



A PARLIAMENTARY RESPONSE TO VIOLENCE AGAINST WOMEN

Conference of Chairpersons and Members
of Parliamentary Bodies Dealing
with Gender Equality

2-4 December 2008
Geneva



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Inter-Parliamentary Union

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“These hands are not for hurting”
Conference *A parliamentary response to violence
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Foreword

Violence against women and girls remains the most widespread human rights violation worldwide. Everywhere it threatens the rights, health, quality of life, and the very life of women, irrespective of their nationality, age or social status. Anchored in a value system based on an unequal power struggle between men and women, this type of violence is the most extreme manifestation of discriminations that still prevail against women and girls.

The consequences of this type of violence exact a heavy toll on its victims, their families and society as a whole, as they effectively curbs development. It is a commonly accepted view that achievement of the Millennium Development Goals is contingent on the elimination of gender-based violence. Its negative effects on poverty reduction, women's health, the fight to control HIV/AIDS, achievement of gender equality and women's empowerment are plain to see.

In 2006, the Member Parliaments of the Inter-Parliamentary Union committed themselves to contribute to the fight against this scourge by adopting a resolution on "How parliaments can and must promote effective ways of combating violence against women in all fields". Since then, the IPU has made combating violence against women a priority in its work plan for the coming years.

IPU's third Conference for members of parliamentary committees on the status of women and other committees dealing with gender equality served as a launching pad for a series of activities intended to assist parliaments in combating violence against women. Entitled *A Parliamentary Response to Violence against Women*, the meeting took place in Geneva from 2 to 4 December 2008. It provided an opportunity for parliamentarians from 34 countries to compare views and experiences and assess the challenges they face in dealing with this type of violence.

The Conference focused on actions and strategies to help eliminate violence against women. First and foremost, it underscored the responsibility of parliaments to enact legislation - in accordance with international commitments and standards - to prevent and combat all forms of violence against women, punish perpetrators and provide reparation for the harm caused to women victims. Participants also reviewed the various resources at the disposal of members of parliament to enforce such legislation; they highlighted the importance of making visible the cost of violence against women and gender-sensitive budgets, the role of parliament in following up on and scrutinizing government action, and described promising initiatives to change mentalities and sensitize public opinion to women's right to lead a violence-free life.

The conclusions adopted at the close of the Conference centred on seven priority actions that parliaments can implement at the national level. Together, men and women parliamentarians have the power to drive the necessary change and put in place concrete measures to combat violence against women. The IPU is fully committed to supporting them in their endeavours, convinced as it is that the efforts of parliaments - the guardians of human rights - can yield tangible results and contribute to the historic global mobilization to combat violence against women, spearheaded by the United Nations Secretary-General's campaign that will last through 2015. ■



Anders B. Johansson
Secretary General
Inter-Parliamentary Union

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Summary and Recommendations of the Conference

The meeting was opened by IPU Secretary General, Mr. A. B. Johnsson. Ms. P. Govender, former Member of Parliament of South Africa, delivered the keynote address and experts submitted more than 20 presentations and case studies. The meeting elected Ms. Thalia Dragona, Member of the Special Permanent Committee on Equality and Human Rights of the Hellenic Parliament, as its rapporteur. She presented the following concluding comments at the meeting's closing session:

We have come together these past two and a half days to discuss and exchange experiences on parliament's role in addressing violence against women (VAW). Our objective has been to identify key priority areas for action and parliamentary initiatives and strategies to put an end to this violence.

Our discussions began by recognizing that violence against women is today an issue that is on all agendas, whether at the international or the national level. Violence against women is actually a relatively new "political issue", despite the fact that it has always existed. It is now accepted and recognized as a challenge to development and a violation of women's human rights. It is also a challenge to the well-being of all of our societies. A world that is free of violence against women is not an ideal but indeed a necessity. It should be the norm.

Addressing violence against women is a complex issue which requires profound changes. It means looking at power relations; confronting patriarchy, which permeates all aspects of our societies; changing mentality and challenging social roles and stereotypes which we hold within us. Women have internalized low self-esteem and poor self-image and this will take a long time to change, but change it should.

Global political awareness offers unprecedented opportunities which we should take advantage of to

step up progress and make effective change in the lives of women in our respective countries.

The figures for violence against women depict a situation which is alarming, to say the least. The challenges faced in developing responses to VAW are numerous. We mentioned some of them, such as mentalities, education, limited national capacity, lack of data collection and systems, lack of coordination between partners, limited resources, lack of effective monitoring and accountability mechanisms etc. Making progress in this field may seem impossible, but change can be achieved and our contribution as parliamentarians can make a difference.

There is no one solution for addressing these challenges and reaching the objective of putting an end to violence against women. Rather, there are a variety of approaches, reflecting the diversity of situations and country experiences. The following is by no means an exhaustive summary of the range of experiences and detailed practices that were examined during the conference. Rather, it aims to highlight the main strategies and elements that can contribute to achieving progress.

Priority 1: Ending violence against women requires a comprehensive and all-inclusive approach

First, violence against women stems from gender-based discrimination and gender inequality. Addressing VAW without taking into account the wider context in which women evolve and the need to secure respect for women's fundamental rights in general is hopeless. All policies, laws, budget decisions, etc., impact in one way or another on women and have the potential to increase their vulnerability to violence.

Second, the response to violence against women should be holistic. It should prevent and protect. It should be geared towards assisting victims and making sure that they are protected in the future. It should criminalize violence against women, strive to identify the perpetrators and bring them to justice. It should fight impunity.

Third, putting an end to VAW is not the responsibility of one person, actor or group. Final eradication will require a collective response, in which everyone has a role to play. Actions therefore need to involve all stakeholders, men and women, developing and developed countries, representatives from government, parliaments, the judiciary, law enforcement agents, civil society, the private sector and international organizations.

Priority 2: Building a strong and effective legal framework

To address VAW, parliamentarians must begin by building a legal framework. This is a basic foundation for which they have responsibility.

First, many countries have already passed legislation on VAW. Some have one omnibus law whereas others address violence through a variety of laws. In this case, we need to ensure that there is harmonization between the different laws.

Second, legislation on VAW needs to include several key elements. It must acknowledge violence against women as a form of **gender-based discrimination**, and that violence may affect different groups of women differently. It should also be **comprehensive**, including provisions regarding prevention of violence against women, protection and support for the complainant/survivor, and prosecution and punishment of the perpetrator. Ensuring that prevention is covered by law is of paramount importance.

“To address VAW, parliamentarians must begin by building a legal framework. This is a basic foundation for which they have responsibility.”

Third, legislation should be **evidence-based**. It must also address national realities and serve the

interests of all constituents, including rural women and marginalized women. Women in vulnerable and crisis situations (in situations of conflict, migrant women, trafficked women, victims of the sex trade, etc.) should receive special attention.

Fourth, legislation should also provide for **implementation mechanisms** such as budgetary support, the creation of specific institutional mechanism to monitor implementation and collection of statistical data.

Fifth, legislation should be regularly monitored and **amended** in order to respond to new realities, address gaps or correct inadequacies.

Sixth, national legislation must meet the **international standards** and benchmarks to which countries have committed. Particular attention should be placed on international human rights instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the concluding comments of the UN Committee on the Elimination of Discrimination against Women; Security Council resolutions 1325 and 1820; and regional legal instruments on VAW.

Priority 3: Securing effective implementation of legislation

While legislation is necessary, it is not sufficient, as there is often a gap between de jure and de facto equality, between legislation and its effective **implementation**. Responsibility for bridging this gap lies also with parliamentarians, as they can oversee the implementation of policies and programmes to ensure that they meet the standards and goals that have been set.

First, parliamentarians must ensure, through parliament’s budgetary powers, that allocated resources match the requirements of legislative priorities and national policies on violence against women. The development of gender-sensitive budgeting can help in that regard. Cost assessments of legislation could also be carried out to identify needs for effective implementation.

Second, parliamentarians must have access to comprehensive, sex-disaggregated data and use indicators and targets to assess the impact of laws. They need to build national statistical capacities and should not hesitate to make use of tools and instruments developed by the international community in this field.

Third, parliamentarians should use existing parliamentary mechanisms (such as parliamentary committees) or set up new parliamentary bodies specifically mandated to oversee the implementation of VAW legislation. These bodies should benefit from sufficient resources and support, and also have the power to impact on the work of parliament.

Fourth, the creation of specific inter-institutional mechanisms should also be promoted. Members of parliament should be included in such bodies with a view to enhancing political follow-up.

Fifth, parliamentarians must not hesitate to use all of their powers to monitor the VAW situation in their countries. They must ask the difficult questions and hold governments to account regularly on the implementation. They can also engage with independent bodies such as the audit office or the office of the ombudsman.

Sixth, parliamentarians must encourage and support civil society actors to play an active role in putting an end to VAW.

Priority 4: Education, sensitization and heightening the visibility of VAW

Effective progress will require a change in mentality and social patterns, a growing awareness of women's rights issues and violence against women. As opinion leaders and policymakers, parliamentarians must take the lead.

First, change starts at birth. From a very early age, children - girls and boys - should be educated on human rights and gender equality. Teaching and learning materials that are used in schools must also be reviewed to address stereotypes. Families should be targeted in terms of raising awareness about women's rights and challenging social stereotypes. Parental education on women's rights should also be developed.

Second, for laws to be effective and make an impact, they must be known about and understood. Legislative reform must therefore be accompanied by campaigns to raise awareness and educate women about their rights. Boys and men should also be targeted. We should therefore not hesitate to speak up, explain the laws, and challenge the media, civil society associations, the private sector and others to join in public education programmes. Laws must also be easily accessible and translated into local languages.

Third, training and education programmes should be designed to target judges and law enforcement agents such as the police. Parliamentarians should ensure that specific programmes are designed to that end and receive sufficient funding.

“Effective progress will require a change in mentality and social patterns, a growing awareness of women's rights issues and violence against women. As opinion leaders and policymakers, parliamentarians must take the lead.”

Fourth, sensitization campaigns should be launched to make VAW visible and raise awareness. Parliamentarians should not hesitate to support national campaigns on VAW or even lead some. They should also not hesitate to make use of existing campaigns, such as the White Ribbon campaign or the United Nations Secretary-General's Campaign to End Violence against Women.

Priority 5: Work in partnership

Progress will only result from the combined efforts of all stakeholders to achieve equality and put an end to VAW. Parliamentarians need to build a united front. It is important to maintain open channels of communication and forge **alliances** between the various actors, from the local to the international levels.

First, partnership between men and women is at the core of progress. Specific programmes and initiatives to engage men in the fight against VAW should be developed and adequately supported. Men should also be encouraged to champion efforts to put an end to VAW, reach out to other men and contribute to transforming mentalities and societal roles. The participation of men should be valued and made visible. Discussions on masculinity and the role of men in society should be carried out.

Second, parliamentarians must help forge national consensus on the need to address violence against women as a priority. They can begin within

their own parliaments. They must build cross-party alliances to support VAW action. They must also cooperate with other stakeholders, especially civil society and grass-root organizations.

“Partnership between men and women is at the core of progress. Specific programmes and initiatives to engage men in the fight against VAW should be developed and adequately supported. Men should also be encouraged to champion efforts to put an end to VAW, reach out to other men and contribute to transforming mentalities and societal roles.”

Priority 6: Political will

Violence against Women is a political issue and needs strong political will to be addressed as a matter of priority.

First, to garner political will, parliamentarians need to give visibility to the question, have accurate data, to know about the situation, inform others and engage them. Exercises of costing violence against women can serve as strong mobilization instruments. We should therefore not hesitate to request and support such exercises.

Second, parliamentarians need to continuously put pressure on their government to follow up on its commitment or to commit to ending VAW. They should not hesitate to question government and call ministers to give account of their commitments, hold briefings and hearings in parliament to convince and engage MPs and political leaders.

Priority 7: Strong institutional framework

Effective change requires a strong institutional framework and national bodies that have the power and the capacity to take action.

First, parliamentarians must build their parliament's capacities to take action to put an end to VAW. They should look at what parliamentary mechanisms can be developed to support work on VAW. The establishment of a specific parliamentary committee on VAW could be an option.

Second, they should build their capacities to address VAW. Exchange of experiences between parliaments from a same region or even at the global level should be encouraged. They should also not hesitate to seek support from international or national organizations that could facilitate training or provision of expertise.

Third, it is crucial that more women be represented in decision-making bodies. Parliamentarians need to develop strategies to promote their access to parliament, government, national courts, etc.

Fourth, national strategies to mainstream gender should be developed and supported to secure a coordinated approach and response to VAW.

Fifth, all efforts to address VAW should be taken into account and implemented at all levels of government: national, subnational and local. Specific attention should be placed on building the capacity of rural bodies which often lack support despite the important needs of rural populations.

In summary, parliamentarians need to coordinate efforts and work together - women and men parliamentarians - civil society, central and local government, international and national organizations, and ordinary citizens. “Together” is the key word. ■

Opening Address

Mr. Anders B. Johnsson

Secretary General of the Inter-Parliamentary Union

At some time during her life, one in every three women in the world will be killed, beaten, forced to have sex or otherwise abused. Young women are more likely to be raped or subjected to domestic violence than to be afflicted by cancer, traffic accidents, war or malaria. In some countries, every other woman experiences domestic violence and half of all murdered women are in fact killed by their current or former partner.

Violence against women is reported in every warzone. In the Eastern part of the Democratic Republic of the Congo, hundreds of thousands of women have been killed, raped, maimed, enslaved and beaten. But that is just one example of a growing practice where women are systematically targeted and are victims of violence.

In some societies, beating your wife is commonplace. In others, women are killed with impunity on grounds of “honour” or undergo extreme suffering in the name of tradition. No country is spared. Violence against women is practised everywhere, in every society, in every country, in every corner of the globe.

Over thirty years ago I went to see an Indian movie in downtown Khartoum. I have forgotten the story line, but I do remember a scene in which one of the male actors suddenly slapped a woman in the face, and how this brought the audience to their feet erupting in applause.

Until recently, I had not often come across people outside my country who read some of the same Swedish books I do. The widely-read bestseller “The Millennium Trilogy” has changed that. The three books tell the story of an investigative journalist who unravels a series of violent crimes against women, including murder, rape and trafficking of women in Sweden. He is assisted by a young woman, hardly more than a girl, who is a computer spe-

cialist and herself the victim of horrendous violence both from men and from society.

Wherever I travel I meet people who have read the books and been fascinated by the story. What fascinates me is that I have yet to come across a single person who recognizes that the central theme of these books is actually violence against women.

“At some time during her life, one in every three women in the world will be killed, beaten, forced to have sex or otherwise abused. Young women are more likely to be raped or subjected to domestic violence than to be afflicted by cancer, traffic accidents, war or malaria.”

To my mind, this demonstrates how far we have come to accept violence against women as normal, as part of daily life. I believe we are surreptitiously brought up to accept violence and inequality. Every day of the year we are routinely confronted by violence. We see it on the streets, in the schools, and in the work place. We are constantly bombarded by news, almost invariably negative; news of violence - news of people starving, dying, dead. And little by little we become numbed and unconsciously start accepting some level of violence, possibly to the point where we don't even see it at all and certainly do not recognize it for what it is – a brutal violation of the most basic and fundamental of all human rights.

We need to combat attitudes and behaviours that condone, tolerate, excuse or ignore violence committed against women. We need to eliminate the social acceptability of violence against women.

Violence against women is never acceptable. It can never be tolerated. It is never excusable.

Violence against women is born of gender inequality and discrimination. Yet, by and large, we do little more than pay lip service to equality between women and men. Life everywhere on this planet is filled with a million and one little customs, mores, habits, teachings, gestures, images which are transmitted to us by parents, teachers, colleagues, superiors, leaders, the media; in short, just about everybody. Whether we like it or not, even our body language conveys an attitude that men are superior to women. Or put differently, women are subservient to men.

“We need to combat attitudes and behaviours that condone, tolerate, excuse or ignore violence committed against women. We need to eliminate the social acceptability of violence against women. Violence against women is never acceptable. It can never be tolerated. It is never excusable.”

The single most daunting challenge confronting all of us is therefore that of indifference.

We know what needs to be done. Every country will have to design its own response that is adapted to its own circumstances, and by now the techniques should be well known. We need to adopt a holistic approach. We have to prevent and protect. We have to aid the victims and make sure that they are protected in the future. We have to criminalize violence against women, identify the perpetrators and bring them to justice. We need to fight impunity.

All of this can be done and you are in a privileged position to institute change.

After all, every one of you is a political and opinion leader. You can make sure that the question of violence against women is high on the political agenda in your countries and that it is addressed as a matter of priority. You can put pressure on your governments, raise questions in parliament and speak out publicly to make this a visible national issue. You can set targets, develop national action plans and hold your government to account.

You can pass legislation and tackle the general legal framework in which women evolve. Legislative

reform to secure equality between men and women in terms of rights and opportunities is another priority which falls within your purview. Moreover, you can and should, I believe, take a close look at the school curriculum in your country to make sure that the education your girls and boys receive is supportive of gender equality and of women's rights.

I need not remind you that you also hold the purse strings and you can make sure that sufficient funding is available. This may simply mean reallocating funds within your national budgets to ensure that services and systems are in place to prevent and combat violence against women while supporting its victims.

In all these areas you have unique opportunities to institute and monitor change. You can closely follow and assess the impact of initiatives taken, ensure that they have the desired effect or modify them accordingly. Throughout these activities, you should of course listen to women and defend their interests.

In the coming three days you will discuss these avenues for change in more detail, exchange views and learn from one another. This third edition of the Conference for Chairpersons and Members of Parliamentary Bodies Dealing with Gender Equality that opens aims to support you in your work back home to put an end to violence against women. The objective of this exercise is to get to the crux of the problem, identify concrete initiatives you can take, as members of parliament, to make a real and substantial difference and provide a parliamentary response to violence against women.

The IPU is fully committed to supporting you in your endeavour. At the 118th IPU Assembly held in Cape Town last April, our governing bodies placed violence against women at the top of our work agenda. This meeting today is the first in a series of initiatives which will be carried out over the next two years to assist you in stepping up action at the national level. We therefore hope that your discussions here in Geneva will be constructive and will help define strategies for the future.

I thank you all for coming in such significant numbers and look forward to our discussions. I also would like to thank all of our United Nations partners for their support and all the speakers for having taken the time to share their experiences with us. Thanks also go to Irish AID and the Canadian International Development Agency for making this meeting possible.

I wish you a very successful meeting and thank you for your attention. ■

Keynote Address

Preventing and Addressing Violence against Women: A Question of Human Rights and Sustainable Development

Dr. Pregaluxmi (Pregs) Govender

Former Member of Parliament, South Africa

Thank you very much and thank you to the IPU for inviting me to be part of this meeting today. Members of parliamentary committees from around the world that deal with gender equality discussing how to prevent violence against women is important. It is particularly critical as violence against women is a global issue, which we need to address together.

The question that I would like to look at is how to make the connections between all the specific strategies we engage in through our work to ensure that our impact does result in decreasing levels of violence, in a world in which levels of violence have been increasing.

So what are those connections that we need to be making?

“Violence against women is a question of power. All of the factors that push women into powerlessness need to be examined, hence the critical importance of gender-responsive budgeting.”

In South Africa, strategies for both the struggle against apartheid and for democracy hold valuable lessons. For example, two years before the first democratic elections were held in the country, there was a massive campaign called the women’s national coalition campaign for a women’s charter. It brought together throughout South Africa women from politically diverse organisations across class and culture. Women demanded change and the opportunity to make an impact on the interim period of the negotiations, as well as on the constitution and future of the country. An estimated 2 million women in

rural and urban areas took part in the participatory research process alone. Women said they wanted to see change in everything from the right to water to an end to the violence in their lives.

The connection between all of those is absolutely essential - the connection between the fact that violence takes on physical, sexual, psychological and spiritual forms and the fact that it is often linked to political and economic conditions. In addressing violence against women we need to make those connections. The Constitution of South Africa is often hailed as one of the best constitutions globally in terms of gender equality, women’s rights and ending all forms of discrimination against women. It commits to bodily integrity and substantive gender equality through the Bill of Rights on socio-economic rights. The first democratic Parliament established institutions such as the Joint monitoring committee for the improvement of the quality of life and the status of Women, the committee with the long name.¹ That committee was tasked with monitoring the government’s commitment to the CEDAW and the Beijing Platform for Action. It was critical to establish priorities and the committee decided that it would focus on poverty, on violence and HIV/AIDS: three critical priorities, which are all-encompassing. It held public hearings on each of these issues. It submitted parliamentary reports and developed a set of legislative priorities, which ranged from the domestic violence act to changes to the labour laws to ensure that women had rights in the workplace. About 80 per cent of those priorities were enacted by the end of the South African Parliament’s first term in 1999.

In 1994 what has become known globally as gender-responsive budgeting was introduced as a proposal in the Budget debates. By 1999, we had worked through the Finance Committee and the

Committee on Women to ensure that it had had an impact on the national budget. The national budget review committed itself to ensuring that data was collected, that it was sex-disaggregated and that it took into consideration indicators and targets. The commitment was clear and it included, as a pilot, very specific examples of what gender-responsive budgets would look like. A favourite example was that of the 'working for water' campaign in the water and forestry affairs department. The government committed to allocating 60 per cent of the jobs created in that programme to women in rural areas, and allowed women with parenting responsibilities flexi time, etc. In the first quarter of 1998, the year in which that programme began, 20,000 of the 40,000 jobs created went to women.

What is the connection with our topic? The connection is that violence against women is a question of power. All of the factors that push women into powerlessness need to be examined, hence the critical importance of gender-responsive budgeting. It is not just critical in terms of ensuring the implementation of the domestic violence act, it is also critical across all policy areas, ensuring that they address rather than increase inequality. Gender-responsive budgets are a very useful way of measuring that.

Another thing about violence against women is that it is essentially about devaluing women's lives, devaluing the lives of young girls. A government's budget choices reflect the lives it values as a country, the lives it prioritizes. Therefore, the choices made at the macro level determine the size of the pie a given sector will have, the portion of the total budget. The choices made in relation to how money is collected as a country, whether the choice is made to increase or cut taxes for those who are wealthy or whether user fees are introduced for people who cannot afford them, for health services for example. Similarly, the choice of increasing military spending or increasing socio-economic spending is an important factor in a country's overall prioritization.

In South Africa, a very important commitment made by government was to decrease military spending and to reallocate those funds to women's empowerment in 1996, after the Beijing Platform. However, some years later that commitment was forgotten as South Africa embarked on an exorbitant arms deal, initially estimated at about R 28 billion and currently estimated to have cost over R 100 billion.

The issue of the gender-responsive budgets and the legislative transformation achieved in that first term of Parliament between 1994 and 1999 were critical to the role of parliamentary committees. The first committee through which this idea was driven was the finance committee. Within the finance committee, a gender and economic policy working group was convened. That group worked through the finance committee in Parliament with a range of other committees because gender cuts across everything. It is very important for gender-responsive budgets not to be limited to special programmes, because special programmes in most budgets constitute less than 2 per cent of government spending. This begs the question: What happens to the other 98 per cent? Another extremely important body was the committee with the long name which started off as an ad hoc committee. It started off with a very limited budget. Yet its members did not allow its shoestring budget to determine its power or priorities. While fighting to ensure that it became a full committee and that it obtained the necessary resources, it used all its power to hold public hearings, to call ministers before the committee, to ask questions, etc.

A very important point for parliamentarians attempting to achieve gender equality is the knowledge that they are trying to secure respect for women's rights in a patriarchal system. Patriarchy underpins every system - be it political, economic, religious or social - so anyone who is committed to fighting patriarchy, to transforming society, cannot allow their power to be defined by position, status, resources, authority given by the patriarchy. If one allows power to be defined as such, it will be very easy to silence or manipulate the holders of that "power", in order to ensure that they go along with decisions which will fundamentally undermine women's rights and power, instead of building power in a context of powerlessness.

Why is it that in South Africa, like in many other countries across the world, levels of gender-based violence are so high? An FBI statistic on violence in South Africa has been misconstrued and spread across the world. The actual finding of that study was that South Africa had the highest RATE of reported violence in the world, not the highest rate of violence in the world. The nuance is significant. It was a hard struggle to convince women to report violence, to campaign against violence in the

streets and outside the courts, so it is an important victory when women start reporting. That does not detract from the fact that the levels of violence are tragic.

The question remains: why such high levels of violence? Patriarchy is something that is not as easily visible an enemy as an apartheid patriarchal State was compared to patriarchy in a democratic State. Patriarchy exists in political parties, the liberation movement, in people themselves. It exists within ourselves, within our own hearts and our own minds. In order to effectively change, in order to effectively prevent violence against women, we are going to have to address that question and how we deal with that.

Addressing violence against women requires a comprehensive approach. We should not just focus on the CEDAW and on the Beijing Platform for Action. Countries need to examine every trade agreement, every economic policy choice it makes, and identify whose interest it is serving as well as whose powerlessness it is increasing. For example, South Africa complied with the general agreement on trade and tariffs. That agreement resulted in huge numbers of job losses, particularly among women - women in the clothing and textile union, for example. Women had fought in the union for labour rights, which they had secured under a democracy. Then along came the general agreement on trade and tariffs which parliamentarians (in most countries in the world) are responsible for engaging with. We often do not. Those women who lost their jobs were pushed into the so-called "survival" sectors - seasonal work, casual work, etc, and are far more vulnerable today than they were before. They and their children are more susceptible to being trafficked into prostitution because of poverty. With the General Agreement in Trade in Services, basic services such as water have been privatised in many of our countries. In Senegal, for example, one of the first countries to privatize water in Africa, studies have shown that women today spend more time collecting free water, collecting clean water and identifying sources of clean water than they did before the privatization of water.

The question of how power is used is crucial. Patriarchal power is the power of hate, greed and fear. It is the power of war, it is the power that drives war, genocide, and it is the power that ensures that rape is a weapon of war. So, is there an alternative

to this power? If patriarchal power is the power of hate, can one assert the power of love? If patriarchal power is the power of fear, can one assert the power of courage? And if patriarchy demands our subordination, can one be insubordinate?

“Addressing violence against women requires a comprehensive approach. We should not just focus on the CEDAW and on the Beijing Platform for Action. Countries need to examine every trade agreement, every economic policy choice it makes, and identify whose interest it is serving as well as whose powerlessness it is increasing.”

To quote from a book I have written called *Love and Courage: A Story of Insubordination*, “The apartheid government had diverted massive amounts of money into war against its own citizens. It created a highly militarized state in which women’s vaginas and breasts were targeted in particularly vicious ways. In detention, rats were pushed into women’s vaginas and women’s breasts were smashed. In vigilante attacks, pregnant women were disembowelled. Such cruelty against women and girls was perpetuated by strangers as well as loved ones. Despite the cessation of military war and the dismantling of the apartheid state, this silent war continued.”

“A couple of years into its democracy, the presiding judge said of a father who had raped his two young daughters over a period of seven years that: ‘The father’s sexual deviancy was limited to his own family and there was no suggestion that the man’s behaviour would surface outside the family unit.’ The judge adopted the view that rape within the family merited a lesser penalty than rape outside it.”

“In a committee meeting many members of parliament expressed outrage. They decided to hold hearings and invited stakeholders to address the violence in society that manifested itself in the brutality of rape, witch burning, battery, femicide, incest, as well as the everyday humiliation of sexual harassment. The committee agreed that the hearing should highlight the impediments to effective implementa-

tion of the laws on violence against women, such as the domestic violence act, the new bail law, and the minimum sentences law. The hearings also examined how those impediments could be removed so that women could enjoy the rights they had won in the new democracy. They were 'committed to ensuring that the laws ... passed are not reduced to paper laws with no meaning for improving the lives of women and female children in our country'. That particular set of hearings plunged the committee into a massive controversy in the country but I just want to focus on a specific debate.

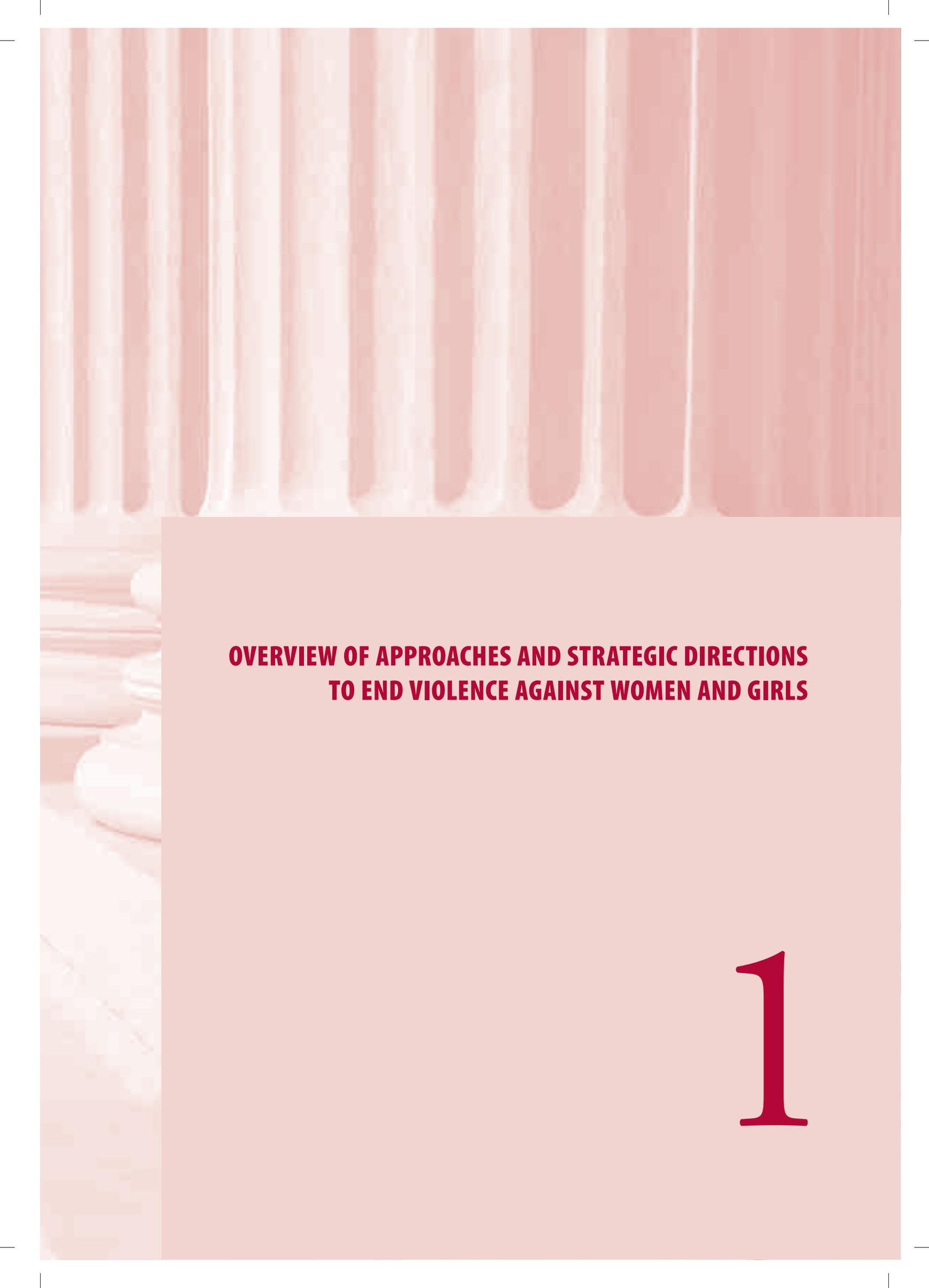
"In the second debate, unlike the first, I didn't talk about laws, budgets, programs and institutions all of which are critical. Instead, I decided to speak from my heart, trusting that my words would help us go beyond party political divisions and focus on the urgency of ending violence. Violence wasn't confined to our country. It was a global phenomenon. But because women in South Africa now refused to be silent, we had a unique opportunity to address the violence that stretched back not just

to our apartheid, patriarchal and capitalist past but beyond colonialism, beyond even the biblical era, to deep beliefs about women and men that deny our wholeness, that set up God as the voice of the patriarch rather than God as the voice of unconditional love who reflects back to us the best of who we can be, both men and women."

I have shared in this speech some of the lessons of our experience as South African women in the struggle against apartheid and for democracy and women's rights. Much of our story is universal - I hope that there are some lessons that can be drawn from it and adapted and applied to different contexts that you face in your countries and that we face together in our world. ■

Endnotes

- 1 The Committee for the improvement of the quality of life and the status of women.
- 2 Govender, Pregaluxmi. *Love and Courage : A Story of Insubordination*, (Paperback - April 1, 2008)

The background of the page is a photograph of a bookshelf filled with books. The books are arranged in rows, and the spines of the books are visible. The lighting is soft, creating a warm and scholarly atmosphere. The books are of various sizes and colors, though the overall tone is muted and professional.

**OVERVIEW OF APPROACHES AND STRATEGIC DIRECTIONS
TO END VIOLENCE AGAINST WOMEN AND GIRLS**

1

Overview and Debate

The session looked at **trends** in responses to violence against women. The expert presentation outlined the components of the comprehensive approach to confronting such violence, which emphasizes preventing violent acts, protecting vulnerable people and supporting victims. The discussion focused on the challenges limiting parliamentary work to address the phenomenon.

The panellist for this session was María José Alcalá, Senior Adviser, Ending Violence against Women Section, UNIFEM. Ms. Alcalá considered the problem in the global context, outlining general trends and suggesting approaches for ending the violence.

Ms. Alcalá: Women in national governments, international organizations, NGOs and civil society interest groups have lobbied for over a decade to draw attention to the problem of violence against women and put it on the **international agenda**. The resulting recent statistics highlight the alarming prevalence of intimate partner or sexual violence and have finally succeeded in positioning violence against women on the intergovernmental policy agenda alongside and interlinked with priority areas such as poverty reduction, development, and peace and security.

Gender-based violence is now addressed in almost all national legislative frameworks and has been the focus of many landmark United Nations Security Council and General Assembly resolutions. A consensus has been reached that priority must be given to ending violence against women in order to achieve the **Millennium Development Goals**. The attention generated in recent years is, moreover, starting to translate into increased resource flows dedicated to supporting the cause. Parliamentarians have to collaborate in order to take advantage of this unprecedented opportunity to make concrete progress toward bringing violence to a halt.

Many changes should be made to the approaches used by organizations and parliamentarians to address violence against women, which continues to suffer from fragmentation, lack of reliable data and information systems, limited investment in project evaluation and insufficient infrastructure for responding to the needs of vulnerable women and girls. These weaknesses stem from the fact that, until recently, the VAW mandate has been largely neglected. This is an area traditionally dominated by women's groups and NGOs, and the projects they initiate are often underfunded, small and ad hoc. Coordination between initiatives has thus been limited, resulting in a fragmentation of efforts and a dearth of national capacities. Violence against women is a cross-cutting issue, and its eradication requires a **multisectoral approach**, hence the need for cooperation between the various stakeholders. Strong coordinating mechanisms, such as parliamentary committees, could be established to monitor cooperation and enforce accountability to this end.

There are many **good practices** and leading approaches in terms of both survivors and perpetrators of violence, and of how to reform policies and legislation in order to make them more efficient. The strategies for responding to victims have, on the whole, suffered from a distinct lack of funding. Without the resources to train and equip officials and to support far-reaching projects, the response to survivors has unfortunately been reactive, with little emphasis on prevention. **Minimum standards** for policies, laws and programmes have to be enforced in order to give survivors better care in the short and long term. Crucially, the rights of abused women must be observed. Past experience has shown that when the law fails to respect their rights to privacy, personal security, autonomy and

choice, abused women are less likely to seek help or report cases of violence. Policies should make it easier for women to seek help. Emergency response mechanisms, such as hotlines, should be established and made readily available free of charge round the clock. Counsellors have to be trained to respond to calls and act as a first point of contact. A clear referral network should also be established so that women and girls have immediate access to the most appropriate form of assistance.

Responses to reports of violence must be holistic and integrated so that the abused can have access to all frontline services at once. Such “**one-stop models**” should provide immediate on-site access to police services, health clinics (offering screening options) and initial legal counsel. Other recommended frontline strategies include the establishment of shelters where women can seek protection and refuge, granting universal access to post-rape care, and promoting women’s support groups designed to provide women and girls with psychological and emotional support in the aftermath of abuse or when pursuing legal remedies.

“Violence against women is a cross-cutting issue, and its eradication requires a multisectoral approach, hence the need for cooperation between the various stakeholders. Strong coordinating mechanisms, such as parliamentary committees, could be established to monitor cooperation and enforce accountability to this end.”

The **health services and police stations** are the two most likely places to which abused women will turn. It is thus vital for the staff in both to be ready and responsive. Almost all women and girls use a health service at some point in their lives. This is therefore a strategic venue through which to mainstream the response to violence. With regard to the police, past practice has indicated that gender desks or units are often marginalized or underfunded. A concerted effort must therefore be made to teach all police officers how to act when dealing with ei-

ther the survivor or the perpetrator of violence. Best practices are not as clear on perpetrators as they are on survivors. Parliamentarians should be made aware of the debates surrounding court orders, battery programmes and anger management initiatives in order to choose the solution that is best in their context.

In terms of **policy reform**, parliamentarians are advised to build on best practices and consult with organizations on how to overcome the challenges they face. As an example, reports have indicated that violence against women tends to be most prevalent in excluded or marginalized groups. Legislation should thus be amended to target these groups and ensure that the rights of vulnerable women and girls are adequately protected. Target age groups, such as adolescents, should also be identified and policies amended accordingly. It must be kept in mind that policies and laws have a large role to play in defining the responsibilities of the public sector, detailing the rights of individuals, and outlining the key capacities and competencies with which the different sectors must be equipped to respond adequately to cases of violence. Attention should therefore be given to laws that concentrate on providing incentives for good performance while building a regime of sanctions for non-performance.

It is imperative to **end impunity**. Many kinds of violence are lightly punished, if at all. Low prosecution rates point to the lack of enforcement. Parliamentarians should amend criminal codes to recognize the gravity of all forms of violence against women and break taboos. Principles of customary law must be harmonized with the formal judicial system so that legal protection is extended to individuals in marginalized or neglected groups, including ethnic minorities and migrant workers.

The strategic direction of the approaches used must move towards **prevention**. Investing in prevention implies confronting the root causes of violence against women, the only way to stop violence from occurring. This requires a transformational approach that seeks primarily to change behaviour and attitudes at the community level. In this regard, particular efforts should be made to work closely with adolescents and men, and policies tailored to target these two strategic groups.

A major component of prevention is **monitoring progress**. It is particularly crucial to collect statistics and data, and parliamentarians should ensure

that an adequate system for doing so is in place. It is also important to track the flow and distribution of resources to ensure that a gendered budget exists and that funds are equitably distributed among the sectors most in need. The 10-Point Checklist developed by UNIFEM is one example of a framework for measuring progress. This or similar models should help monitor policy success in individual States.

Plenary debate

- How has your country addressed violence against women? What approach did it adopt?
- What are the main challenges faced?
- Is violence against women a priority issue for your parliamentary committee?

Several points were raised during the debate. To begin with, the participants emphasized that violence against women occurs in every country, although its prevalence is often understated or misunderstood. If they are to address the problem properly, governments must first acknowledge its existence and make eradication a priority. They then must garner both the **political will and financial resources** needed to support a holistic approach to ending gender-based violence. The general policy response to problems of violence thus far had been for governments and parliaments to amend the legislative framework to further strengthen the system of protection. Indeed, over the last decade, almost all States had passed new laws criminalizing various forms of violence. Although this was an encouraging indication of the sincerity with which authorities were approaching the issue, amending the legislative framework to focus on protection did not suffice. Parliamentarians must adopt a new strategic direction in policy response that left them better equipped to tackle the root causes of violence.

