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VIOLENCE AGAINST WOMEN AND PROTECTIVE MEASURES IN INTERNATIONAL LAW

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Abstract

International human rights law and the law of war have given great attention to providing protection for women, whether as civilians, or because they are mothers of children and first-born mothers in particular, and it also guarantees their protection, when they are combatants and participants in hostilities, and the criminalization of all forms of violence against women, as it is considered a humanitarian issue. Mission, affecting religion, honor, honor and moral values. The Geneva Conventions of 1949 and their two Additional Protocols of 1977 were concerned with providing such protection, as Article 14 of the Third Geneva Convention affirmed that women shall be treated with all special consideration due to their gender, and the phrase (with all consideration) means any physical weakness, or honor and modesty And pregnancy and maternity. Article 27 of the Fourth Geneva Convention referred to special protection for women against any attack on their honor, especially rape and forced prostitution, and any violation of their sanctity. This article is considered the first of the provisions and provisions on rape, as it considered it unacceptable in a period of armed conflict, but it did not recognize the gravity (and seriousness) of the problem that women may consider to be the case of assaulting them with such acts.

There is no doubt that the persistence of sexual violence against women in times of armed conflicts is not due to the weakness of international humanitarian law. Rather, it carries within its folds an arsenal of texts guaranteeing the protection of women, but the problem is the failure of the parties to armed conflicts to implement these texts, especially since most of these conflicts It has become internal, occurring in countries where the perception of women is traditional, and respect for the law therein, even if it is an international state specific to the state, or an international general, is already weak.

Introduction

There is growing recognition by multiple governments that violence against women is an issue that deserves attention at the national level; although much of the research available on violence against women (VAW) focuses on its implications for public health, this study has adopted a human rights approach that looks at the issue in a comprehensive manner and through multiple dimensions.

The researchers adopted a variety of methodologies to address the various aspects of the issue, drawing on the studies previously prepared by the National Council for Women and other Egyptian governmental and non-governmental bodies.

This study focuses specifically on the prevalence of multiple forms of violence against women, and attitudes of the phenomenon among married and unmarried men and women, and the legal and executive framework.

On the issue of violence against women, the role of the media, and the services currently available to female victims of violence, And recommendations related to reducing levels of violence.

Our study highlights the phenomenon of violence against women as reasons and results to spread human and national awareness about the dangers of this phenomenon and its catastrophic consequences, especially since women have been and continue to be the most affected by the political violence personified by dictatorial regimes, whether they violently represent the direct liquidations of opposition women or because they are used as a means of pressure On their families or due to the patterns of social, economic and value violence that women have fallen through during the tyranny era.

Objectives of the study

The objectives of the study are as follows: 1) providing a source of information in multiple sectors and analyzing practices Violence against women in states; 2) Make recommendations to guide policy decisions, support defense activities, and form a basis for interventions by governments, NGOs, and other partner parties to combat violence against women. The study is based on states' human rights obligations, including those that stipulate that women enjoy a life free from violence.

Research problem:

The research problem lies in the lack of commitment of states to implement the protection measures provided for in accordance with international law to eliminate violence against women, and the increasing number of violations against women in a progressive way in

recent years, especially after conflicts in Arab and regional regions such as Syria, Yemen, Libya, Italy, Greece and others.

The first topic: Violence against women... definition, patterns and causes

Definition of violence against women

A behavior or act directed at women based on strength, intensity, and coercion, characterized by varying degrees of discrimination, persecution, oppression, and aggression, resulting from unequal power relations between men and women in both society and the family, which takes various psychological and physical forms in damages[1].

Violence against women varies between what is individual (nuclear violence) and is embodied by direct and indirect victimization of the woman by hand, tongue, or deed whatever, and between what is collective (collective violence) carried out by a human group because of an ethnic, sectarian or cultural nature that takes the form of vilification or Exclusion or eliminations, between what is formal (power violence) which is embodied in political violence against the opposition and the general population.

And when a woman falls victim to the approved harm due to the method of violence, she loses her humanity, which is the gift of God, and by losing her humanity, any constructive role in the movement of life is denied[2].

It is the right of every human being not to be subjected to violence and to be treated on a par with other human beings as one of the basic human rights that represents the reality of human existence and its essence through which it is integrated and promoted, and when these rights are wasted, the human role will lead to fall and decay, and the woman The man's perseverance in building life and celebrating it through reconstruction and progress, and life will not be righteous and eaten if the basic rights of women and the forefront of their right to life, security and dignity are sacrificed, and violence or threatening it kills creativity by creating the climate of fear and terror that haunts women everywhere.

Violence in the diversity of its credentials, such as personal and domestic violence, violence against wrong customs and traditions, power violence and violence in wars ... requires legal legislation and a societal culture that prevents its continuation to ensure the development of society including the right to resort to remedies and legal compensation, access to education and health care, protection from the state and institutions Civil society.

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[1] Russo, Nancy Felipe; Pirlott, Angela (November 2006). "Gender-based violence: concepts, methods, and findings". Annals of the New York Academy of Sciences, special issue: Violence and Exploitation against Women and Girls. Taylor and Francis and Oxfam. 1087: 178–205. doi:10.1196/annals.1385.024.

[2] Hosenball, Mark (6 June 2013). "Obama administration defends massive phone record collection". Reuters. Retrieved 6 March 2016.

International Day for the Elimination of Violence and Reality

The General Assembly proclaimed 25 November the International Day for the Elimination of Violence against Women, and called on governments, international organizations and NGOs to organize activities on that day aimed at to increase public awareness of this problem (resolution 54/134 of 17 December 1999)[3].

Supporters of women have celebrated 25 November as a day against violence since 1981, and that date derives from the brutal assassination in 1961 of the three sisters Mirabel, who was one of the active politicians in the Dominican Republic, on the orders of the Dominican ruler, Rafael Trujillo, 1936. 1961.

Despite the major developments that the reality of women has witnessed internationally since that date, violence still smears the forehead of humanity as a disgrace to the civil record of humanity. Intercourse or other forms of abuse and abuse!! There are more than 60 million females deprived of life and they became like (lost) women in the world today as a result of selective abortions aimed at getting rid of females and killing girls in the cradle!! It is not a year that millions of women are raped by evacuation, relatives, friends, strangers, employers, co-workers, soldiers, or members of armed groups!! Violence against women became common during armed conflicts until it became an epidemic, and civilians, especially women, became major targets for armed fighters. In the war-torn Democratic Republic of the Congo, widespread rape became widespread and practiced systematically and brutally to the extent that doctors are now categorizing (vaginal destruction) As a war crime.

As for domestic violence, it has also become an endemic scourge worldwide, and the vast majority of its victims are women and girls. In the United States, for example, women make up about 85 percent of domestic violence victims.

The latest studies indicate that violence is a general phenomenon for all societal and cultural classes and that it is an approved method for dealing with women in developing and developed societies. For example, the figures confirm that:[4]

- 47% of women are permanently beaten in Jordan.
- 95% of victims of violence in France are women.
- 8 women out of ten victims of violence in India.
- In a poll of 3000 Croatian men, 85% of them admitted that they had beaten women, whether outside or inside the family.
- In Egypt, one in three women is beaten by the husband at least once during the marriage.

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[3] Page, Jason S. (2013-06-04). "Boildown Study on Supernatant Liquid Retrieved from AW-106 in December 2012".

[4] Richters, J.M. Annemiek (1994). Women, culture and violence: a development, health and human rights issue. Leiden, The Netherlands: Women and Autonomy Centre (VENA), Leiden University. ISBN 9789072631374. OCLC 905570045.

