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## **Violence against women**

**Compilation of the main texts**  
**of the Council of Europe since 1995**



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## **The Council of Europe**

The Council of Europe is a political organisation which was founded on 5 May 1949 by ten European countries in order to promote greater unity between its members. It now numbers 46 European states.<sup>1</sup>

The main aims of the Organisation are to promote democracy, human rights and the rule of law, and to develop common responses to political, social, cultural and legal challenges in its member states. Since 1989 it has integrated most of the countries of central and eastern Europe and supported them in their efforts to implement and consolidate their political, legal and administrative reforms.

The Council of Europe has its permanent headquarters in Strasbourg (France). By Statute, it has two constituent organs: the Committee of Ministers, composed of the Ministers of Foreign Affairs of the 46 member states, and the Parliamentary Assembly, comprising delegations from the 46 national parliaments. The Congress of Local and Regional Authorities of the Council of Europe represents the entities of local and regional self-government within the member states.

The European Court of Human Rights is the judicial body competent to adjudicate complaints brought against a state by individuals, associations or other contracting states on grounds of violation of the European Convention on Human Rights.

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The consideration of equality between women and men, seen as a fundamental human right, is the responsibility of the Steering Committee for Equality between Women and Men (CDEG). The experts who form the Committee (one from each member State) are entrusted with the task of stimulating action at the national level, as well as within the Council of Europe, to achieve effective equality between women and men. To this end, the CDEG carries out analyses, studies and evaluations, defines strategies and political measures, and, where necessary, frames the appropriate legal instruments.

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<sup>1</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia and Montenegro, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine, United Kingdom.

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## EUROPEAN COURT OF HUMAN RIGHTS

## CASE OF AYDIN v. TURKEY

(57/1996/676/866)

*Turkey – alleged rape and ill-treatment of a female detainee and failure of authorities to conduct an effective investigation into her complaint that she was tortured in this way*

Extracts from the Judgment of 25 September 1997

The applicant is a Turkish citizen of Kurdish origin. She was born in 1976. At the time of the events in issue she was 17 years old and living with her parents in the village of Tasit, which is about ten kilometres from the town of Derik where the district gendarmerie headquarters are located.

The applicant contended that the rape and ill-treatment to which she had been subjected gave rise to separate violations of Article 3 of the Convention, both of which should be characterised as torture. Article 3 provides:

*“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”*

In its judgment, the European Court of Human Rights established that, “while being held in detention the applicant was raped by a person whose identity has still to be determined. Rape of a detainee by an official of the State must be considered to be an especially grave and abhorrent form of ill-treatment given the ease with which the offender can exploit the vulnerability and weakened resistance of his victim. Furthermore, rape leaves deep psychological scars on the victim which do not respond to the passage of time as quickly as other forms of physical and mental violence. The applicant also experienced the acute physical pain of forced penetration, which must have left her feeling debased and violated both physically and emotionally.

[...]

Against this background the Court is satisfied that the accumulation of acts of physical and mental violence inflicted on the applicant and the especially cruel act of rape to which she was subjected amounted to torture in breach of Article 3 of the Convention. Indeed the Court would have reached this conclusion on either of these grounds taken separately.

In conclusion, there has been a violation of Article 3 of the Convention.”





## **SUMMARY OF THE PLAN OF ACTION TO COMBAT VIOLENCE AGAINST WOMEN**

November 1997

### **PART 1 : INTRODUCTION AND SUMMARY OF FINDINGS**

#### **Introduction**

This report presents a "Plan of Action to Combat Violence Against Women", which is based on the work undertaken between 1994 and 1996 by a Group of Specialists, set up by the Steering Committee for Equality between Women and Men (CDEG) of the Council of Europe.<sup>2</sup>

Ministers at the 3rd European Ministerial Conference on Equality Between Men and Women (October 1993), agreed that a Plan of Action to address "Strategies for the Elimination of Violence Against Women in Society" contained in the Declarations and Resolutions, should be expanded in the future, and this task formed the basis of the work of the Group.

The Group gathered information from a number of countries in relation to violence against women, and commissioned a comparative legal study. On the basis of this information, this report presents a picture of current issues and research findings and draws a number of conclusions and recommendations which are developed into the Plan of Action to Combat Violence Against Women, providing a broad framework at governmental level to address the issue.

Part 1 of this report, therefore, sets the Plan in context by summarising current information and describing briefly the findings of the research carried out by the Group of Specialists in order to identify the actions required. Part 2 then develops, from this, a coherent Plan of Action which it is anticipated can be adopted for implementation in the member states.

#### **The Main Findings**

The Group of Specialists, comprising representatives of a range of member states of the Council of Europe, undertook a process of consultation with a range of organisations (government agencies, NGOs and women's groups) in order to explore their views on a range of aspects of violence against women and to identify the way forward, and many of their views related to developments which will be considered in Part 2 of this report in the Plan of Action. It is important, however, to set the Plan in its context by first providing information relating to the nature and extent of violence against women and current concerns which affect developments. This section will, therefore, focus on current issues and the Group's findings in the following areas :

- The nature of violence against women;
- The scale of the problem;
- Work undertaken;
- Current problems and difficulties.

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<sup>2</sup> This summary is prepared by Sheila Henderson, consultant, on the basis of the full report of the Group of Specialists (EG-S-VL (97) 1).

These issues will provide the background information and context within which the action which is perceived to be necessary can be considered.

### **The Nature of Violence Against Women**

In order to move towards a Plan of Action, it is clearly important to share a common understanding of the issue, as it has been well-documented that the definition of violence against women has been the focus of considerable debate for many years. The Group, in the course of the research, identified a range of attempts at definition in international documents, and using examples from Asia, Africa, America and the United Nations, found variations in expressions of the nature of violence against women, the types of actions involved, the effects of these actions and the locations of the violence.

The Group recognised difficulties in reaching such a common perception, in terms, for example, of the variety of often overlapping acts which may be included in different forms of sexual violence and the wide range of experiences of survivors of abuse, although the definitions were also found to contain a number of common points which were highlighted. Despite the differences, therefore, a number of facts relating to violence against women emerged repeatedly in the research, assisting in the process of definition, and these can be summarised as follows :

- Most abuse of women and girls is perpetrated by men and such abuse is endemic in most societies;
- Abuse of women and girls can take place in a range of physical locations, including homes, social events, institutions and public places;
- A range of perpetrators are involved, and while most are men known to women, many incidents also involve acquaintances or strangers, and any definition must take account of the range of relationships which can be involved. This can include family members, partners and ex-partners, relatives, friends, acquaintances, those in authority and strangers;
- A wide range of behaviours may be involved in the abuse, including physical, sexual and psychological violence;
- Violence against women and girls is used to assert control and is related to the gender imbalance of power in society. It is further perpetrated through inequality of access to resources (financial and other) and its legitimisation by structural inequalities;
- Violence against women and girls is also related to international power relations and inequality between countries;
- Such violence can be seen to encompass behaviours such as, for example, beating and physical injury, sexual abuse, sexual exploitation, psychological violence, a range of harmful traditional / cultural practices, rape, harassment, intimidation, trafficking in women and prostitution.

- On the basis of this common information, therefore, the nature of the issue becomes clear. Violence against women can be seen, in the above context, to include a wide range of physical, sexual, psychological, economic and structural violence.
- The Group concluded that, within this overall framework, it is impossible to identify an exhaustive list, as gender violence can also take many individual forms, and can occur in many contexts and relationships, having a range of effects on women and creating and sustaining broader inequalities. All of the different manifestations of violence against women must be taken into account in attempts to formulate a Plan of Action, and the Group finally concluded that, whichever form the violence takes, it is clearly recognised by the international community that it is a fundamental violation of women's rights. This must form the starting point for the Plan of Action which is developed.

### **The Scale of the Problem**

Having identified the range and nature of the behaviours which can be seen to constitute violence against women and the many forms which this can take, the Group also gathered information which was available in relation to the scale of the problem.

It is widely recognised internationally that it is very difficult to measure the scope and scale of violence against women, as the nature of this means that it often takes place in private and is frequently unreported and unrecorded. The Group found that this widespread lack of information relating to the incidence and prevalence of various forms of violence against women persists and that there are also a number of difficulties within and between countries in its measurement.

These difficulties include the lack of consistency in definition of the issue, the consequent differences in categorisation of violence against women, and the issues identified above, such as the under-recording and under-reporting (as a result, for example, of shame, fear, self-blame, lack of access to service or fear of responses). There were also found to be variations between different types of violence against women in the levels of information available (with, for example, more information relating to domestic violence and child sexual abuse than to trafficking and female genital mutilation) as will become clear below.

Despite these difficulties, however, the Group was again able to identify some current information relating to the prevalence of different forms of violence against women (whilst recognising that these measures were unlikely to include all women who experienced this), and found as follows:

#### **Rape and sexual assault**

Although there were found to be clear differences in the levels of reporting of rape between countries (as a result of, for example, differing levels of awareness, confidence and taboos), it was found that many countries have seen an increase in the level of reported rapes in the last 10 years, with a decrease in the proportion of "guilty" verdicts. For example, some UK figures show that the number of recorded rapes has increased dramatically since the mid 1980s, with the number of men being prosecuted dropping, and with only a small proportion of prosecutions being successful.

Prevalence studies available have found that 20-25% of women experienced rape or attempted rape at some time in their lives, and UNICEF in 1997 suggests that between

one in five and one in seven women will be victims of rape in their lifetime. A recent Canadian study bore out previous findings that only a small proportion of women would report such violence.

### Domestic violence

Again the Group found variations in the reporting and recording of domestic violence and differences in the statistics used to measure this, but identified an overall increase in reporting of domestic violence and demand for services over the past 10 years, and particularly during the 1990s.

Prevalence studies available are consistent in their suggestion that at least around 25% of women experience domestic violence at the hands of a partner or ex-partner, a finding borne out by more recent research in Canada and by UNICEF (1997), which suggests that a quarter to a half of all women will have suffered physical abuse at the hands of an intimate partner.

### Sexual abuse of girls

As with the other forms of violence discussed above, there was also found to have been an increase in the reporting of the sexual abuse of girls (although the specific difficulties faced by children in official reporting contributed to lower numbers overall). Some research suggests that only 5% of such incidents are reported to a statutory agency.

Prevalence studies varied in the proportion of girls experiencing this, reflecting differing methodologies, but the highest figure suggested a proportion of 59%. There were found to be few prosecutions in this area, with only a tiny proportion of incidents ending in prosecution. Recent UK research draws attention to the high numbers of children experiencing abuse each year, with the estimate that 1 in 2 girls and young women will experience some form of sexual abuse before the age of 18.

### Sexual harassment

The measurement of prevalence of sexual harassment is more difficult to identify, as, in many countries, this is not a criminal offence. This is also an area in which reporting is traditionally low, and figures which are available have tended to focus on workplace harassment only, ignoring issues such as, for example, flashing (which research suggests 63% of women may experience) and the use of abusive phone calls (which 2 in 3 women may have received), as well as other forms of harassment in public places.

Prevalence studies available, however, suggest proportions varying from 45% to 81% and again, even given the under-reporting, bear out the scale of the problem. A high proportion of women restrict their activities due to concerns about their safety.

### Female genital mutilation

In most countries, there was found to be little measurement of this form of violence against women, and no prevalence studies were identified. In the UK alone, however, it was suggested that as many as 10,000 girls and young women are at risk of female genital mutilation (FGM), and UNICEF suggests that FGM is common in at least 28 countries, with up to 130 million women and girls having had their genitals excised.

### Trafficking and the sex industry

As with sexual harassment and FGM, it was found that trafficking in women and girls and the sex industry are less well-recognised and studied than those discussed previously. Research suggests, however, that recent years have seen increases in these forms of violence against women both within Europe (particularly in trafficking from east to west) and into Europe from elsewhere.

There has also been a growth in the use of technology in the sex industry, with the growth of, for example, telesex, virtual sex and computer pornography. Examples were also found of differential enforcement of legislation for enforced prostitution and trafficking and a number of European countries have been highlighted as over-represented with men seeking sex with exploited women and children.

### Other forms of violence

Finally, other forms of violence against women were also found to be under-researched across a range of countries, including, for example, "ritual abuse", sexual abuse by those in positions of authority (e.g. priests and therapists), organised violence by military, police and armed forces and "honour killings", with evidence suggesting that all of these forms of violence need to be included in strategies which are developed.

From all of the information examined, therefore, although violence against women was found to be characterised by an overall lack of research, the Group was able to conclude that the issue, in its many forms, is a major problem in Europe, with recorded instances only the tip of an iceberg, and as many as 1 in 2 women experiencing at least one incident of violence.

It was also recognised that some women may also face additional issues which constrain their access to support and compound their experience of violence. These groups include, for example, migrant and refugee women (who may be at risk from men in their own communities, the host community and the armed forces) and who may have a limited knowledge of language, culture and service provision, or whose residence status may be linked to their partner. Language issues were also seen to affect trafficking victims, who may, in addition, have false papers.

Disabled women and girls (who may find it difficult to be believed, may have problems in communication or may have difficulties in gaining physical access to support) may also find barriers to help, as may black and ethnic minority women (who may find a lack of translated materials and appropriate resources compounded by racism from agencies). Women in rural areas may face geographical isolation from services, and women experiencing poverty may find their access to support limited by lack of finance. Lesbians, too, may face additional discrimination and inappropriate assumptions by service providers.

Although, in common with other aspects of violence against women, all of these issues, too, are characterised by limited information, their implications must be acknowledged, as all will have a bearing on the action which is required to address the violence.

Finally, citing examples from Greece, Finland, Turkey, Ireland and the UK, the Group concluded that, across the world, physical, sexual and emotional abuse affect women in all classes and societies. The effects of this violence, the lack of support available and the role of

the media and education in the continuation of the situation were all seen to be common, as were examples of cultural traditions, religion and states perpetuating and condoning the violence and failing, in many cases, to take appropriate action or to make appropriate provision for the high numbers of women in this position.

These findings demonstrate the pressing need to develop action to address the situation. Before presenting the Plan of Action, however, some of the current work which has been taking place must also be considered and the findings of the Group in relation to current obstacles to responses to violence against women presented, as these, too, will require to be taken into account in the identification of the way forward.

