

**Refugee Review Tribunal
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RRT RESEARCH RESPONSE

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Questions

- 1. Please provide information as to the protection of women against domestic violence in China.**
- 2. Please provide information as to the measures used by Chinese authorities to protect against domestic violence and the sanctions against the perpetrators of domestic violence in China.**

RESPONSE

- 1. Please provide information as to the protection of women against domestic violence in China.**
- 2. Please provide information as to the measures used by Chinese authorities to protect against domestic violence and the sanctions against the perpetrators of domestic violence in China.**

China's primary law regarding domestic violence is the *Marriage Law of the People's Republic of China (1980)*, amended in 2001. Among the 2001 amendments are provisions within the articles rendering domestic/family violence unlawful. A variety of government agencies, non-government organisations, and women's groups within the People's Republic of China criticise these amendments for failing to adequately protect victims of domestic violence. Collectively, the primary criticisms are that the law has an inadequate definition of domestic violence; victims and perpetrator are required to mediate before pursuing police intervention is called for; and the onus is on the victim to press charges for the matter to be pursued by the police. Together, critics argue, these factors undermine the criminality of domestic violence in the PRC. With regards to prosecutions, critics lament the requirement of substantial medical evidence of a severe physical injury to prove harm and an apparent legal

requirement of a confession in order to convict perpetrators. One source states that less than 10 percent of those accused of domestic violence confess to the offence.

A number of sources state that both the Chinese police and the judiciary have historically been reluctant to pursue domestic violence perpetrators. Nevertheless, evidence suggests that momentum is gathering in China to improve both the legal protection and the support services provided to victims of domestic violence; government ministries and the upper echelons of the judiciary have issued directives to both the police and the courts to take domestic violence seriously. State-owned and party-run media sources regularly publish articles calling for greater public awareness on the issue. Furthermore, both government agencies and non-government organisations are increasingly providing shelters and other support services to victims (including legal aid).

Sources indicate an increasing willingness of women in China to report incidences of domestic violence to police and to women's organisations. According to some sources, at least 30 percent of all marriages in China experience domestic violence. Historically, however, national statistics have not been collected in China on domestic violence and prosecutions for domestic violence. No publicly available sources have been located that provide national statistics on domestic violence prosecutions since reforms began in 2001. Sources do state that in 2008, for the first time in the People's Republic of China, two men were issued court orders to refrain from inflicting harm upon their spouses. These orders appeared not to include punitive measures, orders for the men to remain at a distance, or refrain from communicating with the victims. No sources were located that indicate family members have been imprisoned for non-lethal domestic violence.

Media sources are reporting an increasing willingness on behalf of provincial and municipal governments to emulate Beijing and produce new laws for the protection of women. However, a number of sources indicate that such new laws and the subsequent services provided to victims of domestic violence are confined to major urban areas such as Beijing, Tianjin, Guangzhou and Chengdu. In 2007 the city of Fuzhou, capital of Fujian province, introduced courts specifically to deal with 'women's rights'. According to one source, these courts have both male and female judges and are tasked with domestic violence issues. No recent sources were located that indicate the legal status of domestic violence in Fujian, or indeed the quality of services provided to women in that province. One 2005 source suggests that protection services for women in rural areas were negligible.

The Research and Information Service 2006 *Research Response* CHN31123 previously examined, among other things, the then legal status of domestic violence in China. This response builds upon those findings and examines any further changes made to the law and/or services and is structured as follows:

- [The Legal Status of Domestic Violence in China](#)
- [Shortcomings of Legal Protection](#)
- [Protection & Prosecution by Police & Judicial Authorities](#)
- [Cultural Attitudes to Domestic Violence in China](#)
- [Victim Services & Legal Aid](#)
- [Legal Protection and Services in Fujian Province](#)

The Legal Status of Domestic Violence in China

In the absence of a specific law on domestic violence, the amended *Marriage Law of the People's Republic of China (1980)* is the primary law codifying domestic/family violence as unlawful. This law was amended in 2001 specifically to outlaw domestic/family violence; however, the amendments do not define what actually constitutes domestic violence. Article 43 states that the victim should approach the village or neighbourhood committee to mediate between the victim and the perpetrator and that it is the duty of the local committee to dissuade the wrongdoer. Furthermore, the victim must make a request to the police (public security organ) to pursue the matter. The police may then subject the wrongdoer to an 'administrative penalty'. Article 45 states that investigations of domestic violence must be legally pursued by the police *if* the violence constitutes a crime. Article 46 states that in 'no-fault' cases, victims of domestic violence may be entitled to compensation:

Article 3 Marriage upon arbitrary decision by any third party, mercenary marriage and any other acts of interference in the freedom of marriage shall be prohibited. The exaction of money or gifts in connection with marriage shall be prohibited.