- The International Organization for Women (Unigum) confirmed that the most famous form of violence against women in different parts of the world at the present time is the practice of circumcision, where 120 million girls are subjected annually to circumcision.

Amnesty International's data refer to some aspects of violence against women that takes different forms, including:

- Rape, as 700,000 women are subjected to it annually in the United States of America.

- 50% of all killings of women by their husbands are in Bangladesh.

-In Britain, policemen receive a call every minute from women who experience violence inside the home, seeking help.

-In South Africa, 1,411 women are raped every day, which is one of the highest in the world.

- And the last form of violence directed at women worldwide is violence in the labor market, where women practice the profession of domestic service, confirmed by a study prepared by the University of Colombo, which states that Sri Lanka is one of the most exported countries of domestic workers and that 25% From Sri Lankans, they faced problems practicing this profession such as assaulting them or not paying their wages.

The Sri Lankan Ministry of Labor also confirmed that the number of female maids returning from abroad after being abused reaches 50 daily, and they return in a state of suffering and complete collapse.

Causes of violence[5]

Violence can be traced to the following reasons:

1 - The wrong value view which does not see a real and complete eligibility for women as a complete human being, a right and a duty... and this establishes a life based on marginalization and contempt for women.

2- The general cultural underdevelopment and its ignorance of the components of civilization and human development, which should rise on the shoulders of both women and men within the equation of complementarity between them to make a meaningful and advanced life.

[5] Krantz, Gunilla; Garcia-Moreno, Claudia (October 2005). "Violence against women". Journal of Epidemiology and Community Health. BMJ Group. 59 (10): 818–821. doi:10.1136/jech.2004.022756. JSTOR 25570854. PMC 1732916. PMID 16166351.

3- Poor employment of power, whether within the family, social class, or state, as it is based on transcendence and crushing the rights of the weakest within these societal frameworks.

4- The values of wrong social traditions and customs that prevent women from growing in their role and creativity to celebrate life with the foundations of renaissance.

5- The weakness of women themselves in demanding their human and national rights and work to activate and grow their social, political and economic role.

6- Political tyranny that prevents the development of society as a whole and which stands in the way of the modern construction of the state and power.

7 - The absence of democracy, which means the rule of law, institutions, pluralism, respect and acceptance of the other ... as a culture and mechanism that governs society and the state, so that it is able to respect, develop and protect its citizens.

8- The heavy economic stifling crises and the general violence it produces due to inflation, poverty, unemployment and need. The economic factor occupies 45% of cases of violence against women.

9- The repercussions of the catastrophic wars and the culture it creates for violence, the prevalence of killing and the transgression of human rights, and its devastating consequences for the economy, security, cohesion and social peace.

10- The negative effects of the educational, educational, health and environmental deterioration that paralyzes the growth and development of society in all its segments.

Violence as a tool[6]

Violence is used as a means of subjugating women to achieve individual or collective personal or official purposes, and the reality indicates that many women are subjected to specific types of violence because of their sexual identity or because of their ethnic and sectarian origin or their cultural and economic level or their intellectual and political affiliation, and during wars and armed conflicts violence is often used Against women as a weapon in war with the aim of depriving women of their humanity and persecution of the sect, class or country to which they belong. As for women who are displaced from their homes to escape violence or conflict or leave in search of safety and a better life, they often find themselves at risk of assault or exploitation without a minimum. Mercy or protection.

Manifestations of violence[7]

The manifestations of violence against women are centered financially and morally (physical, psychological and sexual violence). Among the physical manifestations of

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[6] Prügl, Elisabeth (Director) (25 November 2013). Violence against Women. Gender and International Affairs Class 2013. Lecture conducted from Graduate Institute of International and Development Studies (IHEID). Geneva, Switzerland.

[7] Venis, Sarah; Horton, Richard (6 April 2002). "Violence against women: a global burden". The Lancet. 359 (9313): 1172. Doi: 10.1016/S0140-6736(02)08251-X. PMID 11955533.

violence are: beating, burning, killing, rape, deprivation of financial or interest right, and moral manifestations of violence: denying security, reassurance, degradation of dignity, consideration, exclusion from the role and function, and disturbance of balance and equality. All available means are used to achieve this by insulting, insulting, humiliating, insulting, depriving, threatening, bullying, hurting, and physically eliminating.

Violence patterns

1 - Domestic Violence: The result of the bad use of force towards the weakest within the family entity, which is the most common pattern of violence, and its victims are often women and children within the family, and some statistics in many countries of the world indicate that 20-50% of women who are included in the research They were beaten by the husband, 52% of Palestinian women from Gaza and the West Bank were beaten at least once in the year 2000, 23% of them were pushed, kicked, and rhythm 33% slapped 16% hit with a stick or belt 9% were attacked with a sharp object before Their husbands and 9% indicated that they were subjected to psychological violence and 52% were subjected to insulting and obscene reasons and naming them with insulting names by their husbands, and it comes to the extent of the crisis that requires physical or psychological treatment as a large sample of American women said 22-35% of them said they had gone For emergency departments in hospitals as a result of domestic violence.

2- Social Violence: It is caused by a woman's inadequate perception of existence, role and function. The intolerance of some ideas, propositions, customs and traditions that undermine the value of women has led to women being subjected to forms of oppression and persecution, and at times they are exposed to violence in their field of work by the president or colleagues at work such as humiliation, humiliation, and sometimes reducing or confiscating wages, and sometimes they are expelled from work if not Her femininity is being exploited.

3- Political violence: the result of the inferior view of women as a human being and the deprivation of their national position within the modern state, which is represented as an object that does not deserve active participation in political life, so the deprivation of women's freedom to express their political opinion and not allow them to participate in decision-making and prevent them The right to vote and stand for positions in the state is considered one of the most important manifestations of political violence.

The second topic: Human rights-based approach to integrated services

International and regional human rights frameworks on shelters and protection orders

International and regional human rights and policy instruments set out States' obligations to combat all forms of discrimination against women, including violence against women, and to protect their human rights, including every woman's right to be free from violence. These obligations include the obligation to protect women against gender-based violence — particularly in the context of domestic violence or intimate partner violence — by ensuring their safety and human rights through access to shelters/refuges and access to protection orders.[8]

These obligations are directly or indirectly enshrined in international and regional legal and policy human rights instruments and have been further elaborated by independent mechanisms that monitor their implementation. These mechanisms include the Committee on the Elimination of Discrimination against Women and other treaty bodies, regional human rights mechanisms, the Special Rapporteur on violence against women and other special procedure mandate holders. As highlighted throughout the present report, through their recommendations and jurisprudence these mechanisms have further clarified States' human rights obligation to establish a comprehensive and coordinated national framework to combat and to prevent gender-based violence, including through provision of shelters and protection orders, which are essential tools in this framework.[9]

The Convention on the Elimination of All Forms of Discrimination against Women and the Declaration on the Elimination of Violence against Women provide a comprehensive international framework in which gender-based violence against women is the manifestation of the historical unequal power relationship between women and men. Gender-based violence is defined as constituting discrimination against women and a human rights violation, thereby establishing a corresponding obligation on States to prevent, investigate, prosecute and punish such acts and to provide remedies for victims. Closely linked to prevention is the requirement that States must provide adequate protection to victims, survivors and potential victims of violence.

General recommendation No. 19 defines gender-based violence against women as violence that is directed against a woman because she is a woman or that affects women disproportionately. It further explains that such violence impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions. It emphasizes the importance of shelters or "refuges" and specifies that States should establish support services for victims of family violence, rape, sexual assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counselling.