### **Work Undertaken**

In terms of current and recent work, the development of this Plan of Action should be considered in the overall context of a growing recognition over the past two decades of the issue of violence against women. Current work is being undertaken by a range of organisations and agencies, including the Council of Europe, other international bodies, individual national governments and local organisations, and although it is impossible to list all of the initiatives separately, it is important to highlight the range of developments taking place and to identify some examples of good practice.

At an intergovernmental level, the issue has gained prominence in recent years and the Council of Europe has undertaken a range of pieces of work, producing, for example, a series of recommendations and resolutions during the 1980s and 1990s on issues such as violence in the family, sexual exploitation, pornography, prostitution, trafficking, sexual violence and forced prostitution. Many of the recommendations made have related to promoting the rights of those experiencing violence to assistance and legal remedies, as well as stressing issues such as the right to respect and the need for protection and education.

The United Nations has also undertaken work in relation to violence against women, with the 1985 Nairobi World Conference on Women leading to the establishment of an "Expert Group on Violence in the Family", and gender violence being recognised as a violation of women's human rights at the United Nations Conference on Human Rights in Vienna in 1993. In addition, in 1994, a Special Rapporteur on Violence Against Women was appointed, to document and analyse the issue worldwide. Some regions have also now introduced international conventions on violence against women and the United Nations 4th World Conference on Women in Beijing in 1995 adopted a Global Platform for Action and called on governments to take steps to prevent, eliminate and respond to violence against women.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has, as of 1997, been ratified by 160 countries worldwide, recognising the need for social and legal reform.

Developments have also taken place in individual countries, including, for example, the development of local and national projects providing support to abused women (often through specialist NGOs), the development of refuge accommodation and support, the development of helplines and crisis contacts, and the development of other forms of specialist assistance to women experiencing violence. A growing number of organisations have also undertaken awareness-raising and campaigning work which have served to raise the profile of the issue (e.g. the Zero Tolerance public awareness campaign, adapted from a Canadian model and adopted widely in the UK).

In terms of legislative provision and policy developments, many countries have also embedded the issue of violence against women in their legislation and there are a number of instances of good practice in legislative and policy work which can be identified. Such work includes, for example, policy memoranda in the Netherlands in 1982 and 1990, the development of research programmes in Norway, the recent recognition of rape in marriage in Belgium, Finland, Slovenia, England and Wales and Germany, the introduction of sexual coercion as a crime in Portugal and the revision of Spanish law in 1996. In addition, in Germany and Portugal, women reporting rape should be interviewed only by women officers, and the German Victims Act allows civil suits for damages.

Most Scandinavian countries now provide access to Legal Aid for women experiencing violence and many countries have introduced specific training for police officers, with some forces having specialist women officers, and a number of Domestic Violence Units established in the UK and Finland. There have also been changes to the rules of evidence in rape cases (e.g. in Denmark, Germany, Sweden and the UK) and free legal representation is made available in Denmark, Germany, the Netherlands and Norway. Psychological violence has been recognised in law in Greece, Cyprus and Ireland, and prosecutions for domestic violence in Norway and Finland can now continue even where a complaint is withdrawn.

In relation to other forms of violence, the Group also found that Slovenia and the UK have undertaken police training in relation to child sexual abuse and now operate through specialist teams in many areas. In some countries, there is now an offence of sexual harassment (e.g. France and Spain) and new laws in relation to trafficking and sex tourism have been introduced in Germany and Sweden.

All of these initiatives represent important steps in the recognition and development of legal and policy responses to violence against women. It is also clear, however, from current research, that there remains much to be done in moving towards the elimination of violence against women. Countries remain at different stages both in their recognition of the issues and their focus in addressing such violence, as well as in the nature and quality of their services to women and their levels of awareness or understanding.

There are clearly wide variations in the nature and enforceability of legislation, and more specific current problems include, for example, issues such as the impact of differing definitions, humiliating legal practices (for example in cross-examination of women), differences in willingness to allow mitigation, variations in sentencing, limitations in protection of women and differential access to support. The majority of European countries have no specific laws relating to child sexual abuse, and few countries have laws relating to sexual harassment.

Although, therefore, legislation has been enacted in a number of countries around the world, much gender violence remains unrecognised and goes unpunished, demonstrating the clear need for initiatives such as this Plan of Action to encourage and guide developments to address this.

The Plan of Action presented in Section 2 attempts to recognise that countries are at varying stages in their development and to provide a common framework. The recommendations which are made must therefore be considered within the overall context of these more general international developments and the measures suggested must play a key part in those initiatives which are undertaken to continue to pursue this issue in the future.

The Plan must also, however, take into account a range of current problems and difficulties in providing a coherent and appropriate response to violence against women, which will be considered below.

### **Current Problems and Difficulties**

The Group found a number of current problems which affect and constrain the provision of responses to women experiencing violence, with these difficulties relating both to the levels of understanding of the issue amongst communities and to broader structural issues.

In terms, firstly, of levels of understanding, it was found that there remains, for some organisations and individuals, a taboo relating to violence against women which constrains the ability of individual women to seek help and affects the responses of those providing services. Inappropriate attitudes to violence against women and common myths and stereotypes persist, and function, for example, to blame victims, excuse, trivialise and justify the violence. There were also found to be differential levels of recognition of different forms of violence against women, with differences in the perceived "legitimacy" of issues, and some forms of behaviour taken less seriously than others. There was also found to be a more limited understanding of some of the less commonly recognised forms of violence. Changes to all of these attitudes were found to have been generally slow and variable.

New forms of violence, as suggested earlier, were also found to be emerging as a result of changes such as globalisation, changes in technology and conflict, but, in terms of responses to violence against women, there remain many shortfalls in provision. Countries have been generally slow to recognise the financial and social costs of gender violence (in terms, for example, of investigation costs, health, housing and education), with, as seen, variations in the law and in sanctions available. There is often little recognition of the needs and rights of those experiencing violence, little appropriate support from many organisations and a lack of resources and provision for those specialist groups making a key contribution to relevant service provision.

These issues suggest that appropriate responses to violence against women will involve action on a range of levels. They must involve fundamentally challenging the nature of existing relationships in the home and workplace. They must also involve challenging existing customs and traditions and addressing inequality throughout society. Finally, they must involve challenging existing approaches within countries to crime, law and justice.

The Plan of Action takes account of these issues, with the main focus of the Plan on the following broad principles :

1. That all women and girls who experience violence should have immediate access to safety and protection, and that the violence should be treated as a serious crime and a fundamental violation of human rights;
2. That there must be fundamental changes to attitudes to violence against women, to develop community intolerance of this, and to hold perpetrators responsible for their behaviour, as well as demanding that they cease to be violent;



3. That women and girls must be empowered, through the incorporation of gender equality into all policies and programmes, as well as through traditional equality policies, to challenge and change the existing structure of discrimination.

In order to address these principles, the Plan of Action detailed in the following section is therefore proposed.

## **PART 2 : PLAN OF ACTION TO COMBAT VIOLENCE AGAINST WOMEN**

### **Introduction to the Plan of Action**

This Plan of Action proposes a range of measures which are considered necessary in order to tackle violence against women, as described in the previous section of the report. Any attempts to address this issue will clearly require coherent action by a range of participants, including intergovernmental bodies, national governments, local governments and local providers of services and other NGOs.

This Plan focuses specifically on those actions which require to be taken by governments, and which can be seen to be common guiding principles across all countries. The Plan recognises that countries may be at varying stages in the development of their responses. For this reason, detailed developments in relation to individual aspects of violence against women (such as rape, domestic violence or child sexual abuse) are not provided, as it is anticipated that the overall principles identified can be used to guide such specific developments in individual countries as work is undertaken. The focus of this Plan is therefore on establishing the basic assumptions and framework for the work which is required.

Action by governments to tackle violence against women is required on four levels. Firstly, there is a need to address structural issues which perpetuate the current position, with a need to focus on the development of legislation and policy. Secondly, action is required to promote education, to ensure the development, through awareness-raising, of increased understanding and to ensure and sustain the promotion of gender equality in the future. Thirdly, action is required to ensure that those women who experience violence have access to the appropriate forms of support and assistance which they require, and finally, action is required in the development of research, both to monitor and assess those developments which take place and review progress.

This Plan will, therefore, propose actions in each of these areas in turn, all of which require to be implemented to begin to address the issue. The Plan should be considered to be the start, or continuation of a process which will serve to reduce, and ultimately to eliminate, violence against women.

### **Legislative Change and Policy Issues**

It is within the laws and policies of national governments that the framework for the response to violence against women is provided, as well as providing a means of protection, redress, sanction and justice. The importance of this aspect of government provision in relation to violence against women is clear.

Governments should, therefore, consider the following :

- The adoption of a clear overall definition of violence against women, reflecting the range of behaviours involved and including recognition of physical, sexual and psychological violence in a range of settings, by a range of perpetrators, which can underpin the subsequent development of policy and legislation;
- The development and adoption of clear definitions of individual forms of violence against women, based on existing knowledge in areas such as rape, domestic violence,

child sexual abuse, sexual harassment, prostitution, trafficking in women and female genital mutilation. These definitions should take account of the complexities of the issues and the principles outlined earlier in this report;

- The recognition of all forms of violence against women as a human rights issue and the clear expression of a national political commitment to this position;
- The ratification or implementation of human rights norms and instruments which relate to violence against women and the implementation of CEDAW, as well as the ratification of international conventions on trafficking in persons and slavery;
- The identification of political responsibility for action to combat violence against women;
- The development of a national body or group of advisors with responsibility for work to combat violence against women, with representation from a range of senior professionals with expertise in this area, to advise on policy and developments;
- The implementation of this Plan of Action, with the development of a national strategy to translate the recommendations into national developments;
- The recognition, in national legislation, of the criminality of violence against women, supported through the strong and consistent enforcement of appropriate sanctions reflecting the severity of the crime. Such sanctions should focus on male perpetrators and not on women experiencing violence and should avoid exemptions and mitigation;
- The introduction of new and specific legislation where this does not exist to deal with violence against women in all its forms, with the development of legislation and good practice to address specific issues relating to the needs of women experiencing different forms of violence, as well as the strengthening and enforcement of existing legislation. Developments should include not only rape, domestic violence and child sexual abuse, but also less well-recognised issues such as sexual harassment, prostitution, trafficking in women and female genital mutilation;
- The review of the legal framework to ensure that adequate measures are available to women and that they have access to redress and protection, including examination of constraints in access to the law (such as access to Legal Aid and representation, and specific constraints facing women with disabilities, women who speak minority languages, rural women, lesbians, refugee and migrant women), and the removal of current anomalies in legislation or aspects of the law which are not consistent with the focus on violence against women as a crime;
- The development of legislation to ensure the punishment of any representatives of State organisations perpetrating acts of violence against women in the course of their duties;
- The development of a court and criminal justice system which is responsive to the needs of women, ensuring the protection of women and children in the legal process and the recognition of their needs through, for example, the development of specialist courts, prosecutors or specific practices such as the use of innovative and anonymous evidence-giving, the avoidance of irrelevant and humiliating questioning, access to women interviewers, access to support from women's NGOs, increased victim support and

advocacy, access to information and support, compensation and clear appeals procedures;

- The development of widely available and accessible civil measures to cover all women experiencing violence, relating to issues such as protection, safety and housing, thus increasing their ability to leave violent men and promoting women's citizenship;
- The development of clear guidelines for legal and law enforcement agencies, combined with judicial standards of practice, information and training to those in the justice system in relation to responding to women experiencing violence;
- The legal regulation of the use of different media in the promotion of violence against women and the requirement of the development of professional guidelines and codes of conduct in relation to the representation of violence. This should include strategies to eliminate gratuitous violence, sexist and racist portrayals and sensationalism;
- The examination and development, where required, of social security and housing legislation which allows women to establish a safe and secure independent life and prevents women being trapped in violence and abuse;
- The examination and development of workplace legislation and the responsibility of employers to eliminate violence against women in this setting;
- The development of broad equalities legislation to end all forms of discrimination and to ensure access to positions of influence for women, to begin to redress current inequalities and gender imbalances and to tackle the structural inequalities which help to maintain the current situation;
- The promotion, in all policy developments, of a consistent focus on equality, including the need to ensure that all government policies, in all areas of operation, are consistent with the overall approach to violence against women, and that initiatives which are contrary to the approach adopted do not receive sanction or support.

### **Education and Awareness-Raising**

Education also has a key role in the response to violence against women, both in addressing public awareness of the issue in the shorter term and in challenging the assumptions and attitudes which support and maintain structural inequalities in the longer term. Individual educators in all settings and at all levels clearly have a role to play in addressing violence against women, and governments have an overall role in the establishment of the national education framework and in public education.

Governments should therefore consider the following :

- The assumption of leadership in the adoption of a national priority of combating violence against women, promoting women's safety and equality, and the development of a clear public statement that no level of violence is acceptable;

- The development of public education and awareness-raising to promote this policy at a national level, using a range of media and addressing a range of forms of violence against women;
- The recognition and support of public events, particularly those which focus on remembrance and change, and participation in and support of multi-national and pan-European initiatives and events;
- The development of clear information for both those involved in responding to violence against women and members of the public, aimed at dispelling the myths and promoting facts, as well as challenging taboos and encouraging an appropriate response to women seeking help;
- The provision of support to local initiatives with a similar focus on promoting recognition of violence against women, raising awareness, challenging stereotypes and focusing responsibility on the perpetrator;
- The development of information and awareness of the types of support available nationally and locally to women experiencing violence, their legal rights and other services, the means of gaining access to support and the expectations of service providers;
- The dissemination of information using a range of media in a variety of formats accessible to women with disabilities and women speaking minority languages;
- The development of information and guidelines to all service providers involved in meeting the needs of women experiencing violence, outlining their roles, potential involvement in the process and expected practice, as well as the continued dissemination of good practice information emerging nationally and internationally;
- The development of national training for a range of staff to support these guidelines, including, for example, judges, prosecutors, court staff, police, probation staff, prison staff, social workers, psychiatrists, psychologists, doctors, nurses, midwives, accident and emergency staff, education staff, counsellors, interpreters, housing staff, social security staff, refugee workers, immigration officials, clergy, government officials and policy makers. Training should cover definitions of violence against women, the forms and scope of this, the impact on women and girls, the costs of violence, the needs of those involved and appropriate responses;
- The provision of education programmes for violent men, only where these are in addition to, rather than as an alternative to, other sanctions;
- The development of education and training opportunities for women and the promotion of legislation to open economic opportunities for women and increase their choice, status and access to property and resources;
- The promotion, through the education system, of all aspects of equality, including both increasing women and girls' access to training and skills, challenging aggressive masculinity, promoting non-violent conflict resolution, raising awareness of human rights issues, eliminating prejudices and other practices based on stereotyped assumptions and promoting an end to discrimination and inequality.