Bigamy shall be prohibited. Cohabitation of a married person with any third party shall be prohibited. **Domestic violence shall be prohibited. Within the family maltreatment and desertion of one family member by another shall be prohibited.**

...**Article 32** When one party alone desires a divorce, the organizations concerned may carry out mediation, or the party may appeal directly to a people's court to start divorce proceedings.

In dealing with a divorce case, the people's court should carry out mediation between the parties. Divorce shall be granted if mediation fails because mutual affection no longer exists. **Divorce shall be granted if mediation fails under any of the following circumstances:**

- (1) bigamy or, cohabitation of a married person with any third party;
- (2) **domestic violence or, maltreatment and desertion of one family member by another;**
- (3) bad habits of gamble or drug addiction which remain incorrigible despite repeated admonition;
- (4) separation caused by incompatibility, which lasts two full years; and
- (5) any other circumstances causing alienation of mutual affection.

...**Article 43** In regard to the domestic violence to or maltreatment of family member(s), the victim shall have the right to make a request, and the neighbourhood or villager committee as well as the units in which the parties concerned work shall dissuade the wrongdoer, and offer mediation.

In regard to the domestic violence being committed, the victim shall have the right to make a request, the neighbourhood or villager committee shall dissuade the wrongdoer, and the public security organ shall stop the violence.

If, in regard to the domestic violence to or maltreatment of family member(s), **the victim makes a request, the public security organ shall subject the wrongdoer to administrative penalty in accordance with the relevant provisions of administrative sanctions for public order.**

...**Article 45** If bigamy, domestic violence to or maltreatment and desertion of family member(s) constitute a crime, the criminal responsibility of the wrongdoer shall be investigated according to law. The victim may institute a **voluntary prosecution** in a people's court in accordance with the relevant provisions of the criminal procedure law. The public security organ shall investigate the case according to law and the people's procuratorate shall initiate a public prosecution according to law.

Article 46 A no-fault party shall have the right to make a request for damage compensation under any of the following circumstances bringing about divorce:

(1) bigamy;

(2) cohabitation of a married person with any third party;

(3) **domestic violence**; and

(4) maltreatment and desertion of one family member by another (*Marriage Law of the People's Republic of China*, (adopted at the Third Session of the Fifth National People's Congress on 10 September 1980 [amended 2001]) – Attachment 2).

In 2006 the *Law of the People's Republic of China on the Protection of Rights and Interests of Women (1992)* was amended to render violence against women unlawful; however, the amendments do not specifically mention domestic violence. Article 57 states that if an alleged perpetrator attempts to prevent a victim from making a complaint or seeking a legal remedy, it becomes the legal responsibility of the alleged perpetrator's employer to instigate 'administrative sanctions'. Failure to do so may result in penalties for the employer, even if it is a state agency:

Article 2 Women shall enjoy equal rights with men in all aspects of political, economic, cultural, social and family life.

The State shall protect the special rights and interests enjoyed by women according to law, and gradually perfect its social security system with respect to women.

Discrimination against, maltreatment of, or cruel treatment in any manner causing injury even death of women shall be prohibited.

...**Article 38** Women's right of life and health is inviolable. Drowning, abandoning or cruel infanticide in any manner of female babies is prohibited; discriminating against or maltreating of women who give birth to female babies or women who are sterile is prohibited; cruel treatment causing bodily injury to or death of women by means of superstition or violence is prohibited; maltreating or abandoning of women who are ill, disabled or aged is prohibited.

...**Article 57** **Where a person, in violation of the provisions of this Law, evades, delays or suppresses the investigation and disposition of a complaint, a charge or an exposure regarding the infringement upon a woman's rights and interests, or retaliates against the woman who make the compliant, charge or exposure, the unit where the person works or the department in charge or at a higher level shall instruct him to rectify, and give administrative sanctions according to law to the person directly in charge of the unit and the other persons directly responsible.**

Where a State organ and its functionaries fail to perform their duties according to law, or fail to stop, in a timely manner, the acts infringing upon the lawful rights and interests of women or to provide the women victims with the necessary help, thus serious consequences ensue, the unit where the organ and its functionaries belong or the organ at a higher level shall,

according to law, **give administrative sanctions to the person directly in charge of the State organ and the other persons directly responsible.**

Where a person, in violation of the provisions of this Law, infringes upon women's rights and interests relating to culture and education, to work and social security, to the person and property, and to marriage and family, the unit where the person belongs or the department in charge or at a higher level shall instruct him to rectify; and the person directly in charge and the other persons directly responsible, if they are State functionaries, shall be given administrative sanctions according to law by the units where they belong or by an organ at a higher level (*Law of the People's Republic of China on the Protection of Rights and Interests of Women 1992 [amended 2001]* – Attachment 3).

