



Addressing Gaps in Domestic Violence Response in Mongolia



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Report by the Association of Mongolian Criminologists

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Note: Data presented in this report has limitations. Data from the first six months of 2017 and last nine months of 2019 was not available. Annual data is presented for 2018, but monthly figures are not available. As a result, figures may not be fully representative and are presented according to best data available.

TABLE OF CONTENTS

Abbreviations	iv
Reference Tables	v
Introduction	1
Key Findings.....	3
Legislative Framework	4
<i>The 2004 Law to Combat Domestic Violence and its Challenges.....</i>	<i>4</i>
<i>Current Legal Framework: The 2017 Law to Combat Domestic Violence.....</i>	<i>5</i>
Legislative Amendments Surrounding the 2017 Law to Combat Domestic Violence.....	6
Key Gaps in Legislation	7
Methodology	8
<i>Quantitative data and limitations</i>	<i>9</i>
<i>Qualitative data.....</i>	<i>10</i>
Case file analysis and sampling	10
Focus Group Discussions	12
Results.....	14
<i>The current state of DV in Mongolia</i>	<i>14</i>
DV as indicated by calls to the police	14
Petty offenses	16
Domestic Violence Crimes	17
<i>Case Studies: FGDs and Case Analysis - Gaps in the implementation of the law.....</i>	<i>25</i>
Issues with understanding of the legislation	25
Petty Offense versus Criminal Offense.....	25
Obstacles to investigation	25
Termination of cases	26
Sentencing	27
Conclusion and Recommendations.....	30
Bibliography	33

ABBREVIATIONS

AMC	Association of Mongolian Criminologists
CC	Criminal Code
CDEA	Court Decision Enforcement Agency
CPC	Criminal Procedure Code
DV	Domestic Violence
FGD	Focus group discussion
GBV	Gender-based violence
GoM	Government of Mongolia
GPD	General Police Department
GPO	General Prosecutors Office
JGC	Judicial General Counsel
LCDV	Law on Combating Domestic Violence
MNT	Mongolian Tugrug
MoJHA	Ministry of Justice and Home Affairs
NGO	Non-governmental organization
POL	Petty Offense Law
UNFPA	United Nations Population Fund
USD	U.S. Dollar
WHO	World Health Organization

REFERENCE TABLES

<i>Table 1: Cases selected and analyzed by district of Ulaanbaatar.....</i>	<i>11</i>
<i>Table 2: Registered DV calls to Police, 2014-2018.....</i>	<i>14</i>
<i>Table 3: Average number of calls per month by petty and criminal offense, monthly average per year</i>	<i>15</i>
<i>Table 4: Average number of calls per month in Ulaanbaatar and Provinces, monthly average per year</i>	<i>16</i>
<i>Table 5: Criminal Cases by Rural and Urban, Year.....</i>	<i>20</i>
<i>Table 6: Location of Crime, by Year</i>	<i>20</i>
<i>Table 7: Classification of crimes related to domestic violence</i>	<i>21</i>
<i>Table 8: DV Victims, by age and sex.....</i>	<i>23</i>
<i>Table 9: Perpetrator relationship to victim, DV crimes.....</i>	<i>24</i>
<i>Table 10: DV Crime Perpetrators by Age and Sex.....</i>	<i>24</i>

INTRODUCTION

A 2017 study found that more than half (57.9%) of Mongolian women aged 15-64 had experienced partner violence in one or more forms (physical, sexual, emotional, psychological and economic violence) in their lifetime.¹ Approximately 31.2% of Mongolian women reported having experienced physical or sexual violence in their lifetime, with rates of physical and/or sexual partner violence highest in Darkhan-Uul (41.0%), Umnugovi (39.7%), and Govisumber (39.1%), Bulgan (35.7%) and Khovd (32.9%) provinces. Among women who have experienced one or more forms of partner violence within their lifetime, rates range from 68.6% to just under 36%.²

The study revealed low overall trust in institutions when reporting violence, finding that among women who suffered from physical and/or sexual partner violence, less than one in ten (8.3%) reported it to police. Over one third of women confide in friends, family, or the family of their partner. However, women preferred informing no one (26.5%) than entrusting the police, religious leaders, doctors, health workers, or non-governmental organizations (NGOs) and women's organizations (under 3% each), contributing to the difficulty in accurately measuring the extent of domestic violence (DV) in the country.³

As so few incidents are reported, and even fewer reported to authorities, statistics from the police and courts are unable to adequately reflect the magnitude of DV in Mongolia.⁴ While as many as 80% of Mongolians see DV as a serious problem, the issue has historically been seen by courts to be a domestic

¹ United Nations Population Fund, *2017 National Study on Gender-based Violence in Mongolia* (Ulaanbaatar: United Nations Population Fund and National Statistics Office of Mongolia, 2018), 13.

² Ibid, 61.

³ Ibid, 105.

⁴ Tsolmon Begzsuren and Veronica Mendizabal Joffre, "Translating women's voice into action in Mongolia: Addressing gender-based violence through investments in infrastructure" ADB East Asia Working Paper Series no. 14 (October 2018): 3.

matter.⁵ The phenomenon of DV is marked by low levels of legal awareness by the public and insufficient, inaccessible and underdeveloped services for victims. Vulnerabilities are seen to be exacerbated by an official approach to gender equality which has focused on promoting the protection of women in their roles as mothers, rather than equal citizens.⁶ As a consequence, women's economic opportunities continue to be limited.

Research undertaken from July 2017 to May 2019 by the Association of Mongolian Criminologists (AMC) hopes to contribute to a growing body of knowledge on DV in Mongolia. It identifies issues and gaps in the implementation of the 2017 Law to Combat Domestic Violence (LCDV) through an extensive review of case files, police reports, survivor statements, focus group discussions (FGDs), and targeted interviews.⁷ The results and recommendations provided in this report hope to contribute to strengthening the DV response in Mongolia.

⁵ Ibid, 5.

⁶ The Advocates for Human Rights and National Center Against Violence, 2016, "Parallel Report Relating to Domestic Violence" 2, available: https://www.theadvocatesforhumanrights.org/uploads/mongolia_cedaw_tahr_ncav_january_2016.pdf

⁷ The amended Law to Combat Domestic Violence was passed December 22, 2016 entering into force February 1, 2017. For the purposes of this paper, we refer to the law in the context of its implementation, thus the 2017 LCDV.

