

**Delivering on the Promise of Equal  
Protection under the Law:**

**Understanding the Experiences and  
Help-seeking Behaviours of Ethnic  
Minority and Immigrant Victims of  
Domestic Violence in Hong Kong and the  
United Kingdom**

EXECUTIVE SUMMARY OF RESEARCH FINDINGS

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## INTRODUCTION

- Feminist discourse over the years has shown that the law protects men more effectively than women because it is inherently masculine.
- The institutionalization of cultural structures in political and legal frameworks embeds patriarchy in various social structures.
- From the standpoint of women's substantive human rights, feminist critiques identify multiple levels of discrimination and resistance, ranging from the ideological to the practical that impact women's access to social, legal and political spheres and their role in them.
- One of the areas which would benefit from the creation of a new framework to ensure substantive and effective equal protection is that of legal protection against domestic violence.
- The effectiveness of available protections and provisions against domestic violence depends almost entirely on individual capacities of the victims themselves but also, the institutional competence of legal and social structures and frontline responders manning them.
- These institutions and personnel perpetuate systemic discrimination and replicate power structures in society, impacting the viability and effectiveness of interventions against domestic violence.
- On the other hand, internal factors such as cultural and religious value frameworks and external factors such as financial dependence, language and immigration status, impact victims' help-seeking behaviours.
- In many cases, these factors combine to undermine the effectiveness of existing frameworks to provide timely interventions for redress and to guard against risks of future violence.

### The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)

- is the first and only comprehensive treaty instrument to oversee the implementation of state party obligations vis-à-vis women
- fills the gaps left by the UDHR, ICESCR, and ICCPR in addressing women's particular needs as a group
- has been signed by both the UK and Hong Kong
- is accompanied by a rigorous monitoring body to oversee the implementation of state party obligations
- however, CEDAW does not expressly incorporate a provision regarding state obligations with respect to combatting violence against women *but* is interpreted as doing so by the CEDAW Committee.

Enjoyment of CEDAW rights relies on freedom from violence



Article 5 singles out the impact of cultural factors on equality as a systemic issue



*General Recommendation 19 (GR19)* addresses the issue of violence against women in CEDAW

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- *Intersections theory* calls into question the ‘one-size-fits-all’ approach at the core of existing protective measures and legislation (*Kimberlé Crenshaw & bell hooks*).
- The application of an intersectional analysis to DV victims promptly reveals that not all women are in a position to access the existing mechanisms to protect themselves.
- The findings also show that women of colour, immigrant women, and those categorised in other minority status groups such as persons with disabilities tend to be most vulnerable to being entrenched in situations of violence.



The Declaration on the Elimination of Violence Against Women (1993) defines and identifies issues related to violence against women.

Article 4

requires States to develop comprehensive legal, political, administrative and cultural strategies

guards against revictimization due to the failure of legal or administrative measures

obliges States to condemn violence by taking measures to prevent, protect, prosecute, punish and provide reparations for it in the public or private spheres

Under-reporting of such crimes as physical and sexual assaults and the under-utilisation of the full range of the provisions and remedies give cause to examine victim responses to intimate partner violence (IPV) more closely in light of the literature and legislation

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In Hong Kong, DV cases are dealt with under the **Domestic Violence and Cohabitation Relationships Violence Ordinance, Offences Against the Persons Ordinance** and the **Crimes Ordinance**

In the UK, the **Family Law Act 1996, Domestic Violence Crimes and Victims Act 2004**, and the **Children Act 2004** address violence against women.

Existing laws *expect* that the victim...

- self-identify as victims of violence
- will recognise that the violence is unlawful
- is aware of available mechanisms for assistance
- will take the necessary steps to initiate a complaint and seek assistance.

In reality, victims will *actually*

- have various psychological, emotional, cultural, social, and practical needs and pressures, leading to conflicting messages about appropriate responses
- deploy a unique framework to process their response to a violent episode based on their situational context and limitations.

