriage, other family relationships or dating relationships may hesitate to define their experiences as a crime and to report them to survey interviewers.
- Crime victim surveys also restrict their focus to *crime* in the legal sense and therefore do not address the wide range of sexual harassment that women are subjected to which can alter their perceptions of safety and vulnerability.
- Most victim surveys are concerned only with crimes that occur during a one-year period. This undercounts the number of people who may be affected over a long period of time by some very serious acts of violence.

1 The United Nations Interregional Crime and Justice Research Institute (UNICRI), located in Rome is affiliated with the United Nations.

Since victimization surveys were designed to avoid the pitfalls of police data, the results of these surveys were credited with being accurate, unbiased and reliable. There was an assumption that domestic violence and sexual violence were no different than theft, robbery or any of the other crimes measured by these surveys and that all types of crimes could be addressed through the same methodology. When victims of domestic assault and sexual assault reported to these surveys were asked whether they had reported these crimes to police, the majority had not. And so it was assumed that these crimes were being comprehensively measured. Victim surveys portrayed these crimes as rare events, but this was not viewed as problematic since this fit with public perception and with police statistics. The validity of the data therefore was not questioned.

In recent years, significant advancements have been made to address the shortcomings of these surveys in measuring crimes of violence against women. In most countries where crime victim surveys are conducted, question wording and other procedures have been modified to take account of the sensitivity of the information being sought and to improve the reliability of results. A few countries have taken the extra step of developing victim surveys that are uniquely dedicated to measuring women's experiences of violence.

This approach of developing surveys dedicated entirely to measuring acts of violence against women, modeled on the crime victim survey approach, heralds a new era in survey research. Statistics Canada's 1993 Violence Against Women Survey is an example of this dedicated approach. A random sample of 12,300 women were interviewed by telephone for this survey about their experiences of physical and sexual violence and sexual harassment for the first national survey of its kind. This paper will argue for the refinement of survey methodologies in the measurement of crimes of violence against women and for the benefits of building partnerships at the international level.

The Ethics of Survey Research

Random sample surveys are highly refined research tools that have many advantages, including the ability to produce statistically reliable estimates of social phenomena. Interviewing women directly about experiences of intimate violence presents a number of complex methodological and ethical issues to survey researchers. These include, but are not limited to, trauma raised in the context of talking about troubling events, the safety of women reporting violence by spouses, and minimizing refusals to participate.

Trauma

A survey of this nature is unique in that it asks a randomly selected group of women (i.e., not self-selected or chosen from women who have sought help for abuse) to disclose perhaps the most intimate and troubling details of their lives to a stranger, either over the telephone or in a face-to-face interview. Experience

has shown that questions asking respondents to recall experiences of violence has the potential to cause emotional trauma.

In surveys addressing sensitive topics, survey managers have a responsibility to anticipate and respond to emotional trauma. To enable them to respond effectively to trauma, interviewers require training and experience. They also need to be able to offer respondents other sources of support since their role is to gather data and not counsel women in distress. These are separate roles and must remain separate in the interviewing process. Interviewers in the Canadian survey were provided with an automated list of shelters and other services for abused and sexually women across the country that they could offer to women in distress. This addressed the ethical need for interviewers to be able to respond to emotional trauma without compromising their role or the collection of consistent, reliable data.

Concerns about trauma also apply to interviewers who may be distressed by the personal stories they hear. Distress can occur as a result of a particularly disturbing interview, or it can be cumulative, building up over the course of many weeks or months of hearing tragic stories and feeling powerless to help. Care must be taken to respond to the needs of interviewers through regular debriefings with an experienced coach throughout the duration of the survey.

Safety

A second important consideration, from an ethical point of view, is recognizing that a substantial number of survey participants will be living with violent men and that their safety could be jeopardized as a direct result of their participation in the survey. A solution offered in the Canadian survey was to give respondents control over when and where they would participate. At the outset of the interview every respondent was provided with a toll-free telephone number that she could use to call back and resume the interview in the event that she had to hang up suddenly. No callbacks were made to respondents' homes, as is typically done with telephone surveys on other topics, which gave them control over their participation. This had an effect on the response rate which was 64% compared to a typical response rate of over 80% for Statistics Canada surveys that attempt to convert initial non-responses. Many women took advantage of the toll-free line and called from a different location (such as work or the home of a friend) in order to continue an uncompleted interview that they had had to interrupt, or to add additional information. This response on the part of the women participating in the survey signals a high level of emotional commitment that this line of questioning can provoke and to which survey researchers must be prepared to react.

Minimizing refusals

A common concern among survey researchers is that results will be biased if a large proportion of respondents refuse to participate in the survey or refuse to answer certain questions. Nowhere is this concern greater than on surveys addressing sensitive issues. Reasons for non-response to survey questions include feelings of embarrassment or shame, memories that are too personal or painful to

discuss, fear of further violence from the abuser should he find out about the interview, forgetting incidents that were minor or happened a long time ago, resentment about intrusive questions, and definitions of violence that don't fit respondents' experiences (Smith 1994).

Selection and training of interviewers is paramount in addressing these issues and minimizing refusals. Well-trained interviewers are able to foster a climate of trust in which respondents feel comfortable discussing their experiences. Through training and experience, interviewers will become skilled in detecting fear and trauma among respondents and in developing appropriate responses that encourage participation.

Community consultation

The method for developing these protocols and for ensuring that the survey would be conducted in a sensitive manner involved a process of extensive consultations with a wide variety of experts across Canada. Statistics Canada is an acknowledged expert in survey design and in methodological precision, but at the time there was very little experience within the department in conducting detailed interviews with victims of domestic and sexual violence. These consultations were extremely helpful to the success of the Canadian survey. Discussions were undertaken with victims of violence, groups who provide counselling to battered women and sexual assault victims, equality-seeking groups, academics and other experts, and with a police advisory group. Consulting with abused women and other groups directly helped to put in place effective responses to concerns about safety and trauma, the content of the questionnaire, the wording of questions, and in gaining the cooperation of respondents. Through this process, a methodology was developed that is simultaneously scientifically rigorous and concerned about the safety and welfare of respondents. The unique methodology, special efforts taken to address emotional trauma and the safety of respondents, and the design of the questionnaire, have served as a model for other countries worldwide.

Definitions of violence

The definitions of sexual and physical assault developed for this survey were designed to conform to the Canadian *Criminal Code*. In addition, this survey included contextual information about the level of seriousness of physical and sexual assaults, the consequences of violence for victims, as well as decisions women made to tell others, to leave and to return to violent partners, to get medical help, to use emergency shelters and other social services, and to report incidents to the police.

