RESPONSES TO DIFFERENT APPROACHES IN DEALING WITH DOMESTIC VIOLENCE FROM PERSPECTIVES OF WOMEN SURVIVORS

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Thesis
Entitled

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RESPONSES TO DIFFERENT APPROACHES IN DEALING WITH DOMESTIC VIOLENCE FROM PERSPECTIVES OF WOMEN SURVIVORS

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ABSTRACT

This study examined different approaches to domestic violence from the perspectives of women survivors and assesses the efficacy of these approaches in addressing this problem. The study also collates recommendations from women survivors which must be taken into account by policy makers while formulating laws dealing with domestic violence. The findings of the study show that the perspectives of battered women are different from the views of lawmakers. Social support is crucial in enabling women to rebuild their lives free from violence. Mandatory arrest, which may lead to a criminal justice approach, is needed by a number of the women who expect the police to help them escape the situation. However, most women seem to prefer their husbands to go on probation before they pursue any serious legal action. A protection order, which leads to a civil law approach, is questioned by women for its weak enforcement mechanism. One woman in the study had a positive response to rehabilitation programmes. This study recommends that a multi-disciplinary approach should be employed to address domestic violence. It strongly advocates information dissemination among the general public and raising the awareness of authorities and all personnel working with battered women.

KEY WORDS : DOMESTIC VIOLENCE / WOMEN SURVIVORS / DIFFERENT APPROACHES

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แนวทางจัดการความรุนแรงในครอบครัวจากมุมมองของหญิงที่ผ่านพ้นปัญหา
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บทคัดย่อ

การศึกษาแนวทางต่างๆ ที่มีต่อความรุนแรงในครอบครัวจากมุมมองของผู้หญิงที่ผ่านพ้นปัญหาครั้งนี้ มีวัตถุประสงค์เพื่อประเมินประสิทธิภาพของแต่ละแนวทางในการตอบสนองต่อปัญหา ผลการศึกษายังได้รวบรวมข้อเสนอแนะจากหญิงที่ผ่านพ้นปัญหาซึ่งผู้กำหนดนโยบายและออกกฎหมายความรุนแรงในครอบครัวจะต้องให้ความสำคัญและนำไปพิจารณาต่อไป

ผลการศึกษาแสดงให้เห็นว่ามุมมองและความคิดเห็นของหญิงที่ผ่านพ้นประสบการณ์ปัญหามีความแตกต่างจากผู้กำหนดนโยบาย หญิงที่ให้สัมภาษณ์ระบุว่าบริการทางสังคมเป็นสิ่งสำคัญซึ่งช่วยให้ผู้ที่ประสบปัญหาสามารถเริ่มต้นดำเนินชีวิตของตนได้โดยปราศจากความรุนแรง การกำหนดแนวทางให้มีการจับกุมโดยเจ้าหน้าที่ซึ่งอาจจะนำไปสู่การใช้มาตรการทางอาญาได้รับการตอบสนองจากหญิงที่ร่วมในการศึกษาจำนวนหนึ่ง อย่างไรก็ตาม ผู้หญิงส่วนใหญ่ดูเหมือนจะต้องการให้สามีของตนได้รับการภาคทัณฑ์จากเจ้าหน้าที่หากเป็นความรุนแรงที่เกิดในครั้งแรกก่อนที่จะมีการดำเนินคดีทางกฎหมายต่อสามีอย่างจริงจัง ส่วนคำสั่งคุ้มครองชั่วคราว ซึ่งนำไปสู่กระบวนการทางแพ่ง เป็นแนวทางที่ผู้หญิงที่ศึกษาตั้งคำถามถึงความเป็นไปได้ที่กลไกในการบังคับใช้จะเกิดผลอย่างจริงจัง มีกรณีศึกษาเพียงรายเดียวที่ตอบรับแนวทางในการบำบัดสามีที่ใช้ความรุนแรง การศึกษาครั้งนี้ ยังได้เสนอแนะให้มีการนำแนวทางสหวิชาชีพมาใช้จัดการแก้ไขปัญหาความรุนแรงในครอบครัว มีข้อเสนอให้มีการเผยแพร่ข้อมูลต่อสาธารณชนและสร้างจิตสำนึกของเจ้าหน้าที่และบุคลากรทั้งหลายที่ทำงานกับหญิงที่ถูกทุบตี

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CHAPTER I
INTRODUCTION

1. Background

> *The human rights of women and the girl-child are an inalienable, integral and indivisible part of universal human rights. Gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person, and must be eliminated.* (*Vienna Declaration and Programme of Action*, 1993, p.33).

Domestic violence against women is a form of human rights violation, which has threatened the right to life, the right to safety, the right to health, and the right of women to freedom of movement. It is a major problem which affects women regardless of their region, language, class, religion and culture. According to the World Health Organization, most violence against women takes place within families and the perpetrators are almost exclusively men, usually partners, ex-partners or other men known to women. It is revealed that between 20% and 50% of the women interviewed reported that they had suffered physical violence from their male partners. (WHO, 1997) In countries where statistic is available like in the United States, domestic violence injures and kills more women each year than muggings, rapes, and stranger assaults. F.B.I reported that in 1980 – 1989 between 31 % and 50% of all female homicide victims were killed by their partners. (Hart, 2000)

The situation in Thailand reflects the scenario presented in the WHO report. The problem has become one of the prominent problem, which affects Thai women. A population based survey in two provinces by the Institute for Population and Social Research and the Foundation for Women found that 23% of women in the capital and 34% of women in the other province reported physical violence by their husbands or

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intimate partners. Thirty percent of women in the capital and 29% in the other province reported that they had experienced sexual violence from the husbands or intimate partners. (Archavanitkul et al., 2001)

Although there is a high prevalence of domestic violence and battered women are at risk of serious injury, psychological impact and losing their lives, people in general consider domestic violence a family matter and therefore private. It is common that people are mostly concerned with family unity instead of giving emphasis on the rights and safety of battered women. We can say that their rights are neglected and discriminated against by law enforcement authorities.

The conflict between the right to privacy and family life and the right to life and safety of women is reflected in the international human rights standard. Women are protected from many forms of discrimination, however the right to privacy in the home and family are protected under article 12 and article 16, of the 1948 UN Universal Declaration on Human Rights.

> *No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to protection of the law against such interference.*
>
> Article 12
>
> *The family is the natural and fundamental group unit of society and is entitled to protection by society.*
>
> Article 16 (3)

The right to Privacy is always claimed as immunity for abusers from being condemned and punished in the same way as other forms of human right abuse. Violence in the family has been neglected and it has been criticized that the violations of rights and various forms of violence which women experienced in the privacy of their house went unnoticed by formal institutions due to the respected barrier between public and private. (Ackerly, 2001)

A report from Human Rights Watch states that few countries explicitly criminalized domestic violence, and even where they do, police and judges often treat

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it as a non-justifiable, private or family matter or, at best, an issue for civil, rather than criminal, courts. (Human Rights Watch, 2000) It is obvious that different approaches in dealing with domestic violence depend very much on people's concept of family and the role of women. The claim for the harmony of the family is still considered a reason to convince women to tolerate abusive partners. Conventional approach in dealing with domestic violence such as mediation or reconciliation is still practiced by different mechanisms.

Although domestic violence against women has become a human rights concern, a right-based approach dealing with domestic violence is still not recognized widely. At the same time a growing trend to respond to the protection of women from domestic violence in many countries is to have a specific law to deal with domestic violence. It is questionable whether anti-domestic violence legislation would bring a positive change in providing protection to women who experience violence by their partners. Experiences in many countries have shown that, conventional approaches which promote family unity has better acceptance in the communities rather than a right based approach.

The situation in Thailand also follows the general trend in response to domestic violence against women. There are many drafts of the anti – domestic violence bills. It is believed that criminal law is not an appropriate response to violence between couples. However, the process of drafting legislation in Thailand is normally in the hand of the so called "law experts". Women are always neglected and do not have a chance to express their concern towards their own problem. Especially, affected women have no opportunity to participate in voicing their concern on law formulation, which will directly deals with their own lives.

The study intends to consider affected women from domestic violence as "survivor" in preference to victim. There are terminological debates concerning use of such labels as "victim" vs. "survivor", "patient" vs. "client" and so on. The term victim implies an element of powerlessness in relation to another. When battered women try to seek help from people around them or organizations working on such issues, their opinions and participation are always ignored.

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This study employs a feminist approach, which validates women's experiences. In contrast to dominant views of battered women as helpless victims or as provocative women who ask for the abuse, feminists approach battered women as survivors of harrowing, life-threatening experiences, who have many adaptive capacities and strengths. (Bograd,1988)

It is strongly believed that experiences and perspectives of women survivors should be put at the center while designing the law. Therefore this study intends to fill the above gap by making women who experienced violence from their husbands and intimate partners the focus of the study. The study includes opinions, responses, critical points and concerns of women survivors of domestic violence and explore to what extent the existing approaches to domestic violence are relevant to their problems.

2. Objectives of the thesis

In order to promote the right of battered women to get protection from violence and the right to self - determination, battered women who are owners of the problem should be included in the process of searching for the solution. Therefore, this study will serve the following objectives;

2.1 To assess different approaches in dealing with domestic violence through experiences of battered women.

2.2 To explore perspectives of women survivors of domestic violence towards different approaches proposed in responses to domestic violence.

2.3 To collect recommendations from perspectives of women survivors which should be considered while formulating laws to deal with domestic violence.

3. Research Questions

The study answers the two main questions:

3.1 What do the women survivors think about the existing approaches in dealing with domestic violence? The women survivors were asked to look back on

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their past experiences and comment to what extent the various approaches are relevant in solving their problems.

3.2 What are their recommendations for formulating policy and law dealing with domestic violence? The women survivors were asked about their concern and needs and what should be done to protect battered women from abusive relationships?

4. Definitions

According to the United Nations Declaration on the Elimination of Violence against Women, the term "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 life. (United Nations, 1993)*

The term “domestic violence” is generally defined as violence, which happen, in the family. It includes violence committed towards women, children and other members who belong to the family. Men are also not immune to domestic violence. The definition according to the report of the First Special Rapporteur on Violence against Women describes acts of domestic violence as following;

> *All acts of gender-based physical, psychological and sexual abuse by a family member against women in the family, ranging from simple assaults to aggravated physical battery, kidnapping, threats, intimidation, coercion, stalking, humiliating verbal abuse, forcible or unlawful entry, arson, destruction of property, sexual violence, marital rape, dowry or bride-price related violence, female genital mutilation, violence related to exploitation through prostitution, violence against household workers and attempts to commit such acts shall be termed "domestic violence". (Coomaraswamy, 1995)*

This study will use the above definition of the UN Special Rapporteur which includes gender-based physical, psychological and sexual abuse. The study does not include specific forms of violence such as dowry or bride price related violence,

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female genital mutilation as it is not relevant to the situation in Thailand. The scope of this study is limited to domestic violence against women committed by their husbands or partners regardless of their marital status.

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CHAPTER II
DOMESTIC VIOLENCE:
A HUMAN RIGHTS CONCERN

1. Moving from a private to a public issue

Domestic violence has been a concern of women's organisations in many countries before the issue became more visible among international human rights community. In many parts of the world, social support in the form of shelters has been provided to battered women since the 1970s. At the early stage, home for battered women and telephone hotlines were set up by women's groups to provide immediate assistance to affected women. Starting at the grass root level, feminists named its existence with terms such as battering and marital rape and began to put into place an underground network of shelters and safe houses for women and children. (Bograd and Yllo, 1988, Berry, 1998)

Domestic violence has been described by different theoretical perspectives. Each perspective also believes in different approaches in response to domestic violence.

Individual Psychopathology - individual problem
Family systems perspectives - relationship issue
Sociological perspective - social environment
Feminist perspective - gender based violence

Individual Psychopathology is one of the traditional early theories which focused on the personalities or individual characteristics of either the abuser or the victim. This approach suggests that intrapsychic, psychological, or biological abnormalities in the individual cause men to be violent toward their partners. (Stordeur and Stille, 1989)

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Family systems perspectives view violence between husbands and wives as a relationship issue or as one symptom of a disturbed or pathological relationship (Stordeur and Stille, 1989) Family systems theorists tend to advocate either family or marriage therapy as the most appropriate intervention for domestic violence. However the theories have been criticized that they are biased, in that battered women are always blamed while excusing the abusive man. (Bograd and Yllo, 1988) There are many reasons, which explain why family therapy is not appropriate to deal with domestic violence. One of the reasons is because when batterers and victims are seen together in family therapy, both minimize violence in the relationship. Many battered women report that they were assaulted following couples therapy sessions (Stordeur and Stille, 1989)

Sociological perspective does not concern with individual factor or personal traits. Sociologists view wife abuse as behavior resulting from factors within the social structure. They have linked social structure to social learning. It is described that violence is a response to a particular structure or situational conditions, such as unemployment or poverty, and, therefore, it is differentially distributed among different social classes. (Stordeur and Stille, 1989)

On the other hand, feminist perspective focuses on the socio-political context of male power and control in society. Domestic violence is seen as a reflection of unequal relationship between men and women in the family. It reinforces women's passivity and dependence as men exert their rights to authority and control. The reality of domination at the social level is the most crucial factor contributing to and maintaining wife abuse at the personal level. (Bograd and Yllo, 1988)

Women's groups world-wide have attempted to raise public awareness that domestic violence against women is not a private issue and have tried hard to break through all the myths in general societies as well as to demand appropriate programmes from government agencies in dealing with domestic violence.

Domestic violence had not been considered as a human rights issue until recently. There has been a concern that human right paradigm was gender–blind and needed has been redefinition from a feminist perspective. It is criticized that though

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international law is gender neutral in theory, in practice it constituted men and women into separate spheres of existence--public and private, respectively. Often women's exclusion from the human rights practice and discourse, their relegation to the private, has been justified on grounds of social and cultural specificity of region or a group. (Bunch, 2000)

It is crucial to understand that the marginalization of women in the world of human rights has been a reflection of gender inequity in the world at large and has also had a formidable impact on women's lives. When women are denied democracy and human rights in private, their human rights in the public sphere also suffer, since what occurs in "private" shapes their ability to participate fully in the public arena. (Bunch, 2000)

2. A Global Concern

Violence against women has increasingly been recognized as a human rights concern. In 1993, women's group from all regions actively participated in demanding state's responsibility in protecting human rights of women in the UN World Conference on Human Rights in Vienna. (Bunch, 1994) It was proclaimed in Vienna that women's rights are human rights and the importance of working towards the elimination of violence against women in public and private life was stressed. A further step was taken when the Declaration on the Elimination of Violence against women (DEVAW) was adopted in 1994 with a definition of violence against women. The Declaration on the Elimination of Violence against women defined the term "violence against women" as following. (Peters and Wolper, 1995)

> *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 private life. (article 1)*

The DEVAW includes state efforts to end violence against women and prevent the use of any tradition or religion as an excuse to maintain the problem.