KEY FINDINGS

1. The element of “**constant abuse**” in the legislation impedes access to justice for survivors of domestic violence and complicates the process of investigating and convicting abusers. Case file analysis revealed that of 60 cases, 100% were mischaracterized as petty offense violations due to an inability or misunderstanding in applying the “constant abuse” principle.
2. In the period of analysis, **68%** of petty offenses and **34%** of criminal offenses were dismissed, typically for failure to meet the elements of a crime or due to a lapse in the statute of limitations.
3. Focus group discussions with law enforcement revealed that **mandatory trainings for DV offenders**, prescribed under the petty offense law, **are ineffective and may not be completed at all**, as there is no record of completed trainings.
4. Since enactment of the Law to Combat Domestic Violence in February 2017—whose achievement included the criminalization of DV—**crimes relating to DV have fallen**, while petty offenses have risen significantly. Where over 33,000 incidences of DV were recorded during the period of analysis, 95% were charged as petty offenses. Analysis of case files indicate mischaracterization of cases due to low familiarity with the amended codes and LCDV.
5. **84% of domestic violence cases were raised in Ulaanbaatar**. While the 2017 UNFPA study found no significant difference in rural and urban rates of intimate partner violence, a criminological analysis suggests significantly higher resources and capacities in the capital to file and investigate DV complaints.⁸

⁸ United Nations Population Fund, *2017 National Study on Gender-based Violence in Mongolia* (Ulaanbaatar: United Nations Population Fund and National Statistics Office of Mongolia, 2018), 41.

LEGISLATIVE FRAMEWORK

The 2004 Law to Combat Domestic Violence and its Challenges

Mongolia passed its first LCDV in 2004. Although passage of this law signified an official recognition of the issue, many challenges to implementation remained. Low public awareness of the legislation coupled with limited understanding of the dynamics of DV by justice sector actors and service providers significantly undermined its effectiveness.⁹

One of the most significant deficiencies in the 2004 law was the failure to expressly define DV as a crime, resulting in lack of accountability for perpetrators. As such, less severe cases were often registered as alcohol intoxication or hooliganism, while more severe cases were treated as assault, battery, and infliction of injury without consideration for the context of DV. Often cases were dropped because the parties would reconcile and the victim would withdraw the complaint.¹⁰

Under the 2004 law, a heavy burden of proof was imposed on victims of DV. Victims were required to provide forensic certificates proving that they suffered medium to severe injuries for a case to be charged and criminally prosecuted under the Criminal Code.¹¹ In order to obtain this certificate, victims would have to travel long distances and pay fees for the examination. Referral requirements and limited operational hours frustrated the process. The 2004 law also included an important civil restraining order provision which did not require evidence of DV from the applicant. However, judges often requested a risk assessment before issuing the

⁹ Begzsuren and Mendizabal Joffre, "Translating women's voice into action in Mongolia" 4.

¹⁰ United Nations Population Fund, "2017 National Study on Gender-based Violence in Mongolia" (Ulaanbaatar: United Nations Population Fund and National Statistics Office of Mongolia, 2018), 41.

¹¹ The Advocates for Human Rights and National Center Against Violence, 2015, Mongolia: Submission to the Committee on the Elimination of Violence against Women for the 63rd Session, p.4, available:

https://www.theadvocatesforhumanrights.org/uploads/mongolia_cedaw_loi_june_2015.pdf

order, though there was no such legal requirement to do so.¹² The risk assessment required completion by both a police officer and a social worker, creating additional obstacles and delays for victims if officials did not coordinate.

Even if the victim managed to overcome the structural and procedural hardships to obtain a protection order, its effectiveness was compromised by further gaps in the legislation. Such gaps included a lack of a designated authority responsible for enforcement of the order and a lack of provisions stipulating the consequences for its violation.¹³

Current Legal Framework: The 2017 Law to Combat Domestic Violence

In an effort to address the deficiencies in the 2004 LCDV, in December 2016, the Government of Mongolia (GoM) passed an amendment to the 2004 law.¹⁴ Entering into force February 2017, the amended law criminalized DV in Mongolia, including acts of stalking and threats and broadened the scope of protection through expanded definitions. The law was amended to include cohabitants, intimate partners, guardians, adopted children, adoptive parents, adoptive siblings, divorced spouses and former partners. This change afforded necessary protection for many victims who had been left outside the scope of legal protection under the 2004 LCDV. In addition, NGOs were given accreditation for training and operation of DV shelters, and protections were expanded for survivors and witnesses of DV.¹⁵ The definition of DV itself was also amended to recognize psychological, economic, and sexual violence.

¹² Ibid.

¹³ Ibid, Section D, para 6-7.

¹⁴ Wendy Zeldin, "Mongolia: Domestic Violence Made a Criminal Offense," *Global Legal Monitor* (Library of Congress), April 12, 2017, available: [https://www.loc.gov/law/foreign-news/article/mongolia-domestic-violence-made-a-criminal-offense/#:~:text=12%2C%202017\)%20On%20February%201,September%201%20of%20the%20year.](https://www.loc.gov/law/foreign-news/article/mongolia-domestic-violence-made-a-criminal-offense/#:~:text=12%2C%202017)%20On%20February%201,September%201%20of%20the%20year.)

¹⁵ Begzsuren and Mendizabal Joffre, "Translating women's voice into action in Mongolia" 4.

Legislative Amendments Surrounding the 2017 Law to Combat Domestic Violence

In order to provide adequate support to the LCDV and address legislative gaps, six laws were amended to align with the new legislation. These included the Law on Law Enforcement, Law on Marshals Service, Law on Victim and Witness Protection, the Criminal Code (CC), the Criminal Procedure Code (CPC) and the Petty Offense Law (POL).¹⁶ Key amendments to these laws included:

The **Petty Offense Law** now includes acts of DV as petty (non-criminal) offenses, where the element of “constantly” is not applicable:

Article 5.4, Provision 4: “Anyone who physically harms, coerces, forces, stalks, threatens, restricts, defames a person with family relationship and prohibits their right to own or use possessions of joint ownership will be subject to arrest and mandatory training for seven to thirty days.”

The **Criminal Code** now includes provisions for constant abuse, recognizes self-defense and eliminates the provision giving harsher sentences to victims deemed to be motivated by revenge, known as the “revenge provision.”¹⁷

Article 11.7, Provision 1: “Anyone who constantly beats, abuses, threatens, mistreats, tortures a person with family relationship and prohibits their right to own or use possessions of joint ownership will be subject to arrest and detention for 6 months to one year.”

Article 11.7, Provision 2: “In the case of perpetrators, abuse of children, pregnant women, the elderly and handicapped people the conviction may be extended to two years.” Convictions may also be extended to two years “if the perpetrator is a person who works at an orphanage, elderly care center or any other similar service centers and if the perpetrator knowingly resists or hinders those who are trying to stop or prevent the crime.”

¹⁶ Lila Seidman, “Mongolian Parliament recognizes domestic violence as a criminal offense,” *The UB Post*, June 16, 2016, <https://web.archive.org/web/20170422024344/http://theubpost.mn/2016/06/16/mongolian-parliament-recognizes-domestic-violence-as-a-criminal-offense/>.