Violence Outside Marriage: The range of behaviours considered a sexual assault under Canadian law include unwanted sexual touching up to violent sexual attacks with severe injury to the victim. Rape (i.e., penetration) is included but is not essential to this definition. The following two questions were devised for this survey to measure women's experiences of sexual assault. Each of these questions about

sexual and physical assault were asked first of strangers, then dates and boyfriends, and lastly of other known men apart from spouses.

sexual attack

Has a male stranger (date or boyfriend, or other man known to you) ever forced you or attempted to force you into any sexual activity by threatening you, holding you down or hurting you in some way?

unwanted sexual touching

Has a male stranger (or other man known to you) ever touched you against your will in any sexual way, such as unwanted touching, grabbing, kissing or fondling?²

Physical assaults under the *Criminal Code* range from face-to-face threats of imminent attack up to and including attacks with serious injury. Physical violence outside marriage was measured through responses to the following two questions:

physical attack

Now I'm going to ask you some questions about physical attacks you may have had since the age of 16. By this I mean any use of force such as being hit, slapped, kicked or grabbed to being beaten, knifed or shot. Has a male stranger (date or boyfriend, or other man known to you) ever physically attacked you?

threats of attack

The next few questions are about face-to-face threats you may have experienced. By threats I mean any time you have been threatened with physical harm since you were 16. Has a male stranger (date or boyfriend, or other man known to you) ever threatened to harm you? Did you believe he would do it?

Incidents that had both a sexual and a physical component were counted only once as sexual assaults.

Violence by Spouses: The method used to derive estimates of wife assault differs substantially from the single-question methods typically used in crime victimization surveys. Ten specific questions were used to measure violence by a common-law partner or spouse, ranging from threats of physical harm to use of a gun or knife, including violent sexual assault. This method is intended to offer many opportunities for disclosure in order to counteract a reluctance to disclose painful or embarrassing experiences. Obtaining details about specific types of violent acts also adds important information about the dimensions and the range of seriousness of assaults on wives.

These ten items, in the order in which they were asked, are as follows:

1. *Has your husband ever threatened to hit you with his fist or anything else that could hurt you?*
2. *Has he ever thrown anything at you that could hurt you?*
3. *Has he ever pushed, grabbed or shoved you?*
4. *Has he ever slapped you?*

2 In questioning women about sexual violence involving intimate partners (both dating and marital relationships), they were asked about violent sexual attacks but not about unwanted sexual touching. While technically these latter behaviours do fall under the legal definition of sexual assault, these questions were excluded because of a concern about the reliability and validity of the results.

5. *Kicked, bit or hit you with his fist?*
6. *Hit you with something that could hurt you?*
7. *Beat you up?*
8. *Choked you?*
9. *Threatened to or used a gun or knife on you?*
10. *Forced you into any sexual activity when you did not want to by threatening you, holding you down, or hurting you in some way?*

The dimensions of violence against women in Canada

The Violence Against Women Survey is a complex survey that was designed to enhance our knowledge about the prevalence and the dimensions of violence against women in Canada. In addition to prevalence, it was also designed to assess factors that increase the risk of violent victimization, the risk of repeat or chronic victimization, and to test theories about the causal factors for wife beating. There is a focus in this survey on contextual information about the seriousness and consequences of assaults and the actions women take as a result of violence.

An advantage of random sample surveys such as the VAWS is that by interviewing a relatively small sample, the responses can be weighted to represent all women in the general population, within a measurable range of reliability. The responses of the 12,300 women who participated in this survey were each weighted to represent other women in that geographic region who were not interviewed. The survey findings presented here represent the approximately 10.5 million women 18 years of age and over living in Canada in 1993. Estimates at the Canada level produced from this survey are expected to be within 1.2% of the true proportion 19 times out of 20. Estimates of proportions of subpopulations will have wider confidence intervals.

Both one-year and adult lifetime rates of violence can be estimated from this survey. Table 1 shows the percentage of Canadian women who have experienced various types of violence. One-half of all women have ever had one of these experiences, 10% during the one-year period prior to the survey. This represents 5.38 million women who have had an experience of physical or sexual violence since the age of 16. This survey shows that women are more vulnerable to attack by men they know than by strangers. Twenty-nine percent of ever-married women have been assaulted by a spouse (an estimated 2.65 million women), 16% of all women by a date or boyfriend, and 23% by other known men. Taken together, this represents 45% of women who have been victimized by men they know compared to 23% by a stranger.

Table 1. Rates of violence against Canadian women by relationship of perpetrator

Relationship	Number	Percent	Percent
	in millions	since age 16	past 12 months
Total Canadian women	10.5	100	100
Total women victimized	5.38	51	
Spouse or ex-spouse	2.65	29 ¹	3 ¹
Date/boyfriend	1.72	16	2
Other known man	2.46	23	4
Stranger	2.46	23	v4

¹ Based on the number of women who have ever been married or lived with a man in a common-law relationship. Figures do not add to totals because of multiple response.
Source: Violence Against Women Survey, Statistics Canada, 1993.

Table 2 shows the types of violence women have experienced during their adult lifetimes. Four in ten reported sexual assault and a slightly smaller percentage, 34%, reported physical assault. Sexual assaults were more common than physical assaults in situations outside marriage. Within marital relationships, physical assaults were more common. Physical assaults perpetrated by men other than spouses most often involved dates and boyfriends.

Table 2. Type of violence reported by Canadian women

Number	in millions	Percent
Total Canadian women	10.5	100
Total women victimized	5.38	51
Total sexual assault	4.09	39
Unwanted sexual touching	2.62	25
Violent sexual attack (nonspousal)	2.13	20
Sexual attack by spouses	0.73	8 ¹
Total physical assault	3.58	34
Nonspousal assault	1.77	17
Assaults by spouses	2.65	29 ¹

¹ Based on the number of women who have ever been married or lived with a man in a common-law relationship. Figures do not add to totals because of multiple response.
Source: Violence Against Women Survey, Statistics Canada, 1993.

As illustrated in Table 3, the most common forms of violence inflicted on women by marital partners were pushing, grabbing and shoving followed by threats, slapping, throwing something that could hurt her, kicking, biting and hitting with fists. The percentage of women who were victims of the more serious forms of violence, such as being beaten up, choked, sexually assaulted or had a gun or knife used against them are all less than 10%. However, in each of these categories, between 400,000 and 800,000 Canadian women have been affected. This table also shows that rates of violence were three times higher, and the level of violence was higher, in past marriages than in relationships that were current at the time of the interview. This points to the importance of including lifetime experiences and past relationships in order to fully understand the range of violence that takes place within marriages.

Table 3 includes all types of violence reported by women. By counting each woman only once according to the most serious type of violence she has experienced by a marital partner, we see that over half of all victims of wife assault reported serious types, including being kicked, hit, beaten up, choked, or had a gun or knife used against them. Only 2% reported only the less serious threats or having something thrown at them (Figure 2).