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> *States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. (Article 4)*

The DEVAW also requires state's parties to undertake progressively specific positive measures to address the root causes of gender – based violence, such as education programs to counter gender stereotypes, as well as to create protective and social services for victims of violence. (Human Rights Watch, 1995)

When the UN World Conference on Women was held in 1995, Violence against women was included in the 12 areas of concern in the Beijing Platform for Action. It is stated that;

> *in many cases, violence against women and girls occurs in the family or within the home, where violence is often tolerated. The neglect, physical and sexual abuse, and rape of girl children and women by family members and other members of the household, as well as incidences of spousal and non-spousal abuse, often go unreported and are thus difficult to detect. Even when such violence is reported, there is often a failure to protect victims or punish perpetrators. (Beijing Platform for Action, 1995)*

Member states are urged to develop more positive role and responsibilities and to promote effective strategies to address the problem on domestic violence against woman. Radhika Coomaraswamy, the first UN Special Rapporteur on Violence Against Women also comment that in the past, a narrow interpretation of international human rights protections has overlooked the issue of state inaction to prevent and punish violations committed by private actors. Despite provisions in, inter alia, the 1976 International Covenant on Civil and Political Rights, which require States to respect and ensure, among other things, the right to life, the right to be free from torture and cruel, inhuman or degrading treatment and the security of person. Increasingly however, international legal interpretations and norms are evolving to

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define more clearly the positive role and responsibility of the state in preventing abuses perpetrated by Para-State or private actors. (Coomaraswamy, 1995)

An increasing number of countries are treating domestic violence as a problem requiring a legal solution. In some areas, the legal system, social service agencies, and other professionals work smoothly together in a coordinated effort that efficiently deals with every reported case of domestic violence. In many places, a double standard remains in the vastly different way law enforcement and the judicial system treat the same behavior, depending on whether it occurs on the street or in the home. Abusers are still set free without suffering any consequences for their behavior. (Berry, 1998) According to the First Special Rapporteur on violence against women, domestic violence legislation, which specifically prohibits violence against women, is by far the most effective legal mechanism to address the issue of domestic violence. (Coomaraswamy,1995)

Progress achieved at the international level is the result of the movement, struggle and solidarity of women's groups worldwide. It is still a challenge to move on and translate human rights standard for women at the UN level into practice. How can we obtain commitment from main stream human rights community at every level, from international to national level and further to local level. Reflections from lawyers and experts in this field show that the law with neutral language cannot effectively provide protection for affected women. Specific law addressing domestic violence has become a solution to deal with this sensitive human rights abuse against women in the family. The question now is whether the law, which specifically deals with domestic violence, can really make a difference.

3. Different approaches dealing with domestic violence and experiences from selected countries

In order to deal with domestic violence against women conducted by husbands or partners, it is crucial to consider the complexity of the problem and the difficulties

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of law enforcement. There is much to be learnt from experiences of countries in which anti – domestic violence legislation has been implemented.

According to the framework for model legislation on domestic violence prepared by the first Special Rapporteur on violence against women, the States are urged to enact comprehensive domestic violence legislation which integrates criminal and civil remedies rather than making marginal amendments to existing penal and civil laws. (Coomaraswamy, 1995)

It is stressed in the report that there should be no restrictions on women bringing suits against spouses or live-in partners. Evidence laws and criminal and civil procedure codes shall be amended to provide for such contingencies. The Framework included details on complaint mechanisms, duties of judicial officers, criminal proceedings, civil proceedings and provision of services.

Complaint mechanisms: Four elements are included.

1. Duties of police officers. It is recommended that the law shall provide that police officers shall respond to every request for assistance and protection in cases of alleged domestic violence.

2. Alternative complaint procedure. The victim may file a complaint alleging an act of domestic violence with a State or private health facility, which shall direct it to the police in the judicial division where that health facility is located. A relative, friend or person from whom the victim requests assistance may file a complaint alleging an act of domestic violence with the police, who shall investigate it accordingly.

3. Statement of the victim's rights. The purpose of the statement of the victim's rights is to acquaint the victim with the legal remedies available to her during the initial stage when she complains of an infringement of her legal rights. It also outlines the duties of the police and the judiciary in relation to the victim.

4. Domestic violence report. It shall be the duty of the police officer responding to a domestic violence call to complete a domestic violence report, which shall be a part of the record. The report should be collated by the Department of Justice and (where applicable) the family court.

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Duties of judicial officers: It includes two methods. First, temporary restraining order may be issued on the application of a victim of violence in circumstances where the defendant chooses not to appear in court or cannot be summoned because he is in hiding. The order may contain a preliminary injunction against further violence and/or preventing the abuser/defendant from disturbing the victim/plaintiff's use of essential property, including the common home. The second method concerns protection orders. Application may be made by the victim, a relative, a welfare worker or person assisting the victim of domestic violence.

Criminal proceedings: It is recommended that the prosecuting attorney or attorney-general should develop, adopt and put into effect written procedures for officials prosecuting crimes of domestic violence. When a court dismisses criminal charges in a crime involving domestic violence, the specific reasons for dismissal must be recorded in the court file. In criminal actions concerning domestic violence, the prosecuting attorney should charge in the information sheet that the alleged act is one of domestic violence. The victim's testimony shall be sufficient for prosecution. No move to dismiss a complaint shall be made solely on the grounds of uncorroborated evidence.

Civil proceedings : A protection order may be issued while civil proceedings for divorce, judicial separation or compensation are pending.

Provision of services: Firstly, it includes emergency services. The State must provide emergency services which shall include: (i) Seventy-two hour crisis intervention services; (ii) Constant access and intake to services; (iii) Immediate transportation from the victim's home to a medical centre, shelter or safe haven; (iv) Immediate medical attention; (v) Emergency legal counselling and referrals; (vi) Crisis counselling to provide support and assurance of safety; (vii) Confidential handling of all contacts with victims of domestic violence and their families.

Secondly, there are a number of non-emergency services. It is recommended that States must provide services which shall include: (a) Delivery of services to assist in the long-term rehabilitation of victims of domestic violence through counselling, job training and referrals; (b) Delivery of services to assist in the long-term

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rehabilitation of abusers through counselling; (c) Programmes for domestic violence which are administered independently of welfare assistance programmes; (d) Delivery of services in cooperation and coordination with public and private, State and local services and programmes.

Thirdly, there are training of police officials. The police department shall establish and maintain an education and training programme for police officers to acquaint them with the problem. Fourthly, there are recommendations for training of judicial officers and finally for training of counselors. It is recommended that the Framework of the first Special Rapporteur should be used as guidance for governments as a comprehensive model in which right based approach is a core element.

Dagmar Oberlies from one of German development agencies recommended in her presentation in the East and Southeast Asia Regional Workshop in Bangkok held in 2003 that effective intervention should have three components. (Forum Asia, 2003):

1. Societies as whole and state institutions in particular have to take a clear stance towards violence.

2. It is a constituent element of states to protect their citizens from dangers and provide procedures for cases of interpersonal violence.

3. Any legal approach has to include stipulations that allow victims to act on their own. These actions are under the civil law, because they allow victims to file a claim directly against the source of the danger: the violent person.

She also made a crucial point, which should be included as an important commitment of a right based approach. She concluded that battered woman have to be treated as experts of their own situation. Therefore, law is often merely an offer; whether it is accepted must be decided by the woman who was affected.

Dagmar stressed that one of the most difficult experiences is accepting that a woman might prefer a life with a violent man to one without him. What society can offer are paths leading away from violence and better alternative than a life in the shadow of violence or a life in poverty. A law protecting against violence has to go

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beyond state intervention and court protection: it should – as a rule – be founded on the women's individual entitlement to adequate help and necessary support. Help and support in maintenance and (re-) creation of the capacity to act must be on equal footing with state protection – and must come well before punishment. The availability of support systems must therefore be established and guaranteed – if possible, by law. (Forum Asia, 2003)

The framework presented by Raddika Coomaraswamy, includes a holistic approach, but the services for women are considered the same as the role of judicial officers and criminal justice system. It is also difficult for countries in the developing regions to follow all aspects of the framework. It is likely that the provision of service may not be considered as important as other component. While the points raised by Dagmar have reflected that law dealing with domestic violence should give emphasis on the element of services for affected women rather than giving priority to other interventions by the state or the court. Her point also emphasizes that the right of affected women to self-determination should be the concern for designing intervention for battered women. (Coomaraswamy,1995)

Tatsuya Ota from Keio University, Japan criticized that the conventional criminal justice system has been insufficient to prevent domestic violence or protect victims. As a matter of fact, a victim's resorting to criminal justice measures can exacerbate the violence against her, unless criminal justice agencies, including the police, devote close attention to protecting victims from a recurrence of violence. Furthermore, a conventional criminal law approach is inadequate for domestic violence victims who wish to settle the problem without sending their violent family member to jail. For these reasons, many victims hesitate to make recourse to criminal justice measures for fear that they might suffer reprisals from the perpetrators or might lose the breadwinner of their family or father of their children as a consequence of imprisonment. It is obvious that mere punishment of perpetrators never resolves the issue of domestic violence. (Forum Asia, 2003)

According to Ota, the legal strategies for handling domestic violence can be divided into a few different approaches – namely, the modified civil law approach, the

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integrated approach, and the restorative approach. Singapore, Malaysia and Hong Kong are Asian countries that adopt the modified civil law approach by reforming the traditional measures of injunctions or protection orders, which were not been effective in the past. Ota pointed that what is more important is that a variety of support services are available to victims of domestic violence in conjunction with the issuance of a protection order.

The Domestic Violence Prevention Act enacted in Taiwan in 1998 is an example of integrated approaches as a comprehensive law providing civil, criminal, and administrative measures to prevent the recurrence of domestic violence as well as to protect victims. (Ota, 2003)

The followings are selected approaches, which have been used in various countries to deal with domestic violence, including positive and negative comments. Experiences and concern from selected countries are also included. It is crucial that while responding to domestic violence, social and cultural context is considered. We need to include lessons learnt from countries, which already have anti-domestic violence law and controversial points regarding good and bad practices of each approach. All the failures in designing a specific law and the law enforcement mechanism should be considered in order that all weak points can be addressed.

Mandatory Arrest

In general, the police may be reluctant to take any action when they receive complaint from battered women. They mostly try to conciliate and suggest the women not to provoke the violence. The police also place greater value on privacy and family right than on the right of battered women to freedom from violence and to protection. Many police push the women back to a risky situation of being abused again. They also fail to refer battered women to support service such as shelters or counseling centers. Believing that battered women do not want to press charge against the husbands and are afraid that the women may change their mind, most of the police deny to press charge against abusive husbands even when battered women insist on taking legal action. (Watcharin, et al, 2003)

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In the framework for model legislation of the UN Special Rapporteur, it is stated that the law should include duties of police officers to respond to requests for assistance and protection in cases of alleged domestic violence. The police must also inform the women about their legal rights and legal remedies.

This mandatory arrest should include a clear legal power of entry to the house and arrest when there is any complaint or report on domestic violence case. In general, the power of the police and others to enter private premises is limited according to national, regional and international human rights documents. Therefore the police will provide protection to battered women effectively if they are allowed to enter the house when they requested or get any complaint. (Coomaraswamy, 1995)

However it has been noticed that mandatory arrest and pro-charging policies are contrary to the victim's best interests and threaten to further weakening of her position by taking away control over the proceedings. A strong argument arguing mandatory arrest is that if the abusive man is put in jail, the woman may enjoy temporary relief from the abuse, but the husband may be more abusive when he is out of jail. (UNIFEM, 2000)

A member of the UNIFEM's Internet Working Group to End Violence against Women in 1998 supported the creation of special police precincts; mandatory arrest policies which require the police to make an arrest whenever they are summoned to intervene in a domestic incident. The idea believed this approach is to relieve the woman of the burden of insisting on an arrest or guaranteeing she will press charges before an arrest is made. (UNIFEM, 2000)

Under the Criminal Proceedings, Ms.Coomaraswamy suggested that depending on the nature of the offence, and where a defendant is charged for the first time with minor domestic violence offence and pleads guilty, a deferred sentence and counseling may be imposed, along with a protection order, provided that the consent of the victim is obtained. (Coomaraswamy; 1995)

Some jurisdictions in Canada, Australia and the United States of America have adopted policies that require police and prosecutors to treat domestic violence cases in

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the same way as any other criminal matter, as a crime against the state, and to prosecute regardless of the victim's will. (Coomaraswamy; 1995)

In the United States, in recent years a large group of scholars has examined how the criminal justice system has responded to domestic violence. Of particular interest has been the dramatic change in police policy. Many police departments that only a few years ago endorsed a crisis intervention approach, in which arrests were to be avoided, have now adopted policies that either encourage or mandate arrest. (Hart, 2000)

According to Hart's study on Domestic violence and Criminal Justice System in the US states, the role of the police in arresting the batterer is more effective than mediation. The study revealed that arrest is the most effective response of law enforcement to domestic violence. It is stressed that where police arrest perpetrators of domestic violence rather than separating the couple or mediating between the victim and offender, the arrested perpetrators are significantly less likely to recidivate within six months than those offenders with whom the police take conciliatory action. Arrest more effectively deters perpetrators than any other law enforcement action, even if a case does not result in conviction. (Hart, 2000)

Arlene Wiesz (2001: 2) wrote about the result of the arrest that although the arrest can not ensure further violence, the arrest delivers the message that domestic violence is also a serious crime as bellowed.

