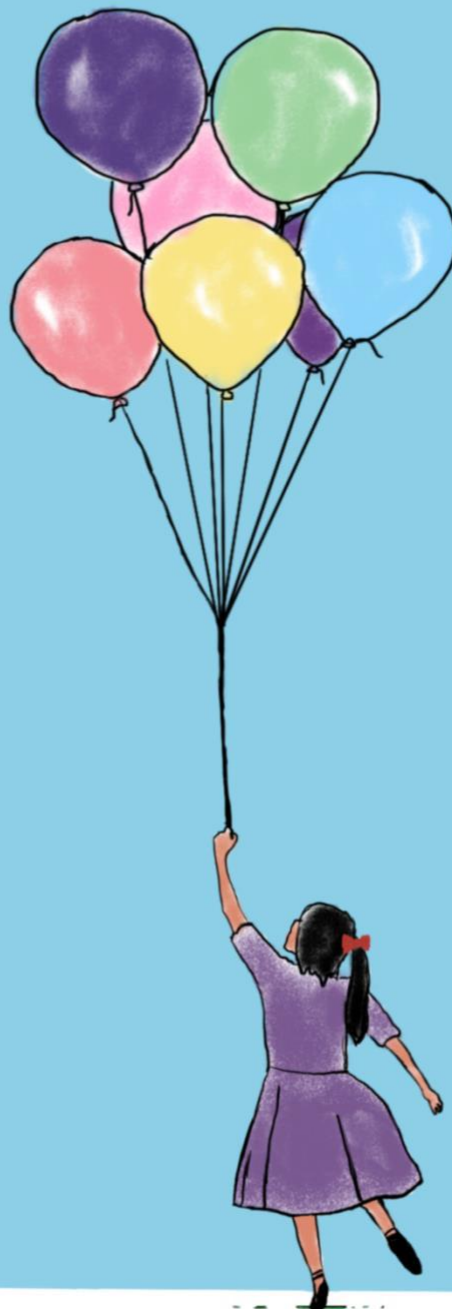


Where's the Child?

The Rights of Child Domestic Violence Survivors

A 2019 Case Study Report by Women's Aid Organisation



WOMEN'S AID ORGANISATION
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A 2019 Case Study Report by Women's Aid Organisation

Written by

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Senior Research and Advocacy Officer

Stella Tan

Research and Advocacy Officer

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Since 1982, Women's Aid Organisation (WAO) has provided free shelter, counselling, and crisis support to women and children who survive abuse. We help women and their children rebuild their lives, after experiencing domestic violence, rape, trafficking, and other atrocities. Learning from women's and children's experiences, we advocate to improve public policies and shift public mindsets. Together, we change lives.

Our close engagement with survivors allows us to monitor how effectively domestic violence laws and policies are implemented. We learn from survivors' lived realities and share our learnings – through reports such as this one – to inform multi-stakeholder services and shape community response to domestic violence.

This is the sixth report produced by WAO on domestic violence response since 1997. The purpose of this report is multi-fold:

To help the reader understand the current legal framework and available protection mechanisms and interventions for child survivors of domestic violence (see chapter *Legal Framework in Malaysia and Types of Interventions in Domestic Violence*);

To help the reader understand the experiences of child survivors, and mother-survivors as their experiences impact their children, in enduring domestic violence and seeking assistance to escape it (see *Highlights and Case Studies*); and

To help the reader—the policymaker, teacher, police officer, welfare officer, hospital, NGO service provider, or other stakeholder—consider how they can promote the best interests of the child in preventing and responding to domestic violence (see *Recommendations*).

This report was produced with data collected from WAO's shelter and analysed by WAO throughout 2018, as well as from interviews conducted with child survivors and from children's actual experiences as recorded by WAO. Case studies were also provided by another NGO service provider, Yayasan Chowkit, and two service providers in their individual capacities, Syed Azmi and Fiona Siow Li Fong from Soul Garden. WAO is grateful to these service providers for sharing their case narratives.

We would like to acknowledge the contributions of WAO staff Shazana Agha, Melissa Mohd Akhir, Jessie Ang, Chan Ee Lin, Manissha Kaur, Jaskirath Kaur, Koh

Pei Wey, Tan Heang-Lee, Vaneezha Muniandi, Charlene Murray, Gunawathi Ramachandran, Kaanchana Suppayah, Sumitra Visvanathan, Yu Ren Chung; as well as of WAO interns Simarpreet Kaur, Rati Mujumdar, Kate Parkinson, Jayantika Rao, and Irene Rossi, and WAO volunteers Anis Farid, Qaisha Kumar, and Quak Hui Yin.

We would also like to acknowledge the contributions of Science of Life Studies 24/7 (SOLS), who conducted interviews with child survivors of domestic violence for this report.

We wish to thank the Prime Minister's Office, which in early 2018 approved the funding of the production and launch of this report.

Additionally, we would like to thank YTL Corporation Berhad for supporting the printing of this report and for their ongoing support of WAO's work with children.

We would also like to thank WAO's strategic partner, Yayasan Sime Darby, who is a strategic partner of WAO.

Finally, we honour the brave children who are surviving and have survived domestic violence, and thank those who have selflessly shared their stories with us to help us understand the impact of domestic violence on children and strengthen laws and policies to afford greater protection and support to future survivors. We must keep their voices, safety, and empowerment at the front and centre of our work.

If you are a survivor, or if you work on domestic violence or child rights issues within the public sector (e.g. police, medical or welfare), WAO would be keen to hear your views on the issues raised in this report. Please email:

info@wao.org.my.

Call the WAO Hotline at +603 7956 3488 or SMS/WhatsApp TINA at +6018 988 8058 if you or someone you know is experiencing abuse.

FOREWORD

Carol Chin

Women's Aid Organisation

President 2017–2019 term



Since WAO's inception in 1982, we have strived to serve survivors of domestic violence and their children based on an approach of empowerment and acting in the survivors' best interests. Part of our approach has included offering programmes and services specifically focused on the child survivors who have accompanied their mothers to our refuge, or who have been under our care at the Child Care Centre. This includes ensuring children receive the best education possible, have access to appropriate counselling and therapy, and enjoy fun and educational activities.

As we continually work to improve and expand WAO's services and advocacy efforts and address gaps in laws and policies on domestic violence, we want to focus greater attention on children. Whether a child experiences domestic violence directly or witnesses the violence experienced by his or her mother, domestic violence has a very real and potentially lasting impact on the child. Part of ensuring that children are able to overcome the trauma of domestic violence and thrive in their development from children to adults is to provide response and support services for child survivors that recognise, respect, and are built around the human rights of the child as recognised both by the United Nations Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women, as well as existing domestic laws in Malaysia.

A key element of such an approach to responding to child survivors of domestic violence is to enable the active participation of the child in the process, and to put the best interests of the child—including their protection and well-being—first. This report is the culmination of research done to document child survivors' experiences, understand the impact of domestic violence on these survivors, and bring about positive changes to laws, policies, and attitudes so that child survivors of domestic violence are supported with a rights-based framework to escape abusive situations, break the cycle of violence, and thrive.

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Alia (Case 10) - "He [my father] is nice outside but can be rude and angry at home."

INTRODUCTION

THIS REPORT

OBJECTIVES

This report strives to understand the impact on children of witnessing and experiencing domestic violence (DV); to identify effective responses to and interventions in DV that promote the rights of the child; and to analyse the current legal framework in the context of children's lived experiences in order to discern gaps and recommend amendments to laws, policies, and procedures. The purpose of such amendments is to strengthen the response to child survivors of DV by adopting a framework that is based on upholding children's human rights.

METHODOLOGY

The research for this report was undertaken using multiple methods to examine the experiences of children who have experienced DV, the different types of interventions to address DV, and how current laws and policies related to child survivors of DV operate in practice. Qualitative data was generated both from case notes created by social workers managing the DV cases, as well as from interviews conducted with child survivors in order to include children as active participants in and contributors to our understanding of the effects of DV on them. The report also includes interviews conducted with adults who witnessed or experienced DV as children, as well as a narrative written by a survivor recounting her own story of abuse as a child.

The qualitative data generated from the case notes and interviews is presented in the form of case studies. These case studies highlight experiences falling primarily into two categories: first, children who have witnessed domestic violence perpetrated by their father against their mother and second, children who themselves have been directly abused by their father where the violence is also perpetrated by the father against the mother. A few case studies highlight other contexts of domestic violence involving children, such as violence perpetrated by a sibling, violence perpetrated by the mother, or violence perpetrated by the father where the mother was not also being abused. Most of the discussions in this report will refer to the context of the father being the perpetrator of the violence, as this represents the majority of WAO's cases.

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However, this report does not attempt to draw a distinction between the experiences of children who witness the abuse of their mother by their father as compared to those children who themselves have been directly abused by their father (and where the mother is also abused). Research suggests that drawing such a distinction may be arbitrary and limiting in attempting to look holistically at a child's experience and the impact of domestic violence on them, since there is much overlap in the impact on a child of witnessing and directly experiencing domestic violence.¹

For example, children may be involved in numerous ways even when 'witnessing' domestic violence, such as by being physically held hostage by their father in order to threaten their mother, being held in their mothers' arms when the abuse occurs, or intervening to defend their mothers.² Alternatively, the abuse may be directed at both the mother and child when the mother is pregnant.³

According to UNICEF, "The behavioural and psychological consequences of growing up in a violent home can be just as devastating for children who are not directly abused themselves."⁴ Children who are exposed to violence in the home often suffer symptoms of post-traumatic stress disorder, with younger children at risk for developmental impairment and older children facing issues including trouble with school, depression, anxiety, and substance abuse.^{5,6} Significant academic research also indicates that children living with domestic violence are more likely to be directly abused themselves.^{7,8,9}

¹ Humphreys, Cathy., Houghton, Claire. & Ellis, Jane. "Literature Review: Better Outcomes for Children and Young People Experiencing Domestic Abuse- Directions for Good Practice" 2008. Available at: <http://dera.ioe.ac.uk/9525/1/0064117.pdf>

² Humphreys, Cathy., Houghton, Claire. & Ellis, Jane. "Literature Review: Better Outcomes for Children and Young People Experiencing Domestic Abuse- Directions for Good Practice" 2008. Available at: <http://dera.ioe.ac.uk/9525/1/0064117.pdf>

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ The Body Shop and UNICEF. "Behind Closed Doors. The Impact of Domestic Violence on Children." 2006. Available at: <https://www.unicef.org/media/files/BehindClosedDoors.pdf>

⁷ Ibid.

⁸ Gustafsson, Hanna C. "Family Violence and Children's Behavior Problems: Independent Contributions of Intimate Partner and Child-Directed Physical Aggression." 2014. *Journal of family violence* 29.7: 773–781. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4242526/>

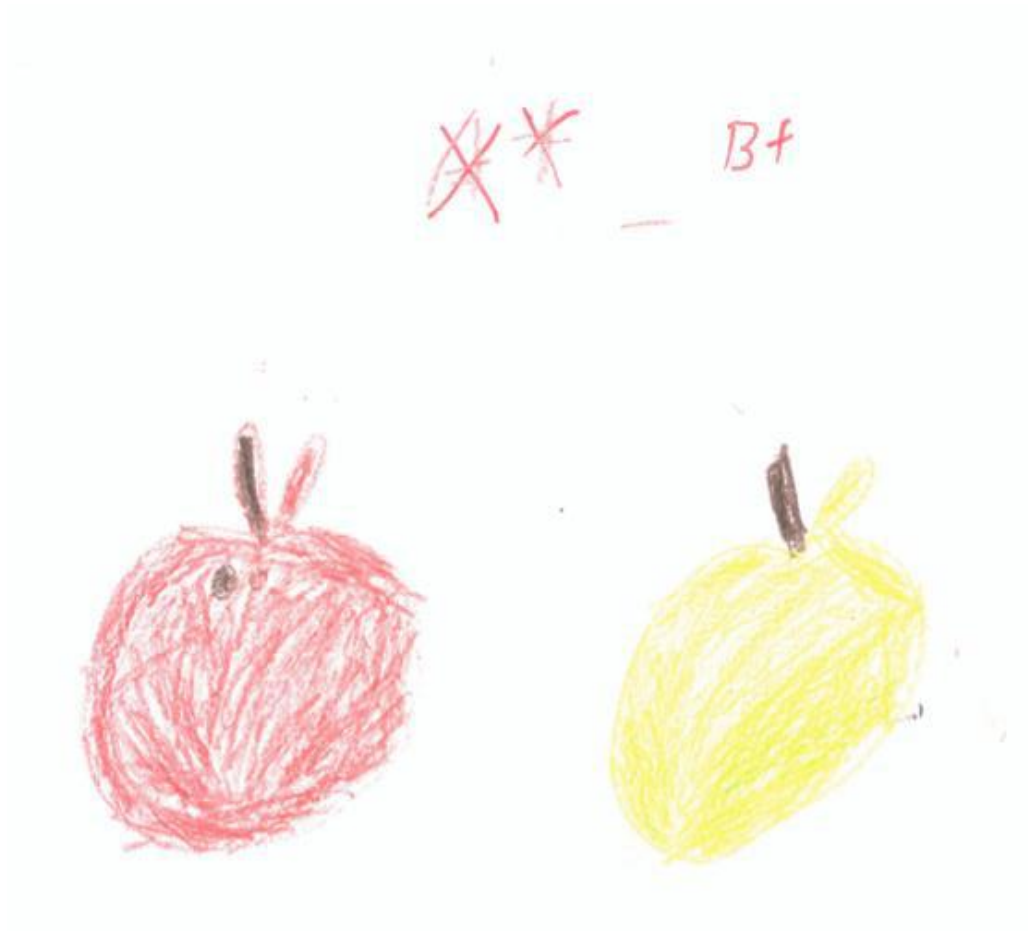
⁹ UNICEF. "Domestic violence against children."

Available at: https://www.unicef.org/sowc07/docs/sowc07_panel_2_1.pdf

ETHICAL GUIDELINES

The child interviews and all research methodologies employed in the generation of this report were conducted based on the underlying principles of respect for the child's dignity and well-being, and preservation of the confidentiality and safety of the child, in accordance with UNICEF's review, "Ethical Principles, Dilemmas and Risks in Collecting Data on Violence against Children."¹⁰

¹⁰ UNICEF Statistics and Monitoring Section of Policy and Strategy. "Ethical Principles and Dilemmas and Risks in Collecting Data on Violence against Children: A Review of Available Literature." October 2012. Available at: https://data.unicef.org/wp-content/uploads/2015/12/EPDRCLitReview_193.pdf



Laurel (Case 7) - "I really like Rachel and Robert."

CHILDREN AND DOMESTIC VIOLENCE

WHAT ARE CHILD RIGHTS?

The United Nations Convention on the Rights of the Child (CRC) is recognised as the most complete statement on children's rights and is also the most widely ratified human rights treaty in the world.¹¹ The CRC was acceded to by Malaysia in 1995.¹²

WHAT DOES THE CRC SAY?

The CRC defines a child as anyone under the age of 18 and outlines the inalienable rights all children have based on four guiding principles:¹³

1. **Non-discrimination** - State parties must take appropriate measures to ensure a child is protected from discrimination based on age, gender, race, language, religion, political or other opinion, disability, birth or other status;
2. **Best interests of the child** - The best interests of the child must be put at the forefront of all decisions that affect her;
3. **Right to be heard** - The views of the child must be respected and she must be equipped with the knowledge and skills to speak up;
4. **Right to life, survival, and development** - The child has the right to life, meaning that she has the right to survival and development and State parties should protect and not impede this right.

WHAT IS DOMESTIC VIOLENCE?

As recognised by Malaysia's Domestic Violence Act 1994, domestic violence is abuse perpetrated by and against anyone in the familial relationship, including by a parent against his or her child. Domestic violence (DV) may be physical, sexual, psychological, social, or financial, and is perpetrated through the use of

¹¹ UNICEF United Kingdom. "What is the UN Convention on Child Rights?" UNICEF United Kingdom. Available at: <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>

¹² UNICEF. "CRC in Malaysia." UNICEF.

Available at: https://www.unicef.org/malaysia/children_crc-in-malaysia.html

¹³ Child Rights International Network. *The Convention*. Available at: <https://www.crin.org/en/home/rights/convention>

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intimidating, manipulative, or coercive behaviour for the purpose of gaining or maintaining power and control.¹⁴ DV can often lead to feelings of helplessness, stemming from a loss of agency and autonomy over one's own situation, body, and decision-making ability.¹⁵

In the case of children, DV most commonly takes the form of physical, sexual or emotional abuse:

- Physical abuse: the deliberate use of force, such as hitting, shaking, or choking, on a child's body, which may result in injury.
- Sexual abuse: which should be understood not only as a type of violent assault, but also includes other sexual activities, such as inappropriate touching which creates a situation where the child does not fully comprehend, is unable to give informed consent, or for which the child is not developmentally prepared.
- Emotional abuse: represented by persistent attacks on a child's sense of self—such as constant belittling, taunting or humiliation, or isolation and intimidation—which affect the child's psychological wellbeing.¹⁶

The term 'child abuse and neglect' is often used to refer to domestic violence against children. The United States Child Abuse Prevention and Treatment Act defines child abuse and neglect as:

"Any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse, or exploitation, or an act or failure to act which presents an imminent risk of serious harm."¹⁷

The root causes of domestic violence can vary, but based on WAO's experience, patriarchal attitudes, stereotypical gender roles, and cultural norms that devalue women and children—especially girls—play a key role. These attitudes,

¹⁴ Ciarria, Michelle. "The Loss of Autonomy in Abused Persons: Psychological, Moral, and Legal Dimensions". 2018 University of New South Wales. Available at: www.mdpi.com/2076-0787/7/2/48/pdf

¹⁵ Ibid.

¹⁶ UN Refugee Agency (UNHCR). "Action for the Rights of Children. Critical Issues: Abuse and Exploitation." Available at: <https://www.unhcr.org/3bb81aea4.pdf>

¹⁷ Child Welfare Information Gateway. "Definitions of Child Abuse and Neglect." Available at: <https://www.childwelfare.gov/pubpdfs/define.pdf>

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roles, and norms result in men being in positions of power—whether in the family or in other contexts—and women and children being considered subordinate. Given the nature of DV as taking place in the context of the family relationship and usually inside the home itself, a child whose parent or sibling is experiencing DV will often witness or experience DV themselves. Both being forced to witness and being subjected to DV are violations of a child's fundamental human rights and can have devastating and far-reaching consequences.

CHILDREN AND DOMESTIC VIOLENCE IN MALAYSIA

In Malaysia, the passing of the Domestic Violence Act 1994 (DVA) criminalised DV. This was a critical step towards improving the safety of DV survivors, including children.

In 2014, Universiti Sains Malaysia's Centre for Research on Women and Gender (KANITA) published a report on domestic violence against women in Peninsular Malaysia, finding that 9% of ever-partnered women surveyed had experienced DV. Of this 9%, out of those who had given birth to at least one child, 64% of these women had between two and four children. The report also included a component on children witnessing DV. From among the DV cases analysed for the study (9% of the women surveyed), 73% of the women survivors reported that their children had seen or heard the violence in the household, while 42% reported that their children had witnessed some or almost all of the violent events.¹⁸

¹⁸ Universiti Sains Malaysia's Centre for Research on Women and Gender (KANITA). "Executive Report: Summary of Findings. A Country Level Study of Women's Well-being and Domestic Violence Against Women (DVAW) Using WHO Multi-country Questionnaire." 2014.

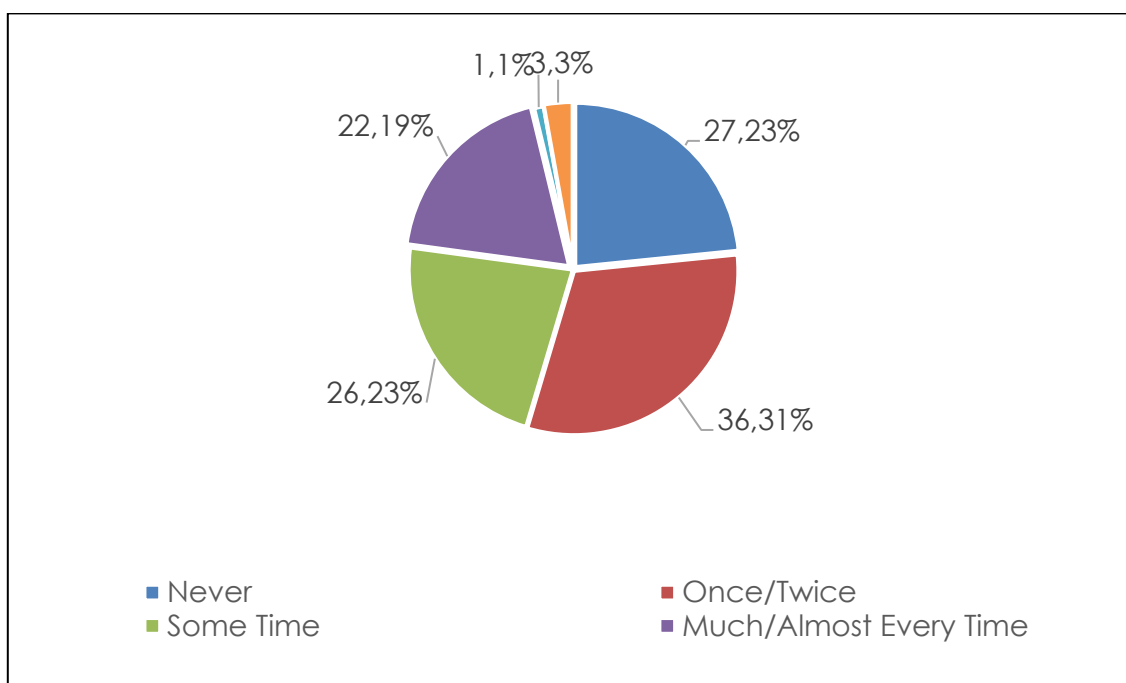


Chart 1 - Percentages of the frequency with which children of women survivors of DV witnessed violence, reproduced from KANITA study on DV¹⁹

Empowering survivors to restore their lost agency and autonomy is a critical step in helping survivors of DV recover from their trauma and move forward with their lives. Despite there being several organisations in Malaysia focusing on meeting the needs of women survivors of DV, the needs of the children of these women—who have witnessed or experienced DV themselves—may not receive the required attention.

In order to remedy this, there is a need to ensure that all stakeholders who play a role in the response to DV—such as parents, teachers, the police, the welfare department, lawyers, and judges—are also putting the needs of child survivors at the forefront. Thus, it is necessary to start from a framework that recognises the rights of children.

WHAT DOES A RIGHTS-BASED RESPONSE TO CHILD SURVIVORS OF DOMESTIC VIOLENCE LOOK LIKE?

A rights-based response to child survivors of DV requires incorporating and upholding children's human rights—as articulated by the principles in the CRC—at every stage of the response to DV and by every stakeholder involved, from police, to welfare officers, to doctors, to judges, to NGO service providers. The

¹⁹ Ibid.

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four core principles of the CRC are non-discrimination, the best interests of the child, the right to be heard, and the right to life, survival, and development.

NON-DISCRIMINATION IN DOMESTIC VIOLENCE RESPONSE

In the context of DV response, the principle of non-discrimination requires that first responders, including the police, medical personnel, and welfare officers, do not discriminate against children in responding to DV and providing protection and access to justice. This includes discrimination based on age, gender, race, language, religion, political or other opinion, disability, birth, or other status.

THE BEST INTERESTS OF THE CHILD IN DOMESTIC VIOLENCE RESPONSE

When it comes to DV response, the best interests of the child must be put at the forefront of all decisions that affect him or her. This principle should be incorporated at every stage of the DV situation, from the detection and reporting of potential harm to the child by teachers or medical personnel, to the taking of the child's statement by the police in a friendly and non-intimidating environment, to the granting of an interim protection order by the magistrate, to the evaluation of a judge as to which parent should retain custody of the child. The best interests principle should be used by all stakeholders as a framework for making decisions or taking actions in relation to the child survivor.

THE CHILD'S RIGHT TO LIFE, SURVIVAL, AND DEVELOPMENT IN DOMESTIC VIOLENCE RESPONSE

The violation of a child's right to life, survival, and development are at the core of DV. In the extreme, DV can threaten a child's very life and survival, while even less extreme forms of DV can impact a child's development.

At a minimum, the institutionalised response to DV must place the highest priority on a child's life and survival. For example, where there is evidence that a child's safety is at risk, an interim protection order must be issued to protect the child from further harm. Similarly, where a child has been abused by one parent, this parent must not be granted custody of the child, which would put him or her at grave risk.

Furthermore, the institutionalised response to DV must also account for the child's ongoing development. For example, this includes ensuring that the child's education is minimally disrupted in the aftermath of DV by introducing a uniform and streamlined process of transferring the child's school where a change of location is required. Furthermore, services such as counselling must be made available to child survivors to facilitate their emotional development and ensure that they are able to overcome the trauma of DV.

CHILD PARTICIPATION IN DOMESTIC VIOLENCE RESPONSE

The principle of child participation, or the right of the child to be heard, in the DV context involves adopting a response that includes children in the decision-making process, both when they are in the abusive situation and once they are taken out of it. More specifically, it refers to the informed and willing involvement of children, inclusive of children who are differently abled and those at risk, in any matter concerning them either directly or indirectly.²⁰ Such an approach should be incorporated into institutionalised DV response by designated first responders.

Children have long been thought of as being passive observers or witnesses to DV.²¹ However active participation is crucial to a child's ability to cope with the experience of DV, with the child's 'active participation' defined as:

"Being listened to and taken seriously as participants in the domestic violence situation; and being able to be actively involved in finding solutions and helping make decisions."²²

Encouraging child participation means acknowledging a child's right to be listened to, to freely express their views and opinions on matters which affect them, as well as providing them with access to information and knowledge in

²⁰ World Vision International. "Child Participation." Available at: <https://www.wvi.org/child-participation>

²¹ Humphreys, Cathy., Houghton, Claire. & Ellis, Jane. "Literature Review: Better Outcomes for Children and Young People Experiencing Domestic Abuse- Directions for Good Practice" 2008. Available at: <http://dera.ioe.ac.uk/9525/1/0064117.pdf>

²² Mullender, Audrey., et al. (2002). "Children's Perspectives on Domestic Violence". 2002. SAGE Books.

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order to allow them to make informed decisions.²³ Research has shown that children as young as eight years old who are exposed to DV understand their situation and have the desire for safety and protection from the violence.²⁴

Guidelines for DV response should also be interpreted within the CRC framework as outlined above. It is critical that we acknowledge that children have certain fundamental rights, and upholding these rights must be the foundation for any response to DV.

THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN

The World Health Organisation (WHO) has recognised inflicting emotional or psychological violence and/or causing a child to witness violence as being forms of violence against children.²⁵ UNICEF has previously reported that approximately 275 million children worldwide are exposed to violence at home.

Growing up in a household with DV negatively impacts children's development. For children to grow and develop successfully, consistent caregiving in a nonviolent environment is crucial.²⁶ Since children, especially young children, rely on their parents to interpret and understand their surroundings, their development is disrupted in the event of DV.²⁷ Therefore, children who grow up in DV households are at significant risk of experiencing social, emotional, and cognitive impairment.²⁸

It is important to recognise that the danger of growing up in a DV household is not limited to the detrimental effects of visually witnessing DV, but also includes other variations of involvement, such as hearing the DV or being directly involved

²³ Humphreys, Cathy., Houghton, Claire. & Ellis, Jane. "Literature Review: Better Outcomes for Children and Young People Experiencing Domestic Abuse- Directions for Good Practice" 2008. Available at: <http://dera.ioe.ac.uk/9525/1/0064117.pdf>

²⁴ Ibid.

²⁵ World Health Organization (WHO). "Violence Against Children". Available at: <http://www.who.int/mediacentre/factsheets/violence-against-children/en/>

²⁶ Howell, Kathryn H. et al. "Developmental Variations in the Impact of Intimate Partner Violence Exposure during Childhood." 2016. Journal of Injury and Violence Research. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4729333/>

²⁷ Humphreys, Cathy., Houghton, Claire. & Ellis, Jane. "Literature Review: Better Outcomes for Children and Young People Experiencing Domestic Abuse- Directions for Good Practice" 2008. Available at: <http://dera.ioe.ac.uk/9525/1/0064117.pdf>

²⁸ World Health Organization. "World Report on Violence and Health." 2002. Available at: https://apps.who.int/iris/bitstream/handle/10665/42495/9241545615_eng.pdf?sequence=1

by being used as a hostage by the father against the mother, or even intervening and defending the mother.²⁹ All of these situations pose significant risk factors to children, as research has shown that children exposed to DV have outcomes as bad as children who have been abused.³⁰

CHILDREN'S RESPONSES TO DV

The responses of children to DV can vary widely. Some children may be anxious and constantly on guard, while some may be withdrawn.³¹ Some children may blame themselves for the situation at home, while others blame their siblings or their mother (in the case of abuse by their father) for triggering the abuse.³²

Even in cases where the child is witness to the father's abuse of the mother, or where the child too is abused by the father, they may have ambivalent feelings towards both their father and their mother.³³ In other cases, children may feel rage at the abusive parent, and either anger or pity towards the abused parent.³⁴

Traditionally, the conversation on children affected by DV has revolved around the child being at-risk of developing violent tendencies themselves, more likely to turn to anger as a normal way to resolve conflicts, and at high risk of becoming juvenile delinquents without intervention³⁵—neglecting to ever ask children for their own perspectives on their situation. Most of these children do understand

²⁹ Humphreys, Cathy., Houghton, Claire. & Ellis, Jane. "Literature Review: Better Outcomes for Children and Young People Experiencing Domestic Abuse- Directions for Good Practice" 2008. Available at: <http://dera.ioe.ac.uk/9525/1/0064117.pdf>

³⁰ Kitzmann, Katherine M. et al. "Child Witness to Domestic Violence: A Meta-Analytic Review." 2003. *Journal of Consulting and Clinical Psychology* 71.2: 339-352. Available at: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.208.6823&rep=rep1&type=pdf>

³¹ Domestic Violence Roundtable. "The Effects of Domestic Violence on Children". Available at: <https://www.domesticviolenceroundtable.org/effect-on-children.html>

³² Ibid.

³³ Women's Aid. "The impact of domestic abuse on children and young people." Available at: <https://www.womensaid.org.uk/information-support/what-is-domestic-abuse/impact-on-children-and-young-people/>

³⁴ Parents. "How Does Domestic Violence Affect Kids?" 2013. Available at: <https://www.parents.com/parenting/better-parenting/how-domestic-violence-affect-kids/>

³⁵ Domestic Violence Roundtable. "The Effects of Domestic Violence on Children". Available at: <https://www.domesticviolenceroundtable.org/effect-on-children.html>

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 that violence, as a whole, is wrong and not the answer.³⁶ Most also hold their perpetrators accountable.³⁷

SHORT-TERM EFFECTS OF DV ON CHILDREN

Research has found both short-term and long-term impacts on children who witness aggressive acts, which are characteristic of DV. Oftentimes, children, especially younger ones, who have witnessed DV tend to react by displaying changes in behaviour, because they do not know how to verbally express or process what they have seen or how they feel.³⁸ Moreover, Malaysian-centred research by KANITA concludes that those children who experience or witness DV in their household are more likely to have frequent nightmares (16.5 % as opposed to 8.0% for those who do not experience DV), as well as being more timid or withdrawn (28.9% vs 16.8% for non DV children) and being more aggressive (32.2% vs 18.1% for non DV).

