



FEMICIDE

A GLOBAL ISSUE
THAT DEMANDS
ACTION

VOLUME II



City of Vienna



RI RennerInstitut





ISBN : 978-3-200-03012-1

Published by the Academic Council on the United Nations System (ACUNS) Vienna Liaison Office
Email: info@acunsvienna.org
Web: www.acuns.org / www.acunsvienna.org

© 2014 Academic Council on the United Nations System (ACUNS) Vienna Liaison Office

Second Edition

Copyright: All rights reserved. The contents of this publication may be freely used and copied for educational and other non-commercial purposes, provided that any of such reproduction is accompanied by an acknowledgement of the authors of the articles.

Edited by: Simona Domazetoska, Michael Platzer, Gejsi Plaku

Design: Simona Domazetoska, Nora Aoun, Neil Blan

This publication was made possible by the generous contribution of the Thailand Institute of Justice, the Austrian Federal Ministry for European, Integration and Foreign Affairs, the City of Vienna, the Vienna Renner Institute and the Organization of the Families of Asia and the Pacific (OFAP).

This publication was also made possible by concerned activists, who wished to take a stand against femicide, and dedicated their time to this publication: Maria Idomir, Nora Gerdes, Selda Yücel, Sandra Müller, Andrada Filip, Ines Topi, Lisa Morawek, Mona Zaher, Barbara Ziegler, Lola Poisson, Veronica Bezinski, Yashodhana Raj, Edith Jorge, Kathryn Platzer, Claire Laurent, Sackda Sayaphol, Andreea Apostu, Carmen Valero, Esther Mamadou Blanco, Karol Alejandra Arámbula Carrillo, Diana Ruiz de los Paños Barbero, María Amada Bruno Gigena.

The Academic Council on the United Nations System (ACUNS) is a Non-Governmental Organization that stimulates, supports, and disseminates research on the United Nations, other International Organizations and issues of global governance. ACUNS also promotes dialogue and mutual understanding between academics, practitioners, the civil society and students. The ACUNS Vienna Liaison Office has been active since 2009 and focuses primarily on issues related to human rights, equal opportunities for youth, death penalty, regional cooperation and cultural exchange as well as femicide, human trafficking and other human rights violations.

The materials in this publication are for general information purposes only, provided on an “as is” basis, without warranties of any kind, including fitness for any particular purpose. The ACUNS, specifically, does not make any warranties with respect to the accuracy or completeness of the information in this publication. The views, findings, interpretations and conclusions expressed herein are those of the author(s) and do not necessarily represent the official position of the ACUNS Vienna Liaison Office. To the extent permitted by law, the ACUNS Vienna Liaison Office does not accept any liability for any loss, damage, liability or expense incurred or suffered, which may arise as a result of, or in connection with, the use of information contained in this publication.



FEMICIDE

A GLOBAL ISSUE THAT DEMANDS ACTION

VOLUME II

“We must keep chronicling the fragility of women’s lives all over the world. My gratitude to the writers who have been brave enough to expose female infanticide, burning of widows, rape, and other instances of violence against more than one half of the human race.”

Erica Jong
Author of “Fear of Flying”

FOREWORD

VIOLENCE AGAINST WOMEN and girls is one of the most widespread violations of human rights, affecting women and girls of all ages, races and cultures. Today an estimated one in three women will be subject to violence in her lifetime. **FEMICIDE** – the killing of women because they are women – is the ultimate expression of this form of violence, assuming alarming proportions. Despite the appalling extent of this crime, the global response is not sufficient. Sometimes efforts to fight femicide and violence are not coordinated among relevant stakeholders. Too often justice is not served; perpetrators often are not held accountable for their depravities. We must remind the world that gender-related killings against women and girls are not to be tolerated. The perpetrators cannot go unpunished. This issue is not new, but simply the most heinous type of crime against sisters, mothers and daughters worldwide. Femicide and violence against women know no borders, hence concerted efforts in ending these crimes have to be global.

The Government of Thailand was pleased to lead the discussions on the formulation of the General Assembly Resolution 68/191 “Taking Action against Gender-Related Killing of Women and Girls” and to host the High level event in New York on the same subject. In November 2014, the Thailand Institute of Justice will organize an **OPEN-ENDED INTERGOVERNMENTAL EXPERT GROUP MEETING** to discuss ways and means to more effectively prevent, investigate, prosecute and punish **GENDER-RELATED KILLING OF WOMEN AND GIRLS**, with a view to making **PRACTICAL RECOMMENDATIONS**, drawing also on current best practices, in consultation with relevant United Nations entities and human rights mechanisms. We view this publication as an important background document for the expert group meeting.

I would like to thank the Vienna Office of the Academic Council on the United Nations System (ACUNS) in advancing this important international agenda towards universal elimination of violence against women and girls and look forward to continuing cooperation in this common cause.

Her Royal Highness Princess Bajrakitiyabha Mahidol
Ambassador and Permanent Representative of the Kingdom of Thailand
to the United Nations Office in Vienna

PREFACE

We are particularly proud of this second edition of “**FEMICIDE: A GLOBAL ISSUE THAT DEMANDS ACTION**”. Not only has the ACUNS Vienna femicide team assisted in drafting and pushing through the **GENERAL ASSEMBLY RESOLUTION 68/191 TAKING ACTION AGAINST GENDER RELATED KILLING OF WOMEN AND GIRLS** but we have organized and participated in numerous important events during the year. It appears that 2013 was indeed the year when the international community turned its attention to the heinous crime of Femicide.

After participating in the **57TH SESSION OF THE COMMISSION ON THE STATUS WOMEN**, which resulted in an Outcome Document on the “Elimination and Prevention of all Forms of Violence Against Women and Girls”, the **ACADEMIC COUNCIL ON THE UNITED NATIONS SYSTEM** organized a side event at the **COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE**, “Stop the Killing of Women and Girls” on 23 April 2013. We were honored to have the Special Representative of Secretary General on Violence against Children, Ms. Marta Santos Pais, the Permanent Representative of the Philippines, H.E. Lourdes O. Yparraguirre, and a representative of the High Commissioner for Human Rights, Ms. Marcia Kran participate in the event. Ms. Kran addressed the issue of impunity squarely, “it is not only a denial of justice for victims and their families. It also sends a message to society that violence is acceptable and justified.”

The Resolution which emanated from the Crime Commission of 2013, urged Member States, acting at all levels, to end impunity by ensuring accountability and punishing perpetrators of those heinous crimes against women and girls. The resolution invites Member States, civil society and academia to share best practices and relevant information related to the investigation and prosecution of these crimes.

In June 2013, the **HUMAN RIGHTS COUNCIL** strongly condemned all acts of violence against women and girls, whether perpetrated by the State, private persons or non-State actors. It focused on rape, child and forced marriages, and women’s access to justice. The Council praised the best practices guide for the investigation of gender-related killings in Latin America (the **PANAMA PROTOCOL**) and the work of the Special Rapporteur on violence against women and the Special Representative of the Secretary General on sexual violence in conflict. Ms. Rashida Manjoo stressed that it is primarily the state’s responsibility to protect women but we must all pay tribute to the tireless efforts of individual women and civil society organizations in the fight against violence against women.

The **HUMAN RIGHTS COUNCIL ALSO AGREED A RESOLUTION TO PREVENT AND ELIMINATE CHILD, EARLY AND FORCED MARRIAGES** recognizing that deep-rooted gender inequalities and harmful traditional practices are the obstacles to the full enjoyment of human rights of women and girls. The Council decided to convene a panel on the best practices and the challenges at the twenty sixth session together with UN family organizations, religious leaders, civil society, and youth organizations.

On the **INTERNATIONAL DAY FOR THE ELIMINATION OF VIOLENCE AGAINST WOMEN**, ACUNS Vienna organized the second annual symposium. This year it was focused on **FORCED MARRIAGE, VIOLENCE AGAINST WOMEN AND THE ISTANBUL CONVENTION**. It brought together high ranking diplomats, representatives from UNFPA, UN Women, UNICEF, OHCHR, and UNODC. The President of the Austrian Parliament addressed the meeting. The leading proponents of the **COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN**, Ms. Feride Acar, Ambassador Dubravka Simonovic, Ms. Gisela Wurm, Ms. Liri Kopaci-Di Michele and Mr. José Mendes Bota made convincing arguments why such a detailed Convention was relevant and open to all countries. Meanwhile, the Protocol for the Investigation of Femicide was being finalized in Central America.

At the same time, the Security Council held a debate on the theme of **WOMEN, THE RULE OF LAW AND TRANSITIONAL JUSTICE IN CONFLICT AFFECTED SITUATIONS**, and issued **RESOLUTION 2122 (2013)** which called upon Member States to end impunity and to thoroughly investigate and prosecute persons responsible for war crimes and the most serious crimes against women and girls. The use of sexual violence as a tactic of war, women’s exacerbated vulnerability in armed conflict, pregnancies resulting from rape, and importance of civil society including women’s organizations were explicitly stressed.

THE TABOOS AND SILENCE ABOUT FEMICIDE HAVE BEEN BROKEN. Specific practices and specific countries have been singled out. On a national level, new legislation has been enacted in Latin America and large campaigns of outrage in Asia have led to changes of attitudes and practices. It is important that exchanges between the continents about what works take place. It is hoped that this “resource book” will contribute to the worldwide campaign to stop Femicide.

Michael Platzer, Simona Domazetoska, Gejsi Plaku
ACUNS Vienna Femicide Team (April 2014)

TABLE OF CONTENTS

General Assembly Resolution 68/191 on Taking Action against Gender-related Killing of Women and Girls	1
PART I: RECENT DEVELOPMENTS.....	4
1.1. Statements on the International Day on the Elimination of Violence against Women (2013)	5
1.1.1. Statement by the Secretary General	5
1.1.2. Statement by UN Women Executive Director Phumzile Mlambo-Ngcuka	5
1.1.3. Statement by UN High Commissioner for Human Rights Navi Pillay	6
1.1.4. Statement by Executive Director of UNODC Yury Fedotov	6
1.2. Security Council 7044 th Meeting: Violence Against Women in Armed Conflict	8
1.2.1. Remarks by the Secretary General to the Security Council Open Debate on Women, Rule of Law and Transitional Justice in Conflict-affected Situations.....	9
1.2.2. Statement of Phumzile Mlambo-Ngcuka to the Security Council Open Debate	10
1.2.3. Security Council Resolution 2122 Aiming to Strengthen Women’s Role in All Stages of Conflict Prevention.....	12
1.3. High-level Panel Discussion Taking Action against the Gender-related Killings of Women and Girls	16
1.3.1. Welcoming Remarks by Mrs. Ban Soon-taek	17
1.3.2. Introductory Remarks by Her Royal Highness Princess Bajrakitiyabha Mahidol Ambassador and Permanent Representative of the Kingdom of Thailand to the UN in Vienna.....	18
1.3.3. Remarks by Mr. Ivan Simonovic, Assistant Secretary General for Human Rights	19
1.4. 22 nd Session Commission on Crime Prevention and Criminal Justice	20
1.4.1. Ms. Marta Santos Pais, Special Representative of the Secretary General of Violence against Children.....	21
1.4.2. H.E. Lourdes O. Yparraguirre, Ambassador and Permanent Representative of the Philippines to the UN in Vienna	22
1.4.3. Ms. Marcia V. J. Kran, Director of the Research and Right to Development Division of the Office of the High Commissioner for Human Rights	24
PART II: RESOLUTIONS, RECENT STATEMENTS AND LEGAL INSTRUMENTS	26
2.1. Human Rights Council Resolution 23/L.28: Accelerating Efforts to Prevent All Forms of Violence Against Women: Preventing and Responding to Rape and Other Forms of Sexual Violence	27
2.2. Ms. Rashida Manjoo, Special Rapporteur on Violence against Women, Its Causes and Consequences	31
2.3. Ms. Farida Shaheed, Special Rapporteur in the Field of Cultural Rights.....	34
2.4. UN-HABITAT, Plan International and Women in Cities International (WICI)	36
2.5. Human Rights Council Resolution 24/L.34 on Child, Early and Forced Marriage	42
2.6. Latin-American Action Protocol for the Investigation of Femicide, Office of the High Commissioner for Human Rights, Regional Office for Central America.....	44
2.7. Ms. Raluca Popa, Council of Europe, Using the Council of Europe Convention on Prevention and Combating Violence against Women and domestic Violence to Address Femicide/Feminicide	53
2.8. Lisa Morawek and Mona Zaher, Summary of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence	54
PART III: SYMPOSIUM on Forced Marriage, Violence Against Migrant Women and the Istanbul Convention	60
Symposium Conclusions, Academic Council on the United Nations System, Vienna Liaison	61

3.1. Opening Remarks and Keynote Speeches	62
3.1.1. Ms. Barbara Prammer, President of the Austrian Parliament	62
3.1.2. Ms. Phumzile Mlambo-Ngcuka, Executive Director of UN Women.....	62
3.1.3. Ms. Gilka Melendez, Ambassador and Permanent Representative of the Dominican Republic to the UN in Vienna	62
3.1.4. Ms. Ines Stilling, Head of Section Women and Equality, Austrian Ministry for Women and the Civil Service	63
3.2. Child Marriages – Key Findings and Implications for Policy.....	65
3.2.1. H.E. Ayooob M. Erfani, Ambassador and Permanent Representative of Afghanistan to the UN in Vienna.....	65
3.2.2. Mr. Edilberto Loaiza, United Nations Populations Fund (UNFPA).....	66
3.2.3. Ms. Adwoa Kufuor, Women Human Rights and Gender Section Research, OHCHR.....	67
3.2.4. Ms. Serin Duzdar, Orient Express	70
3.2.5. Ms. Somah Ibrahim, Journalist from Afghanistan.....	71
3.2.6. Dr. Massouda Jalal, Jalal Foundation	72
3.3. Violence against Migrant Women – Dimensions in Europe.....	74
3.3.1. Ms. Alev Korun, Member of the Austrian Parliament, Spokesperson for Human Rights, Migration and Integration of the Austrian Green Party	74
3.3.2. Ms. Barbara Stelmaszek, Women Against Violence in Europe (WAVE) Network	74
3.3.3. Ms. Evelyn Probst, LEFOE, NGO in Vienna for Migrant Women	81
3.3.4. Ms. Sue Le Mesurier, International Federation for Red Cross in Geneva	82
3.4. The Istanbul Convention – Objectives and Implementations	86
3.4.1. H.E. Dubravka Simonovic, Ambassador and Permanent Representative of Croatia to the UN in Vienna	86
3.4.2. Ms. Feride Acar, CEDAW Committee Member, Professor in Political Science	89
3.4.3. Ms. Vanja Macanovic, Autonomous Women’s Center in Belgrade	91
3.4.4. Ms. Gisela Wurm, Parliamentary Assembly of the Council of Europe.....	92
3.5. The Dissemination of the Istanbul Convention among Members of the Council of Europe and Beyond	93
3.5.1. Ms. Claudia Baroni, United Nations Office of Drugs and Crime (UNODC).....	93
3.5.2. Ms. Lilly Sucharipa, President of the Austrian National Committee for UN Women.....	95
3.5.3. Ms. Liri Kopaci-Di Michele, Head of Gender Equality and Violence against Women Division, Council of Europe.....	96
3.5.4. Mr. José Mendes Bota, General Rapporteur on Violence against Women, Parliamentary Assembly of the Council of Europe	98
PART IV: COUNTRY AND REGIONAL REPORTS	100
4.1. Ms. Patricia Jimanez, EU-CELAC, Heinrich Böll Stiftung: Report 6th Conference on Femicide/ Femicide	101
4.2. Ms. Janice Joseph, Intimate Femicides in the US: The Black Experience.....	106
4.3. Mr. Witold Klaus, Forced Female Migrants as Victims of Violence in Poland	109
4.4. Ms. Magdalena Grzyb, The Polish Struggle to Ratify the Istanbul Convention.....	113
4.5. Simona Domazetoska, Zuzana Vodnanská, Aleksandra Milićević, Nina Lakner, Enikő Dékány, Combatting Femicide in Latin America	115
4.6. Ms. Nora Gerdes, A Case of Femicide: Sex-selective Feticide in India	122

GENERAL ASSEMBLY RESOLUTION 68/191 ON TAKING ACTION AGAINST GENDER RELATED KILLING OF WOMEN AND GIRLS

United Nations

A/RES/68/191



General Assembly

Distr.: Limited

18 December 2013

Original: English

Sixty-eighth session

Third Committee

Agenda Item 108

Crime Prevention and Criminal Justice

Taking action against gender-related killing of women and girls

Note by the Secretariat

By its resolution 2013/36 of 25 July 2013, the Economic and Social Council recommended to the General Assembly the adoption of the following draft resolution:

Taking action against gender-related killing of women and girls

The General Assembly,

Deeply concerned that the global prevalence of different manifestations of the gender-related killing of women and girls¹ is reaching alarming proportions,

Concerned about violent gender-related killing of women and girls, while recognizing efforts made to address that form of violence in different regions, including in countries where the concept of femicide or feminicide has been incorporated into national legislation,

Aware that the Universal Declaration of Human Rights² affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the Declaration, especially to the right to life, liberty and security of person, without distinction of any kind, including distinction based on sex,

Emphasizing the importance of the Declaration on the Elimination of Violence against Women,³ which defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private spheres,

Conscious of the commitments undertaken by States parties through the adoption of the Convention on the Elimination of All Forms of Discrimination against Women,⁴ which requires State parties to take all appropriate political, social, economic and cultural measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men, taking into account the Optional Protocol to the Convention,⁵

¹ Gender-related killing of women and girls is criminalized in some countries as “femicide” or “feminicide” and has been incorporated as such into national legislation in those countries.

² General Assembly resolution 217 A (III).

³ General Assembly resolution 48/104.

⁴ United Nations, Treaty Series, vol. 1249, No. 20378.

⁵ *Ibid.*, vol. 2131, No. 20378.

Taking into consideration the Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women,⁶ which identifies violence against women as an obstacle to the achievement of the objectives of equality, development and peace, while emphasizing that such violence both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms,

Reaffirming the obligation of all States to promote and protect all human rights and fundamental freedoms, and reaffirming that discrimination on the basis of sex is contrary to the Charter of the United Nations, the Convention on the Elimination of All Forms of Discrimination against Women and other international human rights instruments and that the elimination of such discrimination is an integral part of efforts towards the elimination of all forms of violence against women,

Stressing that States have the obligation to promote and protect all human rights and fundamental freedoms for all, including women and girls, and must exercise due diligence to prevent and investigate acts of violence against women and girls and punish the perpetrators, eliminate impunity and provide protection to the victims, and that failure to do so violates and impairs or nullifies the enjoyment by victims of their human rights and fundamental freedoms,

Bearing in mind the actions and measures that Member States should take to meet their international obligations with respect to putting an end to violence against women and girls,

Recalling the relevant General Assembly resolutions addressing various aspects of violence against women and girls of all ages,

Stressing the significance of the updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice⁷ as a way to assist countries in strengthening their national crime prevention and criminal justice capacities to respond to all forms of violence against women,

Taking note of the report of the Special Rapporteur on violence against women, its causes and consequences⁸ and Human Rights Council resolution 20/12 of 5 July 2012 on accelerating efforts to eliminate all forms of violence against women: remedies for women who have been subjected to violence,⁹

Taking note with appreciation of the agreed conclusions of the fifty-seventh session of the Commission on the Status of Women of 15 March 2013,¹⁰ in which, inter alia, the Commission urged all Governments to strengthen national legislation, where appropriate, to punish violent gender-related killing of women and girls and integrate specific mechanisms or policies to prevent, investigate and eradicate such deplorable forms of gender-based violence,

Taking note with appreciation also of the various initiatives taken at the regional level to prevent and address violence against women, including, for example, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the South Asian Association for Regional Cooperation Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, the Declaration on the Elimination of Violence against Women in the Association of Southeast Asian Nations Region, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and the Council of Europe Convention on Action against Trafficking in Human Beings,

Expressing its appreciation for the work undertaken by the United Nations system in preventing and responding to all forms of violence against women and girls,

Viewing with appreciation the considerable input of many civil society organizations, as well as academia, in addressing the different forms of violence against women and girls, through research and direct action in their respective communities,

Alarmed by the fact that violence against women and girls is among the least punished crimes in the world,

6 Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995 (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

7 General Assembly resolution 65/228, annex.

8 A/HRC/20/16.

9 See *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 53* and corrigendum (A/67/53 and Corr.1), chap. IV, sect. A.

10 *Official Records of the Economic and Social Council, 2013, Supplement No. 7* (E/2013/27).

Deeply concerned about the high level of impunity with regard to gender-related killing of women and girls, and recognizing the key role of the criminal justice system in preventing and responding to gender-related killing of women and girls, including in ending impunity for such crimes,

Reaffirming the commitment to working together to put an end to such crimes, in full compliance with international and national legal instruments,

1. *Urges* Member States to exercise due diligence to prevent, investigate, prosecute and punish acts of violence against women and girls, in accordance with national laws;

2. *Also urges* Member States to consider undertaking institutional initiatives, as appropriate, to improve the prevention of gender-related killing of women and girls and the provision of legal protection, including appropriate remedies, reparation and compensation, to the victims of such crimes, in accordance with applicable national and international law and taking into account, as appropriate, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;¹¹

3. *Invites* Member States to adopt a variety of measures, including preventive measures and the enactment and implementation of legislation, that address gender-related killing of women and girls and to periodically review those measures with a view to improving them;

4. *Urges* Member States, acting at all levels, to end impunity by ensuring accountability and punishing perpetrators of those heinous crimes against women and girls;

5. *Also urges* Member States, as appropriate, to consider designing, implementing and evaluating comprehensive programmes aimed at preventing all forms of violence against women and girls and reducing related vulnerabilities of victims, as well as those risks unique to perpetrators of gender-related killing of women and girls, including by conducting research focused on public education and interventions that target those vulnerabilities and risks;

6. *Invites* Member States to strengthen the criminal justice response to gender-related killing of women and girls, in particular measures to support the capacity of Member States to investigate, prosecute and punish all forms of such crime and provide reparation and/or compensation to victims and their families or dependents, as appropriate, in accordance with national laws;

7. *Also invites* Member States to address the existing problems of underreporting by enhancing data collection and analysis, as well as sharing relevant data, in accordance with national laws, and related information on gender-related killing of women and girls, in order to inform the formulation, monitoring and evaluation of laws, policies and programmes;

8. *Calls upon* Member States to give due consideration to the updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice⁷ in order to strengthen national responses to gender-related killing of women and girls;

9. *Encourages* relevant United Nations entities and agencies, in particular the United Nations Office on Drugs and Crime, the Commission on the Status of Women, the Office of the United Nations High Commissioner for Human Rights and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), to support Member States in developing and implementing strategies and policies, upon request, at the national, regional and international levels to address and prevent gender-related killing of women and girls;

10. *Encourages* the United Nations Office on Drugs and Crime and the institutes of the United Nations crime prevention and criminal justice programme network to facilitate the gathering and dissemination of relevant and reliable data and other related information to be provided by Member States on their efforts to implement the present resolution;

11. *Requests* the United Nations Office on Drugs and Crime and the institutes of the United Nations crime prevention and criminal justice programme network to continue conducting and coordinating relevant research on gender-related killing of women and girls, particularly in connection with the standardization of the collection and analysis of data;

12. *Encourages* relevant United Nations entities and agencies, including the United Nations Office on Drugs and Crime, the Commission on the Status of Women, the Office of the High Commissioner for Human Rights, UN-Women, and other specialized funds and programmes of the United Nations, to raise awareness among Member States regarding gender-related killing of women and girls;

¹¹ General Assembly resolution 40/34, annex.

13. *Invites* Member States to provide the United Nations Office on Drugs and Crime with information related to best practices and other relevant information related to the investigation and prosecution of these crimes, in accordance with national legislation, and in that regard encourages civil society organizations and academia to share relevant information with the Office;

14. *Requests* the Secretary-General to convene an open-ended intergovernmental expert group meeting to discuss ways and means to more effectively prevent, investigate, prosecute and punish gender-related killing of women and girls, with a view to making practical recommendations, drawing also on current best practices, in consultation with relevant United Nations entities and human rights mechanisms, and welcomes the offer of the Government of Thailand to act as host to that meeting;

15. *Invites* Member States to give due consideration to ending violence against women and girls, as well as to the realization of gender equality and empowerment of women in the elaboration of the post-2015 development agenda;

16. *Invites* Member States and other donors to provide extra-budgetary contributions for the purposes described above, in accordance with the rules and procedures of the United Nations;

17. *Requests* the Secretary-General to report to the General Assembly at its seventieth session on the implementation of the present resolution.

PART I

RECENT DEVELOPMENTS

1.1. STATEMENTS ON THE INTERNATIONAL DAY ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN (2013)

“Let us do our part to eliminate the harmful gender stereotypes that help perpetuate a climate where violence against women is considered acceptable or “deserved”. Violence is simply and totally unacceptable – no matter what she was wearing.”

Navi Pillay
UN High Commissioner for Human Rights

1.1.1. Statement by the Secretary General

Violence against women and girls directly affects individuals while harming our common humanity. In response to this global challenge, I launched my **UNITE TO END VIOLENCE AGAINST WOMEN CAMPAIGN IN 2008**. Since then, partners around the world have joined our drive to protect the human rights of women and girls to live free from violence.

I WELCOME THE CHORUS OF VOICES CALLING FOR AN END TO THE VIOLENCE THAT AFFECTS AN ESTIMATED ONE IN THREE WOMEN IN HER LIFETIME. I applaud leaders who are helping to enact and enforce laws and change mindsets. And I pay tribute to all those heroes around the world who help victims to heal and to become agents of change.

Last month, on United Nations Day, I had the privilege of meeting again with one such hero: Dr. Denis Mukwege, the founder of the Panzi hospital in the Democratic Republic of the Congo where women go after experiencing terrible atrocities. Dr. Mukwege has said, "Many times we are reduced to tears. Everything is so damaged. But we get to work. We operate. We fix what we can, and that is a lot." He is inspired by the courage of the women he treats, including the many who go on to help others.

Although Dr. Mukwege is dealing with violence against women in the context of armed conflict, his spirit to confront and fix this problem should apply to all of our efforts to help women facing violence in homes, schools and other civilian settings throughout the world, in every country, every society.

Traditionally, this Day marks the start of 16 days of activism. From November 25th until December 10th – Human Rights Day – we make a special effort to organize and combat violence against women, an egregious human rights violation. This year, we are raising awareness by wearing the colour **ORANGE** to symbolize our commitment to this cause.

One way to make a difference is to support the **UNITED NATIONS TRUST FUND TO END VIOLENCE AGAINST WOMEN**, which helps respond to human rights violations and needs from physical safety to economic security. While the demand for its grants has more than doubled in recent years, the amount it has been able to distribute has diminished by 60 per cent. I appeal to all partners to help meet this vast unmet demand for resources to further advance efforts to prevent and end violence against women and girls.

This International Day to End Violence against Women is an opportunity for all people to recommit to preventing and halting all forms of violence against women and girls.

1.1.2. Statement by UN Women Executive Director Phumzile Mlambo Ngcuka

Violence against women and girls is a human rights violation. It is violence against families, communities, nations and humanity. It is a threat to international peace and security, as recognized by the UN Security Council. It has reached a crisis point and demands action from all of us, young and old, women

and men. Today on the International Day for the Elimination of Violence against Women, and every day, we must stand up, speak out and be part of creating solutions to end these human rights violations.

Leaders have a responsibility to take action to end all forms of violence against women and girls and to protect 50 per cent of the population. Today as part of the UNiTE campaign, the Secretary-General and I invite you to join us and show your solidarity by wearing orange for a brighter future. We invite you to declare with us that every woman and girl has the fundamental human right to live free from violence.

TODAY AN ESTIMATED ONE IN THREE WOMEN WILL BE SUBJECT TO VIOLENCE IN HER LIFETIME. ONE IN THREE GIRLS WILL BE MARRIED AS A CHILD BRIDE BEFORE THE AGE OF 18. Approximately 125 million girls and women in the world have suffered female genital mutilation.

Trafficking ensnares millions of women and girls in modern-day slavery. **RAPE IS A RAMPANT TACTIC IN WARFARE. AND FEMICIDE, THE MURDER OF WOMEN BECAUSE THEY ARE WOMEN, IS TAKING AN INCREASINGLY BRUTAL TOLL.**

This violence knows no borders and it affects women and girls of all ages, all income levels, all races, and all faiths and cultures. From conflict zones to urban spaces to university campuses, this violence compels all of us to be preventers of this pandemic and to take action NOW. The vast majority of cases go unreported and unacknowledged and survivors are left wounded, invisible and suffering in silence. This situation is intolerable.

Today I call on world leaders to show determination and mount a response that is proportionate to the violence threatening the lives of women and girls. It is time to take the necessary measures, in line with international human rights standards and the agreement reached earlier this year in the Commission on the Status of Women, to prevent and end violence against women.

To be effective, prevention must address its root cause: **GENDER INEQUALITY**. We need education in schools that teaches human rights and mutual respect, and that inspires young people to be leaders for equality. We need equal economic opportunities and access to justice for women. We need women's voices to be heard. We need more women politicians, police and peacekeepers.

Let us continue to explore innovative prevention strategies and employ technology, including mobile technology, to raise awareness and protect women's rights.

We need to protect women and girls from being violated and when violence takes place, we need to ensure access to essential services for all survivors. This includes health services, shelters, hotlines, police, justice and legal aid. We must ensure that women and girls are safe and that perpetrators are held accountable for their crimes and brought to justice.

Through the **SAFE CITIES GLOBAL INITIATIVE**, we can reach women all over the world and reach law enforcers closest to where these crimes are committed. We have to reach out and work with men and boys and with young people.

It is a glaring omission that ending violence against women was not included in the **MILLENNIUM DEVELOPMENT GOALS**. I urge all UN Member States to make ending violence against women and girls a priority in the new development framework that comes after the MDGs expire in 2015. UN Women is calling for a stand-alone goal on women's rights, women's empowerment and gender equality.

With determined leadership for prevention, protection, prosecution and provision of services for survivors, we can end this global pandemic. It is up to all of us. Together we can end violence against women and girls.

1.1.3. Statement by UN High Commissioner for Human Rights Navi Pillay

“Violence against women is unacceptable – no matter what she was wearing”

Violence against women remains one of the greatest scourges of our time. It is disgraceful that even today, for many women and girls everywhere, violence is lurking around street corners, in workplaces or in their very own homes. And too often, justice is elusive. In Busia, Kenya, in June this year, a 16-year-old girl was gang-raped and thrown into a six-meter-deep pit latrine, breaking her back and leaving her with obstetric fistula. Police chose not to prosecute the men, instead ordering them to cut grass around the police station as punishment. The news unleashed a rare outpouring of public indignation and a petition was signed by 1.4 million people. The “Justice for Liz” campaign led the Chief Justice of Kenya to call for immediate action in the case. Why did it take agitation by 1.4 million people to begin the process of justice which is the victim's fundamental human right?

Halfway around the world, in Auckland, New Zealand, when a 13-year-old girl had gone to the police to report that she had been raped by three young men, one of the first questions she was reportedly asked was: “What were you wearing?”. This was in 2011. Two years later, after many similar attacks by the same gang, it took a public exposé to rattle the authorities into action. The Independent Police Conduct Authority of New Zealand has been ordered to look into the handling of these cases and police are now finally conducting the investigations they should have begun two years ago.

Sadly, these are not isolated cases. Such crimes occur on a daily basis in countries across the world, but they rarely make headlines or lead to public outrage and action by high-level officials. In most parts of the world, women are too ashamed or fearful to report violence, particularly sexual violence, to the police. And when they overcome various societal barriers and taboos to file a complaint, they are all too often met with callous, insensitive official reactions, effectively blocking all access to justice.

Violence against women and girls has been perpetuated by centuries of male dominance and gender-based discrimination. Building on deeply entrenched social norms that frame women's worth around discriminatory notions of chastity and “honour”, **VIOLENCE IS OFTEN USED TO CONTROL AND HUMILIATE NOT ONLY THE VICTIMS, BUT ALSO THEIR FAMILIES AND COMMUNITIES**. It is essential to challenge such notions, which often permeate the justice system itself, resulting in a vicious cycle of impunity and further violence.

The UN Committee on the Elimination on Discrimination against Women and the UN Special Rapporteur on Violence against Women have been documenting violence against women, its causes and consequences in all parts of the world and recommending measures to eliminate such violence and to remedy its consequences. These recommendations must be taken seriously. States are obliged by international human rights law to ensure that the criminal justice system, at every stage, is free of gender bias, including in investigation, prosecution, interrogation and protection of victims and witnesses, and in sentencing.

The suggestion that women have a propensity to lie and that their testimony must be corroborated or treated with caution should be eliminated from every level of the judicial process, as must the idea that women invite sexual violence by being out late or by dressing in a particular manner.

On this International Day for the Elimination of Violence against Women, let us do our part to eliminate the harmful gender stereotypes that help perpetuate a climate where violence against women is considered acceptable or “deserved”. Violence is simply and totally unacceptable – no matter what she was wearing.

1.1.4. Statement by Executive Director of UNODC Yury Fedotov

International Women's Day, 8 March 2013, is an important day to reflect on the many accomplishments of women, but we should also remember the millions of women across the globe who continue to face violence, abuse and even murder.

Violence against women and girls is one of the most widespread violations of human rights. It includes physical, sexual, psychological and economic abuse cutting across every boundary of age, race, culture, wealth and geography.

The most violent and dramatic form of violence against women is their murder, which is often motivated by gender. The UN Office on Drugs and Crime estimates that, in 2010, 84,000 females were the victims of homicide globally. This figure represents 18 per cent of the 468,000 homicides occurring in that year. In many of these cases, the female victims are killed by intimate partners or family members.

Another important factor is the **IMMUTABILITY OF THESE CRIMES**. While most forms of **HOMICIDE** show yearly variations, intimate partner and family-related homicides display fewer fluctuations. The result is a form of homicide that appears ingrained within societies and communities around the world.

And murder is only the ultimate expression of this form of violence. Despite recent advances in some countries, especially in the area of legislation, millions of women continue to report experiences of violence. **IT IS ESTIMATED THAT AS MANY AS SIX OUT OF 10 WOMEN WILL EXPERIENCE PHYSICAL OR SEXUAL VIOLENCE**, or both, at some point during their life.

My Office is a committed partner in the international community's determination to eradicate every form of violence against women. To do so, we need to develop innovative crime prevention policies that target domestic and family-related violence.

But this global crime desperately needs a global response. We need to work simultaneously in all the countries and regions of the world to change perceptions, and to develop laws on gender equality and the status of women in society. Women and girls must be valued and respected by every sector of every society.

Based on UNODC's statistics, in Europe, on average, 18 women are killed every day and 12 of them are murdered at the hands of their intimate partners or other family members.

We must not allow these murders to continue. On International Women's Day, I call on nations, international organizations, civil society the private sector, and the public to work together to create societies where women feel safe and secure.

1.2. SECURITY COUNCIL 7044TH MEETING: VIOLENCE AGAINST WOMEN IN ARMED CONFLICT

UNITED NATIONS HEADQUARTERS, NYC
18 OCTOBER 2013

"I join millions of women and men in thanking you for exposing femicide, the most widespread and wrongly justified violence on earth. The killing of females because they are females threatens national security by destroying gender balance in some nations, and it has now been proven to be the subject/object, victor/victim paradigm that normalizes violence within and between nations. We can no longer afford gender-neutral language or false divisions into cultural and political that conceal femicide on this fragile Space Ship Earth."

Gloria Steinem

1.2.1. Remarks by the Secretary General to the Security Council Open Debate on Women, Rule of Law and Transitional Justice in Conflict-affected Situations

I thank the government of Azerbaijan for organizing this debate on the theme of women, the rule of law and transitional justice.

I commend the Security Council for adopting today's resolution underscoring the central importance of women's participation in conflict prevention, resolution and peacebuilding.

I welcome your call for concrete action to not only increase the number of women in peace-making, but crucially to improve the way gender issues are addressed by peace and security institutions, including the Council itself.

These priorities are also featured in my **SEVEN-POINT ACTION PLAN ON GENDER-RESPONSIVE PEACEBUILDING**. The rule of law, women's access to transitional justice, and women's participation are deeply connected.

Women must be involved at every stage of efforts to reassert the rule of law and rebuild societies through transitional justice. Their needs for security and justice must be addressed. Their voices must be heard. Their rights must be protected.

I urge the Council to deal with the full range of women's rights violations during conflict.

The mandates of political and peacekeeping missions should support national prosecutions for serious international crimes against women and special measures should be taken to provide women with opportunities to engage in the design and delivery of transitional justice.

Gender responsive transitional justice measures can also help to redress historic gender-based injustices and combat the security threats and other obstacles that often restrict women's full engagement in public life.

The United Nations is developing good practices to embed gender dimensions in transitional justice and peacebuilding.

We are working to ensure that women are represented on all UN mediation support teams. All UN-led or co-led peace processes are reaching out to women's civil society organizations.

Our **UN GLOBAL FOCAL POINT ON POLICE, JUSTICE AND CORRECTIONS** is integrating gender perspectives in all aspects of our rule of law activities. We have significantly increased the percentage of female police peacekeepers and are helping local security sectors tackle sexual and gender-based violence. We have also completed a study on ways to enhance women's access to justice in conflict-affected settings.

Human rights mechanisms are also critical. I am pleased that the Committee on the Elimination of Discrimination against Women is advancing a new general recommendation on women in conflict prevention, conflict and post conflict situations. Notwithstanding these advances, the fact remains that while

we have seen a slow but steady increase in women leaders in business and politics, this progress has not been matched around the peace table.

Gains in the representation of women are often achieved through the use of Temporary special measures, including quotas. Similar special measures could help increase the number of women at all levels of mediation, peacekeeping and peacebuilding.

I am pleased that my report today will be presented by Ms. Mlambo-Ngcuka, the Under-Secretary-General and Executive Director of UN Women. This is her first such appearance before the Security Council.

My report this year notes progress, but also calls for a more determined global effort to improve the protection of women and girls and enhance women's participation and leadership. I have sought to lead by example appointing more women to senior positions throughout the UN.

For the first time in history, five UN peacekeeping operations are led by women in South Sudan, Liberia, Cyprus, Haiti and Côte d'Ivoire.

Last year, Ms. Aïchatou Souleymane who now heads our efforts in Côte d'Ivoire served as acting Joint Chief Mediator in Darfur. And this year, I appointed the UN's first woman lead mediator in a peace process: Mary Robinson, my special envoy for the Great Lakes region of Africa.

We have more distance to travel, but we have never been this far before.

Women's participation in peace efforts is a matter of gender equality and universal human rights – and crucial to achieving sustainable peace, economy recovery, social cohesion and political legitimacy. Today's resolution makes that point loud and clear.

Societies emerging from conflict face a wealth of challenges unique to their circumstances. But all encounter a crucial moment at which they can begin again, draw lessons from the upheaval and gain a new path of stability and progress.

Transitional justice – with its various mechanisms to promote reconciliation, redress and compensation – has proven to play a critical role. But the success of such processes depends fundamentally on their inclusiveness – the involvement of women, of minorities, of aggrieved parties, of all stakeholders.

The year 2015 will mark the 15th anniversary of resolution 1325 on women, peace and security. The Council has called for a High-level Review meeting to mark that occasion.

I am confident that with your continued support, we can achieve concrete results and measurable change in the lives of women and girls in conflict and post-conflict settings.

1.2.2. Statement of Phumzile Mlambo Ngcuka to the Security Council Open Debate

It is an honor to address the Security Council and present this year's report of the Secretary-General on women and peace and security. Like the Secretary-General, I thank the Presidency of Azerbaijan for hosting this Debate and introducing the topic of women, rule of law and transitional justice in conflict-affected situations. I thank the other speakers: Ms. Navi Pillay, High Commissioner on Human Rights, and I thank Ms. Brigitte Balipou, a trailblazing women's rights lawyer from the Central African Republic, speaking today for civil society. Above all, I thank the entire Council membership for demonstrating its determination in today's resolution – resolution 2122 – to put women's leadership at the centre of all efforts to resolve conflict and promote peace.

This resolution is about women's peace leadership. This resolution puts the onus on all of us – the Security Council, the United Nations, regional organizations and Member States – to create the space and provide seats at the peace table for women. I know for sure there are women who are adequately trained for these roles, that women are available for high-level appointments and, further, that qualified women are everywhere. **IT IS UP TO US, TOGETHER, TO TAKE RESPONSIBILITY AND OPEN THE DOORS TO THEIR FULL PARTICIPATION.**

We have a mechanism to set up through the Special Envoys and Special Representatives of the Secretary-General for a consultative process. Mediators and their teams must encourage negotiating parties to invite women to the table and address women's issues in ceasefire and peace accords. This is in the best interest of lasting peace. It is critical that the Security Council members should ask for briefings on the specific impacts of conflict on women. That they ask that all conflict-related crimes perpetrated against women are reported by International Commissions of Inquiry, Sanctions Committees and other accountability bodies.

Friends of peace processes and hosts of donor conferences should provide additional financing for the inclusion women's groups and women leaders. Women's rights organisations must be supported in their efforts to build constituencies for peace and justice. Of course women's inclusion alone is not enough. All stakeholders must have access to gender expertise. Gender analysis must be used to identify the impact on women's rights of all peace-related decisions.

The report of the Secretary-General on the implementation of the women and peace and security agenda shows progress and good practice over the past year. **NINETY-THREE PERCENT OF DIRECTIVES FOR POLICE COMPONENTS IN MISSION NOW INCLUDE SPECIFIC INSTRUCTIONS TO ADDRESS WOMEN'S SECURITY** – 40 per cent more than last year. International Commissions of Inquiry now routinely include gender crimes investigators.

I warmly welcome the appointment of Mary Robinson as the Secretary-General's Special Envoy to the Great lakes region, and thank Aïchatou Mindaoudou Souleymane for her work as Special Envoy for the Darfur process. We are now seeing what could be described as a "new generation" of gender-responsive mediation practice from these and other peace leaders.

Elements of this new practice include: holding early and regular consultations with women leaders and women's rights groups; securing a gender advisor for the mediation team; and ensuring that crimes against women are addressed in ceasefire and peace negotiations. I include here the efforts this past year of a growing number of senior officials such as Margaret Vogt in the Central African Republic, and Special Envoy Prodi in the Sahel region, to ensure more inclusive and gender-responsive practices. But the Secretary-General's report shows that gains in women's participation are neither as consistent nor sustained as they should be.

This year three out of ten peace agreements in UN-supported processes included provisions for women's political participation or protection. This is more than the year before. You will all agree with me that such provisions should be raised in **all** peace accords.

We also see that post-conflict countries using temporary special measures, such as electoral gender quotas, have more women in parliament, well above the global average of 21 per cent. Countries with these quotas, on the other hand, record only 10 per cent of women on average elected to parliament. And we see that over the past year, the numbers of women at senior levels in United Nations field missions have remained relatively stagnant. While there has been some progress in political and peacebuilding missions, there has been a decrease in the share of women in top mission leadership positions. With your help, I am determined that we make progress that we can report back to you.

Mass atrocities that included violence targeting women and girls have occurred in the past year in the contexts as diverse as DRC, Mali and Syria. In other contexts, such as Afghanistan, there has been increased targeted killing of women leaders and human rights defenders. In some areas of peacebuilding there is an increase in spending on gender equality and women's empowerment, which we must applaud. However it rarely reaches the 15 per cent minimum set by the Secretary-General in his **SEVEN POINT ACTION PLAN ON GENDER-RESPONSIVE PEACEBUILDING**. This we can take further. I am committed to work with all of you so that we can see better results. For this, the Secretary-General's report sets out strategic measures for all stakeholders to accelerate implementation, many of which are reflected in today's resolution.

These measures focus on removing obstacles to women's peace leadership, and on building the capacities of the Security Council and the United Nations system to address gender issues across all peace and security work. There is also a call for a global study of the implementation of **SECURITY COUNCIL RESOLUTION 1325** to help us all prepare for the 2015 Ministerial meeting of the Council on this topic.

Before I conclude let me touch again on today's topic. In recent years, the Security Council has paid increased attention to transitional justice, recognizing that victims have a right to truth, justice and reparation. Respect for the rule of law is connected to every aspect of peacebuilding. But the President of the Council is right in making us ask: **WHAT DOES THE RULE OF LAW MEAN WITHOUT RESPECT FOR WOMEN'S RIGHTS?** In some contexts, **LAW ITSELF IS GENDER-BIASED**. It fails to criminalise some forms

of violence against women. Even where laws are consistent with international human rights standards, authorities may be inconsistent in their application. The well-known result is a climate of impunity for crimes committed against women. This sets back efforts to advance gender equality.

I welcome the Security Council resolution adopted last June to strengthen capacities to stop the use of sexual violence as a tactic of warfare. I stand shoulder to shoulder with my colleague Zainab Bangura, the Special Representative of the Secretary-General on Sexual Violence in Conflict, in the fight against impunity for these war crimes, whose support and collaboration is highly valued.

But we must remember that the *public* and visible forms of gender-based violence in wartime are based on the *private* violence against women in many homes, and on the serious inequalities between women and men.

In this regard, I welcome the General Recommendation on women in conflict prevention, conflict and post conflict situations, adopted today by the Committee to End all Forms of Discrimination against Women. This gives guidance on the implementation of States obligations to guarantee women's rights and eliminate discrimination against women in conflict contexts.

Women's leadership and collective action have changed the world by combatting violence against women and building equality. Women's leadership is central to reconciliation and conflict resolution and to peacebuilding efforts that bring results for families and communities.

That is why, your excellences, I welcome today's resolution on women's peace leadership.

When we next report to you, we would like to show that we have made real progress and, together with you, we have made the world a better place for women.

1.2.3. Security Council Resolution 2122 Aiming to Strengthen Women's Role in All stages of Conflict Prevention

United Nations

S/RES/2122 (2013)



Security Council

Distr.: General

18 October 2013

Original: English

Resolution 2122 (2013)

Adopted by the Security Council at its 7044th meeting, on 18 October 2013

"The Security Council,

"Reaffirming its commitment to the continuing and full implementation, in a mutually reinforcing manner, of resolutions 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010) and 2106 (2013) and all relevant statements of its President,

"Recalling the commitments of the Beijing Declaration and Platform for Action and reaffirming the obligations of States Parties to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol thereto, and urging States that have not yet done so to consider ratifying or acceding to them,

"Bearing in mind the purposes and principles of the Charter of the United Nations and the primary responsibility of the Security Council under the Charter for the maintenance of international peace and security, and noting the focus of this resolution is, in this regard, the implementation of the women, peace and security agenda,

"Reaffirming that women's and girls' empowerment and gender equality are critical to efforts to maintain international peace and security, and emphasizing that persisting barriers to full implementation of resolution 1325 (2000) will only be dismantled through dedicated commitment to women's empowerment, participation, and human rights, and through concerted leadership, consistent information and action, and support, to build women's engagement in all levels of decision-making,

"Taking note with appreciation the report of the Secretary-General of 4 September 2013 and the progress and emergence of good practice across several areas, including in prevention and protection, and the significant heightening of policy and operational focus on the monitoring, prevention and prosecution of violence against women in armed conflict and post-conflict situations, but remaining deeply concerned about persistent implementation deficits in the women, peace and security agenda, including in: protection from human rights abuses and violations; opportunities for women to exercise leadership; resources provided to address their needs and which will help them exercise their rights; and the capacities and commitment of all actors involved in the implementation of resolution 1325 (2000) and subsequent resolutions to advance women's participation and protection,

"Expressing concern at women's exacerbated vulnerability in armed conflict and post-conflict situations particularly in relation to forced displacement, as a result of unequal citizenship rights, gender biased application of asylum laws, and obstacles to registering and accessing identity documents which occur in many situations,

"Expressing deep concern at the full range of threats and human rights violations and abuses experienced by women in armed conflict and post-conflict situations, recognizing that those women and girls who are particularly vulnerable or disadvantaged may be specifically targeted or at increased risk of violence, and recognizing in this regard that more must be done to ensure that transitional justice measures address the full range of violations and abuses of women's human rights, and the differentiated impacts on women and girls of these violations and abuses as well as forced displacement, enforced disappearances, and destruction of civilian infrastructure,

"Recognizing the importance of Member States and United Nations entities seeking to ensure humanitarian aid and funding includes provision for the full range of medical, legal, psychosocial and livelihood services to women affected by

armed conflict and post-conflict situations, and *noting* the need for access to the full range of sexual and reproductive health services, including regarding pregnancies resulting from rape, without discrimination,

“Reiterating its strong condemnation of all violations of international law committed against and/or directly affecting civilians, including women and girls in armed conflict and post-conflict situations, including those involving rape and other forms of sexual and gender-based violence, killing and maiming, obstructions to humanitarian aid, and mass forced displacement,

“Recognizing that States bear the primary responsibility to respect and ensure the human rights of all persons within their territory and subject to their jurisdiction as provided for by international law, and *reaffirming* that parties to armed conflict bear the primary responsibility to ensure the protection of civilians,

“Reaffirming that sustainable peace requires an integrated approach based on coherence between political, security, development, human rights, including gender equality, and rule of law and justice activities, and in this regard *emphasizing* the importance of the rule of law as one of the key elements of conflict prevention, peacekeeping, conflict resolution and peacebuilding,

“Recognizing the need for more systematic attention to the implementation of women, peace and security commitments in its own work, particularly to ensure the enhancement of women’s engagement in conflict prevention, resolution and peacebuilding, and *noting* in this regard the need for timely and systematic reporting on women, peace and security,

“Taking note of the critical contributions of civil society, including women’s organizations to conflict prevention, resolution and peacebuilding and in this regard the importance of sustained consultation and dialogue between women and national and international decision makers,

“Recognizing the need to address the gaps and strengthen links between the United Nations peace and security in the field, human rights and development work as a means to address root causes of armed conflict and threats to the security of women and girls in the pursuit of international peace and security,

“Recognizing that the economic empowerment of women greatly contributes to the stabilization of societies emerging from armed conflict, and *welcoming* the Peacebuilding Commission’s declaration on women’s economic empowerment for peacebuilding of 26 September 2013 (PBC/7/OC/L.1),

“Acknowledging the adoption of the Arms Trade Treaty and noting the provisions in Article 7(4) of the Treaty that exporting States Parties shall take into account the risk of covered conventional arms or items being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children,

“Looking forward to the important contribution that implementation of the Arms Trade Treaty can make to reducing violence perpetrated against women and girls in armed conflict and post-conflict situations,

“Welcoming the efforts of Member States, and recognizing the efforts of regional and sub-regional organizations, in implementing resolution 1325 (2000) and subsequent women, peace and security resolutions at the regional, national and local levels, including the development of action plans and implementation frameworks, and *encouraging* Member States to continue to pursue such implementation, including through strengthened monitoring, evaluation and coordination,

“1. Recognizes the need for consistent implementation of resolution 1325 (2000) in its own work and *intends* to focus more attention on women’s leadership and participation in conflict resolution and peacebuilding, including by monitoring progress in implementation, and addressing challenges linked to the lack and quality of information and analysis on the impact of armed conflict on women and girls, the role of women in peacebuilding and the gender dimensions of peace processes and conflict resolution;

“2. Recognizes the need for timely information and analysis on the impact of armed conflict on women and girls, the role of women in peacebuilding and the gender dimensions of peace processes and conflict resolution for situations on the Council’s agenda, and therefore:

(a) *Welcomes* more regular briefings by the Under-Secretary-General/Executive Director of UN-Women and the Under-Secretary-General/Special Representative of the Secretary-General on Sexual Violence in Conflict on issues of relevance to women, peace and security;

(b) *Requests* DPKO, DPA and relevant senior officials, as part of their regular briefings, to update the Security Council on issues relevant to women, peace and security, including implementation;

(c) *Requests* the Secretary-General and his Special Envoys and Special Representatives to United Nations missions, as part of their regular briefings, to update the Council on progress in inviting women to participate, including through consultations with civil society, including women's organizations, in discussions pertinent to the prevention and resolution of conflict, the maintenance of peace and security and post-conflict peacebuilding;

(d) *Requests* DPKO and DPA to systematically include information and related recommendations on issues of relevance to women, peace and security, in their reports to the Council;

(e) *Invites* all United Nations-established Commissions of Inquiry investigating situations on the Council's agenda to include in their briefings information on the differentiated impacts of armed conflict on women and girls, especially emphasizing recommendations to advance accountability, justice and protection for victims, during armed conflict and in post-conflict and transitional contexts;

"3. *Expresses its intention* to increase its attention to women, peace and security issues in all relevant thematic areas of work on its agenda, including in particular Protection of civilians in armed conflict, Post-conflict peacebuilding, The promotion and strengthening of the rule of law in the maintenance of international peace and security, Peace and Security in Africa, Threats to international peace and security caused by terrorist acts, and Maintenance of international peace and security;

"4. *Reiterates its intention* when establishing and renewing the mandates of United Nations missions, to include provisions on the promotion of gender equality and the empowerment of women in conflict and post-conflict situations, including through the appointment of gender advisers as appropriate, and *further expresses its intention* to include provisions to facilitate women's full participation and protection in: election preparation and political processes, disarmament, demobilization and reintegration programs, security sector and judicial reforms, and wider post-conflict reconstruction processes where these are mandated tasks within the mission;

"5. *Requests* United Nations peacekeeping mission leadership to assess the human rights violations and abuses of women in armed conflict and post-conflict situations, and *requests* peacekeeping missions, in keeping with their mandates, to address the security threats and protection challenges faced by women and girls in armed conflict and post-conflict settings;

"6. *Recognizes* the importance of interactions of civil society, including women's organizations, with members of the Council at headquarters and during Council field missions and commits to ensuring that its periodic field visits to conflict areas include interactive meetings with local women and women's organizations in the field;

"7. *Recognizes* the continuing need to increase women's participation and the consideration of gender-related issues in all discussions pertinent to the prevention and resolution of armed conflict, the maintenance of peace and security, and post-conflict peacebuilding, and in this regard, the Council:

(a) *Requests* the Secretary-General's Special Envoys and Special Representatives to United Nations missions, from early on in their deployment, to regularly consult with women's organizations and women leaders, including socially and/or economically excluded groups of women;

(b) *Encourages* concerned Member States to develop dedicated funding mechanisms to support the work and enhance capacities of organizations that support women's leadership development and full participation in all levels of decision-making, regarding the implementation of resolution 1325 (2000), inter alia through increasing contributions to local civil society;

(c) *Requests* the Secretary-General to strengthen the knowledge of negotiating delegations to peace talks, and members of mediation support teams, on the gender dimensions of peacebuilding, by making gender expertise and gender experts available to all United Nations mediation teams; *further requests* the Secretary-General to support the appointments of women at senior levels as United Nations mediators and within the composition of United Nations mediation teams; and *calls on* all parties to such peace talks to facilitate the equal and full participation of women at decision-making levels;

"8. *Stresses* the importance of those Member States conducting post-conflict electoral processes and constitutional reform continuing their efforts, with support from United Nations entities, to ensure women's full and equal participation in all phases of electoral processes, noting that specific attention must be paid to women's safety prior to, and during, elections;

"9. *Encourages* troop- and police-contributing countries to increase the percentage of women military and police in deployments to United Nations peacekeeping operations, and *further encourages* troop- and police-contributing countries to provide all military and police personnel with adequate training to carry out their responsibilities, and relevant United Nations entities to make available appropriate guidance or training modules, including in particular the United Nations pre-deployment scenario-based training on prevention of sexual and gender-based violence;

"10. *Stresses* the need for continued efforts to address obstacles in women's access to justice in conflict and post-conflict settings, including through gender-responsive legal, judicial and security sector reform and other mechanisms;

"11. *Urges* all parties concerned, including Member States, United Nations entities and financial institutions, to support the development and strengthening of the capacities of national institutions, in particular of judicial and health systems, and of local civil society networks in order to provide sustainable assistance to women and girls affected by armed conflict and post-conflict situations;

"12. *Calls upon* Member States to comply with their relevant obligations to end to impunity and to thoroughly investigate and prosecute persons responsible for war crimes, genocide, crimes against humanity or other serious violations of international humanitarian law; and *further notes* that the fight against impunity for the most serious crimes of international concern against women and girls has been strengthened through the work of the International Criminal Court, ad hoc and mixed tribunals, as well as specialized chambers in national tribunals;

"13. *Recalls* in this regard applicable provisions of international law on the right to reparations for violations of individual rights;

"14. *Urges* Member States and United Nations entities, to ensure women's full and meaningful participation in efforts to combat and eradicate the illicit transfer and misuse of small arms and light weapons;

"15. *Reiterates its intention* to convene a High-level Review in 2015 to assess progress at the global, regional and national levels in implementing resolution 1325 (2000), renew commitments, and address obstacles and constraints that have emerged in the implementation of resolution 1325 (2000); *further recognizes with concern* that without a significant implementation shift, women and women's perspectives will continue to be underrepresented in conflict prevention, resolution, protection and peacebuilding for the foreseeable future, and as such *encourages* those Member States, regional organizations as appropriate, and United Nations entities who have developed frameworks and plans to support the implementation of resolution 1325 (2000) to start reviewing existing implementation plans and targets, and for Member States to assess and accelerate progress and prepare to formulate new targets, in time for the 2015 High-level Review;

"16. *Invites* the Secretary-General, in preparation for the High-level Review to commission a global study on the implementation of resolution 1325 (2000), highlighting good practice examples, implementation gaps and challenges, as well as emerging trends and priorities for action, and *further invites* the Secretary-General to submit, within his annual report to the Security Council in 2015, on the results of this study and to make this available to all Member States of the United Nations;

"17. *Expresses its intention* to make the implementation of the Council's women, peace and security mandate a focus of one of its periodic field visits in advance of the 2015 High-level Review;

"18. *Requests* that the Secretary-General continue to submit annual reports to the Council providing a progress update on the implementation of resolution 1325 (2000) and to submit his next report by October 2014 and to include in that report an update of progress across all areas of the women, peace and security agenda, highlighting gaps and challenges;

"19. *Decides* to remain actively seized of the matter."

1.3. HIGH-LEVEL PANEL DISCUSSION “TAKING ACTION AGAINST THE GENDER-RELATED KILLINGS OF WOMEN AND GIRLS”

UNITED NATIONS HEADQUARTERS, NYC
18 OCTOBER 2013

“This violence knows no borders and it affects women and girls of all ages, all income levels, all races, and all faiths and cultures. From conflict zones to urban spaces to university campuses, this violence compels all of us to be preventers of this pandemic and to take action NOW. The vast majority of cases go unreported and unacknowledged and survivors are left wounded, invisible and suffering in silence. This situation is intolerable.”

Phumzile Mlambo-Ngcuka
UN Women Executive Director

1.3.1. Welcoming remarks by Mrs. Ban Soon-Taek



Your Royal Highness Princess Bajrakitiyabha Mahidol of Thailand, Excellencies, Distinguished Guests, Ladies and Gentlemen,

Every woman and girl has the fundamental right to live free from violence. Yet violence against women is one of the world's most pervasive human rights violations. Wherever this violence happens, it is unacceptable and should shock us all.

Violence stems from social attitudes that discriminate against women and girls.

It persists through indifference, ignorance and fear of speaking out.

Each and every State has an obligation to develop or improve laws, policies and plans to prevent violence against women and girls.

Communities and individuals must speak out against customs or beliefs that condone acts of violence.

There has been real progress - around the world people are mobilizing to raise awareness and to stop the abuse of women and girls.

More and more people realize that everybody is responsible for stopping gender-based violence.

My husband is committed to leading the United Nations campaign to end violence against women, to ensure that the message of "zero tolerance" is heard far and wide.

We have seen great cooperation among Member States, civil society and the United Nations to harness the energy, ideas and leadership needed to prevent violence against women in its many forms.

I applaud the work of all of you here today who have dedicated yourselves to this critical issue.

I look forward to hearing from today's speakers about the important work they are doing to protect women and girls and to **END IMPUNITY FOR ALL FORMS OF GENDER-BASED VIOLENCE.**

Through focus, determination and collective action, I know we can make every country and every community safe for women and girls.

1.3.2. Introductory Remarks by Her Royal Highness Princess Bajrakitiyabha Mahidol Ambassador and Permanent Representative of the Kingdom of Thailand to the United Nations Office in Vienna

Madame Ban Soon-taek, Excellencies, Distinguished Panellists, Ladies and Gentlemen,



It is my great pleasure to welcome you to today's High-level panel discussion on "**TAKING ACTION AGAINST THE GENDER-RELATED KILLINGS OF WOMEN AND GIRLS**".

It is also my great honour and privilege to have with us here Madame Ban Soon-taek, Spouse of the United Nations Secretary-General, to deliver welcoming remarks.

Today we will hear from our eminent panellists best practices to eliminate gender-related killings of women and girls through **EFFECTIVE LEGISLATIVE MEASURES** as well as ways and means to raise awareness on this issue.

Before we begin, I wish to share my thoughts. We are here today because a great number of women, who comprise half of the world's population, are still denied their right to life. As pointed out by the Special Rapporteur on violence against women, its causes and consequences, at the twentieth session of the Human Rights Council, gender-related killings of women and girls are alarmingly increasing all over the world. This global phenomenon not only intensifies subordination and powerlessness of women and girls, but a lack of accountability for such crimes has also sadly become the norm.

We are here today to reverse such trend, to remind the world that gender-related killings against women and girls are not tolerated. The perpetrators cannot go unpunished. This issue is not new, but simply the most heinous type of crime against sisters, mothers and daughters worldwide. I echo what the Special Rapporteur says in her report, "Rather than a new form of violence, gender-related killings are the extreme manifestation of existing forms of violence against women."

While the definition is yet to be settled: whether they are called femicide, feminicide or others, no more lives of women and girls out there can be sacrificed. Gender-related killings need to stop now. We, the international community, need to address intolerance, establish accountability and combat impunity for such crime.

Thailand attaches great importance to the issue of violence against women and girls, women empowerment and gender-mainstreaming into crime prevention and criminal justice system. Thailand is of the view that strengthening response to gender-related killings of women and girls must be comprehensive and involve development and **IMPLEMENTATION OF STRONG LEGISLATION**, gender-sensitive law enforcement policies, awareness raising campaigns at grassroots level, support for individuals and families experiencing violence, realisation of women's social, economic and political rights, as well as education.

We commend the work of all partners in highlighting the issue of violence against women at international level. The theme for the **FIFTIETH SESSION OF THE COMMISSION OF THE STATUS OF WOMEN (CSW)** was violence against women. Its outcome document included for the first time a specific reference to the need to fight against impunity with regard to femicide.

In the Vienna-based work, the **ACADEMIC COUNCIL ON THE UNITED NATIONS SYSTEM (ACUNS)** in Vienna organised the symposium on femicide on 26 November 2012. The event resulted in the outcome document or the "**VIENNA DECLARATION ON FEMICIDE**" which calls for multi-stakeholders' efforts in the fight against impunity for femicide as well as creation of a knowledge management platform to share expertise and best practices.

Most recently, the **TWENTY-SECOND SESSION OF THE COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE (CCPCJ)** adopted a **RESOLUTION ON ADDRESSING IMPUNITY AGAINST FEMICIDE**. It received co-sponsorship from 29 Member States and the European Union. The resolution calls for awareness raising on the issue of gender-related killings of women and girls among Member States and encourages them to take effective measures through the strengthening of criminal justice response to prevent and punish these crimes. It also requests the Secretary-General to convene an **OPEN-ENDED INTERGOVERNMENTAL EXPERT GROUP MEETING**, which the Thailand Institute of Justice (TIJ) will host in November 2014. The meeting is expected to make recommendations by drawing upon best practices for more **EFFECTIVE PREVENTION, INVESTIGATION, PROSECUTION AND PUNISHMENT** of these crimes. I am pleased that the resolution was adopted by consensus by the Third Committee of the current session of the General Assembly.

I hope all of you look forward to the discussion today as much as I do. Thailand takes this opportunity to thank our friends, Austria and Argentina for making the side event possible. We hope that our event will further encourage the global dialogue on the issue. We would also like to thank the Academic Council on the United Nations System in Vienna (ACUNS) in advancing the important international agenda towards universal elimination of violence against women and girls and will continue to engage in this regard.

1.3.3. Remarks by Mr. Ivan Simonovic, Assistant Secretary General for Human Rights

Her Royal Highness Princess Bajrakitiyabha Mahidol, Mrs. Ban Soon-Taek, other distinguished panel members, ladies and gentlemen, good afternoon. I am honoured to be here with you this afternoon to discuss this very important topic of “Gender-related Killings of Women and Girls” and to share ideas on how our actions can collectively bring an end to these terrible crimes that have long been recognized as gross human rights violations under international law.

Gender-related killings, often referred to as femicide, stem from the broader human rights violation of violence against women and are deeply rooted in discrimination and systematic disregard for the equal enjoyment of human rights by women and girls. It is only by achieving real gender equality that violence against women, including gender motivated killings, can be prevented and women and girls can fully enjoy their rights, including the inherent right to life.

The link between discrimination against women, violence against women and gender-related killings is clear and has in fact been raised in a number of international human rights conventions, including the **CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN** (CEDAW), the **ISTANBUL CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE**, **INTER-AMERICAN CONVENTION ON THE PREVENTION, PUNISHMENT AND ERADICATION OF VIOLENCE AGAINST WOMEN**, **THE VIENNA DECLARATION ON FEMICIDE** and recent **RESOLUTIONS** adopted in the Commission on Crime Prevention and Criminal Justice, ECOSOC and the General Assembly on “Taking action against gender-related killing of women”.

Human rights mechanisms have also recognized the need to address the continuum of discrimination and violence that affect women and girls. Notably the Special Rapporteur on Violence against women, in her recent report on gender-motivated killings of women, have made this link and raised concerns in relation to **HIGH LEVELS OF IMPUNITY** surrounding such cases as well as the failure of States to prevent, investigate, punish and provide redress.

OHCHR’s work on gender-related killings focuses precisely on addressing the continuum of discrimination against women and girls that occur throughout the course of their lives that leads to violence and ultimately to their death. OHCHR is looking closely at the issue in a number of regions with the view to applying international human rights standards for the prevention, protection, prosecution and punishment of acts of gender-related killings.

In Asia, we are **MONITORING** and working to end **FEMALE INFANTICIDE** to ensure that baby girls enjoy their inherent right to life. The office is also monitoring and promoting appropriate responses for honour killings and dowry-deaths in the Middle East and North Africa where young women and girls often face death to preserve the honour of their families. With a number of high profile cases on rape-murder and intimate-partners violence in Latin America¹² and the Caribbean, our offices in those regions are working to assist the development of **SPECIAL LAWS ON FEMICIDE** – in this context, we are working closely with the UN Women to elaborate a **MODEL PROTOCOL FOR THE INVESTIGATION OF FEMICIDE IN THE AMERICAS**. Killings on grounds of sexual orientation and gender identity globally are a concern for OHCHR; we are working to raise awareness and build capacity in Africa and other regions, highlighting the importance of decriminalizing same sex relations that creates impunity for attacks against women and girls. OHCHR is closely monitoring the practice of witchcraft in the Pacific Islands and some African countries, to assess the vulnerability of older women, primarily widows, as targets and linkages to “land grabbing”. Our field presences in political and peacekeeping missions, through human rights women protection advisors (WPAs), also monitor, investigate and report on gender-related killings associated with conflict related sexual violence.