> *The arrest could not deter future violence by all types of domestic abusers. However, looking only at arrest and only at levels of repeated violence is an oversimplification. Recidivism is an inadequate measure of the effects of arrest. It is important to look at victims' perspectives on police interventions and at the message that arrest gives to the victim, the abuser, their children, and to the community. The results of giving this message may not be immediately measurable. Since no alternative intervention by police has been consistently shown to be more effective than arrest, arrest for domestic violence seems morally*

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correct. It treats domestic violence as a serious crime that is comparable to other crimes.

Comments and experiences from other countries have shown that mandatory arrest is important to deliver a clear message to the society especially to the abusive men that domestic violence is a crime and the police would react to it. Mandatory arrest is one of a controversial approach as there are pro and con to this practice. In introducing mandatory arrest into practice, we should concern whether it is against the will of battered women and how to ensure the safety of the women. It seems that it should not be used in isolation from other approaches. After the arrest, there should be further steps taken in close consultation with the women whether they would want to take any legal action or need other forms of support.

It is a measure that insists on the non – discrimination principle in the practice of the police in the case of domestic violence. This will help prevent the police in using their own judgement when they come across husbands using violence towards their wives. Mandatory arrest connected to the use of criminal justice system and acknowledges that battered women are entitled to the state's protection and the right of the women is important than maintaining the family.

Protective Orders

An intervention to provide protection to domestic violence victims is obtaining protective order. This is may be short-term, emergency protective orders, or longer term orders issued after a hearing. An emergency protective order in most cases is only issued where the applicant can show that there is a danger of immediate harm unless an order is issued. Such an order ordinarily is valid for only a few days, until a contested hearing can be held. After a hearing, the court may issue a longer term protective order. (Berry,1998)

Each country has different conditions concerning the order and may be called differently. Mostly protective order may provide such relief as: Prohibiting further abuse; Prohibiting contact with the victim; Excluding the offender from the victim's home and/or place of work or school; Payment by the offender of spousal support,

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child supports, monetary compensation, or payment for alternative housing for the victim; and/or various other forms of relief. (Berry, 1998)

Hart (2000) pointed out that the effectiveness of Civil protection orders in eliminating or reducing domestic violence depend very much on the specificity of the relief ordered and the enforcement practices of the police and the courts.

A research conducted by the National Center for State Courts (NCSC) (1998) and involving interviews with women who filed protection orders, concluded that victims" views on the effectiveness of protection orders vary with how accessible the courts are for victims and how well established the links are between public and private services and support resources for victims. In addition, violations of the protection order increase and reported effectiveness decreases, as the criminal record of the abuser becomes more serious.

> *In the majority of cases, victims felt that civil protection orders protected them against repeated incidents of physical and psychological abuse and were valuable in helping them regain a sense of well being. A protection order alone, however, was not as likely to be effective against abusers with a history of violent offenses; women in these cases were more likely to report a greater number of problems with violations of the protection order. The researchers noted that criminal prosecution of these individuals may be required to curb such behavior. (Keilitz,1998, www.findlaw.com)*

According to the same research, 72% percent of participants in the initial interviews and in the follow up interviews reported no continuing problems. In several areas, however, the proportion reporting problems rose between the two interviews: calls from the abuser to the participant at home or work (16 % in the initial interview and 17 % in the follow up), stalking the victim (4 % and 7 %), repeated physical abuse (3 % and 8 %), and repeated psychological abuse (4 % and 13 %). (Keilitz,1998)

In United States, women can file for protection order in court without an attorney and obtain a temporary order without the presence of the batterer in the

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courtroom. However the US protection order will often require both parties to stay away from each other and do not regard the problem of power relationship and assumes they are in equal positions. Frequently, police are required to arrest offenders if they have strong reason to believe that there has been physical abuse. In some states, if police fail to arrest an offender, they are required to file a written report stating their reasons for declining to arrest. Police are typically required to inform victims of their legal rights, to enforce protective orders, and to use all means to prevent abuse. They may also be required to transport the victim to a medical facility or shelter. Police are often required to explain the procedures for obtaining a protective order to the victim, which may include giving the victim a written pamphlet outlining the procedures. (Keilitz,1998)

However, many battered women failed to convince the judge to issue protection orders. The story of Betty raised by Donna Baietti (1993); a battered woman advocate, spoke at the Hearing before the Committee on the Judiciary in the US in 1993 is an example. Betty was killed by the abusive husband although she had tried to ask for a protection order from the judge. The following are response from the judge to Betty;

> *After reading the affidavit, the judge spoke to Betty. He asked her how long she had been with Paul, if there were other ways that he had abused her, and if she ever had consented to sex with him. Betty was not at all prepared when the judge denied her request explaining that he did not think that she was in immediate danger for further harm, but he did schedule a full hearing on the matter for May 1992.* (Baietti,1993, womhist.binghamton.edu)

Therefore, the understanding of mechanism involved is absolutely important. It is crucial that we ensure voices of battered women to be heard and be aware that judicial officers should not make decision and judgement without respecting opinions from battered women themselves.

In Malaysia, legal measures available to domestic violence victims were hampered by a reluctance to enforce domestic violence as a criminal offense**.** The Protection Order is called Immediate Protection Orders (IPOs). The law required an

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investigation to take place for the court to issue an order, but until the investigation is complete an interim order can be issued. Experiences from WAO (Women's Aid Organization), a women's group in Malaysia showed that the power of an IPO is therefore reduced when offenders are confident and continued to inflict physical injury or harassment and the crime went unpunished. The IPO is questioned because if an offender upholds it, prompt police action is critical for guaranteeing the safety of the victim and preventing further violence from occurring. (WAO, 2001)

Eighteen months after the Domestic Violence Act's implementation, WAO conclude that the Act has failed to significantly change the situation of domestic violence victims in Malaysia. WAO recommended the government to include Domestic Violence as a specific crime in the Penal Code and called for standardized guidelines for dealing with contravention of IPOs so that women are fully aware of the protection offered by an IPO and the procedures they must follow to ensure their safety. It is also concluded that the structure of implementation is one of the main factor in efficient of the law.

> *Differences in the interpretation of the law, and a lack of gender sensitivity are inherent to the structures of implementation. Structures of implementation relevant to the DVA include the Attorney General's Chambers, the Ministry of National Unity and Social Development, The Police Department, the Department of Social Welfare, and the court system. Bias among the structures of implementation has significantly influenced the substance of the law. The flaws ingrained into the structures of implementation are compounded by a shortage of human resources and appropriate facilities. (WAO, 2001, pp.38)*

In Japan, the Law on Prevention of Spouse Violence and Protection of Victims allows district courts to issue six-month restraining orders against abusers and to evict abusers from the home for as long as two weeks. Abusers who violate the court orders can receive as much as a year in jail and a fine of up to 1 million yen (or about $8,000). The law makes no distinction between couples who are legally married and those who are living together. The new law also requires local governments to provide

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financial assistance to organizations that assist victims of domestic violence, and it provides for the national government to establish new facilities to help victims. (Women's e News, 2001)

Experiences from the above had shown that there are many problems in this approach as it is difficult for the women to obtain protection orders. It depends very much on the understanding and concerning with women's safety during the court process. If this approach would be used in Thailand, there is much to be done in order that protection orders can be effectively enforced. And it is questionable how we can ensure that the abusive men will follow the orders.

Batterers' programme and probation

Batterer's programme has been proposed as an alternative to punishment and suspend the use of criminal justice with the perpetrators when they get arrested. There is a considerable controversy about the goals of treatment and the expectation that programmes can reduce the abuse of women. Some research shows that batterer intervention programs cannot deter domestic violence unless they are supported by the criminal justice system. And criminal justice responses to domestic violence can be coordinated to support batterer intervention. (Healy and Smith, 1998) Other studies suggest that unless issues of power and control are dealt with, men may learn to stop hitting and will substitute other less overt means to continue to control and violate women. (Adams; 1988) From a feminist perspective, work with men who batter must also be accompanied by efforts to increase both social and legal consequences for batterers. (Yllo & Bograd,1988)

According to lessons learnt in the United States, men who are not willing to seek help on their own must suffer the consequences. If they get treatment, it is often by court order. Abusers are manipulative by nature, and quickly learn whether or not they can get by with their behavior without suffering any real punishment. (Healey and Smith, 1998)

It is found that the most successful programs combine at least a taste of jail, some individual therapy, and group counseling that covers education about the

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abusive relationship, behavior modification training, anger management, and separate treatment for substance abuse, if necessary. If the abuser is to make meaningful changes in his behaviour, he must be held responsible and admit that the abuse is his fault, not his partner's. Sometimes, helping to see that an abuser is arrested can be the kindest act you can do for him, as well as for his victims. (Berry, 1998)

In the United States the requirement that batterers attend intervention programs as a condition of probation or as part of pre-trial or diversion is fast becoming a part of the response to domestic violence in many jurisdictions. (Healey and Smith, 1998)

In Thailand, batterers programme has also been introduced in the year 2001, as an alternative to criminal justice system and it seems to get positive feed back from people in general. Detail of this approach in Thailand will be discussed in the next chapter.

Community participation

Susan Schechter (1999) raised the important role of community in dealing with domestic violence. As important and life-saving as our work on shelter, support groups, and criminal justice reform has been, it has left us with big gaps in our vision and practice of social change, public policy development, and systems advocacy. These extraordinary reforms have often left out key sectors of the community that respond to domestic violence, collaborative partners we need in order to improve the lives of all battered women and their children: the health care and child welfare systems, the schools, religious communities, housing and job development agencies, and neighborhood based organizations.

Most battered women and their children are still in settings where we are not: neighborhood clinics, hospitals, welfare and child protection offices, day care programs and Head Start, schools, and Family Resource Centers. We need to collaborate with these settings to support the work that they are already doing for abused women or to help them establish responses. At times these responses may be staffed by our advocates, and funding may come to our programs; at other times it

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may not. But if we are serious about helping the millions of women and their children who are abused, we have to consider multiple ways of reaching them. Collaborating is essential to get the work done. (Schechter; 1999)

In Thailand, there has been news report and survey on domestic violence against women in rural communities as well as in the capital city. The policy of the government does not directly deal with violence in the family and community centers often aim to strengthen the family rather than sovling women's problem. There is a policy of the Ministry of Health to promote the role of provincial hospitals as crisis centers for women facing violence, however there is no specific role for community health centers on domestic violence.

Concluding Remarks

Experiences form other countries have shown that there are many difficulties in translating the human rights standard into practice. Gender relations in societies play a key role in the effectiveness of each approach. The enforcement of each approach depends very much on the understanding and attitudes of persons and parties involved. It is crucial to be aware that just having an anti domestic violence law can not make any differences. On the contrary it can be harmful for the protection of affected women. It is also important to keep in mind that affected women can not have a role in decision making regarding their own problem if the law focuses only to state interventions and does not ensure support services for them. The ultimate aim should be to enable women to take control of their lives.

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CHAPTER III
DEALING WITH DOMESTIC VIOLENCE IN THAILAND

In General, Thai women were taught to keep problems in their families according to a teaching " Inside matter should not be out, outside matter should not be in."[1] Most women are hesitant to report the situation to the authorities, as they fear social stigmatization, threat and violence from the spouse. Even they manage to escape from abusive partners, many women have no place to turn to while they hardly have any means to support themselves. One of factors that contribute to the ongoing human rights abuse against Thai women within the family is the social value which its emphasis on the strong traditional gender role.

According to findings by Kobkun Rayanakorn, Thai women were entirely subordinate to men in every aspect of their lives and this was strongly supported by law since historical period (Rayanakorn,1991). The social status of women is well described in the proverb "Women are buffalo, Men are humans" that signifies Thai women were only men's properties. Society accepts that a husband is entitled to "discipline" his wife. According to the old law of husband and wife (1805 – 1935), the husband had the right to beat his wife if she did something wrong, whereas the wife had no right to fight back or even to scold at him. In case she did anything against her husband she had to apologize with flowers (Skrobanek, 1987).

The year 1997 has marked one of a turning point for the status of Thai women when the Thailand Constitution has included a specific provision on domestic violence in article 53 "*Children, youth and family members shall have the right to be protected by the State against violence and unfair treatment."* This is to reinforce the human rights principle on non-discrimination for the protection of the right of women. Thailand is also a member state of the 1990 Convention on the Elimination on

[1] Translated from "ความในอย่านำออก ความนอกอย่านำเข้า"

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Discrimination against Women. In principle Thai women should get protection by law without discrimination in private and public life.

According to the Criminal Law, wife battery is illegal. This means that there is no exception in the law when physical violence happens between husbands and wives. The law spells out the rights of women to be protected by law without discrimination and the right to life and safety of everyone. Article 295 of Criminal Act states that the penalty for the physical abuse against others is not more than two year jail term or charged not more than THB 4,000. This is however applicable only when the person is proved to be physically in danger or actually get injured. Furthermore, the article indicates no separate treatment by sex. Nevertheless, there is no protection for women within marriage against rape or sexual assault as Section 276 of the Penal Code condemns: anyone who rapes other woman who is not his wife will be punished.

Although battered women can choose to report to the police, it is not easy to pursue their rights in reality. In the guideline practice of the Office of the National police in dealing with cases which need special practice, chapter 3 on the quarrel between husbands and wives, no.583, it is stated that the police should take the case seriously only when any weapons are used.

> *"In the case of husbands or wives accused each other on assault the other, if without using any weapon or does not seriously injured or it does not happen on the royal main road and the act is committed without bad intention for example for the purpose of instructing, the investigator should try to explain and warn them to stop. If it does not work, the process should go on according to the lawsuit." (cited. in Watcharin, et al, 2003: 15-16)*

The above guideline practice has been issued based on past experiences from investigation police since the case of physical abuse between husbands and wives have to be withdrawn when the women change her mind. However this practice is against the Thai constitution as well as against human rights standard on equality before the law. The police should not rest their decision on interference simply on the

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weapon use for it may be against the will of battered women. In general the police do not seriously accept and pursue complaints made by battered women. Part of this problem, other that attitude, is the institutional dilemma that the police face in this situation: if police accept the complaints and forward the case to prosecutors, then in Thailand there is no diversion, there is no other alternative, except to prosecute perpetrators in criminal court. Two or three weeks later, police and prosecutor who are willing to help the victims by accepting the cases run into problems when victims change their minds, because it's very difficult to withdraw a case which is pending.