Shortcomings of Legal Protection for Domestic Violence

In the following extract from its 2008 PR China Country Profile, The United Nations Development Fund for Women (UNDFW) states why it believes a specific law on domestic violence is necessary in the People's Republic of China. The UNDFW's primary concern is the level of judicial support for victims, especially for victims where a physical injury is minor:

The most significant progress includes the unprecedented inclusion of domestic violence in the revised Marriage Law promulgated in April 2001, the adoption of local regulations to prevent domestic violence, and establishing support services for women victims. However, enforcing these policies and laws remains a big challenge, because law enforcers are unable to deal with cases of domestic violence effectively and victims may not get adequate judicial support. **Furthermore, after the silence is broken, victims of domestic violence need further support to help them step out of violence.**

...Provisions related to domestic violence are included in several national policies and laws. However, these laws do not provide adequate assistance to victims of domestic violence because of difficulties in implementation. **This is especially true when the injury is minor, in which case it is usually difficult for a victim to get adequate evidence for the injury.** A specific domestic violence bill is expected to meet the gap.

...Women's organizations have built a partnership with other civil society organizations in pushing for the adoption of a domestic violence law in China. On the eve of the International Day for the Elimination of Violence against Women in November 2002, the draft Bill for the Prevention of Domestic Violence was completed by a group of experts, researchers, and activists. The draft has been submitted to the Legislative Proposal Committee of the National People's Congress (2003-2008 session) for review (United Nations Development Fund for Women 2008, *PR China Country Profile*, UNIFEM website <http://www.unifem-eseasia.org/resources/others/domesticviolence/PDF/China.pdf> – Accessed 9 September 2009 – Attachment 4).

The following criticisms of the 2001 amendments to the Marriage Law are by Margaret Woo, Professor at Northeastern University School of Law, Boston. In comments to the United States Congressional-Executive Commission on China in 2003, Margaret Woo states that the changes to the Marriage Law are little more than symbolic. Given that the amended Marriage Law remains the primary source of law on domestic violence in China in 2009 Margaret Woo's comments remain both relevant and useful. Among her main criticisms, Ms Woo argues that the legal definition of domestic or family violence does not include psychological harm and that physical harm to a victim must be severe in order for the abuse to constitute a criminal offence. In cases of physical harm, Margaret Woo claims that forensic evidence of such harm needs to be substantial and the abuse has to be sustained over a period of time:

Domestic violence is not broadly defined to cover threats of violence to the woman and her family members, psychological damage, sexual abuse, and rape within marriage.

Also, the question arises whether a claim for compensation can be made during the existence of the marriage. Due to the discretion left to the judges, similar cases can be decided differently.

Women also find it difficult to meet the high standard of proof required under the criminal law to hold batterers criminally responsible. In order to invoke article 260 of the Criminal Law on crimes disrupting marriage and family, a woman has to prove that the crime was particularly “evil” and the abuse was “continued, regular, and consistent.” **On the other hand, the crime of “intentional injury” requires the forensic authentication of the injury, and that the injury amount to at least a flesh wound.**

In the absence of a clear definition of what constitutes domestic violence, it is most often interpreted as an injury that results in severe bodily harm, broken limb, loss of eyesight, et cetera. Most courts and prosecutors will not address what is considered a minor physical injury as domestic violence.

Another reason why the revisions to the Marriage Law might remain largely symbolic is the fact that the Public Security Bureaus often hesitate to intervene in family disputes. Thus, without corresponding intervention procedures to make it mandatory for Public Security personnel to intervene in domestic violence issues, it would be very difficult for women to gather forensic authentication and proof of domestic violence in order to seek protection during marriage, or civil compensation at divorce.