### **Provision of Support to Women Experiencing Violence**

Alongside the provision of an appropriate legal framework and education structure, it is also essential to ensure that those women and girls who experience violence have access, on an individual basis, to the appropriate support and services which will meet the variety of their needs and which will ensure their protection and safety.

Governments should therefore consider the following :

- The examination of service provision on a national level, in terms of the availability of services, the nature and responsiveness of these services and any existing barriers which may inhibit the provision of services to, or receipt of services by, women experiencing violence;
- The development, in conjunction with local service providers, of initiatives to address those gaps in services which are identified and to ensure that support is available in all areas. Any inequalities in access between types of area (e.g. urban / rural) or between groups of women should be addressed in the identification of needs;
- The identification of designated resources to undertake the work necessary to implement the Plan of Action and national plan and to ensure that services are equipped to meet the additional needs emerging from the raised profile of the issue;
- The development of guidelines for all services in addressing violence against women, supported by comprehensive training for those involved, as specified in relation to education and awareness-raising;
- The requirement for all service providers to address violence against women and to develop service-specific plans to address the nature of their responses. This should include, for example, police services, legal services, health, social work, social security, housing, education, other central and local government officials and staff of relevant NGOs;
- The recognition of the expertise of specific services focusing on the needs and rights of women and the development of work in partnership with such organisations in relation to work to combat violence against women;
- The provision of financial and other support to specialist organisations to allow new developments such as helplines and 24 hour services, and to expand the network of support available from such organisations, ensuring that key services are not dependent on fund raising and charitable donations, but receive stable and ongoing funding;
- The provision of support to enable the development of additional victim and witness support schemes, as well as those services tackling under-recognised forms of violence;
- The development of sufficient, well-funded refuge provision, with the establishment of a national minimum number of refuge places, provided in accordance with good practice;
- The support and development of new services as new needs are identified.

## **Research and Monitoring**

Finally, it is essential that the work undertaken in each of the preceding areas is reviewed regularly and progress monitored. Only through the continued promotion of new research and monitoring can changes to the current situation and any new developments and initiatives be assessed.

Governments should therefore consider the following :

- The development of mechanisms for consultation with women who have experienced violence and with women's organisations, and the use of the views gathered through this means to inform future planning and policy development;
- The establishment of a requirement for services to produce statistical information to assess the extent of violence against women and the level of requests for support;
- The development of a national framework to ensure consistency in the gathering of statistics, ensuring that these are also consistent with European information;
- The collation of national statistical data (gathered by all organisations having contact with women experiencing violence, as discussed above) relating to the number of requests for support, the help sought and the outcomes;
- The publication and dissemination of national data relating to service use, to inform the development of practice;
- The monitoring and review, through the national group of specialists recommended earlier, and through the appropriate political routes, of the implementation of the Plan of Action and national plan, including regular reporting on progress made and the sharing of information in relation to good practice;
- The development of new research in particular areas of unmet need, including work with specific groups of women who may have particular service requirements and may have been marginalised in previous work;
- The provision of support to local research which is consistent with work developing nationally;
- The evaluation of new initiatives and programmes which are undertaken to combat violence against women;
- The dissemination of research information nationally and internationally;
- The continuing identification of emergent needs through the research process and the monitoring of developments in the nature of violence against women and measures to address this, as well as the development of regular review of the legislation in the light of such changes.

## **Conclusions**

All of the above developments require to be undertaken in combination to address the issues relating to violence against women which emerged within this report. The work of the Group of Specialists has demonstrated that violence against women is a serious obstacle to the achievement of women's equality, and is an outcome of existing inequalities within and across societies.

There is clearly a need to see the issue in its overall social context, and for communities to take collective responsibility for addressing and condemning all forms of violence against women. All countries and individuals must become intolerant of violence against women and must recognise it as a crime. The measures suggested within this Plan of Action provide the starting point for the short and longer term action which is required to begin this process.

This report has highlighted the clear need for effective measures to be adopted by governments to address the causes and the consequences of violence against women. The acceptance and implementation of this Plan of Action must be an essential first step for all countries in their commitment to, and development of, such measures.



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**INFORMATION FORUM  
ON NATIONAL POLICIES IN THE FIELD OF  
EQUALITY BETWEEN WOMEN AND MEN**

**Ending domestic violence: action and measures**

**Bucharest (Romania), 26-28 November 1998**

## **Reports of the working groups**

### **Working Group 1**

#### **Sub-theme 1: Confronting domestic violence and its consequences**

**Rapporteur: Ms Maryse JASPARD (France)**  
**Chair: Ms Elena POPTODOROVA (Bulgaria)**

This is a summary of the main points on which a certain consensus was reached in the working group. The various topics singled out are intended to help establish the theoretical focus prior to the drafting of recommendations.

1. The models and representations of patriarchal society are still very prevalent in all European countries:
  - the patriarchal society underpins male domination;
  - the patriarchal society generates institutions perpetuating this principle;
  - it breeds a specific form of violence against women in the family setting.
2. Domestic violence against women is but one aspect of the inequalities between women and men; it cannot be analysed as an isolated phenomenon.
3. Until violence towards women is stamped out, it will not be possible to achieve effective equality between women and men, which is a basic principle of fundamental human rights. The problem of violence must be placed in the context of human rights, not only in the social sphere (eg in the training of all those involved in interventions).
4. Domestic violence is not just a social issue but a basic societal problem, hence domestic violence cannot be regarded as a private matter.
5. In comprehending domestic violence, one must also take account of cultural differences and of the weight of cultural traditions, for example the tension to which a migrant woman can be subjected when confronted with two cultures whose views on the place of women and men in society and the foundations of the family are contradictory.
6. Emphasis should be placed on the importance of the terms chosen to analyse and address violence-related problems; for instance, recurrent use of the word "victim" can heighten the passive and even derogatory image often assigned to women who receive violent treatment, both for the women themselves and for those intervening (such as police and social workers). Likewise, the term "protection" has connotations of "female pseudo-fragility". Using such words in the framework of the Council of Europe should be thought about. For example, terms such as "prevention" or "help" could be more appropriate.

7. Women are not "natural victims" but they are subjected to victimisation; still more emphatically, they are not "consenting victims".
8. The continuum of violence, including psychological violence, must be taken into account.
9. While it is urgent to assist the women subjected to violence, it is also necessary to have means of training and sensitising all actors within the institutions concerned at all levels (justice, police, medical staff, social workers, etc).
10. Bringing about changes in attitudes must not be the sole responsibility of NGOs; governments must unequivocally adopt a stance on these issues; prevention requires committed action by all social institutions, particularly the education system, directed at persons of all ages. Human rights observance as well as equality between women and men should be covered by every school syllabus.
11. The introduction of preventive mechanisms entails knowledge of how the matter stands in society; accordingly research, enquiries and statistics constitute the first stage in ascertaining the extent of the phenomenon, its consequences and processes. Estimation of the social cost of violence should also be a means of lobbying governments to take measures for the eradication of domestic violence.
12. If women have difficulties in reporting and denouncing the violence which they undergo, it is because society:
  - does not allow them to do so (ignorance of the law and of assistance facilities; inconspicuousness of the structures);
  - does not adequately respond to their problems.
13. National legislation should condemn marital rape. Action should also be undertaken to change the mentalities on this subject, especially the provision of sex education courses.

The group concurred in proposing the following recommendations:

A. At national level

- governments should make a policy statement emphasising that violence against women and domestic violence cannot be tolerated and constitute an infringement of human rights;
- governments not yet having done so should revise the existing legal framework to make sure that it provides for adequate measures of recourse and protection against domestic violence;
- the gender equality perspective should be applied systematically in framing and implementing policies and programmes in all areas, particularly macro-economics;
- policies to combat domestic violence should be regularly assessed. In this context, NGOs should insist that national reports on the implementation of the Convention on the elimination of all forms of discrimination against women contain a chapter on anti-

violence measures and action, as prescribed by the recommendation of the committee in charge of monitoring the implementation of the Convention;

- research programmes including statistics on domestic violence should be developed. The findings of such research are an excellent aid to member States, NGOs and other agencies concerned for the purpose of implementing prevention policies in order to combat domestic violence;
- information and awareness-raising campaigns directed at the public and at the various professions concerned by the issue of domestic violence and sex education should be organised.

B. At the Council of Europe

- the Council of Europe should propose an outline, adaptable to each country, for training and information handbooks directed at judges, court officers, members of the police force and medical practitioners;
- the Council of Europe should carry out a study reporting the position as regards member States' legislation and available statistics in this field;
- the question of equality between women and men should be among the issues covered by monitoring of compliance with the obligations of Council of Europe member States;
- the Council of Europe should speed up the preparation of the recommendation on protecting women and girls against violence so that it can provide guidance and standards for the relevant national policies.

## **Working Group 2**

### **Sub-theme 2: Assistance and support for victims**

**Rapporteur: Ms Astrid KECKEIS (Austria)**

**Chair: Mr Santiago URIOS MOLINER (Spain)**

The working group considered how support and assistance were provided to victims of domestic violence in the national legislation of the various member States. Following a rapid canvassing of the views of the participants, and taking into account the Plan of Action to combat violence against women published by the Council of Europe and the introductory report by Ms Astrid Keckeis, the Group looked at a number of priority questions: what help is available to victims of violence in the different countries? Which strategies have been most successful and why? Does legislation exist to protect the victims, and how is it put into practice?

Participants discussed these issues in order to identify good practices which could be used in different countries. However, it was stressed that measures to be taken should be adapted to the specific national context. Specific legislation to counteract the problem of domestic violence should always be complemented by social support services and, above all, by an effective policy to promote equality between women and men.

The discussion focused on the means to ensure comprehensive protection of the victims of domestic violence, without favouring secondary victimisation. This was to be ensured by an integrated approach, involving the State and NGOs. The following practical measures were envisaged:

1. Social intervention:

- Provide a nationwide victim support service structure, consisting of women's shelters, counselling centres, helplines;
- establish an infrastructure allowing for a proactive approach to support victims who do not contact shelters and counselling centres and which guarantees co-ordinated and effective interventions of all agencies involved;
- provide victims of domestic violence priority access to state subsidised housing and training courses;

2. Legislation and criminal procedure

Acts of domestic violence should be treated by the State as criminal acts and not as "private matters". Various national legislations were discussed in detail, including the need to make available non-molestation orders and occupation orders which could define occupation rights in the home, including, for example, the expulsion of the perpetrator from the home and its vicinity. Furthermore, the following specific measures were mentioned:

- in order to avoid a traumatising confrontation with the perpetrator and to avoid repetition of the victim's statements, make it possible to use technical means (videos screens, closed circuit TV, etc) to listen to and record complaints;
- the law should be amended to forbid that a complainant's sexual history be admitted as evidence;
- to grant the police the legal right to investigate and collect evidence and to enable the law enforcement authorities to lodge complaints on behalf of the victims of domestic violence;
- to create a register of existing protection orders enabling rapid computer access and police intervention. In cases where women are subject to serious threats from another person, instant alarm call devices should allow them to feel safe wherever they go;
- psychological treatment programmes should be implemented as a complement to penal measures.

### 3. Measures in the field of education and professional training

It was suggested that sufficient financial means be made available for educational measures, such as :

- compulsory training courses for police and other law enforcement personnel;
- intensified initial training and "further education" of public prosecutors and judges, as well as teachers, social workers, therapists and other professional groups being confronted with the problem of domestic violence;
- representatives of child protection agencies, teachers and childcare workers should receive specific training to raise the awareness of specific needs of children who have experienced domestic violence;
- the Group stressed the importance of an effective monitoring and evaluation system, including regular reporting on progress made and the sharing of information in relation to good practice;
- participants also stressed that treatment of violent men not only had a preventive effect, but also encouraged women to denounce violent acts because they knew the perpetrators would be not only sanctioned but also treated;
- in general, the complementarity of the various aspects discussed was essential: a step forward in adopting criminal prosecution measures should go together with progress in support, counselling and education.

### 4. Co-operation with NGOs

Bearing in mind the important work of NGOs, governments should develop their strategies, actions and legislation in the field of violence against women and children in co-operation with NGOs and should support their initiatives.



### **Working Group 3**

#### **Sub-theme 3: Working with the perpetrators**

**Rapporteur: Mr Per ISDAL (Norway)**  
**Chair: Ms Violeta NEUBAUER (Slovenia)**

The discussion in this working group was based on the introductory report by Mr Per Isdal on working with the perpetrators of violence against women. There was a clear consensus as to the fact that violent men had to be addressed directly in order to help them to stop their violence, domination and abuse.

Violence against women and children constitutes a major societal and health problem, and must be fought. The first priority in the work to combat men's violence should be to help and protect women and children, which means for example to establish crisis centres for abused women, to give women economical and social possibilities for independence and to create a sound legal basis for the protection of women and children.

The notion of men's responsibility for their violence against women must be the basis for all interventions to combat this phenomenon. A characteristic of men's violence against women and children is its secrecy and invisibility; focus should be put on interventions that contribute to less secrecy and greater visibility.

Prevention of violence should take place on many levels, not only on the level of the individual man but also on the level of society as a whole, creating better knowledge through education and greater awareness of the problem and its causes. The media could play an important part in influencing the changing of attitudes.

The discussion showed that there is still little experience and few intervention programmes directed at violent men in Europe. There is a need for more experience combined with research and a sharing of information at European level. The Council of Europe should play an important role as a forum for the exchange of such research and information.