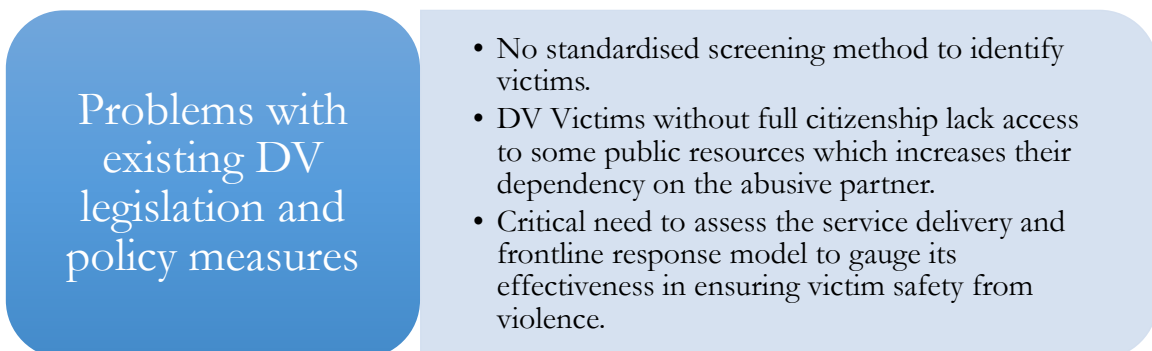
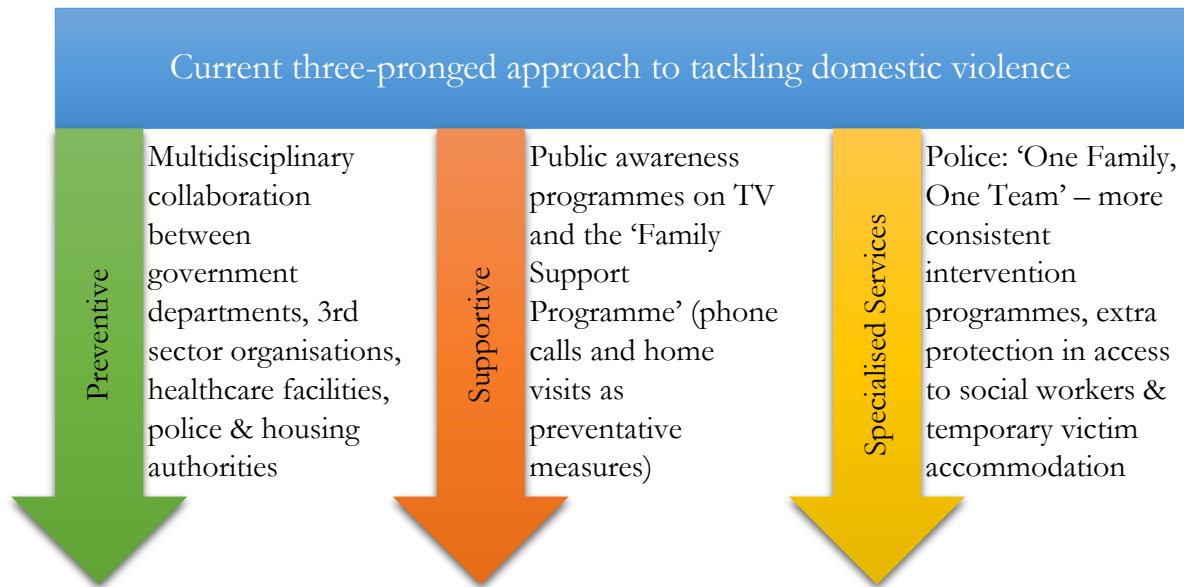
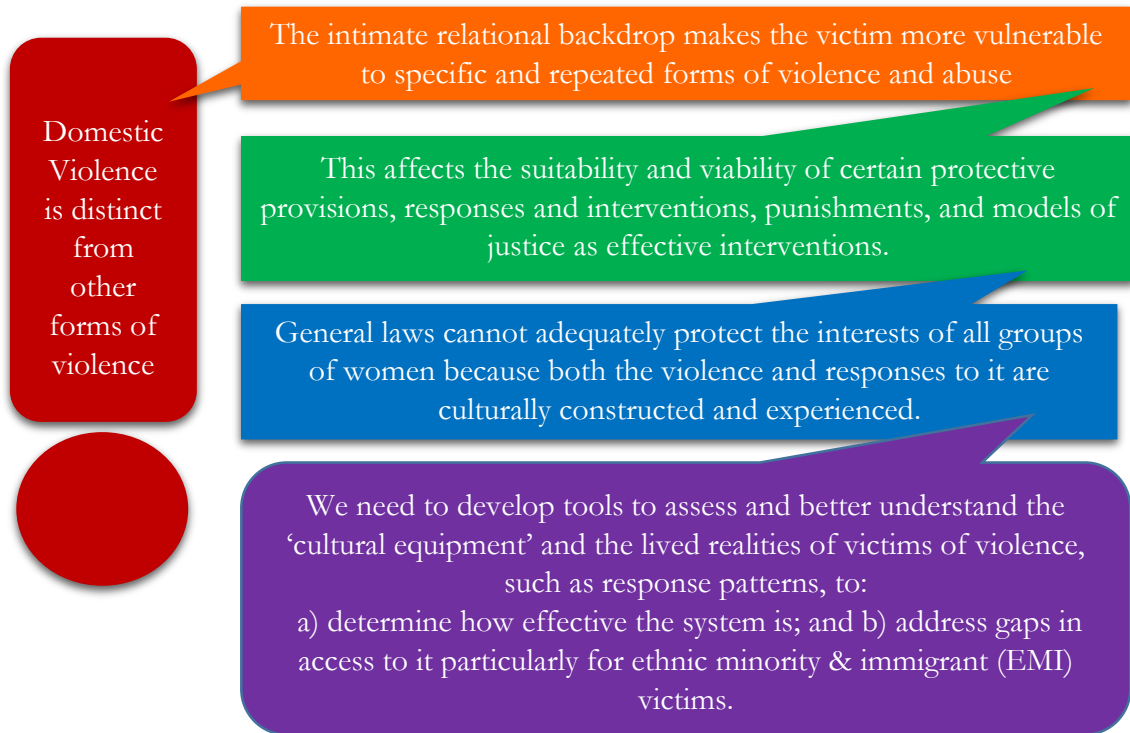
Some women may not identify as victims of violence, or may be met with rebuke, disbelief, or made to feel they deserved it

Some women also see domestic abuse as the right of the husband, not as a violation of women's rights

This process has been extensively studied and recent literature provides a compelling argument to take such processes into account in order to guarantee the relevance of measures designed to help protect victims of violence.

Internal impediments to help-seeking is further exacerbated by external factors, including immigration status, law enforcement authorities, consequent loss of access to children, lack of language capabilities, levels of education, and financial dependence.

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The UK has attempted to address some of the practical and emotional factors that inhibit help-seeking behaviour in abused victims from minority backgrounds by recognizing the individual circumstances that govern how they respond to situations of violence. Yet, also led to disturbing trend towards focusing initiatives on forced marriage, honour based violence and applications of Sharia law in family disputes.

Recently, Members of Parliament in the UK have moved Bills in an effort to outlaw specific practices considered to be harmful to women and girls. This crusade appears largely to have taken the guise of neutrality but selectively singles out minority religious and cultural practices for regulation.

A recent example of regulations and proposals designed to protect the interests of EMI women include the criminalisation of forced marriage, which could subsequently stem the number of DV cases arising from the form of marriage as well.

This is a quick fix solution to a complex and long-standing problem and risks driving EMI victims of violence further underground.