OHCHR’s work on gender-related killings in all these regions aims to **COMBAT IMPUNITY, PROMOTE ACCOUNTABILITY, STRENGTHEN INVESTIGATIONS AND JUDICIAL RESPONSES**, and ensure that the voices of affected families, communities and groups, including human rights defenders, are heard; particularly their right to reparations.

Adequate legal frameworks are crucial to fighting impunity for gender-motivated killings OHCHR recognises the importance of adopting specific legislation on gender-motivated killings and strengthening judicial institutions to ensure that these crimes are not lost in general criminal statistics as “crimes of passion”. However, we know that laws are generally not enough to prevent and ensure adequate responses to gender-related killings, violence and discrimination against women and girls. Awareness raising at the community level and **GENDER-SENSITIVE TRAINING** for law enforcement and justice officials are also very important. The involvement of women themselves as leaders in the administrative, judicial and legislative arms of government, as well as in the private sector, is critical in breaking the continuum of discrimination, violence and gender-related killings of women and girls. Women negotiators and leaders in UN missions will ensure that ending gender-related killing and all forms of discrimination and violence against women remain high on the UN’s agenda.

OHCHR looks forward to working with all of you toward the goals of ensuring the full enjoyment of all human rights for all women and girls and ending gender-related killings.

¹² For example, the Inter-American Court of Human Rights Sanctioned Mexico for failing to adequately guarantee the life and personal integrity of women in Ciudad Juarez (Cotton Fields case).

**1.4. 22ND SESSION COMMISSION ON CRIME PREVENTION
AND CRIMINAL JUSTICE**

UNITED NATIONS OFFICE IN VIENNA
23RD APRIL 2013

SIDE EVENT
“STOP THE KILLING OF WOMEN AND GIRLS”

“Only through wide social mobilization efforts, with the genuine involvement of all those concerned, can we expect to radically transform cultural norms and accepted practices, and generate a process of lasting change where the commitment to effective protection from all forms of violence and femicide can gain center stage and the right to life and freedom from violence be given a true chance of prevailing.”

Marta Santos Pais
Special Representative of the Secretary General of Violence against Children

1.4.1. Ms. Marta Santos Pais, Special Representative of the Secretary General of Violence against Children

I am delighted to join you all at this very important panel meeting on the prevention and elimination of femicide, and I would like to thank the organizers for placing this very serious concern high on the agenda.

As UN Special Representative of the Secretary General on Violence against Children, I am deeply committed to address all forms of violence against girls in all contexts.

Across regions, a girl is often at a double disadvantage; due to her gender, young age and powerlessness, she is at heightened risk of deeply rooted gender-based discrimination and serious forms of violence that may lead to fatal consequences – domestic and inter personal violence, honour killings, acid attacks, stoning and violence associated with son preference shape the fate of thousands of girls the world over.

SOME FORMS OF VIOLENCE REFLECT ILL-PERCEPTIONS, MISCONCEPTIONS, OR HARMFUL BELIEFS TOWARDS PARTICULARLY MARGINALIZED GIRLS, including those with disabilities, those with albinism as well as girls accused of witchcraft. Social and structural discrimination often condemns these girls to a position of extreme vulnerability and to tolerance of violence against them. As a result, incidents of violence remain hidden and are committed with almost total impunity.

Some of this violence is a result of a belief that a **CHILD WITH A DISABILITY** brings shame and bad luck to the family and the community, leading people to consider they have a legitimacy to kill such children.

WITCH HUNTING AND WITCH BURNING have been known in societies worldwide for centuries. Due to fear and superstition, these incidents are rarely reported and investigated. Recently, however, these attacks are gaining visibility, revealing a serious pattern of discrimination and stigmatization, violence, neglect, abandonment and murder.

HONOUR KILLING in the private sphere are usually committed against girls by relatives who believe the victim has brought shame on the family. Killings in the name of honour are sometimes also used to cover up cases of incest or to avoid responsibility for murders that are not associated with honours. According to the World Health Organization, there are an estimated 5000 honour killings each year worldwide, although this is believed to be an underestimate.

BRIDE BURNING is a practice most common in South Asia in which a girl is killed by her husband or the husband's family as a result of demands for more or prolonged dowry after the marriage.

According to some studies, in 3 generations more than 50 million women have been "erased" from India's population, including as a result of **FEMALE FOETICIDE, INFANTICIDE AND DOWRY MURDERS**. A girl between 1 to 5 years of age is 75 percent more likely to die than a boy in the same age range. Girls belonging to low socio-economic status can be seen as a huge burden, enhancing the family hardship due to dowry costs, lack of education and income generating opportunities.

A report published in 2011, conducted jointly by the Indian Council of Medical Research and the Harvard School of Public Health, highlighted that girls under five were dying at an abnormally high rate due to high prevalence of domestic violence. As noted then, "*Being born a girl into a family in India in which your mother is abused makes it significantly less likely that you will survive early childhood. Shockingly this violence does not pose a threat to your life if you are lucky enough to be born a boy.*"

DELIBERATE NEGLECT TO PROVIDE FOOD AND HEALTH CARE is another practice that is killing little girls. In some countries, if a girl child falls ill the family is often unwilling to spend money on medical care. Son preference also leads caretakers to deliberately starve daughters or to only feed them the leftovers after the men and boys have eaten. Work in the kitchen provides older girls and women some access to food, which explains why it is mostly the youngest girls who die from starvation.

The list goes on, aggravated by the fact that in some countries, **KILLING OF GIRLS IS STILL LEGALLY SANCTIONED**. The death penalty for children is still lawful in seven States. Stoning continues to exist in around 14 countries and is a form of death sentence that is primarily used to punish adultery, pre-marital affairs and other offences related to honour. Due to gender-based discrimination, girls and women are disproportionately found guilty and hit hardest.

Recommendations

This is a pattern that we urgently need to change and which in reality is not inevitable! It can be effectively prevented and brought to an end.

One critical dimension of this process is **LAW REFORM, STEADY IMPLEMENTATION AND EFFECTIVE ENFORCEMENT** to deter these serious incidents of violence, and to investigate, prosecute and punish those found responsible.

In the recent report *Protecting children from harmful practices in plural legal systems* conducted by my office in collaboration with Plan International, we addressed the risks of harmful practices in both formal and informal legal systems. The study examined the interplay and tensions between different legal systems in countries that have customary and or religious laws in parallel with national legislation. The recommendations put forward then remain particularly timely and relevant for today's discussion:

- Firstly, States need to undertake a comprehensive legislative review to ensure that domestic legislation relevant to a girl's protection from violence and killings, either foreseen in statutory or customary or religious laws, is in full conformity with human rights standards, including the Convention on the Rights of the Child and its Optional Protocols;
- In countries with plural legal systems, the **SUPREMACY OF LEGISLATION ALIGNED WITH INTERNATIONAL HUMAN RIGHTS STANDARDS** should be explicitly recognized in the law to avoid and overcome potential conflicts in legal interpretation and implementation;
- National legislation should include a **CLEAR AND COMPREHENSIVE PROHIBITION** of all killings, violence and

harmful practices against girls and help to address their root-causes. Legal provisions providing justification of, or allowing consent to harmful practices against children, including on grounds of culture, tradition, honour or religion, should be removed from all national legislation.

- Legislation should ensure the **INVESTIGATION OF INCIDENTS AND ESTABLISH THE ACCOUNTABILITY OF PERPETRATORS**, including those advising, attempting to, aiding or condoning killings or any form of violence. Any agreement or payment to exempt the perpetrator from criminal or civil proceedings or sanctions should be prohibited by law.

Law reform is an indispensable component of this process but it is also a strong catalyst of a wider and much needed process of social change. Law reform can enhance awareness and information, generate public debate, and support change in attitudes and perceptions.

When serious forms of violence, such as femicide, persist behind deeply rooted social conventions and discrimination, the process of law reform offers a strategic platform to involve policy makers and parliamentarians together with professional associations, academic institutions, community and religious leaders and grass root organizations, as well as men, women, boys and girls.

Only through wide social mobilization efforts, with the genuine involvement of all those concerned, can we expect to radically transform cultural norms and accepted practices, and generate a process of lasting change where the commitment to effective protection from all forms of violence and femicide can gain center stage and the right to life and freedom from violence be given a true chance of prevailing.

1.4.2. H.E. Lourdes O. Yparraguirre, Ambassador and Permanent Representative of the Philippines to the UN in Vienna

The Philippine Delegation congratulates ACUNS Vienna for continuing its initiative on a global issue that demands concerted action from the international community.

Last month, I read an article in the International Herald Tribune about a seminar for women training to become marriage counsellors (this happened in one of the countries in the Middle East) and the male lecturer said “A woman needs to be confined within a framework that is controlled by the man of the house.” Domestic violence should be kept at home and under the protection of the family. And there is no such thing as marital rape because a husband is entitled to have sex with his wife any time that he wants. Even if a wife were beaten by her husband, he advised, “show her how she had a role in what happened to her.” “Even if he is to blame, the wife shares 40 to 50 percent of the fault.”

Stories like these are all too common. From beatings, to honour killings, to sexual violence as a tactic of war, from intimate partner violence to human trafficking – the forms of gender-based violence are varied, but their scope and their impact are devastating. Violence against women and girls or VAWG is a serious human rights violation that impacts women, families

and communities. I think we all know that we’ve reached a moment where it has to stop, “It’s enough.”

Today, let me share with you the Philippine experience within three pillars of the global framework to prevent and eliminate violence against women and girls.

In the first pillar, the legislative pillar, I would like to highlight the major legislations we have passed:

- **THE PHILIPPINES’ ANTI-VIOLENCE AGAINST WOMEN AND THEIR CHILDREN ACT OF 2004** penalizes all forms of abuse and violence within the family and intimate relationships as a public crime.
- **THE MAGNA CARTA OF WOMEN**, which is our national translation of the **CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN** or **CEDAW**.
- **THE 2013 DOMESTIC WORKERS ACT** accords domestic workers, majority of whom are women, same rights and protection, enjoyed by workers in the formal economy.
- Last February, our law on anti-trafficking in persons was expanded to ensure greater protection of women and children. In March, we declared November 25 every year as **“NATIONAL CONSCIOUSNESS DAY FOR THE ELIMINATION OF VIOLENCE AGAINST WOMEN AND CHILDREN”**.

Ensuring the proper implementation of these laws is the unprecedented female triumvirate at the highest levels of our justice system. The first woman Chief Justice of the Supreme Court appointed a year ago is joined by two women leading the Department of Justice and the Office of the Ombudsman.

We all know that violence of internal conflict has a major impact in making women’s lives more difficult, including the aggravation of violence against women and girls.

In October 2012, the Philippine Government signed the **FRAMEWORK PEACE AGREEMENT** with the Moro Islamic Liberation Front or MILF, which establishes a road map for ending four decades of internal conflict in Southern Philippines. In the peace process, women have been on the frontline of the negotiations, including the woman chair of the government peace panel negotiating with the Islamist group. The landmark **FRAMEWORK AGREEMENT** signed last October 2012 explicitly upholds in the section on Basic Rights the right of women to “meaningful political participation and protection from all forms of violence.”

To broaden our understanding of Violence Against women and Girls (VAWG) we are looking at the following Points:

- Expanding the concept to include economic abuse since statistics show that violence against women increases when they are poor, uneducated, and have many children.
- Recognizing the emerging forms of violence against women such as such as cyber-stalking, cybersex and cyber-bullying increasingly rampant among the youth.
- Recognizing the multiple and intersectional factors to include disability, women living with HIV, as well as discrimination on the basis of sexual orientation and gender identity.

The second pillar, which outlines integrated services that provide prevention and treatment to victims, there has been general improvement in gender-sensitive handling of cases on

violence against women and children by local officials, police, social and health workers, prosecutors and the judiciary. We have women and children protection centers and units in police stations and hospitals nationwide, as well as “Women Friendly Spaces” in evacuation centers during natural disasters, and even safe houses for migrant women in several of our Embassies and other foreign service posts.

The third pillar, information and education, we have increased our public awareness through creative campaigns and other forms of public engagement, since many cases of violence against women often go unreported due to women victims’ “culture of silence.”

Non-governmental organizations should also be recognized and given credit for raising public awareness on VAWC and providing support for women victims. Many NGO- initiated community-based programs to assist women and girl victims of violence have been replicated by government agencies at the national and local levels such as the **COMMUNITY-BASED APPROACH TO VIOLENCE AGAINST WOMEN (COMBAT-VAW)**. NGOs also implement research projects and studies dealing with violence, maintain a network of services dedicated to helping VAW survivors, and keep records of their clients and services to help establish data on the extent and nature of violence committed against women.

In the Philippines, women are not alone in this fight. Men usually tagged as perpetrators of violence against women, are also at the forefront of combating such violence. “Times have changed and more and more men have realized there should be a stop to this. A movement called **MEN OPPOSED TO VAW EVERYWHERE** or MOVE has organized 26 chapters nationwide with more than 5,000 members who have vowed never to remain silent about VAWG. Last February 14, members of another group, the We, Men, including police and the military, joined **ONE BILLION RISING**, and danced in the streets to show their support in fighting violence against women and girls.

In conclusion, while we celebrate the gains we have achieved, we are determined to address remaining challenges, to eliminate all forms of violence and discrimination against women that continue to exist. We are steadfast in our aspirations to develop the fullest potential of girls and women to ensure their full and equal participation in building a better world for all.

1.4.3. Ms. Marcia V. J. Kran, Director of the Research and Right to Development Division of the Office of the High Commissioner for Human Rights

I am very pleased to be part of this panel today and to join discussions on the most extreme manifestation of gender-based discrimination: the killing of women because they are women.

I would like to share with you some information on how human rights mechanisms have addressed the issue of gender-motivated killings of women, as well as on the work of the Office of the High Commissioner for Human Rights to combat impunity for this crime. I hope my reflections will be useful as you consider this issue in the framework of the Commission on Crime Prevention and Criminal Justice.

In 2012, **THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN** devoted her thematic report to the Human Rights Council to the issue of gender-motivated killings of women (A/HRC/20/16). The report highlights how globally, the prevalence of different manifestations of such killings is increasing, while a lack of accountability for such crimes is the norm. According to the report, gender-related killings are not isolated incidents that arise suddenly and unexpectedly, but are rather the ultimate act of violence which is experienced in a continuum of violence.

The most obvious examples of gender-motivated killings include, inter alia, mutilation murder, rape murder, domestic violence escalating into murder, female infanticide, dowry-deaths, so-called honour killings, and deaths arising from harmful practices or neglect. The Special Rapporteur's thematic report on gender-motivated killings gives a very grim picture of the realities for women around the world. Just to give a few examples:

- The majority of female homicide victims are killed by male intimate partners.
- The killing of women accused of sorcery/witchcraft is also reported as a significant phenomenon in countries in Africa, Asia and the Pacific Islands.
- **THE UNITED NATIONS POPULATION FUND (UNFPA)** has estimated that 5,000 women globally are murdered by family members each year in so-called "honour killings".
- During armed conflict, transition and political strife women and girls experience all forms of physical, sexual and psychological violence, perpetrated by both State and non-State actors, including unlawful killings.
- Dowry-related murders continue to be a widespread practice in some South Asian countries. Statistics for the period 2007 to 2009 show that there have been over 8,000 cases of dowry deaths in India only.

While each manifestation of gender-motivated killing of women illustrates different interrelationships between unique socio-cultural norms and practices and the use of violence in the subordination of women, all manifestations have in common the socio-political and economic disempowerment of women

and systematic disregard for the equal enjoyment of human rights by women.

As an act of "extreme violence against women" gender-motivated killings constitute a serious violation of the human rights of women, notably their rights to life, not to be subjected to torture, personal integrity and liberty.

Independent human rights mechanisms have condemned specific forms of gender-motivated killings and raised concerns in relation to the climate of impunity surrounding such cases and the systematic failure of States to investigate or provide redress. The General Assembly, the Human Rights Council and other bodies have repeatedly urged Member States to condemn all forms of violence against women and not to invoke custom, tradition or religion to avoid their obligations to eliminate such violence. They have called for efforts to punish violence and ensure access to just and effective remedies for victims and their families. **THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN** has also urged states to examine the reasons for the failure to investigate cases of missing or murdered women, including women belonging to specific minorities.

Impunity for acts of violence against women, including gender-motivated killings, is not only a denial of justice for victims and their families. It also sends a message to society that violence is acceptable and justified.

THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR) attaches great priority to combatting impunity for gender-motivated killings of women and girls. In the Latin American region, OHCHR has assisted the adoption of relevant legal frameworks and efforts to strengthen investigations and judicial responses to gender-motivated killings, or femicide, as they are referred to in the region. OHCHR has supported the development of **SPECIAL LAWS ON VIOLENCE AGAINST WOMEN**, including **FEMICIDE**, in El Salvador and in Bolivia. In Mexico, in 2009, the OHCHR Office issued a publication on femicide providing guidance as to the development of related national legislation.

In 2011, the OHCHR Regional Office in Panama supported the elaboration of the **PROTOCOL FOR THE INVESTIGATION OF FEMICIDE IN EL SALVADOR**, which was approved by the Attorney General. The Protocol promotes the application of criminal investigation techniques aimed at assessing and analysing the gender motive of a killing. A similar tool for the Latin America region is currently being developed jointly by **OHCHR, UN WOMEN** and the **SPANISH FEDERATION OF HUMAN RIGHTS ASSOCIATIONS**.

The OHCHR Office in Guatemala is monitoring the decisions of the recently established "**FEMICIDE TRIBUNALS**" and providing them with technical assistance, including training of judges on international standards and principles regarding women's rights. In the Dominican Republic, OHCHR is undertaking an analysis of current judicial decisions regarding killings of women with a view to identifying possible obstacles to adequate judicial responses.

The experience in the Latin American region shows the importance of ensuring an adequate legal framework criminalizing all forms of gender-motivated killings. It also shows the need for efforts to strengthen the capacities of those in charge of investigations to take into account gender-specific aspects in formulating hypothesis, analysing the crime scenes and identifying necessary expert evidence. **SPECIALIZED MANUALS AND TRAININGS** can assist in this regard and in general facilitate an objective, impartial and non-discriminatory implementation of relevant norms. They also provide tools to hold public officials accountable to their obligation to act with due diligence. Finally, even if prosecutors present clearly the narrative of facts, interpretation by judges can be influenced by gender stereotypes and biases, leading to discrediting of victims and evidence and resulting in inadequate sentences or impunity. Strengthening the capacity of the judiciary is therefore also essential. OHCHR is following with interest the developments in the Dominican Republic, El Salvador, Guatemala and other countries with a view to identifying successful strategies in this regard.

I am heartened by the increased attention to gender-motivated killings of women in international fora. At its 57TH SESSION, the COMMISSION ON THE STATUS OF WOMEN adopted agreed conclusions expressing concern about gender-related killings of women and called for strengthened national legislation to punish these acts and integrate specific mechanisms or policies to prevent, investigate and eradicate this form of gender-based violence. THE HUMAN RIGHTS COUNCIL and its mechanisms continue to regularly address different manifestations of gender-motivated killings through their work. At its upcoming June session, the Council will adopt its annual resolution on violence against women, which will very likely address gender-motivated killings, including possibly a request for a study on LEGAL RESPONSES.

The concept of gender-motivated killings of women is linked to the existence of a system of structural discrimination against women. Stopping gender-motivated killings requires therefore a holistic approach encompassing legal, administrative, policy, and other measures to address the social, political, economic, cultural and other factors that perpetuate discrimination and violence. Let us all join forces to provide States and other stakeholders with consistent and comprehensive support to translate international commitments into concrete outcomes at the national level and put an end to the gender-motivated killings of women and girls.

PART II

RESOLUTIONS, RECENT STATEMENTS AND LEGAL INSTRUMENTS

“Adolescent girls are too often ignored or underrepresented in current policies and programming and are most excluded from urban development and governance processes. Their voices, now sidelined and silenced, must be brought forth and listened to in order to build cities that are inclusive of girls, that respond to their needs and priorities and where they feel safe to move freely.”

UN-Habitat, Plan International and Women in Cities International
“Because I am a Girl” (BIAAG) Urban Programme Study

2.1. HUMAN RIGHTS COUNCIL RESOLUTION 23/L.28: ACCELERATING EFFORTS TO PREVENT ALL FORMS OF VIOLENCE AGAINST WOMEN: PREVENTING AND RESPONDING TO RAPE AND OTHER FORMS OF SEXUAL VIOLENCE

United Nations

A/HRC/23/L.28



General Assembly

Distr.: Limited

11 June 2013

Original: English

Human Rights Council

Twenty-third session

Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Albania¹³, Andorra*, Armenia*, Australia*, Austria, Azerbaijan*, Belgium*, Benin, Bosnia and Herzegovina*, Canada*, Costa Rica, Côte d'Ivoire, Croatia*, Denmark*, Djibouti*, Estonia, Finland*, France*, Georgia*, Greece*, Honduras*, Hungary*, Ireland, Italy, Kyrgyzstan*, Latvia*, Liechtenstein*, Lithuania*, Luxembourg*, Norway*, Monaco*, Montenegro, Netherlands*, New Zealand*, Paraguay*, Poland, Serbia*, Slovenia*, Somalia*, Spain, Switzerland, Thailand, the former Yugoslav Republic of Macedonia*, Togo*, Turkey*, United Kingdom of Great Britain and Northern Ireland*, United States of America: draft resolution

23/L.28 Accelerating efforts to eliminate all forms of violence against women: preventing and responding to rape and other forms of sexual violence

The Human Rights Council,

Guided by the Convention on the Elimination of All Forms of Discrimination against Women,

Reaffirming the Vienna Declaration and Programme of Action, the Declaration on the Elimination of Violence against Women, the Beijing Declaration and Platform for Action, the Programme of Action of the International Conference on Population and Development, Human Rights Council resolutions 7/24 of 28 March 2008, 14/12 of 18 June 2010, 16/7 of 24 March 2011, 17/11 of 17 June 2011 and 20/12 of 5 July 2012, as well as those of the Commission on Human Rights on the elimination of all forms of violence against women, and recalling relevant resolutions of the General Assembly and relevant resolutions and the agreed conclusions of the Commission on the Status of Women,¹⁴

Recalling Security Council resolutions 1325 (2000) of 31 October 2000, 1820 (2008) of 19 June 2008, 1888 (2009) of 30 September 2009, 1889 (2009) of 5 October 2009 and 1960 (2010) of 16 December 2010, on women, peace and security, 1674 (2006) of 28 April 2006, and all relevant Security Council resolutions on children and armed conflict, including resolutions 1882 (2009) of 4 August 2009 and 1998 (2011) of 12 July 2011;

Recalling also its resolutions 5/1, on institution-building of the Human Rights Council, and 5/2, on the code of conduct for special procedures mandate holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his/her duties in accordance with these resolutions and the annexes thereto,

Outraged by the prevalence of rape and other forms of sexual violence, which disproportionately affect women and girls, and occur in all spheres of society, in public and private life, in peace time, during periods of civil unrest or political transition, and in conflict and post-conflict situations,

Recognizing that rape or any other form of sexual violence is unlawful in all circumstances and in all places, regardless of the sex, age, ethnicity or any other personal circumstances of the victim, including during arrest, questioning, in detention, in jail, in residential institutions, during displacement or while under international protection, whether or not committed by State or non-State actors in the course of achieving political or military objectives or in times of civil unrest or political transition, or whether or not in the course of an international or non-international armed conflict,

¹³ Non-member State of the Human Rights Council.

¹⁴ *Official Records of the Economic and Social Council, 2013, Supplement No. 7 (E/2013/27).*

Underscores the fact that shame, stigma, fear of reprisals and negative economic consequences, such as loss of livelihood or reduced household income, prevent many women from reporting cases of rape and other forms of sexual violence, and from seeking justice for these crimes,

Stressing the importance of law enforcement pursuing adequate investigations and prosecutions for rape and other forms of sexual violence perpetrated on any ground against women and girls, and recognizing that a lack of accountability unacceptably reinforces social normalization of and tolerance for these crimes,

Acknowledging that the forced marriage of women and young girls is a violation of their human rights and makes them particularly vulnerable to violence, including sexual violence,

Deeply concerned that child, early and forced marriages expose young married girls to a greater risk of HIV and sexually transmitted infections, often lead to early childbearing and increase the risk of disability, stillbirth, obstetric fistula and maternal death, and reduce their opportunities to complete their education, gain comprehensive knowledge or develop employable skills, and violate and impair the full enjoyment of the human rights of women and girls, preventing women and girls from becoming full, contributing members of society,

Recognizing that violence against women has both short- and long-term adverse consequences for their health, including their sexual and reproductive health, and the enjoyment of their human rights, and that respecting and promoting sexual and reproductive health, and protecting and fulfilling reproductive rights in accordance with the Programme of Action of the International Conference on Population and Development, the Beijing Platform for Action and the outcome documents of their review conferences is a necessary condition to achieve gender equality and the empowerment of women to enable them to enjoy all their human rights and fundamental freedoms, and to prevent and mitigate violence against women,

Recalling the inclusion of gender-related crimes and crimes of sexual violence in the Rome Statute of the International Criminal Court, as well as the recognition by the ad hoc international criminal tribunals that rape can constitute a war crime, a crime against humanity or a constitutive act with respect to genocide or torture,

Emphasizing the responsibility of all States to comply with their relevant obligations to put an end to impunity and to effectively use all available means to thoroughly investigate and prosecute those subject to their jurisdiction that are responsible for such crimes,

Stressing that women's empowerment, including women's economic empowerment and full and equal access to resources, women's full integration into the formal economy, in particular in economic decision-making, and their full and equal participation at all levels of public, political and cultural life is essential for addressing the underlying causes of violence against women, including sexual violence,

Recognizing the important role of the United Nations system, in particular of the United Nations Entity for Gender Equality and the Empowerment of Women, in addressing discrimination and violence against women and girls at the global, regional and national levels and in assisting States, upon their request, in their efforts to eliminate and prevent all forms of violence against women and girls,

1. *Strongly condemns* all acts of violence against women and girls, whether these acts are perpetrated by the State, private persons or non-State actors, and calls for the elimination of all forms of gender-based violence in the family, within the general community and where perpetrated or condoned by the State, in accordance with the Declaration on the Elimination of Violence against Women;

2. *Expresses deep concern* at rape and other forms of sexual violence in all their manifestations, which often target victims associated with communities, ethnic groups or other groups regarded as antagonistic to or insufficiently supportive of the group or entity whose forces commit the crime, and are frequently calculated to humiliate, dominate, instil fear in, disperse and/or forcibly relocate members of such groups, including, but not limited to, the victims and their families, and can be used as a form of ethnic cleansing;

3. *Also expresses deep concern* at the use of rape and other forms of sexual violence to intimidate, harass, deter and commit reprisals against women and girls, including women human rights defenders, in public spaces, and calls upon States to ensure that women and girls are enabled to participate as members of civil society without fear of reprisal, coercion, intimidation or attacks;

4. *Urges* States to take meaningful steps to address the harmful attitudes, customs, practices, stereotypes and unequal power relations that underlie and perpetuate rape and other forms of sexual violence by, inter alia:

(a) Publicly condemning, at the highest levels, rape and sexual violence against women and girls on any grounds, and providing visible and sustained leadership, by men and women alike, to support effective prevention;

(b) Engaging all segments of society, including community and religious leaders, civil society organizations, the private sector and the media, in prevention efforts, such as awareness-raising and education campaigns targeting the general public to increase their understanding of the harmful effects of violence;

(c) Engaging, educating, encouraging and supporting men and boys to take responsibility for their behaviour and to become active partners in the prevention and elimination of all forms of discrimination and violence against women and girls, and to end the stigmatization of victims by encouraging a change in attitudes, norms and behaviour through the promotion of gender equality;

(d) Measuring the effectiveness of policies and programmes to prevent sexual violence, including by carrying out regular evaluation and monitoring, and collecting and disseminating data disaggregated by sex, age, disability and other relevant factors;

5. *Also urges* States to increase measures to protect women and girls from all forms of violence, including sexual violence, by addressing their security and safety, including through, inter alia, awareness-raising, involvement of local communities, crime prevention laws, infrastructures, public transportation, sanitation facilities, street lighting and improved urban planning;

6. *Stresses* that women should be empowered to protect themselves against sexual violence and, in this regard, that women have the right to have control over and decide freely and responsibly on matters relating to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence;

7. *Calls upon* States to ensure that all forms of rape and sexual violence are criminalized in national law, and to take appropriate legislative and policy steps to ensure the prompt and adequate investigation, prosecution and accountability of perpetrators, including by strengthening the capacity of the criminal justice system;

8. *Urges* States to ensure that national laws and policies are in compliance with their international human rights obligations and are non-discriminatory by, inter alia, permitting prosecution of marital rape and repealing provisions that require corroboration of testimony; enable perpetrators of rape to escape prosecution and punishment by marrying their victim; and subject victims of sexual violence to prosecution for moral crimes or defamation;

9. *Affirms* the need for States to take practical steps to ensure women's access to justice, including by creating an enabling environment where women and girls can easily report incidents of violence, including sexual violence, through, inter alia, victim services, testimonial support and the possibility of publication bans, by improving victim and witness protection, protecting confidentiality and privacy rights, and providing law enforcement officials and first responders with human rights training;

10. *Underscores the importance* for States to address all health consequences, including physical, mental and sexual and reproductive health consequences, of rape and other forms of sexual violence against women and girls by providing accessible health-care services that are responsive to trauma and include affordable, safe and effective treatment;

11. *Calls upon* Governments, in cooperation with the private sector, non-governmental organizations and other civil society actors, as appropriate, to address the long-term consequences faced by victims of rape and other forms of sexual violence, including legal discrimination and social stigmatization, as well as the effects on children born as a result of rape or who witness such violence;

12. *Stresses the need* for States and relevant United Nations agencies to ensure that measures to provide protection to victims and witnesses of rape and other forms of sexual violence extend to and address the specific needs of those most vulnerable to these forms of violence, including indigenous, disabled, refugee, internally displaced and trafficked women and girls, those forced into sexual exploitation and slavery, women in custody and women and girls forcibly recruited by armed forces and armed non-State actors;

13. *Underlines* that, in situations of peaceful protest, civil unrest, public emergency or political transition, States must continue to take all necessary measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual violence, and must ensure that such acts, whether or not committed by State or non-State actors in the course of achieving political or military objectives or, as a means of intimidation or repression, are promptly investigated and prosecuted;

14. *Condemns* all acts of sexual exploitation, abuse and trafficking of women and children by military, police and related civilian personnel, including those involved in United Nations operations, and affirms the need for personnel-contributing countries to continue to take all appropriate action necessary to combat these abuses by such personnel, including by ensuring that appropriate training is provided, that any allegations of rape or other forms of sexual violence against any such personnel are investigated and prosecuted, and that perpetrators are held accountable;

15. *Calls upon* States to demonstrate their commitment to preventing sexual violence by promoting and protecting women's human rights and the equal participation and full involvement of women in society and by ensuring that women are active participants in decision-making processes, including peace, transitional justice, political transition and constitutional reform processes;
16. *Takes note* of the efforts to develop a non-binding international protocol on the investigation and documentation of sexual violence in conflict, drawing on existing local, regional and international guidance, to set out international standards for the investigation of rape and sexual violence to ensure that the strongest possible evidence is collected and that victims receive sensitive and sustained support;
17. *Affirms its intention* to ensure that, where appropriate, the mandates of future fact-finding missions or commissions of inquiry require them to devote specific attention to violence against women and girls in their reports and recommendations, or upon renewal of existing mandates;
18. *Pledges* to ensure that information gathered by its mechanisms that are of relevance to the women, peace and security agenda are transmitted to the General Assembly and, as appropriate, for consideration by the Security Council;
19. *Invites* the Office of the United Nations High Commissioner for Human Rights to ensure, upon request, the rapid deployment of expertise to investigate allegations of mass rape or systematic sexual violence, including by utilizing existing regionally diverse and gender-balanced multilateral rosters of readily deployable trained professionals, such as the United Nations Entity for Gender Equality and the Empowerment of Women/Justice Rapid Response joint roster of international investigators of sexual and gender-based crimes;
20. *Invites* the Office of the High Commissioner to include, during the annual full-day discussion on women's human rights to be held during the twenty-ninth session of the Human Rights Council, a discussion on the outcome of the meeting of the open-ended intergovernmental expert group to be convened by the Secretary-General in 2014 and organized by the Commission on Crime Prevention and Criminal Justice on ways and means to more effectively prevent, prosecute and punish gender-related killings of women and girls, and on the work carried out on good and promising practices, such as the non-binding model protocol and the best practices guide for the investigation of gender-related killings in Latin America;
21. *Welcomes* the work of the Special Rapporteur on violence against women, its causes and consequences and of the Special Representative of the Secretary-General on Sexual Violence in Conflict, and takes note with appreciation of the report of the Special Rapporteur on State responsibility for eliminating violence against women;¹⁵
22. *Decides* to extend the mandate of the Special Rapporteur on violence against women, its causes and consequence, as set out by the Human Rights Council in its resolution 16/7, for a period of three years;
23. *Also decides* to continue consideration of the issue of the elimination of all forms of violence against women and girls, its causes and consequences, as a matter of high priority, in conformity with its annual programme of work.

15 A/HRC/23/49/Add.5.

2.2. MS. RASHIDA MANJOO, SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND CONSEQUENCES

57th Session Commission on the Status of Women,
4th March 2013, New York

It is a pleasure for me to address you at the **57TH SESSION** of the **COMMISSION ON THE STATUS OF WOMEN** (CSW) to present my oral report. This year we mark the adoption of the twentieth anniversary of the **VIENNA DECLARATION AND PROGRAMME OF ACTION** by the **WORLD CONFERENCE ON HUMAN RIGHTS IN VIENNA**. That conference was a landmark for women's human rights and in particular for the identification of violence against women as a human rights issue and an issue of international concern, rather than a private matter.

The World Conference triggered a number of important initiatives related to standard setting and monitoring in the field of women's rights. Amongst others, the Conference urged the General Assembly to adopt the **DECLARATION ON VIOLENCE AGAINST WOMEN** and welcomed the decision of the then **COMMISSION ON HUMAN RIGHTS** to establish the mandate of the **SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN**, which I currently hold. It is important to celebrate the milestones achieved in advancing women's rights, but to also take cognisance of the enormous challenges we continue to face in the struggle to promote and protect the human rights of women. As highlighted in the May **2012 REPORT OF THE UN SYSTEM TASK TEAM** on the **POST-2015 UN DEVELOPMENT AGENDA**, inequalities, including gender discrimination and gender-based violence, need to be one of the top priorities of concern for the post-2015 agenda.¹⁶

Please allow me, Madam President, to brief the Commission about the work that my mandate has undertaken over the past two years.

2011 Thematic report to the HRC

In 2011, I prepared a thematic report on multiple and intersecting forms of discrimination and violence against women.¹⁷ My report questions the human rights discourse regarding violence, which regards real violence as public violence perpetrated by or at the behest of the State. I argue that this discourse has led to the marginalization and invisibility of violence perpetrated against women, and I highlight how the more everyday ordinary violence that takes place within ostensibly private spaces does not receive sufficient attention.

The report proposes a holistic approach which requires amongst others: 1) treating rights as universal, interdependent and indivisible; 2) situating violence on a continuum that spans interpersonal and structural violence; 3) accounting for both individual and structural discrimination, including structural and institutional inequalities; and 4) analysing social and/or economic hierarchies among women, and, between women and men, i.e. both intra-gender and inter-gender.

16 Report of the UN System Task Team on the Post-2015 Development Agenda, "Realizing the Future We Want for All", paras. 60-62 and 91.

17 A/HRC/17/26

2011 Report to the General Assembly

Also in 2011, I presented my first written report to the General Assembly.¹⁸ This report is an overview of the mandate's work and main findings, and the challenges it continues to identify.

In my report I argue that States' efforts to comply with their obligations and to act with due diligence requires addressing both the individual and the structural causes that lead to violence against women. In doing so, States should consider the various manifestations of violence suffered by women and the multiple forms of discrimination they encounter, in order to adopt multifaceted strategies to effectively prevent and combat this violence. I conclude the report by presenting my proposal for a holistic approach to understanding and addressing discrimination and violence against women.

2012 Thematic report to the HRC

In **2012** I presented a **THEMATIC REPORT** on the topic of **GENDER-RELATED KILLINGS OF WOMEN**. The prevalence of different manifestations of gender-related killings has reached alarming proportions. Women subjected to continuous violence and living under conditions of gender-based discrimination and threat are always in fear of execution. While such killings are culturally embedded and tolerated, the responsibility of the State to act with due diligence in the promotion and protection of women's rights, is largely lacking as regards the killing of women.

The report reviews the conceptual evolution of terms describing gender-related killings and analyses the global prevalence of the problem, including: a) as a result of intimate-partner violence; b) due to accusations of sorcery/witchcraft; c) in the name of "honour"; d) in the context of armed conflict; e) in the context of dowry-related killings of women; f) in the context of aboriginal and indigenous women; g) as the extreme forms of violent killings of women; h) as a result of sexual orientation and gender identity; and i) other forms of gender-related killings of women girls, including infanticide.

Impunity for the killings of women has become a global concern. When the State fails to hold the perpetrators accountable, impunity not only intensifies the subordination and powerlessness of the targets of violence, but also sends a message to society that violence against women is both acceptable and inevitable. As a result, patterns of violent behaviour are normalized.

I believe that a holistic approach in prevented gender-related killings must also be emphasized in all the measures taken by States to investigate and sanction violence, more especially in crafting, implementing and evaluation legislation, policies and national plans of action. Such an approach would require that systemic discrimination, oppression and marginalization of women be addressed at the political, operative, judicial and administrative levels.

The **WEAKNESS IN INFORMATION GATHERING**, the **LACK OF DISAGGREGATED ANALYSIS** and the **POOR QUALITY OF DATA** are major **BARRIERS** in effectively **INVESTIGATING SUCH KILLINGS**. The use of inexact categories for the classification of murders, such as the category "others", results in misidentification, concealment and underreporting of such murders, in particular those that do not occur in a family situation. These factors

18 A/66/215

then impact on the development of meaningful prevention strategies and advocacy for improved policies.

Despite progressive jurisprudence from the regional human rights systems, often there are no mechanisms to coordinate the implementation of the judgements at the national level, with some authorities stating that the absence of a special implementing law precludes fulfilment of their responsibility.

The exercise of due diligence requires that States (a) conduct effective investigations of the crime, and prosecute and sanction acts of violence perpetrated by State or private actors; (b) guarantee de jure and de facto access to adequate and effective judicial remedies; (c) include in the obligation of access to justice, a requirement to treat women victims and their relatives with the respect and dignity throughout the legal process; (d) ensure comprehensive reparations for women victims of violence and their relatives; (e) identify certain groups of women as being at particular risk for acts of violence due to having been subjected to discrimination based on more than one factor, including women belonging to ethnic, racial and minority groups; and (f) modify the social and cultural patterns of conduct of men and women and eliminate prejudices, customary practices and other practices based on the idea of the inferiority or superiority of either of the sexes, and on the stereotyped roles for men and women.

2012 Report to the General Assembly

In October 2012, I presented my **REPORT** to the **GENERAL ASSEMBLY**¹⁹ addressing the issue of **VIOLENCE AGAINST WOMEN WITH DISABILITIES**. The report examines the manifestations, causes and consequences of violence against women with disabilities, relevant international and regional legal frameworks and provides recommendations.

In the report I argue that although women with disabilities experience many of the same forms of violence that all women experience – when gender, disability and other factors intersect – the violence against them takes on unique forms, has unique causes and results in unique consequences. They experience both the stereotypical attitudes towards women and towards persons with disabilities.

Women with disabilities are at higher risk of being victims of domestic violence as opposed to women without disabilities; are likely to experience abuse over a longer period of time; and, they suffer injuries that are more severe as a result of the violence.

In institutional settings, women with disabilities face multiple forms of violence, including forced intake of psychotropic drugs or other forced psychiatric treatment. Furthermore, forced institutionalization itself constitutes a form of violence. Reforms are also necessary in order to reduce unnecessary imprisonment of individuals with disabilities. Good practices in respect of alternatives to prison custody, for people with disabilities, should be developed.

In the report I argue that in addressing violence against women with disabilities, **STATES SHOULD ENSURE AN EMPOWERMENT PERSPECTIVE**, as opposed to a vulnerability perspective, and must also apply a social model of disability, as opposed to a medical or charity model, within their prevention and response work.

Country-level reforms to improve health-care services and facilities in general, including in respect of sexual and reproductive health, should be adopted.

In the justice system, women with disabilities also face a number of obstacles, including the systematic failure of the courts to acknowledge them as competent witnesses. States should revoke any remaining laws that discriminate on the basis of sex/genre against women with disabilities, and should address gender bias against women with disabilities in the administration of justice. In this context, States should ensure that the **JUSTICE SECTOR IS RESPONSIVE TO AND SUPPORTIVE** of women with disabilities who report cases of violence; should support innovative justice services, including one-stop shops, legal aid and specialized courts, in order to ensure substantive and procedural access to justice; and should involve women with disabilities in shaping and restructuring the legal system.

States should improve and expand disaggregated data collection (gender, age, disability), including on the prevalence, manifestations, causes and consequences of violence against women with disabilities.

Appropriate training materials on the prevention of and response to violence against women with disabilities for all sectors should be developed, in collaboration with women with disabilities, thereby enhancing the relevance of the materials and the skills of disabled peoples. In this connection, efforts should be made to ensure that publications, presentations and other media products feature women with disabilities, thereby recognizing the importance of media images in changing perceptions, eliminating discrimination and ending violence.

Many States have ratified the **CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES**, the **CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN** and other relevant regional instruments. However, it has been difficult to assess effective implementation of these instruments with regard to preventing and responding to violence against women with disabilities.

2013 Thematic Report

This year, my thematic report to the **HUMAN RIGHTS COUNCIL** will be devoted to a study on the **STATE RESPONSIBILITY FOR ELIMINATING VIOLENCES AGAINST WOMEN**. The issue of the application of the principle of due diligence has been a constant element of study by previous Special Rapporteurs and since the inception of my mandate. My intention is to contribute to this debate with empirical information from some regions of the world.

A *note verbal* was sent to Member States and a questionnaire was produced for other relevant stakeholders in order to collect country experiences on the interpretation, application and effectiveness of the due diligence standard as a tool for eliminating violence against women.

Furthermore, regional expert meetings were convened as follows: in Tunis (for the MENA region); in Bratislava (for the Eastern and Southern European and Balkans) and in Fiji (for the Pacific Islands countries). Two meetings were also convened by other organisations in Cape Town and Kampala (for selected Anglophone African countries). These meetings provided forums to share experiences and expertise on the application of States' responsibility in eliminating violence against women in the national and regional levels; to discuss policy, legal, programmatic

¹⁹ A/67/227

and institutional challenges in the application of the due diligence standard; and sought to identify emerging practices and lessons learnt in different countries of these regions.

Countries visits in 2011 and 2012

During the course of 2011, I conducted official visits to Jordan, Italy and Somalia. These mission reports were presented to the **HUMAN RIGHT COUNCIL IN JUNE 2012**. This year, I will present reports to Human Rights Council on my visits to Bosnia and Herzegovina, Croatia, Papua New Guineas and Solomon Islands. I would like to express my gratitude to these Governments for their valuables support and cooperation in the conduct of these missions. I look forward to continuing our dialogue with regard to the follow-up to the recommendations issued therein.

I am pleased to announce that I recently received a positive reply to conduct a visit in India in April 2013. South Africa, which I also requested to visit, is in the process of considering suggested dates for a mission to take place in the first half of this year, while Columbia has requested that the proposed visit should be deferred to next year or later. Azerbaijan has issued an invitation for June of this year, but I am unable to accede to this date and new dates are being proposed. I also express the hope that my requests to visit Cuba, Israel, Palestine and Venezuela will be positively responded to. Other requests for country visits to the Governments of Bangladesh, Nepal, Uzbekistan, Turkmenistan, and Zimbabwe, unfortunately remain unanswered. I would like to encourage the Governments of these countries to respond favourably to my requests in order to engage in a dialogue on the elimination and prevention of violence against women and girls.

Conclusion

In conclusion, I believe we must all pay tribute to the tireless efforts of individual women and civil society organisations in the fight against discrimination and in the advancing of women's rights globally. As noted in numerous reports, including the UN Women report on the online discussion on eliminating violence against women and girls, civil society organisations (CSOs) are carrying the burden of providing services and on primary prevention efforts. We must applaud the work of civil society organisations in responding to and preventing violence, often due to the absence of effective state responses.²⁰

In this regard, my predecessors' and I have constantly stressed that the responsibility to protect women and girls from violence and discrimination is primarily the responsibility of the State, as the ultimate duty bearer. However, State responsibility for eliminating violence against women and girls must also include cooperation and collaboration with relevant non-state actors, particularly organisations involved in the women's human right sector generally and in the violence against women sector in particular.

Over the course of last year, my mandate has received numerous complaints from victims and civil society organisations with regard to the lack of adequate responses from a variety of sectors, whether schools, courts, shelters, prisons, hospitals or workplace. While in many of these cases, the instruments for ensuring remedies and access to service were formally in place, the *de facto* failed to offer effective protection and prevention measures to women and girls. The principles of equality, non-discrimination and good faith, in international law, inform and nurture State responsibility for observing the normative framework through which obligations and accountability emanate. In this context, States must take positive steps to effectively meet their responsibility to respect, protect and fulfill human rights obligations. It must be stressed than in applying due diligence in protection and prevention measures to eliminate violence against women and girls, it is imperative to go beyond the mere enactment of formal legal provisions.

20 UN Women, "Report on the online discussion on eliminating violence against women and girls – gaps, challenges and strategic directions in prevention and multisectoral services and responses", CSW online discussion, p. 9.

2.3. MS. FARIDA SHAHEED, SPECIAL RAPPORTEUR IN THE FIELD OF CULTURAL RIGHTS

“Traditional Values, Culture, Religion – Women’s Human Rights”

May 30, 2013 Side Panel at 23rd Session Human Rights Council

Traditional values, religion and culture intersect women’s human rights in intricate and complex ways. For example, the **CEDAW COMMITTEE** notes that “In all nations, cultural traditions and religious beliefs have played a part in confining women to the private spheres of activity and excluding them from active participation in public life”.²¹ Scholars underline that so many practices and norms discriminating against women are justified by reference to culture, religion and tradition, that it can be said that “no social group has suffered greater violation of its human rights in the name of culture than women” and that it is “inconceivable” that a number of such practices “would be justified if they were predicated upon another protected classification such as race”.²² The use of discourses of cultural relativism to challenge the universal legitimacy and applicability of human rights norms is also a serious concern noted by **UN SPECIAL PROCEDURES** (A/HRC/4/34, in particular paras. 19, 42 and 68).

Hence, in examining the inter-relationships from the perspective of women’s human rights it is important to remember:

1. All cultures “share a common set of values that belong to humankind in its entirety, and that those values have made an important contribution to the development of human rights norms and standards”.
2. Such values are inscribed in the UDHR that, having incorporated diverse, though not all, cultural as well as political traditions and perspectives and having been adopted by consensus, “represents a common standard of achievement for all peoples and all nations” (UDHR Preamble) for the rights of all persons and communities and the obligations of states. Often considered to be international customary law, the UDHR provides the essential framework for cross-cultural dialogue and understandings on human rights.

The question is: if there is agreement on the universality of human rights, why is there a need for a discussion on traditional values?

Firstly, there is no such thing as a “view from nowhere”. All human thinking and reasoning is rooted in people’s cultural perspectives and understandings, including the traditions of continuously elaborating the contents and understanding of human rights.

This cultural rootedness of human thinking and cultural diversities makes it essential to ensure and to promote international human rights norms and standards amongst all communities of the world. It is equally vital that the continuing development of universal human rights standards be informed by the cultural diversity of the world’s peoples.

21 Committee on the Elimination of Discrimination against Women, general recommendation No. 23 (1997) on women in political and public life, para. 10.

22 Arati Rao, (1994). “The Politics of Gender and Culture in International Human Rights Discourse”, in *Women’s Rights, Human Rights: International Feminist Perspectives*, Julie Peters and Andrea Wolper. (eds.) New York and London: Routledge, p. 167.

In this regard there are a series of question that need to be asked. Specifically in terms of this panel:

From a human rights perspective what is crucial is how to arrive at a point at which women own their culture, religion and tradition, including traditional values, as well as their human rights.

The dialectical and dialogical interplay between universal human rights standards and diverse localized realities raises a series of questions which need to be considered. Specifically in terms of this side panel:

- To what extent is it possible to distinguish between traditional values and traditional practices when practices are the external visible manifestations of values?
- Is there a common understanding of what, in practical terms, constitutes “traditional values”? At present there is no universally accepted understanding of the root word “tradition”, let alone “traditional values”
- It is important to recognize that every living tradition is subject to continual self-reinvention and to think of traditions, traditional values and cultures not just –possibly not even primarily – as links with the past but as trajectories to the future that enable people to become agents of their own development and self-realisation.
- In this perspective a fundamental question is: Who is to define the parameters and contents of ‘traditional values’? Can there be a listing of traditional values that is indeed universal? Moreover, is such a listing, which risks stultifying further development around human rights, even desirable?

Viewing culture and attendant beliefs, including customs, traditions and religious interpretations, as “static” obstructs the realization of women’s human rights because it presupposes that particular values, practices and beliefs are “intrinsic” to a given culture and, therefore, immutable.

It is important, therefore, to unpack the terms ‘tradition’ and ‘traditional’ precisely because of the strong emotive quality and deep resonances tradition has with cultural identity and a sense of self.

From the perspective of women’s human rights, the right to access, participate in and contribute to cultural life enshrined in the UDHR and ICESCR means, amongst other things, that (A/HRC/20/26, para. 43) women must be able to embrace or reject particular cultural practices and identities as well as to revise and (re)negotiate existing traditions, values or practices, regardless of their provenance. Women must enjoy the freedom to create new communities of shared cultural values around any markers of identity they want to privilege, new cultural meanings and practices without fear of punitive actions, including any form of violence. In this same vein, the right to access and enjoy cultural heritage, including values passed on through tradition, encompasses the right to interpret and assign meaning to cultural heritage received from the past, including traditional values, and to contribute to establishing new values and traditions.

The essential question of who decides which traditional practices and values are to be upheld and which discarded signals the danger of making something as undefined and constantly evolving as “traditional values” the standards of human rights. Traditional values must not be used to fragment international human rights into a number of self-contained regimes. Further, just because something is said to be traditional

is not enough for it to be accorded sanctity. Traditional values and reflected traditions and practices not in keeping with norms and standards of human rights must be overturned through internal debates and cross-cultural dialogues.

Human rights are always implemented and enjoyed within specific cultural, socioeconomic and political environments.²³ They have to be realized within, and are thus contingent upon, the factors and dynamics operative on the ground, including local knowledge and practices, and specific cultural traditions, values and norms. Ensuring the cultural rootedness of human rights, in particular women's cultural rights, requires ownership of internationally established human rights among all communities. Human rights have to be "vernacularized", including through "initiatives that ground human rights concepts in diverse cultural traditions, in a culturally relevant lexicon and philosophical vocabulary".

The continuing development of human rights standards should be informed by the cultural diversity of humankind while recognizing that cultures are always dynamic: people's perceptions, views and actions, rather than abstracted "culture", drive social, economic, political and cultural developments. In the same way that all human rights standards constantly evolve, cultural beliefs and understandings, normative rules and values, as well as practices are continuously created, contested and (re)interpreted. In transforming their culture(s) by adopting new ideas and modes of operation, concerned people often continue to draw upon the moral and spiritual resources within their own traditions.

It is vitally important to ensure that all societies continuously reinforce the respect, promotion and protection of the human dignity and worth of all members of society through the norms and standards of human rights as developed and accepted by the international community.

From the perspective of women's human rights, this entails ensuring that the nexus of traditional values, culture, and religion reflect human rights standards and norms and uphold women's human rights.

In my **REPORT** to the **GENERAL ASSEMBLY** last year, I have stressed that promoting realization of equal cultural rights for women is a way of helping to reconstruct gender in ways that transcend notions of women's inferiority and subordination, thereby improving conditions for the full and equal enjoyment of their human rights in general. This requires a shift in perspective: from seeing culture as an obstacle to women's human rights to ensuring women's equal cultural rights; meaning that women's perspectives and contributions must move from the margins of cultural life to the center of the processes that create, interpret and shape culture and determine societal values, regardless of whether values are labeled 'traditional' or not. The tendency to marginalize women's concerns and silence their voices must be overcome, obstructions impeding their equal participation in public life eliminated and their underrepresentation in the institutions and processes defining the culture, religious or spiritual traditions and values of their communities surmounted. Women must be recognized as, and supported to be, equal spokespersons vested with the authority to determine which of the community's traditions and values are to be respected, protected and transmitted to future generations.

Measures are required to support and enhance the cultural legitimacy and symbolic validation of new tools, interpretations and values that enable practices harmful to women to be surmounted. It is particularly important to support women's transformative initiatives: to listen to local women and build on the tools and terminology they use, including elements to be retrieved from cultural heritage that may have fallen into disuse. The right to take part in cultural life it must be stressed is intricately inter-linked with promoting women's equal rights in the area of public and political life, as well as family life.

The task ahead is to find appropriate modalities that enable discussions and debates around traditional values and culture that promote democracy, human rights and fundamental freedoms for everyone based on principles of equality as given in the UDHR. In this, I believe ensuring cultural rights for women on a basis of equality with men, plays a determinative role.

²³ Most of the rest of the presentation is taken directly from my report on women's equal cultural rights for women; A/67/287.

2.4. UN-HABITAT, PLAN INTERNATIONAL AND WOMEN IN CITIES INTERNATIONAL (WICI)

Adolescent Girls' Views on Safety in Cities: Findings from the *Because I am a Girl* (BIAAG) Urban Programme study in Cairo, Delhi, Hanoi, Kampala, and Lima



For the first time in history, there are more people living in cities than in rural areas. Each month, five million people are added to the cities of the developing world, and it is estimated that **BY 2030, approximately 1.5 BILLION GIRLS WILL LIVE IN URBAN AREAS.**²⁴ Girls in cities contend with the duality of increased risks and increased opportunities. On the one hand they face sexual harassment, exploitation, and insecurity as they navigate the urban environment; while on the other hand, they are more likely to be educated, less likely to be married at an early age, and more likely to participate in politics. In spite of these important trends, very little information is available about girls and young women in urban environments. In particular, academics and development institutions alike have largely ignored the intersection between gender, age, safety and urbanisation, and girls tend to be overlooked in programming either aimed at 'youth' or 'women.'

The Because I Am A Girl Urban Programme (BIAAG-UP) Research Process

In 2012, a study to understand how safe and inclusive cities were for adolescent girls was carried out in Cairo, Delhi, Hanoi, Kampala, and Lima. The research is among the first of its kind. Examining the unique position of adolescent girls in urban environments in an active and participatory way from a broad range of stakeholders is an innovative approach to delving into a new area of research.

A **RAPID SITUATIONAL ASSESSMENT (RSA)** provided the BIAAG Urban Programme with information on local priorities, issues, and ideas on how to design a locally-led global programme to maximise its potential for positive change for girls in urban settings. The specific research questions asked were:

1. How do adolescent girls perceive their current city in terms of its safety and inclusivity, and how is this different from the views of other stakeholders in the community?
2. How do the five cities compare to each other, and what are the global trends that emerge?
3. What steps should be taken by the BIAAG Urban Programme to improve the situation for adolescent girls in each city?

The specific objectives of the study were:

- To provide a snapshot of the current situation for adolescent girls in each of the five cities to inform future programming;
- To identify key opportunities and challenges for the BIAAG Urban Programme in each city;
- To explore the perceptions of adolescent girls' safety across multiple stakeholders including adolescent girls, and identify inconsistencies in perceptions across various actors;

- To build the capacities of adolescent girls and boys to speak about and act on issues of safety and inclusion; and
- To identify key stakeholders and build relationships with various partners in support of the BIAAG Urban Programme.

Over 1,400 adolescent girls (1,000) and boys (400) participated in this unique study across the five cities. Further, a total of 153 stakeholders were interviewed as part of the Key Informant Interviews. While the BIAAG Urban Programme defines 'adolescence' as being 13-18 years of age, this definition did not always reflect local age bracket distinctions, so the actual age range of participants in the study is 11 to 23 years.

Overview of the Tools

The study was made up of five tools:

1. Stakeholder, Programme, Policy Mapping

The first step was to perform desk research to develop a profile of the city's local context (including demographic information and crime statistics) within which to understand the safety and inclusion of girls. Conducting desk research to identify key stakeholders and existing policies and programmes in each city provided the BIAAG Urban Programme team with an understanding of the local context of girls' safety and inclusion at the beginning of the programme and served to outline existing gaps that the BIAAG Urban Programme could help to fill.

2. Key Informant Interviews

Key Informant Interviews with a broad range of stakeholders such as members of the community, government officials and select experts helped the BIAAG Urban Programme understand how members of the community perceived the situation of adolescent girls' safety and inclusion in the five cities. They were also used to identify perceived challenges and opportunities for girls in their respective cities.

3. Social Cartography

Social Cartography is a creative and practical way of understanding girls' experiences and visions for their cities. There are two parts to this tool: the first asks girls to draw a map to show the spaces she uses (the places she goes and the routes she takes) and how she feels along the way; and the second is a group map where girls work in small groups to draw their visions for an ideal city. For this tool, parallel exercises were also performed with the participation of boys, and the perspectives of girls and boys were compared to each other.

4. Girls' Opportunity Star

The Girls' Opportunity Star for safe and inclusive cities is a tool that involves girls in a series of focus group discussions surrounding 7-points of safety and inclusion. Girls are first asked to share their personal ratings of safety and inclusion for each of these points (e.g. a girl may rate that she 'never' feels safe when using public transit). They then engage in a group discussion on the different points and share what would need to change for the ratings to be better in their city.

5. Girls' Safety Walk

The Girls' Safety Walk is a group walk through a particular area of the city where girls note, with the help of a checklist, the particular elements of the built and social environment that they feel contribute to or hinder their sense of safety. Girls then debrief on their observations, identifying priority issues they would like to see addressed and offering recommendations for making their communities safer and more inclusive.

²⁴ Plan International (2010). *Because I am a Girl: The State of the World's Girls 2010. Digital and Urban Frontiers: Girls in a Changing Landscape.*

Main Findings from the Five Cities

What Girls Have to Say about their Safety and Inclusion

While the results from the study are not representative of the views of girls in cities around the world or even within those five cities, the findings do point to some valuable shared experiences that are important to analyse in order to successfully respond to adolescent girls' safety needs and to build safe and inclusive cities. In each of the cities, girls share similar **EXPERIENCES OF INSECURITY, OF SEXUAL HARASSMENT AND OF FEELINGS OF EXCLUSION**. They also share visions of future cities that are well-lit, well-planned, and well-maintained and where they are given space to participate. It is arguably the consistency of the vision expressed by adolescent girls both within and across cities that is most intriguing.

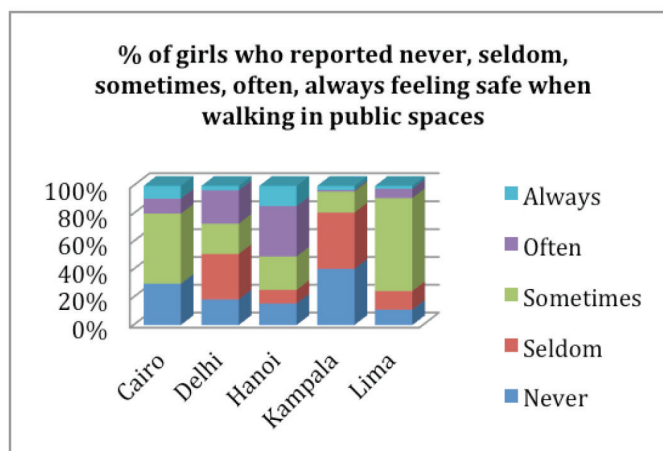
Girls' Safety and Access to Public Spaces

Very few girls in the study claimed that they *'always'* feel safe when walking in public spaces. The **ISSUE OF LIGHTING** emerged in each of the cities as having an important impact on how safe adolescent girls feel in different spaces. Girls knew the streets or alleys that were well-lit and those that lacked lighting, which then influenced the paths they try to avoid at night. In Kampala and in Lima, girls shared that when their vision was obstructed they felt that it made the spaces more unsafe for them. Girls noted that the social use of space changes at different times of day. In Delhi, girls in residential areas avoided afternoons and late nights as spaces are usually empty during these hours, leading the girls to feel less at ease.

Conversely, in Kampala, the girls mentioned that the paths and lanes in their community were particularly **CROWDED** in the evening, causing girls to feel unsafe. The girls in Lima and Hanoi felt that drug and alcohol abuse were common elements of the social landscape. Girls in Hanoi explained that they fear being robbed or raped in parks. Girls in Lima reflected on how the **PRESENCE OF GANGS AND VIOLENCE** affected how they felt in urban public spaces. It emerged that it was not only the actual users of a space that caused insecurity, but it was also the **REPUTATION OF THE SPACE** and the users of the space that affect girls' sense of safety.

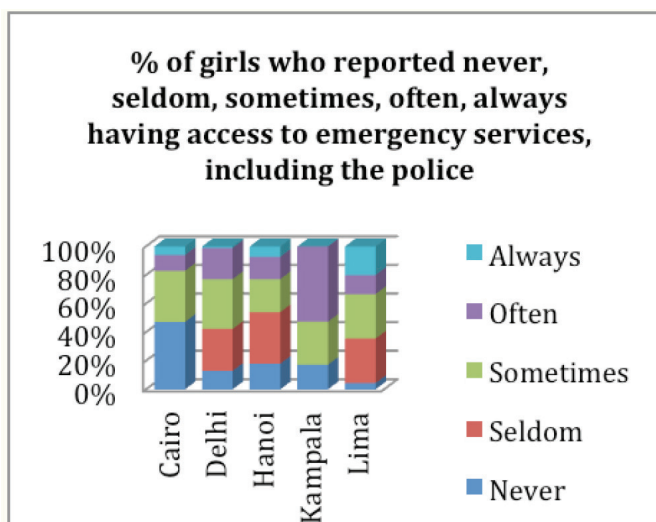
Girls' Autonomous Mobility in the City

Existing barriers to girls' autonomous mobility across the cities included the lack of a public transportation system conducive to safe travelling. In fact, **PUBLIC TRANSPORTATION** in all cities was a large concern for girls, and they reported feeling uncomfortable, unsafe, and disrespected while travelling. They pointed to improper conduct by other passengers as well as drivers, and to general inaction on the part of other people who witnessed such acts. In Hanoi, adolescent girls rarely walked from one place to the next, and complained of overcrowding, groping, sexual harassment and theft as being important safety issues affecting them on public buses. In Kampala, Lima, and Delhi, girls also pointed out that a lack of signage in the city limited their ability to know where they were and where they were going, thus limiting their mobility. In Cairo, it was emphasized that the families of some girls never allowed them to move around in public spaces by themselves, and girls were always accompanied.



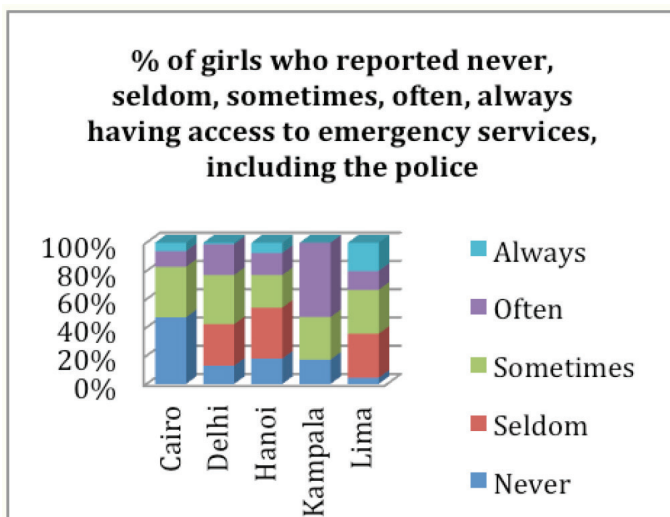
Girls' Access to Quality City Services

It is important for a girl's sense of safety that she be able to access a well-planned, well-maintained city, as well as basic and emergency services. Lack of basic services such as drainage systems and **GARBAGE COLLECTION CAN LIMIT WALKING PATHS** and cause girls to feel unsafe. Girls in Kampala, Cairo, Delhi and Lima all commented on how piles of garbage can block their paths or cause drains to overflow, limiting the space they have to move through. In Delhi, girls stressed that they often did not have personal toilets and public toilets were scarce and poorly maintained, forcing them to use open spaces, putting them at risk of sexual harassment and assault. Girls in most of the cities commented on the **LACK OF FORMAL POLICING OR SECURITY GUARDS** in their communities. In all five cities, girls questioned whether it would be worth reaching out to the police for their problems as they were often unresponsive, untrustworthy, or located too far away to respond in a timely manner. In Cairo, it is important to note that the recent revolution and accompanying unrest has increased the level of "thuggery" and violent fights, which is exacerbated by lack of security and police presence.

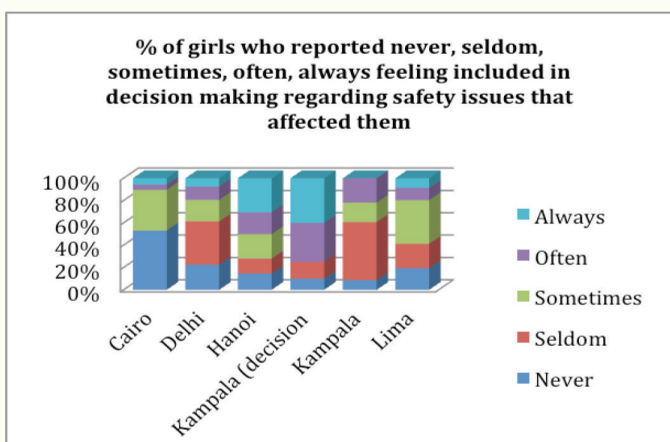


Girls' Active and Meaningful Participation in Urban Development and Governance

Girls were often excluded from being able to participate meaningfully in decisions that affect them. In Cairo, girls placed a great deal of emphasis on **'INCLUSION AND DECISION-MAKING'** in particular during the Girls' Opportunity Star, and often spoke of feeling under-appreciated, and that their opinions were frequently overlooked or disregarded. This issue came up in Cairo as frequently as safety issues and incidences of



sexual harassment. In Delhi, “girls shared that inclusion within the school, community, and governing systems are a distant reality for them when they do not feel included within their own families. The majority of them felt that their brothers were prioritised before them.”²⁵ The girls posited that because they are young, female and poor, their opinions were not valued in the same way as others in the community. In several cities, girls pointed out that their participation in this study was the first time that they were being asked about their experiences and ideas for their cities.