Many participants were in favour of setting up centres dealing specifically with violent men and their patterns of behaviour. It was stressed that intervention programmes directed towards men must be drawn up in co-operation with those dealing with the protection of women. The aim of both kinds of interventions must be the same: to stop and prevent violence and abuse against women.

Some participants pointed out that the diversity of cultures in Europe, the progress achieved towards gender equality and the resources available for interventions should be taken into consideration. It was emphasised that programmes aimed at men should not be set up to the detriment of projects aimed at assisting women victims of violence.

All interventions directed towards men's violence against women and children should be evaluated in view of their effectiveness in securing protection and preventing violence. In this respect, a critical discussion is needed on intervention directed at the family as a unit, for example family mediation.

The Group agreed that:

**1. Research and awareness-raising on male violence needs to be increased.**

- Studies and research work on men's violence against women, taking into account the overall social context, should be promoted.
- Awareness-raising on domestic violence, e.g. campaigns, should be aimed specifically at men.

**2. Violent and abusive men's behaviour against women must change.**

- Intervention programmes directed at violent men should be set up and evaluated. They should correspond to certain standards or criteria, for example:
  - safety of women and children victims of domestic violence should be the primary concern;
  - good understanding and co-operation between women's programmes and intervention programmes for men;
  - effective information strategies about intervention programmes that reach all those concerned;
  - responsibility for the violence must be understood fully as the man's;
  - availability and a quick response by experienced personnel.
- Intervention programmes should not become an alternative to punishment, but rather an additional strategy to prevent violence.

**3. Education on non-violent behaviour and equality between women and men should be available, especially in schools.**

## **Working Group 4**

### **Sub-theme 4: Prevention of Domestic Violence**

**Rapporteur: Ms Urszula NOWAKOWSKA (Poland)**

**Chair: Ms Elsa THORKELSDÓTTIR (Iceland)**

The working group based its discussions on the report presented by the rapporteur and examples of measures on prevention of domestic violence taken in other countries. The participants stressed, inter alia, the importance of legal measures and their implementation, as well as the introduction of relevant sanctions and alternative measures.

It was agreed that mediation is not a recommended solution in cases involving violence in intimate relationships.

Some participants underlined the necessity of having a definition of domestic violence before starting work on legal reform.

Special attention was given to the protection of migrant women and it was proposed that they must be given an individual legal status in the country of residence (right to stay, to work, etc.).

During the discussions, the following points were raised:

- Need for training on violence against women and gender equality for legislators, MPs, magistrates, prosecutors, law enforcement officers. In this context, the Austrian example of a mandatory training programme for the police was recommended. It was noted that even if there are women in the judiciary and other relevant bodies they are not necessarily more sensitive and friendly towards victims of violence.
- The need for the relevant authorities involved in the criminal justice system to be more open and receptive towards victims of violence. In this context, the question of how to build victims' trust in the State and its institutions responsible for preventing and combating violence.
- The importance of beginning gender equality education at a very early stage and to ensure an adequate training for teachers and pedagogists on the issue of domestic violence and gender equality.
- The need to develop and implement programmes for violent men and involving men in the work to prevent violence was also underlined.
- The need to orientate the campaign against violence against women, foreseen for 1999, towards men's responsibility and accountability. The media should not only cover spectacular aspects of violence against women, but also try to educate the public about the causes and consequences of violence against women. Participants shared concrete examples of campaigns, such as the use of TV spots (Greece), organising tribunals (Poland) and the White Ribbon Campaign (Canada).

- The need to establish databases which will include information on relevant institutions, NGOs and other agencies working on the issue of domestic violence across Europe, national legislations, existing data, statistics. In this context, WAVE and the European Women's Lobby initiatives were mentioned and encouraged.
- The importance of setting benchmarks in order to measure and compare achievements in legislation, statistics, quality of services, etc. In order to do so, governments have to define and develop common indicators setting out the tools to achieve these goals.
- Need for inter-agency co-operation at the European level, but also at national and local levels, including partnership between governmental and non-governmental organisations and other sectors. This could be facilitated by new technologies such as Internet and European programmes such as Daphne. These programmes cannot be effectively implemented without governments' commitment, including financial support.

### **Recommendations**

1. Education on gender equality and various aspects of domestic violence, including its causes and consequences, should be available for the following groups:
  - . Children at the earliest school stage, and teachers;
  - . Magistrates (including judges, lawyers, prosecutors, police);
  - . Professionals (doctors, social workers, probation officers...) dealing with women victims of violence;
  - . The public as a whole.
2. Special attention must be paid to raise women's awareness of their legal rights in order to provide them with the means to stop violence at an early stage.
3. Publications for educational purposes, such as books, documentation, CD-Roms, research studies, must be edited and distributed to a large public. In this context, it is recommended to set up international and national databases (useful addresses, list of NGOs, guides to conduct and good practices, etc.)
4. New information technologies, such as Internet and e-mail, must be used in order to improve communication between all the persons and bodies or institutions concerned.
5. Media should cover in a regular, objective and non-spectacular manner all the issues concerning violence and the system of prevention.
6. Governments should be accountable and responsible for implementing an appropriate legal framework for preventing and combating domestic violence in a more effective way. In this context, they should:
  - define or redefine the concepts of domestic violence, in order to ensure that all forms of violence (physical, psychological and sexual) within the family are covered;
  - take their responsibility for filing charges and prosecute the crime of domestic violence;

- introduce effective measures for providing protection for victims of violence after the incident and during the whole legal procedure (adequate and alternative sanctions, including restraining orders and treatment for perpetrators, police intervention, the presumption of innocence cannot deprive a victim of adequate legal protection; some participants proposed to limit perpetrators' access to children but there was not an agreement on this proposal);
  - implement and ratify the relevant international instruments aiming to protect women against violence (eg the Committee of Ministers Recommendation on Compensation to Victims of violent crimes, Revised European Social Charter and the relevant UN Conventions, etc.);
  - establish minimum standards for providing services to victims of violence in order to avoid the situation of double victimisation. These standards should be aimed at empowering women and protecting them from the harassment of perpetrators (secrecy of the shelters, no mediation, etc.);
  - provide the necessary financial resources to implement all these measures.
7. International organisations and NGOs should co-operate by establishing databases of organisations and institutions dealing with domestic violence, legislation and existing statistics on this issue and making them accessible for interested partners.
8. The Council of Europe is invited to:
- draft, as soon as possible, a binding legal instrument setting up effective measures for preventing and combating violence against women;
  - establish an effective monitoring system of the progress made by the member States in implementing international standards and measures for combating violence against women;
  - promote co-operation between Council of Europe Committees and other relevant bodies in order to develop a comprehensive approach in dealing with violence against women and women's human rights;
  - include in the programme of activities for the development and consolidation of democratic stability a training course devoted to the issue of women's human rights and violence against women.

## **Conclusions by the General Rapporteur**

### **Ms Gabriela ADAMESTEANU (Romania)**

1. The Information Forum on national policies in the field of equality between women and men took place in Bucharest (Romania) from 26-28 November 1998.

2. The Forum, held at the invitation of the Romanian authorities and in co-operation with the Romanian Ministry of Labour and Social Protection, was organised in the context of the work of the Council of Europe's Steering Committee for equality between women and men (CDEG). Participants included experts in the fields of equality and human rights, health care workers, researchers into violence against women, therapists, psychologists, educators, lawyers, judges, police officers, sociologists, parliamentarians and government officials representing the Council of Europe member States as well as a number of non-governmental organisations. The Parliamentary Assembly of the Council of Europe and the European Health Committee were represented. Belarus, Canada, the Central European Initiative, the United Nations Organisation for Education, Science and Culture, the United Nations Development Programme and a number of international non-governmental organisations were also represented.

3. The opening session was held in the presence of the Director of Human Rights of the Council of Europe, the Vice-Chair of the Chamber of Deputies of Romania, an adviser to the Romanian Presidency and the Vice-Chair of the Committee for equal opportunities of the Parliamentary Assembly of the Council of Europe.

4. During the two and a half days of the Forum, the participants discussed the following themes:

**General theme:**            **Ending domestic violence: action and measures**

**Sub-theme 1:**            **Confronting domestic violence and its consequences**

**Sub-theme 2:**            **Assistance and support for victims**

**Sub-theme 3:**            **Working with the perpetrators**

**Sub-theme 4:**            **Prevention of domestic violence**

5. A general debate was organised within the framework of the Forum on the possibility of preparing a draft European legal instrument for combating violence against women.

6. A meeting of Romanian non-governmental organisations, organised within the framework of the Council of Europe's activities for the development and consolidation of democratic stability, was held immediately after the Forum.

7. Yesterday, a Romanian national daily carried a front-page article reporting an incident in which a peasant from an underprivileged region (an ordinary farm worker not owning land) had maltreated his wife so badly as to break her jaw and several of her teeth. Why? Merely because she had decided to call the latest addition to their family Mihai instead of naming him after Nicu Ceaucescu, the son of the former Communist dictator. The violent father is a retrograde Communist; had the child been a girl, he would have named her after Ceaucescu's daughter Zoe.

8. The first message conveyed to us by this piece of news is political: certain people confronted with present difficulties cherish fond memories of the Communist era. The second message is in a more sensationalist or even comical register. Sensational news items pervade the Romanian press, with people taking a voyeur-like and rather perverse interest in the tragedies that abound all over the country.

9. However, few male or female readers of this news are likely to reflect that the most serious element is the aggravated violence which drove a father of five children (Mihai being the youngest) to inflict severe injury on his wife because her opinion differed from his (in fact she had a wiser and more responsible outlook regarding the child's future). The violence was triggered by the desire to have total control over a human being. This is a primitive form of authoritarianism which, deplorably enough, takes up the front page of the newspapers because of its rather offbeat political content. It is closely linked with the Communist past when society was regarded as one big patriarchal family totally subservient to the father figure of the dictator who wielded power of life and death over its members.

10. But out of context, and leaving aside the political element, this violence stemming from a man's urge to dominate his wife by maltreating, humiliating and demoralising her is not just a product of one or all of the East European societies which have recently emerged from half a century of Communism and isolationism.

11. Male violence towards women, unlike other aspects of gender in equality, was long an "invisible phenomenon". In the Western countries it became visible as from the 1970s and 80s thanks to the activism of feminist groups and non-governmental organisations. In particular, the creation of shelters and advice bureaux for women trying to protect themselves and their children from sexual violence (the concerns of civil society over certain forms of specific violence - rape, including marital rape, battery, sexual harassment at work, etc) succeeded in bringing home to the public that all these acts constituted violations of personal integrity. Until then, violence was regarded as a social issue and a private affair and not as a basic societal problem.

12. Recently, no doubt thanks to efforts to alert public opinion and more efficient circulation of information reporting of these violent acts is on the increase: their dangerousness, intolerable both for the individual and for society, is acknowledged. The more extreme forms of violence against women include traditional practices in certain countries such as honour killings and genital mutilation. Others are plainly criminal (murder, incest and rape) but not sufficiently known, prevented or punished. The emergence of "groups at risk" must be mentioned: recent women immigrants (traditional non-European migration movements to Europe and the new trend of migration from Eastern to Western Europe), women bringing up their children alone, single parent families who are more economically deprived and isolated, and disabled women who belong to ethnic minorities or are refugees (the wars in Bosnia and Kosovo gave them a sad notoriety).

13. Most importantly, it is acknowledged that violence against women is universal and very widespread in all sectors of society, being founded on unequal treatment of the persons forming the family unit. It is not merely the doing of the mentally ill, but also often rests with men who are normal and well integrated in society in every respect.

14. The difficulty of action and intervention in the frequent cases of domestic violence is also acknowledged. Why?

15. Firstly, because the family - in all its forms - belongs both to the private and the public spheres. State intervention must pay due regard to the sanctity of private life.

16. Secondly, because violence against women is profoundly rooted in the traditions of patriarchal society based on male domination, in attitudes, in individual representations of masculinity and femininity, in conventional education and in deep-seated reflexes. Masculinity (virility) is associated with violence (towards oneself, the same sex, and towards the "weaker" sex), and femininity with reserve, submissiveness and self-sacrifice for the man and for the family. Common myths and prejudices persist, to the effect that violent men diverge from the social norm and cannot help doing what they do to their wives because they are subject to "normal" outbursts of violence, and that the woman suffering the violence has in a way caused it by not properly performing her role as a wife, mother and woman.

17. Recent research has demonstrated the falsehood of these beliefs, unconfirmed by any objective criteria.

18. The main theme of the Forum - ending domestic violence - raises a crucial question for democracy. This widespread form of violence indicates the place that women occupy in society. As long as one woman in five remains a victim of violence in Europe, and as long as the vast majority of the attackers are male members of the family (husband, father-in-law, brother, son, partner, etc), ie close relatives, equality between women and men will make no progress whatsoever.

19. The Forum participants described the situation in their countries regarding violence against women. Notwithstanding the diversity of cultures and situations in Europe and the economic, political and social contrasts, many common features emerged and confirmed the idea that violence forms a serious obstacle to equality.

20. The reports and discussion demonstrated the unproductiveness of creating a victim-tormentor dichotomy between women and men, and that violence is more suitably treated as a societal problem with multiple dimensions. Because it involves both the public and the private spheres, culture as well as politics, and social and economic aspects, violence towards women must be dealt with by a range of measures applied under a modulated, creative approach.

#### Nature of domestic violence and scale of the problem

21. Domestic violence comprises physical, sexual and psychological violence. It threatens the fundamental rights, individual freedom and bodily integrity of the victims, chiefly women. It is committed within the family, broadly defined.



22. Violence against women includes the sexual abuse of little girls, rape (including marital rape), all forms of coercion and means of intimidation, punishment, relegation to gender-stereotyped roles, undermining of self-esteem or personality and impairment of physical or intellectual capabilities.

23. Violence against women is used by its perpetrators to consolidate their control. It expresses the imbalance characterising the power relationship between the sexes in society.

24. Violence against women, being invisible and surreptitious, is not reflected in any precise statistics. Not enough complaints are made by assaulted women, particularly in the domestic violence context, and 3/4 of complaints in certain countries have been withdrawn after a certain time. The number of cases reported and registered falls appreciably short of the reality. There is a considerable variety of reasons for this, including shame, fear of retaliation, women's limited access to official departments, the intuition (which does correspond to reality, alas) that they will not be believed or treated respectfully, and also love - for the man who is their assailant, for the children they are in danger of losing, and for the family.