In this regard, Vimonsiri Chamnanwet recommends that the Criminal Act article 295 on physical assault between persons in families should be amended by allowing women who face violence from their spouses to divorce (Watcharin, et al, 2003). According to the Family Law article 1462 of the Family Law, if the cohabitation of husband and wife causes an assault either physically or psychologically to one partner, at risk partner can seek an injunction for temporary separation with reasonable allowance. In relation to domestic violence, Article 1516, clause 3, states that physical or psychological violence against partner can be a ground reason for seeking divorce. However, the couples may not find it is easy to get divorce as they wish since the Judicial Court and Family Act puts emphasis on the family institution

> *Chapter 10: The trial and adjudication of Family Affairs Cases, section 108 states that in the trial and adjudication of family affairs case the court shall take the following principles for the Court's discretion:*
>
> *(1) maintenance and protection of marital status, in one's capacity as centre of male and female who consented to co-habit as husband and wife. If they can not maintain the marital status, they shall be divorced by way of fair and square and at least not be injured.*

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In 1999, the government of Mr.Chuan Leekpai announced the first National Plan and Policy to End Violence against Children and Women submitted by the National Commission on the Status of Women. The Objectives are 1) to have policy and mechanism at every level in the prevention and solving violence against women and children; 2) to develop capacity of personals in government and non-government organizations; 3) to promote appropriate attitude to people in the society to aware of the rights of children and women and to promote creative way in dealing with conflict; 4) to promote the role of people and community in the prevention and solving violence against children and women, the elders and disadvantage group; 5) to crate network of multi disciplinary agencies in dealing with the problem at every level. However, Thaksin Shinawatra's government (2002-2005) has no specific policy towards domestic violence. Instead, there is a policy on Family, Children, Youth, Women and the Elderly, which states that

> *It is the policy of the Government to build the family institution into a warm and strengthened institution. The family should serve as the basic core in the revival of the economy and the shield for all family members of all ages from social problems. Towards this end, the following policies will be pursued:*
>
> *Establish Family Development Centres in each community with the participation of community members. Such centres shall provide advice and services concerning the family, whether regarding health, family planning, and family problems….*

Movement on Ending Domestic Violence in Thailand

The concern on domestic violence against women in Thailand has been in progress compared to 20 years ago when the Foundation for Women firstly opened the Home for Battered women in 1985. Campaign on violence against women have been organized every year to raise public awareness and organization concern. Till today, campaign on Domestic violence has received positive response from the

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government office and in November every year it has been marked as a month for a campaign on violence against women and children. Many organizations express their concern on the issue of domestic violence as it deal with family which is considered an important social institution. However, there are different approaches in dealing with this problem depends on the beliefs and attitudes towards family and gender in the society.

The process on drafting anti – domestic violence legislation has been started in the year 2002 as important international agenda. The National Commission on Women's Affair sets up a sub committee in drafting this law. The draft was finished in 2004 by the Office of Women's' Affair and Family Institute however there is no political will to implement expressed by the Ministry of Social Development and Human Security and the Bill was not sent to the cabinet.

The Anti- Domestic Violence Bill drafted by the Office of Women's' Affair and Family Institute which is currently under the Ministry of Social Development and human security since the year 2002. This bill provides protection for person in the family which includes couples with and without registration, couples who used to be husbands and wives, the child and adopted child, members of family and other who lives in the same household. The draft of the Anti-Domestic Violence Bill (2004) contains important element as followings;

1. Domestic Violence is defined as "any act done with an intention to cause harm, physical and mentally, to people in the family". It covers any act, which "might" cause danger to another person in the family and those that "wrongfully" force a person in the family to do things against his/her will. (Since the intention courts, situations like parents forcing their children to go to school or seek medial help against their will do not qualify as domestic violence.

2. Complaint mechanism. Battered women or anyone who acknowledge the abuse can report the officers by telephone, fax machine or electronic mail within 3 months. After receiving the case the officers have to close the

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file and submit to the court within 48 hours. This can be postponed to 72 hours with the limit to 6 times.

3. The officer has a duty to investigate and the attorneys will submit the case to the Family and Juvenile court within 48 hours. The extension period can be allowed.

4. The officers can issue the protection order when necessary at the investigation process even the victims do not required. Temporary protecting measure order by the court or offers in emergency case and when necessary to protect person who is abused or has tendency to get abused with violence.

5. The officers can order the offenders to pay primary financial support to the victims. At the court, the couple will be asked to compromise with each other. The judge or the officers will appoint mediators, which comprise of parents, relatives or persons whom the judge or the officers agree to take their consultation or assistance to help the couple to agree. The draft bill uses the same principal as it appears in the Judicial Court and Family Act to maintain marital status and living together as family.

6. The Court will decide whether the perpetrators will be under rehabilitation programmes or under probation or to pay redress to the victims with financial support, or pursue public services or get the penalty. The penalty will be maximum six months jailed or the person will be fined not more than five thousand baht or both jailed and fine.

There has been criticism that this bill on anti-domestic violence has many weak points as following. Many women's activists who have been working on violence against women mentioned that this Bill can not help women and rather it only facilitates the decision of officers on juridical officers. In addition the bill does not mention much about the rehabilitation for battered women. The good point of the law is the mandatory arrest of the police when they receive complaint whether from

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the women or persons who acknowledge violence in the family. However, it is found weak from the perspective of empowering battered women, which may not provide them environment to make important decisions in their lives and marriages. The law gives emphasis in the role of the judges in reconciliation between the couple to agree in consideration to the peaceful and living together as family.

The Bill on the Protection and Promotion of Family Institution

The Women and Constitution Network has also drafted a Bill in 2003 called " The Bill on the Protection and Promotion of Family Institution". The rational states that the family is important and extremely necessary in the promotion and development of the country. When family faces problem, which derived form the use of violence, this may create separateness and may result in economic and social problem (The Women and Constitution Network, 2003). This bill applied restorative approach, which deliver probation period after the police send the file to the public prosecutor. Batterer programme will be use as an alternative to punishment.

This draft law (2003) contains important elements as followings:

- The center for the protection and promotion of family institute will be set up by the Committee on the protection and promotion of family institute who will appointed health care clinic, hospitals or any non - governmental organizations.

- Officers will be appointed to receive complaint from the victims and people who know to event. The officers will collect evidence and pursue measures; separate the victims and the perpetrators, to send the victim to be cured when necessary and conduct further investigation. When necessary the officers have to submit the complaints to the court.

- The victims have the right to choose whether to send the case to continue criminal procedure or sending the perpetrator to receive batterer

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programme. The perpetrator also have to the right to choose if they want to entry batterer programme.

- The committee will decide the duration of the batterer programme and access whether the perpetrator will be free and then inform the victims.

This Bill has strong point in having the role of battered women to choose whether she would want to press charge against the husbands or want the husband to attend the rehabilitation programme. However the language used in this Bill also focuses on the protection and promotion of family institution. Lesson learnt from Malaysia shows that language used in the law has big influence in the law enforcement.

Restorative Justice

Restorative approach has been purposed to deal with criminal cases by minors and it has been introduced to deal with domestic violence in Thailand by the Probation Department. It is known as husband repair programme which has been introduced since the year 2001. According to Dr. Kittiphong Kittayarak the Probation Department director-general, the current procedures of the judiciary system did not allow victims of family violence quick enough access to necessary assistance and protection. The Criminal Court does not have any procedures for giving them prompt protection. It is proposed that pre-trial diversion at the prosecution level should be organized, if both the victim and the prosecutors agree. In conjunction with creating this pre-trial diversion at the prosecution level and focusing on the principles of restoration, we propose a victim - offender mediation program, in which probation officers or other capable parties act as facilitators. In this way, all parties concerned are brought together, if willing, to create some form of resolution.

In the restorative process, it is proposed that in rural communities in Thailand, members of the community are invited to oversee the process, in order to reinforce the commitment of the perpetrators not to repeat the offense and the change

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their behavior. If necessary, perpetrators may be required to attend courses at a hospital or clinic that will help them manage to reduce their anger (Forum Asia; 2003). This proposal by the Probation department can be practiced without formulating the new law. However one may still pose question upon the effectivess of the rehabilitation programme. How battered women feel confident that their husbands would not turn violent again after the programme? How can we ensure that the role of people in rural community will be effective and battered women may face less bias?

Relevant Studies on Domestic violence in Thailand

There have been a number of researches and studies on domestic violence in Thailand. This section spared for recommendations and finding of the studies. Archavanitkul in her research on Studies on Women's Health and domestic violence in Thailand provides different approaches and recommendations in dealing with this problem, (Archavanitkul, et al, 2001) The research recommendations urged the government to place domestic violence on the national agenda of high priority. Concerned organizations and socio-legal systems must design effective and systematic responses and a special agency solely responsible for servicing women and children should be created. Other recommendations include financial support, public campaign and law amendment. At community level, monitoring and support network among community-based organizations are recommended. The communities are encouraged to deliberate on its own ways and means to address violence against women and children. Community resources must be allocated to support action to prevent and intervene in intimate violence.

For health services it is recommended that all levels of medical and public health personnel must be prepared to service victims of violence. The victims' rights and dignity must be respected in all circumstances. A medical service center to provide emergency care to women and children at community and provincial hospitals throughout the country should be created. These centers must function as the 24-hour one-stop service center. Measures to strengthen the justice system, thus, must seek to eliminate the double victimization of women and children. It is recommended that the

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government should review and assess all laws concerning violence against women to expand women's legal rights and synthesize provisions that are gender-based discriminatory and can possibly cause violence against women. Gender training to personnel of the justice system, including police, lawyers, public prosecutors, and judges should be organized. A framework for check and balance among law enforcement authorities and justice authorities to eliminate discriminatory practices in dealings with violence against women and children should be established.

A study by Panchalee Chotikut on Spouse Violence which conducted a survey using 321 sampling of married officials of Thammasat University found that relative frequencies and types of spouse violence. They were: verbal aggression 76.9%, followed by physical harm 17.6% and threatening to use of physical harm 5.5%. In addition it was also found that, female sampling got affected from spouse violence more that male sampling. Physical harm was used more frequent among male than female sampling and verbal aggression were used more frequent among female (Chotikut, 1998).

A comparative study by Suwanna Jarutasanee (2001) on Legal Measures for Protection and Prevention of Wife Battering is an interesting study as there is not many studies on legal aspect on the issue. The study mentioned about the three legal measures, which have been used in many countries: pretrial diversion, probation and measures of Family Court. Suwanna suggests that the act which should be considered using pretrial diversion depend on the level of harm against the society. Therefore it should be the duty of those who design the policy and the law to consider what act is not harmful to the society and should not deserve punishment and the offenders have potential to change their behavior out of jail. Suwanna commented that if the pretrial diversion is used in dealing with domestic violence in Thailand, it would be good in preserve family relationship. However she also comments that there is a limitation since it should be only the act which is not harmful. Pretrial diversion should not be used if it is physical abuse which causes bodily injury according to the criminal act article 297 or continues using physical harm for a long period of time (Suwanna, 2001).

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Suwanna also emphasizes that Family Court should have authority to issue protection order or judicial separation. The women should have a right to demand the court for protection to prevent the husband from using violence again or to order the husband and wives to live apart. Furthermore, Suwanna analyzes that Thai judicial system has not employed the probation measure because we are not ready to have a place where the offenders can received treatment and rehabilitation programme. Personals who deal with this problem do not have enough experiences. We still lack of officers and budget.

Suwanna also insists that it is appropriate if Family Court is appointed to deal with the trial on domestic violence. She pointed out that since Family court has an expert in conciliation and is set up specifically in dealing with family problem and has special proceeding in conciliation to make the couple to reconcile. In her opinion, domestic violence is family problem and family is the most important things to keep.

> *It is a way to keep family relationship smoothly with peaceful way. There will be judges who have knowledge and understanding family problems. There are also experienced personals in restoring relationship between husbands and wives such as social welfare, doctor and court psychologist to help finding the family situation and report to the judge with recommendations. The court will give alternative way which will be suitable to deal with conflict in the family. (Suwanna, 2003:105)*

The recommendation from Suwanna's study also reflects conventional approach of the Thai justice system in dealing with family matter. It puts emphasis on the existing of family instead of the rights of women. Family Court is recommended as key factor in taking decision making from battered women themselves. The study on Evaluation of the Judicial Proceedings Response to Family violence by Watcharin Patjekvinyoosakul, Utaiwan Chamsuthee and Amnard Nadesupha (2003) includes

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opinions and recommendations from case studies that Thai criminal justice should be amended and improved as following:

a. The court of justice should apply civil order to protect victim or survivor from domestic violence. In addition the perpetrator must be sent to rehabilitation programme.

b. In order to access civil order, it must be easy and economical to let victims participating in any decision making process.

c. Enforcement mechanisms following the protective order must be created. If there is a violation on protective order, criminal penalty must be applied immediately.

d. The framework and role of the criminal justice agencies must be clear and their personnel must be specifically trained to have positive attitude and effective performance on domestic violence cases.

e. The process of protection and restitution for victim against domestic violence must be closely done with multidisciplinary teams such as police, lawyers, doctors, psychologists, social workers, etc.

It is found that 3 out of 17 battered women in the study supported the protection order in which the perpetrators have to leave the house or separate from the wives. It is commented that the abusive husbands would have time to think about their past behavior. A case study recommended that there should be a psychologist to find out the reason of their abusive behavior and tried to cure. However 2 out of 17 women thought that this measure might not work, as it is a habit and prefer to get divorce. Nine out of 17 prefer the court order the abusive husbands to pay the living cost for the women including the child support during the trial or during the separation order so that the women can live independently and have a new life.

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Concluding Remarks

Domestic violence has been the concern of many organizations both GO and NGO. However, domestic violence has still be regarded as A family problem. The existing draft laws are still questionable as it does not reflect the interest of battered women but rather put emphasis on the role of jurisdiction. It is crucial to ensure that anti-domestic violence legislation will bring positive change to women affected from domestic violence. The draft bill should be based on the human rights perspectives and learn from experiences of other countries. It is important to find way to fill the gap and problems occurred from the law enforcement in those countries. The concern and recommendations from battered women should be included as important input in formulating anti-domestic violence.