The Chinese law also does not expressly recognize or exclude marital rape. There is a general recognition that where sexual intercourse occurred without the consent of the woman, that is, in a forced or purchased marriage, during separation, or after an application for divorce has been filed, it could amount to rape or a crime of intentional injury (‘Holding up half the sky: Women’s rights in China’s changing economy’ 2003, Congressional-Executive Commission on China website, 24 February http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_house_hearings&docid=f:86631.wais – Accessed 28 November 2006 – Attachment 5).

In 2006 the United Nations Committee on the Elimination of Discrimination against Women wrote in its *Concluding comments of the Committee on the Elimination of discrimination against Women: China* that the 2001 amendments to the marriage act, etc, have not resulted in definitively establishing domestic violence as a criminal act, nor have they provided greater access to justice for women. The Committee calls for greater education of judges, lawyers and prosecutors on matters relating to domestic violence. The United Nations Committee on the Elimination of Discrimination against Women echoes the United Nations Development Fund for Women’s call for a specific and comprehensive law on domestic violence in the PRC:

21. While commending the State party for the explicit prohibition of domestic violence in the amended Marriage Law of 2001 and for other measures taken to address violence against women, the Committee remains concerned by the lack of comprehensive national legislation on violence against women that also provides access to justice and means of support for victims and punishment of perpetrators, and the lack of statistical data concerning all forms of violence against women. The Committee is also concerned about reported incidents of violence against women in detention centres, in particular in Tibet.

22. The Committee urges the State party to adopt a comprehensive law on violence against women and **to ensure that all forms of violence against women and girls, both in the**

public and private spheres, constitute a crime punishable under criminal law. It calls upon the State party to provide immediate means of redress and protection to women and girls victims of violence, in accordance with the Committee's general recommendation 19. **It also encourages the State party to enhance victims' access to justice and redress, for example, through training aimed at judicial officers, including judges, lawyers and prosecutors, in order to enhance their capacity to deal with violence against women in a gender-sensitive manner and ensure that claims are investigated expeditiously,** including incidents of violence against women in detention centres. It also calls upon the State party to strengthen its system of data collection in regard to all forms of violence against women and to include such information in its next report (UN Committee on the Elimination of Discrimination Against Women (CEDAW) 2006, 'Concluding comments of the Committee on the Elimination of discrimination against Women: China', *UNHCR Refworld* website <http://www.unhcr.org/refworld/country,COI,CEDAW,,CHN,,453778190,0.html> – Accessed 9 September 2009 – Attachment 6).

The World Bank's 2002 *Country Gender Review: China* criticises the amended Marriage Act for making the prosecution of perpetrators of violence incumbent upon victims laying charges. Like the United Nations Committee on the Elimination of Discrimination against Women, The World Bank suggests that the judiciary and relevant persons lack awareness and expertise regarding domestic violence:

The government needs to reconsider Marriage Law clauses dealing with domestic violence. Specifically, **it should not be incumbent upon the victim to lay charges.** In addition, there should be no tolerance of domestic violence, even in cases where the injuries are deemed "slight". The government should provide for an institutional framework for enforcement, including **training of relevant personnel, requiring local authorities to report accurately the incidence of domestic violence** (at present there are no guidelines for this, and domestic violence complaints are often recorded as family disputes), etc...

There needs to be better gender awareness of judges, public security and other relevant personnel responsible for the enforcement of statutes that include gender equality provisions [such as the Marriage Law and the Law for the Protection of Women and Children](East Asia Environment & Social Development Unit 2002, 'Country Gender Review – China', *World Bank* website, June, p.26 <http://www.worldbank.org.cn/English/content/gender-en.pdf> – Accessed 10 September 2009 – Attachment 7).

According to the United Nations Development Fund for Women, a draft law was submitted to the Legislative Proposal Committee of the National People's Congress that specifically deals with domestic violence as far back as 2003 (Attachment 4). In a 2008 report entitled *PEOPLE'S REPUBLIC OF CHINA: Government improves anti-domestic violence efforts; victim protection remains limited*, the US Congressional-Executive Commission on China was optimistic that the draft law would be adopted during the 2009 National People's Congress, however no sources have been located that indicate that a draft was actually submitted, let alone adopted and promulgated (Attachment 8).