Table 3. Number and percentage of women who reported violence by a marital partner by type of assault

Type of assault	Number in millions	All marital partners	Current partner	Previous partner
		<i>percentage</i>		
Total ever-married women	9.06	100	100	100
Total victims of wife assault	2.65	29	15	48
1. Threatened to hit her with his fist or anything else that could hurt her	1.69	19	7	35
2. Threw something at her that could hurt her	1.02	11	4	21
3. Pushed, grabbed or shoved her	2.22	25	12	40
4. Slapped her	1.36	15	4	30
5. Kicked, bit or hit her with his fist	0.96	11	2	22
6. Hit her with something that could hurt her	0.51	6	1	12
7. Beat her up	0.79	9	1	19
8. Choked her	0.61	7	1	14
9. Threatened to or used a gun or knife on her	0.42	5	1	10
10. Forced her into any sexual activity when she did not want to by threatening her, holding her down, or hurting her in some way	0.73	8	2	17

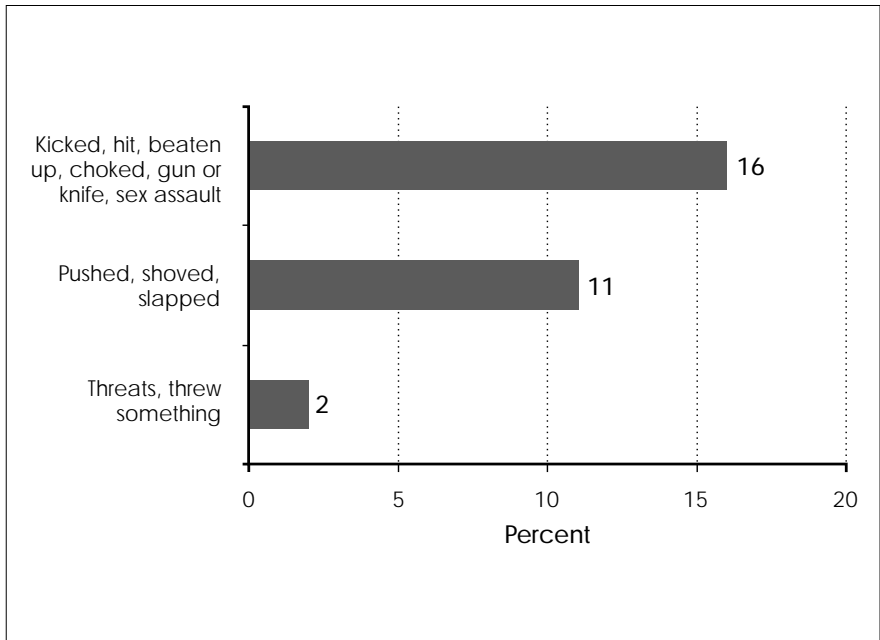


Figure 2. Rates of wife assault by most serious type of violence

Figures 3 and 4 graphically illustrate the important contribution of specialized victimization surveys to research in this area. These graphs show the differences in the number of women who reported these experiences to the Violence Against Women Survey, Statistics Canada's national victimization survey (the General Social Survey), and the police in 1993. Over the 12 month period preceding the interview, an estimated 572,000 women experienced at least one incident of sexual assault, and 201,000 women experienced violence by a spouse. The specialized survey of violence against women captures almost twice as many incidents as the traditional crime victim survey, four times as many cases of wife assault as are reported to the police, and about 38 times as many cases of sexual assault as police statistics. These GSS figures are the results of improved question wording modeled on the Violence Against Women Survey, but still imbedded in the traditional format of asking about a wide variety of crimes and conducted without special training for interviewers or support for respondents. This graphically illustrates the extent to which victim-type surveys more completely represent the population of assaulted women than police records, and how a dedicated survey can be even more comprehensive.

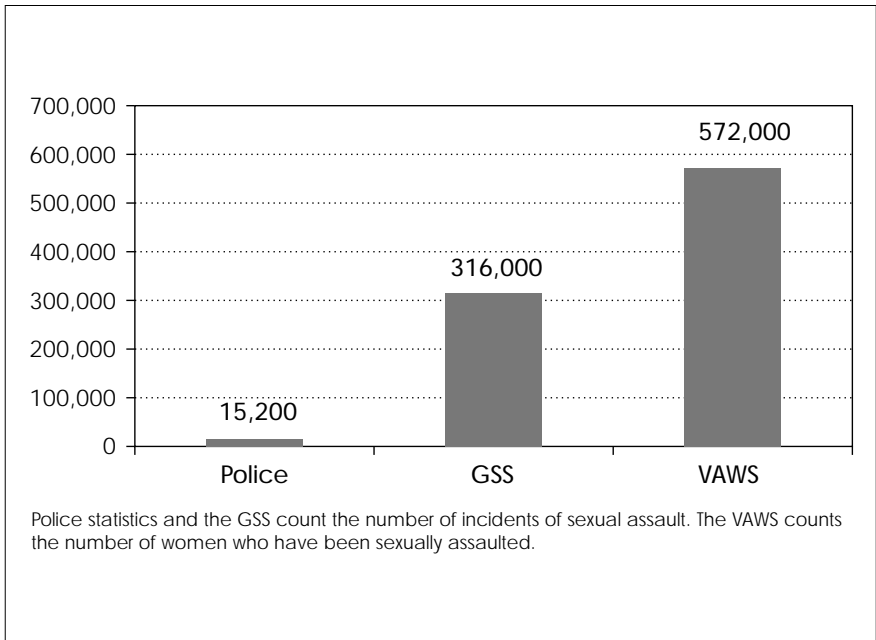


Figure 3. Number of sexual assaults against adult women recorded by police, GSS and VAWS in 1993