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CHAPTER IV
RESEARCH METHODOLOGY

Domestic violence can be viewed from different perspectives. The human rights perspective is very close to the explanation of feminist activists, who have long experiences in working towards ending this form of unequal relationship between men and women. This respectful firmly states that any form of violence, torture, and control conduct by husbands to their wives can not be interpreted merely as family problem but it is a form of human rights abuse. It should be considered as an urgent issue, which requires states responsibility to take concrete steps to protect women from domestic violence.

This study employs a feminist approach, which regards women as having their own agency in solving their own problems. In general most researchers attempt to be "value-free" in their work. Feminist approach considers that research takes place in a social context that is patriarchal, and therefore characterized by the domination of men over women. A primary value of feminist researchers is a commitment to present women's experiences from their own perspectives.

As a student of human rights combined with my background as an activist on women's issues, I have tried to conduct this study in a sensitive and non – judgmental manner with respect towards women's decisions.

The study has conducted in-depth - interviews with women survivors of domestic violence. I have looked at selected approaches towards domestic violence legislation in many countries. Four approaches in dealing with domestic violence stand out and can be summarized as followings;

(1) Mandatory arrest. This method is linked to criminal justice approach, which insists on the role of the police to arrest the abusive husband when the police find the incident and bring the man to the police station.

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(2) Protection order or Restraining order. This approach is a civil measure, which aim to protect the women from further violence or to protect the women when there is enough evidence to show that the woman is at risk of being abused. The protection order will restrain the man from entering the household and contact the women. Normally the women have to send the complain for the protection order from the Family court.

(3) Rehabilitation programme for abusive husbands. This approach uses criminal measure and use the pre – trial diversion which normally can be used in specific cases. Rehabilitation programme for the abusive man will be an alternative for punishment.

(4) Provision of services for battered women. Social services for victim of domestic violence include emergency services in the crisis situation and non emergency services or a long term assistance.

The women were asked to look back on their past experiences when they lived in abusive relationships.

- In their own experiences, could different approaches be relevant to the situation or violence they faced in the past? Why?

- Do the women think that these approaches can be used to deal with domestic violence in Thai society and why. ?

- What are their concerns towards different approaches in dealing with domestic violence?

- What are the needs and recommendations from the women for the legislation on domestic violence?

The Key Informants

The study regards women survivors as key informants. Opinions and responses of the women will be discussed and analysed. It is believed that women

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survivors are the most appropriate source of information in finding whether the proposed approaches would be appropriate to deal with domestic violence in Thai society. The study intends to select women who experienced domestic violence at a time in their lives. The study avoid selecting battered women who are in the relationship since the interest of most women who are still with their partners may focus on the relationship not on their safety. The other concern is that women who still live with the abusive husbands may be at risk and violence situation might getting worst if the husbands find out that the women disclose their violence relationship to outsiders.

The study recognises that domestic violence happens to women from all classes, sectors and has different impact on different women. Therefore it intends to include battered women who come from different socio-economic backgrounds, battered women who faced different forms of violence and battered women who have experiences in dealing with their problem by using different approaches. Battered woman who accidentally killed her abusive husband and a battered woman who reported to the police and filed charges against the husband will also be included. The study also intends to select battered women who seek assistance from women's organisations, shelters of Governmental and Non-Governmental Organisations.

The following are the profiles of women key informants, which shows details about their socio-economic background, education, how their relationships ended and the assistance they received from shelters.

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Table 1 Profile of key informants on their background and sources of assistance they seek from

Survivors	Background	Education	Relationship Ending	Sources of assistance
1. Orachorn	Rich family, Bangkok, a model	University graduated	Criminal Procedure, Divorce	NGO
2. Khem	Middle class, Bangkok, housewife	12 years in school	Try to commit suicide & Divorce	GOs and NGOs
3. Malai	Middle class, Bangkok, housewife	12 years in school	Seek help from shelters	NGOs
4. Sopha	Poor rural family, The Northeast, hired labour	3 years in school	Made an agreement and Leave the house	GOs and NGOs
5. Nart	Poor rural family, The North, housewife	2nd year college student	Run away	NGO
6.Dara	Poor family, Central part, sewing clothes	7 years in school	The husband died	-
7. Noi	Rural family, The Northeast, Factory workers	12 years in school	The husband died	-

According to table 1, the selected women are form differences in socio – economic background. Orachorn is from a rich family and live in Bangkok. Malai and Khem are from middle class families and lived together with the husbands and their children in Bangkok. While Sopha, Dara, Noi and Nart are from a poor rural families.

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Dara is from a province near Bangkok. Sopha and Noi are from the Northeast while Nart is from the North of Thailand.

Orachorn was a model. Malai, Khem and Nart were housewives. Sopha is now a housemaid and used to be a hired labour in a construction site. Dara worked as a tailor at home as an informal labour. Noi worked in the farm and later migrated to work as a factory worker.

The selected women also have faced different experiences of domestic violence. They have now ended their relationships and live separately from the husbands. Orachorn escaped and pressed charge against the husband and finally got a divorce from him. Khem tried to commit suicide in order to have a chance to leave the house. She finally got the court order to divorce from him. Malai ran away to shelters many times and now live separately from him. Sopha made an agreement to live separately and left him. Nart ran away from home with the four children and is now living independently from the husband. Dara and Noi accidentally killed their husbands who were using force against them.

Ethical Considerations

As a student of human right education, it is crucial that human rights principles will have to be kept in mind in conducting the study.

The study recognises that domestic violence is an issue in which people in general still have prejudice towards the women. Therefore it is important that battered women ‘s identities is protected from being known to the public as key informants. The study will also ensure the right to privacy of women who gave interviews. Therefore the name of battered women will be anonymous. The names of those involved with the cases appeared in the thesis have been changed accordingly.

In regard to the right of the women in making decision to join the study, the women have been informed about the nature and the method of the study. The

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objectives of the thesis were explained to battered women who participated in the research. The interviews were done only after getting their consent.

Limitations of the study

Since the study does not intend to look at only the legal aspect of domestic violence, when I explained the approach to the key informant, I tried to avoid using legal terms and explained it in a simply and easy to understand. Therefore the study would not have responses from the women survivors regarding the details of the procedures employed in the draft bills on anti – domestic violence.

Another limitation is that women survivors always respond to those mechanisms instead of thinking whether each approach could be appropriate to deal with their problem. Therefore the study reflects the assessment of each approach and the possibility in implementing each approach from women's point of views.

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CHAPTER V
FINDINGS OF THE STUDY

This chapter includes responses from women survivors of domestic violence towards different approaches in dealing with the problem and their need. Selected approaches were simplified in order that the women could understand. They were asked to look back to the situation in their abusive relationship and assess to what each approach is relevant to deal with their problem.

The study intends to include women survivors who experienced different forms of violence in their relationship and are from different socio – economic background. The following are the background stories of each woman.

1. Background stories

Orchorn's story

Orachorn is from a well-educated rich family and has a bachelor's degree. Seven years ago when she was 24 years old she decided to get married. Orachon moved to stay with the husband's family and then she learnt that he was an abusive man. He always got angry and lost his temper very easily. He controlled Orachorn to do whatever he wanted and always got angry when things did not turn out the way he wanted. Orachorn always got beaten physically, which could not be recognised from the outside. The husband used cigarette to burn her body and forced her to walk naked in front of the house.

Like other battered women in general who face with violence from their partners, Orachorn chose not to tell anyone and kept it as a secret. She felt ashamed and afraid of social prejudice towards battered women. *"I felt ashamed. I did not know if I told someone they would understand my situation. How would they look at me. This is because women who are beaten in the family are always blamed." (Orchorn)*

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Later, she disclosed to the mother in law who tried to help by bringing her and the husband to see a psychiatrist. *"I can still remember it till today. The psychiatrist came to tell me that we cannot stop him when he starts getting angry. He also told me that I shouldn't have got married with him." (Orchorn)*

As a result, the husband punished Orachorn as she disclosed her problem to his mother.

> *Right after we were back from the psychiatrist, I was beaten again. He blamed me for telling his mother so that he had to see the doctor, He said he was not ill. The doctor told him that if he did not change I would run away from him. Then the situation was getting worse. He threatened me with his gun not to leave him otherwise my parents would be in trouble. (Orchorn)*

Orachorn could not get support from her own parents as her mother thought that she obeyed only her husband and the relationship between her and the mother was not good. Finally after living with the abusive husband for 6 months she disclosed to a friend who also got beaten by her husband. The friend helped her to escape and find a safe place for her to stay. Orachorn decided to press charges against him for physical abuse. Later she could get divorce from the husband.

Orachorn is the only one among the seven case studies who used criminal approach to deal with the husband. The court case was a nightmare for her as it was difficult for her to find witness in the court. At the same time, she was afraid that the husband would come back to take revenge on her. However, she still believes that the husband deserved to be punished for what he did.

Malai's story

Malai is 37 years old. She lived happily with her husband for 20 years. They have 2 children. About 10 years ago the husband became abusive to her and always suspected that she had a relationship with another man. He always felt jealous when she talked to other men. When Malai refused, he beat her up and forced her to confess. Malai had to accept and promised him not to do again in order to calm him down.

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Many times she was seized at the neck, then she had to accept his accusation and then they had to move the house. Malai had to agree with him to move the house in order to be away from the man whom the husband had suspected that Malai had a relationship with.

Malai does not know the reason why he changed and suspected her this way. Although they moved the house, he still accused her with other men again. Malai suffered from being abused and tried to escape to stay with her sister many times . However when he asked her to come back she felt sympathetic for him and then came back to live with him again.

> *When my husband beat me, I would run to my sister's house. But when he went to see me and asked me to go back home. I always came back. It's like a cycle. (*Malai*)*

Malai and the husband had not registered their marriage at the beginning. When he became suspicious, Malai wanted to prove that she loved him, so they registered their marriage by law. However he still used violence and did not stop suspecting her. Therefore Malai asked him to get divorced. The husband sought advice from a fortune-teller who also suggested him to agree to get divorced.

Malai tried several times to seek assistance from the police before she was successful in running away from the husband. Every time the police could not do much. The police told the husband that wife beating was against the law. During that time, she could escape from him. Malai went to stay in a shelter but her husband could find her and she had to come back home.

> *When he first followed me at the shelter, he said that he would not do it again. But when we were together, nobody knows. When we were at home I had to obey him. If I tried to argue for something or tried to defend myself then I would get more violence from him. (*Malai*)*

The third time, she insisted with the police that she did not want to go back. Then the husbands said that she should ask if my daughter would let her go. Malai said that she would wait and told him to bring the daughter to see her at the police

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station. Malai went to the same shelter and she was referred to stay at another shelter. Then the shelter helped her to find a job and live independently from the husband.

Malai believes that shelters are important for battered women. However she thinks that the important thing is herself. Malai said that *"I do not want to rely on others. I think that it's me. I had to bring myself out of the abusive situation. That's it."*

Dara's story

Dara was originally from a province near Bangkok. She met the husband when she worked in a factory in Bangkok many years ago. They got married and registered and have three children. They stayed with the brother of her husband then they had to live separately when there was a fire accident. Dara had been physically assaulted after she gave birth to the first baby. Dara often escaped him to stay with her mother. One of the reasons was because of her health.

> *At that time I thought that my heath was bad especially at my arm which has got hurt since he beat me the second time. He always turn my arm and used his knee to attack my body. I could not walk properly. I thought to myself that I need a rest. I always came back after I recovered and he followed me back. (*Dara*)*

Dara used to refuse to come back to him but he came back with his parents and his brother. Therefore she had to return with him and he promised with her mother not to beat her again. *"He promised with my mother that when he returned he would not beat me or be as before. However, he never changed."*

Dara used to escape him to sit in front of the house and a police passed by. She asked assistance from the police but the police said that he could not help and then went away.

When she had the third child, Dara and the husband moved to stay near Dara's mother in her hometown. He was a small bus driver while Dara earned a living by sewing clothes at home. The husband always had another woman and got drunk. He did not provide financial support to the family accordingly. Therefore Dara and the husband always had problem and Dara was always beaten up.

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Dara could not rely on anyone not even on members in her family so she always dealt with violence alone.

> *All family members did not want to engage. I don't know what they think. They said that I chose myself, I should take decision by myself. They did not want to intervene. They just looked. (*Dara*)*

She used to ask assistance from a neighbour to send the husband to the police station when he got drunk and became abusive towards her. He was kept in jail for one night. There was no prosecution against him. She went to see him at the police station the following day, as a result, the husband got angry and beat her.

One day, he got drunk and then beat her as usual. Dara tried to escape and ran away. The husband ran after her, then Dara tried to use a gun to defend her self. She accidentally killed the husband and was pressed charge of murder. After that she was bailed out by a women's group who provide a lawyer to defend her guilty. She finally was released as she got one year and six month jailed for assault other to death. It is the same period, as she was jailed before she got assistance and was bailed out.

Sopha's story

Sopha and the husband lived together for almost 10 years. They stayed with the family of the husband in his hometown. Sopha said that she was beaten before they decided to have a child. She was hoping that he would treat her better and he would have changed if they had a child. However she was disappointed because he still beat her up when the baby was only two months. Sopha could not seek any help from family members of her husbands. Then Sopha decided to leave and traveled to Bangkok.

Sopha went to seek assistance from many government agencies and women's NGOs. Many times the husbands followed her and asked her to go back with him. Sopha also went to look for a vocational training at Wat SuanKaew. She went there with the baby and stayed there and fed the baby for 15 days. Then the husband came to see her and asked her to go back with him. Before they left the temple, the officer at

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the temple arranged to them to sign a contract not to behave that way again otherwise he had to let her go.

They used to work together in a small factory near Bangkok and in a construction site. After the economic crisis in 1997 they moved back to stay in Sopha's hometown. However he has never changed. He did not take care of the family and went out with friends. When he got drunk he always destroyed things in the house. If he migrated to work, he did not send money back home. So Sopha decided to come and work and he took care of the child. When Sopha came back she found that the husband has sold her belonging in the house. Sopha felt despair, as she could not ask assistance from people in the community. She was always blamed that she did not treat him well.

When her father had become a monk and stayed in the temple in the community, she used to go and seek help from him however he told Sopha to go back as he could not help. People in the community believe that Sopha was not a good wife and they suggested Sopha to improve herself then the situation would get better. Sopha said that she hardly thinks of asking assistance from the village head since there is a rule of community that anyone who fights each other had to be fined 1000 Baht. She believes that the village head would not have different view from others and most of them are men.