Protection & Prosecution by Police & Judicial Authorities

A 2006 report published by the Chinese Communist Party aligned All-China Women's Federation announced that the first protective order for the prevention of domestic violence in the People's Republic of China was to be issued during that year (Attachment 9). However, a 2008 bulletin entitled 'Domestic Violence in China', also posted by the All-China Women's Federation, states that such an order was not issued until August 2008. According to the Federation, a Chinese court in Jiangsu issued the first prevention order to a

man, ordering him not to 'beat' or 'intimidate' his wife. According to the source, in a separate case in Hunan province, a second court order was issued in September 2008 instructing a police department to "keep an eye" on the husband and prevent him from inflicting harm upon his wife. These orders appeared not to include demands that perpetrators maintain minimum distances or refrain from communication with the victims. The Federation also claims that in order for a judge to find a defendant guilty, the defendant must confess the crime:

China's first court order on the protection of personal safety was issued by Chong'an district court in Wuxi city, Jiangsu Province, on August 6, 2008. **The court order prohibited the husband Chen from beating or intimidating his wife Zhang Lifang (fake name).** It is the first time a judicial protection for personal safety has been applied by the court in a civil case.

Another court order to protect personal safety was issued by Yuelu district court in Changsha city, Hunan Province, on September 24. **The court ordered the police department to keep an eye on the husband and prevent him from beating or intimidating his wife.**

Chinese courts have issued two court orders to protect personal safety within two months. This reflects a change in the prevention of domestic violence: from punishment afterwards to protection beforehand. **This can be seen as the result of the promulgation of "Court Guidance on Cases Involving Domestic Violence in Marriage" by the Institute of Applied Laws under the supreme people's court in May.**

Both the Marriage Law and the Law on the Protection of Rights and Interests of Women have stipulations against domestic violence. **Sixty-nine local laws or regulations also discuss this issue. However, all the articles are general in principle and difficult to implement.**

Domestic violence is difficult to prosecute in family and marriage lawsuits. **Even if the judge is certain that domestic violence is occurring, he or she cannot rule against the abuser without the abuser's confession because "ruling out all reasonable doubt" is used as the standard in such cases.**

It is difficult to collect evidence in such cases. In marriage and family cases, about 40 to 60 percent involve domestic violence. **However, less than 30 percent of them are able to supply indirect evidence, including photographs, hospital records, police records or children's testimony. Witnesses seldom testify in court and only when the abuser confesses can the court rule against him.** However, only 10 percent of accused abusers have confessed to violent behaviour in the family ('Domestic Violence in China' 2008, *Women of China* website, 10 October http://womenofchina.cn/Issues/Rights_Protection/206783.jsp – Accessed 2 September 2009 – Attachment 10).

The US Congressional-Executive Commission on China reported in 2008 that various Chinese government ministries have issued instructions to police to respond to complaints of domestic violence, as well as instructing hospital/medical staff to undertake professional development in handling incidents of domestic violence. Furthermore, addressing some of the earlier quoted United Nations' concerns, the *Institute of Applied Laws under the Supreme People's Court* has now instructed courts to issue protection orders. According to the source, these instructions allegedly advise on the contents of such orders, including prohibitions on 'stalking' and 'unwelcome contact'. The following extract also lists the articles of Chinese criminal law under which perpetrators of domestic violence can be charged:

In order to provide better protection to domestic violence victims, four Ministries (Public Security, Civil Affairs, Health, and Justice), one Party-controlled organization (All-China Women's Federation), the Party's Central Propaganda Department, and the Supreme People's

Procuratorate jointly issued the Opinions on Preventing and Deterring Domestic Violence (Opinions) on July 31, 2008. **Highlights in the Opinions include: requiring public security officers to respond to complaints made through the "110" telephone emergency hotline (Article 8); requiring hospitals and healthcare workers to undergo training programs to prevent and curb domestic violence (Article 11);** and requesting All-China Women's Federation offices to establish domestic violence hotlines (Article 13). The Opinions appear to increase the government's responsibility in handling domestic violence cases, according to an article published by the organization West Women on September 9.

To ensure the safety of domestic violence victims involved in cases pending before a court, **the Institute of Applied Laws under the Supreme People's Court also issued the Court Guidance on Cases Involving Domestic Violence in Marriage (Guidance, partially reprinted on Divorce Net) in May. Article 27 of the Guidance advises courts to issue protection orders to "prohibit offenders from beating, threatening, harassing, or stalking victims, or having unwelcome contact with the victims and their children,"** and if necessary, to require offenders to receive psychological therapy. Such protection orders can also order offenders to "temporarily move out of their residences, if necessary and if the cases meet qualifications." In addition, the Guidance provides that "during the effective period of the protection order, no party should handle valuable marital properties."