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[8] See http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21053&LangID=E.

[9] All contributions are available at http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/SheltersProtectionOrders.aspx.

This key instrument, which is being updated by the Committee in cooperation with the Special Rapporteur, is expected to include additional guidance on measures needed to eradicate gender-based violence. The present report reflects important developments in this field and provides more detailed guidance on the human rights-based approach and States' obligation to protect the human rights of women and their safety by establishing shelters/refuges and implementing protection orders[10].

In general recommendation No. 33 (2015) on women's access to justice, the Committee on the Elimination of Discrimination against Women recognizes the financial constraints faced by many women victims of violence and calls on States to guarantee access to financial aid, crisis centers, shelters, hotlines and medical, psychosocial and counselling services. It further requires States to take steps to guarantee that women are not subjected to undue delays in applications for protection orders and that all cases of gender-based discrimination under criminal law, including violence, are heard in a timely and impartial manner.

The 1993 Declaration on the Elimination of Violence against Women calls on States to ensure that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance with childcare and maintenance, treatment, counselling and health and social services, facilities and programmers as well as support structures, and to take all other appropriate measures to promote their safety and physical and psychological rehabilitation.

In the Beijing Platform for Action, States also affirm their commitment to provide well-funded shelters and relief support for girls and women subjected to violence as well as medical, psychological and other counselling services and free or low-cost legal aid.

The agreed conclusions on the elimination and prevention of all forms of violence against women and girls, adopted by the Commission on the Status of Women at its fifty-seventh session, in 2013, also call for multidisciplinary and gender-sensitive preventive and protective measures, such as emergency barring orders and protection orders, and for access to shelters, in the context of the strengthening of multispectral services, programmers and responses to violence against women. These include State and independent women's shelters and counselling centers, 24-hour hotlines, social aid services, one-stop crisis centers, child services and public housing services to provide low-threshold, easily accessible and safe assistance for women and children, as well as assistance, protection and support.

The updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice call on States to establish, fund and coordinate a sustainable network of accessible facilities and services

[10] Krug, Etienne G.; Dahlberg, Linda L.; Mercy, James A.; Zwi, Anthony B.; Lozano, Rafael (2002). World report on violence and health. Geneva, Switzerland: World Health Organization. ISBN 9789241545617.

for emergency and temporary residential accommodation, health services, including counselling and psychological care, legal assistance and other basic needs for women and their children who are victims of violence or who are at risk of becoming victims of violence.

The 2030 Agenda for Sustainable Development includes in goal 5.2 the elimination of violence against women as a target for the achievement of gender equality and the empowerment of women. However, its related indicators, 5.2.1 and 5.2.2., do not address the collection of data on shelters and protection orders, which would provide relevant information on their availability and reveal the need for additional shelters or protection orders. The Special Rapporteur also highlights that there is currently no indicator on the number or the rate of femicides or gender-related killings of women, although this extreme form of violence is in many cases directly related to a widespread unavailability of shelters and lack of efficacy or enforceability of protection orders.

Regional instruments like the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará) and the Istanbul Convention specifically address violence against women and as such have explicit and detailed provisions on services and protection measures, including shelters and protection orders. All these regional instruments were adopted after the Convention on the Elimination of All Forms of Violence against Women and are compatible instruments that build on the Convention and provide more detailed guidance. This is specifically the case of the Istanbul Convention, which is the most recent regional instrument. Adopted in 2011, it supplements the Convention framework and the jurisprudence of all other regional mechanisms.[11]

The Istanbul Convention contains explicit provisions on shelters and protection orders. In relation to shelters, article 23 requires States parties to take the necessary legislative or other measures to provide for the setting up of appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out proactively to victims, especially women and their children. In relation to protection orders, it regulates "go" or emergency barring orders for victims of domestic violence in article 52, which calls on States to ensure that competent authorities are granted the power, in situations of immediate danger, to order a perpetrator of domestic violence to vacate the residence of the victim. Article 53 regulates protection orders for victims of all forms of violence and calls for their immediate protection without undue financial and administrative burdens, a specific time frame, and ex parte issuance and availability irrespective of other proceedings. It also calls for criminalization of their breaches[12].

[11] See Dubravka Šimonović, "Global and regional standards on violence against women: the evolution and synergy of the CEDAW and Istanbul Conventions", Human Rights Quarterly, vol. 36, No. 3 (August 2014), pp. 590-607

[12] UNFPA; UNICEF; UN Women; ILO; Office of the Special Representative of the Secretary-General on Violence against Children (OSRSG/VAC) (May 2013). Breaking the silence on violence against indigenous

The Convention of Belém do Pará of 1994 was the first regional instrument on violence against women. Its article 8 (d) calls upon States parties to undertake progressively specific measures, including programmers to provide appropriate specialized services for women who have been subjected to violence, through public and private sector agencies, including shelters, counselling services for all family members where appropriate, and care and custody of the affected children. On protection orders, article 7 (d) requires States to adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity, or damages her property.

Though not as specific, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) also addresses violence against women. Article 4 (2) (f) provides that States parties shall establish mechanisms and accessible services for effective information, rehabilitation and reparation for victims of violence against women.

Protection of women's human right to live free from violence[13]

International and regional women's human rights instruments contain important guiding human rights norms recognizing violence against women as a human rights violation. Additionally, the Vienna Declaration and Programme of Action reaffirm that women's rights are human rights and that the human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights. The World Conference on Human Rights welcomed the decision to consider the appointment of a special rapporteur on violence against women; the mandate was established in 1994 with the aim of further integrating violence against women into the human rights framework and agenda. Furthermore, the Beijing Declaration and Platform for Action of 1995 specifically address violence against women as human rights violation.

The women's human rights framework relies on gender-specific or gendered human rights principles that are applicable to violence against women, including those on services and measures such as shelters and protection orders. These principles include principles — non-discrimination based on sex/gender, the principle of substantive equality between men and women, women's empowerment, State responsibility, including due diligence responsibility, and the right to live free from violence — that encompass other human rights.

States have human rights obligations to combat and prevent all forms of discrimination and violence against women by prohibiting and sanctioning sex-/gender-based discrimination in all its forms including gender-based violence against women (arts. 1 and 2 of the

girls, adolescents and young women: A call to action based on an overview of existing evidence from Africa, Asia Pacific and Latin America. UNICEF. Retrieved 10 May 2016. Pdf.

[13] Staff writer (12 March 2014). "Bolivian women battle against culture of harassment". BBC News. Retrieved 10 May 2016.

Convention on the Elimination of All Forms of Discrimination against Women) and to this end, to embody and realize the principle of equality between men and women (art. 2) and to empower women (art. 3) by undertaking measures to ensure women's full development and advancement.

States' obligation to protect women's right to live free from violence requires protection of their human rights. In general recommendation No. 19 the Committee on the Elimination of Discrimination against Women enumerates some of those rights: (a) protection of the right to life; (b) the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment; (c) the right to equal protection according to humanitarian norms in time of international or internal armed conflict; (d) the right to liberty and security of person; (e) the right to equal protection under the law; (f) the right to equality in the family; (g) the right to the highest attainable standard of physical and mental health; (h) the right to just and favourable conditions of work[14].

Furthermore, the Convention specifically requires States to take all appropriate measures to eliminate discrimination against rural women and to ensure their enjoyment of adequate living conditions and adequate housing (art. 14 (2)).

All the human rights and fundamental freedoms that could be violated in cases of violence against women constitute women's human right to live free from violence. The Convention of Belém do Pará explicitly states that violence against women constitutes a violation of their human rights and fundamental freedoms; article 3 recognizes that every woman has the right to be free from violence in both the public and private spheres.