The No Recourse to Public Funds (NRPF) rule proves to be very restrictive for minority women, particularly those with a precarious immigration status.

- Women entering the UK on the basis of a spousal visa are restricted from access to public funds for two years.
- Destitution Domestic Violence (DDV) Concession – enables abused women on spousal visas to receive access to public funds while they await a response to their application for Indefinite Leave to Remain (ILR).

There have been some small-scale studies looking at victim help-seeking responses but there have been no comprehensive studies to examine how their immigrant ethnic background and situational context impacts their capacity for help-seeking and therefore, the relevance and effectiveness of the remedies available.

**This research fills this gap, providing a comprehensive theoretical framework through which to understand the situational context guiding help-seeking behaviour and considerations of victimised women in relation to interventions against domestic violence.**

## METHODOLOGY

### Study Design & Sample



- The literature review, interviews and the questionnaires were all critical components for developing an understanding of existing laws and policies combating domestic violence.
- The empirical research was a mixed-method study comprising both questionnaire and interview components to contextualize questionnaire responses and supplement its data.
- The study focused on a mapping exercise to trace the gap between victims' help-seeking behaviours, expectations and perceptions and the attitudes of frontline responders and the subsequent services offered.
- Stakeholders were selected to identify barriers in relation to help-seeking and offering timely assistance, to assess attitudes towards DV, perceptions and understandings of law and law enforcement on the part of victims and service providers and other personnel involved in the help-seeking stages.



As a control, an additional stakeholder group of **non-victims** of EMI background participated.

The participation of EMI DV **victims** was crucial to ascertaining and evaluating the effectiveness of the measures, assistance, services and programmes provided by the service providers and other frontline personnel.

*Table 1: Participants by Stakeholder Type*

	Service Providers	Social Workers	Healthcare Professionals	Police	EMI Victims	EMI Non-Victim	Total
<b>UK</b>	22	2	3	3	8	7	45
<b>HK</b>	6	13	2	N/A	24	10	55
							100



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- The interview responses were collected and collated to contextualize the data findings from the questionnaire responses.
- The research findings provide rich, qualitative data that highlight important commonalities that characterize the experience of servicing the EMI sector in the greater London area and in Hong Kong in the context of domestic violence.
- Not all service providers were able to provide ‘live’ contacts and hence, the Police in Hong Kong did not participate in the research study.

**FINDINGS**

**\* All response rates were scored out of a maximum of 5.**

- Frontline responders perceived EMIs’ awareness of their legal rights to be lacking (rating lack of unawareness of rights at 4 out of 5 in posing a significant barrier to seeking help). They also noted that their perceptions of discrimination towards EMI were high (3.48 for UK; 3.39 for HK out of 5).
- UK EMI women appeared to be better informed in relation to discrimination and domestic violence.
- Interestingly, these barriers – seen by frontline responders as the major ones – were rated as much likely to be prevalent by frontline responders when compared with the self-reported rates of EMI victims in both jurisdictions.

Table 2: *Level of Awareness of Legal Rights among EMI victims*

Number of EMI Women	UK	HK
<i>Aware of laws against discrimination</i>	5	1
<i>Aware that DV is a crime at the time of abuse</i>	5	3
<i>Level of knowledge regarding DV Laws (score out of 5)</i>	2.29	1.14

**Perceptions and experiences of discrimination are rife given that some HK frontline respondents thought EMI women were not entitled to the same rights or levels of access to social services as the dominant population group (nearly 20%).**

- Some were of the view that Mainland wives of rich HK men were ‘gold-diggers’ or that the victims have themselves to blame for their vulnerabilities.

However, whilst the inaccessibility of the UK system for unrepresented litigants seems to be the biggest obstacle for both victims and non-victim communities, in HK this trend is reversed with EMI non-victim community women being more optimistic about the justice system.

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In the UK, the satisfaction in terms of protecting the innocent and determining the abuser’s guilt rated very poorly among EMI non-victim community women compared with the actual experiences of victims who had undergone the legal process. The UK EMI non-victim community thought speedy justice would be ‘highly unlikely’ (1.25) whilst EMI victims rated the likelihood of speedy justice at 3.50.

Contrast with HK: the trend is reversed with EMI non-victim community women being more optimistic about the justice system; the EMI non-victim community rated the system overall at 3.13 whereas EMI victims of DV scored it very poorly at 1.50 based on experience. Notably, their biggest expectations – “protecting the innocent” and “determining guilt of the abuser” – were not met according to the EMI victim group who rated their satisfaction with the legal system’s performance in terms of determining the guilt of the abuser at a mere 1.25.

EMI non-victim community women in the UK reported the lowest levels of satisfaction in the performance of the legal system (1.84) compared with a score of 2.76 among EMI victims, who were considerably more satisfied.

This is to be contrasted with the higher satisfaction rates among the EMI non-victim community women in HK who rated satisfaction at 2.83 whilst EMI victims rated it at a low of 2.20. UK EMI victims reported the lowest levels of confidence in the legal system (2.14/5). A similar pattern found HK EMI non-victim communities expressing greater confidence (2.42) compared to EMI victims who had actually been through the process (2.25/5).

*Table 3: Perceptions of Law and Authority Among EMI Victims*

Level of Satisfaction in Legal System Performance (Scale 0-5)	United Kingdom		Hong Kong	
	V	C	V	C
Providing justice quickly	3.5	1.25	1.5	3.13
Helping victims obtain meaningful outcomes	3	1.88	2	2.71
Protecting the innocent	3.5	1.88	2.5	2.75
Determining the guilt of the accused	2.5	1.88	1.25	3.25
Ensuring a fair trial for all ethnic group	2.5	2.5	3.13	2.73
Providing specific remedies that are important in your view	2.5	1.88	2.5	2.71
Being accessible to unrepresented litigants	1.88	1.67	2.5	2.5
Overall	2.76	1.84	2.20	2.83
Level of Confidence (Scale: 0-5)	2.14	2.93	2.25	2.42

V = EMI victims

C = non-victims from EMI community

Overall the UK showed almost 90% satisfaction; in Hong Kong, this was much lower. The lowest rating came from EMIs in their rating of the approachability of the police, at only 50%.