Important Issues Across the Cities

In general, cities noted that data was not typically sex and age-disaggregated, making it challenging to find information that would provide insight into adolescent girls. This supports earlier research completed by Plan, WICI and UN-HABITAT that pointed to these same gaps.²⁶ The teams connected this to gaps in policy and programming that failed to offer specific consideration to the needs of girls. For example, the **KAMPALA PHYSICAL DEVELOPMENT PLAN (2012-2040)** does not include considerations of safety issues, nor does it consider adolescent girls as important stakeholders. Finally, the fact that there is a lack of specific data about adolescent girls in each of the cities, combined with the fact that particular consideration of their needs is not typically taken into account in policies and programming, leads us to infer that girls are simply not a priority population in the eyes of government municipalities

25 Plan India (2013) Report on the Findings of the Because I am a Girl Urban Programme Study in Delhi (*unpublished*)

26 Plan, WICI, UN-HABITAT (2012). Adolescent Girls Creating Safer Cities: Harnessing the Potential of Communication for Development (C4D). <http://plan-international.org/girls/pdfs/adolescent-girls-safer-cities.pdf>

and other key decision-makers. Adolescent girls, being too young to vote and not typically independently wealthy, have very little influence over decision-making processes.

External context: growing momentum?

At the global level it was noted that there are important conventions, namely the **UN CONVENTION ON THE RIGHTS OF THE CHILD (CRC)** and the **UN CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)**, and other initiatives such as the **SECRETARY GENERAL’S UNITE CAMPAIGN**, the **ONE BILLION RISING CAMPAIGN**, UNESCO and UN-HABITAT’s work around the right to the city, and **PLAN’S 8 POINT ACTION PLAN ON GIRLS’ RIGHT TO THE CITY**, that reinforce the importance of working to build safe and inclusive cities with and for adolescent girls. As part of the Stakeholder, Programme and Policy Mapping tool, cities identified national policies, programmes and plans with objectives that are aligned to the efforts of the BIAAG Urban Programme, such as **PERU’S NATIONAL PLAN FACING VIOLENCE AGAINST WOMEN (2009-2015)** that aims to eradicate violence against women and girls, including sexual harassment. Similar pieces of legislation, action plans and programmes were identified at the local level.

It is important to note that the BIAAG Urban Programme is happening at a time where there is unprecedented attention and mobilisation around issues of gender based violence. This is particularly true for two of the BIAAG Urban Programme cities - Cairo and Delhi. In Cairo, both during and after the revolution, international attention has turned to the phenomenon of sexual harassment. Even though a 2008 study revealed that 83% of Egyptian Women and 98% of foreign women experienced sexual harassment in Egypt,²⁷ it is only since the 2011 revolution that such problems have been widely acknowledged. A number of grassroots initiatives have since emerged to document the issue (e.g. **HARASSMAP**), vigilante groups trying to react or prevent it as it happens, or work on more subtle forms of consciousness-raising like graffiti campaigns. In Delhi, in the aftermath of a brutal sexual assault on a young woman in a bus in December 2012, people took to the streets in Delhi, in India and in cities around to world to demand an end to violence against women and girls. This has put great pressure on the government to show that they are taking the issue seriously.

What Does an Ideal City Look Like?

Girls and boys drew group maps illustrating their visions of an ideal city, which were strikingly similar cross the cities. Specifically, the commonly recurring elements included:

- **ACCESS TO EMERGENCY SERVICES:** hospitals, health centres and clinics, including provision of reproductive health services; security in the area, many police stations, female police officers;
- **ACCESS TO BASIC SERVICES:** public toilets, clean water made available through the installation of taps in public spaces and throughout the community, water tanks;
- **SPACES FOR PLAY AND LEISURE:** playground areas including flower gardens; small, clean parks with trees,
- **GRASS, BENCHES; CULTURAL SPACES;** libraries; movie theatres; gyms; bookstores; bakeries; swimming pools;
- **ROAD INFRASTRUCTURE:** traffic lights in residential areas, sidewalks for pedestrians (i.e. free of vendors and loiterers), wide roads, walkways, traffic lights, flyovers, zebra crossings and street crossing for differently-abled people;

27 The Egyptian Center for Women’s Rights. Clouds in Egypt’s Sky. Cairo: The Egyptian Center for Women’s Rights, 2008. Web. (p.17)

- **MARKETS AND SHOPPING AREAS:** with reasonable prices for poor people, big malls;
- **SCHOOLS:** a school system for all levels in their living areas;
- **TRANSIT ROUTES:** bus stations in their communities;
- **CLEANLINESS:** waste baskets at every corner of the street;
- **HOUSING:** organised with planned roads, proper lighting; and
- **RELIGIOUS INSTITUTIONS:** temples, mosques, churches.

Interestingly, the boys' maps showed that they placed greater emphasis on having places to go for leisure purposes. For example, boys' maps in Kampala, Hanoi and Lima included such things as clubs, malls, entertainment areas, football fields and arcades, largely absent from girls' maps. Girls' maps, on the other hand, focused a lot on infrastructure, ensuring, for example that hospitals, schools, markets, playgrounds and buses are easily accessible.

Looking Ahead

This assessment process has led to a set of recommendations on how to make cities more safe, inclusive, and accountable for adolescent girls and communities as a whole. Recommendations at the international level address how international systems and mechanisms can be strengthened to enhance girls' safety in urban spaces. At the local and national level, recommendations provide specific suggestions about how to enhance national and local systems according to the various priority issues identified by girls, namely safety in public spaces, independent movement, access to quality city services, and participation in urban development and governance. The following recommendations have been grouped according to the three outcomes of the BIAAG Urban programme. These outcomes will have an effect on all three levels of change necessary to make a real impact on girls' lives, notably amongst (i) governments and institutions, (ii) families and communities, and (iii) girls and boys themselves. Together, these recommendations will **INCREASE GOVERNMENT AND INSTITUTIONS' EFFECTIVENESS AND RESPONSIVENESS TO GIRLS' NEEDS, INCREASE THE COMMUNITY'S AWARENESS OF ISSUES OF GIRLS' SAFETY** and community mobilisation around the issue, and **IMPROVE THE LIVES OF ADOLESCENT GIRLS AND BOYS** to reclaim their **ACCESS TO A SAFE, CLEAN, WELCOMING CITY** and be empowered to make changes in their society.

Recommendations for Increasing Girls' Safety and Access to Public Spaces

The lack of available and reliable information on girls' experiences of safety and inclusion in urban environments has resulted in girls' needs being neglected in related policies, programmes, and in urban development plans, amongst other things. This has resulted in significant gender exclusion and lack of a sense of safety on the part of girls living in the cities. More research is needed to understand girls' experiences of safety and access to public spaces. It is thus recommended that:

- UN agencies, INGOs, and academic institutions are called upon to fund and undertake research to fully understand the scope of the issue and how to address it.
- Results from research on girls' safety and access to public spaces must be widely disseminated.
- Statistics are more comprehensively collected and disaggregated to fill existing gaps and better expose the situation of girls in cities.

The physical infrastructure plays an important role in shaping girls' sense of safety in public spaces. As such, it is recommended that:

- National and municipal governments invest adequate funding to make improvements to city infrastructure. In particular, emphasis must be placed on ensuring adequate provision of street lights in cities, since the study showed that this had a direct correlation with how safe girls' feel in public spaces.
- National and municipal governments address overcrowding in cities through planning and the creation of more open green spaces. In particular, governments must ensure that parks are well-lit, clean, safe, and more accessible for and inclusive of adolescent girls.
- Municipal governments, NGOs, communities, and adolescent girls themselves should ensure proper maintenance of particular areas, such as construction sites and community gardens.

National and municipal governments have an important role to play in ensuring that legislation as well as policies and strategies in their respective territories support the aforementioned global instruments. Girls pointed to the government as being a key actor to make strict rules, protect women and girls. It is therefore recommended that:

- Criminal justice and legal systems be strengthened to better support girls' safety.
- Research be undertaken to assess the effectiveness of existing policies, programmes and laws, with particular emphasis on ensuring that adolescent girls' needs in terms of safety are considered explicitly.
- Where appropriate, revisions to laws are introduced for these to be responsive to the particular safety needs of adolescent girls.

Partnerships and collaboration across sectors and across levels is necessary in order to effectively improve adolescent girls' safety in public spaces. It is thus recommended that:

- Key stakeholders, including government departments and community businesses, should be engaged to address girls' safety in public spaces.
- More partnerships with the private sector, including corporate social responsibility outreach programmes, should be developed.
- Coordination with different government bodies in each city should be formalised to develop girl-centred programmes and enforce policies to protect girls' safety in public spaces and in public transportation.
- Coordination with school management should be established to put child protection systems into place and enhance safety in and around schools.
- Coordination with various government departments, including security, environment, and health services should be established to improve girls' safety in public spaces.

In order for public spaces to be safe for adolescent girls, significant attitudinal and behavioural change is needed, in particular on the part of men and boys. It is essential that they be actively engaged in efforts to make cities safer for girls so that they become sensitised to the issues girls face and can embody the change. Girls participating in the study supported

this idea and noted that it was critical to engage men and boys in efforts to improve girls' safety in public spaces. It is thus recommended that:

- Boys' be sensitised at the school-level on gender issues.
- Men and boys should be involved in safe cities for girls programming.

Recommendations for Improving Girls' Access to Quality City Services, Including Emergency and Basic Services

The study revealed some important links between girls' sense of safety and inclusion and their ability to access quality city services. These services must be safe, affordable and accessible for girls to be able to benefit from them. Girls and stakeholders alike felt that the government should pay more attention to informal areas, particularly when it came to access to city services. Very little work has been done to understand the links between gender, safety and city services, particularly when it comes to adolescent girls. It is thus recommended that:

- Governments, INGOs, NGOs, and academic institutions undertake research to better understand how girls' access to quality city services, or lack thereof, affects their personal sense of safety.
- Participatory research should be undertaken to understand how city services can be changed to better respond to girls' needs.
- Gender responsive budgeting should be used by academics, INGOs, and NGOs as a tool to document government spending on city services, taking particular interest in understanding where funding is prioritised, and how funds are invested to respond specifically to the needs of adolescent girls in informal settlements.

The study shed light on the link between basic services, including water, sanitation, drainage and garbage collection, and girls' sense of safety and inclusion. Girls across the cities revealed the different ways in which they were negatively affected by the absence of quality basic services, which resulted in time poverty and increased vulnerability to harassment. It is thus recommended that:

- Governments build clean, free, safe, and accessible public toilets that respond to the particular needs of women and girls. They must also ensure that these facilities are well-lit and maintained.
- Municipal governments ensure regular and organised garbage collection in all areas of the city, including informal settlements.
- Governments ensure that all communities have regular and affordable access to clean water.

The study pointed to current gaps in terms of access to emergency services. Adolescent girls pointed out that their communities are located far from the police stations resulting in police taking too long to reach their neighbourhoods if called upon. Girls also highlighted distrust between the police and the members of the community, including girls. It is thus recommended that:

- Governments should promote community and problem-oriented policing, building trust between the police and communities, and therefore also with girls.
- Governments should improve the quality and increase the quantity of policing and security measures in all urban spaces, including peri-urban neighbourhoods and slum communities.

- Governments to ensure that residents in all communities, including informal settlements, have access to emergency services, including the police and health services.
- Governments and NGOs should provide funding and support to build the capacities of service providers to be responsive to adolescent girls' needs.
- Service providers, in particular police officers and government officials, receive training on gender issues. This training should enable emergency service personnel to respond quickly and be familiar with the needs of adolescent girls.
- More female police officers should be hired to work in cities and particularly in poor urban neighbourhoods.
- NGOs and local governments to establish better and more effective help lines for adolescent girls in need.
- NGOs introduce self-defence programmes for girls in local community centres.
- Municipal governments and NGOs ensure that girls can access psychological counselling services.

Recommendations for Increasing Girls' Active and Meaningful Participation in Urban Development and Governance

This study pointed to clear recognition that girl's participation in urban development and governance processes was essential for making cities safer and more inclusive for them, yet these mechanisms had so far been overlooked. Girls' meaningful participation requires ensuring that they are given the space to analyse problems and speak out on the issues that affect them – including expressing their concerns. In addition to being provided with such a space, it is imperative that girls be able to influence decisions thereby ensuring that their concerns and recommendations are listened to and taken seriously. It is thus recommended that:

- Governments of all levels, INGOs, UN agencies, and NGOs provide opportunities for adolescent girls to speak about their experiences and share concerns and include girls in decision-making processes at the municipal and national government levels, as well as municipal, national and international conferences.
- Governments are called upon to review their legal and policy frameworks around girls' safety and inclusion in the city, and to engage adolescent girls in reviewing these frameworks to ensure they consider and respond to their particular needs.
- INGOs and NGOs monitor governments, encouraging them to be transparent and promote good governance.
- NGOs participate in creating gender-integrated spaces for girls to participate in, including gender mixed youth activities, mixed youth leaders, sports for girls, etc., as well as girl-only space, as appropriate.
- NGOs continue to offer trainings and workshops on their rights and empowerment in order to build girls' capacity and confidence to participate.
- INGOs, NGOs and municipal governments support girl-led groups and organisations in order to enhance the sustainability of young people's actions, and strengthen the voices of young women and men as civil society leaders.

- Social accountability approaches should be undertaken to start to influence the attitudes of public officials and improve their acceptance of young people's right to access information, give feedback, and discuss public accountability.
- Local governments support the creation of girl councils that can give input to all policies, programmes, budget allocations, work plans etc. which may concern them directly

Recommendations for Increasing Girls' Autonomous Mobility in the City

A safe, affordable, accessible and reliable public transportation system is crucial to enabling girls' independent movement in the city. Buses, in particular, were seen by girls and stakeholders alike as being essential for adolescent girls. It is thus recommended that:

- The government transportation departments undertake efforts to make travel and commuting safe for adolescent girls and women.
- Public transportation systems be formalised, including having buses pick up and drop off passengers at authorised stops.
- Private providers of transport services should be regulated.
- Both formal and private transportation providers should have monitoring and policing systems put in place to enhance security and mitigate inebriated drivers.
- Remove clear obstacles to mobility in order to enhance security (e.g. avoid having bus stops next to liquor shops).
- Governments and/or NGOs conduct gender-sensitive training for those involved in public transportation services.

Girls and stakeholders alike recognised that attitudinal and behavioural change on the part of community members was also needed to ensure girls' safe and autonomous mobility through the city. It is recommended that:

- NGOs lead awareness-raising sessions with men and adolescent boys on safety issues for adolescent girls.
- Public education strategies should be put in place to raise awareness of the prevalence of sexual harassment in urban public transportation, highlighting that this is an issue of concern for everybody, not just girls and women.
- Campaigns should be launched to encourage bystander interventions if one witnesses any form of harassment.
- In cities where it is not deemed appropriate for girls to be alone in public spaces, resulting in a complete lack of independent movement, information campaigns could be developed to promote girls' freedom to move through the city unaccompanied.
- Media should be utilised as an important and effective means to ensure that messaging reaches the public.

Concluding Thoughts

The use of innovative and participatory research methodology to gain information about adolescent girls' safety and inclusion in five cities – Cairo, Delhi, Hanoi, Kampala and Lima – has provided an important snapshot of the current situation of girls in urban environments. These tools provided girls with a space to speak out on the issues they are facing and to offer their own creative ideas for making improvements to their cities and

communities. For many, this was the first time that they had been asked to share their experiences and ideas.

The findings from the study clearly show that there is a need for initiatives such as the Because I am a Girl: Urban Programme in cities around the world today. Adolescent girls are too often ignored or underrepresented in current policies and programming and are most excluded from urban development and governance processes. Their voices, now sidelined and silenced, must be brought forth and listened to in order to build cities that are inclusive of girls, that respond to their needs and priorities and where they feel safe to move freely. The BIAAG Urban Programme is working to incite this important shift in the five diverse cities. This innovative initiative is a globally united, locally implemented programme that brings together several partners to achieve a common goal – putting adolescent girls at the centre of transforming cities to become places of inclusion, tolerance, and opportunity for everyone. By bringing city officials and adolescent girls together there is a real opportunity to create sustainable economic and social change within these societies that will benefit all citizens.

The complete report *Adolescent Girls' Views on Safety in Cities: Findings from the Because I am a Girl: Urban Programme* is available on:

www.plan-international.org/girls/reports-and-publications.

To watch 'Safer Cities: A Girl's Eye View of Living in the City', please visit:

<http://www.youtube.com/watch?v=667O4peOzco&list=UUVLkqTvsRpm46RDmM4SYf6Q&index=2>

http://www.youtube.com/watch?v=_jgm7H64H6Q&list=UUVLkqTvsRpm46RDmM4SYf6Q&index=1

Please contact Alana Livesey for more details: Alana.Livesey@plan-international.org

The **AUTHORS** of the paper are: **KATHRYN TRAVERS** (WICI), **MAYA RANGANATH** (WICI), and **ALANA LIVESEY** (Plan International).

The **EDITORS** of the paper are: **JACQUELINE GALLINETTI** (Plan International) and **LUCY GREGG** (Plan International). The report team also includes: **CECILIA ANDERSSON** (UN-HABITAT), **SARAH HENDRIKS** (Plan International), and **ALEX MUNIVE** (Plan International).

The data used in this report was taken from the reports developed by the five Plan Country Offices involved in this programme. A special thank you to these country offices and their research teams:

Plan Egypt: Nashwa Habib, Caitlin O'Dowd, Nivine Ramses, Nancy Saroufeem, Manal Kamal

Plan India: Vijay Rai, Lilly Vishwanathan, Kalpana Viswanath, and Yllaylee Das

Plan Vietnam: Lan Le Quynh and Hanoi Program Unit Team

Plan Uganda: Margaret Akello, Doris Akello, Susan Nalumansi, and Jennifer Namusoke Nakalembe

Plan Peru: William Campbell, Victor Garcia, Maria Espinoza, Esperanza Rivera, Andy Chimaja and Ursula Garcia-Belaunde

Lastly, a special thank you to the over 1400 girls, boys and various key stakeholders who generously gave their time to take part in this study.

United Nations

A/HRC/24/L.34/Rev.1



General Assembly

Distr.: Limited

25 September 2013

Original: English

Human Rights Council

Twenty-fourth session

Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Albania^{*28}, Angola, Argentina, Armenia*, Australia*, Austria, Belgium*, Benin, Bolivia (Plurinational State of)*, Bulgaria*, Canada*, Chad*, Chile, Costa Rica, Côte d'Ivoire, Croatia*, Cyprus*, Czech Republic, Denmark*, Djibouti*, Ecuador, Egypt*, Equatorial Guinea*, Estonia, Ethiopia, Finland*, Georgia*, Germany, Greece*, Guatemala, Honduras*, Hungary*, Iceland*, Ireland, Italy, Jordan*, Kyrgyzstan*, Latvia*, Liechtenstein*, Luxembourg*, Maldives, Malta*, Montenegro, Morocco*, Netherlands*, Norway*, Panama*, Paraguay*, Peru, Poland, Portugal*, Romania, Rwanda*, Sierra Leone, Singapore*, Slovakia*, Slovenia*, Somalia*, South Sudan*, Spain, State of Palestine*, Sweden*, Switzerland, Tajikistan*, Thailand, Tunisia*, Turkey*, United Kingdom of Great Britain and Northern Ireland*, United States of America, Uruguay*, Yemen*: draft resolution

24/... Strengthening efforts to prevent and eliminate child, early and forced marriage: challenges, achievements, best practices and implementation gaps

The Human Rights Council,

Guided by the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as other relevant human rights instruments, including the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery,

Reaffirming the Vienna Declaration and Programme of Action, as well as the Programme of Action of the International Conference on Population and Development, the Beijing Declaration and Platform for Action and the outcome documents of their review conferences,

Recalling the commitment to the full and effective implementation of and follow-up to all relevant resolutions of the General Assembly and the Economic and Social Council and their subsidiary bodies,

Deeply concerned that the practice of child, early and forced marriage is widespread and occurs in all regions of the world, and recognizing that it constitutes a violation, abuse or impairment of human rights, that it prevents individuals from living their lives free from all forms of violence and that it has adverse consequences on the enjoyment of human rights, such as the right to education, the right to the highest attainable standard of health, including sexual and reproductive health,

Recalling State's human rights obligations and commitments to prevent and eliminate the practice of child, early and forced marriage, which disproportionately affects women and girls,

Deeply concerned by the impact of deep-rooted gender inequalities, norms and stereotypes, and harmful traditional practices, perceptions and customs that are obstacles to the full enjoyment of human rights, in particular of women and girls, and are among the primary causes of child, early and forced marriage,

Recognizing that child, early and forced marriage continues to be an impediment to not only the economic, legal, health and social status of women and girls but to the development of the community as a whole, and that the empowerment of and investment in women and girls, as well as their meaningful participation in decisions that affect them, is a key factor in

²⁸ * Non-member State of the Human Rights Council.

breaking the cycle of gender inequality and discrimination, violence and poverty and is critical for sustainable development and economic growth,

Recognizing also that the complex and challenging nature of child, early and forced marriage necessitates the collective efforts of Governments, lawmakers, judicial authorities, law enforcement officials, traditional and religious leaders, civil society, media, the private sector and other relevant stakeholders to address the root causes of this practice that exists in different economic, social and cultural settings,

Recognizing further that the persistence of child, early and forced marriage contributes to impairing the achievement of the Millennium Development Goals and sustainable and inclusive economic growth and social cohesion, and that therefore the elimination of child, early and force marriage should be considered in the discussion of the post-2015 development agenda,

1. *Decides* to convene, at its twenty-sixth session, a panel discussion on preventing and eliminating child, early and forced marriage, with a particular focus on challenges, achievements, best practices and implementation gaps, and requests the Office of the United Nations High Commissioner for Human Rights to liaise with States, relevant United Nations agencies, funds and programmes, relevant special procedures, civil society, including relevant children and youth organizations, and national human rights institutions, with a view to ensuring their participation and also requests the Office of the High Commissioner to prepare a summary report on the panel discussion;
2. *Requests* the Office of the High Commissioner to prepare a report, in consultation with States, United Nations agencies, funds and programmes, civil society and other relevant stakeholders, on preventing and eliminating child, early and forced marriage, with a particular focus on challenges, achievements, best practices and implementation gaps, to be submitted to the Human Rights Council prior to its twenty-sixth session, and to guide the panel discussion.

2.6. EXCERPTS FROM THE DRAFT LATIN-AMERICAN ACTION PROTOCOL FOR THE INVESTIGATION OF FEMICIDE

(Unofficial Translation from Spanish to English)

Translated Sections of the Action Protocol for the Investigation of Femicide:

1. Aim, Scope, Structure, Definitions (par.13-19)
2. Structure of Conditions for Femicide (par.20-22)
3. International Responsibility of States (par. 25-33)
4. Recommendations (par. 310-326)

Aim of the Protocol Model

12. **THE LATIN-AMERICAN PROTOCOL MODEL FOR THE INVESTIGATION OF THE VIOLENT DEATHS OF WOMEN** on grounds of their gender (femicide / feminicide) offers guidelines to ensure an efficient criminal investigation of the crime, in accordance with the international obligations agreed upon by countries.

13. The specific aims are to:

- Provide general orientation and guidelines to improve the current practice of judicial officers, forensic experts and specialized workers²⁹ in the investigation and prosecution of the violent death of women on grounds of their gender (discrimination or hate). The ultimate goal is the penalization of the perpetrator and the compensation to the victim.
- Promote Gender Mainstreaming in the activities of the institutions in charge of the investigation, punishment and compensation to the victims of femicide / feminicide (police, prosecution and judicial bodies).
- Offer practical tools to guarantee the rights of victims, survivors, and their families, as well as their participation in all stages of the trial process. These tools take into account witnesses, experts, organizations, complainants and other individuals involved in these trials.

Scope of the Protocol Model

14. The Protocol Model can be applied to the investigation of the violent death of women or of persons with a female gender identity, which are gender-motivated. Since gender relations are socially constructed, the distinguishing feature of femicide lies precisely in the influence of socio-cultural factors in which such crimes occur. Consequently, they must be interpreted in broader contexts than that of the individual³⁰, and the investigation of these crimes must consider both the deaths of female persons as well as of those having a female gender identity. Moreover, the present guidelines may also guide the investigations of other crimes related to extreme forms of violence against women or other persons with a female gender identity, specifically in cases where the acts of violence exhibit elements of superiority, discrimination or hatred on grounds of gender.

15. The Model Protocol can be applied to investigate the violent deaths of women or persons with a female gender identity, independently of whether national legislation has explicitly criminalized femicide / feminicide, has legally introduced circumstances of aggravation or has qualified the criminal offense to be legally of same type than homicide.

16. The directives of this protocol do not cover the particularities of the legal systems and procedures, the institutional policies, contexts or the specific resources of each country. Nor are they representative of the diverse social, economic and cultural conditions in which the crimes occur and are investigated in each region. Such diverse conditions are not easily comparable without resorting to a more simplistic interpretation. In the development of this document we have tried to synthesize the knowledge and practices of the criminal justice systems of the region. Thereby we have attempted to guide and facilitate the development of the research work and the prosecution in accordance with the possibilities and constraints that must be assumed locally by the teams investigating these crimes. The protocol and the guidelines are not intended to homogenize and standardize the investigation of these serious crimes. Thus the protocol should not be viewed as an absolute but rather flexible model that will adapt to the possibilities of the social environment, to the offenses faced, and to the institutional capacities of the judicial systems in question.

17. These guidelines should be interpreted and adapted according to the rules of international law, the legal developments and the legal frameworks in the countries of the region. The research teams can consequently take into consideration various circumstances and adapt or strengthen the appropriate measures to progressively implement the principles and lines of action in this text.

18. The application of the Protocol Model shall be the responsibility of the authorities and professionals that investigate and prosecute behaviours that violate the rights of women. The monitoring and evaluation of its applicability shall serve to review and modify the Protocol Model in conformity with relevant scientific, legal and juridical developments of each country.

Structure of the Protocol

22. The protocol is structured as follows: Chapter I treats the definitions of femicide / feminicide with an emphasis on its structural conditions, as well as on the different types and criminal offences that exist. In Chapter II we analyse the international standard of due diligence in countries, applied to the violent death of women. Chapter III identifies first recommendations for the criminal investigation of femicides / feminicides. The focus thereby lies on the need to incorporate gender analysis in the investigation, on the different forms of violence that women suffer from and the advantages of conducting an analysis of multi-sectoral discrimination. In Chapter IV we offer recommendations and guidelines for the design of a methodological plan or program for the investigation of these crimes. Chapter V focuses on the forensic performance and the criminal analysis (of the facts and circumstances, as well as on the situation of the perpetrator and the victim prior to the attack). This shall provide the necessary elements and references for the Public Prosecutor to identify the distinctive context of a femicide / feminicide. In Chapter VI we provide elements to consolidate the hypotheses and lines of investigation in the theory of the prosecution case. Chapter VII offers recommendations to ensure the rights of the indirect victims, family members and witnesses during the judgment of

29 The mechanism to follow up on the implementation of Belém do Pará Convention states that specialized officer refers to those who administer justice, experts and forensic physicians who gather evidence of violence and perform psychological tests on the victims. MESECVI (2012). "Second Hemispheric Report on the Implementation of the Belém do Pará Convention", p. 62.

30 Ministry of Security of the Argentine Republic, (2013). *Guía de actuación para las fuerzas policiales y de seguridad para la investigación de femicidios en el lugar del hallazgo*. Resolución 428/2013, p. 11 et seq.

the femicides / feminicides. Finally, in Chapter VIII of this model one can find some recommendations for the appropriation of this instrument and its effective implementation.

23. References of protocols, guidelines and manuals that were consulted in the development of this model, as well as some human rights reports that may be of interest to the readers, are included. Two important annexes have been added as well. Annex 1 is a synthetic analysis of the typification of violent deaths of women on grounds of their gender in Latin America, including normative texts. Annex 2 provides a semi-structured interview model aimed to learn more about the situation before the femicide, and the possible presence of gender-based violence from the victim's environment. The same semi-structured interview pattern is reproduced in Annex 3, but this time aiming to find out about the possible presence of gender-based violence in the relationship from the perpetrator and his environment. Finally, Annex 4 provides a semi-structured interview model to interview the offender and any witnesses, and to identify some of the most significant elements of the femicide / feminicide.

CHAPTER I. DEFINITIONS OF FEMICIDE / FEMINICIDE

Definitions of femicide / feminicide

24. There is no uniform or standardized definition of the concept of femicide / feminicide. Its scope, content and implications are still widely debated in the social sciences, as well as in politics and national legislative processes. Their connotations vary according to the approaches employed and the disciplines that address the issue.

25. **Femicide.** It is commonly accepted that the process of conceptualisation of the violent death of women on grounds of their gender gained importance in the 1970s, when Diana Russell coined the term "femicide"³¹. The ambition behind this was to present an alternative for the neutral term homicide, in order to politically recognize and visualize the systematic discrimination, oppression, inequality and violence against women, which in its most extreme form culminates in their death³². According to the definition of Russell, femicide applies to all forms of gender-based murder, that is, "murders carried out by men motivated by a sense of entitlement to the murder or superiority to women, pleasure or sadistic desires, or by the assumption of ownership of women"³³.

26. The definition has changed with the transformation of the phenomenon itself and through the discussion of large groups of activists and academics. In Latin America, the term femicide has been defined in different ways as: a) "the misogynist murder of women by men"³⁴, b) "the mass murder of women by men on

accounts of their superiority as a group"³⁵, and c) "the extreme form of gender-based violence, defined as violence by men against women driven by their desire for power, dominance and control"³⁶. These definitions call attention to the existence of broader patriarchal systems of women's oppression³⁷.

27. **Feminicide.** In further development of the concept above, the Mexican researcher Marcela Lagarde coined the term "feminicide". Feminicide was thereby defined as the act of killing a woman solely on the ground of her belonging to the female sex. But Lagarde also added to this concept a political element, by denouncing the lack of response by the State and the failure to fulfil its international obligations to investigate and to punish the perpetrators in cases of feminicide. It is therefore that Lagarde considers feminicide to be a State crime, a "violation of the rule of law which reinforces impunity"³⁸. The concept comprises thus the crimes and the disappearances of girls and women, where the response of the authorities is omission, silence or inactivity.

28. Meanwhile, Julia Monarréz believes that "feminicide" comprises a series of violent acts ranging from emotional and psychological abuse, beatings, insults, torture, violence, prostitution, sexual harassment, child abuse, infanticide of girls, genital mutilation, domestic violence, and any policy that results in the death of women which is tolerated by the State³⁹.

29. As can be observed, these definitions encompass broadly all forms of violence against women and in a more strict sense, the violent deaths of women on grounds of their gender which remain unpunished⁴⁰ due to the failure of the state authorities to prevent and eradicate these crimes.

30. Despite these differences in content, regulatory frameworks in the region use the terms "**femicide**" and "**feminicide**" interchangeably, which differentiate the phenomenon from the gender-neutral concept of homicide⁴¹.

31 Diana Russell used the term publicly for the first time in a presentation before an organization called "International Tribunal on Crimes Against Women", in Brussels, in 1976. Russell, Diana E. H.; Van de Ven, Nicole (1982). *Crimes against Women: The Proceedings of the International Tribunal*, San Francisco, California, Frog in the Well.

32 In 1992, Diana Russell and Jill Radford defined it as "the misogynist killing of women by men." They state that those violent acts leading to the killing or death of women are femicides. Radford, Jill; y Russell, Diana E. H. (1992), (eds.), *Femicide: The Politics of Woman Killing*. New York: Twayne.

33 Russell D. E., (2006). Definición de feminicidio y conceptos relacionados. In D. E. Russell, & R. A. Harmes (eds.), *Feminicidio: una perspectiva global*. México: Ed. CEICH-UNAM. p. 77 - 78.

34 Monarrez Fragoso, Julia, quoted at the Central American Council of Human Rights Ombudsmen (2006). "Situation and Analysis of Femicide in the Central American Region." San José, Technical Secretariat of the Inter-American Institute of Human Rights, p. 33.

35 Monarrez Fragoso, Julia, quoted at the Central American Council of Human Rights Ombudsmen (2006), p. 33.

36 Carcedo, Ana; Sagot, Monserrat. (2000). *Femicide in Costa Rica. 1990-1999*. Pan American Health Organization. San José.

37 Manjoo, R. (2013). La acción interna e internacional frente a las distintas formas de violencia contra la mujer, sus causas y consecuencias. In F. M. Mariño (Ed.), *Feminicidio: el fin de la impunidad*. Madrid: Tirant lo Blanch, Universidad Carlos III de Madrid. p.15 ; Toledo Vásquez, (2009). *Feminicidio*. Mexico: United Nations Office of the High Commissioner for Human Rights. p. 25 et seq.

38 Lagarde y de los Rios, (2006). Introducción. In D. E. Russell, & R. A. Harmes (eds.), *Feminicidio: una perspectiva global*. México: Ed. CEICH-UNAM, p. 20.

39 Monárrez Fragoso, (2005). "Feminicidio Sexual Serial en Ciudad Juarez: 1993-2001". *Human Rights*. Newsletter of the Human Rights Commission of the State of Mexico. 12 (73), p. 43.

40 Morales, Trujillo, Hilda, "Femicide in Guatemala". In Fregoso, Rosa-Linda, (2009). *Terrorizing Women: Femicide in the Latin Americas. Essay on Femicide in Latin America*. Duke University Press: United States. p. 182.

41 In the workshop of the Latin American and Caribbean Feminist Network against Violence towards Women, which took place in Santiago de Chile in July, 2006, the content of both terms were discussed, and it was concluded that both concepts refer to the same crime. As regards the use of both concepts as synonyms, see: Chiarotti, (2011). *Contribuciones al debate sobre la tipificación penal del feminicidio/femicidio*. Lima: Monitoring Programme from the Committee of Latin America and the Caribbean for the Defense of Women's Rights, p. 74; Toledo Vásquez, (2009); Russell D. E. (2013) in the Academic Council on the United Nations System (ACUNS) Vienna Liaison Office. *Femicide: A Global Issue that Demands Action*. p. 19-20; Pola Z, (2009). "Feminicidio en República Dominicana". In *Fortaleciendo la comprensión del feminicidio. De la investigación a la acción*. Washington: Program for Appropriate Technology in Health (PATH), p. 74.

31. For the purposes of this Protocol Model, femicide / feminicide has been defined as:

The violent death of women or persons with a female gender identity on grounds of their gender; whether it takes place within the family, the household, in any other interpersonal relationship or in the community; whether it is committed by an individual, or committed or tolerated by the State and its representatives, through action or omission⁴².

Structural conditions of femicides/feminicides

32. Regardless of the terminology employed, situations of violence against women have common characteristics: they are based on “a culture of gender-based violence and discrimination”⁴³, and “are rooted in concepts of inferiority and subordination of women”⁴⁴. They are not “isolated, sporadic or episodic cases of violence, but a structural situation and a social and cultural phenomenon rooted in the customs and mindsets”⁴⁵.

33. The establishment and use of gender stereotypes have become one of the causes and consequences of violence against women. These stereotypes refer to a “preconceptions of properties, of characteristics or of roles that are or should be assumed by men and women respectively”⁴⁶. As noted by the **INTER-AMERICAN COURT OF HUMAN RIGHTS** (hereinafter the IACHR) the subordination of women through practices that are based on socially dominant and persistent gender stereotypes is aggravated when these stereotypes are reflected, implicitly or explicitly, in the policies and practices of State authorities⁴⁷.

34. According to the **SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND CONSEQUENCES** (hereinafter Special Rapporteur), the economic situation in countries where femicide/feminicide occurs with a greater intensity reveals

42 Committee of Experts' Declaration on Femicide (MESECVI/CEVI/DEC. 1/08), 15 August, 2008, point 2. The Mechanism to Follow Up on the Implementation of the Convention on the Prevention, Punishment and Eradication of Violence against Women, MESECVI, is a systematic and permanent multi-lateral evaluation methodology, based on a forum for technical cooperation and exchange between the States Party to the Convention and Committee of Experts, that analyzes the impact of the Convention in the region, the achievements in preventing, punishing and eradicating violence against women and the obstacles that remain to the implementation of public policy in these areas.

43 *Gonzalez et al. ("Cotton Field") v. Mexico*, p.133: The Inter-American Commission of Human Rights (2003). “The situation of the rights of women in Ciudad Juárez, México: the right to be free from violence and discrimination”. OEA/Ser.L/V/II.117 Doc. 44 ,7; UN Committee for the Elimination of All Forms of Discrimination against Women, (2005). “Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico” UN Doc CEDAW/C/2005/OP.8/MEXICO, Folio 1957

44 The Inter-American Commission of Human Rights, (2002). “The situation of the rights of women in Ciudad Juárez, México: the right to be free from violence and discrimination”. Folio 1766 (Letter from the Secretary of the State of Chihuahua to the Special Rapporteur on the 11th February 2002)

45 UN CEDAW, (2005). “Report on Mexico”. Ibid. Folio 1957

46 Inter-American Court of Human Rights. (16 Nov. 2009). *Gonzalez et al. ("Cotton Field") v. Mexico*. (ser. C) No. 205 102, p. 401; Saavedra Alessandri, (2013). “Una breve revision de los estandares y lad reparaciones con perspectiva de genero en la jurisprudencia de la Corte Interamericana de Derecho Humanos”. In F.M. Marino (eds.), *Feminicidio: el fin de la impunidad*. Madrid: Tirant lo Blanch, Universidad Carlos III de Madrid. p. 363; Ginés Santidrián, (2012). “Derechos humanos, mujer y frontera: el feminicidio de Ciudad Juárez ante la Corte Interamericana de Derechos Humanos”, p. 144.

47 Ibid.

a “persistent macho culture where institutionalized gender inequality underpins gender discrimination, legitimises women subordination and patriarchal notions hindering their access to justice”⁴⁸.

35. In addition, feminicides reflect a culture of hatred and discrimination towards women and a failure of the criminal justice system to prosecute and punish the perpetrators of the crimes⁴⁹.

Types of femicides/feminicide: Active or direct and passive or indirect

36. The Special Rapporteur gathering international experience, classifies violent deaths of women for gender reasons in two categories: (i) active or direct (ii) passive or indirect.

37. Active or direct category includes:

- Deaths of women and girls as a result of domestic violence, exercised by the partner in the context of intimate relationships or cohabitation;
- The misogynist murdering of women;
- “Honour” killings of women and girls;
- Killings of women and girls in armed conflict situations;
- Deaths of women and girls due to dowry;
- Deaths of women related to gender identity and sexual orientation;
- Female infanticide and gender-based selection (feticide);
- And deaths of women and girls related to their ethnic origin and indigenous identity.

38. Passive or indirect category includes:

- Deaths due to unsafe and clandestine abortions;
- Maternal mortality;
- Deaths due to traditional harmful practices (for example through female genital mutilation);
- Deaths linked to human trafficking, drug trafficking, proliferation of small arms, organised crime and activities of criminal gangs;
- The deaths of girls and women due to negligence – deprivation of food and abuse;
- Deliberate acts and omissions for public officers and state civil servants.

39. These lists are not exhaustive. Other forms of violent deaths of women can also be gender-motivated.

Types of crime

40. From the Latin American experience, various types of crimes of violent deaths of women for gender-related reasons have been identified. The following potential categories and explanations for the types of femicide/feminicide are presented:

- **Intimate**. The death of a woman committed by a man with whom the victim had or used to have an intimate relationship: husband, former husband, partner, boyfriend, former boyfriend or lover, father of their child. This includes the alleged friend that murders a woman - friend or acquaintance – that rejected an intimate (emotional or sexual) relationship with him.

48 Manjoo, (2013), p. 15

49 Manjoo, (2013), p. 15

- **Non-intimate.** The death of a woman committed by an unknown man with whom the victim did not have any kind of relationship: sexual assault leading to murder of a woman by a stranger. This also includes the case of a neighbour who murders his female neighbour without them having any kind of relationship.
- **Infant.** The death of a girl below the age of 14 years committed by a man being in a position of responsibility, trust or power granted by his authority as an adult over the under-aged girl.
- **Family.** The death of a woman in the context of a relationship related by blood between the victim and the aggressor. This relationship can be related by blood, marriage or adoption.
- **Collateral victims.** The death of a woman by a man who attempts murder or murders another woman in the same scenario, such as a friend, relative of the victim, mother, daughter or other; or an unknown woman being present when in the same scenario where the aggressor attacked the victim.
- **Sexually motivated.** The death of women, who are abducted, tortured and raped. Their half-naked or naked bodies are disposed in remote and deserted places, such as uninhabited areas, vacant land, drainage areas, garbage dumps.

The active subjects contribute to unequal gender relations and further discriminate between the genders according to: otherness, difference and inequality. At the same time the state supported by hegemonic groups reinforces patriarchal dominance and subjects the relatives of the victims and all women to a permanent insecure state, through a continuous and unlimited period of impunity and hindering of sanctioning of the perpetrator and granting justice to the victims.

CHAPTER II. INTERNATIONAL STANDARDS OF DUE DILIGENCE IN CASES OF FEMICIDE

Gender-based violence and the international legal obligations of States

41. International human rights law has developed a set of international norms, standards and principles aimed to achieve the full realization of women's human rights around the globe. The evolution of these rights has been substantial. What started as a single limited objective of formally recognizing gender equality has now expanded to the acknowledgement of any form structural discrimination and inequality towards women in all fields. This acknowledgement has allowed the international community to make a full review of the forms in which these rights are recognized, protected and applied.⁵⁰

42. Several international binding and non-binding instruments addressing violence against women have been the basis for the development of an extensive international case law. Two of these instruments are of particular interest:

- At the universal level, the **DECLARATION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN** adopted in 1993 by the United Nations General Assembly.⁵¹
- At the regional level, the **INTER-AMERICAN CONVENTION ON THE PREVENTION, PUNISHMENT AND ERADICATION OF**

VIOLENCE AGAINST WOMEN (Convention Belém do Pará)⁵², a legally binding document ratified by its Member States.

43. Both instruments condemn all forms of violence against women perpetrated within family or households, communities, or in any other interpersonal relation that has been tolerated by the States of its agents, wherever it may occur.

44. At the international level, it has been recognized that "violence against women and girls is rooted in historical and structural inequality in power relations between men and women."⁵³ Gender-based violence is considered by international organizations as a form of discrimination that violates and significantly impairs or nullifies the enjoyment of women's' and girls' human rights and fundamental freedoms. It is also estimated that "violence against women and girls is characterized by the use and abuse of power and control in public and private spheres, and is intrinsically linked with gender stereotypes that underlie and perpetuate such violence, as well as other factors that can increase women's and girls' vulnerability to such violence"⁵⁴.

45. As we have seen, violent deaths of women motivated by the mere fact of being female, constitutes an extreme form of violence against women, as well as a violation of several human rights.

46. States have an international obligation to establish and implement a series of measures to prevent, investigate, punish and redress violence against women, including femicide. Article 7 of the Convention Belém do Pará, obliges States to:

- a) Refrain from engaging in any act or practice of violence against women and to ensure that their authorities, officials, personnel, agents, and institutions act in conformity with this obligation.
- b) Apply due diligence to prevent, investigate and impose penalties for violence against women.
- c) Include in their domestic legislation penal, civil, administrative and any other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures where necessary.
- d) 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.
- e) Take all appropriate measures, including legislative measures, to amend or repeal existing laws and regulations or to modify legal or customary practices which sustain the persistence and tolerance of violence against women.
- f) Establish fair and effective legal procedures for women who have been subjected to violence which include, among others, protective measures, a timely hearing and effective access to such procedures.
- g) Establish the necessary legal and administrative mechanisms to ensure that women subjected to violence have effective access to restitution, damages or other just and effective means of compensation.

⁵² Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, (1994).

⁵³ Commission on the Status of Women, (2013). Report on the fifty-seventh session (4-15 March 2013). "Agreed conclusions on the elimination and prevention of all forms of violence against women and girls", paragraph 10. Economic and Social Council, Official Documents (2013), Supplement No. 7, New York.

⁵⁴ Commission on the Status of Women (2013).

⁵⁰ Toledo Vásquez, (2009).

⁵¹ Declaration on the Elimination of Violence against Women, Resolution of the United Nations General Assembly 48/104 of 20 December, 1993, A/RES/48/104. (23 February, 1994). Even though this Declaration was not adopted as a binding document, its standards and principles have become sources of customary international law.

Due diligence of international standards applied to violence against women

47. International standards⁵⁵ on due diligence have been used by different international bodies to assess whether a State has complied with its general obligations towards the guarantee of rights in cases where human rights, such as the right to life, personal integrity or personal freedom have been violated, particularly when these are the result of individuals: “An illegal act which violates human rights and which is initially not directly imputable to a State (for example, because it is the act of a private person or because the person responsible has not been identified) can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the Convention.”⁵⁶

48. On violence against women, since 1992, the CEDAW Committee established 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.”⁵⁷ The due diligence standard was later included in the Declaration on the Elimination of Violence against Women and the Convention of Belém do Pará (previously mentioned article 7). Based on international practice, “it can be concluded that there is a rule of customary international law that obliges States to prevent and respond to acts of violence against women with due diligence”⁵⁸.

49. **The obligation to prevent** is reflected in the States’ legal system as it recognizes and ensures the observance of women’s rights, as well as the guarantee of the effective protection of these rights. It encompasses “all those measures of a legal, political, administrative and cultural nature that ensure the safeguard of human rights, and that any possible violation of these rights is considered and treated as an unlawful act, which, as such, may result in the punishment of the person who commits it, as well as the obligation to compensate the victims for harmful consequences”⁵⁹.

50. The obligation to prevent is not limited to the adoption of a legal framework; it also entails the obligation of “strengthening the institutional capacities of criminal courts (...) in order to eradicate patterns of impunity in cases related to violence against women, (...) through effective criminal investigations that have appropriate judicial monitoring, ensuring adequate punishment and compensation”⁶⁰.

51. When applying the Convention of Belém do Pará, the Inter-American Court of Human Rights established the concept of “**judicial protection**”⁶¹, which in regards to violence against women, considers the structural state of subordination, discrimination and violence faced by women in the continent. This obligation must be reinforced and based on the doctrine of predictable and avoidable risks, established by the European System of Human Rights. According to this system, the international responsibility of the State is a condition “by the knowledge of a real and immediate risk for an individual or group of individuals, and the reasonable possibility of avoiding that risk”⁶².

52. With regards to the **duty of investigation**, the Inter-American Court of Human Rights recalled that “judicial investigations allow clarifying State responsibility, constituting a necessary step for the recognition of actual facts by the victims’ families and society, as well as the punishment for those responsible and the establishment of adequate measures to prevent the recurrence of human rights violations”⁶³. This obligation applies even if the facts are ultimately attributable to it: “thus, if facts are not seriously investigated, it would be considered to some extent as an act or omission of public authorities”⁶⁴. The obligation to investigate then is particularly relevant to ensure adequate State response to violence and has “a wider scope when dealing with the case of a woman who is killed or, ill-treated or, whose personal liberty is affected within the framework of a general context of violence against women”⁶⁵. In the “Cotton Field” case, the Inter-American Court of Human Rights recommended that “the investigations and judicial proceedings should be conducted promptly in order to avoid a repetition of the same or similar acts”⁶⁶.

53. The Declaration on the Elimination of Violence against Women and the Convention Belém do Pará established the obligation of States to ensure that women victims of violence would have **access to justice mechanisms and a fair and effective redress for the damage caused**. In the judgment of González and others (“Cotton Field”) v. the United Mexican States, the Inter-American Court of Human Rights ordered Mexico to repair victims through a series of measures, including material compensation, symbolic redress and a comprehensive set of guarantees of non-repetition. The Court also recognized that compensation must be oriented to transform and stop structural discrimination. The Court clearly stated the applicable criteria for repairs related to harassment, saying that repairs i) must address proportionally tangible and intangible damages, ii) must not violate the principle of non-discrimination and iii) should aim to “identify and eliminate the root causes of discrimination; and v) must be adopted from a gender perspective.

55 International standards can be seen as a kind of “measuring instrument” through which international organizations evaluate whether states are complying or not with its international obligations.

56 Inter-American Court of Human Rights. Case of Velásquez Rodríguez v. Honduras. (29 July, 1988). C Series, No. 4, paragraph 172.

57 CEDAW, (1992). General Recommendation No. 19. Violence against Women. 11th Session, UN Doc. HRI/GEN/1 Rev.1. paragraph 9. Special Rapporteur on Violence against Women, its causes and consequences, declared that this obligation also includes the protection of women against all forms of violence and the obligation to provide redress and repairs to the victims of violence against women. (Report of the Special Rapporteur on Violence against Women, August 2011. A/66/215).

58 Special Rapporteur on Violence against Women, its causes and consequences. (2006). “Integration of the Human Rights of Women and the Gender Perspective: Violence against Women. The Due Diligence Standard as a Tool for the Elimination of Violence against Women.” E/CN.4/2006/61. Paragraph 29.

59 Inter-American Court of Human Rights, Case González and others (“Cotton Field”) v. the United Mexican States. Paragraph 252.

60 Inter-American Court of Human Rights, Case González and others (“Cotton Field”) v. the United Mexican States. Paragraph 252.

61 Abramovich, V. (2010). “Responsabilidad estatal por violencia de género: comentarios sobre el caso “Campo Algodonero” en la Corte Interamericana de Derechos Humanos”. Anuario de Derechos Humanos. No 6. Santiago de Chile: Centro de Derechos Humanos, p. 168.

62 Abramovich, V. (2010), p. 173, quoting the Inter-American Court of Human Rights, Case of the Pueblo Bello Massacre. Judgement of 31 January, 2006. C Series, No. 140.

63 Inter-American Court of Human Rights, (2005). The Case of the Moiwana Community v. Suriname. Preliminary Objections, Merits, Reparations and Costs of 15 July, 2005. C Series. No. 124. § 153.

64 Inter-American Court of Human Rights, (2006). The Case of the Pueblo Bello Massacre v. Colombia. . Preliminary Objections, Merits, Reparations and Costs of 31 January, 2006. C Series, No. 140. § 111.

65 Inter-American Court of Human Rights, (2009). The Case González and others (“Cotton Field”) v. the United Mexican States. Preliminary Objections, Merits, Reparations and Costs of 16 November, 2009. § 293.

66 Inter-American Court of Human Rights, (2009). The Case González and others (“Cotton Field”) v. the United Mexican States. Preliminary Objections, Merits, Reparations and Costs of 16 November, 2009. § 455.

Applicable international standards to evaluate adequacy of criminal investigations

54. Several international bodies have established standards for reviewing the adequacy of criminal investigations in accordance with international human rights law.⁶⁷

Existence of impartial and independent courts

55. Functional independence and material instances called to investigate, prosecute, punish and redress an offense. This is a necessary condition for ensuring an adequate investigation and prosecution in criminal matters. Impartiality should be part of every stage of the process, including the initial collection of evidence, *in situ* visits and the discovery of a death and the existence of sufficient evidence.⁶⁸ Investigations must be safeguarded from alterations of evidence from perpetrators such as agents, police officials, the military, the Prosecutor or General Attorney, as well as prison staff or other State agency.⁶⁹

Timing and officiousness of the investigation

56. Once there is awareness of a violent crime such as the killing of a woman, State authorities are obliged to start *ex officio* without delay, a serious, impartial and effective investigation by all legal means available and focused on the determination of the truth, and the pursuit, capture, prosecution and eventual punishment of the perpetrators, especially when State agents are involved.⁷⁰

57. This principle stressed the importance of collecting the basic elements of tests within a reasonable time and on their own initiative. Not starting an immediate investigation impedes research on essential acts such as the timely collection and preservation of evidence or eyewitnesses. The Inter-American Court of Human Rights has reiterated that “time has a direct relationship with the limitation (...) for testing and/or testimonials, making even more difficult the collection of evidence and testimonies aimed to clarify actual facts during the investigation.”⁷¹ Lack of opportunities during the investigations often leads to a clear and fair criminal prosecution.

The quality of the criminal investigation

59. The duty of conducting an exhaustive, effective, serious and impartial investigation of crimes has been reiterated by the Inter-American Court of Human Rights, stating that:

“The duty of conducting an investigation must have an objective and be assumed by the State as its own legal duty, not as a step taken by private interests that depend upon the initiative of the victim of his family or upon their offer of proof.”⁷²

60. The investigation must be comprehensive, this implies that it must exhaust all legal means available and focus on the

⁶⁷ Inter-American Court of Human Rights, (2013). The Case Carlos Antonio Luna López and others v. Honduras. Expertise of Michael Reed Hurtado. 30 January, 2013.

⁶⁸ Inter-American Court of Human Rights, (2007). The Case Cantoral Huamán y García Santa Cruz v. Perú. Preliminary Objections, Merits, Reparations and Costs of 10 July 2007. C Series No. 167, paragraph 133.

⁶⁹ Inter-American Court of Human Rights, (2003). The Case Myrna Chang v. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of 25 November, 2003. C Series. No. 101, paragraphs 173 and 174.

⁷⁰ Inter-American Court of Human Rights, Case González and others (“Cotton Field”) v. the United Mexican States. Paragraphs 40 and 41.

⁷¹ Inter-American Court of Human Rights, (2009). The Case Anzualdo Casto v. Perú. Judgment of 22 September, 2009. Paragraph 135.

⁷² Inter-American Court of Human Rights, The Case Anzualdo Casto v. Perú. Note 12, paragraph 123 and Case Castro Garibaldi v. Brazil, p. 252, paragraph 113.

determination of the truth, capture, prosecution and eventual punishment of those responsible. As recalled by the Minnesota Protocol, the investigation must include:

- a) To identify the victim
- b) To recover and preserve evidentiary material related to the death to aid in any potential prosecution of those responsible⁷³
- c) To identify possible witnesses and obtain statements from them concerning the death
- d) To determine the cause, manner, location and time of death, as well as any pattern or practice that may have brought about the death
- e) To distinguish between natural death, accidental death, suicide and homicide
- f) To identify and apprehend the person(s) involved in the death
- g) To bring the suspected perpetrator(s) before a competent court established by law

61. Any deficiency or flaw in the investigation affecting the clarification and effectiveness of the case, such as the cause of death or identification of the perpetrators or masterminds of a crime, constitutes a failure to comply with the procedural obligations to protect the right to life.⁷⁴ The Inter-American Court of Human Rights recognized the obligation to effectively investigate “as additional scope when it comes to a woman who suffers killing, abuse or when her personal freedom is affected within a general context of violence against women...(…) and, when an attack is motivated by race, it is particularly important that the investigation is carried out with vigor and impartiality, also taking into account the need to continually reiterate the condemnation of racism by society and to maintain the confidence of minorities in the authority’s ability to protect them from the threat of racial violence. This criterion is fully applicable when examining the scope of due diligence in the investigations related to gender-based violence”⁷⁵.

62. The European Court of Human Rights has reiterated that the investigations (i) should be made by independent and impartial individuals, (ii) have also established that it should be conducted in a transparent manner and with sufficient publicity with the aim of ensuring accountability and respect for the rule of law and to protect any kind of collusion and illegality.⁷⁶

63. Research should be conducted by competent professionals using the appropriate procedures⁷⁷ and effective resources. Supportive technical material and personnel are also required.⁷⁸

⁷³ Inter-American Court of Human Rights, (2008). The Case Heliodoro Portugal v. Panama. Preliminary Objections, Merits, Reparations and Costs. Judgment of 12 August, 2008. C Series No. 186, paragraph 247.

⁷⁴ Inter-American Court of Human Rights, (2003). The Case Humberto Sánchez v. Honduras. Preliminary Objections, Merits, Reparations and Costs. Judgment of 7 June, 2003. C Series. No. 99, paragraph 112. Case Valle Jaramillo and others v. Colombia, Note 49, paragraph 97 and Case Garibaldi v. Brazil, Note 252, paragraph 23.

⁷⁵ Inter-American Court of Human Rights, (2009). The Case González and others (“Cotton Field”) v. the United Mexican States. Paragraph 293.

⁷⁶ ECHR. The Case of Kolevi v. Bulgaria. Application No. 1108/02. Judgment of November 2009, par. 191-194. Quoted by the Inter-American Court of Human Rights, Case Carlos Antonio Luna López and others v. Honduras. Expertise by Michael Reed Hurtado. 30 January, 2013. p.10.

⁷⁷ Inter-American Court of Human Rights, (2006). The Case Ximenes Lopes v. Brazil. Judgment of 4 July, 2006. C Series, No. 164. Case Baldeón García v. Perú, Preliminary Objections, Merits, Reparations and Costs, Judgment of 6 April, 2006. Series C. No. 147, paragraph 96. Case of the Pueblo Bello Massacre v. Colombia. Preliminary Objections, Merits, Reparations and Costs. Judgment of 31 January, 2006. C Series No. 140, paragraph 177 and the Case of the Mapiripán Massacre v. Colombia. Preliminary Objections, Merits, Reparations and Costs. Judgment of 15 September, 2005. C Series, No. 134, paragraph 224.

⁷⁸ Minnesota Protocol, (1991). Introduction and Annex I, p. 11.

The obligation of investigating violence against women requires professional staff capable of identifying the different factors surrounding violence against women, in accordance with international bodies and treaties.⁷⁹

64. Finally, the Inter-American Court of Human Rights estimates that “certain investigation procedures, which fail certain systematic analyses or patterns in human rights violations, can generate inefficiency in the investigations.”⁸⁰

The effective testing and collection of information

65. The collection and effective protection of evidence must comply with fact-finding procedures, which is the main objective of the criminal investigation. The investigation must be proactive in order to identify or produce the means of conviction, and prevent evidence from getting lost irretrievably by the passage of time, or delay the uncovering of the truth, achieving justice or compensation. In this sense, the investigations of the Inter-American Court of Human Rights have established that “it cannot be regarded as mere private interest that depends upon the initiative of the victim or their families to provide evidence”⁸¹. The investigation should be based on relevant facts derived from the crime scene, the study of contextual elements or relationships with other criminal acts, and explore all leads to elucidate the motives of the act and the responsibility of different participants in the crime.⁸²

66. Loss of evidence (i.e. by alteration or destruction) or negligence (carelessness) generates presumptions of illegality and may result in State responsibility.⁸³

The effective participation of the victims and their representatives

67. The right to redress comprises equitable and effective access of the victim to justice and adequate, effective and prompt reparation for the harm suffered.

Chapter III (Paragraphs 72-123) deals with the penal investigation of femicide; The current challenges of criminal investigations of violent murders of women; How to identify femicide; What needs to be investigated; Contexts, scenarios, active subjects for violence of femicide; Why it is necessary to analyse the gender when investigating the deaths of women; A framework of interpretation: the ecological model; Manifestations of violence against women before or after femicide; Attention to the different economic, cultural and racial differences- relations to the analysis of femicide.

Chapter IV (Paragraph 124-155) looks at the design of the investigation; Institutional coordination; Plan and methodological research; The factual component; The judicial component; The evidence component; Lines of investigation.

Chapter V (Paragraphs 156-244) looks at the medical, forensic and criminal analysis of femicide; Signs of femicide in family relations; Signs and indicators of victims of femicide; History of the relationship and gender violence; Conduct and attitude followed by the perpetrator of femicide in a relationship; Items identified as risk factors; Signs and evidence of sexual violence; Autopsy findings; Crime scene evidence; Signs of previous situation of the woman; Signs related to the perpetrator; femicide in a group context; Integration of data.

Chapter VI (Paragraphs 245-251) deals with the penal investigations of femicide: the construction of the elements of the case.

Chapter VII (Paragraph 252-309) deals with indirect victims, and relatives in the investigation process; Public Ministry as guarantor of the rights of victims; Guiding principles for working with indirect victims and families in cases of femicide; Human dignity, vulnerability and respect for differences; Secondary victimization; Participation in obtaining information; Protection and compensation.

⁷⁹ See particularly the Declaration on the Elimination of Violence against Women, article 14 i) Inter-American Commission of Human Rights, Access of Justice for Women Victims of Violence in the Americas, OAS/Ser.L/V/II. Doc 68, paragraph 298 and ss.

⁸⁰ Inter-American Court of Human Rights. (2007). The Case González and others (“Cotton Field”) v. the United Mexican States. Paragraph 366, quoting the Case of de la Rochela Massacre v. Colombia. Preliminary Objections, Merits, Reparations and Costs. Judgment of 11 May, 2007. C Series No. 163, paragraphs 156, 158 and 164.

⁸¹ Inter-American Court of Human Rights. (2007). The Case Albán Cornejo and others v. Ecuador. Preliminary Objections, Merits, Reparations and Costs. Judgment of 22 November, 2007. C Series. No. 171, paragraph 62; and Case Zambrano Vélez and others v. Ecuador. Preliminary Objections, Merits, Reparations and Costs. Judgment of July 4, 2007. C Series No. 166. Paragraph 121.

⁸² Inter-American Court of Human Rights, (2013). The Case Carlos Antonio Luna López and others v. Honduras. Expertise by Michael Reed Hurtado. 30 January, 2013. p.10.

⁸³ Inter-American Court of Human Rights, (2013). The Case Carlos Antonio Luna López and others v. Honduras. Expertise by Michael Reed Hurtado. 30 January, 2013. p.10.

CHAPTER VIII. RECOMMENDATIONS FOR THE USE OF THE MODEL PROTOCOL

310. There is obligation to act with due diligence to ensure women's *de jure* and *de facto* rights to an effective judicial remedy, which means that States must take administrative and legal measures that promote the protection of women's human rights and eliminate impunity in cases of femicide/feminicide. It is necessary to create an appropriate environment and an effective and efficient judicial culture in order to clarify the facts, meet the requirements of the right to truth for indirect victims, relatives and society as a whole, as well as punish those responsible, and fully compensate victims, and finally, establish measures or guarantees of non-repetition of similar events.

311. The integration of this Model Protocol into the judicial practice of each of the States involves strengthening the research and the criminal prosecution structure in charge of solving femicide/feminicide cases. To that end, we are invited to consider the following recommendations.

312. Incorporation of the model in the context of criminal policies of the State. It is recommended that state and federal authorities responsible for preventing femicide/feminicide, explore how the appropriate mechanisms for the recommendations made throughout this model protocol can be incorporated into the plans, programs and projects of institutions in all the justice sectors, in order to enhance the prevention of gender violence and strengthen the criminal justice system to investigate, prosecute and punish femicide/feminicide.

313. Assignment of technical and financial resources. Through legislative and administrative decisions, prioritizing the assignment of public resources, both technical and human and financial, in order to ensure ownership of the recommendations made throughout this document, as well as its proper implementation, monitoring, evaluation and ongoing review.

314. Constant monitoring of the prevention and punishment policies. In coordination with the institutions responsible for the prevention policies of gender-motivated violence should establish monitoring and reviewing mechanisms for the implementation and impact of policies on investigating and prosecuting femicide/feminicide, through the elaboration of guidelines based on the principles announced in this document. Constant monitoring and dynamic policy implementation should allow for constant updating of the recommendations introduced in this model.

315. Training and education of public staff. Developing with the help of the training schools of the Public Ministry of Interior and Justice, together with the national human rights institutions and the ombudsman office as well as of the judicial body in each country, training, retraining and professional multidisciplinary programs aimed at officials involved in the duties of victim care-taking and counselling, police investigation, forensic and prosecution in order to promote the adoption of a gender perspective and women's rights throughout the entire process of care, research and prosecuting cases of violence, even if not identified as violence motivated by gender at the start of the process. For this reason, this integration of the contents of this model in the curricula of these schools training is recommended.

316. Methodologies of gender awareness. To design and implement awareness methodologies and to destroy discriminatory stereotypes and prejudices based on gender, taking into account an interdisciplinary and multiple

discrimination perspective. Similarly, the corpus juris of the rights of women and the analysis of the specific obligations that come from regulatory mandates in the legislative, administrative and judicial fields should be integrated in the training programs.

317. Access to justice for women. To ensure women the access to justice, it is recommended to establish broad public information programs in order to inform women who have been victims of violence(s), of the prevention mechanisms, the possibilities of state care, as well as the extent of their rights.

318. In the same way, measures directed to eliminate discriminatory practices, cultural or material barriers as well as messages that prevent and hinder the right of accessing justice for women and girls or teenagers should be implemented. This can be done by creating mentoring and psychosocial care programs for the families of femicide/feminicide; funds or budget lines can be established, with public resources, destined for free legal representation of indirect victims, and it can also increase the number of translators of indigenous languages that are available for prosecution research units of the violent deaths of women.

319. Finally a system of disciplinary or judicial sanctions for public officials who engage in discriminatory, racist or sexist practices against indirect victims or relatives of femicide/feminicide can be designed.

320. Access to justice and regional differences. In those geographic areas of the countries of the region that have less developed conditions, or that are experiencing instability in the socio-economic situation of its inhabitants, it is recommended to establish policies that facilitate and guarantee the access to judicial bodies and resources through the training of public servants and accredited professionals for the care of victims, and the prevention and investigation of femicide/feminicide. However, for a better implementation of this model, these recommendations should be adapted to the particularities and to the resources that each region or province can count on.

321. Information systems and public policy planning. In order to improve the processes of design, planning and evaluation of public policies, as well as an adequate implementation of the recommendations made in this document, it is recommended to establish or to improve the systems and procedures of registering data on femicide/feminicide. Improving the quality of information produced by the agencies of the criminal system, will allow deepening the understanding of the phenomenon of lethal violence that affects women or people with female gender identity, and enhancing the capacity of the criminal investigation of the District Attorney or of the Public Ministries.

322. Information registry. It is recommended, for these purposes, that the databases and other administrative and judicial records include information to adequately characterize the indirect victims or relatives of victims of femicide/feminicide, taking into account the following: age, sex, place of origin, education level, socioeconomic profile, damages resulting from the death of the woman, and if possible, other consequences or further violence related to the death of the direct victim.

323. In all cases, the personal information that has been given by the victims or their families will only have to be incorporated to the databases with the expression of consent of the persons concerned and with the informed consent to its possible uses. Also, such information has to be protected according to the international standards regarding privacy.

324. **Institutional coordination.** In order to optimize the work of investigation and prosecution of the femicide/feminicide, it should be implemented in those places where they do not yet exist, protocols for collaboration and exchange of information between members of the law enforcement, investigation bodies and the prosecutors, with particular emphasis on building communication channels and operating procedures between the different authorities involved.

325. **Reparation for victims.** Establishing a compensation fund for the victims of the violent deaths of women due to gender as well as transformative policies that comprehensively address the economic, social, moral and social dimensions of the damage caused to the victims. In particular, administrative compensation programs for victims must be designed, for those cases where the participation of state agents is proven, either actively or passively, in the participation of femicide/feminicide. These programs should adopt effective measures to prevent the recurrence of these crimes, considering the possibility of establishing selection mechanisms of officials or public servants involved in these events.

ACUNS Vienna would like to thank the people who voluntarily dedicated their time and effort to **translate** the above sections of the **Latin-American Protocol for the Investigation of Femicide**:

Translators: **Andreea Apostu** (Intern at the United Nations Office of Drugs and Crime); **Carmen Valero**, (Assistant Public Opinion Analyst at the European Parliament); **Esther Mamadou Blanco** (LLM in International Law from the School of Oriental and African Studies, qualified Lawyer in Spain, Volunteer at Detention Action); **Karol Alejandra Arámbula Carrillo** (Consultant in International Affairs at Omnilife-Angelíssima); **Diana Ruiz de los Paños Barbero** (Student of International Relations and Translating and Interpreting, also interning at the Spanish Ministry of Defense); **María Amada Bruno Gigena** (Translator, freelancer and teacher).

We would also like to thank Nora Gerdes, who introduced us to the Translators above and gathered together the final translated texts of the Protocol.