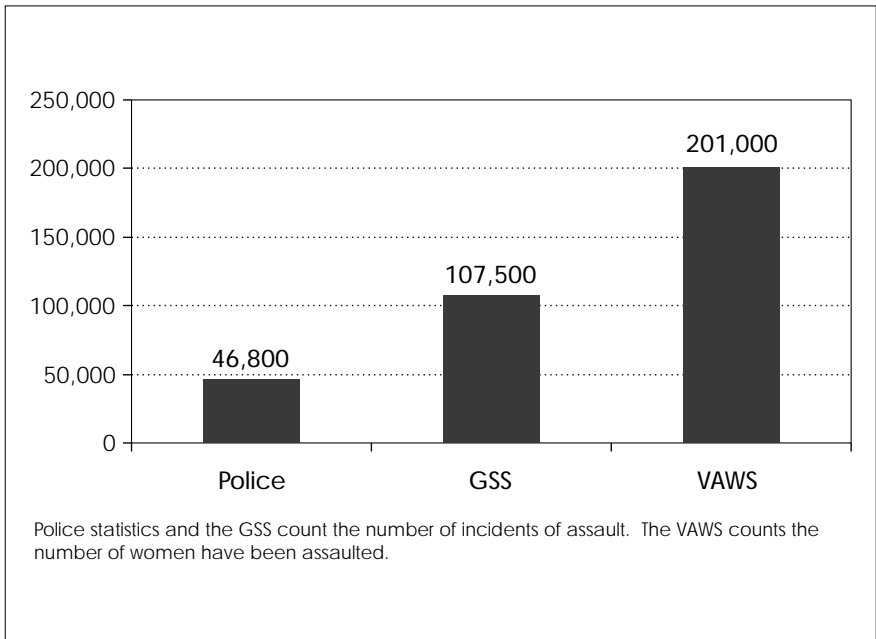


Figure 4. Number of wife assaults recorded by police, GSS and VAWS in 1993

Policy development

The most obvious and immediate benefit of wide-scale victim surveys is the contribution they make to knowledge about the prevalence of social problems and the sheer numbers of people affected. Simply knowing how many, how often, who is affected, and what are the consequences are important for assessing the seriousness and magnitude of a problem, for attracting the attention of other researchers, policy-makers and legislators, and for putting social problems on the public policy agenda. It could also serve as an aid to victims letting them know they are not alone, and is often the first indicator that the problem is systemic and not an isolated or individual one.

But the importance of reliable statistical information goes far beyond counting victims. Being able to identify the factors that increase the risk of victimization are important for targeting scarce resources – for intervening in high risk populations and for targeting prevention efforts. Targeting resources requires knowledge about who is at risk of what types of violence, in what situations, and who is vulnerable to multiple, chronic and ongoing victimization. For example, the VAWS shows that young women are at highest risk of both wife assault and sexual violence (Figure 5). This helps identify which sub-groups of the population should be the focus of prevention efforts or social service supports.

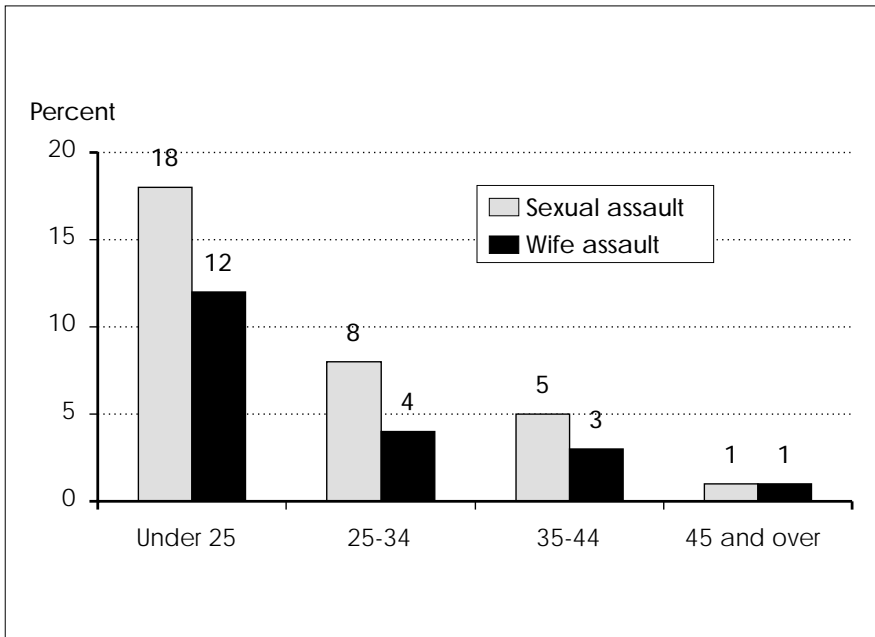


Figure 5. One-year rates of sexual assault and wife assault by women's age

Knowing that the rates are even higher among young common-law couples helps to target prevention efforts even more (Figure 6). Other personal characteristics that are associated with a higher risk of violence include unemployment on the part of male partners, low income, alcohol abuse, and witnessing spousal violence in childhood.

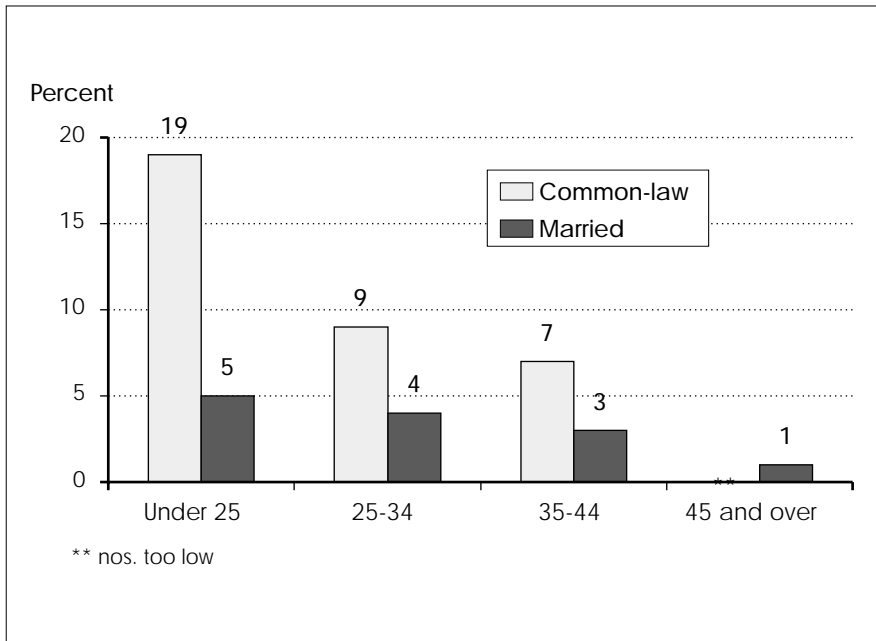


Figure 6. One-year rates of wife assault by age of the man and type of union

Knowledge about risk factors and correlates of violence also helps to identify factors that are amenable to change. For example, efforts on the part of male partners to control their wives' behaviour are highly correlated with using violence against her. This offers insights about the attitudes that co-exist with violence, social conditions that are amenable to change through public education. Figure 7 shows that men who are violent toward their spouse are also more likely to control their spouse's contacts with others, demonstrate sexual jealousy, and degrade their spouse through name-calling and put-downs. Knowing that certain socio-demographic characteristics are associated with a high risk of violence is useful for knowing which group to best focus prevention efforts on; knowing that the risk of violence is elevated among men who demonstrate attitudes supportive of the traditional right of men to control women is useful for knowing how to intervene, and what individual or social conditions need changing in order to have an effect on the level of violence.