Table 4: EMI Victims' Rating of Police Performance in the UK and HK (score out of 5)

Level of Satisfaction with Police Performance (Scale 0-5)	United Kingdom		Hong Kong	
	V	C	V	C
Enforcing the Law	4.16	4	4	4.44
Responding Quickly	3.5	4	4.17	3.75
Being Approachable	4.58	4.58	3.5	2.5
Ensuring the safety of the people in the community	4.58	4	3.75	2.92
Treating everyone fairly	<b>5</b>	<b>1.88</b>	<b>3</b>	<b>2.78</b>
Attending to specific concerns regarding person safety	5	5	3.33	3.21
Overall	<b>4.47</b>	<b>3.91</b>	<b>3.63</b>	<b>3.30</b>
<b>Level of Confidence (Scale: 0-5)</b>	<b>3.57</b>	<b>2.86</b>	<b>3.58</b>	<b>3.12</b>

*When an abused EMI woman first complained to the police in the UK... the police told her that 'all the sins were her own' ... Even the shelter the police took her to on another occasion was like a prison given that it was a very small room to accommodate herself and her 4 children. She had no choice but to return to the perpetrator in these unlivable conditions.*

*Self-Rated Scores of Performance of Service Providers in the UK and HK*

Only half the EMI victims in HK were satisfied with the service providers. In the UK, almost three quarters of EMI were satisfied with service providers.

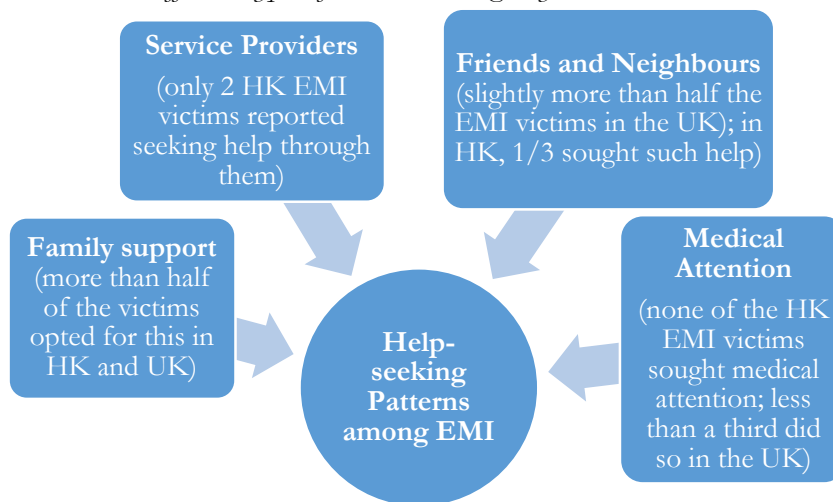
Service providers in both HK and UK reported approximately the same percentage of clients who had identified serious shortcomings in their services.

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An EMI victim who called the police after experiencing several violent attacks by her husband over many months and on the night in question said that when they arrived, they spoke to her father-in-law in Cantonese since he was fluent and did not even attempt to communicate with her to ascertain her version of the events. The police then advised her through her father in law, to leave with them to file a complaint at the police station and to be taken to a refuge shelter. When she packed her belongings and proceeded to carry her few months old baby with her, the police advised her to leave the baby there and assured her they would return to pick her up the next day. It had been two years since she left home and she has not been allowed to see her baby due to the husband and in-laws' refusal to grant access. She felt the police misguided her and their lack of competence has ruined her life and future with her child.

- Shortcomings identified by the service providers included primarily language barriers and the unsurvivability of EMI victims in shelters, which predominantly comprised Hong Kong and Mainland Chinese women.
- In both jurisdictions, service providers had inappropriately sought to rely on community members of the victims' background to assist with interpretation and other help.
- Many women feel deterred as a result and prefer dealing with episodes of violence occasionally rather than to deal with the shame, humiliation and more serious violence they face if they seek help.
- Some women also complained that the help they received often came with strings attached. They were asked by social workers to file for divorce in order to be eligible for compassionate housing, which is not one of the eligibility criteria for the compassionate housing scheme.