Short-term, immediate effects of DV on toddlers can often be seen in behavioural problems such as frequent illness, severe shyness, low self-esteem, and trouble in day-care, as well as social problems such as hitting, biting, or being argumentative.³⁹ These effects can be seen very early on, as researchers have found that children from DV households as young as one year old display symptoms of trauma or distress.⁴⁰ Younger children are also more prone to regression, or the loss of previously acquired developmental skills.⁴¹

When these children begin school, they may display symptoms that affect school performance, such as poor concentration and lower reading skills than peers in their age group, causing them to struggle. They are also more likely to display

³⁶ Humphreys, Cathy., Houghton, Claire. & Ellis, Jane. "Literature Review: Better Outcomes for Children and Young People Experiencing Domestic Abuse- Directions for Good Practice" 2008. Available at: <http://dera.ioe.ac.uk/9525/1/0064117.pdf>

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Overlien, Carolina. "Children Exposed to Domestic Violence: Conclusions from the Literature and Challenges Ahead." 2010. Journal of Social Work. Available at: https://www.researchgate.net/publication/249741717_Children_Exposed_to_Domestic_Violence_Conclusions_from_the_Literature_and_Challenges_Ahead

⁴¹ Humphreys, Cathy., Houghton, Claire. & Ellis, Jane. "Literature Review: Better Outcomes for Children and Young People Experiencing Domestic Abuse- Directions for Good Practice" 2008. Available at: <http://dera.ioe.ac.uk/9525/1/0064117.pdf>

behavioural problems in school, such as physical aggression, which is often reported by both their teachers and their parents.⁴²

LONG-TERM EFFECTS OF DV ON CHILDREN

The impact of exposure to DV on children can carry on through adulthood, depending on the severity of the trauma.⁴³ DV is commonly identified as an adverse childhood experience (ACE), where ACEs have long been linked to harmful health effects later on in life.⁴⁴ Results from over 17,000 participants of an ACE study conducted in the United States have shown that ACEs consisting of abuse, neglect, and household dysfunction are strongly associated with adulthood high-risk behaviours, including alcoholism, depression, and possibly even seeking abusive partners or becoming an abusive partner themselves.⁴⁵

Development theories in psychology suggest that a child's behaviour is influenced by the environment in which they live, their interactions, and their early relationships.⁴⁶ As such, one of the primary concerns with children who grow up in DV households is that the cycle of abuse will be perpetuated, as children can learn that violence is acceptable when resolving conflicts.

According to UNICEF, "The single best predictor of children becoming either perpetrators or victims of domestic violence [...] is whether or not they grow up in a home where there is domestic violence."⁴⁷

⁴² Gustafsson, Hanna C. "Family Violence and Children's Behaviour Problems: Independent Contributions of Intimate Partner and Child-Directed Physical Aggression." 2014. *Journal of family violence* 29.7: 773–781. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4242526/>

⁴³ Curran, Linda. "101 Trauma-Informed Intervention". 2013. PESI Publishing and Media. Edited by: Marietta Whittlesey & Bookmasters.

⁴⁴ Reuters. "Childhood 'Toxic Stress' Leads to Parenting Challenges Later On." 2018. Available at: <https://www.reuters.com/article/us-health-pregnancy-parents-childhood/childhood-toxic-stress-leads-to-parenting-challenges-later-on-idUSKBN1GX25R>

⁴⁵ Anda, Robert. "The Adverse Childhood Experiences Study: Child Abuse and Public Health." Available at: http://www.preventchildabuse.org/images/docs/anda_wht_ppr.pdf

⁴⁶ Jeevasuthan, Subramaniam & Ahmad Hatta, Zulkarnain. "Behavioural Problems of Children Exposed to Domestic Violence in Rural Villages: A Micro Social Work Inquiry in Piranpattu Village at Chankanai Divisional Secretariat, Jaffna, Sri Lanka." 2013. PSU-USM International Conference on Humanities and Social Sciences. Available at: https://ac.els-cdn.com/S1877042813025494/1-s2.0-S1877042813025494-main.pdf?_tid=00e52916-d821-4d3a-9e7f-23c2b703277e&acdnat=1534226899_4667c24b55266fb2efe3096d95925dc0

⁴⁷ UNICEF. "Behind Closed Doors: The Impact of Domestic Violence on Children." 2006. Available at: <https://www.unicef.org/media/files/BehindClosedDoors.pdf>

Additional insights on long-term impacts of DV on children

Nonetheless, DV affects children differently, and not every child's response to DV will be the same. Interviews analysed in one study of Scottish children from DV households suggest most of the children do understand that violence is wrong, and also tend to hold their perpetrator fathers accountable.⁴⁸ Another study found that children from DV households were *more likely* than their peers to point out that abuse is always wrong.⁴⁹ UNICEF has also stated that many children who come from DV households often grow into adults who oppose all forms of violence.⁵⁰

Children in adverse situations, such as growing up in a DV household, can also show incredible resilience and manage well in these situations. Resilience has been shown to depend on the severity of the violence at home, the level of community and family support, and the extent to which their needs are met.

It is important, then, that we do not over-pathologise children who have witnessed or experienced DV, and recognise the extent to which both survivor mothers and their children can recover from the effects of DV. However, it must be noted that despite children's resilience and ability to overcome the trauma of DV, "*This must not be read to mean that children do not have a right to live free from violence.*"⁵¹

SUMMARY AND IMPLICATIONS OF THE IMPACTS OF DV ON CHILDREN

In summary, there is an abundance of research showing that experiencing or witnessing DV as a child is harmful to development. There are both long-term and short-term effects, and the severity of the effects depends on several factors, such as the child's age and the length of time they were exposed to the DV.

⁴⁸ Humphreys, Cathy., Houghton, Claire. & Ellis, Jane. "Literature Review: Better Outcomes for Children and Young People Experiencing Domestic Abuse- Directions for Good Practice" 2008. Available at: <http://dera.ioe.ac.uk/9525/1/0064117.pdf>

⁴⁹ Alexander, Helen., Macdonald, Elspeth. & Paton, Sandra. "Raising the Issue of Domestic Abuse in School." 2006. Children and Society.

⁵⁰ UNICEF. "Behind Closed Doors: The Impact of Domestic Violence on Children." 2006. Available at: <https://www.unicef.org/media/files/BehindClosedDoors.pdf>

⁵¹ Humphreys, Cathy., Houghton, Claire. & Ellis, Jane. "Literature Review: Better Outcomes for Children and Young People Experiencing Domestic Abuse- Directions for Good Practice" 2008. Available at: <http://dera.ioe.ac.uk/9525/1/0064117.pdf>

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The potential long-term impacts of DV on children, including the perpetuation of inter-generational violence, emphasise the responsibility that is incumbent on the many different stakeholders who are responsible for responding to DV and ensuring that the rights of the child are upheld, both in their response to DV and otherwise.

Given how complex DV is, some children may not even have the right vocabulary or language to communicate their experiences or feelings.⁵² It is everyone's responsibility to help provide resources and information for these children in order to equip them to speak about their experiences and make informed decisions. This requires asking children what they want and allowing them to participate in decisions which impact their lives, such as which caretaker they would like to stay with, whether they would want to see their perpetrator-fathers ever again, and which therapeutic interventions (e.g. art therapy or speaking with a counsellor) they feel could help them. Subsequently, the child's wishes must be balanced with ensuring their survival, protection, and overall well-being.

Giving children the space to participate in making decisions that affect them leads to more positive outcomes, including fostering an environment where children feel their opinions and safety are valued.⁵³ This process also allows children to build and restore self-esteem, as well as to learn and understand their rights.⁵⁴ Thus, incorporating children's perspectives and participation when responding to DV is crucial in validating their experiences, especially since these experiences are distinct from their survivor-mother's.⁵⁵

One study on children experiencing DV concluded that, fundamentally, what children want "is to be safe and have someone to talk to."⁵⁶ By inviting children to participate in the decision-making processes that affect their lives, we include

⁵² Ibid.

⁵³ Commission for Children and Young People. "Empowerment and Participation Of Children". Available at: <https://ccyp.vic.gov.au/assets/resources/tipsheet-empower-participation-children.pdf>

⁵⁴ Ibid.

⁵⁵ Humphreys, Cathy., Houghton, Claire. & Ellis, Jane. "Literature Review: Better Outcomes for Children and Young People Experiencing Domestic Abuse- Directions for Good Practice" 2008. Available at: <http://dera.ioe.ac.uk/9525/1/0064117.pdf>

⁵⁶ Humphreys, Cathy., Houghton, Claire. & Ellis, Jane. "Literature Review: Better Outcomes for Children and Young People Experiencing Domestic Abuse- Directions for Good Practice" 2008. Available at: <http://dera.ioe.ac.uk/9525/1/0064117.pdf>

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them in important conversations, allow for their empowerment, and ultimately aid them in their recovery.

While there is undeniably a significant benefit from empowering and involving children in the response to DV, there is still not a framework or comprehensive set of guidelines available in Malaysia which encourages child participation in the response to DV or other forms of violence against children.

DEVELOPMENT-FOCUSED INTERVENTIONS IN DOMESTIC VIOLENCE

While the subsequent sections of this report, including the case studies and related highlights, focus on aspects of DV response related to protection and access to justice—primarily emphasising the principles of the best interests of the child, the child's right to survival, and the child's right to be heard—this section will discuss interventions in DV that focus on the child's right to development.

The reason for this is two-fold. Firstly, while much of the focus of DV response relates to protection and justice, there is less of a focus in existing policies and available programmes on the long-term healing and development of child survivors in the aftermath of the DV crisis. Secondly, WAO's own expertise lies not only with ensuring protection and access to justice for child survivors of DV, but also with providing child survivors with the tools and services they need to recover from their trauma and develop into thriving adults.

There are a variety of child-centred interventions—several of which are utilised by WAO—which can be introduced in the aftermath of the crisis, to provide the child with a way to cope with the abuse and recover from the trauma. These interventions include:

- Counselling (individual or group)
- Play therapy
- Art therapy
- The Hope Theory
- School-based group interventions
- Home-schooling

CHILD COUNSELLING

Counselling is defined as a professional relationship that empowers diverse individuals, families, and groups to accomplish mental health, wellness, education, and career goals.⁵⁷ It can be an effective intervention for children who witness and experience violence, including for responses such as depression, anxiety, and violence.⁵⁸

For children witnessing and experiencing violence, while they may not understand or be able to articulate the cycle of violence—whereby tensions builds, followed by the violent incident, and then a period of reconciliation and then calm before the tension begins to mount again—they may internalise their feelings of tension, which can then manifest in academic issues, insomnia, irritability, or aggression.⁵⁹

Counselling for child survivors of DV should create an environment in which children feel safe and comfortable, such as through the use of toys, games, and storytelling. Another essential component of such counselling is the use of both objective (e.g. behavioural measures) and subjective (e.g. observation of the parent-child relationship) assessment measures in order to identify interventions and prevention strategies.⁶⁰

Group counselling can also be effective in empowering children to process their experiences, letting them know they are not alone, and understanding they are not responsible for the violence. Whether counselling is undertaken in a group or individually, ensuring the child's safety and confidentiality during the process is critical. Other important elements include discussion of the cycle of violence, creation of a safety plan, and breaking down how to deal with feelings of anger.⁶¹

⁵⁷ American Counselling Association. "20/20: Consensus Definition of Counselling." Available at: <https://www.counseling.org/about-us/about-aca/20-20-a-vision-for-the-future-of-counseling/consensus-definition-of-counseling>

⁵⁸ Vargas, Laurie. Cataldo, Jason. & Dickson, Shannon. "Domestic Violence and Children." 2005. In *VISTAS: Compelling Perspectives On Counselling* By G. R. Walz & R. K. Yep. 2005. Alexandria, VA: American Counselling Association. Available at: https://www.counseling.org/docs/disaster-and-trauma_sexual-abuse/domestic-violence-and-children.pdf?sfvrsn=db24be5a_2

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Ibid.

PLAY THERAPY TO BETTER THE PARENT-CHILD RELATIONSHIP

Child-parent psychotherapy (CPP) is a technique that uses play as an integral tool in this relationship-based intervention. Playing together allows the parent and child to eliminate taboos and instead create a joint narrative that provides an age-appropriate frame to facilitate coping with traumatising situations such as domestic violence.^{62,63}

The joint child-parent sessions are designed to change mothers' and children's maladaptive behaviours in response to DV, while supporting appropriate interactions between the mother and her child. CPP also functions as a way of helping to guide the mother and child in understanding and subsequently working through the trauma that they have experienced.

The CPP therapist encourages the parent to participate in the child's play and serves as a translator of the function and meaning of the child's play for the parent as well as for the child.⁶⁴ Parents play the role of supporting their child while restoring and improving their relationship with the child through re-establishing their parental role as an anchoring system for the child's emotional experience. Play is used as a primary source for therapeutic interventions in early childhood, since children often use play as a way of repeating anxiety-provoking situations, sometimes changing the outcome of situations or avoiding discussions by choosing different play themes. Symbolic play allows a structure that facilitates the free exploration of feelings in a contained and safe environment.

Through play therapy, the child-parent relationship becomes progressively better as the child develops an understanding of how to express a range of feelings associated with trauma. The child also gains the ability to co-construct a trauma narrative that validates and supports their experiences. Progress can be measured through the prevalence of traumatic play, the preoccupation with themes of danger, aggression, and fear, an increasing engagement with

⁶² Van Horn, P. & Lieberman A. F. "Play In Child-Parent Psychotherapy With Traumatized Pre-Schoolers." In *Handbook of Preschool Mental Health: Development, Disorders, And Treatment* By J.L. Luby. 2006. New York: Guilford Press.

⁶³ Van Horn, P. & Lieberman A. F. "Psychotherapy with infants and young children: Repairing the effect of stress and trauma on early attachment." 2008. New York: Guilford Press.

⁶⁴ Van Horn, P., & Lieberman A. F. "Play In Child-Parent Psychotherapy With Traumatized Pre-Schoolers. In *Handbook of Preschool Mental Health: Development, Disorders, And Treatment* By J.L. Luby. 2006. New York: Guilford Press.

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developmentally appropriate activities and interests, and also a greater spontaneous intimacy and joy in the child-parent relationship.⁶⁵

The results of CPP treatment have shown a significant long-term improvement in rates of secure attachment and also in the quality of the child's parental representation. Various research supports not only its effectiveness, but also indicates that the average long-term effects of play therapy range from moderate to highly positive.⁶⁶ CPP treatment participants have also shown a significant reduction in child behavioural problems and in maternal and child PTSD.⁶⁷

ART THERAPY TO ASSIST CHILDREN IN TELLING THEIR STORY

Art therapy aids children exposed to DV through assisting them resolve emotional conflict, understand themselves, release anxieties, learn communication skills, and enhance personal growth.

Art therapy can be used as a tool to help children from violent homes to express feelings that they are not comfortable discussing, as well as create a visual vocabulary where he or she may relay stories or experiences through visualisation and symbolisation.

Observational data suggests that when therapists are trying to comprehend children's drawings, it is vital to understand the child's background and history with violence. The Kinetic Family Drawing⁶⁸ involves participants being asked to "draw everyone in the family enacting an event or involved in actions with another member of the family."⁶⁹ It was designed as a way to help mobilise the child's feelings in self-conception and interpersonal relations. This type of art

⁶⁵ Diaz, Manuela A. & Lieberman, Alicia F. "Use of Play in Child-Parent Psychotherapy with Pre-schoolers Traumatized by Domestic Violence." In *Play Therapy for Preschool Children*. 2010. Washington, DC: American Psychological Association. [doi:10.1037/12060-007](https://doi.org/10.1037/12060-007).

⁶⁶ Association of Play Therapy. "Play Therapy Makes a Difference." Available at: <https://www.a4pt.org/page/PTMakesADifference/Play-Therapy-Makes-a-Difference.htm>

⁶⁷ Lieberman, A.F., Van Horn, P. and Ippen, C.G. "Toward Evidence Based Treatment: Child-Parent Psychotherapy with Pre-schoolers exposed to Marital Violence." 2005. Child Trauma Research Project.

⁶⁸ Burns, Robert., Kaufman, Harvard. "Actions. Styles and Symbols In Kinetic Family Drawings." 1974. New York: Project Muse.

⁶⁹ Singh, Asha. & Gupta, Deepa. "Contexts of Childhood and Play: Exploring Parental Perceptions." 2011. <https://doi.org/10.1177/0907568211413941>

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therapy encourages children to express their feelings and self-awareness through family drawings. Therapists also use it as a visual record of the child's self-development within their family structure.⁷⁰

Another form of art therapy for children exposed to DV is the House-Tree-Person (HTP) assessment,⁷¹ a projective technique used by art therapist to explore the personality, developmental stage, and emotional and mental state of the artist. Art therapists also use this method to analyse the areas of the brain that are 'damaged,' as children exposed to DV are often unable to interpret commonplace images in ways that are considered recognisable, or may portray the HTP in ways that aren't typical of their age level or level of cognitive development.

The drawing of a house is often associated with relevant aspects of the child; it is suggested to "represent the part of the self that is concerned with the body (the 'house' one lives in) as well as nurturance, stability, and a sense of belonging."⁷²

Tree drawings are associated with the life history of the individual including "developmental processes, past experiences, and hopes for the future, as well as characterological aspects."⁷³ It is also suggested that the child's interpretation of the tree encourages ideas about the child's psychological development and feelings about their environment.⁷⁴

Finally, the drawing of the human figure is intended to elicit powerful feelings. The drawing of the human figure relates to impulses, anxieties, conflicts, and compensation characteristic of that child.⁷⁵

⁷⁰ Golomb, Claire. "The Child's Creation Of A Pictorial World." 1990. Berkeley: University of California Press.

⁷¹ Buck, John N. "The House-Tree-Person Technique: Revised Manual." 1973. Los Angeles: Western Psychological Services.

⁷² Groth-Marnat, Gary. "Handbook of Psychological Assessment." 1997. New York: John Wiley and Sons, 525.

⁷³ Rankin, Anita. "Tree Drawings and Trauma Indicators: A Comparison Of Past Research With Current Findings From The Diagnostic Drawing Series." 2013. Journal of The American Therapy Association. 11.

⁷⁴ Malchiodi, Cathy A. "Understanding Children's Drawings." 1998. U.S.A: Guilford Publications, Inc

⁷⁵ Singh, Asha. & Gupta, Deepa. "Contexts of Childhood and Play: Exploring Parental Perceptions." 2011. <https://doi.org/10.1177/0907568211413941>

Some therapists suggest that the process of creating art is also vital to therapist evaluation, such as the amount of control the child has with the use of media and colour, and how the child chooses particular colours or the medium used (e.g. a carefully thought out versus spontaneous approach).⁷⁶

Art therapy can help relieve some of the inner turmoil and conflict that the child survivor is experiencing and enable him or her to move forward. Time, trust containment, and security are vital for the child to build a relationship with her therapist, which then allows the child to learn to express her traumatic experiences of violence, cope with stress and release anxiety, and divert negative energy into constructive actions.⁷⁷

Graphic Indicators

Hypothesis

Outline the contents of the drawing and fill it in with another colour.

To firmly establish boundaries of the contents of the drawing.

Rarely include people in their drawings.

A need to isolate themselves from relationships and/or a need to avoid the abusive environment.

Inclement weather - rain, hail, snow, and/or wind portrayed within drawings.

Weather portrayed in a drawing is a projection of the child's environment. The intrusive nature of inclement weather may be compared to the intrusive nature of physical abuse inflicted upon the child.

Excessive shading.

Associated to anxiety.

Distortion of self-image

Low self-esteem.

Drawings depicting 'monsters' that are both attacking and also being attacked.

Feelings of wanting to be attacked or of being attacked.

Overuse of the colour black

Depicted in drawings of children who suffer from withdrawal, depression, physical illness, or who survived a fire.

Images of child being encapsulated within the framework of a home/environment.

Isolation.

⁷⁶ Wadeson, Harriet. "The Dynamics Of Art Psychotherapy." 1994. New York: John Wiley & Sons

⁷⁷ Singh, Asha. & Gupta, Deepa. "Contexts of Childhood and Play: Exploring Parental Perceptions." 2011. <https://doi.org/10.1177/0907568211413941>

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|------------------------------------|--|
| Drawings with unrealistic content. | Visual fantasies for something that is impossible/unreachable. |
| Repetition. | Child may repeat the image related to trauma or themes of rescue or violence/destructive acts. |

Table 1 - Malchiodi's analysis of graphic indicators in children's art therapy⁷⁸

THE HOPE THEORY

Programmes such as Camp HOPE are another type of intervention that strives to change the outcomes for children exposed to DV. Camp HOPE is based on Snyder's ⁷⁹ hope theory, which focuses on hope as a cognitive-based motivational tool that assists child survivors of DV in autonomously learning to create strategies to achieve their desired goals, both short and long-term. Giving child survivors of DV control over their own life is seen as a way of contradicting the control that was previously exerted over them.

Camp HOPE prioritises two fundamental cognitive process—pathways and agency.⁸⁰ Pathways focus on autonomous mental strategies towards goal attainment and involve children considering various pathways to the goals they would like to achieve. Agency focuses on the independence of mental energy or willpower that a child of DV can direct towards their goals.⁸¹

Once viable pathways are formed, the hopeful child now has the ability to conceive of potential barriers and then develop strategies to overcome the barriers or switch to alternative pathways. Hopeful children are also then able to exert their mental energy to their pathways and persevere by self-regulating their thoughts, emotions, and behaviours toward their desirable goal.

Camp HOPE involves a dedicated curriculum that is designed to change the way the children view themselves and their futures. The camp functions as a

⁷⁸ Malchiodi, Cathy. "Breaking the Silence: Art Therapy with Children from Violent Homes." 1997. USA: Brunner/Mazel, Inc.

⁷⁹ Snyder, C. R. "The Past and Possible Futures of Hope." 2000. *Journal of Social and Clinical Psychology*, 19(1).

⁸⁰ Hellman, Chan. and Gwinn, Casey "Camp HOPE as an Intervention for Children Exposed to Domestic Violence: A Program Evaluation of Hope, and Strength of Character." 2017. *Child & Adolescent Social Work Journal*, 34(3). doi: 10.1007/s10560-016-0460-6.

⁸¹ Ibid.

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values-based summer camping and mentoring model with a six-day program and follow-up activities during the school year. It involves three key elements:

- (1) "Challenge by Choice" activities
- (2) Affirmation and Praise for developing and observed character traits
- (3) Themed, small group discussion and activities focused on helping children set goals and pursue viable pathways

These activities all function to promote creative thinking, decision-making, problem-solving, teamwork and mutual support, reasoning, self-esteem, competency, self-management, group trust, organisation, and goal setting—all of which are seen as key values in deterring a child DV survivor from becoming perpetrators or recurring victims of violence.

SCHOOL-BASED GROUP INTERVENTIONS

Support services may not be accessible to all children exposed to DV; however, an intervention in a school setting with school-based mental health professionals such as counsellors, psychologists, and social workers can help child survivors of DV to overcome trauma and succeed socially, personally, and academically.

Research has shown that child survivors of DV who participate in group counselling interventions are likely to experience a reduction in the internalisation and externalisation of behavioural problems, an increase in levels of self-esteem, the diminishment of feelings of self-blame, and an increase in safety knowledge.^{82,83,84} Studies have also emphasised the importance of allowing a child's trauma into the school environment—facilitated by teachers who are sensitive to the trauma—rather than forcing the child to hide her wounds.⁸⁵ This

⁸² Kot, Sarina., Landreth, Garry L. & Giordano, Maria. "Intensive Group Play Therapy with Child Witnesses Of Domestic Violence." In *Play Therapy Interventions with Children's Problems* By Gary L. Landreth and Linda Homeyer. 2005. Oxford: Rowman & Littlefield.

⁸³ Stephens, Nanette., McDonald, Renee. & Jouriles, Ernest N. "Helping Children Who Reside at Shelters for Battered Women." 2008. *Journal of Aggression, Maltreatment & Trauma*.

⁸⁴ Sullivan, Michael., Egan, Marcia. & Gooch, Michael. "Conjoint Interventions for Adult Victims and Children of Domestic Violence: A Program Evaluation." 2004. *Research on Social Work Practice*.

⁸⁵ Bien Andrea and Elizabeth Dutro. "Listening to the Speaking Wound: A Trauma Studies Perspective on Student Positioning in Schools." 2013. *American Educational Research Journal* 51.

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can help the child forge closer ties to school, overcome trauma, and reintegrate into an environment of peers.⁸⁶

A school environment offers a suitable setting for child survivors of DV who have access to schooling, since this reduces the limitations of accessibility, transportation, and scheduling that are often an obstacle in other types of interventions.⁸⁷ School-based interventions can reinforce resilience and encourage healthy coping skills for children exposed to DV, while also promote academic and social success.^{88, 89, 90}

The Children Who Witness Abuse (CWWA) programme is based off the Violence is Preventable (VIP) programme.⁹¹ VIP's purpose is to break the silence of DV, offer services in schools to assist victims of DV, and prevent further inter-generational violence. The CWWA program focuses on providing school-based educational presentations on DV prevention, in-depth group interventions, and individual support for child survivors of DV, as well as professional development workshops for teachers, school administrators, and support staff.

The goal of CWWA is to help children learn to express feelings in a healthy way, understand that they are not responsible for the violence, develop safety plans, identify their support networks, recognise their strengths and develop their self-confidence, identify the cycle of violence, improve school performance and social skills, and develop better conflict resolution skills.

School-based interventions offer a number of advantages by virtue of the universal role of schools in raising awareness, providing support, and being a safe and neutral place for children to grow and develop. A school-based group

⁸⁶ Ibid.

⁸⁷ Huth-Bocks, Alissa., Schettini, Allison. & Shebroe, Valerie. "Group Play Therapy for Pre-schoolers Exposed to Domestic Violence." 2001. *Journal of Child and Adolescent Group Therapy*, 11(1).

⁸⁸ Dean, Kristen., Langley, Audra K., Kataoka, Sheryl H., Jaycox, Lisa H., Wong, Marleen. & Stein, Bradley. "School-Based Disaster Mental Health Services: Clinical, Policy, And Community Challenges." 2008. *Professional Psychology: Research and Practice*, 39(1).

⁸⁹ McAdams, Charles R., Foster, Victoria. A., Dotson-Blake, Kylie. & Brendel, Johnston M. "Dysfunctional Family Structures and Aggression in Children: A Case For School-Based, Systemic Approaches With Violent Students." 2009. *Journal of School Counselling*. 7(9). Retrieved from <http://www.jsc.montana.edu/articles/v7n9.pdf>

⁹⁰ Silva, Raul R., Cloitre, Marylene., Davis, Lori., Levitt, Jill., Gomez, Sandy., Ngai, Irene. & Brown, Elissa. "Early Intervention with Traumatized Children." 2003. *Psychiatric Quarterly*, 74, 333–347.

⁹¹ "Lang-Gould, Susie. "Supporting Students Exposed to Domestic Violence: A Guide for Teachers." BC/Yukon Society of Transition Houses. 2007."

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intervention can also provide child survivors the support they need as group-based interventions enhance relatedness between and among children within a supportive social system that allows for mutual aid, and empowers the children as sources of assistance to one another.⁹² These types of interventions also assist children through their development while the varying effects of the DV they experienced are explored.^{93, 94, 95}

HOMESCHOOLING

While schooling is thought to help a child's ability to overcome trauma and reintegrate into society, both as a result of its stabilising nature and the potential of school-based interventions, practical considerations may temporarily prevent a child who is going through DV from continuing traditional schooling.

In such a situation, where, for example, a child must be removed from school due to concerns over her safety as a result of the DV, WAO has found that home-schooling offers an important alternative to traditional schooling, allowing for both continuity in the child's education and development, as well as a sense of normalcy and routine that can be critical to the child's ability to cope with trauma and upheaval in other aspects of her life.

The following section is a conversation with a WAO home-schooling teacher, discussing the unique benefits of homeschooling in relation to the child's experience of abuse.

⁹² Emshoff, James G., Jacobus, Laura. "Play Therapy for Children of Alcoholics." In *School-based Play Therapy* By A. A. Drews, L. J. Carey, & C. E. Schaefer. 2001. New York: Wiley.

⁹³ Huth-Bocks, Alissa., Schettini, Allison. & Shebroe, Valerie. "Group Play Therapy for Pre-schoolers Exposed to Domestic Violence." 2001. *Journal of Child and Adolescent Group Therapy*, 11(1).

⁹⁴ Kot, Sarina., Landreth, Garry L. & Giordano, Maria. "Intensive Group Play Therapy with Child Witnesses Of Domestic Violence." In *Play Therapy Interventions with Children's Problems* By Gary. L. Landreth and Linda Homeyer. 2005. Oxford: Rowman & Littlefield.

⁹⁵ Sullivan, Michael., Egan, Marcia. & Gooch, Michael. "Conjoint Interventions for Adult Victims and Children of Domestic Violence: A Program Evaluation." 2004. *Research on Social Work Practice*. 14.

INSIGHTS INTO HOMESCHOOLING — A CONVERSATION WITH A WAO HOME-SCHOOLING TEACHER

Question: What do you feel is the importance of homeschooling for children who have witnessed or experienced domestic violence?

Answer: Regardless of their past experiences, whatever those may be, children need a sense of routine and discipline. When the children at WAO attend home-schooling, not only do they get to interact with other children, but it is something they can enjoy also because it's catered specifically to their needs.

Attending home-schooling means that while they are staying in WAO's shelter and the rest of their life is in flux, at least their education and development are not being halted.

Home-schooling and related programmes help to develop children away from their mothers, and that is important because children will learn to speak in their own way and to negotiate with other kids and adults without having their mother right there. These are really important experiences for children.

I think it's critical for the child, and for the mother, that the child goes away to home-school for a few hours because it's a reminder that the child needs to keep developing and growing. Whether a child has experienced abuse at home or not, schooling and other constructive programmes are crucial because they will broaden the child's mind and show them that the world is a lot bigger than they imagined.

Question: How engaged and attentive do you find the children?

Answer: As with all children, if it's something that interests them, then you can't pull them away. In terms of attention level, as compared to my previous experiences, the children in home-schooling are more engaged, which I think ties back to their desire for a sense of routine.

The children know they can expect to see me and to do certain types of activities every day. For example, the kids know what time they play outside and what time they are at home. Once, when I tried to deviate from this routine, the children kept asking why we weren't doing what we were supposed to be doing.

Question: What kind of subject matter do you teach the children, and how do you tailor your lessons to children of different ages?

Answer: I've found that animals are a great way engage the children, and to teach children of all different ages. For roughly two-and-a-half months, I focused on the animal kingdom, and through this, I taught math, science, and English. For example, if the animal we were focusing on was the lion, I would start off with an educational show like National Geographic Kids or BBC Earth, and then do some related activities with the children, which would differ based on age group.

For example, for a seven-year-old, I would give grammar exercises related to lions, while for a five-year-old who is just starting to recognise words, I would give him a puzzle where he has to find and write down the words. For the really young children who are just starting to hold pencils, I might give them a connect-the-dots or numbers exercise that forms the shape of a lion. And for arts and crafts, I would have the children draw a lion or create one out of some other materials.

Question: What other programmes does WAO have for children?

Answer: We recently instituted an afternoon programme for children, since previously the children did not have much going on in the afternoons after home-schooling. Now every day we have a programme consisting of things like drama and engineering for kids, which is a lot of science experiments and building things. We also have arts and crafts.

I think the afternoon programme is something every child should have since it gives children greater exposure to different adults, so they learn how to negotiate with varying personalities. The afternoon programme also gives them something to do besides watching cartoons—it gives them a routine where they are still playing and having fun, but with more structure and an educational component as well.