25. The children who witness domestic violence are also victims. Most receive blows and injuries. Even if they are protected from physical suffering, the spiritual anguish remains.

26. Children raised in a violent atmosphere tend to replicate it in their adult life: girls will assume the victim's role and boys the attacker's. Anxiety, lack of self-confidence and suicidal tendencies are other consequences of an unhappy childhood spent in a violent family atmosphere.

#### Current problems and difficulties

27. Violence against women is one of the many aspects of inequality between women and men. Society, retaining patriarchal roots in many countries, produces institutions which perpetuate this principle. This question is not a priority in the programmes of the public authorities. Society remains tolerant towards violence against women, considering it acceptable in the light of traditional customs and continuing to lay the blame on the victims by suggesting that they would not have been assaulted if they had or had not acted in a certain way. Men are absolved by saying that they are subject to stress from overwork or unemployment (a situation not unknown to women), under the influence of alcohol or drugs, ill, and so on. Women themselves come to internalise this mitigation of responsibility for violence and even to blame themselves.

28. Too few countries have realised the huge economic cost of violence against women incurred through investigations and civil and criminal proceedings, physical and mental health expenditure, working days lost, and the disruption of children's schooling and even future working lives caused by family violence.

#### Action and measures required

29. During the discussions, numerous measures to combat violence were proposed, covering several fields (politics, legislation, education, training, support, research, health, media, etc). For some countries (eg in Eastern Europe) it is a matter of pledging this work, and for others it involves carrying on the process to end violence against women. Pooling of experience by the different countries is crucial to the attainment of this goal.

## I. General policy and legislation: role of the governments

30. To create a climate where violence is rejected, each government should publish a declaration of principle on violence against women, together with an action plan. The domestic violence issue should appear on political agendas, with short-term priorities varying between countries. Governments should provide backing for victim support services, research (insufficient in all countries), and official statistics on incidents reported to the authorities. Police, courts, hospitals, NGOs, social work agencies, shelters and helplines should work together in registering and dealing with cases of violence.

31. All Council of Europe member States should be able to provide information on the number of cases of rape and sexual, domestic, marital and other forms of violence, and on the culprits. Local authorities should be involved in this action. Governments should introduce legislation designed to prevent violence against women in any form and see to its enforcement. Reform of legislation and court procedure should be supported by lobbying parliament. Equal representation of women in the political parties and administrative structures is essential in these cases to help parliaments enact laws on the prevention of domestic violence.

32. In this connection, the participants issued the following recommendations:

- define the concept of domestic violence in such a way that it is treated as a serious criminal offence whatever its form;
- provide means of ensuring victims' protection after the offence and for the entire duration of proceedings, which should include injunctions to keep the offender away from the victim's home and/or other places;
- organise or reorganise procedures to avert secondary victimisation, in particular by avoiding confrontation with the culprit and by using all available technical resources (videos, recordings, etc).
- granting the police and law enforcement agencies authority to carry out investigations and obtain evidence, and to lodge complaints on behalf of victims of domestic violence;
- prohibit the use of a plaintiff's sexual history as evidence in court proceedings;
- ensure that procedural delays, particularly in connection with divorce cases involving domestic violence, are as brief as possible to avoid aggravating the vulnerability of victims whose situation hinges to a great extent on the divorce ruling;
- secure free legal aid to victims of domestic violence;
- lay down specific measures for vulnerable groups and in particular grant migrant women a separate right of residence from that of their spouse/companion/partner;

## II. Victim support

33. Criminal law and the penalties prescribed for offenders are not enough: additional action must be envisaged to ensure the protection and safety of victims.

34. The available forms of assistance for victims (shelters, helplines, informal networks of family members or friends, local communities and counselling centres) differ between countries. The countries of Central and Eastern Europe are at the beginning of the process: shelters are inadequate in their number; they may even have corrupt staff and sexual harassment of victims may occur in them; their financing and normal operation are not properly looked after by the public authorities, and private funding is hard to obtain. Even in countries whose experience in these matters is almost two decades old, there is a marked difference between rural and urban areas.

35. Governments should envisage applying the following measures:

- verify the effectiveness of national level services - reception centres for victims; specialised clinics;
- establish new services as new needs emerge;
- provide financial support for the organisations in existence, NGOs included;
- co-ordinate the activity of all institutions (police, justice, NGOs and social services) involved in the drive to end domestic violence.

36. Healing bodily injuries is not enough; violence against women leaves deep psychological scars to be removed by appropriate treatment. Few countries arrange for this.

### III. Measures aimed at violent men

37. Men who inflict violence on women and children should be targeted by specific actions to help them put an end to their violence, domination and abuse. The following should be set up or developed:

- information and awareness campaigns specifically concerning men, with the aim of making them appreciate that they bear the responsibility for violence against women;
- action programmes directed at violent men, which should never be at the expense of victim support and assistance, but form an additional strategy against violence;
- research into male violence.

### IV. Prevention

38. So that the violence observed within families today is eliminated tomorrow, preventive measures are essential. Having become intolerable, violence should be assigned a negative code like torture. To achieve results, efforts should notably be made in the fields of training and education. It is necessary to:

- provide and/or reinforce training on the different aspects of domestic violence for law enforcement officers, magistrates, lawyers and all professionals dealing with the victims of violence (medical professions, social workers, etc);
- increase women's awareness by informing them about their rights so that they are fully equipped to stop violence at the earliest possible stage;

- introduce a gender equality perspective at all levels of education in order to combat stereotypes from the earliest age;
- provide training for all teachers and educators so that they incorporate gender equality questions into their education;
- organise campaigns to inform the public and raise its awareness;
- organise campaigns via the media, which should not focus on the sensational aspects of violence, but objectively present the causes and effects of domestic violence;
- promote and widely circulate educational material (books, documentation, CD-ROMs, studies);
- set up national and international databases (useful addresses, lists of NGOs, good practices, legislation, statistics) and use new information technologies (Internet) to link up all the institutions concerned.

**Preparation of a draft European legal instrument to combat violence  
against women**

39. During the Forum, a discussion was held on the preparation of a draft European legal instrument to combat violence against women. This took place in the framework of the action undertaken by the Steering Committee for equality between women and men (CDEG), which has recently entrusted a Group of specialists with the task of preparing a draft Recommendation to member States on the protection of women and young girls against violence. The participants' contributions have been taken up in the general conclusions and will be transmitted to the Group of Specialists.

40. The participants welcomed the idea of a recommendation adopted by the Committee of Ministers, in view of the positive impact it would have on the visibility and recognition of violence against women. In particular, it was considered that this recommendation was a step towards the elaboration of a more binding legal instrument such as a convention.

41. The adoption of an international instrument should lead to an improvement of legislation and measures carried out by governments and NGOs with a view to combating violence against women and young girls.

42. It was stressed that this recommendation should take inspiration from different examples and good practices existing in other parts of the world, while recognising the need to implement interdependent measures that result from a global approach.

43. The participants underlined that a legal instrument of this kind should draw on fundamental principles such as the respect for basic human rights and the effective implementation of equality between women and men. In this respect, the crucial assistance and support role played by NGOs and women's organisations should be given priority.

### **Recommendations to the Council of Europe**

44. The participants note that the numerous actions launched by the Council of Europe to combat violence against women have substantially assisted in increasing the visibility of the problem. In particular, the Action Plan recently published under the aegis of the Steering Committee for equality between women and men (CDEG) is an effective platform on which to formulate national measures.

45. It is generally felt that the Council of Europe performs a major function in the combat to prevent domestic violence. The need to work towards fuller harmonisation of European national legislation and enhance international co-operation can be the basis for action at the European level.

46. The participants further propose specific activities relating to the main themes of the Forum, which could be conducted in the Council of Europe or with its assistance, as follows:

- continue and complete with all dispatch the preparation of the draft Recommendation on protecting women and young girls against violence, which is proceeding under the aegis of the Steering Committee for equality between women and men (CDEG). Once adopted, the Recommendation may serve as a reference for national policies on the prevention of violence;
- make a study to ascertain the position as regards legislation and good practices in the member States;
- prepare an inventory of available statistics and consider the possibility of defining criteria and guidelines for the production of more uniform, comparable statistics;
- propose an outline, adaptable to each country, for training and information handbooks directed at judges, members of the police force and medical practitioners;
- enhance co-operation with NGOs;
- promote co-operation between Council of Europe committees and other competent bodies in order to institute a global strategy for combating domestic violence;
- include in the programme of activities for the development and consolidation of democratic security (ADACS) training schemes in the field of fundamental women's rights and violence against women;
- form a study group on stereotyped representations of both boys and girls in advertising directed at children;
- consider preparing criteria and guidelines for action programmes aimed at violent men;
- consider including equality between women and men as one of the issues covered when monitoring compliance with obligations undertaken by Council of Europe member States.



**SEMINAR**

**MEN AND VIOLENCE AGAINST WOMEN**

**Palais de l'Europe  
Strasbourg**

**7-8 October 1999**

## **Recommendations**

Violence against women is one of the major obstacles to the achievement of real equality between women and men. The phenomenon has its roots in the very structure of European societies, based on patriarchal values and principles. Although male violence can also be directed against other men and incidents concerning violent women are reported, the vast majority of victims of violence in Council of Europe's member States are women and children.

Most European societies remain tolerant towards violence against women, considering it acceptable according to tradition. They continue, directly or indirectly, to lay the blame on the victims by suggesting that they would not have been assaulted if they had or had not acted in a certain way. Men are often excused by saying that they are subject to stress from overwork or unemployment, under the influence of alcohol or drugs, sick and so on.

Women suffer from violence resulting in physical, sexual or psychological harm or suffering, both in private and public life. Violence can take different forms, such as sexual assault, violence within the family or in the domestic unit, sexual harassment and intimidation (in education, at work, in institutions or in any other place), denial of reproductive rights, genital mutilation, trafficking in human beings for the purposes of sexual exploitation and sex tourism, rape or assaults in (armed) conflict situations, honour killings and forced marriages.

*Being conscious of the above, the participants at the Seminar on "Men and violence against women", organised by the Council of Europe in Strasbourg on 7 and 8 October 1999, agreed on the following recommendations.*

### **Recommendations to Member States of the Council of Europe**

Research and in particular surveys are essential because there is still denial of the phenomenon of violence against women : they can be used as tools to convince the decision makers of the *real* extent of violence against women. In order to have a better understanding of the prevalence of violence, standardised instruments are necessary in order to obtain *valid, reliable, comparable data* as well as results which are representative of the reality. This effort should be pursued at the *local, regional, national and international level* and in this perspective Governments should :

- Encourage and support national and transnational research projects and surveys on different forms of violence against women taking into account the following parameters which, if neglected, may alterate the results of the research :
  - the gender perspective including the element of gender conflict which is present in all European societies ;
  - the variability of meanings and of the perception of concepts in different contexts determined by various factors (such as differences in social classes, as well as in regional, cultural and linguistic backgrounds) : different groups or persons may have different understanding of the same notion, such as violence ;
  - the stigmatisation of concepts (such as rape), encouraged notably by the mass media ;
  - the developments and changes in cultural values ;



- the changes in society especially where instability has arisen (be it due to socio-economic reasons or to a conflict) : even if the source of instability disappears, the level of violence does not decrease ;
- Encourage the standardisation of research methodologies by using, among others, the following elements :
  - a representative sample of the population (1,000 respondents minimum) ;
  - a scale with very detailed descriptions of acts of violence ;
  - input from battered women and victims of violence (also to design questionnaires) ;
  - training for interviewers and researchers which should include information on how to take into account cultural, ethnic, social and economic differences, as well as on how to have access to isolated or marginalised groups ;
  - precautions in order to prevent the dangers that the respondents of surveys or of case studies could encounter ;
  - for research conducted at European level, recourse to language specialists in order to avoid translation problems ;
- Encourage and support national and transnational research into the following aspects:
  - what prevents a person from becoming violent;
  - ways to reach violent men and how to bring them into education programmes;
  - the prevailing polarisation in the construction of gender identities, with a view to promoting a more open perception of feminities and masculinities;
  - to what extent and in what way do social instability and social change affect gender relations and violence against women;
  - the consequences violence in the home has on children and adolescents and how it affects their socialisation and their future integration into work, as well as their relations with peers and partners;
  - ways to prevent elder abuse and violence among elderly people;
  - the financial costs of violence;
- Improve interactions between the scientific community, the NGOs in the field, political decision-makers and legislative bodies in order to design co-ordinated actions against violence;
- Encourage the diffusion of all relevant information (results of studies and research, statistical data, etc.) on violence against women at all levels and across the life course;
- Ensure that statutory agencies which respond to men's violence convey clearly to the men that their behaviour is unacceptable and develop further strategies for repeat offenders, including multi-agency approaches at the community level;
- Making use of the gender mainstreaming strategy, involve all the relevant actors normally involved in policy-making, in order to fight violence against women, even if they are not currently working on the issue;
- Reinforce national legislations and measures aiming at fighting violence against women, also by introducing innovative approaches based on experiences conducted in other European countries: the pooling of experiences is essential to progress on this issue;

- Adopt or reinforce social protection measures so that injuries caused to women and children by violent acts are provided for under social protection schemes;
- Promote training of those involved with young people, as well as health personnel, to identify children and adolescents growing up in violent homes and to take the necessary measures to help and assist them;
- Ensure training of medical personnel to enable them to identify victims of violence;
- Promote the participation of women in politics and decision-making: a higher number of women in politics is important in order to adopt an increased number of measures to combat violence against women;
- Promote human rights education, and especially education on equality between women and men, in all member States of the Council of Europe, especially where there is social instability;
- Create a more proactive police response to violence against women;
- Promote training for the judiciary regarding violence against women;
- Enhance research on, and take all possible measures to prevent, development of gender dichotomy and inequality as well as male aggressiveness in the army and all military contexts (especially during military service), including armed conflicts;
- Condemn all forms of violence against women and children in situations of conflict;
- Condemn systematic rape, sexual slavery, enforced pregnancy of women and young girls and all forms of violence against women and children, as these, as shown in recent conflicts, tend to be used as a weapon of war;
- In post-conflict regions, promote a public debate and disseminate information concerning abuses of women and children in order to prevent repetition of violence.