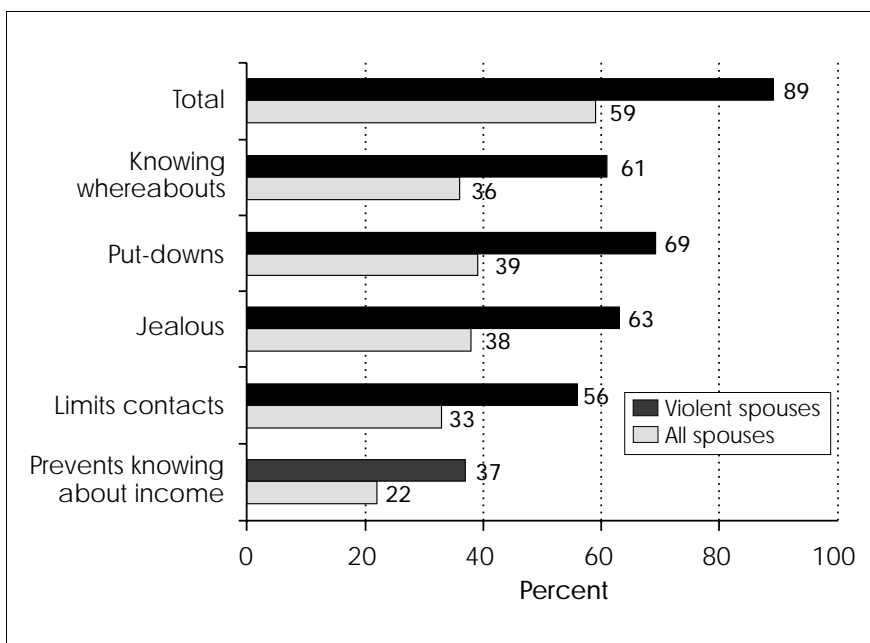


Figure 7. Rates of controlling behaviour by previous spouses

To take one other example, victim surveys can assess where victims turn for help, and how many criminal incidents are reported to the police or other services. These surveys have found that the percentage of women who report crimes of violence to the police is small, even in cases involving ongoing or life-threatening violence. In the Canadian survey, for example, 26% of victims of wife assault and only 6% of victims of sexual assault sought help from the police (Figures 8 and 9). A majority of unreported cases of wife assault are serious and some are potentially life-threatening. This should raise concerns among police and others in the business of helping victims. It should encourage self-reflection on the part of police as to citizens' confidence in the criminal justice system, and why victims of even some of the most serious cases don't see the justice system as a source of support and protection. More thorough examination of these data could lead to innovations in professional training for police and others.

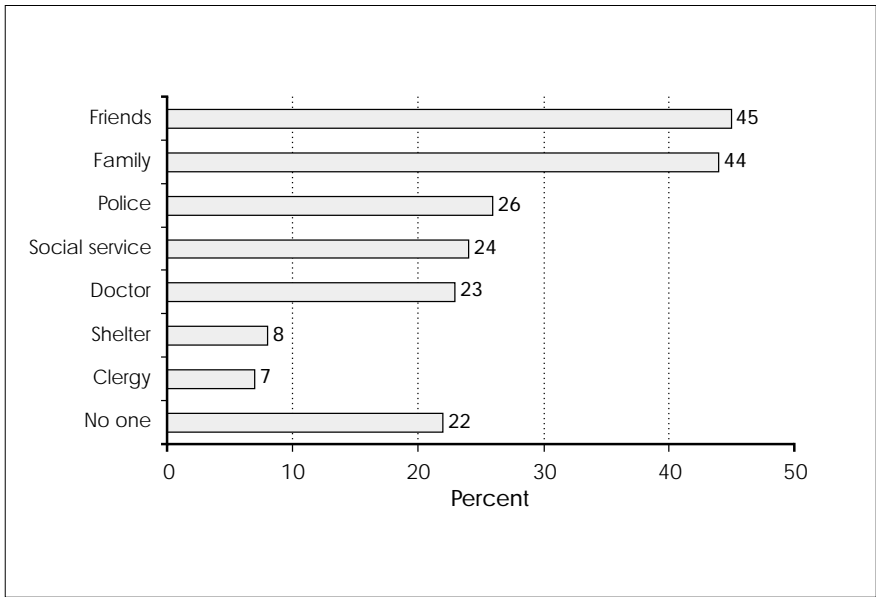


Figure 8. Who battered women contact for help

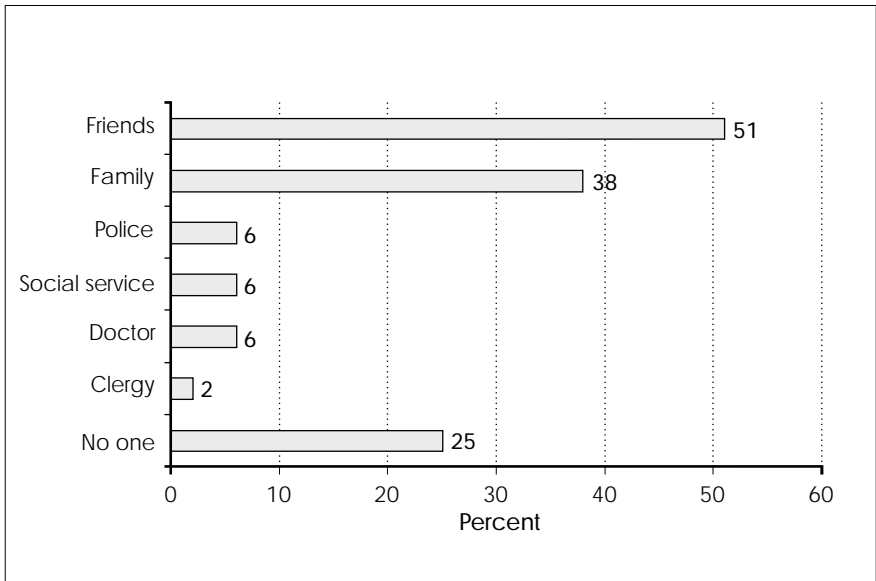


Figure 9. Who sexual assault victims contact for help

Summary

Experiences in Canada and other countries have shown that personal interviews with women are the best and most reliable method for acquiring good national data about this important criminal justice and social issue. But through experience we have also learned that unless the proper steps are taken to ensure the safety and willingness of women to participate in these surveys, the results of the research may not be reliable and the prevalence of violence against women likely will be undercounted.