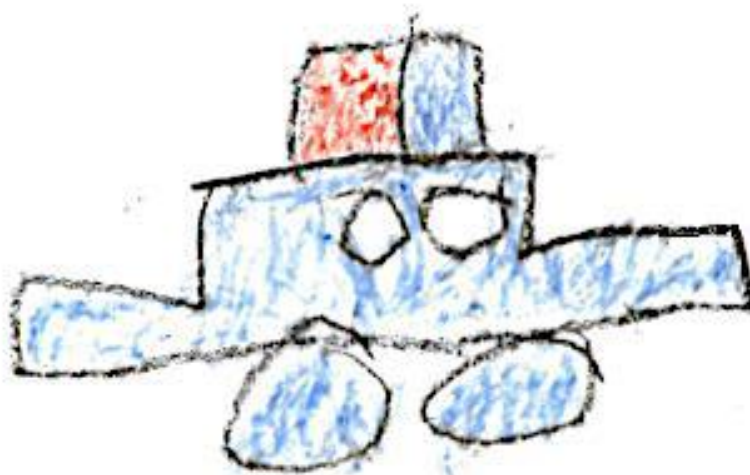
Question: Did you ever see any concerning behaviours in the children you home-schooled at WAO?

Answer: There were two children who only knew how to express their anger and frustration through hitting, screaming, and throwing a tantrum. I would always try to talk to the children and advise them to use their words instead of hitting, biting, or kicking, which sometimes worked. I also discussed my concerns with the children's mother and a social worker, and that was when it clicked—I used to

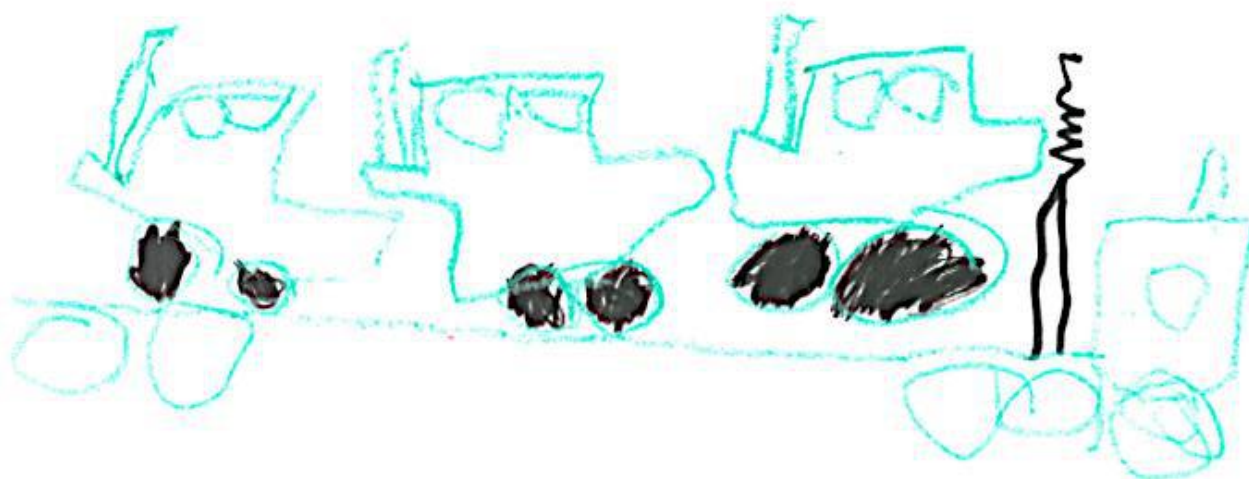
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look at the children as separate from any sort of domestic violence, but after talking to their mother and social worker, I realised that the children had probably learned this type of behaviour from things they had seen at home.

I had another child who was very engaged in class and loved doing activities. This child was always happy-go-lucky, but his speech was affected, so that I could tell he had the idea in his head, but the words wouldn't come out. For example, he might see a bottle and understand what it was, but call it something else, like a book or a cat. Other children the same age as this child were already forming clear and enunciated words, but this child could not. I realised this was a sign of trauma, and was surprised that a child who was so happy-go-lucky and didn't display any other behaviours such as aggression or tantrums could be affected in this way from experiencing or witnessing abuse, but clearly he had been. I recommended to his mother and social worker to put him in speech therapy, which ended up helping a lot.



Adam (Case 10) "I went to the police station with my mother and sister. I never talked to the police because I didn't want to. I was scared."



LEGAL FRAMEWORK IN MALAYSIA

INTERNATIONAL LAWS

CONVENTION ON THE RIGHTS OF THE CHILD (CRC)

The Convention on the Rights of the Child (CRC) is the most rapidly and widely ratified international human rights treaty and is the centrepiece of the international legal framework concerning the protection of children.

According to UNICEF, the CRC and the corresponding Committee on the Rights of the Child encourages governments to undertake measures towards:

- Developing a national agenda for children
- Developing permanent bodies and mechanisms to coordinate, monitor, and evaluate activities at all levels of government
- Ensuring that domestic legislation is fully compatible with the Convention
- Making policy development processes more child-centred by engaging in child impact assessments
- Carrying out budget analysis for allocating public funds for children and ensuring resources are effectively used
- Collecting and using data to improve the status of children
- Raising awareness on the CRC and training government officials and policymakers working on children's issues
- Engaging civil society and children themselves in advocating for and implementing child rights; and
- Setting up independent statutorily-mandated bodies to promote child rights⁹⁶

| <u>1995</u> | <u>2006</u> | <u>2007</u> | <u>2011</u> | <u>2012</u> |
|---|--|--|--|--|
| Malaysia acceded to the convention with a total of 12 reservations. | First report submitted to CRC Committee (9 years overdue). | Concluding observations received from CRC Committee. | Government acceded to both Optional Protocols. | Second CRC report due but not submitted. |

Table 2 - History of the CRC in Malaysia

⁹⁶ UNICEF. "Convention on The Rights Of The Child: Frequently Asked Questions." 30 November 2005. Available at: https://www.unicef.org/crc/index_30229.html

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In 1995 Malaysia acceded to the CRC, which was a major step for the country despite the 12 reservations which were put in place as they were said to “not conform with the Constitution, national laws and national policies of the Government of Malaysia, including the Syariah law.”⁹⁷ Over the years, Malaysia has withdrawn seven of these reservations but still retains five regarding a) non-discrimination (Article 2), b) registration, name, and nationality (Article 7), c) freedom of thought, conscience and religion (Article 14), d) free and compulsory education at the summary level (Article 28(1)(a), and e) detention and punishment (Article 37).

Subsequent to Malaysia's 2007 review by the UN Committee on the Rights of the Child, the Committee stated in its Concluding Observations to Malaysia:

“The Committee notes with appreciation that violence against children, such as physical, sexual, mental and emotional violence as well as abandonment and neglect are addressed in the Child Act 2001 (Act 611) and that since August 2002 incest has been criminalised by the Penal Code (Act 574). It also notes with appreciation that the Domestic Violence Act 1994 (Act 521) protects the child against violence within the family.”

Despite the measures taken to provide protection against violence, abuse and neglect, the Committee notes with grave concern that domestic violence, including violence against children in the family, remains a serious human rights problem in the State party.”⁹⁸

In 2011 the Malaysian government announced it would accede to the first two Optional Protocols of the CRC which prohibit the sale of children; criminalise all forms of sexual exploitation, particularly prostitution and pornography; and ban the recruitment and use of children by armed forces. Malaysia has yet to ratify the third Optional Protocol on a communication procedure, which would allow individuals or groups to bring complaints before the UN Committee on the Rights of the Child.⁹⁹

⁹⁷ UNICEF. “CRC Reservations.” 2015.

Available at: https://www.unicef.org/malaysia/childrights_crc-reservations-malaysia.html.

⁹⁸ CRC Concluding Observations to Malaysia 2007 para 57 (CRC/C/MYS/CO/1)

⁹⁹ UN Office of the High Commissioner. “Optional Protocol to the Convention on the Rights of the Child on a communication procedure.” 14 April 2014. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPICCRC.aspx>

Perhaps the most important measure Malaysia has taken towards the implementation of the CRC is the enactment of the Child Act 2001, which incorporates its obligations under the CRC into domestic law. The Child Act 2001 is discussed in further detail below under Domestic Laws.

Despite these positive steps, Malaysia's lack of genuine commitment to the CRC and its principles has been apparent through its extremely delayed reporting. Although obligated to report to the CRC Committee every five years, Malaysia has only submitted one report since accession to the treaty.

There are several gaps and challenges in Malaysia's child protection system that exist as a result of the flawed implementation of the CRC, which are discussed in subsequent sections of this report.

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

Malaysia acceded to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1995. The treaty defines discrimination against women and articulates the state's obligation to take measures to eliminate discrimination and bring about equality between the genders. CEDAW, through its General Recommendation No. 19 elaborates on the link between discrimination and gender-based violence, and the proactive measures a state must take to address such violence.¹⁰⁰

Malaysia first reported to the CEDAW Committee in 2005 and was subsequently reviewed in 2006, after which the CEDAW Committee issued its first set of Concluding Observations to Malaysia. After a substantial gap, Malaysia next reported to the CEDAW Committee in 2016, and was reviewed in February 2018, after which the Committee issued a second set of recommendations to the Malaysian government. Foremost among these was the recommendation to

¹⁰⁰ In General Recommendation 19, the CEDAW Committee explains that, "The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence." The Committee elaborates that the state must take effective measures toward eliminating gender-based violence, including enacting appropriate laws, providing support services for victims and conducting gender-sensitive training for judicial and law enforcement officers, as well as other public officials.

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promptly enact gender equality legislation to domesticate Malaysia's obligations under CEDAW, without which individuals cannot exercise their rights under the convention.¹⁰¹

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)

Malaysia acceded to the Convention on The Rights of Persons with Disabilities (CPRD) in 2010. The convention works to change the prevailing attitudes and approaches to persons with disabilities.

Although Malaysia has acceded to CPRD, disability schemes are still treated as welfare benefits which leads to the social exclusion of PWD. Due to a lack of implementation and comprehensive domestic legal provisions—as well as a lack of understanding of disabilities—children with disabilities are often socially and institutionally excluded.¹⁰²

THE LINKS BETWEEN THE CRC AND CEDAW

There is a strong link between the rights of women and the rights of children, particularly with regard to discrimination and violence against girls who are moving from childhood to adolescence, and boys to ensure that they are not exposed to harmful gender stereotypes.¹⁰³ This was articulated in the CEDAW Committee's 2006 Concluding Observations to Malaysia, where the Committee stated:

"The Committee calls upon the State party to implement comprehensive measures to bring about change in the widely accepted stereotypical roles of men and women. Such measures should include awareness-raising and educational campaigns addressing women and men, girls and boys...with a view to eliminating stereotypes associated with

¹⁰¹ CEDAW/C/MYS/CO/3-5. 9 March 2018. Available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/MYS/CO/3-5&Lang=En

¹⁰² UNICEF. "Childhood Disability in Malaysia: A study of knowledge, attitudes, and practices." Available at: https://www.unicef.org/malaysia/resources_publications_children-with-disabilities.html

¹⁰³ UNICEF and UNFPA. "CRC and CEDAW: Making the Connection Between Women's and Children's Rights Facilitator's Guide." Available at: https://www.unicef.org/gender/files/CRC_and_CEDAW_Facilitators_Guide-small.pdf

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traditional gender roles in the family and in society, in accordance with articles 2 (f) and 5 (a) of the Convention."¹⁰⁴

While CRC outlines a range of rights of all individuals under the age of 18, CEDAW upholds human rights from a gender perspective and articulates the rights of women through their entire life cycle.¹⁰⁵ However, the CRC and CEDAW intersect and reinforce one another in many key areas, including the following:

- Right to health
- Right to education
- Right to protection against discrimination
- Right to nationality
- Access to resources, facilitated by the state
- Protection from unequal treatment on the basis of sex
- The duty of both parents to bring up children
- The notion that the best interests of the child must be considered
- Elimination of trafficking of girls and women
- Protection of girls and women from sexual abuse and exploitation¹⁰⁶

Using both CEDAW and CRC can be beneficial in advocating for children's rights, since this can lead to a more comprehensive human rights-based approach that recognises vulnerabilities based on both age and gender; addresses the specific needs of girls; and leads to a focus on the historical violations of the rights of women and children by patriarchal norms and institutions in understanding how to remedy such violations.¹⁰⁷

DOMESTIC LAWS

While several domestic laws touch on various aspects of child rights, three primary laws uphold child rights—specifically rights related to child protection.

¹⁰⁴ CEDAW/C/MYS/CO/2. 31 May 2006. Available at:

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fMYS%2fCO%2f2&Lang=en

¹⁰⁵ UNICEF and UNFPA. "CRC and CEDAW: Making the Connection Between Women's and Children's Rights - Facilitator's Guide." Available at:

https://www.unicef.org/gender/files/CRC_and_CEDAW_Facilitators_Guide-small.pdf

¹⁰⁶ Ibid.

¹⁰⁷ UNICEF and UNFPA. "CRC and CEDAW: Making the Connection Between Women's and Children's Rights - Facilitator's Guide." Available at:

https://www.unicef.org/gender/files/CRC_and_CEDAW_Facilitators_Guide-small.pdf

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These laws are the Domestic Violence Act 1994, the Child Act 2001, and the Sexual Offences Against Children Act 2017. Other laws directly impacting children include the Penal Code, the Criminal Procedure Code, the Legal Aid Act 1971, the Guardianship of Infants Act 1961, the Evidence of Child Witness Act 2007, and the Law Reform (Marriage and Divorce) Act 1976.

DOMESTIC VIOLENCE ACT 1994

The Domestic Violence Act 1994 (DVA) was passed in 1994 and implemented in 1996, sending a clear message that domestic violence is not just a family matter, but a crime. The DVA is read in conjunction with the Penal Code and the Criminal Procedure Code. The DVA was amended in 2012 and again in 2017, with key provisions being added on each occasion.^{108,109}

The DVA criminalises multiple forms of violence—from physical abuse, to sexual abuse, to psychological abuse—perpetrated by family members, and allows individuals experiencing such abuse, whether at the hands of a spouse or a family member, to access protection.

A key provision of the DVA that supports child protection is the creation of protection orders—emergency protection orders (EPO), interim protection orders (IPO), and protection orders (PO). The availability of these orders—and especially the additional orders which may be included with an IPO or PO—can directly impact children who have witnessed or experienced DV by prohibiting the perpetrator from entering the child's school or place of residence, or going closer than fifty metres (or a distance deemed reasonable by the court) from the child's person. Protection orders may be issued individually for the child or can be issued for the mother and include the child.

Another key provision of the DVA is the ability of the magistrate court—upon a balance of probabilities that it is necessary for the safety of the survivor—to include additional orders in the IPO or PO granting exclusive occupancy by the survivor of their shared residence with the perpetrator.¹¹⁰ Giving the mother-survivor and child survivor the right of exclusive residence of their family home

¹⁰⁸ Free Malaysia Today. "Amendment to Domestic Violence Bill passed." July 25, 2017. Available at: <http://www.freemalaysiatoday.com/category/nation/2017/07/25/amendment-to-domestic-violence-bill-passed/>

¹⁰⁹ Domestic Violence Act 1994, Section 6(1)(a)

¹¹⁰ "Domestic Violence (Amendment) Act 2017." Section 4, Section 5, and Section 6(1)(a)

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means that it is not the mother and child who are uprooted from their home in order to escape violence, but rather, that it is the perpetrator who must leave.

One aspect of the child's experience not fully accounted for in the DVA is the trauma to the child where they witness the violence perpetrated by one family member against another, such as by the father against the mother. While arguably, exposing a child to a violent environment constitutes emotional or psychological abuse, the DVA should clearly make this link so that child survivors who witness DV are also explicitly protected.

Implementing Guidelines - *Garis Panduan Pengendalian Kes Keganasan Rumah Tangga*

As part of the effort to effectively implement the DVA, a set of guidelines for handling DV cases was codified and published in 2015 by the Ministry of Women, Family and Community Development. These guidelines, known as the *Garis Panduan Pengendalian Kes Keganasan Rumah Tangga*, articulate the roles and responsibilities of the nine government agencies that are involved in handling domestic violence cases.

The guidelines have yet to be updated following the amendments to the DVA in 2017.

CHILD ACT 2001

Malaysia enacted the Child Act in 2001 to fulfil its commitment to the Convention on the Rights of the Child (CRC). The Child Act provides that every child in Malaysia is entitled to protection and assistance in any circumstance without regard to distinction of any kind, such as race, colour, sex, religion, social origin or physical, mental, or emotional disabilities. Furthermore, the Child Act is based on the four core principles of the CRC, which are non-discrimination, the best interests of the child, the right to be heard, and the right to life, survival, and development.

Section 17 of the Child Act incorporates the child's right to protection within its definition of a child in need of care and protection. It also defines the forms of injuries and abuse that a child may suffer from, which includes emotional injuries. These definitions are harmonious with the definition of domestic violence in Section 2 of the DVA and the definition of injury in Section 44 of the Penal Code.

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The Child Act contains certain protective measures, including Section 31 which sets out a specific offence for physical or emotional abuse, abandonment, neglect, or sexual abuse of a child—and Section 18, which allows for a child in need of protection to be taken into temporary custody by a police officer, an official from the Social Welfare Department (including the Director General or an appointed Social Welfare Officer), or another individual appointed by the Minister of Women, Family and Community Development.

The Child Act also established the National Council for Children, intended to be a multi-stakeholder body with supporting mechanisms to advise the government on all issues related to the care, protection, rehabilitation, development, and participation of children. The Council was tasked to meet at least twice a year; however, it is unclear whether the Council has continued to meet or carry out its mandate under the Child Act.

To support the promotion of children's human rights, with a particular focus on protection, civil society organisations have recommended that the government establish the position of a Commission for Children. Such Commission should be independent, and have the ability to receive individual complaints of violations of children's rights and conduct investigations.

Implementing Guidelines - Guidelines for the Hospital Management of Child Abuse and Neglect

In 2009, the *Guidelines for the Hospital Management of Child Abuse and Neglect*, which strive to implement components of the Child Act, were published by the Medical Development Division of the Ministry of Health.¹¹¹ The document aims to guide hospital staff involved in the care of abused children in their case management and reporting procedures and propounds a multi-agency and multi-disciplinary approach to handling child abuse cases.¹¹²

The inter-disciplinary teams established in hospitals are known as the SCAN (Suspected Child Abuse and Neglect) Team,¹¹³ and include paediatricians, gynaecologists, mental health professionals, accident and emergency staff,

¹¹¹"Guidelines for the Hospital Management of Child Abuse and Neglect." June 2009. Available at: <http://www.moh.gov.my/english.php/pages/view/117>

¹¹² Ibid, Page 8.

¹¹³ Ibid, Page 11-12.

forensic pathologists, nurses, and medical social workers who work closely with welfare officers and police officers.

According to the guidelines, hospitals are accountable for identification of abused children; diagnosis and documentation; provision of a safe environment while medical evaluation and social assessment are taking place; treatment of injuries and mental health assessment and/or counselling; creating a case management plan in consultation with JKM and the police prior to discharge of the child; and follow-up and review.¹¹⁴

Table 3 - Comparison of the UN CRC and Malaysia's Child Act

| CRC | Child Act |
|--|---|
| <u>Article 1:</u> A child is any human being that is below the age of 18 years | A child is defined as a person that is under the age of 18 years. |
| <u>Article 2:</u> The Convention applies to all children irrespective of their gender, race, religion or abilities. <u>Article 8:</u> Children have the right to an identity. | The State recognizes that all children are entitled to protection and assistance in all circumstances without any discrimination based on gender, race, language, religion or social orientation. |
| <u>Article 3:</u> A child's best interest is a priority while making decisions regarding children. | 'Best interests' are referenced throughout the Child Act, including: <u>Section 30(5):</u> The 'Court for Children' will always treat the child's best interest as the paramount consideration. |
| <u>Article 4:</u> States have the responsibility of making sure that all the rights of children are respected and protected. | The State acknowledges that a child's rights need to be safeguarded and protected. <u>Section 11:</u> 'Court for Children' will be created explicitly to hear, determining and disposing any charge involving children. |
| <u>Article 11:</u> The State must enforce measures to tackle the illicit transfer and non-return of children abroad. | <u>Section 43:</u> The State will take severe action against persons that are involved in the, prostitution, sexual slavery, selling & buying of children. <u>Section 48:</u> Unlawful transfer, possession, custody or control of a child is considered to be a severe crime. |
| <u>Article 12:</u> During any Judicial and Administrative proceedings, a child's opinion needs to be taken into consideration. | <u>Section 30(5):</u> The 'Court for Children' will always treat the child's best interest as the paramount consideration. |

¹¹⁴ Ibid, Page 14.

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|--|--|
| <u>Article 16:</u> Children have a right to privacy and confidentiality. | <u>Section 15:</u> When the media is reporting about a child, the identity of the child must remain private and confidential. |
| <u>Article 19:</u> The State must protect a child from all forms of physical or mental violence or neglect by parents or others | <u>Section 18:</u> A child will be taken into protective custody only when it is deemed that his/her environment is unsafe. <u>Section 20:</u> A Protector or Police Officer must take a child to a medical examiner if they feel that a child needs medical treatment. |
| <u>Article 20:</u> The State must give special care to Children that being deprived of a family environment. | <u>Section 39:</u> Any child needing protection can be rehabilitated to a 'refuge' if a Police Officer or Protector feels that a child is under threat. |
| <u>Article 25:</u> Children at local centres have the right to have their living arrangements reviewed regularly. | <u>Section 40 (4):</u> During a child's stay at a refuge, a social worker or protector will conduct supervised visits with the child. |

SEXUAL OFFENCES AGAINST CHILDREN ACT 2017

The Sexual Offences Against Children Act (SOAC) was passed by the Malaysian government in 2017. The SOAC is aimed at protecting children from sexual crimes and builds on the Child Act 2001.¹¹⁵ The SOAC covers a vast array of offenses against children such as child pornography, sexual grooming, physical and non-physical sexual assaults, abuse of a position of trust, and withholding information on sexual crimes against children.

Under the SOAC, when the victim or witness is a child, the child is always presumed to be competent to give evidence or a statement.¹¹⁶ Furthermore, the court has the discretion to convict a person of an offence based on the evidence provided by a child, even where uncorroborated.¹¹⁷ These provisions are both positive measures in ensuring non-discrimination against children and enabling children's ability to access justice.

Although the enactment of the SOAC is a significant positive step towards ensuring that children in Malaysia are protected from sexual crimes and that such crimes are prosecuted, it remains to be seen to what extent the law will be used to bring perpetrators of sexual crimes to justice. One gap in the protection of the SOAC is with regard to the issue of child marriage, which the SOAC does

¹¹⁵ Malay Mail Online. Minister: Sexual Offences Against Children Act 2017 to be enforced from July 10." 7 July 2017. Available at: <https://www.malaymail.com/s/1416041/minister-says-sexual-offences-against-children-act-2017-to-be-enforced-on-j>

¹¹⁶ "Sexual Offences Against Children Act 2017". Section 17

¹¹⁷ Ibid, Section 18.

not address; when two individuals are married (even where one is a child), having a sexual relationship will not fall within a crime under the SOAC.¹¹⁸

Implementing Guidelines - Garis Panduan Khas Untuk Mengendalikan Kes Kesalahan Seksual Terhadap Kanak-Kanak Di Malaysia

On 13 December 2017, the government launched the *Garis Panduan Khas untuk Mengendalikan Kes Kesalahan Seksual terhadap Kanak-Kanak di Malaysia* (Special Guidelines) to operationalise the Sexual Offences Against Children Act 2017.¹¹⁹ The guidelines articulate a multi-stakeholder approach to handling cases of sexual crimes against children, and deal with four main areas: 1) reporting and investigation, handled by the Sexual Crimes and Child Abuse Investigations Division (D11) of the police; 2) trial proceedings, handled by the Federal Court chief registrar; 3) handling of child victims and witnesses, by the prosecution division of the Attorney General's Chambers; and 4) protection and support for child victims and witnesses, handled by JKM.¹²⁰

LEGAL AID ACT 1971

The Legal Aid Act 1971 was amended in 2017 to provide for a legal companion for all child victims of criminal offences, to protect the legal interest of the child and be a comforting presence during court proceedings.

According to Section 29(I), the scope of the legal companion's services includes advising the guardian of a protected person on legal matters, obtaining and sharing information related to the charges against the accused, and accompanying the child to court and speaking on the child's behalf.

Please see Appendix 1 for a detailed chart of the available avenues for protection against and punishment of violence against children by a family member.

¹¹⁸ Yuan Benjamin Kho Jia. "Getting Down to Brass Tacks: The Ban on Child Marriage in Malaysia." *University of Malaya Law Review*. 10 October 2018. Available at: <https://www.umlawreview.com/lex-in-breve/getting-down-to-brass-tracks-the-ban-on-child-marriage-in-malaysia>

¹¹⁹ Malaysian Bar. "Circular No 022/2018." 22 January 2018. Available at: http://www.malaysianbar.org.my/index.php?option=com_docman&task=doc_view&gid=6343&Itemid=332

¹²⁰ New Straits Times. "Guide book on handling sexual crimes against children launched." 13 December 2017. Available at: <https://www.nst.com.my/news/nation/2017/12/314070/guide-book-handling-sexual-crimes-against-children-launched>

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Although the CRC, along with other international laws and domestic laws in Malaysia, articulate the rights of children, the reality is that children are often hindered in accessing justice.¹²¹ While access to justice is a human right in itself, it also provides the ability for an individual to seek redress for violations of their other rights.¹²² Upholding children's rights, as articulated in the CRC, not only means recognising these rights in law and policy, but systematically implementing them—along with the accompanying infrastructure and mechanisms—to ensure children can access them.

¹²¹ Child Rights International Network. "Access to justice for children." Available at: <https://home.crin.org/issues/access-to-justice>

¹²² Ibid.



Siva (Case 8) - "I like running, climbing trees, and playing hide-and-seek. I want to fly a helicopter one day."

WAO DATA ON DOMESTIC VIOLENCE AND CHILDREN

WAO runs a refuge, or crisis shelter, that provides a temporary home to 150-250 women and children each year and offers comprehensive support services. WAO also runs a child care centre (CCC), where children of women survivors may live or be cared for while their mothers get back on their feet. On the survivor's request, WAO cares for her children in the short-term, giving the survivor the time and support to viably re-establish a safe and independent life.

| Year | Number of sheltered women at WAO refuge | Number of sheltered children accompanying women in WAO refuge/CCC ¹²³ | Total number of children sheltered at WAO refuge/CCC who suffered abuse ¹²⁴ |
|------|---|--|--|
| 2017 | 63 | 81 | 55 |
| 2016 | 54 | 120 | 54 |

Table 4 – WAO 2016 and 2017 Statistics

The substantial number of children accompanying their mothers to WAO is indicative of the prevalence of children experiencing DV, in line with existing research in Malaysia and globally. As discussed earlier, 73% of women survivors surveyed as part of a 2014 study by KANITA reported that their children had seen or heard the violence in the household, while 42% reported that their children had witnessed some or almost all of the violent events.¹²⁵

Furthermore, the high percentage of children who had directly been abused out of those who came to WAO's shelter—45% and 68% in 2016 and 2017 respectively—is consistent with the significant academic research indicating that

¹²³ A DV survivor may not always bring all of her children to the shelter. Some of the reasons that women do not bring their children with them when seeking shelter include that they are unable to escape the abuse while bringing their children along, so they instead place the children in the care of family members or, alternatively, the father refused to leave the children with the mother.

¹²⁴ These children suffered some form of abuse, including physical abuse or sexual abuse, primarily by their fathers.

¹²⁵ Universiti Sains Malaysia's Centre for Research on Women and Gender (KANITA). "Executive Report: Summary of Findings. A Country Level Study of Women's Well-being and Domestic Violence Against Women (DVAW) Using WHO Multi-country Questionnaire." 2014.

children living with domestic violence are more likely to be directly abused themselves.^{126,127,128}

This data, along with the qualitative information presented through the case studies of children's experiences of DV, reinforces the need for a response to DV that is grounded in the rights of the child and puts the best interests of the child at the forefront.

WAO CHILD ASSESSMENTS

In an effort to better understand the impact of DV on child survivors, and to ensure that the programmes and services WAO provides to child survivors are meeting their needs, in 2018 WAO undertook an assessment of 36 child survivors who had experienced DV. The purpose of these assessments was to identify individual responses that were appropriate for that child, and to identify the underlying issues and resulting symptoms with which each child was dealing.

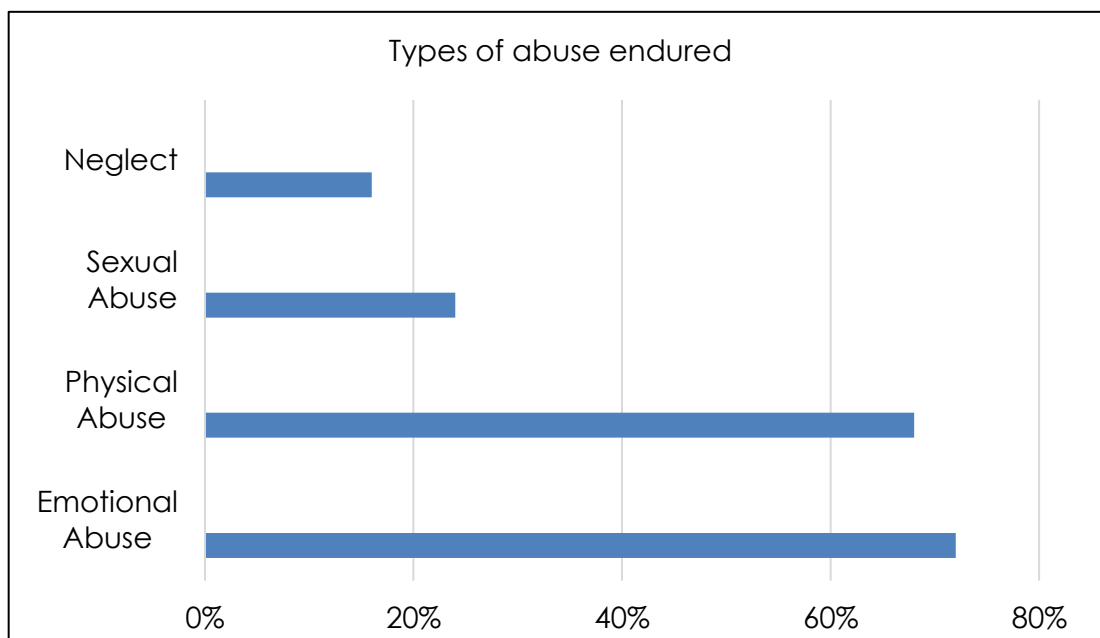


Chart 2 - Types of abuse endured by the 25 children out of the 36 assessed who were directly abused

¹²⁶ Ibid.

¹²⁷ Gustafsson, Hanna C. et al. (2014). "Family Violence and Children's Behavior Problems: Independent Contributions of Intimate Partner and Child-Directed Physical Aggression." *Journal of family violence* 29.7 (2014): 773–781. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4242526/>

¹²⁸ UNICEF. "Domestic violence against children." Available at: https://www.unicef.org/sowc07/docs/sowc07_panel_2_1.pdf

Although it is not always possible, ideally, an assessment such as the Child and Adolescent Needs and Strengths (CANS) assessment utilised by WAO, could be used by relevant stakeholders to identify the needs of each child survivor of DV to ascertain what form of response (such as art therapy, counselling, etc.) would be most effective for them.