Sopha decided that she wanted to get a divorce from him. She used to believe that being patient was the only way however she found that she could not stand anymore.

> *Not only because I cannot trust him, but it's everything. He has never planned for the future. When he could not beat me he destroyed all the belonging. Then we become poorer and poorer. The house has been destroyed many times. It was long enough that I could kill him. I was planning to poison him then I realized that I thought about my daughter. And it's a sin.* (Sopha*)*

Living in a rural area, Sopha felt hopeless in seeking assistance from any agencies in the community. About three years ago, Sopha could not stand him

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anymore and asked him to get divorce. However he refused to get divorce. She managed to ask the husband to sign in the agreement to leave separately with the witness of the village head and representative of a Bangkok based women's organization. Later Sopha migrated to Bangkok and the daughter has got assistance for her education. She could find a job and start her life without him.

Khem's story

Khem got married and lived together with the husband for almost 20 years. During the economic crisis in the year 1998 – 1999, the husband lost his job. He became addicted to drug and was always abusive to Khem and the children. He accused Khem of adultery and always searched for evidence in the room and in Khem's clothes. He got a job afterward, however he still suspected that Khem had a relationship with another man.

When the problem had just begun, Khem did not know what happened to her husband. She kept tolerating with the abuse for more than five years. Her family lived in the same cluster with the husband's parents and relatives. No one could help Khem and did not want to interfere with their relationship as her relatives lived far away in the countryside.

Sometimes he forced Khem to have sex with him, as he believed that Khem sought sexual relationship with other men. He always beat Khem and threatened to kill her with a knife. The husband brought her to report to the police that a man from a neighborhood raped Khem. The man and Khem refused. He did not believe and beat her up again.

The neighbour and those living on that street heard what had happened to her, however no one could help. Khem lived in desperation, as she could not find a way out. Although her younger brother came to stay with them, he also could not help. He tried to ask Khem's husband and nothing changed. Until the beginning of the year 2003, Khem was beaten seriously and frequently locked in the room.

In order to escape from the house, Khem had to take a risk with her life by swallowing washing powder. Therefore Khem had a chance to get out of the house.

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Khem stayed in a hospital for one night and got medical treatment to save her life. She informed the nurse there and then she was referred to stay at a shelter. However, the husband found her and forced her to go back with him. Khem managed to escape again and was referred to stay at many shelters, as she did not want to confront with him. During her stay in one shelter, an organization tried to convince Khem to reconcile with him because the husband contacted them to help following Khem to go back.

Finally another organisation has succeeded in helping Khem submit the case to the family court and finally, she could get divorce by the court ‘s order.

Nart’s story

Nart is 26 years old. She is a mother of four children. She has traveled from the North to escape from the abusive husband and start her new life in Bangkok. Her husband works as a safe guard and is 15 years older than her. He knew Nart’s father and offered to help pay back the debt of her parents. She did not love him but decided to get married with him as he promised to help her family. After they got married, he refused to pay the debt. Two months after they got married he started to beat her. They lived together for eight years. Finally she could escape from him to live independently with her children.

Three years ago, after she has had the last child, he became more abusive than before. She used to escape from him to stay with the parents. When he came to see her, he promised to her father not to beat her again. When he got drunk, he always become abusive and also uses violence against the children. He threatened her with a gun and attempted to kill her with a knife. The situation was getting worse, as he was abusive even when he did not drink. Therefore she decided to leave.

She tried to escape before but he could follow and asked her to go back. Her father passed away and she did not want to bother her mother. She got the telephone number of a women’s organization from a magazine, so she decided to call for assistance after she had left the house for almost a month. Like other battered women,

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Nart did not dare to tell anyone that he was abusive, not even to her parents. *"I don't want to upset them as my parents asked me to marry him."*

Even her children learnt about the abusive situation and lived with fear in side their own house for many years.

> *We looked at the watch. If it was 6 o'clock and he had not arrived, we would be in fear. As we knew that he might join his friends to drink and he would come back drunk and always was abusive towards us all.* (Nart)

She realised that she could not bear living with him anymore, as the children were also unhappy to live in the house. She ran away from him to Chiang Mai with the children two years ago. When she arrived at the bus terminal she asked a tricycle for a job. They were told to stay in a shelter. After that the husband followed her to Chiang Mai and could easily follow her to the shelter as she and the children could easily be remembered.

The second time she went to Payao and he could find her afterward. At that time he worked with a construction company. He went to work near the place Nart was staying and then he found her and the children again. Nart tried to escape again by travelling to Nan. She contacted Foundation for Women in Bangkok to seek advise. After staying in Nan for a month, she decided to come to Bangkok. She and the children were referred to stay at Emergency Home. Nart has decided to have a new life in Bangkok. She has found a job and has decided look after the children by herself. *"I don't think that I would see him again. The children also have never asked about him. I think that I can raise them all by myself."*

Noi's Story

Noi got married with the husband without registration. He came to work not far from Noi's village. Then he brought his parent to see Noi's parent and agreed to marry. They stayed in the same house with Noi's parents. When Noi got six months pregnant, he started to beat Noi. He always went out with friends and got drunk. She hoped that if he had a child, he would change and become more responsible.

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After Noi delivered the first child, he treated Noi better. He had become abusive again after Noi delivered the second child as they always quarrelled about financial problem and Noi complained that he always went with other women. Her mother always told her to consider a life separate from him. The first time he beat Noi, her mother did not say anything. The second time she told Noi to divorce. She said that he is beating her now then he might beat her to death.

Although Noi was always physically abused by the husband she chose to continue living with him.

> *I thought that the children were so young. If we want to separate we should wait after they grew up. I chose to continue living with him and tolerate. I did not want my children to lose their father. It is important that they had a father.* (Noi)

After that he brought Noi and the children to stay with his parents in the South. They both worked in a coffee plantation. He still used violence against Noi. He beat and kicked her till she was injured. One of the neighbours always came to take care of Noi. She brought some food and water to Noi. However the parents of the husband had never cared. The mother of her husband said that Noi should tolerate as she was also beaten by her husband. Then Noi decided to separate from him and go back home with the first son.

Noi came to work in a factory near Bangkok. Eight months after that he followed Noi and asked her to forgive him. He told Noi that he would change his habit. He would start new family. He would buy new house, new land and would stop being abusive. He would stop alcohol and cigarette. Although Noi still got angry with him, she felt moved from what he said. Then they started to live together again. He found a job in the same area. He was nice to Noi at the beginning then he became abusive again. Later Noi heard that he had another woman.

One day, when he came to the room to get his belonging, Noi and the husband quarrelled. Noi was beaten and when he seized Noi's neck, Noi tried hard to stop him and then she found her knife and accidentally killed him. Noi was pressed charge of

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killing with intention. A women's organisation provided a lawyer for her and finally she was found innocent as she was trying to defend herself.

2. Responses to different approaches

The study selected four approaches in response to domestic violence. These approaches have been used as an alternative to criminal procedure, which is believed as not appropriate to deal with the problem. However, it has been controversial whether these approaches can better protect the rights of battered women and how they can serve the interest of battered women. Experiences from selected countries have shown that there are many problems in the enforcement of these approaches. One factor derived from attitude of personal dealing with the affected women whether they concern with the right of battered women or the sustainability of family. Voices and concern of women survivors should be considered before these approaches are practiced in Thailand.

The followings approaches will be discussed in this section.

1) Mandatory arrest and the role of the police
2) Protective order or measure to provide protection
3) Rehabilitation programme for batterrers
4) Provision of social services – such as shelters and other supports

1) Responses to mandatory arrest and the role of the police

Mandatory arrest is a proposed measure dealing with the role of the police and link to criminal justice procedure. This approach has been criticised that it is contrary to the need of battered women.

The study found that the women from different background have different view towards mandatory arrest. Responses from the women can be divided into two groups.

A. Mandatory arrest is relevant to their problem
B. Mandatory arrest would not work for them

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A. Mandatory arrest is relevant to their problem

Responses from the women living in the big cities like Orachorn, Khem and Dara are supportive towards mandatory arrest. They all shared the same situation, as they could not find any assistance from members of their families and from anyone they knew. All of them had bad experiences in trying to seek assistance from the police. Mandatory arrest was what they expected when they encountered physical abuse from the husbands and wanted to escape from violence. They believe that mandatory arrest is relevant to their problem and that the police should take action appropriately and assist battered women to get out of the abusive situation.

When Orachorn was asked to look back to her situation, without hesitation, she agreeed that mandatory arrest should be included as an effective approach. Orachorn had to deal with violence by herself and could not do anything to solve the problem as the husband threatened to harm her parents.

> *I wanted to leave him for some times. But I was beaten until I was afraid. It was not normal like others that they could separate easily. As he always told me that if I escaped, my family, my parents and friends would be in trouble. He would bother them all.* (Orachorn)

Apart from the above reason, like many battered women, Orachorn lived in isolation in the family of their husbands and do not get any support from members of the families. According to the interview with Orachorn, she really wanted the police to help her out from the abusive relationship. However when a police once received a complaint from a neighbor, the police did not do anything.

> *When I stay with him in his house, I really want the police to assist me. There were many times when the neighbor informed the police, but when the police came they did not help me. When the husband claimed that this was a husband and wife affair, the police just went back.* (Orachorn)

Orachorn insisted that the husbands who are abusive should not be excepted from being punished.

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> *Why the husband get privilege than other people. The husband who supposed to look after his wife becomes abusive, he should get more punishment. It should be the same as teachers commit against students, doctors against patient*. (Orachorn)

Orachorn believes that the police should play more active role. She strongly supports if the police will follow the mandatory arrest.

> *If he got arrested and learn that it is against the law he may be aware that he can not beat his wife anymore. However if the police arrest the man and brought to the police station and try to make the couple to reconcile and let them go back, it would be the same. It will not change.*
>
> *His parents also told him not to beat me, but he did not afraid. If there is no strong measure, I don't think that abusive husbands will afraid. It is important for the police to let the man learn that there is punishment for this kind of act.* (Orachorn)

Khem really felt the need to get protection from the police since she hardly got assistance from family member as the house they stayed is among the relative of her husband.

> *When my husband used violence to me, I needed someone to help take me out of that situation. I used to ask a niece to help call the police if I was seriously beaten. I agree if the police would arrest the husbands who beat their wife. I also tried to seek assistance from his brother. But he could not help. He just listened and said that this was none-of his business*. (Khem)

They shared the same experience when the police refused to take any action towards their abusive situation. Dara herself has experiences in requesting a police to assist her but the police refused.

> *There was a police passed by when I escaped him to sit in front of the house. Then I told him what has happened. It was 11 PM. However he*

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> *refused. He said that it was a problem between husband and wife therefore he could not intervene. Then he went away.* (Dara)

And one time she requested a police whom she knew to put him in jail for one night.

> *He got drunk and I could not handle. So I brought him to the police station and ask the police to jail him for one night. However, the day after when I went to see him. I was slapped on my face in front of the police station. He was angry as I let him hungry. He complained that he could not go to work.* (Dara)

The same as Orachorn and Khem, Dara also had experience in facing violence alone by herself, she really feels that mandatory arrest could assist her then she could have a rest.

> *It must be good because I could rest from the abusive situation. I was in stress and could not find a way out. If the police arrest him then he would release his anger.* (Dara)

B. Mandatory arrest would not work for them

Malai is the only one who live in the city and has no confidence whether mandatory arrest would work in solving her problem. One of the reason is because she was afraid that the husband would take revenge and would be more abusive. He might not allow her to get out of the house again.

> *In my case, I am afraid that if the police arrested him, he would get angry and when he came back, he would take revenge on me. He might use more violence against me if I used legal measure against him.* (Malai)

Most of the women in the study who have rural background do not believe in the intervention proposed for the role of the police. Although they do not have experiences reporting to the police. There are two main reasons. The first reason is they have no trust in effectiveness of this mechanism in their communities. The

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second is because they believe that people in rural communities would not respect the rule of law.

Response from Nart and Sopha were similar, as they lived in the remote rural area. They did not think that the police will be seriously take any action on the problem. Distance from the police station was also an obstacle in having access to police protection.

> *The police? Would they want to intervene? My home is far away from the police station about three – four kilometers. It is impossible. If anything happens, I must be beaten before I could reach to the police. Especially when I have no motorbike.* (Sopha)

Sopha questioned the effectiveness of the law enforcement. She wondered whether the women would get protection if there is no wound. She believed that the police might not take it seriously.

> *When there is no wound or no sign that we were beaten, the police would not pay attention. But we had been abused and really need protection. Will the police accept our report.?…*
>
> *How far the law can protect us? I don't think the law can help in reality. Since rural people do not stick to the law. The law is the police. The law is money. If you have money to give to the police then anything is possible. When murder happen here and you have money, you won't be arrested.* (Sopha)

The same as Sopha, Nart who came from rural community in the North does not trust the mechanism of the police in her community and she felt scared of the husband.

> *If the police arrest the husband, I don't think it would help. If he gets released, I am afraid that I will get hurt more.*
>
> *He was so powerful over me. He can order me to do anything and I could not refuse.*

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My father used to bring me back home then he promised that he would not use violence again. Only two months after that, he was the same and got worst and worst. (Nart)

Noi did not think that in rural communities like the village, where she lives, there would be a mechanism in the communities to deal with the problem.

I have never thought about asking help from the police…
Today, when we went to the police station they always try to make us compromise. They do not know how we are living together. Especially when they asked why we have to divorce and make the children hurt. They do not ask why we have to fight. (Noi)

Concerns and recommendations on the mandatory arrest and the role of the police

The following are concerns and recommendations from the women regarding the mandatory arrest and the role of the police. Though some of them do not feel that mandatory arrest would be relevant for their cases, they do wish that the police practice improves.

a) A trial period.

Although the women agree that the police should arrest the abusive husbands when they receive complaint, Dara suggested that after the arrest, there should be a trial period to give a chance to the husbands. Legal action should be taken when violence happens more than one time.

I think the prosecution should be carried after two times when the police found him being violence again. Husband and wife lives together and they are related to each other. (Dara)

Orachorn also agreed that legal action should not be taken at the first time.