... **Domestic violence offenders are punishable under Articles 234, 236, and 260 of the Criminal Law, and Article 43 of the Public Security Administration Punishment Law.** China's Civil Procedure Law also allows victims to file civil lawsuits against offenders ('Government improves anti-domestic violence efforts; victim protection remains limited' 2008, Congressional-Executive Commission on China, 20 December <http://www.cecc.gov/pages/virtualAcad/index.phpd?sho wsingle=115327> – Accessed 20 January 2009 – Attachment 8).

Cultural Attitudes to Domestic Violence in China

A number of sources draw the conclusion that a historical reluctance by legislators, the police and the judiciary to address domestic violence in China has been due to a prevailing belief that domestic violence constitutes 'private family matters'. A 2005 article entitled 'Anti-domestic violence drive needs legal support' published by the Chinese Communist Party's *People's Daily* states that many people in Chinese society deem domestic violence to be 'normal' and indeed that it is often the victim's fault. The media release also accuses neighbourhood and residents' committees of frequently refusing to cooperate with plaintiff lawyers:

... Lawyers from the Law Research and Service Centre for Women under the Law School of Peking University have come across several problems when dealing with domestic violence cases.

Evidence is difficult to collect because domestic violence usually happens behind closed doors.

Without witnesses, statements from victims alone cannot be treated as evidence.

Many still treat violence as a mere family dispute, and consider it normal. Victims are often misunderstood, and usually blamed if they take their husbands to court.

Neighbourhood and residents' committees usually refuse to provide information when lawyers try to collect evidence.

Some public security officers regard a husband beating his wife as an everyday occurrence, although some cities' police stations have put such cases on file for investigation in recent years ('Anti-domestic violence drive needs legal support' 2005, Human Rights Without Frontiers, source: *People's Daily*, 23 August http://www.hrwf.net/china/ext/cn_pr_aug23_05.pdf – Accessed 9 September 2009 – Attachment 11).

The state-owned *China Daily* echoes the conclusions of the *People's Daily* in a 2007 article entitled 'Domestic Violence in Spotlight'. The article states that China's Ministry of Public Security is attempting to overcome police reluctance or inertia on domestic violence matters by threatening police with punishment if they fail to adequately pursue complaints. The article also includes 2007 police statistics for the city of Shenzhen, where 13 percent of all crime-related deaths for that year were domestic violence related:

The Ministry of Public Security confirmed yesterday that police will handle cases of domestic violence differently to regular family disputes.

The move is part of a regulation to be issued by the ministry on how to deal with family violence, and it aims to better protect victims, a document from the ministry's public security management bureau, said.

The document said the setting of a new case type would help the police better understand the severity of such incidents so they might take appropriate and timely action.

Police generally treat domestic violence as a family dispute, and are therefore sometimes slow to react. To redress that, the regulation places a legal duty on the police to assist victims and stipulates that police response must be immediate or they will face punishment.

Figures from the All-China Women's Federation show that about 30 percent of Chinese families, some 80 million, have experienced domestic violence. About a quarter of the 400,000 divorces registered each year result from family violence.

Besides, the federation has received about 50,000 reports of domestic violence over the past two years, with an annual growth rate of 70 percent.

"Women are the victims in most cases," Mo Wenxiu, the federation's vice-chairwoman, said.

Figures from police in Shenzhen, south China, show that in the first half of this year, 26 people died as a result of domestic abuse -- 13 percent of all the deaths resulting from crime.

However, although China has laws and regulations concerning domestic violence, they lack details for prevention and punishment.

The traditional idea is that family violence is a private matter and the variables involved prevent effective policing, Liu Bohong, deputy director of the Women's Studies Institute of China, said ('Domestic Violence in Spotlight' 2007, China.Org.CN website, source: *China Daily* 2 August <http://www.china.org.cn/english/government/219457.htm> – Accessed 02 September 2009 – Attachment 12)

Victim Services & Legal Aid

A number of sources indicate that the level of services available to victims of domestic violence in China has improved since legal reforms began in 2001. While national, provincial and municipal governments do provide services and funding, sources indicate that a proportion of these services are provided by non-government organisations. Services available to victims currently include advice hotlines, shelters, medical aid, counselling and, in some cases, legal aid.

In 2005 the state-owned *China Daily* published an article entitled ‘Anti-domestic violence drive needs legal support’. The article includes information on non-government services available to victims of domestic violence in the cities of Beijing and Tianjin and suggests that schooling in China needs to include education on domestic violence to correct prevailing negative social attitudes:

During July the Beijing-based non-governmental organization Maple Women's Psychological Counselling Centre received 523 complaints about domestic violence, with 96 per cent of the victims being women. Last year the total number of complaints reached 409.