### **Recommendations to the Council of Europe**

The participants emphasised that the international community – especially international organisations such as the Council of Europe – have a major ethical role to play in promoting zero tolerance towards violence against women. By condemning this violence, they can give an important political signal to governments and to policy-makers.

The participants noted that the continuous work achieved by the Council of Europe, and in particular by its Steering Committee on Equality between women and men (CDEG), to combat violence against women have substantially assisted in increasing the visibility of the problem. The Action Plan published in 1997 was considered as an effective platform on which to formulate national measures.

The Council of Europe should continue to play a key role in the combat against violence. The need for transnational actions to be undertaken at legislative, policy and research level to

enhance international co-operation can be the basis for the future action of the Council of Europe.

The following activities could be conducted in the Council of Europe or with its assistance:

- Continue and complete, as rapidly as possible, the preparation of the draft Recommendation on protecting women and young girls against violence, which is being prepared under the aegis of the Steering Committee for equality between women and men (CDEG). Once adopted, the Recommendation may serve as a reference for national policies on actions against violence ;
- Prepare as soon as possible a study on the position as regards legislation in the field of violence against women in the member States ; ensure the translation and diffusion of this document in member States ;
- Organise, possibly in co-operation with other competent bodies and International Organisations, regular meetings involving in particular policy-makers, researchers, practitioners and police, in order to take stock and exchange information on the current stage of research and practice in the area ;
- Compile country reports, based on research and information collected at national level, focusing on violence against women and the measures taken to combat it ;
- Following the recent conflicts in South-East Europe, contribute to the efforts undertaken at European level to foster peace and stability in countries of the region by organising activities aiming at combating violence against women in all its forms;
- Foster research on the development of violence against women in its different forms during and after the conflicts which have recently affected South-East Europe, including the increase in domestic violence.

## **Conclusions by the General Rapporteur**

Dr. Renate Klein, University of Maine

Mesdames et Messieurs, Ladies and Gentlemen,

The seminar on men and violence against women provided an unusual opportunity to bring together over one hundred researchers, practitioners and policy makers to discuss a wide range of topics related to men's violence against women. In the course of two days we addressed exceedingly complex issues, explored layers of meaning around men's violence, and raised many more questions for future meetings of this kind.

I applaud and sincerely thank the Council of Europe, and in particular the Steering Committee for Equality between Women and Men, and Ms. Ólöf Ólafsdóttir and her formidable team for making this meeting possible and providing a forum for the necessary interdisciplinary and international debate that needs to happen around men's violence against women. Because the details of the reports presented at the seminar are available in print, I shall focus my conclusion on recurring themes and contested understandings.

### **1. Methodology and the Evaluation of Research**

Several experts addressed the need for quantitative surveys in order to obtain data on the extent of violence against women. Ideally, such data would be reliable, valid, and comparable across different regional and national contexts. Although there has been a development in surveys from an early focus on crime in general to a recent, more specific focus on violence against women, survey design and use are far from perfect. As a minimum, a good survey needs to pay careful attention to the wording of its questions and incorporate language that makes sense to the women who respond to it. Terminology and language are extremely important. One example for this is the differential estimates of sexual assault when women are asked if they have experienced 'rape' or 'coerced sex'. Other important issues in survey research include the matching and training of interviewers, the use of various response formats including closed and open questions, sampling frames, and access strategies that do not exclude those women who are marginalised and particularly at risk of being attacked or assaulted (e.g. elderly women, women belonging to ethnic minorities, immigrants, or the disabled).

The meaning of violence can vary considerably within individual respondents who reflect on different experiences with violence. It can vary within countries and across countries and, last but not least, between men and women. While there are some examples of strategies to address the meaning of violence in the context of survey research, there are also many examples of surveys that do not address such variability of meaning but presuppose that violence means the same to women and men. Therefore, caution needs to be exercised in the uncritical design of surveys, and in the uncritical interpretation of their findings.

This note of caution needs to be extended to the evaluation of research in general. No research produces facts that speak for themselves. Data, whether quantitative or qualitative,

need to be interpreted and organised within frames of reference. Therefore, it is also important to interrogate those frames of reference and ask to what extent they contribute to gender equality and the dignity of women. This is particularly important with regard to statistical data, because most of us are used to thinking of numbers as something 'objective', and considering the privileged position of the notion of 'objectivity' in contemporary science, numbers can be powerful tools of influencing the decision making of scholars, practitioners, or policy makers. It is also necessary to weigh the need for more data on women's victimisation against the need of those women for safety, and to be careful not to 'plunder' women's experiences with violence in the name of science.

## **2. Gender as a Fundamental Social Division**

Several experts noted that research on violence as well as research on the development, maintenance, and change of feminine and masculine identities needed to be gendered in a way that recognises gender as a fundamental social division. This includes recognising that thinking in relatively rigid dichotomies of male and female difference may itself obscure our understanding of how gender identity develops, is solidified, or can be reconceptualised. It also includes recognising that adding women to masculine social contexts does not automatically deconstruct rigid notions of gender difference, as the example of women in the Israeli military shows.

## **3. Focus on the 'Imaginary'**

Another recurring theme concerns the inclination to interpret men's violence against constructions of imaginary femininity or masculinity as compared to what women and men actually do or experience. For example, traditional psychoanalytic theory as well as some strands in recent men's literature seem focused on imaginary notions of women, in which women and in particular mothers are constructed as overpowering, omnipotent beings. Such notions of female power are at odds both with the lack of power women in abusive relationships experience and with the perception of teenagers who grew up with violence in the home and who, even under considerable adversity, can have very positive images of their mothers that acknowledge the real-life dilemmas of mothers living with violent husbands or partners.

A second example is the rhetoric of men as the protectors of women during warfare, which is at odds with the reports of men leaving women (as well as children and elderly men) behind in villages where they are attacked and/or sexually assaulted by male soldiers from the enemy camp. No doubt, individual men seriously wish to protect their families from harm. And yet, it is painful to witness how often women find themselves unarmed in war, and vulnerable in peace.

## **4. Four Perspectives on Explanations for Men's Violence**

The experts presented many complex explanations and social theories to explain men's violence that can be highlighted from at least four different perspectives: explanations focusing on internal processes of the integration of violence into masculine identities, explanations focusing on external circumstances presumed to encourage male violence, the risk factor approach, and explanations focusing on the deliberate social construction of institutions that foster those masculine identities in which violence takes a central place.

### **a. Internal Processes: Gender Identity Development and Social Learning**

At this meeting we have addressed explanations that detail internal processes underlying violent behaviour and that draw on psychoanalytic theory, socialisation theory, and to some extent learning theory. Psychoanalytic concepts tend to focus on early childhood experiences around the differentiation of Self and Other that lead to complex patterns of the construction of Self and Other. More recent psychoanalytic work includes experiences during adolescence in the formation of gender identity and posits the possibility that, during this period of life, gender identities may in fact be revised.

Similarly, notions of social learning tend to focus on early childhood experiences, although social learning continues into adulthood and indeed happens everyday throughout our lives. In fact, we usually do not enter some settings for social learning, such as the workplace or volunteer organisations, until we are adults and other settings, such as the family, may stay with us throughout our lives.

If socialisation experiences and the construction of Self and Other do indeed contribute to the formation of violence-identified masculinities and men's violence against women, we need to be open to the possibility that such processes continue throughout life, and likely in settings that are crucial for other purposes as well such as earning a living, or being integrated into the community. That is, it becomes increasingly difficult to separate the 'normal' institutions of daily life and social organisation from the formation of masculine identities, including those identities that are ingrained with violence. What this means is that throughout life there is considerable opportunity both for reinforcing violence-identified masculinities and for revising them.

### **b. External Circumstances: Rapid Social Change, Instability, and War**

The experts also addressed explanations that relate men's violence implicitly or explicitly to social circumstances, in particular to notions of rapid social change and social instability, as well as to warfare and its societal aftermath. It is important to acknowledge the hardship that warfare and social upheaval create for those who have to live through it, and to investigate the potential role of international inequality in creating or perpetuating localised instability or war, and to understand the toxic effects on civic society 'at home' of wars waged in neighbouring territory. It is also important to explore how social change and war influence people *differently* and to examine who benefits from such changes and who becomes more vulnerable.

A largely unexplored area concerns the transitions from periods of relative stability to relative instability and on to relative stability. For example, how do we come to terms with reports that individual men who appeared to be 'peaceful' before war seem to turn into violent women haters during the war? The experts debated whether violence against women during armed conflict was primarily a matter of permission to be violent and access to vulnerable victims, or whether there are other things going on in terms of gender relations and the construction of Self and Other, friend or foe. Such explanations are probably not mutually exclusive. Brutalisation of men in the context of armed conflict may be a multifaceted process that may include permission to be violent as well as training to be violent and training to dehumanise and objectify those who, by official propaganda or the memories of deep-seated humiliation, become the designated enemy.

In this context, the experts discussed the role of shame, and the silence around shame, which may continue across generations. As mass rapes of women during warfare have happened throughout history and continue to happen to the present day, women have been carrying a suffocating burden of shame that manifests itself in deep depression and is cloaked in silence. It is necessary to create conditions in which *we* learn to listen to those who learned to live with their shame in silence.

It is unclear how women's experiences of shame compare to the shame that they bring onto their families and countries in those contexts where family honour is defined through women's chastity. While the connections between the shame of individual women and the shame attached to notions of idealised femininity are not well understood, we noticed that the shame of individual women seems to contribute to their isolation and being outcasts of society, and is related to loss of control, whereas men in such contexts seem to have the option to clear their families' names of shame through the honour killing of women and thus remain a respected member of their communities. That is not to say that individual men in such contexts are not conflicted over the issue of honour killings. It was also noted that sexual violence against women in situations of armed conflict involves attacks that may be tools to shame their husbands, fathers, and brothers, but are still attacks on the women themselves and their sexual and national identities.

### **c. Risk Factors**

The concept of risk factors derives largely from research on public health. When applied to men's violence against women, we need to distinguish between risk factors for being violent (such as believing that women are subordinate to men) and risk factors for being victimised (such as separating from a violent man). Our discussion of stress as a risk factor showed that the relationship between men's experience of stress and their violence against women is controversial. In part, this controversy seems to result from the different perspectives different experts take on stress, the wide range of men's stress experiences in different settings such as family, work, the military, or combat as well as the frequent observations of those who work with violent men that violent men do not seek out such programmes until they are experiencing sufficient stress. To advance this fruitful debate, it seems necessary to distinguish between different forms of stress (e.g., career-related stress versus the fear of losing one's wife) and to analyse the relationship between stress and violence for different groups, not just for men, but for women as well.

With all risk factors we need to pay attention not only to the correlation between risk factor and men's violence, but to the patterning of that violence and thus to the targets of potentially stress-induced violence. To illustrate the importance of attending to the patterning of violence, so-called random sprees of violence by individual violent men often turn out to be directed rather systematically against individuals who may not have had any personal relationship with the aggressor but happen to belong to groups that the aggressor defined as worthy of being attacked or killed.

### **d. Explanations Focusing on Deliberate Social Enterprises**

Finally, the military is an example of an institution that deliberately and systematically constructs masculine identities in which violence plays a crucial role. A gendered analysis of the military also makes clear that, at least in the case of Israel, men's successful participation in the military, and thus their likely adoption of a violence-identified masculinity, is rewarded with considerable perks in civil society such as access to prestigious jobs and political

influence. Mentioned only cursorily was the role of organised religion in the construction of gender identities and gender hierarchies, and the relative acceptance of violence against women.

We heard more of efforts to *reform* deliberate social enterprises such as the police and the legal system with the goal to reduce violence against women. Police training by battered women's advocates has been instrumental in beginning to change the police response to violence against women, at least as far as violence in the home is concerned. Similarly, there have been many impressive, if recent, efforts towards changing laws and legislation so as to acknowledge more fully women's right to safety, dignity, and integrity.

However, there is an important difference between the examples of the military, the police, and the legal system. Legal reforms and reforms of police response for the most part are directed at the *punishment* of the perpetrator. In contrast, we saw how the military is instrumental in the construction, and subsequent reward, of violence-identified masculine identity, and thus in the *production* of potential perpetrators. So far, there has been no comparably developed, defined, and resourceful social enterprise instrumental in the construction of non-violence-identified masculinity.

Considering the frequent references to societal turmoil and warfare during this meeting we may note that the deliberateness of the construction of violence-identified masculinity may become invisible over time, and that such violence-identified masculinity in due time may appear to be an 'inevitable' response to social change.

## 5. Role of Community

Several experts spoke of the role of community in either encouraging or discouraging men's violence against women. Communities include real people and the messages they send about men's violence against women. Community includes family members and pre-school teachers, social workers, police officers or those who run intervention programmes for violent men. Community also includes the media and the imagery of men's violence against women that is perpetuated by the media such as notions of stranger rape. Community also includes supranational organisations such as the Council of Europe, and the messages that come from such prestigious international communities.

Community provides, or withholds, support structures. We discussed which support structures communities provide for women and men, respectively, and to what extent communities encourage or discourage men's violence and non-violence. Several experts argued that such structures change as communities move from periods of relative stability to periods of upheaval or war, and may not revert entirely to the original levels of stability after periods of crises. What happens to women and men's support networks during such changes? For example, to what extent does the formation of armed militias or guerillas erode social support from men for men's *non-violence*? Occasional reports suggest that there are individual soldiers who try not to participate in organised rape, and who implore the women they encounter to pretend they had been raped so as to protect the soldier from being killed by his male peers for not raping.

From a different angle, the role of community support becomes chillingly clear in the lives of children and teenagers who have none. We heard about children who grew up in violent homes or in complete societal neglect. Too many find themselves with no support network,



alone with their legacy of violence, shame, and confusion, and without a trustworthy adult role model who might be able to help them with the transition from fantasising a life of respect and harmony to actually living it.