The results of WAO’s assessments found that, among the symptoms of trauma most commonly experienced by the children assessed were hyperactivity; anxiety; sadness, depression, loneliness, and crying spells; and nightmares and recurring, disturbing memories.

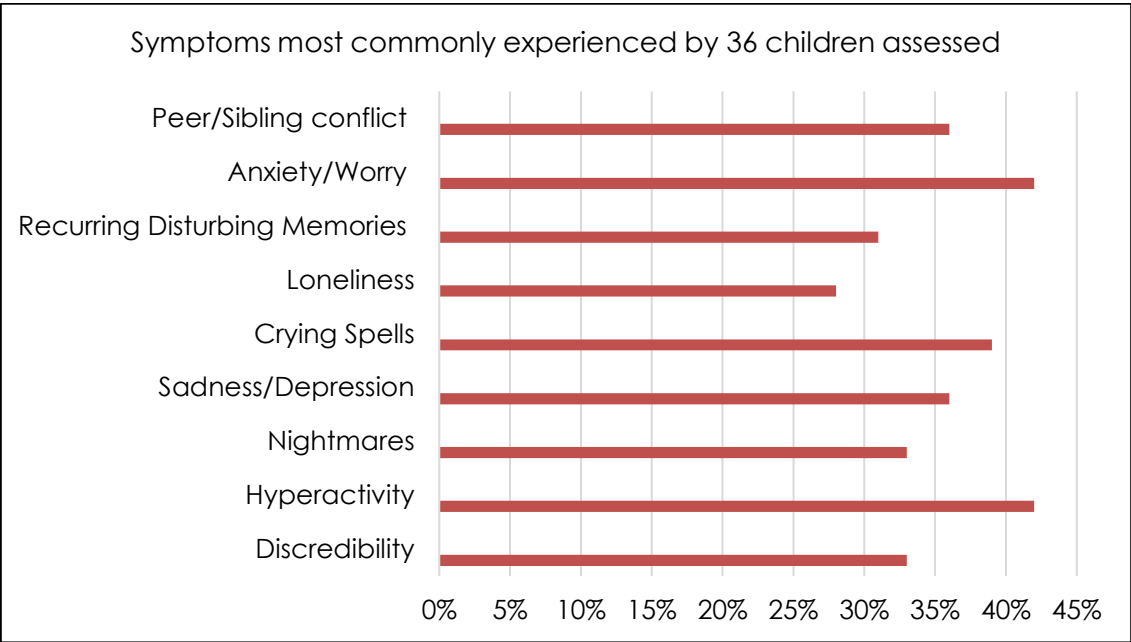


Chart 3 – Symptoms of trauma of child survivors of DV

These symptoms are consistent with the results of the KANITA study referenced earlier, which found that children who live in households with DV experience a higher rate of frequent nightmares, sucking their thumbs, wetting their bed, and being aggressive or very timid and withdrawn.



Haikal (Case 3) - "No, [I don't want to be like my dad]. He hit people, my mother never hit people."

HIGHLIGHTS FROM CASE STUDIES

The section after this one contains 21 case studies collected by WAO and other service providers. Each case study illustrates different aspects of the child survivor's experience of domestic violence, from the type of abuse endured, to the child's experience accessing protection and justice, to the interventions he or she received in the aftermath of the crisis.

This section of the report highlights critical points illustrated by the case studies. While the case studies are referenced in part here, the full case studies should be referred to for additional details and to understand the various complexities of each case. All names referred to below are pseudonyms, and any reference to the survivors' identities has been removed.

Indicated after each highlight are the child rights to which that highlight primarily relates, based on the four guiding principles of the CRC.

HIGHLIGHT 1 - SEXIST ATTITUDES OF AUTHORITIES AND FAMILY MEMBERS HINDER CHILD PROTECTION (Relevant CRC Rights: Right to Development, Right to Protection)

Both the mother-survivor and child-survivor are harmed by sexist, patriarchal, and misogynistic attitudes of family members and friends. These attitudes discourage the mother-survivor (and even the child survivor) from seeking help, and affect the quality and efficacy of response by police and other first responders. Children witnessing and experiencing DV may also absorb such attitudes, resulting in the perpetuation of harmful gender stereotypes and violence.

For example, in Cases 19 and 20, when Shreya and Vikram's mother sought support from her husband's family and even her own family, she was advised by both families not to provoke her husband, and that 'this is simply how men are.' The underlying message here is that 'wives and children should not upset their husband/father, who is the head of the household'. This response from the mother-survivor's family resulted in her not having the necessary support system to leave the abusive situation sooner, meaning that the children were also subjected to the violence and exposed to the abusive situation for longer.

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Perhaps even more dangerous is when patriarchal and misogynistic attitudes are perpetuated by authorities, such as the police. In Case 14 (2016), despite the egregious sexual abuse Zarah (16) was subjected to by her father, and the fact that this abuse constitutes a criminal act under the DVA and SOAC, the initial reaction of the police was that Zarah's father had not done anything wrong. This reaction indicates extremely patriarchal norms that result in women's and girl's bodies being viewed as the property of men, including their husbands and fathers.

Unfortunately, the patriarchal and misogynistic attitudes—whether towards the mother or the child—are sometimes absorbed by the children who then normalise treating women and girls as inferior to men. This may be evident through the differing reactions to DV of boys and girls. In Case 8, while Jaya (13) (the oldest child and only daughter) saw her father's abuse of her mother as wrong, her brothers Yogesh (12) and Siva (10) seem to have normalised some of this behaviour, not necessarily viewing hitting as abuse. They also unknowingly exhibited certain patriarchal and misogynistic attitudes, such as questioning their mother for dressing up, or their sister for speaking on the phone to a boy. Such reactions emphasise the importance of interventions that teach children about gender and help children unlearn certain harmful stereotypes and attitudes that they may have inherited through witnessing and experiencing DV.

HIGHLIGHT 2 - TEACHERS AND SCHOOLS PLAY A CRITICAL ROLE IN DETECTING AND REPORTING ABUSE AND MUST BE TRAINED TO UNDERSTAND THEIR RESPONSIBILITY

(Relevant CRC Rights: Right to Development, Right to Protection)

Due to the daily nature of schooling, schools and teachers are in a prime position to identify abuse and report it to the relevant authorities. This is even more the case since teachers who are exposed to their students regularly may be able to detect changes in their behaviour, moods, attendance, and academic performance, which can result as they cope with violence at home.

Although teachers do not strictly have an obligation under the law to report DV (unless it is child sexual abuse, which overlaps with DV when perpetrated by a family member), schools play a vital role in early intervention as they have the authority to inform the welfare department (JKM) and the police about suspected abuse of a student.

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In Case 1 (2018), the school was aware that the parents were fighting because Amelia (14) had explained her home situation to her teachers when asked about her rapidly falling grades. Instead of alerting the welfare department or arranging counselling for Amelia, the school called Amelia's mother and asked her to stop fighting with her husband as 'her daughter's results are dropping.' They made no further inquiries into the severity of the situation. In Case 2 (2018), when Diana (15) stopped going to school for several months, her teachers did not inquire as to why, and hence did not discover that Diana was being abused.

Even a small intervention by a teacher can result in the abuse being stopped. Such interventions are in the best interest of the child where the teacher suspects that the child is being subjected to DV at home. For example, in Case 13 (2016), Jasmine (17) and Laila's (16) teacher acted in the girls' best interest by seeking assistance from an NGO on their behalf. This resulted in the sexual abuse experienced by both girls being revealed and reported to JKM, and in their father being sent to jail.

In Case 21, Victoria's life could have changed significantly had one of her teachers decided to report the abuse she was experiencing at home to JKM. Although some of her teachers learned about her situation at home, and one of them even asked Victoria if she wanted to leave home and stay somewhere else, none of the teachers reported the abuse to JKM, which could have resulted in Victoria being removed from the abusive household. Although these teachers may have felt conflicted about taking such action on their own, adults who are in a position of authority have the ability—and indeed a responsibility—to help children who are in a dangerous situation and may be too afraid or emotionally conflicted to ask for help. Had the school been equipped with counsellors, they might have been better able to advise Victoria. Although participation of children in decisions impacting them is a key principle of child rights, this participation must be balanced against factors that relate to protection of the child, such as whether they are safe at home.

Schools also play a critical role after the abuse has already been reported and the child survivor and mother-survivor have left the abusive home. For example, in Case 7 (2018), there was a period of time where the IPO had lapsed and the girls' mother had not yet been able to apply for a PO; the children's father went to Laurel's (6) kindergarten with her birth certificate to try to take her out of school, but the kindergarten refused to let him in. Similarly, he also went to Rachel's (10) school with his friend, but Rachel saw them and immediately informed her teacher, who helped to hide Rachel. This demonstrates the

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importance of teachers understanding the critical role they play in protecting children, and of upholding the best interests of the child even when the teacher may feel conflicted or uncomfortable in doing so (e.g. refusing to let a child leave the school with a parent who is a known perpetrator, even when the perpetrator has the child's documentation and becomes angry or aggressive).

HIGHLIGHT 3 - CHILD-SENSITIVE PROCEDURES INCLUDING INTERVIEWING AT THE CIC AND PROMPT INVESTIGATION—ESPECIALLY WHERE THERE ARE ALLEGATIONS OF CHILD ABUSE—ARE IN THE CHILD'S BEST INTERESTS (Relevant CRC Rights: Right to Participation, Right to Protection)

Survivors of DV often turn to the police first for help in reporting abuse or escaping abusive situations. The duties and responsibilities of the police and other first responders to DV are outlined in the *Garis Panduan Pengendalian Kes Keganasan Rumah Tangga*. This document also emphasises the need for first responders to prioritise the welfare of victims, including their safety and comfort in providing assistance or services. Similarly, the guidelines on handling child sexual abuse cases articulate the duties of the police in investigating cases of child sexual abuse, including by family members.

Part of prioritising the welfare of survivors—as well as the best interests of child survivors—means conducting any necessary interviews in a child-friendly manner; the establishment of Child Interview Centres (CIC) was an important step taken by the police towards prioritising the welfare of child survivors. The CIC is a police facility—a house equipped with an outdoor playground, a kitchen, and a playroom—designed to be a friendly environment to make children more comfortable. All police interviews of children should be conducted in the CIC.

Interviewing children in an environment that is less intimidating and more comfortable, such as the CIC, facilitates a child's right to participation to share their experience of DV. This helps the criminal case proceedings and also helps children recognise their experience and recover from their trauma. It also presents an opportunity for the child to speak about additional details of the abuse that may not even be known to the mother-survivor.

In Case 7 (2018), the Investigating Officer (IO) required Bella (the mother-survivor) to bring her daughter, Rachel (10), to the police station to give her statement—although the WAO social worker did remind the IO that Rachel's statement could be taken at the CIC. When Bella and the WAO social worker took Rachel to the

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police station, the IO asked Rachel some questions regarding the physical abuse she had experienced, and then said she would take Rachel's statement again at the CIC next week. Making a child go through two sets of questioning, including one at the police station, which is not a child-friendly setting, can be intimidating and traumatic for a child.

Furthermore, it is critical to the child's safety and mental well-being that the police promptly investigate DV cases, especially where there are allegations of child abuse. In Case 5 (2018), even five months after Shereen (the mother-survivor) had lodged police reports, the investigation had not been completed, and nor had JKM been informed by the police about the case. Cases related to DV and child sexual abuse should not be prolonged over several months, and should be immediately referred to JKM where the child's welfare is at risk.

Delays to investigation of DV cases—whether the child is experiencing DV themselves or witnessing it—can result in additional uncertainty and upheaval in the child's life. For example, while the case is pending investigation, there may be uncertainty as to where the child will live, which parent has custody of the child, and where and whether at all the child can attend school.

HIGHLIGHT 4 – CHILDREN OFTEN REACT AND RESPOND TO DOMESTIC VIOLENCE DIFFERENTLY DEPENDING ON GENDER (Relevant CRC Rights: Right to Development, Right to Participation)

As demonstrated by Shreya and Vikram in Cases 19 and 20, the type of abuse that each child endured from their father differed widely. While their father never hit Shreya, the daughter, he was extremely physically violent with Vikram, the son. Likely in part due to the type of abuse they each endured, Shreya and Vikram's reactions to the abuse also differed significantly. While Shreya was more defiant of her father and frequently intervened in her father's abuse of her mother, Vikram was much more afraid of his father and actively tried to avoid being near him. Vikram himself felt that he had started to mirror some of his father's aggressive tendencies, while Shreya challenged them and was able to be more vocal in encouraging her mother to leave the abusive situation.

In some cases, girls (particularly where they are among the oldest of the children) take on a supportive or caregiving roles, comforting their mothers or even intervening in the abuse, and looking after their siblings both while living in the abusive home and afterwards. While Shreya in Case 19 frequently took on the

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role of comforting her mother and protecting both her mother and brother, Melissa (13) in Case 1 took on the role of caretaker to her younger siblings, putting her own needs aside.

These examples demonstrate some of the potential differing impacts on the child's participation in DV based on gender—while in some cases daughters may be more vocal in protecting their mothers or encouraging them to leave the abusive situation, in other cases where the daughters take on caretaker roles, they may have be less vocal about their own feelings related to the DV, and put their own needs aside to prioritise the feelings of their mother or their siblings.

The reactions and coping mechanisms of boys and girls can also vary significantly. In Case 18, when Rose was in her teens, she would go out with friends and smoke and drink in order to escape the situation at home, and in her mid-teens she started engaging in self-harm in the form of cutting. As an adult, Rose found herself in an abusive relationship with a boyfriend who had an extremely violent temper, but although Rose knew his actions and reactions crossed the line, she felt stuck and didn't know how to get out of the relationship.

In contrast, Rose's brother would isolate himself in his room and listen to angry music. He was socially withdrawn and didn't have many friends, and he would sometimes be aggressive and abusive towards his sister. He collected weapons and, when he was older, became zealous about working out. As an adult, Rose's brother found a partner and married; although Rose believes her brother is happier and more open because of his wife, she also feels that her brother is codependent, in that he relies on his wife to meet all of his emotional and self-esteem needs.

HIGHLIGHT 5 - IPO/PO IS AN IMPORTANT TOOL TO PROTECT CHILDREN, BUT SOME OFFICERS ARE RELUCTANT TO INCLUDE CHILDREN IN THE ORDERS (Relevant CRC Rights: Right to Protection, Right to Survival)

In Case 6 (2018), when Hannah—the mother-survivor—was finally called in by the IO to give her statement and to get a referral letter for an IPO, the IO declined to include the girls' names in the IPO because the girls were with their father. Only after the intervention of WAO and a lawyer did the IO finally give a referral letter for an IPO that included Lin (11) and Shan (4) and take the girls' statement in the Child Interview Centre (CIC).

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In Case 7 (2018), the IO was initially reluctant to include the children's names in the referral letter for the IPO, and only did so at the urging of the WAO social worker, despite the fact that Bella had raised concerns over her children's safety in her second police report. Subsequently, JKM officer refused to include the children's names in the IPO, stating that they were not the victims, even though they had witnessed the abuse. Such response disregards both the trauma experienced by children from witnessing DV, as well as the risk to their safety without having protection from the perpetrator. When Bella finally appeared before the Magistrate to argue for inclusion of the children in the IPO, the Magistrate acknowledged that the children were abused by their father, but noted that Bella had not lodged a police report on these incidents. However, on the basis of the context of DV provided in the police reports and additional testimony provided by Bella, the Magistrate judge granted an IPO, which included the children. This recognition by the Magistrate judge of the risk of harm to the children demonstrates a child-centred approach to handling DV cases that puts the best interests of the child first.

Where an IPO is granted but does not include the children, or is not granted at all, the children are left exposed to danger of further abuse, or even kidnapping by the perpetrator. Case 9 (2018) illustrates the risk that results from the DVA not extending to intimate partners—including to partners who live together or have a child together. Because Caroline was not married to Li Jun's (3) father, the police refused to issue an IPO for Caroline or Li Jun. This is despite the fact that Caroline filed several police reports including on the actual harm to Li Jun after an outing with his father, as well as the risk of harm to him resulting from his father's harassment and abuse of Caroline.

In Case 8 (2018), after Katrina—the mother-survivor—filed a police report, the IO refused to give a referral letter for an IPO and designated the case as “No Further Action,” deciding the matter was not serious. With WAO's intervention, the case was reopened, and an IPO issued for Katrina and the children.

While it is positive that in many cases the police or JKM officer eventually agree to include the child survivors in the IPO or PO, such action should be made regular practice in cases of DV involving children, whether they have witnessed or directly experienced abuse. Such an SOP would uphold the best interests of the child, including their protection.

HIGHLIGHT 6 – ENSURING THE CHILD’S PARTICIPATION—AND THE CHILD’S BEST INTERESTS—IN DECISION-MAKING IS CRITICAL TO THE CHILD’S ABILITY TO ACCESS JUSTICE (Relevant CRC Rights: Right to Participation, Right to Protection)

Accessing justice and going through the legal system can be daunting for any survivor of DV, let alone for a child survivor. The legal system—from judges to DPPs, to defence counsels, to the courtrooms themselves—must take into account the best interests of the child and adopt practices and procedures that are consistent with such an approach.

For example, a judge hearing a custody matter and evaluating which parent should be given custody of the child must take into consideration the child’s own views where this is possible. However, in certain cases, such as where the child is very young and cannot vocalise her own wishes, the judge must, at the very least, look at the circumstances of the case and make an assessment which prioritises the child’s protection.

In Case 5, the court should not have placed Anya (2) in the custody of her father while Shereen’s complaints were being investigated, as this put her at risk of being subjected to further abuse. In this instance, Shereen had specifically lodged a police report on child sexual abuse after her husband masturbated in her daughter’s presence. However, even in cases where a police report is lodged and does not contain specific allegations of abuse of the child—but where the child is exposed to the abusive environment and witnesses abuse—the court must err on the side of caution and grant interim custody to the non-abusing parent while the reports are being investigated.

Similarly, in Case 6, Hannah was able to have the order setting aside the IPO reversed, but the judge allowed Hannah’s husband to meet Lin (11) and Shan (4) one more time in the court’s presence. This decision went against the children’s best interests and is completely unjustified in a case where there is documented DV, and particularly where the subject of the court’s decision is an IPO that also included the children and was wrongly overturned.

Part of ensuring that the legal system is accessible and sensitive to child survivors is to ensure adequate facilities are in place for children, such as a separate witness room to protect the child from having to see and interact with the

perpetrator, and a protective screen behind which the child can testify. In Case 7, at Bella's husband's DV trial, there was no witness room for Bella and Rachel to wait, so the DPP allowed them to wait in the police room until the case started, demonstrating sensitivity to the fact that a mother-survivor and child survivor of DV may be exposed to further trauma by having to see the perpetrator-husband/father.

Another aspect of ensuring the best interests of the child are upheld by the court system is expediency in hearing DV cases where there are children involved. In Case 7, Bella's husband's DV trial took place ten months after Bella had lodged the police report, and after six case mentions and case managements. Prolonging cases for such a period of time can result in the child having to deal with uncertain circumstances, such as where and with which parent they are going to live, and where they are going to attend school.

HIGHLIGHT 7 – THE WELFARE OF CHILD SURVIVORS MAY BE COMPROMISED WHERE SCHOOL TRANSFERS ARE HINDERED OR DELAYED (Relevant CRC Rights: Right to Development, Right to Protection)

Currently, there is no uniform policy around the transfer of a child's school in the event of DV. The lack of such a policy to mandate the responsibilities of key stakeholders causes uncertainty, particularly on the part of schools, as to what measures they should take. This has led to individual discretion being applied in DV cases, with the outcomes tending to favour the perpetrator of the abuse and causing harm to survivors of DV, including children.

In Case 7 (2018), when Bella attempted to transfer the children to a school in the area where she and the children were staying with her sister, the school refused to assist with the transfer without Bella's husband's permission or a custody order. However, the school later agreed to complete the transfer when Bella returned with the IPO including the children, emphasising the importance of including the children in the IPO where they have witnessed or experienced DV, and of a unified policy on handling school transfers requested by a mother-survivor with the provision of a recent police report or IPO.

Similarly, in Case 8, Katrina and her WAO social worker were able to use the IPO to have Jaya (13) and Siva (10) transferred to new schools and also secure the police's assistance to retrieve the children's books from their home where her husband was still living.

HIGHLIGHT 8 – A THOROUGH INVESTIGATION AND ASSESSMENT, BASED ON THE BEST INTERESTS OF THE CHILD, ARE NECESSARY TO DETERMINE WHERE THE CHILD SHOULD RESIDE (Relevant CRC Rights: Right to Protection, Right to Survival)

Where neither parent is looking after the child's best interest, or the parent not actively engaged in the abuse of the child remains silent about it, removing the child from the abusive home should be considered. The assessment of the risk to the child's safety must be weighed against the preference to keep the child at home, and not in an institution.

In Case 16 (2013), as part of the evidence collection during the police and JKM's investigation of the abuse of the child by the mother, the NGO social worker visited Lily's (9) home and discovered it was crammed and overcrowded with Lily's brothers and sisters. Due to poor maintenance, the house had an odour and was largely unkempt. During this investigation, the social worker learned that Lily's family was financially unstable and had faced many financial issues in the past. Despite JKM's quick actions to relocate Lily, the other five children—who may have also been subjected to abuse or neglect given the living conditions—were left to live continue living with their mother. It is unclear whether this decision was reached after a thorough investigation that took into account the best interests of the child, with particular attention to their survival and development.

In Case 13 (2016), despite the mother remaining silent and allowing the sexual abuse of her two daughters to continue (and where there was no indication that the mother herself was being abused), her four-year-old son was left in her care. It is unclear whether a thorough assessment of the risk to the child's safety and wellbeing was conducted in making the assessment to leave the son in his mother's care.

HIGHLIGHT 9 - CHILDREN OF FOREIGN SPOUSES AND REFUGEES, ALONG WITH UNREGISTERED CHILDREN, ARE OFTEN MORE VULNERABLE TO ABUSE (Relevant CRC Rights: Right to Development, Right to Protection)

Often, survivors of DV who are foreign wives married to Malaysian men, Malaysian women married to foreign citizens, refugees, or stateless as a result of not being registered face additional difficulties. These difficulties not only impact

the mother-survivor, but the child survivor as well, impacting their right to a life free from violence, their right to an education, and their right to health.

For example, non-citizen wives of Malaysian men are dependent on their husbands to renew their visas, legally work, open bank accounts, and access financial credit. Non-citizen wives are thus more vulnerable to abuse and social isolation, and face more obstacles to get help. As a result, a non-citizen wife in an abusive situation may find it more difficult to leave, which means that her children will continue to experience or witness violence at home.

In Case 3, Aishah was a foreigner in Malaysia whose husband refused to renew her spousal visa and, as a result, she was entirely dependent on him and lived in fear of being arrested. As a result of this, Aishah did not know where she or her children could turn for help. Furthermore, Aishah's husband also refused to apply for important documents for the children, which resulted in Aishah's eldest daughter, Joyah (11), being out of school for more than two years. Such a situation fails to uphold the best interest of the child and must be addressed through policy reform, given how critical schooling is to a child's development, as well as to their ability to cope with the trauma of DV.

The children of foreign wives married to Malaysian husbands are also left vulnerable in situations of DV. This is in part because, even where the foreign wife has a marriage certificate to prove that she and her Malaysian husband are legally married, her husband is still required to be present or provide his original IC for the child to be registered as a Malaysian citizen. Without the child being registered as a Malaysian citizen, their access to education and health services is limited. A similar outcome also results for the children of parents who are stateless and do not have documentation despite being born and raised in Malaysia. This is also the case for women who marry in customary ceremonies and do not legally register their marriages; the children of these women will be considered to be born out of wedlock and also remain stateless.¹²⁹

The children of foreign women in Malaysia may also be more vulnerable to DV due to a lack of available protection and resources. In Case 6, after Hannah made a police report of DV and sought assistance from her country's embassy

¹²⁹ "CEDAW and Malaysia: Malaysian Non-Government Organisations' Alternative Report Assessing the Government's Progress in Implementing The United Nations Convention On The Elimination Of All Forms Of Discrimination Against Women (CEDAW)." Women's Aid Organisation. April 2012. Available at: <https://wao.org.my/wp-content/uploads/2018/08/Malaysian-NGO-CEDAW-Alternative-Report-2012.pdf>

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in Malaysia, she was told to withdraw the report, as it was a 'family matter.' Such a response by diplomatic missions to their own citizens is not only harmful to mother-survivors, but also to child survivors whose physical and mental well-being are put at risk by DV.

The children of foreign mothers may also be at increased risk of the abuse continuing unchecked. For example, in Case 12, Intan's (6) mother was aware of the sexual abuse Intan was experiencing but chose to remain silent, as she did not want a police report to be lodged against Intan's stepfather. Although the exact reason for Intan's mother's refusal to intervene is unknown, it is likely that one reason was her status as an undocumented immigrant. Thus, if Intan's mother had gone to the police to make a report against her husband, she would have been at risk of being detained. In addition, Intan's mother was hesitant to leave her husband, as she and her children were financially dependent on him since she could not work legally.

Such a situation is indicative of the grave implications for children that result from policies that discriminate against foreign spouses in Malaysia.

HIGHLIGHT 10 – HOSPITALS AND MEDICAL PERSONNEL PLAY AN IMPORTANT ROLE IN REPORTING ABUSE AND RESPONDING TO CHILD SURVIVORS (Relevant CRC Right: Right to Protection)

Hospitals and medical personnel who treat injuries of children must be vigilant in identifying potential child abuse and implement child-sensitive policies and procedures. Where the circumstances surrounding how a child was injured are dubious, or the medical personnel identifies scars or other signs of potential abuse, they must take the initiative to speak with the child privately—away from their parents—to ask how they got these injuries and if they need help.

In Case 1, after getting badly beaten and injured by her husband, Kate was taken to the hospital by an ambulance. Scared and intimidated by her husband, she lied to hospital staff and stated that she had fallen off a motorbike. Although the paramedics had found her in the house with blood all over the floor and injuries that were unlikely to arise from a motor accident, they did not follow up on the likelihood that this was caused by her husband's violence. Despite the severity of the injuries, the hospital did not seem to engage in any sort of due diligence to assess the on-going risk to Kate (the mother-survivor), and whether

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she had children at home who may have also been at risk. The hospital staff even allowed the husband to take her back home from the hospital.

In Case 2, Diana (15) and her mother were both injured after a violent incident, and Diana had to spend a week in the hospital to treat serious swelling on her head after her stepfather beat her with a plastic container until it broke. The hospital personnel referred Diana and her mother to WAO, and, subsequent to this, they were able to get shelter and obtain an IPO against Diana's stepfather.

Similarly, in Case 9, when Li Jun (3) went out with his father and returned with injuries, his mother Caroline made a police report and was asked to take Li Jun to the nearest hospital, as the case was classified as child abuse. This classification triggered certain protocols in accordance with the MOH Guidelines for the Hospital Management of Child Abuse and Neglect, including the SCAN team performing a full assessment on Li Jun, during which Li Jun's father was not permitted to be present. Such inter-agency cooperation between the police and the hospitals serves as a good example of an effective and child-sensitive response to DV.

HIGHLIGHT 11 - INTERVENTIONS SUCH AS COUNSELLING, PLAY THERAPY, AND HOME-SCHOOLING ARE CRITICAL TO CHILD SURVIVORS' ABILITY TO COPE WITH TRAUMA
(Relevant CRC Rights: Right to Development, Right to Participation)

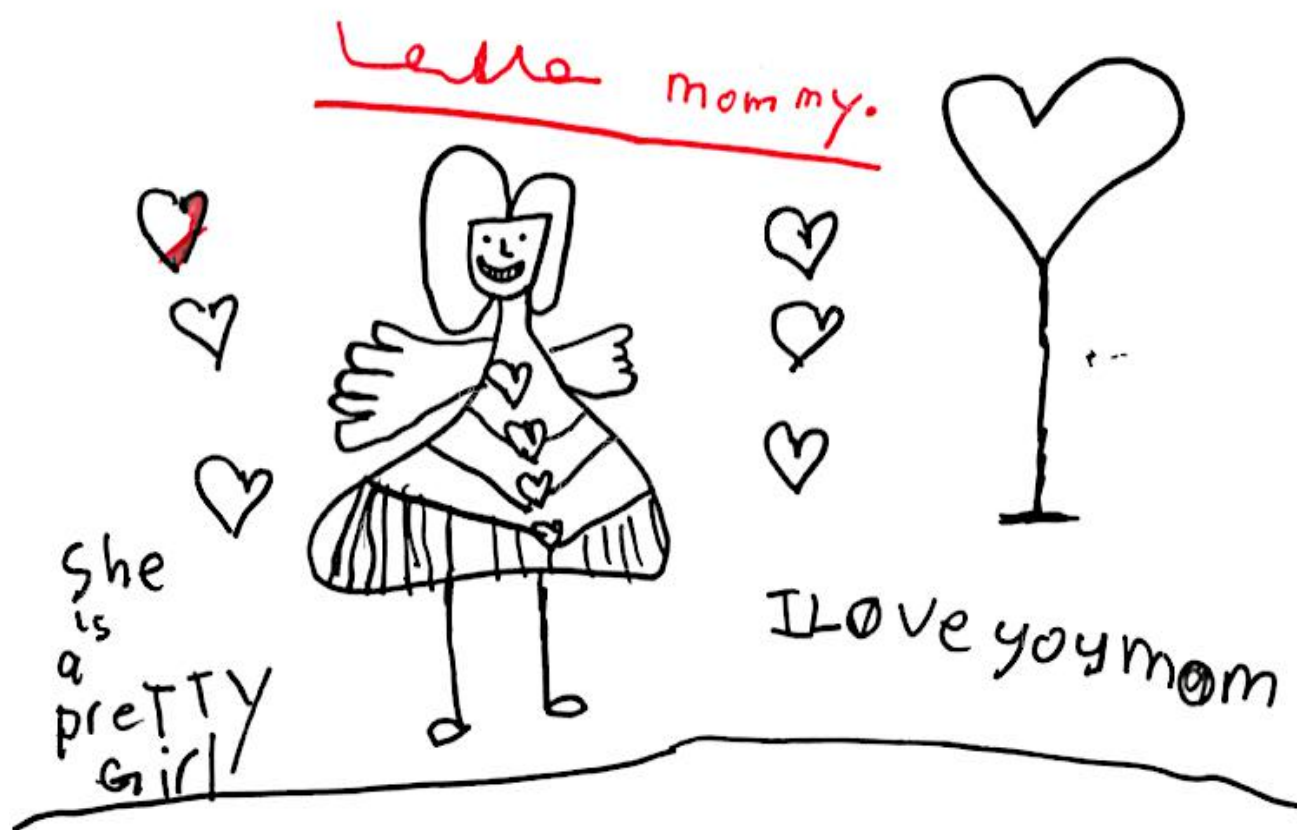
Substantial research supports the effectiveness of various interventions in helping children recover from the trauma of DV—particularly interventions that emphasise child participation. In Case 9, Li Jun (3) experienced disturbances to his sleep and delays in his speech, indicative of the impact DV can have even on babies and toddlers who witness it. With interventions including counselling and home-schooling, Li Jun has begun to speak and actively engages with other children.

In Case 1, two of the children, Amelia (14) and Kevin (10), exhibited a lot of built-up anger and aggression towards their siblings and mother. Kevin would sometimes pull his sisters' hair and kick their backsides if they didn't listen to him, while Amelia began suddenly and drastically underperforming in school. Amelia, Kevin, and their other two siblings attended play therapy, counselling, and psychological assessments at WAO, which helped them recover and release their suppressed feelings. It is also of note that the children's father had grown up in an abusive household, supporting the notion that, without proper

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intervention and response, domestic violence can sometimes have inter-generational consequences.