2.7. USING THE COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE TO ADDRESS FEMICIDE/FEMINICIDE – RALUCA POPA, COUNCIL OF EUROPE, EQUALITY DIVISION



7th Conference on Femicide: Stop Femicide in Europe and Latin America, Brussels, 6 March 2014

Femicide and/or *feminicide* are sociological and political concepts, rather than legal ones, born out of the theoretical developments of women's movements against violence. The term *femicide* was first coined in 1976 by the American sociologist and feminist Diana Russell to describe the killing of women or girls by men because they are female.⁸⁴ Speaking about femicide, then, is a powerful way of underlining the gender-based nature of men's violence against women as a structural form of violence rooted in gender inequality. For a long time, violence against women had been a problem without a name and creating the term 'femicide' was part of the important innovations that women's movements introduced in the international vocabulary. Naming the problem is a first and very important way of moving to action to address it. However, follow-up action to address femicide took a long time since the problem was named and it is still utterly insufficient as crimes of gender-based violence resulting in the death of women are still committed with impunity and perpetrators go largely unpunished. This is what the term 'feminicide' is meant to capture. Credited with having developed it in 2004, Mexican feminist Marcela Lagarde used the term in a political sense to emphasize the responsibility of governments and judicial structures, which collude with perpetrators by normalising misogyny and sexism.⁸⁵

These terms have been used mostly at the international level⁸⁶ and the regional level in the Inter-American human rights system. **THE COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE (ISTANBUL CONVENTION)** may give impetus to action to address femicide/feminicide in Europe also.

The Istanbul Convention is the international community's most far-reaching response to violence against women. It significantly strengthens the international legal framework, alongside the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (1994, Belém do Pará) and the

84 Diana Russell. (2013). "Femicide" – The Power of a Name, in *Femicide – A Global Issue that Demands Action, Academic Council of the United Nations System* (ACUNS), Vienna, p. 19-20.

85 Evidence and Lessons from Latin America (ELLA). (October 2013). "Policy Brief on Building Legal Frameworks to Address Femicide in Latin America", p. 2

86 See Ms Rashida Manjoo, Special Rapporteur on Violence against Women, its Causes and Consequence, 2012 Thematic report to the Human Rights Council on gender-related killings of women, A/HRC/20/16.

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003). Taken together, these treaties make up a global human rights legal framework to strategically and effectively address all forms of violence against women. This framework can and should be effectively used to address femicide/feminicide, as the extreme and most severe manifestation of violence against women.

The contribution of the Istanbul Convention to addressing femicide/feminicide

First: One area where the Istanbul Convention can make a very important contribution is in making it easier to gain acceptance for the concept of femicide/feminicide. As a gender-specific concept, the notion of 'femicide' faces significant opposition in the European context, where gender-neutral approaches in legislation and policies prevail. The Istanbul Convention is an essential instrument for shifting the frame in this respect, as it includes a gender perspective throughout. The Convention defines violence against women as "a violation of human rights and a form of discrimination against women" (Article 3) and it asks for a gender perspective to be taken when implementing all of its provisions (Article 6). Thus, it is hoped that the application of the Convention will advance more gender-sensitive legal and policy frameworks to prevent and combat violence against women and domestic violence in our member states.

Second: Very importantly, the Istanbul Convention is the most important legal instrument that, if implemented, can help end impunity for femicide/feminicide in Europe and beyond. One of the important aims of the Istanbul Convention is to increase prosecution of crimes of violence against women and, to this end, it establishes a number of specific criminal offences. Although femicide/feminicide is not specifically named in the Istanbul Convention, a number of these specific offences can be related to femicide/feminicide. Physical violence in particular is defined to encompass also violence resulting in the death of the victim, as explained in the Explanatory Report of the Istanbul Convention, paragraph 93. The unacceptability of so-called 'honour' as justification for crimes (Article 42) is also an important provision for ending impunity for killings of women in the name of so-called 'honour'. The judicial system cannot turn a blind eye to the killing of women when it is justified by custom, culture or tradition. Violence against women is violence and a violation of human rights no matter where it happens and no matter in what context it happens. Recently, the Council of Europe Commissioner for Human Rights proposed that the prohibition of forced abortion in Article 39 of the Istanbul Convention can be taken to include a prohibition of sex-selective abortions, which are performed to prevent girls from being born in cultures and societies that value boys above girls.⁸⁷ This comment points to another possible use of the Istanbul Convention to address femicide. The Istanbul Convention asks for diligent prosecution of crimes of violence against women, which should proceed without undue delay.

Third: The significance of the Istanbul Convention for addressing femicide/feminicide extends beyond criminalisation and prosecutions. The Istanbul Convention is a very comprehensive instrument and with its adoption a set of wide-ranging measures have become available to prevent violence against women and domestic violence, protect the victims and punish the perpetrators. The Istanbul Convention and its provisions stem from the in-depth analysis of problems and solutions

tested throughout the Council of Europe member states and beyond: they are good practices brought up to the level of a legally-binding instrument. Practical and detailed, the Istanbul Convention is a blueprint for laws and policies to end violence against women and domestic violence. It requires states to offer a holistic response to violence against women, through the "4 Ps approach":

- **Prevention** of violence through sustained measures that address its root causes and aim at changing attitudes, gender roles and stereotypes based on the idea of the inferiority of women to men, that make violence against women acceptable;
- **Protecting** women and girls who are known to be at risk and setting up specialist support services for victims and their children (shelters, round-the-clock telephone helplines, rape crisis or sexual violence referral centres);
- **Prosecuting** the perpetrators, including by enabling criminal investigations and proceedings to continue, even if the victim withdraws the complaint;
- Adopting and implementing state-wide "**integrated policies**" that are effective, co-ordinated and comprehensive, in that they encompass all relevant measures to prevent and combat all forms of violence against women.

When designing and implementing legislation and policies as foreseen by the Istanbul Convention, states are expected to involve the various national agencies and actors concerned: the judiciary, the police, service providers, NGOs, as well as national, regional and local parliaments and authorities. The setting-up of national or relevant co-ordinating bodies is required to ensure the smooth co-operation of all actors and to facilitate international co-operation. Furthermore, states parties have an obligation to co-operate with each other to the widest extent possible in order to prevent, combat and prosecute all forms of violence covered by the Istanbul Convention, and protect and provide assistance to victims.

Fourth: Prevention is a hugely important strategy for addressing femicide/feminicide. The implacable irreversibility of the death of another woman makes any other intervention seem like a futile afterthought to a loss which shouldn't have happened. Fewer women would die if societies took violence against women seriously and if attitudes that condone and justify gender inequality and violence were changed; if law enforcement officials responded and acted immediately in situations of danger and risk to the lives of women, often from an intimate partner; if women had more opportunities to disclose the violence they suffer to trusted professionals in health institutions or social services, and should these professionals be better trained to recognise and respond to violence. Fewer women would die, if educational systems, both formal and informal, included teaching of topics related to equality between women and men, non-stereotyped gender roles, mutual respect and zero tolerance for violence against women. Instead, too often societal norms prevail that devalue girls and teach boys notions of masculinity that are based on power and control over women, instead of equality and non-violence.

The Istanbul Convention aims to change all that and, in its detailed chapter on prevention, it provides for specific and concrete measures that should be taken, in particular awareness raising, education, training of professionals, and encouraging the participation of private sector and the media in the prevention of violence against women.

⁸⁷ See the Council of Europe Commissioner for Human Rights comment "Sex selective abortions are discriminatory and should be banned", 15 January 2014.

Fifth: Importantly for addressing femicide/feminicide, the Istanbul Convention contains a standard of protection against violence that is required from states, which is defined as ‘**due diligence**’ or the obligation of states to “prevent, investigate, punish and provide reparation for acts of violence perpetrated by non-state actors” (Article 5). In integrating this standard, the Istanbul Convention builds on the jurisprudence of the European and Inter-American Courts of Human Rights. The European Court of Human Rights has consistently confirmed that Article 2 (right to life) requires that states not only refrain from violations of this right, but also have certain legal safeguards and practices in place against such violations by non-state actors. An important landmark decision in this respect was the case of *Osman v. Great Britain* (1998), in which the European Court of Human Rights (ECtHR) acknowledged the obligation to protect.

This duty has been confirmed in a number of subsequent cases concerning domestic violence, including the landmark decision *Opuz v. Turkey* (2009), a case that involved the death of the applicant’s mother at the hands of her husband. In the case of *Opuz v. Turkey*, the ECtHR concluded that the national authorities could not be considered to have displayed due diligence and “*therefore failed in their positive obligation to protect the right to life of the applicant’s mother within the meaning of Article 2 of the Convention*” (paragraph 146).

To sum up, addressing femicide/feminicide requires a wide range of measures to raise awareness of the gendered nature of the killings of women by men, step up investments in prevention, increase prosecutions and end impunity. While legal frameworks are important, real change cannot come about without changing hearts and minds, that is, the attitudes and beliefs that perpetuate violence against women, including its most extreme manifestation, killing a woman because she is a woman.

We owe it to the silent witnesses, who can no longer speak, to maintain hope and work towards a real and vigorous response, so that in time, the fact of having been born a woman will no longer be a major cause of death.

For more information: www.coe.int/conventionviolence.
E-mail: conventionviolence@coe.int

2.8. LISA MORAWEK AND MONA ZAHER, SUMMARY OF THE COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE (ISTANBUL CONVENTION)

I. Introduction

Violence against women in all its manifestations is deeply traumatising and a serious violation of human rights. It is defined as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women and girls, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”.⁸⁸ The overwhelming majority of victims of stalking, sexual harassment, sexual violence and rape, forced marriage, physical, sexual and psychological abuse at the hands of intimate partners and forced sterilisation are women. Adding female genital mutilation and forced abortion as forms of violence shows the shocking level of diversity in

cruel and degrading behaviour that women experience. At the far end of this spectrum is femicide, the murder of a woman because she is a woman.

The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) is based on the understanding that violence against women is a form of gender-based violence that is committed against women because they are women. As the first legally binding instrument in Europe to create a comprehensive legal framework, its main purpose is to protect women against all forms of violence and to prevent, prosecute, and eliminate violence targeting women, including domestic violence, as well as punishment of the perpetrators. In this way the Convention fills a significant gap in human rights protection for women and encourages parties to extend its protection to all victims of domestic violence. It nonetheless frames the eradication of violence against women in the wider context of achieving substantive equality between women and men and thus significantly furthers recognition of violence against women as a form of discrimination.

Because it is not only women who suffer from domestic violence, parties to the convention are encouraged to apply the protective framework it creates also to men, children and the elderly who are exposed to violence within the family or domestic unit. However, it should not be overlooked that the majority of victims of domestic violence are women and that domestic violence against them is part of a wider pattern of discrimination and inequality.

II. Historical Background

As Europe’s leading human rights organisation, the Council of Europe has undertaken a series of initiatives to promote the protection of women against violence since the 1990s. It has adopted a number of resolutions and recommendations calling for legally-binding standards on preventing, protecting against and prosecuting the most severe and widespread forms of gender-based violence. Assuming its leading role in human rights protection, the Council of Europe decided it was necessary to set comprehensive standards to prevent and combat violence against women and domestic violence.

The Convention was the product of nearly a decade of work by the Council of Europe to combat violence against women. In December 2008, the Committee of Ministers set up an expert group called the CAHVIO (the ad hoc Committee for preventing and combating violence against women and domestic violence) to prepare a draft convention on this issue. Over the course of just two years, the CAHVIO worked out a draft text, which they finalised in December 2010.

The Convention on preventing and combating violence against women and domestic violence was then adopted by the Council of Europe Committee of Ministers on 7 April 2011. It opened for signature on 11 May 2011 on the occasion of the 121st Session of the Committee of Ministers in Istanbul and will enter into force following its ratification by 10 countries, including eight members of the Council of Europe. Upon ratification, Governments are obliged to change their laws, introduce practical measures coordinated through comprehensive policies and allocate resources to effectively prevent and combat violence against women and domestic violence.

To date, it has been signed by 32 Member States of the Council of Europe. On 23 January, the Parliament of Andorra ratified the Istanbul Convention and will soon deposit the instrument of ratification in Strasbourg. Once Andorra deposits its ratification

88 General Assembly Resolution 48/104

instrument, only one more ratification will be needed for the entry into force of the Istanbul Convention.

III. The Convention in detail

In its content, the Council of Europe Convention focuses on four major themes: *prevention, protection, prosecution, and monitoring*. It also provides specific guidance for migration and asylum, integrating policies against multiple sectors and promoting international cooperation.

Article 1 and 2 set out the purpose of the Convention as to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence. Moreover the Convention shall apply to all forms of violence against women as well as domestic violence and promote substantive equality between women and men as well as design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence.

It further provides several definitions in Article 3, which are applicable throughout the Convention.

Article 3.a presents an all-encompassing definition of *violence against women* that includes all acts based on gender if they result or are likely to result in sexual, physical, psychological, or economic harm or suffering to women. It makes it clear that, for the purpose of this Convention, violence against women shall be understood to constitute a violation of human rights and be considered a form of discrimination.

Article 3 – Definitions

“Violence against women” is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;

Article 3.b provides a definition of *domestic violence* that covers acts of physical, sexual, psychological or economic violence between members of the family or a domestic unit, irrespective of biological or legal family ties. Domestic violence includes mainly two types of violence: intimate-partner violence between current or former spouses or partners and inter-generational violence, which typically occurs between parents and children. It is a gender-neutral definition that encompasses victims and perpetrators of both sexes.

The term *gender-based violence*, which is defined in Article 3.d refers to violence that targets women because of the mere fact that they are women or that it affects women disproportionately.

Prevention

This chapter contains a variety of provisions that come under the heading of prevention in the wide sense of the term. Preventing violence against women and domestic violence requires far-reaching changes in attitude of the public, overcoming gender stereotypes and most importantly raising awareness.

Article 12 of the Istanbul Convention therefore sets out a number of principles to be respected in order to effectively prevent violence against women. Parties of the Convention, shall be encouraged to take necessary measures to promote

changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on stereotyped roles for women and men. Necessary legislative and other measures to prevent all forms of violence shall be established and that culture, custom, religion, tradition or so-called “honour” shall not be considered as justification for any acts of violence covered by the scope of the Convention.

Thus, the Convention mandates several actions, including:

- Appropriate training of professionals who are in close contact with victims or perpetrators on the prevention and detection of such violence, the needs and rights of victims, as well as on how to prevent secondary victimisation (Article 15);
- Running awareness campaigns or programmes, including in co-operation with national human rights institutions and equality bodies, civil society and non-governmental organisations, to increase awareness and understanding among the general public of the different manifestations of all forms of violence, their consequences on children and the need to prevent such violence (Article 13);
- It furthermore requires parties to set up treatment programmes for perpetrators of domestic violence and for sex offenders (Article 16);
- Take steps to include issues such as gender equality and non-violent conflict resolution in interpersonal relationships in teaching materials (Article 14);
- Work closely with NGOs and involve the media and the private sector in eradicating gender stereotypes and promoting mutual respect (Article 17).

Protection

While the strong focus of the Convention is the prevention of all forms of violence, victims require adequate protection, support and assistance to overcome the multiple consequences of such violence. When preventive measures have failed and violence incidents have happened, it is important to provide victims and witnesses with protection and support. This chapter therefore contains a range of obligations to set up specialised as well as more general support services to meet the needs of those exposed to violence.

The measures set forth in the Convention include:

- Granting the police the power to remove a perpetrator of domestic violence from his or her home: this means that in situations of immediate danger, the police need to be able to guarantee the safety of the victim. In many instances this may include ordering the perpetrator for a specified period of time to leave the family home and to stay away from the victim;⁸⁹
- Removing obstacles that could prevent someone from reporting a crime (Article 27);
- Necessary legislative or other measures to ensure that victims have access to services facilitating their recovery from violence. These measures should include, services such as legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment (Article 20);
- Specialist support services: this includes to provide or arrange for specialist women’s support services to all women victims of violence and their children (Article 22);

89 http://www.coe.int/t/dghl/standardsetting/convention-violence/brief_en.asp

- Ensuring access to adequate information: after experiencing violence, victims are usually traumatised and need easy access to clear and concise information on available services, in a language they understand (Article 19);

Article 19 – Information

Parties shall take the necessary legislative or other measures to ensure that victims receive adequate and timely information on available support services and legal measures in a language they understand.

- Additional services for victims of violence: Shelters (Article 23), Telephone helplines (Article 24), Crisis Centers for victims of sexual violence (Article 25),

Article 23 – Shelters

Parties shall 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 pro-actively to victims, especially women and their children.

Article 24 – Telephone helplines

Parties shall take the necessary legislative or other measures to set up state-wide round- the-clock (24/7) telephone helplines free of charge to provide advice to callers, confidentially or with due regard for their anonymity, in relation to all forms of violence covered by the scope of this Convention.

Article 25 – Support for victims of sexual violence

Parties shall take the necessary legislative or other measures to provide for the setting up of appropriate, easily accessible rape crisis or sexual violence referral centres for victims in sufficient numbers to provide for medical and forensic examination, trauma support and counselling for victims.

- Protection and support for child witnesses (Article 26): for this reason, Article 26 sets out the obligation to ensure that when providing services and assistance to victims with children who have witnessed violence, the latter's rights and needs are also taken into account.;
- Legal assistance, where parties shall ensure access to applicable regional and international individual/collective complaints mechanisms (Article 21);

Prosecution

To ensure prosecution of perpetrators, the Council of Europe Convention defines and criminalizes various forms of violence against women. It also creates substantive law on aggravating factors, compensation, jurisdiction issues, custody issues, and civil remedies, as well as addressing immediate response guidelines, protective orders, evidence standards, statutes of limitations, and other aspects of judicial proceedings.

It further defines and criminalises the various forms of violence against women, which is one of the many achievements of the Istanbul Convention. To give effect to the Convention, state parties then have the obligation to introduce a number of new offenses where they do not exist. These may include: psychological and physical violence, sexual violence and rape, stalking, female genital mutilation, forced marriage, forced

abortion and forced sterilisation. In addition, state parties will need to ensure that culture, tradition or so-called "honour" is not regarded as a justification for any of the above-listed courses of conduct.

Once these new offenses have found their way into the national legal systems, there is no reason not to prosecute offenders. On the contrary, state parties will have to take a range of measures to ensure the effective investigation of any allegation of violence against women. This means that law enforcement agencies will have to respond to calls for help, collect evidence and assess the risk of further violence to adequately protect the victim. Furthermore, state parties will have to carry out judicial proceedings in a manner that respects the rights of victims at all stages of the proceedings and that avoid secondary victimisation.

Under *Chapter V (Substantive Law)*, the Convention sets out the commitment to ensure a variety of civil law remedies to allow victims to seek justice and compensation, primarily against the perpetrator, but also in relation to state authorities if they have failed in their duty to diligently take preventive and protective measures.

For that, the Convention mentions in Article 29 to provide victims with adequate civil lawsuits and remedies against the perpetrators. The right to claim compensation for damages suffered as a result of any of the offences established in this Convention is laid out in Article 30, and Article 31 implies that parties shall take the necessary legislative or other measures to ensure that the exercise of any visitation or custody right does not jeopardise the rights and safety of the victim or child.

Chapter V also establishes a *number of criminal offences*.

These are:

- Civil consequences of forced marriage (Article 32);
- Psychological violence (Article 33);
- Stalking (Article 34);
- Physical Violence (Article 35);
- Sexual violence, including rape (Article 36);
- Forced Marriage (Article 37);
- Female Genital mutilation (Article 38);
- Forced abortion and forced sterilisation (Article 39);
- Sexual harassment (Article 40);
- Aiding or abetting and attempt (Article 41);
- Unacceptable justification for crimes, including committed in the name of so-called "honour" (Article 42);

Because of the importance of these various criminal offences, some shall be highlighted further for more detail:

• Forced Marriage (Article 37)

Article 37 establishes the offence of forced marriage. While some victims of forced marriage are forced to enter into a marriage in the country in which they live (paragraph 1), many others are first taken to another country, often that of their ancestors, and are forced to marry a resident of that country (paragraph 2). For this reason, the Convention felt the need to include in this provision two types of conduct: forcing a person to enter into a marriage and luring a person abroad with the purpose of forcing this person to enter into marriage.

Article 37 – Forced marriage

1. Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of forcing an adult or a child to enter into a marriage is criminalised.
2. Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of luring an adult or a child to the territory of a Party or State other than the one she or he resides in with the purpose of forcing this adult or child to enter into a marriage is criminalised.

• Unacceptable justification for crimes, including committed in the name of so-called “honour” (Article 42)

The Convention contains an important general principle: nobody under the jurisdiction of the courts of one of the parties to this convention will be allowed to validly invoke what he or she believes to be an element of his or her culture, religion or other personal reason to justify the commission of what is simply an element of a criminal offence, that is, violence against women. Consequently, this Article, in paragraph 1 sets out the obligation for parties to ensure that culture, custom, religion, tradition or so-called “honour” are not regarded as justification for any of the acts of violence covered by the scope of this Convention. This means that parties are required to ensure that criminal law and criminal procedural law do not permit as justifications claims of the accused justifying his or her acts as committed in order to prevent or punish a victim’s suspected, perceived or actual transgression of cultural, religious, social or traditional norms or customs of appropriate behaviour.

Article 42 – Unacceptable justifications for crimes, including crimes committed in the name of so-called “honour”

1 Parties shall take the necessary legislative or other measures to ensure that, in criminal proceedings initiated following the commission of any of the acts of violence covered by the scope of this Convention, culture, custom, religion, tradition or so-called “honour” shall not be regarded as justification for such acts. This covers, in particular, claims that the victim has transgressed cultural, religious, social or traditional norms or customs of appropriate behaviour.

2 Parties shall take the necessary legislative or other measures to ensure that incitement by any person of a child to commit any of the acts referred to in paragraph 1 shall not diminish the criminal liability of that person for the acts committed.

Chapter VI (Investigation, prosecution, procedural law and protective measures) contains a variety of provisions that cover a broad range of issues related to investigation, prosecution, procedural law and protection against all forms of violence against women, in order to reinforce the rights and duties laid out in the previous chapters of the Istanbul Convention.

The relevant measures set out in the Convention include:

- Parties of the Convention shall ensure that the responsible law enforcement agencies respond to all forms of violence promptly and appropriately by offering adequate and immediate protection to victims (Article 50);
- Further measures of protection include: providing protection for victims, as well as that of their families and witnesses, from intimidation, retaliation and repeat victimisation; enabling victims, to be heard, to supply evidence and have their views, needs and concerns presented, directly or through an intermediary, and considered; ensuring that

contact between victims and perpetrators within court and law enforcement agency premises is avoided where possible (Article 56 paragraph 1);

- Regarding child victims: a child victim or witness of violence shall be afforded special protection measures, which takes into account the best interests of the child (Article 56 paragraph 2);
- Restraining or protection orders: this provision sets out the obligation to ensure that national legislation provides restraining and/or protection orders (Article 53);
- Ex parte and ex officio proceedings: conscious of the particularly traumatising nature of these offences, this provision sought to ease the burden which lengthy criminal investigations and proceedings often place on the victims while at the same time ensuring that perpetrators are brought to justice. Its aim is therefore to enable criminal investigations and proceedings to be carried out without placing the onus of initiating such proceedings and securing convictions on the victim (Article 55).
- An important focus should also be laid on the issue of legal aid: it obliges parties to provide the right to legal assistance and free legal aid for victims (Article 57);

Integrated policies

The Convention is based on the premise that no single agency or institution can deal with violence against women and domestic violence alone. An effective response to such violence requires concerted action by many different actors. The Istanbul Convention, similar to other recent conventions negotiated at the level of the Council of Europe, follows the “three Ps” structure of “Prevention”, “Protection”, and “Prosecution”. However, since an effective response to all forms of violence covered by the scope of this Convention requires more than measures in these three fields, the drafters considered it necessary to include an additional “P”, namely integrated Policies.

In particular this means, that state parties are encouraged to implement comprehensive and co-ordinated policies involving government agencies, NGOs as well as national, regional and local parliaments and authorities. The aim is that policies regarding the prevention and combating violence against women and domestic violence are carried out at all levels of government and by all relevant agencies and institutions (Article 7).

In Article 9 the Convention addresses explicitly non-governmental organisations and the civil society. It imposes the duty of the parties to recognise, encourage and support their work at all levels in combating violence against women and establish effective co-operation with these organisations. The purpose of this article is to emphasise the important contribution these various organisations make in preventing and combating all forms of violence. It therefore requires parties of the Convention to recognise their work by, for example, tapping into their expertise and involving them as partners in multi-agency co-operation or in the implementation of comprehensive government policies. Beyond such recognition, this article requires parties to actively encourage and support the work of these NGOs and civil society organisations and enabling them to carry out their work in the best possible way. In addition to addressing governments and non-governmental organisations, national parliaments and local authorities, the Convention sends a clear message to the society as a whole to end violence against women.

Article 9 – Non-governmental organisations and civil society

Parties shall recognise, encourage and support, at all levels, the work of relevant non-governmental organisations and of civil society active in combating violence against women and establish effective co-operation with these organisations.

Additionally to improving the role of NGO's and the civil society, Article 10 entails the obligation to entrust one or more official government bodies with the following tasks: co-ordinating, implementing, monitoring and evaluating the policies and measures to prevent and combat all forms of violence against women. This can be accomplished by setting up new official bodies or mandating official bodies already are in existence with these tasks.

Furthermore these bodies shall also co-ordinate the collection of data, as laid out in Article 11. This provision states that, relevant statistical data at regular intervals on cases of all forms of violence and support research in the field of (all forms of) violence shall be collected in order to study its root causes and effects, incidences and conviction rates, as well as the efficacy of measures taken to implement this Convention.

Migration and Asylum

Migrant women, including undocumented migrant women, and women asylum-seekers are particularly vulnerable to gender-based violence. Despite their difference in legal status, reasons for leaving their home country and living conditions, both groups are, on the one hand, at increased risk of experiencing violence and, on the other hand, face similar difficulties and structural barriers in overcoming this violence.

This chapter therefore contains a number of obligations that aim to introduce a gender-sensitive understanding of violence against migrant women and women asylum-seekers. In Article 59 the Convention introduces the possibility of granting migrant women who are victims of gender-based violence an independent residence status.

Article 59 – Residence status

1 Parties shall take the necessary legislative or other measures to ensure that victims whose residence status depends on that of the spouse or partner as recognised by internal law, in the event of the dissolution of the marriage or the relationship, are granted in the event of particularly difficult circumstances, upon application, an autonomous residence permit irrespective of the duration of the marriage or the relationship. The conditions relating to the granting and duration of the autonomous residence permit are established by internal law.

Furthermore, it establishes the obligation to recognise gender-based violence against women as a form of persecution and contains the obligation to ensure that a gender-sensitive interpretation be given when establishing refugee status as well as provides gender-sensitive procedures, guidelines and support services in the asylum process (Article 60). Finally, it contains provisions pertaining to the respect of the non-refoulement principle with regard to victims of violence against women (Article 61).

Article 61 – Non-refoulement

2 Parties shall take the necessary legislative or other measures to ensure that victims of violence against women who are in need of protection, regardless of their status or residence, shall not be returned under any circumstances to any country where their life would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment.

Monitoring

As a legally binding instrument, once the Convention enters into force, state parties will be monitored by a group of independent professionals to ensure that they are meeting the obligations of the Istanbul Convention. This Group of Experts on action against violence against women and domestic violence (hereafter "GREVIO") is composed of independent and highly qualified specialists in the fields of human rights, gender equality, violence against women and domestic violence, criminal law and in assistance to and protection of victims of violence against women and domestic violence.

Using a report-based procedure, the GREVIO will assess the different measures a state party has taken to give meaning to the Convention. In addition to reports received from the state party under scrutiny, it may draw on information from NGOs. National parliaments are also invited to participate in the monitoring. Should the information received be insufficient or should a particular issue require immediate attention, the GREVIO will travel to the country in question for an inquiry. On the basis of the information at its disposal, the GREVIO may adopt reports and conclusions aimed at helping the state party to better implement this Convention. It may also adopt general recommendations addressed to all state parties.

In addition to the GREVIO, a second entity composed of the representatives of the parties to the Convention will be set up: the Committee of the Parties. Its tasks will include, among others, electing the members of the GREVIO and issuing recommendations to state parties concerning the measures to be taken in order to implement the conclusions of the GREVIO. The GREVIO will also be supervised by the Committee of the Parties.

PART III

SYMPOSIUM ON FORCED MARRIAGE, VIOLENCE AGAINST MIGRANT WOMEN AND THE ISTANBUL CONVENTION

UNITED NATIONS OFFICE IN VIENNA
25 NOVEMBER 2013

"Once I had made up my mind to champion the rights of Afghanistan's women, I was unafraid. For if you die in the service of a great idea, to elevate the lives of millions of people, then you die with meaning. Even your body will provide further validation for the ideas you serve. To die believing in nothing, serving no ideals, is to die without meaning."

Massouda Jalal

SYMPOSIUM CONCLUSIONS, ACADEMIC COUNCIL ON THE UNITED NATIONS SYSTEM VIENNA LIAISON

On 25 November 2013, the Academic Council on the United Nations System (ACUNS) held an international Symposium on the issue of Forced Marriage and Violence Against Women in the Migrant Community. The symposium brought together high ranking diplomats, representatives from United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), the United Nations Population Fund (UNFPA), the Office of the High Commissioner for Human Rights (OHCHR), and the United Nations Office on Drugs and Crime (UNODC). Officials from the Council of Europe, the Austrian Parliament, the Austrian Ministry of Justice and the Austrian Federal Chancellery also participated in the Symposium. In addition, the International Federation of Red Cross and Red Crescent National Societies, the Austrian Committee for UNICEF, the Women's Federation for World Peace International (WFWPI), Renner Institute, Organization of Families of Asia-Pacific (OFAP), and the Vienna Alliance of NGOs on Crime Prevention and Criminal Justice participated in the Symposium. The meeting was opened by Barbara Prammer, President of Austrian Parliament, and Ambassador Gilka Melendez of the Dominican Republic, who spoke about the origin of the International Day for the Elimination of Violence against Women. The symposium was addressed through a video message by the Executive Director of UN Women, Phumzile Mlambo-Ngcuka.

The panel discussions were chaired by Ambassador Dubravka Simonovic (Croatia), Ambassador Ayoob Erfani (Afghanistan), and Charlie Manangan, Deputy Chief of Mission (Phillipines). The Symposium also focused on the Human Rights Council Resolution on "Strengthening Efforts to Prevent and Eliminate Child, Early and Forced Marriage: Challenges, Achievements, Best Practices and Implementation Gaps" (A/HRC/RES/24/23), the General Assembly's Resolution on "Taking Action Against Gender Related Killings of Women and Girls" (A/C.3/68/L.8) as well as the Agreed Conclusions of the 57th session of the Commission on the Status of Women (CSW).

Participants at the symposium noted that child marriages and early marriages of girls are a manifestation of deep rooted discrimination against women and girls and a violation of their rights as well as an obstacle to the girl child's full enjoyment of her rights. Furthermore, ending child marriages and forced marriages should go in parallel with addressing social norms and cultural factors such as traditional attitudes which place women in subordinate roles to men and which, act as a barrier to women and girls to freely choose whom they wish to marry.

Concern was expressed over UNICEF and UNFPA estimates on the global prevalence of child and early marriage. According to figures recently released by UNFPA, 142 million girls will become child brides between 2011 and 2020.

In relation the 105 million international migrant women worldwide (UN DESA, 2009), some experience violence and discrimination at the beginning of the migration process, whilst en route, in transit and at their point of destination. Many of these women are subjected to domestic and stranger

violence. Migrant women who experience violence are less likely to have access to basic and essential services, or may face discriminatory treatment if they do have access services and are less likely to be able to hold perpetrators accountable.

The Symposium made the following recommendations to governments, UN agencies and entities and all relevant stakeholders:

Child and Forced Marriages:

- Conduct comprehensive and cultural contextual awareness raising involving all sectors of society including the media, parents, caregivers, religious leaders and community elders and those with specific responsibilities towards children on the harmful aspects of child and forced marriage;
- Promote equal education opportunities for girls including disaggregated data on access to education for girls;
- Enact and strictly enforce laws to ensure that marriage is entered into only with the free and full consent of the spouses and to raise the minimum legal age of consent and raise the minimum age for marriage where necessary;
- Establish adequate systems to provide support and assistance for victims to obtain medical, psychological, and other assistance;
- Provide effective remedies for those at risk of being forcefully married and for those who have already been forced to marry.

Violence against Migrant Women:

- Implement laws and policies that support migrant women rights and their integration into society, allowing them to live with dignity;
- Remove barriers that prevent migrant women from accessing basic and essential services;
- Legal machinery should strictly prosecute violations and crimes against migrant women without further re-victimizing them. These women should be provided with all the tools and opportunity to be self-sufficient and independent including:
- Shelter, language lessons and social assistance, information on their rights, skills based training and employment opportunities, medical and psychosocial support and emergency assistance;

Ratification and implementation of the Istanbul Convention

The significance of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (i.e. the Istanbul Convention) was highlighted. The Istanbul Convention requires states to exercise due diligence in order to prevent, investigate, punish, and provide reparation for women who are subjected to violence including migrant women irrespective of their legal status. Currently, it requires only two more ratifications for it to come into effect. The treaty has a strong review mechanism. The members of the European Parliament have the possibility to point out deficiencies and lack of implementation of ratifying countries. The States Parties have agreed that culture, custom,

religion, tradition, or so-called “honor” shall not be considered as justification for any acts of violence. The Istanbul Convention is the international “gold standard” in preventing and combating violence against women. It is open to all countries around the world. Civil society was urged to have their country ratify and implement the Istanbul Convention.

3.1. OPENING REMARKS AND KEYNOTE SPEECHES

3.1.1. Ms. Barbara Prammer, President of the Austrian Parliament

Opening Remarks

Today we are reminded of aims achieved and – even more so – of goals still to be accomplished. Marking the beginning of 16 days of Activism against Gender Violence, the International Day for the Elimination of Violence against women by now inspires a wide variety of events around the world.

This year, the Austrian Parliament is proud to join these efforts by staging an exhibition in commemoration of the women murdered by their partner in the course of last year.

I am truly convinced that in broaching the issue of violence against women over and over again, these efforts will contribute in giving this important issue a strong political focus. It will happen gradually, no doubt, but nonetheless successfully.

For instance, Austria’s “Protection against Violence Act”, which was established in 1997, has meant effective help to high-risk victims of domestic violence ever since. On an international level, long standing demands regarding protection against violence finally found their way into the Istanbul Convention, which has been ratified by Austria without any reservation.

I am very glad that the Academic Council on the United Nations System and partners have decided to organise this symposium on Forced Marriages and Violence against Women in the Migrant Community as an important aspect of the Istanbul Treaty.

I wish you a fruitful day in women’s best interests, getting to the core of matters we all care about in lobbying women’s rights.

3.1.2. Ms. Phumzile Mlambo-Ngcuka, Executive Director of UN Women

Video Message

Today and every day, let us take a stand, speak out and take action to end violence against women and girls. Let us call on leaders to take responsibility. Every woman and girl has the fundamental right to live free from violence, yet an estimated one in three women will be subject to violence in her lifetime. Our global response must tackle its root cause: gender inequality. We need education that teaches human rights and mutual respect. We need equal economic opportunities and access to justice for women. We need women’s voices to be heard, more women politicians, police and peacekeepers. We need essential services for survivors of violence, such as health services, services, shelters, hotlines, police, justice and legal aid. We need perpetrators brought to justice. It is up to all of us, together we can end violence against women and girls.

3.1.3. Ms. Gilka Melendez, Alternate Ambassador of the Dominican Republic, Permanent Representative to the UN in Vienna

Keynote Speech: The Three Mirabal Sisters

On behalf of the Embassy of the Dominican Republic, I would like to thank the Academic Council on the United Nations System (ACUNS), UN Women, the Renner Institute, and WAVE, for organizing this important event. We very much appreciate the invitation to address you on the occasion of the **INTERNATIONAL DAY FOR THE ELIMINATION OF VIOLENCE AGAINST WOMEN**.

This Day of November 25 is an opportunity to recall the right of every human being to live a life free of ideological constraints, respect to thought, freedom of expression, the right to happiness, and the pursuit of a professional or technical career, in short, the right to live a fulfilling life. This day is also an opportunity for governments, international institutions, NGO, and community-based organizations, to address the impact and magnitude of violence against women and feminicides; when one woman dies, many hopes and prospects die as well.

The “International Day for the Elimination of Violence against Women” was adopted by **UNITED NATIONS RESOLUTION A/RES/54/134 OF 7 FEBRUARY 2000** to end violence against women. In particular, this UN Resolution was adopted in recognition of the **Three Mirabal Sisters**, three admirable Dominican women, siblings and symbols of heroism: Patria, María Minerva and María Teresa Mirabal, assassinated on the orders of Rafael Leonidas Trujillo, the Dominican dictator on November 25, 1960.

The brave Mirabal sisters openly defied Trujillo’s dictatorship, supporting resistance groups and speaking freely of people’s rights. On early November 1960, Trujillo identified his two problems as being the Church and the Mirabal Sisters. On the 25th of November 1960, the sisters were assassinated as they were being driven to visit their husbands, who had been imprisoned on claims of treason and conspiracy.

Trujillo was positive that with the disappearance of the Mirabal sisters, he had removed one of his worst problems. The effect, however, was the opposite: the assassination, disguised as an accident, caused extraordinary public indignation and anger throughout the nation. The assassination of the Mirabal sisters was one of the events that helped propel the anti-Trujillo movement, and within a year, the Trujillo dictatorship came to an end.

The memory of the Mirabal sisters’ struggle for freedom and respect for human rights transformed them into symbols of bravery, dignity and inspiration. They instilled a voice of reason against prejudice and stereotypes which may be found still today, and their lives raised the spirits of all those they encountered and of others around the world after their death.

The sisters, referred to as the “Unforgettable Butterflies”, have become a symbol against the victimization of women. Belgica Adela “Dede” Mirabal, the only living sibling, works to preserve her sisters’ memory through the Museum Hermanas Mirabal, open to the public in Salcedo City, in the Dominican Republic.

This day is dedicated to women because they are more susceptible of facing restrictions and abuse through their lives. Furthermore, women represent over half of the world's population and have given birth to the other half, as poet, writer, historian, and former president of the Dominican Republic, Professor Juan Bosch once said.

Countries that **INTEGRATE WOMEN INTO THE WORKFORCE** at an equal level to men are more productive, competitive, and demonstrate lower levels of corruption. Studies demonstrate that closing the gender gap is better for entrepreneurs, shareholders and investors. With talent shortages projected to become more severe to a large extent in the developing world, it is imperative for business to have access, and take advantage of female endowment and capacities.

The Dominican Republic, with a population of approximately 10 million, is not excluded from struggles against **VIOLENCE BASED ON GENDER** and **FEMINICIDES**. To overcome this situation, we created in **1999 THE MINISTRY OF WOMEN**, which has been working not only in public policy and equality between men and women, but also functioning with the Attorney General's Office, NGO and grass root organizations to surmount the situation of Violence against women and feminicides.

The educational system and the family home life are essential in achieving great strides here. The Dominican government understands that investment in education is a practical way to overcome poverty and reduce the gender gap. On this basis, since 2012, 4% of Gross Domestic Product is intended for education. The budget now available to the Ministry of Education will improve the curriculum, the quality and skills of teachers, and best school physical structures.

The Dominican Government feels great commitment to women, and the population in general, in terms of reducing crime, and feminicides. Therefore, it has put in practice, since 2012, a comprehensive programme of citizen protection that has already borne fruits. Both crime and feminicides report a decline compared to earlier times.

States, governments, international institutions, the academia, as well as organized groups of society still have a long path to follow to solve the gender gap, discrimination, violence against women, and feminicides.

I hope that together today, and in the days to come, we continue to find new and better ways to fight all forms of discrimination and violence against women, children and teens. That is why we are here, because we are concerned and engaged in finding new ways to combat this problem.

As the poet Antonio Machado said, "The path is made by walking it" ("Se hace Camino al Andar"). Let us walk together in the quest for a better future for humanity.

3.1.4. Ms. Ines Stilling, Head of Section Women and Equality, Austrian Ministry for Women and the Civil Service

Keynote Speech: First Emergency Accommodation for Women and Girls at Risk of Forced Marriage in Austria

Violence against women and children is one of the most often occurring violations of human rights across the globe. Austria does not seem to be an exception; in particular, violence in the domestic sphere and within the (extended) family is wounding the bodies and souls of women and children.

New studies have already documented that a quarter to a third of Austrian women during their lives are victims of violent abuse inflicted by persons close to them. The perpetrators are, with a few exceptions, men – their partners, husbands, fathers or brothers. Due to socio-economic factors, women and children affected by violence committed by a relative are often forced to leave their homes in order to save their lives and find protection in a stable environment. A lot of them seek assistance and find accommodation in a women's refuge, and children are often protected by governmental institutions for social assistance.

The Minister for Women's Affairs therefore directs greatest concern and continued support to all activities of these domestic assault shelters. Violence against women must not be seen as a private matter.

Forced marriage in Austria occurs not only due to certain cultural and traditional manifestations, but is also often related to some form of family problems, exposure to violence and very often sexual violence too. Affected people are not able to escape from their situation, as their parents or parents in law, other relatives or the fiancé(e), peers or/and the whole community put pressure on them to marry. This social pressure may express itself via implicit threats, emotional blackmail and other humiliating forms of treatment. Extreme cases might lead to physical or sexual violence, kidnapping or the flight of the affected person.

Forced marriage – compelled against the will of one of the prospective partners through the usage of physical or psychological violence – represents a massive violation against human rights. As Article 16 of the **UNIVERSAL DECLARATION OF HUMAN RIGHTS** states, "Marriage shall be entered into only with the free and full consent of the intending spouses."

According to the **AUSTRIAN CRIMINAL LAW**, forced marriage is a crime of coercion. The victims are primarily minors and young adults who have already acquired citizenship (normally nationality by birth) or are living in the country as members of second or third generation migrants. Usually they are girls. Furthermore, some members of first generation immigrants who spent their youth mainly in their country of origin may be forced to marry either in their home country or in Austria.

Some of the reasons why forced marriage continues to exist in countries such as Austria are:

- Perpetuation of traditional practices
- Economic reasons - poverty
- Stress of circumstances like immigration and residence
- Maintaining traditional “identity” and culture in a foreign country
- Pressure by community members

Until now, there has not yet existed a specialized shelter for girls and young adult women who have been affected or threatened by forced marriage in Austria. During the last years, the **FEDERAL MINISTER FOR WOMEN** therefore engaged herself intensely to develop such an institution for these affected young persons.

This year the project, which was also budgeted in the last government’s program, will be implemented. Prior to then, several years of negotiation took place with the Ministry of Interior to raise the necessary collective funding, as well as find appropriate rooms for an emergency shelter to be constructed.

Today we have not only succeeded in establishing a shelter and accommodation, but also have widespread ongoing services for these affected young people. Moreover, it is the first institution of this type in Austria since 2013. Young women from all over Austria come to find intense support, counselling, protection and guidance in this crisis accommodation.

The emergency accommodation is currently headed by the NGO “Orient Express”, a non-political and non-religious organization.



The picture was taken during the press conference “Start der Notwohnungen für Betroffene und Bedrohte von Zwangsheirat” (The Launch of the “Emergency Accommodation” for persons affected or threatened by forced marriage) which shows on the right side, Ms. Gabriele Heinisch-Hosek, Federal Minister for Women and to the left of her, Ms. Meltem Weiland from the NGO “Orient Express”.

Usually potential victims do not come directly to an emergency shelter. The first contact normally happens via phone or email. For an urgent situation, the affected person receives help at any time and may be admitted in this shelter – also during

night hours. Therefore cooperation with the current existing nationwide **HELPLINE FOR WOMEN** (phone 0800 222 555) is an important part of the emergency accommodation’s framework. The first aim is to facilitate safety and protection of the victim. These special shelters emphasize safety as their number one priority in order to enable young women or girls to live without fear from further violence. These institutions are equipped with special facilities and safety arrangements.

Even though the primary focus is to provide safety and shelter, girls and young women also receive various types of support. It is particularly important to listen to them and clarify their needs. They receive professional, non-judgmental assistance, no matter what decisions they take afterwards. All information is kept strictly confidential, as well as their right to privacy.

Counselling is the emergency shelter’s main service. This covers all matters related to dealing with violence and trauma, offering legal advice, as well as dealing with issues of access to housing, school, education, work, and therapeutic measurements. The associates of this shelter accompany victims to the police, court and other legal authorities, and prepare them to face lawsuits and court proceedings. Victims are also provided support in looking for jobs and dealing with matters of education and professional qualifications.

One of main concerns of the shelter is to pay attention to the offenders and to set up a security plan for victims, and also inform them about their rights and capabilities.

The shelter’s staff consists of assistants from various ethnic minorities and offers counselling and support in several languages. The information material is also provided in these different languages. Working with migrants and women who come from different ethnic minorities demands knowledge and sensitivity as well as respect towards their socio-cultural diversity.

The main target of this project is to create a framework, which will allow victims to reflect upon and reappraise their traumatic experiences. Furthermore, it will enable them to end the violence and create basic conditions for a self-determined and independent life.

This shelter offers accommodation for up to ten young women or girls aged from 16 to 24 who are affected or threatened by forced marriage.

In order to protect the residents the address of the shelter is kept confidential even from unconnected persons or institutions.

Institutions providing services for women who have experienced violence are essential in helping to combat violence against women in all its forms. The fact that this emergency accommodation could be established is a huge achievement and step forward.

Furthermore it is crucial to continue our efforts in combatting tolerance toward violence against women, as well as against a system that fails to provide access to justice for women who have experienced it. We need to focus on prevention and social actions to eradicate violence against women in all its forms.

3.2. CHILD MARRIAGES – KEY FINDINGS AND IMPLICATIONS FOR POLICY

3.2.1. H.E. Ayoob M. Erfani Ambassador of Afghanistan, Permanent Representative to the UN in Vienna

It is a great pleasure for me to chair this morning's session entitled "Forced Marriages and Violence against Women in the Migrant Community – The Istanbul Convention: A Model Treaty to Stop Violence Against Women", which has been organized on the occasion of the International Day for the Elimination of Violence Against Women, observed on November 25 since 1999. I wish to extend my appreciation to Dr. Michael Platzer and his team at the Academic Council on the United Nations Systems (ACUNS) Vienna for organizing this important symposium, which is a very important subject for my country.

CHILD MARRIAGE has many traumatic long negative consequences on girls, affecting their health, exposing them to domestic violence, forcing them to live in poverty, and depriving them of their adolescence and of their basic human rights and freedoms including freedom from violence, freedom of movement, and education. The UN General Assembly adopted a resolution in 2011, designating October 11 as the **INTERNATIONAL DAY OF THE GIRL CHILD**, aiming at ending the malpractice of child marriage. Also, the UN Human Rights Council adopted the **FIRST RESOLUTION AGAINST CHILD, EARLY AND FORCED MARRIAGES**, recognizing child marriage as a human rights violation and pledging to eliminate child marriages as part of the **UN'S POST-2015 GLOBAL DEVELOPMENT AGENDA**. I believe we can all agree that there is no more time to waste in prioritizing the ban of child marriages.

After the dark era of the Taliban, where women and girls became prime victims and were deprived of their very basic human rights, Afghanistan, with the support of the international community, has come a long way and has made historic achievements in educating and empowering women in the country. Despite our decade of progress, the suffering of girls in my country has sadly continued as a result of the harmful practice of forced child marriage. According to reports by UNICEF, the Ministry of Women Affairs of Afghanistan, Afghan civil societies, NGOs and the Afghanistan Independent Human Rights Commission (AIHRC), underage girls as well as widows who undergo forced marriage, also suffer from physical, sexual and verbal abuse, which continues to undermine women's advancement, and denies women their rights to participate in Afghan society.

Therefore, the Government of Afghanistan has taken a number of measures at the national, regional and international level to address this serious issue. The new Constitution of Afghanistan adopted in 2004, has prevented underage marriage, guaranteed equal rights between men and women and has laid down the foundation for increasing women's involvement in government and for advancing the role of girls and women in our society. The Ministry of Women's Affairs was established and has acted as the leading ministry to fully integrate girls and women into our society and to ensure equal rights between women and men, including through the implementation of its **NATIONAL ACTION PLAN FOR THE WOMEN OF AFGHANISTAN 2008-2018**. The government also

established the **COMMISSION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN**, composed of nine government ministries and institutions which are authorized to initiate policy and program measures with a view to strengthening the government's response to violence against women.

According to the **AFGHAN CIVIL LAW**, young girls should not be engaged or married before the age of 16, and for boys below the age of 18. It is also stipulated that those who get engaged as minors are not obliged to accept the engagement when they become adults. All, especially girls, have the right to end such an engagement.

Afghanistan ratified the **UN CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN** in March 2003. The government is also implementing the **2008 PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN** adopted by the Organization of Islamic Cooperation (OIC). The plan of action calls for the elimination of all forms of discrimination against women, including preventing early and forced marriages, which are considered as an impediment to the health, education, political participation, social justice, and well-being of women. In 2009 the landmark **LAW ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN (EVAW)** was enacted by presidential decree. The law criminalizes child marriage, forced marriage, selling and buying women, forced suicide and 17 other acts of violence against women, including rape and beating. It also specifies tough punishment for perpetrators. The law has yet to gain parliamentary approval, but judicial and law enforcement authorities are already implementing the law.

UN Women has been active in Afghanistan since 2002, supporting the development, monitoring and implementation of policies that both protect and promote the rights of women, including the development of the National Action Plan for the Women of Afghanistan and **MAINSTREAMING GENDER IN THE AFGHANISTAN NATIONAL DEVELOPMENT STRATEGY (ANDS)**. Only last week, on November 18, an important agreement on the "National Plan of Action on the Peace and Security for Afghan Women" was signed between the Afghan Deputy Foreign Minister H.E. Ershad Ahmadi and the UN Women's affairs representative in Afghanistan, Ingibjorg Gisladdottir, stressing Afghanistan's strong commitment to protect the rights of women during these periods of transition and transformation in the country.

Afghanistan is considering to sign the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (entry into force: 22 December 2000), and also adopted gender mainstreaming as the strategy for advancing women's status under the Berlin Plan of Action, and also positioned gender as a cross-cutting perspective in the national development framework. We have the plan of action for the implementation of the UN Security Council resolution 1325 on women, peace and security and providing our progress reports to all relevant regional and international protocols, conventions, as well as UNSC resolutions. In the past decade, we witnessed major improvements for Afghan girls and women as they returned to schools, and participated again in social, political and economic spheres. Today out 40% of 10 million students are girls. Afghan women are actively participating in all social – economic – political and security areas of today's

Afghanistan. Afghan women constitute more than (50%) of Afghanistan's population and their active involvement and participation will remain essential for a stable, developed and prosperous Afghanistan.

Yet, we need continued, long-term international assistance during the periods of Transition (2014) and Transformation (2015-2024) to fully involve women in the socio-economic, political and security-related dimensions of the development of our country as a stable, peaceful and prosperous nation, and to ensure that Afghan girls and women can live their lives in full dignity, free of violence and harassment.

I am looking forward to an open and instructive discussion and wish to also point to the following important sessions and the photo exhibitions accompanying our symposium, including recent campaigns by UNFPA and UNICEF.

3.2.2. Mr. Edilberto Loaiza, United Nations Population Fund (UNFPA)

Child Marriage: A Violation of Human Rights & Deterrent to Development

Despite national laws and international agreements, **CHILD MARRIAGE** remains a real and present threat to the human rights, lives and health of children, especially girls, in more than a hundred countries. One in three girls in low and middle-income countries (excluding China) will marry before the age of 18. One in nine girls will marry before their fifteenth birthday. In the least-developed countries the prevalence of child marriage is even higher—nearly one in two. If present trends continue, the number of child marriages each year, 14.2 million in 2010, will be over 14 per cent higher by 2030, nearly 15.1 million. In South Asia alone, 130 million girls are likely to marry as children between 2010 and 2030.

Child marriage occurs when one or both of the spouses are below the age of 18. Child marriage is a violation of Article 16(2) of the **UNIVERSAL DECLARATION OF HUMAN RIGHTS**, which states that, "Marriage shall be entered into only with the free and full consent of the intending spouses." **ARTICLE 16** of the **CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)** states that women should have the same right as men to "freely choose a spouse and to enter into marriage only with their free and full consent", and that the "betrothal and marriage of a child shall have no legal effect".

THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC) sets out the human rights of children: the right to survive; the right to develop to their fullest; the right to protection from harmful practices, abuse and exploitation, and the right to participate fully in family, cultural and social life. In signing the Convention, governments also committed to take "all effective and appropriate measures with a view to abolish traditional practices prejudicial to the health of the children," which includes, among other practices, female genital mutilation/cutting and child marriage.

Any departure from the obligations enshrined in these conventions is a violation of human rights. By becoming party to these conventions, governments agree to hold themselves

accountable for violations. In a landmark international consensus, the **PROGRAMME OF ACTION** adopted by the **INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT (ICPD)** in 1994, countries agreed on measures to eliminate child marriage as well as to "strictly enforce laws to ensure that marriage is entered into only with the free and full consent of the intending spouses".

As a grave and continuing violation of human rights, the persistence, incidence and prevalence of child marriage are attracting broad attention. This report presents policy makers and programme managers with evidence and recommendations designed to assist needed efforts to reduce and eventually eliminate this harmful practice, and the disparities associated with it, in order to better protect and uphold girls' human rights.

Devastating – even life-threatening – consequences

The term "child marriage" is used to describe a legal or customary union between two people, of whom one or both spouses is below the age of 18. While boys can be subjected to child marriage, the practice affects girls in greater numbers and with graver consequences. Child marriage is often referred to as "early" and/or "forced" marriage since children, given their age, are not able to give free, prior and informed consent to their marriage partners or to the timing of their marriage. Many girls, for example, may have little understanding of or exposure to other life options. They may "willingly" accept marriage as their allotted fate. An element of coercion may also be involved if families apply social or emotional pressure or urge marriage for economic reasons, or further advocate marriage in the (misguided) belief that such a union will keep their daughters safe.

Yet, for millions of girls, marriage is anything but safe and anything but consistent with their best interests. Child marriage violates girls' rights and it does so in a number of ways. It effectively brings a girl's childhood and adolescence to a premature and unnatural end by imposing adult roles and responsibilities before she is physically, psychologically and emotionally prepared. It is not uncommon for marriage to impose social isolation on girls bringing unwanted separation from their friends and family. Often child marriage brings an end to a girl's chance of continued **EDUCATION**. Girls may be removed from school for many reasons: recent research suggests that dropping out of school is less likely to be a direct consequence of child marriage than of **POVERTY**, the low status afforded to women, and social norms that lead parents to discount the value of investing in girls and their education. But under these conditions, when girls drop out of school, they become even more vulnerable to child marriage.

Once married, girls are likely to feel, and in many cases are, powerless to refuse sex. They are likely to find it difficult to insist on condom use by their husbands, who commonly are older and more sexually experienced, making the girls especially vulnerable to HIV and other sexually transmitted infections. At its worst, child marriage can be tantamount to bonded labour or enslavement. It can be a sentence to regular exposure to domestic or sexual violence, and a pathway to commercial exploitation.

Married girls are often under pressure to become pregnant immediately or soon after marriage, although they are still

children themselves and know little about sex or reproduction. A pregnancy too early in life before a girl's body is fully mature is a major risk to both mother and baby. **COMPLICATIONS OF PREGNANCY AND CHILDBIRTH** are the **MAIN CAUSES OF DEATH** among adolescent girls ages 15-19 years old in developing countries. Among the disabilities associated with early childbirth is **OBSTETRIC FISTULA**, an injury which leaves girls in constant pain, vulnerable to infection, incontinent, and often shunned by their husbands, families and communities.

Nearly 16 million teenage girls aged 15-19 years old in developing countries give birth every year. In nine out of ten cases, the mother is already married. Preventing child marriage would significantly help to reduce early pregnancy, and the associated **MATERNAL DEATH OR DISABILITY**. At the same time, girls would face a reduced risk of HIV infection.

Beyond the immediate implications, child marriage denies girls the opportunity to fully develop their potential as healthy, productive and empowered citizens. Child marriage robs girls of their girlhood, entrenching them and their future families in poverty, limiting their life choices, and generating high development costs for communities.

The legal, social and cultural dimensions

A recent analysis of the world's marriage patterns showed that although child marriage persists, the minimum legal age for marriage without parental consent is 18 years in most countries. Families and girls themselves may simply not know that **LAWS AGAINST CHILD MARRIAGE** exist, and enforcement of such laws is often lax. Laws also vary widely, and exceptions are made on different grounds, most commonly when parents or other authorities, such as a judge or community elder, grant their consent.

In 2010, 158 countries reported that 18 years was the minimum legal age for marriage for women without parental consent or approval by a pertinent authority. However, in 146 countries, state or customary law allows girls younger than 18 to marry with the consent of parents or other authorities; in 52 countries, girls under age 15 can marry with parental consent. In contrast, 18 is the legal age for marriage without consent among males in 180 countries. Additionally, in 105 countries, boys can marry with the consent of a parent or a pertinent authority, and in 23 countries, boys under age 15 can marry with parental consent. The **LACK OF GENDER EQUALITY** in the law's treatment of the issue of consent reinforces social norms that dictate it is somehow acceptable for girls to marry earlier than boys. Social norms and customs may further dictate that once a girl is married, she be regarded as a woman, even though she may be barely 12 years old.

Even with the appropriate laws against child marriage in place, the practice persists for a variety of complex, interrelated reasons. **MEN EXERCISE THE PREPONDERANCE OF POWER** in nearly every aspect of life, which restricts women's and girls' exercise of their rights and denies them an equal role in their households and communities. Unequal gender norms put a much higher value on boys and men than on girls and women. When girls from birth lack the same perceived value as boys, families and communities may discount the benefits of educating and investing in their daughters' development.

In addition, girls' perceived value may shift once they reach puberty and their sexuality suddenly looms front and centre. Child marriage is often seen as a safeguard against premarital sex, and the duty to protect the girl from sexual harassment and violence is transferred from father to husband.

Poverty is a major factor underlying child marriage. Many parents genuinely believe that marriage will secure their daughters' futures and that it is in their best interests. Alternatively, girls may be viewed as an economic burden, as a commodity, or a means for settling family debts or disputes, or securing social, economic or political alliances. Customary requirements such as dowries or bride prices may also enter into families' considerations, especially in communities where families can give a lower dowry for younger brides.

Girls' vulnerability to child marriage can increase during humanitarian crises when family and social structures are disrupted. In times of conflict and natural disaster, parents may marry off their young daughters as a last resort, either to bring the family some income in time of economic hardship, or to offer the girl some sort of protection, particularly in contexts where sexual violence is common. These girls are called "famine brides", for example, in food-insecure Kenya. Young girls were married to "tsunami widowers" in Sri Lanka, Indonesia and India as a way to obtain state subsidies for marrying and starting a family. During the conflicts in Liberia, Uganda and Sudan, girls were abducted and given as "bush wives" to warlords, or even given by their families in exchange for protection.

Social norms and perceptions that tolerate inequity in gender roles and responsibilities must change, programmes around the world, including those supported by UNFPA, are making headway. Once parents and communities understand the irreparable harm that the practice of child marriage can inflict on girls, practices can shift. Alternatives to child marriage that build up girls' assets, coupled with activities to change harmful social norms, must be introduced and implemented so that girls can enjoy the childhood to which they are entitled, and have the space to grow, learn and be a girl. Just as important is instilling the notion that every person is endowed with inalienable human rights and should be treated with dignity and respect.

3.2.3. Ms. Adwoa Kufuor, Women Human Rights and Gender Section Research, OHCHR

Human rights standards pertaining to child and forced marriages

Gender discrimination permeates all parts of our societies – in public and private life. It can manifest itself in law and practice and often in cultural norms, including harmful practices such as those that force girls and women to marry a spouse not of their own choosing. For certain groups of women and girls, gender discrimination often occurs due to an intersection of other factors such as age and disability. These intersecting forms of discrimination are explicitly recognized in the **CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)**. The **CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)** specifically calls on States to take measures to modify social and cultural patterns

of behaviours, which constitute serious obstacles to women's enjoyment of their human rights. The Committee which reviews the progress made by State parties on the implementation of national measures to fulfil their obligations under the CEDAW have called for States to take measures to address multiple and intersectional discrimination on grounds of gender.

Currently at the national level, **OVER 158 COUNTRIES HAVE LAWS AND POLICIES WHICH RECOGNISE THE MINIMUM AGE OF MARRIAGE TO BE AT LEAST 18 YEARS.** A number of countries also have specific legislation on harmful practices which include child and forced marriages, or are included as part of a comprehensive policy on eliminating violence against women. Increasingly, States are also criminalising activities associated with child and forced marriage as well as providing policy guidelines on remedies for persons, who are at high risk of forced marriage and for those who have already been forced to marry.⁹⁰

At the international level, greater attempts have been made to clarify conceptually what constitutes a child, early and forced marriage as well as steps and measures that States can take to address this practice in a wide variety of areas related to development. For example, in resolution 66/140, the General Assembly called upon States to take appropriate measures to address the **ROOT FACTORS OF CHILD AND FORCED MARRIAGES**, including by undertaking educational activities to raise awareness regarding the negative aspects of child and forced marriage. It urged all States to enact and strictly enforce laws to ensure that marriage was entered into only with the free and full consent of the intending spouses, and, in addition, to enact and strictly enforce laws concerning the minimum legal age of consent and the minimum age for marriage by raising the minimum age for marriage where necessary. This also involved developing and implementing comprehensive policies, plans of action and programmes for the survival, protection, development and advancement of the girl child in order to promote and protect the full enjoyment of her human rights and to ensure equal opportunities for girls, including by making such plans an integral part of her total development process. The CEDAW Convention contains specific provisions in relation to forced marriage and early marriage (article 16).

International law has further reiterated and reinforced provisions within the **SUPPLEMENTARY CONVENTION ON THE ABOLITION OF SLAVERY (1956)**, which defines **ALL FORMS OF FORCED MARRIAGE AS PRACTICES SIMILAR TO SLAVERY AND PROHIBITS THE PRACTICE.** Forced marriage (which can include child marriage) includes luring an adult or a child to the territory of another state with the purposes of forcing them to enter into a marriage. The international definition of trafficking in persons in the United Nations Trafficking Protocol covers trafficking for the purpose of exploiting people in 'practices similar to slavery'. In the context of trafficking, efforts to address forced marriage have focused on the root causes that encourage **TRAFFICKING IN WOMEN AND GIRLS, INCLUDING FOR THE PURPOSE OF FORCED MARRIAGE.** Specifically, with regards to child marriage, international efforts have focused on prevention of early

marriage through enactment of laws that ensure free and full consent of both parties and social support for the enforcement of laws on the minimum legal age for marriage, in particular through educational opportunities for girls.⁹¹

Regional human rights bodies have also advanced the prohibition on child and forced marriages through the adoption of **REGIONAL TREATIES.** These include the adoption of the **COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE** in 2011 (the Istanbul Convention)⁹² and the **SADC PROTOCOL ON GENDER AND DEVELOPMENT, 2008.**⁹³ Of significant note is the entry into force of the **PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS IN 2003.** The treaty places an obligation on States to enact appropriate national legislative measures to guarantee that: no marriage shall take place without the free and full consent of both parties and sets the minimum age of marriage at 18 years.⁹⁴

United Nations treaty bodies have further advanced the rights of children and women in the area of marriage by articulating states' obligations under international human rights law. For instance, concerning the requirement of consent for marriage for boys and girls and non-discrimination in the age of marriage for both girls and boys, the **HUMAN RIGHTS COMMITTEE** have emphasised the right of women and men to enter into marriage free from coercion, and the obligation of the State to protect the enjoyment of this right on an equal basis.⁹⁵ **THE COMMITTEE ON THE RIGHTS OF THE CHILD** and the **CEDAW COMMITTEE** have described forced and child marriages as a manifestation of discrimination against women and girls and a violation of their rights as well as an obstacle to the girl child's full enjoyment of her rights. They have further made it clear that forced marriage is perpetuated by **ENTRENCHED ADVERSE CUSTOMS AND TRADITIONAL ATTITUDES** that discriminate against women or place women in subordinate roles to men, or maintain women's stereotyped roles in society.⁹⁶

91 In resolution 66/140, the General Assembly called upon States to take appropriate measures to address the root factors of child and forced marriages, including by undertaking educational activities to raise awareness regarding the negative aspects of child and forced marriage. It urged all States to enact and strictly enforce laws to ensure that marriage was entered into only with the free and full consent of the intending spouses, and, in addition, to enact and strictly enforce laws concerning the minimum legal age of consent and the minimum age for marriage and raise the minimum age for marriage where necessary, and to develop and implement comprehensive policies, plans of action and programmes for the survival, protection, development and advancement of the girl child in order to promote and protect the full enjoyment of her human rights and to ensure equal opportunities for girls, including by making such plans an integral part of her total development process.

92 The Istanbul Convention criminalises forcing a child to enter into a marriage, as well as luring a child to another country with the intention of marrying the child, boy or girl, against his or her will (Article 37).

93 Article 8 of the South African Development Community (SADC) Protocol on Marriage and Family Rights

94 Protocol to the African Charter on Human and People's Rights (2003), Article 6 (on marriage)

95 HRC General Comment concerning article 3 (equality of rights between men and women)

96 See general recommendation No. 19 (1992) on violence against women of the Committee on the Elimination of Discrimination against Women (*Official Records of the General Assembly, Forty-seventh Session, Supplement No. 38 (A/47/38)*, chap. I), para. 11. See also concluding observation of the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights.

90 R. Gaffney-Rhys (2013). "Forced marriage in England and Wales: Challenges, Achievements, Best Practice and Implementation Gaps". Report for the Office of the High Commissioner for Human Rights

With regard to the minimum age for marriage,⁹⁷ the Committee on the Rights of the Child and the CEDAW Committee have agreed that 18 is the appropriate minimum age for marriage. Both Committees have recommended states to review and “reform their legislation and practice to increase the minimum age for marriage with and without parental consent to 18 years.”⁹⁸ They have further stated that the right to choose a spouse and to freely marry is essential to a child’s life and to her dignity and equality as a human being⁹⁹.

Treaty bodies have increasingly raised the **IMPORTANCE OF BIRTH REGISTRATION** as essential means of protecting children’s rights, in particular protecting children against early marriage. In their constructive dialogues with State parties and in their resulting concluding observations/comments, they have also urged States to enforce the requirement to register all marriages in order to **MONITOR THEIR LEGALITY AND THE STRICT PROHIBITION OF EARLY MARRIAGES**.¹⁰⁰ They have further provided clear guidance on states’ obligations to ensure birth and marriage registration as a means to facilitate monitoring of the age of marriage, and contribute to support the effective implementation and enforcement of laws on the minimum age for marriage.