Finally, communities bear some of the societal costs of violence against women. While cost estimates are fraught with methodological and ethical problems, putting monetary values on individual suffering may convince reluctant policy makers to invest more money in the prevention of violence against women.

## **6. Non-Violence and Non-Violent Masculinities**

We need to know more about the creation of non-violence and the conditions under which non-violent masculinities flourish, just as we need to conceive of different trajectories towards violent masculinities. Not all men are violent, and not all men rape, even if they could. Why not? As research and practical work with violent men is just beginning, we also need to pay attention to non-violent men, their experiences, and their strategies of non-violence.

With regard to the individual or psychological level, recent psychoanalytical work highlights the creative potential of the tension between the assertion of the Self and the mutual recognition of the Other. While this tension may arise for the first time in infancy, it likely will continue throughout life. Some experts suggested that men's ability to tolerate such tension might be related to their non-violence, whereas the 'resolution' of that tension through the construction of rigid gender or ethnic identities may encourage violence. With more fluid approaches to gender identity boys may be able to identify with mothers and feminine role models without ridicule, and girls may be able to identify with fathers and masculine role models without rejection.

On a societal level, creative potential may arise from sustaining the tension between privilege and equality. Often, this tension is resolved in the form of hierarchies and pecking orders, which leave some men relatively privileged and protected, and most women, as well as many men, relatively vulnerable. Most of us have lived within hierarchical social institutions for our entire lives, from the family, through formal schooling, to the workforce. That makes it difficult to conceive of less hierarchical social organisations. Nevertheless the efforts seems worthwhile so that "knowledge will *not* be subordinate to power".

The promise of sustaining the tension between self-assertion and mutual recognition is also to fully realise one's human potential. But why be fully realised if you can be partially realised and be president of a large corporation and drive an expensive car? The answer is, once you have tasted this creative tension, everything else is bland.

I thank the Council of Europe for organising this meeting, and I thank all participants for coming together and sharing their invaluable knowledge and insights.



**Resolution 1212 (2000) <sup>[1]</sup>**  
**of the Parliamentary Assembly of the Council of Europe**  
**Rape in armed conflicts**

1. The Parliamentary Assembly refers to Committee of Ministers Recommendation No. R (91) 11 concerning sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults, Recommendation No. R (85) 11 on the position of the victim in criminal law and procedure, Recommendation No. R (85) 2 on legal protection against sex discrimination and Recommendation No. R (84) 15 relating to public liability.
2. The Assembly draws attention to its Recommendation 1408 (1999) on the International Criminal Court and Recommendation 1427 (1999) on respect for international humanitarian law in Europe.
3. It further draws attention to its Recommendation 1403 (1999) on the crisis in Kosovo and the situation in the Federal Republic of Yugoslavia, in which it strongly condemns the policy of ethnic cleansing and particularly “the abduction and rape of women as a systematic war crime” and reaffirms that “rape and torture in armed conflicts constitute war crimes and should be treated as crimes against humanity”.
4. It also refers to the recommendations made by the United Nations special rapporteur on violence against women.
5. It regrets that despite the fact that rape has been recognised as a war crime, it continues to be systematically used - and has been so in recent conflicts (Kosovo and Chechnya) - as a war weapon inflicting not only psychological trauma but also forced pregnancy.
6. It therefore reiterates its desire to see rape treated as a crime against humanity.
7. It accordingly believes, in view of the number of rapes in armed conflicts, that better legal protection of women is more necessary than ever, that such protection must apply in all circumstances and that if member governments ever fail in their duty to provide it, then a monitoring procedure should be instituted.
8. It reiterates its satisfaction at the adoption of the Treaty on the Statute of the International Criminal Court by the plenipotentiary diplomatic conference in Rome on 17 July 1998, and at the signature of the treaty, but points out that there are three member states (Moldova, the Russian Federation and Turkey) which have not yet signed it and that only six member states have ratified it (Austria, Finland, France, Italy, Norway and Sweden).
9. The Assembly calls on the parliaments of member states to speedily ratify, if they have not yet done so, the Treaty on the Statute of the International Criminal Court adopted in Rome on 17 July 1998 and to introduce appropriate legislation to give proper effect to its provisions, as already requested in Assembly Recommendation 1408 (1999) on the International Criminal Court.
10. The Assembly also invites the governments of member states to:
  - i. take appropriate measures to ensure that rape in armed conflicts is irrevocably treated as a war crime, as in Article 8.xxii of the Statute of the International Criminal Court;
  - ii. make sure that laws and standards relating to rape in wartime are properly applied at national level;

- iii. recognise the inalienable right of women who have been raped to undergo voluntary termination of pregnancy if they wish, this right arising automatically from the rape;
- iv. recognise the right to report a rape to the authorities as applying without limit of time and to empower the prosecution service to institute *ex officio* proceedings;
- v. ensure that domestic courts apply the common Article 3 of the Geneva Conventions of 12 August 1949;
- vi. introduce strict witness-protection measures in rape cases, including post-trial protection;
- vii. set up special programmes for female rape victims, in particular multidisciplinary programmes which take the feminine dimension into account, and encourage women to look after female victims of rape and other sexual abuse;
- viii. make social-assistance arrangements and ensure fair treatment for female rape victims who do not terminate a resultant pregnancy and who, for various reasons, have to or decide to keep the child in order to avoid marginalisation;
- ix. set up a solidarity fund to help rape victims and provide economic support for the children of rape victims;
- x. set up training programmes for persons required to deal with and help rape victims;
- xi. establish programmes of education in tolerance, respect for human dignity and general human rights;
- xii. provide the necessary administrative and financial resources for such programmes;
- xiii. ensure that court benches trying crimes of sexual violence against women are composed of equal numbers of men and women, with specially trained staff;
- xiv. apply international humanitarian norms generously to help rape victims obtain asylum.

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[1] *Assembly debate* on 3 April 2000 (9th Sitting) (see [Doc. 8668](#), report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Stanoiu).

*Text adopted by the Assembly* on 3 April 2000 (9th Sitting).

**Recommendation 1450 (2000) <sup>[1]</sup>**  
**of the Parliamentary Assembly of the Council of Europe**

**Violence against women in Europe**

1. The Assembly deplores the great increase in the number of women subjected to violence in Council of Europe member states. Every day in Europe one woman in five is a victim of violence.
2. Hundreds of thousands of women thus face physical and mental violence at home or outside, violence which is sometimes inflicted by the public authorities or by coercive institutions. Oppression of women as manifested in domestic violence, rape and sexual mutilation is a reality known, and denounced, in many countries.
3. The Assembly reaffirms the support it gave to the Beijing Platform for Action adopted at the 1995 United Nations Conference on Women, when the different forms of violation of women's rights were clearly defined and forthrightly condemned.
4. The Assembly notes that although domestic violence is one of the commonest forms of violence against women, it remains the least visible. And yet it is estimated that more women in Europe die or are seriously injured every year through domestic violence than through cancer or road accidents. The costs, in terms of human and other resources, are as great to the medical and health services as they are to employers, the courts and the police.
5. The Assembly accordingly condemns violence against women as being a general violation of their rights as human beings - the right to life, safety, dignity and physical and psychological well-being.
6. It utterly deplores that in some member countries there are still murders committed allegedly to preserve honour, forced marriages and other forms of sacrifice, and it underlines the urgency of taking action to punish all criminal acts committed in the name of tradition or religion.
7. The Assembly condemns with equal strength genital mutilation, still too often practised in the name of custom or cultural and religious tradition, which amounts to barbaric torture inflicted on young women. It therefore invites member states to implement the measures proposed in Recommendation 1371 (1998).
8. It likewise condemns the growing scale of prostitution and traffic in women in Council of Europe member states, brought about by international networks whose activities have made this one of the largest areas of organised crime.
9. The Assembly recognises the important role played by non-governmental organisations (NGOs) in the defence of women's rights and in the stand taken against violence towards women in its various forms. It invites member states to fully support such NGOs in their national and international activities.
10. The Assembly therefore recommends that the Committee of Ministers:
  - i. draw up a European programme to combat violence against women, with the aim of:
    - a harmonising law and procedure so as to establish a proper system of European positive law;
    - b bringing in legislation outlawing all forms of domestic violence;
    - c establishing legal recognition of marital rape and making it a criminal offence;

- d ensuring greater protection for women, for example by means of orders restraining violent husbands from entering the marital home and measures to properly enforce penalties and sentences;
  - e ensuring greater flexibility as regards both access to justice and the availability of various procedures, with provision for *ex officio* action by the authorities, *in camera* hearings and court benches made up equally of female and male judges;
- ii. draw up a European charter of domestic work
- iii. invite member states to:
  - a ratify, if they have not yet done so, and implement the United Nations Convention on the Elimination of All Forms of Discrimination against Women and its protocol;
  - b step up the role of the European Union Observatory on Violence against Women;
  - c implement the measures advocated in Recommendation 1325 (1997) on trafficking in women and forced prostitution in Council of Europe member states and speedily make substantial funding available for programmes of support and assistance to victims of traffic in human beings;
  - d step up international co-operation between state institutions and NGOs in order to improve protection for the victims of trafficking in women, something which requires, *inter alia*, increased awareness-raising and training for those in primary contact with potential victims of trafficking in women;
  - e introduce training programmes for police officers and judges dealing with women victims of violence;
  - f encourage recruitment of female police officers;
  - g set up centres for women victims of violence;
  - h run information and awareness-raising campaigns to educate the public about the unacceptability of violence towards women and set up preventive initiatives to promote equal relations.

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[1] *Assembly debate* on 3 April 2000 (9th Sitting) (see Doc. 8667, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Vermot-Mangold).  
*Text adopted by the Assembly* on 3 April 2000 (9th Sitting).

**The Protection of Women against Violence**

**Recommendation Rec(2002)5  
of the Committee of Ministers to member states  
on the protection of women against violence  
adopted on 30 April 2002 and  
Explanatory Memorandum**

**COUNCIL OF EUROPE**  
**COMMITTEE OF MINISTERS**

**Recommendation Rec (2002) 5**  
**of the Committee of Ministers to member states**  
**on the protection of women against violence<sup>3</sup>**

*(Adopted by the Committee of Ministers on 30 April 2002  
at the 794th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Reaffirming that violence towards women is the result of an imbalance of power between men and women and is leading to serious discrimination against the female sex, both within society and within the family;

Affirming that violence against women both violates and impairs or nullifies the enjoyment of their human rights and fundamental freedoms;

Noting that violence against women constitutes a violation of their physical, psychological and/or sexual integrity;

Noting with concern that women are often subjected to multiple discrimination on ground of their gender as well as their origin, including as victims of traditional or customary practices inconsistent with their human rights and fundamental freedoms;

Considering that violence against women runs counter to the establishment of equality and peace and constitutes a major obstacle to citizens' security and democracy in Europe;

Noting with concern the extent of violence against women in the family, whatever form the family takes, and at all levels of society;

Considering it urgent to combat this phenomenon which affects all European societies and concerns all their members;

Recalling the Final Declaration adopted at the Second Council of Europe Summit (Strasbourg, 1997), in which the heads of state and government of the member states affirmed their determination to combat violence against women and all forms of sexual exploitation of women;

Bearing in mind the provisions of the European Convention on Human Rights (1950) and the case-law of its organs, which safeguard, inter alia, the right to life and the right not to be subjected to torture or to inhuman or degrading treatment or punishment, the right to liberty and security and the right to a fair trial;

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<sup>3</sup> In conformity with Article 10.2c of the Rules of Procedure of the Ministers' Deputies, Sweden reserved its right to comply or not with paragraph 54 of this recommendation.



Considering the European Social Charter (1961) and the revised European Social Charter (1996), in particular the provisions therein concerning equality between women and men with regard to employment, as well as the Additional Protocol to the European Social Charter providing for a system of collective complaints;

Recalling the following recommendations of the Committee of Ministers to member states of the Council of Europe: Recommendation No. R (79) 17 concerning the protection of children against ill-treatment; Recommendation No. R (85) 4 on violence in the family; Recommendation No. R (85) 11 on the position of the victim within the framework of criminal law and procedure; Recommendation No. R (87) 21 on assistance to victims and the prevention of victimisation; Recommendation No. R (90) 2 on social measures concerning violence within the family; Recommendation No. R (91) 11 concerning sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults; Recommendation No. R (93) 2 on the medico-social aspects of child abuse, Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation and Recommendation Rec (2001) 16 on the protection of children against sexual exploitation;

Recalling also the Declarations and Resolutions adopted by the 3<sup>rd</sup> European Ministerial Conference on Equality between Women and Men held by the Council of Europe (Rome, 1993);

Bearing in mind the United Nations Declaration on the Elimination of Violence against Women (1993), the United Nations Convention on the Elimination of All Forms of Discrimination against Women (1979), the United Nations Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000), the Platform for Action adopted at the Fourth World Conference on Women (Beijing, 1995) and the Resolution on Further actions and initiatives to implement the Beijing Declaration and Platform for Action adopted by the United Nations General Assembly (23<sup>rd</sup> extraordinary session, New York, 5-9 June 2000);

Bearing in mind the United Nations Convention on the Rights of the Child (1989), as well as its Optional Protocol on the sale of children, child prostitution and child pornography (2000);

Also bearing in mind the International Labour Organisation Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) and Recommendation (R 190) on the Worst Forms of Child Labour (1999);

Recalling the basic principles of international humanitarian law, and especially the 4<sup>th</sup> Geneva Convention relative to the protection of civilian persons in time of war (1949) and the 1st and 2nd additional Protocols thereto;

Recalling also the inclusion of gender-related crimes and sexual violence in the Statute of the International Criminal Court (Rome, 17 July 1998),

Recommends that the governments of member states:

I. Review their legislation and policies with a view to:

guaranteeing women the recognition, enjoyment, exercise and protection of their human rights and fundamental freedoms;

taking necessary measures, where appropriate, to ensure that women are able to exercise freely and effectively their economic and social rights;

ensuring that all measures are co-ordinated nation-wide and focused on the needs of the victims and that relevant state institutions as well as non-governmental organisations (NGOs) be associated with the elaboration and the implementation of the necessary measures, in particular those mentioned in this recommendation;

encouraging at all levels the work of NGOs involved in combating violence against women and establishing active co-operation with these NGOs, including appropriate logistic and financial support;