The key to success in surveys of this nature is strong collaboration between community organizations, independent researchers and national statistical agencies, as well as international organizations. The benefits of these surveys for researchers and policy makers are twofold: (1) significant improvements have been made in the availability of reliable quantitative data; and, (2) methodologies are now available to serve as models for similar undertakings around the globe. Countries around the world now have available to them models for systematically gathering sound, comprehensive information about the prevalence and nature of various forms of violence against women. The end result will be more informed policy-making. Recent efforts by international organizations like HEUNI³ to put into place a standardized questionnaire for measuring violence against women, with which to compare results among countries, will mark an important step in facilitating cross-cultural research.

References

- Johnson, H. 1996. *Dangerous Domains: Violence Against Women in Canada*. Toronto: Nelson Canada.
- Johnson H. and V.F. Sacco. 1995. "Researching Violence Against Women: Statistics Canada's national survey" *Canadian Journal of Criminology* 37 (3): 281-304.
- Smith, M. 1994. "Enhancing the quality of survey data on violence against women: A feminist approach" *Gender and Society* 8(1):109-127.
- Statistics Canada. 1993. *Violence Against Women Survey Questionnaire*.

3 The European Institute for Crime Prevention and Control affiliated with the United Nations.

The International Violence Against Women Survey (IVAWS)

Natalia Ollus
Research Officer
The European Institute for
Crime Prevention and Control,
affiliated with the United Nations (HEUNI)

Introduction

Violence against women is a global phenomenon and wife-beating seems to be the most common form of family violence around the world¹. Women world-wide suffer from physical violence, sexual abuse and threats of violence especially by male offenders. The offender is commonly a man close to the woman, her own husband, partner, boyfriend, relative, friend, neighbor or coworker. If the abuse takes place in an intimate relationship, it is often difficult to convey to others and to identify.

The cost of violence is high. It has been estimated that violence against women causes more ill-health for women than malaria and traffic accidents combined and that it is equally as serious as cancer² in causing death and incapacity among women of reproductive age. The consequences of violence against women thus affect both the individual victim and society at large. The direct and indirect cost of violence can therefore be unexpectedly high, as shown in various studies³.

Violence against women is an obstacle to the actualisation of women's human rights. Violence against women is sexualised violence, that is it affects women precisely because they are women. To recognise the existence of violence against women and to counteract it is therefore a primary task in realising the human rights of women.

Violence against women has many unique characteristics compared to other forms of violence, and therefore combating it requires specific strategies. Research of the phenomenon is crucial in order to raise awareness of the dimension of the problem both nationally and internationally.

-
- 1 Levinson, David (1989). Family violence in cross-cultural perspective. *Frontiers of anthropology*, Volume 1. SAGE Publications: Newbury Park.
 - 2 World Development Report 1993, as cited in WHO's "Violence Against Women Information Pack: a priority health issue".
 - 3 e.g. Godenzi, Alberto and Carrie Yodanis (1999). Male Violence: The Economic Costs. Paper presented at Council of Europe seminar "Men and Violence Against Women". Strasbourg 7-8 October 1999.

An International Mandate

Within the bodies of the United Nations, violence against women is receiving increasingly more attention. Family violence was acknowledged in the crime prevention programme of the United Nations already during the 1980s. At its Fifth Session in 1996 the United Nations Crime Commission on Crime Prevention and Criminal Justice received a plan of action on the subject of women and violence. The plan was based on the Resolution on the Elimination of Violence against Women adopted by the Ninth United Nations Congress on Crime Prevention and the Treatment of Offenders (Cairo, 1995), and the Fourth World Conference on Women. At its Sixth Session in May 1997, the UN Commission approved a resolution on “Elimination of violence against women”.

The resolution highlights the need for research on the prevalence of violence against women both nationally and cross-culturally. It urges Member States, the Institutes comprising the United Nations Crime Prevention and Criminal Justice Programme Network and other relevant bodies⁴

- to develop crime surveys on the nature of violence against women;
- to gather data and information on a gender-disaggregated basis for analysis and use, together with existing data, in needs assessment, decision making and policy making in the field of crime prevention and criminal justice;
- to evaluate the efficiency and effectiveness of the criminal justice system in fulfilling the needs of women subject to violence.

In addition to the Crime Commission on Crime Prevention and Criminal Justice, other United Nations bodies have also agreed to act against violence against women. In 1993, the General Assembly adopted the Declaration on the Elimination of Violence against Women, including an internationally agreed-upon definition of violence against women. The Fourth UN World Conference on Women, held in Beijing in 1995, acknowledged violence against women among the main topics of discussion. Regarding research, the Beijing Plan of Action calls Governments, regional organisations, the United Nations and other international organisations and actors, inter alia, to “[p]romote research, collect data and compile statistics concerning domestic violence relating to the prevalence of different forms of violence against women and encourage research into the causes, nature, seriousness and consequences of violence against women⁵”.

The European Institute for Crime Prevention and Control, affiliated with the United Nations, (HEUNI), established in 1981, is a member of the network of the United Nations Crime Prevention and Criminal Justice Programme. HEUNI is the European regional link in this network of institutes. The primary objective of HEUNI is to promote the international exchange of information on crime prevention and control among European countries. HEUNI has actively participated

4 United Nations, Economic and Social Council, “Elimination of Violence Against Women - Canada: revised draft resolution”, Commission on Crime Prevention and Criminal Justice, Sixth Session, Vienna, 28 April - 9 May 1997, E/CN.15/1997/L.7/Rev.1, “Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice”, Section VIII. Research and Evaluation.

5 Beijing Platform for Action, paragraph 130 d.

in projects specifically aimed at preventing domestic violence and violence against women. HEUNI was involved in the preparation, funding, distribution and translation (into Russian and Chinese) of the manual “Strategies for Confronting Domestic Violence: A Resource Manual”, targeted for criminal justice practitioners and published by the United Nations in June 1993. In 1994, HEUNI organized a Central and Eastern European Workshop on Domestic Violence in Budapest for decision makers with the objective of discussing the implementation of the Resource Manual.

HEUNI and UNICRI conducted a pilot project in Lithuania to assess the validity and the flexibility of the core training curriculum for preventing and addressing domestic violence, developed by the International Advisory Committee on Domestic Violence. HEUNI assisted in the preparations of a similar training course in Poland in 1998 and is currently preparing a training course for police officials in Estonia, to be held in February 2001, focusing on police practices in dealing with cases of violence against women.

In accordance with this framework of activities and the international recommendations for action, HEUNI⁶ is currently preparing the realisation of the International Violence Against Women Survey (IVAWS).

Why is an international, comparative and focused survey on violence against women needed?

There are different levels of awareness of the issue of violence against women. In many societies the problem of violence is seen to belong to the domestic sphere. Due to the often intimate nature of the violence, victims may be reluctant to talk about the episodes.