Standards pertaining to the elimination of violence against women have also been utilised to address child and forced marriage. Addressing gender-based violence is central to bolstering efforts to prevent child and forced marriages. The **DUE DILIGENCE STANDARD**, which requires States to prevent, investigate and punish acts of violence against women, whether those acts are perpetrated by the State or by private persons has gained wide acceptance as the relevant standard against which to judge State compliance with human rights obligations on the issue of violence against women. The CEDAW Committee, in General Recommendation 19, recognises forced marriage as a form of violence against women. Article 5 of the CEDAW Convention requires all State parties to take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. Article 19 of the Convention on the Rights of the Child (CRC) requires States parties to take all **APPROPRIATE LEGISLATIVE, ADMINISTRATIVE, SOCIAL AND EDUCATIONAL MEASURES TO PROTECT THE CHILD FROM ALL FORMS OF PHYSICAL OR MENTAL VIOLENCE, INJURY OR ABUSE, NEGLECT OR NEGLIGENT TREATMENT, MALTREATMENT OR EXPLOITATION, INCLUDING SEXUAL ABUSE**. The obligation to protect children from violence includes protection from parents and caregivers and by those with specific responsibilities towards them, including teachers and employees of children institutions. The obligation to protect women’s rights requires States to take action to prevent and penalize violations committed by private individuals and organizations.

97 HRC, General Comment 28, para 23.

98 CRC, General Comment 4, para 20 and CEDAW, General Comment 21, para 36. At the regional level, the African Charter on the Rights and Welfare of the Child requires State parties to specify the minimum age of marriage to be 18 years, including in legislation.

99 CEDAW, General Recommendation 21, para 16.

100 See concluding observations of the Committees on CAT; CRC and CEDAW. See also recommendations made in the context of the Universal Periodic Review.

The international community has also strengthened its resolve to **ERADICATE HARMFUL PRACTICES**. International human rights standards require States to protect children from all harmful traditional practices, including early marriage. The CEDAW Committee has requested States to ensure “The enactment and effective enforcement of laws that prohibit marriage of girl children.” The CRC under article 24 requires State parties to take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children. The CRC Committee has strongly urged States “to develop and implement awareness-raising campaigns, education programmes and legislation aimed at changing prevailing attitudes, and address gender roles and stereotypes that contribute to harmful traditional practices.”¹⁰¹

There are a myriad of complex and interrelated issues including **POVERTY, SOCIAL NORMS AND CULTURAL FACTORS** that legitimize marriages between the girl child and often much older men, and contribute to prevent women from freely marrying a spouse of their choice. In many countries, child marriage is linked with poverty. For example, in the developed world, women and children who are forced into marriage outside their home country are often from **MARGINALISED OR EXCLUDED GROUPS**, are less likely to have access to essential services and may face discriminatory treatment if they do access services. For many girls who are at risk of forced marriage and those who have already been forced to marry, **DOMINANT SOCIO-CULTURAL NORMS AND NOTIONS OF RELIGION AND MORALITY** means that they are often **RELUCTANT TO SEEK ASSISTANCE** and less likely to be able to hold responsible actors accountable if their rights are violated.

Child and forced marriages also affects boys, however, women and girls are predominantly the victims of forced and child marriage. According to figures recently released by the United Nations Population Fund (UNFPA), more than **140 MILLION GIRLS WILL BECOME CHILD BRIDES BETWEEN 2011 AND 2020**.¹⁰² Women and girls are also particularly vulnerable to becoming victims of early and forced marriages during **SITUATIONS OF CONFLICT AND OTHER NATURAL DISASTERS** which may lead to displacement. Despite the harm caused to children who are victims of early marriage, in many settings, a married girl is perceived as safer from harm because her family may believe that she has a husband to watch over her. Disasters compound the social effects of discrimination especially for girls and women who face other barriers. For example, although child marriage existed in Syria prior to the conflict, an inter-agency assessment of **SYRIAN REFUGEES IN JORDAN IN JULY 2013** found that “**THE SENSE OF ECONOMIC AND PHYSICAL INSECURITY THAT, AMONG OTHER FACTORS, DRIVE EARLY MARRIAGE IS AMPLIFIED IN DISPLACEMENT**. ... Many of the participants of the survey felt that, as refugees it was more likely for a young girl to be married to a much older man ... because he may be perceived as more capable of providing her with protection in an unsafe or unfamiliar environment.”¹⁰³

101 CRC General Comment 4, para 24; and CEDAW, General Comment 14.

102 Joint news release Every Woman Every Child/Girls Not Brides/PMNCH/ United Nations Foundation/UNFPA/UNICEF/UN Women/WHO/ World Vision/World YWCA/ http://www.who.int/mediacentre/news/releases/2013/child_marriage_20130307/en/ (accessed on 18 November 2013)

103 Inter-agency assessment Gender-based Violence and Child Protection

Women and girls who are forced to marry experience a range of violated rights, such as the right to education, the right to be free from physical and sexual violence, the right not to be held in servitude or perform forced or compulsory labour, the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment and the right to health including sexual and reproductive health. However, violations against the girl child are often compounded in addition to her sex, her age and forced marriage of girls is often accompanied by early child bearing which poses a **GREATER RISK OF MATERNAL MORTALITY AND MORBIDITY**. Adolescent girls are particularly at risk of complications from pregnancy and childbirth.

Ending child or forced marriage will only be possible if we address the social norms and cultural factors which act as a barrier in the realisation of women and girls human rights to freely choose whom they wish to marry.

3.2.4. Ms. Serin Duzdar, Orient Express: NGO in Vienna for Counseling, Education and Cultural Initiatives for Women

THE CONTINUOUS INCREASE IN THE CASES OF GIRLS THREATENED BY FORCED MARRIAGE SINCE THE 1990's played a major role in Orient Express's decision to adopt forced marriage as one of the main focuses of its work. At the beginning we were faced with a taboo subject; **NOBODY FELT RESPONSIBLE FOR THESE YOUNG GIRLS WHO WERE TRAUMATISED AND ABUSED BOTH PHYSICALLY AND PSYCHOLOGICALLY**. Girls who were forced into marriage were considered victims of their own culture. So far it has been perceived as a migrant problem, a problem also used in the political scene to incite xenophobia and hatred towards migrant communities who were criticized of practicing backward traditions that had no place in our European society.

One of the main focuses of our work at Orient Express is **INDIVIDUAL COUNSELLING FOR VICTIMS OF FORCED MARRIAGE** and their parents in cases in which forced marriage is planned, but also **COORDINATED CRISIS INTERVENTION** in cases in which girls are directly threatened by forced marriage. Moreover, we offer them an open ear and an understanding of the familial and cultural pressures they are put under. We help them take their own informed decisions concerning their life and future and help them overcome obstacles they face on an everyday basis during this process.

Since 2000, the scope of work has expanded to include **SCHOOL WORKSHOPS, TRAINING FOR SOCIAL WORKERS, PRESS AND PUBLIC AWARENESS WORK AS WELL AS POSTER CAMPAIGNS**. As proof of the success of our work, the number of girls and young women who have contacted us has gradually increased over the last years – this is also a sign that we have been able to reach this target group.

In 2012 **ORIENT EXPRESS SUPPORTED 89 YOUNG WOMEN AND GIRLS IN THEIR FIGHT AGAINST FORCED MARRIAGE**, including 58 girls (most of them between the age of 15-19) threatened by forced marriage and 31 victims of forced marriage (most of the between the age of 20-24). However, **FORCED MARRIAGE**

AS A FORM OF VIOLENCE STILL LACKS A QUANTITATIVE STUDY IN AUSTRIA. This has negative consequences on the process of recognizing the dynamics of the problem of forced marriage and more importantly on the process of developing further concrete measures against it.

On the political level, first amendments were made in 2006, in which the **CRIMINAL LAW CLASSIFIED FORCED MARRIAGE IN AUSTRIA AS A DISTINCT CRIMINAL OFFENCE**. An additional amendment in 2012 enables the **PROSECUTION OF PERPETRATORS OF FORCED MARRIAGE THAT OCCURS ABROAD**. This also means in practice that the police are also obliged to file criminal charges in cases of suspicion with regard to forced marriage. New amendments were also made in the Settlement and Residence Act in 2010; the minimum age for family reunifications was increased to 21 years. Criminalising forced marriage will intimidate parents and may also help protect younger siblings in the family, girls who are unaware of their rights. People will also be more encouraged to take active steps and inform the police. However, in many cases the police and the judicial system are not able to provide sufficient protection against the perpetrators, and **ISSUING A RESTRAINING ORDER AGAINST THE PERPETRATOR DOES NOT OFFER THE VICTIM SUFFICIENT PROTECTION**, especially because the perpetrator in such cases consists usually of more than one family member. During the last few years we demanded that other measures must be taken to protect these girls, the most relevant one would be **TO SET UP A SPECIALIZED SHELTER FOR GIRLS AND YOUNG WOMEN** affected but also threatened by forced marriage. Our demand was heard, and in August 2013 the first and only crisis shelter was established in Vienna. Our primary concerns here are **PROTECTION, ANONYMOUS ACCOMMODATION AND INTENSIVE PSYCHOLOGICAL SUPPORT**. We are not to underestimate the effects of forced marriage on girls. Young victims are emotionally blackmailed and are put under immense pressure by their own families; many of them undergo traumatic experiences and find themselves in a dangerous situation where their personal will is ignored. They feel betrayed by their own parents, the persons they trust and respect the most and in many cases are not only forced to leave their family but have **FEAR THAT THEY MAY BE MURDERED OR SANCTIONED BY THEIR PARENTS OR OTHER FAMILY MEMBERS** if they do decide to return. Many questions and thoughts go through their heads: What will happen to my legal status? What does my future look like and how do I go on from here? What will happen to my mother or to my sister if I leave? These young girls face a new, frightening situation and require intensive care and emotional support.

There is an urgent need to tackle forced marriage more effectively; the needs of both victims of forced marriage as well as those threatened by forced marriage have to be covered. This includes taking steps such as filing a police report as well as further legal steps to enable the prosecution of the offenders. This especially applies to young girls who are at risk of **BEING TRICKED INTO GOING TO THEIR PARENT'S COUNTRY OF ORIGIN OVER THE HOLIDAYS AND MARRIED AGAINST THEIR WILL**. Another crucial factor is the building up of an effective help-system consisting of professional individuals such as social workers, teachers or school doctors/psychologists that are trained to competently and pro-actively deal with cases of forced marriage. Major stakeholders such as the police, youth

among Syrian refugees in Jordan, with a focus on Early Marriage Peace and Security, UN Women, Amman, Jordan, July 2013

social services and various governmental institutions are also to be integrated in this help system to ensure that victims receive the support needed on all levels. **CAUTION, CONFIDENTIALITY AND CULTURAL AWARENESS** are essential when dealing with cases of forced marriage.

Last but not least, more focus should be set on awareness raising activities and campaigns both in the media and public sector but also in schools and youth clubs to highlight forced marriage, as it should be seen as a form of violence against women and girls found in mainstream society.

3.2.5. Ms. Somah Ibrahimi, Journalist from Afghanistan

The Fragile Achievements of Afghan Women

Whenever somebody talks about women in Afghanistan, straightaway the image of a woman, fully covered from face to toe with nylon and blue cloth, which is called burqa, would spring to their mind. It would be a person with no face, and it is believed that, no face means no existence.

If we look to the history of Afghanistan, 50 to 60 years ago women enjoyed far greater freedom and equity in the country. In the past 30 years, women in Afghanistan have gone through a lot of difficulties.

The darkest and worst time for Afghan women was between 1992 to 2001, when the communist regime collapsed by Afghan Mujahiddin, followed by the Taliban in 1996. This was the worst time not only for women in Afghanistan but for every Afghan individual.

Women were killed publicly, raped, discriminated, beaten on the roads and they were deprived to go outside without male accompany. The window of hope was re-opened for all Afghan especially women at the end of 2001. The American forces together with international community threw out the Taliban from power and the new Afghan government was established under the leadership of the current president, Hamid Karzai, who received huge support from the international community, including Austria.

This was the time when girls were allowed to go to school, and a huge number of women who were imprisoned were now able to play an active role in reconstruction of their country by working outside their homes. In the political arena, women were given high positions in the newly established government including two Ministry level positions, as well as the establishment of a dedicated ministry to look after women's affairs. 68 out of 249 seats of the lower house of the Afghan parliament were given to women, which constitutes 26 percent of the total number. Another successful example of the democracy that was achieved in the country was the freedom of the media and the existence of civil society in the post-Taliban Government.

Despite all these achievements, the women of Afghanistan still face the most difficult time, and what has been achieved seems to be very fragile. Insecurity and violence against them is increasing day by day. They continue to be sold under the name of BAAD (Baad is a traditional practice of settling disputes between the families). According to a recent survey by UNFPA, some 46 percent of Afghan women are married by age of 18, and

15 per cent of them before age 15. According to the **AFGHANISTAN INDEPENDENT HUMAN RIGHTS COMMISSION**, between 60-80 percent of all marriages in Afghanistan are forced.

Women are still highly discriminated, not only by the opposition in the country but by the officials of the government in the country too.

The women of Afghanistan do not legally have any problems as the Afghan constitution has given them equal rights to Afghan men. However, in many cases, this is considered very symbolic.

Another significant challenge for women in Afghanistan is the **SHARIA LAW** which has been interpreted in favour of authorized men in power. Some conservative members of the Parliament perceive the **ELIMINATION OF VIOLENCE AGAINST WOMEN LAW** to be in contradiction to the sharia law, which clearly shows that women's rights are not secured in Afghanistan. Afghanistan has only a few female judges in the big cities like Kabul, Balkh Herat, Takhar and no presence of females at the decision-making level. This itself is a big problem for women and traditionally it is difficult for women in the rural areas to discuss their problems with male judges.

This momentum has been going on since the beginning but unfortunately, the Afghan Government, along with its international allies, failed to secure the rights of women in the country. With the passage of time, the situation in the country deteriorated, and women's problems also increase all over the country, including the capital. It has been observed that the international community also considered the issue of women as a domestic issue of the Government of Afghanistan, and some cases backward steps have been undertaken.

As the US is planning its exit strategy from Afghanistan by the end of 2014, there unfortunately are no signs of peace in the country, which increases the sense of fear and worry for Afghan women. The presence of warlords in power, the no law enforcement, and the alarming increased level of violence against women is one of the biggest concern for Afghan women if the US and NATO forces leave Afghanistan by the end of 2014. We, Afghan people, particularly the women of Afghanistan, still need the support from the international community.

The Election will be held in April 2014 in Afghanistan. This is a positive step towards for democracy and we are happy for this. However, the people of Afghanistan still have worry as the majority of the candidates are the people who are the human rights violators and played a huge role in internal war in the 90s. Although we see a lot of discussions taking place among the candidates about the young generation and women, unfortunately we hardly see any women or anybody from the young and educated generation among them.

We face many challenges by the end of 2014 as the presidential election and transition will take place. Nevertheless we still hope for the best. While appreciating the international community for helping as during the past 13 years, we strongly request them to continue their assistance and stay with us until we are able to stand on our own feet.

3.2.6. Dr. Massouda Jalal, Jalal Foundation

Child brides in Afghanistan:

Overview of Situation, Challenges and Options

Greetings to all of you and thank you for giving me a chance to share the situation of child brides in Afghanistan. This topic is complex and very sensitive. It will not be possible for me to give you a comprehensive analysis of the situation in a ten-minute message. So, please allow me to limit my discussion on three (3) topics:

- First, I want to present my analysis of the major factors that support the practice of child brides;
- Second, I will describe how pervasive the problem of girl child marriages in Afghanistan is and cite its major social consequences; and
- Third, I will venture to identify action points that we all may want to consider in order to address the practice of child brides.

1. FACTORS THAT SUPPORT THE PRACTICE OF CHILD BRIDES

Although there are many factors that support the child bride practice in Afghanistan, I wish to concentrate on three of them that are most intractable and challenging, which are: (1) a deep-seated tradition that is founded upon extremely low regard for women as human beings, (2) a defective household economic framework that positions unmarried young girls and women as a lucrative and efficient money-making asset, and (3) lack of peoples' adherence to the rule of law. Let me discuss them briefly, one by one:

1. Deep-seated tradition of low regard for women as human beings

– The situation of women in my country is so difficult that even the Global Gender Gap Report of the World Economic Forum was unable to measure it. It is ironic that although girls and women serve as the most profitable economic capital of households, they are not treated with importance and respect. They are discriminated in opportunities and allocation of family resources, overburdened by domestic responsibilities, vulnerable to violence inside and outside of their homes, and **DENIED THEIR RIGHTS TO INHERITANCE, MOBILITY, EDUCATION, DECISION MAKING, AND PARTICIPATION IN PUBLIC LIFE**. It is this debased status of women that legitimizes their image as an economic capital for households. **GIRLS AND WOMEN WHO REFUSE TO BE MARRIED OFF BY THEIR PARENTS COULD BE KILLED BY THEIR FAMILY MEMBERS**. It is considered shameful for a woman to pass the legal age without being offered a marriage proposal. In a society that operates from a paradigm of honour and shame, being single beyond the age of 25 could be one of the worst things that could ever happen to a woman.

2. Defective household economic framework – Generally, the economic base of Afghan families was eroded by war. During the war, families spent their savings moving from place to place, often without sources of livelihood and economic support. Earning opportunities vanished along with peoples' skills and economic capital. Thus, where earnings from agriculture and livestock are inadequate, marrying off young female family members emerged as an economic option. Now, it is very much like a backyard industry. A poor Afghan father with five daughters actually believes that he is rich

because each daughter, married at an early age, could fetch a dowry of seven to ten thousand US dollars each – many, many times greater than the price of a cattle or a sheep. Child brides command a higher dowry because youth is equated with purity, innocence, freshness, and better reproductive capacity. Besides, a child-wife is far easier to subdue, manipulate, exploit and abuse. **PARENTS ALSO MARRY OFF THEIR GIRL DAUGHTERS TO REPAY DEBT, SETTLE CONFLICTS, OR BOOST THE FAMILY'S SOCIAL STANDING.**

3. Lack of peoples' adherence to the rule of law – Many years of lawlessness has been making it difficult for our government to bring citizens under the rule of law. People have been so used to living the traditional way of life where unlawful acts may be legitimized through complicity of community religious leaders. **LACK OF AWARENESS OF THE LAW, WEAK IMPLEMENTATION MECHANISMS, AND STRONG INFLUENCE OF FUNDAMENTALISM CONTINUE TO MAKE THE LAW USELESS**, leaving children with little or no protection at all when betrothed by their parents. Our civil law provides that a girl cannot marry until she is 16 unless her father chooses her to marry at 15. However, in reality, Afghan girls are married much earlier, even as early as 9 years old. Research conducted by **WOMEN AND CHILDREN'S LEGAL RESEARCH FOUNDATION** in 2008 shows that **40% OF THE RESPONDENTS WERE MARRIED BETWEEN AGE 10-13; 32.5% AT AGE 14; AND 27.5% AT AGE 15**. All of these are considered to be under coercion since children do not have the legal capacity to give consent to their own marriage. Although child and forced marriage is prohibited under the decree on the Elimination of Violence against Women, no parent has ever been punished for marrying off their girl daughters and traditions are obviously stronger than the political commitment to implement the law.

2. Pervasiveness and Consequences

How pervasive is the practice of child bride in Afghanistan? According to the **MINISTRY OF PUBLIC HEALTH'S MORTALITY SURVEY** that was conducted in all provinces of the country in 2010, 53 percent of all women in the 25 to 49 age group were married by age 18, and 21 percent of the women were married by age 15. Another report on Child Marriage in Southern Asia conducted by the **INTERNATIONAL CENTER FOR RESEARCH ON WOMEN, AUSTRALIAN AID AND UNFPA** states that 57 percent of Afghan girls are married before they turn 16 and 60 to 80 percent of those girls were forced into those unions by their families. From a global perspective, a 2012 global study by UNFPA put Afghanistan among 41 countries in the world that reported 30 percent or more of its women in the 20-24 age group married by age 18.

In the context of Afghanistan, the child bride practice summarily threatens the attainment of the girls' full potential. It also curtails the enjoyment of their freedom and human rights. They need to stop schooling, take care of their husband and aging in-laws, and assume domestic responsibilities that they are unprepared to perform. The worst part of it is the **HIGH INCIDENCE OF MATERNAL AND INFANT MORTALITY AMONG TEEN MOTHERS WHICH IS PRECIPITATED BY UNDERDEVELOPED REPRODUCTIVE SYSTEM, POOR HEALTH AWARENESS, INACCESSIBLE HEALTH SERVICES, AND LACK OF FEMALE HEALTH PRACTITIONERS THAT**

ARE NEEDED IN A SOCIETY WHICH DOES NOT ALLOW FEMALE PATIENTS TO BE TREATED BY MALE PHYSICIANS. A 2010 report states that early marriage and pregnancy are the main reasons why Afghanistan is the second country with the **HIGHEST MATERNAL MORTALITY IN THE WORLD.** Maternal mortality in Afghanistan is ten times higher than civilian deaths caused by armed conflict. On top of all these, girl wives are constantly victimized by violence perpetrated by in-laws and the husband himself. Aside from **DOMESTIC SLAVERY**, some of them are also **FORCED TO PROVIDE SEXUAL SERVICES TO OTHER MEN.** When no other options are available, girl wives run from home or resort to self-immolation. On the whole, the country loses from the tremendous contributions that girl brides would have made to national development.

3. OPTIONS AND RECOMMENDATIONS

Unfortunately, our current political climate in Afghanistan does not leave much room to be optimistic on the options that we can take. The on-going peace process is bringing back the Taliban whose increasing influence threatens to erode the gains that Afghan women generated during the past 12 years. The international security support is also scheduled to leave the country by the end of 2014. People are more pessimistic these days but losing hope is not an option.

To address the situation, women's groups must persist in championing and monitoring the status of women's situation in Afghanistan. On the part of the government, the prohibition on underage marriage should be enforced strictly. The people who officiate marriages must be sensitized and held accountable, together with parents who prematurely betroth their daughters and sons. To demonstrate the illegal nature of this practice, **THE GOVERNMENT SHOULD JAIL PARENTS AND MULLAHS WHO LEGITIMIZE UNDERAGE MARRIAGES.** Registration of application for marriages should also be strictly enforced so that authorities could intervene to prevent the child bride practice. Alternative economic opportunities for families must be made available to parents who stop the child bride practice. There should also be college scholarships for young girls that are tied up to a condition that they will not be married until the college education is completed. Women NGOs, government agencies, and human rights bodies must collaborate to pursue a rescue program for girls who are forced into marriage by their parents.

In the long term, we must continue to fight for women's rights in all possible areas of life, especially within families. If women cannot receive protection, support and care within their own families, they could not expect to get it elsewhere. We must transform gender dynamics within family members and socialize our girls and boys to a culture that is based on mutual respect and support. Schools and media must help in this regard. Classroom lessons and associations of parents and teachers must take up underage marriage as a priority issue for collective action. **MEDIA SHOULD BE SUPPORTED TO EDUCATE THE PUBLIC ABOUT THE LEGAL PROHIBITION ABOUT THE PRACTICE OF UNDERAGE MARRIAGE,** especially child brides. Religious and community leaders should be targeted as advocates for the prevention of child marriage.

And to the international community, we appeal to you for continuing attention to the status of women in Afghanistan, especially nowadays when we are facing serious threats from the resurgence of fundamentalism in our mainstream life. Please follow up closely the events and developments, especially the actions of our political leaders. The international community must make its stand against all forms of women's oppression louder and consistent. All funding support to the peace and reconstruction of Afghanistan need to be re-examined from the perspective of women's advancement. And **PLEASE HOLD OUR GOVERNMENT ACCOUNTABLE FOR ITS CONTINUING FAILURE TO PROTECT, FULFILL, AND PROMOTE THE RIGHTS OF WOMEN AND CHILDREN.**

As I close, I want to thank you again for the privilege of sharing with you my thoughts on the situation of child brides in my country. I pray that I may have the opportunity to meet you at some other place in the future and elaborate the ideas that I shared. I salute and honour all of you. It is your energy and support that keep us strong. May you have a fruitful conference and God bless all your undertakings.

Dr. Massouda Jalal is founding **President of Jalal Foundation**, a non-profit organization with 50 NGOs and women council members throughout Afghanistan that promote the protection of Afghan women's rights, leadership and participation in politics and public life. A medical doctor, Dr. Jalal is a decorated political activist, non-traditional leader and former Minister of Women and Legislator. She holds the distinction of being the first Afghan woman to run as Presidential candidate.

3.3. VIOLENCE AGAINST MIGRANT WOMEN – DIMENSIONS IN EUROPE

3.3.1. Ms. Alev Korun, Member of the Austrian Parliament, Spokesperson on Human rights, Migration and Integration of the Austrian Green Party

Violence against Migrant Women – Dimensions in Europe

Austrian politicians have a long-standing tradition of talking about migrant women as being poor, oppressed victims. However, not only Austrian governments, but the Austrian immigration law itself continues to create impassable hurdles for migrant women. A lot of migrant women often find themselves dependent on the man due to the way that current regulations on residence permits oblige family members to reside together for a span of five years. The huge gap between the political discourse of migrant women and the concrete day-to-day life of these women is also part of the problem, especially the effects of the immigration law.

Currently the law states that if the person who migrated to Austria loses his/her residence permit, for example, by getting divorced within the first 5 years of stay in Austria, it may result in that person also losing his/her right of stay. Thus, the cases of women staying with abusive husbands because they fear to lose their residence permit if they get a divorce are often very high. Therefore, from the outset the Austrian immigration law may seem to be gender neutral, however on closer inspection, certain negative effects can impact women severely. Structural discrimination against women is therefore a huge problem because of the fact that the majority of persons coming to Austria via family reunification are women.

The Austrian immigration law has partially improved over the last few years. It now states that family members have an independent right of residence. Looking at it more closely, this statement however does not quite live up to the facts. If a person gets a divorce and wants to maintain their residence permit, they must fulfil all the general requirements for a residence permit, which means having their own accommodation, a fully covered health insurance, and a steady income. If these requirements are not fulfilled, a residence permit is therefore not granted. Structural discrimination also occurs in this situation.

In many countries around the world, girls are much more unlikely to receive proper education. This leads to the problem that many (migrant) women have hardly any professional training, and thus are much more unlikely to get a job. Potential problems with German language and lack of social networks in Austria (where they have probably lived for a short time, usually less than 5 years) contribute to these problems. Thus again we notice that regulations which seem to be gender neutral have negative effects on women rather than men.

An exception to this particular law is that if the divorce occurred due to specific reasons, such as an established fault of the (other) partner or due to domestic violence, then it is possible to be excused from some of those requirements. However, it is common knowledge that to prove the fault of the partner in court during a divorce procedure is a rather humiliating

experience and an immense strain for those still living under the same roof with their partners. It may escalate to domestic violence. So many women do not choose this option. Moreover, in some countries women come from a judicial system that may not recognize divorce as a “fault” of one partner. In such cases the woman wouldn’t be aware of this condition of the law and may not be able to fulfil the requirement.

The second option is to get a restraining order against the partner on the basis of domestic violence, which is also too high of a risk for many migrant women. It would mean having to go to the police, establishing proof for domestic violence and having your partner warned off the premises. Especially for women with little language knowledge and little experience with Austrian public authorities, this causes high anxiety. So many of them do not opt for this option either.

There are other situations in which a woman fortunately has not been victim of physical violence but has been abandoned by her husband and left with nothing other than the clothes she was wearing. Four years ago I got to know a young woman with Turkish citizenship who was abandoned by her husband. Because she hadn’t lived in Austria for up to five years and had not been physically attacked by him, she had no chance to get a residence permit on her own. Thus she was in the terrible situation of having to claim in court that she doesn’t want a divorce and she would love her husband. If she claimed for a divorce, she would’ve had to leave the country and back home, her family of origin wouldn’t have supported her but would’ve expelled her.

All these problems and discrimination against (migrant) women show that although politics speaks a lot about migrant women’s oppression and violence against them, current legislation and migration regimes partly lead women to be victims and real support, help and empowerment being provided to them. The requirements for a secured residence permit are still too high for victims of both physical and psychological violence.

For that reason, human rights and women’s rights activists and Green parliamentarians press for a low-threshold approach when it comes to combatting violence against women and providing support and empowering migrant women. It should be enough for a woman to report domestic violence at a specialized advisory center instead of having to press charges at a court, which is the current requirement.

3.3.2. Ms. Barbara Stelmaszek, WAVE Network (Women against Violence in Europe)

Promoting and strengthening access to women’s services, including women’s shelters, for undocumented migrant women survivors of violence in Europe

WOMEN AGAINST VIOLENCE EUROPE (WAVE) is a network of mostly European women’s civil society organizations working in the field of combating violence against women and children. The WAVE Network formed in 1994 following the World Conference on Human Rights that took place in 1993 in Vienna. It was during the World Conference that violence against women became globally recognized as a human rights violation. The

WAVE Network began with six organizations in Austria, Ireland, Netherlands, Poland, Serbia and Sweden and in the nearly 20 years since its establishment has grown to over 100 women's organizations in 46 European countries. Today, the WAVE Network includes vastly active, highly motivated and long-standing national feminist networks and local organizations, allowing for broad information sharing and mobilization of women's organizations across Europe. The WAVE central office is located in Vienna, Austria. WAVE has been able to continue its work through continuous support from the European Commission and the Austrian government (Federal Ministry of Women's Affairs and Public Administration, Municipality of Vienna Department of Women's Affairs, Federal Ministry of Labour and Social Affairs and Consumer Protection), as well as grants from the Global Fund for Women, which enables WAVE's outreach to extend countries outside of the European Union.

WAVE's central task is to raise awareness of violence against women and domestic violence and to promote the work of and empower women's civil society organizations. The main activities of WAVE involve advocacy, capacity building, exchange of information, research and networking. Through advocacy, WAVE collaborates with policy makers to promote, protect and strengthen the human rights of women in Europe. WAVE's annual program actively involves its Network organizations, focusing on capacity building. WAVE provides a space for women's organizations to discuss developments in their countries and on a European level, to share information and ideas, borrow from each others' work and develop strategies to move forward. WAVE is a place for European wide research,¹⁰⁴ collecting data from its Network organizations, associated experts and researchers to provide up-to-date information on the current situation of women's service provision and administrative data across Europe, as well as other pressing issues, as means of informing governments, civil society organizations and the public, with the overall goal of successfully applying the findings to result in positive developments in the area of prevention and combating of violence against women. Lastly, WAVE provides a platform for relevant stakeholders from all areas in the field of combating violence against women to exchange ideas and to form alliances. In the area of improving service provision for women survivors of violence (including undocumented migrant women), WAVE focuses on availability of national women's helplines, women's shelters, rape crisis centers and women's counseling centers, emphasizing the need to enable the services to function from a human-rights based approach, apply principles of non-discrimination, among other principles, to ensure the inclusion of most vulnerable groups, including undocumented migrant women.

Overall, WAVE's central goal has been to strengthen the work of women's civil society organizations and women's service providers, recognizing women's organizations to be

the driving force behind positive developments in the area of preventing and combating violence against women. Research in the area of movement building has shown that in the last four decades "the autonomous mobilization of feminists in domestic and transnational contexts – not leftist parties, women in government, or national wealth – is the critical factor accounting for policy change. [Furthermore, the analysis] reveals that the impact of global norms on domestic policy making is conditional on the presence of feminist movements in domestic contexts, pointing to the importance of on-going activism and a vibrant civil society."¹⁰⁵

WAVE has always strived and continues to strive to be an inclusive organization, not only in terms of its collaborative efforts, but also in ensuring all groups of women, especially the most vulnerable, receive the necessary protection from violence and empowerment to live fulfilling lives, where they are free from violence. Undocumented migrant women in Europe constitute an especially vulnerable group as they are more likely to be exposed to violence and may face secondary victimization if they reach out to State institutions, in form of discrimination or potential deportation.

In addition to WAVE's long-term work in the field of women's service provision, WAVE as a European-wide network employs the international and European standards, and recommendations and legal instruments of the Council of Europe, established bodies as basis for WAVE's promotion of specified quality and quantity standards in women's service provision. The two most relevant documents serving as WAVE's basis for monitoring specialized women's service provision across Europe are:

- Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)
- Council of Europe Task Force to Combat Violence against Women, including Domestic Violence: Final Activity Report - Proposals for Future Action of the Council of Europe and its Member States to prevent and combat violence against women.

As of November 2013, the now 2.5 year old Istanbul Convention is on its way to be entered into force, making its provisions obligatory on ratifying States. As of 22 November 2013, the Convention has been ratified by 8 Council of Europe Member States (Albania, Austria, Bosnia and Herzegovina, Italy, Montenegro, Portugal, Serbia and Turkey).¹⁰⁶ Other States are in the process of finalizing their ratification procedures. The most relevant Istanbul Convention articles to specialized service provision for women survivors of violence are Article 4 and Articles 22-25. Article 4 on 'fundamental rights, equality and non-discrimination' is of paramount importance as it states that the "implementation of the provisions of this Convention by Parties, in particular measures to protect the

104 On an annual basis, WAVE conducts research and releasing findings on the situation of women's service provision in 46 European countries in the form of a Country Report. The Report has been published annually since 2008. The most recent report (Country Report 2012) focuses on availability of women's services; research on prevalence of violence against women and national prevalence rates; availability of administrative data (police and court statistics) on a national level; undocumented migrant women's access to healthcare; and sentencing of perpetrators. The WAVE Country Report 2012 is available on the WAVE website <http://www.wave-network.org/content/country-reports>

105 Htun, Mala and S. Laurel Weldon, (August 2012). "The Civil Origins of Progressive Policy Change: Combating Violence against Women in Global Perspective, 1975-2005". [American Political Science Review]. Vol. 16. No. 3.

106 Council of Europe Treaty Office. (20 November 2013). Council of Europe Convention on preventing and combating violence against women and domestic violence CETS No.: 2010. Available on: <http://www.conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=210&CM=&DF=&CL=ENG>

rights of victims, shall be secured without discrimination on any ground such as sex, gender, race [...] or other status.” Such non-exhaustive list stipulating there to be no grounds for discrimination should ensure undocumented migrant women’s survivors of violence access to specialized women’s services such as women’s shelters. Articles 22-25 of the Istanbul Convention require for services to be specialized and to include shelters, telephone helplines and support for victims of sexual violence. WAVE considers the term ‘specialized’ to denote a service not available to the general public, but instead directed at women survivors of violence. The Explanatory Report to the Convention reiterates the fact that victim empowerment is a complex task that requires specialized support. It further calls on States to entrust service provision to women’s organizations or local authorities, both possessing the relevant expertise and trained staff to deal with gender-based violence.

The Explanatory Report to the Convention further refers to the Council of Europe Task Force to Combat Violence against Women, including Domestic Violence: Final Activity Report - Proposals for Future Action of the Council of Europe and its Member States to prevent and combat violence against women, with a reference to quantity of specialized service provision. The Istanbul Convention therefore calls for “establishment of at least one free national helpline covering all forms of violence against women operating 24 hours a day 7 days a week and providing crisis support in all relevant languages.”¹⁰⁷ Furthermore, the “traumatic nature of sexual violence, including rape” is recognized in the Explanatory Report, with the recommendation on ensuring specialized service provision run by specialized and trained staff to safeguard a sensitive approach to dealing with women survivors, including conducting examinations, collecting evidence and providing psychological counseling or therapy. Referring to the Council of Europe Task Force Recommendations, one support centre for victims of sexual violence per 200,000 inhabitants is recommended.

In addition to women’s national helplines and centers for victims of sexual violence, women’s shelters are especially crucial as they provide long-term accommodation and other necessary services to women survivors of violence, who can no longer remain in their homes due to the violence. The Explanatory Report to the Istanbul Convention refers to the Council of Europe Task Force Recommendations to provide one shelter place (family place) per 10,000 inhabitants.

The role of human rights-based specialized women’s services – women’s shelters – is to provide unrestricted access to all women survivors of violence seeking help.

Women’s shelters offer a diverse number of services to women survivors of violence outside of accommodation. Often, women’s shelters serve as counseling centers, where resident and non-resident women may seek counseling, information and advice, intervention safety support, independent domestic violence advice, legal advice, court accompaniment, resettlement support, or economic and professional advice. In many cases, women’s shelters are also active as part of networks

¹⁰⁷ Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence. Article 24 – Telephone Helplines. Paragraph 136.

and lobby groups raising awareness of violence against women. Women’s shelters, if financially feasible, aim to set up support customized for migrant women, such as immigration counseling (i.e. residency permit) and related legal advice, among others, provided by multilingual staff. Keeping in mind that the non-discrimination provisions of the Istanbul Convention, Article 23 obligates the States 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 pro-actively to victims, especially women and children,” ideally with around-the clock access. The Explanatory Report to the Istanbul Convention reiterates that “specialized women’s shelters are best equipped to address these problems, because their functions go beyond providing a safe place to stay. They provide women and their children with support, enable them to cope with their traumatic experiences, leave violent relationships, regain their self-esteem and lay the foundations for an independent life of their own choosing.”

Human rights-based specialized women’s service provision is crucial, as it provides women survivors of violence with safety, psychological and other support, including a positive perspective for the future. Services based on a human rights approach are independent of State influence and financially sustainable. They operate with the understanding of the gendered nature of violence against women; provide specialist support and also support for children; focus on safety, security and dignity; and welcome diversity and conform to principles of non-discrimination, among other crucial principles.¹⁰⁸ Unfortunately, all too often undocumented migrant women either do not possess the option to access these services such as a women’s shelter or fear reaching out for help. In many European countries, the women’s shelters, despite their constant struggle to maintain human rights-based principles (i.e. non-discrimination) are either prohibited by State regulations to provide accommodation or assistance to undocumented migrant women, are unable to secure funding for undocumented migrant women, or may not be aware of methods available to them to provide services for undocumented migrant women.¹⁰⁹

Undocumented migrant women are especially vulnerable to violence and secondary victimization.

A report by the Global Commission on International Migration (GCIM), states that although proper data on irregular migrant population is difficult to collect, there is generally a wide recognition of the fact that irregular migration is on the increase. Between 10-15% (5.6 – 8.4 million) of Europe’s 56 million migrant population has irregular status, and that annually half a million migrants arrive in Europe.¹¹⁰ Often in

¹⁰⁸ Women against Violence Europe (WAVE). (December 2010). Country Report 2010: Reality Check on European Services for Women and Children Survivors of Violence: A Right for Protection and Support. [Vienna]. Available on: <http://www.wave-network.org/content/country-reports>

¹⁰⁹ Ibid.

¹¹⁰ Global Commission on International Migration (GCIM). (October 2005). Migration in an Interconnected World: New Directions for Action – Report of the Commission on International Migration. Available on: <http://www.queensu.ca/samp/migrationresources/reports/gcim-complete-report-2005.pdf>

human rights discourse, the term irregular or undocumented migrant is used interchangeably. The term 'illegal migrant' has been used whether in legal application or for political gain, however, it should always be recognized that no person, no human is ever illegal. This continues to be stressed by human rights defenders and was emphasized by a campaign titled "Ain't I a Woman" launched in 2010 by a Swedish Network 'No One is Illegal'. The campaign addressed the lack of access to services for undocumented migrant women.

The Platform for International Cooperation on Undocumented Migrants (PICUM) defines an undocumented migrant woman in Europe as a woman residing without a valid residence or work permit. PICUM further points out that majority of now undocumented migrant women have arrived in Europe with regular status, however, for reasons outside of their control, have lost their status during their stay.¹¹¹ This may happen, if the woman's asylum claim has been rejected, for example. Women, who are dependent on their spouse for residency, additionally risk losing their regular status upon dissolution of marriage.¹¹² Women's undocumented status can also be a result of having been trafficked.¹¹³ Women with an undocumented status "are greatly exposed to systematic violence, abuse and discrimination."¹¹⁴

Undocumented migrant women are not only more vulnerable to certain forms of violence, including physical, sexual, psychological, domestic, intimate partner or economic violence, among others, but these forms may manifest themselves differently, when experienced by undocumented migrant women, but may also result in the woman experiencing secondary victimization, when reporting the violence or reaching out for help, by being either ignored, declined assistance, discriminated against, or deported. Women, who experience violence at the hands of their partner, often remain in the violent relationship due to various reasons such as financial dependency, inability or fear to seek support from the outside, residency permit dependency, psychological abuse, or fear of losing their children, among others. It is a well-known fact that relationship violence is 'progressive' in that it increases with frequency and severity, putting women at high risk of femicide. Undocumented migrant women who have experienced physical, sexual violence or sexual harassment in the public sphere will likely not report the violence to the police or visit a medical facility, as access to healthcare for undocumented migrant women is also severely limited

throughout Europe.¹¹⁵ Undocumented migrant women, by either not being able to work, being forbidden by their partner to work, not being able to access education (i.e. language courses available for free), or being forbidden by their partner to access education, are also experiencing economic violence. Local and national efforts have been observed in the last years to focus on an encompassing definition of economic violence against women, and the understanding of this form of violence against women outside of domestic or intimate partner violence context has yet to be fully examined. Economic violence may mean exploitation by employer, such as withholding of wages or paying too little wages. This can lead or further bring undocumented migrant women into poverty or homelessness, and hence add vulnerability to violence. All these forms of violence and vulnerability to secondary victimization, in addition to the woman lacking language skills or not having family present, can lead to social violence such as social isolation or exclusion.¹¹⁶ In general, however, there is a significant lack of studies estimating the full extent of violence against undocumented migrant women.¹¹⁷

Escaping violence is a complex journey, which often begins when the woman survivor of violence reaches out for help. Women who eventually decide to leave a violent relationship have often experienced years, if not decades of physical, sexual, psychological, verbal and/or economic violence.¹¹⁸ As a result, the path to healing requires access to necessary support that is provided by trained professionals, who understand the situation of women survivors of violence and can provide an empowering environment.

The situation of women's services in Europe and undocumented migrant women's survivors of violence access to human rights-based specialized women's services

Based on annually collected statistics by women's shelters in 44 countries across the world (Global Data Count), in 2012 67,484 women and 38,624 children were assisted on one day (24 hour period), whereas 8,148 women and 4,385 children had to be turned away. A research report by the European Institute for Gender Equality (EIGE), referring to annually collected data (2009, 2010, 2011 or 2012), shows that in a year's period (in 15 EU Member States¹¹⁹), 86,470 women were accommodated

111 Platform for International Cooperation on Undocumented Migrants (PICUM). (March 2012). Strategies to End Double Violence against Undocumented Women: Protecting Rights and Ensuring Justice. Available on: www.picum.org

112 Women against Violence Europe (WAVE). (2012). Women's Right to Safety and Support – Ensuring the Access of Undocumented Migrant Women to Services – Report on the WAVE Parallel Event: 57th Session of the UN Commission on the Status of Women (CSW), New York, 5 March 2013. Available on: http://www.wave-network.org/sites/default/files/WAVE%20parallel%20event%2057CSW_Report%20FINAL.pdf

113 European Parliament Directorate-General for Internal Policies – Policy Department Citizens' Rights and Constitutional Affairs. (2013). Access to Shelters of Undocumented Migrant Women Fleeing Domestic Violence: The Legal and Practical Situation in the Member States.

114 Platform for International Cooperation on Undocumented Migrants (PICUM). (March 2012). Strategies to End Double Violence against Undocumented Women: Protecting Rights and Ensuring Justice. Available on: www.picum.org

115 Women against Violence Europe (WAVE). (March 2013). Country Report 2012: Reality Check on Data Collection and European Services for Women and Children Survivors of Violence: A Right for Protection and Support. [Vienna]. Available on: <http://www.wave-network.org/content/country-reports>

116 Women against Violence Europe (WAVE). Policy that Hinders and Helps to Improve Access to Vulnerable Groups, Focusing on Women Experiencing Domestic Violence and Migrant Women. Available on: http://www.wave-network.org/sites/default/files/wave-policy_paper-vaw_poverty-akt-032010_2.pdf

117 European Parliament Directorate-General for Internal Policies – Policy Department Citizens' Rights and Constitutional Affairs. (2013). Access to Shelters of Undocumented Migrant Women Fleeing Domestic Violence: The Legal and Practical Situation in the Member States.

118 Women against Violence Europe (WAVE). (March 2013). Country Report 2012: Reality Check on Data Collection and European Services for Women and Children Survivors of Violence: A Right for Protection and Support. [Vienna]. Available on: <http://www.wave-network.org/content/country-reports>

119 The EU Member States, where such data was available include Czech Republic, Estonia, Germany, Ireland, Greece, Spain, France, Italy, Cyprus,

in women's shelters and (in 13 EU Member States¹²⁰) 41,496 children, while in five of those countries¹²¹, where data was available, 3,911 women and children could not be offered accommodation.¹²² This paints a frightening reality for women seeking freedom from violence and a disheartening situation for women's shelters, when having to turn away women and children (documented and undocumented), who seek protection, due to lack of space or resources such as lack of adequate funding, lack of financial security or staff shortage due to low wages,¹²³ or inability to secure funding for undocumented migrant women. Even in countries, where States quantitatively meet or nearly meet the Council of Europe Taskforce Recommendations on women's service provision,¹²⁴ women's shelters do not have the capacity to support all women and children seeking help.¹²⁵ This presents undocumented migrant women with a dire situation, where they continue to live with violence, become homeless and risk other forms of abuse, or face the danger of the ultimate violence, femicide. A research report aiming to collect reliable national data on femicide was able to confirm at least 1,409 femicides committed by intimate partners in the EU during 2006, based on available data.¹²⁶ It should be noted that national level data on femicide resulting from intimate partner violence (throughout Europe) is scarcely available, therefore, the true extent of intimate partner femicide is unknown.

WAVE has done extensive work in the area of research on availability of specialized service provision for women survivors of violence including migrant women, minority ethnic women and undocumented migrant women. Research for WAVE Country Report 2010 shows, that undocumented migrant women face extensive barriers to accessing women's shelters due to their status. In many European countries, service provision is either based on a woman's ability to gain financial assistance from the State, State's allowance or prohibition of accommodating undocumented migrant in shelters, shelters being unaware of their ability to accommodate the women, women's lack of knowledge of available service (i.e. due to language barriers), or women's fear of reaching to the outside for help, in fear of being discriminated against, denied access or

Malta, Netherlands, Austria, Poland, Portugal and United Kingdom.

120 The EU Member States, where such data was available include Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Malta, Netherlands, Austria, Poland, Portugal and United Kingdom.

121 The EU Member States, where such data was available include Greece, Ireland, Cyprus, Poland and United Kingdom.

122 European Institute for Gender Equality (EIGE). (2012). Review of the Implementation of the Beijing Platform for Action in the EU Member States: Violence against Women – Victim Support. Available on: <http://eige.europa.eu/sites/default/files/Violence-against-Women-Victim-Support-Report.pdf>

123 Global Network of Women's Shelters. (2013). 2012 Global Data Count. Available on: http://www.acws.ca/sites/default/files/DRAFTGlobal2012CountReport_FINAL%20AB%20VERSION.pdf

124 See Council of Europe Taskforce to Combat Violence against Women, including Domestic Violence (EG-TFV). (27 May 2008). Final Activity Report: Proposals for Future Action of the Council of Europe and its Member States to Prevent and Combat Violence against Women. [Strasbourg]: Recommendations for Women's Shelters call for States to provide 1 women's shelter space per 10,000 inhabitants.

125 Women against Violence Europe (WAVE). (March 2013). Country Report 2012: Reality Check on Data Collection and European Services for Women and Children Survivors of Violence: A Right for Protection and Support. [Vienna]. Available on: <http://www.wave-network.org/content/country-reports>

126 Pstetel. (2007). Estimation of Intimate Partner Violence related Mortality in Europe – IPV EU Mortality: Synthesis of the Scientific Report. Project n°JLS/2007/DAP-1/140.

reported to authorities. Some shelters in Europe “are reluctant to accept undocumented migrant women because they believe it is illegal to do so and are afraid of negative consequences for their work.”¹²⁷ Women's shelters are increasingly negatively affected by decreased funding and competitive tender procedures, and are further afraid to upset their donors.

A recently published report of the European Parliament¹²⁸ found that although problems exist in the studied countries (Finland, France, Germany, Greece, Italy, Netherlands, Poland, Spain), most of the countries shelter access is inconsistent with respect to undocumented migrant women. In Finland, access is granted to residents and non-residents; in France, undocumented migrant women have the ability to stay in shelters, however, have little options outside due to inability to work or receive social funding; in Germany, undocumented migrant women are most likely to find shelter provided by religious groups, as State funding does not provide for their accommodation; in Greece, shelter services are provided regardless of immigration status; in Poland and Spain, shelters assist undocumented migrant women. There is no information available on this issue for Italy or Netherlands. In terms of service provision, the main findings included that it is necessary for shelter staff to increase their knowledge on relevant migration policy to best be able to assist undocumented migrant women. Furthermore, shelters that receive State funding feel that “their ability to lobby on behalf of migrant women is [...] compromised.”

As can be seen, there are diverse approaches throughout Europe to shelter provision for undocumented migrant women. There are however good practice examples. In Switzerland, the organization *Vivre sans Violence* (WAVE Focal Point) has developed an outreach strategy for migrant women, who may be too afraid to reach out to service providers, including asking for shelter accommodation. Through their website via personal responses from professionals, *Vivre sans Violence* offers legal and practical information to women victims of intimate partner violence, who remain anonymous. It helps women to “break the silence”, while they take first steps to get out of violent situations. Another good practice example can be found in Sweden, where the municipality of Gothenburg is the only authority that provides funding for women's shelters, who accept undocumented migrant women.¹²⁹

While the issue of providing access to women's shelters for undocumented migrant women has become an important issue, simultaneously, the issue of lacking specialized service provision across Europe must also be addressed. Based on

127 Women against Violence Europe (WAVE). (2012). Women's Right to Safety and Support – Ensuring the Access of Undocumented Migrant Women to Services – Report on the WAVE Parallel Event: 57th Session of the UN Commission on the Status of Women (CSW), New York, 5 March 2013. Available on: http://www.wave-network.org/sites/default/files/WAVE%20parallel%20event%2057CSW_Report%20FINAL.pdf

128 European Parliament Directorate-General for Internal Policies – Policy Department Citizens' Rights and Constitutional Affairs. (2013). Access to Shelters of Undocumented Migrant Women Fleeing Domestic Violence: The Legal and Practical Situation in the Member States.

129 Women against Violence Europe (WAVE). (2012). Women's Right to Safety and Support – Ensuring the Access of Undocumented Migrant Women to Services – Report on the WAVE Parallel Event: 57th Session of the UN Commission on the Status of Women (CSW), New York, 5 March 2013. Available on: http://www.wave-network.org/sites/default/files/WAVE%20parallel%20event%2057CSW_Report%20FINAL.pdf

findings from the WAVE Country Report 2012,¹³⁰ only 31 out of 46 studied European countries provide a national women's helpline. Of those, only 15 have been observed to meet the Council of Europe Task Force Recommendations to provide service free of charge and operate 24/7. Women's centers of sexual violence are in severe shortage throughout Europe. Of 38 countries, where data was available, only five meet the Recommendations to provide one center per 200,000 female¹³¹ inhabitants. In 21 countries, there is no specialized service provision at all. This means that overall 85% of recommended centers are missing throughout Europe. In terms of women's shelters, 64% of recommended shelter places are missing (recommended one shelter place per 10,000 inhabitants). Additionally, women's shelters receive limited State funding, and in many countries outside of the European Union, the sustainability of the shelters is not guaranteed as it is project based, meaning that shelters are unable to conduct long-term planning, including for staff retention (factor in high staff turn-over) and must divide their energies between assisting survivors and searching for funding.

In general, specialized services focusing on the needs of women facing multiple discriminations, such as migrant women, are scarce in the European Union. A 2012 report by the European Institute for Gender Equality (EIGE),¹³² based on a study conducted by WAVE, shows that European Union Member States lack the necessary support. Only nine of the 28 Member States provide some level of specialized services that assist migrant, minority ethnic, refugee, girls and young women, LBT women or disabled women. Austria, Germany, Spain, Sweden and United Kingdom appear to have the most variety of services available. Information about the existence of services in languages of minority populations in Member States of the European Union is only available to some extent, through channels such as websites, leaflets in public places, health services, radio, newspaper magazines, or billboards. Dissemination of information on available services is crucial for migrant women, who for reasons such as social isolation or language barriers, may be unaware of existing places to receive assistance.

Considering the role of human rights-based specialized women service providers as offering necessary life-saving support and working from an empowerment approach, States across Europe continue to fall short on their obligations to not only provide sufficient numbers of services, but also not to allow undocumented migrant women to access existing ones.

WAVE's principles for human rights-based specialized women's service provision ensure autonomy and sustainability of service providers and a victim centered approach.

After nearly 20 years of expertise and research¹³³ in the area of specialized women's service provision and with consideration of standards and principles derived from human rights international instruments, WAVE has developed a set of fundamental principles to be applied by women's services, especially women's shelters to ensure inclusivity, customized care, empowerment and effectiveness. The principles ensure obligation by both the women's organizations providing the services and the State to the survivor of violence to offer real protection and empowerment. The principles in effect create a human rights-based approach to protecting women from violence, which includes service provision for undocumented migrant women. The principles are as follows:¹³⁴

- Working from a gendered understanding of violence against women – Services need to demonstrate an approach which recognizes the gendered dynamics, impact and consequences of violence against women within an equalities and human rights framework, including the need for women only services.
- Specialist women's support services – The support must be appropriate and tailored to the specific needs of service users. Special attention should be given to address the needs of specific groups of women, such as young women, older women, migrant women, asylum seeking and refugee women, women from minority ethnic groups, women with disabilities and others. The kind of support survivors need may differ according to the type of violence suffered and this makes it necessary to provide specialized services such as rape crisis centers, women's centers for survivors of sexual harassment in the workplace, young women's shelters and women's shelters for victims of forced marriage.
- Support for children – Children are always affected by the violence against their mother, especially in cases of domestic violence and they are often abused as well. Therefore all women's services should also have the resources to adequately support the children, according to their age and their needs.
- Safety, security and human dignity – Services need to ensure that all interventions prioritise the safety and security of survivors and respect their dignity.
- Confidentiality – Services need to respect and observe service users' right to confidentiality; service users should also have the right to be informed of situations where that confidentiality may be limited.

130 Women against Violence Europe (WAVE). (December 2010). Country Report 2010: Reality Check on European Services for Women and Children Survivors of Violence – A Right for Protection and Support. Available on: <http://www.wave-network.org/content/country-reports>

131 The recommendations for the number of centers for survivors of sexual violence in the Council of Europe Convention on preventing and combating violence against women and domestic violence from those stated in the Council of Europe Task Force Recommendations, despite the Council of Europe Convention referring to the recommendations of the Task Force. The Convention calls for one center per 200,000 inhabitants, while the Task Force calls for one center per 200,000 female inhabitants.

132 European Institute for Gender Equality (EIGE). (2012). Review of the Implementation of the Beijing Platform for Action in the EU Member States: Violence against Women – Victim Support. Available on: <http://eige.europa.eu/sites/default/files/Violence-against-Women-Victim-Support-Report.pdf>

133 Women against Violence Europe (WAVE) research in the area of quality service provision includes the following: 1. Away from Violence. 2. IMPROVE Quality Services for Victims' Safety. 3. Manual Bridging Gaps – From Good Intentions to Good Cooperation. 4. More than a Roof over your Head. Available on: <http://www.wave-network.org/content/wave-publications>

134 Women against Violence Europe (WAVE). (December 2010). Country Report 2010: Reality Check on European Services for Women and Children Survivors of Violence – A Right for Protection and Support. Available on: <http://www.wave-network.org/content/country-reports>

- Diversity and non-discrimination – All services need to respect the diversity of service users and apply a non-discriminatory approach.
- Fair access and free of charge - Support should be available free of charge, equitably distributed across regions and crisis provisions such as women’s helplines and shelters should be available 24/7.
- Advocacy and support – Women’s services need to provide both case and system advocacy to be able to promote the rights of and meet the needs of service users.
- Empowerment and autonomy – The main aim of all services should be to empower women survivors of violence and their children by, inter alia, making sure they know their rights and entitlements and can make decisions freely in a supportive environment that treats them with dignity, respect and sensitivity. Services should always aim at supporting survivors to regain control of their lives and to promote their right to autonomy and self-determination.
- Participation and consultation – Services need to promote service-user involvement in the development and evaluation of the service. Therefore, services should be organised in a democratic way and ensure the participation by the service users. Survivors should be regularly invited to participate in the evaluation of services and have the right to file a complaint to an independent body (for instance the ombudsperson) if they are not satisfied with the quality of the service.
- Holding perpetrators accountable – Services for survivors of violence need to apply the approach that there is no excuse for violence, that the perpetrator is always responsible for the abusive behaviour and that he has to be held accountable.
- Governance and accountability – Services need to be effectively managed, ensuring that service users receive a quality service from appropriately skilled and supporting staff.
- Coordinated response – Services need to operate within a context of relevant inter-agency co-operation, collaboration and co-ordinated service delivery. The protection and needs of women survivor of violence should always be at the centre of multi-agency work.
- State obligations and due diligence – That women’s services should be run by independent women NGOs does, of course, not mean that there is no obligation of the State to fund the services, on the contrary.

When States fulfil their obligations to support women’s services in upholding principles of a human rights-based approach, the result is an autonomous and sustainable women’s services sector that empowers women survivors and their children, hence resulting in a ‘victim centred’ approach.

The above described principles should be applied in all women’s support services, which should also remain independent (autonomous) from the influence of the State

but remain financially sustainable. According to international human rights law, it is the responsibility of the State to prevent violence against women and to protect survivors. The role of women’s organizations as members of the civil society is that they serve to balance the power of the State and protect women survivors of violence, a duty which can only be truly fulfilled in the presence of autonomy and sustainability. While women seek support and protection from violence perpetrated against them in the private or public domain, State institutions as actual or perceived power holders may further knowingly or unknowingly disempower the victim. For this reason, women’s organizations as survivor empowerment centers must retain independence from the State, while at the same time receive the necessary support from the State, whose own mandate has been granted to it by the civil society itself, to whom the State owes due diligence and responsibility.

The only way, undocumented migrant women can willingly come forward and seek help to escape violence is in the presence of service autonomy, when they are fully aware that their status will not hinder their ability to gain protection and that they can fully trust their service providers to assist them in a non-discriminatory and confidential manner. Empowerment is of vital importance to women survivors of violence. Through direct contact with women survivors of violence and stories heard from survivors or relayed by WAVE Focal Points, women survivors who go through the complex journey of escaping violence and healing, often themselves become advocates for other survivors and stand-up against violence, and eventually go on to live fulfilling and passionate lives, with no limit to what they can achieve in their future.

In conclusion, violence against undocumented migrant women is an issue that has received increased attention in the last years. There are positive developments on national and European levels with attempts to conduct studies to determine prevalence of violence against undocumented migrant women, as well as some National Action Plans on Violence against Migrant Women, for example in Spain. The European Parliament study on access to shelters shows momentum on European Union level to address the issue of protection for this vulnerable group. The European Parliament has also taken a step on the 8th of March 2011 with its Resolution on Reducing Health Inequalities in the European Union by stressing the need to extend access to the healthcare system to the most vulnerable groups, including undocumented migrants. The Istanbul Convention is a monumental and progressive instrument that explicitly denies discrimination on any ground. The Platform for International Cooperation on Undocumented Migrants (PICUM) continues to actively defend the rights of and protection for undocumented migrants through innovative research, lobbying, campaign and cooperation with relevant stakeholders. WAVE as the leading European expert on specialized women’s service provision will passionately continue to lobby for improvement of access for all women to protection through quality services in Europe. The existing efforts must continue to be built-upon and in the face of increased migration in Europe in the coming future, cooperation among governmental bodies, women’s organizations and other relevant institutions, can lead to significant improvement in the lives of all women survivors of violence, when all stakeholders preserve their obligations to defend, promote and uphold women’s human rights.

3.3.3. Ms. Evelyn Probst, LEFÖ- NGO in Vienna for Migrant Women

Twenty years ago, **THE VIENNA DECLARATION OF THE WORLD CONFERENCE ON HUMAN RIGHTS** defined international trafficking in women as violence against women. In the statement on the abolition of violence against women of December 1993, **TRAFFICKING IN WOMEN WAS ADDRESSED TOGETHER WITH FORCED PROSTITUTION**. Even if it was a step in the right direction, this particular violation of human rights was exclusively mentioned in the context of sexualised violence. Contrary to this assumption, sexual exploitation is not the only reason for trafficking in women, and certainly not all female sex workers are trafficked persons. **THE PROTOCOL AGAINST TRAFFICKING IN HUMAN BEINGS** in the framework of the **UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME** was approved in the year 2000, which was a success for many states and NGOs that could start using a unified definition.

Furthermore, in the **COUNCIL OF EUROPE CONVENTION OF 2005**, trafficking in women is contextualized as follows:

The Council of Europe Convention on Action against Trafficking in Human Beings (2005) is the first European document, which defines trafficking in human beings as a violation of human rights and includes all aspects, be it domestic, transnational or attributed to organized crime.¹³⁵ Furthermore, special protection as well as financial support are guaranteed for those affected by trafficking in human beings, regardless of their willingness to issue a statement during a penal procedure.

A conceptual transformation is happening: **“SEXUAL EXPLOITATION”** – a concept that was introduced on a global scale by migrant organisations in the 1990s, which was also used on the basis of political demand – is yet again being employed after the UN protocol of 2000. Thus, one could assume that the situation has finally changed and that violence against women has been acknowledged as a central policy; however, this assumption is not quite right. **TRAFFICKING IN WOMEN IS STILL ASSOCIATED WITH SO-CALLED “ILLEGAL MIGRATION” OR MISREPRESENTED AS PROSTITUTION**. Unfortunately, these tendencies are not only visible in government measures and legal frameworks, but are also reinforced by the media.

It is difficult to find an unambiguous definition of trafficking in women. Consequently, there are different approaches to the analysis of the situation and the intervention strategies it requires. These depend on the **RESPECTIVE STAND ON MIGRATION AND HOW IT RELATES TO THE CONSTRUCTS OF GENDER, SEXUALITY AND WORK**. Moreover, it has to be examined whether there is a focus on human rights in intervention plans. Trafficking in women is deeply rooted in a complex combination of dominance structures. Dimensions of sexism, racism and economic exploitation all contribute to trafficking in women in that they continually create the respective structural frameworks and individual states of consciousness. Furthermore, it has been shown that there is a neutralisation of the concept that comes with the broader use of the term of trafficking in human beings.

¹³⁵ Council of Europe Convention on Action against Trafficking in Human Beings, SEV-Nr 197, 3.5.2005.

Trafficking in human beings also carries certain stereotypical societal perceptions, namely that men are the traffickers and women are the subjects being trafficked, or in other words: “men work and women are ...” The reality of trafficking in women however, is different, namely that of sexual exploitation. We, as part of feminist civil organizations, are advocating since the 1980s that there is a need to recognize and fight the complex manifestations of violence against women.

These stereotypical images perpetuate the situation of sexually exploited women and hinder those who support them in exercising their rights. **WOMEN ARE SEXUALLY EXPLOITED WORLDWIDE AND FORCED TO MAKE MONEY FOR BOTH INDIVIDUALS AND ORGANIZED GROUPS**. In addition, women are exploited in various other precarious working conditions, such as in the areas of domestic work, agriculture or tourism, just to name a few. **THIS TYPE OF WORK IS AT TIMES NOT EVEN SEEN AS WORK, BUT AS ‘NATURAL’ FEMALE ACTIVITIES**.

There are other positions that hinder the perception of trafficking in women as a form of violence. One of these is the ‘culture of disbelief’ in that women are accused of playing the victim to get a residence permit. Another problem is that victims often have to carry all the responsibility. **‘BLAMING THE VICTIM’** is frequently the case; people imply that the affected woman must have known that she would face violence, or that she must have trusted the wrong persons, or reasoning that the violence was a result of her choosing not to run away. It is often the case that the women’s rights to access to justice is debated and at the same time, the **PERPETRATORS ARE NOT FORCED TO ACCEPT THE RESPONSIBILITY FOR THEIR ACTS**.

Countries are required to verify if they have implemented the international guidelines in their laws and to take measures that focus on the rights of the victims. Combating trafficking in human beings should not be the same matter as security policy or migration prevention.

Many solutions have been put up for discussion in the last years. Collecting data and setting up databases is a step in the right direction, as currently available data on trafficking in women is scarce. **ANALYSING THE COLLECTED DATA COULD HELP THE DEVELOPMENT OF NEW STRATEGIES AGAINST TRAFFICKING IN WOMEN**, and also take into account the rights of the victims. The use and access of data also has to be carefully monitored. Data protection should be ensured when taking into account the vulnerability of the trafficked persons in mind.

Another important aspect which should be considered is the ‘non-punishment provision’ of women who were victims of trafficking themselves. Such women should not be made responsible for their own fate, even though reality shows that this is not the case. Women are for example prosecuted for having used fake passports. They also have to face administrative charges for having worked illegally as prostitutes. They have to pay fines or even be sent to detention facilities because they were not identified as victims. Other ways of punishing or “re-victimizing” the victims is by refusing them entry into a country or deporting them. There are several case studies which show that women who were not recognized as victims in one particular EU country have been recognized as such in another

EU country. As long as they were not granted residency, they had no access to their rights.

Trafficking in women has to be regarded in all its complexity. Only then can the international guidelines be implemented and the rights of the victims restored.

3.3.4. Ms. Sue Le Mesurier, International Federation for Red Cross, Geneva

I would like to thank the Academic Council on the United Nations System in Vienna for initiating this important event on the occasion of the International Day for the Elimination of Violence against Women.

This symposium focusing on forced marriages and violence against women in the migrant community is an important subject for Red Cross Red Crescent Movement and one that we have recently addressed at our Movement-wide statutory meetings last week in Sydney. This event specifically focused on the RCRC Movement responses to sexual and gender-based violence in armed conflict and disaster.

We are working together across our global organization with 189 National Societies to raise awareness on the specific protection needs of migrant women.

VIOLENCE AGAINST MIGRANT WOMEN IS A GLOBAL CHALLENGE AND REQUIRES GLOBAL EFFORTS BASED ON THE PRINCIPLE OF SHARED RESPONSIBILITY BY EACH INDIVIDUAL COUNTRY.

On behalf of International Federation for Red Cross (IFRC), I express my sincere commitment to be a strong partner for the global efforts of the Elimination of Violence against Migrant Women. In my brief remarks I will share with you the current IFRC position and our response to addressing the situation of violence against migrant women as well as our pledge to do more in the future in partnership with others. I will then be happy respond to your questions.

On May 24, this year a South Korean man stabbed his Vietnamese wife to death while the couple's 19-day-old baby lay next to her. The man, a farmer, had been matched up with his foreign bride through a broker. Similarly, another Vietnamese woman was killed by her husband a week after they were married. In 2008, a Vietnamese woman jumped from an apartment building to her death after being abused by her husband and mother-in-law.

These brutal acts highlight some of the situations — most less obvious and more every day — in which the Red Cross Red Crescent National Societies are responding to violence against migrant women, in the home, in the workplace, whilst been smuggled or sold to a trafficker for slavery and exploitation. Migrant women from the Philippines seek refuge in a shelter for abused Asian housemaids in Jordan funded by Manila's Overseas Labour Office.

THE PHILIPPINES GOVERNMENT has recently lifted a ban imposed in 2007 on its citizens working in Jordan after the two countries signed deals to protect them, including guaranteeing a minimum monthly salary of \$400. The ban had been imposed

because of “the growing number of distressed Filipino workers” seeking help from Philippine diplomatic offices in Jordan, according to Manila. However the violence continues and this year the shelter has had more than 1000 cases seeking help. **HUMAN RIGHTS WATCH (HRW)** says many of the **70,000 ASIAN FEMALE DOMESTIC WORKERS IN JORDAN** face the same abuses as migrant domestic workers elsewhere in the region. These include beatings, passports confiscated, being confined to the house, insults, withholding of pay and long hours with no days off.