...The Beijing centre has been operating two hotlines (010-64033383, 64073800) for the past decade, and has been researching matters that affect women.

In March, the All-China Women's Federation and Mary Kay Cosmetics jointly launched a women's rights protection hotline (12338) and still another anti-domestic violence hotline (16838198).

A legal aid centre for women was also established by the federation, providing regular legal services and psychological counselling.

...It is very difficult for victims to secure compensation for psychological abuse. Although the revised marriage law encourages victims of domestic violence to seek civil compensation, this is easier said than done.

In the absence of regulations, non-governmental organizations have played an important role in preventing domestic violence.

A community intervention programme was established in Hebei District of Tianjin Municipality in 2000 by the Maple Women's Psychological Counselling Centre with the help of the local women's federation.

Education experts have called for early and proper sex education, which will help youngsters develop the right set of values about relationships and help reduce sexual abuse and domestic violence in the future (‘Anti-domestic violence drive needs legal support’ 2005, Human Rights Without Frontiers, source: *China Daily*, 23 August http://www.hrwf.net/china/ext/cn_pr_aug23_05.pdf – Accessed 9 September 2009 – Attachment 11).

The US Department of State's 2008 *Country Reports on Human Rights Practices – China* cites statistical information from the All-China Women's Federation (ACWF) on the number of government-run shelters, legal aid centres, and other services established in China for victims of domestic violence in 2008. The report also catalogues aspects of legal progress regarding domestic violence, stating that 25 of 33 provinces have now adopted anti-domestic violence legislation:

In response to an increased awareness of domestic violence, there were a growing number of shelters for victims. **During the year the ACWF reported 27,000 legal aid service centres, 12,000 special police booths for domestic violence complaints, 400 shelters for victims of domestic violence, and 350 examination centres for women claiming to be injured by domestic violence had been established nationwide.** Most shelters were government run, although some included NGO participation.

In August a district court in Wuxi, Jiangsu Province, issued a precedent-setting court order on the protection of personal safety, prohibiting a husband from intimidating or beating his wife who had tried to divorce him and who, he claimed, had not provided him with a son. A second, similar order was issued in September at a district court in Changsha, Hunan Province. The two protection orders were based on guidance issued by the SPC in May, intended for rulings on family cases involving domestic violence. Building on lessons learned at the provincial level and placing an emphasis on protection of victims, the recommendations addressed a range of issues affecting domestic violence cases, including typical behaviour patterns of the offender and victim, protection of victims during trial, testimony of children, and special considerations for evidence collection, as well as effective mediation techniques to be used in such cases.

Experts pointed out that in addition to the new guidance, 25 of 33 provinces and administrative regions have adopted their own legislation to combat domestic violence. In July seven ministries, including the MPS, the Ministries of Civil Affairs and Health, as well as the ACWF issued new guidelines on the prevention and elimination of domestic violence, which lay out specific actions to be taken to raise awareness of the issue, properly handle domestic violence cases, protect victims, and provide legal assistance where needed (US Department of State 2009, *Country Reports on Human Rights Practices – China*, 25 February, Section 5 – Attachment 13).

The All-China Women's Federation reports in an article entitled 'Advances in Legal Aid for Women and Children' that victims of domestic violence may now apply for legal aid to assist them in pursuing action against the perpetrators of violence. Despite its affiliation with the Communist Party of China, the All-China Women's Federation does criticise some of the legal aid provisions on the basis that aid is means-tested on the entire family income rather than on the actual financial capacity of the victim:

With the growth of social awareness and promulgation of the Law on the Protection of Rights and Interests of Women and Regulation on Legal Aid, **legal aid has expanded to cover domestic violence.** The service also helps women who have been subjected to abuse, desertion, who seek divorce on the grounds of bigamy, and in cases of defaults in compensation payments. Legal aid is also applicable to child custody and illegal adoption.

Ministries jointly issued this July the Opinions on Preventing and Deterring Domestic Violence which promote legal aid for victims of domestic violence. The Opinions encourage and support legal service institutions in the reduction or waiving of legal fees for those in straitened economic circumstances.

The Ministry of Justice gives women and children the "three priorities," as regards case acceptance, attorney assignment, and cases heard.

... Although legal aid for women and children has improved greatly, there is scope for progress. Criteria for "economic difficulty" sometimes disqualifies women from the legal aid they need.