¹⁷ Ibid.

Manslaughter, physical harm and marital rape are now considered DV crimes and aggravating circumstances when committed against family members:

Article 10.1. Provision 2.8: names DV as an aggravating circumstance to murder or manslaughter when committed against a family member.

Articles 11.1, 11.4, 11.6: define three levels of harm (severe, medium, and slight) as aggravated circumstances in cases of DV.

Article 12.1 Provision 2.3: defines marital rape as a crime. The provision covers individual offense of marital rape of a spouse, former spouse or partner reflected as an aggravated circumstance. Rape is defined as vaginal or non-vaginal penetration of the victim.

The previous **Criminal Procedure Code** stated that cases shall be dismissed upon reconciliation between victim and perpetrator (*Article 25.1*). The amended Code removes this article, meaning the prosecutor must proceed even if the victim withdraws their complaint.¹⁸

Key Gaps in Legislation

Despite these improvements, gaps remain. In some cases, the amended codes contain new provisions which are more harmful than their predecessors. For example, the CPC now requires that a criminal proceeding be instituted for a protection order to be issued (*Chapter 13*) whereas under the previous legislation a victim could receive a protection order without criminal proceedings.

The element of “constantly” in the CC (*Article 11.7*) is interpreted to require repeated acts of DV before being considered a crime. This interpretation is further supported by Articles 120.1 and 120.2 of the CC, which allow for fines or warnings to be issued for first instances of DV. Only if actions considered as DV are continuously committed and documented will they be considered criminal and appropriate measures (such as confinement) taken. It remains unclear if second instance indicates a second police report or a second court decision.

¹⁸ State Great Khural of Mongolia, “Criminal Procedure Code, May 18, 2017. Ulaanbaatar. <https://www.legalinfo.mn/law/details/12694>.

METHODOLOGY

While several studies have been conducted on the prevalence and underlying causes of DV in Mongolia, none have monitored the implementation of the amended legislation and surrounding laws such as the CC, POL and CPC. This research set out to address the following guiding questions:

- How is criminalization of DV being reflected in the statistical data? How many cases are being registered as petty offenses? How many are registered as crimes?
- Once these cases are investigated, how many remain classified as crimes and how many are reduced to petty offenses? How many cases are dismissed and on what grounds?
- For those cases that are filed with the prosecutor's office, how are they being resolved?
- What challenges do justice sector actors face in applying the amended LCDV?

This study identifies challenges inhibiting implementation of the LCDV and hopes to assist policy makers and other stakeholders in developing appropriate implementation strategies and effective measures to prevent and combat DV.

The following objectives were set for this study:

1. To conduct a statistical analysis of crimes and petty offenses related to DV after the adoption of the amended LCDV (2017), the Criminal Code (2015) and the Petty Offense Law (2017);
2. To identify the issues encountered by justice sector actors in implementing the new DV legislation;
3. To identify the demographic profiles of perpetrators and victims; and
4. To make recommendations to help improve implementation of the new legislation.

This research used a mixed methodology, gathering qualitative and quantitative data from focus group discussions, case files, and official reports of domestic violence made to police during the period of July 1, 2017 to March 31, 2019. Available statistical data in this report covers this period unless otherwise indicated.

This research applies a combination of quantitative and qualitative methods. Administrative data was collected by the Association of Mongolian Criminologists from the General Police Department (GPD), the General Prosecutor's Office (GPO), Judicial General Counsel (JGC) and Court Decision Executive Agency (CDEA). Since the law's passage in 2016 and implementation in 2017, each agency has revised their method for collecting statistics.¹⁹ Data is also collated from the Information and Research Center of the National Police Agency, which contains combined data from all police agencies, accounting for instances of overlapping data or missing figures. Qualitative methods are applied to review criminal and petty offense case files. In addition, semi-formal interviews were conducted with law enforcement officials (inspectors, investigators and prosecutors).

Quantitative data and limitations

In the process of collecting data, researchers found the highly decentralized method of record-keeping regarding DV cases to be a significant obstacle in gathering timely, relevant and reliable data. A chief obstacle relates to the accessibility of data, which is available to the public only with special permissions which were obtained for this study. Cases are in most instances not classified by charge. Further, data contained in this report pulls from four databases, kept by four separate agencies. As such, case data gathered from police, prosecutors, the judiciary, and CDEA do not follow the same methodologies or necessarily use the same definitions or disaggregations, and are therefore unreliable when placed

¹⁹ Police statistics on registered crime in Mongolia is based on the database system of "Criminal statistical record" approved by the Chairman of the National Statistical Office. The General Prosecutor's Office statistics on resolved crime system operates under the supervision of the Prosecutor's Office by the Decree A / 89 of 2017 of the General Prosecutor. The Judicial statistics on cases operates under The Judicial Statistics and Procedures for the Reporting of the Court of Appeal (approved by the 17th Resolution of the Judicial General Council of Mongolia). Finally, Court Decision Executive Agency track court decision execution by the A/16 Decree of the General Executive Agent in accordance with the "Temporary regulation of the statistical Information fund and the unified numbers registration Guidelines "approved by the Order A/30 of 2016.

alongside one another for comparison. This report therefore uses data when possible but cannot account for the absolute validity of all figures depicted.

Statistics of domestic violence reports made to police were collected by the AMC and collated in STATA, with the following information extracted:

- a) Number of DV cases reported (disaggregated by administrative division)
- b) Details of the perpetrator (disaggregated by age, gender and education level)
- c) Details of the victim (disaggregated by age, gender, education level, injury and inflicted harm)
- d) Sanctions on petty offenses and crimes (disaggregated by severity and classification)

Qualitative data

Case file analysis and sampling

Case file analysis was conducted to understand how petty offense and criminal cases were resolved once filed with the GPO. Two research tools of 15 questions each were developed to conduct this analysis, comprised of guiding questions to determine the resolution of the case, and questions on how the investigation was conducted. Experienced DV prosecutors were consulted to complete the guiding questions and research tools, as well as other criminological studies and case study analyses in Mongolia.²⁰ The research team was trained to use the tools for case file analysis by participating in an 8-hour training program. Each researcher was instructed on data collection using the guiding questions and advised on how to identify deficiencies in investigation and resolution of DV cases.

²⁰Inputs from 8 prosecutors were acquired. These prosecutors were participants of the training seminar organized under the project supporting this sub-project.

As reports of DV are found to be the most severe in Ulaanbaatar, the research team chose to focus the case file analysis within six districts of the capital. A total of 234 resolved cases classified as DV were purposively sampled and analyzed.²¹ Of these cases, 110 were classified as criminal DV, 60 cases as petty offense DV and 64 cases were dismissed. From the adoption of the new amendment of CC in 2017 to the available period of March 31 2019, a total of 700 DV cases were sentenced, one-third of which (234) are analyzed by this study. Table 1 indicates a fairly even distribution across districts, with a higher focus placed on criminal cases in the analysis (over dismissed and petty offenses).