Statistics offer a means of gathering data on a range of societal phenomena. Police statistics give one measure for the level of crime, including crimes perpetrated against women. However, when it comes to cases of violence against women, especially violence perpetrated by somebody close to the woman, the rate of underreporting is assumed to be high.

In order to estimate the hidden rates of victimisation, statistical surveys on experiences of crime victimisation have been developed. General victimisation surveys collect data on victims who have experienced different types of crimes. According to the results of the ICVS, the International Crime Victim Survey, which is a comparative, global victimisation survey that has been carried out in more than sixty countries, violence against women shows a different pattern than violence against men⁷. In Western Europe men are assaulted as often as women. In North America and Central and Eastern Europe the level of violence is higher for men than for women. In the rest of the world there is a clear gender difference. Women

⁶ in cooperation with UNICRI and Statistics Canada.

⁷ Van Dijk, J.J.M. (1999). The experience of crime and justice. In Graeme Newman (ed.) *Global Report on Crime and Justice*. United Nations Office for Drug Control and Crime Prevention. Oxford: Oxford University Press.

run a higher risk for being assaulted than men especially in Latin America, Africa and Asia.

Assaults on women seem to be more likely to be domestic in nature than assaults on men. When it comes to violence against women the crime often takes place in the woman's own home or in the vicinity of her home and the victim often knows the perpetrator by name⁸.

The ICVS is similar to most national crime surveys of households with respect to the crimes it covers. It counts crimes against clearly identifiable individuals, excluding children. The respondents are asked about eleven main forms of victimisation. However, the ICVS was not specifically designed to deal with violence against women. Also, surveys like the ICVS ask questions about criminal victimisation. Many women might not regard the acts they have experienced as crimes. Thus they might be reluctant to inform the interviewer about their experiences of male violence.

It thus seems that general victimisation surveys have not been able to provide very reliable information on women's experiences of violence. Although general victimisation surveys provide valuable information about the general level of crime, severe shortcomings are found when it comes to measuring the extent of the specific and intimate forms of violence that women suffer from.

According to Walby (1999)⁹, there are four so called generations of surveying women's victimisation: generic national crime surveys, revised crime surveys with special attention to violence against women¹⁰, dedicated domestic violence surveys (such as the US National Family Violence Surveys of 1975 and 1985) and specialised violence against women surveys. The first of the fourth-generation surveys was carried out in Canada in 1993¹¹. In designing this study, particular attention was paid to the ethical considerations of surveying violence against women, the methodology and the clarity of definitions of violence. The Canadian survey has been followed by similar surveys in the USA (1995-96), Australia (1996), New Zealand (1996) and Finland (1997). All of these later surveys have to some extent utilised the Canadian questionnaire and its definitions of violence.

The primary focus of these surveys is the measurement of physical and sexual violence experienced by women on a national level, for national purposes. However, because these surveys were developed for national needs, their results are difficult to compare. In order to collect reliable comparative data on violence against women, there is a need for an international survey, with a standardised questionnaire and a repeatable methodology, which will focus solely on issues concerning violence against women.

8 Alvazzi del Frate, Anna (1998). *Victims of Crime in the Developing World*. UNICRI, Publication No. 57. Rome: UNICRI.

9 Walby, Sylvia (1999). *Comparing Methodologies Used to Study Violence Against Women*. Paper presented at Council of Europe seminar "Men and Violence Against Women", Strasbourg 7-8 October 1999.

10 e.g. the revised British Crime Survey; see Fisher, Bonnie S. and Francis T. Cullen (2000). *Measuring the Sexual Victimization of Women: Evolution, Current Controversies, and Future Research*. Pp. 317-390 in *Criminal Justice 2000, Volume 4*. Washington D.C.: National Institute of Justice for how the National Crime Victimization Survey of the US was developed.

11 Johnson, Holly (1996). *Dangerous domains. Violence against women in Canada*. Toronto: Nelson Canada.

The structure of the International Violence Against Women Survey (IVAWS)

The IVAWS combines the comparative methodology of the International Crime Victim Survey (ICVS) with the perspective on women's victimisation in the national violence against women surveys.

The International Violence Against Women Survey (IVAWS) will use the same methodology in the participating countries. The survey focuses solely on women's experiences of violence by male perpetrators, including both men known to the woman as well as strangers. The IVAWS covers women's experiences of both sexual and physical violence. It also inquires about childhood victimisation experiences. The aim is to cover a statistically representative sample of the female population over 18 years of age. The questionnaire is standardised, as is the method of sampling and the interview methodology. This standardisation ensures that the results from the IVAWS are comparable.

The implementation of the IVAWS will follow the same structure in all participating countries. The project will be headed in each country by a national coordinator responsible for the implementation of the project according to the given methodology guidelines. Thus data gathering and processing will follow a given structure in each country. Interviews will be carried out by female interviewers face-to-face/by telephone. Country reports and a comparative volume on the survey outcome will be prepared.

The IVAWS will be repeated on a regular basis, thus gathering trend-data as well as anchoring the survey mechanism in all participating countries. In this respect, the main aim of the IVAWS is to promote and implement research on violence against women especially in developing countries and countries in transition where resources for survey research have been few. The survey also functions as a means for raising awareness on the issue. Therefore, a workshop to prevent and address domestic violence, building on the results of the IVAWS, will be organised after the data analysis has been finalised. The final outcome of the results in each participating country will be presented and discussed on the occasion of an International Conference.

A crucial aspect of survey research on sensitive topics such as violence against women is the recognition of safety and trauma issues¹². The IVAWS therefore pays specific attention to training of the interviewers. The training includes information on the definitions of violence, the basic characteristics of male violence against women and the problems facing the victims, including difficulties in talking about experiences of violence, means of trauma assistance both for the respondents as well as the interviewers, and culturally specific solutions or options for solving the problems during interviews. A training pack on sensitivity issues will be included in the methodology manual of the IVAWS.

The preliminary pilot of the International Violence Against Women Survey will be organized by HEUNI in Estonia in May 2000 in co-operation with the Estonian Ministry of Social Affairs and the Estonian Institute for Open Society Re-

12 see the presentation by Holly Johnson in this volume.

search. The aim of the pilot is to tentatively test the survey methodology and the questionnaire. In Estonia, a market survey company has been selected to take care of the pilot interviews. Initially, 100 interviews will be made. The questionnaire has been translated from English and the interviews will be administered in Estonian and Russian. The questionnaire will be elaborated based on feedback received through the pilot study.