The Istanbul Convention, in article 4 (1), also explicitly refers to violence against women as a human rights violation and protects the right for everyone, particularly women, to live free from violence in both the public and the private sphere.

This recognition of women's right to live free from violence determines States' human rights obligation to protect women victims or potential victims of violence against women by adopting laws and practical measures to prevent and combat such violence, providing a comprehensive set of services such as shelters and measures, including protection orders. States should ensure that services facilitate women's recovery from violence and enable them to overcome the multiple consequences of violence to rebuild their lives. This requires gendered provision of accessible, affordable, appropriate, acceptable and quality access to services and protection measures.

Such services must be victim-centred and focused on women's human rights, safety and empowerment of the victim and aimed at avoiding secondary victimization of women and

[14] Sinha, Maire, ed. (2006). Measuring violence against women: statistical trends 2006 (85-570-XWE) (PDF). Juristat. Ottawa, Ontario: Statistics Canada. p. 19. Citing: Brennan, Shannon (2011). Violent victimization of Aboriginal women in the Canadian provinces, 2009. Juristat. Ottawa, Ontario: Statistics Canada. Catalogue no. 85-002. Perreault, Samuel (2011). Violent victimization of Aboriginal women in the Canadian provinces, 2009. Juristat. Ottawa, Ontario: Statistics Canada. Catalogue no. 85-002.

children.[15] Such a holistic approach has to apply to all the phases related to the provision of the protection measures, with a view to preventing, protecting and prosecuting gender-based violence and ensuring victims' rehabilitation from violence and thus their empowerment.

The State obligation to ensure access to shelter for women with children has been addressed by the Committee on the Elimination of Discrimination against Women,[16] finding that the State failed in its obligations when the applicant was unable to flee to a shelter because none was equipped to accept her with her children, one of whom was disabled, and that failure to provide shelter for a woman with a disabled child is a breach of women's rights under article 2 (a) (b) and (e) of the Convention. In this case, the Committee recognized that the unavailability and inaccessibility of shelters was a clear violation of a woman's human rights.

In a case before the European Court of Human Rights, the Court referred to life at risk of violence and the obligation of States to undertake protective measures: "Furthermore, in the light of the State's positive obligation to take preventive operational measures to protect an individual whose life is at risk, it might have been expected that the authorities, faced with a suspect known to have a criminal record of perpetrating violent attacks, would take special measures consonant with the gravity of the situation with a view to protecting the applicant's mother."[17]

In another case, the Committee on the Elimination of Discrimination against Women further highlighted that when assessing whether a protection order should be granted, the courts should take account of all forms of violence against women, not just life-threatening violence. Furthermore, the standard of proof that an applicant must meet in order to be granted protection order should not be the standard of criminal proof, i.e., beyond reasonable doubt. Courts should also be aware that many forms of violence, particularly domestic violence, are courses of conduct which take place over time, and should not therefore impose strict time limits on access to protection orders.[18]

The Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard living, and on the right to non-discrimination of the Commission on Human Rights identified the relevance of the provision of shelters in the context of the right to adequate housing, and noted that domestic violence can greatly increase women's vulnerability to homelessness, especially when there is a lack of protection by law enforcement officials, or by the legal system itself (see E/CN.4/2006/118, para. 33).

[15] Committee on the Elimination of Discrimination against Women, communication No. 47/2012, *González Carreño v. Spain*, decision of 16 July 2014.
[16] See communication No. 2/2003, *A.T. v. Hungary*, Views adopted on 26 January 2005, para. 9.4.
[17] See application No. 33401/02, *Opuz v. Turkey*, decision of 9 June 2009, para. 148.
[18] See communication No. 20/2008, *V.K. v. Bulgaria*, Views adopted on 25 July 2011, para. 9.9.

States' human rights obligations to provide for shelters and protection orders

In accordance with article 2 of the Convention, States have a human rights obligation to ensure that both State and non-State agents refrain from engaging in any act of discrimination against women. States have a direct responsibility concerning violence perpetrated by agents of the State itself. Article 2 (d) of the Convention requires States, including their national bodies and agents, to refrain from engaging in any act or practice or direct or indirect discrimination against women and to ensure that public authorities and institutions act in conformity with this obligation.

States also have a due diligence obligation related to discrimination and violence against women perpetrated by non-State actors, including private persons. The due diligence principle framing States' obligation with respect to violence committed by private persons is set out in article 2 (e), which requires States to take all appropriate measures to eliminate discrimination against women committed by a person, an organization or an enterprise.[19] Therefore, States are responsible for the actions of non-State actors, including individuals, when they fail to meet their due diligence obligations.

In general recommendation No. 19, the Committee on the Elimination of Discrimination against Women further explains that States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence and for providing compensation.

Article 4 (c) of the Declaration on the Elimination of Violence against Women urges States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women.

Article 7 (b) of the Convention of Belém do Pará includes among the duties of States condemning all forms of violence against women and agreeing to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and to apply due diligence to prevent, investigate and impose penalties for violence against women.

Article 5 (2) of the Istanbul Convention requires States to take all the necessary legislative and other measures to exercise due diligence to prevent, investigate and punish, and provide reparations for acts of violence against women and girls perpetrated by non-State actors.

States' responsibility for acts of private persons includes the obligation to modify or adopt domestic legislation to protect women from gender-based violence committed by non-State actors and to provide services and measures to protect them from such violence. This due diligence obligation also includes adequate implementation of relevant laws and robust criminal justice responses involving the cooperation of all State actors.

The Committee on the Elimination of Discrimination against Women has further elaborated on the due diligence obligation in two cases of femicide in which women

[19] See www.theadvocatesforhumanrights.org/uploads/bip_report_january_2016.pdf.

victims of domestic violence were murdered by their husbands after they had been granted protection orders. In both decisions, the Committee stated that "in order for the individual woman victim of domestic violence to enjoy the practical realization of the principle of equality of men and women and of her human rights and fundamental freedoms, the political will that is expressed in the aforementioned comprehensive system of Austria must be supported by State actors, who adhere to the State party's due diligence obligations". Also in both cases, the Committee considered that the authorities (i.e., the public prosecutor) should have been aware of the high threshold of violence that both perpetrators had crossed and that they should not have denied police requests to arrest and detain them, as the perpetrators' rights could not have superseded the women's human rights to life and physical and mental integrity.[20]

[20] See communications No. 5/2006, *Goekce (deceased) v. Austria* and No. 6/2006, *Yildirim (deceased) v. Austria*, Views adopted on 6 August 2007, paras. 12.1.2 and 12.3 (b) of both decisions. Paragraph 12.1.5 of both decisions contains similar wording with respect to the failure of the State party to protect the victim.

The Third topic: The protection measures on violence against women: focus on shelters and protection orders

1. Definitions

A "shelter"[21] or "refuge" denotes emergency and temporary "safe accommodation for women and children who have been exposed to, or are at risk of (usually male) violence in a domestic context".[22] Shelters provide temporary and emergency safety but usually do not offer long-term solutions. They are often associated with refuges from domestic violence but can also provide support for women and girls who have been subjected to, or are at risk of, other forms of violence, for instance trafficked persons, migrants and asylum seekers, and those fleeing from conflict to refugee and internally displaced persons camps, where the risk of gender-based violence is high.[23]

Types of shelters vary significantly across States, regions and communities. Some shelters are established and run by independent civil society organizations autonomously without support from the State and some are supported by a licensing system or grants allocated for a specific period. Some civil society organizations, such as WAVE, have developed guidelines for setting up shelters. There are also State-owned and -operated shelters, but these have usually proven to fall short in their delivery of services.