Table 1: Cases selected and analyzed by district of Ulaanbaatar

<i>District of Ulaanbaatar</i>	<i>Dismissed cases</i>	<i>Petty offense cases</i>	<i>Criminal cases</i>
<i>Sukbaatar</i>	10	10	20
<i>Bayangol</i>	10	10	20
<i>Bayanzurkh</i>	12	10	20
<i>Chingeltei</i>	10	10	15
<i>Khan-uul</i>	10	10	15
<i>Songino-Khairhan</i>	12	10	20
<i>Total</i>	<i>64</i>	<i>60</i>	<i>110</i>

Of criminal cases selected, 32% were classified as DV without visible harm, 32% slight harm, and 18% of medium harm and severe harm, respectively.

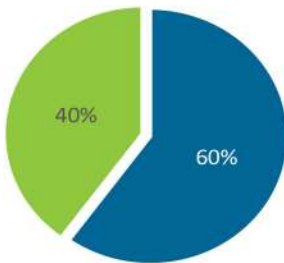
²¹ Cases charged under the following articles were selected: Petty Offense Law Article 5.4 of the domestic violence offense; Criminal Code Article 11.7 domestic violence crime; Criminal Code Article 10.1 manslaughter in aggravated circumstances with domestic violence; Criminal Code 11.1 severe harm in aggravated circumstances with domestic violence; Criminal Code 11.4 medium harm in aggravated circumstances with domestic violence; Criminal Code 11.6 slight harm in aggravated circumstances with domestic violence; Criminal Code 12.1 rape in aggravated circumstances with DV.

Focus Group Discussions

FGDs were conducted with police inspectors, prosecutors, attorneys, and court decision executive agents to collect information on trends and experiences in addressing incidents of DV.

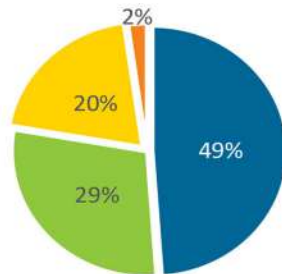
A total of 45 participants were engaged for three FGDs. Each group consisted of four inspectors, four investigators, three prosecutors, one court decision executive agent and three attorneys, purposively selected from three districts in Ulaanbaatar—Bayangol, Bayanzurkh and Songino-Khairhan. All participants held higher education in law. The majority of participants were 30 years old or under, at 49%, with 98% of focus groups between 25-40 years old. There was a slightly higher proportion of males to females, at 60% to 40% respectively.

Figure 1: FGD Participant Demographics, Sex



■ Male ■ Female

Figure 2: FGD Participant Demographics, Age



■ 25-30 ■ 30-35 ■ 35-40 ■ 40-45

Focus groups centered on the following issues:

- a) the magnitude of domestic violence in Mongolia;
- b) challenges during investigation;
- c) application of the law;
- d) protective measures;
- e) completion of the risk assessment;
- f) multidisciplinary response teams;
- g) operation of safehouses and one-stop service centers;
- h) sentencing and punishment (fines, mandatory training and imprisonment).

Results of these combined methods are presented in the following section.

RESULTS

The current state of DV in Mongolia

Since enforcement of the new LCDV, there has been no significant difference observed in the number of DV crimes registered with police. In fact, evidence indicates a decrease in the number of criminal cases registered (see Table 2). With the passage of the new law, research is now able to capture non-criminal (petty offense) DV cases, with data becoming available in July 2017. Prior to the passage of the revised LCDV, large numbers of offenses were not reported as DV and were instead classified as acts of hooliganism. Data is unavailable for these crimes.

DV as indicated by calls to the police

Table 2: Registered DV calls to Police, 2014-2018

	2014	2015	2016	2017	2018
<i>Registered DV crimes (CC)</i>	1,076	1,356	1,449	1,286	1,070
<i>Registered DV petty offenses (POL)</i>	N/A – Offense did not exist			4,369	5,821

The POL (*Article 5.4, Provision 4*) now classifies these cases as DV and allows for a more accurate picture of the severity of DV calls as received by intake officers. It is important to note that in this analysis, “registered” indicates calls to the police, and that classification of cases as a criminal or petty offense may change once an investigation is conducted. The above figures indicate how each case was classified at the time the call was received and the report made.

Statistical data on registered complaints and calls

Data pertaining to enforcement of the new LCDV becomes available beginning July 1, 2017 and is covered by this analysis until March 31, 2019. Unfortunately monthly data is unavailable. A total of 33,425 DV complaints (31,690 petty offenses and 1,735 criminal offenses) were registered during the period of observation. When reviewed as a monthly average per year (see Table 3), sharp increases are evident in calls registered as petty offenses. While registrations of criminal cases nearly double from 2017 to 2019 from available data, petty offense registrations triple in the same time period. Overall, petty offenses accounted for 95% of all cases studied.

As previously noted, DV can be classified as either a petty offense or a crime depending on the severity of the incident and the number of times it has been reported to have occurred. The table below indicates total calls recorded during the period of study, separated by initial registration as petty or criminal offenses. Note that the classification of a case may change after the report is taken and the case is investigated. The proportion of criminal and petty offense cases remains relatively stable over the time period reviewed, with petty offenses comprising between 94 and 96.5% of DV cases before investigation.

Table 3: Average number of calls per month by petty and criminal offense, monthly average per year²²

<i>Average calls per month, petty and criminal</i>	2017	2018	2019	<i>Average</i>
<i>Petty</i>	937	1,454	2,874	95%
<i>Criminal</i>	59	89	106	5%
<i>Total monthly average</i>	996	1,543	2,980	100%

Of the total registered calls to police, an average of 84% were filed in the Capital and 16% were registered in the provinces, remaining relatively stable proportionally over years. Provincial cases ranged from 14% to 17%, while those in Ulaanbaatar ranged from 83% to 86% of the total.

²² Data for the first six months of 2017 and last 9 months of 2019 are unavailable, with only full annual data depicted for 2018. As such, figures are presented as averages by months available and may not be fully representative.