Violence against migrant women can take many forms. Physical, sexual and psychological abuses against migrants are a growing phenomenon that is exacerbated by the **CURRENT DIALOGUE ON MIGRATION AND IMMIGRATION POLICIES**. The migrant population, especially women and girls in irregular situations, are particularly vulnerable to **LABOUR EXPLOITATION, SEXUAL EXPLOITATION, FORCED MARRIAGE, FORCED BEGGING, SLAVERY AND MANY OTHER FORMS OF VIOLENCE**.

These are issues that the International Community needs to address to ensure that the human rights of all, including migrant women, are respected and upheld.

The IFRC, with a network of 189 National Societies, is committed to preventing violence including victimisation and exploitation of migrant women, girls and their families. We work alongside Governments to ensure that the protection and assistance needs of migrants, irrespective of their legal status, are met.

The 31st International Conference of the Red Cross and Red Crescent, held in Geneva in 2011, provided our Movement with the opportunity to highlight issues of particular importance, ensuring that the humanitarian needs of migrants are not left unfulfilled. Conference members adopted a strong resolution focusing on four key areas:

- **RELEVANT LAWS AND PROCEDURES ARE IN PLACE** to ensure that we enjoy effective and safe access to all migrants without discrimination and irrespective of their legal status; [Access to humanitarian assistance and protection is a prerequisite for effective humanitarian action].
- Procedures at international borders include **ADEQUATE SAFEGUARDS TO PROTECT THE DIGNITY** and ensure the safety of all migrants;
- **RESPECT FOR DIVERSITY AND SOCIAL INCLUSION OF MIGRANTS** is promoted, enhancing cultural awareness between migrant and local communities; [IFRC has a critical role in raising awareness on increasing violence, xenophobia and discrimination towards migrant women globally.
- Need for **CONTINUED COLLABORATION** between States and RCRC National Societies, and partner organisations.

Guided by our fundamental principles of Humanity and Impartiality, IFRC works to change the dialogue on migration and raise awareness on the particular vulnerabilities and risks affecting migrants, especially focusing on the most vulnerable women and girls, along **MIGRATORY ROUTES**, in countries of origin, transit and destination.

I would like to briefly mention the **DECLARATION OF THE UN CONGRESS ON CRIME PREVENTION AND CRIMINAL** Justice (April 2010) where the humanitarian dimension of migration

was very visible. Namely, States affirmed their determination to eliminate violence against all migrants and called on States to adopt measures for preventing and addressing effectively cases of violence and ensure that migrants receive humane and respectful treatment, regardless of their status.

The IFRC has called on governments to do more to ratify international conventions seeking to protect migrant women who are too often subjected to violence.

We call on States to take measures to prevent, prosecute and punish the smugglers and traffickers of migrant women. However we need to recognise that migrant women turn to smugglers as the only way available to exercise their right to seek asylum or the last, desperate, and, sadly, “voluntary” resort of people in need in order to escape situations of imminent threat to their survival; situations, where their very human right to life is not fully assured. We request States to take measures to identify and address the root causes that lead migrant women to take such risks.

Another aspect that warrants our greater attention is the often **UNSPOKEN DEVASTATION CAUSED BY VIOLENCE IN EMERGENCIES**. In natural disasters and other crises, gender-based violence and discrimination against women and girls intensify, as stress levels soar and the normal fabric of society falls apart. Recent experiences, including in the response to the **HAITI EARTHQUAKE**, remind us of the need for greater investment and action on this issue and the need for us to do more for the most vulnerable groups, such as migrant women, in these situations.

Women and children comprise a significant proportion of those living in situations of emergency arising through armed conflicts and natural disasters. According to UNFPA, **80.0% OF THE WORLD’S 35 MILLION REFUGEES AND INTERNALLY DISPLACED PERSONS ARE WOMEN AND CHILDREN**. At the time of a crisis, around one in seven women of childbearing age are likely to be pregnant. This means many babies are born in the context of an emergency situation.

When armed conflicts or natural disasters occur, women and girls continue to carry out gender-specific roles within their families. These include the care of babies, younger children and the elderly. Some women and girls also provide care to non-family members such as orphans, unaccompanied persons, the injured or unwell. Their responsibilities can be further compounded if male family members have been lost through the crisis or have left their families for whatever reasons. In such circumstances, it falls to women and girls to procure essentials for survival (for example, food, water, clothing, hygiene supplies, medical care, and fuel) – even if it is dangerous to do so. Then, in the aftermath of the crisis, and during the process of establishing peace and/or reconstruction, women and girls can take on further tasks such as performing the physical labour required to rebuild communities or organising activities. It has been said that during times of crisis and beyond, **‘WOMEN AND GIRLS BECOME THE ULTIMATE HUMANITARIAN WORKERS’**.

During emergency situations, many women and girls find themselves exposed to violence as they carry out their valuable roles as carers, providers and labourers. Women and girls who are unaccompanied through separation from, or abandonment by, their families are also at risk of violence.

The Red Cross Red Crescent Movement recently held our bi-annual meetings in Sydney and during the conference a workshop was organised on **‘MOVEMENT RESPONSES TO SEXUAL AND GENDER-BASED VIOLENCE IN ARMED CONFLICT AND DISASTER’**. Among the speakers at this event were; Dr. Asha Mohamed, Deputy Secretary General of the Kenyan Red Cross, who spoke about the organisation’s work with Somali refugee women in Dadaab camp, Kenya; and Ms Eva Von Olreich, President of the Swedish Red Cross Society, who spoke about their work with refugee women’s experiences of asylum in Sweden.

While the focus was not explicitly on the experiences of women refugees and asylum seekers, these experiences must be seen within the broader perspective of a context of inequality, discrimination and powerlessness in agency and decision-making that women and girls experience in their country of origin. Displacement, flight, the asylum process and refuge in another country all serve to exacerbate women and girls’ condition; the triple disadvantages of being an undocumented migrant/ asylum seeker and/or a refugee and being female.

Turning first to the Kenyan Red Cross Society’s work with **SOMALI REFUGEE WOMEN IN DADAAB CAMP**, Kenya, Dr. Mohamed highlighted the multiple ‘flash points’ that Somali refugees face when the threat and risk of violence, more specifically sexual- and gender-based violence – during conflict, during flight, in the camp, during repatriation and during reintegration – is heightened.

In Daadab Camp, there are a number of challenges to the advancement in the work of preventing and responding to sexual- and gender-based violence; these include the **HIGH PREVALENCE OF FEMALE GENITAL CUTTING, EARLY/FORCED MARRIAGE AND EARLY PREGNANCY** that impact significantly on the health of women and adolescent girls and their children. In addition, general insecurity prevails in the camp with women and girls facing the daily threat of sexual violence during the collection of firewood and water away from the camp. Many efforts have been made to address this particular issue including the distribution of firewood and energy-efficient stoves as well as the accompaniment and patrolling by African Union members when women went to collect firewood but many very basic issues, such as un-lockable tents and unlit latrines and washing areas persist. Another challenge identified was fluctuating donor funding in sexual- and gender-based violence prevention and intermittent response efforts.

The **KENYA RED CROSS SOCIETY** responds in a number of ways and on a number of levels including creating opportunities for women and girls to engage in decision-making forums as proactive agents of change in their own communities and to their own situation; **FACILITATING COMMUNITY-BASED NETWORKS OF WOMEN AND MEN** to discuss and act to prevent and to respond to sexual and gender based violence; facilitating town-hall discussions and referrals between community members and the camp authorities including national authorities – local and customary, UNHCR and the Kenyan Police; **PROVIDING APPROXIMATELY 90 SAFE HOUSES IN VOLUNTEERS’ HOMES** as temporary refuge for women and children who have experienced domestic violence; creating safe space for women and children to speak and to meet; and facilitating access to the clinical management of rape.

Dr. Mohamed stressed the intrinsic link between women and children's **ECONOMIC DEPENDENCY ON MEN** as a critical part of the problem of sexual- and gender-based violence and, accordingly, the need to focus on providing women who have experienced violence or are at risk of such violence to increased access to income-generating opportunities.

Like many of the speakers on the panel and from the floor during this workshop, Dr. Mohamed also stressed that men need to be an integral part of the discussion around and the solution to sexual- and gender-based violence.

Some of the solutions to which Dr. Mohamed referred included 'demystifying' sexual- and gender-based violence; that is, ensuring that all of our staff and volunteers understand the issue and the role that they can play in their everyday work, no matter what sector they work in, to strengthen systems for prevention of and response to sexual- and gender-based violence; and the urgent need for capacity-building staff and volunteer in this area.

In contrast, **SWEDEN RECEIVES MIGRANTS FROM, AMONG OTHER COUNTRIES, SOMALIA, IRAQ AND LIBERIA.** The Swedish Red Cross Society manages five centres around the country and approximately **1,500 PEOPLE RECEIVE CARE IN THESE CENTRES EACH YEAR.**

The Red Cross and Red Crescent Movement's workshop on sexual- and gender-based violence on 18 November heard from the President of the Swedish Red Cross Society about migrant women's experiences of the asylum process in Sweden. Through its research and legal advisory service, the Swedish Red Cross Society is well placed to understand the distinct experiences of migrant women in the asylum review and appeals' processes.

Ms. Olreich spoke about asylum-seeking women who had been rejected on review and yet who later revealed that their reluctance to speak on such sensitive and shameful matters to interviewers, through interpreters, who were not sensitive to the specificities of their situation as women – accompanied and non-accompanied by male relatives - of fleeing, crossing borders and seeking refuge meant that important evidence that may have changed the course of their review and/or appeal did not emerge.

The Swedish Red Cross Society's work is based heavily on the results of two surveys that looked at the Swedish asylum process. One of the many findings was the lack of understanding among **SWEDISH MIGRATION AUTHORITIES OF THE IMPACT OF POST-TRAUMATIC STRESS DISORDER (PTSD)** may have on an asylum seeker's ability to recall events in chronological order, which might lead to seeming inconsistencies in their testimonies. The Swedish Red Cross is now supporting training with the Swedish migration authorities, as well as providing legal advice and rehabilitation to survivors – both female and male – of sexual- and gender-based violence.

Ms. Olreich, like Dr. Mohamed before her, made the point that less is known about the nature and extent of sexual- and gender-based violence among male migrants. However, their research on the issue reveals that it is prevalent among men and boys. It has been observed that men and boys are also reporting sexual- and gender-based violence but that much needs to be

done to create a climate of trust in which male asylum-seekers and migrants might safely report their experiences, which they see as shameful, humiliating and emasculating.

Finally, the Swedish Red Cross Society operates an exchange programme with the Iraqi Red Crescent and Liberian Red Cross Societies, which informs its work on enhancing the asylum and refugee processes in Sweden.

In London, on 13 November 2013, the humanitarian community, committed to a set of principles and operational actions to strengthen the collective efforts to promote and protect the rights of girls and women of all ages and abilities during and in the aftermath of conflict and natural disasters. While the joint statement, which was signed by 13 Governments, seven UN Agencies and a number of NGOs and International Organisations, including the IFRC, makes no explicit mention of migrant women, it does provide a number of welcome commitments to create a safer environment for women and girls in emergencies and we may assume that it applies to situations of migration. These commitments include a commitment to act – or to fund action – to prevent and respond to violence against women and girls in emergencies before waiting for evidence of specific instances of such violence to emerge.

This reversal of the burden of proof is extremely important as all involved in providing assistance and protection to women and girls in emergencies must assume that violence predictably increases in emergencies and that we need to act on this assumption.

The contributions from the Kenyan and Swedish Red Cross Societies, as well as those from the Liberian and Haitian Red Cross Societies and all the National Societies that spoke in Sydney, confirmed that not one of the Movement's 189 National Societies is unaffected by the issue of migration and, therefore, by addressing the specificities of migrant women and the violence that is visited upon them at **EACH STAGE OF THE DISPLACEMENT, FLIGHT, REFUGE, ASYLUM-SEEKING PROCESSES, REPATRIATION AND REINTEGRATION.**

Key points on protection of migrant women

In order to enhance migrant women's development outcomes key issues should be tackled:

- "Low value" general perception given to migrant women's work.
- The importance of legal and social protection for migrant women
- Economic contribution to productivity, economic growth and human development in host countries and remittances to countries of origin.
- Different risks that migrant women face such as violence, discrimination, exploitation and abuse.
- Migrant women when undocumented risk higher vulnerability to exploitation and abuse.
- Migrant women need to be informed as to their labour rights, i.e. salary, housing, hours of work, insurance, etc.
- Integration is essential for migrant women to acquire competencies, skills and values necessary for an active role in the life of their host societies and on return.
- Isolation in the private "workplace" can restrict migrant women's connection with other people and ability to fully participate, contribute and benefit to a society.

Accordingly, for its part, at the high-level meeting in London on 13 October, the IFRC provided that, through the global grassroots networks that our National Societies create, IFRC is committed to raising the voices of women and girls and all those who are unheard and unseen and ensuring that their needs, concerns, and priorities are acknowledged and acted upon in all of our activities.

Conclusion

Violence is preventable and a holistic, evidence-based and coordinated approach is needed. Thus, the IFRC is making violence prevention, mitigation and response a priority through its global strategy for 2011-2020, and is increasingly working with National Societies to integrate violence prevention in response to emergencies. The IFRC is also committed to working with partners in the WHO's Alliance on Prevention and other international alliances and organizations with a shared concern on the prevention of violence against women.

By building a culture of dialogue with migrants and their host communities, and promoting non-violence and peace, the Red Cross and Red Crescent Movement is working actively to prevent violence against all migrant women and expresses its concern about the increasing risks to migrant women's safety and growing reports of violence.

THE IFRC BRINGS TOGETHER 189 MEMBER NATIONAL SOCIETIES, COMPRISING OF 15 MILLION VOLUNTEERS, reaching millions of people each year and is the world's largest humanitarian network. Our Movement is committed to preventing and addressing situations of violence, stigmatisation and exploitation towards all migrant women along the global migratory trails. So when the IFRC talks about enhancing our institutional capacity to respond to and to prevent violence against women and girls in disasters and, in this specific case, to addressing the needs of migrant women, it is an incredibly large undertaking with the potential to have an extraordinary impact.

Call for action

- The International Federation of Red Cross and Red Crescent National Societies (IFRC) calls upon governments to ratify existing international conventions seeking to protect migrant women, who are too often subjected to violence, exploitation, racism and discrimination.
- It calls upon States to take measures to prevent, prosecute and punish the smuggling and trafficking of migrants and ensure the rights of the victims.
- The IFRC urges States to consider measures within the context that sometimes people turn to smugglers and traffickers as their only de facto option to exercise their right to seek asylum or as a last, desperate, and, sadly, "voluntary" resort to escape situations of imminent threat to their life and survival
- We call upon States and other international organisations to strengthen the collective efforts to promote and protect the rights of girls and women of all ages and abilities during and in the aftermath of conflict and natural disasters.
- IFRC calls to ensure that migrant women are engaged both as beneficiaries and as participants in decision-making integral to disaster preparedness and response work.
- Addressing migrant women's unequal access to assets, education, knowledge, decision making and power is essential to boosting their resources and capacity to protect themselves, their families and their assets. All the evidence suggests that progress in gender equality will contribute to more effective and sustainable response to disasters and to a more likely achievement of a more equitable world for all. We must allow women to identify and implement potential solutions to addressing issues of food security, poverty eradication and development, including by addressing women's livelihoods in the immediate response phase.
- We call for a commitment to act to prevent and respond to violence against migrant women and girls in emergencies, reversing the burden of proof where we know violence predictably increases in emergencies and that we need to act on this assumption.

3.4. THE ISTANBUL CONVENTION – OBJECTIVES AND IMPLEMENTATIONS

3.4.1. H.E. Dubravka Simonovic, Ambassador of Croatia, Permanent Representative to the UN in Vienna

It is my honour to participate in this important ACUNS Regional Symposium Panel on “The Istanbul Convention: Objectives and Implementation”. I will expand my introductory presentation of the topic of this panel by adding remarks to its synergy with the global **UN CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN** (CEDAW Convention).

Violence against women is increasingly coming into the global and regional public spotlight where its prevalence, its forms and its harm for women or girls, and for whole societies is finally becoming more visible and therefore requiring and getting an adequate response. This trend culminated at the regional level with the adoption of the Council of Europe Convention on preventing and combating violence against women and domestic violence. (Istanbul Convention) of 2011. The recently adopted **UN RESOLUTION “TAKING ACTION AGAINST GENDER RELATED KILLING OF WOMEN AND GIRLS”** as well as work of the CEDAW Committee under the **CEDAW CONVENTION OF 1979** are clearly confirming this trend at the global level. We can also observe a transformation of the international human rights framework from a gender neutral set of human rights norms to **GENDER SPECIFIC NORMS** (the CEDAW Convention), or **GENDER SENSITIVE NORMS** (the Istanbul Convention) aimed at focusing on and addressing discrimination and violence against women and to protecting human rights of women and girls on an equal footing with men.

Let me start with the CEDAW Convention of 1979 as the central international instrument for the elimination of discrimination against women and violence against women, which entered into force in 1981. The implementation of the Convention by States Parties is monitored by the CEDAW Committee. It is precisely through the work of the CEDAW Committee, as the Convention’s expert monitoring body, which provides authoritative interpretation of its provisions, that the **CEDAW CONVENTION IS A DYNAMIC OR “LIVING” WOMEN’S HUMAN RIGHTS INSTRUMENT**. The Convention on the Elimination of all forms of Discrimination against Women is the only global gender specific women’s human rights instrument. Adoption of the CEDAW Convention in 1979 was a landmark achievement that added a gender perspective to the international human rights law and established “women rights as human rights” by **ESTABLISHING CLEAR COMMITMENTS AND OBLIGATIONS FOR STATES PARTIES** to work on the elimination of all forms of discrimination against women. It requires its States Parties to: *“embody the principle of equality of men and women in their national constitutions or other appropriate legislation”* and *“to ensure the practical realization of this principle.”* This requirement of practical realization of equality makes clear that the Convention envisages substantive equality between women and men and that this goal is for the benefit of both sexes and society as a whole.

The CEDAW Convention is at the same time a women’s bill of rights, a women’s development instrument and a women’s

empowerment instrument. It provides a broad definition of discrimination against women, which includes both direct and indirect discrimination in the public and in the private sphere that should be prohibited by States Parties. This includes an **OBLIGATION TO MODIFY OR ABOLISH LAWS, REGULATIONS, CUSTOMS AND PRACTICES, WHICH CONSTITUTE DISCRIMINATION AGAINST WOMEN** (Articles 2 (f)). These two principles, the first principle being that of elimination of all forms of discrimination against women in the public and private life and the second principle being that of substantive equality of women, are key principles for recognition of women’s rights as human rights and for full development and advancement of women. States Parties are incorporating these principles in their Constitutions or other relevant laws, such as laws on gender equality, general anti-discrimination laws, or personal status laws.

This framework of the CEDAW Convention contains three additional women’s empowerment provisions: first is the **PROVISION ON THE FULL DEVELOPMENT AND ADVANCEMENT OF WOMEN** (Article 3), the second is the **PROVISION ON THE ACCELERATION OF DE FACTO EQUALITY BETWEEN WOMEN AND MEN AND ON TEMPORARY SPECIAL MEASURES** (Article 4.1.)¹³⁶ and the third is on the **MODIFICATION OF STEREOTYPES** (Article 5)¹³⁷. By those provisions the CEDAW calls on its States Parties to address structural causes of inequality between women and men and to accelerate full development of human rights and equality of women.

Regarding specifically violence against women, it is important to note that the CEDAW Convention does not contain an explicit article on violence against women or domestic violence, however it covers it implicitly. Firstly, the Convention explicitly requires States to eliminate private conduct detrimental to women and renders States liable if they fail to take all appropriate measures to eliminate such conduct of a private person. Under this obligation States are responsible for acts of private persons if they fail to act with **DUE DILIGENCE TO PREVENT OR PROSECUTE SUCH ACTS OF INDIVIDUALS**. Secondly, it addresses discrimination against women in all areas of life including in family matters. The previously excluded area of family and private life and discrimination of girls and women in personal matters was put on a footing equal to all other areas of women’s rights and as such transferred family matters from a private into a public human rights sphere, which falls under State obligations with respect to the protection of human rights. Based on those provisions the CEDAW Committee adopted in 1989 General Recommendation No. 12 on Violence against Women and requested its States Parties to regularly report on this form of violence. In 1992 CEDAW adopted its second and crucial recommendation on the matter, General Recommendation No. 19 on Violence against Women in which it provided recognition of violence against women as a form of discrimination against women. It found that “States may also be responsible for private acts if they fail to act with due

¹³⁶ To “Adopt temporary special measures to accelerate advancement of women and achievement of de facto equality of women and men. This provision is now more and more used and results are visible, more than ever, women are participating in political life.

¹³⁷ “Modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the stereotyped roles for men and women (Articles 5 (a)).

diligence to prevent violation of rights or to investigate or to punish such acts of violence, and for providing compensation that obliges States Parties to prevent and prosecute violence against women by private persons.” The CEDAW Committee clarified that full implementation of the Convention requires States to take positive measures to eliminate violence against women, including domestic and sexual violence. This concept known as the ‘due diligence’ standard has gained momentum in international human rights law in providing an understanding of violence against women as a human rights violation and defined State responsibility to combat it.

The international perspective on violence against women was also strengthened through the **JURISPRUDENCE** of the CEDAW Committee related to specific cases on violence against women under the **OPTIONAL PROTOCOL TO THE CONVENTION ADOPTED IN 2000**. In its jurisprudence related to cases on violence against women the CEDAW Committee often emphasizes the State’s responsibility for failing to take all appropriate measures to prevent violence against women and underlines the fundamental importance of addressing violence against women in a holistic manner with involvement and co-operation of many different actors.

This global international framework is complemented with significant developments at the regional level. Let me briefly mention that the **ORGANIZATION OF AMERICAN STATES** adopted in 1994 the first legally-binding convention to combat violence against women **THE INTER-AMERICAN CONVENTION ON THE PREVENTION, PUNISHMENT AND ERADICATION OF VIOLENCE AGAINST WOMEN (CONVENTION OF BELEM DO PARA)** which emphasizes the fact that violence against women is a human rights violation and recognizes the rights of women to be free from violence in both the public and the private sphere. Also the **AFRICAN UNION IN 2003** adopted the **PROTOCOL ON THE RIGHTS OF WOMEN IN AFRICA TO THE AFRICAN CHARTER ON HUMAN RIGHTS**, which sets out rights of women in the public and private sphere. It explicitly calls for the protection of women against violence in public and private life. Now we have come to the new developments of international law at the regional European level. The Council of Europe in 2011 adopted the Convention on Preventing and Combating Violence against Women and Domestic Violence – the Istanbul Convention.

The decision to elaborate this new Convention was a result of the **COUNCIL OF EUROPE CAMPAIGN ON VIOLENCE AGAINST WOMEN** carried out in all 47 Member States of the Organisation during 2006-2008, which revealed the magnitude of this problem in Europe, and helped place various forms of violence against women more strongly on the political agenda. This Campaign was also carried out by national parliaments and regional authorities, which significantly raised its visibility and provided political support at the national level. At the end of the Campaign in 2008, the Task Force that was established to assess the situation in its Final Activity Report (EG-TFV (2008) 6) recommended the adoption of a legally-binding human rights convention to prevent and combat violence against women.

In 2008, the Committee of Ministers of the Council of Europe decided to set up the **AD HOC COMMITTEE ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE (CAHVIO)** to elaborate the new convention and

to define its scope. The CAHVIO negotiations resulted in the adoption of the Convention which focuses on the elimination of violence against women and domestic violence which affects women disproportionately and which at the same time allows its application to all victims of domestic violence. This was not an easy decision but it satisfied differing views as approximately one half of the Committee wanted a women’s only convention and the other half wanted a convention focusing on domestic violence. Importantly, this Convention is the first legally-binding instrument in the world to provide for a comprehensive set of measures in the field of preventing and combating violence against women and domestic violence.

The elaboration of this new European legally-binding Convention on Preventing and Combating Violence against Women and Domestic Violence was on one hand a **GREAT CHALLENGE BUT ON THE OTHER HAND A UNIQUE OPPORTUNITY TO CODIFY STANDARDS AND JURISPRUDENCE** developed up to now in this field by other global or regional organisations or at the States level. Global instruments like the UN CEDAW Convention, as well as regional instruments like the Belem do Para Convention and the Protocol to the African Charter were carefully considered and some standards were clearly inspired by the standards of these sister treaties. The special connection between CEDAW as the only global women’s human rights instrument and this new European instrument is reflected in the Convention’s Preamble, which in addition to mentioning the UN CEDAW Convention also includes an explicit reference to the CEDAW Committee’s General Recommendation No 19 on violence against women.

The major added value of this Convention for the international legal framework is that for the first time, in a legally-binding instrument it **PROVIDES DEFINITIONS** of violence against women, of domestic violence and a definition of the due diligence obligation. It also provides a **COMPREHENSIVE SET OF LEGALLY-BINDING STANDARDS TO COMBAT VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE**. At the European level its unambiguous added value is also the establishment of a specific monitoring mechanism named “GREVIO” which should monitor its implementation.

Firstly, and more precisely, the Convention defines violence against women as a violation of human rights and a form of discrimination against women, which is the cornerstone of a strong human rights approach to combating violence against women including domestic violence against women. It clarifies that: *“gender-based violence against women” shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately.*”

Secondly, it also, for the first time, provides a definition (Article 3b) of domestic violence by stating: *“domestic violence” shall mean all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim;* Regarding this definition, it should be pointed out that in addition to *psychological* violence, which is still not recognised in many States as a form of violence against women, the definition also includes economic violence as a type of domestic violence.

Also, where domestic violence is concerned, **THE PROVISIONS OF THE CONVENTION ARE ALSO APPLICABLE TO MALE VICTIMS** based on States Parties' decision. For example all those States Parties that have adopted domestic violence legislation that is gender neutral or that covers all victims of domestic violence will probably continue with this general approach on all victims of domestic violence but would need to secure that protection of women victims of such violence is in line with requirement of this Convention which provides guidance on the gendered understanding of domestic violence. (All States Parties have under Article 6 obligations to include a gender perspective in the implementation, and evaluation of the impact of the provisions of this Convention.)

Thirdly, the Convention articulates in Article 5 the principles of State responsibility and the **DUE DILIGENCE OBLIGATION**. Under the principle of State responsibility it states: *"Parties shall refrain from engaging in any act of violence against women and ensure that state authorities, officials, agents, institutions and other actors acting on behalf of the state act in conformity with this obligation."* Its definition of the due diligence obligation is the following: *"Parties shall take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention perpetrated by non-state actors"*. In conclusion, those definitions present a codification of the evolving understanding of gender based violence against women as a human rights violation and a form of discrimination against women and the corresponding obligation of States to prevent such violence.

An important new feature of the regional system is the establishment of a specific monitoring mechanism "GREVIO", as well as an envisaged stronger involvement of national parliaments in the monitoring process. **ARTICLE 70 PROVIDES THAT PARTIES SHALL SUBMIT THE REPORTS OF THE "GREVIO" TO THEIR NATIONAL PARLIAMENTS.** Furthermore at the Council of Europe level the Parliamentary Assembly of the Council of Europe shall be invited to regularly take stock of the implementation of this Convention. Additionally, the Convention envisages important roles for each of the key stakeholders in combating violence against women. The Convention has a specific Article 9 on Non-governmental organisations and civil society and obligation of Parties to recognise, encourage and support, at all levels, the work of relevant non-governmental organisations and of civil society active in combating violence against women and establish effective co-operation with them. It also calls for **DESIGNATION (ARTICLE 10) OR ESTABLISHMENT OF ONE OR MORE CO-ORDINATING BODIES RESPONSIBLE FOR THE CO-ORDINATION, IMPLEMENTATION, MONITORING AND EVALUATION OF POLICIES AND MEASURES TO PREVENT AND COMBAT ALL FORMS OF VIOLENCE COVERED BY THIS CONVENTION.** These bodies shall co-ordinate the collection of data as referred to in Article 11 and analyse and disseminate its results.

This Convention requires under Article 11 the collection of relevant data and research. Parties shall also ensure that the information collected is available to the public. The Convention also puts a specific focus on prevention as a key step in addressing the existing patterns of violence against women. The Convention includes a number of provisions

giving way to various measures in the areas of education, training of professionals and general awareness-raising to change attitudes, gender roles and stereotypes which tolerate or legitimise violence against women. It also establishes the obligation to set up specific programmes and treatment to ensure that the perpetrators of domestic violence and sexual offences do not reoffend. These provisions cover on the one hand a number of measures to raise the general public's awareness of the problem of violence against women and involve men in such activities, and on the other hand the need to introduce into school curricula, from primary school level onwards, the teaching of gender equality, non-stereotyped gender roles, mutual respect, the non-violent resolution of conflicts in interpersonal relations and concepts of honour.

According to the Convention, specific protection and support must be given to children who witness domestic violence. It was clear during the drafting that it is necessary to strengthen legal protection contained in criminal, civil and administrative law and to introduce a range of **PREVENTIVE, PROTECTIVE AND COMPENSATORY MEASURES FOR VICTIMS** as well as punitive measures against perpetrators of those forms of violence which require a criminal law response. The Convention contains provisions aimed at preventing and combating all the different types of violence against women: psychological and physical violence, sexual violence and rape, stalking and sexual harassment, traditional practices harmful to women, in particular forced marriages and female genital mutilation.

In this view, the additional value of the new Convention will be the fact that the following acts will be considered to be crimes: **PSYCHOLOGICAL VIOLENCE**, which is defined as "impairing a person's psychological integrity through coercion and threats"; **STALKING**, defined as "repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety"; **FORCED MARRIAGE**, defined as "forcing an adult or a child to enter into a marriage" and **FEMALE GENITAL MUTILATION**, where the Convention will comprise an undertaking by States to take all requisite measures to ensure that FGM will be considered a crime.

The Convention contains many measures for the protection of the victims of violence against women and domestic violence. I will mention here only some examples without going into too many details as I will be available to answer any questions you may have during the ensuing debate. Protection measures that should be introduced – or strengthened if they already exist – are to:

- Provide Shelters that are safe, appropriate, easily accessible and in sufficient numbers;
- Set up national telephone help lines free of charge;
- Introduce special support for victim of sexual violence;
- Provide for risk assessment and risk management including possession of firearms;
- Take the necessary steps to ensure that protection orders are granted in favour of women who are victims of any type of violence;
- Take measures to ensure that victims receive adequate information, in a language that they understand, on available support services and legal measures;

- Provide for emergency barring orders, to enable the police, in case of immediate danger, to oblige the perpetrator to temporarily leave the family home at once;
- Provide for restraining or protection orders
- Inform victims of their rights and the services available to them and of the action taken in response to their complaint, and
- Ensure that the victims are informed when the perpetrator escapes or is released temporarily or definitively.

To conclude, the new Istanbul Convention clearly complements the global CEDAW Convention and enriches the international framework on violence against women and domestic violence with detailed definitions and concert measures, policies and strategies to combat violence against women that specify and complement global CEDAW standards and provides for their reinforcement. As such it has an added value which goes beyond its relevance for the European regional space – with its well-elaborated definitions and high standards it could also be used by all States, especially those that have already accepted the CEDAW Convention, as a valuable set of standards when they are elaborating their national laws or action plans on violence against women.

3.4.2. Ms. Feride Acar, CEDAW Committee Member, Professor in Political Science

Very important advances have indeed been recorded in the area of women’s human rights and the treatment of violence against women by international law in the last two decades. The international community has moved from a position of considering violence against women to be a private matter to a position where it is tackled as a public concern. Perhaps more significantly, the merely protective, humanitarian approach of earlier times has been replaced by a rights-based approach. International norms no longer treat violence against women as merely a criminal law matter that needs to be dealt with by penal sanctions, and neither is violence against women simply regarded as a women’s rights issue that only concerns women’s rights defenders.

There is no doubt that in this progress the **UN CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)**, adopted in 1979, was the keystone. This piece of international law, considered by many to be ‘the global Bill of Women’s Human Rights’, encapsulates universal standards for women’s human rights. It aims at realization of both *de jure* and *de facto* equality between women and men as the ultimate standard. It has a wide conception of gender equality obliging state parties to do away with both ‘direct and indirect discrimination’ as well as ‘discrimination of purpose’ and ‘discrimination of effect’ against women. To put it differently, it demands not only legal and formal equality, but also substantive equality. Also CEDAW identifies discriminatory traditions, such as those based on stereotyped gender roles, as “forces that restrict women’s enjoyment of their human rights” and calls for their elimination.

As powerful and as ground-breaking as this piece of international law has been in incorporating women’s human rights into the mainstream international human rights framework, CEDAW

does not contain any specific provision on violence against woman and/or domestic violence. In other words, as late as the 1980’s, international human rights law refrained from facing this abominable reality of gender-based violence against women as a violation of women’s human rights.

The CEDAW Committee is empowered to interpret and further explain the provisions of the Convention on the basis of its review of state party reports. Thus, the Committee, in 1992 attempted to read violence against women into the provisions of CEDAW in order to fill the vacuum, which had already become glaringly apparent. By releasing General Recommendation No. 19, the Committee took a historic step to link the notion of ‘violence against women’ to the legally binding provisions of CEDAW by declaring the former to be a form of discrimination against women.

In this General Recommendation, the Committee stated that, **“GENDER-BASED VIOLENCE IS A FORM OF DISCRIMINATION THAT SERIOUSLY INHIBITS WOMEN’S ABILITY TO ENJOY RIGHTS AND FREEDOMS ON A BASIS OF EQUALITY WITH MEN.”** It emphasized that gender-based violence is “violence directed against a woman because she is a woman or that affects women disproportionately.”

In this way, the CEDAW Committee provided for all, a comprehensive definition of violence against women. This definition has since been adopted by many, (including the Istanbul Convention) as the basic yardstick. As General Recommendation No.19 also stated that violence against women can be exhibited in different forms in all areas of life, it linked the notion to all the main premises of CEDAW. Diverse and seemingly unrelated practices such as **SEXUAL HARASSMENT IN THE WORK PLACE, EARLY OR FORCED MARRIAGE, FGM AND DOMESTIC VIOLENCE** thus came to be regarded as forms of violence against women replacing the earlier narrow conception that focused mainly on domestic violence.

The CEDAW Committee, in its review of state reports, has since been systematically referring to General Recommendation No. 19, and thus treating violence against women as a form of discrimination against women and a violation of women’s human rights. States have been routinely including it in their reports despite the fact that ‘violence against women’ does not appear in the text of the Convention.

Today violence against women also is well anchored into the human rights agenda by a series of declarations and decisions of international and regional political bodies, by the Latin American and African regional treaties and land mark decisions of international and regional courts (ICC, ECHR) that established direct or indirect state responsibility for failing to prevent and/or effectively prosecute violence against women in public and private settings.

The Istanbul Convention is built on this body of ‘soft law’. It is legitimized by ‘ideals and goals’ of CEDAW, and is set squarely on the principles of the Committee’s General Recommendation No. 19, codifying it into law.

When, during 2009 and 2010, representatives of the 47 member states of the Council of Europe (CAHVIO) met in

Strasbourg, France, debates on how to define the scope of the Convention and/or how to address the various aspects of violence against women took up many days and months. There were matters of principle that needed to be settled at the outset. Despite the long road travelled by the international community since CEDAW's General Recommendation No. 19, when it came to the negotiations of this new legally binding instrument, age-old debates were revived, perennial questions were repeated and consensus seemed very far away. Not only was there disagreement regarding violence against women or domestic violence, but also questions such as whether violence against women is a form of "gender-based discrimination" or a "social problem"; whether it is a "human rights violation" or a "human rights issue" were voiced by delegations. Even some concepts that are well established in academic literature and "agreed language" in other international documents were challenged by some. A case in point was **THE OBJECTION TO THE DEFINITION OF GENDER AS "SOCIOALLY CONSTRUCTED ROLES."**

Out of these deliberations, the present Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (**ISTANBUL CONVENTION**) has emerged as a comprehensive instrument that covers all forms of violence against women. It also gives states the option to apply its provisions to other victims of 'domestic violence' and **ADDRESSES BOTH PHENOMENA ON SOCIAL, ECONOMIC, POLITICAL AND LEGAL BASES.** It is a comprehensive human rights convention, built on the 4P principle of 'Prevention, Protection, Prosecution, and Policy'. It contains specific provisions about laws, measures, services, and policies to be put in place and implemented and calls for effective response to violence against women and domestic violence through coordinated action of the security forces, the judiciary, the social service institutions, and with the support of the media, the civil society and policy makers. It also demands that states exercise 'due diligence' in their efforts to prevent, protect, investigate and sanction cases.

In its specific provisions, the Istanbul Convention **RECOGNIZES AND RESPONDS TO MULTIPLE-LEVEL DISCRIMINATION AND RELATED VIOLENCE EXPERIENCED BY MIGRANTS, REFUGEES, AND ASYLUM SEEKERS.** It contains provisions for international cooperation and data collection, and establishes an independent international monitoring mechanism to oversee the state parties' adherence to their obligations under the Convention. This type of international monitoring mechanism is unprecedented in the area of violence against women and domestic violence. Judging from the experience of the CEDAW Committee, it can be expected to make a significant contribution to both the accumulation of the much-needed information and effective intervention on the matter.

The Istanbul Convention places obligations on state parties to make sure that their domestic legal frameworks cover certain types of violence and that these offences are duly sanctioned. These are **PHYSICAL VIOLENCE, PSYCHOLOGICAL VIOLENCE, STALKING, SEXUAL VIOLENCE INCLUDING RAPE, FORCED MARRIAGE, FGM, FORCED ABORTION OR FORCED STERILIZATION, AND SEXUAL HARASSMENT.** It also calls for state parties to put in place and implement laws that **SPECIFICALLY**

BAN ANY INVOKING OF "CULTURE, CUSTOM, RELIGION, TRADITION OR SO-CALLED 'HONOR' AS JUSTIFICATION" FOR ANY ACT OF VIOLENCE COVERED IN THE CONVENTION.

The Istanbul Convention has the potential to go down in history, not only as the first European legal instrument on violence against women, but also as a first example of legally-binding international law anywhere, which openly and clearly defines violence against women as discrimination against women and its various forms as violations of human rights under international law.

When it comes into force as the sole international legal instrument elaborating the structural connection between violence against women, gender inequality and human rights, no doubt it will reinforce CEDAW's overall implementation by states' review.

As the Preamble of Istanbul Convention echoes CEDAW in stating that "...the realization of de jure and de facto equality between women and men is a key element in the prevention of violence against women and that violence against women is a manifestation of historically unequal power relations between women and men, it reflects the heart and soul of CEDAW and its General Recommendation No. 19."

In conclusion, from the perspective of a person with some experience in the CEDAW process as well as in the initiation and drafting of the Istanbul Convention itself, let me finish with a personal assessment of the potential impact of this Convention.

This is a progressive and a potentially effective legal instrument. It is also well suited to respond to the existing heterogeneity in legal frameworks and structures of different states. Clear and strong moral and legal principles are set at its foundation, but there is room in its body for flexibility in implementation at the domestic level. On that basis, it is suitable for ratification by states from other regions, and it certainly constitutes a good-practice example for other regions. To use a familiar expression, while this Convention squarely rests on the moral and analytical framework of CEDAW and its General Recommendation No. 19, it also gives a **SET OF NEW 'TEETH' TO CEDAW BY TRANSLATING ITS PRINCIPLES INTO A SET OF CONCRETE, BINDING PROVISIONS.**

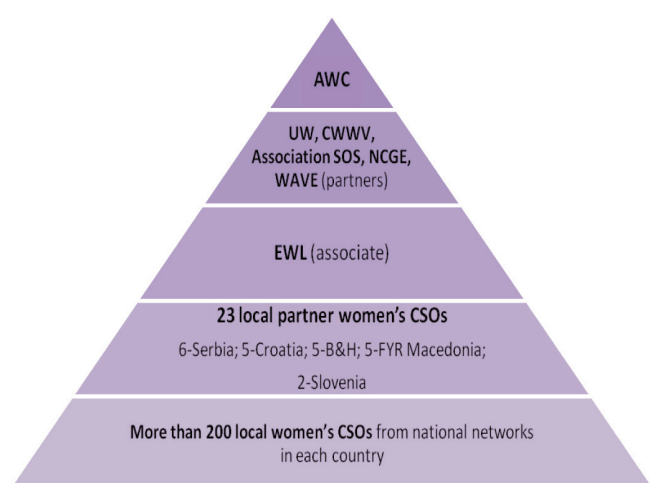
Its actual effectiveness will depend on, as it is the case with all legal instruments, how it will be used at the national level. At this stage, ratification by states and civil society ownership of the Convention are critical to achieve the desired end. Let me take this opportunity to pay tribute to the civil society representatives who participated in the negotiations in Strasbourg. I can frankly say that their contributions helped significantly in making this a stronger instrument.

I am proud that the Turkish government has led the way in ratifying the Istanbul Convention, and I urge all state parties to follow suit. I particularly want to invite NGOs all over to familiarize themselves with the Istanbul Convention and advocate for its ratification by their governments and follow up the implementation at the national level.

3.4.3. Ms. Vanja Macanovic, Autonomous Women's Center in Belgrade

Coordinated efforts – Toward new European standards in protection of women from Gender-based violence

Looking into the process of drafting The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence from the aspect of women Civil Society Organizations (CSOs), there has been enormous energy from all women activists to support the creation of the most advanced legally binding instrument in the field of violence against women. Some women CSOs have been actively involved into the drafting of the Convention by having their representatives as experts in the CAHVIO or by monitoring their state representatives as members of CAHVIO. Networks of women CSOs throughout Europe mobilized all their resources for this Convention to be adopted and to be offered to member states for ratification. So, it is very logical for women CSOs to continue this work once the Convention has been adopted.



WOMEN CSOs IN THE WESTERN BALKANS WITH THEIR SISTER CSOs from the EU¹³⁸ gathered in a mutual regional project funded by the European Union¹³⁹ with the aim to contribute to the establishment of a comprehensive and coherent legislative and policy solution for the implementation of the Convention.

The project has regional, national and local dimensions, with the following aims: (a) ratification of the new *Convention*, (b) harmonization of national laws and policies with provisions of the *Convention* and (c) full implementation *CoE Convention* at the national and local level. Prerequisite for all this is that women's CSOs and networks in the Western Balkans region **DEVELOP CAPACITIES FOR ACTIVE PARTICIPATION IN STATE-CIVIL SOCIETY DIALOGUE IN ORDER TO ACHIEVE A SIGNIFICANT IMPACT ON THE COUNTRIES TOWARDS REACHING THE GOALS AND THE PURPOSE OF THE COE CONVENTION.**

138 Autonomous Women's Center from Serbia as project holder, together with partner organizations: Centre for Women War Victims – ROSA, from Croatia; United Women Banja Luka from Bosnia and Herzegovina; Union - National Council for Gender Equality from Macedonia; Association SOS Help Line for Women and Children – Victims of Violence from Slovenia and AOF/WAVE, Austrian Women's Shelter Network/Women against Violence Europe from Austria.

139 Project is funded by: European Union under the IPA programme – Civil Society Facility Framework Partnership Agreements, project number 2012/306-568, implementation period December 1st, 2012-November 30th, 2014.

For the women CSOs from the Western Balkan Countries the ratification of the Convention was the only way to advocate in their countries the achievement of the minimum standards set up in the Convention. For the women CSOs in the EU states the ratification of **THE CONVENTION WILL SERVE AS A TOOL TO PRESERVE THE ACHIEVED RIGHTS FOR WOMEN VICTIMS OF VIOLENCE** in the era of economic crises and cutting of the services.

The most important part of this project is thus devoted to creating, preparing and conducting **THE MUTUAL AWARENESS RAISING CAMPAIGN "I SIGN"**, which was launched on 5th November on the web site <http://www.potpisujem.org/eng/>. The campaign focuses primarily on citizens, their awareness that a Convention like this exists and what changes it will create once it is ratified. It also provides messages to decision makers on the views and support of general public and position of all CSOs expressed in a form of Declaration for the ratification and implementation of the Convention. It also shows **UNITY OF ALL NON-VIOLENT CITIZENS IN ALL THESE COUNTRIES TO END THE IMPUNITY OF PERPETRATORS** and provide better life for all women, victims of gender-based violence.

All promotional materials, TV and radio announcements, web site and facebook contain the same messages such as what *Nobody likes...* that ends with *Things that nobody likes needs to be changed*, translated into the 11 languages (Albanian, Bosnian, Croatian, English, German, Hungarian, Macedonian, Roma, Slovenian, Serbian and Turkish).



It is designed so that anybody can support the Campaign by signing the Declaration on posters or city lights, leaving comments on a web site, Tweeter or Facebook, and viewing video clips on the Youtube¹⁴⁰. Bearing in mind these modern ways of communication and exchange of messages, the Campaign focuses more on young people, especially young girls who are starting their partner relationships, to recognize and distinguish between love and controlling behaviour.

140 Campaign I sign after the two months of running have: Billboards (210 pieces); Citylights (547 pieces); Posters (44.550 pieces); Posters for signing (150 pieces); Panos A3 (7 pieces); Leaflet (50.900 copies); Radio spot (2.547 broadcasts); TV spot (3.610 broadcasts); Printed advertisements (12); Web page in 11 languages (30.371 visits, 6.699 signatures and comments; 308 articles published); FB page (2.344 likes); Tweeter (130 followers); Youtube (1.422 views of TV spot; 260 views of RA spot; 1.830 views of video clip); other promotional material (bags, T-shirts, pens: 2.539); Spot on LCD screens in different places (more than 1.200.000 broadcasts); Banners (13)

In this manner the Campaign is open for young people to participate and create messages for their peers, on the values they see as the most important for them. Three student girls created the most fantastic video on the possibilities to use this Campaign in language understandable to youth. The video can be seen on Youtube.¹⁴¹

For the state and CSO representatives of all partner countries to meet and exchange their views regarding further activities in relation to the Istanbul Convention *Regional conference for stake holders* was held on 10th November, 2013 in the National Assembly of the Republic of Serbia. Having the Council of Europe Special Rapporteur on Violence against Women, the Council of Europe Convention was considered in a wider European context. The aim was to **MOTIVATE KEY ALLIES AND TARGET AUDIENCES IN COUNTRIES THAT HAVEN'T RATIFIED THE CONVENTION TO INVEST MORE EFFORTS IN ADVOCATING FOR THE RATIFICATION.** So far, three countries had ratified the Convention – Austria, Bosnia and Herzegovina and Serbia, which is a good sign to others to follow.

The Conference managed to establish closer and better dialogue between organizations, better understanding of the wider context, exchange of experiences useful to work in local communities, particularly in relation to possible changes in local policy and advocacy activities. At the end of the Conference, representatives of all the CSOs, which share human rights values, were invited to sign *Declaration of the civil society organizations on preventing violence against women.*

The last activity is aimed at determining the current state of legislation in all countries involved in this project by conducting an overall base line study. The study will serve not only as a lobbying tool in each country, but also as a **TOOL FOR THE EXCHANGE OF GOOD PRACTICES AMONGST THE COUNTRIES.** This will be particularly important for the Western Balkan countries which have to make major legislative and practice changes in order to meet the minimum standards set up in the Convention.

Like with any international instrument for the protection of women human rights, this Convention will not be implemented without the pressure from the women CSOs on their governments and without mutual support and networking to enhance that pressure.

3.4.4. Ms. Gisela Wurm, Parliamentary Assembly of the Council of Europe

Today is the first day of the 16 Days “A World Free from Violence against Women” campaign. **THESE DAYS ARE REMINDING US THAT IN EUROPE EVERY FIFTH WOMAN IS VICTIM OF VIOLENCE!**

I am very pleased to inform you, that we have taken another step forward in combating violence against woman: Recently two further member states - **BOSNIA HERZEGOVINA AND AUSTRIA** - ratified the Istanbul Convention. Therefore three more ratifications have to be carried out in order for the Istanbul Convention to come into force.

These positive steps forward confirm that we are on the right track. But we must not give up focusing our efforts in raising

awareness. We still have to point the finger on violence. Using each opportunity to present the targets of the Istanbul Convention is one of the most important ways to raise awareness, and thus promote its ratification. In this respect, I would like to call your attention to the main purposes of the Istanbul Convention once more.

WHY DO WE NEED THE CONVENTION?

As we know a significant high number of women and girls experience violence in their daily lives. Domestic violence is particularly a traumatising experience where numerous women remain silent because of fear and shame. After years of serious engagement, the establishment of parliamentary networks and extensive campaigns, the Convention offers unprecedented instruments for combating violence. It's only up to our responsibility to enforce it!

The Convention stands on **FOUR ESSENTIAL PILLARS: PREVENTION, PROTECTION, PROSECUTION AND MONITORING**

First of all the Convention declares clearly that the realisation of **de jure and de facto equality** between women and men **IS A KEY ELEMENT IN THE PREVENTION OF ALL FORMS OF VIOLENCE AGAINST WOMEN.**

The basic understanding is that the **historically subordinate position** of women causes violence. And vice versa each form of violence - such as domestic violence, sexual harassment, forced marriage or genital mutilation for example - reinforces the subordinate position of women. That's the crux of the matter and that's the vicious circle we have to break!

ACCORDING TO THIS FUNDAMENTAL RECOGNITION, THE CONVENTION HAS A VERY STRONG FOCUS ON PREVENTION. In simple words, governments that ratify the Convention agree to realize the following measures:

- Do everything that is needed for gender equality
- Train professionals in close contact with victims
- Run regularly campaigns for raising public awareness
- Set up treatment programmes for perpetrators of domestic violence and for sex offenders
- Work closely with NGOs
- And last but not least to involve the media and the private sector in eradicating gender stereotypes and promoting mutual respect.

However combating violence isn't just a matter of States. The Convention calls explicitly on all members of the society. Each of us can participate in the process of challenging gender stereotypes, harmful traditional practices and discrimination.

HOW DOES THE CONVENTION IMPROVE THE PROTECTION OF THE VICTIMS?

But when prevention has failed and violence has already happened, **THE PROTECTION AND SUPPORT OF THE VICTIMS AND WITNESSES** must stand in first place! This implies strengthening first aid in police intervention and protection, providing and ensuring access to shelters and social services.

¹⁴¹ http://www.youtube.com/watch?v=_AoX6aLTNLY

The Convention explicitly strengthens **MANY FURTHER-REACHING MEASURES** which include for example:

- Granting the police the power to remove the perpetrator of domestic violence from the home and to leave the family for a specified period.
- Setting up accessible shelters in sufficient numbers and geographical distribution. Only in this way it can be guaranteed that - independent from their social and economic means - all women have access.
- Making telephone helplines which direct the victims to the services they need free from charge.
- Setting-up of easily accessible rape crisis or sexual violence referral centres. We have to ensure that immediate medical counselling, trauma care and forensic services are available everywhere. Centres which offer these essential services are still too scarce.

In general it is not enough to set up protection structures and support services - we also have to make sure that the victims are informed of their rights and know where to get help! The Convention ensures the **PROSECUTION OF THE PERPETRATORS.**

FOR THE FIRST TIME THE VARIOUS FORMS OF VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE, ARE DEFINED AND CRIMINALISED. This is one of the achievements. State parties will thus have an instrument to introduce new offences where they don't already exist. This might be psychological and physical violence, sexual violence and rape, stalking, female genital mutilation, forced marriage, forced abortion and forced sterilisation. Culture, tradition or so-called "honour" are no longer regarded as justification.

Furthermore the judicial proceedings have to be carried out in a manner that guarantees respect, also to ensure that second victimisation does not happen once more. **THE INTRODUCTION OF INTEGRATED POLICIES** takes account of the fact that no single agency or institution can deal with the multiple aspects of domestic violence alone.

The convention therefore asks state parties to implement comprehensive and co-ordinated policies involving government agencies, NGOs as well as national, regional and local parliaments and authorities. The aim is that policies to prevent and combat violence against women and domestic violence are carried out at all levels of government and by all relevant agencies and institutions. This can, for example, be done by drawing up a national plan of action that assigns each agency a particular role.

And finally **THE MONITORING BY A GROUP OF INDEPENDENT EXPERTS CALLED "GREVIO"** makes sure that the Convention will enter into force. Ladies and gentlemen - the signing of the Convention is not enough. The Convention needs the ratification of at least 10 member states to be enforced!

At this point I want to conclude my presentation with the appeal of Mr. Mendes Bota:

- This Convention is necessary and should have been undertaken a long time ago.
- Not supporting this Convention would be a free ticket for violence.

- Not supporting this Convention would be a crime.
- Not supporting this Convention would be another crime against women.

3.5. THE DISSEMINATION OF THE ISTANBUL CONVENTION AMONG MEMBERS OF THE COUNCIL OF EUROPE AND BEYOND

3.5.1. Ms. Claudia Baroni, United Nations Office on Drugs and Crime (UNODC), Justice Section, Division of Operations

"The role of United Nations standards and norms in crime prevention and criminal justice in preventing and responding to violence against women and girls"

I wish to sincerely thank my colleagues of the United Nations Information Service (UNIS) as well as the Academic Council on the United Nations System (ACUNS) and the other sponsors for having taken the initiative to organize this symposium which follows a very successful one held last year on the topic of "gender-related killings of women and girls" or, as it is known in some countries, "femicide". I do hope that these symposiums will become indeed a tradition of the United Nations Office in Vienna.

As this audience has heard throughout the various presentations of today, violence against women and girls is one of the most widespread and serious violations of human rights. While rates of women exposed to violence vary from one region to the other, statistics indicate that violence against women is a universal phenomenon and women are subjected to different forms of violence both within and outside their homes.

The United Nations system has been concerned with the issue of violence against women for more than 30 years.

The first United Nations resolution on "*Abuses against women and children*" was adopted in 1982 and in 1993, the General Assembly adopted the *Declaration on the Elimination of Violence against Women* which became the first international instrument explicitly addressing violence against women, providing a framework for national and international action as well as a definition of violence against women.

1995 was the year in which the *Beijing Platform for Action*. **THE PLATFORM FOR ACTION**, which identifies specific actions for Governments to prevent and respond to violence against women and girls.

Since then the United Nations system, through the General Assembly, the Human Rights Council and the Commission on Crime Prevention and Criminal Justice, has increasingly adopted resolutions calling for the acceleration and intensification of efforts to eliminate all forms of violence against women and girls.

In March 2013 a set of **AGREED CONCLUSIONS ON THE ELIMINATION AND PREVENTION OF VIOLENCE AGAINST WOMEN AND GIRLS** were adopted by Member States gathered in New York on the occasion of the 57th session of the Commission on the Status of Women. The *Agreed Conclusions* provide a comprehensive and broad guidance to countries on how to strengthen the national and international actions to prevent and eliminate violence against women and girls.

Likewise, throughout the last 30 years, the international community – both at the global and regional level - has been engaged in the development and negotiation of legally binding instruments addressing either the different forms in which violence against women and girls occurs or its root causes.

In 1979, the Convention on the Elimination of the All Forms of Discrimination against Women (CEDAW) was adopted. Although the Convention does not explicitly mention violence against women and girls, it addresses its root cause and its General Recommendations 12 and 19 clarify that the Convention includes violence against women and makes detailed recommendations to States parties.

The adoption of CEDAW has been followed by the negotiation and adoption of other international legal instruments which have a relevance for the topic of violence against women including the Convention on the Rights of the Child, and its Optional Protocol on the sale of children, child prostitution and child pornography; the Rome Statute of the International Criminal Court; the Statutes of ad hoc international criminal tribunals; and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

Also at the regional level, countries have engaged themselves in the negotiation and adoption of legal instruments to prevent and respond to violence against women as the 1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (the so-called **BELÉM DO PARÁ CONVENTION**); the 1995 Protocol on the Rights of Women in Africa to the African Charter on Human Rights and Peoples' Rights; the 2004 Declaration on the Elimination of Violence Against Women endorsed by the Association of South East Asia Nations (ASEAN); and – finally - the 2011 Council of Europe Convention on preventing and combating violence against women and domestic violence.

The Council of Europe Convention, which can be accessed by any State, provides an extremely comprehensive and articulated system to prevent and respond to violence against women with measures and provisions ranging from the adoption of gender-sensitive policies, to prevention, protection and support, investigation and prosecution, migration and asylum, and to international cooperation.

The adoption of legally binding instruments, both at universal and regional levels, on issues related to violence against women is a welcome and positive development for different reasons.

From a normative and legal perspective they have a crucial importance as treaties and conventions occupy a prominent position in the hierarchy of sources of international law; they have a legally binding nature for the countries that ratify them and their provisions become part of national legislation; and their adoption contributes to development of an international legal framework and thinking on a specific problem or topic.

The adoption of this type of instruments is also important from a political perspective as they are a testimony of the fact that the international community recognize the relevance and importance of a specific problem; they indicate that there is a

common spirit and understanding among countries on how to address and respond to a specific need and problem; and they help in raising awareness on specific issues and in keeping the international community to vigilant and engaged.

However, one should also recognize that, despite their relevance, for the reasons that have just mentioned above, international legally binding instruments can also be associated to certain problems and difficulties.

Countries, in fact, may be discouraged from ratifying these instruments because of their binding nature with the result of delaying their entry into force and their implementation at the national level.

Secondly, their ratification does not automatically result in the full and comprehensive implementation at the national level of their articles and provisions. If countries do not have in place the necessary structures and institutions or do not commit the required resources for their implementation, the articles and provisions of these international instruments risk of becoming a “dead letter”.

It is therefore of crucial importance to facilitate the establishment of the appropriate normative, institutional and also political environment to pave the way to the ratification and full implementation of comprehensive and binding instruments such as the “Council of Europe Convention”.

In this regard, the United Nations standards and norms in crime prevention and criminal justice, which are a set of non-binding recommendations that countries have adopted throughout the past 60 years on different topics and areas of crime prevention and criminal justice reform, play a key role.

I would like here in particular to refer to a specific standard and norm, adopted by the General Assembly in December 2010, upon mandate of the Commission on Crime Prevention and Criminal Justice and under the political leadership of Thailand, to strengthen the capacity of countries to prevent and respond to violence against women and girls: the **UPDATED MODEL STRATEGIES AND PRACTICAL MEASURES ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE** (General Assembly resolution 65/228).

Despite its non-binding nature, the *Updated Model Strategies and Practical Measures* provides substantive and strategic guidance to countries for the development of national policies to improve the crime prevention and criminal justice response to violence against women and girls covering sectors such as criminal law and criminal procedure; investigation and prosecutions; sentencing policies and correction, victims support and assistance, training, research and crime prevention policies.

The provisions and recommendations contained in this instrument can in fact be applied by countries at the national level to inform the development of their national policies and strategies in the area of preventing and combating violence against women; and to inform the content of relevant national training programmes.

The recommendations contained in the *Updated Model Strategies and Practical Measures* play also an important role in **ASSISTING MEMBER STATES IN EVALUATING AND REVIEWING THEIR LEGISLATION AND LEGAL PRINCIPLES, PROCEDURES, POLICIES, PROGRAMMES AND PRACTICES RELATING TO CRIME PREVENTION AND CRIMINAL JUSTICE MATTERS**; and in determining if they are adequate to prevent and eliminate violence against women.

Furthermore, the *Updated Model Strategies and Practical Measures* provide the normative basis of the work and the activities that the United Nations Office on Drugs and Crime (UNODC) undertakes to assist countries in strengthening crime prevention and criminal justice system responses to violence against women.

During the last recent years, in conjunction with the negotiation and adoption of the *Updated Model Strategies and Practical Measures*, within UNODC there has been a programmatic increase in the broad area of strengthening crime prevention and criminal justice system responses to violence against women. In particular activities related to the strengthening of the criminal justice response to violence against women and girls have been undertaken in **SOUTH AFRICA, KENYA, IN THE LATIN AMERICAN REGION, AFGHANISTAN AND IN VIET NAM.**

Due to loopholes in criminal legislation, poor enforcement of criminal laws and regulations, lack of proper capacity in the criminal justice system, diminishing and discriminatory attitudes among relevant professionals and lack of sufficient and sustainable dedicated resources, the justice chain in many countries is still failing women victims of violence¹⁴².

Based on the recognition of the need to address the still gaps in the criminal justice response to women and girls victims of violence and based on the policy and substantive guidance provided by the *Updated Model Strategies and Practical Measures*, UNODC has also developed a series of important tools to facilitate and improve the capacity of criminal justice officials in responding to women and girls victims such as the *Handbook on Effective Police Responses towards Violence against Women* and it is currently in the process of finalizing a *Handbook for Prosecutors dealing with cases of violence against women* and *Implementation action plan for criminal justice systems to prevent and respond to violence against women* which provides a framework for developing national implementation plans for the criminal justice system to respond to violence against women and girls.

Before concluding, I wish to refer to a recent activity which, in a way, stems from the adoption 3 years ago of the *Updated Model Strategies and Practical Measures* as well as from the organization of last year symposium on the topic of “gender-related killings of women and girls”.

The Commission on Crime Prevention and Criminal Justice, at its 22nd session, upon initiative of the **GOVERNMENT OF THAILAND**, requested **UNODC** to organize an **OPEN-ENDED INTERGOVERNMENTAL EXPERT GROUP MEETING TO SHARE BEST PRACTICES ON WAYS AND MEANS TO PREVENT, INVESTIGATE, PROSECUTE AND PUNISH GENDER-RELATED KILLINGS OF WOMEN AND GIRLS.**

Thanks to the generous support of Thailand, the intergovernmental meeting is scheduled to take in Bangkok in **NOVEMBER 2014** and it might result in the call for the Member States of the United Nations to develop further measures to prevent and combat gender-related killings of women and girls.

3.5.2. Ms. Lilly Sucharipa, President of the Austrian National Committee for UN women

The Istanbul Convention on Preventing and Combating Violence against Women, and Domestic Violence is an important addition to the body of instruments, norms and standards, which evolved in the last decades on the elimination of violence against women. The Istanbul Convention together with the Convention of Belem do Pará, adopted by the Organization of American States in 1994, are the only legally binding Conventions on violence against women. Even though these Conventions are only regional instruments, they are further stones in the puzzle of texts concerning violence against women and as such they will have an impact on policies and law making far wider than their territorial scope of application. They are proof of the growing perception around the world that violence against women is unacceptable.

The Convention highlights the intrinsic link between violence against women and all forms of gender-based discrimination. Thus **IT BUILDS THE BASIS FOR A HOLISTIC APPROACH FOR ACTIONS TO FIGHT VIOLENCE AGAINST WOMEN.**

Because of its particular emphasis on the due diligence of States in preventing, and responding to violence against women, the Convention is instrumental in accelerating implementation. In addition, the reporting and monitoring mechanisms of the Convention provide a strong incentive for States to bring about necessary changes in laws, policies and programs.

UN Women welcomes the Convention and has worked closely with the Council of Europe. The elimination of violence against women is one of the priority areas of UN Women’s work. The organization strongly supports the UN Secretary General’s Campaign “**SAY NO – UNITE TO END VIOLENCE AGAINST WOMEN**”. **THE UN TRUST FUND TO END VIOLENCE AGAINST WOMEN**, which is administered by UN Women, currently supports 77 programs in 70 countries with a value of USD 55.5 million. The programs include **PREVENTION OF VIOLENCE, AWARENESS-RAISING, EXPANSION OF ACCESS FOR VIOLENCE SURVIVORS TO SERVICES, AND STRENGTHENING THE IMPLEMENTATION OF LAWS.**

In the preparation for the **POST-2015 DEVELOPMENT GOALS**, which will follow the MDGs, UN Women pushes for a transformative stand-alone goal on achieving **GENDER EQUALITY, WOMEN’S RIGHTS AND WOMEN’S EMPOWERMENT**. In addition, gender specific targets should be included in all other goals by addressing the specific areas of gender-based discrimination. Structural causes of gender-based discrimination will have to be addressed. To transform gender relations UN Women proposes an integrated approach that addresses three critical areas of gender equality, women’s rights and women’s empowerment:

¹⁴² UN Women (2011). “Progress of the World’s Women 2011-2012: In pursuit of Justice”.

- Freedom from violence
- Gender equality in the distribution of capabilities (e.g. knowledge, good health, sexual and reproductive health and rights for women and girls) and access to resources and opportunities (e.g. access to land, decent work, equal pay)
- Gender equality in decision-making power in public and private institutions

I see freedom from violence as the most important issue. The fear or experience of violence debilitates women and girls. They cannot fully develop their potential. It is therefore necessary to take concrete actions against violence as a centerpiece of the future framework. If not addressed, the ongoing violence against women and girls will frustrate any attempt to change the structural causes of gender-based discrimination.

Violence is the most horrible expression of **THE MISSING RESPECT FOR WOMEN**. It is the result of gender-based inequalities in society.

The Istanbul Convention puts specific emphasis on **EARLY PREVENTION OF VIOLENCE**. To make prevention possible a fundamental change in attitudes and behaviour based on gender stereotypes, prejudices, social or traditional attitudes versus women, which condone violence, is necessary. Women have to understand that **VIOLENCE IS NOT THE RIGHT OF MEN**, that it is not “normal” and that they do not have to accept it. It is a violation of their human rights. Men and boys have to realize that beating up women is a sign of weakness. It does not make a man a “real man”.

UN Women currently promotes a **PROJECT IN BOSNIA** called “Be a man clubs. For zero tolerance for violence against women and girls in Sarajevo, Banjo Luka, Mostar and Brcko”. The program confronts boys and young men in schools, places of vocational training and social centers with the problematic of violence against women. Through discussions among their peers, **BOYS AND YOUNG MEN BEGIN TO UNDERSTAND THAT VIOLENCE AGAINST WOMEN IS NOT A NORMAL WAY OF BEHAVIOUR**. They realize that it is unacceptable. The program teaches them respect for women and to see women as their equals.

The UN Women National Committee Austria supports the project and has dedicated its fundraising campaign during the “16 Days Against Violence” to the extension of the program to other communities. We think that this kind of educational program is a step in the right direction.

Now after the ratification by Austria, only two States are required to ratify for the Convention to come into force. We hope that this will happen soon. UN Women will work to disseminate the Convention beyond the members of the Council of Europe and encourage States to ratify it or at least apply it.

3.5.3. Ms. Liri Kopaci-Di Michele, Head of Gender Equality and Violence against Women Division, Council of Europe

Preventing and Combating Violence against Women is a priority for the Council of Europe. It is also one of the five strategic objectives of the recently adopted Council of Europe Strategy for Gender Equality. So much has already been said about the Convention from very distinguished experts present here today, some of whom participated in the drafting process of what is referred to as an “excellent and ground-breaking” treaty and a **MILESTONE IN THE COUNCIL OF EUROPE’S EFFORTS TO PROMOTE AND ACHIEVE REAL GENDER EQUALITY**. I therefore take particular pride in joining them to promote the Istanbul Convention as a global tool to prevent and combat gender-based violence.

Violence against women is both a cause and a consequence of **UNEQUAL POWER RELATIONS BETWEEN WOMEN AND MEN**. Rape, domestic violence, stalking, forced marriage, female genital mutilation, sexual harassment, forced abortion and forced sterilisation are manifestations of male domination over women. It is violence directed against women because they are women. It must be considered as **STRUCTURAL VIOLENCE** because it is an integral part of a social system which manifests itself in an imbalance of power and unequal opportunities for women and men.