The challenges countries most often faced when confronting violence against women were linked to implementation and enforcement, societal norms and taboos, and gaining access to vulnerable groups. Several participants pointed to the **widening gap in many countries between legislation and implementation**, and noted with concern the frequent discrepancy between *de jure* and *de facto* protection.

Female genital mutilation, for example, persisted in many countries even though it had been criminalized— the inevitable outcome when legislation was not implemented properly or no mechanisms existed to enforce compliance. This was a particular concern for mixed societies, in which customary law could sometimes be an obstacle to enforcing national legislation on violence against women. There was a distinct need to take into consideration the social norms and traditions operating within ethnic and religious communities, and to harmonize formal laws with customary practice in a way that did not undermine the implementation and enforcement of recognized standards.

The participants noted with concern that **domestic violence** remained a major problem. In many countries, the existence of a large “silent society” made up of survivors and witnesses of violence pointed to the critical failure of policy to give women the confidence to claim their rights and speak out about violations. Parliamentarians must therefore give priority to encouraging public debate on violence against women and to mitigating the forces within society that stigmatize and ostracize abused women and girls.

While acknowledging that violence against women pervaded all social and economic levels, the participants identified a number of particularly **vulnerable groups**. Women and girls living in impoverished or marginalized communities continued to be among those most at risk, and policies must continue to focus on protecting these individuals. Women migrants, asylum-seekers, prisoners and trafficking victims were all groups that were frequently neglected by policy, and more must be done to address their unique situations. Policy must also do more to protect women and girls in times of war and conflict. Practical solutions needed to be identified that allowed women to confront gender-based violence in times of social upheaval, without the fear that taking action would result in negative repercussions for them and their families.

Governments had taken various steps to meet the challenges outlined above: they had established 24-hour hotlines, opened refuges and shelters, amended school curricula to question harmful behavioural trends and raise boys and girls’ awareness of their rights, and launched media campaigns to heighten public awareness of the problem of violence against women. From a legislative perspective,

work had been done in various countries to amend discriminatory laws, particularly on marriage, divorce and nationality, and to adopt gender-sensitive budgets. These changes reflected a growing appreciation for strategies based on a broad understanding of the impact that violence against women had on all sectors of life.

Prevention must become the strategic focus of policies. **A system of prevention** was one that looked at the root causes of violence and then utilized a multidimensional approach to target specific areas. In order to help define policy objectives, parliamentarians should network with civil society and the NGO community. An active civil society was a

crucial component of any prevention strategy, and should be used as a channel to foster communication with the public, in particular adolescents and men. “Non-traditional” partnerships should be encouraged; cooperation with men was absolutely essential for changing patterns of violent behaviour and attitudes. Campaigns such as the White Ribbon Campaign for Men against Violence worked towards this end and were useful mobilization tools.

On a final note, activism from women in decision-making bodies was needed. This meant enhancing women’s **representation in politics** through temporary measures such as quotas, if necessary. ■

“The Inter-Parliamentary Union calls upon parliaments to review legislation to detect practices and traditions that impede the attainment of equality between the sexes and to eliminate inequality in all spheres, in particular in education, health and access to property and land.”

IPU resolution, 114th Assembly, 12 May 2006, para. 12

Overview of Approaches and Strategic Directions to End Violence against Women and Girls

Ms. María José Alcalá

Senior Advisor, Ending Violence against Women Section, UNIFEM

Worldwide, the statistics on violence against women are alarming: as many as half of women experience intimate partner violence and up to one in five experiences or is threatened with sexual assault.

Today, fortunately, after decades of struggle by the women's movement, violence against women is not treated just as a women's issue, but is positioned high on intergovernmental policy agendas for peace and security, poverty reduction and development, human rights and gender equality. Never have so many countries across the world adopted national laws, action plans and policies devoted to ending violence against women. United Nations General Assembly resolutions adopted since 2006 spell out very concrete actions that governments have committed to. The Security Council has likewise adopted pertinent resolutions, in particular resolution 1820. There is a global consensus on priorities for the way forward, reflected in the United Nations Secretary-General's very comprehensive 2006 study on violence against women, and there are the Millennium Development Goals (MDGs).

The MDGs, which were adopted in 2000 by heads of State and government, do not have a target on violence against women, which is often referred to as "the missing target". The UN Millennium Project (2005) – an independent advisory group of 250 international experts advising the Secretary-General – clearly concluded that targeting the end of violence against women must be a strategic priority if the MDGs are to be achieved.

There is now a consensus that violence against women erodes female productivity and the human capital of nations struggling against poverty. The fact that the issue is now positioned high on the international agenda should imbue us with a sense of global enthusiasm at this unprecedented opportunity to make real progress on it.

The increased political attention is starting to encourage a swell in much-needed resource flows. For example, the President of Brazil recently pledged about US\$ 600 million for programmes to end violence against women; in addition, a bill on ending violence against women currently before the United States Congress would allocate significant resources for such programmes abroad. There is therefore cause for optimism, and a tremendous opportunity for collective action.

“Today, fortunately, after decades of struggle by the women's movement, violence against women is not treated just as a women's issue, but is positioned high on intergovernmental policy agendas for peace and security, poverty reduction and development, human rights and gender equality.”

Even though the issue is garnering so much more political attention, the reality is that for decades violence against women has been neglected and activities to combat it severely underfunded. The field has largely been characterized by the initiatives of cash-strapped organizations, mostly women's groups and other NGOs with small projects; there is a dearth of national capacities and of cutting-edge expertise, and these small projects have limited coverage. Many countries in the world have few, if any, shelters for abused women; reliable data systems to track prevalence and progress are seriously lacking. Related to that, years of neglect and underfunding have resulted in very limited in-

vestment in evaluation. What this means is that, even though there is a large body of work and good practices to build on in this field, there is a dearth of evidence-based knowledge of what effectively works. There is therefore a strong need to invest in evaluation.

A fragmentation of efforts has been the overriding characteristic of these often isolated, ad hoc small projects. Fortunately, more and more players are joining the struggle to end violence against women, but strong coordination bodies are lacking. Ending violence against women requires all sectors of government and civil society to work together. It requires a very strong coordination mechanism and strong monitoring and accountability systems, but the existing ones are quite fragmented and fragile. It also needs more resources than are currently available.

What are some good practices, some of the leading common approaches and some of the key lessons learned? In what areas are we struggling to understand what may be more effective approaches?

Starting with the response to survivors - implemented by and large over the last few decades and with limited funding - most of the work has focused on reacting and responding to get survivors much-needed urgent and longer-term care. What minimum standards should policies, laws and programmes always incorporate? First and foremost, they must guarantee the rights of women who have been abused: rights to confidentiality, personal security, autonomy, choice. The Pan American Health Organization (PAHO), after analysing legislation in Latin America for many years, put together a very useful tip sheet of key contents for model laws and policies, one of which is that there should be no mandatory reporting. Many laws in the region required health providers to report cases of abuse irrespective of the woman's decision. As a result, because their right to confidentiality and privacy was not respected, women were hesitant to seek health care, and health providers were reluctant to get involved or to register cases as domestic violence because they did not want to become embroiled in legal proceedings. This is a key lesson learned from experience in the region.

What are other minimal standards of the initial, emergency response? One is the establishment of national telephone hotlines that are available free-of-charge 24 hours a day for women seeking help.

Two key lessons have been learned with national hotlines. One is that they should never be launched unless the counsellors answering the phones are well trained. The other is that they should not be launched until there is a system of appropriate referral services to which the hotline operators can send callers.

There are two important frontline services (so called because they are usually the first point of contact for an abused woman): police and health. Police and health services are crucial, as are initial legal aid and counselling. Frontline services are critical components of integrated holistic responses and multi-sectoral referral networks. Concretely, for instance, it is important for an abused woman at a health centre to be able to file a police report and get protection. On the other hand, if an abused woman goes to the police station but there is no referral system to prompt medical attention, she may not get much needed health care. Hence the importance of multi-sectorality and of effective referral systems.

Among the frontline services, shelters play an important role. Shelters are a widespread strategy; they are a place where abused women and their children can go to seek protection and refuge. But there has also been innovation in terms of finding alternatives. Shelters can be expensive and not all countries are able or willing to sustain them with public backing. An alternative adopted by some communities has been to have members of the community volunteer to house abused women. In all cases, it is very important to ensure the immediate safety and personal security of abused women and those working to support her.

Another key minimal standard is universal access to post-rape care and a basic package that all raped women should have access to. It is also important to consider, providing free legal aid services and free health care for abused women and girls, especially for those in the low-income bracket who may not have any income of their own.

Another best practice is the establishment of women's support groups. These groups are usually set up by women's organizations and are immediately available to an abused woman. Research has found that they enable women to receive the kind of psychosocial support they need and can accompany the women throughout the legal proceedings. Many women will drop out of the legal proceedings

if they do not receive proper support and accompaniment.

Health services and the police are two of the most likely sources of help that an abused woman will go to. It is therefore very important for them to be ready and responsive. The health system is a particularly strategic area in which to mainstream the response to violence against women and, within it, sexual and reproductive health services are especially critical. Why is that? Because we know that even in the poorest countries, a woman is likely to come into contact with a sexual or reproductive health service at some point in her life, whether for family planning, because she is pregnant and seeking maternal or child health care, or because she needs HIV counselling and testing. These are strategic points of service delivery in which to be ready to respond.

At the same time, we know that violence against women has severe consequences for sexual and reproductive health. Within the health sector, two or three key issues or strategies should be highlighted. One has to do with screening, including training health service providers and equipping the system to be able to detect a case of abuse. Whether screening should be routine and offered to every woman who comes into contact with a health service, or whether it should be a selected service remains a matter of discussion. Again, the Latin American region has conducted many analyses over the years in low-resource settings. It has been found that it might be advisable to ensure that all women coming to a sexual and reproductive health service or emergency room receive screening on a routine basis, and that where providers of other services have a suspicious case on their hands they should also screen it.

One key lesson learned is that, regardless of the strategy, screening should not be institutionalized unless referral services are available. A leading good practice in the field is what are called “one-stop model” services. “One-stop” means that when a woman goes to seek help or report abuse, she has immediate access to health care and the possibility to file a police report and obtain legal advice, all in the same place. For example, some emergency rooms and hospitals have police officers as well as a medical team on call. They also have women’s support groups present nearby and women can obtain legal counselling, all in one go.

Research has shown that one-stop services improve access to legal redress, increase the number of prosecutions and result in harsher punishment for perpetrators. These are good models to look into. One-stop models have been tried in many countries. They were pioneered in Malaysia. South Africa, for example, now has them for rape/sexual violence cases.

One last point regarding the health system concerns forensic exams. Under the national law of many countries, forensic exams are required evidence in order to be able to prosecute. One tendency has been to certify only a limited number of medical practitioners to perform such exams. A prime recommendation is therefore to review policies and laws so that an expanded number of health providers, including, for example, nurses, can perform them. This would lead to increased access and prosecution.

The police response is a key factor in ensuring the abused woman’s personal security. Throughout Latin America, in Rwanda and in many other countries, a leading strategy has been to train and equip a gender desk or a specialized unit within the police force to handle cases of violence against women. This strategy has been found to improve access to health services for women and to increase prosecution rates, particularly in the short term; in some cases, however, the all-female police units housing the gender desk have become marginalized and underfunded over time. They have also suffered from poor training, and in some cases the attitudes of female police officers were found to be no better than those of their male counterparts. So while this remains a good strategy, one key suggestion – the ideal – is that a woman should be able to go to any police officer to report abuse and get a response. This is the strategy pursued in Honduras, among other countries.

We have looked at the importance of responding to survivors. The other key element is responding to perpetrators. There has been an increased emphasis on programmes and strategies dealing with perpetrators, but it is not always clear that they are building on experience to date. The response to perpetrators has included court orders, batterer and anger management programmes, and counselling for abusers. What has been the impact of such measures? Various batterer programmes have been evaluated, unfortunately with conflicting results. It is not

clear what the most effective way forward is, but there are some key points to consider. A very clear consensus has emerged that investment in batterer programs should never be at the expense of much-needed resources and programmes for women survivors of violence. A leading evaluation of batterer programmes in the United States Army produced very interesting findings. It highlighted that over time there had actually been no reduction in violence against women. Some experiences in wealthy countries are considered relatively successful, but what stands out is that in low-resource settings such programmes may put the women who have been abused in danger. A woman who has been abused and has a court send her partner or husband to the batterer programme may feel falsely safe and return to a situation that could be harmful to her. This is a critical concern. In wealthier countries that have met with some success in this area there have been many years of sustained investment in the police and the judicial response, so the pieces are in place to work together. It is important to flag this very serious risk. The fact is that how to address perpetrators and what programmes to establish for them is a major challenge.

The content of policies and legislative reform is critical to programme delivery. Policies and legislative reform should reflect certain elements at all times. They must ensure the fundamental rights of women and girls. They should address all forms of violence. Policies and laws also need to focus more on excluded and strategic groups. The tendency is to address violence against women in generic terms; less work has been done to untangle the specific forms of violence and pinpoint groups that require a tailored response. More focus on ensuring a balanced investment in prevention and response is necessary.

Policies and laws are critical for establishing accountability standards. Public sector responsibility and the rights and entitlements of women must be set out on the basis of good practices. There are many good practices, and much guidance is available from the World Health Organization and many others. Such practices include gender-responsive training at all levels of the system and innovative incentives for good performance. Another question is how to build in sanctions for non-performance. We know, for example, that abused women are often re-victimized by the attitude of the police of-

ficer, judge or health provider. This should not be allowed to happen. What kinds of sanctions can be instituted? One example is Georgia's very strong police response: every case reported to a police officer is closely supervised and monitored to make sure it is handled properly. The tendency must be to move away from one-off training and towards system-wide approaches that are effective and sustainable.

“Policies and legislative reform should reflect certain elements at all times. They must ensure the fundamental rights of women and girls. They should address all forms of violence. Policies and laws also need to focus more on excluded and strategic groups.”

There are some critical gaps. The overriding theme here is ending impunity. Too many perpetrators go free, punishment is limited, the law is poorly enforced and prosecution rates remain low. One of the legal challenges is how to ensure not only that the formal justice system is in line with human rights standards, but also - especially in more remote, rural and traditional contexts where decisions are based on customary law and the justice system may not even be formally represented - that village elders, chiefs and religious leaders also defend the rights of women to live free of violence. There is a whole list of neglected groups and neglected forms of violence that are not being addressed. One important target group is migrant workers. There are 200 million migrant women in the world, many of them working in domestic service and suffering high levels of abuse, including sexual violence. How do we tackle this? Some forms of violence against women remain taboo: incest, for example; and sexual abuse in schools against girls has received very limited attention outside Africa and some of the more industrialized countries. On the whole, the question of sexual violence against girls and young women is much neglected, despite alarming statistics. The whole issue of feminization of HIV and AIDS and the links to violence against women, while frequently discussed, has prompted very little effective response in the form of programming on the ground. Even in situations of sexual violence in

conflict or post-conflict countries, where violence against women may be at the top of the agenda, the possibilities for a rapid response on the ground are very limited.

With regard to legislation, one important challenge is to ensure that when new laws are adopted an effort is made to harmonize across domestic legislation, including with the criminal code and the constitution. This includes reviewing legislation so that it provides a holistic response to women survivors, including as regards economic security, divorce, custody and alimony issues. Also important is to ensure that in addition to considering the 'supply side' (what the public sector can offer), consideration must also be given to the 'demand side', to empowering women and raising awareness about their legal rights, as well as informing the public at large, including about sanctions against perpetrators.

“Investing in effective prevention is the only way to stop violence from occurring; it is the only way to foster violence-free future generations. What is needed here are transformational approaches that tackle the root causes of violence against women, and the gender inequality and discrimination that allow society to accept it as ‘normal’.”

What are some strategic directions for the way forward? First and foremost, there is prevention. To date, most responses have been reactions - a response to the emergency needs and rights of survivors. Investing in effective prevention is the only way to stop violence from occurring; it is the only way to foster violence-free future generations. What is needed here are transformational approaches that tackle the root causes of violence against women, and the gender inequality and discrimination that allow society to accept it as 'normal'. Much work has started, but it is underdeveloped. The focus here needs to be on the community. Two strategic groups that are critical to stopping and preventing violence are young people and adolescents, and men.

We also need to bear in mind the big picture. There are opportunities outside gender equality poli-

cies or plans addressing violence against women. A number of leading policy and funding frameworks that receive priority political attention offer strategic entry points to 'mainstream' and secure resources for programmes to end violence against women -- including poverty reduction strategies, HIV and AIDS national action plans, sector-wide approaches and reforms (such as in education, health or judicial sector reforms).

Investing in adolescents and young people of both sexes is important for ending violence against women. Research has shown that adolescence is a strategic stage in life. Adolescent girls and boys are open to new ideas and gender norms. Adolescent girls suffer many forms of abuse and violence, but research has shown that if they are provided with an immediate quality response, much can be done to mitigate the lifelong consequences. It is key here to look at prevention and response and to tailor activities to the specific age group. Engaging men and boys in prevention is also key and can be approached at strategic entry points – including male-dominated spaces such as bars and sports events and male-dominated institutions such as the military and the police.

It is also vital to monitor and track progress and resource flows. In addition to gender-responsive

UNIFEM's 10-point accountability framework

- ✓ **Data collection, analysis and dissemination**
- ✓ **Addressing all forms of violence against women**
- ✓ **Comprehensive, multi-sectoral coordinated approach**
- ✓ **National legislation**
- ✓ **National action plans**
- ✓ **Decrees, regulations and protocols**
- ✓ **Reliable, adequate and fair distribution of resources**
- ✓ **Empowering women, mobilizing communities**
- ✓ **Monitoring systems (participatory)**
- ✓ **Compliance with international human rights standards**

budgeting, it is important to look at certain issues. In decentralized contexts, for example, are the resources flowing from national to local level, where activities and programmes need to happen? Are services equitably distributed to the poor and excluded groups of the population? Obviously, it is also critical to look at the bigger picture: what is the level of investment in other areas of gender equality, for example economic rights - a key factor in enabling women to avoid and escape abusive situations?

As alluded to earlier, one of the key gaps has been a lack of accountability and tracking mechanisms. UNIFEM has developed a 10-point checklist. It lists the 10 key elements every country should have as measures of their commitment to ending violence against women (see page 20).

As the United Nations Secretary-General said at the launch of his Campaign earlier this year: “*Violence against women is never acceptable, never excusable, and never tolerable*”. ■



**VIOLENCE AGAINST WOMEN:
RECENT TRENDS AND EMERGING FORMS**

2

Overview and Debate

This session provided an overview of the different forms of violence affecting women in both the public and the private spheres. The panellists examined some of the patterns of long-recognized forms of violence against women and discussed the emergence of new and multiple forms in today's global society. Their presentations were followed by a plenary debate.

The panellists for this session were Professor Yakin Ertürk, the United Nations Special Rapporteur on violence against women, its causes and consequences, and Ms. Ludvina Menchaca, Senator from Mexico. Professor Ertürk provided an overview of the international response to violence against women thus far, with an emphasis on the Special Rapporteur's mandate. She suggested a number of steps that could be taken to refocus the international agenda on both long-standing and emerging forms of violence. Ms. Menchaca outlined the extent and forms of violence against women prevalent in Mexico and some of the laws the Mexican Parliament had enacted in an effort to contend with the problem.

Professor Ertürk: The **Special Rapporteur's** mandate was established in 1994, following the adoption of the Declaration on the Elimination of Violence against Women (1993) into the framework of international human rights law. The Special Rapporteurs appointed since then have initiated a number of country visits, sponsored thematic reports and communicated complaints, all of which has contributed significantly to uncovering trends in violence and to the work to prevent it. Although the worldwide struggle undertaken by parliamentarians, civil society and stakeholders has resulted in the creation of a framework within which women's rights have found recognition and inspired the participation of others, developments have combined with historical inequalities to deepen gender dis-

crimination and expose women around the world to new and multiple forms of subordination and violence. Many forms of violation remain contentious or even invisible. For those that have been recognized as constituting violence against women, problems of implementation, compliance and accountability have undermined the international system for the protection of human rights. The mandate of the Special Rapporteur and of similar international mechanisms therefore remains an essential factor in bringing violations of women's rights to the attention of authorities and in pushing for more action to end gender-based violence.

Recent setbacks to the women's rights agenda at both the national and international level point to a number of factors that have contributed to the emergence of **new forms of violence**. The essentialist cultural arguments invoked by certain authorities to account for some forms of violence have reduced violence against women to a cultural issue, thereby delinking it from wider discussions of inequalities and power structures. It is imperative to obtain an accurate understanding of the systemic causes of violence against women, since its misrepresentation thus far as a uniquely cultural issue has allowed many forms to emerge or persist unabated.

Global and regional women's rights movements have stagnated as a result of disagreements between interested stakeholders as to the best way to use the human rights-based approach to confront violence against women. The recent Council of Europe negotiations on the draft Convention on Violence against Women is a case in point, the members having been unable to agree on whether a general all-encompassing framework would be the best approach or whether it would be more effective to break the issue of violence down into sub-topics, such as domestic violence, and to legislate

on those accordingly. Parliamentarians must resolve disagreements and adopt an integrated approach to violence against women that recognizes the urgency of the situation and moves quickly to protect those most at risk, including trafficked women and children, migrants and asylum-seekers.

In order to overcome the challenges facing the VAW mandate, it is necessary to make several changes in the way violence against women is defined, assessed and resolved. Firstly, the VAW mandate has traditionally suffered from a narrow interpretation of impoverished women as the victim-subject. The problem needs to be **redefined** in order to move discussions away from simplistic accounts of poverty and towards strategies based on increasing the economic, social and political empowerment of women. The Beijing Platform for Action is an example of how a holistic understanding can influence both international and national action plans. Within the scope of international human rights law, such a wider understanding holds States to a high due diligence standard and obliges them to protect, prosecute and provide compensation when confronted with gender-based violence. Crucially, States are required to review traditional practices and cultural norms within their societies and ensure that they are brought into line with international standards.

A new methodology is required that frames violence against women in terms of empowerment and human rights, and relies on international norms to combat the transnational dimension of modern forms of violence. An effective strategy for countering new and emerging forms of violence requires accurate information and critical self-assessment. It is vital to determine **key indicators** and targets at the national level in order to monitor progress, identify patterns of violence and bring to light the interlinkages between violence and empowerment. Standard-setting requires a consistent flow of data from a range of sources. Policies presumed to benefit women, such as microcredit strategies, should be periodically assessed in depth to ensure they are producing the expected or desired results. Parliamentarians have an important role to play in ensuring that no “information gap” exists and that policies are amended in the light of fair and reliable assessments.

Country mission reports have been successful in exposing emerging forms of violence. Among

the issues demanding fuller attention today are the health of women and girls, particularly with regard to reproduction and HIV/AIDS, aging, disability, migration, internal displacement, asylum and human trafficking. The aim of the country mission reporting procedure is not to criticize government policy, but to provide an opportunity for States to seek gender-sensitive counsel on how to overcome the challenges they face.

Follow-up to country mission reports remains a problem and greater emphasis should be put on supporting **international and national mechanisms**, such as Special Rapporteurs, national ombudspersons and human rights institutions, established to monitor the implementation of recommendations. **Civil society** has an important role to play in this regard and should take interest in the concluding observations of the country reports, which are all available on the United Nations website. It is also vital for implementation that these and other such instruments of compliance are linked to a sustainable source of funding.

Ms. Menchaca: Mexico has taken several steps to strengthen the VAW mandate at both the international and domestic levels. These include a gradual overhaul of the legislative system and, when necessary, the enactment of new laws to enhance protection for women; a concerted effort to harmonize national legislation with international obligations; the use of a gender perspective when allocating budgets and earmarking funds; and the adoption of a new approach to confronting violence against women that focuses on prevention. The multi-dimensional changes made to the Mexican national action plan reflect the growing awareness that while amending the legislative framework is a necessary precondition for confronting the violence, this alone does not suffice to bring the violence to a halt. Without the **political will** within the executive to implement new laws, change is unlikely.

Mexico’s recently adopted law on Women’s Access to a Life Free from Violence (2007) is an example of legislation based on a new methodology similar to that outlined by Professor Ertürk. It widens the definition of violence against women to include forms of psychological, marital and economic violence as well as the more recognized physical and sexual forms. It is an ambitious law that aims to prevent, investigate, punish and eradicate such violence and represents an effort by Mexican parlia-

mentarians to bring national legislation in line with the obligations set out in the international conventions to which Mexico is party. Similarly, existing legislation, and trade laws in particular, have been reviewed for gender sensitivity with a view to examining their impact on violence against women.

“Among the issues demanding fuller attention today are the health of women and girls, particularly with regard to reproduction and HIV/AIDS, aging, disability, migration, internal displacement, asylum and human trafficking.”

Crucially, the emphasis of the law is on **prevention**. This marks a departure from the traditional focus on punishment. Indeed, statistics show that violence against women continues to be a major problem throughout Mexico. A greater effort has consequently been made to address the root causes of violence, such as the negative stereotyping of women or sexist behavioural patterns often ingrained in traditional or cultural practices. Prevention starts with children. In recognition of the fact that many girls are unaware of their rights and grow up accustomed to physical or emotional abuse, school curricula have been amended to include lessons that help children distinguish between acceptable and unacceptable behaviour. Adolescents have also been identified as a target age group, and media campaigns used to raise awareness of the problem among them and to inform them of their rights and the remedies available if they feel their rights or those of others have been violated. Particular emphasis has been given to training teachers on how to recognize patterns of violence and take action to remove the threat or protect those at risk.

Outside the education system, a similar effort is being made to **sensitize** parliamentarians, police officers, judges, doctors and social workers and ensure that they are aware of their responsibilities under national and international law to prevent, investigate and protect against cases of violence. It is crucial to ensure that officials comply with laws on violence against women, which have to be reformed

to make non-compliance punishable. Other preventive and protective measures include the establishment of early warning mechanisms backed by a database of statistics and information on reported cases; increased access to shelters; and, with regard to domestic violence, the introduction of protection orders as a precautionary step that temporarily removes the aggressor from the house. Another priority among women parliamentarians in Mexico is to link the combat against violence against women to a **sustainable source of income**. They are therefore working to ensure that a substantial part of the national budget is earmarked for cross-cutting programmes to combat violence. The Mexican experience has shown that when women parliamentarians take united action and recruit their male counterparts, much can be achieved.

Plenary debate

- What are the main forms of violence against women prevalent in your country?
- Can you identify new emerging forms of violence?

A point emphasized throughout the plenary debate was that the prevalence of different forms of violence against women was very difficult to determine. The **data** were ambiguous, as a higher number of reported cases might be an indication of better investigation, rather than higher incidence. Nonetheless, certain trends could be identified. For example, many States reported that **domestic violence** remained the most common form of violence against women, particularly in rural areas with high levels of poverty and illiteracy. Violence in the workplace was also common, and statistics indicated that the numbers were on the rise. Although a clear divide still existed between the prevalence of violence against women in rural and urban societies, the **financial crisis** was having a profound effect on the forms it took in cities. The fears, tension and insecurities caused by job loss and a weakening economy contributed to the conditions in which domestic violence most frequently occurred. Divorce, alcoholism and a lack of social security had also been identified as factors contributing to domestic violence. The financial crisis was suspected of having an impact on workplace violence as well, at the

same time as lack of job security resulted in a general reluctance among women to report incidents of violence and put their employment at risk. This made it difficult to assess the extent of the problem. In fact, more should be done at both the national and international levels to analyse the impact of the financial crisis on work, family and private life with a view to providing advice on how to reverse the trends.

Violence among **trafficked women and girls**, the prevalence of which had increased as the sex industry expanded, was also identified as an area of deep concern. It was a particular problem in Europe, where the open border policy between European Union Member States had made it harder to control trafficking. The lack of efficient **monitoring and follow-up mechanisms** had compounded the difficulty of protecting trafficked individuals, even after their status had been confirmed. As a result, women and girls were frequently re-trafficked into the same country. Parliamentarians were urged to address this urgent situation. On a similar note, the effect of technological advances on emerging forms of violence had not been well researched. The international legal framework should be strengthened to address forms of violence perpetuated us-

ing electronics. In this regard, Internet stalking was identified as a particular concern.

Although the right to protection had now been clearly articulated in national as well as international human rights law, many women still felt that this protection was inadequate. Harmful cultural or traditional practices, such as female genital mutilation or forced marriage, still escaped the attention of governments and were considered “normal”. This was a pressing concern at a time of **increased migration** leading to less uniform societies and the introduction of new practices into established norms. The rights of women in marginalized communities must be protected in a way that continued to respect cultural traditions. More needed to be done by parliamentarians and members of the international community to resolve the tension between individual and group rights. The use of culturalist arguments to justify violations of women’s rights was acknowledged to be unacceptable. Women from all cultures had championed the protection of human rights, and discussions on violence against women should therefore not be limited to a question of culture. Parliamentarians should instead address the different forms of control that gave rise to violence and were institutionalized as part of patriarchal systems. ■

Violence against Women: Recent Trends and Emerging Forms

Prof. Yakin Ertürk

UN Special Rapporteur on violence against women, its causes and consequences

The post of Special Rapporteur on violence against women - which I have the privilege of holding since 2003 - was created by the Commission on Human Rights in 1994, following the World Conference on Human Rights held in Vienna in 1993 and the adoption by the UN General Assembly of the Declaration on the Elimination of Violence against Women the same year. Since then, much progress has been achieved in standard setting internationally and nationally, and its effectiveness in contributing to human rights of women has been acknowledged widely.

Considerable ground has been covered in the 14 years of existence of the violence against women (VAW) mandate. My predecessor and I have carried out 34 country visits – covering diverse geographies and cultural and legal traditions- have written 15 thematic reports and acted on complaints concerning human rights violations of women worldwide. This mandate has been a dynamic medium through which experiences of violations of women’s rights, many of which were marginalized and invisible in the domain of international law, have found recognition and a place within the framework of human rights paradigm and practice. However, as some forms of violation and marginalization become visible, many remain invisible, sensitive or contentious areas within women’s human rights debates. Alongside progressive developments and victories that have inspired the struggle for women’s rights, newer developments have coalesced with historic gender inequalities to deepen disparities, vulnerabilities and subordination, which continue to expose many women to multiple forms of violence and of violations of their rights.

The role of the VAW mandate remains as critical today as it was at its inception in meeting the future challenges, some of which arise in relation

to the work accomplished and others in relation to emerging new issues. These challenges are at times accompanied by serious backlash or are caused by the resistance of conservative forces to the efforts to change the patriarchal gender order. In this respect, some of the advances made will remain contested, such as the use of cultural discourses in their relativist and essentialist forms that reduce VAW to the cultural sphere, thereby de-linking the problem from gender inequality and its intersections with other systems of inequality, such as ethnicity and class, among others. In less contested areas of advancement, implementation, compliance and accountability remain predominant areas that must all continue to be addressed with diligence.

Challenges and Trends in VAW

I have initiated a comprehensive assessment of the 15 years of the VAW mandate, the initial outcomes of which were presented at a panel discussion on 25 November at United Nations headquarters in New York. This presentation draws heavily on that assessment. The document will be available by the end of the year on the websites of the United Nations Population Fund (UNFPA) and of the Office of the High Commissioner for Human Rights (OHCHR)¹. I hope you will find it useful in your initiatives to combat violence against women.

Standard setting in relation to the empowerment approach

I have often argued that the VAW mandate has until recently suffered from a narrow humanitarian approach, resulting in placing the problem within a victim-subject framework, whereby women are perceived as vulnerable beings in need of protection.

Applying a human rights approach to the problem has challenged this perception and allowed us to shift the focus from the immediate victim of violence to the historically-rooted male domination which is embedded in a universal patriarchal culture. As a result, the approach to VAW has shifted from one of victimization to one of empowerment.

“Some of the advances made will remain contested, such as the use of cultural discourses in their relativist and essentialist forms that reduce VAW to the cultural sphere, thereby de-linking the problem from gender inequality and its intersections with other systems of inequality, such as ethnicity and class, among others.”

Empowerment constitutes a necessary condition for women to exercise agency in negotiating and transforming unequal power relations between women and men, which according to the Declaration on the Elimination of Violence against Women is the primary cause of VAW. In this respect, it is crucial that measures for the social, cultural, economic and political empowerment of women are integral components of any strategy to eliminate VAW, including in national action plans. This is part of the prevention obligation of a State’s due diligence responsibility, which I addressed in my 2006 report to the United Nations Commission on Human Rights (UNCHR). Measures in support of women’s empowerment encompass the full spectrum of interventions outlined in the Beijing Platform for Action, ranging from education, legal literacy, skills training, political participation and access to health services, productive resources, among others. The State’s preventive obligation should also include an engagement with efforts to contest and negotiate hegemonic patriarchal cultural norms and practices that are used to justify women’s subordination within the community.

While my predecessor and I have elaborated the types of interventions that lead to empowerment in our respective reports, there remains a need to implement concrete measures to take with respect to

what will constitute empowerment, as contained in the Beijing Platform for Action. This requires specific indicators and time-bound targets within the parameters of the availability of resources and local conditions. If, for instance, one considers the example of micro credit programmes, which are often used for women’s empowerment, one should also address their potential to advance women’s status and target structural inequalities and gender stereotypes. Although protectionist, honour-based and welfare-oriented approaches may meet some basic needs of women receiving micro credits, they often tend to reinforce their dependent and subordinate position. Paying greater attention to and increasing the emphasis on the interlinkages between empowerment and CEDAW can bring clarity to this matter. Further work on developing indicators on VAW and the State response to it can also help set criteria to determine approaches that advance empowerment beyond the ability to cope to the ability to change.

“Empowerment constitutes a necessary condition for women to exercise agency in negotiating and transforming unequal power relations between women and men, which according to the Declaration on the Elimination of Violence against Women is the primary cause of VAW.”

Fuller coverage of areas addressed by the mandate

The VAW mandate has paid attention to many forms of violence as well as aspects of implementation in annual thematic reports, country mission reports and communications to governments. However, there is a need to consolidate and pay greater attention to some issues that are dispersedly mentioned in various reports. In this regard, the specific forms of violence women and girls encounter within the context of health and reproduction, poverty, migration, internal displacement, the refugee process, trafficking, ageing, adolescence, and disability, among others, need to be underscored. Many forms of violence due to migration have gained transna-

tional dimensions – concerning several countries at the same time. Transnational dialogue, mechanisms and institutions to respond to such problems are yet to be developed.

Health and reproductive rights

In the area of reproductive rights, differential health status among women from particular racial groups, due to differential access to health care services and coercive reproductive measures that target such groups, result in forced sterilization and higher maternal and infant mortality rates. Although reproductive health and rights have been a recurrent theme in our reports in relation to their interconnection with certain contexts, such as armed conflict, trafficking, HIV/AIDS and State policies, these issues appear dispersed and as a result their effect in terms of standard setting has been diluted. In addition, violence related to reproductive issues has so far been addressed predominantly in relation to adult women, leaving work to be done in relation to the experience of the girl-child, adolescents and the elderly. It is equally necessary that violence related to health issues other than reproductive health also be addressed, particularly from a life cycle approach, including concerns related to differential access to health services based on age, marital status, sexual orientation, ethnicity, HIV/AIDS, and rural or urban location. Issues of sex education and reproductive health or abuse by health care providers are systemic and their linkages to gender-based violence need to be consolidated in the interest of standard setting.

Violence in the context of migration, displacement and asylum

Similarly, the concerns of migrant, internally displaced and refugee women have been dealt with mainly in the contexts of armed conflict and trafficking. The concerns raised have been mostly in relation to violations that occur once women become refugees - in flight or within camps. However, work remains to be done to establish gender as an independent ground for claiming asylum as a refugee. In view of the protection gap in relation to gender as a ground for seeking asylum within the Refugee Convention, in 2002 UNHCR adopted Guidelines on 'Gender-related persecution' and has since been encouraging States to give adequate importance to gender elements in examining asylum applications.

However, the practice in this regard has not always been gender sensitive and consistent. I would invite the next Rapporteur to dedicate a thematic report to these concerns to raise existing standards.

Institutions and mechanisms for addressing and monitoring

It is also necessary to give greater emphasis and clarity to national and international mechanisms to monitor and facilitate compliance. At the national level, the value of independent and autonomous mechanisms such as ombudspersons, machineries on women and national human rights institutions needs to be showcased. Regardless of the existence of a woman-specific body, the role of national human rights institutions in combating gender-based violence needs to be further explored to ensure that such bodies play a stronger monitoring role in relation to VAW. Consolidated standard setting in relation to such mechanisms at the domestic level is lacking. Parliaments can play a critical role in promoting the inclusion of gender-based concerns in the mandate and work of such institutions or mechanisms.

At the international level, strategies and steps need to be put in place to ensure follow up and implementation of the recommendations issued by the VAW mandate. At present, there are no means of ensuring that the recommendations in the country mission reports are implemented or integrated into the programme of the government, UN agency or other international agencies working in the country. Attention should be paid to developing systems and processes that ensure follow-up through planning, budgeting and resource allocation for international agencies, including the United Nations, as part of facilitating compliance and accountability. Strengthening the VAW mandate by linking it to sustainable sources of funding can enhance its effectiveness considerably.

“Regardless of the existence of a woman-specific body, the role of national human rights institutions in combating gender-based violence needs to be further explored to ensure that such bodies play a stronger monitoring role in relation to VAW.”

The challenge for the Special Rapporteur on violence against women, as well as others working to end VAW, remains immense, knowing that no matter how much we increase the standards and advance the conceptual understanding and tools for implementation and accountability in relation to VAW, the problem will remain - given its inextricable link to gender inequality and other forms of subordination, disparities and discrimination. Thus, the role of the VAW mandate is invaluable - as the forum that can make visible hidden violations, lend support to and communicate the voices of the most vulnerable women, and act as a channel to access justice and accountability where national systems of justice are not well developed or when

they fail to respond. The unfortunate fact remains that, in large measure, violence against women continues to be perpetrated with impunity, access to justice is riddled with obstacles and accountability remains elusive within the domestic realm. This calls for greater gender awareness, gender sensitivity and gender competence at all levels of governance, be it lawmaking, policy formulation, implementation or administration of justice. ■

Endnote

- 1 <http://www2.ohchr.org/english/issues/women/rapporteur/docs/15YearReviewofVAWMandate.pdf>

Case Study:

Violence against Women in Mexican Law

Ms. Ludivina Menchaca

Senator, Mexico

Introductory notes on violence against women

In the 1990s, violence against women became a public issue and the focus of attention of various international organizations that considered it a serious human rights issue and a public health priority. As a result, a number of international instruments were established, notably the Declaration on the Elimination of Violence Against Women, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (also referred to as the “Convention of Belém do Pará”), and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which were all ratified by Mexico in the same decade.

Alarming figures indicate that at some point in their life, more than half of all Latin American women have been victims of domestic violence. Mexico is no exception: a look at the local situation shows that women have generally seen their human rights violated or have been victims of discrimination. According to figures released by the National Institute on Information, Statistics and Geographical Data¹, every day close to 30 women on average die as a result of violence, just over 23 of whom die as a result of accidents and six as a result of homicide or suicide. It should be noted that one in every five violent deaths among women takes place in the home and that nine in every one hundred women of 15 years and above who live with their partner are subject to physical violence by their partner; eight in every hundred suffer sexual violence, 38 in every hundred suffer emotional abuse and 29 in every hundred are subject to financial control.