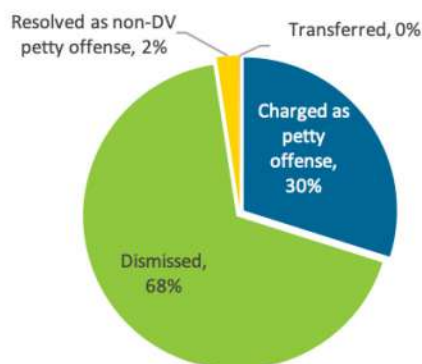
Table 4: Average number of calls per month in Ulaanbaatar and Provinces, monthly average per year²³

Average calls per month, rural and urban	2017	2018	2019	Average
Ulaanbaatar	858	1,273	2,537	84%
Provinces	13	269	443	16%
Total monthly average	871	1,542	2,980	100%

Petty offenses

At the time of data collection, 2% of petty offense DV cases received by police during the period of analysis (July 1, 2017 – March 31, 2019) remained under investigation and are excluded from analysis below. Of the remaining 98% of petty offense cases analyzed (30,915) 30% were charged as petty offenses, 68% were dismissed, 2% resolved as a different type of petty offense (non DV-related), while 36 (0.1%) were transferred to other authorities. In contrast, in this period 34% of criminal cases were dismissed (see Figure 3).

Figure 3: Petty Offenses by Resolution



During the period of analysis, a total of 9,677 cases were officially charged as DV petty offenses nationwide following investigation by the Petty Offense Unit. This includes cases that may have originally been investigated by the Criminal Unit but were reduced to petty offenses, approximately 439 cases or 1.4%. In analyzing the

²³ See Footnote 25.

68% of dismissed cases, it was found 99.2% were dismissed on the failure to meet the required elements under Article 1.9, Provision 1.1 of the POL.

Location

Of the 9,677 DV cases officially charged as petty offenses, 58.9% were committed in the capital city and 41.1% were committed in the provinces.

Within the capital, 49.6% were registered in Bayanzurkh district, 12.2% in Khan-Uul district, and from 9-9.5% each in Chingeltei, Bayangol, and Songinokhairkhan districts respectively. None were registered in Bagakhangai district. Considering provincial DV petty cases, the highest percentage (13.8%) were registered in Tuv province, 11.2% in Orkhon province, 10% in Selenge province, and 9.6% in Khentii.

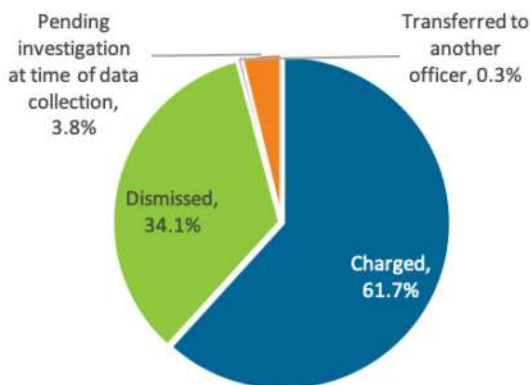
Resolution of petty offenses

During the period of analysis, the AMC found just 68.6% of cases charged as petty offenses to be resolved, a total of 6,640 of 9,677 charges. This resulted in 135 fines (2%) and 6,505 arrests (98%) with little variation in proportion of fines and arrests by year.

Domestic violence crimes

The analysis turns next to criminal domestic violence offenses, comprising six percent of DV charges in 2017 and 2018, and four percent in 2019. Of the 1,735 calls initially classified as crimes, 1,669 retained this classification upon further investigation or 96%. At the time of data collection, 3.8% (66 cases) remained under investigation. Researchers found that 61.7% of cases were ultimately charged,

Figure 4: Criminal Cases by Resolution



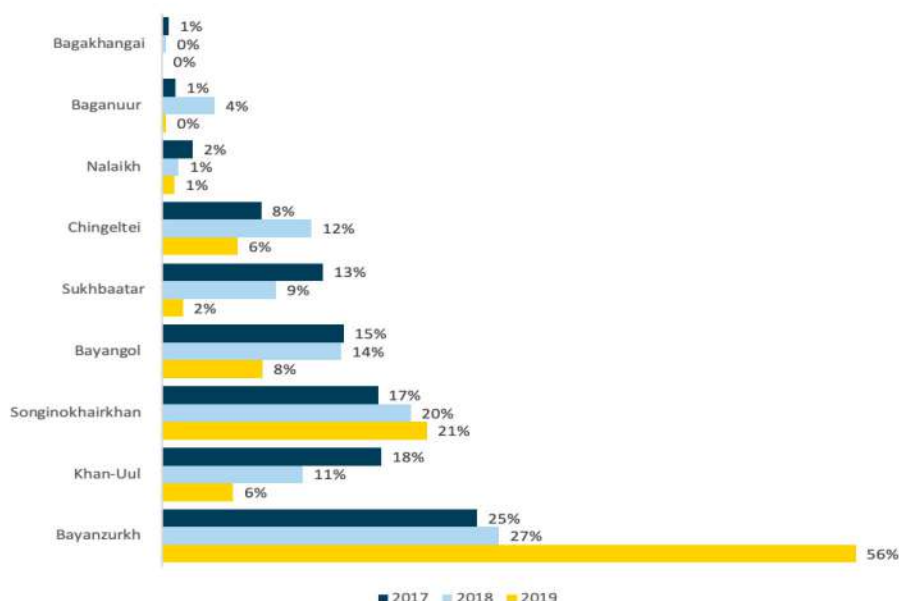
34.1% dismissed for failure to meet the elements of a crime, and less than one percent (0.3%) were transferred to another officer for follow-up.

Notably, the highest number of unresolved cases were found in 2017, despite incomplete data for this period. In the last six months of 2017, 55 cases remained unresolved at the time of analysis, suggesting potential difficulties in understanding and interpreting the law which would have been relatively new at that time.

Location

In contrast to the rural-urban divide across all cases, where 84% were registered in Ulaanbaatar, 58.6% of criminal DV occurred in the capital city. The majority were registered in the Bayanzurkh district at 33.4%, though more than half of cases in the first three months of 2019 occurred in Bayanzurkh. On average throughout the period of analysis, 20% occurred in Songinokhairkhan, 13% in Bayangol, and 12% in Khan-Uul.