MEASURES CONTAINED IN THE ISTANBUL CONVENTION PROVIDE MEMBER STATES WITH THE TOOLS TO BREAK THIS CYCLE OF GENDER INEQUALITY AND WOMEN’S CONTINUOUS EXPOSURE TO GENDER-BASED VIOLENCE. They are firmly based on the premise that violence against women cannot be eradicated without investing in greater equality between women and men and that in turn, only real equality between women and men and a change in power dynamics and attitudes can truly prevent violence against women. **THE KEY TO COMBATING VIOLENCE AGAINST WOMEN IS NOT CRIME CONTROL**. It is making sure that women and men are equal partners, have the same rights and responsibilities, the same opportunities and that their contribution to society is equally visible, valued and respected.

Violence against women is perhaps the most pervasive human rights violation of our times, but until the Istanbul Convention it was not defined as such in a European legally binding instrument. While the Convention of Belém do Pará¹⁴³, which served as an important inspiration for the Istanbul Convention, did affirm in its Preamble that “*violence against women constitutes a violation of their human rights*”, the Istanbul Convention is the first international treaty to assert this in one of its legally-binding provisions. **ARTICLE 3** defines violence against women as a “**VIOLETION OF HUMAN RIGHTS AND A FORM OF DISCRIMINATION AGAINST WOMEN**”.

In contributing to this leap forward in international human rights law, the Istanbul Convention builds on and codifies established standards, jurisprudence and developments at the international level, as well as best practices, which have emerged at the national level.

¹⁴³ The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women adopted in 1994 by the Organisation of American States

More than two decades ago, by establishing violence against women as a form of discrimination against women, the CEDAW Committee led the way to a more systematic treatment of all forms of violence against women through international law¹⁴⁴. Addressing violence against women was made an integral part of all measures to achieve gender equality provided for in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) - an approach visibly taken by the CEDAW Committee in its jurisprudence and its concluding observations on state party reports.

What does the Istanbul Convention bring to the international legal framework for eliminating violence against women?

For the first time in history, the Convention makes it clear that violence against women and domestic violence can no longer be considered as a private matter but that states have an obligation to prevent violence, protect victims and prosecute the perpetrators. More comprehensive in nature than any of the previously available instruments, the Council of Europe Istanbul Convention significantly reinforces action to prevent and combat violence against women and domestic violence at global level through the '4 Ps approach':

1. Prevention
2. Protection and support
3. Prosecution
4. and integrated Policies.

• The Istanbul Convention establishes a number of important criminal offences:

1. Physical violence
2. Sexual violence
3. Psychological violence
4. Stalking
5. Sexual harassment
6. Forced marriage
7. Female genital mutilation, and
8. Forced abortion and forced sterilisation

• The application of measures to protect the rights of victims shall be secured without discrimination on any ground. No individual who has suffered gender-based violence should be excluded from the protection and support set out in the Istanbul Convention. This includes women and girls from any background, regardless of their age, race, religion, social origin, migrant status, gender identity or sexual orientation.

• The Istanbul Convention includes an explicit definition of the 'due diligence' obligation of states to prevent, investigate, punish and provide reparation for acts of violence perpetrated by non-state actors (Article 5.2).

• The Istanbul Convention is the first international treaty to contain a definition of gender as a socially constructed category that differentiates between 'women' and 'men' according to socially assigned roles, behaviours, activities and attributes.

• The Convention acknowledges the transnational nature of violence against women and demonstrates a commitment to transnational solutions. This innovative cross-border

approach¹⁴⁵ to violence against women is manifested in the Convention's provisions offering protection to migrant women, refugee women and women asylum-seekers, as well as specific provisions addressing forced marriages, and provisions on jurisdiction.

- The Istanbul Convention also provides for a monitoring mechanism to ensure the implementation of the Convention and guarantee its long-term effectiveness. The group of experts (GREVIO) will not only monitor implementation, but also make recommendations to countries, thus offering advice and support. The use of a common framework to assess the diverse measures put in place by states parties also offers a unique possibility to compare such responses, paving the way for more targeted and evidence-based action. The monitoring mechanism will provide a forum to exchange good practices and progress at both national and international level. progress at both national and international level.

Using the potential of the Istanbul Convention as a global tool

The Istanbul Convention is made in Europe but not for Europe only. Open to accession by any country in the world, I am convinced that the Convention and its monitoring system represent a unique chance to achieve universal and unconditional commitment to the elimination of all forms of violence against women.

The ground-breaking nature of the Convention is being recognised the world over. It is gaining ground as a standard reference text, at the European and global level.

The Agreed Conclusions adopted at the last Commission on the Status of Women refer to the importance of regional standards and the action proposed corresponds to a number of provisions of the Istanbul Convention – in substance and in the language used.

The Istanbul Convention is also fully aligned with CEDAW, as it is firmly based on the premise that violence against women cannot be eradicated without investing in gender equality and that in turn only gender equality and a change in attitudes can prevent such violence from happening. This means that signing and ratifying and ultimately implementing the Convention will also contribute to the implementation of the 'women's rights bill', the CEDAW Convention, as well as the UN framework for prevention and combating violence against women, including the Agreed Conclusions of CSW57.

We have heard a lot of praise for the Istanbul Convention. Although it has existed for less than three years, is already catalysing change to improve policies and legislation and protect women from violence. However, change does happen very slowly and it requires sustained effort, political will and commitment. We need to join forces and pool resources to make sure the promise of the Istanbul Convention as a powerful tool to build a Europe and a world free from violence becomes reality.

144 General Recommendation 19 of the CEDAW Committee, adopted in 1992

145 Bonita Meyersfeld 2012

3.5.4. Mr. José Mendes Bota, General Rapporteur on Violence against Women, Parliamentary Assembly of the Council of Europe

Gender-based violence and migrant women: a special concern

Ensuring that women are protected against gender-based violence is a particular concern of the **PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE**,¹⁴⁶ and, more specifically, of the **PARLIAMENTARY NETWORK WOMEN FREE FROM VIOLENCE**.¹⁴⁷

Women who are outside their country of origin or nationality, either because they migrate – forcibly or voluntarily – or because they seek international protection are in an extremely vulnerable position: they face both a higher risk of violence and greater difficulties in seeking protection and redress against violence committed against them.

The Assembly has consistently drawn attention to these matters, and has adopted several texts on them, including **RESOLUTION 1697 (2009) ON MIGRANT WOMEN: AT PARTICULAR RISK FROM DOMESTIC VIOLENCE**¹⁴⁸ and **RESOLUTION 1765 (2009) ON GENDER-RELATED CLAIMS FOR ASYLUM**.¹⁴⁹

Above all, the Assembly has supported the inception, elaboration and promotion of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the so-called Istanbul Convention)¹⁵⁰ and has tried to exert its influence to **ENSURE THAT THIS GROUND-BREAKING TREATY TAKES INTO ACCOUNT THE SPECIAL SITUATION OF MIGRANT AND REFUGEE WOMEN**. This objective has been achieved, even if not to the extent that the Assembly would have wished.

The starting point is Article 4 paragraph 3 of the Istanbul Convention which clarifies that its provisions apply without discrimination “*on the ground of migrant status, refugee status or other status*”.

The Convention then requires the State Parties to establish criminal offences for several forms of violence, which are of dramatic relevance for many girls and women – whether migrants or of migrant origin – nowadays in Europe. Amongst them are: **FORCED MARRIAGE (ARTICLES 32 AND 37), PSYCHOLOGICAL VIOLENCE (ARTICLE 33), SEXUAL VIOLENCE INCLUDING RAPE (ARTICLE 36), FEMALE GENITAL MUTILATION (ARTICLE 38), FORCED ABORTIONS AND STERILISATIONS (ARTICLE 39)**.

State Parties are not asked to set up a specific offence of ‘honour’ crime. However, the Istanbul Convention makes it crystal-clear that the States parties should “*ensure that culture,*

custom, religion, tradition or so-called “honour” shall not be considered as justification for any acts of violence covered by the scope” of the Convention (Article 12 paragraph 10).

This is unequivocally reiterated in Article 42, which reads: “1. Parties shall take the necessary legislative or other measures to ensure that, in criminal proceedings initiated following the commission of any of the acts of violence covered by the scope of this Convention, culture, custom, religion, tradition or so-called “honour” shall not be regarded as justification for such acts. This covers, in particular, claims that the victim has transgressed cultural, religious, social or traditional norms or customs of appropriate behaviour. 2 Parties shall take the necessary legislative or other measures to ensure that incitement by any person of a child to commit any of the acts referred to in paragraph 1 shall not diminish the criminal liability of that person for the acts committed”.

Despite being satisfied with and strongly supportive of the Istanbul Convention, **THE ASSEMBLY WOULD HAVE FAVOURED A MORE EXPLICIT POSITION ON THE SITUATION OF MIGRANT WOMEN WHO DO NOT HOLD A REGULAR RESIDENCE PERMIT**.

During the negotiations, and later in its Opinion on the Convention which was submitted before the adoption by the **COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE**,¹⁵¹ the Assembly called for Article 4 paragraph 3 to be modified so as to include the absence of legal status in the open-ended list of non-discrimination grounds.

This proposal was not endorsed. However migrant women without a regular status should still be covered by the Istanbul Convention provided that the State Parties interpret the expression ‘or other status’ broadly enough. Through the work of its Network Women Free from Violence and the General rapporteur on violence against women, the Assembly will certainly be very vigilant to ensure that this is the case, as soon as the Istanbul Convention starts to be applied.

The Assembly also asked for article 59 of the Istanbul Convention to be modified in so far as it requires the occurrence of ‘particularly difficult circumstances’ **FOR AN AUTONOMOUS RESIDENCE PERMIT TO BE ISSUED TO MIGRANT WOMEN WHO ARE VICTIMS OF VIOLENCE AND WHOSE RESIDENCE STATUS DEPENDS ON THEIR SPOUSE’S**.

The Assembly would have also preferred the inclusion of an additional article specifically on irregular migrants, asking State Parties to set up special protective measures with a view to encourage irregular migrant women to cooperate with the authorities in investigations or criminal proceedings or when this is necessary owing to their personal situation.

Although these amendments were not accepted by the Committee of Ministers, it should be recalled that the **ISTANBUL CONVENTION SETS MINIMUM STANDARDS, AND THAT THE STATE PARTIES ARE MORE THAN WELCOME TO GO BEYOND SUCH STANDARDS IF THEY SO WISH**.

146 <http://assembly.coe.int/nw/Home-EN.asp>

147 <https://www.facebook.com/pages/Parliamentary-Network-Women-Free-from-Violence/521837241177461>

148 <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta09/eres1697.htm>

149 <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta10/ERES1765.htm>

150 <http://www.conventions.coe.int/Treaty/EN/Treaties/Html/210.htm>

151 <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta11/eopi280.htm>

The Istanbul Convention also takes into account the situation of women seeking international protection.

TODAY, MORE THAN 33 MILLION PEOPLE ARE PERSECUTED AND FORCIBLY DISPLACED BECAUSE OF WARS. WOMEN AND GIRLS REPRESENT HALF OF THIS POPULATION. Gender-based violence affects mostly women and girls. Many of their asylum claims involve fear of gender-based violence, including trafficking for sexual and labour exploitation, forced marriage, forced sterilisation, domestic violence, female genital mutilation, the threat of so-called “honour” crimes, sexual violence and rape.

REGRETTABLY, ASYLUM SYSTEMS OFTEN FAIL THEM. All too often, when applying the United Nations 1951 Geneva Convention relating to the Status of Refugees, **STATES FAIL TO ACKNOWLEDGE AND TAKE INTO ACCOUNT THE DIFFERENCES IN HOW WOMEN AND MEN EXPERIENCE PERSECUTION.** Furthermore, asylum procedures often do not create the conditions for women to tell their full story. This gender blindness results in inconsistent asylum decisions and deprives many women of international protection.

To remedy this state of affairs, the **UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR)** has issued a wealth of guidelines to help states introduce a **GENDER-SENSITIVE PERSPECTIVE WHEN CONSIDERING ASYLUM APPLICATIONS.** These guidelines address a variety of topics, including gender-related persecution, the interpretation of ‘membership of a particular social group’, the application of the 1951 Convention to victims of trafficking, female genital mutilation and sexual orientation and gender identity.

The Istanbul Convention addresses the specific issues faced by women asylum seekers at its Article 60, which reads: *“1. Parties shall take the necessary legislative or other measures to ensure that gender-based violence against women may be recognised as a form of persecution within the meaning of Article 1, A (2), of the 1951 Convention relating to the Status of Refugees and as a form of serious harm giving rise to complementary/subsidiary protection. 2. Parties shall ensure that a gender-sensitive interpretation is given to each of the Convention grounds and that where it is established that the persecution feared is for one or more of these grounds, applicants shall be granted refugee status according to the applicable relevant instruments. 3. Parties shall take the necessary legislative or other measures to develop gender-sensitive reception procedures and support services for asylum-seekers as well as gender guidelines and*

gender-sensitive asylum procedures, including refugee status determination and application for international protection”.

Article 61 adds that: *“1. Parties shall take the necessary legislative or other measures to respect the principle of non-refoulement in accordance with existing obligations under international law. 2. Parties shall take the necessary legislative or other measures to ensure that victims of violence against women who are in need of protection, regardless of their status or residence, shall not be returned under any circumstances to any country where their life would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment”.*

THE ISTANBUL CONVENTION DOES NOT EXPAND THE OBLIGATIONS SET OUT BY THE REFUGEE CONVENTION BUT IT CAN BE A VALUABLE COMPLEMENTARY LEGAL TOOL. Indeed, the various forms of persecution within the scope of the Refugee Convention may amount to violence under the Istanbul Convention, and the parties to the Istanbul Convention are required to recognise that gender-specific violence may amount to persecution under the Refugee Convention and lead to the granting of refugee status. Equally the Istanbul Convention may now be used in the interpretation of the Refugee Convention and in imposing obligations on member States in order to protect women from violence.

THE ISTANBUL CONVENTION WILL HAVE A TANGIBLE IMPACT ON THE LIVES AND SAFETY OF THOUSANDS OF WOMEN, INCLUDING WOMEN WHO MIGRATE OR SEEK ASYLUM IN EUROPE. For this to happen, however, it must enter into force.

At the time of writing, the Convention has been signed by 32 Council of Europe member States. Eight of them have ratified it. Two more ratifications are necessary for the Convention to start to be applied. The Parliamentary Network of the Council of Europe and myself, as Political Coordinator of the Network and General Rapporteur on violence against women, are committed to achieving this result, without any further delay.

Women victims of violence have already waited too long.

Mr. José Mendes Bota, General Rapporteur on violence against women and Political Coordinator of the Parliamentary Network Women Free from Violence, Parliamentary Assembly of the Council of Europe.

PART IV

COUNTRY AND REGIONAL REPORTS

“So let us be clear about this up front: We hope to recruit you to join an incipient movement to emancipate women and fight global poverty by unlocking women’s power as economic catalysts. That is the process under way - not a drama of victimization but of empowerment, the kind that transforms bubbly teenage girls from brothel slaves into successful businesswomen. This is a story of transformation. It is change that is already taking place, and change that can accelerate if you’ll just open your heart and join in.”

Nicholas D. Kristof
Author of “Half the Sky: Turning Oppression into Opportunity for Women Worldwide”

4.1. EU-CELAC, HEINRICH BÖLL STIFTUNG: REPORT 6TH CONFERENCE ON FEMICIDE / FEMINICIDE

Femicide/Feminicide: Why do States Continue to Fail?

Patricia Jiménez, Director Global Dialogue Programme at Heinrich Böll Stiftung, EU Regional Office

This article¹⁵² provides an overview of the work that the Heinrich-Böll-Stiftung (HBS), EU Regional Office and civil society partner organisations are engaged in to address femicide/femicide¹⁵³ in the framework of the relations between the European Union (EU) and the Community of Latin American and Caribbean States (CELAC). It includes the progress that has been achieved and suggestions for the next steps to be taken.

We understand that femicide, or the gender-based murdering of women because they are women, is the most extreme manifestation of violence against women. Femicides are not “[...] isolated incidents which arise suddenly and unexpectedly, but are the ultimate act of violence which is experienced in a continuum of violence”¹⁵⁴ against women.

The assertion that States are failing to eradicate violence against women and the killing of women is confirmed by global data provided by the United Nations Office on Drugs and Crime (UNODC) in its *Global Study on Homicide*.¹⁵⁵ This study, which reveals a decrease in homicides at global level in the last few decades, also indicates an increase in the proportion of female victims of homicide. **THE 2012 REPORT BY THE UNITED NATIONS SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND CONSEQUENCES**, confirms the assertion that there has been an increase in gender-related killings of women in Latin America (LA), in Europe as well as in the other continents. Some countries in Central America have experienced an increase in the number of female homicides, which is three times higher than the increase in the number of male homicides. Women’s organisations in Italy and Spain affirm that the number of female homicides or femicides/femicides has not decreased.

The continuous increase in femicide/feminicide in most of Latin America and the difficulty to reduce it, highlights the **FAILURE OF STATES TO COMPLY WITH THEIR DUTY TO PREVENT AND ERADICATE THIS EXTREME FORM OF VIOLENCE AGAINST WOMEN**. It is clear that the policies being implemented are not effective since they are not giving the expected results.

1. Giving Visibility to the phenomenon of femicide / feminicide within the European Union and Latin American Relations

Aiming to eradicate femicide and violence against women,

the Heinrich-Boell Stiftung, European¹⁵⁶ and Latin American civil society organisations¹⁵⁷ have been working on this issue since 2006. Their activities aim to give visibility to the phenomenon of femicide, **TO END THE IMPUNITY THAT PERPETRATES SUCH VIOLENCE AND TO REQUEST INTERNATIONAL RESPONSIBILITY**. These activities have benefited from great support from the Greens/EFA group in the European Parliament and in cooperation with many other EU actors such as the **EUROPEAN EXTERNAL ACTION SERVICE**, some EU member states and Latin American representatives.

Without denying that femicide continues to be a very challenging issue, it is possible to observe progress in the lobbying work, especially in respect to the visibility that has been given to the phenomenon and its recognition as a human rights violation, which implies States’ responsibility to prevent and to punish it.

Since violence against women is an uncomfortable topic as it is **ROOTED IN CULTURAL, SOCIAL AND ECONOMIC INEQUALITIES**, its recognition was difficult to achieve and implied tireless confrontation with many politicians and civil servants working in that field. However the issue is now regularly present on the EU political agenda.

Initiated by Raul Romeva i Rueda, Member of the European Parliament, the **2007 EUROPEAN PARLIAMENT RESOLUTION ON FEMINICIDE**¹⁵⁸ was a determining moment, as it was the first official EU document mentioning the problem by using the term femicide and pointing out the EU’s role and responsibility to fight it. Moreover, femicide is described as a social phenomenon and the EU, Mexico and Central American States are requested to take the necessary steps to combat it.

The adoption of the **EU GUIDELINES ON VIOLENCE AGAINST WOMEN IN 2008 BY THE COUNCIL OF EUROPE**¹⁵⁹, using the term “femicide” and the **2010 DECLARATION BY THE HIGH REPRESENTATIVE CATHERINE ASHTON ON FEMINICIDE**¹⁶⁰ expressing the EU’s deep concern about the “*increasing number of homicides against women and girls that take place in some contexts of mass violence and structural discrimination*” can be seen as important steps forward.

Almost simultaneously with Catherine Ashton’s declaration, the EU - Latin America and Caribbean (LAC) Summit conclusions (Madrid - May 2010) condemned for the first time “*all kind of*

152 This article is based on the report of the conference on Femicide / Feminicide, Santiago de Chile, 23 January 2013. For the full report please consult: http://boell.eu/downloads/Femicide_Conference_Report.pdf

153 It should be noted that the term femicide/feminicide are used interchangeably to refer to the same phenomena, i.e. the death of women because they are women and that these crimes are not only committed by strangers but also by partners, former partners and family members.

154 Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo:

155 United Nations Office on Drugs and Crime (UNODC) (2011), *Global Study on Homicide 2011. Trends, context, data*.

156 Organisations such as the Copenhagen Initiative For Central America (CIFCA), Grupo Sur, the Asociación Latinoamericana de Organizaciones de Promoción al Desarrollo (ALOP) have been essential in this work. Oficina Internacional de los Derechos Humanos Acción Colombia (OIDHACO), Amnesty International, Fédération internationale des ligues des droits de l’homme (FIDH) and some others have regularly cooperated with the project.

157 Numerous NGOs and academics from Latin America, which unfortunately cannot be all mentioned here, have contributed with their knowledge and expertise in the field, since the very beginning of this work.

158 The European Parliament Resolution on the murder of women (femicide) in Mexico and Central America and the role of the European Union in fighting the phenomenon (October 2007): <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2007-0431&language=EN&ring=A6-2007-0338>

159 EU guidelines on violence against women and girls and combating all forms of discrimination against them: <http://www.consilium.europa.eu/uedocs/cmsUpload/16173cor.en08.pdf>

160 Declaration by the High Representative Catherine Ashton on behalf of the European Union on Femicide: http://www.eutrio.be/files/bveu/media/source1854/Declaration_by_the_High_Representative_on_Femicide.pdf

gender-based violence and recognize the need to take every necessary measure to prevent and eradicate it.” Despite this statement, the issue of gender-based violence was not integrated into the EU-LAC Action Plan 2010 – 2012 and therefore no action was taken during the period.

Two years later, the EU – CELAC¹⁶¹ Summit held in Chile (January 2013) added a chapter on gender to the **EU-CELAC ACTION PLAN 2013 – 2015**.¹⁶² This chapter has created a bi-regional dialogue on gender that includes the elimination of all forms of violence against women as one of its three focal points. In order to achieve this goal, the Action Plan proposes to **“Promote actions to combat and eliminate all forms of violence against women and girls, through activities such as publishing gender educational programmes and manuals and standardising protocols of investigation to prosecute and punish the perpetrators, among other actions”**. The Action Plan established clear expected results, mentioning the organization of a *“Bi-regional seminar for the exchange of experiences on gender-based violence, to share best practices and the most effective measures to prevent and combat it”*, and to **“Promote concrete measures for the investigation of gender-based killing”**. The Action Plan also states that *“There should also be created a bi-regional intergovernmental working group to define shared objectives about the three gender-related focal points.”*

Parallel to the official processes, the Heinrich Böll Stiftung and civil society actors have been continuously bringing the issue to EU institutions, its Member States as well as to CELAC countries.

From 2006 to 2013, six international conferences on femicide brought to Brussels or to Lima, Madrid and Santiago, capitals where the EU-LAC or CELAC Summits were taking place, women rights defenders, academics and civil society representatives from LA in order to present the situation on the ground, to denounce the widespread impunity that accompanies these crimes, and to formulate recommendations to the EU institutions, the LA missions to the EU and the Summits. Numerous other activities such as publications, strategy meetings, lunch debates and other advocacy activities have been organized on a regular basis.

2. Why do States Continue to Fail?

The 6th conference on femicide took place in Santiago de Chile in 2013. Its title was *“Violence against women as the focal point of the Bi-Regional Dialogue on Gender Issues between the EU and the CELAC: Why do States Continue to Fail?”*¹⁶³

Knowing that the EU-CELAC Summit was going to create a bi-regional dialogue on gender that will include violence against women, it was decided that the conference will tackle the most relevant challenges the States are facing in order to eradicate femicide and will send recommendations to the Summit on those issues.

¹⁶¹ The CELAC is the Community of Latin American and Caribbean States. It was created in December 2011 changing the name EU-LAC relations into EU-CELAC.

¹⁶² EU-CELAC Action Plan 2013-2015: http://www.eeas.europa.eu/la/summits/docs/2013_santiago_summit_eu-celac_action_plan_en.pdf

¹⁶³ For full report : http://boell.eu/downloads/Femicide_Conference_Report.pdf

The conference was structured around the following topics: a) regulatory and legal aspects, b) data collection and compilation of statistics, and c) investigation problems and new approaches. It sought not only to describe and analyse the main problems in terms of femicide/feminicide, but also to present actions, initiatives and experiences that provide feasible ways to advance in the prevention and eradication of these phenomena.

a) The regulatory and legal framework:

There are two regional conventions that establish legal frameworks to protect women, and to prevent, prosecute and eliminate all forms of violence against them in LA and Europe. These are the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem do Pará - 1994) ratified by 32 of the 35 Member States of the Organization of American States (OAS), and the Council of Europe’s Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Agreement – 2011) ratified by 8 of the 47 States of the Council of Europe. The latter needs 10 ratifications to come into force.

The Convention of Belem do Pará was the first international convention that defined *“the right to be free from violence in both the public and private spheres”*, as a human right, and recognised violence against women as a violation of their human rights. It therefore imposes concrete duties on the states.

Despite the fact that Art. 7 of the Convention of Belem do Pará instructs that the States must *“establish fair and effective legal procedures for women who have been subjected to violence which include, among others, protective measures, a timely hearing and effective access to such procedures”*, the Inter-American Human Rights System (IHRs) confirms that local authorities fail in their duty to investigate facts adequately and to penalise all offenders.

Discrimination plays a fundamental role in the causes and consequences of violence against women. As a result, the Inter-American Court of Human Rights (IACHPR) has stated that the reparations in cases of sexual or gender-based violence must drive a transformation of the discriminatory situation. Otherwise, if everything remains as it was before the violation of rights, the discriminatory culture is sustained and it will not be possible to eradicate the causes of violence against women, thereby resulting in the violent actions being repeated indefinitely.¹⁶⁴

Therefore, the focal point is that the measures to repair the damage caused by violence against women, including femicide, **MUST DRIVE A TRANSFORMATION OF THE DISCRIMINATORY CULTURE.**

Concerning the legal aspects, **NINE LATIN AMERICAN COUNTRIES HAVE LEGALLY DEFINED FEMICIDE/FEMINICIDE AS A CRIMINAL OFFENCE** in order to specifically punish gender-based murders of women, while no European country has defined it as a criminal

¹⁶⁴ I/A Court H.R., Case of González et al (“Cotton Field”) v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of 16 November 2009. Series C No. 205, par. 450.

offence. Whereas this legal definition could help to reduce impunity, **MERELY ADOPTING THESE LAWS DOES NOT GUARANTEE THAT THE GOVERNMENT WILL IMPLEMENT THE POLICIES NECESSARY TO PREVENT AND ERADICATE FEMICIDE/FEMINICIDE.** Criminal laws are in fact far less costly for the states than the resources that are needed to be invested in some countries to address the structural problems of the judicial system, such as the negligent action of police and judicial bodies, which was indicated in the “*Cotton Field*” judgment¹⁶⁵. Moreover, evidence shows that the laws adopted have removed all references to impunity and the State’s responsibility to investigate and sanction these crimes, which is one of the aspects that is most criticised by feminist movements in relation to femicide in countries like Mexico and Guatemala.

It is not possible to make a general assessment of the results of the definition of femicide/feminicide as a criminal offence in the region because **IT HAS BEEN DEFINED VERY DIFFERENTLY FROM COUNTRY TO COUNTRY AND THE LAWS ARE STILL VERY RECENT.** Nonetheless, it can be noted that merely defining this extreme form of violence as a criminal offence is not a sufficient response from the State(s), and that more extensive prevention and protection measures are required for women.

b) Data collection and compilation of statistics

The extent of the problem of violence against women and its most extreme form, femicide/feminicide, cannot be adequately determined due to the lack of complete and proper records, particularly in relation to femicide/feminicide.

According to the **CHILEAN NETWORK AGAINST VIOLENCE TOWARDS WOMEN**¹⁶⁶, the Chilean State however limits violence against women to domestic/family violence, i.e. it only includes violence that occurs in the private sphere. As a result, the **STATE IGNORES FEMICIDE CASES COMMITTED BY STRANGERS** to the victim or by other people known to the victim but who are not partners or ex-partners, which are then not officially considered to be femicides. Therefore, the entirety and complexity of the problem is hidden. By limiting it to family abuse, the continuous violence that affects women during their whole life, both in the public and the private sphere, is ignored.

Furthermore, even though “major social crimes” including homicides, bodily harm and rape, are recorded and reported regularly, the data does not get broken down according to gender. “Family abuse” is also not included among the “major social crimes” despite its high rate of incidence, and it is recorded separately under the “other crimes” category along with drugs and theft.

In 2004, the Chilean Network against Domestic and Sexual Violence determined from a study on femicide, **THAT HALF OF THE CASES CONSULTED IN THE LEGAL FILES OF WOMEN HAD DIED FROM ASSAULTS CORRESPONDING TO FEMINICIDES**, i.e. they were killed because they were women.

At present, however, neither the Chilean legislation, the implemented government policies, nor the data collection in this area, meet the parameters established in the Convention of Belem do Pará, and as a result, both the records and the construction of the problem in the public perception are quite limited.

The situation is very similar all over Latin America. While the problem of violence against women has achieved a certain amount of recognition, the states have not managed to formulate cross-cutting policies that allow the problem of femicide/feminicide to be identified with specific common standards in LA or to designate it clearly and define its characteristics. As a result, it is also difficult to record the facts related to femicide/feminicide in LA properly, as its definition, classification and interpretation varies from country to country.

Adequate records would, on one hand, enable a better understanding of the phenomenon, its causes and consequences, and the **FORMULATION OF APPROPRIATE COMPREHENSIVE GOVERNMENT POLICIES**, and on the other hand help to evaluate the impact of the measures taken and adapt them in light of the new data recorded.

c) Problems related to the investigation of femicide

The problems related to the investigation of femicide cases lead to impunity. Even though the problem of violence against women is being observed and fervently denounced by human rights and women’s movements in LA and Europe, this effort is totally insufficient as its eradication depends on the implementation of comprehensive government policies that the States do not assume. The situation is particularly serious in Central America where there has been an increase in violence in general, which also means an increase in violence against women, as well as femicides/feminicides. The particular case of Mexico illustrates this escalation of violence which shows not only a **LACK OF CLEAR LEGISLATION FOR COMBATING VIOLENCE AGAINST WOMEN BUT ALSO POOR IMPLEMENTATION OF THE EXISTING LEGISLATION.**

The “Cotton Field” case which was brought before the Inter-American Court of Human Rights illustrates the inadequate way that femicide/feminicide cases are dealt with. It further highlights the responsibility of people working in the judicial system and police officers who are in charge of the investigation, trial and judgment in the already countless number of cases of disappearance, kidnapping, torture, rape and homicide of women in Mexico.

The “Cotton Field” judgment is historical in many aspects: for the first time, the Inter-American Court of Human Rights applied standards that are common in all its cases to an exclusive case of violence against women. It also defined reparation actions for the damage caused to the parties who were directly offended in the case, as well as measures to prevent reoccurrence which require reforms in institutions and their authorities, prevention and care programmes, and even government policies directed at the public in general.

It is important to remember that while the judgments of the Inter-American Court of Human Rights are directed at one country in particular (to Mexico in this case), the other states in the region should take the necessary measures to prevent similar cases to those occurring within their jurisdiction.

165 Case of González et al (“Cotton Field”) v. Mexico of the Inter-American Court of Human Rights: http://www.corteidh.or.cr/docs/casos/articulos/seriec_205_esp.pdf

166 Chilean Network against Violence towards Women. <http://www.nomasviolenciacontramujeres.cl>

3. The launching of the bi-regional dialogue on gender

The bi-regional dialogue on gender created by the EU-CELAC Summit was launched in Buenos Aires, Argentina on November 27th, 2013. The launch was followed by a two days "EU-CELAC Workshop on Violence against Women / Femicide / Femicide". This has of course been welcomed by women rights and civil society organizations. Following the debriefing with the Argentina Mission to the EU, it appears that the workshop focused on the sharing of national experiences and practices about the following issues:

a) Legislation on Femicide / Femicide:

Experts agreed on the importance of having specific legislation on femicide making the crime more visible. However, they pointed out that the legal frame is insufficient to give an account of the complexity of this phenomenon and that criminal proceedings should not be the only tool for states to solve this type of problem. They further agreed that it is crucial to implement Comprehensive Action Plans on Violence.

b) Protocols for investigating gender-related deaths:

Challenges such as the remaining negative stereotypes within the society and deficits to perceive warning signs in the complaints made by women about gender violence, requires specific training for police officers and court officials to learn how to better face this situation and therefore be able to prevent further violence. The advantages and disadvantages of different protocols and the importance of preserving evidence, information and proper recording were discussed.

c) Statistics on Femicide/ Femicide:

The experts agreed on the need of official data and the importance of building reliable indicators and statistics on violence against women, in order to conduct public policies based on actual diagnosis of the issue. They also acknowledged that generally the data available is compiled by NGOs who collect it from media articles. The next EU-CELAC meeting will take place during the next session of the Commission on the Status of Women in New York, March 10th to 24th, 2014.

4. Conclusions of the bi-regional dialogue EU-CELAC on violence against women

It is important to point out that civil society participation is a "sensitive issue" and therefore it is quite restricted in the EU-CELAC bi-regional dialogue, at least at this moment. However, officials are open to receive contribution from civil society in SOMs¹⁶⁷, CELAC pro Tempore Presidency and the EU structures.

It is encouraging to notice that, on the one hand, the agenda topics of the civil society conference in Santiago de Chile "Why do States continue to Fail?" and those of the official "Workshop of Violence against Women / Femicide / Femicide" are the same and that many of the discussions presented in the final report of the Argentina workshop are in line with those of the civil society conference in Santiago de Chile. On the other hand, it is also significant to note that there is recognition from the EU and CELAC official representatives about the vital work the women rights organizations perform, especially in regard to the collection of data on violence against women and femicide.

As the workshop in Argentina was attended by high EU and CELAC states representatives, one can hope that this recognition of the importance of the phenomenon will serve to take the necessary measures to fight against it.

However, from the information available it is impossible to assess if concrete and effective decisions were taken to improve the measures to prevent, combat and punish violence against women on the ground. The same remark is valid concerning a better implementation of the Convention of Belem do Pará and IACHPR statements such as the one related to the role discrimination plays in relation to impunity, and the fact that the compensation measures must drive a transformation of the discriminatory situation. It is also impossible to assess if EU States considered the ratification of the Europe Convention on Preventing and Combating Violence against Women and Domestic Violence as an entry point to improve their performances to eradicate violence against women and femicide.

Planning to proceed with the bi-regional dialogue on femicide on regular basis in order to assure an ongoing exchange of experiences and progress, Argentina suggested to organize the next meeting in the framework of the fifty-eighth session of the Commission on the Status of Women, which will take place from 10 to 21 March 2014 in New York.

5. Conclusions and Recommendations of the civil society to the EU-CELAC on violence against women and femicides/ femicides

The latest recommendations formulated by civil society organizations are presented below. They emerge from the Conference in Santiago de Chile "Why does States Continue to fail?"

The civil society organisations welcome the EU-CELAC Bi-Regional Dialogue on Gender Issues, in which one of the main focal points is the fight to eradicate violence against women and its most extreme form, femicides or femicides, i.e. murders caused by the subordination of women.

As a result, we request the creation of an EU-CELAC strategic action plan to eradicate discrimination and violence against women drafted with the participation of women's and feminist organisations. This plan has to be based on international instruments like CEDAW, the Convention of Belem do Pará and the Convention of Istanbul, as well as the standards established by the United Nations bodies and the regional human rights systems, which have been fundamental for the advance in recognising and validating women's human rights.

This plan must guarantee the following, among others:

- 1) visibility of all forms of violence against women and in particular femicide/femicide, sexual violence and disappearances;
- 2) access to effective justice and the eradication of impunity, as well as compensation for the victims and their families;
- 3) recognition of the strategic role of feminist organisations and those that defend women's rights.

¹⁶⁷ SOMs are the European Union-Latin American and Caribbean countries Senior Officials Meeting.

The following is therefore necessary:

- Ratification of the Istanbul Convention by the European States, as well as the Optional Protocol of the CEDAW by all the States, with a view to advancing shared standards related to women's rights.
- The European and Latin American States need to move forward to meet the recommendations and resolutions of the human rights bodies of the United Nations and of the Inter-American and European Human Rights System, particularly those related to eradicating discrimination and violence against women.
- Eliminate the norms and practices that prevent women from fully exercising their rights as citizens.
- With the participation of the civil society organisations, recommend and promote the adoption of specific legislation to punish violence against women and femicide/feminicide in all areas, in accordance with international human rights standards. These rules should include penalties for state agents that do not comply with their duty to act with due diligence in this matter, whether by action or omission.
- Improve the judicial system and train officers ensuring physical, financial and cultural access of women to justice. This should include the instruments, guidelines and protocols suitable for investigating and punishing the perpetrators effectively, for generating the legal information required for feedback, and for publicising the judgments for accountability and monitoring by the civil society.
- Eliminate any police, administrative and legal procedures that discriminate against women or put them in danger, including conciliation measures.
- Implement protection measures for women who experience violence, not tied to complaints, or criminal proceedings or of any other nature, and effective mechanisms to guarantee the security of women protected by these measures.
- In technical alliance with feminist and women's movements, encourage the States to generate official, accessible statistics information on all types of violence against women in both public and private spheres, and particularly on femicides/feminicides, sexual violence and disappearances, torture and trafficking. This information should consider the diversity of social conditions of women that live in violent conditions.
- Revise the strategies implemented by the States to combat armed violence, given the disproportionate impact that they are having on the security of women.
- Establish minimum ethical criteria on the media's treatment of violence against women, particularly femicide/feminicide, sexual violence, disappearances, torture and human trafficking, as well as promote and supervise their compliance, recommending sanctions if necessary.
- Support and reinforce the work and the action of organisations that defend women's rights in the defining and monitoring of the state's response to all forms of violence against women.
- Implement adequate protection measures for the defenders of human rights, be they preventative in nature or an urgent response to imminent risks.
- Provide this EU-CELAC bi-regional plan with the resources necessary for its implementation, constituting a specific fund to promote and reinforce the strategic work of feminist organisations and those that defend the women's human rights.
- Finally, this EU-CELAC bi-regional action plan should enable, at a global level, a strong consensus position before the 57th Session of the Commission of the Status of Women (March 2013) and thereby ensure the best conclusions possible in relation to combating violence against women worldwide.

4.2. MS. JANICE JOSEPH, RICHARD STOCKTON COLLEGE OF NEW JERSEY

Intimate Femicides in the US: The Black Experience

Violence against women occurs in every country around the world and is manifested in varying degrees. The most serious form of violence against women is femicide, which is an international problem and also takes various forms. This paper discussed the extent of intimate femicide among Blacks in the United States (U.S.). The paper also recommends strategies to prevent intimate femicide among Blacks.¹⁶⁸

Definitions of Femicide

The term femicide was first introduced by Russell and Van de Ven (1976) who reinforced that it is important to recognize femicide as a terminology as the majority of female homicides are in fact femicides. "We must recognize the sexual politics of murder" (1976, 144). Russell (1982) further suggested that the word femicide focuses on the fact that when women are killed, they are killed because they are women. Caputi and Russell (1998) view femicide as the most extreme form of terrorism against women motivated by hatred, contempt, pleasure, or a sense of ownership. In 1998, the term femicide was refined by Jacquelyn Campbell and Carol Runyan who argued that all killings of women, regardless of motive or perpetrator status should be considered as forms of femicide. There are different types of femicides based on the contexts in which they occur. These include intimate femicide, honour killing, female femicide, female infanticide, bride burning and dowry murders, and multictidal femicide.¹⁶⁹

Extent of Femicide

Femicide is the leading cause of death for women globally. **THE SMALL ARMS SURVEY (2012) INDICATES THAT ABOUT 66,000 WOMEN AND GIRLS ARE VICTIMS OF HOMICIDES ANNUALLY.** This accounts for approximately 17 per cent of all victims of intentional homicides. The study also found that countries with a high rate of male homicides have a high rate of femicide as well. It also showed that the use of firearms play a vital role in homicide, which are used as a means to intimidate and threaten. In fact, the data from this study showed that four out of five regions with the highest homicide rates also rank high with regards to femicide - Southern Africa, South America, the Caribbean, and Central America. The study also found that countries which exhibit high levels of lethal violence in general, also indicate high levels of femicide. The study, therefore, found that El Salvador had the highest rate of femicide (12 per 100,000), followed by Jamaica (10.9 per 100,000), Guatemala (9.7) per 100,000), and South Africa (9.6 per 100,000).

Femicide in United States

A study conducted by The Harvard School of Public Health (2002) indicated that the United States has the highest rate of female homicide victimization of the developed countries. The study found that although the United States accounted for

32 percent of the female population among 25 high income countries, it accounted for 70 percent of all female homicides.

In addition, the study found females in the United States were murdered at a rate 5 times more than that of the other high income countries combined. The results of this study also indicated that a female in the United States is 3 times more likely to be murdered than a female in Canada, 5 times more likely to be murdered than a female in Germany, and 8 times more likely to be murdered than a female in England and Wales. Easy accessibility to weapons accounted for the high rate of femicide in the United States in comparison to other developed countries. In fact, the study found that firearm homicide rate for US females was 11 times higher than in other high income countries (Hemenway, Shinoda-Tagawa, & Miller, 2002).

Intimate Femicide

Intimate femicide refers to the killing of females by male partners or intimate partner. This is the most common form of femicide worldwide, with 40-70% of female murder victims killed by an intimate partner. It accounts for approximately 40% to 50% of U.S. femicides. In the United States, a woman is more likely to be killed by her spouse, an intimate acquaintance or a family member than by a stranger. According to the FBI Supplementary Homicide Report, in 2010 there were 1,800 females murdered by males in single victim/single offender incidents. The data showed that 94% of female victims (1,571 out of 1,669) were murdered by a male they knew. Of these, 65% (1,017) of female homicide victims were wives or intimate acquaintances of their killers. For female homicides in which the weapon could be determined, 53% were committed with firearms, with 70% of them being committed with handguns (Violence Policy Center, 2012).

The risk of femicide is higher for Black women in the United States in comparison with other racial groups. In fact, femicide is the second leading cause of premature death among young African American women but only the fourth leading cause of death for White women in the United States, aged 15 to 24 years. Among women between the ages of 25 and 34 years, homicide is the fifth leading cause of death for both African-American and White women. Between the ages of 35 and 44 years, homicide is the sixth leading cause of death for African Americans but only the eighth leading cause of death for White women (Centers for Disease Control and Prevention Office of Women Health, 2007).

A recent study conducted by Azziz-Baumgartner and associates (2011) found that during 1993-2007, intimate femicide was higher for Black and Hispanic women than for White women. They reported that **BLACK AND HISPANIC WOMEN HAD A HIGHER RISK OF DYING FROM INTIMATE PARTNER VIOLENCE THAN WHITE OR NON-HISPANIC WOMEN.** The risks of femicide for Black and Hispanic women were 16.2 per 1,000,000 person and 9.2 per 1,000,000 persons respectively compared with White women who had a risk of 4.7 per 1,000,000.

A study in New York City found that between 1995 and 2002, almost half of all femicide victims were Black women (49%). This was also true for non-intimate partner femicide victims (New York City Department of Health and Mental Hygiene, 2004). Another study conducted in New York City revealed that between 1995 and 2004, Black and Hispanic women were at greater risk of being victims of femicide than women of another race/ethnic groups (New York City Department of Health and Mental Hygiene, 2007).

168 The term "Blacks" and "African Americans" will be used interchangeably because government documents use the term "Blacks" while some research studies use the term "Blacks" and other use the term "African American." In addition, the majority of Blacks in the United States are African Americans and most of the research has focused on them.

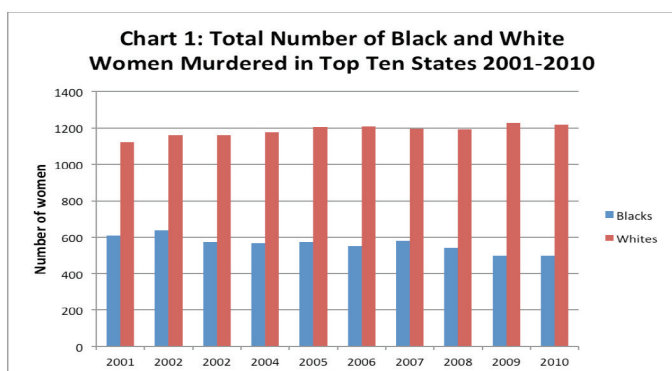
169 The term "multictidal femicide" include serial and mass femicides. See Joseph, J. (2012). Multictidal femicide. Paper presented at the Academy of Criminal Justice Sciences conference, March 13-17, New York City.

Official Data

The Violence Policy Center (VPC) compiles annual reports on homicide incidents involving one female homicide victim and one male offender. The VPC reports also details national and state-by-state information on female homicides. Because the homicide rate for Black women is so high relative to White women, the VPC analyzes available information on the murders of Black females and presents it in a separate section of its reports. The data is broken down by state, race, murder weapon, relationship between the victim and offender and circumstances leading up to the murder.

Using the data from the VPC, this author generated several charts which show the patterns of femicide for Black women between 2001 and 2010.¹⁷⁰ Chart 1 shows that more White women than Black women were murdered between 2001 and 2010. However, Chart 2 shows that Black women had a rate of femicide that was more than two times that of the White women for each year. The difference in the incidents of femicides for Black and White women between 2001 and 2010 was significant at the .001 with a chi-square of 1310.1 (see Chart 2).

Charts 1 and 2



Analysis of the data between 2001 and 2010 revealed that 85 percent of the perpetrators were acquaintances, 93 percent of the perpetrators were Black males; and 55 percent were killed with a firearm, and 88 percent occurred during an argument. It is clear from the data that the increased risk of Black femicide between 2001 and 2010 was associated with firearms in the hands of an acquaintance and the femicide took place during an argument (see Chart 3). The average age of the victim was 35 years old.

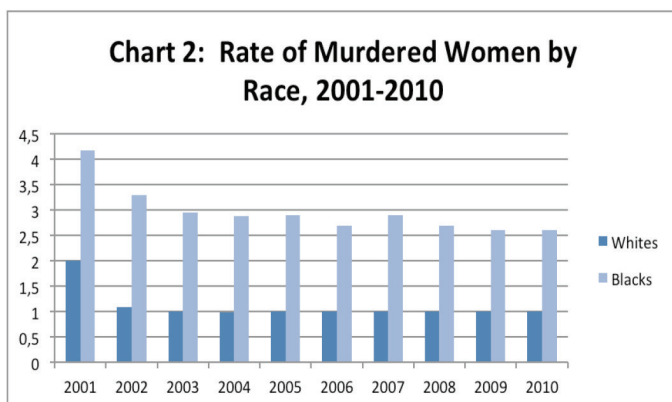
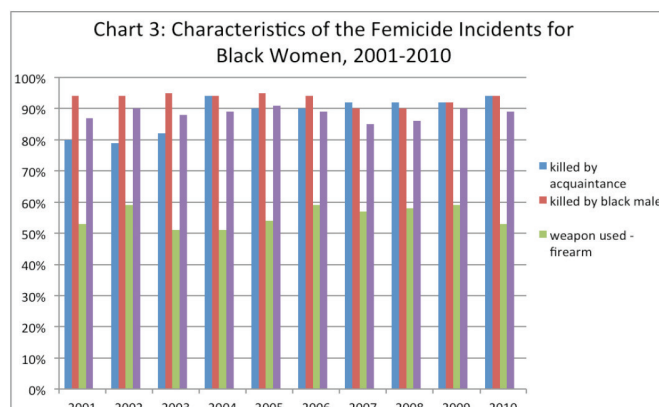
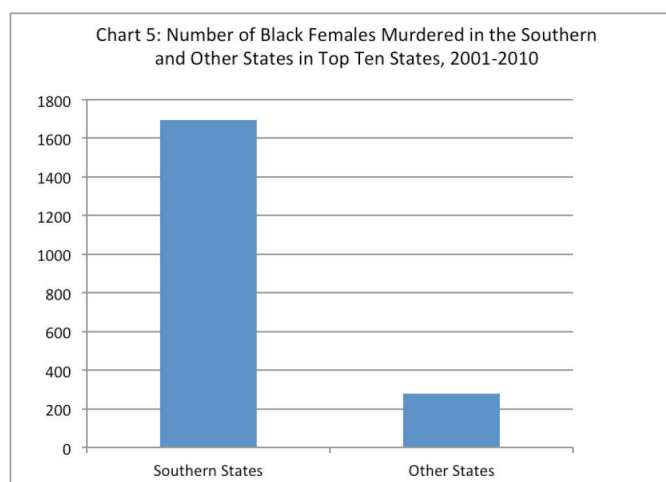
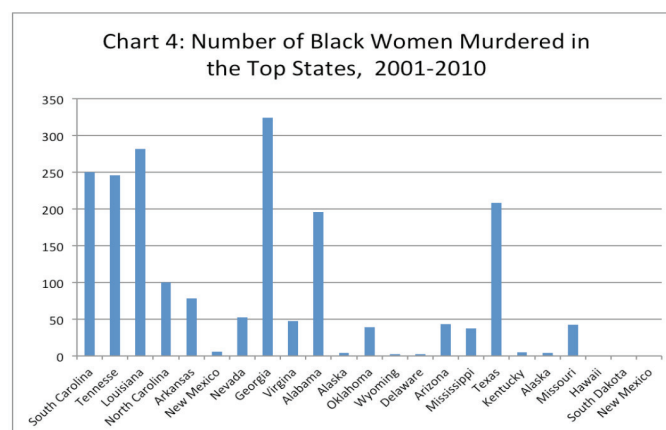


Table 3



The data also provided information on the location of the victimization. Charts 4 and 5 indicate that the majority of Black femicides in a single incident with a single offender, were committed in the Southern region of the United States during 2001 and 2010. This is not surprising since the southern states compared to the northern states have higher rates of lethal violence and very liberal gun laws.

Charts 4 and 5



¹⁷⁰ The information for the years 2000, 2001, 2002, 2003, 2004, and 2005 can be found in the Violence Policy Center reports for those years.

Understanding Intimate Partner Violence among Blacks

In order to understand intimate femicide among Blacks, it has to be examined within the context of familial violence. Because of the complexity of the experiences of Blacks in the United States, intimate partner violence in the Black community should also be analyzed within the context of racism, classism, and sexism. The killing of women because they are women is located in the larger system of patriarchy which discriminates against women based on her gender. For Black women, intimate partner violence against them and response to that violence are based on the intersection of gender, class, and race. The reality confronting Black women requires a multidimensional approach to understanding why femicide is so high in the Black community.

Ecological Factors

Researchers have argued that the higher levels of intimate partner violence among Blacks are related to the ecological contexts that they occupy. **THEY LIVE IN EXTREME POVERTY RELATIVE TO OTHER GROUPS AND HAVE ONE OF THE HIGHEST UNEMPLOYMENT OF ANY RACIAL OR ETHNIC GROUP IN THE UNITED STATES.** According to Mouzos' (1999) there is the likelihood that femicide will increase when female victims were not employed. Other macrostructural factors that may contribute to intimate partner violence in the Black community include **INEQUITY IN WAGES, DISPARITY IN WEALTH, POOR EDUCATIONAL SYSTEMS, LACK OF COMMUNITY RESOURCES, WEAK SOCIAL INSTITUTIONS, AND IMPOVERISHED NEIGHBORHOOD** (see Bent-Goodley & Williams, 2004). There is also the belief that the breakdown of the Black community and the lack of neighborhood support have impacted negatively on intimate relationship (see Center for the Advancement of Women, 2006).

Individual Factors

Drug use and abuse have been associated with intimate and lethal violence. Some researchers have found that alcohol-related problems contributed to intimate partner violence in the African American community (Caetano, Nelson & Cunradi, 2001; Cunradi, Caetano, Clark, & Schafer, 2000). The experience of racism and discrimination may contribute to intimate partner violence among Blacks. The effects of societal stressors such institutional racism and discrimination which often block access to a variety social and economic opportunities for Blacks, especially Black males, can create anger and chronic frustration. Such "anger and frustration may lead to a breakdown of psychological controls resulting in violent attacks against relationship partners, who are typically the most accessible individuals but also result in anger toward society, their community, and themselves (Taft, Bryant-Davis, Woodward, Tillman, & Torres, 2009, p. 53).

Cultural Factors

Intimate femicide is seldom an isolated event. According to Caputi and Russell (1998), femicide is on the extreme end of a continuum of violence which includes a wide variety of verbal, sexual, and physical abuse. A spectrum of violence, which consists of different types of abuse, exists in some African-American families (Bent-Goodley & Williams, 2004). This continuum of violence sometimes leads to femicide. However, because of certain cultural factors in the Black community,

intimate partner violence is seldom reported or addressed in the Black community and the society at large (Bent-Goodley & Williams, 2004).

Culture of Silence

There is the culture of silence in the Black community, which allows intimate partner violence to continue. There are several reasons for the culture of silence. One major reason is the dual loyalty dilemma that these women face. The abused Black woman has to decide whether or not to be loyal to her gender as a woman or her race as a Black person (Joseph, 1997). Very often she chooses to be loyal to her race rather than her gender, because she feels it is important to protect African American partners at all costs because of the historical experiences of African Americans in the American society. In addition, there is an expectation that Black women should protect Black male intimate partners willingly. Abused Black female victims also remain silent because of their distrust of the criminal justice system. Because of racism, they often feel that the criminal justice system will treat African American abusers more harshly than other abusers (Bent-Goodley & Williams, 2004). The victims may remain silent about their abuse because of they may view the social services as inappropriate for them. Many of these social services are not culturally sensitive and utilize a Eurocentric rather than an Afrocentric approach.¹⁷¹ Moreover, African Americans are reluctant to access community service because they do not want to 'put their business on the streets' (Bent-Goodley & Williams, 2004). The culture of silence creates an acceptance of intimate partner violence which allows a cycle of violence to continue in the Black community sometimes resulting in femicide.

Negative Stereotypes

Several negative stereotypes regarding African Americans are portrayed in the media. According to Littlefield (2008), print, television, and movie media promote negative and derogatory stereotypes of African Americans. Several stereotypes portray African American women as being hyper-sexual and dehumanized, "welfare queen," "pornographic video star" or simply "bad Black girl" (Richardson, 2007). They are also viewed as angry, insensitive, non-feminine, independent, invulnerable, stoic, overpowering, and as a superwoman (Taft, et al., 2009). Hip hop music has been criticized for its negative perceptions of African-American women and for encouraging violence against them. Some hip-hop artists have disrespected, dehumanized, and dishonored Black women in the lyrics in their songs. Some videos also depict women as sex objects to be demeaned, insulted, objectified, and abused. Although not all hip hop songs are misogynistic and not all Black men have these perceptions of Black women, those that do reinforces the stereotypes of Black women as promiscuous and oversexed. These negative stereotypes of Black women may serve to legitimize the abuse of Black women and prevent society from acknowledging the vulnerability of these women. In addition, such stereotypes may be internalized by the women themselves who may not view themselves as victims or may be reluctant to seek assistance from social agencies (Taft, et al., 2009).

¹⁷¹ The Eurocentric approach tends to be to be individualistic and materialistic in its approach. It focuses on control and competition. The Afrocentric perspective, on the other hand, focuses on "oneness with others" or collectivity, relationship with the community is valued, a belief in goodness, and spirituality (see Jenkins, 2005).

Negative stereotypes of Black men include the notions that they are dangerous, violent, criminal, angry, lazy, manipulative, revengeful, and sexually aggressive. The negative stereotypes of Black males may have an effect of violence, including femicide, in the Black community. “The pervasive stereotype of African American manhood and its depiction in the media may further promote and socialize African American boys to normalize and enact distorted, unhealthy roles of manhood while ignoring the number of men in their community who do not embody these stereotypes” (Taft, et al., 2009, p. 53).

Conclusion

Femicide is a major public health problem and African American women in the United States seem to be particularly vulnerable to intimate femicide. In order to prevent or reduce the number of femicides that occur in the Black community in the United States, it is imperative that the root causes are addressed. **THE ISSUES OF RACISM, DISCRIMINATION, ECONOMIC INEQUITY, INADEQUATE EMPLOYMENT AND EDUCATIONAL OPPORTUNITIES AND POVERTY IN THE BLACK COMMUNITY SHOULD BE GIVEN SOCIAL AND POLITICAL PRIORITY.** Early detection and intervention strategies must be used for Black families at risk for intimate partner violence and femicide to prevent the violence from taking place in the first place. Intervention strategies need to be culturally sensitive and should aim to increase the collective efficacy of the African American community. These strategies should address the interrelated factors of race, ethnicity, gender, nationality, and socio-economic status which are integral parts of the Black woman’s identity. The Black community needs to redefine its concept of domestic violence and has a responsibility to take ownership for preventing violence against Black women by promoting prevention education through the churches, schools, and youth groups.

Despite the prevalence of femicide among Blacks, there is a great deal that is still not known about this phenomenon among Blacks. There is a need for future research to examine the nature and extent of intimate femicide in the Black community as compared with other racial groups. **MORE COMPREHENSIVE STUDIES THAT EXAMINE THE RISK AND PROTECTIVE FACTORS OF INTIMATE FEMICIDE AMONG BLACKS AT VARIOUS SOCIO-ECOLOGICAL LEVELS, SUCH AS INDIVIDUAL, COMMUNITY, AND ORGANIZATIONAL ARE NEEDED.** Researchers should use multiple methodological approaches to collect data, such as community studies, longitudinal studies, case studies, population-based studies, qualitative research, and intergenerational studies.

Femicide is a global phenomenon and it is as old as patriarchy. It is a form of gender-based violence. Intimate femicide is the most common form of femicide and it takes place within the context of close relationships. For the Black community in the United States, femicide, primarily intimate femicide, is one of the leading causes of death for females.

4.3. MR. WITOLD KLAUS, INSTITUTE OF LEGAL STUDIES, POLISH ACADEMY OF SCIENCES, ASSOCIATION FOR LEGAL PREVENTION

Forced Female Migrants as Victims of Violence in Poland

Violence against women is not a marginal phenomenon. One in three women in Poland have suffered different forms of violence in their lifetime (Gruszczyńska, 2007:58). Unfortunately, we lack similar data concerning female migrants, though one should remember that in general migrants constitute a group more vulnerable to becoming victim of crime. German research suggests the migrants are two to five times more exposed to victimization by crime of violence than the Germans, and according to Police data, **EVERY THIRD VICTIM OF RAPE WAS A FEMALE MIGRANT** (Albrecht, 2011). Migrants are also a group highly exposed to victimisation by hate crimes. Research conducted in the EU-15 Member States has shown that 10% of the respondents indicating to be immigrants reported to have fallen victim to hate crime, compared to only 2% of the non-migrant respondents (van Dijk et al., 2005)¹⁷².

In Poland there have only been three attempts to research the phenomenon of violence against forced female migrants, each conducted by a non-governmental organization. The first study was conducted in 2008 by Fundacja La Strada (2010) and essentially failed to gather data on the phenomenon. The results of the second study conducted in 2011 by Towarzystwo Interwencji Kryzysowej (the Society of Crisis Intervention) **WERE NOT MADE PUBLIC IN FEAR FOR THE SAFETY OF THE FEMALE RESPONDENTS AND THE RESEARCHERS.**¹⁷³ The third study, a study by the Association for Legal Intervention presented in this paper, was conducted between November 2012 and July 2013¹⁷⁴. The research involved in-depth interviews with 14 female refugees or persons seeking international protection in Poland who came from the countries of North Caucasus and Central Africa¹⁷⁵. The interviews were supplemented by 31 interviews with experts (35 persons altogether, in 4 cases dyad interviews were conducted) – employees of public and non-governmental institutions, scientists researching violence against women (social workers, policemen, employees of the centres for victims of violence, counsellors). The research was to identify the types and forms of violence the forced female

172 One should not fail to notice, however, the vast differences between individual countries in terms of the immigrants safety – from 20% of aggrieved migrants in Belgium, a dozen or so per cent in Greece, Germany and France to about 2% in Spain and Finland.

173 The results have been included in this analysis with the Authors’ consent.

174 The research was co-financed by the European Fund for Refugees and the Polish State Budget.

175 The interviews have been conducted by suitably trained female employees of non-governmental organizations with education in social sciences, based on uniform interview instructions. The interviewers engaged in the study work with female refugees on a daily basis and are trusted by them, which guaranteed the access to the interviewees – ensured their safety. This was the only solution ensuring access to the information on such a delicate subject, which is the experience of falling victim to violence. The interviews were conducted in the languages convenient for the foreigners – Russian, French and Polish and later translated into Polish by the researchers.

migrants in Poland fall victim to, as well as verify to what degree **THE ACTIVITIES OF THE PUBLIC INSTITUTIONS CAN PREVENT VIOLENCE AND EFFECTIVELY HELP WOMEN WHO HAVE FALLEN VICTIM TO VIOLENCE.**

1. The forms of violence against forced female migrants in Poland

Violence against female migrants may be divided into two groups: gender-based violence and biased-based violence. Both of these groups can be further broken down into two sub-groups. When it comes to the gender-based violence one should mention domestic violence (intimate partner violence) and violence caused by the culture of the migrants' origin (sometimes these two forms of violence may overlap, as it is difficult to separate them, especially when it comes to domestic violence). The biased-based violence may also be divided into sub-types, according to the perpetrators. When it comes to individual perpetrators we deal with the typical understanding of the biased-biased violence. However, when it comes to violence inflicted by the representatives of public administration, one might observe the phenomenon of institutional racism. It may be caused by how certain legal institutions have been formed (the system of migrant detention centres is a vivid example) or general consent to certain type of discriminating behaviours of the officials.

1.1. Gender-based violence

To prevent violence, especially gender-based violence, interdisciplinary teams consisting of social workers, doctors, policemen and employees of non-governmental organizations were appointed in 2009 in each of the centres for asylum seekers (CPPHN, 2011). The reports they have prepared show that between 2009 and 2012, 60 cases of violence were identified in all the centres¹⁷⁶. The vast majority of the cases constituted domestic violence (42 cases) and marriages with minors or sexual intercourse with female minors under 15 years of age (10 cases)¹⁷⁷.

The use of violence against female migrants by their partners should be considered frequent. This conviction results from both the experience of the interviewed women and the information gathered from the experts who work in these environments (regardless whether they work for non-governmental institutions or public institutions)¹⁷⁸. When asked whether they have encountered cases of domestic violence, they answer: *"yes, of course we see such cases, we see them often, lately we have seen them even more often"* (UU7). Another person said: **"AT LEAST ONCE A WEEK, AT LEAST ONCE I SEE A WOMAN WHO LOOKS LIKE SHE WAS BEATEN BY HER HUSBAND"** (NU3). The employees of Towarzystwo Interwencji Kryzysowej

(TIK, 2011) estimate that when it comes to women from the North Caucasus, as much as 90% of families might experience psychological violence and half of them may additionally suffer physical violence. Psychological violence is even more difficult to identify: *"psychological violence is often present, but we also should take into account the cultural differences. The thing that I would treat as violence against me, as a Polish female, is something completely normal for a woman from Chechnya and is not considered as violence. Psychological violence is more difficult to detect than physical, because physical violence is quite obvious"* (UU5). However the victims are not always aware that it is forbidden to use physical violence against them. As one of the interviewees said: *"since childhood I've been used to being beaten, to being constantly harassed. It's been this way since childhood"* (W1).

Domestic violence is a phenomenon present in all societies. **AS MUCH AS 22% OF ALL CRIMES THAT WOMEN FALL VICTIM TO ARE COMMITTED BY THEIR CURRENT OR FORMER PARTNERS** (Buzawa, 2013: 36). Obviously the position of a woman in a society influences the use of violence. In patriarchal societies, where the position of the male is stronger, the violence will be more frequent. The societies of the North Caucasian migrants can be considered as such, as they recognize the traditional division of the social roles of men and women. **THESE CULTURES ENTAIL FEMALE SUBORDINATION - THE WOMEN OWE THE MEN RESPECT AND OBEDIENCE.** One of the migrants said: *"Who are you - a wife and you should be silent - this is widespread in this Chechen family, you know. (...) A woman has her place - this is what all the husbands say - you have your role and are forbidden to talk - your responsibility is to bring up the children, cook, you may not work at all, or you might, but then give the money to the husband"* (Chrzanowska, 2007:324). Domestic violence conditioned by certain cultural reasons is also present in the migrant societies and occurrences such as forced abortion or forcing a woman's consent for a successive marriage under threat of divorce may be considered as such¹⁷⁹.

However, when it comes to the refugees there are also some other, additional reasons for the common occurrence of violent behaviours of a partner. Violent behaviours are influenced by migration and experiences from the country of origin. As for the first factor, cultural shock resulting from migration should be mentioned. The more significant the cultural differences between the country of origin and the host country are, the larger the shock. Additionally, migration often changes the roles in the family, as the migrants need to start their lives right from the beginning. The process itself is difficult, but the problem deepens even further when the state and its institutions do not provide sufficient help and foreigners are left to their own resources to a large extent. **THE SITUATION OFTEN FORCES WOMEN TO FIND PAID WORK, WHICH IS NOT ALWAYS WELL PERCEIVED BY THEIR HUSBANDS.** As a matter of fact, men often cannot adjust to the new conditions well, which motivates many to turn to substance abuse, including alcohol

176 The number of the cases varied across the years and depended on the number of persons applying for refugee status. On average between 10 and 15 centres were operating.

177 It is worth noting that even though the teams have formally operated in each of the centres, there are significant differences in the number of detected cases - from none to 11. These differences cannot be explained by the size of the centre, the length of its operations or the size of the population of foreigners. It seems, therefore, that the differences were caused by the approach of the team members towards the detection of violent occurrences.

178 "U" in the interview identification code signifies an interviewee who was a public institution representative, "N" stands for a non-governmental organization employee and "W" stands for a foreigner. The statements of the respondents are in italics.

179 The threat of divorce is serious, as divorced women are not respected by the society and, in fact with impunity, may become victims to rape. As one of the female migrants put it: *"if she is a divorcee, when she leaves her husband, then - in Chechen there is a word dziero - which describes a divorced woman - she is easily accessible, you understand; with this dziero, with the divorcee, a man can go out with, whether he's married or not. When she had already been available for, you know, sexual relations"* (Chrzanowska, 2007:323).

(event though Islam forbids alcohol). One of the women said: *usually our partners, our husbands, do not work. Majority of them don't work. (...) they say: "I'm not going to demean myself and work for these dimes" and they don't. Very often it happens that the husbands are alcoholics, drug addicts (...). They got used to women doing everything for them and they now stay in Poland and do nothing. It's the women who work, the women (...) obtain the daily bread and bring it home* (W1).

The lack of sufficient means to provide for the family is also connected with the substandard conditions that refugees live in – in small, overcrowded apartments (often a few families together), as they cannot afford renting anything larger. In the centres for foreigners the refugees also live in cramped conditions (Wysieńska, 2013). The interviewed employees of the non-governmental organisations said, that *"due to their experiences and the fact they don't cope with this situation well, [the men] don't fulfil their role, they become aggressive, often use the situation and their position against women, children. (...) This is true [even] for the men, who have not behaved this way before. But the psychological burden and also the feeling of helplessness, the feeling that they won't turn out to be a good man, the feeling they have their hands tied and the gloomy prospects all may influence their becoming brutal towards the weaker"* (Klaus, 2010:109).