The establishment of and support for shelters also involve consideration of cultural barriers and gender stereotypes, as well as States' economic constraints. In recent years, social services, such as public housing and access to shelters, have been undermined by austerity policies and budgetary cuts.

There are no United Nations, global or regional data on the number and types of shelters in Member States or agreed global standards on the number of places needed. Civil society organizations have established the Global Network of Women's Shelters and organized three world conferences and published five Global Shelters Data Count reports, the last containing information on 46 countries.[24]

The need for more women's shelters was documented by a survey carried out in 27 European States by WAVE in 2001 that found at least a few women's shelters and support organizations in each country.[25] A group of experts has recommended the establishment of one shelter/refuge place for every 10,000 inhabitants, providing safe emergency

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[21] The term "refuge" is more widely used in European contexts and "shelter" is more common in North America and Australia, while some States also use "safe house" or other terms. In the present report, "shelter" is used inclusively to accommodate the various terms. On the history of women's shelters, see Canadian Network of Women's Shelters and Transition Houses and UN-Women, "Shelter for women and girls at risk of or survivors of violence", 2013, available from www.endvawnow.org/uploads/modules/pdf/1363538451.pdf.

[22] Women Against Violence Europe (WAVE) and Austrian Women's Shelter Network, *Away from Violence: Guidelines for Setting up and Running a Women's Refuge* (Vienna, 2004).

[23] Committee on the Elimination of Discrimination against Women, general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations.

[24] See http://gnws.org/en/work/global-data-count.html.

[25] See https://www.wave-network.org/.

accommodation, qualified counselling and assistance in finding long-term accommodation.[26]

In some States there are no shelters; in others, there are only daily shelters that do not permit overnight stay. There are also different types of shelters: some States have shelters run by civil society organizations while others run State shelters or have a combination of both. In many States, the type of shelter is determined by the availability and amount of funding, either from the State or external donors, as well as on whether funding is sustainable.[27]

Protection orders aim to ensure safety through a "go" order which requires a perpetrator of domestic violence to leave a shared home and to keep at a certain distance from the victim (barring orders). Protection orders can impose a range of restraints on the person subject to the order. For example, they require a perpetrator to vacate the residence of the victim or to stay away from the shared home, from specific places (e.g., the victim's workplace or her children's school) or to refrain from contacting the victim or person at risk. Some jurisdictions permit additional orders to require, for example, a perpetrator to pay rent for the family home or child support, or to surrender weapons in his possession.

In most cases, protection orders are issued by a court, a prosecutor or by the police, to protect an individual from harassment or violence, or fear of violence, by a named individual. They may be ordered independently by a civil court or they may be part of civil or criminal legal proceedings protecting the safety of the victim while other proceedings go forward. States should ensure that criminal and civil remedies are utilized in cases where the perpetrator in a domestic violence situation poses a dangerous threat to the victim.[28]

2. Intersection between shelters and protection orders

There is a significant intersection between shelter and protection orders, even though they are provided by different actors or parts of a State system. Experience shows that shelters continue to be necessary even when effective legislative protection against violence exists. Not every victim of violence wishes to turn to the police and the judicial system and bring legal charges or seek protection orders; some prefer to go to a refuge. There are cases where women who are at high risk need safe accommodation during the separation process because the law and protection orders are not capable of providing complete protection against violence. Some women cannot or do not wish to remain at home due to the trauma they have suffered or because their partner's relatives live next door, or because the lease has been terminated or is not in their name (see A/HRC/32/42/Add.2, para. 69).

[26] *Handbook for Legislation on Violence against Women* (United Nations publication, Sales No. E.10.IV.2), p. 31.
[27] Canadian Network, "Shelter for women and girls at risk".
[28] See *Yildirim (deceased) v. Austria*, para. 12.3 (b).

Shelters and protection orders are necessary and complementary protection measures that can be used cumulatively. However, such complementarity is usually not followed in practice since the bureaucratic divide between social services and the justice system often results in protection gaps caused by insufficient coordination.

In many cases, weak and uncoordinated State interventions in persistent, long-term patterns of violence create a protection gap and end in tragedy: the killing of a woman[29] and/or the killing of her children.[30] Such femicides, or gender-related killings, are preventable if such violence is treated as a serious crime and States fulfil their human rights obligation to combat and prevent them. This includes the provision of the full range of protection services to victims or potential victims, such as shelters, longer-term housing and protection orders. These measures need to be readily available and easily accessible to women and girls.

3. Gaps, challenges and good practices

The mandate of the Special Rapporteur has gained a unique experience by gathering information on shelters and protection orders during country visits that included visits to shelters and the collection of first-hand information from survivors of violence against women, service providers and concerned authorities. Gaps and challenges linked to the provision of shelters and protection orders have also been identified from the work of the Committee on the Elimination of Discrimination against Women and other relevant mandate holders.

Overall, the mandate has encountered a general lack of understanding of States' human rights obligations, including the obligation to combat and prevent gender-based violence and to provide protection services such as shelters and protection measures.[31]

The mandate's experience shows that today, many States tend to perceive the establishment of shelters or support for non-governmental organizations running shelters as voluntary commitments and not as part of their human rights obligations based on international human rights treaties. This situation is related to the lack of full incorporation and implementation of the Convention on the Elimination of All Forms of Discrimination against Women and the failure to adopt comprehensive and holistic approaches to integrated services to combat and prevent violence against women. In addition, criminal laws and criminal procedure laws are often not sufficiently aligned with laws on domestic violence or violence against women and their gender-neutral approach. This, coupled with the unavailability of statistical data on violence against women and existing stereotypes, results in the denial of violence against women and its tolerance or normalization and in systematic gaps in the protection provided by shelters and protection orders.

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[29] See *Opuz v. Turkey*.

[30] See Gonz*ález Carreño v. Spain* and Inter-American Commission on Human Rights, case No. 12.626, *Lenahan (Gonzales) and others v. United States of America*, decision adopted on 21 July 2011.

[31] For a summary and compilation of the mandate's findings drawn from country visits, see www.ohchr.org/Documents/Issues/Women/SR/Shelters/CountryVisitExperience.pdf.

Shelters

From its establishment in 1994, the mandate of the Special Rapporteur has included visiting women's shelters during country visits, and the information collected during its 23 years of such experience has been used to identify specific gaps and challenges with respect to shelters. In her first preliminary report, the first mandate holder recognized that the aim of shelters was to provide battered women with a safe haven and somewhere to go, providing survival, safety, support, self-esteem and information. In that report the Special Rapporteur stated that any shelter or refuge system must be viewed only as a component of a coordinated and multifaceted approach to domestic violence (see E/CN.4/1995/42, para. 139).

The following are among the most common issues raised as serious matters of concern related to shelters.

Availability, accessibility and funding of shelters and safe alternative housing

The lack or insufficient number of shelters, as well as unavailability of shelters and alternative safe houses, are issues of concern that are commonly raised. In many instances, shelters are either not available or the service provided is inadequate to respond to violence against women. There is also a lack of equitable territorial allocation of shelters, especially in rural areas.[32]

Despite some recognition that domestic violence forces women and children to relocate for safety, too often national Governments do not provide national planning or funding to establish sufficient numbers, capacity or distribution of shelters around the country.[33] Many shelters receive some funding from States but usually in an unsustainable manner and only for a specific period of time that does not allow shelters to develop, plan or provide the required services. Good practice shows that State funding needs to be secure, sustained and adequate and that shelters should be jointly funded from central government budgets and from regional or provincial budgets. The State's obligation to protect women from violence has to be reflected also in the allocation of adequate financial resources for shelters and protection measures.