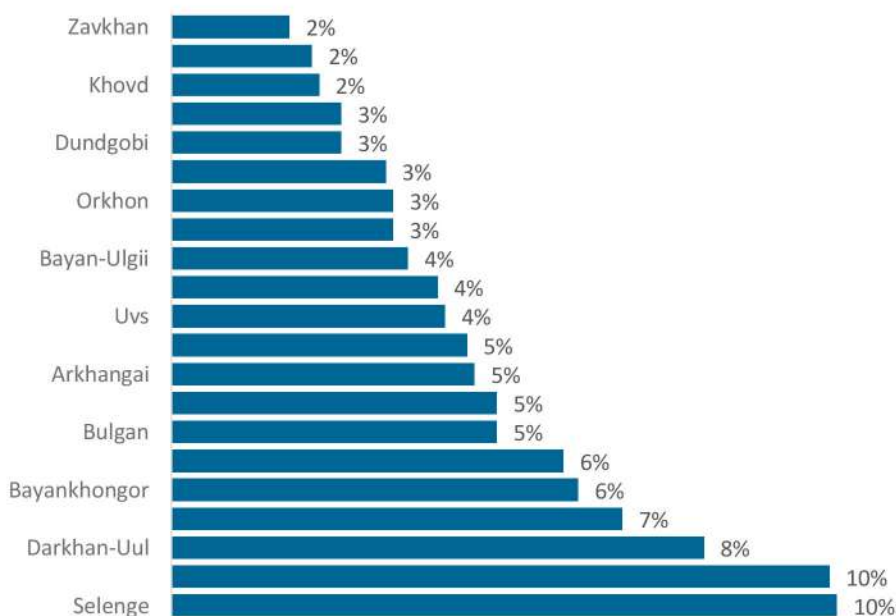
Figure 5: Criminal Cases by District and Year, Ulaanbaatar



According to the National Statistical Committee, in 2019, Bayangol was the most densely populated district of Ulaanbaatar, more than four times as dense as the next highest district.²⁴ The highest instances of DV in Ulaanbaatar being in the 5th, 6th, 1st and 4th most densely populated districts therefore do not suggest a strong correlation with density.

Outside the capital, the highest instances of DV were registered in Selenge and Uvurkhangai provinces, at 90 and 89 cases each, 10% of total rural cases respectively. As demonstrated in Figure 6, the remaining cases ranged from 2% to 8% of the total, with an average of 42 cases per province over the period of analysis.

Figure 6: Criminal Cases by Province, Total Period of Analysis



²⁴ Population density by *Soum*, National Statistical Office of Mongolia, 2019, 1212.mn.

As demonstrated in Table 5, criminal cases in the provinces ranged from 37.3% to 44.7% annually, with the highest proportion of rural cases in 2018. Table 5: Criminal Cases by Rural and Urban, Year

	<i>Ulaanbaatar</i>	<i>Provinces</i>
<i>2017 (Jul-Dec)</i>	62.7%	37.3%
<i>2018</i>	55.1%	44.7%
<i>2019 (Jan-Mar)</i>	60.9%	39.1%
Total	58.6%	41.4%

The majority of crimes (85%) were documented to be committed in the home. According to the police database (which may indicate duplicate locations such as home and street, potentially skewing data) 6.5% of cases take place on the street, and 4% of cases had marked “other,” for which there is no elaboration.

Table 6: Location of Crime, by Year

<i>Location of violation</i>	<i>2017 (July-Dec)</i>	<i>2018</i>	<i>2019 (Jan-March)</i>	<i>Total</i>	<i>%</i>
<i>Home (ger, house, apartment)</i>	479	923	427	1,829	85.0%
<i>Street</i>	52	62	27	141	6.5%
<i>Public premises</i>	18	22	13	53	2.5%
<i>Public transit</i>	1	0	0	1	0.0%
<i>Government office</i>	5	6	1	12	0.6%
<i>Workplace</i>	14	13	4	31	1.4%
<i>Other</i>	28	44	14	86	4.0%
Total	597	1,070	486	2,153	100%

Crime characteristics

Nationally, 17 murders connected with DV were recorded during the period of analysis, and seven instances of suicide resulted in criminal charges against a perpetrator for coercion to commit suicide. Of DV crimes, 1.2% resulted in murder,

91% involved physical injury, 5.5% involved sexual violence, and less than one percent were against children.

In Table 7, one case may be charged under several categories depicted. For example, in a case involving physical violence against a minor by a parent, the case may be marked under three categories: domestic violence, crimes against children and minors, and causing physical injury.

Table 7: Classification of crimes related to domestic violence

CRIMINAL CLASSIFICATION	2017 (Jul 1- Dec 31)	2018	2019 (Jan 1- Mar 31)	TOT AL
Against the right to life	5	12	8	25
Murder	4	7	6	17
Negligent homicide	1	0	0	1
Coercion to commit suicide	0	5	2	7
Against the human right to health	528	996	433	1957
Severe injury	3	15	6	24
Negligent severe injury	1	0	1	2
Medium injury	16	22	9	47
Slight injury	310	749	228	1287
Domestic violence	198	210	189	597
Against sexual inviolability	31	40	29	100
Rape	31	38	28	97
Indecent sexual act / sexual misconduct	0	2	1	3
Against the right to personal liberty and safety	2	4	3	9
Human trafficking	1	0	0	1
Extortion	1	4	3	8
Against children and minors	2	7	2	11

Against right to property	3	1	0	4
Other	18	0	0	18
Total				2,124*

**As cases may be classified under one or more offenses, some of these cases are double or triple-counted.*

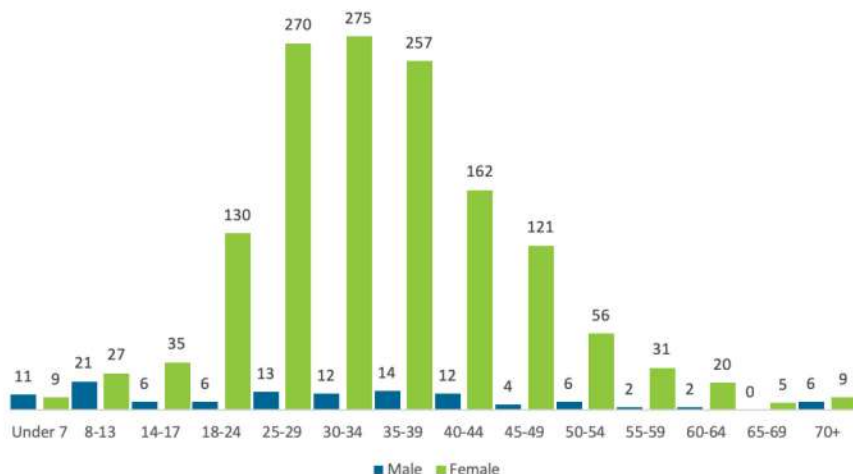
Victim demographics for DV crimes

To provide demographics of victims of DV, data was collected from the Research Center of the National Police Agency, providing combined data from all police agencies.²⁵ One of the most significant findings of the demographics inquiry is the number of minors and elders affected by DV crimes. According to statistics, 109 victims were between 8-17 years old (5.85% of total victims) and 1.3% were under the age of seven. During the period of analysis, 4.8% of victims were pensioners, or women over 55 and men over 60.

The gender gap among male and female victims is the most stark among women 18-49, where women account for up to 97% of victims, while the ends of the spectrum range from 45-60% female. Only in victims under seven years old did male victims outnumber female victims, at 55%.

²⁵ This database provides slightly different figures from that of the prosecutor's office, as the two databases are not designed to update one another when a case is reduced to a petty offense, dropped, or resolved. Figures may not be wholly representative or final.