One should bear in mind that violence against women is underestimated since figures released by

prosecutors’ offices and health care institutions generally only reflect situations of extreme violence or those in which victims file a report, which occurs in very few cases.

The Women’s Access to a Life Free of Violence Act

In the face of such a serious social and human rights-related problem, Mexico passed the Women’s Access to a Life Free of Violence Act, which was published in the Official Gazette on 1 February 2007. Like one of the initiatives that led to its framing, the Act reflects “the need to establish a legal instrument that contains a genuine gender perspective, establishing the requisite legal conditions for providing security to women, being applicable to the entire country and binding for the three levels of government, whose main purpose is to prevent, deal with, sanction and eliminate violence against women”.

The publication of this Act means that Mexico has taken another step towards bringing national legislation in line with international conventions. Moreover, the Act promotes the application of sanctions and protective measures for women who find themselves at risk or in danger. It defines a number of terms which help grasp this problem, such as “violence” and the “types of violence” that exist, namely: physical violence, psychological abuse, financial control, sexual violence, interference with personal property, etc., which assists the authorities entrusted with applying and interpreting the law to better understand the problem in its entirety and apply just solutions to it.

It also defines the different forms of violence, such as domestic violence, violence in the workplace,

in schools and in the community, and institutional violence, which is of particular importance, since experience has shown that many public servants by act or omission hinder or impede the full enjoyment by women of their human rights or block their access to public policy aimed at preventing, dealing with, investigating, sanctioning and eliminating the various forms of violence, all of which constitute a crime under the Act.

“The Act reflects ‘the need to establish a legal instrument that contains a genuine gender perspective, establishing the requisite legal conditions for providing security to women, being applicable to the entire country and binding for the three levels of government, whose main purpose is to prevent, deal with, sanction and eliminate violence against women.’”

A significant aspect of the Act is that it drives a process of changing sociocultural behavioural patterns among men and women by reviewing school curricula and informing social studies programmes. It also seeks to raise awareness and sensitize the public via the media with a view to preventing and eliminating all forms of violence against women and girls; it promotes the removal of stereotypes in the public and private spheres, providing women who are victims of violence with care and free specialized counselling to promote their empowerment. Aggressors are provided with free and specialized holistic rehabilitation services with a view to eliminating violent behaviour through education that eliminates stereotypes of male supremacy and the macho behavioural patterns that generated the violence in the first place.

The Act provides that rehabilitation devoid of stereotypes will be provided; it will promote alerts on the risk status of women in an unequal and discriminatory society. It also provides for devising a system to monitor violent behaviour against women in individuals and in society as a whole and set up a database on protection orders issued for individuals.

The Act stipulates that specialized training will be provided for public servants so that they can provide adequate care to victims.

Under the Act, a National System for preventing, dealing with, sanctioning and eliminating violence against women will be set up with a view to combining efforts, agencies, policies, departments and interinstitutional action in order to provide efficient and concerted care to women victims of violence, as well as a comprehensive Programme to prevent, deal with, sanction and eliminate violence against women.

Definition of types of violence recognized by Mexican law under the Women’s Access to a Life Free of Violence Act

The Act defines violence against women as any act or omission, based on gender, which causes women harm or psychological, physical, or sexual suffering, damage to their personal property or the imposition of financial control over them or death, both in the private and public spheres, as described in the Convention of Belém do Pará.

The Act establishes the existence of the following types of violence:

- **Psychological abuse** - Any act or omission that affects the psychological stability of a person; this may consist of: negligence, abandonment, recurrent lack of care, jealousy, insults, humiliation, putting down, marginalization, lack of love, indifference, unfaithfulness, destructive comparisons, rejection, restrictions on self-determination and threats, which drive the victim to depression, isolation, low self-esteem and even suicide;
- **Physical violence** - Any act that inflicts non-accidental harm, using physical force or any type of weapon or object that may cause internal, external or both types of injury;
- **Interference with personal property** - Any act or omission that affects the victim’s survival. This may take the form of: converting, stealing, destroying, retaining or misappropriating objects, personal documents, property and securities, personal property rights or financial resources intended to meet the person’s needs and may cover damage to joint property or the victim’s own property;

- **Financial control** - Any act or omission committed by the aggressor that affects the economic survival of the victim. It may take the form of imposing limits aimed at controlling the victim's financial income as well as the payment of a lower salary for equal work in the same workplace;
- **Sexual violence** - Any act that degrades or causes bodily or sexual harm to the victim and therefore is an affront to her liberty, dignity and physical integrity. It is an expression of abuse of power that implies male supremacy over the woman, by degrading her and considering her as an object; and any other similar type of violence that harms or is likely to affect the dignity, integrity or liberty of women.

“Under the Act, a National System for preventing, dealing with, sanctioning and eliminating violence against women will be set up with a view to combining efforts, agencies, policies, departments and interinstitutional action in order to provide efficient and concerted care to women victims of violence.”

Definition of the forms of violence recognized by Mexican law under the Women's Access to a Life Free of Violence Act

The Act also establishes different forms of violence:

- **Domestic violence:** An act of abuse of power or intentional omission, aimed at dominating, rendering subservient, controlling, or physically, verbally, psychologically or sexually attacking, or abusing the personal property or financial resources of women, within or outside the family home, with the aggressor having had or still having a family relation by blood or affinity, marriage, intimate partnership or having had or still having a de facto relationship.
- **Violence in the workplace:** The illegal refusal to hire the victim, keep her on the job or respect her general working conditions; devaluing work done,

threats, intimidation, humiliation, exploitation and any type of discrimination based on gender.

- **Violence in educational facilities:** Types of conduct that affect the self-esteem of students via acts of discrimination based on gender, age, social status, academic status, limitations or physical characteristics, perpetrated by male or female teachers.
- **Violence in the community:** Individual or collective acts that violate the fundamental rights of women and promote their denigration, discrimination, marginalization or exclusion from public life.
- **Institutional violence:** Acts or omissions committed by public servants of any government agency that discriminate against women or are intended to delay, impede or hamper the enjoyment or exercise of the human rights of women as well as their benefiting from public policies aimed at preventing, dealing with, investigating, punishing and eliminating the various forms of violence.
- **Femicide:** This is an extreme form of gender-based violence against women, the result of the violation of their human rights, in the public and private spheres, consisting of a series of misogynistic behaviours that may entail social and State impunity and may culminate in the homicide or other violent form of death of women.

Protecting the victims of violence against women

Independently of the corresponding civil proceedings the Act provides for the establishment and upkeep of shelters for victims and their girl and boy children, which shall provide counselling and legal advice as well as the temporary suspension of the aggressor's visiting rights and possibility of living with his children, assigning exclusive property rights to the victim over the place that served as the family home, temporary and immediate alimony and prohibition of any attempt to transfer or mortgage property as it relates to the family home, and in any case regarding property belonging to the couple.

The Act provides for protection orders, which are in fact acts of protection with urgent application in the interest of the victim, categorized as

precautionary and special, and which are issued by the competent authority as soon as the facts that are likely to constitute an infraction or an offence involving violence against women are made known.

In order to protect women who are victims of violence, the country has taken the following measures:

- On 24 April 2007, it set up the National System to prevent, deal with, sanction and eliminate violence against women.
- The Public Security Department presented indicators for the implementation of the National Violence Data and Statistic Bank.
- A working group was formed with officials of the National Violence Elimination System and civil society with a view to elaborating a methodology for establishing a National Violence Status.
- Several activities were conducted on the question of making shelters for battered women more professional.
- The Department of the Interior has set up, with federal agencies and mechanisms for the advancement of women in federal agencies, four thematic committees: Care, Punishment, Prevention and Elimination of Violence. The implementation of public policies on the elimination of violence has begun throughout the country.

National planning with a gender perspective

In the Senate, a motion has been brought on reforming the Planning Act and the Information, Statistics and Geographical Data Act, which aims to:

- Include a gender perspective as a pillar of planning, in order to guarantee equal opportunities for men and women, and to promote the advancement of women through equal access to property, resources and the benefits of development;
- Identify the specific and differential impact of public policy on women and men;
- Plan and conduct centralized public administration activities with a gender perspective; and
- Consider the gender focus as a pillar of the National Programme on the Development of Information, Statistics and Geographical Data.

Harmonizing national legislation with CEDAW and the Convention of Belém do Pará

In Congress, presentations have been made on several points of agreement with a view to requesting the local legislatures to harmonize their legislation - primarily in the criminal and civil areas - with the provisions of CEDAW and the Convention of Belém do Pará. A **National Legislative Congress in Favour of Women** was held, at which experts and men and women legislators at the federal and local levels participated. The purpose was to identify norms that identify violations of women's human rights in the civil and criminal laws of federal entities and propose amendments in keeping with CEDAW and the Convention of Belém do Pará. ■

Endnote

- 1 Statistics for the International Day for the Elimination of Violence against Women. National data, 25 November 2005.

The background of the page is a photograph of a bookshelf filled with books. The books are arranged in rows, and the spines of the books are visible. The lighting is soft, creating a warm and scholarly atmosphere. The books are of various colors, including shades of red, white, and brown.

**THE INTERNATIONAL AND REGIONAL LEGAL FRAMEWORKS
ESTABLISHED TO ADDRESS VIOLENCE AGAINST WOMEN**

3

Overview and Debate

This session examined the international and regional **legal frameworks** dealing with violence against women. It highlighted individual State obligations and identified how the relevant instruments set standards for achieving progress at the national level. The particular role of parliaments in ensuring compliance with international and regional obligations related to violence against women was also discussed. The presentations were followed by a plenary debate.

The panellists for this session were Ms. Nathalie Stadelmann, Human Rights Treaty Branch, Office of the High Commissioner for Human Rights (OHCHR), Ms. Nadine Puechguirbal, Adviser, Women and War, International Committee of the Red Cross (ICRC), and Ms. Claudia Herrmannsdorfer, Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM). Ms. Stadelmann outlined the current international legal framework in place to address violence against women, with a focus on the CEDAW, its Optional Protocol and the CEDAW Committee's General Recommendation No. 19 (GR No. 19). She also provided an overview of the role of parliamentarians in ensuring compliance with these instruments. Ms. Puechguirbal focused on the relationship between Security Council resolutions 1325 and 1820 and their effect on the prevention of violence against women. Ms. Herrmannsdorfer outlined the main points covered in the Convention of Belém do Pará, in particular the obligations of the States Parties.

Ms. Stadelmann: Discrimination is a systematic violation of rights that continues to affect every country and every region. Despite the regime of international law constructed over the past fifty years to combat discrimination, women remain among the least protected. The **CEDAW**, adopted in 1979, was the first mechanism to speak directly

to women. It has been ratified by 185 States to date and, as such, represents a comprehensive step towards strengthening the international framework of protection for women against all forms of discrimination. Under the substantive articles of the Convention, States Parties undertake to eliminate both direct and indirect forms of gender-based discrimination in all sectors, including the political, economic, social and cultural. The CEDAW also protects against discriminatory practices in both the public and the private spheres, including within the family, and requires States Parties to take action against non-State actors, in particular individuals and corporations. Under Article 11, States Parties have a positive duty to ensure that the rights of women are protected and that appropriate compensation is provided if the Convention is violated. This duty includes, under Article 5, taking all necessary measures to reform social, cultural and traditional norms and customs in order to eliminate all harmful practices, prejudices and stereotypes based on the inferiority of either men or women.

Although the CEDAW does not deal with violence specifically, except for the prohibition on trafficking contained in Article 6, the CEDAW Committee has defined violence against women in its **General Recommendation No. 19** (1992) (GR No.19) as a manifestation of gender-based discrimination. All States Parties are thus obliged under the CEDAW to act with due diligence and take all necessary steps to ensure that women are protected from all forms of violence. They also have to ensure that complainants have an effective remedy giving them access to justice and guaranteeing that perpetrators are punished appropriately.

GR No. 19 was the first **cross-cutting recommendation** that clearly defined violence in public and private life as a manifestation of discrimina-

tion. It therefore helped take the topic of gender-based violence out of the private and into the public sphere. It provided impetus for the adoption of the 1993 Declaration on the Elimination of Violence against Women, and outlined the steps States should take, under the CEDAW, to address violence against women. These steps include **punitive, rehabilitative, preventive and protective measures**. The recommendation holds, for example, that a State may be held accountable if it fails to take the necessary measures to protect, investigate and compensate a victim of violence. It requests State Parties to include information on the legal measures taken to overcome violence against women in their country reports. The Committee relies on this information in a number of ways when considering country reports, and has made several observations on the shortcomings of the approaches used by States to address violence. The problems discussed include: reliance on overly restrictive definitions of violence, rape and domestic violence in particular; failure by the State to criminalize domestic violence and sexual harassment; inadequate or lenient penalties for acts of violence; treatment of violence against women as a crime against honour or decency rather than as a violation of women's right to physical integrity; failure to pursue criminal proceedings to the end; and lack of effective implementation of legislation. As such, the adoption of GR No. 19 has exerted a considerable influence on the decisions that States make when reforming the national legislative framework and on the approach used by regional bodies to address violence. Parliamentarians have a responsibility to reform legislation and bring it into line with international standards. GR No. 19 constitutes a helpful guideline that all parliamentarians should take into consideration when fulfilling their responsibilities.

Unlike the CEDAW, the **Optional Protocol** does not create new substantive rights; it is designed to give women whose rights have been violated access to justice. Under the Optional Protocol, women have the option of having their cases heard by the CEDAW Committee if they have been denied access to justice at the national level. The Optional Protocol established the **communication and inquiry** procedures, aimed at addressing violations of women's rights. The communication procedure permits the CEDAW Committee to review complaints in order to decide if a violation of rights has occurred and what the remedy should be. The in-

quiry procedure enables the Committee to launch an inquiry into grave or systematic violations on its own initiative. The jurisprudence that has emerged in recent years from considerations of communications and inquiries shows how the CEDAW Committee has used GR No. 19 to apply the Convention to incidents of violence. In cases where the Committee is authorized under the Optional Protocol to receive and consider communications, judgments have been made that address all aspects of violence against women, including prevention, protection and remedy. The Optional Protocol has therefore resulted in an expanded and more detailed notion of due diligence. This has greatly strengthened the international framework for the protection of human rights by elaborating on approved standards. All parliamentarians are urged to approve ratification of the CEDAW and its Optional Protocol.

Ms. Puechguirbal: Security Council resolutions 1325 and 1820 (S/RES/1325 and S/RES/1820) are two other important components of the international framework established to address violence against women. Although they differ in significant ways, they both pertain to issues of women, peace and security, and are complimentary in practice. S/RES/1325 was a landmark resolution, the first to recognize the relevance of women's experiences in conflicts and therefore to **link protection of their rights to the international peace and security mandate**. It acknowledges the need to protect women and girls from violence and end impunity during conflicts. The language used is also relevant, as it represents a move away from the traditional victimization of women within the United Nations system, which concentrates on women as victims of conflict, rather than recognizing their contribution to conflict resolution and sustainable peace. S/RES/1325 pays particular attention to promoting women's involvement during the conflict resolution phase, particularly in peace negotiations. It also recognizes the need to increase women's participation at all levels of the decision-making process. NGOs played a critical role in the build-up to S/RES/1325, and helped ensure that the rights of the most vulnerable were taken into consideration.

S/RES/1820 builds on S/RES/1325 by explicitly linking **sexual violence as a tactic of war** with the maintenance of international peace and security. It identifies sexual violence as a self-standing security issue, thereby making rape during conflict

just one of the issues warranting an appropriate security response. It gives the Security Council a clear mandate to intervene, including by imposing sanctions and empowering field staff, and requests a report from the Secretary-General on strategy and implementation with a view to improving the flow of information to target the root cause of violence. None of these elements had been encompassed by S/RES/1325. S/RES/1820 further stipulates that all parties to armed conflict should adopt concrete prevention and protection measures to end violence against women and girls, particularly in camps for refugees and internally displaced persons. Such measures include the specific retraining of troops, enforcing military discipline and following up on past perpetrators in order to hold them to account. Like S/RES/1325, S/RES/1820 calls for the increased participation of women during peace talks and negotiations.

Ms. Herrmannsdorfer: The **Convention of Belém do Pará** (1994) illustrates how violence against women is addressed in regional frameworks. In the ten years since its entry into force, it has affected the duties of States to end violence against women in several ways. For example, it provides a framework for setting standards and producing legislation on gender-based violence at the national level, prompting most of the States Parties to adopt or reform legislation to bring national practice more in line with the Convention. The recently adopted **follow-up mechanism**, designed to ensure the Convention's implementation, is also starting to have an impact on national policy.

The main principles underlying the Convention of Belém do Pará recognize, firstly, the relationship between gender-based violence and discrimination and, secondly, that violence against women reflects the historical inequality of power relations between men and women. The right of women to a life free from violence therefore includes the right to be free from all forms of discrimination and to be educated free from stereotypes and harmful patterns of behaviour. The Convention defines violence against women as “any act or conduct based on gender which causes death or physical, sexual, or psychological harm or suffering to women whether in the private or public sphere”. This clear definition has provided Latin American countries with a helpful basis on which to build their efforts to address violence against women at the domestic level.

States have a duty to take **specific measures** to protect the above rights. These measures can be grouped into three main categories: the adoption of policies to prevent, punish and eradicate violence against women; specific measures aimed at promoting awareness of and education and training in women's rights; and policies focusing on the specific situations in which women are most vulnerable. This last category requires States to examine **the vulnerability of women** by reason, for instance, of race or ethnic background, pregnancy, disability and age. The vulnerability of women and girl migrants, refugees and internally displaced persons has become an area of particular concern as these persons continue to be left without protection from many forms of violence. Another issue demanding more attention is the vulnerability of women displaced or otherwise affected by natural disasters.

It is important for parliamentarians to be aware of all of these instruments and to know how each can be used. Firstly, parliamentarians have an important role to play in **ensuring implementation and follow-up** of the relevant treaties. This is a role that has recently been strengthened by the CEDAW Committee, which requested at its 41st Session that parliaments take all necessary steps to implement all concluding observations and to participate in the preparation of country reports. In terms of the CEDAW country reporting procedure, parliamentarians should be consulted during the drafting of the report, or should at least see the report before it is submitted to the Committee. Likewise, parliamentarians must ensure that they are aware of their follow-up duties under the Convention of Belém do Pará. Lastly, parliamentarians are reminded that in most cases, they have a role to play in approving the ratification of treaties and in adopting or reviewing legislation to ensure compliance with the ratified treaty. Each parliamentarian must ensure that he or she is kept up to date with developments on these issues.

Plenary debate

- As a member of parliament, do you draw on the CEDAW and its Optional Protocol in your work to end violence against women?
- To what extent is your parliament involved in the implementation of the CEDAW in your country?

- To what extent does your parliament use S/RES/1325 and S/RES/1820 in its work to end violence against women?

“Parliamentarians have an important role to play in ensuring implementation and follow-up of the relevant treaties. This is a role that has recently been strengthened by the CEDAW Committee, which requested at its 41st Session that parliaments take all necessary steps to implement all concluding observations and to participate in the preparation of country reports.”

The participants noted that most parliaments are aware of the CEDAW and the obligations it entails. As a result, most parliaments had adopted new laws or amended existing legislation to bring the national framework into line with the standards outlined in both the CEDAW and its Optional Protocol. However, the lack of a centralized national system to legislate and address the CEDAW specifically had resulted in little **accountability**. More therefore needed to be done to ensure that responsibility for implementing the CEDAW was clearly assigned. In addition, parliaments tended to be bypassed during the country reporting procedure, and

more measures must be taken to ensure that they are involved in this process.

The participants were aware of S/RES/1325 and S/RES/1820, but **implementation** remained a major challenge. They were not clear as to what steps should be taken to implement the resolutions, or to whom responsibility for implementation fell. Indeed, very few countries in Europe had action plans to address the issues they raised. The European Union, for example, was currently updating its security plan, which did not yet mention either resolution. Parliamentarians should lobby for inclusion of both S/RES/1325 and S/RES/1820. Another problem was that awareness of the resolutions rarely extended past parliament. International and regional bodies should use their influence to help parliaments ensure that all sectors of governance complied with the pertinent provisions. **NGOs and special focus groups** were also valuable assets in this regard, as they could keep informed of international standards and help raise awareness. More work should be done at the grassroots level to see how women’s organizations can use S/RES/1325 to advance the interests of women and girls.

It was emphasized that regional mechanisms, such as the Inter-American Commission on Human Rights, were a valuable source of inspiration that could guide the endeavours of other regional frameworks to end violence against women. The Council of Europe, which was negotiating a regional convention on domestic violence or on violence against women, should, for instance, draw on the Convention of Belém do Pará as an example of how to meet the challenges. ■

“The Inter-Parliamentary Union calls upon parliaments to ensure that CEDAW country reports systematically include information on violence against women, in particular statistical data disaggregated by sex, on legislation, on support services to victims and on other measures adopted to eliminate violence against women.”

IPU resolution, 114th Assembly, 12 May 2006, para. 2

The International and Regional Legal Frameworks to Address Violence against Women

Ms. Nathalie Stadelmann

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The international legal framework to address violence against women consists essentially of the CEDAW, its Optional Protocol and General Recommendation No. 19 (GR No. 19) issued by the Committee on the Elimination of Discrimination against Women (the CEDAW Committee).

The CEDAW, which was adopted by the United Nations General Assembly on 18 December 1979, has been ratified by 185 States and marked the first step in the creation of a comprehensive human rights framework for women and girls. It provides a broad definition of discrimination against women, direct and indirect, intentional and unintentional, under the law or in practice, in all aspects of public and private life, whether perpetrated by the State, its agents, private actors or individuals. The CEDAW therefore establishes far-reaching human rights guarantees. It seeks to:

- eliminate discrimination against women in the exercise of their economic, social and cultural rights and of their civil and political rights;
- eliminate discrimination against women in public and private or family life.

With the exception of Article 6, which concerns trafficking in women and exploitation of prostitution, the CEDAW does not explicitly address violence against women. Article 1 defines “discrimination against women”. The CEDAW Committee, a treaty body composed of 23 experts serving in their personal capacity, was established to monitor implementation of the CEDAW. It considers that violence against women constitutes discrimination within the meaning of Article 1 of the CEDAW and is contrary to the principles set out therein. It has increasingly taken up the States Parties’ obligations to address violence against women. One way of do-

ing this has been to draw up general recommendations.

Article 21 of the CEDAW empowers the CEDAW Committee to make general recommendations based on the examination of reports and information received from States parties. Those general recommendations are addressed to States parties and usually expound on the CEDAW Committee’s view of the obligations assumed under the CEDAW.

The most relevant general recommendation produced by the CEDAW Committee with regard to violence against women is GR No. 19, which was issued in 1992. This recommendation, which is the first “cross-cutting” general recommendation, clearly defines gender-based violence that impairs or nullifies the enjoyment by women of human rights and fundamental freedoms as discrimination within the meaning of Article 1, whether perpetrated by a State official or a private citizen, in public or in private life. Thus, the CEDAW Committee considers that States Parties are under an obligation to ensure its elimination. GR No. 19 sets out specific punitive, rehabilitative, preventive and protective measures States should introduce to fulfill this obligation. Paragraph 9 clearly states that “under general international law and specific human rights covenants, 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”. GR No. 19 is therefore remarkable in that it took gender-based violence out of the private realm into the public arena of international human rights engaging State responsibility. This has been crucial for the recognition of gender-based violence as a violation of human rights, and provided the impetus for the formulation and adoption of the Declaration on the

Elimination of Violence against Women, the creation of the mechanism of the Special Rapporteur on violence against women and the adoption of the various regional human rights instruments addressing this serious and pervasive violation. GR No. 19 has also had a profound impact on law reform and the formulation of policies and programmes to establish protection and remedies for women and girls subject to, or at risk of, violence. In addition, advocates and courts have relied on it to advance the interests of women and children in India, Canada and South Africa, to name but a few.

“The most relevant general recommendation produced by the CEDAW Committee with regard to violence against women is GR No. 19, which was issued in 1992. This recommendation, which is the first “cross-cutting” general recommendation, clearly defines gender-based violence that impairs or nullifies the enjoyment by women of human rights and fundamental freedoms as discrimination within the meaning of Article 1, whether perpetrated by a State official or a private citizen, in public or in private life.”

GR No. 19 requests States Parties to include, when they submit reports on implementation of the CEDAW, information on the legal measures taken to overcome violence against women and on their effectiveness.

Through its consideration of State Party reports, the CEDAW Committee has recognized several problems, including: definitions of rape that require use of force and violence rather than lack of consent; definitions of domestic violence that are limited to physical violence; failure to criminalize domestic violence and sexual harassment; an exemption for marital rape in rape laws; inadequate penalties for acts of violence against women, including short sentences for sexual violence and

mere fines for domestic violence, which convey a message that this infringement of human rights is not a serious crime; lenient punishment for perpetrators of violence; treating sexual violence against women as crimes against the honour of the family or crimes against decency rather than violations of women’s right to physical integrity; use of the defence of honour in cases of assault or murder of women and the related mitigation of sentences; provisions for mitigation of sentence in rape cases where the perpetrator marries the victim; termination of criminal proceedings upon withdrawal of a case by the victim; the lack of effective implementation of legislation. The CEDAW Committee has been especially concerned about the absence of regulations for the implementation of legislation; the lack of clear procedures for law enforcement and health care personnel responding to cases of violence; the attitudes of law enforcement officers that discourage women from reporting cases; high dismissal rates of cases by police and prosecutors; high withdrawal rates of complaints by victims; low prosecution rates of cases of violence against women; low conviction rates for perpetrators; lack of legal aid and the high costs of legal representation in courts.

Of particular relevance to violence against women, Article 5 of the CEDAW calls on States Parties to take all appropriate measures to modify the social and cultural patterns of conduct of men and women in order to eliminate prejudices and customary and other practices that are based on the idea either of one sex’s inferiority or on stereotyped roles for men and women; it thus requires the transformation of society and the family in order to achieve full gender equality.

The Optional Protocol to the CEDAW gives women access to justice at the international level. In itself, it does not create new substantive rights. What it does is allow women who have been denied access to their rights as enshrined in the CEDAW at the national level to have their claims reviewed by the CEDAW Committee. As of today, 94 States are party to the Optional Protocol.

The Optional Protocol establishes two procedures aimed at addressing violations of women’s rights:

- a communication procedure enabling the CEDAW Committee to review complaints with a view to

deciding if rights guaranteed by the CEDAW have been violated and identifying remedies for victims;

- an inquiry procedure enabling the CEDAW Committee to launch an inquiry into grave or systematic violations on its own initiative.

With regard to the communication procedure, the case-law relating to violence against women consists of three cases.

In the first, *AT v Hungary*¹, the petitioner claimed that Hungary had failed to meet its obligations to protect her from her former partner's physical violence and threats during a period of four years.

“GR No. 19 requests States Parties to include, when they submit reports on implementation of the CEDAW, information on the legal measures taken to overcome violence against women and on their effectiveness.”

Even though the CEDAW contains no provision on violence against women generally, and domestic violence in particular, the Committee's decision on the merits drew on GR No. 19, which defines violence “directed against a woman because she is a woman or [which] affects women disproportionately” as gender-based violence and a form of discrimination that may “breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence”.

The Committee noted, again on the basis of GR No. 19, that not only are States Parties to the CEDAW accountable for discrimination against women at the hands of the State or its agents, under general international law and specific human rights covenants they may 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. The Committee noted that the remedies the petitioner sought in this case were not capable of providing her with immediate protection against ill-treatment by her former partner and that the State's legal and institutional arrangements, although improving, were not yet ready to ensure the internationally expected, co-

ordinated, comprehensive and effective protection and support for victims of domestic violence, and that the State party itself had provided a general assessment that domestic violence cases did not enjoy high priority in the courts. Emphasizing that women's human rights to live and to physical and mental integrity cannot be superseded by other rights, including the rights to privacy and property, the CEDAW Committee concluded that the criminal and civil law remedies were insufficient to protect the petitioner from the continued violence of her former partner. It underscored the non-availability of protection orders, and criticized the greater protection the State Party appeared to accord to the right to private property than the petitioner's right to life and to physical and mental integrity. The Committee concluded that the lack of specific legislation to combat domestic violence constituted a violation of human rights and fundamental freedoms, particularly the right to security of person.

The two other individual cases dealing with violence against women are *Şahide Goekce (deceased) v Austria*² and *Fatma Yildirim (deceased) v Austria*³. They were submitted by the Vienna Intervention Centre against Domestic Violence and the Association for Women's Access to Justice on behalf of descendants of women who had been murdered by their husbands. Both cases concerned complaints of violations by the State Party resulting from its failure actively to take all appropriate measures to protect the dead women's right to personal security and life.

On the merits of the case, the CEDAW Committee recognized the State Party's comprehensive model to address domestic violence, but concluded that the political will this manifested must be backed up by State actors who adhere to the State Party's due diligence obligations to ensure that individual women victims of domestic violence enjoy the practical realization of the principle of equality between women and men and their human rights and fundamental freedoms. In both cases, the Committee noted that the perpetrators had been prosecuted to the full extent of the law but concluded that the State Party had violated its obligations under Article 2(a) and (c) to (f) and Article 3 of the CEDAW, read in conjunction with Article 1 and GR No. 19, and the corresponding rights of the deceased to life and mental integrity.

Under the inquiry procedure, the CEDAW Committee undertook an inquiry into the abduction, rape and murder of women in and around Ciudad Juárez, State of Chihuahua, Mexico. It recommended that Mexico “sensitize all state and municipal authorities to the need for violence against women to be regarded as a violation of fundamental rights, in order to conduct a substantial revision of laws from that standpoint”.

How can members of parliaments use both the CEDAW and its Optional Protocol to address violence against women?

Parliaments have a role to play in terms of both oversight and lawmaking. First, they play a part in overseeing implementation of the CEDAW Committee’s concluding observations. The Committee has emphasized the role that parliaments can play in the implementation of its recommendations. At its Forty-first session in July 2008, it decided, as part of its concluding observations, to strengthen that role by including a new paragraph inviting the State Party to encourage its national parliament to take the necessary steps with regard to the implementation of concluding observations and the Government’s next reporting process under the Convention⁴. Generally speaking, State reports are prepared by governments, but treaty bodies like the CEDAW Committee recommend that members of parliament be associated in the preparation process and the reports be presented to parliament before their submission to the relevant treaty body. Parliaments also have a role to play in the ratification of human rights instruments. In most countries, the decision to ratify an international instrument lies in the last resort with the parliament, which has to approve the ratification.

“Treaty bodies like the CEDAW Committee recommend that members of parliament be associated in the preparation process and the reports be presented to parliament before their submission to the relevant treaty body.”

Secondly, it is for national parliaments to adopt or revise laws so they comply with the international obligations the State has taken on by ratifying a human rights instrument. In that regard, both the recommendations made by the CEDAW Committee following its review of State reports and the case-law adopted by the Committee under the Optional Protocol offer useful guidance by setting standards for achieving progress. ■

Endnotes

- 1 Communication No. 2/2003, views adopted by the Committee on 26 January 2005, *Report of the Committee on the Elimination of Discrimination against Women on its thirty-second session*, A/60/38 (Part I) (2006).
- 2 CEDAW/C/D/5/2005.
- 3 CEDAW/C/D/6/2005.
- 4 The new paragraph on parliaments reads as follow: “While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the State party’s obligations under the Convention, the Committee stresses that the Convention is binding on all branches of Government and it invites the State party to encourage its national parliament in line with its procedures, where appropriate, to take the necessary steps with regard to the implementation of these concluding observations and the Government’s next reporting process under the Convention.”

The Security Council Resolutions 1325 and 1820

Ms. Nadine Puechguirbal

Adviser, Women and War, International Committee of the Red Cross (ICRC)

This United Nations Security Council issued two resolutions dealing specifically with the situation of women and war: resolution 1325 on women, peace and security, and resolution 1820 on women, peace and security, acts of sexual battery and violence on civilians in conflict. Resolution 1820 complements resolution 1325 in that it focuses on acts of sexual violence and on empowering women by asking them to get involved at the peace negotiation table and in conflict resolution.

There are two important points regarding resolution 1325. First, this resolution provided an important tool for shifting the United Nations system's focus from words to action. Second, the role and the efforts of non-governmental organizations in the build-up to the resolution were critical.

What does resolution 1325 provide? The Security Council has recognized, perhaps for the first time, the relevance of women's experience of conflict to its peace and security mandate. Women were considered not only as victims but also as actors. If one considers all resolutions, instruments or documents issued by the General Assembly and the Security Council, one realizes that the language is very often one of victimization. Resolution 1325 represents a departure from that practice in that it promotes women's participation in peace negotiations and consolidation and calls for increasing the representation of women at all levels of decision-making with a view to promoting security. Resolution 1325 also calls for all parties to a conflict and peacebuilding to protect women and girls from sexual violence and to end impunity for crimes against humanity affecting women. More detailed information on the implementation of resolution 1325 and good practices in various countries is available at www.peacewomen.org.

Resolution 1820 explicitly links sexual violence as a tactic of war to the maintenance of interna-

tional peace and security. Thus, it will no longer be possible to consider rape in war as an issue that does not warrant the capital attention of the Security Council.

This resolution recognizes sexual violence as a security issue that justifies a security response. The Security Council now has a clear mandate to intervene, including through sanctions and empowering field staff. Resolution 1820 also requests the United Nations Secretary-General to produce a comprehensive report on implementation and a strategy for improving information flow to the Security Council, which means better data to inform an enhanced response.

The resolution demands parties to a conflict to adopt concrete protection and prevention measures to prevent sexual violence, including training troops, enforcing military discipline, upholding common responsibility and vetting past perpetrators. This issue of accountability is very relevant.

There is a need to highlight the importance of women's participation in all processes related to ending sexual violence in conflict situations, including peace talks. That aspect was covered in resolution 1325, but the language is stronger in resolution 1820.

A comparative study to understand the differences and complementarities between resolution 1325 and resolution 1820 drew a number of interesting conclusions. Resolution 1325 was the first Security Council resolution to link women to the international peace and security agenda by addressing the impact of war on women and their contribution to conflict resolution and sustainable peace. Resolution 1820 is the first Security Council resolution to recognize sexual violence as a stand-alone security issue linked to reconciliation and the maintenance of international peace and security.

An evolution in the language is also discernible. In resolution 1325, the wording was to avoid amnesty for sexual violence “where feasible”, while in resolution 1820, sexual violence crimes are excluded from amnesty provisions. In resolution 1325, there is a requirement of training in protection rights and the needs of women, while in resolution 1820 there is a requirement for the specific training of troops in the prohibition of sexual violence.

In resolution 1325, there is no reference to sanctions for perpetrators, whereas in resolution 1820, sexual violence is identified as relevant to countries’ specific sanction regimes.

In resolution 1325, there is no strategy for improving information flow on women’s security to the Security Council, while in resolution 1820 there is mention of a global report by the Secretary-General on improving information flow on sexual violence, data collection trends and analysis due by 13 June 2009.

Resolution 1325 mentions special measures required to protect women and girls from sexual and gender-based violence, while resolution 1820 mentions measures that can concretely improve protection and assistance for women and girls.

Yet again, resolution 1325 highlights the need to maintain the civilian character of refugees and

internally displaced persons (IDP) camps and to design them in a way that helps prevent sexual violence. Resolution 1820 calls for the need to protect women and girls in United Nations-managed refugee and IDP camps. In resolution 1325, there is no mention of coordinating protection and assistance efforts, but resolution 1820 welcomes the coordination efforts of the United Nations against sexual violence in conflict.

In resolution 1325, there is no mention of the root causes of wartime rape, but resolution 1820 calls for addressing root causes, namely “debunking myths that fuel sexual violence”. Finally, in resolution 1325, there is no reference to the Peacebuilding Commission, but in resolution 1820, the Peacebuilding Commission is requested to advise on ways to address sexual violence.

In the final analysis, resolutions 1325 and 1820 are mutually reinforcing. Resolution 1820 is a focused response to a particularly weak area of implementation of resolution 1325, namely the prevention of sexual violence. Positioning sexual violence as a security issue broadens the consistency of resolution 1820, making it easier to engage security actors - uniformed peacekeepers, force commanders, or national security sector personnel - to make a meaningful impact. ■

Box 1: What Does 1820 Add to 1325?

Security Council Resolution 1325	Security Council Resolution 1820
○ First Security Council Resolution to link women to the peace and security agenda: addressing the impact of war on women and their contribution to conflict resolution and sustainable peace	○ First Security Council Resolution to recognise sexual violence as a self-standing security issue, linked with reconciliation and durable peace
○ Avoid amnesty “where feasible” [OP 11]	○ Exclusion of sexual violence crimes from amnesty provisions [OP 4]
○ Training on protection rights and needs of women [OP 6]	○ Specific training of troops on categorical prohibition of sexual violence [OP 3; 6; 7]
○ Need to maintain civilian character of refugee/IDP camps and design them in a way that helps prevent sexual violence [OP 12]	○ Develop mechanism for protecting women/girls in/around UN-managed camps [OP 10]
○ No reference to sanctions for perpetrators; mentions impact of sanctions on women [OP 14]	○ Sexual violence relevant to country-specific sanctions regimes [OP 5]
○ No strategy for improving information-flow to the Council	○ Global report due 30 June 2009 [OP 15]
○ “Special measures” to protect women and girls from SGBV [OP 10]	○ Itemises measures that can concretely improve protection and assistance [OP 13]
○ No mention of coordination	○ Welcomes coordination efforts of UN Action against Sexual Violence in Conflict [pp xiv]
○ No reference to root causes of war-time rape	○ Scope for addressing root causes: “debunking myths that fuel sexual violence” [OP 3]
○ No reference to Peacebuilding Commission (est. 2005)	○ Peacebuilding Commission to advise on ways to address sexual violence [OP11]

Source: UN Action against Sexual Violence in Conflict, June 2008, www.stoprapenow.org

UN Action against Sexual Violence in Conflict is a network of twelve UN entities working to end sexual violence. It is a concerted effort to improve coordination, amplify advocacy and support national efforts to prevent sexual violence and respond effectively to the needs of survivors. UN Action embodies the UN system response to Security Council Resolution 1820, recognizing sexual violence as a tactic of war.

Case Study:

The Inter-American Convention on the Prevention, Sanction and Eradication of Violence against Women (Convention of Belém do Pará)

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Main Points: Duties of States

The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, commonly referred to as the Convention of Belém do Pará, was adopted at the Twenty-fourth regular Session of the General Assembly of the Organization of American States (OAS), on 9 June 1994 in Brazil. It entered into force on 5 March 1995 and to date has been ratified by 32 of the 34 OAS Member States, making it the most ratified convention of the Inter-American system.

Approval of this treaty marked a significant step forward for women's rights and related international legislation and was the first one, at this level, to specifically address violence against women. Since 1995, the majority of Member States in the Americas have adopted or reformed legislation to bring it in line with the Convention of Belém do Pará. It has thus become a basic framework with guidelines about what is and must be done to combat violence against women.

Contents of the Convention of Belém do Pará: A Focus on the Duties of States

The Convention is divided into five chapters:

- Chapter I: Definition and Scope of Application
- Chapter II: Rights Protected
- Chapter III: Duties of the States
- Chapter IV: Inter-American Mechanisms of Protection
- Chapter V: General Provisions

It is a comprehensive instrument that approaches violence against women by taking into consideration the different elements that come into play in this form of human rights violation. To achieve the main objectives of prevention, sanction and eradication of violence against women, the Convention identifies appropriate means and encourages the development of adequate State policies.