The Questionnaire

The outline of the IVAWS questionnaire has been designed in co-operation with international experts. The survey questionnaire combines the ICVS and the fourth-generation national surveys on violence against women, especially the Canadian questionnaire. What is regarded as violence or acceptable as violence varies from country to country. However, the IVAWS aims at using the same definitions and structure of questionnaire in order to produce comparative data. Some elementary regional and national differences in the questionnaire are allowed (e.g. on income level, ethnic groups) but the basic outline is not to be altered. Only by ensuring that the basic questionnaire stays the same can one be sure to receive comparative statistical data.

The survey not only measures incidents of physical and sexual violence against women but includes questions on women's fear of crime, perceptions of risk and precautions taken against an attack, as well as attitudes concerning violence. One of the sections of the questionnaire attempts at exploring the respondent's own interpretation of violence. These attitudes concerning violence can be compared to the actual experiences of violence of the respondents, thus giving us a picture of how women's real experiences of violence collide with their views of whether violent behaviour is acceptable or not. The attitude questions can also be compared between different countries. One can then rank countries according to the respondents' sensitivity and attitudes towards violence. This ranking can provide very interesting results, especially for cross-cultural studies of violence and aggression.

Conclusion

The IVAWS aims at assisting in national and international policy making and in finding tools to combat violence against women. The merits of the IVAWS are that it can provide reliable and valid data on violent crimes against women and specifically about violence against women in the domestic sphere in a number of countries worldwide. The IVAWS can also contribute to raising awareness among the public and authorities alike by showing the extent of the social problem of violence. It can contribute with information for the development of legislative measures and means of victim assistance.

The IVAWS aims at producing accurate estimates on the prevalence of violence against women while reflecting the specific social and cultural contexts of the participating countries. It is crucial that recommendations to policy makers

and legislative authorities are based on accurate and reliable figures. The IVAWS is based on a repeatable survey design, thus enabling comparison between a variety of countries. Over time the IVAWS will provide new insight into the extent of violence against women worldwide.

Undoubtedly, there are several problems associated with measuring violence against women cross-culturally. It is problematic to produce a comparative survey tool on violence against women. The IVAWS can give us valuable international information about one of the most common and disturbing yet hidden forms of violence. The survey offers many possibilities for cross-cultural comparison as well as policy making. The information can serve as a basis for strengthening both the national and international capacity to prevent and control violence against women. An important objective is also the development of a clear policy on the prevention of violence against women in accordance with the international agreements for eliminating violence against women.

The aims of international comparative studies are somewhat different from national studies. The International Violence Against Women Survey can function as a trailblazer on the diverse issues around violence against women in countries where these themes have received little or no attention. This basic statistical study will hopefully function as a guide also to new fields of research in the participating countries.

Appendix 1

Workshop programme

Workshop on Women in the Criminal Justice System

Vienna 13-14 April 2000

Workshop moderator: Professor *Frances Heidensohn*,
Goldsmith University of London,
Department of Social Policy and Politics, UK

Rapporteur: Dr *James Finckenaue*r, Director,
International Center of the National Institute of Justice,
USA

Thursday, 13 April

15.00 First plenary session

Opening address

Keynote speech,

Ms *Julita Lemgruber*, Executive Secretary of
the Center for the Studies of Public Safety and Citizenship,
Universidade Candido Mendes, Rio de Janeiro, Brazil

Framing statement,

Ms *Noël Brennan*, Deputy Assistant Attorney General,
Office of Justice Programs, Department of Justice, USA

16.30 Research and policy issues

Coordinated by: **HEUNI** and **UNICRI**

Moderator: Professor *Frances Heidensohn*,
Goldsmith University of London,
Department of Social Policy and Politics, UK

*Research on “Women in the criminal justice system
and transnational crime”*, Professor *Frances Heidensohn*

Panelists: *Global Programme Against Trafficking in Human Beings*,
CICP and UNICRI

*Trafficking in Women through Poland: Analysis of
the Phenomenon and Proposals to Tackle the Problem*,
Professor *Brice De Ruyver*, Research group on Drug Policy,
Criminal Policy and International Crime,
University of Ghent, Belgium

Enhancing survey research on violence against women,
Dr Holly Johnson, Canadian Centre for Justice Statistics,
Statistics Canada

The International Violence Against Women Survey,
Ms Natalia Ollus, Research Officer, HEUNI

Discussion

Friday, 14 April

10.00 **Women as offenders and prisoners**

Coordinated by: **AIC** and **ILANUD**

Moderator: Professor *Christine Alder*, AIC,
Reader and Associate Professor,
Department of Criminology, University of Melbourne,
Australia

Panelists: *Women Foreign Nationals in Prison in Britain,*
Ms *Olga Heaven*, The Female Prisoners' Welfare Project
– HIBISCUS, London UK

Women, Crime and Trafficking in South America,
Ms *Alda Facio*, ILANUD, Costa Rica

*Somebody's Daughter Theatre: Celebrating Difference
with Women in Prison,* Ms *Maude Clarke*, Artistic Director,
Somebody's Daughter Theatre, Australia

Discussion

11.30 **Women as victims and survivors**

Coordinated by: **NIJ**

Moderator: Ms *Noël Brennan*,
Deputy Assistant Attorney General,
Office of Justice Programs, Department of Justice, USA

Discussant: Dr *Edna Erez*, Kent State University, USA

Panelists: *Consolidating Protection against Ever-escalating Violation:
Case of Prerana's intervention for protection of rights of
victims of commercial sexual exploitation in India,*
Ms *Priti Patkar*, Secretary and Founding Trustee,
PREANA, Mumbai, India

***Prevention, Protection, Prosecution, and Rehabilitation:
Advancing the Status of Women Trafficking Victims,
The Philippine Experience,***

Ms *Catherine Maceda*, Deputy Executive Director,
Commission on Filipinos Overseas, The Philippines

***Trauma and drug recovery for abuse and prostitute
survivors in the criminal justice system,***

Ms *Norma Hotaling*, Executive Director,
Standing Against Global Exploitation (SAGE),
San Francisco, USA

Friday, 14 April

15.00 Women in the criminal justice system

Coordinated by: **ICCLR&CJP**

Moderator: Ms *Renée Collette*,
Executive Vice-Chairperson,
National Parole Board of Canada

Speakers: ***Combating Violence Against Women:
Challenges in International Co-operation,***
The Honourable *Anne McLellan*,
Minister of Justice and Attorney General of Canada
Department of Justice, Canada

International Responses to Violence Against Women,
Dr *Evelyn Zellerer*, School of Criminology and
Criminal Justice, Florida State University, USA

Implementing International Standards,
Mr *Yvon Dandurand* and Ms *Vivienne Chin*,
International Centre for Criminal Law Reform and
Criminal Justice Policy

Rape - A Violation of Women's Human Rights,
Ms *Olive Newton*, B.A., J.P. Soroptimist International, UK
Discussion

Closing remarks
Director *James Finckenaue*r

18.00 Closure of the workshop