A major challenge in several contexts is ensuring access to safe and affordable housing options for women and children when they leave a shelter. Many women who have fled from domestic violence are forced to return to their homes and to face further violence due

[32] See, for example, A/HRC/32/42/Add.2, para. 69 (South Africa).

[33] Janet C. Bowstead, "Why women's domestic violence refuges are not local services", *Critical Social Policy*, vol. 35, No. 3 (August 2015); Deborah Quilgars and Nicholas Pleace, *Meeting the Needs of Households at Risk of Domestic Violence in England: The Role of Accommodation and Housing-related Support Services* (London, Department for Communities and Local Government, Government of the United Kingdom, 2010). See also A/HRC/11/6/Add.2, para. 84 (Tajikistan) and A/HRC/23/49/Add.3, para. 101 (h) (Bosnia and Herzegovina).

to the lack of second-stage shelter facilities. Access to safe and affordable housing for survivors is insufficient and often inadequate to meet the demand.

Security/confidentiality

The mandate has encountered tension between the notions of security and secrecy of shelters.[34] It is good practice to keep the location of shelters confidential from the general public and known only to those who can provide women with access to them. States providing resources and licences to shelters run by civil society organizations could conduct monitoring and evaluation to determine what is required, while preserving the confidentiality and security of the shelter. However, in some situations, especially in rural areas, confidentiality may be a barrier between a woman in a shelter and her supportive family members; there need to be methods that ensure that contact is maintained without prejudicing the safety and confidentiality of the refuge. Accordingly, appropriate safety measures must be implemented and kept under scrutiny. "To this end, the security situation of each victim should be assessed and an individual security plan should be drawn up on the basis of that assessment. The technical security of the building is another key issue for shelters as violent attacks by perpetrators are a threat, not only to the women and their children, but also to the staff and others in the surrounding area. Moreover, effective co-operation with the police on security issues is indispensable."[35]

The mandate visited countries where women are detained in shelters in a form of administrative detention or "protective custody"[36], ostensibly to ensure their safety against forms of violence such as honour killings, but in reality it serves as a punishment for actual or suspected transgression of social norms. In other countries, shelters are used for the purpose of pretrial detention, owing to the lack of pretrial facilities for females.[37]

Access and referral

Women's need for emergency shelter can occur at any time, especially during night hours, and it is important to secure immediate access to shelters. The mandate has encountered different barriers, such as the requirement of formal recognition of victim status.[38] In many cases women may not be able to refer themselves to a shelter. Requirements that referral must be through a bureaucratic committee of service providers can therefore act as a barrier to women accessing shelters.

In some contexts, adolescents and boys above a specific age are excluded from shelters, separating them from their mothers or preventing mothers from seeking a refuge.

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[34] See, for example, A/HRC/11/6/Add.4, paras. 72 and 83 (h) (Republic of Moldova).

[35] See Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, Council of European Treaty Series No. 210, 11 May 2011, para. 134.

[36] See, for example, A/HRC/26/38/Add.2, para. 64 (Bangladesh) and A/HRC/20/16/Add.1, paras. 27-28 (Jordan).

[37] See, for example, A/HRC/29/27/Add.3, para. 53 (Afghanistan).

[38] See A/HRC/32/42/Add.3, paras. 57, 84 and 88 (Georgia).

Alternative solutions should be sought to exclusion based on concerns about privacy or bathroom facilities, such as providing shelter to a mother and her son(s) in a self-contained apartment.

Some women may also be excluded from shelters by law. For instance, in some countries there is a law that public funds may not be used for women without legal status, preventing them from accessing public services (see CEDAW/C/GBR/CO/7, para. 56). In these countries, undocumented migrant women and migrant workers, who are particularly vulnerable to violence perpetrated by abusive employers, husbands or other relatives, are excluded from access to shelters.[39]

Length of stay

While shelters do not constitute a long-term solution, in the experience of the Special Rapporteur they generally provide support for at least three to six months, with the possibility of extending the period of accommodation when necessary. Shelters that are only available for shorter or specified periods (a few days) do not provide adequate assistance and, with their return to a situation of danger, may expose victims to an escalation of violence as a reprisal for seeking protection. The length of stay in emergency shelters is typically short, which may not offer women enough time to decide the kind of housing they need or to choose and secure an adequate space before leaving the shelter. Furthermore, State efforts to broaden the availability of housing are often made without taking into consideration the specific safety needs of women escaping from violence (e.g., through careful risk assessment, safety planning or housing security precautions), which further affects women's capacity to choose stable options.

Lack of services to empower women in shelters

Many shelters, due to limited resources, provide only safety and some services related to physical and mental health Very often services like free health care, psychosocial and counselling support, access to justice and legal advice are not provided by shelters.[40]

Women in shelters should be able "to deal with their traumatic experiences, to end the violence, to regain their self-esteem, and to lay the foundations for a self-determined and independent life".[41] In many cases this is coupled with the inability of women to leave the shelter owing to lack of employment, family support or any means to support themselves and their children. In some shelters children living with their mothers are forced out of

[39]Committee on the Elimination of Discrimination against Women, general recommendation No. 26 (2008) on women migrant workers.

[40] See, for example, A/HRC/26/38/Add.3, para. 68 (Azerbaijan), A/HRC/20/16/Add.3, para. 10 (Somalia) and A/HRC/17/26/Add.4, para. 81 (Zambia).

[41] WAVE, *Away from Violence*.

school for the entire duration of the mother's stay, without being offered any suitable alternatives.

4. Protection orders

Non-recourse to protection orders or lack of their enforceability

The Special Rapporteur has noted that there are pervasive cultural assumptions about a woman's need to "leave" a violent household, as opposed to the need to remove a violent partner who undermines women's enjoyment of the right to adequate housing.[42]

The Committee on the Elimination of Discrimination against Women has noted that States should ensure that criminal and civil remedies are utilized in cases where the perpetrator in a domestic violence situation poses a dangerous threat to the victim.[43]

The Special Rapporteur also highlights that in many jurisdictions protection orders are not issued immediately and on an ex parte basis. Also, police do not inform women that they have the right to apply for a protection order and, too often, authorities decline to issue protection orders even when the law explicitly provides for this protection and victims apply for it.[44]

Further, authorities delay the issuance of protection orders for so long that they become ineffective, and the process in fact increases the risk to the victim. Too often, protection orders are not effectively enforced and their breach is not criminalized. Breaches of orders may indicate an increased level of danger for a woman or her children. Criminal accountability of perpetrators for the breach of an order must be ensured along with all other initiatives, including the provision of domestic violence shelters and protection orders.[45] Indeed, several cases at the international level show that perpetrators who continue to breach protection orders can eventually kill their victims. This illustrates that it is absolutely necessary that breaches of protection orders are criminalized to enable police to arrest the perpetrator.[46]

The Special Rapporteur is also concerned about the approach of judges towards protective measures which, too frequently, focuses on treatment for perpetrators rather than the protection of victims.[47] Other concerns linked to protection orders include the failure to issue them immediately, orders that are ineffective due to their short duration or orders that lack clear directives on the distance abusers should keep from the victim.