*Different Types of Assistance sought by EMI victims*

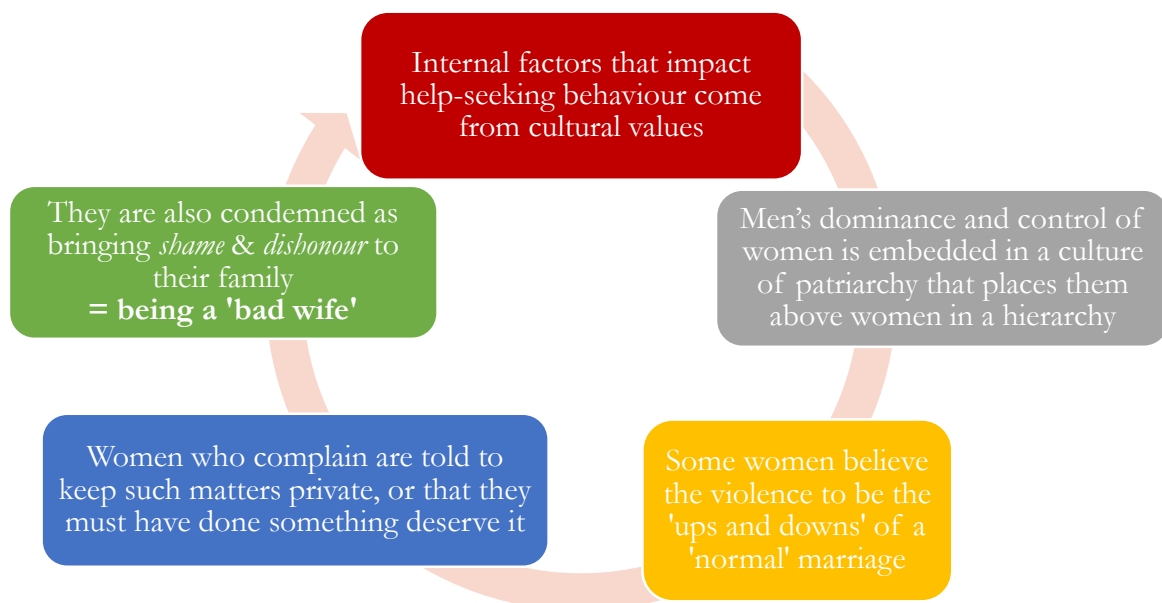


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- EMI victims in the UK are more likely to seek different types of assistance compared to in EMI victims in Hong Kong; this might be explained by a greater awareness of service availability and of UK agencies' exclusive focus on EMI victims of particular cultural and religious background in the UK.
- In general, victims reported feeling more at ease relating their experiences to friends or family because they were of a similar background and would better understand their needs and concerns. They were comforted by the cultural familiarity and not being written off as having 'special' or 'awkward' circumstances.

*Attitudes Towards Help-seeking Against Violence in a Family Setting & Fear of the Unknown Consequences of Help-seeking*

- EMI women are very concerned about their own conceptions about what it means to be a loyal; to do so successfully is a measurement of success in life.
- Many victims expressed that they believed that they might be deported, or separated from their children for good if they complained about their husbands.
- Visa sponsorship in the name of the abuser / husband was often used as leverage and financial dependence on spouses presented a further barrier to seeking help against domestic violence.
- Fears about how the household would survive if the sole breadwinner – the abusive husband – was arrested, imprisoned, or suffered a consequential loss of employment.
- Separation or divorce are instigators of social isolation in the community and seriously impact on family ties, friendships and children's future prospects, growth or nutrition.
- There is also a stigma associated with seeking psychological support; many women view contact with a social worker or social services as stigmatising, implying weakness, a lack of self-reliance or self-sufficiency to cope with 'routine life' within marriage.
- There are 'internal' factors informed by EMI victims of violence that make this group of women less likely to reach out for help.

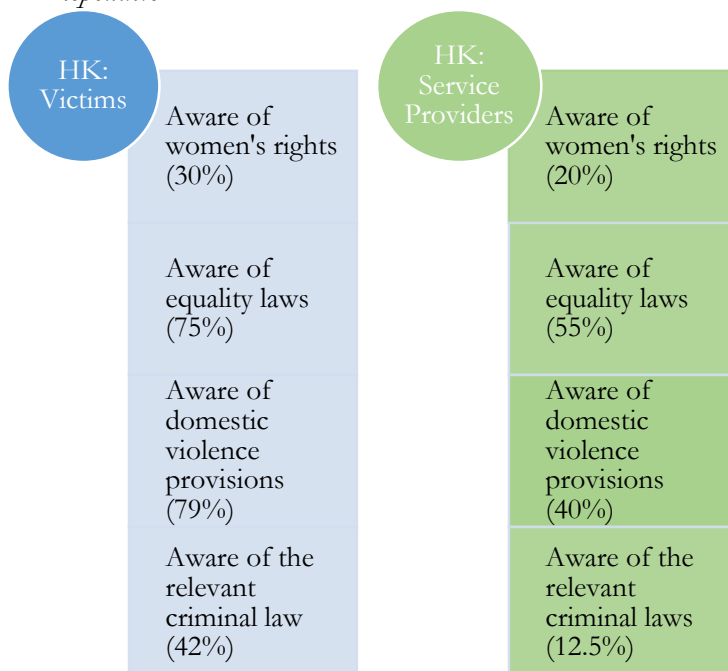


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The responses from institutional respondents and professional frontline responders highlight various factors that indicate a lack of capacity and competence to handle EMI victims' needs effectively, in terms of delivering accurate information, providing relevant services in an accessible manner and ensuring their safety and protection.



*Knowledge of Legal Rights and Provisions Relating to Equality and Domestic Violence Among Frontline Responders*



In Hong Kong, frontline service providers are more likely to put clients at risk due to unreliable, misguided advice given to victims. This lack of knowledge about DV has critical implications for the ability of frontline staff to effectively assess and advice on the options available to the victim.

**Devising an appropriate safety response plan and guiding and counselling victims through this difficult process at a sensitive time is key.**

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Apart from other barriers, language remains a significant barrier to providing quality services. Some victims are worried about confidentiality issues and the spread of community gossip due to the interpreters knowing them or their families personally. This is depicted by the relatively low usage of interpretation services of CHEER (a government funded interpretation service for ethnic minorities), who reported only 10% of their requests came through the Social Welfare Department or NGOs dealing with victims of violence.

In one example, an interpreter reportedly abandoned the interpretation at a hospital mid-way upon learning the details of the violence as she became concerned for her own safety in the process and refused to carry on. In this instance, the perpetrator knew her. This lack of professional ethics and limited access to resources puts the victims in a compromised position, especially if they are seeking medical assistance for an injury inflicted by the perpetrator who has accompanied her to the hospital for treatment.

In terms of treatment and assistance with physical and mental health needs, the need to interpret each statement or instruction and to have the presence of the third party may not be as conducive to the development of a secure relationship and dilutes the effectiveness of the therapeutic benefits of counselling, somewhat diluting its authenticity. The need for counsellors from within the EM community is increasingly compelling to ensure effective therapy.