As Case 8 discusses, Jaya (13), Yogesh (12), and Siva (10) all displayed certain aggressive tendencies when they first arrived at WAO's shelter, especially the two boys. They had always deemed hitting each other as acceptable, as they grew up seeing that. Even their mother, Katrina, usually found it difficult to discipline her children without resorting to hitting. At WAO, the three children received counselling, and also attended a gender awareness programme, while their mother joined a parenting support group. These initiatives have helped improve the relationship between Katrina and the children.

Interventions such as counselling, play therapy, and home-schooling are not only important to the ability of the child to recover from the trauma of DV, but may also bring to light abuse that was not previously revealed. In Case 12, it was upon participating in a play therapy session that Intan's (6) social worker learned her stepfather had sexually abused her.



Jennifer (Case 4) - "I feel angry because he (my father) hits me and my brother."

CASE STUDIES

The survivors whose case studies are included in this report bravely agreed to share their stories, with the hope of educating the community and improving public policies relating to child survivors of DV. All identifying information of these survivors has been removed and their names changed to protect their identities.

Where both the mother and the child consented, interviews were conducted with the child survivor. These interviews were conducted by counsellor trainees and clinical psychology trainees from Science of Life Studies 24/7 (SOLS). Where available, excerpts from the interviews are included below the corresponding case study to help the reader examine the child's experience through their own words.

WAO CASE STUDIES - ABUSE OR EXPOSURE OF CHILDREN TO DV PERPETRATED BY FATHER WHERE MOTHER WAS ALSO ABUSED

CASE 1 (2018) – AMELIA, MELISSA, KEVIN, MICHELLE

Amelia (14), Melissa (13), Kevin (10), and Michelle (9) are three sisters and one brother who were physically abused by their father. Their mother, Kate, was also subjected to the violence. She was married to the children's father for 15 years and had experienced domestic violence since the start of their marriage.

The four children had been born into the violence and experienced it since they were infants. They grew up in constant fear, as their father would beat them with a rubber hose and cane them whenever he felt that their academic performance was unsatisfactory. The children's father was often under the influence of alcohol.

The children also witnessed the abuse their father inflicted upon their mother. This included beating her with a wooden stick, slamming her against the wall, kicking her, and punching her. The most severe incident left the children's mother with a broken jaw, which required almost daily hospital visits for two weeks so that she could be fed through a tube. During the beating, the children witnessed their

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mother vomiting blood as a result of a concussion and damage to her brain; she now has memory issues as a result of the injury sustained. The children's father would also verbally abuse Kate in front of them, telling her that if she left him she would never be a capable mother, and that the children would end up living on the streets. He would also use disparaging language towards the children.

The children shared that, whenever the abuse occurred, they would blame themselves and wonder whether they had done something wrong. They often felt helpless and sad that they were unable to help their mother, and were simultaneously angry and fearful of their father. Furthermore, there were days when their father would behave normally and lovingly, and other days where he had violent outbursts and became aggressive, which was very confusing for the children.

Kate had attempted to escape home with all four children several times, but whenever they left and sought refuge, the husband would find them and convince them to come back home with him, promising to stop his abusive behaviour. There would then be a brief 'honeymoon period' upon their return before the cycle of abuse began again.

It was difficult for Kate and the children to permanently escape the abusive situation as Kate's support network was small, and she was both financially and emotionally dependent on her husband, since he did not allow her to work. Kate also received little to no support from other family members, and she feared for the future of her children if she left her husband, worrying that by leaving home she would 'put her children on the street.' Amelia (14), Melissa (13), and Kevin (10) were always against returning home with their father, but Michelle (9) would sometimes miss their home and father.

During the ordeal, the children's mother was only in contact with the police and JKM. After seeking shelter at WAO, Kate tried to obtain an IPO, but the police officers involved could not fully comprehend the severity of the family's situation. The social worker's involvement finally led to JKM assisting Kate and the children in obtaining an IPO against the father.

Upon meeting their WAO social worker for the first time, the children could not maintain eye contact, and it took a long time for the social worker to earn their trust. Amelia, the eldest child, and Kevin, the 10 year-old boy, exhibited a lot of built-up anger and aggression towards their siblings and even towards their mother. They would sometimes mimic the words their father had used against

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their mother. Kevin also adopted certain aggressive behaviours, such as pulling his sisters' hair and kicking their backsides whenever they refused to listen.

The other two children, Melissa (13) and Michelle (9), became more withdrawn and quiet. Melissa began to take on a caretaker role; she took full responsibility of her siblings, disregarding her own needs and wants as a young teen. Amelia (14), who used to excel as a student, began suddenly and drastically underperforming in school. The other children's grades lowered gradually as well.

Kate and the children now live on their own. The children are reported to be doing well. All four of them have been described as bright students - they have been excelling academically and are very involved in co-curricular school activities. Two of the children became prefects in their new school and secured a place in the top-performing class. All of the children have started to show more of an interest towards their studies and their grades have been improving.

Though the children did not need medical treatment, they attended play therapy, counselling, and psychological assessments at WAO, which helped them recover and release their suppressed feelings. The children are still receiving counselling due to the stress inflicted from their past experiences.

Remarks:

- Early interventions by extended family members, neighbours, teachers, or medical personnel attending to Kate's injuries could have significantly helped the family.
- The school was aware that the parents were fighting because Amelia (14) had explained her home situation to her teachers when asked about her rapidly falling grades. Instead of alerting the welfare department or arranging counselling for Amelia, the school called Amelia's mother and asked her to stop fighting with her husband as 'her daughter's results are dropping.' They made no further inquiries into the severity of the situation.
- After getting badly beaten and injured by her husband, the children's mother was taken to the hospital by an ambulance. The mother, scared and intimidated by her husband, lied to hospital staff and stated that she had fallen off a motorbike. Although the paramedics had found her in the house with blood all over the floor and injuries that were unlikely to arise from a motor accident, they did not follow up on the likelihood that this was caused by her husband's violence. The hospital staff even allowed the children's father to take his wife back home from the hospital.
- The IPO Kate obtained also included the four children.

- The children's father had grown up in an abusive household, supporting the notion that—without proper intervention and response, domestic violence can have inter-generational consequences.

CASE 2 (2018) – DIANA

Diana is a 15-year-old student who was abused by her stepfather for six years. Her stepfather was similarly abusive with Diana's mother. The violence started when Diana was nine, after her father passed away and her mother remarried. The physical, psychological, and social abuse would occur a few times a week.

Diana's stepfather would throw objects at Diana or hit her, sometimes with household objects. He would also throw her against the wall, resulting in bruises on her hips, hands and backside. Diana's stepfather was also very controlling and did not allow her to go to school for four months. Diana recalled feeling very sad and helpless during the course of the abuse, grieving the loss of her father while also harbouring a lot of anger and confusion towards her stepfather, as she could not understand the motivation for his abuse.

Diana also witnessed the abuse her stepfather inflicted upon her mother. Diana's mother suffered physical abuse from her husband, who would punch, kick, and throw objects at her. During one incident, Diana's stepfather stepped on her mother's fingers until they were broken. Diana's stepfather would insult and curse her mother, accusing her of being a prostitute and a 'useless' woman, among other abuses. Both Diana and her mother were forbidden from going out, and from seeing or talking to anyone.

On one occasion, Diana and her mother escaped their house and stayed with a relative. However, Diana's mother decided to return to her husband, as she felt helpless without him and believed that he would change. At one stage, Diana's mother even sought a divorce through the Syariah Court, but was unsuccessful. The Syariah Court would not grant her divorce application as there were no medical records or police records indicating any signs of abuse.

The last incident of violence resulted in both Diana and her mother being hospitalised. Diana had serious swelling on her head after her stepfather beat her with a plastic container until it broke and had to spend a week in the hospital. Diana and her mother finally sought refuge at WAO which was able to help them obtain an IPO against the stepfather. Diana engaged in play therapy organised

by WAO and finally resumed schooling after transferring to a different school. These big transitions overwhelmed Diana at first as they occurred very quickly.

Diana's frequent experiences of abuse made her withdrawn and reserved. She had a lot of internalised and suppressed emotional pain, which made her unable to fully express herself and lack confidence. However, after moving to WAO's shelter, Diana was surrounded by a consistent support network, as well as new friends.

Remarks:

- Schools play a vital role in early intervention as they can inform the welfare department (JKM) and the police about suspected abuse of a student. When Diana stopped going to school for several months, her teachers did not inquire why, and hence did not discover that Diana was being abused.
- More effort is needed to spread public awareness on the resources and help available for victims of domestic violence. In this case, Diana and her mother had been completely unaware of how they could seek help and leave the abusive environment, and so had remained trapped in their violent home.
- The police did not take action until the social worker strongly insisted that the police act upon the IPO in place. More training is required for the police to understand how to handle such sensitive cases.
- Diana's mother was extremely terrified and fearful of her husband to the point where she was not able to fully consider her child's needs and feelings during the ordeal.

CASE 3 (2018) – JOYAH, MELUR, HAIKAL, AND ZARIF

Joyah (11), Melur (8), Haikal (7), and Zarif (6) first time came to WAO with their mother Aishah in 2014, but left and returned to WAO's shelter several times over the next few years.

The children's father would often beat Joyah, Melur, and Haikal. The abuse started after five years of marriage, following the failure of their father's business. After this, their father started both using and selling drugs. He would use drugs in front of the children and beat Aishah in front of them. After having seen their father abuse their mother, the children felt afraid to do anything; their mother had broken ribs, an injury to her eye, and bruises all over her body. Aishah's husband was also suspicious of her and believed their youngest child, Zarif, was

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not his biological son. Often, when he would beat Aishah, he would beat Zarif too, despite him being around one to two years old at the time.

Aishah wasn't sure where she could turn for help. Being a foreigner in Malaysia, she was dependent on her husband for her spousal visa to stay in the country. Despite Aishah's spousal visa having been expired for three years, her husband refused to renew it for her, causing her to live in fear of being arrested or going out by herself. Aishah's husband also refused to apply for important documents for the children. These include their oldest daughter and youngest son's birth certificates. By this point, Aishah's oldest daughter had not been in school for more than two years, causing Aishah to worry for her daughter's future.

Aishah and the children returned home after the children's father promised her that he would apply for birth certificates for their children. Eventually, Aishah and the children left their abusive home for good after she was beaten badly by her husband and ended up in the hospital.

Aishah managed to get birth certificates for both her eldest daughter and her youngest son; she also managed to place her two older daughters in a Children's Home, as well as get her eldest daughter readmitted into school after three years of not attending. Moreover, Aishah managed to get a visa for her to stay in Malaysia under 'spousal abuse visa' while she worked to support herself and the children.

Remarks:

- As a foreigner in Malaysia whose husband refused to renew her spousal visa, Aishah was entirely dependent and lived in fear of being arrested. As a result of this, Aishah did not know where she or her children could turn for help.
- Aishah's husband also refused to apply for important documents for the children, which resulted in Joyah (Aishah's eldest daughter) not being in school for more than two years.
- With WAO's help, Aishah was able to get the birth certificates for her two children, and was able to obtain a 'spousal abuse visa' to stay in Malaysia.
- A non-citizen spouse who is experiencing DV may apply for a DV spousal visa, which is typically granted for a longer period than a temporary pass, e.g. for six months to one year. However, this requires showing certain proof of DV, such as a police report, and also obtaining a local sponsor who resides in the state in which the survivor is applying for the visa.

Joyah:

"Sometimes my father keeps saying that he wants to kill my mother...Then, I just feel scared."

"I feel angry when my father chokes and beats Zarif...but I'm scared to do something, so I don't really fight back."

"I wish my parents were together and that my dad changes."

"I miss him [my father]. I feel like I want to see him again, but I'm scared."

Zarif:

"I don't like my father because he always beats me and I feel sad."

"He beats my siblings and my mother too. It's painful when he beats me, and I cry. I am scared. But my mother isn't."

"I don't want to be like my father because he hits me."

Melur:

"He [my father] used sharp things to poke her [my mother]."

"I told my teacher that my father hit my mother."

"All boys are bad. My younger brother is good."

Haikal:

"They [my mother and father] always fight. My mother don't like my father."

"My father cekik [strangle] me, and he also throw my younger brother. We didn't do anything wrong."

"No, [I don't want to be like my dad]. He hit people, my mother never hit people."

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"[My favourite thing to do at WAO is] to play dinosaur. My father throw away my dinosaur."

CASE 4 (2018) – JENNIFER AND JAY

Jennifer, a seven-year-old girl, and Jay, a five-year-old boy, are the children of Dora. Dora met her husband, Jennifer and Jay's father, when she was in school and they got married after six months. Dora's husband had a very bad temper, and whenever they would have an argument, he would slap her. As time went on, the physical and mental abuse became more serious in nature.

Dora's husband began hitting her using a belt and a dustbin, resulting in bruises all over her body. Dora later went to the police station and lodged a police report, but the police decided to help mediate the argument between Dora and her husband, resulting in Dora and the children going back home.

After this incident, the abuse stopped for a while until Dora's husband started having an affair. He would refuse to give Dora money for household expenses and was constantly verbally aggressive and reprimanding her. Despite her husband's denial of having an affair, Dora eventually confirmed this herself. She decided to leave with Jennifer and Jay, and she and the children stayed with her parents for four months, until Dora's husband persuaded her to return home. He promised he would change, and Dora decided to give him another chance.

Jennifer and Jay grew up seeing their father beating their mother and verbally abusing her, and were also at times physically abused by him themselves. The children's father also used drugs, and he became even more angry and aggressive when under the influence. One day, Jennifer and Jay accidentally saw their father taking drugs at home and their father got very angry and started shouting and threatening the children and their mother with his belt.

That night, Dora decided to leave the house with Jennifer and Jay. She waited until her husband went to sleep and then called WAO for help. A social worker accompanied Dora and the children to the hospital and helped them lodge a police report. Following their discharge from the hospital, Dora and her children were brought to the WAO shelter.

Remarks:

- The 'cycle of abuse,' in which building tension is followed by a violent incident, and then a period of reconciliation in the immediate aftermath of the violence, and finally a period of calm before the tensions begin to build up again, apply to and impact both the mother and the children experiencing the abuse. In this case, Dora and the children left the abusive situation multiple times, but ended up returning home after Dora's husband promised he would change.

Jennifer:

"My father hits my legs with a belt."

"I feel angry because he hits me and my brother."

"I do not want to see my father."

Jay:

"In my family there is my mummy, my daddy, and my sister. I got two grandmas."

"I like trucks, trains, airplanes, and helicopters."

CASE 5 (2018) – ANYA

Anya is the two-year-old daughter of Shereen. Anya has been a witness to her father's abuse of her mother. In one incident, Anya and Shereen were in the car when Anya's father started shouting at Shereen and aggressively banging the car mirror, frightening Anya and making her cry uncontrollably. In another incident, Anya's father came home drunk and forced Shereen to have sex in Anya's presence. Anya's father then went to the bedroom and began masturbating with the door open while Anya was playing in the vicinity. When Shereen entered the room with Anya beside her, she screamed in shock upon finding her husband.

Shereen had already initiated divorce and custody proceedings, but, pursuant to these incidents, she also lodged police reports on domestic violence and child sexual abuse. However, even five months after the reports were made, no action had been taken by the police. While the outcome of the investigations on the

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complaints of domestic violence and child sexual abuse were pending, custody of Anya was awarded to her father, while Shereen only got visitation rights. After this happened, Anya became quieter than she used to be and would cry at the end of each of their visits.

Shereen has applied for full custody of Anya, but the case is ongoing. WAO wrote to the police officer in charge of the case and also to JKM to request an update. JKM informed WAO that they were not aware of the case. Subsequently, WAO sent a letter to JKM asking for action on the case and is also assisting Shereen to get an IPO for both herself and Anya.

Remarks:

- The 'best interests of the child' principle, in accordance with the CRC, mandates prioritising the child's safety where there are allegations of domestic violence and child sexual abuse. The court should not have placed Anya in the custody of her father while Shereen's complaints were being investigated, as this put her at risk of being subjected to further abuse.
- The police here had not completed the investigation of Shereen's police reports even five months after the report was lodged, nor had they informed JKM about the case. The police must promptly investigate cases related to DV and child sexual abuse, rather than prolonging such investigation over the course of several months, and should immediately refer the case to JKM where the child's welfare is at risk.

CASE 6 (2018) – LIN AND SHAN

Lin and Shan are sisters, aged 11 and four. Both girls were physically and psychologically abused by their father and also witnessed the abuse of their mother, Hannah, before they came to WAO with their mother. During the last incident, Hannah's husband beat her with a belt and strangled her, closing her mouth so she couldn't scream for help. Lin was listening to everything that was happening and ran to ask the neighbours to help and call the police; however, the neighbours didn't help Lin. When Hannah's husband left the house, Hannah herself ran to the neighbour's house for help, but her husband returned and threatened to kill her and take Lin and Shan away.

Hannah reported this incident to the police and to her country's embassy in Malaysia, but she was told to withdraw the report, as this was a 'family matter.'

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The Investigation Officer (IO) did not take Hannah's statement and allowed her husband to take Lin and Shan home, despite Hannah informing the IO that the girls were very frightened of their father.

When Hannah was finally called in by the IO to give her statement and to get a referral letter for an IPO, the IO refused to include the girls' names in the IPO, saying that the girls were with their father, and that their legal documents were also with their father, so he could not include it. Only after the intervention of WAO and a lawyer did the IO finally give a referral letter for an IPO that included Lin and Shan and take the girls' statement in the Child Interview Centre (CIC).

Five months after Hannah obtained the IPO, her husband, with the help of a lawyer, managed to get the IPO set aside by the court---despite the fact that the law stipulates that an IPO can only be set aside within 14 days from the date it is served. Pursuant to this, Hannah's husband, accompanied by his lawyer, continuously harassed WAO staff and showed up at WAO's office demanding to see his children. A lawyer was able to help Hannah successfully apply to the court to reverse its decision to set aside the IPO. However, the judge allowed Hannah's husband to meet Lin and Shan one more time in the court's presence.

On the designated day of this visit, Lin kept saying that she did not want to meet her father and was very scared. Once at the court, Lin looked nervous and terrified. She sat beside the WAO social workers who had accompanied the family to court and refused to move closer to her father. Meanwhile, Shan was playing in the courtroom, but when her father picked her up she cried, and she also refused to accept any gifts from him.

Both Lin and Shan underwent counselling sessions and play therapy at WAO, as they both experienced nightmares and other emotional issues. Shan, the four-year-old, often got nightmares of her father killing her mother, or taking her and her sister away from their mother. She would become very upset and cry continuously if she did not see her mother around. Lin experienced aggressive episodes and did not know how to express her emotions in a healthier way. After calming down, she would cry and tell Hannah that she felt she was turning into her father, and that this upset her.

Due to their father holding their legal documentation as well as concern over security risks, Lin and Shan were not able to continue attending school. However, at WAO the girls went through home-schooling and participated in other

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activities for children to help them engage better socially, and so they would not be left out of receiving their education.

According to Hannah, Shan's speech and confidence has improved with the counselling and activities, and she is able to enjoy activities even when her mother is not there. Lin is progressing in her education; however, she still finds it difficult to deal with her emotions and the trauma she experienced. Hannah strives to continue supporting her children and plan for their future by improving her language and other skills in order to be able to earn a better living for them.

Remarks:

- Even when Lin, only 11 years old, ran to a neighbour's house to get help when her father was strangling her mother, the neighbour refused to even call the police.
- After Hannah made a police report of DV and sought assistance from her country's embassy in Malaysia, she was told to withdraw the report, as this was a 'family matter.'
- Hannah's husband's lawyer successfully applied to have the IPO (which also included Lin and Shan) set aside by the court five months after Hannah obtained the IPO. This was despite the fact that the DVA stipulates that the person against whom an IPO is made may only apply to have it set aside within 14 days from the date the order is served.
- With the help of a lawyer and WAO, Hannah was able to have get the order setting aside the IPO reversed, but the judged allowed Hannah's husband to meet Lin and Shan one more time in the court's presence. This decision went against the children's best interests and is completely unjustified in a case where there is documented DV, and particularly where court had just decided that an IPO that also included the children was wrongly overturned.

CASE 7 (2018) – RACHEL, ROBERT, AND LAUREL

The Abuse and Filing Police Reports

Rachel (10), Robert (8), and Laurel (6) are the three children of Bella. Bella was physically, mentally, financially, and sexually abused starting before her marriage. Bella's husband would invite his friends to their home and force Bella to have sexual intercourse with them. He would also physically and emotionally abuse the children.

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During one physical assault, Bella's husband slapped her multiple times, beat her with shoes and a chair, and pushed her against the door. He also ordered the children to throw Bella's belongings out from the house, but the children did not do so. Instead, Rachel (10) immediately contacted her mother's sister and told her, "Aunty, father just beat mother—father used mother's shoes to beat mother's face. Father also used chair to beat mother."

Bella's siblings rescued her and brought her to the hospital and lodged a police report. Rachel, Robert, and Laurel were still with their father at this point in time. Bella went to stay at her sister's house, and two days later, the children's father sent them to stay with Bella because he could not take care of them. However, one day after this he returned to Bella's sister's home and took the children, threatening Bella that if she didn't also return home with him, he would lodge a police report against her. Bella lodged another police report, emphasising her worry over the children's safety.

Obtaining an IPO

A few days later, the children's father dropped Rachel and Robert off at their tuition centre and dropped Laurel off with Bella because he had to go to work. On this same day, Bella came to WAO because she was afraid that her husband might sexually assault the children when she was not around, and she wanted to get protection for herself and the children. Bella and a social worker picked up the two children from the tuition centre, and then went to meet with the police. The Investigating Officer (IO) said Bella told the officer not to take action when she first lodged a report, and hence she could not issue an IPO referral letter. The police suggested Bella lodge a police report on the sexual abuse she had experienced. Bella later informed her social worker that she was reluctant to take action against her husband because Rachel (10) had told her that she did not want to see her father being arrested or jailed.

During this period, Bella and the WAO social worker were working on transferring the children to a school in the area where Bella's sister's house was; Bella was hoping to transfer the children as soon as possible so they would not have to continue to go to school near the husband's house. However, the school refused to assist with the transfer without Bella's husband's permission or a custody order. Bella and her social worker then met with a lawyer to file for interim custody order.

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Bella subsequently lodged a police report on the physical and sexual abuse, and the IO finally agreed to reopen Bella's prior police report on the physical assault. The IO requested Bella to bring Rachel (10) to the police station to give a statement. The social worker reminded the IO that Rachel's statement should be taken at the Child Interview Centre (CIC), but the IO still insisted on taking the statement at the police station. Due to the language barrier, the WAO social worker had to act as an interpreter. The IO asked some questions regarding the physical abuse Rachel had experienced, and then said she would take Rachel's statement again at CIC next week. The IO was reluctant to include children's name in the IPO referral letter at first, but after the WAO social worker reminded the IO that Bella had mentioned her husband forced the children to throw away Bella's belongings, and her concern over their safety in her second police report, the IO agreed to include their names.

The WAO social worker then accompanied Bella to meet with a JKM officer, who refused to include the children's names in the IPO, stating that they were not the victims even though they had witnessed the abuse. After further insistence by the social worker, the JKM officer instructed for Bella and the children to come to the Magistrate Court the next day. The social worker accompanied Bella and the three children to Magistrate Court and acted as an interpreter for Bella. The Magistrate acknowledged that the children were abused by their father, but said that Bella had not lodged a police report on these incidents. However, the Magistrate then granted the IPO for all the children. Subsequent to this, Bella managed to transfer the children's school using the IPO.

The Child Interview Centre

Along with the social worker, Bella and the children went to the CIC for Rachel, Robert, and Laurel's interviews. The interviews were on record and started with the Inspector mentioning the date, time, name of the child, and name of the translator. The inspector explained to each child regarding the cameras and microphones in the room and provided a few dolls for child to use if they wanted. The interviews were short, with the inspector asking a few questions similar to what the IO had asked earlier, as well as if the child wanted to say anything else. The officers at CIC were friendly towards the children, inviting them to eat and play around the space while waiting for their turn.

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Lapse of the IPO and Obtaining a PO

Sometime later, the IO assigned to Bella's case contacted the WAO social worker to tell her that Bella's husband had been charged in court, but that she did not know any details of the case. This meant that the IPO covering Bella and the children had lapsed, and the children's father started coming to Bella's sister's house and trying to persuade Bella to withdraw the case. The IO then contacted the WAO social worker saying the IPO has lapsed and Bella could not stop her husband from meeting the children or taking them out. When the WAO social worker inquired about PO application, the IO asked social worker to talk to JKM because she did not know about this. During this period, the children's father went to the Laurel's kindergarten with her birth certificate, but the kindergarten refused to let the husband in. He also went to the Rachel's school with his friend, but Rachel saw them and immediately informed her teacher, who helped to hide Rachel.

Subsequently, the social worker assisted Bella to apply for a PO herself. The children were not present at court since they were at school. The court staff helped Bella file the application, and the case was heard immediately before the Magistrate. The Magistrate asked a few questions, including whether the DV criminal case was still going on, if Bella's husband was still harassing her, and if her husband had gone to the children's school. The Magistrate subsequently granted the PO for Bella and the children.

The Court Trial

When it was time for Bella's husband's DV trial—ten months after Bella had lodged the police report, and after six case mentions and case managements—Bella, her brother and sister, Rachel, and the WAO social worker were subpoenaed to court as witnesses. The court was small, and there was no witness room for Bella and Rachel to wait. Bella and Rachel bumped into Rachel's father at court, and Rachel was afraid and ran away from him. After the social worker consulted the DPP, the DPP allowed Bella, Rachel, and their other family members to stay in the police room until the case started. Shortly thereafter, the IO came into the police room, asking Bella and Rachel to meet with the DPP without the WAO social worker. The IO also scolded Bella and her family members for staying in the police room, and social worker explained to the IO that it was the DPP's suggestion.

When Bella and Rachel met with the DPP, the DPP asked Bella if she was sure she still wanted to proceed with the case and told her that her husband wanted to meet Rachel, and asked if it was the social worker who was stopping Rachel from meeting her father (the social worker had already explained to Rachel that nobody could stop her from meeting her father if she wanted to).¹³⁰ Bella replied that she was sure about taking action against her husband, and the DPP then asked what kind of punishment they expected him to receive. Bella and Rachel were unsure at first, but finally answered that they expected him to receive six months imprisonment.

Rachel's father pleaded guilty, and when he left the courtroom, he waved to Rachel, after which Rachel approached him, and he started to hug and kiss her. He gave Rachel RM500 and told her that her mother was a bad person because she wanted to throw him in jail. Rachel replied that this was happening because he did something wrong by beating her mother. Rachel's father then asked her who taught her this, and Rachel told him her teacher in school had. Rachel's father was sentenced to seven days imprisonment and a fine of RM 4,000.

Remarks:

- The IO here required Bella to bring Rachel (10) to the police station to give her statement, despite the WAO social worker reminding the IO that Rachel's statement should be taken at the CIC, which is a child-friendly environment. When Bella and the WAO social worker took Rachel to the police station, the social worker had to act as an interpreter due to the language barrier, which the IO had not planned for. The IO asked Rachel some questions regarding the physical abuse she had experienced, and then said she would take Rachel's statement again at the CIC next week. The IO should not have made Rachel go through two sets of questioning, which can be intimidating and traumatic for a child.
- The IO also should not have required Rachel to come to the police station to give her statement, and should have done this at the CIC. The CIC, which is a house equipped with an outdoor playground, a kitchen with food for children to eat, and a playroom filled with toys, is designed to be a friendly environment to make children more comfortable, and police interviews of children should be conducted there.

¹³⁰ At this point in time, Bella had obtained a custody order which allowed her husband to meet the children once a month under supervision, but her husband had never come to meet them because he did not want to pay maintenance. He told Bella that coming to meet the children meant that he would need to follow the order to pay maintenance.

- The IO was initially reluctant to include the children's names in the referral letter for the IPO, and only did so at the urging of the WAO social worker, despite the fact that Bella had raised concerns over the children's safety in her second police report.
- The JKM officer refused to include the children's names in the IPO, stating that they were not the victims even though they had witnessed the abuse. Such response disregards both the trauma experienced by children from witnessing DV, as well as the risk to their safety without having protection from the perpetrator.
- When Bella appeared before the Magistrate to argue for inclusion of the children in the IPO, the Magistrate judge acknowledged that the children were abused by their father, but noted that Bella had not lodged a police report on these incidents. However, on the basis of the context of DV provided in the police reports and additional testimony provided by Bella, the Magistrate judge then granted an IPO which included the children. This recognition of the Magistrate judge of the risk of harm to the children demonstrates a child-centred approach to handling DV cases that puts the best interests of the child first.
- When Bella attempted to transfer the children to a school in the area where she and the children were staying with her sister, the school refused to assist with the transfer without Bella's husband's permission or a custody order. However, the school later agreed to complete the transfer when Bella returned with the IPO including the children, emphasising the importance of including the children in the IPO where they have witnessed or experienced DV, and of a unified policy on the part of schools to complete school transfers requested by a mother-survivor with the provision of a recent police report or IPO.
- The IO assigned to Bella's case contacted the WAO social worker and informed her that Bella's husband had been charged in court, which meant that the IPO covering Bella and the children would lapse if the PO was not applied for within seven days. While the IO fulfilled her duty in making sure Bella was informed of the expiry of the IPO, the IO did not know anything about the PO application and asked the social worker to speak to JKM about this. This is despite the fact that the *Garis Panduan Pengendalian Kes Keganasan Rumah Tangga* outlines not only the duties of IOs but also the procedure to apply for a PO.
- At Bella's husband's DV trial, there was no witness room for Bella and Rachel to wait, so the DPP allowed them to wait in the police room until the case started. However, the IO later scolded Bella and Rachel for staying in the police room, despite the fact that Bella and Rachel had

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already bumped into Rachel's father and she had run away from him, scared.

Rachel:

"I waited for my father to leave the house before calling my aunt. After this, we [me and my two siblings] stayed with Father for two days while Mother stayed in the hospital."

"When I was interviewed by the police officer I could not understand what they were saying because they did not speak [the same language as me]. I felt nervous and scared the whole time."

"There is a boy in my class who is very smart, always completes his homework, and is at the top of the class. There is another boy who almost never completed his homework and argues with the teachers. He even flipped his table when he was angry one time. I want to be like the smart boy in class, not the boy who does not complete his homework."

"He [my brother] will not grow up to be like my father because he is cute and obedient. Even though he is naughty sometimes."

Laurel:

"I really like Rachel and Robert."

Robert:

"My father would hit me when my parents were fighting. He would take out his rattan stick and start beating me with it."

"I hit myself and fight with my older sister Rachel so that I have marks on my body and I can live with my mother and not my bad father. I came up with this idea myself."

"I want to be a counsellor so I can help make money to provide for my mother."

"I won't grow up like my father. I will protect my mother, my children, and my wife. My sisters will have their own husbands, but I will protect them as well."

CASE 8 (2018) – JAYA, YOGESH, AND SIVA*The Abuse*

Jaya (13), Yogesh (12), and Siva (10) are the children of Katrina. From the time Jaya was born, Katrina's husband became very physically and verbally abusive towards Katrina, primarily after arguments that ensued when Katrina confronted her husband about meeting and being intimate with other women.