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[42] See, for example, A/HRC/29/27/Add.3, para. 44 (Afghanistan).
[43] See *Goekce (deceased) v. Austria*, para. 12.3 (b).
[44] See, for example, A/HRC/29/27/Add.1, paras. 36, 78 and 85 (Honduras), A/HRC/29/27/Add.2, para. 101 (United Kingdom of Great Britain and Northern Ireland) and A/HRC/17/26/Add.5, para. 110 (d) (United States of America).
[45] See *Lenahan (Gonzales) and others v. United States of America*, para. 168, citing case No. 12.051, *da Penha Fernandes v. Brazil*, decision adopted on 16 April 2001, para. 56, also cited in *Opuz v. Turkey*, para. 86.
[46] *Handbook for Legislation on Violence against Women*, p. 50.
[47] See, for example, A/HRC/23/49/Add.4, para. 65 (Croatia).

Lack of coordination between different branches of the legal system, for instance between family courts and criminal courts,[48] can impede women's access to safety. In some jurisdictions, victims must choose between a civil protection order remedy or criminal sanctions, while good practice is for both to be simultaneously available to victims. Very often there is a lack of effective coordination mechanisms;[49] there is a need to establish registration systems for protection orders that would enable police or criminal justice officials to quickly determine whether such an order is in force. In the case of federal States, laws and protection orders are different in the different jurisdictions and often are not mutually recognized and uniformly enforced, whereas a good practice would be their automatic enforceability across jurisdictions.

Jurisprudence of the Committee on the Elimination of Discrimination against Women and the Inter-American Court of Human Rights in cases of femicide show that protection orders are effective only if they are diligently enforced and if breaches are subject to criminal penalties. Women seeking protection through enforcement of protection orders should be treated by police in a speedy manner while respecting their rights.[50]

Third-party application for a protection order

A key issue to consider is whether a third party is able to apply for a protection order.[51] While ensuring that the agency of the complainant/survivor is respected, other actors, such as State actors, family members and relevant professionals, should be allowed to have standing to seek such applications.[52] Jurisprudence on this issue has established that the request for an order should lie not only lie with the woman at risk;[53] when considering evidence relating to a prosecution, prosecutors should ascertain the protection needs of the victim and take action on their own initiative.

Issuance of reciprocal protection orders

The Special Rapporteur has observed that very often restraining orders are issued reciprocally, which often signals a problem of de-gendered application of domestic violence legislation.[54] Protection orders are predicated on equal treatment of all forms of violence in a gender-neutral manner: mild forms of reactive violence or verbal quarrel are treated in the same manner as serious gender-based violence. As a result, women victims

[48] See, for example, CEDAW/C/PRT/CO/8-9, para. 22.
[49] See *Lenahan (Gonzales) v. United States of America*, para. 215 (4).
[50] Ibid., para. 215 (4).
[51] See, for example, A/HRC/11/6/Add.4, para. 49 (Republic of Moldova).
[52] *Handbook for Legislation on Violence against Women*, p. 48.
[53] See *Opuz v. Turkey*, para. 148.
[54] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21243&LangID=E.

of violence have also been the subjects of protection orders issued to protect the perpetrator, and in some cases are held in detention for breaching such reciprocal orders.

5. Protection orders and shelters as part of an integrated approach to services and protection measures

Lack of an integrated approach to specialized services and protection measures

The Special Rapporteur often encounters a lack of integrated, comprehensive and coordinated approaches to violence against women, including in relation all specialized services and protection measures.

An important good practice that has been endorsed by the Committee on the Elimination of Discrimination against Women and the Special Rapporteur is the "one-stop shop", an institution that provides a variety of important services for women, including a range of legal, health and social services.[55] These include the provision of legal advice as well as medical care for immediate injuries; access to emergency contraception and HIV prophylaxis in cases of rape; medico-legal evidence gathering and reporting; counselling; referrals to other service provision, for example, shelters in cases of domestic violence; and assistance with making reports to the police.

There are examples of free 24/7 telephone helplines established by NGOs and in some cases supported by States, but in general there is a lack of free, sustainable and State-supported 24/7 helplines.

Attitudes of law enforcement professionals

The Special Rapporteur has also expressed serious concern about the persistence of gender stereotypes among the police, which is reflected in various forms of misconduct. Police routinely dismiss complaints, either refusing to believe the woman's allegations or failing to recognize intra-family violence as a crime. Police officers, especially in rural areas, still issue "warning letters" or simply record a written declaration, devoid of any legal value, in which perpetrators commit to not exercise violence against their partner.[56] In numerous cases, police do not provide adequate support and information on shelters or protection orders to victims of domestic violence and investigations are halted as soon as a victim withdraws her statement. Such biased attitudes frequently mean that women's complaints are turned away and, at times, victims are even intimidated or warned against attempting to file charges, exacerbating the issue of the underreporting of violence against women.

Lack of risk assessment and management

It has emerged from the mandate's country visits that one of the first problems with the issuance of protection measures and the protection and prosecution of gender-based

[55] See, for example, A/HRC/32/42/Add. 2, para. 57 (South Africa).

[56] See, for example, A/HRC/32/42/Add.3 (Georgia), A/HRC/26/38/Add.3 (Azerbaijan) and Committee on the Elimination of Discrimination against Women, communication No. 24/2009, *X and Y v. Georgia*, Views adopted on 13 July 2015.

violence is the lack of risk management and assessment of the related lethality risk by police and other relevant officers.[57]

Language barriers for ethnic minorities

The Special Rapporteur also highlights that services provided for the protection of female victims of violence are often not available in the languages spoken by all the ethnic minorities, impeding them in reporting cases of violence and therefore seeking adequate protection.

Mandatory reconciliation/mediation

Women victims of gender-based violence are often required by national law to enter into mediation processes with the men who were violent towards them, especially in cases of family-related violence or cases of divorce or child custody disputes. Social stigma and pressure to keep families together as well as women's lack of economic empowerment heavily influence a woman's decision to reconcile with those who have inflicted violence against her. Law enforcement also tends to minimize offences in the belief that domestic violence is a private matter, discouraging victims from pursuing cases and promoting conciliation.[58] Therefore, negotiation and mediation can have dangerous effects, especially in those cases where those hosting or supervising the negotiation are not familiar with the methods of psychological threat and control that perpetrators use along with physical violence.

Lack of training for law enforcement personnel

98. The Special Rapporteur and the Committee on the Elimination of Discrimination against Women have also addressed the lack of and need for training of judges and law enforcement personnel on the realities of the various forms of gender-based violence[59], as well as on the relevant national and international laws and jurisprudence. Judges, lawyers and law enforcement personnel should receive mandatory training on the application of national laws on violence against women and on the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto, the Committee's general recommendations and, in particular, its jurisprudence.[60]

Children witnessing gender-based violence against women

[57] See A/HRC/32/42/Add.2 (South Africa); see also Isabel Ruiz-Pérez, Juncal Plazaola-Castaño and Carmen Vives-Cases, "Methological issues in the study of violence against women", Journal of Epidemiology and Community Health, vol. 61 (December 2007), available from https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2465770/.
[58] See A/HRC/17/26/Add.2, para. 59 (El Salvador).
[59] See A/HRC/11/6/Add.3, para. 70 (c) (Saudi Arabia).
[60] See *V.K. v. Bulgaria*, para. 9.16 (b) (iv).

99. Children witnessing or being exposed to acts of family violence have been described by the Committee on the Rights of the Child and by the Committee on the Elimination of Discrimination against Women as subjects of both a form of neglect and psychological violence.[61] The Committee on the Elimination of Discrimination against Women made a number of determinations about the standards required for protection orders with respect to a child's safety in the case of Angela González Carreño against Spain. The case concerned a 7-year-old girl who was murdered by her father during a court-approved visit in a context where the mother had repeatedly sought protection against her husband, who had threatened and physically abused them. The Committee observed that the authorities did not conduct a comprehensive evaluation of possible benefits or harms of this regime for the child; on the contrary, the elements of the case indicated a pattern of action which responded to a stereotyped conception of visiting rights based on formal equality.[62]

[61] Committee on the Rights of the Child, general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, paras. 20 (b) and 21.