Self-rated responses of frontline responders show that not all of them considered themselves to be well-informed, culturally competent or adequately equipped to handle the needs of EMI victims effectively.

*Table 5: Frontline Responders: Self-rated Scores of Frontline Responders on their Cultural Competence, Knowledge of and Capacity to Address Needs of EMI Victims (score out of 5)*

Frontline Responders – Self Rate (score out of 5)		
	UK	HK
<b>Healthcare Professionals</b>	4.20	2.50
<b>Police</b>	4.00	N/A
<b>Service Providers</b>	3.90	2.83
<b>Social Workers</b>	3.50	3.08

In the UK

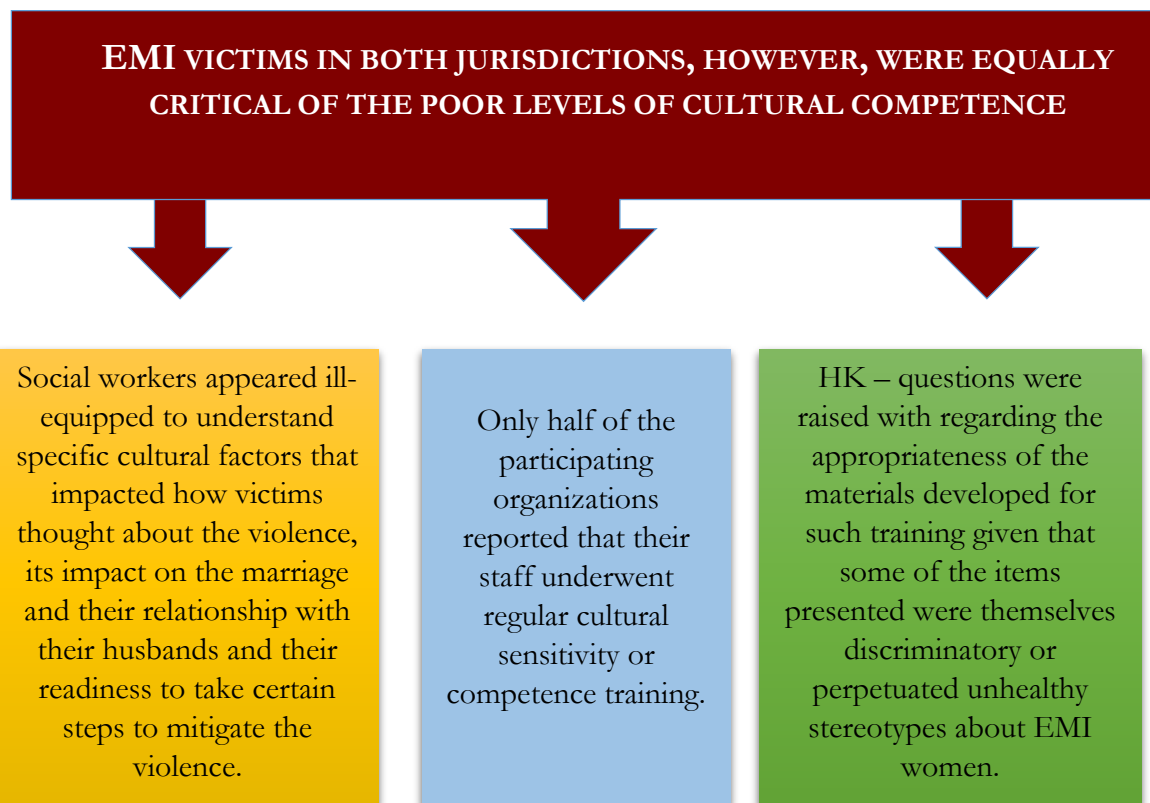
- translation issues are met by having ready availability of trained social workers, counsellors or healthcare professionals who can speak the minority language concerned.
- efforts were made to ensure that there were employees and volunteers from a wide range of ethnic groups represented in the organizational structure so that case workers could be matched with clients of a similar background to enhance culturally sensitive and appropriate service provision.
- healthcare professionals and the police self-rated themselves highest out of the frontline responders giving themselves a score of 4.2 and 4 out of 5 respectively.

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- Service providers and social workers rated themselves slightly lower at 3.9 and 3.5 out of 5 respectively.

In Hong Kong

- the translation issues remain engrained given the barriers faced by ethnic minorities to access university professional degree programs due to the education system.
- scores are considerably lower than in the UK, with social workers rating themselves highest at 3.08 out of 5, whereas service providers and healthcare professionals rated themselves at 2.83 and 2.5 respectively in terms of cultural competence



**Towards Developing a Typology of Situational Factors and Victim Responses to Domestic Violence Among EMI Women**

- There are many different layers that lie between the raw experience of abuse and the innate desire to protect oneself and the way in which the experience is characterised in the mind of the victim, culturally and practically, to inform their next steps.
- As the findings show, the most likely response of a victim is to take no action or, despite having initially complained to the police or service provider, to return to the abuser.
- Many victims then lead isolated lives and are cut off from their own community and continue to experience discrimination and exclusion from mainstream services.
- EMI victims choose a course of action that is consistent with their value framework even at the risk of repeated or escalated violence unless the violence becomes life threatening to them or their children.