If the mistake is the first time, or it was not serious, there should be a process for the perpetrator and the abused to recover. But if it is

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serious, there should be a procedure to help the affected women on the prosecution. How to make legal action end soon? (Orachorn)

b) Following procedure after the arrest

It is important that the police would not release the husbands after they were arrested. There should be following procedure after they were brought to the police station. Malai agrees if the police will pursue mandatory arrest if there are other procedure following to protect battered women after the police arrest the man. Not only bringing the husband to the police station and release the man as it is always practiced.

It was the third time. Every time the police let us talk to each other. He told the husband that the husband could get punishment if he beats his wife. The police always told us to go back home and if he use violence again I can come back. (Malai)

c) Training for the police

Although Sopha does not have any hope that the police can help in her case. Sopha feels that the police should be trained to help battered women.

If there is a new law on this problem, I recommend that it should include training for the police, focusing on how will they help battered women and how they should behave towards women. (Sopha)

2) Responses to rehabilitation programme for abusive husbands

Among the seven women survivors who gave interview, responses from them towards rehabilitation programme can be divided into three groups.

A. Have some that it would work

B. Not believe that the husbands could be changed

C. It may work if violence happened the first time.

A. Have some hope that it would work

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Malai is the only one among the seven women who has some hope that this approach would work. She wants her husband to attend rehabilitation programme. It is important to recognize that they stayed together for 20 years therefore Malai thinks that rehabilitaion programme for the husband is more suitable in her case since he would react more violently if she used criminal approach towards him.

> *In our case if he was prosecuted, he would take revenge on me. But if I asked him to go through rehabilitation programme he might agree. If he were punished he would come back and would react more aggressively than he used to*. (Malai)

However, Malai had experiences in seeking assistance from mental health doctor, and it did not help as he still used violence against her.

> *I used to visit the doctor at a mental health hospital. The doctor asked the husband and me to talk to him separately. I was asked to tell the story. However, I did not see any change. I went there two or three times. I only talked to the doctor. He always asked how was the situation and what would I do*. (Malai)

Malai questions the efficiency of the programme, although she felt that rehabilitation programme was needed. She was afraid that the programme would not be efficient as she experienced before.

> *I wonder what would happen if the husband goes through the process and he become abusive again. Should he go through the process again. However if the second time it happens, I may choose to go away.*
>
> *...*
>
> *My husband was good in talking. If anyone talked to him, it was hard to imagine that he could become abusive. He did the test of the hospital and the result was ok. There was no problem. But in reality we had problem*. (Malai)

B. Not believe that the husbands could be changed

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For Orachorn, Khem, Dara, Sopha and Nart, it seems that they do not believe at all that rehabilitation programme will be appropriate in their cases. They all shared the same view that their husbands could not be changed and were afraid that the husbands would be angry and would be more abusive if they had to attend the programme. They think that for some couple which violence was not serious it is possible to go through this programme but not for their cases.

Orachorn had an experience when she informed her mother in law and she tried to help solve the problem by bringing them to see a psychiatrist. As a result her husband was angry and used physical violence against her.

> *Right after we were back from the psychiatrist, I was beaten again. He blamed me for telling his mother then he had to see the doctor, He said that he was not ill and the situation was getting worst.* (Orachorn)

Orachorn stayed in the relationship only six months and in her experience, she does not feel that the rehabilitation programme can be applied in her case. *What he had done to me is enough. I can not return and live with him in any condition. It's better that we separate from each other.* (Orachorn)

Orachorn stresses that it is important to listen to the need of the woman if she does not want to continue the relationship with the family.

> *In my case, I felt that, I do not want this man as my partner anymore. I think that if husband and wife can not live with each other, why we need to try to compromise them to be together. We had better give them an opportunity to be with others for the sake of a stronger family relationship.*
>
> *We need to find out what women think. If the women got beaten seriously, we need to consider if they want to live as family. If the women do not want to continue living with him, we should accept and let their relationship end.* (Orachorn)

For Dara, she questioned if the programme can really change the abusive men since they are not children. Since her husband had to die from the accident from her self defense, she believes that to separate from each other must be better.

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Sincerely, I do not want the family to be separate if there will be any lesson, which could reverse the man to go back to the family and the children. Anyhow, if the man return, how can we ensure that he would really be changed. I myself have tried every way. At the end one of us has died. I think that a few percentages of the men can really be reversed. It is the habit. The husbands are not children. They have grown up. The measure may be worth trying however my husband was stubborn and he might improve only for a while. Who would come to see whether his behaviour improved or not. (Dara)

She was asked further if anyone in the community could help or follow up with the behaviour of the husband. However Dara did not believe that the leaders in her community would interfere with this problem.

In my case I had never thought of anyone in the community to help. The village head? I also don't have any idea to talk to him. I felt that I had no way out. Only asking help from my mother. I had never thought of anyone else. My sister also could not help me. I had never known any foundation like this before. (Dara)

Sopha has gone through abusive situation for a long time therefore it is hard for her to believe that the husbands can really be repaired. She felt the same as Dara that it is difficult to change as it is rooted since the period of childhood.

It is deep in my heart. How can we control him. Human beings are human beings. It's not as easy as putting this one out and then plug in new one. Deep in their mind we can not as it is inside from our childhood….

It's hard to accept him again. The more I am apart from him, I can think over more about the past. If he did not do that, it would not have been like this today. My children and I would not have to be apart from each other. It's hard for me to accept. Having him in my life or not it is not different. (Sopha)

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Sopha also wondered who would take the role in rehabilitating the abusive man. In her own community, the elder persons who gain respect from the community always have strong values that good women should obey the husband. They mostly teach women to behave well.

> *They told me to tolerate my husband. He said that I should not have argued with him. I felt that they all take the man side. They said that I was abused because I argued with him. If he were my husband he would kick me. Even my relative spoke in such a way.*
>
> *So the elders would see me as an aggressive person. They thought that I did not know what was right or wrong. They believed that as a woman, I have to follow the husband. On a Buddhist day women should find flowers to pay respect to the husbands. Does he deserve to be respected?*
>
> *People in the rural area believe that women should respect men. It's not the same as in the city where women can help themselves. In case of violence in the family, women in the rural area have to tolerate. When there is reconciliation, the elderly and mostly men will do this job. They will always tell women to comply with men.*(Sopha)

Khem is the one who has experience in being convinced by an association to reconcile with the husband. Khem felt that the organization was not concerned how serious the problem she faced with the husband. What they needed was to get her back to him.

> *They asked whether I want to reconcile with him. I said that I don't want to be with him anymore. It's enough for me. They tried to convince me to go back. They said that they would bring the man to be cured. And they told me that I should think about the husband and consider that I have kids together.*

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I do not think that he will accept. There was one time he accused me of having psychological problem. Then I tried to convince him to go with me but he refused to see the doctor.

It is ok if anyone want to preserve family. However we should distinguish. If it is not serious, it is ok to compromise. But if the problem is quite serious like this, we have to see again. We should not make them to reconcile when they are in such a violence relationship. If they are still abusive we should not try.

For me I decided that I would not return and it is difficult to reconcile. There were once, twice and the followings were even harder. I knew the husband is good in convincing others. He's good when he speaks with many principles and people always listen to him. (Khem)

Nart shared the same view as Dara, and Sopha that her husband is too old to change. She does not have any hope that rehabilitation programme for the husband would be effective. She was afraid that she could be in danger as a result.

He was like this for more than 40 years. It is rooted in his mind. I don't think that there is anything that can make him change. He doesn't love anyone except himself. If we try to send him to rehabilitate, he would get angry then the children and I would be in danger. (Nart)

C. It may work if violence happened the first time.

Although Orachorn thinks that this approach may not be relevant for her case, she thinks that in general this approach can be used if violence is not serious and happens for the first time. It is important to identify if the man can be revived and it is important to ask or find out the level of violence from both the offender and the offence.

When physical abuse happens, we should separate them from each other right away. During that period, there should be a process for both sides to recovery. This is only in the case that the man has a chance to revive. However, if he did it many times, it may be

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impossible. As human habit has been with us since we were born. Even the monk it is difficult to find a perfect one. (Orachorn)

Noi also thought that there should be someone in the community to take responsibility to deal with abusive husbands. When she looked back to her situation if staying in the community, she felt that there should have been someone to help deal with her husband when he started beating her.

I want someone to talk to him. When violence begin the first time, we have to ask him what he want us to do if he use violence again. In a village, there should be a person responsible for talking to the man and warn him. And if he can not stop using violence then getting divorce or separation from each other should be considered. Everyone knows that using violence is not good, however, no one want to intervene. The problem is that who should be suitable to have this mandate. (Noi)

Noi has some hope towards the mechanism in the community and thinks that this should be the role of the village head or someone who the husband respects.

Head of village is important. He can be a suitable person to do this mandate. So this person should suppress the behavior of the abusive husband. However I think that Head of village may not understand this problem in the same way, there should be other persons that the man would respect what he has promised. (Noi)

3) Responses to protection order.

Protection order has been proposed as a measure to protect women from being abused from the husbands. This is because many battered women have no alternative and in order to escape their abusive husbands they always leave the house with the children and have to take refuge with their relatives or stay at the shelters. According to the interview, all the seven women survivors do not think that this measure would be relevant to their situation. Although some of them agree in principle and think that it's a good idea and could be useful in the case that the husbands follow the order.

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The study found that this approach is not possible for the women who lived with families of their husbands.

> *I lived with his family. If he were taken out of the house it would be difficult for me to continue staying in the house. Their parents might blame me for this.* (Orachorn)

Khem felt that it would be difficult for her as his family lives around and she doesn't believe that her husband would follow the order.

> *It is good if there is any measure to protect me. But I 'm not sure whether my husband will accept to leave the house. I think it is less possible. And it is because we stayed around by his relative. There should be other way to protect me. (*Khem)

Another concern, which is shared among the women, is that they don't think that their husbands would follow the order. According to the interview with Malai, it's quite hard for her to believe that there would be any mechanism, which can really make the husband follow the order.

> *If I stayed at home while my husband got protection order to be out of the house. I might feel scared, because he could get in the house at any time. I would be in trouble then, as he would not allow me to contact anyone else.* (Malai)

Nart's response to the protection order is not different from her responses to the first two approaches. As she believed that her husband would not follow any form of order or programme.

> *I think he may accept to be kept in jail. He might violate the law as he would not be afraid. He has no one except the children and me. Police officers are not with us 24 hours. Anything can happen when there is no police on the sight*. (Nart)

The third reason is because women who need protection would be in a remote area where they have no access to application of the court order. Noi thought that asking for a protection order from the court would be hard for women in rural communities.

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The court procedure must be long. In reality if it happens in the countryside like my hometown, it is difficult to reach the court. I think that there should be someone in the community to talk to the man and warn him. (Noi)

The fourth reason is from Dara who thought that protection order is not relevant in her case as she did not want the husband to leave the house. What she wants is to order the husband to take responsibility with the family.

I am not sure if we order him out of the house. The husband might like this. I think the abusive man should be sent to be detained in a place. If we order him out of the house, that's what the man wants. They can go around without taking responsibility in the family. (Dara)

I think it depends on each case. If that man understands and accepts the order it's ok. But what will happen if that man does not believe. I think there are many men like that. If they follow the women then the women would be in trouble again since the officer do not watch him all the time. The question is not if the law is good but how it works in practice. (Malai)

The responses from the women reflect that there should be different forms of protection to protect women from getting further violence not only forbidding the man to be away from the house. As protection order for the husbands to leave the house is not relevant to the way of living in most cases.

I think that when considering about protection order for battered women, We need to consider background of each couple, what kind of environment they live in. It is better to provide a safe place or there should be a shelter for women to live separately from the man. This is better than continuing to live with him.

However, in some case we have to ask the need of battered women. Some may have difficulties regarding their job and prefer to stay in the house. It would be convenient if the abusive husband is the one who leaves the house.

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There should be protection measure such as a shelter as a place for battered women to take refuge and recover their mind. It is necessary to separate them not to let them be in violence relationship… If it is the first mistake or it is not serious, there should be a process for recovery for both the abuser and the abused. But if it is a serious violence, there should be an intervention to support the abused to claim their rights or to help in prosecution. (Orachorn)

4) Responses to Social services

All the seven women expressed the need in various forms of social services for battered women. The support should include emergency shelters, job and economic assistance and health services for women survivors of domestic violence.

4.1 Emergency shelter

One of a common concern is the need to have a safe place to seek refuge or safe shelters. Based on experiences of Malai, Khem, Sopha and Nart, they got assistance from the shelters therefore they felt that shelter is an important service.

In Malai's opinion a safe and confidential shelter is a big step to help women and it is an important measure to protect battered woman. Without a safe place battered women can be pushed back to the cycle of violence again. Malai have tried many times before she could succeed in escaping from the husband.

The shelter is one of the main factors that make me brave and there is no need for me to go back again. It is important to provide a safe place and help women to get a job. After I went to my sister's houses often and they felt bored with my problem, I did not want to bother them anymore. Then I went to a shelter for women the first time. I stayed for one week. Then I called my sister to let her knew. Therefore my husband could follow me, as he knew from my sister. My sister had to show that she did not support me to run away….

The last time, I ran away to my sister house. But this time I spent one

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night with a friend of my sister. When he called my sister's house, my niece said that I wasn't there. The day after I tried to find a job however I could not. That evening I went to the shelter where I used to stay. Then the social worker there referred me to another shelter. (Malai)

Khem also expressed the importance to have a place for battered women to stay and support for education of the children before she can be rely on herself.

I have three children, so it wouldn't be possible for me to live by ourselves. I really need support such as a shelter, scholarship for their education and a loan for me to start a small business. (Khem)

As a woman from rural background, Nart has traveled from the North to Bangkok and received assistance from a women's organization. She was referred to stay at a shelter.

I prefer to run away from him like this. It's the best way for me. He may find new person and at the end he may forget me. I am so scared and I am not ready to see him again. I was under his control for over eight years. I had to do anything he ordered me to do. If he orders me to go back I have to follow him. (Nart)

According to Nart's interview, it reflects that it is important to have a safe shelter which is confidential for battered women to be able to stay away from the husbands.

According to the interview with Sopha who had experience staying at a government shelter, she suggested that the shelter should offer other forms of services.

*From my experiences, the officers in the shelter should also provide mental support to battered women. Not only providing the place to stay and providing food. These were not enough. Providing support on the career is also important to the women. (*Sopha)

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4.2 Job and economic assistance

In Malai's opinion social services should help battered women to be able to make decision regarding the violence relationship the way she want to without worrying about difficulties she might find if she separated from the husband. Malai told how difficult for her to find a way out of abusive situation. To have a job and safe place to stay are important factors.