Chapter III defines the duties of States, which are detailed in Articles 7, 8 and 9 and may be classified as follows:

- **Policies:** State Parties agree to pursue policies to prevent, punish and eradicate violence against women. Some of the means identified to ensure these objectives are:
 - Refrain from practices of violence against women.
 - Apply due diligence to achieve effectiveness of rights and access to justice.
 - Amend legislation or include specific domestic legislation and appropriate administrative measures.
 - Guarantee protection by all means.
 - Effective access to restitution, reparation or other remedies.
- **Specific Measures:** States Parties agree to undertake progressively specific measures, including programmes to:
 - Promote awareness and observance of women's right to be free from violence and respect of their human rights.

- Modify social and cultural behavioural patterns of men and women to counteract prejudices, customs and practices that promote inequality and discrimination, which in turn legitimize or exacerbate violence against women.
 - Promote education and training in the justice and law-enforcement sectors.
 - Promote education at the public and private level to raise awareness.
 - Encourage communications media to contribute to eradicate violence against women and to enhance respect for the dignity of women.
 - Provide specialized services for women victim of gender violence.
 - Research and gathering of statistics and other information.
 - Foster international cooperation.
- **Situations of vulnerability:** State Parties must take special account of the vulnerability of women to violence based on:
 - Race or ethnic background
 - Status of migrants, refugees or displaced persons
 - During pregnancy
 - Disability
 - Age
 - Disadvantaged for socioeconomic reasons
 - Affected by armed conflict or deprivation of freedom.

Contributions and achievements of the Convention of Belém do Pará

Basic principles

Among its basic principles, “the Convention expressly recognizes the relationship between gender based violence and discrimination, and indicates that violence of that kind is a reflection of the historically unequal power relations between women and men, and that the right of every woman to a life free of violence includes the right to be free from all forms of discrimination and to be valued and educated free of stereotyped patterns of behavior.”³¹

A definition of violence against women

The definition of violence against women provided by the Convention of Belém do Pará has been

a reference in pursuing strategies to prevent and eliminate violence against women and has led to the development of an important human rights framework. The Convention’s definition includes the different forms of violence and points out the areas of action in both the private and public spheres. This mention entitles and obliges States to intervene when violence against women occurs in the family, in the community or is performed or condoned by the State or its agents. The Convention’s definition has been a useful tool and framework of analysis for lawmakers, trainers, researchers, administration of justice officials and personnel and civil society organizations, among other sectors.

Definition and Scope of Application

- **Article 1:** For the purposes of this Convention, violence against women shall be understood as any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere.
- **Article 2.** Violence against women shall be understood to include physical, sexual and psychological violence:
 - a. that occurs within the family or domestic unit or within any other interpersonal relationship, whether or not the perpetrator shares or has shared the same residence with the woman, including, among others, rape, battery and sexual abuse;
 - b. that occurs in the community and is perpetrated by any person, including, among others, rape, sexual abuse, torture, trafficking in persons, forced prostitution, kidnapping and sexual harassment in the workplace, as well as in educational institutions, health facilities or any other place; and
 - c. that is perpetrated or condoned by the state or its agents regardless of where it occurs.

Encouragement of public efforts

The Inter-American Commission on Human Rights has observed that “the adoption of international human rights instruments such as the Convention of Belém do Pará and CEDAW has triggered, in both civil and common law countries, a series of pub-

lic efforts in the sphere of justice, legislation and government programmes, all calculated to eradicate violence against women”.²

Reform of national legislation in domestic violence

Prior to the Convention of Belém do Pará, few countries had laws on domestic violence. Immediately after its entry into force, and in conjunction with the signature and ratification process, many Member States adopted laws on domestic violence or criminalized such violence. By now, many countries have even proceeded to amend the existing laws, either to adapt them to the needs made apparent through practice, or to expand them to ensure more efficient and fair implementation.³

A follow-up mechanism: the MESECVI

In order to facilitate implementation at both the international and national levels, follow-up was perceived as a necessity and as a form of State reporting and accountability. As a result, and almost 10 years after the Convention’s adoption, the Organization of American States approved, on 26 October 2004, the “Statute of the Mechanism to Follow Up on Implementation of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, Convention of Belém do Pará, (MESECVI)”.

The preamble of the Statute stresses “that the existence of a mechanism to permit follow-up and analysis of the ways in which the Convention is being applied, and to facilitate cooperation among the

States Parties and among all OAS Member States, would contribute to fulfillment of its objectives” and the Statute itself establishes the following purposes:

- To follow up on the commitments undertaken by the States Parties to the Convention and review how they are being implemented;
- To promote the implementation of the Convention and contribute to achievement of the objectives established therein;
- To establish a system of technical cooperation among the States Parties, which shall be open to other Member States and permanent observer States, for the exchange of information, experiences, and best practices as a means to update and harmonize their domestic legislation, as appropriate, and attain other common objectives associated with the Convention. ■

Endnotes

- 1 “Access to Justice for Women Victims of Violence in the Americas”, Organization of American States, Inter-American Commission on Human Rights, 2007. <http://www.cidh.org>.
- 2 “Access to Justice for Women Victims of Violence in the Americas”, Organization of American States, Inter-American Commission on Human Rights, 2007. <http://www.cidh.org>.
- 3 Fourth Biennial Report on Compliance with Resolution Ag/Res. 1456 (Xxvii-O/97), “Promotion of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, Convention of Belém Do Pará, OAS. <http://www.oas.org/cim>.



LEGISLATING AGAINST VIOLENCE AGAINST WOMEN

4

Overview and Debate

The session discussed the importance of **legislation** as a critical parliamentary step in addressing violence against women. The plenary debate focused on the components of such legislation and provided examples of good practices.

The panellists were Ms. Christine Ainetter Brautigam, Chief, Women's Rights Section, United Nations Division for the Advancement of Women (UNDAW), and Ms. Rowena Guanzon, lawyer, Philippines. Ms. Brautigam briefly outlined the role of UNDAW on this topic, and then presented a current model framework for legislating against violence against women. Ms. Guanzon focused on the Anti-Violence against Women and their Children Act passed in the Philippines in 2004.

Ms. Brautigam: UNDAW serves to promote the principles of the Fourth World Conference on Women (Beijing 1995) and the agreed Platform for Action. In doing so, it functions as a secretariat for bodies dealing with gender equality by servicing meetings of intergovernmental bodies (including organizing ad hoc expert meetings and facilitating NGO participation), supporting and coordinating the work of the United Nations General Assembly, undertaking policy research and analysis on gender issues for Member States, and initiating capacity-building and outreach activities to ensure recommendations made in reports by the United Nations Secretary-General, national mechanisms and General Assembly resolutions are disseminated and implemented. Parliamentarians should be aware of the crucial resolution passed by the General Assembly on the intensification of efforts to eliminate discrimination against women (A/RES/61/143). UNDAW collaborates with partners and often draws on the efforts of other organizations and committees when developing frameworks for legislation on gender-based violence. The resolution on

violence against women adopted by the IPU in 2006 has been very relevant to UNDAW's work. Parliamentarians are advised to review this resolution as an example of a framework for enacting and enforcing legislation against the perpetrators of practices and acts of violence against women and children. Similarly, UNDAW also draws on the concluding observations of the CEDAW Committee as a point of reference on trends in legislating against violence against women.

A number of organizations have emphasized that the development of legislation has thus been a crucial component of any strategy designed to end violence against women. UNDAW has compiled a number of **guidelines** that can help shape legislation and ensure that it is used most effectively. These guidelines recognize, firstly, the importance of a clear legislative goal that promotes and contributes to the fulfillment of women's rights and, secondly, that consultation with all relevant stakeholders from the outset is critical for legislation to be developed and implemented successfully. The legislation should, moreover, be drafted on the basis of evidence and strong human rights principles, and must retain a clear idea of what it aims to achieve. As a last point, it is vital for parliamentarians to ensure a coordinated and gender-sensitive approach to **implementation** once the legislation has been passed.

These guidelines were used during an **expert group meeting** in 2008 to draft a model framework for legislation based on good practices, which serves as a tool for the development, adoption and amendment of legislation that punishes perpetrators and ensures that the rights of survivors are protected. This comprehensive framework puts forward recommendations on the content of legislation on violence against women and calls for either the de-

velopment of new legislation or the amendment of existing laws, to address specific areas of concern. It makes recommendations on twelve aspects that need to be addressed in the law in order for it to acknowledge adequately violence against women as gender-based discrimination and a violation of human rights requiring prosecution and punishment in a way that is consistent with the gravity of the crime committed.

The expert group described several aspects that such laws must cover, including: a comprehensive definition of violence against women; a strategy for implementation, monitoring, prevention and protection; and guaranteed prosecution and punishment for perpetrators. The recommendations made by the expert group under these sub-headings are far-reaching and cover a broad range of elements from data collection to training of officials and mechanisms for protecting survivors. The **model framework** also outlines the provisions that must be in place to ensure that the right of complainants to seek access to justice in family and civil law proceedings is adequately protected. Crucially, it also recommends that the legislation should recognize that violence against women constitutes persecution and that survivors or those under threat of violence may seek protection under asylum law.

The report of the expert group meeting in which this model framework can be found also provides **good practice** examples and explains where and how the recommended provisions are currently reflected in legislation. It is therefore a valuable source of information that enables parliamentarians to draw on the experience of countries from around the world. Moreover, quantitative analyses carried out by UNDAW have shown that only approximately 50 per cent of countries currently have laws that address specific issues such as domestic violence.

Ms. Guanzon: The approach used in the Philippines to legislate on violence against women is one example of a good practice referenced by UNDAW. The **Anti-Violence against Women and their Children Act** is based on the model framework recommended by the UN Special Rapporteur. It is gender-specific and contains a broad definition of violence against women encompassing all forms of physical, psychological, emotional, sexual and economic violence. It provides for both civil and criminal remedies: women can file for protection orders,

divorce or legal custody of children, as well as filing a criminal suit for violation of the law. Crucially, such cases are handled by the family courts, which have jurisdiction to consider incidents of violence in both past and present relationships. Moreover, an inter-agency council composed of both governmental and non-governmental agencies has produced implementing rules and regulations that outline the duties of all authorities.

“One of the main challenges facing parliamentarians in their efforts to end violence against women is the lack of budget allocations for the mechanisms provided for under the law.”

In recognition of the need to prevent acts of violence, the law outlines in detail the various ways in which women can obtain a **protection order**. The fact that three types of protection order, two temporary and one permanent, are available under the law reflects the urgent need to offer immediate protection for vulnerable women. Impoverished women in rural communities are often those most at risk, and the law therefore provides for a “*barangay* protection order” that is specifically designed to protect such women, who might not have access to courts or to the necessary resources. Under the law, the authorities can be held accountable if they fail to protect a woman from an aggressor.

The law also includes provisions that aim to encourage the **reporting of cases** of violence. It recognizes post-traumatic stress disorder and exempts from criminal liability violence in response to battery. It also contains special measures that protect the rights of social workers to carry out their functions in safety.

One of the main challenges facing parliamentarians in their efforts to end violence against women is **the lack of budget allocations** for the mechanisms provided for under the law. The costs of litigation and corruption within the judiciary deprive victims of protection of some of their rights. It is therefore vital to fund national support services and provide free legal aid. Public hearings on the budget should be used as an opportunity to assess the effectiveness of anti-violence laws and advocate for increased

funding. Violence against women is a cross-cutting issue, and it remains to be seen how legislation on gender violence can be effectively synchronized with other laws on, for example, labour, immigration, business and divorce.

Plenary debate

- Does your country have one comprehensive law on violence against women or various laws addressing its different forms?
- Legislation can and should include prevention, response to victims, redress, penalization, enforcement and monitoring mechanisms, etc. What is the most challenging to legislate on?
- To what extent has your parliamentary committee been involved in the development of legislation on violence against women? What were the difficulties it faced in doing so?

The comments made during the plenary debate suggest that most countries address violence against women through **multiple laws** rather than one comprehensive act. The participants noted that there were strengths and weaknesses to both approaches. Proponents of the multi-legislation approach argued that a single law would overgeneralize the issues and consequently might not guarantee the necessary standards of protection. On the other hand, an approach based on multiple laws would result in a fragmented protection framework and the possibility that groups of vulnerable women would fall through the cracks. The frequency with which cases of violence still occurred was an indication that the best approach remained to be found.

The participants discussed some of the challenges they still faced. While most countries now had legislation in place targeting **prevention, protection and punishment**, for many, prevention remained a problem. Establishing an effective system for preventing violence was a challenge as it required an active inquiry process that must be intrusive enough to enter the private sphere and examine the root causes of violence in relationships. The right to privacy and personal integrity had to be weighed against the right to protection, a balance that was often difficult to strike and frequently resulted in legislation that could not be implemented. It was

also noted that more legislation was needed to **strengthen penalties and sentences** for first and repeat offenders.

“Public hearings on the budget should be used as an opportunity to assess the effectiveness of anti-violence laws and advocate for increased funding.”

A second challenge was the often long and tedious process of adopting legislation, which undermined the effectiveness of crucial laws. In addition, many countries made no budget allocations for legislation on violence against women. It could be especially hard to secure **funding for monitoring mechanisms** that could be used to oversee implementation. Governments tended to shrug off the fact that existing legislation might not be implemented properly, making it difficult to mobilize support for additional laws or funding that could be used to enforce compliance. More had to be done to raise public awareness of violence in order to mobilize government support. This was a particular challenge as in many countries there was still widespread indifference towards gender-based violence, both in government and in society.

Ms. Brautigam said that parliamentarians should see the **gap between legislation and implementation** as an opportunity to improve existing practice. She also reminded the participants that organizations such as UNDAW and the IPU were available to provide assistance and advice on tools, frameworks and best practices. In terms of legislation, the panellists emphasized the need for a **strategy** that was both comprehensive and focused on prevention and monitoring. Information-gathering was key to monitoring the effectiveness of legislation. Here, parliamentarians had an active role to play and should conduct interviews with stakeholders or members of civil society and seek information from members of the executive on the progress and shortcomings of legislation and implementation. A pro-active parliament was an absolute necessity in this regard; strong laws must be passed on controversial issues in order to draw attention to them, even if implementation remained a challenge. ■

Legislation on Violence against Women: A Model Framework

Ms. Christine Ainetter Brautigam

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Introduction

Laws are a critical component of all efforts to address violence against women. International and regional legal and policy instruments consistently emphasize the importance of such legislation. States are required under international law to exercise due diligence to prevent acts of violence against women; to investigate such acts and prosecute and punish perpetrators; and to provide redress and relief to victims. Human rights treaty bodies, in particular the CEDAW Committee, regularly advise States on how to bring their domestic legislation on violence against women into conformity with global standards and ensure that violence against women is prosecuted and punished, and that victims/survivors have adequate means of redress and protection.

“In 2008, the Secretary-General included the adoption and enforcement of national laws to address and punish all forms of violence against women and girls, in line with international human rights standards, in all countries by 2015, as one of the five key outcomes of his Campaign UNiTE to End Violence against Women.”

The landmark United Nations Declaration on the Elimination of Violence against Women of 1993¹ calls on Member States to develop sanctions in domestic legislation to punish and redress the wrongs caused by violence against women, to provide access to just and effective remedies for victims, and to ensure that

women are not re-victimized because of laws insensitive to gender considerations. The 1995 Beijing Platform for Action² urges States to adopt, implement, and periodically review and analyse legislation in order to ensure its effectiveness in eliminating violence against women, and emphasizes the prevention of violence and the prosecution of offenders.

In recent resolutions, the United Nations General Assembly has recommended action to evaluate and assess the impact of legislation and, where necessary, reinforce criminal law and procedure. It has also identified as a best practice the incorporation into law of measures aimed at preventing violence against women³. The Inter-Parliamentary Union adopted a resolution in 2006 on the promotion, by Parliaments, of effective ways of combating violence against women in all fields.

The Secretary-General of the United Nations, in his 2006 in-depth study on all forms of violence against women, likewise placed great emphasis on the need for effective legislation⁴. In 2008, the Secretary-General included the adoption and enforcement of national laws to address and punish all forms of violence against women and girls, in line with international human rights standards, in all countries by 2015, as one of the five key outcomes of his Campaign *UNiTE to End Violence against Women*⁵. This decision is part of concerted attention and action at the global level to clarify and reinforce the obligations of States to strengthen legislation on violence against women.

A model framework for legislation on violence against women

In May 2008, the UNDAW convened an expert group meeting to develop a model framework for

legislation on violence against women⁶. The main purpose of the framework is to assist States and other stakeholders in enhancing existing, and developing new legislation on violence against women; and to support the adoption and enforcement of legislation which prevents violence against women, punishes perpetrators, and ensures the rights of survivors everywhere. Towards this end, the framework presents recommendations on the content of legislation, together with explanatory commentary and good practice examples. While many of the framework's recommendations are applicable to all forms of violence against women, some are specific to certain forms of violence, such as domestic violence or sexual violence.

The framework is divided into fourteen chapters, covering: (a) general aspects (chapters 1 – 4); (b) prevention (chapter 5), (c) protection and support (chapters 5 – 7); and (d) investigation, prosecution and sentencing (chapters 8 – 11). Chapters 12 – 14 cover issues in relation to (e) civil law suits; and to family and asylum law. The main issues covered under each chapter are highlighted below.

(a) General aspects

Based on experience gained over the past two decades with legislation on violence against women, the framework confirms the need for a comprehensive legislative approach. Legislation should encompass not only the criminalization of all forms of violence and the effective prosecution and punishment of perpetrators, but also include provisions on prevention and the empowerment, support and protection of victims/survivors. The framework emphasizes that legislation should acknowledge that violence against women is a form of gender-based discrimination and a violation of the human rights of women. Definitions of all forms of violence against women covered in the law should be broad and in accordance with international human rights standards.

Legislation should contain provisions for its effective implementation and monitoring, such as a requirement for the elaboration of a comprehensive national action plan or strategy, or, where these exist, reference them as the framework for the comprehensive and coordinated implementation of the legislation. It should provide for a budget; as well as for the enactment of rules, regulations, protocols and similar subsidiary and follow up measures necessary for the law's full and effective implementation. It is

also important that the law mandates the creation of specialized institutions, for example within the police, prosecutors' offices and the courts, responsible for the implementation of legislation pertaining to violence against women.

There is also a need for dedicated institutional mechanisms to monitor the implementation of the law, including the identification of gaps and challenges. Comprehensive legislation should provide for the regular collection of statistical data and research to ensure an adequate knowledge base for effective implementation and monitoring.

(b) Prevention

The incorporation of prevention provisions in legislation on violence against women is a relatively new development. The framework recommends that the law should prioritize prevention and include provisions on a range of measures, such as awareness-raising campaigns, sensitization of the communications media, and the use of educational curricula to modify discriminatory social and cultural patterns of behaviour. Such elements are indicative of a law's comprehensive approach to tackling the root causes of violence against women, including attitudes and behaviours that perpetuate such violence.

“Legislation should encompass not only the criminalization of all forms of violence and the effective prosecution and punishment of perpetrators, but also include provisions on prevention and the empowerment, support and protection of victims/survivors.”

(c) Protection and support

Legislation increasingly focuses on empowering and supporting the victim/survivor. The framework therefore calls for legislative provisions that ensure survivors' access to comprehensive and integrated support services and assistance, including hotlines, shelters/refuges, legal assistance, counselling services, as well as support in regard to employment and housing. The framework also calls for attention to be given to the particular needs of immigrant women survivors of violence.

(d) Investigation, prosecution and sentencing

The framework provides detailed recommendations for preventing, or reducing, the re-victimization of the victim/survivor through the legal process and the protection of the rights of complainants/survivors during legal proceedings. It elaborates the duties of police officers and prosecutors, and includes measures in regard to court room procedures and evidence.

Emphasis is placed on the need for the law to provide for protection orders, as well as for the criminalization of the violation of such orders. The law should also ensure that sentences are consistent with the gravity of the crime committed. No exceptions or reductions of sentences should be granted for perpetrators of violence against women in certain circumstances, such as, for example, when a rapist marries his victim.

“A strong legislative framework is essential and provides the foundation for a holistic and effective response to all forms of violence against women. The role of parliamentarians is critical in closing legislative gaps.”

(e) Civil, family and asylum law

In addition to the criminal justice perspective, other areas of the law, such as family, civil and asylum law, are critical for effectively protecting women from all forms of violence and for ensuring survivors’ access to justice and remedies for. This is especially important in custody or divorce proceedings. The framework spells out particular areas for attention, including issues of alimony and the right to remain in the family dwelling. The framework calls for legislation enabling survivors to bring civil lawsuits against perpetrators, as well as against third parties for failure to act with due diligence. Finally, legislation should provide that violence against women may constitute persecution and that complainants/survivors of such violence should constitute “a particular social group” for the purposes of asylum law.

Conclusion

Laws on violence against women have evolved markedly over the past two decades. Efforts in this area can therefore benefit from the lessons learned and good practices in many parts of the world. The model framework synthesizes these experiences and serves as a tool for further improvements. As noted in the Study of the Secretary-General on violence

Guidelines for developing legislation	Recommended content of legislation
<p>When drafting legislation it is important to:</p> <ul style="list-style-type: none">✓ Define the legislative goal✓ Consult with all relevant stakeholders✓ Draw on reliable data and research✓ Adopt a human rights perspective, including by:<ul style="list-style-type: none">✓ addressing violence against women as a form of based gender✓ making clear that violence against women is unacceptable and that eliminating it is a public responsibility; and✓ ensuring that complainants/survivors are not revictimized through the legal process	<p>✓ What should be included/addressed in the law:</p> <ul style="list-style-type: none">✓ Legislative preamble✓ Implementation✓ Monitoring and evaluation✓ Definitions✓ Prevention✓ Protection, support and assistance to complainants/survivors✓ Investigation and legal proceedings✓ Protections orders✓ Sentencing✓ Family law cases involving violence against women✓ Civil law suits✓ Asylum law and violence against women

against women, legislative lacunae remain in many parts of the world. The Secretary-General's database on violence against women⁷, launched in March 2009, provides information about measures taken by United Nations Member States of the to address violence against women, including trafficking, in a number of areas, such as legal frameworks, policies and programmes, services for victims, data and statistics, and promising practices. A strong legislative framework is essential and provides the foundation for a holistic and effective response to all forms of violence against women. The role of parliamentarians is critical in closing legislative gaps. ■

Endnotes

- 1 A/RES/48/104 of 20 December 1993. <http://daccess-dds.un.org/doc/UNDOC/GEN/N94/095/05/PDF/N9409505.pdf?OpenElement>
- 2 <http://www.un.org/womenwatch/daw/beijing/platform/index.html>
- 3 For the work of the General Assembly on violence against women see: <http://www.un.org/womenwatch/daw/vaw/v-work-ga.htm>
- 4 A/61/122/Add 1 and Corr.1. The study and related information are available at: <http://www.un.org/womenwatch/daw/vaw/v-sg-study.htm>.
- 5 For information on the Secretary-General's Campaign see: <http://endviolence.un.org/>.
- 6 Information about the expert group meeting is available at : http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/vaw_legislation_2008.htm. The *Model framework* is contained in the report of the meeting, at: [http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/Report%20EGMGPLVAW%20\(final%2011.11.08\).pdf](http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/Report%20EGMGPLVAW%20(final%2011.11.08).pdf). A *Handbook for legislation on violence against women* is forthcoming and will be available at the website of the Division for the Advancement of Women, at: <http://www.un.org/womenwatch/daw/vaw/index.htm>.
- 7 <http://www.un.org/esa/vawdatabase/>

BOX 2:

THE UN SECRETARY-GENERAL'S DATABASE ON VIOLENCE AGAINST WOMEN¹

About the database

Background

In December 2006, the General Assembly of the United Nations adopted a comprehensive resolution calling for an intensification of efforts to eliminate all forms of violence against women and requesting the Secretary-General to establish a coordinated database on the extent, nature and consequences of all forms of violence against women, and on the impact and effectiveness of policies and programmes for, including best practices in, combating such violence.

Sources of information

The primary source of information for the database is the responses received from Member States to the questionnaire on violence against women, of September 2008, and subsequent updates. Other sources of information include:

States parties' reports to human rights treaty bodies

Information provided by Member States in follow-up to the Fourth World Conference on Women (1995); for reports of the Secretary-General; and in statements made at the United Nations

Information available through relevant United Nations entities

How to use the database

Advanced search: The "advanced search" function allows the user to search the database by: type of measure; form of violence; country/region; year; and keyword. This is the most comprehensive and systematic method of searching the database.

Country pages: Each country page provides the user with a comprehensive and easily printable list of available information on measures undertaken by the selected country.

Good practices page: The good practices page provides a full listing of measures identified as good practices, with a particular focus on good

practices in law; in service provision; and in prevention. This page will be developed over time to expand the list of good and promising practices.

Unguided search: Users may search the database using the search field in the top right-hand corner of the page. However, this search will return only those records that contain the exact language that the user has entered and is therefore likely not to return as many results as the advanced search option.

The database and multilingualism

Users may search the database in all six official languages of the United Nations. However, individual records in the database currently contain information only in English and/or the language in which information was submitted. If a record sought by the user is not available in the requested language, the information will be provided in English and/or the language in which it is available.

Contact information

The Division for the Advancement of Women/Department of Economic and Social Affairs (DAW/DESA) functions as the secretariat of the database. The Division may be contacted at:

Address: 2 UN Plaza, DC2-12th Floor, New York, NY 10017, USA - Fax: +1-212-963-3463

Member States: to update information in the database, please send an email to vawdatabase@un.org.

Endnote

- ¹ Source: United Nations Division for the Advancement of Women/Department of Economic and Social Affairs (2009) "About the database", *UN Secretary-General's database on violence against women*. [Online] Available from: <http://www.un.org/esa/vawdatabase>. Last accessed 31 March 2009.

Case Study:

Laws on Violence against Women in the Philippines*

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Background

Since 1995, violence against women has captured the attention of the Philippine Government and legislators, propelled by the demand of a growing women's human rights movement and by the CEDAW, its Optional Protocol¹ and other international conventions. The Beijing Conference on Women in 1995 heightened the demand of women's rights advocates for laws protecting women from violence.

Progressive reform of the laws protecting women has been brought about by several factors: the democratization process that began in the 1986 People Power Revolution after the fall of the Marcos dictatorship, the 1987 Constitution² and its specific provisions on the rights of women and fundamental equality before the law of men and women, the growing number of women's organizations in the provinces with links to Metro Manila-based women's rights organizations³, and the participation of women legislators who are becoming increasingly aware of the need for gender equality and the elimination of violence against women. This period is marked by the contribution of women legislators who were elected in the 1988 elections and thereafter.⁴

Laws on violence against women before the 1987 Constitution

In criminal law:

Before special laws addressing violence against women were passed, women could only resort to the

Revised Penal Code⁵ for offences committed against them by their husbands, such as physical injuries or attempted or frustrated parricide. Intimate partners could be charged with physical injuries, attempted or frustrated homicide, or rape. A woman could not charge her husband with rape. There was no offence of "battering", which therefore came under "physical injuries", or "sexual harassment", which was covered by "acts of lasciviousness".⁶

Other forms of violence, e.g., verbal, emotional, psychological or economic abuse (such as deprivation of support), were not punishable under the Revised Penal Code or any special law before the Anti-violence against Women and Their Children Act of 2004 was passed.

There was no recognition of crimes against women as gender-based violence. Rape was classified as a "crime against chastity" until it was amended as a "crime against persons". Its classification as a crime against chastity reflected the gender bias against women and stereotyping about rape, which required women to prove in court that they were chaste or "virgins" for the judges to believe they had indeed been raped, even though "chastity" is not an element of the crime.

In civil law:

Before the adoption of the Family Code of the Philippines (August 1988), provisions in the New Civil Code treated the wife as a subordinate subject of the husband. For example, the husband was the sole administrator of the conjugal partnership. Under the Family Code, the husband and

* This presentation is a reproduction of a paper prepared for the expert group meeting on good practices in legislation on violence against women, United Nations Office on Drug and Crime and United Nations Division for the Advancement of Women, United Nations Office at Vienna, Austria, 26 to 28 May 2008. Reproduced with permission of the author.

the wife now have joint administration of conjugal or community property. In reality, the husband controls the conjugal or community property, although the law provides that in case of disagreement, the husband's decision shall prevail but the wife can go to court to void the contract entered into by the husband within five years of his action.⁷

Battered women have no easy recourse because there is no divorce law in the Philippines.⁸ Instead, the Family Code provides for "psychological incapacity" as the only ground for nullity of marriage.⁹ It provides for legal separation on the grounds of *repeated* physical abuse, grossly abusive conduct, abandonment for at least one year and attempt on the life of the spouse. A woman has to prove physical abuse committed at least two times before she can be granted legal separation and forfeit the share in the conjugal or community property of the guilty husband in favor of common children.

The 1987 Constitution

The 1987 Constitution contains provisions on women that were absent in the previous Constitution. These, as well as United Nations conventions, are the basis for the special laws protecting the rights of women. They are as follows:

ART II. DECLARATION OF STATE PRINCIPLES AND STATE POLICIES

PRINCIPLES

Sec. 2 The Philippines renounces war as an instrument of national policy, and adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

STATE POLICIES

Sec. 11 The State values the dignity of every human person and guarantees full respect for human rights.

Sec. 14 The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.

ART. XIII SOCIAL JUSTICE AND HUMAN RIGHTS

Sec. 14 The State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation.

Laws on violence against women

Since 1995 a Family Courts Act¹⁰ has been adopted that provides for the jurisdiction of family courts in cases involving domestic violence or violence against women and in cases wherein the complainant or defendant is a child, and six laws have been enacted on violence against women in the Philippines. These are the Anti-Sexual Harassment Act of 1995, the Anti-Rape Act of 1997, the Rape Victims Assistance Act, the Act Declaring Unlawful the Matching of Filipino Mail Order Brides to Foreigners, the Anti-Trafficking in Persons Act of 2003, and the Anti-Violence against Women and Their Children Act of 2004.

The Anti-Sexual Harassment Act of 1995 or Republic Act No. 7877 (14 February 1995)

The Anti-Sexual Harassment Act of 1995 covers work, education or training-related sexual harassment. It requires employers in the public and private sector to create a committee on decorum and investigation of cases of sexual harassment, and to promulgate policies and rules on sexual harassment. However, it has a restricted definition of the offense, which requires that the offender has to have authority, influence or moral ascendancy over the victim, thus excluding peer sexual harassment. The penalty of imprisonment of one to six months or a fine or both fine and imprisonment is too light and does not deter offenders. Because the penalty is less than six years' imprisonment, a first-time offender can escape jail by applying for probation.

The Civil Service Commission has a more progressive Administrative Disciplinary Rule on Sexual Harassment that applies to all officials in government, including presidential appointees and elective officials, state colleges and universities, in-

cluding government-owned or controlled corporations. The Administrative Disciplinary Rule defines sexual harassment as “an act, or a series of acts, involving any unwelcome sexual advance, request or demand for a sexual favour, or other verbal or physical behaviour of a sexual nature, committed by a government employee or official in a work-related, training or education-related environment of the person complained of”. It includes sexual harassment by a peer and by a person of lower rank or of the same sex. It provides a procedure which is easy to use, and imposes appropriate penalties for grave, less grave and light offences, ranging from suspension to dismissal.

The Supreme Court also has an administrative rule on sexual harassment covering all employees but excluding judges. The latter are covered by the New Code of Conduct for the Judiciary. The Supreme Court has dismissed judges who were found guilty of sexual harassment.

The Anti-Rape Act of 1997 or Republic Act No. 8353 (30 September 1997)

This law amended the provisions on rape in the Revised Penal Code.¹¹ It is notable for mainstreaming the gender perspective in the law and in the process of law-making. Legislators and women’s human rights advocates and organizations were involved in a participatory process that led to the gradual strengthening of the laws on violence against women starting in 1997 and the use of United Nations conventions as the basis for the State policies expressed in these laws. Women’s rights organizations¹² played a notable role in the passage of Republic Act No. 8353 and the other laws addressing violence against women that followed.

Salient features of the Anti-Rape Act of 1997 are:

- a. Women, girls, men and boys can be complainants in rape, because aside from rape by carnal knowledge of a woman through force, threat, intimidation, when the offended party is deprived of reason or otherwise unconscious, or by means of fraudulent machination or grave abuse of authority, and when the offended party is under twelve years old or is demented even though none of the circumstances above mentioned is present, the law provides for rape by sexual assault, committed by inserting

the penis into another person’s mouth or anal orifice, or any instrument or object, into the genitalia or anal orifice of another person.

- b. Marital rape is punishable, although forgiveness by the wife erases the liability.

Unlike Republic Act No. 9262 or the Anti-Violence against Women and Their Children Act of 2004, the Supreme Court does not have a rule specifically for trial of rape cases, which could, for example, include the rape shield rule and decorum for lawyers, judges and prosecutors in the conduct of the trial. The rape shield rule for women victims of rape is provided for in Section 6 of Republic Act No. 8505 or the Rape Victims Assistance Act, not in the Anti-Rape Act of 1997.

Rape Victims Assistance Act or Republic Act No. 8505 (13 February 1998)

After the Anti-Rape Act of 1997, Republic Act No. 8505 was passed to provide assistance and protection for rape victims and establish a rape crisis centre in every province or city. These centres should provide psychological counselling, medical services and free legal assistance, ensure privacy of victims, outline the duties of the police, and commission training programmes on human rights and gender sensitivity for medico-legal officers, social workers, *barangay* (village) officials, law enforcers, public prosecutors and lawyers.

The rape shield rule is provided for in Section 6 of this law, which provides that no questions may be asked about the past sexual conduct, opinion thereof or reputation of the complainant, although such questions may still be allowed by the judge if relevant. The main problem with this law is the lack of funds available for the local government units (provinces, cities and municipalities) tasked with putting up rape crisis centres with trained personnel.

An Act declaring unlawful the matching of Filipino mail order brides to foreigners or Republic Act No. 6955 (13 February 1988)

This law penalizes the matching of Filipino women for marriage to foreigners by “mail order”. The penalty is imprisonment of not less than six years and

one day but not more than eight years and a fine; if the offender is a foreigner, he or she is to be deported and forever barred from entering the country after serving his or her sentence.¹³

“Legislators and women’s human rights advocates and organizations were involved in a participatory process that led to the gradual strengthening of the laws on violence against women starting in 1997 and the use of United Nations conventions as the basis for the State policies expressed in these laws.”

Anti-Trafficking in Persons Act of 2003 or Republic Act No. 9208 (26 May 2003)

This law, in its section on State policies, and in the Anti-Violence against Women and Their Children Act of 2004 cite United Nations conventions, specifically the Declaration on Human Rights, the Convention on the Rights of the Child, the Convention on the Protection of Migrant Workers and their Families, and the Convention against Transnational Organized Crime, including its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The Senate was keen to pass the Anti-Trafficking in Persons Act after it had ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. As a result, the law defines trafficking in persons using the United Nations definition.

The salient features of this law are:

- a. It emphasizes the vulnerability of victims, so that trafficking can be committed with or without the consent of the trafficked persons, who are considered victims;
- b. It imposes a penalty of 20 years in prison and a fine for acts of trafficking and 15 years and a fine for acts that promote trafficking;
- c. It sets the maximum penalty (life imprisonment) when the victim is under 18, when the offender is a syndicate of three or more, when the offender is an ascendant, parent, sibling, guardian or person who exercises authority over the victim, or a public officer or employee

or military or law enforcer, or committed by a syndicate of three or more persons or if committed against three or more persons, when the trafficked person is recruited to engage in prostitution with any member of the military or law enforcement agencies;

- d. It penalizes the person who buys or engages the services of a trafficked person;
- e. It defines trafficking is a public crime, so any person who has personal knowledge of the crime may file the complaint;
- f. It provides for mandatory services for trafficked persons such as emergency shelter, counselling, free legal services, medical or psychological services, livelihood and skills training, and education assistance;
- g. It provides for the establishment of the Inter-Agency Committee on Trafficking composed of government agencies and non-governmental organizations (NGOs).¹⁴ The Inter-Agency Committee formulated the implementing rules and regulations for this law, describing the duties of implementers and guidelines for compliance.¹⁵

Anti-Violence against Women and Their Children Act of 2004 or Republic Act No. 9262 (took effect on 27 March 2004)

The Anti-Violence against Women and Their Children Act of 2004 (hereinafter referred to as the Anti-Violence against Women Act) is the outcome of a decade of advocacy by victim-survivors, women’s human rights advocates and organizations, women legislators, government agencies and the National Commission on the Role of Filipino Women.¹⁶ The passage of this law marks the State’s compliance with its obligations under the CEDAW, which the Philippines ratified in 1981, and its Optional Protocol, which was ratified by the Philippine Senate in 2003.

The broad definition of violence against women in the law echoes the Declaration on the Elimination of Violence Against Women, referring to “any act or series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which results in or is likely to result

in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty". It covers all forms of violence: physical, sexual, psychological and economic. Economic abuse includes deprivation of support for the lawful wife and minor children, which is a common problem in the Philippines.

The law is gender-specific, protecting the rights of women only and their children. Only women may file actions under the Anti-Violence against Women Act, while the offenders may either be men or women with whom the victims are or were in relationships, because the definition includes past or present sexual or dating relationships.

The Anti-Violence against Women Act provides for both the civil remedy of a protection order and a criminal action. An *ex parte* Temporary Protection Order is to be issued by the judge within twenty-four hours from the filing of the verified application upon a finding that there is reasonable ground to believe that an imminent danger of violence to the woman and her children exists or is about to recur. After hearing on the merits, a Permanent Protection Order may be granted.

The relief of Temporary and Permanent Protection Orders may be filed as an independent action, or together with an action for damages, support, custody, legal separation, or nullity of marriage. If the offended party chooses to file a criminal action, the petition for protection order is deemed instituted with the criminal action¹⁷ so that a Temporary Protection Order may be issued during the trial. In case of conviction, the Permanent Protection Order is issued as a matter of course. In the case of an acquittal, where the judgement declares that the quantum of evidence is not enough to sustain a conviction beyond reasonable doubt, the court shall determine whether or not to issue a Permanent Protection Order¹⁸.

Pursuant to the Framework for model legislation on domestic violence drawn up by the United Nations Special Rapporteur on violence against women, the Anti-Violence against Women Act contains provisions on the following items:

1. Complaints mechanism and duties of police officers, in:

Sec. 29. Duties of prosecutors and court personnel to inform the woman of her rights, remedies, procedure, and privileges for indigent litigants.

Sec. 30. Duties of *Barangay* (village) Officials and Law Enforcers: They must respond immediately to a call for help by entering the dwelling if necessary, whether or not a protection order has been issued, and ensure the safety of the victim; confiscate deadly weapons; transport the victim to a safe place of their choice or to a clinic or hospital; assist the victim in taking personal belongings from the house; ensure enforcement of protection orders issued by the village official or by the courts.

Sec. 31. Duties of health care providers.

Sec. 32. Duties of other government agencies and local government units, such as education and information campaigns on violence against women and the law.

2. Ex parte Protection Orders

An *ex parte* Temporary Protection Order (TPO) is issued by the judge within 24 hours from the filing of the verified application upon a finding that there is reasonable ground to believe that an imminent danger to the woman exists or is about to recur.

Who may file for a protection order

A petition for protection order may be filed by any of the following¹⁹:

- a. the offended party,
- b. parents or guardians,
- c. ascendants, descendants or collateral relatives within the fourth civil degree of consanguinity or affinity,
- d. officers or social workers of the Department of Social Welfare and Development or social workers of local government units (provinces, cities, municipalities),
- e. police officers, preferable those on women and children's desks,
- f. the *Punong Barangay* (chairperson of the village council) or a *kagawad* (any council member),
- g. the lawyer, counsellor, therapist or healthcare provider of the petitioner,
- h. at least two concerned responsible citizens of the city or municipality where the violence occurred and who have personal knowledge of the offence.