Applicants are assessed on the basis of their entire household income thus failing to take into account that they have no independent economic resources. This puts victims of domestic violence at a tremendous disadvantage because abused women seldom have any say in use of the family property, and their husbands are hardly likely to help finance lawsuits against themselves.

Economic restraints on legal aid need to be re-examined and adjusted to cover this type of situation, and a more gender-specific perspective included in the re-examination and adjustment process. One expert suggests that the economic status of an applicant be determined on basis of the individual's own possessions, rather than that of the household (Yu, H. 2008, 'Advances in Legal Aid for Women and Children', Women of China website, source: *China Women's News*, 25 December http://www.womenofchina.cn/Issues/Rights_Protection/208160.jsp – Accessed 10 September 2009 – Attachment 14).

Legal Reform and Services in Fujian Province

The previously quoted extract from the US Department of State's 2008 *Country Reports on Human Rights Practices – China* stated that 25 of China's 33 provinces and administrative regions have adopted legislation to combat domestic violence, in addition to the changes made nationally. No sources have been located detailing the level and nature of legal reform in Fujian province; however, the following 2007 source provided by the All-China Women's Federation states that Fuzhou, the largest city in Fujian, has introduced courts specifically to deal with women's issues and rights, including domestic violence. The source also states that some of the eight judges on the court are women:

Fuzhou City's first circuit court to safeguard women's rights and interests was recently set up in the Minhou County Court. Comprised of eight excellent judges, including women, the circuit court invited the director of the Minhou women's federation and the heads of women's federations from 16 townships to be special jurors. **The special court will serve the needs of women suffering from domestic violence and solve the difficulties these women have come across in the legal procedure in a shorter time.**

At the opening ceremony, five units including the Minhou County Court and the Provincial Dongfang Auctioneer donated 9,000 yuan to the "Opposing Domestic Violence Rescue Foundation" under the Fuzhou Women's Federation ('Circuit Court for Women Opens in Fuzhou' 2007, *All-China Women's Federation*, 25 July <http://www.women.org.cn/english/english/whatisnws/07-25-01.htm> – Accessed 11 September 2009 – Attachment 15).

While no sources have been found that describe legislative changes in Fujian vis-à-vis domestic violence or indeed describe the level of services provided in the province, the following 2005 source from the *China Daily* does suggest that both services and attitudes are poor. The source cites the case of a woman in rural Fujian who complained to the Beijing-based Maple Women's Psychological Counselling Centre. According to the source, the woman alleges that the local government has failed to act in her defence, despite repeated complaints:

During July the Beijing-based non-governmental organization Maple Women's Psychological Counselling Centre received 523 complaints about domestic violence, with 96 per cent of the victims being women. Last year the total number of complaints reached 409.

A woman in her early 40s from a village in East China's Fujian Province spoke to hotline workers early this year, saying she had been beaten by her husband for more than 20 years.

She is a native of Sichuan in Southwest China from where she was kidnapped and sold to her husband when she was 20 years old. With two children it is almost impossible for her to leave the family.

The woman said she had complained to local government organizations many times, but found no way out of her misery. Wife beating is common in her village. No one wants to intervene in other people's family affairs.

Although some victims are well-educated professionals that could be economically independent, they tend to stay silent.

A public servant called last month saying she did not dare to ask her husband for a divorce out of fear for her child's future ('Anti-domestic violence drive needs legal support' 2005, Human Rights Without Frontiers, source: *China Daily*, 23 August http://www.hrwf.net/china/ext/cn_pr_aug23_05.pdf – Accessed 9 September 2009 – Attachment 11).

Recent legal reforms have taken place in major cities in China. Some of these include:

- The municipal government of Guangzhou is proposing to draft a domestic law that includes 'mental torture' and 'psychological harm' (Attachment 16).
- The capital of Sichuan province, Chengdu has established shelters and is proposing to set aside funds specifically to protect women (Attachment 17).

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Topic Specific Links

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International Centre for Research on Women <http://www.icrw.org/>
International Women's Rights Action Watch <http://iwraw.igc.org/>
The Network for Combating Domestic Violence <http://www.stopdv.org.cn/>

Search Engines

Google <http://www.google.com.au/>
Alltheweb <http://AlltheWeb.com>
Exalead <http://www.exalead.com/search/>

Databases:

FACTIVA (news database)
CISNET (DIAC Country Information database)
REFINFO (IRBDC (Canada) Country Information database)
ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)
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