Throughout the years, Katrina's husband was physically, financially, socially, and psychologically abusive to Katrina and the children. He would also drink alcohol and then fight with Katrina and hit Jaya, Yogesh, and Siva. The children's father had an aggressive personality and would hit and scold the children if they annoyed him. Usually, Yogesh and Siva would get hit whenever they were playing at home and made any noise. On some occasions, their father would decide to buy food for the children late at night and would forcefully wake them up to eat it. One time, their father stepped on Siva and stood on his knee in order to wake him up. All three children would pretend to be asleep the moment their father arrived at home to avoid having to face him when he would come home drunk. Although Jaya got hit the least by her father, she resented his actions when he would come home drunk, such as urinating near her when she was sleeping. On several occasions, her father also urinated around the house and on their pet.

After eight years of being a homemaker, Katrina decided to start working in 2016 since her husband was not consistent in providing for the family and could not sustain himself in any employment due to his drinking habit. However, once Katrina started working, her husband became very suspicious of her and would accuse her of sleeping with other men. He would abuse the children mentally and psychologically by repeatedly asking whom their mother had gone to meet and what she was up to. He would also turn up at Katrina's work places and harass her, resulting in Katrina having to change jobs a few times.

Katrina made police reports against her husband on two occasions, once when she had physical injuries from the abuse, and another time when her husband appeared at her workplace and threatened her employer. Finally, Katrina's husband chased her and the children out of the house when he learned that Katrina intended to move out as she could no longer tolerate her husband's behaviour. She and the children went to stay with her sister for some time, but

when Katrina wanted to move herself and the children into their own apartment in the same building as her sister, her husband found out and showed up at her sister's home. He slapped Katrina and Yogesh, and forcibly dragged Katrina and the children back home. After this incident, Katrina and the children managed to escape and sought shelter at WAO.

Obtaining an IPO and School Transfers

WAO assisted Katrina in filing a police report; however, the IO refused to give a referral letter for an IPO and designated the case as 'No Further Action.' With WAO's intervention, the case was reopened, and an IPO issued for Katrina and the children.

The children had been taken out of their original schools when they first left home, and had to be transferred again after they sought shelter at WAO. With the IPO, Katrina and her WAO social worker were able to have Jaya and Siva transferred to new schools. The police assisted to retrieve the children's books from their home where Katrina's husband was still living. Yogesh completed his UPSR examination and later enrolled in special home-schooling at WAO.

Differing Reactions to the Abuse and WAO Counselling

Jaya, Yogesh, and Siva all displayed certain aggressive tendencies when they first arrived at WAO's shelter, especially the two boys. They had always deemed hitting each other as acceptable, as they grew up seeing that. Even Katrina usually found it difficult to discipline her children without resorting to hitting.

Katrina has been concerned that Yogesh is becoming like his father, being aggressive towards his siblings, talking disrespectfully to Katrina, and even questioning her dressing up when she would go out for training to become a hairdresser.

Jaya (13) shared with her social worker that she had never been to a theatre, entertainment outlet, or amusement park, while her brothers had gone to the theatre before to watch a movie with a relative. Jaya explained that she was never allowed to leave the house because she was a girl, and was never allowed to mingle or speak to boys. One time, Jaya's father pulled her hair and warned her against talking to boys. In contrast, her brothers would sneak out of the house, or sometimes leave the house with their mother's permission to cycle

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around their neighbourhood. On one occasion, Jaya was upset when Siva made a negative comment to her for speaking to a male friend over the phone. Jaya feels reluctant to talk to boys now because of her past experiences, and she also feels hurt by her brothers when they disrespect her, particularly because Jaya feels that she has responsibility over her brothers and looks out for them. Jaya finds it very difficult to mingle and find friends, and then have to let go of them after she finally adjusts herself to a new environment.

Although Jaya was physically abused the least out of the three siblings, the psychological impact of her father's actions on her is substantial. Her father would accuse her of causing him to lose jobs due to being late to work after sending her to school, though in reality the father would not wake up on time in the morning after drinking heavily at night. He would also cause Jaya to be late to school, which upset her as she loved going to school. Jaya's father also threatened her and hit her for talking to other boys. All of these things affected Jaya to the extent that she does not refer to him as her father anymore. Jaya is also the only one among her siblings who was able to see the abuse that her mother experienced and questioned her mother for tolerating the abuse for so long. She deems all of her father's behaviour and actions as unreasonable.

In contrast, Yogesh and Siva view the abuse differently. They disapprove of their father's actions of hitting them and stopping them from playing actively outside of the house; however, they do not consider it as 'abuse.' Although Siva was the one to get hit by their father most often, he still loves his father for buying him fast food and toys, although Katrina believes that these were attempts to bribe Siva to provide information about Katrina and her whereabouts.

At WAO, Jaya, Yogesh, and Siva have all been receiving counselling, and have also attended a gender awareness programme, while Katrina has been a part of a parenting support group. These initiatives have helped improve the relationship between Katrina and the children.

Remarks:

- Prior to WAO's intervention, the IO assigned to Katrina's case designated the case as 'No Further Action' and refused to issue a referral letter for an IPO.
- With the IPO, Katrina and her WAO social worker were able to have Jaya and Siva transferred to new schools after they had been out of school for

a few weeks, and also secured the police's assistance to retrieve the children's books from their home.

- Jaya found it very difficult to adjust to two new schools in the same academic year, and also had a gap of one month before joining the second school. While necessary to ensure the safety of the children, such major shifts as school changes can be very difficult for children to cope with, especially where the child is more introverted and has difficulty making friends and adjusting to new environments.
- The differing and sometimes insidious impacts of DV on boys and girls can be seen from the reactions to the abuse of Jaya as compared to her brothers. While Jaya (both the oldest child and the only daughter) saw her father's behaviour as wrong, Yogesh and Siva seem to have normalised some of this behaviour, not necessarily viewing hitting as abuse, and unknowingly exhibiting certain patriarchal and misogynistic attitudes, such as questioning their mother dressing up or their sister speaking on the phone to a boy. Such reactions emphasise the importance of interventions—such as WAO's Gender Awareness Programme—that teach children about gender, and breaking certain stereotypes that they may have inherited through witnessing and experiencing DV.

Jaya:

"If I win anything at school, he'll proudly say 'this is my child, this is my child,' but if I don't do well academically, he gets angry again.

"He drinks, he hits my mother many times, I also know. Last time he hit my mother he fractured her head. Lucky I was there. If I wasn't, she would've died."

"I know that I only want to follow my mother, I don't trust my father. I hate him so much. If I could I would hit him. I'm not scared, just angry. He takes all his money and uses it to drink."

"If my parents got a divorce, my mother will be happy. She could work and get her own money."

"I like staying at WAO. We are like a family...we cook together and eat together."

Yogesh:

"I love my mother the most. I'm angry at my father because he takes my money and goes drinking and playing."

"I would get pocket money from my mother and save it in a box. My father said he would open a bank account for me. He come, ask for my money, and then no more already."

"I taught myself to repair bicycles. I want to be a mechanic when I grow up."

Siva:

"My father sometimes throws food at me and my mother, at our faces."

"My father hit my arm and got blood also."

"I like running, climbing trees, and playing hide-and-seek. I want to fly a helicopter one day."

CASE 9 (2018) – LI JUN

Li Jun is a three-year-old boy who is the son of Caroline. Although Li Jun did not experience abuse first-hand, he witnessed the abuse of his mother from the time he was born, since he was often in proximity to his mother when she was physically abused by Li Jun's father. Caroline was not married to Li Jun's father, but they had been living together for over ten years. Throughout this time, Caroline had left Li Jun's father on a few occasions due to his aggressive and violent behaviour, but later returned after Li Jun's father apologised. Besides being physically abusive, Li Jun's father also abused Caroline emotionally and mentally, including constantly accusing her of sleeping with other people, and also harassing Caroline's family if they supported her in any way.

Around a year after Li Jun was born, Caroline left Li Jun's father's home with Li Jun and went to her brother's house. Li Jun's father would constantly harass Caroline and her brother. As a result, Caroline applied to the court for custody of Li Jun, which was granted, with Li Jun's father having access to him every weekday from 7pm to 9pm and every weekend from 10 am to 9 pm. In order to honour this arrangement and due to the constant harassment from Li Jun's

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father, Caroline had no choice but to move to Li Jun's father's friend's apartment. At this point, Caroline had lost her business, home, and support from her family members due to the harassment and emotional disturbance caused to them by Li Jun's father.

Knowing that Li Jun meant everything to Caroline after all that she had suffered and lost, his father would manipulate Caroline using Li Jun, such as by not complying with the court order. He would also come and stay in the apartment as and when he wished, and utilised this opportunity to harass and abuse Caroline. Finally, Caroline decided to take up a full-time job, after having enrolled Li Jun into Taska and day care, which would enable her to work full time.

For a six-month period around this time, Li Jun's father's abuse of Caroline was particularly intense, including physically abusing Caroline while he was in close proximity to her, and taking Li Jun out of school (which was a violation of the custody order) while Caroline was at work. This caused Caroline distress to the point where she was afraid to continue to send Li Jun to school. Li Jun's father would also take him out and not return him on time, in violation of the custody order, and exposed Li Jun to unhealthy environments not suitable for children. He would also try to teach Li Jun to call his mother words like 'dog' and 'slut' and regularly tell Li Jun that Caroline was a bad mother and that she did not care for him.

On one occasion, Li Jun sustained injuries after going out with his father to a function. Li Jun later told Caroline that the injury was caused by his step-sister, who had made statements previously about her intention to hurt Li Jun. After this incident, Caroline made a police report and was asked to take Li Jun to the nearest hospital, as the case was classified as child abuse. Caroline and Li Jun stayed in the hospital overnight while the SCAN team performed a full assessment on Li Jun, during which time his father was not allowed to be present.

Because Caroline was not married to Li Jun's father, she did not qualify to get an IPO for herself and Li Jun under the DVA and thus could not obtain protection from the constant harassment. Caroline and Li Jun finally sought shelter at WAO. As a toddler, Li Jun did not have many people around to interact with. He was delayed in speaking, and only started speaking at three years old after entering Taska. Although Li Jun was enrolled in Taska he was not able to attend regularly during certain periods when the abuse Caroline was experiencing from Li Jun's father escalated. Li Jun finally had to stop attending the Taska he had been going to when his father started threatening Caroline that he would take Li Jun

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from school, and would regularly harass the school teachers and principal as well.

At times, Li Jun seems to recall things from prior to coming to WAO, and has made statements such as, "Daddy broke Mummy Christmas tree," and "Daddy hit Mummy." According to Caroline, prior to coming to WAO, Li Jun often had disturbances in his sleep, which significantly reduced after leaving the abusive environment and going through counselling at WAO.

At WAO, Li Jun has also been attending home-schooling, and he and Caroline also attend various programmes organised for the women and children in which Li Jun is an active participant.

Remarks:

- The classification of the case as 'child abuse' by the hospital triggered certain protocols in accordance with the MOH Guidelines for the Hospital Management of Child Abuse and Neglect, including the SCAN team performing a full assessment on Li Jun.
- The police had not taken action on several of the reports made by Caroline, but—only after intervention by WAO—the police finally re-opened the investigation on two of the reports.
- Caroline's social worker at WAO is still working to obtain an IPO for Caroline and Li Jun, or alternatively only for Li Jun if the IPO for Caroline is not granted. Caroline's inability to access protection under the DVA due to the fact that she was not married to Li Jun's father highlights the gaps in protection that still exist in the DVA.
- The disturbances to Li Jun's sleep and delays in his speech are indicative of the impact DV can have even on babies and toddlers who witness it, including to their development, and emphasises the importance of interventions such as play therapy and counselling, even for very young children.

CASE 10 (2018) – ALIA AND ADAM

Alia (8) and Adam (4) are the children of Maryam. Maryam's husband physically, mentally, and financially abused her. Maryam lodged two police reports against her husband, but they were both cover reports (not requesting any action be taken), as Maryam was afraid her husband would retaliate against her.

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Maryam's family and her husband's family were not supportive; although she told them several times that she was being abused by her husband, they always asked her to return to him. Maryam was a homemaker, and her husband warned her that she couldn't ask for a divorce because he would not pay a single cent for her or the children. Alia and Adam regularly witnessed the abuse, and one time, when Adam was one year old, their father threatened Maryam that he would throw Adam out from the balcony.

During one incident Maryam's husband bent her finger until the bone fractured. Both Alia and Adam witnessed this incident and were scared. After this, Maryam took Alia and Adam and sought help from WAO and lodged another police report against her husband, requesting the police to open an investigation based on one of her previous cover reports. The IO agreed to reopen the case after taking Maryam's statement, and arrested Maryam's husband and issued an IPO referral letter a few days later.

Maryam, Alia, and Adam stayed at the WAO shelter for one day, but Maryam found it difficult to adapt to staying in a shelter and checked them out. This same day, Maryam's mother called her and told her to go back to her husband, since 'the abuses were not serious since he had not beaten Maryam until she was admitted into the hospital.'

A few days later, the IO called Maryam to arrange to take Alia's statement at the police station. The IO then told Maryam that she would follow up for Alia to give a statement at the CIC. When Maryam and the children went to JKM to apply for an IPO, the JKM officer met with Maryam alone and advised her not to apply for an IPO because her husband had been remanded and would be charged in court soon.

Subsequently, Maryam's husband was remanded for five days in the police jail and charged under Sections 323 and 326A of the Penal Code. He was bailed out by his friend for RM 3,000 and given a return court date. After he was released, he started to convince Maryam to withdraw the case against him and promised he would pay for the divorce fees and pay maintenance, (as Section 326A carries mandatory jail time, and he would have to spend money on a defence lawyer). Maryam has engaged a lawyer and plans to withdraw the DV case against her husband once the divorce papers are signed. Maryam and the children returned to their home after her husband promised he would not go back to the house and harass them.

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Maryam finally obtained a PO two weeks after her husband was charged in court. Maryam had planned to apply for the PO on the day her husband was charged, but the JKM officer refused to apply for it, saying that it remained to be seen if the husband was released on bail. The social worker approached the IO as well, but the IO informed the social worker that Maryam should deal with the court herself to obtain the PO.

The social worker contacted the JKM officer immediately after the court case to inform him that Maryam's husband had been bailed out by his friend and that the Magistrate had specifically ordered Maryam's husband not to harass her. Although JKM received a letter from the IO stating that Maryam's husband had been charged in court, the JKM officer insisted that Maryam get a PO referral letter from the IO before he would apply for the PO.

The JKM officer then informed the social worker that the Magistrate would not issue a PO that included the children if they were not in the PO referral letter. The JKM officer also added that the IO informed him that the children were not the victims in this DV situation, and that therefore the PO referral letter would only include Maryam's name. The social worker emphasised to the JKM officer that child who witness DV are always victims of DV.

Maryam was frustrated with the delay in obtaining a PO and decided to proceed without the children's names. However, when Maryam appeared before the Magistrate for the PO application, she asked the Magistrate about including the children's names in the PO. The Magistrate read the police report, which included how the children had witnessed the abuse, and immediately included the children's names in the PO. The Magistrate also included additional orders granting Maryam and the children exclusive occupancy of the shared residence.

Remarks:

- Maryam was financially dependent on her husband also did not have the support of her family, making it more difficult for her to leave the abusive situation. Even when—in front of the children— Maryam's husband bent her finger until the bone fractured, Maryam's mother reprimanded her for leaving her husband.
- Maryam was not able to obtain a PO until two weeks after her husband was charged in court. Although Maryam's social worker approached the IO for assistance, the IO simply informed the social worker that Maryam should deal with the court herself to obtain the PO.

- Furthermore, because Maryam did not already have an IPO, she had to obtain a PO referral letter from the IO before the JKM officer would apply for the PO, and because the IO refused to acknowledge the children as victims of DV despite the fact that they had witnessed the abuse, the JKM officer also informed Maryam that the children would not be included in the PO.
- Ultimately, the Magistrate read the police report, which explained how the children had witnessed the abuse, and included the children's names in the PO, in line with the obligation to uphold their best interests.

Alia:

"He [my father] is nice outside but can be rude and angry at home."

"I don't miss my father. I don't hope he comes back home."

"Sometimes people say I look like my father, but I don't like that."

Adam:

"Sometimes I miss my father and wish he would come back to play with me again."

"I went to the police station with my mother and sister. I never talked to the police because I didn't want to. I was scared."

CASE STUDY SHARED BY PARTNER SERVICE PROVIDER - ABUSE OR EXPOSURE OF CHILDREN TO DV PERPETRATED BY FATHER WHERE MOTHER WAS ALSO ABUSED

CASE 11 (2017) – JOEL, GABE, EMILY, JESS, AND ABBY

Joel (16), Gabe (15), Emily (10), Jess (8), and Abby (2) are two brothers and three sisters who are the children of refugees from Myanmar who fled to Malaysia.

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All five children were born into an abusive household and were exposed to domestic violence over many years, as their father had started beating their mother from the second year of their marriage. Both the mother and the children would endure physical abuse frequently. The situation escalated whenever their father was drunk. The children's mother would take most of the hits to protect her children. The father would slap her, kick her and hit her with a cable. He even resorted to using belts and an iron at one point. As the children grew older, they felt more inclined to protect their mother. Joel and Gabe, the two sons, ended up taking the blows more frequently, and, similarly to their mother, they would be beaten with cables, belts or an iron. The abuse went on for a total of 16 years before the children and their mother could finally seek help and separate themselves from their father.

The last straw occurred when the children's father carried Abby, the two-year-old girl, and threw her to the ground. The mother could no longer endure the abuse and decided to contact UNHCR for assistance. She was later referred to a local NGO. Several members of the Myanmar community in Malaysia subsequently referred her to a shelter home and therapy sessions were introduced. During the initial therapy sessions, when the mother and children entered the therapy room, they instinctively cowered together in an attempt to shield each other from any possible harm. Furthermore, whenever the two-year-old attempted to make noises or walk around, the other siblings would try to stop her and quiet her.

During therapy, the children were observed to be socially withdrawn. They were reluctant to share a lot of information about themselves; however, they were comfortable expressing hatred towards their father, such as stating that they wished "he never existed."

When Emily (10) and Jess (8) were introduced to play therapy, they were very unfamiliar with the concept of playing or drawing and did not know what to do with the toys provided. The counsellor had to prompt them and demonstrate ways to play. It took several sessions with the two girls before they were more comfortable with the concept of playing.

Similarly, Joel and Gabe were clueless when presented with art supplies during their first art therapy session; the counsellor had to demonstrate to them how to use the art supplies. The two boys took a few more sessions to become comfortable with art therapy and were finally able to express themselves through art.

Remarks:

- According to the children's mother, there is a stigma in the Myanmar community around seeking help, and the culture reinforces the idea that a woman without her husband is a second-class citizen.
- More effort is needed to raise awareness within communities that domestic violence is a serious issue and can have an extremely negative impact on those abused, and especially on children.
- Refugee children in abusive homes may be even more vulnerable to trauma than other children, as they may lack legal documentation necessary for things such as schooling and healthcare, they do not have the stability of a permanent home, and they may face social isolation in their country of residence.

CASES STUDIES SHARED BY PARTNER SERVICE PROVIDERS - ABUSE OR EXPOSURE OF CHILDREN TO DV PERPETRATED BY FATHER WHERE MOTHER WAS NOT ALSO ABUSED

CASE 12 (2014) - INTAN

Intan is a six-year-old girl who has lacked official identification since birth. She is the eldest of three children in her household. Intan's mother is a foreigner living in Malaysia without legal visa status and entered into a marriage that was not legally recognised. Intan was brought by her mother into Pusat Aktiviti Kanak-Kanak (PAKK), an activity centre managed by Yayasan Chow Kit, at the age of three.

After Intan's mother remarried, her stepfather raped her. Following this, Intan began to display socially withdrawn and attention-seeking behaviours while she was in PAKK. Upon participating in a play therapy session conducted by counselling trainees from HELP University, Intan's social worker learned of the sexual abuse by the stepfather. Alarmed by the discovery, the social worker reported the incident to Intan's mother.

It was discovered that Intan's mother was aware of the sexual abuse but chose to remain silent about it, as her mother did not want a police report to be lodged against Intan's stepfather. The exact reason for the mother's refusal to intervene remains unknown, but it is probable that one of the reasons was her status in

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Malaysia as an undocumented immigrant without a visa. Thus, if Intan's mother had gone to the police to make a report against her husband, she would have been at risk of being detained by the authorities. In addition, Intan's mother was hesitant to leave her husband, as she and her children were financially dependent on him since Intan's mother's status as an undocumented immigrant meant she was not able to work.

The social worker decided to lodge a police report on Intan's behalf. As a result, Intan was taken away from her home and her mother while the case was being investigated. During this period, Intan remained in Yayasan Chow Kit's crisis shelter and continued participating in play therapy with counsellor trainees. As the case progressed, the police and JKM conducted interviews with Intan's trainee counsellors to gain additional information. However, as Intan was so young at the time, it was difficult for the trainee counsellors to provide an accurate overview of her experience of trauma.

The court eventually sentenced Intan's stepfather to 20 years imprisonment and Intan was finally allowed to return home to her mother.

Remarks:

- KL is still lacking transit homes for abuse survivors. This means that once the children have been removed from the abusive environment, they will often end up in another home permanently until the age of 18. This is not necessarily the best method for a child, as despite everything, it can still be hard for them to be far from their family members. The children do not always understand why they have been taken away from their homes and often ask questions indicating that they want to return home.
- Increased engagement is needed between the police, the welfare department, schools, and NGOs who serve children, so that these stakeholders can work together. This way, referral processes can be smoother and more efficient, and the child can be brought to safety faster.
- There is a need to create more awareness and sensitivity among those who work with children, so they can undertake the responsibility of reporting to JKM or the police when there is abuse. Teachers, in particular, should be trained in handling such situations.
- JKM cannot always act very quickly, thus having a dedicated person situated in each school acting as the first point of contact for children who have suffered from abuse and mistreatment, would be beneficial.

- The Child Act and the SOAC comprehensively cover child abuse, however both of these have not been comprehensively implemented yet. However, where a parent or other family member is the perpetrator of the violence, the Domestic Violence Act can also be used to punish the offence.
- Oftentimes people refuse to access welfare services or are simply unable to because their marriages and their children are unregistered, or they are non-citizens. Registration takes time and some people are not familiar with the process. Some are also afraid of the consequence if they register their children too late.

CASE 13 (2016) – JASMINE AND LAILA

Jasmine and Laila are two sisters. By the time the girls were aged 16 and 17 years old, their father had sexually abused them both for five years. The long-term abuse made the girls too afraid to run away from home. Their abusive father would take advantage of the girls whenever they were home and forced them to have sex an average of 3 times per week.

As the sexual abuse went on during the years, Jasmine and Laila became quieter and more reserved. Eventually, the girls' school teacher found out about their situation and sought assistance from an NGO. Following the referral process, the sexual abuse was revealed. The NGO subsequently contacted a child protection officer who managed to press charges against the girls' father. The welfare department (JKM) acted swiftly and ensured that the father would be sent to jail within a week after the report was lodged.

Jasmine and Laila's mother, on the other hand, was not charged for anything although she was aware of the situation and chose to remain silent. JKM reasoned that the mother still needed to take care of Jasmine and Laila's four-year-old brother.

JKM placed both girls under foster care and later referred them to an NGO for counselling. Jasmine, the older sister, chose not to attend counselling. It was later reported that Jasmine and Laila have since developed a better relationship with their mother and planned to return home to visit her during a holiday.

Remarks:

- Jasmine and Laila's teacher acted in the girls' best interests by seeking assistance from an NGO on their behalf. This resulted in the sexual abuse being revealed and reported to JKM, and their father being sent to jail.
- In this case, there was no indication that Jasmine and Laila's mother was herself a victim of abuse by her husband. Given the mother's role in remaining silent and allowing the sexual abuse to continue, she could have been charged under the Child Act or the SOAC. However, after an assessment by JKM she was allowed to continue caring for her four-year-old son.

CASE 14 (2016) – ZARAH

Zarah, a 16 year-old Malaysian girl, had been sodomised by her father for eight years. Zarah's father told her that sodomy did not take away her virginity. She left school at the age of 14 but the reason remains unknown. Zarah finally broke her silence by deciding to speak up against the abuse when she saw that her father was about to abuse her younger sister Fatima in the same way.

When she was referred to an NGO, Fatima's was observed to be very emotionally mature for her age and spoke of her experience in a very objective and factual way. However, details of her mother and her parent's relationship—including whether the two were still together or had divorced—remained unknown to the NGO service provider. Nonetheless, Zarah's mother was hardly home throughout the period of abuse.

After Zarah sought assistance from the NGO, she also decided to lodge a police report. According to Zarah's social worker, the police initially sided with the father once the situation was explained.

The father was finally sentenced to jail. Zarah was subsequently offered forms of support and intervention by the NGO. However, she declined to receive any further assistance and stated her desire to relocate to a remote area with her other family members, as she felt a lot of shame from the abuse.

Remarks:

- Despite the egregious sexual abuse Zarah was subjected to by her father, and the fact that this abuse constitutes a criminal act under the DVA, Child Act, and the SOAC, the initial reaction of the police was to side with

Zarah's father. This reaction is indicative of extremely patriarchal norms that result in women's and girl's bodies being viewed as the property of men (including even their husbands or fathers).

- Although Zarah was the victim and had done nothing wrong, she still felt shame at the abuse she had experienced. Such feelings of shame are often compounded by victim-blaming attitudes and responses in society, sometimes even by the police, medical personnel, and other stakeholders who are responsible for responding to and protecting survivors of violence.

CASE 15 (2014) – SHOBHA

When Shobha was nine years old, her aunt discovered that Shobha had been impregnated by her father. Shobha was immediately referred to an NGO for further help. The NGO social worker learnt that Shobha had been forced by her mother to continue living with her father and that she needed to forgive him. Shobha's mother was partially successful in convincing her then pregnant daughter to pardon her father's actions. Furthermore, Shobha was made to believe that her father had impregnated her out of love. However, she soon began to experience the hardships of pregnancy and felt that something was wrong.

Throughout her pregnancy, Shobha stayed in a shelter home for underage pregnant girls. During her stay, her behaviour was observed to be child-like, similar to that of other nine-year-olds. Consequently, a police report was lodged with the assistance of the NGO and JKM's involvement, and Shobha's father was later sentenced to an 18-year jail term.

After Shobha gave birth, she was suspected to be suffering from postpartum depression. Often, when her baby was crying, she would take little to no notice of the baby. Her baby was eventually put up for adoption. Additionally, it was reported that Shobha's symptoms of postpartum depression emerged from getting frequently asked by her teachers about her experience of being a young mother. Despite changing schools as a result of this, Shobha would encounter the same experience each time.

Shobha eventually quit school at the age of 13. She made the decision to live with her mother. According to the social worker, the most recent update they received from Shobha was that she was currently in the business of selling drinks at her own stall.

Remarks:

- Shobha's mother convincing her that her father had impregnated her out of love and that Shobha needed to forgive her is indicative of psychological abuse, in addition to the sexual abuse Shobha had experienced.
- After a police report was lodged by the shelter home where Shobha was staying—with the assistance of the NGO and JKM—Shobha's father was sentenced to 18 years imprisonment. However, the impact of the abuse on Shobha continued to affect her well after she gave birth to the child.
- Despite the fact that Shobha had been forced by her mother to continue living with her father and needed to forgive his actions, Shobha was not removed from the household after giving birth and continued living with her mother.

CASE STUDY SHARED BY PARTNER SERVICE PROVIDER – ABUSE OF CHILD BY MOTHER

CASE 16 (2013) – LILY

Lily is the second eldest child among her six siblings. Lily attended an activity centre, Pusat Aktiviti Kanak-Kanak (PAKK), run by Yayasan Chow Kit.

At the age of 9, Lily began to exhibit socially withdrawn behaviour while at PAKK. Upon further investigation, a PAKK social worker discovered through Lily's teacher that Lily had been physically abused by her mother for around a year. The abuse initially resulted in minor bruises and scars on Lily's arms and body, but escalated when her mother kicked her in the mouth with a shoe, resulting in a swollen mouth and split lip. When Lily's teacher informed the PAKK social worker of the incident, the social worker contacted Talian Kasih 15999 on Lily's behalf. As part of evidence collection during the police and JKM's investigation of the abuse, the social worker visited Lily's home and discovered it was cramped and overcrowded with Lily's brothers and sisters. Due to poor maintenance, the house was smelly and largely unkempt. During this investigation, the social worker learned that Lily's family was financially unstable and had faced many financial issues in the past.

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It was later discovered that Lily's mother was the sole abuser, whilst her father kept silent about the abuse and refused to be actively involved in building his daughter's case. Lily's mother and father were separated, and her mother had another partner at the time of the abuse.

The PAKK social worker did much of the legwork for the police and JKM's investigation, and later lodged a police report on behalf of Lily. She also brought the police pictures showing Lily's scars as evidence. Lily was subsequently removed from her parent's home by JKM and sent to live with her grandmother in the Klang Valley.

Remarks:

- Parents often bring their children to PAKK due to cramped living spaces and a lack of financial resources sufficient to afford child-friendly facilities, such as a safe space for children to play and participate in extracurricular activities.
- There is a need for more public awareness with regards to family planning as well as financial planning, a lack of which can result in financial stress and tumultuous conditions at home. One way to help address this would be to increase the number of support programs and to offer free or subsidised parenting classes for lower income families.
- In addition, teachers in schools must be more sensitive and compassionate towards students who have been abused, and need to take initiative to help the child. As highlighted by the social worker in this case, even a simple gesture such as contacting Talian Kasih 15999 for the sake of their student could help the child escape their situation. Although teachers are not under a specific obligation in the Child Act to report suspected abuse of a student to JKM (while 'child care providers' are), it is unclear why Lily's teacher chose not to report the suspected abuse of her student to welfare authorities.
- Despite JKM's quick actions to relocate Lily, it remains uncertain as to why no criminal case was brought against Lily's mother. In addition to abusing Lily, there is a possibility that the mother may have also abused the remaining five children.



Rachel (Case 7) - "When I was interviewed by the police officer I could not understand what they were saying because they did not speak [the same language as me]. I felt nervous and scared the whole time."

ADULT CASE STUDIES – ADULTS WHO WITNESSED OR EXPERIENCED DV AS CHILDREN

CASE 17 - ALYSSA

Alyssa, now 35, endured physical, psychological, and sexual abuse by her eldest brother from the age of five. She was the youngest among three children.

The abuse initially began with her eldest brother throwing punches at her whenever he was angry. His violent tantrums would arise after having his requests rejected by their father. On top of that, their father often pressured the children to do well academically and responded to them in a very hostile manner. Alyssa endured physical abuse by her eldest brother once every few months.

When Alyssa was slightly older, the sexual abuse began. Her eldest brother would place his genitals on her lips while she was asleep and each time she awoke, she would shout at him.

At the age of 11, Alyssa experienced a terrifying ordeal at home which she described as the 'most serious abuse she had experienced.' Her eldest brother had gotten hold of a kitchen knife and threatened to kill their father. He started stabbing the front door with the knife while yelling verbal threats. He even tried to harm their father, but his mother shielded him. Seeing that he was prevented from harming his father, Alyssa's brother subsequently took a guitar and smashed it to pieces.

The abuse stopped temporarily when Alyssa's brother was sent off to boarding school in the same year. However, Alyssa would continue to experience the abuse whenever her eldest brother came home for his summer break.

Alyssa believes that cultural norms and patriarchal values led her parents to disregard her brother's violent and threatening behaviour. Alyssa's parents placed a high value on her brother's intelligence and excellent academic record. This meant that whenever her brother had violent outbursts, Alyssa's parents would convince her that this was normal and she should not tell anyone about the incidents or it would bring shame to their family's reputation. Keeping

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these words in mind, Alyssa was conflicted between her parents' wishes and fear for her own safety.