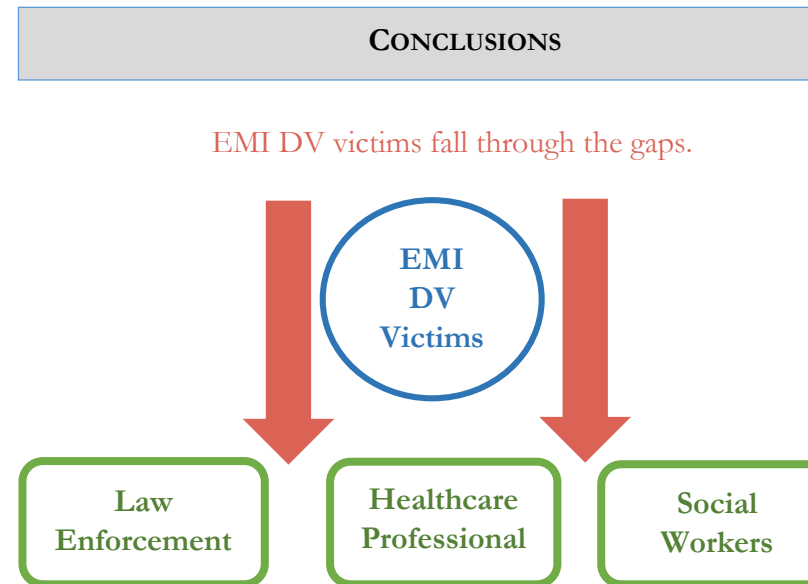


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- It is vital to recognise and develop strategies to better understand, inform and predict receptivity to various protective measures for each victim in light of the impact of such considerations on women's decisions regarding responses to violence.
- A substantive right to equal protection against violence and state parties' obligations of due diligence to guarantee such protection necessitate the identification and obviation of systemic barriers to accessing preventive, protective and punitive means to guard against violence.
- The findings highlight a critical need to construct an intersectional framework through which to assess experiences of domestic violence among this population subgroup and to understand their situational context from a social, political and legal perspective.
- The findings also serve as the building blocks towards the development of a typology of help-seeking behaviours among this particular victim group so that the responses and interventions in relation to domestic violence can be tailored to suit their specific needs and concerns.
  - An extensive mapping exercise for each client starting with the first responder at the scene.
  - A ready-to-use assessment tool needs to be developed to understand the role that different factors may play in preventing help-seeking or follow up action to protect oneself, including awareness of rights, education level, financial independence, immigration status, cultural / religious belief system, children, self-confidence, psychological, mental and physical health, etc., willingness to complain against / leave perpetrator, desired outcomes from help-seeking / interventions, etc..
  - An intersectional impact assessment and analysis of EMI victims and their history based on data collected through various channels of service engagement should lead to the development of a unique response plan for each client to make equal protection against violence a reality for her and her family.
- A flexible approach is necessary to collectively develop an appropriate response plan to ensure immediate and short-term safety, taking full account of each of the factors identified as potential barriers to help-seeking.

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An **intersections analysis** of the situational context of victims that accounts fully for the typology of different victims of domestic violence as mapped out above, **must inform approaches and strategies** to develop best practices in **effective prevention** of and **protection against** domestic violence to narrow and ultimately, **eliminate this justice gap** for an entire community of victims.



Findings from multiple studies now confirm that women of colour and immigrant women tend to be **most vulnerable** to becoming entrenched in situations of violence. Women's response to violence is informed by their **intersecting identities and capacities**, such as, language, financial dependence, immigration status and access to and impact on children heavily influence EMI victims' process of decision-making regarding help-seeking.

1. We need to **locate knowledge**, and **effective tools** and **strategies** for violence prevention and redress within the lived realities of the women concerned so that we recognise their oppression is not characterised simply by virtue of their gender but other social markers.
  2. A **detailed** and **systematic** review of facially neutral measures, policies, interventions and legal provisions is required.
  3. We must **question the underlying assumptions** and practical constraints that may operate to render them inaccessible to particular groups of women.
  4. A **careful study** of the factors which act as 'predictors' of vulnerability for particular groups of victims is needed, including **examining** how victims can be **empowered** to **minimise** disadvantage.
- These findings provide evidentiary support for the argument that situational context and cultural factors warrant a complex approach towards developing strategies for the prevention of and effective protection against violence.**

Domestic violence and responses to violence are **culturally constructed** and **situational contexts**.

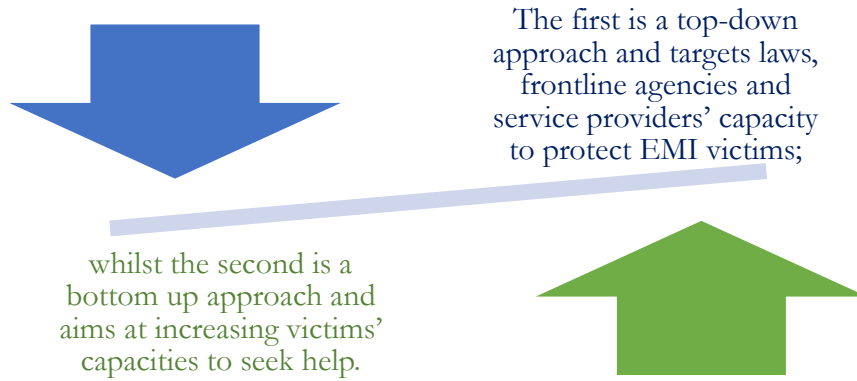
Language, financial dependence and children heavily influence EMI victims' process of decision-making, just to name a few.

The **gaps are created** because:

1. Services and laws are not equally and meaningfully accessible to all.
2. General assumptions for all groups of women are unsubstantiated.