All of this is additionally strengthened with the experiences from the country of origin – **THE EXPERIENCE OF WAR, TORTURE, SEEING THE DEATH OF THE CLOSE ONES, WHICH ALL CONTRIBUTE TO AGGRESSIVE BEHAVIOURS** (see Beckley, 2013). They frequently cause post-traumatic stress disorder, which, with the very limited access to psychological help in Poland, often goes untreated. And according to the experts: *"different disorders or mental illnesses may cause aggressive behaviours (UU5); this man is deeply traumatised and is not provided with therapy. Aggression and similar behaviours are one of the symptoms. The person is not treated and then blamed for using domestic violence against a woman, children. The problem is not solved, because this is a normal reaction; I mean it is not normal to behave this way, it is nothing pleasant, but often the victim becomes the perpetrator, and when the victim goes untreated, the circle of violence continues"* (NU5).

Culture-bound factors originating from the country of origin consist of the second reason for the occurrence of gender-based violence. Let us focus on a few most important forms for this type of violence. The first form is marrying under-aged girls, which is not very common, but at the same time cannot be considered marginal. The second important problem to cover is depriving mothers of custody of their children after divorce. Traditionally in Caucasian families, the children belong to the father's family, thus frequently children are taken away from their mother by force. As previously mentioned, the threat of divorce is perceived by women as a serious risk. **ONE OF THE INTERVIEWED WOMEN EXPLAINED WHY SHE HAD ENDURED VIOLENCE USED AGAINST HER FOR SO LONG:** *"Sometimes I would tell him I would leave, that I cannot stand this any longer, I have no strength left. He would answer: "If you leave, you won't see the kids again. You can go wherever you like, but you have to leave the kids behind". He would say I won't take the kids anywhere. I was very afraid of it. I have never made up my mind to do that – because of the children"* (W5).

An important element of violence is the social exclusion of a woman, which happens when her behaviour does not follow the social norms. She is then perceived as a person with no honour, and **IN PATRIARCHAL CULTURE THE HONOUR OF A WOMAN IS CONSIDERED EQUIVALENT WITH THE FAMILY HONOUR**. Redeeming the honour is often at the cost of the woman. If a woman gets raped, the reaction of the society, including the family is problematic. One woman explained: *"If this happened to me, they would lock me home, would not let me go anywhere or would force me to marry. A raped girl is at least locked at home and not let go out of home. It is important that the word is not around town. SUCH A GIRL MIGHT BE BRUTALLY BEATEN AND, IF THE FAMILY IS STRICT, THEY MIGHT EVEN KILL HER"* (W14). Even though there have been no documented honour killings in the migrant community in Poland, one cannot rule them out in the future¹⁸⁰. Similar ostracism takes place when a woman marries a non-Chechen man. In such cases, even if the husband is Muslim, not to mention belonging to a different religion, the whole society cuts her off and the married couple usually hides away from the family in fear for the safety and life of the husband: *"when she married [a Pole], Chechens came to them in many cars. THEY WANTED TO KILL THEM* (W1)". **IN SUCH CASES THE WOMEN ARE OFTEN NAMED "PROSTITUTES" BY THE SOCIETY**. They are also referred to this way when they don't follow the cultural norms. One of the interviewees said: *I come from a modern family, I wore normal skirts, I did not wear the headscarf. The men with beards in the centre for foreigners held a meeting and said: "There is no place for this woman in the centre. We need to show her her place"* (W2). *Violence against such women is used by men and other women, since women are the guardians of the culture, which tends to radicalise in emigration* (see Szczepanikova, 2012).

1.2. Biased-based violence

It has already been mentioned that the biased-based violence may be subdivided into two categories. The most widespread is the violence used by the representatives of the host country. Many foreigners suffer different forms of violence in Poland, especially when they come from a different ethnic group than the Poles (Mikulska, 2010; Klaus, 2013). It is a common experience for migrants from Africa, but also female Muslims wearing headscarfs¹⁸¹. However violence against women is mainly verbal and takes forms of offensive words they hear or contemptuous glances. *"I once took a bus and a Polish woman approached me. She was terribly angry. She first sat and then stood up and started saying: (...) "You, the black, what are you doing here. Go back where you come from. How many times did you see Poles where you live? What are you going to do here? Go back where you come from". (...) It often happens that, on a bus, when I sit down next to someone, even someone young, they get up* (W10). *When I enter a shop, then I experience, I think, one more form of violence. (...) IF I'M WEARING A HEADSCARF OR A LONG SKIRT (...) EVERYONE STARTS POINTING THEIR FINGERS AT ME, EVERYONE LOOKS AT YOU AS IF YOU DID SOMETHING... I start feeling ashamed and turn back. (...) IT'S VERY OFFENSIVE FOR ME, HUMILIATING, BUT I CAN'T HELP IT* (W1). Others add: *The ladies from Chechnya say they often hear this hissing "whores, whores, whores"* (NU7).

¹⁸⁰ In the case of the only confirmed honour killing the victim was a Pole, a wife of a Pakistani (Gutkowska, 2013).

¹⁸¹ It is worth mentioning that the female Muslims in Poland mainly wear headscarfs. By and large we do not see women with covered faces – wearing the most conservative Muslim clothing.

Physical violence against women used by the representatives of the Polish society happens extremely rarely. It more often takes form of threats and is inflicted by the members of fringe right-wing groups: *“there have also been situations, when (...) the female refugees were victims of nationalist groups. (...) the cultural factors were significant, some beliefs of these aggressors – they were not attacked, you know, accidentally, but because they were Chechen”* (NU4). One of the interviewees describes the situation she was a victim of: *“Once, when I was returning from shopping, 3 boys approached me, about 18, 19 or 20, “skinheads”. I was carrying a bag with my shopping. One approached me from the back, two came from my sides. **THEY SPIT ON ME** (...). Then they followed me, one of them told me really ugly words and told me to go back to my country. They said that if they see me again, I’ll be sorry. At one point they grabbed my bag and my shopping fell out”* (W8).

A specific form of intimidation takes place in one of the eastern Polish cities – Białystok. Over the last few years there have been multiple racist incidents reported there, including violence against migrants. Usually the perpetrators originated from fringe groups. An example of such occurrences were a few attempts to set fire to apartments rented by the foreigners by lighting fires on doormats at their entrance door or throwing burning objects through the windows. The foreigners talked about these occurrences: *2 weeks ago our door was set on fire at 5 a.m. I don’t know who could have done it* (W8). Another adds: *Another incident that happened – throwing bottles with petrol at our balcony. It has happened already four or five times. (...) I don’t know why people are so cruel. We don’t do any harm. I just don’t know. I was so nervous, so affected by the situation. I don’t want to leave (...), but every night I’m afraid and now I’m also worried, I can’t do anything* (W9). Unfortunately despite the growing frequency of these incidents, media coverage and interest of the politicians, the situation has not changed in fact.

The interviewed perpetrators openly talk about their hatred towards foreigners and willingness to scare them away from settling in Poland. The protection of the Polish nation from the influx of the “aliens” is considered by them as a mission (Średziński, 2010:27-28).

One of the forms that the violence can also take is the exploitation of the foreigners by the employers in Poland. Its most popular form involved lowering the wages or retaining wages and employing without official agreements. This type of violence was not the subject of the presented study, but according to a different study it is a widespread phenomenon among the immigrants working in Poland (see Klaus, 2011).

A significant problem that is not in fact a subject of academic studies in Poland, is the institutional racism. In the contemporary European countries it is manifested by the authorities perceiving migration as a threat and therefore using criminal law instruments when dealing with the migrants to increase the level of control over them – the so-called crimmigration (Webber, 2012). Detention centres for foreigners, where victims of torture are also detained, and the carceral conditions in them (Klaus & Rusiłowicz, 2012) are an exemplification of this approach¹⁸²: *the persons who have been recognized as victims*

¹⁸² Even though it is forbidden by law, in practice in Poland there is no system of identifying such persons that would allow to release them from closed

of torture are placed in centres resembling the places where they were tortured. They are interrogated by men in uniforms, who resemble the persons who might have tortured them and the whole atmosphere is very similar. They are locked, which is psychologically devastating for them. Certainly this is a type of psychological violence inflicted against them. (...) The mere fact of being locked – how much pain and trauma it adds to what they have gone through already (NU5). The conditions in the process of deporting the foreigners or transferring them between EU countries, often handcuffed, also pose a problem. One of the interviewed women recalls this experience: *two policemen grabbed my hands, two grabbed my legs and a woman started dressing me. Still handcuffed, I got on a bus. (...) I was transported to the plane like a terrorist. (...) There were four policemen flying with us. Two next to me and two next to my [nine-year-old] son. We were brought here [to Poland] like criminals* (W11).

Another great problem is the fact that the Polish authorities fail to recognize the violence against women in their country of origin as a problem, which should guarantee the victims of these acts international protection in Poland. In fact there are no positive administrative decisions that were taken based on this condition, even though the refugee status may be granted due to persecution in the form of “acts against persons due to their gender”.

We should also turn our attention to the frequently repeated, in the accounts of women and the employees of the non-governmental organisations, information about the improper conduct of public officers (officials, policemen, social workers) towards the refugees. They take the liberty of using insulting comments towards the foreigners, they treat them like objects (for example by addressing them by numbers, not names and surnames) or humiliate them (for example social workers who deprecate and criticise the culturally-justified behaviours of female refugees). It should also be highlighted that a lot of policemen regard the foreigners *a priori* as criminals, even though some of them come to report they have been victim of a crime.

2. Invisibility of the violence against female migrants

Regardless of all the forms of violence described above the female migrants fall victims to, the phenomenon itself is essentially invisible for the decision-makers. To a large extent it results from the fact that the violence is not reported or reported to a small degree. From the gathered interviews it appears the policemen have little knowledge on the scale of the phenomenon and its causes. Additionally, they have been involved in such cases extremely rarely. The low reporting rate, in turn, is caused by a lot of factors. Firstly, the reporting rate of violence against women in Poland is low in general – women report to the police 1/3 of domestic violence cases and only 1 in every 19 male perpetrators has been punished (Gruszczyńska, 2007:119-120).

Another group of factors is culturally-bound. It is the above mentioned possibility of taking away a child from their mother by the father’s family or the fear of social ostracism – reporting a case to the police is treated as denunciation, betrayal of the

centres.

nation. All the female migrants confirmed it: *it is a private matter, between the wife and the husband, father of her children. If she tells the parents or anyone else, they will have poor opinion about him – for his whole life, and otherwise it will just go unnoticed. The married couple will clarify the situation between themselves and everything will be back to normal, as if nothing happened* (W7); *We can't go and talk against a husband, tell on him. This is your kids' father, you should not tell anyone* (W5). But the women also fear the husband's or his family's revenge. Not only revenge on her, but also on her family that stayed in Chechnya – a kind of vendetta. This is why the women do not report these cases to the prosecuting authorities: *if he went to jail because of me, it would backfire on my family. I'm 100% sure. And I didn't feel like it. I left my mom and sister behind* (W1). Another problem is caused by the poor experience from the country of origin and the general fear of uniformed services. One of the interviewees described it very vividly: *when I see their clothing [uniforms], I recollect what the same police, in same clothes did to me in Chechnya, I don't even want to talk to them* (W4).

Another problem is the way the social workers approach the issue of violence. Claiming to be respecting the cultural differences, they refuse to help women who would like to start living according to different norms, who want to set free from the culture of the country of origin. They preach them on their culture. One of the women perceives it this way: *The women who come here think they will find the respect towards the women's rights and yet they hear: "it's not in keeping with your tradition", "you can't do that, it's not your tradition"* (W16). The women therefore are afraid to seek support, because they don't expect to get it from the Polish officials.

Failure to report different violent occurrences is also caused by the fact that – in line with the experiences of their acquaintances – the female foreigners do not believe the Polish services could help them in their situation, protect them from the husband and offer support appropriate to their needs. This belief is not groundless. The system of supporting violence victims in Poland is not very effective and to a large extent it does not even answer the needs of Polish women – one of the interviewed women said: *I think even the Polish women, who are victims of violence, have no support* (W16). The system does not see the migrants and their unique needs at all. One of the interviewed women bitterly remarks: *Majority of the women who come here alone think it's Europe, that the attitude towards women is different, that women are protected. They assume they will come here, to Europe, and they will be among people who don't know their history and they will be free. [Meanwhile] they come to the centre [for foreigners] and are among refugees from Chechnya like they are, now they're even closer to them. (...) The family is left alone. They [the Chechen] live in their world, the Poles live in their world* (W15). And one cannot, unfortunately, deny the profound correctness of such a belief.

4.4. MS. MAGDALENA GRZYB, DEPARTMENT OF CRIMINOLOGY, JAGIELLONIAN UNIVERSITY, KRAKOW, POLAND

Why is Violence against Women such a politically controversial issue?

The Polish Struggle to Ratify the Istanbul Convention

Gender-based violence and violence against women are well known and empirically documented issues, particularly in criminology and human rights' discourse. Yet it took feminists and human rights advocates several years to have violence against women and domestic violence recognized by public authorities as a matter of public concern and action. The *Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence* from 2011 (the Istanbul Convention) would be the first international legally-binding document potentially open to any country in the world to provide a comprehensive set of measures to prevent and combat violence against women and domestic violence. It recognizes violence against women as both a violation of human rights and a form of discrimination. It also establishes a clear link between achieving equality between men and women and eradicating violence against women. It provides for criminalization of specific offences such as stalking, sexual harassment, forced marriage, female genital mutilation, forced abortion and forced sterilization and ban of the cultural defense in cases of gender-based violence.

The Convention also addresses the approach required to tackle violence against women and domestic violence effectively calling for all the relevant agencies, services and non-governmental organizations involved to work together in a coordinated way. The Convention sets the obligations for Member States in the field of data collection and designing integrated policies across all sectors and available measures ("3P approach": prevention, protection and prosecution; implying changes in substantive law in field of investigation, prosecution, procedural law and protective measures, migration and asylum laws).

1. The Polish struggle to sign the Convention

Although the Istanbul Convention was opened to signature in April 2011, the Polish public debate around Istanbul Convention started in spring 2012 with the statement of Minister of Justice at the time Jarosław Gowin (who represented the conservative wing in Civic Platform and is close to Catholic Church) that he was not going to sign the Convention because of the gender definition included in the Convention¹⁸³. According to him, the Istanbul Convention was "an expression of feminist ideology" and undermined the traditional role of the family within society, jeopardized the institution of heterosexual marriage and was promoting same-sex partnerships. He conveyed that he was against any form of violence against women, and that Poland had already done a lot to protect women from domestic violence; however, the most troublesome for him and his

183 Gowin krytykuje konwencję o przemocy, Rzeczpospolita, 12 April 2012 <http://www.rp.pl/artykul/859029-Gowin-krytykuje-konwencje-o-przemocy-wobec-kobiet.html> ; Gowin nadal przeciwko konwencji o przemocy wobec kobiet, Gazeta Wyborcza, 4 July 2012 http://wyborcza.pl/1,75478,12072112,Gowin_nadal_przeciwko_konwencji_o_przemocy_wobec_kobiet.html

supporters was article 12 of the Convention. This article holds States to combat stereotypical gender roles, which, according to him, would lead to discouraging women from fulfilling their roles as mothers and wives, which is in contradiction to the Polish Constitution. He added that he did not reject all postulates of the Convention, but just its ideological basis.

The statement of Mr. Gowin has been strongly supported by all right-wing politicians, media and the Catholic Church hierarchy along with catholic organizations¹⁸⁴. The bishops said that they do not foster violence against women, but the definition of gender ignores the natural biological differences between men and women and assumes that we can choose our gender, which they strongly disagree with.

Mr. Gowin's statement immediately received high media coverage and launched a discussion. The reactions of groups of activists, some media and politicians was truly robust. The coalition of several women's organizations launched a petition to Prime Minister to sign the Convention. All polish feminist celebrities took a stand. A group on Facebook was also created: "We are for the Convention on preventing and combating violence against women"¹⁸⁵. Agnieszka Kozłowska-Rajewicz the Government Representative for Equal Treatment expressed quite opposite views and said that the Convention should be ratified (not signed, but ratified) as soon as possible¹⁸⁶. She agreed with Mr. Gowin that Poland already implements many of the postulates of the Convention. The only thing left to do was to abolish prosecution on demand in rape cases (provision 44.4 of Convention).

Finally, Prime Minister, Donald Tusk declared just after statement of the Minister of Justice that he was in favour of the Convention and that he would sign it. However, he postponed the date of signing several times. At the beginning of July 2012 he promised to sign within three weeks' time, but then he postponed it until "after the holidays". In his interview with *Polityka* magazine¹⁸⁷ he states that combatting violence against women is an issue far more important than exaggerated ideological concerns of some right-wing politicians. The Convention was not signed until December 18, 2012. In June 2013, the Parliament **PASSED A LAW CHANGING THE PROSECUTION MODE IN RAPE CASES** (ex officio), which became Polish law and in strong accordance with provisions of the Convention. Needless to say, that change also had been preceded by discussions among criminal law scholars.

184 Biskupi: jesteśmy za ochroną kobiet, ale..., Rzeczpospolita, 9 July 2012 <http://www.rp.pl/artykul/910654-Biskupi-za-ochrona-kobiet--ale---.html>; Konwencja ws. Przemocy stanowi zagrożenie dla instytucji rodziny, Katolicka Agencja Informacyjna, 9 July 2012, <http://ekai.pl/analiza/x56500/konwencja-ws-przemocy-stanowi-zagrozenie-dla-instytucji-rodziny/>; 'Genderowa definicja płci' niepokoi kobiety. Organizacje katolickie przeciwnie ratyfikowaniu konwencji o przemocy, Rzeczpospolita, 26 April 2012 <http://www.rp.pl/artykul/17,866586-Organizacje-katolickie-przeciwnie-ratyfikowaniu-konwencji-o-przemocy.html>; Konwencja zwalcza przemoc, a biskupi konwencję, Gazeta Wyborcza, 10 July 2012 http://wyborcza.pl/1,76842,12099455,Konwencja_zwalcza_przemoc__a_biskupi_konwencje.html

185 FB Fanpage: <http://www.facebook.com/#!/popieramykonwencje>

186 Konwencja w sprawie przemocy już we wrześniu? Rzeczpospolita, 4 September 2012, <http://www.rp.pl/artykul/930326-Konwencja-w-sprawie-przemocy-juz-we-wrzesniu-.html>

187 Jak żyć po Euro? Interview with Donald Tusk, *Polityka*, 3 July 2012 <http://www.polityka.pl/kraj/wywiady/1528583,1,wywiad-donald-tusk-o-planach-rzadu.read>

Many of them argued that prosecution on demand provided a better protecting mechanism for rape victims. Despite these achievements, as of today the Convention has not yet been ratified (January 2014).

2. Observing the debate around the Istanbul Convention

The development of the debate around the Convention in Poland showed some common features that we can find in other debates around women's issues, which are not limited only to Poland and which shape social consciousness as well as public policies on the subject.

A. Raising awareness: The strong opposition and controversies that have surrounded that debate on signing the Convention by the Prime Minister has triggered a strong campaign of advocates of the Convention. The debate received high media coverage and made ordinary people, experts and politicians take a stand. For the first time the issue of domestic violence and violence against women became hot topics. There is no doubt that the debate raised social awareness on the subject and showed that after all, support can be mobilized by the government¹⁸⁸.

B. Violence against women as part of a political game: The opposition of the Prime Minister shows that there were other issues at stake than solely the concern for women and their welfare. The question of signing the Convention or not has become a highly instrumentalized and politicized debate, which can also be conflated with debates on the legalization of abortion, in vitro- fertilisation, and recently, same-sex partnerships.

Not only has the signing and ratification of the Convention become part of a political game within the civic platform, but also a kind of struggle for power and political influence between the Catholic Church and more secular and liberal groups in society. On the one hand, Gowin represents the conservative and strong fraction of the civic platform that often disagrees with the politics of Donald Tusk. On the other hand, for some years, the struggle for how strong the stance of the Catholic Church should be in Polish politics has remained debatable. It is about symbolic power, and issues of women's rights, reproductive rights, legalization of same-sex couples are the battlefield. However what is still of major concern is that the government and most of the mainstream politicians regard violence against women, domestic violence and discrimination as not a priority nor even a serious social problem to tackle.

C. Fearful "gender": What seems to confirm my view is that, as the Minister of Justice stated, from a practical point of view, the ratification and enforcement of the Convention wouldn't cause many difficulties, as we already have many of its provisions in our legislation. The main obstacle is the so-called "ideological basis of the Convention", which, according to Minister Gowin and the Catholic Church, is feminist in nature and "gender" construct.

It turned out that some politicians (male ones mainly), church hierarches and journalists, representing conservative institutions and views were scared of violence against women as a construct of its public recognition. This fear is maybe even

188 Rząd podpisze konwencję ws. Przemocy. Gowin: to promocja homoseksualizmu, Radio Tok.Fm, 11 September 2012 http://www.tokfm.pl/Tokfm/1,102433,12465901,Rzad_zdecydowal_ze_podpisze_konwencje_ws_przemocy.html?utm_source=facebook.com&utm_medium=SM&utm_campaign=FB_TokFm

bigger than a fear of women to become victims of gender-based violence. The politicians and leaders speaking out for “traditional values”, “the protection of Polish family” saw the ratification of the Convention as a plot (conspiracy) aimed at the very core of Christian civilization and Polish national identity. A real man does respect a woman. A real man does not batter a woman. Recognizing that violence against women is a structural phenomenon often linked to ‘masculinity’ and the patriarchal organization of our society is troublesome for some men to accept. But apparently this is not the main obstacle to adhere to the Convention.

The biggest issue appeared to be with accepting certain gender constructs and norms. According to Professor Gowin, attempting to eradicate prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for men and women (article 12.1 of the Convention) would ultimately lead to the legalization of same-sex marriages and jeopardize Polish society. Thus it turned out that the deeper reason of the reluctance to sign the Convention is homophobia and fear of “emasculatation” of some men. It was therefore worth rejecting the whole Convention in order to maintain traditional gender constructs. It seems that women, their safety from gender-based violence, and the public responsibility to protect them is not a priority or an important enough problem for male-dominated politics. Apparently it is about power and maintaining patriarchal status quo.

That sad insight seems to confirm occurrences of last months. The “ideology of gender” in late 2013 became a target of high-profile campaign launched by Catholic Church. According to Catholic hierarches “ideology of gender” is devastating for Polish Family, destructive for educational system and leads to dangerous sexualization of children. In general is damaging for human relations and whole social life.¹⁸⁹ What is more during the reunion of Joint Commission of Government and Episcopate¹⁹⁰ 14 November 2013 the representatives of Catholic Church reported Government a need for further deliberation issues related to ratification of Istanbul Convention which meant indeed to put on hold ratification¹⁹¹. It is worth noting that the hierarchy of the Catholic Church launched massive offensive against “gender ideology” in a new moral panic (and seized on by the media as a central issue of the public debate) at the very moment when coming to light and more cases in Polish Catholic Church Pedophilia Scandal.

To sum up, it is kind of irony and true paradox (showing that the opponents of the Convention did not read it and do not know its context) that Convention does mention culturally

189 Gender- destrukcja relacji międzyludzkich i życia społecznego, Episkopat.pl (Konferencja Episkopatu Polski), 21 December 2013
http://episkopat.pl/informacje_kep/5549.1,Gender_destrukcja_relacji_miedzyludzkich_i_zycia_spolecznego.html
List pasterski na Niedzielę Świętej Rodziny 2013r, 29 December 2013, Episkopat.pl (Konferencja Episkopatu Polski)
http://episkopat.pl/dokumenty/5545.1,List_pasterski_na_Niedziele_Swietej_Rodziny_2013_roku.html

190 A body established in 1949 by Communists, with no legal basis nor mentioned in Concordate (1998) that practically nowadays is a platform where bishops tell the Government what to do.

191 Posiedzenie Komisji Wspólnej Rządu i Episkopatu, Katolicka Agencja Informacyjna, 14 November 2013
http://ekai.pl/wydarzenia/temat_dnia/x72543/posiedzenie-komisji-wspolnej-rzadu-i-episkopatu/

specific manifestations of VAW (FGM, FM, HRV) and had been drafted to address these serious problems in migrant-receiving countries. However due to small number of migrant communities in Poland these practices are seldom recognized and what is more discouraging are not even ‘related’ to our Polish “catholic civilization”.

4.5. SIMONA DOMAZETOSKA, ZUZANA VODNANSKÁ, ALEKSANDRA MILIĆEVIĆ, NINA LAKNER, ENIKÖ DÉKÁNY, REGIONAL ACADEMY ON THE UNITED NATIONS SYSTEM

Combatting Femicide in Latin America

Femicide¹⁹², the killing of a woman because she is a woman, has emerged as an increasingly debated topic in the media and current international affairs alike. Femicide exists in every country and intersects various socio-cultural, political, economic, class, education, ethnic, age and religious dimensions. The variations in the patterns and trends of femicide is evidenced in the analysis of different regions, countries, and socio-cultural groups of people, such as migrant and refugee women, women of indigenous background, elderly women, women with disabilities, women living in states of armed conflict and organized crime.¹⁹³ Femicide is also a phenomenon deeply embedded in the context of patriarchal and authoritarian systems, which discriminate, oppress and enslave women, maintaining their positions of subjugation and inferiority.¹⁹⁴

Various international, regional and local measures have been taken by governments, institutions and NGOs to help deal with and eradicate the gender-related killing of women and girls. The adoption, enactment and enforcement of legislation are essential to help put an end to these plagues. However, the simple enactment of legislation does not always lead to desired outcomes.¹⁹⁵ Rather, the joint efforts, and mutual and consistent cooperation of international and regional bodies, civil society organizations (CSOs), human rights activists and other stakeholders are required in order to strengthen the efforts towards the protection, prevention and elimination of the violence and killing of women and girls.

This paper aims to explore what mechanisms have been put into place at international, regional and national levels to combat Femicide in Latin America, focusing predominantly on the states of Mexico, Guatemala and El Salvador as contexts where femicide has evolved into an acknowledged serious problem. In light of the recent national laws on Femicide adopted in these states, focus is placed on the implementation of legislation, as well as prosecution of perpetrators of Femicide.

192 Femicide in Latin America was chosen as a topic in exploration of our assigned research question for RAUN: “How does the UN deal with culturally sanctioned violence against women?” We make the argument that Femicide is a form of culturally sanctioned violence against women, as research shows that Femicide is infiltrated in a culture of gender inequality and ‘machismo’, in which violence against women is normalized.

193 Shalhoub-Kervorkian, Nadera and Daher-Nashif, Suhad. (2013). “Femicide and Colonization: Between the Politics of Exclusion and the Culture of Control.” p. 295.

194 Trujillo, Hilda Moralles (2010). “Femicide and Sexual Violence in Guatemala.” p.127.

195 Kouyaté Morissanda. (2009). “Harmful Traditional Practices Against Women And Legislation.”

Scope and Definition of Femicide

The term 'femicide' was originally defined as the killing of women but has been adapted over time to represent the act of killing a woman and a girl because of her gender. It was pioneered by scholar and feminist Dianna E. H. Russell¹⁹⁶, who described it as an act motivated by misogyny and prejudice against women, conditioned in a patriarchal, male-supremacist culture. Other scholars add that the many causes of femicide are rooted in the historically unequal power relations between men and women and in systemic gender-based discrimination.¹⁹⁷

In legal terms, for a case to be considered femicide (as opposed to "homicide") there must also be an implied intention to carry out the murder and a demonstrated connection between the crime and the female gender of the victim.¹⁹⁸

As highlighted by the UN Secretary General in a 2006 report, femicide is a global phenomenon and takes place in many contexts, both in the private and the public spheres, including intimate partner violence, armed conflict, dowry disputes or the protection of family "honour".¹⁹⁹ Other different forms of femicide, which have been cited in the *Resolution of the Gender-related Killings of Women and Girls* adopted in 2013²⁰⁰, include intimate partner violence, honour killings, dowry-related killings, female infanticide, femicide as a result of genital mutilation, accusations of witchcraft, femicides connected with gangs, organized crime, drug dealers, human trafficking and the proliferation of small arms.

In her **2012 REPORT ON THE CAUSES AND CONSEQUENCES OF VIOLENCE AGAINST WOMEN, RASHIDA MANJOO, UN SPECIAL RAPporteur ON VIOLENCE AGAINST WOMEN**, identifies 10 categories of gender-related killings of women and girls. She also describes the structural, institutional, interpersonal and individual factors involved in the perpetuation of gender-related killings, emphasizing in particular the role of government accountability for the impunity, institutional violence of such crimes, tolerance, blaming the victims, lack of access to justice and effective remedies, negligence, threats, corruption, and abuse by officials.²⁰¹ In other words, femicide has evolved into a state crime due to the inability to prevent, protect, and guarantee the lives of women.

COLLECTING CORRECT DATA ON FEMICIDE IS CHALLENGING, AND SO FAR HAS BEEN HIGHLY UNRELIABLE.²⁰² This is largely because in most countries, police and medical data-collection systems that document cases of homicide often do not have the necessary information. They may inaccurately report

the motives for the homicide, with lack of specification on the gender-related motivations behind the murder.²⁰³

However, data on the nature and prevalence of femicide are increasing worldwide. In fact, women account for more than 77% of all victims of intimate partner and/or family-related homicide, with women between the ages of 35 and 44 at noticeably higher risk.²⁰⁴ In Honduras and Costa Rica, 60% of femicides are perpetrated by an intimate partner or male family member. In Mexico, 60% of women murdered by their partners had previously reported domestic violence to public authorities.²⁰⁵

Femicide in Latin American States: Political and Historical Factors

When assessing the context behind the proliferation of death of women in various Latin American states, many Mexican feminists have also referred to the term *feminicide*.²⁰⁶ *Feminicide*, according to Latin American scholars, carries a political responsibility as it addresses the impunity, silence and tolerance of the killing of women, as well as a judicial system created by the government that does not prevent nor prosecute perpetrators of femicide, allowing the crime to occur at drastic proportions. In this sense, *feminicide* is a crime that omits state responsibility to ensure the safety and guarantee the protection of the rights of women.²⁰⁷ Due to the ongoing conceptual debate among theorists of the overlapping definitions, the term 'femicide' will be employed for the purposes of this paper, in reference to the definition outlined in Rashida Manjoo's 2012 report.

Femicide also does not take the same form in different parts of Latin America. For example, in some parts of Central America, organized crime, corruption, armed violence, the establishment of authoritarian and military governments, the absence of disarmament and reintegration programs, as well as weakness in the justice system are extremely relevant factors in highlighting the context behind the intensity and perpetuation of the crimes committed.²⁰⁸ In other circumstances, femicide can occur primarily as an extreme form of domestic violence, committed mainly by women's intimate partners or spouses, or former partners often after years of brutal treatment.²⁰⁹

In Mexico, factors such as neoliberal economic policies, organized crime and illicit drug trafficking, lawlessness, militarization, "denationalization"²¹⁰, corruption and a deep-seated culture of terrorism are all shaping the contours of the continuum of violence.²¹¹

196 Russell, Diana. (2011). "The Origin and Importance of the Term Femicide." <http://www.dianarussell.com/origin_of_femicide.html> (accessed on 15 December 2013)

197 Academic Council on the United Nations System (ACUNS) Vienna Liaison Office (2013). "Femicide: A Global Issue that Demands Action." Edited by: Claire Laurent, Michael Platzer and Maria Idomir

198 ACUNS Vienna. (2013). "Femicide: A Global Issue that Demands Action."

199 'GA - In-depth study on all forms of violence against women (2006)' <http://www.iam.int/jahia/webdav/shared/shared/mainsite/policy_and_research/un/61/A_61_122_Add1_EN.pdf> (accessed on 10 December 2013)

200 Adopted at the 22nd Session on the Commission of Crime Prevention and Criminal Justice in April 2013. Adopted also at the UN General Assembly in October 2013. <http://www.unodc.org/documents/commissions/CPCJ_session22/ECN152013_NGO1_eV1380536.pdf>

201 Manjoo, Rashida. (2012). Report of the UN Special Rapporteur on Violence Against Women, on the expert group meeting on gender-motivated killings of women. UN Human Rights Council 20th Session, p. 7.

202 ACUNS Vienna. (2013). "Femicide: A Global Issue that Demands Action."

203 World Health Organization. (2012). "Femicide: Understanding and addressing violence against women."

204 United Nations Office on Drugs and Crime (2011). "The 2011 Global Study on Homicide".

205 ACUNS Vienna. (2013).

206 Monarrez J. (2008). "Morir por ser mujeres. Femicidio/Feminicidio- La Violencia Maxima."

207 Guatemala Human Rights Commission Factsheet - Femicide and Feminicide' <http://www.ghrc-usa.org/Programs/ForWomensRighttoLive/factsheet_femicide.pdf> (accessed on 10 December 2013)

208 Euro-Latin American Parliamentary Assembly (EUROLAT). EP Rapporteur: Raúl Romevai Rueda. (2013). Working Document Femicide in the European Union and Latin America.

209 EUROLAT. Raúl Romevai Rueda. (2013)

210 Denationalization, according to Fregoso (2006, 111), is a form of totalitarian politics, in which nationally guaranteed rights of groups of minorities and subordinated groups of individuals are stripped away.

211 Fregoso, Rosa Linda. (2006). "We Want Them Alive!": The Politics and

The devastating effects of neoliberal economic policies and Structural Adjustment Programmes imposed in Mexico, such as the **NORTH AMERICA FREE TRADE AGREEMENT (NAFTA)** have resulted in the creation of export-oriented manufacturing industries, i.e. the **"MAQUILADORA" FACTORIES**, which are seen to have a direct influence on the appearance of violence against women. The maquiladora industries are located around the US-Mexico border, which have been transformed into precarious zones of illegal drug trafficking and organized crime, where multiple women's bodies have been found dead, mutilated, and dismembered.

The Mexican government has responded to the increasing deaths of women along the border with much indifference, suggesting that these particular women are seen to present "dangerous sexuality", therefore making it reasonable to kill them. In fact, the terms "obrero" (worker) with "ramera" (whore) have often been associated and conflated by public officials, advocating that those women who are "good", normal, private and stay at home safely in their families, would have nothing to worry about.²¹² Many feminists, activists and women's NGOs have been infuriated over the Mexican states' attempt to rationalize and "normalize" the brutal killings of women, which has contributed to a culture of impunity and state-induced killing of women.

In Guatemala, **OVER 3,000 WOMEN HAVE BEEN MURDERED OVER THE COURSE OF SEVEN YEARS**, and no one has been identified as responsible for the majority of the cases.²¹³ In the Guatemalan context, the history behind the 36-year internal armed conflict is an important factor that has contributed to the cycle of violence. During the armed conflict, approximately 1,040,000 men as part of the army and Civilian Defence unit were trained to use rape as a systematic weapon of war, as well as to commit acts of gender violence, both emotional and physical.²¹⁴

AUTHORITARIAN GOVERNMENTS, CORRUPTION AND CONFLICT-RELATED VIOLENCE ARE STILL A PRESENT-DAY REALITY IN GUATEMALA, which is further aggravated by organized criminal groups involving the Maras, drug trafficking organizations, hidden powers, and clandestine groups, which have adopted strategies of violence inherited from the conflict. Their main incentives are the accumulation of money and maintaining impunity.²¹⁵ Furthermore, it can be argued that there is a general socio-cultural acceptance toward violence, due to ongoing experiences of armed conflict, which is exacerbated by shortcomings in the delivery of security and justice.

IN THE CONTEXT OF EL SALVADOR, THE BRUTAL 12-YEAR ARMED CONFLICT THAT RESULTED IN MORE THAN 75,000 MILITARY AND CIVILIAN DEATHS, 8,000 "DISAPPEARED", 12,000 PHYSICALLY DISABLED, AND 1.5 MILLION DISPLACED has left a state still struggling to heal the wounds from the past.²¹⁶ Current economic and social crises bring immense

income disparity, high levels of emigration and urbanization, as well as unchecked violence. According to the UNODC Homicide report, there are over 5000 deaths per year in El Salvador.²¹⁷ Even though the majority are men, the rate of assassinations of women has also considerably risen.

Gender inequality and a culture of **'MACHISMO'** is also contributing to high rates of domestic violence as evidenced by a recent poll on gender violence prevention revealing that **56% OF THE POPULATION CONSIDER THE PRACTICE OF MEN ATTACKING WOMEN AS NORMAL**.²¹⁸ In addition, El Salvador has been a place of origin, destination and transit point for the international trade and trafficking in women and children, especially in ports. Evidence shows that San Salvador has been a **TRANSIT POINT FOR GIRLS TRAFFICKED TO MEXICO, THE UNITED STATES AND THE CENTRAL AMERICAN COUNTRIES**,²¹⁹ which contributes to an atmosphere of insecurity, lack of safety and increased violence towards women.

It is also important to reflect on the instruments that are used in the reproduction of violence. A recent analysis of the types of weapons used in committing femicides from a sample of 24 countries revealed a direct correlation between femicide rates and the use of firearms. It was estimated that firearms were used in one-third of all femicides worldwide.²²⁰ In Brazil, Colombia, El Salvador, Guatemala, and Honduras, however, firearms were used in more than 60% of femicides.²²¹ The highest percentage of firearm-related femicides was observed in 2009 in Ciudad Juarez, Mexico, where firearms were used in more than 80% of all femicides almost as high a percentage as for firearm homicides with male victims.²²²

National Legislation to Combat Femicide in Guatemala, Mexico and El Salvador

In order to fulfil their international obligations to protect basic human rights, states agree to take appropriate measures, including improvement, enactment and enforcement of legislation. In order to gradually change social and cultural attitudes of people towards gender equity and women's human rights, governments should present a strong political will and set an example for socially acceptable behaviour, whilst punishing the violation of law without any exceptions. Currently, 17 states in Latin America have adopted specific legislation on domestic violence²²³ including, Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Mexico, Nicaragua, Panama, Peru, Puerto Rico, Uruguay and Venezuela.

Culture of Human Rights". Social Identities. 12 (2), p.110

212 Wright, W. Melissa (2011). "Necropolitics, narcopolitics, and femicide: gendered violence on the Mexico-U.S. border." Signs. 36(3), p. 714.

213 Trujillo, Hilda Morales. (2010). "Femicide and Sexual Violence in Guatemala." p.128.

214 Samuels, Rachel. (2013). "Femicide in Guatemala: When will it stop?" Global Solutions Pittsburgh.

215 Geneva Declaration Secretariat; Small Arms Survey. Restrep, Jorge A. and García, Alonso Tobón. (2012). Executive Summary Guatemala en la Encrucijada. Panorama de una violencia transformada.

216 Brid, Susan et al. (2007). "Constructing An Alternative Masculine Identity-The Experience of the Centro Bartolome De Las Casas and Oxfam America in El Salvador." p. 111.

217 United Nations Office on Drugs and Crime (2011). "The 2011 Global Study on Homicide".

218 Central American Council of Human Rights. (2006). "I Regional Report: Situation and Analysis of Femicide in Central American Region."

219 Central American Council of Human Rights. (2006). p. 46

220 Geneva Declaration Secretariat. Small Arms Survey. (2008). "Global Burden of Armed Violence." p. 5.

221 Alvazzi del Frate, Anna. (2011). "When the Victim is a Woman." In: Geneva Declaration Secretariat. Global Burden of Armed Violence 2011. Lethal Encounters. Cambridge: Cambridge University Press. p.131.

222 Ibid. p. 132.

223 The signing of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women in 1994 provided the momentum to enact such legislation.

State	National legislation	Statistics
Argentina	<i>Law 26,485 on Violence against Women</i> was enacted in April 2009, finally bringing desperately needed attention to victims of this heinous crime. The main obstacles for successful implementation of the law include lack of real understanding of scope of the problem, adequate inclusion of the different levels of gender violence in all educational curricula, and insufficient number of shelters. It has been noted that access to justice with free legal support and assignment of an appropriate budget are necessary in order to fully implement the law. Another deficiency is an adequate funding system of bodies such as <i>The National Women's Council (CNM)</i> , which has been instrumental in tackling femicide, but has lacked influence due to underfunding. Additionally, Law 26,485 lacks the creation of a Femicide index, which is essential for estimating the effectiveness of the law. ²²⁴	231 femicides in 2009; 260 in 2010; and 282 in 2011. Between 1 st January and 30 th June 2011, 151 women and girls were victims of femicide. These numbers do not include "victims linked to femicide".
Brazil	"Special women's police stations, staffed with multi-disciplinary female teams equipped to respond to the different needs of victim-survivors, have been set up in several countries as an attempt to make police stations more accessible to women. The first such station was established in Sao Paulo, Brazil in 1985 in response to women's complaints that they could not report violations in regular police stations because they were treated with disrespect and disbelief. Brazil's success encouraged Argentina, Colombia, Costa Rica, Peru, Uruguay and Venezuela to set up their own specialized units." ²²⁵	2000-2010: 43654 femicides / disappearances
Chile	"In the 1990s, Chile signed the Convention on the Elimination of all Forms of Discrimination against Violence (CEDAW) and by 2005, it enforced a new law that required all public institutions to respond and protect every victim of abuse. With increased pressure from the <i>National Women's Service (SERNAM)</i> , who publicized acts of femicide through local press, the country enacted the Law 20,480 in 2010. Under this new legislation, the Chilean government now prosecutes femicide as an offensive crime, punishable under Article 290 by the penal code, and works to provide women more legal protection from all forms of abuse." ²²⁶	2011 - 29 femicides / disappearances 2012 - 34 femicides / disappearances
Costa Rica	Costa Rica was the first Latin American state to pass special legislation on gender violence. <i>The Law for the Criminalization of Violence against Women</i> was enacted in 2007, however, it only covered cases related to murder committed "within the marital relationship or de facto union, declared or otherwise", leaving outside of the scope of the law those who are not considered as common-law spouses. Additionally, it recognized the need for sufficient investigation, and under Article 5 stipulated that public officials who deal with violence against women "must act swiftly and effectively, while respecting procedures and the human rights of women affected or risk being charged with the crime of dereliction of duty." ²²⁷	2011 - 11 femicides / disappearances 2012 (first 6 months) - 6 femicides / disappearances

224 Women's news network-Argentina brings cruel statistics to the practice of femicide <<http://womennewsnetwork.net/2012/04/06/argentina-statistics-femicide/>> (accessed on 20 November 2013)

225 'Domestic Violence against Women and Girls' (Innocenti Digest 6, 2000) <<http://www.unicef-irc.org/publications/pdf/digest6e.pdf>> (accessed on 13 October 2013) 'Femicides in Latin America: 21 Countries Face Alarming Violence' <<http://proyectocuerpodemujerpeligrodemuerte.wordpress.com/2013/08/22/femicides-in-latin-america-21-countries-face-alarming-violence-2013/>> (accessed on 7 December 2013)

226 'The International, Learned strategies and best practices.' <<http://www.theinternational.org/articles/468-mounting-research-on-femicide-sparks-legi>> (accessed on 10 November 2013)

227 'Building legal frameworks to address femicide in Latin America.' <<http://www.fundar.org.mx/mexico/pdf/Brief-.pdf>> (accessed on 8 November 2013) 'Femicides in Latin America: 21 Countries Face Alarming Violence.' <<http://proyectocuerpodemujerpeligrodemuerte.wordpress.com/2013/08/22/femicides-in-latin-america-21-countries-face-alarming-violence-2013/>> (accessed on 7 December 2013)

Panama	"In 2011, Panama's ruling government began phased implementations of an accusatorial criminal justice system in two provinces, Coclé and Veraguas, while nationwide implementation will finish by September 2014. Among other characteristics, the new justice system will better provide victims and defendants the use of more efficient alternatives to court litigation." ²²⁸	According to the 2011 UNODC Homicide report, more than 300 women were murdered in Panama from 2008 to 2013.
Nicaragua	"The law "Ley 779" passed a year ago has brought strong reactions from both sides of the issue. Ley 779 punishes those guilty of inflicting physical or psychological harm to women of all ages. The punishment is hefty according to its critics, carrying prison sentences of up to 30 years." ²²⁹	2012 (first 6 months) - 48 femicides / disappearances
Peru	"Peru passed a law in December 2011 that punishes perpetrators for gender-based crimes." ²³⁰	2009-2011 116- 384 femicides / disappearances
Bolivia	"Bolivia passed <i>La Ley Integral Para Garantizar a las Mujeres una Vida Libre de Violencia</i> . Additionally, a special police force has been created to enforce the law <i>Policia Fuerza Especial de Lucha Contra la Violencia</i> . Data from Cochabamba, Bolivia, indicates that 27 out of 170 criminals convicted under the new law have received prison sentences, about 10.5%. A small percentage but on the right track." ²³¹	2010 – 89 femicides / disappearances 2011 – 94 femicides / disappearances 2012 – 104 femicides / disappearances
Haiti	Haiti has proposed new legislation. ²³²	

Guatemala

Guatemala has signed several international agreements denouncing VAW, including CEDAW and the Convention of Belém do Pará, which have been milestones in defining and prosecuting against gender-based violence which may lead to death or cause physical, sexual or psychological harm to women both in the public and private sphere.²³³ In 2008 the **LAW AGAINST FEMICIDE AND OTHER FORMS OF VIOLENCE AGAINST WOMEN** was adopted which led to Guatemala being the first country in the world that created specialized courts for femicide and other forms of violence against women. These tribunals are staffed by judges and public officials who are trained in women's rights and gender issues, and are open 24 hours a day for women to report violent crimes. The cases in front of these courts are heard by specially trained women judges in justice and gender issues.²³⁴ According to statistics, only 7.5% of femicide and gender violence cases presided over by ordinary courts have resulted in a conviction, while specialised courts have judged and convicted more than 30 percent.²³⁵

A good measure of success has been the first conviction made under the law in February 2009. Calixto Simón Cum was sentenced five years in prison for repeated domestic violence

under the law towards the mother of his children, in particular to a violent incident that occurred on June 2, 2008 in which he threatened her life.²³⁶

Additionally, special units staffed by police officers and other personnel that have received training on gender violence have been set up to investigate cases of VAW. The courts and specialized police units are seen as a positive step forward.

Nevertheless the specialized courts do not operate all over the country and there is persistent need for skilled prosecutors.²³⁷

Furthermore, the predicted obligation of the government to allocate a budget to the Attorney General's for the operation of these units has not been fully implemented due to serious corruption. However, there has also been a significant increase in reports of VAW made to the police (27,000 in the first six months of 2010)²³⁸ due to the fact that under Guatemalan law, femicide is now considered a specific crime, defined as the "violent death of a woman by virtue of her gender, as it occurs in the context of the unequal gender relations between men and women", which carries a prison sentence of 25 to 50 years.

In the region where special tribunals have been established, there has also been a significant improvement, with a 60% drop in violent crimes against women from 2011 and 2012.²³⁹

228 'The International: Mounting research on femicide sparks legislative response in Panama.' <<http://www.theinternational.org/articles/468-mounting-research-on-femicide-sparks-legi>> (accessed on 21 September 2013)

229 Ibid.

230 Ibid.

231 Ibid.

232 Ibid.

233 'Guatemala's Femicide Law- Progress against impunity' <http://www.ghrc-usa.org/Publications/Femicide_Law_ProgressAgainstImpunity.pdf> (accessed on 10 December 2013)

234 The National Centre for Judicial Analysis and Documentation (CENADOJ) in Guatemala. Evidence and Lessons from Latin America. (2013). "Building Legal Frameworks to Address Femicide in Latin America."

235 Ibid.

236 'Guatemala's Femicide Law- Progress against impunity' <http://www.ghrc-usa.org/Publications/Femicide_Law_ProgressAgainstImpunity.pdf> (accessed on 10 December 2013)

237 Building legal frameworks to address femicide in Latin America <<http://www.fundar.org.mx/mexico/pdf/Brief-BuildingLegalFrameworkstoAddressFemicide.pdf>> (accessed on 9 November 2013)

238 'The Rise of Femicide' <<http://www.newrepublic.com/femicide-guatemala-decree-22>> accessed 10 December 2013.

239 'Building legal frameworks to address femicide in Latin America' <<http://www.fundar.org.mx/mexico/pdf/Brief-BuildingLegalFrameworkstoAddressFemicide.pdf>> (accessed on 8 November 2013)

In 2011, women comprised 11.11% of all murders in Guatemala and in 2012 they comprised 10.98%.²⁴⁰ Despite the efforts, the general situation is still discouraging. According to Guatemala's National Institute of Forensic Sciences (INACIF), from January to October 2013, 592 femicides were reported in Guatemala, 78 more than during the same period last year.²⁴¹

On May 2012, the Inter-American Commission of Human Rights (IACHR) submitted the femicide case of María Isabel Véliz Franco, a young girl who was killed in 2001, to the jurisdiction of the IACHR due to serious failure of authorities to investigate the murder in a diligent, exhaustive and serious manner. The inquiry has been plagued by unlawful delays, loss of evidence and the omission of lines of relevant investigation. In addition, the victim and her family have been repeatedly stigmatized by the authorities throughout the process.²⁴²

Even though significant laws have been passed and new bodies created in Guatemala, as well as providing support to female victims of VAW, there still remains a lot to be done to combat femicide. Promising efforts have been The National Plan for the Prevention of Intrafamilial Violence and Violence against Women from 2004-2014.²⁴³

Mexico

Due to constant pressure from the international community to stop neglecting the violation of women's rights and increasing murder rates, Mexico's government adopted The General Law for Women's Access to a Life Free from Violence in 2007. This way Mexico was one step closer to aligning itself with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Belém do Pará Convention. The definition of femicide²⁴⁴ in this law is broad in order to take into account all the cultural, structural and social factors that can encourage perpetrators of this crime and to tackle underlying causes of extreme violence against women.

The **MEXICAN LAW** mandates the establishment of a **NATIONAL SYSTEM TO PREVENT, ADDRESS AND ERADICATE FEMICIDE** consisting of nine government ministries responsible for implementing the policies set out in the **COMPREHENSIVE PROGRAMME TO PREVENT, ADDRESS AND ERADICATE VIOLENCE**

AGAINST WOMEN.²⁴⁵ Many measures are provided, such as economic compensation and a public apology. One of the preventive measures is a temporary action of restraint when a woman finds herself at risk, which must remain in effect permanently and should guarantee that its term be solely determined by the court. However in 20 states the application of such restraint measures have a maximum duration of 72 hours. By establishing this time frame the lives of women who seek protection have been put at serious risk.²⁴⁶ Of the cases registered by the National Centre against Femicide between 2010 and 2011, authorities reported that 60% of cases are still pending to be processed and only 19% have been processed, although in 34% of the cases the motives of the murder are known. Only 4% of the cases of femicide have been sentenced, yet it is unknown if these sentences are convictions or acquittals.²⁴⁷

In 2009, the court case of **GONZALEZ AND OTHERS ('COTTON FIELD') V MEXICO CASE**²⁴⁸ presented at the Inter-American Court of Human Rights revealed that hundreds of women, mostly young and poor, had been murdered in Ciudad Juárez in Mexico over the past two decades. It established that violence against women in Ciudad Juárez was part of a pattern of systematic and structural violence based on gender, age and social class. The Cotton Field case also provided a significant improvement in pursuing justice for victims of femicide. As well as providing monetary compensation for the families, the Government of Mexico was called upon to provide symbolic redress and guarantees of non-repetition, including a commitment to investigate the murders and implement gender training for the police.²⁴⁹

El Salvador

Through the support of UN Women, local NGOs have played a crucial role in endorsing the adoption of **THE SPECIAL INTEGRATED LAW FOR A LIFE FREE OF VIOLENCE AGAINST WOMEN** in El Salvador (LEIV), which came into effect on 1st January 2012. The legislation addresses crimes specifically related to gender-based violence and includes concrete steps for identification and prevention of violence, including the crime of femicide, establishing measures to protect and assist survivors and families of the victims.

Additionally, the first dedicated police unit offering specialized assistance has been established as a part of comprehensive adaptations of the legal system in 2012.²⁵⁰ The unit offers a designated space for reporting acts of violence against women, legal advice and information, and follow-up and support for cases filed. Before this law, femicide in El Salvador recorded increasing rates: in 2010, 580 women and girls were murdered.

The next year, the death toll hit 647, according to the **POLICÍA NACIONAL CIVIL** (PNC). Nearly 90 of those victims were girls under the age of 18. Even in the first two months of 2012, female homicide numbers were again on the rise. In January 2011, El Salvador implemented the anti-violence bill *Ley Especial Integral para un Vida de Violence* (LEIV). Thereafter,

240 'Central American Politics – Guatemala Femicide 2012' <<http://centralamericanpolitics.blogspot.co.at/2013/01/guatemala-femicide-2012.html>> (accessed on 1 December 2013)

241 'Struggling with femicide and impunity for crimes against women in Central America' (Author: Anastasia Moloney, Jorge Dan Lopez and Ulises Rodriguez) <<http://www.trust.org/slideshow/?id=59ccc3c0-c719-467e-bf0b-622739b34ef4>> accessed 30 November 2013

242 First Guatemala femicide case reaches Inter-American Court of Human Rights <http://cejil.org/en/comunicados/first-guatemalan-femicide-case-reaches-inter-american-court-human-rights> (accessed on 10 December 2013)

243 'The International Commission against Impunity in Guatemala' <<http://www.cicig.org/index.php?page=home>> (accessed on 5 December 2013)

244 "The most extreme form of gender violence against women, produced by the violation of their human rights in public and private spheres and formed by the set of misogynist actions that can lead to the impunity of society and the State and culminate in homicide and other forms of violent death of women."

245 'Building legal frameworks to address femicide in Latin America' <<http://www.fundar.org.mx/mexico/pdf/Brief-BuildingLegalFrameworkstoAddressFemicide.pdf>> (accessed on 8 November 2013)

246 'Femicide and Impunity in Mexico: A context of structural and generalized violence' (Report presented before Committee on the Elimination of all forms of Discrimination Against Women 17 July 2013). <http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/CDDandCMDPDH_forthesession_Mexico_CEDAW52.pdf> (accessed on 10 September 2013)

247 Ibid.

248 In pursuit of justice-Progress of the world's women<<http://progress.unwomen.org/wp-content/uploads/2011/06/EN-Summary-Progress-of-the-Worlds-Women1.pdf>> (accessed on 10 September 2013)

249 More details about the case are provided in Appendix 7.

250 Statistics taken from: 'Femicide number fall in El Salvador' <<http://benwitte.wordpress.com/2013/09/16/femicide-numbers-fall-in-el-salvador/>> (accessed on 20 November 2013)

70 women and girls were killed in the same month of January. The following month, 59 women and children were killed, compared to 45 in the previous February. However in March 2011, when after more than a decade of steady increases, the numbers started to fall – first gradually, then by a significant margin. By the end of the year, the PNC was able to report a 47% drop overall in female homicides, from 647 to 329. So far this year, the rate is even lower, down to nearly 60 % compared to the first six months of 2012.

In 2012, the Attorney General of El Salvador approved a national protocol designed by the UN Office of the High Commissioner for Human Rights (OHCHR), which is now **GUIDING OFFICIALS TASKED WITH INVESTIGATING THE CRIME OF FEMICIDE AND IS ENABLING PROPER IMPLEMENTATION OF THE LAW**. It is based on national legislation and international human rights standards, including both the UN protection system and the Inter-American Human Rights System.²⁵¹

All state efforts that have been put in raising awareness and, more importantly, strengthening the justice system's response to gender-based violence such as through the introducing of femicide to criminal law, has lead to many important changes. Even though this has been a remarkable progress it is still just a small step towards delivering justice and prevention to any forms of violence against women and girls. The next step is consistent enforcement of legislation. There are many obstacles; fortunately many of them can be overcome through systematic adjustment of legal systems, consistent prosecution and enforcement of legislation. In that sense, at a regional level, UN Women is working with OHCHR, the Spanish Human Rights Federation, Carlos III University, and the Human Rights Office of the Spanish Ministry of Foreign Affairs towards adoption of a regional **"PROTOCOL FOR INVESTIGATING GENDER-RELATED DEATHS: FEMICIDE"** as a tool to help in the fight against violence against women. This protocol, once established, will provide guidelines and instruments for the accurate investigation and prosecution of these crimes, and guarantee women's access to justice.²⁵²

Challenges and Recommendations

Given the relatively recent adoption of national penal codes on femicide in some Latin American states, there is still little evidence pointing to the direct implementation of these laws in courts and their impacts on eliminating femicide. This is understandable, however, since significant changes in the legal system, institutional behaviour and social norms take time to occur. In addition, factors such as corruption, organized crime, drug gangs and the Mafia, which are deeply infiltrated in parts of Latin American society, create further impediments to access to justice, as well as a democratic government that ensures the protection, safety and lives of women.

1. Adopt, Monitor and Ensure the Accelerated and Effective Implementation of National Laws and Measures that Criminalize Gender-related Killings of Women and Girls

All countries need comprehensive legal frameworks that typify femicide as a specific crime and create an environment for

women and girls to live free of violence. National legislation must be strengthened and implemented, so that cases are diligently and comprehensively investigated, perpetrators brought to trial and the victims of their families offered just compensation. It is important to end impunity by ensuring accountability and punishing perpetrators of the most serious crimes under national legislation.

It is also important to monitor, keep track and create a database of existing case law and documentation on cases of attempted gender-related killings of women, in order to analyze progress made. This requires the coordination of medical institutions, and police personnel who are responsible for reporting and documenting the crime, which requires accurate and necessary information on the motives of the killing, with specification on the gender-related motivations behind the murder.

2. Create Specialized Courts, Train and Sensitize Judges as well as Police Personnel and Include More Women Judges and Police Personnel

As recent study has shown that specialized courts have been more effective in judging and convicting perpetrators of femicide in Guatemala²⁵³, strengthening the operations of such courts, and further establishing new ones is vital for ensuring greater access to justice and prosecution of perpetrators. The training and sensitizing of judges and police personnel so that they are not influenced by social structures of gender bias, prejudices and discrimination towards women when responding to the crimes is also crucial in improving the legal service and delivery of justice.

In addition, police forces must develop the capacity to support women when they report a crime, by training them how to respond and handle the cases. This includes breaking down structures of gender discrimination, developing a women-friendly culture within police frameworks and educate police on women's rights and laws protecting them from violence. Police personnel should also be trained on providing appropriate and effective protection measures, enforcing restraint orders, and referring women to comprehensive social services, including shelters and safe houses.

2. Ensure Women and Families Unimpeded Access to Justice, to Effective Legal Assistance and to other Support Services

Survivors and families must have access to comprehensive services that ensure access to police and the justice system, shelters, legal aid, healthcare, psycho-social counselling, 24-hour hotlines and long-term support. Survivors and their families need to be engaged and the full spectre of human rights be placed at the centre of any response, so that recovery and justice are supported and the cycle of violence is not perpetuated. It is essential to provide services for sexual and reproductive health to protect the reproductive rights of women. NGOs and CSOs play a very important role in this field.

3. Strengthening Cooperation between the UN and other International, Regional and Local Stakeholders

It is also crucial to improve international, regional and local

251 'Femicide in Latin America' (UNWOMEN) <<http://www.unwomen.org/en/news/stories/2013/4/femicide-in-latin-america>> accessed 10 December 2013.

252 *ibid* footnote 90

253 Evidence and Lessons from Latin America. (ELLA). (2013). "Building Legal Frameworks to Address Femicide in Latin America."

cooperation among different stakeholders. The state alone does not have sufficient power to enforce legislation and guarantee the rights of its citizens due to internal problems of post-conflict situations, organized crime, weak justice systems, factors which are highly connected to the culture of violence and impunity in some Latin American States. A good example of a regional body is the Inter-American Court of Justice; its authorities have shown many times the right way for states in the region. Because it is easier for countries to follow the directions and recommendations of regional organizations, the UN should focus on building a stronger relationship with regional, Inter-American organizations such as the Inter-American Court of Justice and the Institute of Human Rights, both instrumental stakeholders in tackling gender-based violence.

4. Empower Women and Young Girls through Education, Increase Awareness Raising Campaigns and Stress the Importance of Civil Society

Research has shown that empowering women through education and engaging with civil society play important roles in voicing injustice and human rights violations throughout the world, which put pressure on governments to amend its ways and guarantee the protection and safety of its citizens. Education, in particular, can significantly transform values, behaviours and social norms of people, particularly in societies in which violence and discrimination of women is tolerated and normalized. "Women and girls who are educated have greater awareness of their rights, and greater confidence and freedom to make decisions that affect their lives, improve their own and their children's health and chances of survival, and boost their work prospects."²⁵⁴

4.6. MS. NORAGERDES, FACULTY OF INTERNATIONAL DEVELOPMENT, UNIVERSITY OF VIENNA, AUSTRIA

A Case of Femicide. Sex-Selective Feticide in India (Excerpt of MA thesis)

Despite the fact that **MORE THAN 50 MILLION WOMEN AND GIRLS ARE DEMOGRAPHICALLY MISSING IN INDIA** (Banerji 2009), a number that is steadily rising, the real causes of femicide still remain unclear. Limited empirical research and low awareness on its implications are hampering the establishment of corrective policy and normative frameworks at the national level and their translation into corrective behaviours and customs in the social context.

India's femicide is an old, complex and controversial phenomenon involving a myriad of interrelated factors, and with a definition difficult to narrow down. The word is used as an umbrella term, in which sex selective feticide (short: female feticide) can be seen as one inscribed category. Social research findings suggest female feticide as one of the major causes for the declining number of women in India.

The main endeavour of this thesis is to analyse the different plausible causes for this ongoing practice. The research methodology involved the analysis of three main dimensions: economic, social and legal, in order to gain a holistic

understanding of the issue. The recognized factors can be interpreted as being the main causes of female feticide. Secondary literature related to the issue was also employed and expert interviews were conducted with individuals with hands-on experience on the topic at stake.

The theory employed in the research also involved a review of historical events, development economics and sociological patterns. Research indicates a strong overlap between economic and social dimensions, frequently showing that the social origin and perpetuation of female feticide is strongly rooted in economic factors. Finally, an analysis of the legal dimension revealed a "partly paralysed system" in the Indian context, meaning that, whilst laws and regulations exist on paper, lack of implementation and enforcement of them are almost always the main obstacles.

To identify the most relevant types of femicide in India, studies by Russel, Ellis, DeKeseredy, Banerji and the Academic Council on the United Nations System's Femicide Publication were also employed and reflected on, as these works highlight that femicide involves women as perpetrators of the crime, which is a crucial aspect to consider for the case of India. The following categories were employed: sex-selective feticide, female infanticide (one year and under), femicide of girls six years and under, dowry related killings, honour killings, death related abortions, killing of women due to the accusation of witchcraft/sorcery and suicides by females driven to kill themselves. (Russel/Harmes 2001; ACUNS 2013; Banerji 2012).

SEX- SELECTIVE FETICIDE CAN BE SEEN AS THE MOST PRACTICED TYPE OF FETICIDE IN INDIA.

In light of the research and methodologies employed, the following research question was developed: 'To what extent can economic, social and legal dimensions explain sex selective feticide across India?'

The economic dimension covers factors such as rural-urban poverty levels, household and national income indexes, national human and economic development indicators and domestic women economic exploitation. The social dimension covers factors such as status, honour, shame, religion, tradition, culture, education, sexuality, and health. Finally, the legal dimension covers the legal frameworks, laws, conventions and incentives related to the issue, including the implementation capacity of such normative texts. Research shows that these relevant factors are also strongly overlapping. Hence, it has to be acknowledged that all dimensions have to be reflected on in order to gain holistic understanding of the issue.

One of the most crucial economic factors is India's tradition of transferring property only to the son due to patriarchal customs. Furthermore, the impact of British rule, which enforced this tradition instead of changing it, also contributes to the current issues. Other economic factors include expensive dowries and wedding ceremonies for daughters, both of which seem inevitable in every family. This is accompanied by a new trend of education, which implies paying for renowned schools. As a result, **THE DAUGHTER IS SEEN AND TREATED AS A FINANCIAL BURDEN, PROVIDING ZERO PROFIT TO THE NATAL FAMILY**, which results in increasing preference to have a son. Economic development accelerates both progress and inequalities. On the one side, **EDUCATION AND WOMEN'S RIGHTS ARE MORE HIGHLY PROMOTED, BUT LEADING TO MORE DISCRIMINATION OF WOMEN, WHO MIGHT QUESTION THE SYSTEM OR DEMAND THEIR OWN CHOICES.**

254 UNESCO (2013). "Education Transforms Lives: Education For All Global Monitoring Report."

Social explanations for female feticide lie in patriarchal, religious, cultural and/or traditional practices and customs. Not only are patriarchal family structures rigid and conservative, but traditional customs are also strongly rooted and transmitted from generation to generation. Local leaders in each village also play a crucial role in the perpetuation of old customs and practices, socially marginalizing those who do not follow them. **IT WAS ALSO FOUND THAT IF A WOMAN/FAMILY IS HIGHER EDUCATED AND FROM A HIGHER, WEALTHIER CLASS/CAST, IT IS MORE LIKELY THAT FETICIDE WILL OCCUR.** This happens mainly due to greater access to modern technologies and financial possibilities, which directly leads to an increase of abortion possibilities. Many situations also require bribery or a journey to a foreign country in order to perform the medical procedure. The more educated the woman, the more she knows of the kind of disadvantages she could face in giving birth to a daughter. Ultimately, it is not her choice, but the choice of the in-laws. In addition, the birth-rate is lowered due to more women being occupied by work.

Laws and regulations, which were originally established to favour women, are endless and rarely serve their purpose in practical terms. The legal dimension therefore can be seen as an additional problem. In many cases, **THE EXISTING POLICIES RELATED TO FEMICIDE HAVE ACTUALLY BEEN COUNTERPRODUCTIVE**, ultimately leading to more feticide. According to current legislation, sex determination tests should

not be accessible to everyone. In reality, most people can afford or find a way to afford such procedures. Cheap solutions can be found at plenty of unregistered clinics with unprofessional doctors. These conditions are an additional threat to a women's life and to that of a female's unborn life. The practice of the law reflects the social rules of society. Therefore, the legal component has been identified as a partially paralysed system, which means practically no legal limitation.

The direct implications of female feticide show the urgency of the issue. Over 163 million women and girls have been reported as missing in Asia, and 50 million women and girls in India (Guilomoto 2007a; Banerji 2009). Sex ratio statistics are worsening and this negative trend is spreading to neighbouring villages and cities of India. Scholars have referred to the "masculinization of the country", which is seen as a great threat and leading to **INCREASING CRIME RATE, CASES OF BRIDE TRAFFICKING AND FORCED POLYGAMY**, which could lead to destabilization of whole regions (Hvistendahl 2012; Guilomoto 2007a; Manhoff 2005; John et al. 2008). Ultimately, the existing judicial system and the lack of implementation and enforcement of the law has indeed contributed, and at times, worsened the situation.

For the complete thesis please contact Nora Gerdes (nora.gerdes@gmail.com)



“We must remind the world that gender-related killings against women and girls are not to be tolerated. The perpetrators cannot go unpunished. This issue is not new, but simply the most heinous crime against sisters, daughters and mothers worldwide.”

Her Royal Highness Princess Bajrakitiyabha Mahidol
Ambassador and Permanent Representatives of the Kingdom
of Thailand to the United Nations Office in Vienna

“Women subjected to continuous violence and living under conditions of gender-based discrimination and threat are always on — deathrow, always in fear of execution.”

Rashida Manjoo,
Special Rapporteur on Violence against Women,
its causes and consequences

“Human life is sacred. The killing of women and girls is considered a particularly grievous offence in all religions. The protection of the weak and vulnerable is a Christian duty, as it is in other faiths. Femicide cannot be justified under God's law.”

Cardinal Christoph Schönborn,
Archbishop of Vienna



VIENNA LIAISON OFFICE