> *I had no job. Nothing. I also missed my children. When he came and beg me to go back, I felt weak. He also promised not to do it again. Then I always returned*. (Malai)

Sopha also think that social services should assist women in finding a job. Sopha was clear at the beginning in choosing to live on her own and not to rely on the husband. After she delivered the baby, the husband beat her up. She had no family members and parents to turn to as most of them are migrant working in the big cities and her father had a new wife.

> *There should be a service to help women to have a job and nursery for our children. When I left him I was at Mor-chid -- the bus terminal. The baby and I had only one clothes. Someone introduced me to go to find a job at Labour Department Din-Daeng. So I went to DinDaeng and got a job. Then I asked for a cheap nursery so that I could go to work. I was told to go to Rachvitee Home. (Sopha)*

When Dara was asked about the social services, the first thing she mentioned was about the economic surviving. She stressed that it was the reason why battered women have to tolerate violence from the husbands.

> *It is important to consider that women have less income than men. How can women get help and continue with their lives. Money is a big problem, as our children have to eat and go to school. I tolerated the abusive situation because if I separate from him, I would not have enough income to raise the children.*
>
> *The women expect the man to help with financial problem of the children such as expenses for the school. Although they study in a*

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public school but there are many kinds of things. That's why the women always felt that they have to keep the relationship for financial support from the husbands. (Dara)

When we discussed about social support for battered women, Noi was thinking about economic opportunity for women. This is from her own experiences when she could not find any other way rather than staying with the abusive husbands.

Women's groups in the village should include single women and women who live without their husbands not only a group of housewives. Therefore, there is no need for women to rely on their husbands. Women should have opportunity to get a job so that they would not think hard about their future. The government should provide enough budgets for this kind of projects so that, women can be economically independent. (Noi)

4.3 Health services for battered women

For Dara, violence has affected her life for a long time, she expressed the need in getting health care service.

We also need health care. I have really got hurt at my arm. When I slept, I can not lie on this side. As he used to turn my arm to the back. Since then I can not walk properly. (Dara)

Not only physical impact, battered women also need medical treatment for their psychological impact. Orachorn stressed that recovery process for battered women is very important as domestic violence affected battered women not only physically but also psychologically.

I terribly felt so bad at that time. People look at me in a negative way after my problem was disclosed. I stayed at home making some handicraft and playing jigsaw as I was in stress and I had to find my own way to release stress. I was thinking about the time I was with him and I blamed myself for my bad decision. (Orachorn)

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Although she has escaped from him, however it was difficult for her to recover from the abusive situation she got from the husband.

> *When I escaped from him, I was still traumatized as he controlled my whole life during the time I was with him. And I also felt tired with the trial against him.*
>
> *I had to tolerate his temper as if I was his pet or his belonging. I was worried whether I would be able to escape from him. It was a fear, which took time for me to recover. …The good thing is that my parents understood me and supported me. It must be difficult if it happen with any woman who is alone and does not have support*. (Orachorn)

Since Dara had to deal with the problem by herself, so she believes that if there is any organization, which can provide counseling and information for battered women, it can prevent the situation from getting worst and a tragic end.

> *I really support the idea of organization to support women in violent relationships. To have someone to consult and to provide help with information is useful. Before I did not know any group. I kept it to myself and everything was getting worse.* (Dara)

Other suggestions

Apart form the responses towards the purpose approaches, Orachorn and Sopha believe that all-different approaches will not be possible if attitude of people in the society are not changed. It is recommended that there should be education campaigns, which include programmes for women and people in the rural area in having access to the right information.

> *I think it is the society. We need to change attitude and the way people thought. How the society think about this. We need to see that it is not a women's fault. Women are always looked at victims and are looked down upon.* (Orachorn)
>
> *I really suggest organizations to go to the rural area in order to provide information and knowledge for women and villagers. To*

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inform the women what they should do if they face with domestic violence. (Sopha)

Concluding Remarks

Findings from the study reflect complexity of the needs of women survivors and indicate that the women from different socio – economic backgrounds have different responses towards different approaches in dealing with domestic violence. However the women from the same socio - economic background may also have different views towards these approaches. There are other factors which influences to their responses such as the level and type of violence, the period of their relationship and their experiences in receiving services from those agencies concerned. At different stages of violence, the women prefer different approaches to deal with their problems.

It can be concluded that women survivors are concerned about their own safety and future livelihood of their children. Approaches response to violence against women experiences can be relevant to their needs when it can ensure their basic human right especially their rights to protection. It is interesting to learn that although there are many different approaches offered to the women, some of them believe that mandatory arrest, protection order and rehabilitation programme for batterers could not deal with their problems such as Sopha and Nart. Their concerns are safety and the ability in living independently and separately from the husbands. They put all their effort in having new lives with their children and when they look back to their past they do not concern with the existing of the family. They expressed that support services are necessary and should be offered for battered women.

Although some of the women are concerned with the continuation of family life, they felt that the situation they were encountered was beyond the reunion of the family. The attempts at to reconciliation between the women and the husbands was against the interest of battered women. It is important for organizations to reconsider their role when dealing with cases of domestic violence.

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Experiences of the women reflected that a conventional belief in sustaining the family still influenced how GOs and NGOs deal with domestic violence. Right-based approach is practiced by a few of organizations. Having law on anti-domestic violence may not make any difference as it is seen reflected from documentations in many countries. It is reported that attitude of officers in concerned agencies is a big obstacle in implementing the law not the intervention in itself.

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CHAPTER VI
CONCLUSIONS AND RECOMMENDATIONS

Women as an individual have the right to life and to live free form any form of violence. These rights are guaranteed in the 1948 Universal Declaration on Human Rights. Experiences of the women survivors showed that conventional beliefs and attitude of people in the concerned agencies and general society, considered domestic violence as a family or relationship issue, and the need of battered women are always ignored. Women are always considered as wives and mothers, therefore their rights as individuals who want to live independently from the husbands were not accepted. Most battered women do not have the chance to exercise the right to take control over their lives.

Offering them alternatives in dealing with the situation is an important step in recognizing their rights to self-determination. Any approach proposed to deal with domestic violence should be alternatives for battered women to choose. It is crucial that lawmakers and authorities working with battered women should consider domestic violence as a form of human rights abuse and find ways to protect the women. Voices of women survivors should be heard and taken seriously. Affected women should not be treated as marginalised in making decisions of their own problems.

The followings are responses from the women according to the objectives of this study. The findings of the study also include concerns from the women, which is crucial for agencies being responsible in formulating law and policy on domestic violence.

1. To assess different approaches in dealing with domestic violence through experiences of battered women.

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Mandatory arrest Women survivors living in the city like Bangkok have positive responses towards mandatory arrest approach. Orachorn, Malai and Khem who live in the city, agree that the police should employ this approach. They had experiences in seeking protection from the police and expressed strong support to mandatory arrest. These women were disappointed before as the police refused to provide any protection to them especially when the women were at home. Therefore the women had to be tolerant and lived with violence.

The story of Dara who accidentally killed the husband is an example how the judicial officers put battered women back in a harmful and at risk situation. This also reflects the urgent need to have following guideline practice for the police to further protect battered women or refer the women to receive assistance.

Sopha and Nart who live in rural area do not believe that this approach would work in their cases. Noi who also lived in a rural community did not think about reporting the case or ask for assistance from the police, as she believed that domestic violence is a personnal problem. Another barrier, which was responded from the women, is that in the rural area the police stations are always located far away from the communities.

Batterers Rehabilitation Programme Rehabilitation programme has been promoted as an alternative to criminal justice proceeding and currently it has been practiced as a pilot project initiate by the Probation Department. However, since there is no experience how the programme could work as there is no example of any abusive husband who has been changed through this kind of programme. According to the finding of the study, the women shared similar reasons for the negative response to rehabilitation programme that the husbands are not children and they thought the husbands wouldn't want to attend these kinds of programme. Only Malai who had experiences in seeking counseling from mental health professional expressed her interest in rehabilitation programme. Even though she experienced family counseling, and it did not help change the situation.

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Protection order is a new approach proposed to deal with domestic violence in Thailand. It is quite difficult for the women survivors to imagine how it will work in practice. None of the women in the study think that protection order which control the abusive husband not to live in the house is relevant to their situation. As they do not have confidence in the enforcement of the order and do not believe that their husbands would follow the orders. The women are concerned with their security and questioned what would happen if the husbands did not follow the order. Woman survivors from rural communities felt that it might be difficult for them to apply for the order.

Concern of the women on the difficulties in applying for the order is also the same as experience from Malaysia and the United States which revealed that battered women may have problem in apply for the order. One of the women in the study expressed that this practice is opposite to her need since she wanted the husband to be at home and take responsibility of the family instead of being away from the house.

Social services are common concern and the women survivors think that it is relevant to their situation. They expressed that without support services, like shelter, access to job or income earning they would not have escaped from the abusive situation. It is important to be aware that lacking of social support for poor rural families can be a factor contributing to the situation when the women would have no way and no one to turn to. When battered women have to take care of the children as well as encounter with economic hardship, the women may choose to continue staying in abusive relationship. There is a possibility that the women might eventually fight back and end up killing the husbands such as the case of Dara and Noi.

2. To explore perspectives of women survivors of domestic violence towards different approaches proposed in responses to domestic violence.

The study reflects that survivors of domestic violence have different perspectives towards different approaches. The main concern from the women is not

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how these approaches offer to them. They are mostly concerned with how these approaches would work in reality or the enforcement of these approaches.

Mandatory Arrest. From human rights perspectives, mandatory arrest promotes legal protection to battered women without discrimination. The concerns of women survivors also reflect the urgent need in pushing the police to take active role and should not discriminate against any women who face violence from their husbands. Perspectives of women survivors reflects that safety of the women and legal action against the husbands are two separate issues. It is crucial for the police to consider the need of battered women to get protection and assistance from the police to help them out of the situation. The concern that battered women may change their mind after pressing charges against the husbands should not be an accuse not to interfere and provide protection to the women. Mandatory arrest should also be separate from jail punishment. When women survivors said that they support this approach, they may disagree if the husbands have to be punished and prosecuted.

Batterers Rehabilitation Programme. The rehabilitation programme for abusive husbands is quite well accepted by Thai society. It serves the conventional belief in sustaining family and avoids using criminal practice when deal with violence in the family. However it is crucial that the needs and voices and of affected women should be respected if they do not want to continue living with their husbands. Six women survivors in the study did not have any hope with this approach. One woman in the study stated that the husband should be sent to the programme if violence happened the first time. There should be recovery process for both husbands and wives when violence happens the first time.

Another woman believed that in rural communities, it should be the responsibility of community leader to take a role in rehabilitation programme when they find any man turning abusive to their wives. However, it is also questioned whether gender bias would affect the efficacy of rehabilitation programme. In most rural communities, men always participate in community events. One woman in the study experienced bias and prejudice against battered women and felt that she could

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not obtain justice from the community she lived in. The question is how we can deal with social attitude and values, which are deep-rooted in the rural community and in the society.

Protection Orders. Based on women's perspectives, this approach may not be appropriate to Thai society. There are many reasons that the women pointed out. Firstly, it is not relevant to the way of living in Thai society as married couples may live with the family of the husbands or live in the same neighborhood. Secondly, the women questioned about the enforcement of the orders. They felt that abusive husbands would not be afraid of any order and there would be no effective enforcement of this approach. They strongly affirmed that their safety and security should be the priority and they did not want to take any risk. Thirdly, it is difficult to apply for the order. The women felt that they may not be able to find ways to get the order. The women believe that appropriate protection to battered women should be in other forms such as emergency shelters.

Social Services. The women shared their experiences that the factor contributing to the success of the women to be independent and escape from abusive relationship, is access to social services. These can offer them with basic rights to live such as the right to job, the right for education for the children, the right to freedom, the right to health. These rights will enable them to have access to the right to live without fear and violence.

3. To collect recommendations from perspectives of women survivors which should be considered for formulating laws in dealing with domestic violence.

It is reflected that different approaches dealing with domestic violence may not work in the eyes of the women as there is still social prejudice towards women. From their experiences they have difficulties in receiving appropriate response from the authorities concerned such as the police, judicial officers, and community leaders. In

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particular, women survivors who come from a rural background are afraid of discrimination they usually get as rural poor women.

It is important that mechanisms and organizations dealing with this problem should be sensitive and consider diversity of the women in their policy and implementation. The rights of battered women, as individuals should be recognized. The agencies providing services should not assume things based on their experiences. It is crucial that each woman should be treated as experts of their own problem.

The followings are recommendations which reflects perspectives of the women in the study.

- Laws and policy should deliver clear and strong message that domestic violence is a human rights violation and help raise awareness of officers and authorities concerned to provide protection and safety for battered women as a priority.

- A multi–disciplinary approach should be employed in the law or policy on domestic violence. Different approaches should be included in the law in order that battered women at different stage of violence can decide whether they want to rely on criminal justice system, receive protection order, apply for rehabilitation programme for the batterers or receive social services. The concern for the safety of the women should be the first priority.

- Mandatory arrest should be practiced by the police with open choice for women to decide whether after the arrest, they prefer a trial period, rehabilitation programme or continue with criminal procedure. In any case, the police should deliver clear messages that domestic violence is a crime. The role of the police should be sensitized to the issue, they are key persons who have a chance to get in contact with battered women. There should be a procedure following in order to help battered women manage to live on their own. The police should provide appropriate information for women to

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get further assistance. The women also purposed a trial period before the police takes legal action against the husbands.

- It is crucial to ensure that enough resources are allocated to service sector such as shelters of both government and non-government organizations. Emergency assistance, which can fulfill the urgent needs of the women and their children, has to be considered when dealing with domestic violence.

- There should be specific programme for remote area or rural communities to raise awareness of people in the communities since there is a strong traditional value in sustaining the family instead of the right of women. There is a need to ensure that rural women have equal access to protection mechanism such as from the police whenever they are beaten, access to protection order as well as provision of services.

- There should be training for the police and officers of mechanisms working on domestic violence. Attitude of these officers is the most important factor contributing to the implementation and efficiency of each approach.

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