[62] See *González Carreño v. Spain*, para. 9.4; see also article 31 of the Istanbul Convention.

Conclusions and recommendations

The persistence of systemic gender-based violence against women, even in States that have proclaimed zero tolerance of violence against women, indicates that gender-based violence is deeply entrenched in our still predominantly patriarchal societies and accepted as "just the way things are". Prevention and eradication of violence against women require transformation and adoption of comprehensive, integrated and coordinated policies and laws based on international and regional human rights law commitments. The establishment of safe women's shelters and efficient and immediate protection orders should be seen as human rights obligations that uphold a woman's right to live free from violence.

A. Specific recommendations to States

Human rights-based approach and integrated and coordinated laws and policies

When formulating and implementing national laws on violence against women and domestic violence, States should apply the human rights-based approach provided by the Convention on the Elimination of All Forms of Discrimination against Women and regional instruments to prevent violence against women, protect women's right to live free from violence and prosecute perpetrators. States need to establish a coherent legal framework of aligned laws addressing protection services such as shelters and protection measures, including protection orders, as well as effective mechanisms for cooperation and coordination between and across different mandates of the State system dealing with violence against women. These include the police, public prosecutors, the judiciary and social services, health-care professionals, NGOs and other relevant organizations providing frontline services and offering multi-agency cooperation for appropriate handling of cases.

Financial and human resources

States should allocate adequate financial and human resources for the adequate implementation of integrated policies, measures and programmes to prevent and combat gender-based violence against women, including appropriate financial and human resources for the establishment and running of shelters, including those operated by non-governmental organizations.

Risk assessment and management

States should ensure that police officers and other professionals carry out an assessment of the lethality risk, the seriousness of the situation and the risk of repeated violence in order to manage the risk and provide safety and support to victims. States should take the necessary measures to ensure that such assessments are duly taken into account at all stages of the investigation and application of protective measures and that they duly take into account possession of or access to firearms by perpetrators. Relevant authorities must also

be aware of the increased risk of reprisals that women face when they seek official assistance from the authorities, the courts or the police.

Integrated child safety approaches

- Children witnessing gender-based violence against women have a right to be heard and to have their best interests taken into account by all decision makers as a primary consideration, taking also into account the existence of a context of domestic violence.66 States must create institutional methods of assessing whether children have witnessed violence against women and provide the appropriate resources to identify, prevent and react to violence against children; it is a breach of State obligations when State agents disregard the best interests of children.67 Visitation by the violent parent must be carefully regulated to ensure that victims and their children are safe. An integrated child safety approach needs to be taken into account in the provision of shelters and in enforcing protection orders.
- Boys, including adolescent boys, are sometimes in the care of their mothers when they seek access to shelters. Where there are concerns about, for example, privacy of bathrooms because of the presence of boys, shelters should provide appropriate accommodation to keep these families together, for example, self-contained housing units with private bathroom facilities. All children residing with their mothers in shelters should be provided with support and assistance so that they can continue their education with the least possible interruption.

Training of professionals

States should ensure that training on gender-based violence is mainstreamed into the basic professional training for all relevant professionals, including police officers, lawyers, judges, social workers and medical professionals. Police officers in particular should be trained to eliminate police mistreatment and bias against female victims of violence, including with respect to the issuance of reciprocal protection orders when they are not necessary.

Secure shelters

- States should provide for a sufficient number of safe and confidential shelters (both State and non-State funded), adequately funded and allocated throughout the State's territory, including in rural areas. States should map and plan an adequate number of shelters. At least one shelter capable of admitting women and children around the clock should be available in every region of each State, including rural areas; one shelter place for every 10,000 inhabitants could serve as benchmark. Every woman should be able to reach a shelter quickly. Transport must also be available to take women and children to the nearest refuge.
- States should ensure sufficient access to shelters for any woman or girl who needs protection, including children and disadvantaged women. Access should be available also on an emergency basis, even during the night: 24 hours, 7 days a

week should be the norm. Women should be able to refer themselves to these services and be able to stay as long as their safety is not ensured.

- Shelters should be places of empowerment for women. They should be oriented towards victims' rehabilitation and women's empowerment. Support should be given to help women live independently in long-term, sustainable, adequate housing and to guarantee their rehabilitation and empowerment.
- Shelters should never be used by the State as a form of protective custody and States should ensure that measures to guarantee women's safety are taken in full consultation with and the consent of the woman involved.

Efficient protection orders

- States shall make the necessary amendments to domestic legislation to ensure that protection orders are duly enforced by public officials and easily obtainable. In this regard:

(a) States shall ensure that the competent authorities are granted the power to issue protection orders for all forms of violence against women. The orders must be easily available and enforced to protect the well-being and safety of those under their protection, including children;

(b) Protection orders for immediate protection in case of immediate danger of violence (emergency orders) should also be available ex parte and remain in effect until a longer-term protection order comes into effect after a court hearing. They should be available on the statement of the victim, as seeking further evidence may lead to delays which put the victim at greater risk. They typically should order a perpetrator to vacate the residence of the victim for a sufficient period of time and prohibit the perpetrator from entering the residence or contacting the victim;

(c) Protection orders must be available irrespective of, or in addition to, other legal proceedings such as criminal or divorce proceedings against the perpetrator; not be dependent on the initiation of a criminal case; and be allowed to be introduced in subsequent legal proceedings. As many forms of violence, particularly domestic violence, are courses of conduct which take place over time, strict time limits on access to protection orders should not be imposed. The standard of proof that an applicant must discharge in order to be granted an order should not be the standard of proof in criminal cases;

(d) In terms of content, protection orders may order the perpetrator to vacate the family home, stay a specified distance away from the victim and her children (and other people if appropriate) and some specific places, and prohibit the perpetrator from contacting the victim. Since protection orders should be issued without undue financial or administrative burdens on the victim, protection orders can also order the perpetrator to provide financial assistance to the victim;

(e) In terms of standing, while ensuring that the agency of the victim is respected, other actors, such as State actors, family members and relevant professionals, should be allowed standing to make applications for a protection order;

(f) In criminal proceedings, all protection measures available to the competent authorities should be used to ensure the safety of victims. In particular, States should guarantee that a proper risk assessment and child safety approach is integrated into the provision of protection orders;

(g) States should provide appropriate criminal sanctions for perpetrators' non-compliance with protection orders;

(h) States should ensure regular monitoring of the implementation of protection orders and their automatic enforceability across jurisdictions.

- States should also guarantee that all cases of gender-based violence are heard in a timely and impartial manner, that ex officio prosecution is duly exercised and that proceedings may continue even when a victim withdraws her complaint.
- States should also avoid mandatory reconciliation in cases of violence against women.

B. General recommendations to States

- States should consider developing additional indicators on the implementation of Sustainable Development Goal 5.2, elimination of violence against women, including indicators on shelters and protection orders.
- States should collect data on all forms of violence against women and establish a "femicide watch" or "gender-related killing of women watch", and collect and publish annual data on the number of femicides and analyse each case of femicide in order to prevent future cases.

C. General recommendations to UN-Women and other relevant stakeholders

UN-Women, as part of its work on violence against women and its administration of the Trust Fund for Victims of Violence against Women and in cooperation with the Special Rapporteur and other stakeholders, may wish to establish and maintain a global database on the number and types of shelters in States and provide adequate support for their establishment.

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