If the petitioner is not the offended party, the petition must be accompanied by an affidavit of the

petitioner attesting to the fact that he or she has authority to file the petition, the circumstances of the abuse, and the circumstances of consent given or refusal to consent of the offended party to file the petition.²⁰

Contents of a protection order

A TPO can include: (a) removal of the offender from the home regardless of ownership; (b) delivery of financial support to the woman and minor children; (c) automatic remittance of a percentage of the offender's salary or income as support for the woman; (d) a stay-away order; (e) granting of temporary or permanent custody of minor children to the woman; (f) possession of a vehicle or automobile; (g) the posting of a Bond to Keep the Peace to ensure compliance with the protection order. A TPO is valid for 30 days and is extended until judgement.

A Permanent Protection Order is issued after hearing on the merits following the Summary Procedure. It can include the reliefs in the TPO and permanent removal of the offender from the house, where ownership is not an issue. A Bond to Keep the Peace may be included in the Permanent Protection Order to ensure compliance.

Barangay Protection Order

A *Barangay* (village) Protection Order (BPO) is issued by the village official, ordering the offender to desist from committing further acts of physical abuse or threats of physical abuse. The Anti-Violence against Women Act prohibits mediation or conciliation of cases at village level.²¹ The features of a BPO are:

- a. it is granted *ex parte* within 24 hours from application;
- b. it is granted on grounds of physical abuse or threats of physical abuse only;
- c. it is valid for 15 days only;
- d. violation of the BPO is a criminal offence punishable by 30 days in prison;
- e. it may be availed of whether or not the woman seeks relief in court by applying for a protection order.

3. Both criminal and civil proceedings

The law gives the woman the remedy of protection order which she can file as an independent civil ac-

tion or together with other civil actions such as legal separation or nullity of marriage, or an action for custody, support or for damages.

A woman may also file a criminal action for violation of the Anti-Violence against Women Act and a protection is deemed included in the criminal action unless reserved or filed separately.

4. Support services for victims

Sec. 40: Programmes and services for victims such as free legal assistance, counselling, psychosocial services, rehabilitation programs and livelihood assistance.

5. Programmes for perpetrators

Sec. 41: Counselling and treatment of offenders; the Court can order the offender to submit to psychiatric treatment or confinement.

6. Training for police and judicial officials²²

The law provides that all agencies involved in responding to cases of violence against women and their children are required to undergo education and training on a) the nature and causes of violence against women and their children; b) the legal rights and remedies of victims; c) the services available; d) the legal duties of police officers to make arrests and offer protection and assistance; and f) techniques for handling incidents. The police, working in coordination with local governments, are to establish an education and training programme on how to handle cases of violence against women properly.

The Philippine Judicial Academy runs its own training programme on gender equality and gender-sensitivity for judges. The Supreme Court has a Committee on Gender-Responsiveness of the Judiciary chaired by justices.

In addition, the Anti-Violence against Women Act has provisions:

7. Prohibiting the mediation or conciliation of cases at village level (the Local Government Code requires mediation by village officials when complaints are punishable with imprisonment of less than one year or fine of five thousand pesos), and judges and village officials from influencing the woman to compromise or abandon any of the reliefs in the protection order.²³

8. **Providing for an Inter-Agency Council on Violence Against Women,**²⁴ composed of national government agencies tasked to run programmes to eliminate violence against women and to monitor implementation of the law.

9. **Providing for Battered Woman Syndrome as a justifying circumstance,** where the woman does not incur any criminal or civil liability.²⁵ In no case is custody of minor children of a woman suffering from battered woman syndrome to be granted to the batterer.²⁶

10. **Providing for exemption of persons intervening from liability.** Any person, private individual or police authority or *barangay* official who responds or intervenes without using restraint greater than necessary to ensure the safety of the victim incurs no criminal, civil or administrative liability.²⁷

11. **Providing for a hold departure order** against the respondent.²⁸

12. **Providing for the rights of victims** to be treated with dignity, to avail themselves of legal assistance and support services from local governments and the Department of Social Welfare and Development, to be entitled to all legal remedies and support under the Family Code, and to be informed of their rights and the services available, including the right to apply for a protection order²⁹ and exemption from payment of docket fee and other court expenses if she is an indigent or there is an immediate necessity due to imminent danger or threat of danger.³⁰

13. **Providing for additional paid leave of absence from work up to ten days** in addition to other paid leaves under the Labour Code and Civil Service Rules and Regulations, extendible when necessary.³¹

Problems in the law and its implementation

Lack of specific appropriation in the law

A major limitation of the law is the lack of specific appropriation for training of police officers, social

workers, prosecutors and other government personnel and for support services for poor women (free legal aid, temporary shelter, services for their children, and provisions for their sustenance or livelihood during litigation). The legislators who sponsored the Anti-Violence against Women Act believed that the law would be passed without serious objection if no specific amount was allocated for its implementation. They merely provided in Section 45 that the amount was to be included in the annual General Appropriations Act and that the Gender and Development Budget (GAD) of the mandated agencies and local governments was to be used to implement services for victims.

This proved to be a crucial gap, because although the national agencies have a GAD budget amounting to 5 per cent of their total budget, eliminating violence against women and training government personnel and support services to deal with the problem are not priorities, or have to compete for funds with other training programmes.

This means there is no systematic and comprehensive training on the Anti-Violence against Women Act or gender-sensitivity seminars for police personnel, social workers, and prosecutors. The lack of funds for training is bound to have an impact on the quality and effectiveness of police services and social welfare and development services and programmes, and on the responsiveness of prosecutors in the Department of Justice. The latter has a Task Force on Women and Children composed of state prosecutors from its Manila office, many of whom have attended seminars on gender-sensitivity and violence against women, but this is not replicated in the provincial prosecutors' offices.

As for the local government units, they fund training for the village officials in charge of issuing the *Barangay* Protection Order. One good practice observed is the inclusion of NGOs and the police in local government seminars.³²

Costly, lengthy litigation and corruption in the judiciary and prosecution service

Another problem is costly and lengthy litigation and delays in the disposition of cases at the prosecutors' level and in the courts. Four years after the adoption of the Anti-Violence against Women Act, women's human rights lawyers and women litigants continue to complain about the lack of gender-sensitivity of some judges, about corruption in the judiciary

and in the prosecution service, about the degree to which many police officers are ignorant of the law and lack gender sensitivity, and about the high cost of litigation and delay in the proceedings.

The Supreme Court Rule on violence against women provides that indigent women or those in imminent danger may file for protection order without paying the filing fee, but there is no similar provision in cases of appeal, which are costly.

No national free legal aid programme for poor women

Although the law provides that women are to be provided with legal assistance, there is no national legal aid programme for battered women; this gap is filled by NGOs and women's human rights lawyers. The Department of Social Welfare and Development is expected to provide for the victims' support services, but it lacks funds for legal aid and support services for women and their children. Department of Justice prosecutors are available only for criminal cases. Although the Public Attorney's Office is tasked to help poor women file applications for protection orders, they cannot represent them in civil cases because as public defenders their duty is to represent the accused in criminal cases only.

It is in this regard that the *Barangay* Protection Order is very helpful: a woman who cannot afford to go to court or has no easy access to lawyers can apply for a protection order in her village and seek other recourse such as leaving her batterer or moving to her relatives' community, or seek the ongoing protection of village officials and community.

The problem of conflict in the use of other laws and rules; retaliation suits

Husbands retaliate by using other laws or rules which defeat the rights of women under the Anti-Violence against Women Act, especially economic abuse. Conjugal or community property can be hidden by husbands in corporations, and a writ of replevin can be issued by another judge against vehicles which are subject to a protection order in another court.

Constitutional challenge to Republic Act No. 9262

Perhaps the greatest challenge to the Anti-Violence against Women Act is the *Rosalie Garcia case*³³ in

which a husband filed a petition in the Supreme Court attacking the Act's constitutionality on the grounds that a) it violates the Equal Protection Clause because it protects the rights of women only; b) it violates his right to due process of law because he is deprived of his property (he can be removed from the house and a vehicle may be given to the woman regardless of ownership) through an *ex parte* TPO; and c) it is an undue delegation of judicial power to the *barangay* (village) officials who have the power to issue the *Barangay* Protection Order.

It is hoped that the Supreme Court's ruling in this case will lay to rest the issues that continue to erode the effectiveness of the law and will give women the jurisprudence they need in their fight to end gender inequality and eliminate violence against women. ■

Endnotes

- 1 Ratified by the Philippine Senate on 12 November 2003.
- 2 The 1987 Constitution was formulated by a Constitutional Commission composed of sectoral representatives appointed by former President Corazon C. Aquino.
- 3 Such as Kalayaan, Pilipina, Women's Crisis Center, Inc., SIBOL, Likhaan and Kalakasan.
- 4 Only about 10 per cent of legislators in the House of Representatives and, at present (2008), only four out of twelve senators are women.
- 5 Enacted on 1 January 1932.
- 6 Punishable with imprisonment of 6 months and 1 day to 6 years. For offences penalized by less than six years of imprisonment, first-time offenders can apply for probation and avoid imprisonment.
- 7 Family Code of the Philippines, Art. 124.
- 8 The Philippines is the only country in Asia, and the only country worldwide aside from Malta, that has no divorce law.
- 9 Art. 36 of the Family Code of the Philippines was modelled on Art. 39 of the Canon Law.
- 10 Republic Act No. 8369 (1997).
- 11 Revised Penal Code, Arts. 266-A, 266-B, 266-C and 266-D.
- 12 SIBOL, Women's Crisis Center, Inc., Democratic Socialist Women of the Philippines, among others.
- 13 A German national was convicted under this law by the Honourable Judge (now Court of Appeals Justice) Edgardo de los Santos.
- 14 Department of Justice, Department of Social Welfare and Development, Department of Interior and Local Government, Philippine National Police, National Commission

- on the Role of Filipino Women, and three NGOs including the Coalition Against Trafficking in Women-Asia Pacific.
- 15 In *Abakada Guro Party List et al. v. Hon. Cesar Purisima et al.*, G.R. No. 166715, 14 August 1994, the Supreme Court held that “administrative regulations enacted by administrative agencies to implement and interpret the law which they are entrusted to enforce have the force of law”.
- 16 The Chairperson of the National Commission on the Role of Filipino Women was Aurora Javate De Dios, former member of the CEDAW Committee. Among the women’s rights organizations that worked for passage of the law were: SIBOL, Women’s Crisis Center, Inc., Democratic Socialist Women of the Philippines and Kalakasan. Among the legislators who sponsored the law were Representative Josefina Josen, Representative Bellaflor Angara-Castillo, Senator Eloisa Ejercito and Senator Loren Legarda.
- 17 A.M. No. 04-10-11 SC (Rule on Violence against Women and Their Children), Sec. 33 (b).
- 18 Ibid.
- 19 Republic Act No. 9262 (2004), Sec. 9.
- 20 A.M. No. 04-10-11 SC, Sec. 10.
- 21 Republic Act No. 9262 (2004), Sec. 33.
- 22 Republic Act No. 9262 (2004), Sec.42.
- 23 Ibid. at Sec. 33.
- 24 Ibid. at Sec. 39.
- 25 Ibid. at Sec. 26.
- 26 Ibid. at Sec. 28.
- 27 Ibid. at Sec. 34.
- 28 Ibid. at Sec. 37.
- 29 Ibid. at Sec. 34.
- 30 Ibid. at Sec. 38.
- 31 Ibid. at Sec. 43.
- 32 The Department of Interior and Local Government and the National Commission on the Role of Filipino Women have published a primer on Republic Act No. 9262 for *barangay* (village) officials.
- 33 Petition for Review in the Supreme Court.

**IMPLEMENTATION OF LEGISLATION:
ENSURING ADEQUATE FUNDING**

5

Overview and Debate

The session looked at the role of parliament in overseeing proper **implementation** of laws on violence against women, identifying and outlining mechanisms for costing the violence and methods for addressing cases. The panellists looked specifically at **gender-sensitive budgeting** and how it can contribute to better implementation of VAW legislation. A crucial conclusion reached was that, while legislation is a critical first step in addressing violence against women, ensuring that adequate funding is allocated for proper implementation is a prerequisite for progress.

The panellists for this session were: Dr. Katherine M.J. McKenna, PhD, Department of Women's Studies and Feminist Research, The University of Western Ontario, Canada; Mr. Ynze de Jong, Consultant, South Africa; and Ms. Emma Oteo Antuñano, Almenara Institute for Social and Economic Studies, Spain. Dr. McKenna focused on the strategies for and challenges of costing violence against women. Mr. de Jong provided an overview of the costing of policy and legislation from a South African perspective. Ms. Oteo outlined how to implement laws on gender-based violence through budgets.

Dr. McKenna: The need to eradicate violence against women can be justified through an appeal to both rights and economics. Gender-based violence is a violation of women's rights that not only decreases the quality of life and liberty; it also drains financial resources from major sectors, including private businesses, government, community groups and individuals. Methods for **costing violence** are complex and the estimates that have emerged, although cautious, have been critical in dispelling the belief that violence against women is a private concern in terms of its effects on society and have thereby helped strengthen the case for government intervention. Crucially, valuable insight has been

obtained on the relationship between funding priorities and outcomes by measuring the consequences of abuse. Every study conducted thus far on the cost of violence indicates, for example, that early prevention costs vastly less than later intervention. Moreover, most of the cost must be borne by the government, especially in countries with national health care. The financial argument in support of investing in prevention provides common ground on which fiscal conservatives and social activists can agree.

Various models exist for determining cost. **Methodologies** have become increasingly sophisticated as understanding of violence against women and its impact on a range of factors has deepened. Studies to determine the effect of violence can take account of four types of economic cost: direct tangible costs resulting from actual money spent by the State, for example on health care; indirect tangible costs measured as loss of potential, for example loss of profits resulting from reduced productivity of the abused individual; direct intangible costs resulting, for example, from pain and suffering; and the indirect intangible costs of the long-term consequences of violence, such as negative psychological effects on children who suffer from abuse. Intangible costs have proven hardest to measure. There is no single preferred methodology for determining cost, and debates on which factors should be taken into account emphasize the challenges of the task. A number of elements are nevertheless crucial.

Reliable research on cost and prevalence rates is an absolute necessity for any economic costing study. It should be drawn from a range of sources, including large-scale representative surveys published by both national and international institutions. **Data sources** must be located and easily accessed. A common problem is that official sources,

such as government budgets and service records, are difficult to obtain, or are not disaggregated to show differences in fiscal expenditure on victims as compared to non-victims of violence against women. Representative samples of the population, including both victims and non-victims, might therefore be necessary in order to allow for comparisons through differential analysis. Due to these difficulties, the figures produced by studies have always been underestimated so as not to downgrade their credibility.

Several costing studies have focused on **child abuse**, in recognition that more attention needs to be given to solving the root causes of violence against women. One reason why efforts to establish shelters, crisis lines and programmes for adolescents, to adopt new legislation and to ratify international accords have failed to end violence against women is that these measures only address the long-term consequences of violence rather than its causes. Research has indicated that children who are raised as victims or witnesses of violence often grow up to become abusers or abused. In many cases, violence against women starts at pregnancy, and this has serious repercussions for the health and well-being of both the mother and the child. More attention should therefore be given to ending violence against children and supporting pregnant women. There is a pressing need for more **resources** to be allocated to confronting all forms of violence against women. The economic costing of violence shows that reducing spending in the prevention of violence is a false economy as the cost of ignoring the problem is staggeringly high. Parliamentarians are therefore urged to use costing studies to encourage governments to increase the funding of early prevention strategies.

Ms. Oteo: At the international level, efforts have been made by a number of **regional and inter-governmental organizations** to document the cost of violence for different government sectors. Although some interesting results have emerged from these studies, there are a number of challenges to quantifying violence in the international sphere. Firstly, data collection has not been harmonized within or between countries. The **gaps in information** that currently exist create an incomplete, and sometimes outdated, picture of the real cost of violence against women. Accurate cross-country comparisons are therefore hard to ascertain. Secondly, the lack of internationally agreed definitions means that “vio-

lence” is not a homogeneous term. The data therefore cover a wide spectrum of factors that differ significantly between countries. The organization of departments, agencies and sectors also varies widely from one government to another. The wide scope of costs and agents further complicates comparative studies.

Mr. de Jong: Economic costing is a valuable tool for assessing the **direct fiscal expense** of policies and legislation, as well as the implementation capacity. The aim of costing policy and legislation is to facilitate option analysis by considering the relative costs and effectiveness of policy options. Costing also assists in implementation planning by gathering information on the direct fiscal and financial impacts of decision-making. In so doing, it provides details on whether a policy is fiscally affordable, or, for example, what direct costs its implementation other agents would incur. Crucially, costing can be undertaken at any point during the drafting and implementation of policies and legislation. It can be applied during the drafting phase in order to ensure that obligations are supported by a budget before they are implemented, or retroactively to assess and amend existing strategies.

“In order for legislation to be effective it must be supported by a budget that accurately reflects the cost of implementation. Gender budgeting draws on costing studies in order to quantify violence against women and ensure that it is taken into account when budgets are decided.”

Responsibility for costing should lie with an appropriate department or agency. In South Africa, a lead department responsible for costing individual policies or legislation has been established. In order to avoid unaccounted expenses, it is vital for omnibus pieces of legislation that impose obligations on multiple government departments to be considered by a **coordinating committee** that is representative of all departments. Many members of the executive are still reluctant to experiment with costing because they perceive the process to be very complex.

The key elements are to choose a well-defined purpose for the costing and to ensure that the required data are complete and accessible. The process itself comprises identifying critical cost drivers, developing a test model, carrying out statistical analyses, and using the costing outcome to provide policy options and challenge proposals. The costing of the South African Children's Bill is an example of how costing was used to expose the under-funding of existing obligations and the lack of suitably trained personnel required to implement the provisions of the law.

Understanding the economic costs of violence is therefore crucial as it allows for gender budgeting, increases the effectiveness and transparency of policies, helps political leaders make informed decisions, improves knowledge of causes and effects, and mobilizes key actors. **Gender budgeting** is one more tool that can be used to introduce a gender-based focus into policy decisions. In order for legislation to be effective it must be supported by a budget that accurately reflects the cost of implementation. Gender budgeting draws on costing studies in order to quantify violence against women and ensure that it is taken into account when budgets are decided. It is important to continue this work in order to establish preventive and support measures to help victims.

Plenary debate

- Has any study ever been carried out in your country on the costs of violence against women? If so, was this discussed in parliament and what was the impact?
- Have any initiatives related to costing of legislation ever been carried out in your country or requested by parliament?
- Does your parliament analyse the national budget and oversee its implementation from a gender perspective? If not, what are the reasons for not doing so?

During the debate, **gaps in data and information** were recognized as a major challenge facing States in their attempts at costing violence and gender budgeting. It was widely agreed that more needed to be done on a national level to improve data collection and ensure the data were properly disaggregated. Most parliaments were familiar with costing of legislation and gender budgeting, which had been used successfully in many cases to earmark funds for increasing the protection of vulnerable women. In parliaments where no such studies had been undertaken, the main challenges noted were a lack of **transparency** in government and a lack of **political will** due to limited resources.

The participants noted that gender budgeting had not been **mainstreamed**. In the majority of parliaments, parliamentarians were still struggling for a gendered analysis of all aspects of the national budget, rather than for special projects only. Some parliaments had appointed a budget officer who was responsible for mainstreaming gender. Some States had also initiated an annual reporting process containing a gendered analysis of the budget. A third strategy had been to request government auditors to audit federal departments in an effort to gain insight into how policies were functioning.

Dr. McKenna reminded parliamentarians that poor countries had the most to gain from the costing of violence. The aim of costing was not just to ensure that money was spent where it was needed; but also to **reduce costs**. Parliamentarians were urged to pressure their governments to carry out studies in order to assess the implementation of policies and see where resources could be redirected to greatest effect. It was also noted that NGOs and other third party organizations could encourage government departments to carry out costing studies and gender budgeting by lobbying, sending questions and publishing independent studies on government practice. ■

“The Inter-Parliamentary Union calls on parliaments to ensure that sufficient resources are allocated and clearly earmarked in the national budget for plans and programmes to eradicate violence against women in all fields.”

IPU resolution, 114th Assembly, 12 May 2006, para. 16

The Economic Costs of Violence against Women

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The economic costs of violence against women are of necessity a concern for all those in government with the power to implement change and progressive policy and for those dealing directly with and responsible for the welfare of nations. Abuse of women is a global phenomenon that has devastating consequences for both rich and poor nations. Ignoring it not only results in social problems, it also incurs huge financial costs which nations pay without realizing the impact on their economies. This paper is a short overview of the economic costs of violence against women. It is based on a much longer study prepared for the United Nations Division for the Advancement of Women.¹

Violence against women has been a hidden problem in our societies until very recently. Now that its widespread existence has been brought to light, many international agencies, including the United Nations, have called for its eradication. The need to end this problem is not just due to a woman's basic human right to live free from the threat of gender-based violence. Violence against women not only decreases their quality of life and restricts their freedom, it is also a severe financial problem. One of the consequences of abuse of women is a fiscal burden borne by more than the individual victim. Measuring these costs demonstrates how violence drains resources from many sectors, including private businesses and agencies, the government, community groups and individuals.

Estimating the costs of gender-based violence gives the human story an easily understandable magnitude. Even though the best economic costing studies are very cautious underestimates, the numbers they produce are astonishing. They are an excellent means of expressing what has traditionally been seen as a private concern in terms of its effect on all of society. They raise men's aware-

ness of how they pay for both their own and other's violent behaviour. This removes the issue from the realm of subjective debate over gender roles and responsibilities and places it in the realm of concrete fact.

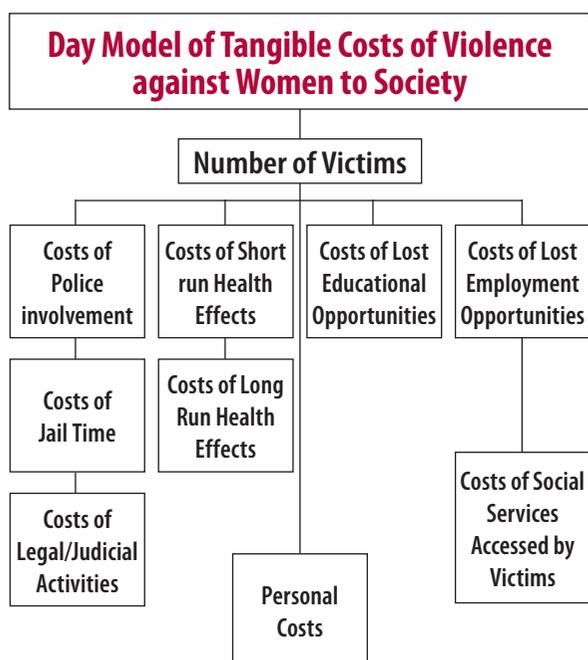
Measuring the economic costs and consequences of violence against women shows that outcomes can be changed by changing funding priorities. Every study of the costs of violence indicates that early prevention and intervention costs vastly less than later-stage crisis care and other long-term consequences. Measuring costs also shows that investing in the prevention of violence against women is not only morally right, it is also financially prudent. This can actually provide common ground upon which fiscal conservatives and social activists can meet.

“Abuse of women is a global phenomenon that has devastating consequences for both rich and poor nations. Ignoring it not only results in social problems, it also incurs huge financial costs which nations pay without realizing the impact on their economies.”

Awareness of the costs of violence against women also strengthens arguments for government intervention in private acts. Since the costs affect everyone, abuse becomes a societal issue even though it takes place within interpersonal relationships. Like the regulation of the use of seat-belts in cars or vaccinations, violence is an issue where government intervention in private life serves the greater social good.

All of these considerations led researchers in the early 1990s to endeavour to estimate the costs of violence against women. These were initially small-scale studies at the community level, with non-representative samples of abused women. Several of them attempted to extrapolate from these to national figures. Although these studies were suggestive and often showed dramatic costs, their lack of statistical rigor was problematic.

The first country to conduct a national survey on violence against women was Canada in 1993, and so it produced the first reliable estimates of national costs. Tanis Day conducted the first national study on the health care costs of violence against women, which she estimated at 1.5 billion Canadian dollars.² She developed a model for costing which is quite straightforward conceptually. It employs a simple accounting model that adds up costs in various categories as shown in the diagram below. The areas of cost were determined by a thorough review of the literature on the consequences of violence against women. The main areas of cost are **Legal**, which include policing, incarceration and the justice system; **Health**, which is the cost of the public health system; **Personal**, which covers a broad range of costs for the individual such as damage to property, taxi fare to a shelter, moving costs or private counselling; **Education**, which is the loss of educational opportunity for the individual; **Social Services**, both in prevention but more frequently in dealing with the effects of violence; and **Employ-**



ment, which is both the personal cost of lost earnings and the loss to society and business caused by lower productivity in the workplace. Although the model is easy to understand, actually determining these costs can be quite complex.

“Every study of the costs of violence indicates that early prevention and intervention costs vastly less than later-stage crisis care and other long-term consequences. Measuring costs also shows that investing in the prevention of violence against women is not only morally right, it is also financially prudent.”

There are four categories of cost. **Direct tangible costs** are actual expenses paid, representing real money spent, such as personal costs for the individual. An example of direct costs for the State is hospital care. These costs can be estimated by measuring the goods and services consumed and multiplying by their unit cost. **Indirect tangible costs** have monetary value in the economy, but are measured as a loss of potential. Examples are lower earnings and profits resulting from reduced productivity for the individual, and child welfare services for the State. These costs can be difficult to calculate because they often are more complex and involve more assumptions. **Direct intangible costs** result directly from the violent act but have no monetary value, such as pain and suffering. These costs may be approximated by quality or value of life measures, although there is some debate as to whether or not it is appropriate to include them. **Indirect intangible costs** result indirectly from the violence and have no monetary value. An example is the negative psychological effects on children who witness violence. Some studies measure direct intangible costs, but no one has attempted to determine indirect intangible costs. Their impact is nonetheless real.

Ideally, a number of things are needed to conduct an accurate economic costing exercise. Reliable research on the effects of violence against women is necessary in order to determine the areas of cost. Prevalence rates must be derived from large-scale

representative surveys. Recently, two such surveys have been conducted internationally in a combined total of 22 countries. The first was the World Health Organization's multi-country study on women's health and domestic violence against women.³ It was followed by the International Violence Against Women Survey, a collaborative project carried out by two international development agencies, the European Institute for Crime Prevention and Control and the United Nations Interregional Crime and Justice Research Institute, in partnership with Statistics Canada.⁴

Once the areas of cost and the prevalence of violence are known, meticulous research is required to locate and analyse data sources to determine cost. Sometimes no sources can be found, or access to documents such as government budgets and records of service agencies are difficult to obtain. If these sources are available, they are often not broken down by victims and non-victims. For example, it may be difficult to determine exactly what percentage of a government's budget for social services applies to victims of gender-based violence. Ideally, to show the full impact of violence, a representative sample of the population including both abused and non-abused is needed to allow for comparison through differential analysis. Such information is rarely available. Still, impressive results can often be obtained from the partial information that can be found.

Lorraine Greaves led the first comprehensive national economic costing study, using Day's model for 1993 in Canada. The total costs were conservatively estimated at 4.2 billion Canadian dollars.⁵ When these costs are broken down by who pays, it is clear that the lion's share of the costs of violence covered in this study are incurred by government. This is shown in the diagram below.

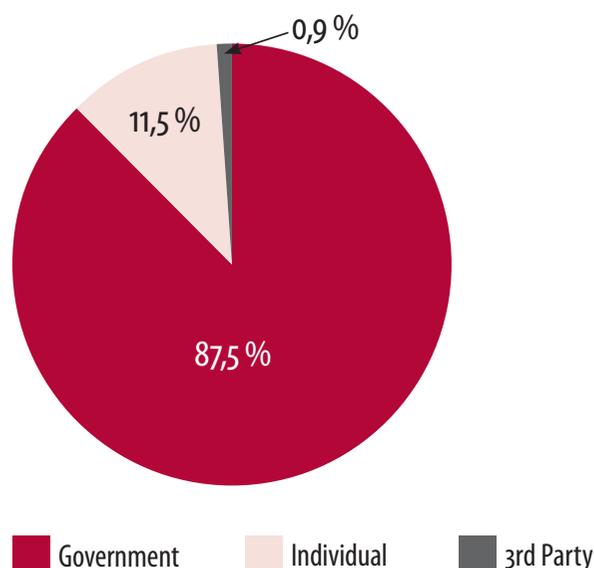
Other studies based on reliable national prevalence rates from large-scale surveys have come up with equally staggering costs of violence against women. Estimates for the United States amounted to 5.8 billion US dollars,⁶ for Finland, 198 million US dollars⁷ and for Australia, 8.1 billion Australian dollars.⁸ The largest estimate comes from Sylvia Walby's study for England, 23 billion pounds, of which 17 billion pounds were estimated for pain and suffering.⁹ These numbers may seem huge, but they are all underestimates because of the difficulty of assessing full costs.

A study on the economic costs of child abuse in Canada demonstrates this point. The study, which was led by Audra Bowlus¹⁰, estimates the total cost for Canada in 1998 at just under 16 billion Canadian dollars. The costs were broken down as follows:

Judicial	\$616,685,247
Social Services	\$1,178,062,222
Education	\$23,882,994
Health	\$222,570,517
Employment	\$11,299,601,383
Personal	\$2,365,107,683
Total	\$15,705,910,047

In this list of costs, almost three quarters are in a single category: employment. This is because Bowlus used prevalence statistics on child abuse from a large-scale health survey in the province of Ontario that collected information on both child abuse and income levels. She was therefore able to determine very accurately, through differential analysis, what the consequences were in terms of lower earnings among the abused population compared to the non-abused. If all studies were able to determine costs with this level of accuracy in every category, there is no doubt that their estimates would be multiplied many times.

Distribution of Selected Estimates of the Costs of Violence against Women



In this era of fiscal conservatism, economic crisis and cutbacks in government spending, the economic costs of violence against women can show that reducing spending on the prevention of abuse is a false economy. The costs to both the individual and to society of violence against women can provide a powerful argument in favour of greater government investment in eradicating the abuse of women, since the cost of ignoring the problem is staggeringly high. ■

Endnotes

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- 3 WHO *Multi-country Study on Women's Health and Domestic Violence against Women: Initial Results on Prevalence, Health Outcomes and Women's Responses*, World Health Organization, Geneva, 2005.
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- 9 Sylvia Walby, *The Cost of Domestic Violence*, Women and Equality Unit, London, 2004.
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Case Study:

The Economic and Social Costs of Domestic Violence in Andalusia*

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In recent years, the term “violence against women” has been replaced by “gender-based violence” to reflect the fact that the phenomenon is social and cultural in origin rather than natural or biological. Gender-based violence is suffered by women because of their condition as such and takes the form of physical, psychological and sexual abuse.

When it was adopted in 1979, the CEDAW, to which 185 countries are presently party (Spain acceded in 1984), included gender-based violence as a form of discrimination against women. A year later it was recognized that violence against women was the crime most frequently covered up worldwide, and in 1996 the United Nations recognized that domestic violence is comparable to torture and should therefore be penalized under the law.

Spain has made notable progress in raising awareness among institutions. In the last decade it has developed specific measures to fight gender-based violence, initially in the framework of the Equal Opportunity Plans and more recently under the Integrated Plans against Domestic Violence.

In Andalusia, the First and Second Equal Opportunity Plans, approved respectively in 1990 and 1995, included measures such as the development of the present services and of an information and counseling network for women suffering from violence. In 1998, the Andalusian Government adopted its Plan to Eradicate Violence against Women (2001-2004), whose main objective is to eliminate gender-based violence. The Plan’s budget of 38 million euros is allocated to preventive measures, advocacy, legal aid, social support and institutional coordination.

The scope of domestic violence in Andalusia

The number of women over 18 who are victims of domestic violence exceeds 400,000¹ (13.6% of the total population of adult women), according to the data for 2002. Of these, more than 300,000 (10.1% of the total) suffer at the hands of their intimate partners or former partners, although only 75,000 (2.5%) classify themselves as battered women.

In Andalusia, 6,578 women – or only 2.2 per cent of victims according to the above figures - denounced their partners or former partners for abuse in 2002. Of those cases, 80 per cent were handled as misdemeanours and the rest as crimes. Although 2.2 per cent is a very low rate, it represents a slight increase over the two previous years and is higher than the national figure for Spain. Between 1998 and 2002, 43 women were murdered by their partners or former partners in Andalusia. Every year, three or four women out of 100,000 who are victims of domestic violence die.

The social and economic costs of domestic violence in Andalusia

The various disciplines working fully to comprehend domestic violence have made a huge effort to uncover its causes and effects and to improve the effectiveness of assistance and prevention programmes.

The economic dimension of the problem has added to the arguments in favour of programmes

* The presentation is a summary of a report conducted for the Andalusian Institute for Women, The Economic and Social Costs of Domestic Violence in Andalusia, by Deloitte & Touche in collaboration with Almenara, Estudios Económicos y Sociales, S.L. (unpublished report), reproduced with permission.

aimed at prevention and victim support. The economic costs of gender-based violence, and more specifically domestic violence, have been estimated to be very high by various countries, even though they take account only of the more easily quantifiable effects.

Why is it important to know the costs of gender-based violence? Not only are such figures useful for the initial approximate calculation of the social costs involved, the quantification exercise provides additional results: the final figure is itself a powerful argument in favour of prevention programmes that cost much less than the social cost of violence; it adds to our knowledge about the effects of violence and the people involved, and therefore furthers the design of efficient assistance and prevention programmes, helps raise awareness of the phenomenon as a social problem and exposes the statistical gaps and lack of information for adequate monitoring and evaluation exercises.

Methodological issues

In the last decade, around a dozen studies have endeavoured to calculate the socioeconomic costs of violence against women in different geographical areas (neighbourhoods, regions and countries). Progress has also been made in estimating partial costs, especially in the area of health, and research on the economic costs of delinquency in the United States and the United Kingdom has provided the first figures on the intangible costs associated with the suffering of the victims and their families.

The methodology used for this study is based on studies carried out abroad and on theoretical work towards a comprehensive approach to the phenomenon, particularly by the Institute for Women's Policy Research in Washington. It differs from those studies, however, in that its starting point for calculating costs, like that of the Pan-American Health Organization, is the itinerary or critical path followed by the victims.

By limiting the study to domestic violence against women by an intimate partner or former partner, and having obtained an approximation of the total population affected, the methodology has allowed us to obtain an exhaustive list of the effects of violence on the lives of the women and their children (who are often also victims as they

witness the abuse or are in many cases abused as well).

The complex process by which the effects of domestic violence shatter the victims' lives has been broken down into six theoretical itineraries (social, health, legal, psychological, economic independence or employment, and educational) that provide six different but complementary perspectives on the paths followed by the victims during the violent relationship, when they decide to leave and immediately after. Each itinerary has been uniformly constructed by a specialist who has identified the exact effects on the victims in detail.

In order to measure the prevalence of the effects identified by each of the specialists (and taking into account possible overlaps between the different areas), a survey² was carried out of 300 women victims of violence by their partner or former partner. This field work played a decisive role in the statistical aspects of the methodology as it furnished basic information provided by the victims themselves.

Finally, once this primary information had been obtained, secondary sources were used to estimate the costs of the various effects that violence has on the victims' lives, and, through aggregation, of those associated with the different itineraries into which, theoretically or artificially, their reality has been deconstructed.

“The integrated vision that the methodology is based on sheds light on the social exclusion process that engulfs the victims in violence and on the phenomenon's extremely high degree of replication horizontally (to third parties in the economic and social sphere) and over time (it has multiple effects and is transmitted from generation to generation).”

The results obtained also made it possible to develop a system of indicators on domestic violence. The system comprises over 100 indicators broken down into six blocks: severity and prevalence, impact on victims, risk factors, institutional and social

response, access to and use of victim-oriented services, and perception and social attitudes.

In addition to allowing for consistent cost estimates, this methodology - and this is probably its greatest value added - also helped to identify clearly the impact of the violence on the victims, the linkages between the groups of effects and the agents that bear the costs. The integrated vision that the methodology is based on sheds light on the social exclusion process that engulfs the victims in violence and on the phenomenon's extremely high degree of replication horizontally (to third parties in the economic and social sphere) and over time (it has multiple effects and is transmitted from generation to generation).

Results

Domestic violence against women by partners or former partners has an annual cost for Andalusian society of over 2 billion euros (Table 1). This figure reflects direct costs (resources used by victims) and certain indirect costs (the value of goods and services forgone due to violence, the loss of well-being by the victim and society as a whole).

The annual costs to the labour market are 707 million euros (30% of the total), followed by the social costs, which amount to 628 million euros (27% of the total), and those pertaining to the victims' sons and daughters, 590 million euros (25% of the total). The annual costs associated with the women's physical and mental health are estimated

at 371 million euros (16% of the total); the legal costs account for the smallest share at 60.7 million euros (3% of the total).

The breakdown of costs by agent shows that the heaviest burden falls to the victims themselves (1 billion euros, or 43%, most of it the value of suffering). The costs associated with the women's employment and physical and mental health, and with the effects on their sons and daughters, are also quite high: respectively 196.98 and 92 million euros annually. The legal costs paid by victims amount to 16.3 million euros annually.

The cost to family and friends is estimated at 18.4 million euros (1% of the total) and stems from the victims' social itinerary. However, most of the costs identified for these agents were not quantified for lack of information and adequate methodologies.

The cost borne by firms and employers is estimated at 385.3 million euros annually (16% of the total). It is derived from the repercussions that the rest of the itineraries have on the victim's employment situation.

The public sector (central and regional administration) bears the second heaviest burden, with the cost to the public purse being estimated at approximately 947 million euros annually (40% of the total). The effects on the victims' sons and daughters and on their health account for the lion's share of this amount.

Finally, the costs borne by the third sector (NGOs) are estimated at 0.6 million euros (0.02% of the total cost).

Table 1. Economic and Social Costs of Domestic Violence in Andalusia (*Annuals Totals*)

	Social itinerary	Physical and mental health itinerary	Judicial itinerary	Employment itinerary	Children's itinerary	TOTAL	%
Victims	602.944.911	98.173.149	16.299.845	195.876.678	92.089.947	1.005.384.529	43
Family and Friends	18.463.850	n.d.	n.d.	n.d.	n.d.	18.463.850	1
Employers	n.d.	n.d.	n.d.	385.302.088	n.d.	385.302.088	16
Public Sector	6.173.897	272.784.914	44.363.664	125.950.234	497.765.676	947.038.384	40
Third Sector	315.996	131.718	67.662	3.369	66.129	584.874	0,02
Totals	627.898.654	371.089.780	60.731.170	707.132.369	589.921.751	2.356.773.724	100
Percentage over the total	27	16	3	30	25	100	

Source : Based on the survey and secondary sources

Table 2. Economic and Social Costs of Domestic Violence in Andalusia (Annuals Totals)

	Total direct costs	Total indirect costs	Total Costs
Victims			
Absolute Value (euros)	177.054.127	828.330.401	1.005.384.529
Percentage over the total	18	82	100
Family and Friends			
Absolute Value (euros)	6.432.600	12.031.250	18.463.850
Percentage over the total	35	65	100
Employers			
Absolute Value (euros)		385.302.088	385.302.088
Percentage over the total		100	100
Public Sector			
Absolute Value (euros)	650.791.144	296.247.240	947.038.384
Percentage over the total	69	31	100
Third Sector			
Absolute Value (euros)	584.874		584.874
Percentage over the total	100		100
Totals			
Absolute Value (euros)	834.862.745	1.521.914.349	2.356.773.724
Percentage over the total	35	65	100

Source: Based on the survey and secondary sources

The breakdown between direct and indirect costs reveals that the loss of goods and services due to violence and the loss of well-being by the victims (indirect costs) are much higher³ than the general or specific resources used by the victims as a consequence of violence (direct costs, Table 2). The direct costs, which reflect mainly the costs of the mental and physical health services used by victims (women and their children), the costs of the legal itinerary and specific services provided by the public administration or the tertiary sector are estimated at 834 million euros (35% of the total). The indirect costs (basically the costs of pain and suffering, the employment itinerary and the losses in education) are estimated at 1.5 billion euros (65% of the total).