Table 8: DV Victims, by age and sex



Demographic data is available for a total of 1,522 victims of DV during the data collection period. Among these victims 1,407 were female, 115 male (92:8). During the period of analysis, an average 48% of adult victims were unemployed, 17% self-employed, 8% were students, and 6% listed herder as their profession.

Perpetrator demographics for DV crimes

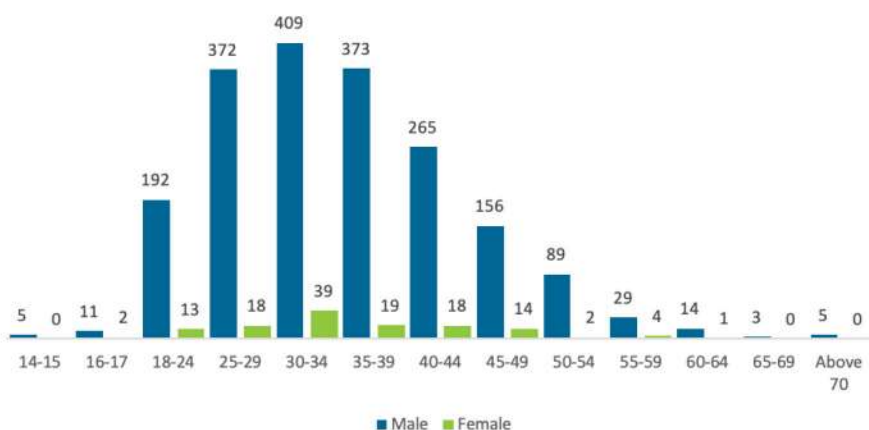
An analysis of perpetrator demographics show the majority of the accused (43.2%) were the husbands of victims, 15.1% a partner, and more than 4% were father figures. The remaining percentages are comprised of mothers and fathers-in-law, mothers, and step-children. No female children were recorded during the reporting period as perpetrating DV, though, as in other datasets examined in this study, the catch-all category “other” provides challenges in quantifying exact relationships.

Table 9: Perpetrator relationship to victim, DV crimes

Relationship to victim	Percentage
Spouse (Husband)	43.2%
Other	28.0%
Live-in partner	15.1%
Father	2.4%
Stepfather	2.2%
Son	2.0%
Spouse (Wife)	1.6%
Sibling	1.5%
Relative	1.1%
Son-in-law	1.0%

On average, 9% of perpetrators held an elementary education, 18% had a primary education, 48.1% a high school education, 3.9% had professional skills training, 16.7% had higher education and 4.4% had no education.

Table 10: DV Crime Perpetrators by Age and Sex



Case Studies: FGDs and Case Analysis - Gaps in the implementation of the law

Issues with understanding of the legislation

The Supreme Court of Mongolia has interpreted the term "constantly" in CC Article 11.7 to be an action that has characteristics of DV with three or more frequencies. An analysis of 60 petty offense DV cases reveals that all were mischaracterized as petty offenses, because the acts of DV were not committed in a "constant" manner as required by the CC. Recidivism rates show 52% were arrested for the first time, 35% for the second time and 13% for the third time.

Petty Offense versus Criminal Offense

During focus groups, confusion was identified among participants between DV petty offense and crimes, with participants blaming one another for the confusion. In one example, inspectors accused investigators for the inaccuracy and vice versa. FGD participants noted that confusion surrounding interpretation of criminal DV leads to cases being classified improperly, putting victims at risk. Errors in classifying cases leave important facts and evidence unconsidered, such as the prior record of the perpetrator that should be considered in order to interpret the "constant" requirement. The procedural aspect of attempting to distinguish between the DV offenses and crimes creates a perilous situation for victims.

FGDs also found the main obstacle in dealing with DV cases comes during the investigation process, while elevating a charge from petty to criminal.

Obstacles to investigation

Police officers in FGDs described several issues which create obstacles in the proper investigation of DV, such as wrong addresses, inability to locate perpetrators, and requests from victims to drop complaints.

Law enforcement officers indicated that the quality of DV trainings were poor and insufficient, and do not provide necessary information. FGDs revealed that inadequate professional skills and knowledge of investigators to detect and properly investigate the case at the primary stage is a significant contributing factor to the majority of DV cases being dismissed.

In a criminal case in the Chingeltei District, victim “O” submitted over 10 complaints to the Police Department in 2016 and 2017. Despite the appointment of a multidisciplinary response team to conduct a situational assessment to provide care, due to a time delay, the victim was killed in August 2017.

FGDs also uncovered institutional hurdles in investigation. Investigators and inspectors indicated that each complaint is collected very carefully in each and every case. Supervisors require a daily report and explanation of each complaint, placing particular scrutiny on complaints that may not have been examined.

Termination of cases

From the six districts, 64 dismissed petty offenses and criminal cases were analyzed from the archive of the prosecutors’ unit. These dismissed cases were 60% criminal DV cases and 40% petty DV offenses. Just under half the total cases (48%) were dismissed based on withdrawal of the complaint by the victim or a failure by the victim to file the complaint within the legal timeframe.

Withdrawal of the complaint by the victims

FGD participants collectively noted several factors influencing the underreporting of DV or withdrawing of complaints by victims:

- Fear of harming personal or family reputation;
- Fear of divorce;
- Fear that violence will be repeated;
- Fear that complaint will be dismissed;
- Fear that police will not respond to the DV complaint;
- Fear that caller or informer will be revealed.

Dismissal of complaints

Focus group participants noted how investigators tend to fall back on the excuse that “parties have reconciled” to dismiss the case, though the revised LCDV states

that the prosecutor may continue investigation even if the victim withdraws the complaint. In some cases, though there was an explicit criminal act and injury, the case was still dismissed. Other cases were dismissed even though the procedure of examining the case was incomplete or the complaint contained reasonable doubt.

FGD participants noted that failure to complete the risk assessment also results in the dismissal of complaints. The risk assessment determines the level of danger when victim and perpetrator are present in the same location. Therefore, the assessment should be performed on a case-by-case basis within a short timeframe. Results should be used as a justification on whether to provide urgent protection to the victim. Although police officers were consistently conducting risk assessments for each complaint, the results were used as evidence to dismiss the case in court, not as grounds to protect the victim.

In September 2017, Victim “C” complained that her ex-husband came home drunk and assaulted her. The victim also clearly reported actions of battery by the perpetrator. Although the perpetrator had a prior record of a 15-day arrest for public disturbance and violence while intoxicated, as well as multiple (4) detainments for forced sobering, neither a risk assessment nor an interrogation was conducted. The complaint was dismissed based on the grounds that the timeframe for opening a petty offense case had expired.