As Alyssa grew older, she decided to seek support from her friends, who helped her to confirm that she had indeed been growing up in an abusive and toxic environment. With the help of her friends, Alyssa sought assistance from religious organisations and engaged with faith-based teachings as a means of healing.

Alyssa's second brother was rarely mentioned in her family, as he often hid in his room or in a corner whenever the abuse by his older brother occurred at home. When the trauma he was experiencing became unbearable, he isolated himself. As years went by, he was unsuccessful in holding down a job, and now spends most of his day locked in his room in his shared home with Alyssa's parents.

Today, at the age of 35, Alyssa is a mother of two young children. She teaches at a tuition centre and remains hopeful that she will find a way to help her second brother to recover from the trauma he experienced in their childhood home. The abuser, her eldest brother, got married and continued his abusive behaviour towards his own wife and mother-in-law, though he currently lives in a separate home from his wife. He has switched jobs countless times due to dissatisfaction with his employers and, on several occasions, he threatened to file a lawsuit and even hit some of them. Despite having secured a job, his excessive drinking prevented him from achieving financial independence. He still borrows money from his family and friends to support himself. As Alyssa maintains minimal contact with her eldest brother, she is unaware as to whether he has undergone any changes or tried to get help.

Remarks:

- Despite witnessing the abuse that Alyssa's brother inflicted on her, and even him threatening their father with a knife, Alyssa's parents would convince her that this was normal behaviour and she should not tell anyone about the incidents. Such a response from Alyssa's parents goes to the root causes of DV, including patriarchal notions that boys are more valuable than girls, and should be treated and responded to accordingly.
- Alyssa and her younger brother had different ways of coping with the abuse by their older brother, with her younger brother largely isolating himself, even as an adult.
- Interventions by family or community members may have helped Alyssa and her family, for example through educational and awareness programmes explaining family violence, or family counselling.

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The following case studies are based on interviews conducted in 2018 with adults who witnessed or experienced domestic violence as children.

CASE 18 - ROSE

Rose is a 28-year-old Malaysian woman who grew up living with her mother, father, and brother. For as far back as Rose can remember, her household was marked by turbulence and violence. Rose's parents were constantly fighting, and often resorted to hitting, pinching, and hair-pulling. Rose's mother would hit her husband first, not expecting him to hit her back, but he would. Rose's father had a bad temper and was also verbally and physically abusive to Rose and her brother. He would hit Rose's brother with a belt and scream at him for not playing sports or being manly enough. He would hit and insult Rose as well.

Rose's mother was also sometimes abusive towards Rose, but, more often, she was neglectful and emotionally unavailable to Rose and her brother. When her parents fought, Rose's mother would threaten her father with divorce, but because of financial concerns and what their extended family would think, she never tried to go through with it or leave Rose's father. Growing up, Rose wished her parents would get divorced instead of fighting all the time.

In her early years of schooling, Rose was very unfocused and detached. As she got older, Rose would go out with friends and smoke and drink in order to escape the situation at home. In her mid-teens, Rose went to boarding school and started engaging in self-harm in the form of cutting, and was subsequently sent for counselling.

Rose's brother would isolate himself in his room and listen to angry music. He was socially withdrawn and didn't have many friends, and he would sometimes be aggressive and abusive towards Rose. He collected weapons, and later, when he was older, became zealous about working out.

As an adult, Rose experienced depression, feelings of isolation, and aggression. She found herself in an abusive relationship with a boyfriend. He had an extremely violent temper, but although Rose knew his actions and reactions crossed the line for her, she felt stuck and didn't know how to get out of the relationship. Rationally, she knew she could not let herself be in an abusive relationship, but after leaving him she would continue to go back. After a point,

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Rose decided she didn't need to be in an abusive relationship and that it was wasting her time and energy, and she broke things off for good.

Rose is pursuing a Masters in Counselling and lives at home with her parents. The situation at home has de-escalated as her parents have gotten older. Rose has been going to therapy, has gone to some sessions with her family members to try to work through their issues. Rose's brother works in their family business and is married. According to Rose, he is co-dependent on his wife, but is more open and happier with her.

Remarks:

- Growing up, Rose wished her parents would get divorced, rather than staying together and being constantly abusive towards one another. This subverts the common notion of parents staying together or mothers staying in abusive relationships 'for the children.' Parents staying together and perpetuating a violent household can be far more harmful to children than any perceived social ramifications of getting a divorce.
- Rose felt the pain of cutting herself helped her escape her emotional pain. It also felt empowering to her to be in control of her own pain, since pain had so often been inflicted on her and used to control her.
- Despite the fact that Rose's brother was also abused, he and Rose did not rely on each other for support, but instead dealt with their trauma separately. For some time, Rose's brother's reaction to the violence was to in-turn abuse his sister. He also collected weapons, and then later became zealous about working out—both means of being able to protect himself.
- Despite knowing where she stood on the issue of domestic violence and never thinking she would let anyone treat her that way, Rose still found herself stuck in an abusive relationship. However, she was eventually able to get out of it, likely in part due to the knowledge and understanding of herself she had gained both from going to therapy and from studying counselling.
- Today, Rose believes that her parents feel tremendous guilt over what they put their children through growing up, although it is hard for them to acknowledge it outright. Rose is still trying to work through her trauma and considers her family situation a work-in-progress, but is grateful that they have access to therapy.

CASE 19 - SHREYA

Shreya is a 24-year-old woman who is the daughter of Samira and the sister of Vikram. From as young as five years old, Shreya witnessed the verbal and physical abuse that her father inflicted on her mother. At the time, Shreya did not understand what was happening, but in the aftermath of the abuse she would see her mom trying to hide her tears and knew something was wrong.

From the time Shreya was a young child, she never felt any affection from or closeness to her father. Although she did not resent him, she also did not feel love towards him. Shreya's father was not physically violent towards her, but he would insult her and Samira, and was resentful of their relationship. Shreya was extremely close to her mother from the time she was young, and she would always comfort Samira when she was upset after an episode of verbal or physical abuse.

Shreya's father had an extremely violent temper, and he would sometimes come home extremely angry for no specific reason and begin taking his anger out on household objects. This would then escalate into him hitting Shreya's mom. Usually, his angry and aggressive phase lasted for two to three months, and then this was followed by a phase where he was nicer and in a good mood for around a month. During these latter phases, Shreya and Samira would tiptoe around him and try not to do anything to set him off. At these times, Shreya's father would be friendlier and more affectionate towards her.

At times, Samira reached out to her husband's family and her own family for support. However, both families simply told Samira not to instigate her husband. They would sometimes sit down to talk things out, but nothing changed. Shreya felt that she and her mom had to be there for each other, and from the time Shreya was around 12 or 13 years old, she began intervening to protect her mom, and her father would get angry at Shreya for contradicting him and interfering. As Shreya described, the older she got, the braver she got, and the braver she got, the angrier her father got.

On a few occasions, Shreya accompanied Samira to the police station to file a report, but the police were not responsive. One time, the police officers at the station laughed at Samira and told her that 'her husband must be tired because he's a lorry driver.' Only on one occasion did a female inspector take Samira's complaint seriously, calling up Shreya's father to give him a warning. When

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Shreya and her mother returned home from the police station, her father was extremely angry, but he had a grin on his face, showing Shreya that he was not scared of a warning from the police, or anyone.

As Shreya got older, Samira communicated openly with her about what was going on. She explained to Shreya why she felt stuck in the marriage and not able to leave. Although Samira put a plan in place to make herself independent and stable enough to leave, which included going to school while she continued working, this took several years to execute.

The final straw came one day when Shreya's father was in one of his very angry moods. Samira had gone to pick up Shreya's brother from football practice, and, before she left, Samira and Shreya had agreed that Shreya would just ignore her father and stay away from him. Shreya's father initially took out his aggression on the floor, scrubbing it extremely hard. Shreya grew frustrated with her father's anger and threw her own mobile phone on the table. Shortly thereafter, Shreya's father took out a large hammer and used it to break a marble sink in their home. When Shreya emerged from her room and saw the pieces of marble on the floor, she told her father that he was no longer going to do this, and she left the house. She told her mother that she refused to put up with her father's abuse anymore, and that her mother had to make a choice between her father and her. Shortly after this, Shreya's husband moved out of the house, and within a year, Samira had finalised her divorce.

Remarks:

- In some cases, girls—especially where they are the eldest child—end up taking on a role of responsibility in the abusive home, and even intervening in the abuse, as Shreya did. This was particularly the case in Shreya's situation because when her mother turned to their other family for support, she was not provided any, and simply told not to instigate her husband.
- Despite Samira filing several police reports and being accompanied by Shreya on some of these instances, the police did not take the reports seriously, on one occasion even laughing at Samira and justifying the abuse by saying that her husband must be tired due to his job.
- Even as a child, Shreya was very aware of her father's cycles of aggression and violence, staying out of his way when he was in an 'angry' phase, and being careful not to do anything to upset him when he was in a 'happy' phase. These types of wildly swinging moods are another way in which abusers exert their control. Shreya's father was also resentful

of Shreya and her mother's close relationship, and would even prevent Shreya and her brother from talking or playing together at home, likely out of fear that that he would not be able to exert his power and control over them in the same way if they were all united against him.

CASE 20 – VIKRAM

Vikram, now 18, is the younger brother of Shreya and son of Samira (from Case 19). Unlike his sister, Vikram recalls his earliest feelings towards his father being those of resentment, as his father was not loving or supportive towards him at all. Vikram grew up seeing his father beating his mother and shouting at his sister. His first distinct memory of the violence was on one occasion when his father was aggressively pulling his arm, and his mother was trying to get Vikram and his sister away from him and out of the house.

From the time Vikram was a young child, his father would speak extremely aggressively towards him. Vikram believed that his father never showed any kind of love or softness because he viewed it as un-masculine. Vikram's father would verbally abuse him, calling him things like fat and transgender. His father would also hit him, slapping him until his face swelled up or hitting him until he had bruises. Vikram's father would mostly do this when Samira was out of the house, and Vikram would always be afraid to tell his mom that his father had hit him, because he knew the situation would only get worse. However, his mother would always be able to tell from the marks or Vikram's demeanour that something had happened.

Vikram tried to avoid his father as much as possible, participating in extracurriculars after school so that he did not have to see him. While his sister was more defiant of their father, Vikram was more afraid of him. Vikram was 13 years old when his sister pushed their mother to leave their father, and he was very happy that his sister had the courage to do this.

When Vikram was around 15 years old, he started developing more aggressive tendencies. He would have angry outbursts where he would completely lose control of his emotions and speak sharply and brutally to others, including even a teacher on one occasion. With the help of his mother, who encouraged Vikram to harness his anger into something productive and positive, Vikram started taking control of his anger and has felt that he has successfully been able to do this over the last year or so.

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Vikram feels that the experiences he had as a child have helped shape him into the person he is today, with a desire to have a positive impact on society and to give back.

Remarks:

- Vikram's experience of his father's abuse was significantly different from his sister's, highlighting the gender dynamics in play in domestic violence, as well as the differing reactions of boys and girls. While Vikram's father never hit his sister, he regularly hit Vikram and was machoistic in speaking to him, putting him down for not being masculine enough.
- While Vikram's sister stood up to their father and often intervened in her father's abuse of their mother, Vikram was far more afraid of his father and tried to avoid him. He felt that he was more influenced by his father's behaviours, and absorbed some of his aggressive tendencies, while his sister was more able to challenge the situation.
- The same patriarchal and misogynistic attitudes that marked Vikram's father's abuse of him were perpetuated not only by Vikram's parents' families, but also by the police officers who should have instead been concerned with the safety of Samira and her children.

CASE 21 – VICTORIA

Victoria is a 29-year-old woman who lectures and teaches public-speaking part time. From the time Victoria's parents got married, her father was abusive. Because Victoria's father could not hold down a job, her mother was the sole breadwinner and was not able to take care of Victoria, so she was sent to live with her paternal grandparents, who treated Victoria kindly. When Victoria was seven years old, her parents brought her back home without talking to Victoria about it or asking her what she wanted, and she felt resentful of this. Victoria had trouble fitting in at her new school, while at home she was afraid of her father and thought of him as a villain.

Victoria's father would beat her mother, and even when Victoria was as young as seven years old, Victoria's mother would look to her for comfort, and ask Victoria to intervene as a barrier. Every night, Victoria's father would come home drunk, often around 2 a.m., and Victoria's mother would ask her to be the one to stay up and open the door for him to prevent herself from being beaten up by him. However, this resulted in Victoria's father beating both her mother and herself on a daily basis.

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Since Victoria hadn't made friends at school since moving back in with her parents, and her paternal grandmother, whom she felt close to, did not have a phone in her house, Victoria was socially isolated. At times she felt extremely alone and helpless, and so she would write down her feelings, and also lose herself in reading books, both of which helped her gain some relief.

When Victoria was 12 years old, her mother left her father, and she and Victoria went to live with Victoria's maternal grandparents. Victoria's grandmother was extremely ill and required extensive care. Victoria's aunt, who was recently divorced and pregnant at the time, had also moved back into her parents' home. From this time onwards, Victoria started experiencing regular verbal and physical abuse from her mother, her aunt, and her grandfather.

Victoria was made to help out with everything at home, from caring for her ill grandmother, to looking after her aunt's baby, to cleaning and cooking. Victoria's mother would hit her regularly and scold her for every little thing, including if she woke up late or didn't cook the food properly. Her mother would hit her with anything she could find, and on one occasion even took a metal spoon, put it on an open flame, and burned Victoria's skin with it. Even today, the scar from this incident remains. Victoria's mother would insult her, telling her she would never amount to anything and would be a prostitute.

Victoria often felt depressed and suicidal, and thought about running away from home. On one occasion, her grandfather realised she was contemplating running away and told Victoria that if she did, he would send men after her to rape her.

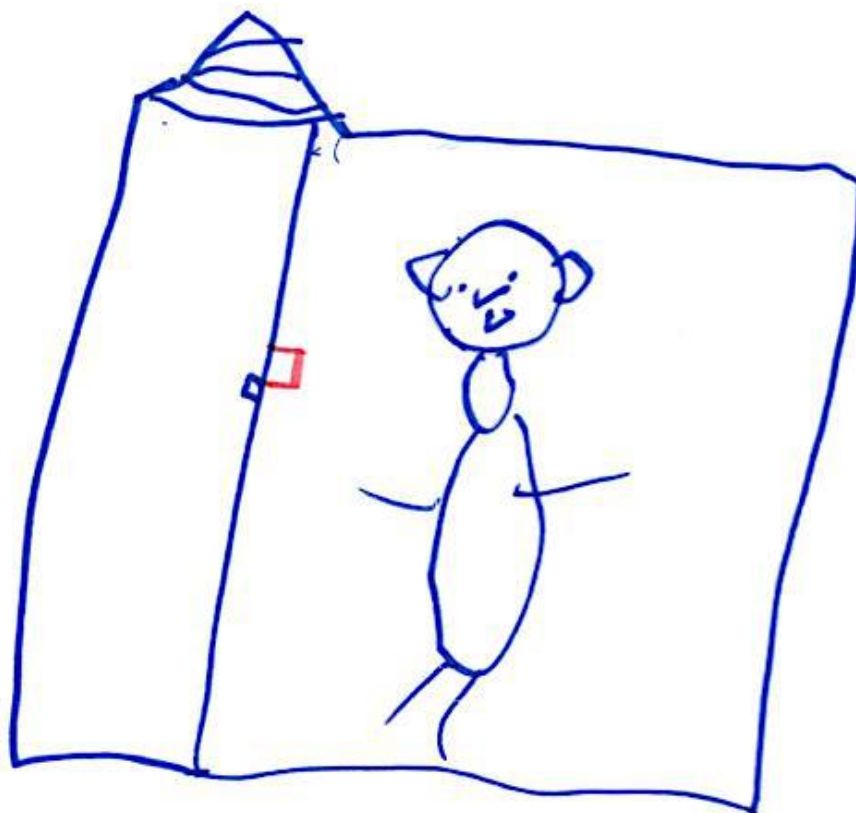
Victoria's mother would regularly try to stop her from going to school. She did not want school to interfere with Victoria's chores and taking care of her grandmother, and she even spoke to Victoria's teacher to tell her not to involve her in extracurricular activities when Victoria wanted to join public speaking. This teacher was extremely unhappy about Victoria's mother's behaviour and was very supportive of Victoria. She asked Victoria if she wanted to leave home and stay somewhere else, but Victoria was too afraid of her mother.

When Victoria was 18, her family refused to pay to send her to a private college, so she got admission at a public university and moved out. Her mother told her that she was disowning her, and also told Victoria that if she had to choose between Victoria and her family, she would choose her family.

Victoria managed to complete her degree and go on to do her Masters by taking a loan, working multiple jobs, and supporting herself to become truly independent. She has cut off all communication with her mother and has built a network of people she can rely on and a fulfilling life of her own.

Remarks:

- Victoria endured serious physical and emotional abuse from almost every single family member whom she should have been able to look to for love and protection.
- When Victoria's parents removed her from her grandparents' house to live at home with them without even telling her what was happening or asking her what she wanted, she felt extremely resentful and upset. This reinforces the notion that the right of children to participate in decisions that affect them must be respected and upheld.
- Victoria's mother attempted to use Victoria as a shield from the abuse of her husband, which resulted in Victoria being exposed to the violence of her drunk father almost every night.
- Despite Victoria being protective of her mother and being forced to take on the role of the adult in the relationship, once removed from the abusive situation, her mother then began to abuse Victoria herself. Victoria believes that some of her mother's resentment towards her may have stemmed from the fact that Victoria grew up looking a lot like her father.
- Despite the fact that Victoria was only a child and should have been primarily focused on going to school and studying, her family forced her to spend most of her time at home doing housework and caregiving. So that her mother and aunt would not prevent her from going to school altogether, Victoria began waking up at 5:30 a.m. to be able to complete all the chores before she went to school, though as a result she would often be half an hour late to school and get into trouble with her teachers.
- While some of Victoria's teachers learned about her situation at home, and one of them asked Victoria if she wanted to leave home and stay somewhere else, none of the teachers reported the abuse to JKM, which could have resulted in Victoria being removed from the abusive household. Although these teachers may have felt conflicted about taking such action on their own, adults who are in a position of authority have the ability, and indeed a duty, to help children who are in a dangerous situation and may be too afraid or emotionally conflicted to make the decision to leave or ask for help on their own.



Jay (Case 4) - "In my family there is my mummy, my daddy, and my sister. I got two grandmas."

A SURVIVOR'S STORY

The following is one survivor's story, written in her own words. We hope this can be used as a tool for reflection, discussion, and further understanding of the lasting impact domestic violence can have on children.

My most vivid memory of violence was waking up to my mum's shouts of "Shoot! Shoot!"

I shared the room with my brother who was three years older than me, and our room was immediately next to our parents' room. I then heard my mum cry out and she came rushing to our room, holding her head. I could see that she was bleeding. She kept saying, "See what your father did to me, see what your father did to me," and went to our bathroom. I was sitting up in my bed and started crying, and don't remember when I finally stopped. I must have been between 6 and 8 years old because we shifted after May 1969.

My bed was the first and nearest the bedroom door. My father came into the room and tried to hold me, but I didn't want him near me. All I felt was his insincerity—the cold, unfeeling, superficial semblance of a hug that was meant to comfort me, but only told me all the more loudly never to trust this man. I don't know how or when I fell asleep and I don't remember what exactly happened the next day or the days immediately after, but I do remember him asking my brother and I to stand in front of him while he asked us whom we would follow if he separated from our mother. He asked me, the younger of his two children, first. I said mum, and my brother said the same. He asked that question on at least one other occasion. My reply was the same. I never faltered.

Since then, I think, unconsciously as a child, I became protective of Mum though in reality, I could not do much. At one point, I even accidentally referred to her as "my wife" when my father's work colleagues asked me where she was. They, of course, just laughed and made fun of me, and I smiled and laughed too. They were police officers. My father was a police officer, an Assistant Superintendent of Police, an Ahli Mangku Negara. Clearly the award meant something to him, but it did nothing for Mum and us children.

During my early primary school years, we lived in a nice single storey bungalow and we had a separate room to study and play. It was also the house in which

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my father cracked open my mum's head with the butt of his pistol. And the house where he beat our domestic worker. She was a local, just trying to earn money, probably to help her family. I remember that she was kind. She would give me a bath, and sing to me, and tried to teach me Tamil. I don't know what happened that he got so angry and beat her. She was begging him to stop. I could only watch in horror and feared for her safety. Afterwards, mum could only say to him, "How can you beat someone else's child?"

We moved to another house that my parents bought when I was nine years old. A lot of violence took place in that house. It was usually caning, like when the feather duster I was told to fetch was used against me. Usually, I was caned on my body and legs and my father didn't care if the welts showed. On at least one occasion they were pretty obvious and showed beneath my school uniform. No one at school ever asked what happened, but then again, when I was younger, I had a lot of scars on my legs that were not from the beatings, so maybe it just made people uncomfortable to look at them.

I remember once when I was beaten, I didn't cry and my father was infuriated at this. He thought I was being stubborn, so I just cried to appease him. That was easy, to cry on cue so that he would feel satisfied and so the beating would be over that much faster. I guess that was one of my coping mechanisms.

As I grew older, I recognised that my mum bore the worst of it, followed by my brother, who was once hit with a tennis racket by our father, and then me. From what I can remember, we faced violence on a daily basis because at 13 years old in my first year of secondary school, I'd find all sorts of reasons to go to school earlier than needed. I would stay at school as long as possible, if not for extracurricular activities, then I'd just say I was going to the library. This was also my way of coping, to remain outside of the house as much as possible, because my father had opted to retire at 50 years old—five years too early as far as I was concerned. That meant he was at home for the whole day, from morning until night.

Returning home was like returning to a war zone. I had to psyche myself up for the worst to happen on a daily basis. I would be woken up at night by my father shouting my name. No one else woke up. By the time I was 13 years old, my brother was given his own room, but neither my mum or my brother would ever wake up or come out of their rooms during these episodes. I would be left to face him on my own, and it would usually be because he deliberately broke a plate, a glass, or something else, and wanted me to clean it up. After this, he

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would either hit me or raise his fist and threaten to hit me. I never understood why I was singled out like this. It also made me very uncomfortable when he would sometimes sleep in my bedroom. I had an extra single bed from when my brother used to share the bedroom with me, and our father would on occasion choose to sleep there. It always made me uncomfortable whenever he entered my bedroom, and I would have to force myself to fall asleep, otherwise I would be tired and unable to focus at school the next day.

At times, Mum would go out for a walk after dinner, and I would follow her. Once, when I was 14 years old, I asked her why she remained with our father, and why she didn't leave. She said because she would have nothing, and that she was also paying for the house. I later learned that my mother and father had taken a joint housing loan where she paid half and he paid half of the loan repayments, even though his salary was at least 50% higher than hers. I felt that my father was not very good at managing his money, because from time to time, he would ask my mother for money in front of us, likely because he enjoyed his whiskey and cigarettes every night in the same chair he always sat in in the living room. Another time, when I asked her again why she would not leave, she said that, "at least, he doesn't womanise, he doesn't gamble."

When I was 16, my brother, who was 19 at the time, tried to stop my father from hitting Mum. They were in the dining area of our house and our father was trying to hit her, and my brother stood between them, pleading to our father to stop as I watched. That was the only time I witnessed my brother try to stand up to our father and his violence.

One day, my brother returned home from sitting for a professional exam, and our father asked him how he had done. My brother said he had failed, and that everyone else in the class failed too. Something about my brother appearing to be so lax just because the others failed as well set my father off. He kicked my brother out of the house the same day during a thunderstorm with just the clothes on his back. Mum was so upset that evening. All she could do was to silently talk to herself. But I knew that my brother had a lot of friends and that he would be okay. He returned around a week later to get his clothes. My brother didn't return to stay with us and was fortunate enough to leave the country for further training a few months later. That made me feel extra vulnerable, because it meant that only mum and I were left to deal with my father.

Sometime in the first year when my brother was away, my father's friend gave him two white feathered chickens with black skin, believed to be medicinal by

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the Chinese Malaysians. At the time, we also had a dog, a faithful and long-time pet. That same evening my father received the chickens, he allowed both the chickens and our dog to be let loose in the garden at the same time. Because my father was such a disciplinarian (ironically, Mum thought that this was his strength), he was able to instruct our dog to stay away from the chickens, and she obeyed. Mum mistakenly assumed that our dog wouldn't touch the chickens and went to take her bath. Our dog attacked the chickens and killed them. My father bashed our dog so badly that she became deaf. She was more than 10 years old already, and about 70 years old in dog years. My dog didn't understand the violence. She just kept obeying him.

The next morning as I got ready for school, Mum was in the kitchen and told me, "Your father stripped me naked and tortured my body," and she kept repeating it. There was nothing I could say, I didn't know what to say. We never grew up as an intimate family. We never hugged. We never said, "I love you," to each other. We had a lot of silence between us. Even after my father died, my mother never once talked about the violence she suffered. That morning, I could see that she was badly affected, and she kept talking quietly to herself. Mum would talk quietly to herself a lot. I think she was trying to say all that she couldn't all those times she had suffered the violence.

Soon after this incident, my father told us to put the dog to sleep because he deemed her useless as a guard dog now that she was deaf. I followed Mum to the vet and our dog could sense something was wrong. She lifted her head and turned to look at me so trustingly before she fell "asleep." That dog had kept me safe when I was five and often left alone at the house because both my parents were working and my brother was already in school. That dog had kept me company. It's a lot more significant when you consider that I was five in 1969, and I remember seeing houses burning on 13 May. She would eat my lunch that I didn't want to finish, especially my vegetables, and I would sleep next to her on the floor. She would be the one I talked to. She was the only one who loved me unconditionally. I loved that dog, and I hated my father.

By this time, I hated my father so much and I wanted him dead and gone from our lives. But mum would not leave him, and there were no NGOs around at the time to help, at least none that I knew of. With a father who was a Police officer, there was really little you could do. He monitored the calls we received, and at one point when I was getting too many calls, including from silly friends who would call and hang up if it was not me who answered the phone, he got the Police to filter the calls.

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At 17, I was sure I wanted him dead, and because it didn't seem like he would die soon enough, I decided to run away after my SPM. I had gone for a national tournament and I decided not to return home. I stayed with a friend, but unfortunately, the coach, who was also a Police officer and took a liking to me, had called up my house to make sure I had arrived home safely. It was then that my parents knew that I hadn't gone home as I should have.

After the coach found me, he brought me home. He of course was very cordial to my father, as was my father in return. Before returning, I called up the house to talk to Mum to see if she was okay. She told me to return home or things would get worse, and so I did. I didn't get beaten for running away, but my father could not understand why I would want to run away. I remember him asking me how I would sustain myself, so I said I would earn my own money. Even after my exams I had gone to work, so it seemed easy enough. Of course, I hadn't planned it out too thoroughly, I just knew that I didn't want to return home.

My father passed away when I was 19 years old. I was out with a friend and had lied in order to stay out. When I returned home and found my mum struggling to get him out of bed, I didn't step forward to help. I had no empathy for him. I only felt guilty about lying.

My father's health had deteriorated quite fast because of his diabetes, and his own neglect, like the daily drinking. He initially blamed my mum's cooking for his inability to hold down food, and he would scold Mum. But she found a magazine in the school staff room that described the exact same symptoms he had, complications arising from his diabetes. When she showed him the magazine, he could not scold her anymore. Soon he was merely sipping aerated fizzy drinks with a straw and eating nothing else. He died on the way to hospital. The boy who lived nearby and who helped him with the garden came to help us get him into the car to take him to hospital. My mum would tell herself that my father must have thought the boy was my brother, as my brother was away at the time. The boy was always grateful to my father. He felt that my father treated him well, and to this day, would only speak well of him.

I cried during my father's funeral. I don't know why I cried. Mum didn't. I think I was mourning the father I never had. And when friends came over after the funeral to check on me, I didn't know how to respond to their condolences. I don't remember if I told them that he was a wife batterer. I may have, at least to one of my childhood friends, but I don't remember. I think I tried to share a few times with friends. Never with adults. But friends didn't know how to respond,

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and most times, it just made them feel uncomfortable. That's when I realised that there are friends and then there are friends.

Only once did I blurt out that my father beats my mother to his younger sister, my aunt. I think she was praising him about something after his passing, and I got so annoyed, and just blurted out, "He used to beat mum", because it was just Mum, my aunt and I in the kitchen. My aunt was so shocked, and could only say, "I'm so sorry," to my mum. Later Mum told me not to air our dirty laundry in public. I didn't understand her, I didn't understand why she would say that. For me, it was merely the truth, and I was fed up of the dishonesty of my father's life and how it shadowed the little enjoyment we had as a family.

I can remember only two occasions when we came together as a family—once to play cards, and teach Mum gin rummy, which she won, and the second and last time was when I received a jigsaw puzzle of a lynx as a present for my birthday and all of us sat down to put it together. That was an odd day, because my father suddenly decided to celebrate my 11th birthday, and that was the only time a birthday was celebrated in our household, but it was all his friends who got invited. My brother never had his birthday celebrated, and I knew my brother felt bad about it, because he told me at the end of my birthday party.

10 years after my father passed away, I had a dream of someone that had the semblance of my father, but it was a frail and bent figure. He sat down at a table and tried to eat a bowl of what looked like blood mixed with something else. He couldn't eat it, and he was frustrated, and he started crying. I touched his bald head and said something. I think I might have said, "I love you," and then he disappeared. Maybe there is some truth in what Muslims believe, that someone's unforgiveness of you when you die will stop your soul from ever having any peace. I think I forgave my father 10 years after his passing. Before that, I never had a dream of him, and I never did again after.

There's something really crippling about the violence we faced as a family. It was a reality that we never talked about. My brother never spoke of it. Mum certainly didn't. It was as if we were resigned to an imperfect reality, but a reality that Mum kept telling herself was still better than the others she could think of. I think as children, we were quite resilient and survived possibly better than most. The violence stopped with my father's passing, and thankfully, my brother is so different from him. I think the notion that violence will repeat in a broken home is untrue. I think a lot of it has to do with what a person chooses to become.



Robert (Case 7) - "I won't grow up like my father. I will protect my mother, my children, and my wife. My sisters will have their own husbands, but I will protect them as well."

RECOMMENDATIONS TO POLICYMAKERS

CRITICAL GAPS

There are several critical gaps in the response to child survivors of domestic violence, as raised by the case studies and highlights.

- **Rights-based response:** Currently, child rights are not well-recognised or upheld in Malaysia, with the child often being an afterthought in the creation of laws, policies, and procedures that directly impact them. Furthermore, the best interests of the child are often not upheld as they should be in accordance with both the Child Act and the CRC. We recommend a comprehensive review by all stakeholders—from the government, to NGOs, schools, child care providers, and the private sector—of all laws, policies, and procedures related to the rights of children generally, and to the response to and protection of child survivors of domestic violence specifically.
- **Data and evidence:** Greater understanding of domestic violence, profiles of survivors, and information on perpetrators and domestic violence related crimes are crucial to ensure we have a complete picture to plan, target resources, and monitor progress. We recommend that the government review current data collection procedures and refocus data collection on domestic violence matters—including data disaggregated by age, gender, and relationship of the perpetrator to the survivor—to better understand the dimensions of domestic violence, as well as the extent of the impact of domestic violence on children in Malaysia. This should be accompanied by a central case management database, accessible to all government responders.
- **Training and awareness:** All stakeholders have a critical role to play in preventing and reporting abuse and ensuring that the best interests of the child are upheld. We recommend that all front-line state service providers and court officials receive comprehensive training within a common learning platform built around the Domestic Violence Act, Child Act, Sexual Offences Against Children Act, and the Convention on the Rights of the Child. A key need is to change perceptions of child survivors as tangential bystanders in the context of domestic violence, both when they are witnessing and experiencing the abuse. We must foster a complete

understanding of the needs of child survivors, and promote sensitivity and understanding of the various dimensions of domestic violence against children. In this way, we can ensure that service providers are delivering the best response possible and upholding the best interests of the child at every step in the process.