It may help put the relative scope of these costs into perspective to consider that the direct costs estimated here represent 0.9% of GNP for Andalusia at market prices,⁴ or 113 euros per capita per year. The direct cost per victim (women and their children) per year is estimated at 835 euros, and the direct cost per household at 2,764 euros per year.

Conclusions

The results of this study cast fresh light on the social dimension of domestic violence against women. The effects transcend the household and family to overshadow society at large. The phenomenon drains away considerable public and private resources that could be put to other uses, causes material losses to the victims, their immediate social circle, firms and the public sector, and undermines individual and social well-being. The road taken by Andalusian society towards increased levels of human development and towards a society whose members can count on more opportunities to develop their human and productive potential is being blocked by the serious barriers put in the way of a significant number of citizens: women victims of violence and their children.

The results of this study reveal other points that should be taken into account when devising policies to combat domestic violence. In the first place, policies specifically intended to prevent domestic violence and assist its victims account for very little of the costs. For example, the Andalusian Gov-

ernment's Action Plan represents 1.1 per cent of the total direct costs inflicted on Andalusian society, according to the results of this study. Given that policies designed to combat the phenomenon help mitigate its effects, the resources allocated should be increased substantially. Not only will the victims benefit, doing so will also reduce the costs of domestic violence and therefore makes economic sense.

Secondly, the methodology applied in this study has added to the fund of knowledge about the impact of domestic violence in economic and social terms. The sheer magnitude of the costs revealed by the different itineraries, which are based on the extent of the effects, points to possible new, more effective policy measures. There are at least two main messages to reflect upon: 1) extend the current scope of the policies; and 2) diversify the measures taken. The scope should be extended to include hidden victims, who are the vast majority. This is no easy task, but specific measures must nevertheless be taken for those women who have not denounced their situation to the authorities or broken off their relationship with the abuser. When it comes to diversifying measures, the effects on the labour market need to be addressed, an aspect that

is not looked at in Spain but of which there are good examples in other countries, and health measures and those aimed at the victims' children, especially in education, need to be intensified.

Finally, the choice of policies should involve the most recent efforts to quantify the "intangible" costs of the phenomenon, which are much higher than the tangible costs. Ignoring them results in the phenomenon being undervalued and the risk that policies will be adopted based on incomplete information. ■

Endnotes

- 1 Estimates based on Instituto de la Mujer. *La violencia contra las mujeres. Resultados de la macroencuesta* [Violence against Women. Results of the Macro Survey], 2000.
- 2 The women making up the sample were chosen from among those who use public assistance and information centres for women or who are living in protected accommodation (shelters, emergency centres and safe houses). The field work was carried out by social workers from the Andalusian Woman's Institute.
- 3 This is in keeping with the results obtained by all the studies in which indirect costs were quantified.
- 4 Reference to 2002.



**IMPLEMENTATION OF LEGISLATION:
MONITORING AND OVERSEEING GOVERNMENTAL ACTION**

6

Overview and Debate

The session looked at the role of parliament in monitoring progress and overseeing governmental action in relation to the implementation of legislation. The role of **parliamentary committees** was highlighted, as was the need to use indicators to monitor progress and to establish regular review processes and national institutional mechanisms to ensure implementation and compliance.

The panellists for this session were Mr. Steven Malby, Research Officer, Statistics and Surveys Section, United Nations Office on Drugs and Crime (UNODC), Ms. Mercé Pigem Palmés, Member of the Spanish Chamber of Deputies and of the parliamentary subcommittee following up the VAW law, and Ms. Claudia Herrmannsdorfer, CLADEM. Mr. Malby presented the results of the United Nations Expert Group Meeting on indicators for violence against women. Ms. Pigem provided a national perspective by outlining the Spanish experience of drafting and implementing the law on comprehensive measures against gender violence. Ms. Herrmannsdorfer discussed the law against domestic violence adopted in Honduras and detailed the role of an inter-institutional commission in ensuring follow-up.

Mr. Malby: Many women who are subject to violence live in environments that are hard to reach, such as prisons, armed conflict areas and traditional communities. Collecting information and **developing indicators** on violence in these contexts is extremely difficult. An appropriate and effective mechanism that encourages women to seek help and report instances of violence is crucial. The United Nations has recognized this need, and has responded with a number of processes and cross-agency initiatives. For example, the Statistical Commission has been mandated by General Assembly resolution 61/143 to develop and propose a set of

possible indicators on violence against women in order to assist States in assessing the **scope, prevalence and incidence** of gender-based violence. The Special Rapporteur on violence against women has also been mandated to develop indicators to further examine the causes and consequences of violence and to propose measures to combat violence. As a result, meetings have taken place and reports on indicators have been published by a variety of players, including the Special Rapporteur and the members of the United Nations Expert Group Meeting. The Statistical Commission has made the expert group report the subject of joint dialogues on multiple occasions, and has established a Friends of the Chair body to facilitate the deliberation of indicators.

An indicator is a common way of measuring and presenting information. In general, indicators must summarize complex data in an unambiguous and intelligible way; they must be easy to interpret, relevant to policy makers, and useable for assessing whether a particular situation is improving or deteriorating. Crucially, indicators must be supported by **robust quantitative data** that are collected at regular intervals and comparable over time. This is especially challenging as data are often extremely difficult to collect and interpret.

With regard to violence against women, the two main indicators under development attempt to measure the **extent** of the phenomenon of gender-based violence and **State responses** to violence. The Special Rapporteur's mandate covers both factors, while the Expert Group Meeting focused on the nature and scope of the phenomenon. The three key factors that indicators should measure are the prevalence, incidence or frequency, and severity of violence against women. **Prevalence** refers to the proportion of women who experience one or more

acts in a defined time line, and **incidence** refers to the number of acts experienced in a particular time. **Severity** should include objective measures, such as degree of injury, subjective measures, and a measure of the impact of violence on private and family life. Although these measures would all be very indicative of levels of violence, the Expert Group Meeting found that they are often difficult to define and may not always be suitable for use.

It is also important for indicators to mainstream attention to violence against women into **ongoing data collection** and be usable for policy development. The quality of data on violence against women often suffers from **flawed assumptions** about both the identity of the perpetrator and the nature of the act committed. Indicators on the nature and extent of the violence should give an accurate representation of any **patterns of violence** that exist, and highlight the differences between violence against women and violence against men. It is therefore crucial for statisticians to maintain a distinction between the two and not assume, for example, that all incidents of violence are perpetrated by intimate partners, or that the form of violence that intimate partners perpetrate is only sexual in nature.

The indicators chosen by the Expert Group Meeting reflect the understanding that a focus on both is crucial. As a result, **intimate partner violence** was selected as a key indicator, along with physical and sexual violence. The harmful practices that were identified as priorities were **female genital mutilation** and **early or forced marriage**. The Friends of the Chair further proposed an indicator for femicide. The Expert Group Meeting emphasized that the indicators should disaggregate by severity in order to examine grave as well as moderate forms of violence.

A **future objective** at the international level is to expand this core of indicators so that all forms of violence against women can be measured. More work, however, has to be done to improve the methodology currently used to collect data and develop indicators, such as surveys and questionnaires. This concerns parliamentarians as they play a key role in promoting the use of international indicators and funding or supporting population-based surveys. Parliamentarians should make it a priority to **strengthen the capacity** of national statistical offices to improve their ability to carry out surveys and offer protection to women who are interviewed.

Ms. Pigem: The Spanish experience of drafting and implementing legislation on comprehensive measures demonstrates the complexity of the challenge on a national level. The law on **comprehensive measures to combat gender-based violence** aims to harmonize and coordinate the policies of all government bodies providing services in the effort to combat violence against women. Its objective is to enable women to seek protection and claim their rights quickly and effectively. The impetus for its adoption had been the acknowledgement that the inequalities that lead to violence are often deep-rooted. It is thus vital to make violence against women a topic of serious public concern. Parliaments need to send out a strong message that gender-based violence is a serious human rights abuse that should not be tolerated.

The **wide scope** of the legislation makes it extremely complex. The legislation was designed to group all prior directives on gender-based violence for all government agencies under one omnibus law. It therefore incorporates, for example, laws on the criminalization of assault and the establishment of protection orders. It also establishes an **evaluation mechanism** supported by various bodies, such as an ombudsman on gender violence. Special courts are established to ensure the effective prosecution of acts of violence, regulations introduced for the collection of data and all bodies given access to objective data that can be compared and used to assess impact. Crucially, the law establishes a **follow-up mechanism** in the form of an evaluative report on implementation.

The evaluative report concludes that almost all the measures stipulated in the law have been brought into force. Indeed, the high number of complaints received is an indication of the confidence that women have in the system. Surveys have furthermore shown that the number of women suffering mistreatment has fallen. However, the report also highlights the weakness of **preventive mechanisms** and that much remains to be done to eradicate violence against women. The system established under the law for the collection of data has made it evident that femicide is a particular area of concern, especially among young women and immigrants, where the number of murdered women is disproportionately high. Another problem is that services dedicated to preventing violence and protecting women, such as schools and health clinics, are frequently

overworked. More must also be done to engage the media, make it easier to file complaints, train lawyers and police officers, offer psychological help to women, and close the data gap.

In response, the Spanish Parliament has ordered the Government to implement measures, notably for the protection of victims. It has also decided to set up a parliamentary subcommittee under the Equality Committee, to examine how the law functions and to propose amendments. The subcommittee, which has just begun its work, will draw conclusions and instruct the Government to take new measures, including to introduce changes in the law, in response to the call for increased protection and support.

“It is thus vital to make violence against women a topic of serious public concern.

Parliaments need to send out a strong message that gender-based violence is a serious human rights abuse that should not be tolerated.”

Ms. Herrmannsdorfer: In Honduras, an **inter-institutional commission** was established as a follow-up mechanism to the law against domestic violence. The commission’s objective is to coordinate between institutions, monitor implementation of the law, and help find solutions to problems.

The commission functions on the premise that **open debate** between government and non-governmental actors is essential for monitoring implementation of the law and for identifying solutions to pressing concerns. The Office of the Ombudsman, members of women’s organizations and representatives of NGOs have been given the opportunity to debate with members of the justice sector on matters of implementation. This approach has resulted in a number of draft amendments and proposals to improve protection against violence and increase women’s access to justice. The **role of civil society** has been of particular importance to the commission, and women’s rights organizations have successfully lobbied the government on a number of issues.

A major challenge currently facing the commission is how to replicate the practice in other areas of the country. The commission is just a practical

mechanism that lacks the competency to make high-level institutional decisions. The next step is therefore the creation of a national anti-violence against women commission made up of top-level officials that will work with the other existing specialized commissions.

Plenary debate

- Is your parliamentary committee responsible for monitoring the enforcement of VAW legislation? If so, what are the difficulties faced? If not, are there any parliamentary mechanisms/parliamentary bodies responsible for monitoring the implementation of such legislation?
- Does your parliament have access to regularly updated data on violence against women at the national level? What are the main sources of such national data in your country?
- Does the parliament cooperate with other State institutions, civil society, or other organizations to monitor enforcement? If so, how?

The participants noted that **monitoring the enforcement** of VAW legislation remains a huge challenge. A large gap persisted between the legislation adopted and actual protection. Although parliamentarians were aware of the importance of follow-up, monitoring mechanisms, such as subcommittees, were often weak, underfunded or non-existent. In cases where committees had been established to monitor enforcement, there was often little follow-up to their recommendations. The question was how these challenges could be overcome and what measures parliamentarians should take to strengthen the mechanisms of enforcement.

Ms. Pigem urged parliamentarians to **mobilize ministers, NGOs and other officials** and to encourage them to lobby the government for stronger enforcement mechanisms. **Working groups** and public debates could consider measures and indicators for violence that could serve to inspire the political will to take action. Ms. Herrmannsdorfer said that **reports** from parliamentary committees were useful tools for showing government and justice officials the efficiency of programmes. Efforts should therefore be put into compiling such reports and ensuring that the information they contained was robust, precise and up to date.

With regard to the **collection of data**, the participants noted that measuring violence and ensuring that data systems were regularly updated were still major challenges. Mr. Malby reminded them that surveys and administrative statistics were valuable **sources of data**. The collection of data and statistics was indeed complex and the process used must be very sensitive. **Specialized surveys** in the form of personal interviews should be used, but they had to be carried out by trained professionals. Surveys on other topics, such as on crime victimization, had addressed questions of gender-based violence. The Friends of the Chair had nevertheless noted that the methodology used to collect data on violence specifically needed to be developed at national level and particularly at international level to

enable cross-country surveys. There had also been a call for the publication of handbooks containing guidelines for surveying.

The participants agreed that violence against women was a **cross-cutting issue** whose elimination required cooperation between all sectors of government and society. They noted, however, that cooperation between government agencies was often difficult to foster due to competition over funding and status. This frequently resulted in a fragmentation of efforts and a breakdown of the process. The establishment of coordinating committees might help overcome this challenge. It is, moreover, crucial for women willing to reach across party lines and agency divisions in support of initiatives to be strongly represented in government bodies. ■

“The Inter-Parliamentary Union encourages the establishment of parliamentary bodies to monitor and evaluate all international and national measures designed to prevent and eradicate violence against women, and suggests that a rapporteur for these bodies submit an annual report to the Assembly for information, debate and public circulation.”

IPU resolution, 114th Assembly, 12 May 2006, para. 9

Indicators on Violence against Women: United Nations Initiatives

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This presentation concerns the results of a United Nations Expert Group Meeting held in October 2007 on indicators to measure violence against women. The Expert Group Meeting was organized by the United Nations Division for the Advancement of Women, the United Nations Economic Commission for Europe, and the United Nations Statistical Division in collaboration with the United Nations Economic Commissions for Africa, Latin America and the Caribbean, Asia and the Pacific, and Western Asia.

UNODC participated in the Expert Group Meeting and contributed to the development of indicators on the basis of its mandate to deal with violence against women, derived from Economic and Social Council resolution 2006/29.¹ In this context, UNODC provides technical support to Member States in addressing criminal justice system responses to victims of violence against women and works on standards and norms pertaining to such violence.

Violence against women is a complex topic with underlying social and cultural complexities. Collecting information on the issue is, as a result, a challenging task. Many women who are subject to violence are in very hard-to-reach places: institutions such as prisons, communities caught up in armed conflict, or displaced or traditional communities. Even in contexts that may appear safe, women may also be subject to violence in their own households. Women victims are unlikely to report violence to authorities where appropriate mechanisms are not in place. In the case of population-based surveys, special care should be taken to enable women to talk about their experience of violence. Even if the surveyors are independent and the questionnaires well developed, women may feel at risk revealing their experience to strangers.

The Expert Group Meeting engaged in discussions on indicators for violence against women bearing these difficulties in mind. An indicator may be described simply as a common way of measuring and presenting information.

Indicators are often used to meet a number of demands and to summarize very complex data. Data on violence against women is often extremely difficult both to collect and to interpret; the relevant indicators must therefore be unambiguous and easy to interpret. Crucially, indicators on violence against women must be measurable over time and should be capable of demonstrating whether the situation measured has improved or deteriorated. They must be meaningful and relevant to policy makers, service providers and the wider public. They must be capable of being supported by reliable and robust quantitative data. Such data must also be available at regular intervals and comparable over time and on a cross-national basis.

In addition to these generic requirements, indicators for violence against women must meet a number of additional requisites. The first concerns the data source from which the indicators are populated. Possible data sources include population-based surveys and/or administrative statistics. The second concerns the nature of the measurement of the extent of violence against women.

Within the United Nations system there have been a number of recent initiatives to measure the nature and extent of violence against women. These processes have, to some extent, developed in parallel. The first initiative to develop such indicators came from the Special Rapporteur on violence against women, its causes and consequences. The Special Rapporteur was asked by the Commission on Human Rights to recommend proposals for indicators on violence against women, and on measures taken

by, inter alia, Member States to eliminate violence against women.² Subsequently, General Assembly resolution 61/143 requested the Statistical Commission of the United Nations to build on the Special Rapporteur's work and develop and propose a set of possible indicators on violence against women in order to assist States in assessing the scope, prevalence and incidence of the phenomenon.³

“Crucially, indicators on violence against women must be measurable over time and should be capable of demonstrating whether the situation measured has improved or deteriorated. They must be meaningful and relevant to policy makers, service providers and the wider public. They must be capable of being supported by reliable and robust quantitative data.”

The report containing the Special Rapporteur's proposals for indicators on violence against women was published in January 2008.⁴ The process of development of indicators by the Statistical Commission commenced with the work of the inter-agency Expert Group in October 2007. The report of the Expert Group has since gone through a number of stages, including consideration by joint dialogue between the 39th session of the United Nations Statistical Commission and the 52nd session of the Commission on the Status of Women. The Statistical Commission subsequently created a Friends of the Chair group to review the indicators produced by the Expert Group Meeting, to consider their methodological validity, and to facilitate their deliberation by the Statistical Commission.

It is worth noting that the mandates of the Statistical Commission and the Special Rapporteur on violence against women with respect to the development of indicators are slightly different. The Special Rapporteur's mandate is somewhat wider insofar as she has the mandate to look at both the nature and extent of violence against women and measures taken to combat it.⁵ In contrast, the Statistical Commission's mandate is limited to the

scope, prevalence and incidence of violence against women.⁶

In examining the proposals made by each of these mechanisms it is helpful to bear in mind the definition of violence against women that was used in General Assembly resolution 48/104 and in the Secretary-General's report on violence against women.⁷ Gender-based violence against women is violence that is directed against a woman because she is a woman or violence that affects women disproportionately. This includes acts that result in, or are 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 life.

The United Nations Expert Group Meeting recommended that indicators for violence against women should, as a priority, provide a meaningful measurement of the prevalence of violence. The Expert Group Meeting also considered, but did not ultimately recommend, an indicator on the incidence of violence against women.

The definition of these two terms is important. As discussed by the Expert Group Meeting, prevalence and incidence are different ways of measuring extent. Prevalence refers to the proportion of the population that has experienced violence in a given period, usually either over a (adult) life-time or in the previous year. Incidence refers to the number of incidents of violence in a given population unit within a given time period. The Expert Group recognized that incidence was a particularly difficult measurement to obtain and recommended, in its place, an indicator based on repeat victimization rather than the number of incidents per se.

Indicators of violence against women should also be capable of measuring the severity of the violence. Severity is very difficult to define. Approaches to measurement of severity are often based on objective measurement of injury, with a view to indicating the degree of injury sustained. The impact of violence against women, however, is much more than objective injury. It equally concerns a woman's feelings and the impact on her private and family life. Approaches to measurement of severity should take such factors into account. Indicators should also mainstream attention to violence against women into ongoing data collection and policy development. An indicator of violence against women should further provide an accurate reflection of the

pattern of violence against women as different from that against men. For example, many patterns of violence against women are ongoing. A woman who is subject to violence from her intimate partner, for example, may experience not just one event, but rather a sustained course of violent conduct.

This complexity results in many different approaches to classifying the typology of violence and resultant attempts to develop indicators for violence against women. A brief survey of reports on violence against women demonstrates a mixed approach to describing both the action itself and the perpetrator. The perpetrator of the violence may, for example, be the woman's current or former intimate partner. The violence perpetrated by that partner may be sexual or physical in nature, psychological or economic. The intimate partner, however, is not the only possible perpetrator. Perpetrators may equally be persons not known or only slightly known to the victim. At its most extreme, in terms of actions, we could define femicide as the gender-based murder or homicide of women. A woman might also be subject to sexual harassment, stalking, female genital mutilation or cutting, forced or early marriage or even trafficking.

The Expert Group Meeting engaged in lengthy discussions about which forms of violence to look at for measurement purposes. It decided that a focus on both characteristics of perpetrator and type of violence was important. It chose an indicator of intimate partner violence, but also separately and with some overlap, identified indicators of physical violence and sexual violence. It also identified female genital mutilation and early marriage as important areas where the development of indicators should be prioritized. Regarding severity of violence, the Expert Group Meeting proposed that an indicator of physical violence be disaggregated by severity using the categories "moderate" and "severe". In contrast, the Special Rapporteur on violence against women proposed that indicators should focus exclusively on grave physical, sexual and intimate partner violence.

The indicator on physical violence proposed by the Expert Group Meeting was defined as the percentage of women over the total number of women population who have experienced physical violence both during the last year and during their lifetime. These two measures are important as trends over time can only be measured with reference to a rela-

tively short time period. Lifetime was also considered important, however, in order to capture the overall prevalence of violence against women. As noted previously, such an indicator would be disaggregated by severity (moderate or severe), but also by perpetrator (importantly including "State authority" as a category of perpetrator) and the frequency of violent acts (one, few or many incidents). The Expert Group Meeting did not propose counting incidents per se because of difficulties in recording this accurately through surveys. It recognized, however, that some measure of how often violence occurred was important and recommended the broad categories of frequency as a result.

"The impact of violence against women is much more than objective injury. It equally concerns a woman's feelings and the impact on her private and family life. Approaches to measurement of severity should take such factors into account."

The same indicator structure was also proposed for sexual violence. This indicator is classified as rape and sexual assault, during last year and lifetime and disaggregated by perpetrator and by frequency. The Expert Group Meeting proposed an indicator on intimate partner violence, in light of evidence that suggests it is one of the most common forms of violence. Population-based studies referred to in the Secretary-General's in-depth study on all forms of violence against women demonstrate, for example, that between 13 and 61 per cent of women report lifetime intimate partner violence.⁸

The Expert Group Meeting also proposed indicators on harmful practices: female genital mutilation/cutting and early marriage. Those indicators have since been reviewed by the Friends of the Chair group of the United Nations Statistical Commission, which substantially supported them, together with a proposal that forms of violence against women should be subject to a rigorous statistical classification. The Friends of the Chair group proposed that the Statistical Commission should continue to work in this area. The group also proposed an indicator on femicide (the gender-based killing of

women). This phenomenon cannot, by its nature, be captured by surveys in the same way that the other indicators can, and must be derived from administrative statistics. Such recommendations highlight the need for further work to identify and record the gender of victims in administrative statistics and to identify whether a killing can be said to be gender-based.

The indicators proposed by the Expert Group Meeting are intended as a core initial starting point. In the longer term, all forms of violence against women should ideally be included in ongoing measurement initiatives. To do so, further work on methodology is required, in respect of both data collection and indicator development. In particular, priority should be given to further development of the methodology used to survey violence against women, in particular in the area of standard definitions of questions.

Parliaments can play a key role in this respect. They can promote the use of international indicators in data collection. They can support and propose funding for population-based surveys or, where funding is not available for a dedicated survey, for special modules to general population surveys or crime victim surveys. They can strengthen the capacity of national statistical offices to carry out such surveys and ensure that the Ministries of Health and Justice are involved in coordination. They can also ensure multi-sector coordination

and, crucially, protection of women who are interviewed in such surveys. ■

Endnotes

- 1 In Resolution 2006/29 of 27 July 2006, the Economic and Social Council requested UNODC to consider providing assistance, upon request, to Member States in the area of crime prevention and criminal justice response to violence against women and girls, in cooperation with other relevant entities of the United Nations system, and to integrate the elimination of violence against women and girls into its training and technical assistance efforts, including its crime prevention activities.
- 2 Commission on Human Rights resolution 2004/46, at para 25.
- 3 General Assembly resolution 61/163, Intensification of efforts to eliminate all forms of violence against women, para. 18, UN. Doc. A/RES/61/143.
- 4 Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, UN Doc. A/HRC/7/6.
- 5 See Note 4, at para. 22.
- 6 See Note 3, at para. 18.
- 7 General Assembly resolution 48/104, Declaration on the Elimination of Violence against Women, Article 1, UN Doc. A/RES/48/104, and Ending violence against women: From words to action. Study of the Secretary-General, UN Doc. A/61/122/Add.1.
- 8 See Ending violence against women, op. cit., para. 114.

Case Study:

The Parliamentary Sub-Committee on Follow-up to the Violence against Women Law in Spain

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Member of the Parliamentary Sub-Committee on Follow-up to the Violence against Women Law

In 2004, the Spanish Parliament approved, in keeping with the wish of the political forces represented in its midst, what it considered to be the best instrument to combat violence against women: the Act on comprehensive measures to combat gender-based violence.

This Act was approved unanimously because it was felt that, above and beyond the legitimate party stance of each political force, there was a need to send a message to society, especially to women who were victims of violence, that in this fight to eliminate this serious violation of the human rights of women, all the political forces were speaking with one voice to give hope to and be at the side of women who suffered violence, and that the Parliament would spare no effort in dealing with this problem.

And that was how it came into being. When it was submitted to Congress, it was a government-sponsored bill, but when it was approved, following arduous parliamentary work and the incorporation of several amendments, it was an Act that had met with the unanimous support of the entire parliament.

This Act was not preceded by a legal void. Previously, each in its own sphere of competence, the local authorities of the autonomous communities and the town councils had been adopting plans of action, programmes and measures to deal with this social scourge. There had also been significant legislative changes, such as, in the criminal sphere, that of considering any verbal or physical attack as a crime and not a fault, which translated into more severe punishment and the possibility of adopting precautionary measures; or implementation of the so-called “Protection order”, a newly adopted instrument of rapid protection - under 48 hours - that removes the aggressor from the shared domicile and provides for the adoption of measures to ensure that

the aggressor is kept at a distance as well as assistance for the victim. These measures still remain in force since they were retained by the Comprehensive Act.

The Act aims to:

- a. Remove once and for all violence against women from the private sphere and transpose it into the public sphere, as it is a grave social and political concern.
- b. Grant rights. An Act, in contrast to a plan of action, grants rights to women who are victims. Claim to these rights can be made to the bodies that are bound to recognize them.
- c. Be comprehensive. It deals with the prevention aspect (education system, training of all professionals who may intervene during any part of the process, medical prevention), the legal aspect (criminal and procedural law) and the aspect dealing with political and social protection and the complete recovery of women and children. From its inception, its aim was to ensure harmonization and coordination between the service-providing agencies so that women would not have to follow a lengthy and cumbersome procedure to obtain protection and the resources needed to get out of a violent situation, as had been the case previously.

In addition, the Act has set up various organs such as the National Gender-based Violence Watch, a government agency overseeing activities to eliminate gender-based violence, specialized judges, and a special Office of the Prosecutor for Gender-based Violence, which will periodically provide objective, comparable data on the situation - and which will

indicate how well the Act is being implemented and what effects it is having. The government will evaluate the Act in a single assessment to be undertaken after a three-year period.

“An Act, in contrast to a plan of action, grants rights to women who are victims. Claim to these rights can be made to the bodies that are bound to recognize them.”

The Act is complex. It is complex because it involves all the authorities, not just the State authorities. In fact, the Autonomous Communities (local or regional authorities) are the competent government authorities that deal with prevention, social protection and recovery of victims, and political protection; they also bear the economic costs.

It is complex also because the manifestation of inequality that is violence is based on a mentality that is deep-rooted in our society, one that was not easy to change with a single Act.

Lastly, it is a very complex Act because gender-based violence maintains a relationship between the aggressor and the victim that does not usually categorize violence in that relationship as an offence, with all the inherent difficulties that entails.

Four years have elapsed since the Act was passed and the government, in accordance with the Act's provisions, submitted a report to parliament assessing the effects of its application.

The report clearly finds that almost all the measures provided for under the Act have been implemented. Nevertheless, the report also states that much remains to be done and that it was necessary to enhance the prevention aspects. There was no doubt that it is an absolutely necessary Act, but it is inadequate.

That and other reports produced by official agencies show that, since its implementation, the Act has obtained relatively positive results. The high number of reported cases shows that there is confidence in the system and a comparison of the two most recent major surveys conducted underscores that there has been a drop in the number of abused women, both in terms of those women who consider themselves to be abused as well as those who, based on objective indicators, are considered by the system to be victims of abuse.

Notwithstanding the number of women who have been murdered since the Act entered into force, there is a need to be cautiously optimistic rather than cry victory. In particular, it should be borne in mind that there has been a decline in abuse of Spanish women, but special attention should be paid to youth as a whole, among whom there is a high level of violence, and to foreigners as a whole, where violence is disproportionately high (the migrant population in Spain is below 10% but of the total number of abused women, 45% are foreigners, with foreigners also accounting for 40% of aggressors).

On the other hand, and as various services are being set up, the different sectors involved have been expressing the need to improve certain aspects of the Act, and have even submitted proposed amendments to enhance its effectiveness. In general, services (health care, housing, schooling for children, political protection, etc.) are in high demand, especially if they work. This means that the initial provisions for such services need to be reviewed in terms of quantity and with a view to optimizing material and human resources.

“It is a very complex Act because gender-based violence maintains a relationship between the aggressor and the victim that does not usually categorize violence in that relationship as an offence, with all the inherent difficulties that entails.”

The following are some of the areas that require improvement: enhancing prevention; greater human and financial resources; the role of the media; underscoring the current need for legal condemnation as the backbone of the protection system, especially of the victim psychological support services; the new concept of “accompanied victim”; the need for specific training of all actors involved in law enforcement, including judges and police officers; the need to overcome the current absence of data in the area of minors, considered by the law as direct victims; the need for more special courts and to determine what are the lapses in specific cases in the chain of protection.

To that end, and although the Spanish Government has been adopting new measures, some Autonomous Community legislators have passed laws that complement the measures in their spheres of competence. The national parliament has ordered the government to implement measures, especially regarding the protection of victims. In order to conduct in-depth work, members of parliament decided to create a subcommittee to the Equality Committee, charged with examining the Act's functioning on comprehensive measures to combat gender-based violence.

In order to complete its work, the subcommittee will hear a long list of persons due to appear before court as well as representatives of the various law enforcement agencies, all of whom will provide

quantitative and qualitative data based on their own experiences. The subcommittee expects that these testimonies will illustrate how the provisions of the Act are applied and suggest amendments that would enhance the law while retaining its spirit.

The subcommittee will then draw up its conclusions and, if they are adopted, will instruct the government to take new measures, including the need to introduce changes to the Act.

The Act is a wonderful instrument, but with the passage of time, all instruments, even the best of them, need to be adjusted or amended in order to function well. Eliminating gender-based violence will continue to be a clear goal of the Spanish Parliament and a permanent feature on the agenda of its Equality Committee. ■

Case Study:

The Inter-Institutional Commission to Follow-up Implementation of the Domestic Violence Act in Honduras

Ms. Claudia Herrmannsdorfer

Centre for Women's Rights – Honduras

Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM)

Origin of the Commission

The Domestic Violence Act (LDV) in Honduras entered into force in 1998. At that time, implementation of the Act posed a great challenge for law enforcement agencies and women's organizations, which had fought to have it passed.

The new Act incorporated a comprehensive view of domestic violence against women and was grounded in treaties such as the CEDAW and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. This unique approach not only strained procedures but required a great deal of coordination among the different implementing agencies.

“The Commission identified significant loopholes and weaknesses in the Act. The solution to some of these problems was found in the incorporation of legal procedures contained in other Acts; other problems were resolved by simple agreement between institutions or shared analysis and conclusions of the mechanisms to be used for a practical solution.”

The first steps taken to enforce the Act were confused, hesitant and uncoordinated. Hence it became urgent to work with the public officials directly involved in law enforcement to identify problems and agree on solutions. Against that backdrop, the Honduran Centre for Women's Rights, a

non-governmental organization, came up with the initiative to create a coordination mechanism that could define solutions and ensure proper enforcement of the Act.

Thus, the Inter-Institutional Commission to Follow-up Implementation of the Domestic Violence Act came into being a few months after the Act entered into force in 1998, as proposed by the Centre for Women's Rights to the different institutions involved in enforcement of the Act.

The acceptance by state institutions of a proposal emanating from the Centre - a woman's organization - is due to the latter's authority and recognition, derived from its being one of the main actors in the drafting of the Act and its overwhelming approval in the Congress. Moreover, the Centre for Women's Rights had forged special ties with law enforcement officials during the implementation of one of the Centre's most important working strategies, which consists of representing women in court in cases of domestic and sexual violence.

The following institutions participated in the establishment of the Inter-Institutional Commission:

- Special judges for hearing domestic violence cases;
- The Special Women's Prosecutor;
- Family Counselling Offices under the Health Department;
- The Police Service;
- The Town Council's Social Affairs Department, in charge of monitoring men sanctioned by the Act;
- The Office of the Ombudsman;
- The National Women's Institute; and
- The Centre for Women's Rights, the only NGO present at that stage.

Main purposes of the Inter-Institutional Commission

The initial and basic purposes of the Commission have been maintained to date and consist of the following:

- a. Monitor enforcement of the Domestic Violence Act (LDV), in coordination with implementing agencies.
- b. Unify enforcement criteria and establish effective and valid practices.
- c. Encourage proposals for enhanced implementation and design common awareness-raising and training activities.
- d. Serve as a space to receive reports of negative practices and devise strategies to correct or sanction them.

Opportunities and achievements of the Inter-Institutional Commission

The opportunities provided by the Commission and its achievements concern both public institutions and non-governmental organizations:

- The space provided by the Commission created conditions for the Office of the Ombudsman, the National Women's Institute and the Centre for Women's Rights to observe what was happening in law enforcement and access of information that is useful for drawing up institutional plans of action or guidelines for intervention strategies.
- The Commission identified significant loopholes and weaknesses in the Act. The solution to some of these problems was found in the incorporation of legal procedures contained in other Acts; other problems were resolved by simple agreement between institutions or shared analysis and conclusions of the mechanisms to be used for a practical solution.
- The identification of loopholes and weaknesses to which immediate and effective solutions could not be found led to work on a law reform proposal intended to enhance women's rights as they related to domestic violence. That proposal was elaborated by the Commission and finally approved by the Congress in 2006.
- The process of elaborating the law reform proposal within the Commission was seen as an opportunity by The Pan-American Health Organiza-

tion (PAHO), which at that time was working on model legislation on domestic violence for Latin America. PAHO decided to validate some components of the model during the amendments process in Honduras.

- As a result of this validation, the Inter-Institutional Commission included in the law reform proposed recommendations of the PAHO model, which had hitherto been difficult for state institutions to accept. In this context, women's organizations were able to introduce in the proposal new forms of domestic violence such as restrictions on family planning rights.
- Through the Commission, public institutions gain civil society support when they face threats over spaces constructed for the advancement of women's access to justice. When such incidents occur, the Commission develops different advocacy activities and meets with the principal officials and decision makers presenting specific claims and petitions that oblige them to take gender-sensitive decisions, establish necessary instruments or allocate budget resources to defend and ensure advancements.
- The members of the Commission have conducted training and sensitization workshops on domestic violence and the gender perspective for judges, prosecutors, the police service and town council officials.
- The elaboration of different documents and awareness material, considered necessary to improve some aspects of law enforcement. Some of these documents include: a Guide to Domestic Violence Procedure for Local Judges in Rural Areas; A Compendium of Questions and Answers on enforcement of the Domestic Violence Act; a pocket guide for police officers containing a list of urgent protection orders and legal grounds; and posters on police duties.

“The Inter-Institutional Commission is composed of persons directly involved in implementation. This facilitates the speedy solution of problems, thereby avoiding bureaucratic procedures and enhancing effectiveness.”

Lessons learned: A forward-looking evaluation

The Inter-Institutional Commission recently celebrated its tenth anniversary¹. Many elements contributed to its success and, like all processes, new steps must be taken. Some of these include:

- The officials representing public institutions at the Commission were and are mostly women who are highly committed to promoting the right to a life free of any form of gender-based violence. At its inception, those representatives did not have much institutional support, an attitude that gradually changed when results were yielded and top officials were obliged to take decisions.
 - After 10 years of existence, Commission membership was opened to other interested civil society organizations. Currently, the participation of women's organizations is stronger, and they are in a better position to demand due process and proper implementation.
 - The Commission has clear purposes and few rules: the Chairperson is elected for a one-year term and decisions have to be taken unanimously by all members.
 - The Inter-Institutional Commission is composed of persons directly involved in implementation. This facilitates the speedy solution of problems, thereby avoiding bureaucratic procedures and enhancing effectiveness.
- One of the limitations of the Inter-Institutional Commission was its local scope, with competence only in the capital city. Over the years the experience has been multiplied and adapted in other parts of the country, albeit under different names and with different representatives, depending on local circumstances and possibilities.
 - The Commission is a practical mechanism that is not competent to take high-level institutional decisions; it needs a link with a broader decision-making mandate. The Commission proposes to establish a National Commission on Violence against Women, formed with the participation of top-level officials. This initiative is currently taking shape under the leadership of the President of the Supreme Court and with the support of law enforcement agencies and some civil society organizations. In this new but necessary context, the Inter-Institutional Commission to Follow-up Implementation of the Domestic Violence Act, will continue to exist but will do so in a broader context, sharing its position with the special commissions that have been set up to deal with other topics of violence against women.² ■

Endnotes

1 1998-2008.

2 These include the Inter-Institutional Commission on Femicides and the Inter-Institutional Commission on Sexual Exploitation.



PARTNERSHIPS: WORKING WITH MEN

7

Overview and Debate

The panel discussed the importance of **working with men** to prevent and address violence against women. Examples were given of instances where such partnerships had played a key role in developing legislation, heightening public awareness or changing attitudes and behaviour.

The panellists for this session were Ms. Elizabeth Powley, consultant in gender and governance, and Mr. Chris Green, Executive Director, The White Ribbon Campaign, United Kingdom. Ms. Powley presented a case study on Rwanda and discussed the ways in which women parliamentarians had worked with their male colleagues to produce the Gender-Based Violence Bill. Mr. Green outlined the aim and strategy of the White Ribbon Campaign, which had men working to end men's violence against women, and highlighted some of the important lessons learned.

Ms. Powley: Rwanda provides an extraordinary example of what can be accomplished when genuine partnership is fostered between men and women. In 2008, women in Rwanda achieved a major success as a bill they spearheaded on gender-based violence passed both houses of parliament. The success of the **Draft Law on the Prevention, Protection, and Punishment of Any Gender-Based Violence** (GBV Bill) is attributable not only to the high percentage of women in the national parliament (56% in 2008), but also to the strategy used by women parliamentarians to recruit their male counterparts and secure equal sponsorship of the bill. The GBV Bill is a wide-ranging statute in that it not only defines rape for the first time in Rwandan law, it also addresses multiple forms of violence, including the sexual assault of children, domestic violence, spousal abuse and sexual harassment. Crucially, it was **sponsored by an equal number** of men and women.

In order to achieve success, supporters of the bill followed a five-point strategy designed to ensure that men were not alienated. Firstly, the very strong, cross-party **women's caucus** in parliament was mandated to ensure gender sensitivity in all parliamentary processes. The caucus was organized around the topic of gender rather than party interests, and was consequently able to cooperate in order to support women parliamentarians through friendship and mentoring, to share information and to hold interactive forums for delivering workshops on leadership skills. It established crucial links with **foreign donors**. The women's caucus did not, therefore, just assist parliamentarians to network, it was also effective at advancing legislation.