## RECOMMENDATIONS

Recommendations are to take a two-pronged approach to developing models which are intersectional in impact assessment and serve to build and reinforce:

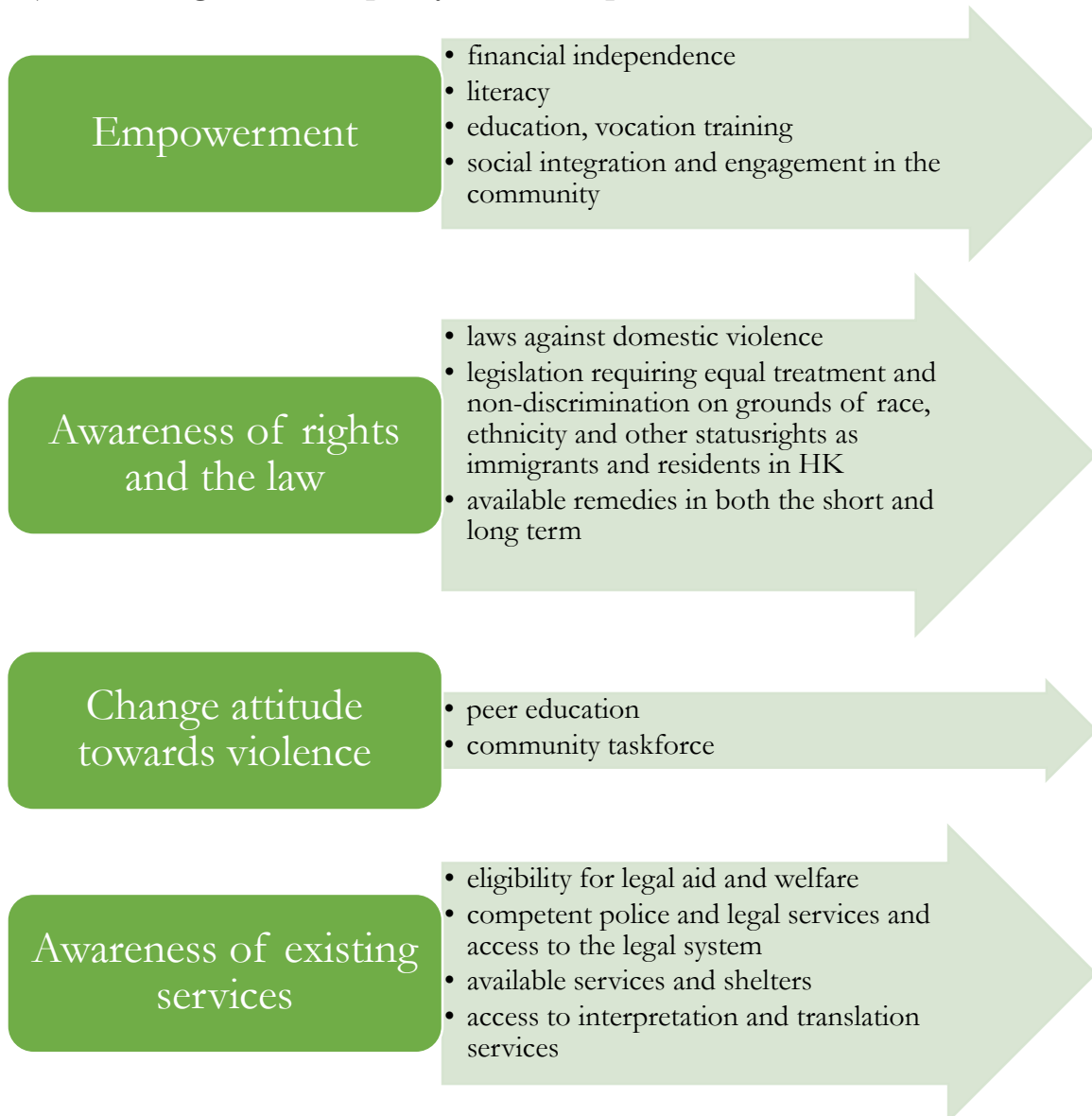


### 1) Enhancing laws, frontline agencies and service provider capacities



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## 2) Enhancing victims' capacity to seek help



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**URGENTLY RECOMMENDED NEXT STEPS**

Set up a multi-agency response network with regular cooperation between police, health services, legal profession, government agencies and NGOs for each case to improve the quality of domestic violence services for ethnic minority victims. This would obviate the need for victims to repeatedly tell their stories and would also save resources and time, particularly where interpreters and third party interveners are necessary to come to a comprehensive view of the situation and conduct risk assessment.

Set up and implement a uniform and coordinated data intake and collection process to record disaggregated data and allow for a systematic review and evaluation of the patterns of help-seeking, follow up and service provision on an ongoing basis. This would assist in informing strategies for intervention to ensure their suitability in cross-cultural settings.

Mandatory and Regular in-service training for frontline responders, including the police officers, lawyers, healthcare professionals, social workers and other service providers, in human rights and cultural sensitivity to ensure that knowledge can be harnessed and applied when handling domestic violence amongst ethnic minorities.

Review the quality and impact of existing materials. The experiences shared by the ethnic minority women in their encounters with frontline staff and respondents and the interviews with frontline responders revealed that some of the materials used in cultural sensitivity training contain harmful and negative stereotypes about ethnic minority and immigrant women.

Establish a one-stop shop service centre in the long run for ethnic minority and immigrant women, to improve cultural intelligence and competence to handle the needs of ethnic minority victims and empower them in terms of financial independence, literacy, vocational training and social integration.

Establish specialist agencies for the intake of ethnic minority and immigrant victims of domestic violence, such as those in place in United Kingdom.

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ABOUT THE AUTHOR



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ABOUT THE CCPL

CCPL was established in 1995 as a non-profit virtual research centre in the Faculty of Law. Its goals are to (1) advance knowledge on public law and human rights issues primarily from the perspectives of international and comparative law and practice; (2) encourage and facilitate collaborative work within the Faculty of Law, the University of Hong Kong, and the broader community in the fields of comparative and public law; and (3) make the law more accessible to the community and more effective as an agent of social change.

The Centre's projects and events generally come within one of the following themes: Comparative Public Policy; Comparative Human Rights; Constitutional Societies; and International Law in the Domestic Order.

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