- **Enhanced legislation:** We recommend passing legislative amendments as required to close the current gaps in the law.

Associated with these critical areas are the following specific recommendations.

To All Stakeholders

Recommendation 1: Fulfil the duty to report abuse of children, and encourage reporting even where there is no legal duty (See Cases 1, 2, 7, 9, 13, and 21)

The duty to report the abuse of a child is stipulated in the law for certain situations. Sections 27, 28, and 29 of the Child Act respectively lay out the duty of medical officers and practitioners, family members, and paid child care providers who have reasonable grounds to believe that a child is being “ill-treated, neglected, abandoned or exposed, or...sexually abused” to immediately inform a JPN officer. An individual who fails to fulfil this duty is deemed to have committed an offence and is liable for a fine of up to RM5,000 and imprisonment of up to two years.

Section 19 of the Sexual Offences Against Children Act sets out that any person who fails to give information about the commission of or intent to commit any offence under the act has themselves committed an offence and is liable for a fine of up to RM5,000.

These provisions create a legal duty on the part of certain individuals to report any type of child abuse, and on the part of all individuals to report sexual abuse of children. This duty must be taken seriously by all stakeholders and, where the duty was not fulfilled, the responsible individual should be prosecuted.

Furthermore, even where there is not a duty articulated in the law, every stakeholder, whether or not directly involved in the protection of children, should report the suspected abuse of children, which is part of the obligation to uphold the best interests of the child under both the Child Act and the CRC. Specifically, teachers and other school personnel should report suspected abuse—although

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they do not currently have a legal obligation to do so¹³¹—as they are often in the best position to detect such abuse.

TO THE ROYAL MALAYSIA POLICE (PDRM)

Recommendation 2: Prioritise the best interests of the child when handling police reports related to children who have witnessed or experienced DV (See Cases 5 and 7)

As front-line responders, the police play a key role in ensuring the protection of child survivors of DV and prioritising the child's best interests during the course of police involvement.

Recommendation 2(a) - Conduct all interviews of children at the CIC unless impracticable (See Case 7)

Part of prioritising the best interests of child survivors means conducting any necessary interviews in a child-friendly manner at the Child Interview Centre (CIC), which has been designed to be a friendly environment to make children more comfortable.

Interviewing children in an environment that is less intimidating and more comfortable for them, such as the CIC, ensures that the child's right to participation is ensured, and that they are able to voice their experience of DV, which is both critical to the DV case to be brought against the perpetrator, as well as to the child beginning to acknowledge and recover from their trauma. It also presents an opportunity for the child to speak about additional details of the abuse that may not even be known to the mother-survivor.

Child interviews should be conducted at the CIC whether the child only witnessed the abuse of their mother, or also experienced abuse themselves. This should be the case outside of some extenuating circumstance, such as a serious emergency situation where there is not enough time to arrange for an interview at the CIC.

¹³¹ Wan Yuen Choo et al. "Are Malaysian Teachers Ready to Assume the Duties of Reporting Child Abuse and Neglect?" Child Abuse Review 22(2). March 2013.

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Recommendation 2(b) - Update police SOPs to automatically include child survivors who witness DV in the referral letter for IPO (See Cases 6, 7, and 8)

Given the context of DV as taking place within the family and typically in the home itself, police and other stakeholders must not disregard the harm to children who have witnessed violence, even if they themselves have not experienced violence directly.

Failing to include the children of a mother-survivor in the IPO referral letter disregards both the trauma experienced by children, as well as the risk to their safety.

Leaving the children out of the IPO referral letter may also put the mother-survivor at greater risk of harm if she is forced to interact with the perpetrator-father who still has access to the children.

Recommendation 2(c) - Update police SOPs to mandate that IPO referrals be issued for child survivors, even where the mother-survivor is deemed ineligible for IPO (See Case 9)

Currently, unmarried intimate partners are not eligible for protection under the DVA. This leaves not only mother-survivors vulnerable to abuse, but child survivors as well. In such a situation, where a child has witnessed or experienced abuse—and the police deem the mother-survivor ineligible for the protection of an IPO—an IPO referral letter must be issued for the child survivor.

Recommendation 2(d) - Prioritise cases of DV that involve child survivors, and immediately refer the case to JKM where the child's welfare is deemed to be at risk (See Case 5)

In some cases, police investigation of DV and child sexual abuse has taken several months. Such delay in concluding an investigation puts the child survivor at risk of ongoing harm. While the investigation is pending, the perpetrator-father may continue to have access to the child, which puts them at further risk, particularly in situations where the child themselves has experienced abuse.

Furthermore, such delay can result in additional and unnecessary uncertainty and upheaval in the child's life. For example, while the case is pending investigation, there may be uncertainty as to where the child will live, which parent has custody of the child, and where and whether at all the child can attend school.

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Where the police deem that there is a risk of harm to the child, the police should immediately refer the case to JKM.

TO THE WELFARE DEPARTMENT (JKM)

Recommendation 3: Update JKM SOPs to mandate that the child be included in IPO and PO even where the child has only witnessed, but not experienced, abuse (See Case 7)

Even in situations where a child has witnessed, but not directly experienced abuse by their perpetrator-father, the child has been subjected to harm and trauma, and is at risk. In such situations, any IPO or PO issued must include the children at the mother-survivor's request.

Even where a mother-survivor's police report does not specifically explain the facts around the child witnessing the abuse, an inference should be made based on the factual context (e.g. whether the children were present at home when the incident took place, the frequency and severity of abuse, etc.). Furthermore, the mother-survivor should be given the opportunity to provide additional facts related to the child witnessing abuse at the time of appearing before the Magistrate court to apply for the IPO or PO.

If a child who has witnessed abuse is left out of an IPO or PO, both the mother-survivor and the child will be at risk of harm. For example, a perpetrator-father may continue to harass the mother-survivor by taking the child out of school without the mother's knowledge, or harass or abuse the mother-survivor during designated visits with the child. If not included in the IPO or PO, a child who has witnessed abuse will be left vulnerable to continued exposure to abuse.

Recommendation 4: In all DV cases, conduct a review of the best interests of the child; in some cases, assess whether the child should be removed from the home (See Cases 13 and 15)

In DV cases where there is evidence that neither parent is looking after the child's best interests, or the parent not actively engaged in the abuse remained silent about it, removing the child from the abusive home should be considered. This is particularly the case in situations of sexual abuse committed against the child by a parent or other family member, where the parent(s) are aware of the situation and do not take measures to stop it. Not only is a family member remaining silent

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about such abuse an offence under both the Child Act and the Sexual Offences Against Children Act, but it is also indicative that the parent is not prioritising the best interests of the child.

The risk to the child's safety must be weighed against the preference to keep the child at home, and not in an institution. For example, in a situation where a mother remained silent about a father's abuse of a child, one factor that might be taken into account in making the assessment of the child's ongoing safety in the home is whether the mother herself was being abused, or was entirely dependent on her husband for survival. While not a justification for remaining silent about the child's abuse, the mother-survivor may have unsuccessfully tried to stop it, while fearing for the child's and her own safety or survival if she were to report it to the authorities.

Where a mother-survivor is faced with circumstances of DV, this may impact on her capacity to provide the necessary care for her children, largely arising from the physical, emotional, and economic incapacity to care for herself. In these circumstances, it must be recognised that the mother's neglect may arise not actively or intentionally, but because of the trauma that the mother-survivor herself is undergoing.

Consequently, it is critical to support the mother-survivor in leaving the abusive environment, such as through shelter and counselling, whilst at the same time granting her the freedom to nurture her children in a danger-free environment.

JKM must complete a comprehensive investigation which takes all such factors into account in assessing where a child should live and where their best interests will be upheld.

TO THE MINISTRY OF WOMEN, FAMILY AND COMMUNITY DEVELOPMENT (KPWKM)

Recommendation 5: Amend the DVA to include unmarried partners (See Case 9) and add explicit protections for children witnessing DV (See Case 7)

Upholding the best interests of the child requires ensuring that existing laws, including the DVA, do not allow child survivors of violence to fall through the gaps in terms of accessing protection and justice.

With unmarried, intimate partners currently being ineligible for protection under the DVA, both mother-survivors as well as their children may be left vulnerable to

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DV. Individuals impacted include partners who are cohabiting, partners who are unmarried with a child/children, engaged persons, and other unmarried intimate partners.

In WAO's experience, where an unmarried mother has been abused by her partner, both the mother-survivor and child survivor have been denied an IPO, leaving them vulnerable to ongoing abuse.

It is an international best practice to include intimate partners as a type of relationship covered under domestic violence laws. The United Nations Handbook for Legislation on Violence Against Women recommends that domestic violence "legislation should apply at a minimum to individuals who are or have been in an intimate relationship, including marital [and] non-marital" relationships.¹³²

Although the IPO and PO are still available to the child survivor who has been abused by her father, the fact that the mother-survivor cannot avail herself of these protections means that the child may still be at risk of harm.

Similarly, it may be necessary to explicitly include the witnessing of violence by the child in the DVA, such as by stating that even children who are not directly abused themselves, but who witness violence of one family member by another, are eligible for the protections afforded by the DVA.

Recommendation 6: Conduct a comprehensive review of the DVA, Penal Code, Child Act, Sexual Offences Against Children Act, and other relevant laws to assess compliance with CRC, CEDAW, and CRPD

Having acceded to three of the international human rights conventions—the CRC, CEDAW, and CRPD—Malaysia must take progressive measures towards implementing its obligations under each of these conventions.

Malaysia's obligations under the CRC require that the 'best interests of the child' principle is reflected in domestic legislation in a way that it may be invoked in

¹³² United Nations Department of Economic and Social Affairs, Division for the Advancement of Women. "Hand- book for Legislation on Violence Against Women." 2010. Pg. 25. See <http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf>.

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court, and is integrated into decision-making at all levels.¹³³ Furthermore, this obligation requires the government to specifically account for vulnerable groups of children, including children with disabilities, also re-affirming Malaysia's obligations under the CRPD.

As part of Malaysia's obligations under CEDAW, the government must take progressive measures toward eliminating discrimination against women and girls. In its General Recommendation 19, the CEDAW Committee has recognised the link between discrimination and gender-based violence,¹³⁴ and outlined the state's obligation toward addressing both. Among the state's obligations are enacting appropriate laws, which are in compliance with the principles embodied in CEDAW.

To this end, WAO urges the Ministry of Women, Family and Community Development to conduct a comprehensive review of all relevant domestic laws, including the DVA, Penal Code, Child Act, the Sexual Offences Against Children Act—as well as those laws which may not be specifically directed at children but nonetheless impact them—and propose amendments as necessary to bring these laws into full compliance with the CRC, CEDAW, and the CRPD.

Recommendation 7: Develop and offer child-centred domestic violence interventions through LPPKN and JKM

Given the demonstrated impacts of DV on children, as well as the potential of various types of interventions to enable children to cope with their trauma, move forward, and break the cycle of violence, we must do more in the way of providing interventions in DV for children in the aftermath of crisis.

¹³³ UNICEF. "Implementation Handbook for the Convention on the Rights of the Child." 2007.

Available at:

https://www.unicef.org/publications/files/Implementation_Handbook_for_the_Convention_on_the_Rights_of_the_Child.pdf

¹³⁴ In General Recommendation 19, the CEDAW Committee explains that, "The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence." The Committee elaborates that the state must take effective measures toward eliminating gender-based violence, including enacting appropriate laws, providing support services for victims and conducting gender-sensitive training for judicial and law enforcement officers, as well as other public officials.

Such interventions could include a combination of counselling, art therapy, and play therapy offered through LPPKN, as well as a Positive Parenting course to help foster an open and strong relationship between parents and their children. An approach similar to the six-day Camp HOPE programme could also be offered for child survivors of DV.

Recommendation 8: Partner with the Ministry of Education on curriculum module to educate children on DV and school-based interventions (See Case 21)

KPWKM should partner with the Ministry of Education and subject matter experts to develop curriculum modules that address domestic violence and child sexual abuse in an age-appropriate way. This would enable children to recognise harmful or dangerous situations and to protect themselves, as well as empower them to seek help.

Furthermore, KPWKM could partner with the Ministry of Education to introduce school-based interventions in DV, in the vein of the Children Who Witness Abuse (CWWA) programme discussed earlier in the section on Types of Interventions in Domestic Violence. Such a programme could initially be piloted in one or two schools located in areas where the prevalence of DV is high.

Recommendation 9: Amend the Persons with Disabilities Act to provide for redress mechanisms for abused children with disabilities.

According to the World Health Organization, "children with disabilities are 3.7 times more likely than non-disabled children to be victims of any sort of violence, 3.6 times more likely to be victims of physical violence, and 2.9 times more likely to be victims of sexual violence."¹³⁵ A child with disabilities may be more vulnerable to abuse due to factors including an inability to communicate their needs, and developing more extensive relationships of trust or dependence with greater numbers of people, such as those providing care.¹³⁶

Although Malaysia passed its Persons with Disabilities Act in 2008, the Act has not adequately addressed violations of the rights of persons with disabilities,

¹³⁵ World Health Organization (WHO). "Violence Against Adults And Children With Disabilities." Available At: <https://www.who.int/disabilities/violence/en/>

¹³⁶ Prevent Child Abuse America. "Maltreatment Of Children With Disabilities – Fact Sheet." Available At: <https://preventchildabuse.org/resource/maltreatment-of-children-with-disabilities-2/>

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including children. This is because the Act fails to provide for things such as penalties and redress mechanisms for violations, or a framework for monitoring.¹³⁷

We urge KPWKM to take the lead and engage with the Attorney General's Chambers to make amendments to the Act to ensure a rights-based approach that makes remedies available to individuals whose rights have been violated.

TO THE MINISTRY OF HOME AFFAIRS

Recommendation 10: Propose amendments to the Immigration Act 1955/63 (See Cases 3 and 12)

Current laws discriminate against foreign wives of Malaysian citizens and must be amended. Women married to Malaysian men are not able to renew their spousal visa, open bank accounts, or access credit without the consent of their husbands. This makes them and their children more vulnerable to domestic violence and creates additional barriers for them to escape abusive situations, also prolonging the exposure to DV of the children.

TO THE NATIONAL REGISTRATION DEPARTMENT (NRD)

Recommendation 11: Streamline registration processes so no child is left stateless

Given that children who are stateless or without documentation face numerous barriers to accessing their basic rights—including to healthcare and education—and are made vulnerable as a result, JPN must undertake efforts to ensure that children who are stateless (or otherwise without documentation) are granted the documentation necessary to ensure their continued access to education and healthcare.

Although Article 14 of the Federal Constitution provides that a child born within Malaysia becomes a citizen by operation of law, 'if one parent is a citizen or permanent resident in Malaysia at the time of the child's birth,' the parents still must apply to NRD for the citizenship to be confirmed, which often takes around two years.

¹³⁷ Malaysiakini. "Fix shortcomings in Person With Disabilities Act immediately." 3 December 2017. Available at: <https://www.malaysiakini.com/letters/404198>

Children born in Malaysia are also rendered stateless if they were born to a Malaysian father and non-Malaysian mother who were not officially married or did not register their marriage.¹³⁸ Particularly in east Malaysia, many issues arise for children whose parents had customary marriages. Furthermore, in Sarawak, not all citizens have birth certificates or ICs, as access to formal systems and collating all the required information is problematic given the terrain, expenses involved, and previous practices.¹³⁹

The NRD has stated, "We stress that it is the failure of the mother or parents to fulfil their responsibility in obtaining the necessary documents, such as a legal ID from the mother's birth country, that causes the problems in their child's citizenship status."¹⁴⁰ Such response by the government indicates a shirking of their obligations to uphold the best interests of the child under the Child Act and CRC, and must be rectified with a proactive approach to ensuring no child remains stateless.

We applaud the approach the Ministry of Education has taken to simplifying the registration process for stateless children into national schools,¹⁴¹ and urge NRD to engage in a similar process to get all stateless children registered without delay.

¹³⁸ The Star Online. "The State of Statelessness." 1 April 2018. Available at: <https://www.thestar.com.my/news/nation/2018/04/01/the-state-of-statelessness-for-those-born-in-malaysia-but-without-a-citizenship-their-life-is-left-i/>

¹³⁹ Women's Aid Organisation. "CEDAW and Malaysia: Malaysian Non-Government Organisations' Alternative Report assessing the Government's progress in implementing the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)." April 2012. Available at: <https://wao.org.my/wp-content/uploads/2018/08/Malaysian-NGO-CEDAW-Alternative-Report-2012.pdf>

¹⁴⁰ The Star Online. "The State of Statelessness." 1 April 2018. Available at: <https://www.thestar.com.my/news/nation/2018/04/01/the-state-of-statelessness-for-those-born-in-malaysia-but-without-a-citizenship-their-life-is-left-i/>

¹⁴¹ World of Buzz. "Starting Jan 2019, Stateless Children Can Enrol in Govt Schools with Only Birth Cert." 12 October 2018. Available at: <https://www.worldofbuzz.com/starting-jan-2019-stateless-children-can-enrol-in-govt-schools-with-only-birth-cer/>

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TO THE MINISTRY OF EDUCATION AND ALL SCHOOLS

Recommendation 12: Create uniform and gender-equal policy around parental consent for school transfers, with recognised exception for DV cases (See Cases 7 and 8)

When a domestic violence survivor escapes an abusive home with her child, she often relocates to another area away from the perpetrator. Typically consent of the father is required to transfer a child to a different school—a policy which is discriminatory against the mother.

The relevant laws and policies surrounding a school transfer need to be amended, so the consent of both parents or guardians is required to complete a school transfer, with an explicit exception for domestic violence cases.

Domestic violence survivors must be able to transfer schools without the knowledge or consent of the perpetrator-parent, through showing an IPO, a reference letter from JKM, recent police report, or other appropriate evidence. In this way, survivors and their children can rebuild and continue their lives with minimal disruption. Such a policy would take into account the best interests of the child.

Recommendation 13: Mandate teachers and school administrators to report DV and child abuse where the child's welfare is deemed to be at risk (See Cases 1, 2, 14, and 21)

As highlighted by several case studies, teachers are often in the best position to detect abuse of a child, as their daily interactions and rapport with the student often equip them to notice concerning changes in behaviour that may indicate abuse.

Although not mandated by law to report such abuse, it should be the policy of MOE and every school to report abuse to JKM where there are reasonable grounds.

TO THE MINISTRY OF HEALTH AND ALL HOSPITALS AND MEDICAL SERVICE PROVIDERS**Recommendation 14: Train all hospital staff and medical service providers on the obligations to protect children****Recommendation 14(a): Ensure all hospital staff and medical service providers are aware of their specific obligation to report suspected abuse of a child.**

Under Section 27 of the Child Act, any medical officer or practitioner who has reasonable grounds to believe that a child in his or her treatment or care is physically or emotionally injured as a result of neglect or abuse is under an obligation to report the suspected abuse to a Social Welfare Officer.

All medical personnel should be aware of this obligation and of their exposure to criminal liability upon failure to do so, as well as of their obligation and potential liability for failure to report suspected sexual abuse under the SOAC.

Recommendation 14(b): Ensure all hospital staff are trained in the relevant guidelines for handling cases involving child survivors of violence

Given the important role that hospital staff and other medical personnel play in responding to DV, and particularly in cases involving children, it is imperative that all hospital staff and medical personnel are trained in the relevant guidelines for handling cases of DV and other forms of violence involving children.

These guidelines include the the *Garis Panduan Pengendalian Kes Keganasan Rumah Tangga* and the *Guidelines for the Hospital Management of Child Abuse and Neglect*, as well as the *Garis Panduan Khas Untuk Mengendalikan Kes Kesalahan Seksual Terhadap Kanak-Kanak Di Malaysia* for cases of sexual abuse of children.

Recommendation 15: Introduce child-friendly policies and ensure a non-intimidating waiting area is available for children

According to reports shared by WAO's partner NGO service providers, children have been made to wait up to four to six hours to see a specialist to conduct a medical examination on them. During this waiting time, the child is forced to wait idly without any available child-friendly activities.

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It is recommended that hospitals, clinics, and other healthcare facilities prioritise child survivors so they are seen sooner, and also provide materials for simple activities, such as colouring, in order to make the child more comfortable. Such infrastructure is in line with the obligation to uphold the child's best interests in all aspects of DV response.

TO THE MINISTER OF LAW (PRIME MINISTER'S DEPARTMENT)

Recommendation 16: Amend the Law Reform (Marriage and Divorce Act) 1976 and work with state governments to uniformly raise the age of marriage to 18 without exception

Under the Law Reform (Marriage and Divorce) Act's Sections 10 and 12, non-Muslims can only be legally married if they are at least 18 years of age.¹⁴² However, the same law provides for an exception, where a 16-year-old girl can be legally married if the state's Chief Minister authorises it by granting a licence. Under Islamic Law, the disparity is even greater: the minimum legal ages for marriage are 18 and 16 for boys and girls respectively, but these ages can be lowered still with the consent of a Syariah judge and the actual minimum age varies by state. Under native customary laws in Sabah and Sarawak, the minimum age of marriage is 18 for males and 16 for females, but both may be permitted to marry younger with written consent from a parent or guardian.¹⁴³

The consequences of this kind of discrimination and dismissal of a girl's fundamental rights are profound. In 2010 alone, the Deputy Minister for Women revealed that nearly 15,000 girls under the age of 19 were married.¹⁴⁴

Studies have shown the increased prevalence of domestic violence that results from child marriage.¹⁴⁵ Not only are girls who are forced to marry more vulnerable to abuse, including sexual abuse, but they are often forced to

¹⁴² "Law Reform (Marriage and Divorce) Act 1976 [Act 164]." Sections 10 and 12.

¹⁴³ Women's Aid Organisation and the Joint Action Group for Gender Equality. "The Status of Women's Human Rights: 24 Years of CEDAW in Malaysia." 2019. Available at: <https://wao.org.my/the-status-of-womens-human-rights/>

¹⁴⁴ Malay Mail. "Child Marriages Not Rare In Malaysia With 15,000 Underage Brides, Activists Say." 2015. Available at: <https://www.malaymail.com/s/980543/child-marriages-not-rare-in-malaysia-with-15000-underage-brides-activists-s>

¹⁴⁵ EurekAlert. "The Connection Between Child Marriage and Domestic Violence." 13 October 2016. Available at: https://www.eurekalert.org/pub_releases/2016-10/oupu-tcb101316.php

prematurely stop their education, resulting in continued dependence on their spouse.

TO THE ATTORNEY GENERAL'S CHAMBERS (AGC) AND THE COURTS

Recommendation 17: Ensure the rights of child survivors are upheld in the court system (See Case 7)

Whether a child is required to appear in court for a custody hearing pursuant to his mother filing for divorce from his abusive father; as a witness in his mother's domestic violence case against his father; or to provide evidence of his own abuse by a family member—going to court is a daunting experience.

There are several parties involved in ensuring that a child's best interests are upheld throughout the court process, from the judge, to the DPP, the defence lawyer, the watching brief lawyer, and the welfare officer. All parties must be trained on their responsibility to uphold the best interests of child survivors, regardless of their specific role in the process.

This includes ensuring that the courtroom has a protective screen or video live-link for the child to provide testimony in a manner that is less intimidating and traumatic. Many courtrooms are still not equipped with this video link facility.¹⁴⁶ It is the duty of the Deputy Public Prosecutor to ensure that the necessary court facilities are functional or, where the facilities are not available, that some alternative is put in place, such as a screen to block the child from seeing the accused.¹⁴⁷ However, such makeshift measures are insufficient to minimise the trauma to the child, and permanent measures must be put in place.

Judges too should be trained on the CRC, the Child Act, and CEDAW, and ensure the child's participation in matters affecting them, while ultimately ensuring the child's protection.¹⁴⁸ In 2016 and 2017, the government worked with NGOs to incorporate CEDAW principles and gender sensitivity as part of a domestic violence training on the DVA and *Garis Panduan Pengendalian Kes Keganasan Rumah Tangga* (as well as the overlapping Child Act provisions on

¹⁴⁶ The Star Malaysia. "All tangled up in court." 14 October 2018.

¹⁴⁷ Ibid.

¹⁴⁸ Women's Centre for Change. (2017). *2016 Annual Review*. Available at: http://wccpenang.org/wp-content/uploads/2017/08/AR_2016-Low-Res.pdf

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abuse) at the National Judicial and Legal Training Institute (ILKAP). Such training programmes should be continued and expanded.

Finally, all child survivors must be informed about their right to a Legal Companion under the Legal Aid Act and not required to move forward with a court proceeding without the presence of this individual.

TO PARLIAMENT

Recommendation 18: Establish a Child Parliament for the institutionalised participation of children in policymaking

Similar to Malaysia's Youth Parliament, which allows for the political participation of youth between the ages of 18 and 30 and is made up of representatives from all over the country,¹⁴⁹ Malaysia should also establish a Child Parliament.

Countries from Bangladesh, to Bolivia, to India have established Child Parliaments or similar platforms that enable children to share their views and influence policies on matters affecting them.¹⁵⁰ There should be clear channels for the decisions of such a body to be taken into account in the proceedings of Parliament.

In Bolivia, the National Congress of Children and Young People, made up of 130 Delegates (aged 12 years and under) and 36 Senators (aged 13 to 17) developed 147 law and policy proposals from 2010 to 2013 and submitted to the Bolivian government for consideration in the process of national legislative reform.¹⁵¹

¹⁴⁹ Diversity and Inclusion Youth Conference. Malaysian Youth Parliament. Available at: <http://diycx.org/our-partners/malaysian-youth-parliament/>

¹⁵⁰ World Visison. "Children's Parliaments and Children's Councils in World Vision Programmes." November 2015. Available at:

<https://www.wvi.org/sites/default/files/Children's%20Parliaments%20and%20Children's%20Councils%20in%20WV%20programmes.pdf>

¹⁵¹ Ibid.

TO THE MINISTRY OF FOREIGN AFFAIRS

Recommendation 19: Coordinate with KPWKM to fulfil reporting obligations under the CRC and CRPD and submit state reports

Having acceded to the CRC, CEDAW, and CRPD—Malaysia must fulfil its reporting obligations under each of these conventions. While the government recently submitted its Third through Fifth periodic report to the CEDAW Committee, it has only submitted one report to the CRC Committee since accession to the convention in 1995, and has not reported at all under the CRPD since acceding to it in 2010.

The government's first and only report to the CRC Committee was submitted in 2006 and—despite the obligation to report every five years¹⁵² to the CRC Committee—no subsequent reports have been submitted. Similarly, after acceding to the CRPD, the government's first report to the CRPD Committee was due in 2012, with periodic reports to have been submitted every four years after that.¹⁵³ To date, no report has been submitted.

MOFA should encourage KPWKM to take measures to immediately submit Malaysia's overdue reports to the CRC Committee and CRPD Committee respectively.

Recommendation 20: Ratify the Third Optional Protocol to the CRC

In order to give effect to the CRC and allow children to claim their rights under the convention, the government should ratify the Optional Protocol to the CRC, on a communications procedure, which allows for individuals or groups of individuals to bring complaints to the CRC Committee related to violations of their rights.¹⁵⁴

¹⁵² Child Rights Connect. "The Reporting Cycle of the Committee on the Rights of the Child: A Guide for NGOs and NHRIs." Available at:

https://www.ohchr.org/Documents/HRBodies/CRC/GuideNgoSubmission_en.pdf

¹⁵³ United Nations Department of Economic and Social Affairs. "Frequently Asked Questions regarding the Convention on the Rights of Persons with Disabilities." Available at:

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/frequently-asked-questions-regarding-the-convention-on-the-rights-of-persons-with-disabilities.html#sqc5>

¹⁵⁴ UN Office of the High Commissioner. "Optional Protocol to the Convention on the Rights of the Child on a communication procedure." 14 April 2014. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPICCRC.aspx>

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APPENDIX 1 (place holder for now – see separate document with
Appendix 1)

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Appendix 1 Page 2 (place holder for now – see separate document with Appendix 1)

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GLOSSARY

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| CEDAW | United Nations Convention on the Elimination of All Forms of Discrimination Against Women |
| CRC | United Nations Convention on the Rights of the Child |
| CRPD | United Nations Convention on Persons with Disabilities |
| DPP | Deputy Public Prosecutor |
| DVA | Domestic Violence Act 1994 |
| IO | Investigation officer (police) |
| IPO | Interim protection order |
| JKM | Social Welfare Department (<i>Jabatan Kebajikan Masyarakat</i>) |
| LRA | Law Reform (Marriage and Divorce) Act 1976 |
| PO | Protection order |
| SOAC | Sexual Offences Against Children Act 2017 |
| WAO | Women's Aid Organisation |
| YCK | Yayasan Chow Kit |

About WAO

Our **refuge** is a shelter that provides a temporary home to over 100 women and children each year and offers comprehensive support services, from crisis intervention to women's programmes aimed at helping survivors move on from abuse and live independently. In 2017, we sheltered 63 women and 70 children. The availability of our refuge for these individuals ensured that women and children who fled abusive homes had a safe place to go.

WAO's **child care centre** provides free live-in or live-out child care services for mothers moving on from abuse. The centre provides comprehensive care for the children, including ensuring safety, providing nutritious meals, managing trauma, facilitating education, and organising fun activities. In 2017, we provided a variety of services—including shelter, counselling, and access to education—to 171 children while their mothers worked towards creating sustainable and independent lives for them.

WAO support survivors through case management, empowering survivors to make informed decisions at every stage of their journey, and advocating for their rights when facing obstacles in the system. This includes supporting survivors to lodge police reports on the abuse, apply for interim protection orders, and obtain legal representation and medical services. In 2017, WAO made 977 case management interventions on behalf of 195 women.

WAO's **case consultations** are multi-platform and conducted by our social workers, volunteer crisis support officers, and legal aid chambering students. Case consultations are conducted via individual sessions (face-to-face), the WAO Hotline, SMS text-based helpline (TINA, or "Think I Need Aid"), and email enquiries. In 2017, we provided consultations through more than 2,078 hotline calls, 1,698 WhatsApp/SMS messages through TINA, 162 email enquiries, and face-to-face consultations with 132 women.

WAO undertakes strategic **advocacy** to learn from the experiences of the women and children we serve to identify gaps in public policies and make recommendations to policymakers. We work to educate communities and raise awareness among the public on domestic violence to break down stereotypes and change mindsets.



**A 2019 Case Study Report
by Women's Aid Organisation (WAO)**

Women's Aid Organisation (WAO)

This is the sixth report produced by WAO on domestic violence response since 1997. The purpose of this report is multi-fold:

- (1) To help the reader understand the current legal framework, available protections, and interventions for child survivors of domestic violence (see *Legal Framework in Malaysia and Types of Interventions in Domestic Violence*);
- (2) To help the reader understand the experiences of child survivors, and mother-survivors as their experiences impact their children, in enduring domestic violence and seeking assistance to escape it (see *Highlights and Case Studies*); and
- (3) To help the reader—the policymaker, teacher, police officer, welfare officer, hospital, NGO service provider, or other stakeholder—consider how they can promote the best interests of the child in preventing and responding to domestic violence (see *Recommendations*).

Call the WAO Hotline at +603 7956 3488 or SMS/WhatsApp TINA at +6018 988 8058 if you or someone you know is experiencing abuse.

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