A second strategic decision was to frame the topic of violence against women in terms of **gender rather than women's rights**. The merits and drawbacks of such an approach have been frequently debated; in the context of Rwanda, however, there was a real commitment to protecting men and boys from violence. Furthermore, portraying violence in gender terms made it a **broad social problem** that was seen to impede development, rather than a limited issue of women's rights. It therefore became of interest to a diverse group of stakeholders, including men. The **highly consultative process** that was used to deliver, write and introduce the legislation was the third factor that contributed to its success. Through frequent debates, discussions and other forms of public consultations, parliamentarians kept the process open and transparent. Foreign experts, specialists and parliamentarians were also consulted, and because discussions were kept public, a sense of **local ownership** over the draft law was instilled. This was crucial as it allowed supporters of the bill to counter culturalist arguments by the opposition. Men were often taken on trips to the field in order

to hear from rural Rwandan women that their desire not to be abused was a genuine indigenous sentiment rather than a concept imported from Western culture.

Building a functioning partnership with men required, fourthly, the deliberate use of **non-alienating** language. Men were, for example, intentionally referred to as “fathers and sons” in order to accentuate their connection to victims of violence. This emphasis on family relations helped sensitize men and encouraged them to support parliamentary initiatives.

“Like the parliamentarians in Rwanda, members of the White Ribbon Campaign have found that men are best mobilized when victims of violence against women are conceptualized as daughters and mothers. This technique helps make the suffering of unknown women more tangible, as if an act of violence had occurred to a member of one’s own family.”

The last element of particular importance was the need to **identify male allies** and invite male leadership. Men were invited to participate at all stages and were frequently asked to chair events. It was also noticed that interviews with men government officials on the topic of gender-based violence had a different impact when carried out by men rather than women consultants. It thus became very important to include men in the consultative process as well as in the presentation of the bill before the parliament.

Despite this carefully thought-out strategy for forging a partnership with men, there was still opposition from parliamentarians. Some men objected to the bill out of the self-awareness that they had committed some of the acts it defined as crimes. Others protested the severity of the punishments outlined in the bill, while others objected to the idea of marital rape or polygamy as a crime. Implementation also posed a number of challenges, such

as harmonizing the bill with existing laws and statutes and establishing a budget and mechanisms of enforcement.

Mr. Green: In an effort to forge a partnership between the genders, the **White Ribbon Campaign** uses certain elements of the strategy outlined above. The aim of the campaign is to mobilize men to wear a white ribbon as a pledge never to commit, condone or remain silent about violence against women and girls. The campaign functions on the principle that as long as modes of behaviour such as aggression and machismo are valued in relationships and promoted as a desired quality in men, gender-based violence will continue to exist. Ending violence against women therefore requires **changing the culture** on which masculine stereotypes are based. Many men and boys feel isolated or socially excluded because of the pressure on them to conform to traditional masculine stereotypes. More should thus be done to promote **alternative masculinities**. One effective approach used by the White Ribbon Campaign has been to collaborate with the media and involve mainstream celebrity role models in its efforts to inspire boys and men to embrace a version of masculinity based on tolerance and non-violence.

Although the immorality of violence might be unquestionable, a strategy to counter violence that is based uniquely on an appeal to morals is not always the most effective approach. The key to a successful campaign is knowing how to **market a message**. Recent studies have demonstrated that **humour and comedy** remain the most effective methods of communicating a serious message. Events such as “Walk a Mile in Her Shoes” use simple humour to convey a clear message while attracting media attention and reengaging the public in an innovative and memorable way. The best campaigns are not those that aim to shock men and boys with detailed pictures or stories of the victims, as this approach may lead to denial or a loss of interest. More effective strategies engage men by appealing to **relational or collectivist interests**, as well as social morals.

Like the parliamentarians in Rwanda, members of the White Ribbon Campaign have found that men are best mobilized when victims of violence against women are conceptualized as daughters and mothers. This technique helps make the suffering of unknown women more tangible, as if an act of violence had occurred to a member of one’s own fam-

ily. Another strategy is to appeal to the collective interest of men and women in leadership positions or within corporations by highlighting, for example, the economic cost of violence against women. Relating incidents of violence to **profit-loss** provides a powerful incentive for companies and institutions to make ending violence part of their corporate social responsibility.

Plenary debate

- How do you engage with men parliamentarians and get them to commit to combating violence against women?
- How do you engage men in general and in your constituencies?
- Do you, as men parliamentarians, find it difficult to work on violence against women? What resistance do you face from other men colleagues, if any?

Some points were revisited in the plenary debate. The participants emphasized the need to have **more women in decision-making** bodies. Building a partnership with men required, as a prerequisite, that women who were strategic leaders be recognized for their skills in diplomacy and communication. The essential aim of anti-VAW campaigns was to sensitize government and society to the patterns of behaviour that result in violence, and subsequently advocate for change. It was therefore crucial for the credibility of the campaigns that leaders be able to inspire and recruit male counterparts to publicly

support the cause. The participants reiterated the need to involve men from all political, religious and ethnic persuasions in every stage of the planning and implementation of initiatives. A greater effort must be made to heighten the visibility of men's contributions.

Women leaders were also needed to **organize and coordinate** diverse networks of caucuses, NGOs and other committees in a united effort to end violence. Parliamentarians needed to work closely with grassroots efforts to frame the struggle against violence as a social, political, religious and economic issue that affects everyone. Approaches that define violence against women in terms of ideology or class conflicts were, in general, not very successful. A more conciliatory tactic should be adopted that emphasized the commonalities rather than the differences between victims, perpetrators and bystanders. This was the only way to overcome alienation and build strategic partnerships between men and women.

Change, it was noted, starts from within the family. Mr. Green highlighted the importance of working with **fathers and husbands** to sensitize them to the problem of violence and enable them to identify and correct potentially harmful patterns of behaviour in their children. The education system was another hugely important entry point for addressing root causes of violence. Teachers were crucial role models for school children. It was imperative that they be trained to confront negative stereotypes and promote alternative values. ■

Engaging Men in Preventing Male Violence- A Vital Part of the Strategy

Mr. Chris Green

Executive Director, The White Ribbon Campaign, United Kingdom

The White Ribbon Campaign UK does not claim expertise on prosecution of perpetrators or protection of survivors. It is striving to work in what Maria Alcala of UNIFEM called a neglected yet most strategic area – the area of prevention.

The White Ribbon Campaign is a campaign of primary prevention. It works to challenge the beliefs and values that support violence, to challenge the aspects of male culture that condone violence and to promote alternative ideas of masculinity that will help create a non-violent society.

Why should, and indeed why do men get involved in working to end violence against women? The examples of effective campaigning given below show what the White Ribbon Campaign UK has been doing, including its Blow the Whistle on Violence campaign. What other initiatives can be taken to ensure that the momentum of this work carries on throughout 2008-9 and 2010 until the violence stops?

Let us spend one minute imagining the world as it will be when there is no violence against women. A few adjectives that come to mind to describe this world are: peaceful ... harmonious ... wonderful ... The most moving is the word NORMAL. What we have at the moment is an abnormal world, but it will achieve normality again.

Let us start with a couple of comments about the abnormality. In her book *The Rites of Men*, Rosalind Miles writes, "As long as aggression is admired in business, in love, in relationships, so long will men be victims of their own delusions and the dangers around them". John Lennon put it even more simply: "When you are growing up - that 'Be Strong' thing - it's all propaganda".

The White Ribbon Campaign UK does a great deal of work in schools, and students like graphic messages. The campaign therefore uses extracts

from *Dragonslippers - This is what an abusive relationship looks like*, by Rosalind Penfold, which shows the gradual development of an abusive relationship and how this also affects the children within the relationship.

An extremely moving site bears witness to the extent of the most severe forms of violence: Domestic Violence Memorial UK is a website set up and maintained on a voluntary basis that collates the biographies usually found in press reports of the women murdered by their partners in the United Kingdom. Its graphic representation is shocking, chilling and effective in education, but more likely to lead to a shutdown when the issues are discussed with potential male allies.

Why is it important to work with men?

To ensure action by men

Women's organizations welcome men's involvement in anti-violence campaigning, and it is men's responsibility to get involved. In April 2008, the Council of Europe received the national action plans to end violence against women from European contact points in 35 countries, but only five of the 80 conference delegates were men.

To prevent isolation of those men who are involved in the work

Involving key male opinion formers is one of the keys to changing a culture which, in its current state, condones violent behaviour.

To develop more man-to-man peer education

All men parliamentarians have men friends and men family who are not active in preventing violence and who need to be persuaded to take action.

There is much discussion about why men should be involved. However, telling men they should be doing something does not often translate into action. Above and beyond the moral rationale, a very extensive study in Sweden by Lars Jalmert found that men like the idea of gender equality, they are opposed to male violence but they want someone else to work out how ending the violence will happen. It is therefore vital to see why men do or might get involved. How does the campaign get these men and all men engaged in its work and activities?

“Let us spend one minute imagining the world as it will be when there is no violence against women. A few adjectives that come to mind to describe this world are: peaceful ... harmonious ... wonderful ... The most moving is the word NORMAL. What we have at the moment is an abnormal world, but it will achieve normality again.”

The four reasons why men may become themselves in anti-violence against women activities are as follows:

Relational interest

If mothers, sisters, daughters are suffering from violence, then men are more likely to take action.

Personal well-being

It is in men's interest to live in a peaceful society - one that is free of homophobia, is liberated from the strict gender stereotyping that creates huge pressures by dictating the way a man must behave to show he's a man, and leaves men free to develop improved ways of relating to women and new roles as carers and fathers.

Collective interests

The costs of gender inequality and violence are huge. The cost of domestic abuse just in the United Kingdom is estimated by Professor Sylvia Walby at £23 billion a year: £6 billion in easily measurable

costs and £17 billion in psychological, emotional and social costs.

Principle

Violence against women is wrong. In the words of a 10-year-old child from a refuge for women and children, “This isn't right and it isn't fair”. If a 10 year old can work out that we need to make changes, then it is up to us to put those changes into place.

The White Ribbon Campaign suggests that a process similar to that of any community development activity be used to develop a campaign with men.

1. **Consciousness-raising:** Organize an event and collect contact details of the men who attend. It doesn't have to be an event which is aimed at men.
2. **Small initial action:** Ask those men to undertake something simple - White Ribbon calls it “taking baby steps”. Don't ask the men to suddenly change the world; ask them to wear a badge or make a statement as a first step. David Moyes, the manager of Everton FC, said, “If wearing a badge demonstrates that violence against women must stop, then it's the least that I can do”. The next step is to see what is the most he can do!
3. **Internalization:** Ask men who have agreed to do something specific to undertake self-education by reading some material or attending a meeting.
4. **Integration:** Mentor a few people from the group. Invite them to conferences, to publicly take on leadership. A recent volunteer was offered a one-day introduction to the issues by a local authority.
5. **Leadership:** Encourage these men to organize an event and continue the cycle.

The White Ribbon Campaign UK concentrates on 16 Days of Action from 25 November. Its work has three different strands: pledges by individual men, education and outreach work, and media work.

No badge or ribbon is given out or sold without the accompanying pledge card and information card about the extent of violence against women. In November 2008 the Campaign sold about 300,000 badges, ribbons and pledge cards.

The second strand, education and outreach work, primarily involves working to get gender equality

issues embedded into the curriculum for education and training of all, both children and professionals; it also involves working with trade unions, employers and politicians. As part of this work, the Campaign is developing comics designed by young people in their anti-violence programmes.

The media work involves firstly promoting recognition of International Day to Eradicate Violence against Women, and secondly responding to a huge range of issues around the commoditization of women by supporting women's groups working to fight pornography and prostitution.

Having considered these examples of good practice, let us turn to why the Campaign takes these initiatives. A group of young men was engaged in a shopping centre in Manchester some months ago. Does the Campaign's work make any difference to the way they think and act?

If the Campaign is to engage the young men that are the "focus group" for activities, then the use of role models can be very effective. Working with sports organizations can mean working with recognized role models and reaching the target group of men (who spend a great deal of time watching sports events). That is why the Campaign has extended its work to the Blow the Whistle on Violence against Women campaign.

The White Ribbon Campaign UK worked with over 80 football teams in 2008; it also worked with rugby, ice hockey and basketball teams. Activities included collections at matches in support of women's organizations, sports quizzes, announcements on the public address system, articles in programmes and having leading players and managers wear the ribbons. In addition, a team of sports ambassadors was established to promote the campaign's extension.

In 2009 the White Ribbon Campaign UK will continue to expand its music and nightclub campaigns, which the brewing companies are expected to sponsor. It has cooperated with White Ribbon Campaigns in other countries around the world (Namibia, Pakistan, Canada, Australia and Austria).

The White Ribbon Campaign UK has not even scratched the surface of the ways in which it can get more men involved and remains very open to suggestions and other ideas. In 2009 it will be sending a self-evaluation form to organizations that have a majority of men, e.g. the army, the police, sports

organizations, to discover what they are doing as men's organizations to change the culture and support the work to end violence against women. The form is based on the excellent self-assessment produced for the last three years by the UK-based End Violence against Women organization.

The following words are from a letter from Paolo Maldini, captain of AC Milan: "To pin the White Ribbon on the chest is like taking on the responsibility of captain, but in the more important game, that of life. Fair play it is an attitude that every sportsman must have when playing a game, and the engagement not to use violence against a woman or a girl, never to raise the hands, and not to use the words in order to hurt and to offend is the attitude that every man must have in life every day. It is important not only for us to hold these attitudes. We must also bring them to others' attention and ensure that others - our friends, our relatives and even men we don't know - make this commitment. To be fully engaged we must also take part in critical situations in order to stop violence and must condemn violent behaviour. To wear the White Ribbon is like being, at that moment, a team captain, and like a good captain, involvement means respecting the more important values of life. When playing, the violence of one player damages all the team, and, therefore, also in life to ignore violence when we know that violence exists creates damage for all society. Therefore we have decided to come down to support absolutely, with you, the Campaign of the White Ribbon men against violence." ■

Endnotes

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Examples of good practice by men parliamentarians:

- 1 On 30 November 2007, the Albanian Parliament held a Parliamentary Day against Domestic Violence. As well as debates and presentations within the chamber, they chose to highlight the issue of power imbalance and make a symbolic gesture by reversing the normal gender ratio of Parliament. Instead of 130 men and 10 women, on that day there were 130 women and 10 men in the chamber.
- 2 The Finnish Parliament asked all MPs to make handprints on a banner and pledge, "These hands are not for hurting". The organization behind this said that the previous week they had launched the National Action Plan against Vio-

lence, and only a few journalists had come. When the MPs started splashing around with finger paint, all the media were there. The situation was quite competitive, with each party being represented by a different colour. Each party was striving for maximum representation of its members on the banner. Of course putting a hand print on a banner is a little like wearing a badge. It is only a symbol. But it is a start and a first step on the path to ensuring an end to the violence against women.

- 3 “Walk a Kilometre in My Shoes” - in the north of England, mayors and councillors have undertaken sponsored walks in women’s fashion shoes as a means of drawing the media’s attention to the underfunding of women’s organizations. This activity provides a focus for action around the Inter-

national Day to Eradicate Violence against Women (White Ribbon Day) and attracts great interest from passers-by.

- 4 Men’s parliamentary networks - the Swedish men’s parliamentary network has been operating since 2004. It has over 50 members and is an all-party group. The aim is to have men parliamentarians debate their values and pre-conceived ideas. The network has worked on the prevention of trafficking, equality in the workplace, and violence against women. It has looked at existing power structures and seeks to influence civil society. It organizes meetings for police officers, lawyers, judges, soldiers, sports coaches, schools and trade unions on values and attitudes that need changing, and gives support to work in schools about conflict resolution without recourse to violence.

Case Study: Rwanda

Working with Men in the Development of the Gender-Based Violence Bill¹

Ms. Elizabeth Powley

Consultant in gender and governance

In an effort to bring men into the campaign against gender-based violence (GBV), the example of Rwandan parliamentarians provides an interesting case study and model. In August 2006, eight members of the Rwandan Parliament introduced a wide-ranging bill to combat gender-based violence. The bill defines and criminalizes GBV as the physical, sexual, or mental abuse of a person based on his or her gender. In addition to addressing rape, sexual abuse, domestic violence, and sexual harassment, the bill also includes articles dealing with divorce, property rights, dowry, maternity leave, access to family planning services, and polygamy. Because Rwanda leads the world in women's political representation—48.8 per cent of its lower house of parliament was female at the time of the bill's introduction—it is perhaps unsurprising that criminalizing GBV was a legislative priority. What is remarkable, however, is the extent to which women and men worked together on this issue; the bill, known as “Draft Law on the Prevention, Protection, and Punishment of Any Gender-Based Violence,” was co-sponsored by four women and four men.

Background

The high levels of women's representation in Rwanda today provide an important context for the GBV legislative effort. Before the 1994 genocide in Rwanda, women never represented more than 17 per cent of seats in parliament. During the post-genocide transition, members of parliament were appointed. The ruling party, the Rwandan Patriotic Front, consistently appointed women to nearly 50 per cent of its seats in parliament; other parties appointed fewer women. Women parliamentarians formed a women's caucus in 1996. The strength of the women's

caucus was one of the factors that contributed to the success of the effort to develop legislation to combat gender-based violence. In 2003, Rwanda adopted a new constitution that mandated a 30 per cent quota for women at all levels of decision-making, including in parliament. In 2003, women were elected to 48.8 per cent of seats in the lower house. The GBV bill was introduced in 2006 and in 2008, women were elected to 56 per cent of seats in the lower house - currently the highest percentage in the world.

GBV was a top policy priority of the women parliamentarians elected in such significant numbers in 2003. They began a multi-year campaign to develop legislation aimed at addressing the problem. The process was highly consultative and included grassroots outreach throughout the country. The GBV bill was first introduced in 2006. It defines the rape of an adult woman for the first time in Rwandan law. It addresses multiple forms of violence in one piece of legislation (e.g. sexual assault of children, domestic violence/spousal abuse and harassment). The bill was passed in the lower house in 2007 and in the upper house in 2008. The final step, in which a bill is signed into law and published in the Official Gazette, is expected in 2009. However,² even just the introduction of the bill, demonstrates women parliamentarians' capacity to engage men in a groundbreaking anti-violence campaign.

Five Strategies

Women parliamentarians used a variety of strategies to effectively recruit male colleagues to join them in the fight against gender-based violence. Their campaign was ultimately successful in gaining an equal number of female and male co-sponsors for the GBV Bill. These strategies are: 1. Developing

a strong women's caucus, the FFRP; 2. Choosing gender, not solely women; 3. Employing a consultative process; 4. Using non-alienating language; and 5. Identifying male allies and inviting men's leadership. These strategies are offered not as a prescription that will work everywhere, but as an illustration of what worked in Rwanda.

1. Developing a strong women's caucus, the FFRP

The Forum of Women Parliamentarians (Forum des femmes rwandaises parlementaires - FFRP) was created in 1996 as a multi-party, multi-ethnic women's coalition in the Transitional Parliament. It includes women from both houses of parliament. Its mandate is to ensure gender-sensitivity of the parliament, legislation, and government oversight.

The formation of women's cross-party political caucuses can be an important factor in increasing women's impact on the legislative process. Caucuses organized around gender rather than party interests can be collaborative forums for information sharing. They can mitigate the influence of party politics and can provide important support to women legislators, especially if they are still in the minority. Caucuses not only complement but also facilitate other forms of support such as friendship among female colleagues and mentoring programmes. In addition, the presence of caucuses has a significant effect on the development and passage of legislation. For example, an American study revealed that, of the five state legislatures that passed the most legislation related to women's, children's, and family interests, four had formal women's caucuses. None of the states with the worst records on these types of legislation had a women's caucus.³

There is also evidence that caucuses can bridge the gap between members' general support for an issue and their decision to actively organize and pursue a policy goal. A caucus gives women a formal framework within which to develop advocacy on legal issues affecting women, and in the case of Rwanda, it provides an organizational link with foreign donors who provide funds for training workshops, expert technical advice, and administrative assistance.

Since its formation, the FFRP has developed into a prominent institution within parliament and a leading voice in the national women's movement. As women's numbers in parliament have risen, and the caucus has matured, its ability to influence legislation has increased.⁴ The strength of the FFRP

contributed greatly to the ability of women legislators to advance their GBV agenda.

2. Choosing gender, not solely women

Recognizing that there could not be a sustainable improvement in the lives of women without a change in the relations between men and women, Rwanda shifted from a "women's" to a "gender" approach to development in the post-conflict environment of the mid-1990s. Before and immediately after the genocide, for example, these issues were managed by the Ministry of Women's Affairs, but by 1997, the ministry was renamed the Ministry of Gender and Social Affairs.⁵ The emphasis on gender relations rather than on just women in Rwanda mirrored a shift in the wider development community, beginning in the 1980s, from women in development (WID) to gender and development (GAD).

"The formation of women's cross-party political caucuses can be an important factor in increasing women's impact on the legislative process."

Though the shift from WID to GAD remains uneven worldwide, and well-intentioned but uninformed practitioners often conflate the terms "women" and "gender," advocates in Rwanda have created interesting models that include men. Male and female staff from the Ministry of Gender, for example, conduct gender trainings throughout the country that describe development as a shared challenge and emphasize the roles that both men and women play in advancing it. In the local language, Kinyarwanda, trainers use two translations of the English word "gender": ubulinganire (equality) and ubwuzuzanye (complementarity), or the idea that women and men, while different, complement one another.

The GBV legislation is inclusive; the bill addresses violence against young boys, for example. During the development of the bill and the subsequent legislative campaign, GBV was framed not as a women's issue, but as a social problem that impedes development. To illustrate this, consider the following comment made during the debate in parliament by a female parliamentarian: "I would like to ask my fellow

MPs not to take this law as if it is a women's thing, even though in many cases women are the ones suffering from gender-based violence. But this law will protect the whole Rwandan society."⁶

In choosing to emphasize gender issues, not solely women's rights, the FFRP's GBV campaign reveals both principle and strategy. In addition to a genuine commitment to protect boys and men from violence, and a vision of development that necessitated the involvement of all citizens to combat GBV, there was also recognition on the part of women parliamentarians that they needed men's votes. At the time the legislation was introduced, women made up less than half the lower house and only a third of the upper house. Political realities mandated that they reach out to men, and prompted a framing of the debate around gender issues instead of women's issues.

3. Employing a consultative process⁷

The FFRP's development of the bill was extremely participatory, involving extensive public consultation and collaboration with civil society over nearly two years. The FFRP had several reasons for adopting a consultative approach to GBV legislation. First, the subject of the law – requiring as it would a major cultural shift – was better suited to public consultation than a more technical bill or one that focused on an issue affecting a narrower demographic. Second, the members of the FFRP, including its President, Judith Kanakuze, were particularly committed to participatory methods of legislation drafting. Under her leadership, the FFRP consciously pursued a participatory methodology for creating the GBV law. She remarked that lawmakers sometimes prefer to keep the content of laws confidential during the drafting stage because publicity can provoke criticism and opposition, but that the FFRP decided to take this risk. "If you want [the people to have] ownership" of a law, you must have an open process, she explained, stating: "If you are drafting a law for a population, you must let them discuss."⁸

The consultations generated evidence of the scope of the problem and made the need for such legislation hard to refute. This became particularly evident during the debate over the bill in parliament. When objections were raised on provisions in the bill, or when charges were levelled that GBV was a western notion, members of the FFRP were

able to defend the bill on the basis of data collected from the population. Members of the FFRP and male co-sponsors referenced their public consultations to refute objections, claiming that the bill reflected the opinion of citizens at the grassroots level. The experience of the FFRP demonstrates how public consultation and survey data can be crucial tools in advancing women's legislative interests when some male political elites may resist change.

"During the development of the bill and the subsequent legislative campaign, GBV was framed not as a women's issue, but as a social problem that impedes development."

Public consultation did more than simply help identify the problem of gender-based violence in Rwandan society. Consultation was also a way of sensitizing the population to the subject of the bill itself. Awareness-raising changes attitudes towards gender-based violence among men and women, which in turn affects how the law will be received and implemented once passed in parliament.

4. Using non-alienating language

The language that members of the FFRP employed to describe the bill, and to reach out to their male colleagues, was deliberately non-alienating. Even the translation of the word "gender" in Kinyarwanda to mean either equality or complementarity, provided for latitude. Appeals were also made to the most pro-women elements of Rwandan culture, and pre-colonial history and proverbs that honored women were cited in parliamentary debate. The GBV bill itself employed inclusive language, protecting boys as well as girls from crimes.

There was also a deliberate effort to engage men as fathers and sons, rather than as husbands. Men were encouraged to think about the protection of their daughters and mothers, but not feel as if they were being accused of mistreating their own wives. This tactic also provided a form of political cover for male lawmakers, some of whom may have even committed abuses themselves, and demonstrates the kind of compromise that attends all policy-making efforts.

As one of the bill's male co-sponsors explained, there are men who seek out advice about the best schools for their daughters in order to assure them of a bright future, but returned home to beat their wives, "As far as their daughters are concerned, they want 'gender,' but as far as their family is concerned, they want 'culture.'"⁹

5. Identifying male allies and inviting men's leadership

Violence against women is not an "all men are bad, all women are good" dynamic. It is ineffective to blame all men. The FFRP recognized this, and invited men into the development of their legislation at every step of the process. By emphasizing that the bill addressed a social problem that could affect anyone, the women avoided creating a dynamic where all men are cast as potential perpetrators and women as the only victims. Women parliamentarians did not just ask men to join them, but asked them to be leaders in the movement. Men were included in the campaign as champions of victims' rights, not as the target of the legislation.

"Public consultation did more than simply help identify the problem of gender-based violence in Rwandan society. Consultation was also a way of sensitizing the population to the subject of the bill itself."

The primary method by which the FFRP enlisted men's support was by inviting the involvement of male colleagues at every stage of the policy-making process, including by asking key male allies to play leadership roles. The FFRP process was markedly participatory, involving extensive public consultation and collaboration with civil society over nearly two years. The centerpiece of this process was a series of field trips during which parliamentarians held public meetings with their constituents to discuss the causes of and solutions to GBV. Including male parliamentarians in this manner meant that the dialogue with the population was not limited to women constituents. Because GBV touches on sensitive aspects of Rwandan culture and traditional power structures, and because it affects a large por-

tion of the population, this was critical for changing men's attitudes.

In addition to participating in the field trips, male parliamentarians were invited to join the FFRP in opening a national conference on GBV held in Kigali in 2005. The male President of the Senate presided over that gathering. Furthermore, when the FFRP hired two consultants to help in the actual drafting of the legislation, one was female and one was male. This symbolic choice also had a practical impact: imagine the outcome of interviews with male legislators and male constituents when the researcher and interviewer were male.

In the summer of 2006, when the FFRP was preparing to introduce the bill, it made the strategic decision to share its early drafts with male colleagues, to work to ensure that men felt included rather than alienated by the introduction of the bill, and ultimately to enlist equal numbers of women and men sponsors. Members of the FFRP did not indicate that they felt disempowered by the enlistment of men as advocates for the bill; rather, they spoke with pride about having conceived, directed, and executed a process in which they chose to involve men. Furthermore, men's involvement meant that GBV was less likely to be sidelined as a "women's issue."

Effectiveness of strategies

Involving men throughout the process of developing the GBV bill meant that men at all levels of society were made aware of the issue and ensured the parliament's intention to address it. One male parliamentarian reflected on the importance of men's participation: "I was in charge of delivering this particular message [on gender-sensitivity]. At the end of the meetings, local leaders, local male leaders, were shaken up. Hearing the message from a man was an added value, [they were] more convinced, more able to take the message seriously. But if the message had come from a woman you [would have] found them saying, "Oh, yes we know the story," but they [wouldn't have] given it much weight. They tend to be more concerned with gender issues when a man delivers the message."¹⁰

Women garnered significant support for what could have been an alienating issue. Having participated as visible members of the consultation process as a result of the FFRP's strategy of inclusion, men

were then accountable for their own involvement in the legislation. Two months after the introduction of the bill in a ceremony to mark the 10th anniversary of the FFRP, the President of the Senate applauded his female colleagues for their legislative contributions and thanked them specifically for the introduction of the GBV bill.¹¹

Resistance and remaining challenges

The process that the women parliamentarians employed was not fast – the legislative campaign that began in 2003 with their election to 48.8 per cent of the lower house awaits a final signature in early 2009 – nor was it easy. There was resistance to the GBV bill from some quarters. Some male colleagues who were initially approached refused to co-sponsor the bill. Others asserted that GBV was a western notion and that the bill was contrary to Rwandan culture.

Others still raised objections to specific provisions of the bill—most notably to the length of prison terms for GBV crimes and to the criminalization of marital rape—when the bill was debated in August 2006. During several hours of debate, six men raised objections to the severity of the proposed punishments; one suggested that perpetrators of GBV should perform community service instead of serving jail time. Five men raised concerns over the criminalization of marital rape, referring to it as an oxymoron or something that simply could not exist. Three men commented on the provision that would require men with multiple “wives” to legally marry only the first wife. No women parliamentarians raised concerns regarding these issues.

Even once the bill was passed in both houses of parliament, challenges remained. The bill had to be harmonized with existing laws and the national penal code. It had to be popularized through radio and other means. Ultimately, it will have to be implemented and enforced – no small effort in a country like Rwanda with reportedly high levels of GBV and entrenched attitudes towards gender.

Despite the work that lies ahead, Rwanda can be proud that its anti-GBV campaign was extraordinarily inclusive and collaborative. The chair of the FFRP during the period of the bill’s development and introduction claims that the effort to bring men into the process was an enormous factor of its success. Judith Kanakuze explained, “Working to ensure that men also felt ‘ownership’ of the bill was more important than demonstrating women’s leadership ... Everyone recognizes women have pushed the process, owned the methodology ... It was not necessary to make a conflict about the mode of introduction or bill sponsorship.”¹² ■

Endnotes

- 1 This presentation draws heavily on and excerpts two previously published studies: Powley, Elizabeth and Pearson, Elizabeth, “Gender is Society: Inclusive Lawmaking in Rwanda’s Parliament.” *Critical Half*, Volume 5, Number 1. Washington, DC: 2007, and Pearson, Elizabeth (Ed. Elizabeth Powley), “Demonstrating Legislative Leadership: The Introduction of Rwanda’s Gender-Based Violence Bill.” *Hunt Alternatives*. Washington, D.C., 2008.
- 2 Powley and Pearson, 2007.
- 3 Thomas, Sue. “The Impact of Women on State Legislative Policies,” *Journal of Politics* 53, 958-976. 4 November 1991.
- 4 For a more detailed exploration of the relationship between the strength of the FFRP and women parliamentarians’ ability to influence legislation, see: Powley, Elizabeth “Defending Children’s Rights: The Legislative Priorities of Women Parliamentarians.” *Hunt Alternatives*. Washington, D.C., 2008.
- 5 The name of the ministry has undergone several changes since 1994; it is currently called the Ministry for Gender and Family Promotion in the Office of the Prime Minister.
- 6 Quoted in Powley and Pearson, 16, 2007.
- 7 For a more complete description of the consultative process, including a detailed legislative timeline, see Pearson, 2008.
- 8 Quoted in Pearson, 31, 2008.
- 9 Quoted in Pearson, 34, 2008.
- 10 Quoted in Powley and Pearson, 17, 2007.
- 11 Vincent Biruta quoted in “Women MPs Forum Marks Ten Years,” *The New Times*, Kigali, October 10, 2006.
- 12 Interview cited in Powley and Pearson, 17, 2007.

MAKING VIOLENCE AGAINST WOMEN A PRIORITY ISSUE

8

Overview and Debate

The session highlighted ways to ensure that violence against women remains a priority issue at the national and international levels. It presented various case studies, including campaigns and other initiatives developed with the media, civil society and other organizations.

The panellists for this session were: Mr. José Mendes Bota, Vice-President of the Committee on Equal Opportunities for Women and Men of the Parliamentary Assembly of the Council of Europe (PACE), PACE Rapporteur to the Council of Europe Campaign to Combat Violence against Women; Ms. Alika Khosla, Associate Director of Breakthrough, India; Ms. Christine Brautigam, Chief, Women's Rights Section, UNDAW; and Ms. María José Alcalá, Senior Adviser, Ending Violence against Women Section, UNIFEM. Mr. Mendes Bota presented the goals and structure of the parliamentary dimension of the Campaign to Combat Violence against Women. He focused in particular on the need for parliamentarians to fight inaction. Ms. Khosla outlined the method used by Breakthrough in its campaign to sensitize men and boys to the problem of domestic violence. Ms. Brautigam outlined the United Nations Secretary-General's campaign, UNite to End Violence against Women, and discussed an ongoing UNDAW project to establish a coordinated database on violence against women. Ms. Alcalá also discussed the Secretary-General's campaign and highlighted some of the initiatives taken by other United Nations organizations to support it.

Mr. Mendes Bota: A major challenge facing the international community in its struggle to end domestic violence is how to overcome the widespread **culture of indifference** that exists all over, especially among boys and men. Recent statistics show that domestic violence is still a serious issue in Eu-

rope, where over 80 million women have reportedly suffered from abuse. The majority of boys and men are not perpetrators; they are just not aware of or not sensitive to the problem. The objective of the Council of Europe's Campaign to Combat Violence against Women was, therefore, to **sensitize men** in all Member and Associated States and encourage them to use their power to help prevent gender-based violence. To this end, the Council of Europe developed a number of tools designed to raise awareness, including posters, information material and handbooks for parliamentarians on good practices, all supported by robust statistics and translated into national languages. It also invested time and resources in designing and maintaining an interactive website, and organized Pan-European and regional conferences, debates and hearings.

The Campaign targeted three levels of power, namely, the parliament, government, and local and regional authorities. At the **parliamentary level**, a network of contact parliamentarians was created to promote cooperation between Council of Europe Member States. The network comprised members of national parliaments who were active in promoting the Campaign's goals and **cooperated closely** with other institutions, such as the IPU, and other campaigns, such as the White Ribbon Campaign. Such cooperation was essential to the Campaign's success.

The Council of Europe encountered a number of obstacles in implementing its campaign. Firstly, coherent statistics were difficult to compile as there were few criteria that could be compared between countries. The Campaign attempted to address this problem by encouraging governments to collect more complete data on the forms, victims and perpetrators of violence. It was also important to collect statistics on the different stages of the legal

process in order to see how justice systems were responding to cases of violence and to remedy any weaknesses. A second challenge was how to **include men parliamentarians** who were not prepared to recognize the extent of the problem. Attempts to meet this challenge included recruiting male role models, such as athletes and celebrities, to publicly denounce violence against women. Parliamentarians also drew up petitions used to collect signatures from men against violence. This was effective in convincing other men to support the cause. Many feared that a focus on gender-based violence would weaken their election campaigns. A third challenge was therefore how to turn the question of violence against women into a **political asset** for parliamentarians. The costing studies' statistics on the economic costs of gender-based violence proved to be a very powerful incentive that encouraged many parliamentarians to make the issue a central aspect of their campaigns.

The Campaign defined seven key measures representing **minimum standards of prevention and protection** that parliaments should ensure are fulfilled. These included: the criminalization of domestic violence, marital rape in particular; the establishment of emergency and long-term measures, such as shelters and protection orders, to protect women from both past and present intimate partners; the guarantee that victims would have effective access to courts; a sufficient budget to support policies and programmes; and a system for monitoring the implementation of legislation. Parliaments play a crucial role in deciding the budget, and they must ensure that governments provide sufficient funding for programmes to combat violence against women. Parliamentarians must therefore do more to cost violence, increase the transparency of budgets, and ensure that a gender perspective is mainstreamed to eliminate violence.

A European convention to combat the most widespread and severe forms of violence against women is needed to continue the work of the Campaign. Such a convention should cover domestic violence, sexual aggression and harassment, forced marriage, honour crimes and female genital mutilation. It must provide for prevention, protection and prosecution.

Ms. Khosla: The initiative launched by the Indian NGO Breakthrough has many points of similarity to the Council of Europe Campaign. The

main objective of Breakthrough is to raise awareness across the country about violence against women in an effort to **change mindsets and break the silence**, particularly among boys and men. Other campaigns initiated by Breakthrough have focused on addressing the issue of stigma and discrimination women living with HIV/AIDS face. These campaigns' main challenge has been how to spread the message across the vast country and reach the population of minority or other isolated communities, who are often impoverished and lack access to most forms of public broadcasting.

To overcome this challenge, Breakthrough employs a unique **multipronged '360' strategy** that relies on technology and new media to effectively engage and involve members of civil society and the government. Advertisements and public notices are frequently aired on radio and television at prime times, during programmes or sports events, to draw the attention of **target groups**. Editorials written by members of Breakthrough are also published in newspapers. The key to an effective awareness campaign is to adjust approaches to the customs and interests of target groups and local populations. Urban youth, for example, have been specifically targeted through new media tools such as websites, blogs, quizzes and computer games that raise issues relating to violence against women through popular themes. Music has been used to empower women and girls.

One of the key principles on which the campaign is based is the recognition that **ground-level intervention** is critical for awareness-raising. Much effort has therefore been invested in making a strategic selection of which communities to target and how to reach individuals in marginalized communities with high levels of poverty, illiteracy or HIV/AIDS prevalence. In such places, people often have no access to any of the forms of technology or communication mentioned above. Breakthrough has therefore used video vans to travel great distances, stopping in main squares to broadcast advertisements and public announcements, which are translated into local languages. **Training and youth leadership** programmes have also been initiated in multiple towns and universities. Through these programmes, young people and members of local communities have been trained to become leaders and catalysts for change. These individuals are then helped to reach out to other members of their community and export the campaign's values.

Changes in behaviour are very difficult to measure and usually occur over the long term. This makes it hard to document the exact impact of Breakthrough's campaigns. However, the **interviews and surveys** conducted with community members, families and victims of violence indicate that progress is being made. **Public-private partnership** has been critical to the success of these campaigns. The government and the corporate sector have provided invaluable support, as have NGOs across all sectors.

“One of the principal objectives of national campaigns should be to further the implementation of progressive laws by mobilizing social action in favour of increased protection for women and girls.”

Ms. Brautigam: At the international level, the United Nations has initiated a number of campaigns that also aim to raise public awareness and persuade governments to take stronger action against violence. The **Secretary-General's campaign**, UNite to end violence against women, is one example. It was launched to follow up the Report of the Secretary-General (A/59/281), which called for an intensification of efforts to end violence against women. Although the campaign has both global and regional components, its emphasis is on **mobilizing national action** and directing resources to the local level. More is currently being done, however, to develop the regional aspects of the campaign. The resource drive is a crucial element of the campaign and there is hope that both countries and donors will support it. This is the first multi-year campaign launched by the Secretary-General, who is personally involved in ensuring that its goals are accomplished within the deadline.

The campaign provides a **collective platform** for mobilizing stakeholders from all sectors of government and society to unite their efforts and work towards five main objectives that the Secretary-General hopes to achieve by 2015. These main objectives are the adoption of national laws and actions plans that are multisectoral, resourced and implemented in line with international standards; the institution-

alization of data-collection and analysis systems to gather information on the prevalence and forms of violence against women and girls; the initiation of national and local campaigns that engage a diverse range of civil society actors; and the establishment of mechanisms for protection from and prevention of sexual violence in conflict situations. With regard to the latter, it is imperative that **systematic rape** and other forms of violence are addressed in peace and security policy and funding frameworks.

The campaign focuses very much on **prevention** with a view to ending violence against women by targeting strategic groups and ensuring the involvement of men. The Secretary-General is currently working to form a global network of male leaders to help mobilize boys and men in support of the campaign's goals. The campaign is coordinated by a number of United Nations departments in order to ensure a **comprehensive approach** to all of the issues. Cooperation with organizations within and outside the United Nations system is a crucial element. UNIFEM, for example, has contributed through its own “Say No” initiative, which has gained the support of a number of organizations, including the IPU. The Secretary-General will hold a high-level event in 2010 to review the accomplishments of the UNite campaign and to map out future steps.