FGD participants commented that the risk assessment checklists are too long and time-consuming. All family members must complete the checklists. This long process results in many victims and witnesses failing to complete the checklist resulting in dismissal of the complaint.

Sentencing

Inconsistency of sentencing with the gravity of crime committed

Punishments for similar or comparable DV crimes in the same district revealed disparities in sentencing. In Chingeltei district a DV criminal case without physical injuries was sentenced to 1-year imprisonment. In another case in Chingeltei a DV criminal case with “slight injuries” to the victim was fined 450,000 MNT (\$158 USD). Thus, a perpetrator who committed DV without inflicting visible physical injury is

more heavily sentenced than a perpetrator who causes a slight physical injury, revealing a legislative gap in sentencing intervals for DV with or without physical injury.

Mandatory training

Perpetrators of DV petty offenses either received a jail sentence from 7-30 days or 10-50 hours of mandatory training. Although the law requires two hours or more of mandatory training per day, no evidence was found that perpetrators completed the trainings.

In 90 cases analyzed, 82% of perpetrators found to have caused slight harm in aggravated circumstances were fined 450,000 MNT (approximately \$158 USD) without any mandatory training or community service. No arrest or imprisonment sanctions were applied for slight harm with aggravated circumstances.

This finding was supported by FGD participants, who stated that mandatory trainings are not conducted at all. In fact, the majority of participants did not have an understanding of mandatory training.

Fines

Initially the draft package of laws against DV excluded financial sanctions for DV, though ultimately in the adopted package of laws fines were included. In the sample of cases reviewed, in 90 of 110 cases, the DV crime caused slight injuries resulted in a fine.

When perpetrators were fined, victims often bore the cost. Of criminal case files examined, 34% noted that the perpetrator was financially dependent on the victim. In focus groups with court decision execution officers, one Officer remarked, "in DV cases that were levied with a fine, the majority of victims pay the perpetrators fine themselves, from the victim's personal bank account."

Inconsistent application of the principle of "one punishment for one crime"

Of cases charged under Article 11.6 of the CC, 48% were found to have violated the principle of "one punishment for one crime", as the perpetrator had been punished for both a DV crime and for causing slight harm. The Court of Appeals denied only one case based on the grounds that DV and causing slight harm are separate

crimes, therefore it is not consistent with “one punishment for one crime” principle, stated in Article 6.2, section 6 of the CC (2001). In March 2018, the Supreme Court clarified the confusion by providing recommendation on this matter. According to one prosecutor, the Court explained that in order to meet the requirement of “constantly” to be considered a domestic violence crime, there must be three reported instances in one calendar year. If a perpetrator had received a punishment for one of these instances, it could not be counted toward the required three as the perpetrator would have already been punished for that instance resulting in a “double punishment”.

CONCLUSION AND RECOMMENDATIONS

- I. **Legal definition of domestic violence.** The confusion around the exact definition of “constantly” as an element of the crime of domestic violence leads many cases to be classified as petty offenses, diminishing perpetrator accountability and leaving victims at risk.

The Supreme Court of Mongolia interpreted the term “constantly” to mean an action that has characteristics of DV with three or more frequencies. This interpretation does not provide sufficient clarity and needs to be further expanded to ensure a uniform application of the law. The “constantly” factor should be removed from the CC definition of DV. The Law on Petty Offenses should not apply to DV, as it does not carry sufficient punishment and fails to acknowledge its severity.

- II. **High attrition for domestic violence cases along the justice chain.** Compared to the overall number of DV-related calls to police, a high number of both petty and criminal cases are dismissed.

While many dismissed cases examined in this study had an explicit criminal nature and demonstrated a specific level of injury, they were nevertheless dismissed. In some cases, the procedure of examining the case was deemed incomplete or the complaint itself contained reasonable doubt.

Apart from inadequate and outdated professional skills, and ability to detect and investigate cases at the primary stage, many cases were also dismissed because parties reconciled. Reconciliation was cited as cause for dismissal despite the fact that the LCDV gives the prosecutor the discretion to continue the investigation should the victim withdraw the complaint. It is recommended that a complaint assessment guideline or checklist for inspectors and investigators be developed to assist in deciding whether to dismiss a case or to proceed.

- III. **Law enforcement capacity in responding to DV is out of date and inadequate.** There is a need to update officers’ skills, knowledge and approach to responding to and investigating DV cases.

It is recommended that authorities receive more training to understand the dynamics of DV. This will prevent dismissal and delays stemming from an inability to find the proper category. FGD participants remarked on the importance of new

and innovative methods to detect DV apart from victim and community reports. Participants suggested using technology such as an application or a website to provide information and uncover DV in rural areas.

IV. Mandatory training for perpetrators under the Petty Offense Law is ineffective.

In FGDs, participants noted the ineffectiveness of mandatory trainings. They reported the effectiveness of these trainings was not assessed by the implementing agency and its impact on changing the behavior of the perpetrators remains unclear. There is a need to properly evaluate and improve these trainings based on a rigorous evaluation.

V. Imposition of fines in DV cases punishes victims.

FGD participants noted that most victims pay the perpetrators' fines. This results in inadvertently punishing the victim who has suffered from the DV and is now subject to paying the perpetrator's financial penalty. This gap should be addressed by eliminating fines as a punishment in DV cases.

VI. Charging offenses as both DV and causing harm results in confusion as to the application of one punishment for one crime under the CC.

In the DV and slight harm with aggravated circumstances cases analyzed, it was found that the perpetrator was punished for both a DV crime and for causing slight harm, violating the principle of one punishment for one crime. The Supreme Court must develop clear sentencing guidelines for DV and slight harm with aggravated circumstances crimes.

VII. Victims need access to protective orders regardless of the level of offense or status of a criminal case.

Protective orders are effective in allowing victims to obtain a judicially enforceable order that offers immediate relief such as prohibiting the abuser from having contact with the victim, providing temporary financial support to victims and the children of the abuser, and awarding exclusive use of the home to the victim. These civil protective orders can provide victims with immediate protection without the lengthy delay and higher burden of proof that usually accompany a criminal trial.

The 2004 LCDV allowed victims to file for civil protective orders without requiring the filing of a criminal case, however the 2017 LCDV only refers to the Law on Victim and Witness Protection to protect victims' safety, removing any reference to the availability of civil protective orders. The other protective measures available to victims are available only if a criminal case is at the stage of inquiry and investigation, or if a person is found guilty of committing a crime. These remedies primarily focus on restriction of abuser's movements and do not offer other support that may be necessary for victims who are financially dependent on their abusers to escape violence and provide for their families.

The lack of civil protective orders in the 2017 LCDV seems to have widened the gap in protection of victims rather than improving their access to justice. Extending the availability of protective orders to victims through civil proceedings and expanding the types of relief available to victims are necessary to address this gap.

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