UNDAW is also implementing an initiative that parliamentarians are urged to support. The objective is to establish a **coordinated database** on violence against women, as mandated by the General Assembly and launched in March 2009 on the UNDAW website: <http://www.un.org/esa/vawdatabase>. The source of the information for the database is a questionnaire that all UN Member States have been asked to complete.

Plenary debate

- Has your parliament ever launched a campaign on a gender issue?
- What media or public initiatives have you taken to raise awareness of violence against women?
- What other action can you, as a member of parliament, take to make violence against women a priority?

The comments made in the plenary indicated that campaigns on violence against women had

been launched by many parliaments amid widespread recognition that **awareness-raising** was a crucial aspect of preventing violence. A variety of strategies had been used to raise awareness, and the participants agreed that cooperation with both civil society and the media was critical to the success of all campaigns. They noted that while it was important that campaigns target men, they also had to sensitize women to the problem and raise awareness of what they are able to do to counter domestic violence. They further noted that **media and public campaigns** were useful tools for promoting values and should be used to instil non-violent norms. It was essential, however, for messages to be communicated clearly to the media. In many cases, data and statistics had been misinterpreted, resulting in a flawed understanding of the trends in violence. Close collaboration was required with information ministries to ensure that the scope and scale of violence against women was properly understood.

The participants noted that many of the campaigns had focused on general issues of physical violence. More **action plans** were needed to specifically target rape and sexual harassment. Sev-

eral parliaments and government bodies had held symposiums to discuss solutions to problems such as violence against women and girls in conflict situations. The participants expressed support for international campaigns and urged the United Nations to extend its initiatives to cover all regions. They agreed that parliamentarians could do a number of things to support international campaigns. In some parliaments, for example, petitions had been used to gather support for the campaign launched by UNIFEM.

One of the principal objectives of national campaigns should be to further the implementation of progressive laws by **mobilizing social action** in favour of increased protection for women and girls. It was therefore crucial for campaign organizers to work closely with government representatives. Co-ordination was essential to ensure that initiatives were clearly defined, adequately resourced and able to contribute to, rather than undermine, efforts made at other levels. The participants were reminded that the United Nations had a number of tools to help parliamentarians launch campaigns and that assistance could be requested at any point. ■

“The Inter-Parliamentary Union calls on governments, parliaments and non-governmental organizations to organize activities to promote public awareness of the problem of violence against women, including on the International Day for the Elimination of Violence Against Women, which is observed on 25 November each year.”

IPU resolution, 114th Assembly, 12 May 2006, para. 6

The Parliamentary Dimension of the Council of Europe “Stop Domestic Violence against Women” Campaign

Mr. José Mendes Bota

(Portugal, PPE/DC), Vice-President of the Committee on Equal Opportunities for Women and Men of the Parliamentary Assembly of the Council of Europe (PACE)

Rapporteur of the parliamentary dimension of the Campaign to Combat Violence against Women

Look at me, look at my hands: you are looking at hands that never in their life were raised at a woman. I never had that problem, but I feel guilty. I feel guilty because for many years, I have not been sensitive, I was not sensitized to the problems on my back door. Many times, I saw women, some of them working in my offices, coming in with their eyes all bruised and I did nothing. Many times I heard a neighbour screaming, maybe because she was being abused by her partner, and I did nothing. Many times we joked amongst men about men coming home and beating their wives, and we did nothing, because we were probably feeling that it was normal.

I feel guilty. Though I have never abused a woman, neither psychologically nor physically, or even economically, I did nothing for many years in my life to combat violence against women. I now feel an urge to take action because it is a serious attack on human rights; because it is something that I do not want for my daughter, something I do not want for any relative of mine from the other side of the gender; it is something that I never wanted for my mother. So why don't we take action? Because we are not sensitized and we are not sensitized because we have a heritage, a society that is a patriarchal society. This dates far back, to thousands of years ago. That was a time when women were treated as inferior beings. Men were treated as the patriarchs, the leaders of the family, the ones who were entitled to everything, including the right to mistreat their women and wives.

Unfortunately, this situation still exists today. Many people in the world think that this type of behaviour is normal, part of a traditional society. It is against this conception of society that efforts and protest have to be raised. That is why something has to be done, why campaigns like the one launched by the Council of Europe on combating

violence against women are necessary. The campaign was carried out between November 2006 and June 2008. I have to admit that I regret that it has ended. It was a success, but there such a lot to do that we must not stop. We have to keep active and even increase our activities.

But there is still a lot of sensitisation work to do. Everywhere I have been, when mentioning the title of that campaign, which is about combating violence against women, there was always a man or some men asking: "why against women? There are also men who are victims of violence at home. There are also men who are oppressed, even psychologically. Why is that only in favour of women?" And we have to explain that the campaign focuses on women because 90 per cent of victims are women and 90 per cent of the aggressors are men. So the problem is really that the victims are mainly women and that perpetrators are mainly men. That is why one of the aims of this campaign was to sensitize men, bring men to this campaign, because men are still the holders of power in all spheres of life.

What percentage of women are deans of universities? How many women are presidents of football clubs? How many women are the leaders of the big economic groups? Of course there have been some positive developments; but the pace of change is so slow that after 100 years people are still fighting for equal opportunities between men and women.

We know that the majority of men are not aggressors or criminals, that they live by good codes of ethics and moral. We know that. And because we know they do not want their daughters or their sisters to be aggressed, we have to sensitize men, we have to sensitize the people that have the power in their hands to change the laws, to change the conduct in politics, in assemblies, parliaments, government, the workplace and society at large.

This is the main reason why action was taken in Europe, in the Council of Europe, an institution which covers much more than the 27 Member States of the European Union. The Council of Europe covers 47 Member States in Europe and other countries, such as Canada, Israel and Mexico are associated to the Council of Europe because they share its principles. The Council of Europe fights for respect for human rights, democracy and the rule of law. These aspirations know no borders between continents.

Figures show that at least 80 million women in Europe are victims of domestic violence and gender-based violence. Between 20 and 25 per cent of women in Europe will have suffered abuse at least once in their lifetime. Based on this reality, the Heads of State and Government of the Council of Europe Member States decided in Warsaw in 2005 to launch a campaign “Stop domestic violence against women”. The campaign was launched at three levels: the government level, the parliamentary level and the local and regional authorities’ level. I will restrict myself to the parliamentary dimension of the campaign. The Parliamentary Assembly of the Council of Europe worked together with the national parliaments and a network of members of parliament that had been very active during the almost two years the campaign lasted. The Campaign enjoyed close cooperation with other international bodies such as the Inter-Parliamentary Union, the Nordic Council and the European Parliament.

We encountered our fair share of problems: statistics were lacking due to incoherent data, which made it impossible to carry out country comparisons between countries. One of the main aims of this campaign was to encourage governments to take action together and to collect common sta-

tistics. It is important for us to know everything about the victims and the perpetrators: their age, their marital status, their occupation, their cultural background, etc. Information is also needed about the different stages of the legal procedures. It is also crucial for us to follow the different stages of the legal procedure. We need to know how many complaints were lodged and how many court cases resulted thereof as well as how many sentences were handed down. This is very important in order to evaluate how justice is acting with regard to violence against women. Follow-up is equally important: the victim’s response to the consequences of violence, what happened after the complaint was filed, after the court case, and what is the current situation of the victim and their family? Did they have the support to be integrated into a job, to do training, to have professional skills? Do they have the means to survive? So far, we have no comprehensive statistical data about all of these aspects. This is something we have to work on.

Another point is the need to give visibility and promote the good actions of men. I recently was in Cyprus, and one of our parliamentarian colleagues there, Ms. Antigoni Papadopoulos, took the initiative to start a petition. She had already 300 important men in Cyprus from all walks of life sign up – in politics and out of politics, and this is very important. This is an example to follow. Parliamentarians in all countries can start a petition to combat domestic violence and involve important personalities. It is important to show that men and women are together in this fight. It is not easy to bring men into this combat, but it is imperative.

PACE has developed tools, printed a lot of material, and even produced a handbook for parliamentarians that provides good arguments to convince

OUTPUT OF THE PACE CAMPAIGN

- ❑ A Campaign **strongly supported by the Council of Europe and the PACE** and **implemented by national parliaments**;
- ❑ A renewed network of **contact parliamentarians** to liaise with the PACE;
- ❑ More than **200 parliamentary activities** carried out in 40 parliaments;
- ❑ **7 key legal measures** identified by the Parliamentary Assembly;
- ❑ **Further action** at national, European and international level needed.

THE SEVEN MINIMUM STANDARDS IDENTIFIED BY PACE

- ❑ Making domestic violence against women, including marital rape, **a criminal offence**;
- ❑ Regarding violence perpetrated between (former) partners as an **aggravating circumstance**;
- ❑ Setting up sufficient numbers of safe emergency **shelters**;
- ❑ Making provision to **remove violent spouses or partners** and take out protection orders against perpetrators;
- ❑ Guaranteeing **effective access to the courts** and to protection measures for victims;
- ❑ Allocating sufficient **budgetary resources** for the implementation of the law;
- ❑ **Monitoring the application of laws** on violence against women passed by parliament.

parliamentarians to take up action. Sometimes politicians are unwilling to go the full length for fear of losing votes among male constituents. However, I explain to them that taking up this issue should not be linked to winning or losing votes. Parliamentarians should not take up this cause to try to win women's votes either. It is a risk that has to be taken for the greater good. If sometimes we protest as politicians against this or that measure, against this or that infrastructure which should or should not be put into place, we also have the right to voice a natural concern and protest against violence against women.

PACE has also produced a lot of posters, published brochures, and distributed a variety of materials. The national Parliaments in turn translated the materials originally published in English and French into their national languages and distributed them. This was fantastic. The campaign's website has been visited by thousands of people. PACE also worked with Chris Green and the White Ribbon campaign in the United Kingdom, which brings together men who are committed to combating violence against women. In addition, a PACE newsletter was distributed and a photo exhibition was mounted. In all, 10 activities at the European level were conducted, and more than 200 at the national level, including conferences, symposia and eight parliamentary hearings. Many of the parliaments have approved - sometimes with applause - a solemn declaration to support this struggle.

During the campaign, PACE identified seven key measures, considered as the minimum stand-

ards that should be respected in all countries that are members of the Council of Europe.

I would say every country that wants to be considered as a democratic country should respect these key measures. It is not acceptable that a democratic country, a lawful state, does not consider domestic violence against women a criminal offense. PACE developed an inquiry questionnaire which has been sent to all parliaments of the Council of Europe, and we have received 40 answers from parliaments.

- According to answers received, one third of the Member States still do not consider that domestic violence, even marital rape, is a criminal offense. This is not acceptable.
- Violence perpetrated between current or former partners should be considered as an aggravating circumstance in the Penal Code. Half of the Member States who replied do not however consider such violence as an aggravating circumstance.
- We need shelters in sufficient numbers so that the victims can be assisted immediately when problems occur. We have suggested that there should be one place in a shelter per 7500 inhabitants in a country. This is a reference.
- There should also be provisions to remove violent spouses and deliver protection orders against the perpetrators. One third of the countries do not consider measures to remove violent spouses.
- Guaranteeing access to justice is important. The victims have to be supported economically, have

to be advised by lawyers so they can ask for justice in the courts.

What we need are resources, budget. Drafting and approving budgets is part of the core business of parliamentarians. One of our main tasks should therefore be to ensure that the governments devote one euro per inhabitant to fight violence against women. One problem is that national budgets are not gender-based. Therefore, it is not easy to identify how much money is exactly spent by the Ministry of Justice or the Ministry of Interior or the Ministry of Social Security or the Ministry of Health on combating violence against women. We need to know what was spent exactly. We must press our governments to develop gender-based budgets. It is the only way to ensure transparency of accounting.

Finally, I would like to stress that as parliamentarians, we have the right to change the laws, and we must change them. But our task is also to monitor the application of the laws. We have to create in our parliaments subcommittees, working groups, mechanisms that bring together a lot of parliamentarians from different parties. We need to go to the outside world and see how the law is applied. We have to ascertain whether the judges know exactly what they are doing, because sometimes the decisions of the judges are not acceptable under these principles. We have to go and visit police stations, to see whether policemen really know what their task is, if they can differentiate between violence against women and a common crime, whether they treat these victims separately, differently because this is a special problem in society.

The truth the sad truth- is that the only country that implements the seven key measures is Canada. They meet all the criteria. Apart from Canada, the examples of Spain and Austria can also be emulated for their very good laws. In order to progress, we have to look at those who are really performing well in this field. In Portugal, I was the coordinator of a multiparty working group and we organized a campaign. We went through the country, we made dozens and dozens of colloquiums in schools, high schools, universities. We organised public debates. We went to the places that were less assisted. We visited shelters; we had contacts with everyone who deals with violence against women. We had our own website. We created an exhibition, which was an itinerary exhibition with all of the figures, with

all the definitions of domestic violence, with everything which concerns the profile of perpetrators and victims. This exhibition has toured the country for two years. We organized hearings with international and national experts. We focused on the core parliamentary activities though we also felt the need to learn more about the new forms of violence that are appearing, for example on Internet. There are different forms of violence that have not been studied enough (like stalking).

Violence against women has a high cost. Of course, one cannot quantify the suffering; one cannot quantify the physical and psychological trauma women suffer. But these are important for society because probably society will understand more easily the extent of this phenomenon. It is important to know what is the real cost in economic terms of violence against women as a percentage of the GNP of countries, as an amount per capita in Europe.

Did you know that, according to studies, the costs amount to 2% of the GNP of the country, which means more than €500 per capita in Europe. How do we get to such an amount? We need to take into account the costs of the police when dealing with violence against women; we need to take into account medical costs (doctors; the hospitals). And when the woman is abused, she misses work, she is therefore losing days of work. These are also costs. Not only the woman, but many people are concerned when a woman is abused: the family, in the first place, the colleagues at work, the friends, the neighbours. Everybody is concerned. This means billions of days of work which are not done correctly. A woman who is abused has more difficulties in getting a job, has more difficulties in getting promoted in the job. A woman takes much more medicine than men. Statistics show that women take three times more pills than men - to forget and to sleep. We also should know that women who are abused have 600% more probabilities to think about suicide than men. This has consequences and it also costs money. We have to stop this! And the consequences go beyond. Take another example: what about the witnesses? They are often the children, who are the silent witnesses. And it is also proven in studies that a boy who has witnessed violence against his mother, has a tendency to also become an abuser. This is an inter-generational problem. We have to pay attention to all of this.

FUTURE PROSPECTS OF THE PACE CAMPAIGN

A proposed convention to combat the most widespread and severe forms of violence against women submitted to the Committee of Ministers (see Recommendation 1847 (2008))

Further reports under preparation in the Committee on Equal Opportunities for Women and Men related to the issue of violence against women (see <http://assembly.coe.int>):

- ❖ Action to combat gender-based human rights violations, including abduction of women and girls (Rapporteur: Ms. Papadopoulos, Cyprus, ALDE)
- ❖ The urgent need to combat so-called "honour crimes" (Rapporteur: Mr. Austin, United Kingdom, SOC)
- ❖ Rape, including marital rape (Rapporteur: Ms. Rupperecht, Germany, SOC)
- ❖ Migrant women: at particular risk of domestic violence (Rapporteur: Ms. Woldseth, Norway, EDG)

Further co-operation with international parliamentary assemblies welcome, in particular the IPU for the implementation of the UN Secretary General Campaign to eliminate violence against women and girls.

We cannot stop campaigning. There are more issues to be studied. We have to keep continuing. We have carried out 200 parliamentary initiatives in Europe. We have organized many, many events but we cannot stop. We have pleaded in favour of a convention against the most common types of violence against women that should cover domestic violence, sexual aggression, harassment, forced marriage, so-called "honour crimes" and genital mutilation, a convention based on the three P's: prevention, protection, prosecution.

Finally, I just want to say the following: we hear every day about a lot of conflicts; we talk about many places in the world where there is a lot of violence - in India, Georgia, Bosnia and Herzegovina, Kosovo or Congo, to give you only recent examples. But let me tell you that violence against women is like an extended civil war because every year, every day, every hour, there are thousands of women who get killed at the hands of their part-

ners, ex-partners, spouses. This is something that we really cannot allow to poison the new generations. This is something that is a disaster! It is not a matter of choosing between rich and poor countries. It is not something that we may say is a problem of America, of Africa, of Europe, of Asia. No. The real frontier is between the ones who are ready to accept - without doing anything - that their wives, daughters, sisters, mothers are abused and who do not care about their colleagues, about their friends - and the ones who care, who do not accept this as an "acceptable" violation of human rights. We are citizens in full body, and we are citizens who are committed to sharing emotions and responsibilities. I would say that we have to fight for a more gender-based society. This is something that has to be done together, together between men and women, together like the song title of Paul McCartney and John Lennon. Together. Together we will win! ■

Case Study: India

Making Violence against Women a Priority

Ms. Aika Khosla

Associate Director of Breakthrough, India

Breakthrough is an international human rights organization which has affiliate offices in the two largest democracies in the world – India and the United States. It was founded at the start of this millennium with a bold vision to reach millions across countries, building awareness and educating communities on the violence that women face. Violence against women is a global pandemic and, unfortunately, India is one of the leaders in this human rights violation.

To prevent this abuse from recurring, Breakthrough believes that the mindset of an entire society must be changed while working in partnership with the State, involving communities and engaging the youth.

The organization has developed a multi-tiered strategy which weaves together multi media – including new media - and community- and youth-based training. Through the use of powerful advertising tools it has effectively reached millions with its television and radio campaigns. Its products are translated into the three regional languages focusing on the areas where its intervention is targeted.

Breakthrough uses new media, including the Internet, blogging and gaming, to engage urban youth. In addition, it has a strong leadership training programme thereby creating a pool of Rights Advocates. Breakthrough's trainers along with the Rights Advocates travel to small towns and villages to train marginalized youth and community leaders, encouraging them to become catalysts of change. In other words, Breakthrough takes its campaigns directly to the people across the country.

In India, we are constantly battling with power structures and deeply-entrenched social norms which reaffirm a subordinate status of women. In India in particular, a women faces violence from the moment she is conceived and throughout her life

cycle. There is a definite need for intervention, as evidenced by the data available from the National Family Health Survey 2005-2006. According to the Survey, one out of every three women faces violence behind closed doors; one third of all reported crimes against women are committed by close family members and more than half of all women in India (54 per cent) believe it is justifiable for a husband to beat his wife under certain circumstances. Thirty-five per cent of women aged between 15 and 49 years admitted having experienced physical and sexual violence.

Clearly, the issue must be constantly put on the social agenda for any sustained change to take place. In order to translate progressive legislation into social action that gap needs to be bridged, the issue needs to be kept alive and the community requires to be given appropriate tools to take action. This is where Breakthrough's intervention and this campaign are so crucial.

“Breakthrough believes that the mindset of an entire society must be changed while working in partnership with the State, involving communities and engaging the youth.”

In order to engage communities in an innovative way, Breakthrough created its most recent campaign Bell Bajao, translated as “Ring the Bell”. This is a clarion call to the community, including men and boys, asking them to break the silence and take a stand against domestic violence. The campaign seeks to address the fact that people know and understand that domestic violence is not a private matter and that abusive behaviour is unacceptable.

Furthermore, the campaign also aims to raise awareness about the Protection of Women against Domestic Violence Act 2005, which is relatively little-known. The civil Act is very progressive, broadens the definition of violence and can be easily accessed wherein either the woman or somebody on her behalf can file a Domestic Incidence Report.

Bell Bajao is an all-encompassing campaign. It incorporates media elements which include television public service announcements, print advertisements, radio messaging, billboards and pamphlets containing statistical data on the extent of violence against women in the country.

For the first time, Breakthrough used video vans - a mid-media activity to strengthen the mass media messaging. The vans travelled through six districts over 150 days. They covered 75,000 km and reached about 800,000 people.

The vans were accompanied by a street theatre group to ensure participation and interaction with the audience. Common tools such as games and quizzes were used to attract passing crowds and build awareness of key issues, myths and facts related to domestic violence, the new Domestic Violence Act and the stigma and violence women living with HIV/AIDS face on a daily basis.

The campaign was created pro bono by Ogilvy, the leading ad agency. It has been supported by the Government of India and the Ministry for Women and Child Welfare. With their support, the ad campaign currently airs on all the sports channels across India during international cricket matches.

While the media release is seen by a large number of people across the country and has a pan-Indian reach, ground-level intervention is restricted to three states where Breakthrough has built strong partnerships.

Through its Rights Advocate programmes, in the past year the organization was able to sensitize over 38,000 community members and youth on violence against women.

This year, it conducted direct training with over 800 community leaders who have reached over 22,500 people in the community. Partnered with 20 organizations, some 80,000 people have attended events, workshops, and street theatres organized by youth leaders. Over 50 youth leaders accompanied the vans, disseminating information and sensitizing communities in their path.

Breakthrough's communication strategy is founded on a sound monitoring and evaluation study. Through a formative research and baseline study it is able to assess the gaps and required change in knowledge, attitude and practice (KAP) both at the individual and community levels.

Four months prior to the conceptualization of the campaign, a baseline study was conducted. The following figures emerged from the survey: 3.3 per cent of respondents were aware of the Domestic Violence Act 2005; 70 per cent did not consider sexual and economic abuse as forms of domestic violence; and 80 per cent felt that the community and family members should intervene if a husband abuses his wife. Many were not willing to interfere in other people's business or were unwilling to get involved in legal action, while others still said that there were many other people who could take action – so why should they?

“In order to engage communities in an innovative way, Breakthrough created its most recent campaign Bell Bajao, translated as ‘Ring the Bell’. This is a clarion call to the community, including men and boys, asking them to break the silence and take a stand against domestic violence.”

Over the next two years it will be conducting a mid-term analysis and a quantitative and qualitative study. Through this data it intends to assess the impact of its intervention on KAP. It also intends to refine its strategies based on the impact and share those findings with the community. Moreover, the International Centre for Research on Women (ICRW) is conducting a direct impact study of its leadership training programme.

Since its inception, Breakthrough has used media and educational campaigns to keep the issue of violence against women alive and in the public domain. The music video Mann ke Manjeere, aired on popular music channels across India, including MTV, was nominated best MTV music video for 2001, was translated into English, French and Span-

ish, and used by groups around the world, including in Iran, Kazakhstan, Nepal and Turkey.

Its earlier campaign *Is This Justice* reached over 35million people and addressed the issue of stigma and discrimination faced by women living with HIV/AIDS and the rights of residence of persons living with AIDS (PLWAs).

Breakthrough has scaled up the reach and impact of this campaign through its public-private partnerships, which include the corporate sector – O&M, TV channels, training of industry staff;

government – support from the Ministry for Women and Child Welfare and sensitization of women's issues in police departments; and non-governmental organizations – not just those working on women's rights but also those involved in other sectors such as livelihood, agriculture and forestry, and self-help groups.

Parliamentarians are in a position to bring about change and to sustain public-private partnership mechanisms, techniques and strategies in order to make progressive laws accessible. ■

BOX 3:

UNiTE TO END VIOLENCE AGAINST WOMEN, 2008-2015

Campaign of the Secretary-General of the United Nations



United Nations Secretary-General's Campaign

Primary objective

- Launched 25 February 2008 to raise public awareness and increase political will and resources for preventing and responding to all forms of violence against women and girls
- Will continue until 2015, the target date for the achievement of the Millennium Development Goals

Stakeholders

The UNiTE to end violence against women campaign provides a **collective platform** to engage a wide range of stakeholders in an unprecedented level of global mobilization, linking their initiatives to the Secretary-General's efforts.

Stakeholders include:

- Governments
- Civil society
- Women's organizations
- Young people
- The private sector
- The media
- The entire United Nations system
- Individual women and men

Five key outcomes

The campaign hopes that the following five key outcomes will be achieved in all countries by 2015:

- **Adoption and enforcement of national laws** to address and punish all forms of violence against women and girls, in line with international human rights standards.

- **Adoption and implementation of multi-sectoral national plans of action** that emphasize prevention and that are adequately resourced.
- **Establishment of data collection and analysis systems** on the prevalence of various forms of violence against women and girls.
- **Establishment of national and/or local campaigns** and the engagement of a diverse range of civil society actors in preventing violence and in supporting women and girls who have been abused.
- **Systematic efforts to address sexual violence in conflict situations** and to protect women and girls from rape as a tactic of war, and the full implementation of related laws and policies.

Leadership of the Secretary-General

The Secretary-General is:

- personally approaching **world leaders** to spur action through national campaigns
- **urging States** to review applicable laws, and to revise them or enact new laws to ensure that violence against women is comprehensively addressed
- calling on **regional organizations** to set priorities and targets
- forming a **global network of male leaders to assist in mobilizing men and boys** to become involved in the struggle to end violence against women

For further information, visit the website of the campaign: <http://endviolence.un.org/> (available in all United Nations languages).

BOX 4: UNIFEM's Say NO to Violence against Women Campaign

UNIFEM's Say NO to Violence against Women campaign is designed to support the UN Secretary-General's UNiTE to End Violence against Women campaign through a massive global mobilization. Based on sensitization and collecting the largest possible number of signatures of persons determined to put an end to violence against women, this initiative aims to demonstrate that there is a global movement of people who demand that ending violence against women be a top priority for governments everywhere.

At the 119th IPU Assembly held in Geneva in October 2008, over 200 parliamentarians from about 70 countries signed up to the campaign and pledged to make combating violence against women a national and international priority. UNIFEM's campaign has received the full support of the IPU. All the members of the Coordinating Committee of Women Parliamentarians have lent their support and have agreed to be IPU spokespersons for the issue in their respective parliaments and among the public at large.

Website of UNIFEM's Say NO to Violence against Women campaign:
<http://www.unifem.org/campaigns/vaw/>

BOX 5:

Parliaments take Action on Violence against Women Inter-Parliamentary Union Campaign



Violence against women and girls may take many forms and is not limited to any culture, region or country, or to any specific group of women. Rife both in public and private life, this form of violence jeopardizes the rights, liberty, health, quality of life and, in some cases, the life of women, irrespective of their nationality, age or social status. How can one put an end to the most widespread violation of human rights in the world? How can one combat this scourge, whose consequences and cost hamper the development of society? At its 114th Assembly held in Nairobi in 2006, the 153 Member Parliaments of the **Inter-Parliamentary Union (IPU) adopted a resolution on *How parliaments can and must promote effective ways of combating violence against women in all fields.***

Recognizing that the efforts to eliminate this kind of violence require systematic and sustained action, the IPU launched in 2008 a **campaign and a programme of work to support parliaments in their efforts to end violence against women.** The commitment also serves to promote and shed light on a parliamentary contribution to the current unprecedented international efforts to end violence against women. Parliaments have a key role to play in this global momentum as enacting national laws to address and punish all forms of violence against women and girls, in line with international standards, is central to their legislative work.

The IPU strategy:

- Focuses on all forms of violence against women at the international, regional and national levels;
- Includes men and women parliamentarians;
- Builds on parliaments' and parliamentarian's political leadership to drive change;
- Aims to respond to the particular concerns and needs of parliaments and parliamentarians.

The IPU will undertake a series of activities in three target areas:

- Building a strong and effective legal framework;
- Securing effective implementation of legislation;
- Reinforcing awareness, sensitization and visibility of violence against women.

These activities will include:

- Organization of regional and national seminars;
- Programme of technical assistance for parliaments on violence against women;
- Production of website and campaign material;
- Mobilization to participate in public activities and campaigns, including by marking the International Day for the Elimination of Violence against Women - 25 November.

For further information, see the section on violence against women on the IPU's website: www.ipu.org/vaw.

Contact: postbox@mail.ipu.org

WHAT NEXT? STRATEGIES FOR THE FUTURE

9

Overview and Debate

The session aimed at identifying priorities for **parliamentary committees** and mechanisms to support progress. What can parliamentary committees do? What priorities and what commitments should they have? It also discussed possible cooperation with international organizations and other partners in this field.

The speakers for this session were Ms. Dominique Tilmans, President of the Advisory Committee on Equal Opportunities for Women and Men, Senate of Belgium, and Ms. Yobate Bakali-Kolani, member of the Committee on Human Rights, National Assembly of Togo. Ms. Tilmans discussed the role of the Equal Opportunities Committee in Belgium and of parliamentary committees in general in addressing violence against women. Ms. Bakali-Kolani outlined the progress made in Togo and highlighted some of the obstacles to progress.

Ms. Tilmans: The **Equal Opportunities Committee** of the Belgian Senate is one example of the role that parliamentary committees can play in addressing gender-based violence. The Equal Opportunities Committee is mandated to assess parliamentary legislation and draft laws, follow government policy, and monitor international and European policies. It has produced opinions on a broad range of topics relating to violence against women and traveled to different countries in an effort to share experiences and learn good practices. It is important to note that it is only an **advisory committee**; it has the capacity to issue recommendations, not to draft laws.

Although an advisory committee can play a useful role, its effectiveness is weakened by several points. Firstly, in order for parliamentary committees to be effective policy instruments, they must **mitigate party politics**. Divisions over party poli-

tics can sometimes be stronger than solidarity over women's rights. This is unfortunate as it undermines efforts. Secondly, it is vital for men to be represented in committees on gender equality. Without the **participation of men**, the votes taken by the committee have limited credibility. Resistance to issues of violence against women is deeply entrenched. Women in **parliamentary committees** should do more to challenge stereotypes, change norms and use their power to support each other.

Ms. Bakali-Kolani: **Collaboration** with other countries and international organizations is a vital way of learning from other experiences. Parliamentary committees should be very active in going to different countries and examining the approaches used there to confront similar challenges to those that they face at home. The Human Rights Committee of the National Assembly of Togo has launched seminars that it hopes will attract participants from a number of neighbouring countries. This is one example of how **regional perspectives** can be shared. States with very developed systems for confronting violence against women should inspire and encourage those that are struggling. International organizations can assist States by developing concrete tools, such as guidelines to best practices that are organized by geographic area. There are huge differences between the African and European contexts that have not been fully appreciated at the international level. Many of the recommendations that are made at the international level are therefore not feasible for countries with high levels of poverty, illiteracy and disease. Regional and international organizations should work with members of civil society, parliamentarians and key decision-makers within certain regions to help them make gender-based violence a priority.

Plenary debate

- How has your parliamentary committee addressed violence against women?
- What are the challenges faced in your work?
- How much support does your committee have from parliament to work effectively?
- Are men involved in the work of your committee?
- Does your committee coordinate work on violence against women and on gender issues with other parliamentary committees?
- Does your committee regularly work with women's associations?
- What can be done to strengthen your committee's action?

The participants discussed the measures that should be taken to turn recommendations into action. The main priority for parliamentary committees was to **harmonize laws** on violence with legislation on other issues, such as trade and family. Close coordination between parliamentary committees was recommended to ensure that appropriate amendments were made. Experience had also shown that the most effective parliamentary committees were cross party and had a substantial number of men.

Many participants emphasized the importance of pursuing a **regional approach** to violence against women. Members of parliamentary committees could learn a great deal from other parliamentarians in their region. Within the Council of Europe, a system of **contact parliamentarians** had been used to strengthen both national practice and regional cohesion. Many considered this approach to be a success as it had allowed parliamentarians from different countries to learn about the working methods and experiences of others. It was strongly suggested that this system be continued.

“It is vital for men to be represented in committees on gender equality. Without the participation of men, the votes taken by the committee have limited credibility.”

The participants said it was necessary to continue **breaking the silence** on violence against women, and emphasized the difficulty of changing traditional mentalities. Social taboos and government opposition to the criminalization of certain forms of violence, marital rape in particular, had made it very difficult for parliamentary committees to carry out their work effectively. To overcome this challenge, parliamentary committees must be bold in talking about pressing concerns. They should hold meetings and seminars on these topics at both the government and community levels. To help spread awareness within the community, parliamentary committees should also ensure that women were involved in local councils that worked directly with communities. This would enable them to encourage other women to join the campaign at the grassroots level.

Some participants noted another challenge: fighting indifference at all levels of government. It had been difficult for committees on gender equality to fight for the funding they required to function properly. The participants were advised that the best way of resolving these challenges was to ensure that women were elected to key government positions, for example on the finance committee, and ask for budget increases. More should consequently be done to encourage women candidates to stand for election. Parliaments should, in this regard, consider the use of **quotas** as a temporary means of enforcing women's participation. ■

Mapping Parliamentary Action : An Example from Belgium

Ms. Dominique Tilmans

Senator, Chairperson of the Advisory Committee on Equal Opportunities for Women and Men, Belgium

The Belgian Senate's Advisory Committee on Equal Opportunities for Women and Men works on its own and with other parliamentary committees towards achieving equality between men and women and putting an end to violence against women. It offers guidelines for strengthening inter-parliamentary cooperation and cooperation with international organizations in these areas.

The Equal Opportunity Committee

On 18 January 1996, amid the excitement of the Fourth World Conference on Women, held under the auspices of the United Nations in Beijing, the Belgian Senate decided to set up a specialized committee to deal with the issue of gender equality. The Advisory Committee on Equal Opportunities for Women and Men is composed of 17 senators: 12 women and five men.

It examines, from the equal opportunity perspective, legislative motions brought by parliamentarians and ensures scrutiny and follow-up of relevant government policy. Each year it invites the minister for equal opportunity to present his/her political programme for the coming year. The Committee is also mandated to follow up European and global policy, under an equality lens.

The Work of Parliamentary Committees

While it is true that having an Advisory Committee on Equal Opportunities for Women and Men is undeniably a good thing, several factors nevertheless limit its efficiency. First of all, not being a fully-fledged committee, the Advisory Committee

issues opinions and recommendations but can under no circumstances propose a bill or draft law. It is also often difficult to bring together all the senators who sit on the Committee, in particular the women. Furthermore, within the Committee, party politics often prevail over solidarity among women; with politicking proving to be a more powerful force than the women's lobby.

Moreover, the bills proposed during the previous legislature, notably on combating domestic violence, have not managed to be passed as they have been blocked by the government machinery, which argues that there already exist many tools - legislative and other - in this area.

Regarding other bills that have been passed, notably the law on gender mainstreaming, they are not always strictly enforced.

These examples illustrate the strong resistance that exists, not only in countries where gender legislation is less advanced, but also in Belgium.

Why isn't change coming?

Make no mistake - change is on the way. Women are making strides. Perhaps we are in too much of a hurry. But we should not forget how things were in the past and the fundamental advances that we have managed to make. In Belgium, for example, a hundred years ago, women were denied access to education. Sixty years ago, they won the right to vote in parliamentary elections, and about 30 years ago, they still had to be "assisted and authorized" to complete certain formalities before a notary.

There has therefore been a real revolution in the space of 40 years, which has been accelerated over the past few years.

What women do with their power (and are they really aware of their power)?

Women dispose of three essential powers as follows:

- a. The power of education: an essential power all women have which allows them to change the course of things in a significant way. But what do they do with it? Very often, far too often, they only reproduce stereotypes.
- b. The power to vote: As women outnumber men they could change the course of history. Unfortunately, too many women prefer to vote for men (who are sometimes very chauvinistic to boot). Indeed, sometimes women are not always the best persons to defend the cause of women.
- c. The power to shape the course of their life: men and women do not have the same priorities or approaches; they complement each other in this respect. But the real problem with women is that they do not have sufficient confidence in themselves and question their own abilities. Added to this fact is that they do not act strategically. They place too much emphasis on working well and forget the main thing - knowing how to position themselves.

This begs the question: What do women do with their power? It would be very interesting to debate this issue in parliament, in equality committees and why not at a future IPU meeting?

Inter-Parliamentary Cooperation and Collaboration with International Organizations

In the specific context of the IPU, it is important for parliamentarians - men and women - to meet, listen to each other and understand the developments and challenges in each country. The disparities among countries are enormous. For example, on the one hand, Belgium has just passed the gender mainstreaming Act while on the other hand, many countries still have not abolished excision in practice. Nevertheless, cooperation and collaboration among parliaments are not only enriching, but indispensable. The onus is on the most advanced countries to play the role of men-

tors or catalysts in order to assist and encourage women in other countries. But we also have a duty not to discourage the most advanced countries either.

What action can be mapped for the future? The two proposals listed below are very similar to those advocated by the UN Secretary-General.

“They should not make the mistake of thinking that their fight is one against men. On the contrary, women should try to convince them and include them. This is a fight against all forms of violence and inequality against women.”

First, it is advisable to establish a “register” of good practices, not by country but by geographical region. That would allow each country to refer to models close to its own customs. Such a register could be a very useful tool for equality committees and could guide parliamentary action.

A charter on violence against women could also be drawn up and signed by all equality committees in the different countries. Such a charter could be centred on five points representing the five actions to be taken per year in keeping with the on-the-ground realities of the respective geographical regions. The charter could be brought to each country by a male and female leader, who would act as its ambassadors.

The world is evolving; women are too. There are major, spectacular developments. It is crucial to support them, encourage them and uphold the unity of women. But they should not make the mistake of thinking that their fight is one against men. On the contrary, women should try to convince them and include them. This is a fight against all forms of violence and inequality against women.

Marx once said that “Man is the future of man”. Aragon paraphrased him by saying that “Women are the future of men”. Would it not be wonderful if, in the future, men paraphrased him and declared that “Men are the future of women”? ■

Next Steps: An Example from Togo

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Togo, which is gradually coming out of a sociopolitical crisis that lasted over 15 years, is committed to taking up the challenge of women's liberation. To that end, it has ratified all international instruments on women's rights, notably the CEDAW and its Optional Protocol.

However, incorporation of international instruments into national legislation remains a vast construction site on which work must begin without delay. It is true that the major problems Togo is facing, much like other African countries, are different to those experienced in western countries. The problems that characterize Togo, essentially linked to endemic poverty and compounded by famine, illiteracy and HIV/AIDS, are such that combating violence against women does not seem to be a priority, although the government and civil society have deployed significant efforts in this area over the past years.

“Violence against women has the same origins, root causes and consequences throughout the West-African sub-region and a regional committee of parliamentarians from those countries should be established in order to achieve greater efficiency in eradicating this problem.”

That is why regarding gender issues, Togo is far from achieving the successes of Rwanda in terms of women's quotas. Furthermore, it should be noted that almost 95 per cent of the members of the Togolese National Assembly elected in October 2007 are new. The National Assembly has seven stand-

ing committees, including the Committee on Human Rights and the Committee on Sociocultural Affairs, both of which have been entrusted with gender issues. Parliamentarians' capacities must be strengthened on the issue of gender as regards the drafting of bills, particularly through logistical, financial and material support, with a view to achieving specific codification that classifies and suppresses violence against women.

The major problems facing African countries are practically the same. More specifically, violence against women has the same origins, root causes and consequences throughout the West-African sub-region and a regional committee of parliamentarians from those countries should be established in order to achieve greater efficiency in eradicating this problem.

Such a committee should comprise men and women parliamentarians (from the lower or upper house) who sit on human rights and sociocultural affairs committees in their respective parliament. Its mandate would be to foster an exchange of views and experiences and to examine African cultures, customs and history with a view to finding appropriate and effective solutions to the problem of violence against women. The committee could also be entrusted, with support from the IPU and other development partners, with considering and debating all aspects of this question, thereby aiming to harmonize legislation in this area.

In conclusion, the Human Rights Committee of the Togolese National Assembly has launched a project under which a seminar will be held for women parliamentarians from six African countries: Benin, Burkina Faso, Côte d'Ivoire, Mali, Senegal and Togo. Immediately after this event, women parliamentarians intend to set up a women's caucus for human rights. ■

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