II. Recognise that states have an obligation to exercise due diligence to prevent, investigate and punish acts of violence, whether those acts are perpetrated by the state or private persons, and provide protection to victims;

III. Recognise that male violence against women is a major structural and societal problem, based on the unequal power relations between women and men and therefore encourage the active participation of men in actions aiming at combating violence against women;

IV. Encourage all relevant institutions dealing with violence against women (police, medical and social professions) to draw up medium- and long-term co-ordinated action plans, which provide activities for the prevention of violence and the protection of victims;

V. Promote research, data collection and networking at national and international level;

VI. Promote the establishment of higher education programmes and research centres including at university level, dealing with equality issues, in particular with violence against women;

VII. Improve interactions between the scientific community, the NGOs in the field, political decision-makers and legislative, health, educational, social and police bodies in order to design co-ordinated actions against violence;

VIII. Adopt and implement the measures described in the appendix to this recommendation in the manner they consider the most appropriate in the light of national circumstances and preferences, and, for this purpose, consider establishing a national plan of action for combating violence against women;

IX. Inform the Council of Europe on the follow-up given at national level to the provisions of this recommendation.

## Appendix to Recommendation Rec(2002)5

### Definition

1. For the purposes of this recommendation, the term “violence against women” is to be understood as any act of gender-based violence, which results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life. This includes, but is not limited to, the following:

- a.* violence occurring in the family or domestic unit, including, *inter alia*, physical and mental aggression, emotional and psychological abuse, rape and sexual abuse, incest, rape between spouses, regular or occasional partners and cohabitants, crimes committed in the name of honour, female genital and sexual mutilation and other traditional practices harmful to women, such as forced marriages;
- b.* violence occurring within the general community, including, *inter alia*, rape, sexual abuse, sexual harassment and intimidation at work, in institutions or elsewhere trafficking in women for the purposes of sexual exploitation and economic exploitation and sex tourism;
- c.* violence perpetrated or condoned by the state or its officials;
- d.* violation of the human rights of women in situations of armed conflict, in particular the taking of hostages, forced displacement, systematic rape, sexual slavery, forced pregnancy, and trafficking for the purposes of sexual exploitation and economic exploitation.

### General measures concerning violence against women

2. It is the responsibility and in the interest of states as well as a priority of national policies to safeguard the right of women not to be subjected to violence of any kind or by any person. To this end, states may not invoke custom, religion or tradition as a means of evading this obligation.

3. Member states should introduce, develop and/or improve where necessary, national policies against violence based on:

- a.* maximum safety and protection of victims;
- b.* empowerment of victimised women by optimal support and assistance structures which avoid secondary victimisation;
- c.* adjustment of the criminal and civil law including the judicial procedure;
- d.* raising of public awareness and education of children and young persons;
- e.* ensuring special training for professionals confronted with violence against women;

*f.* prevention in all respective fields.

4. In this framework, it will be necessary to set up, wherever possible, at national level, and in co-operation with, where necessary, regional and/or local authorities, a governmental co-ordination institution or body in charge of the implementation of measures to combat violence against women as well as of regular monitoring and evaluation of any legal reform or new form of intervention in the field of action against violence, in consultation with NGOs and academic and other institutions.

5. Research, data collection and networking at national and international level should be developed, in particular in the following fields:

- a.* the preparation of statistics sorted by gender, integrated statistics and common indicators in order to better evaluate the scale of violence against women;
- b.* the medium- and long-term consequences of assaults on victims;
- c.* the consequence of violence on those who are witness to it, *inter alia*, within the family;
- d.* the health, social and economic costs of violence against women;
- e.* the assessment of the efficiency of the judiciary and legal systems in combating violence against women;
- f.* the causes of violence against women, i.e. the reasons which cause men to be violent and the reasons why society condones such violence;
- g.* the elaboration of criteria for benchmarking in the field of violence.

*Information, public awareness, education and training*

Member states should:

- 6. compile and make available to the general public appropriate information concerning the different types of violence and their consequences for victims, including integrated statistical data, using all the available media (press, radio and television, etc.);
- 7. mobilise public opinion by organising or supporting conferences and information campaigns so that society is aware of the problem and its devastating effects on victims and society in general and can therefore discuss the subject of violence towards women openly, without prejudice or preconceived ideas;
- 8. include in the basic training programmes of members of the police force, judicial personnel and the medical and social fields, elements concerning the treatment of domestic violence, as well as all other forms of violence affecting women;
- 9. include in the vocational training programmes of these personnel, information and training so as to give them the means to detect and manage crisis situations and improve the manner in which victims are received, listened to and counselled;

10. encourage the participation of these personnel in specialised training programmes, by integrating the latter in a merit-awarding scheme;
11. encourage the inclusion of questions concerning violence against women in the training of judges;
12. encourage self-regulating professions, such as therapists, to develop strategies against sexual abuse which could be committed by persons in positions of authority;
13. organise awareness-raising campaigns on male violence towards women, stressing that men should be responsible for their acts and encouraging them to analyse and dismantle mechanisms of violence and to adopt different behaviour;
14. introduce or reinforce a gender perspective in human rights education programmes, and reinforce sex education programmes that give special importance to gender equality and mutual respect;
15. ensure that both boys and girls receive a basic education that avoids social and cultural patterns, prejudices and stereotyped roles for the sexes and includes training in assertiveness skills, with special attention to young people in difficulty at school; train all members of the teaching profession to integrate the concept of gender equality in their teaching;
16. include specific information in school curricula on the rights of children, help-lines, institutions where they can seek help and persons they can turn to in confidence.

### *Media*

Member states should:

17. encourage the media to promote a non-stereotyped image of women and men based on respect for the human person and human dignity and to avoid programmes associating violence and sex; as far as possible, these criteria should also be taken into account in the field of the new information technologies;
18. encourage the media to participate in information campaigns to alert the general public to violence against women;
19. encourage the organisation of training to inform media professionals and alert them to the possible consequences of programmes that associate violence and sex;
20. encourage the elaboration of codes of conduct for media professionals, which would take into account the issue of violence against women and, in the terms of reference of media watch organisations, existing or to be established, encourage the inclusion of tasks dealing with issues concerning violence against women and sexism.

*Local, regional and urban planning*

Member states should:

21. encourage decision-makers in the field of local, regional and urban planning to take into account the need to reinforce women's safety and to prevent the occurrence of violent acts in public places;
22. as far as possible, take all necessary measures in this respect, concerning in particular public lighting, organisation of public transport and taxi services, design and planning of car parks and residential buildings.

*Assistance for and protection of victims (reception, treatment and counselling)*

Member states should:

23. ensure that victims, without any discrimination, receive immediate and comprehensive assistance provided by a co-ordinated, multidisciplinary and professional effort, whether or not they lodge a complaint, including medical and forensic medical examination and treatment, together with post-traumatic psychological and social support as well as legal assistance; this should be provided on a confidential basis, free of charge and be available around the clock;
24. in particular, ensure that all services and legal remedies available for victims of domestic violence are provided to immigrant women upon their request;
25. take all the necessary measures in order to ensure that collection of forensic evidence and information is carried out according to standardised protocol and forms;
26. provide documentation particularly geared to victims, informing them in a clear and comprehensible manner of their rights, the service they have received and the actions they could envisage or take, regardless of whether they are lodging a complaint or not, as well as of their possibilities to continue to receive psychological, medical and social support and legal assistance;
27. promote co-operation between the police, health and social services and the judiciary system in order to ensure such co-ordinated actions, and encourage and support the establishment of a collaborative network of non-governmental organisations;
28. encourage the establishment of emergency services such as anonymous, free of charge telephone help-lines for victims of violence and/or persons confronted or threatened by situations of violence; regularly monitor calls and evaluate the data obtained from the assistance provided with due respect for data protection standards;
29. ensure that the police and other law-enforcement bodies receive, treat and counsel victims in an appropriate manner, based on respect for human beings and dignity, and handle complaints confidentially; victims should be heard without delay by specially-trained staff in premises that are designed to establish a relationship of confidence between the victim and the police officer and ensure, as far as possible, that the victims of violence have the possibility to be heard by a female officer should they so wish;

30. to this end, take steps to increase the number of female police officers at all levels of responsibility;
31. ensure that children are suitably cared for in a comprehensive manner by specialised staff at all the relevant stages (initial reception, police, public prosecutor's department and courts) and that the assistance provided is adapted to the needs of the child;
32. take steps to ensure the necessary psychological and moral support for children who are victims of violence by setting up appropriate facilities and providing trained staff to treat the child from initial contact to recovery; these services should be provided free of charge;
33. take all necessary measures to ensure that none of the victims suffer secondary (re)victimisation or any gender-insensitive treatment by the police, health and social personnel responsible for assistance, as well as by judiciary personnel.

*Criminal law, civil law and judicial proceedings*

*Criminal law*

Member states should:

34. ensure that criminal law provides that any act of violence against a person, in particular physical or sexual violence, constitutes a violation of that person's physical, psychological and/or sexual freedom and integrity, and not solely a violation of morality, honour or decency;
35. provide for appropriate measures and sanctions in national legislation, making it possible to take swift and effective action against perpetrators of violence and redress the wrong done to women who are victims of violence. In particular, national law should:
36. penalise sexual violence and rape between spouses, regular or occasional partners and cohabitants;
37. penalise any sexual act committed against non-consenting persons, even if they do not show signs of resistance;
38. penalise sexual penetration of any nature whatsoever or by any means whatsoever of a non-consenting person;
39. penalise any abuse of the vulnerability of a pregnant, defenceless, ill, physically or mentally handicapped or dependent victim;
40. penalise any abuse of the position of a perpetrator, and in particular of an adult vis-à-vis a child.

*Civil law*

Member states should:

36. ensure that, in cases where the facts of violence have been established, victims receive appropriate compensation for any pecuniary, physical, psychological, moral and social damage suffered, corresponding to the degree of gravity, including legal costs incurred;
37. envisage the establishment of financing systems in order to compensate victims.

*Judicial proceedings*

Member states should:

38. ensure that all victims of violence are able to institute proceedings as well as, where appropriate, public or private organisations with legal personality acting in their defence, either together with the victims or on their behalf;
39. make provisions to ensure that criminal proceedings can be initiated by the public prosecutor;
40. encourage prosecutors to regard violence against women and children as an aggravating or decisive factor in deciding whether or not to prosecute in the public interest;
41. take all necessary steps to ensure that at all stages in the proceedings, the victims' physical and psychological state is taken into account and that they may receive medical and psychological care;
42. envisage the institution of special conditions for hearing victims or witnesses of violence in order to avoid the repetition of testimony and to lessen the traumatising effects of proceedings;
43. ensure that rules of procedure prevent unwarranted and/or humiliating questioning for the victims or witnesses of violence, taking into due consideration the trauma that they have suffered in order to avoid further trauma;
44. where necessary, ensure that measures are taken to protect victims effectively against threats and possible acts of revenge;
45. take specific measures to ensure that children's rights are protected during proceedings;
46. ensure that children are accompanied, at all hearings, by their legal representative or an adult of their choice, as appropriate, unless the court gives a reasoned decision to the contrary in respect of that person;
47. ensure that children are able to institute proceedings through the intermediary of their legal representative, a public or private organisation or any adult of their choice approved by the legal authorities and, if necessary, to have access to legal aid free of charge;



48. provide that, for sexual offences and crimes, any limitation period does not commence until the day on which the victim reaches the age of majority;
49. provide for the requirement of professional confidentiality to be waived on an exceptional basis in the case of persons who may learn of cases of children subject to sexual violence in the course of their work, as a result of examinations carried out or of information given in confidence.

### **Intervention programmes for the perpetrators of violence**

Member states should:

50. organise intervention programmes designed to encourage perpetrators of violence to adopt a violence-free pattern of behaviour by helping them to become aware of their acts and recognise their responsibility;
51. provide the perpetrator with the possibility to follow intervention programmes, not as an alternative to sentence, but as an additional measure aiming at preventing violence; participation in such programmes should be offered on a voluntary basis;
52. consider establishing specialised state-approved intervention centres for violent men and support centres initiated by NGOs and associations within the resources available;
53. ensure co-operation and co-ordination between intervention programmes directed towards men and those dealing with the protection of women.

### **Additional measures with regard to sexual violence**

#### *A genetic data bank*

Member states should:

54. consider setting up national and European data banks comprising the genetic profile of all identified and non-identified perpetrators of sexual violence in order to put in place an effective policy to catch offenders, prevent re-offending, and taking into account the standards laid down by domestic legislation and the Council of Europe in this field.

### **Additional measures with regard to violence within the family**

Member states should:

55. classify all forms of violence within the family as criminal offence;
56. revise and/or increase the penalties, where necessary, for deliberate assault and battery committed within the family, whichever member of the family is concerned;
57. preclude adultery as an excuse for violence within the family;

58. envisage the possibility of taking measures in order to:

- a. enable police forces to enter the residence of an endangered person, arrest the perpetrator and ensure that he or she appears before the judge;
- b. enable the judiciary to adopt, as interim measures aimed at protecting the victims, the banning of a perpetrator from contacting, communicating with or approaching the victim, residing in or entering certain defined areas;
- c. establish a compulsory protocol for operation so that the police and medical and social services follow the same procedure;
- d. promote pro-active victim protection services which take the initiative to contact the victim as soon as a report is made to the police;
- e. ensure smooth co-operation of all relevant institutions, such as police authorities, courts and victim protection services, in order to enable the victim to take all relevant legal and practical measures for receiving assistance and taking actions against the perpetrator within due time limits and without unwanted contact with the perpetrator;
- f. penalise all breaches of the measures imposed on the perpetrators by the authorities.

59. consider, where needed, granting immigrant women who have been/are victims of domestic violence an independent right to residence in order to enable them to leave their violent husbands without having to leave the host country.

#### **Additional measures with regard to sexual harassment**

Member states should:

- 60. take steps to prohibit all conducts of a sexual nature, or other conduct based on sex affecting the dignity of women at work, including the behaviour of superiors and colleagues: all conduct of a sexual nature for which the perpetrator makes use of a position of authority, wherever it occurs (including situations such as neighbourhood relations, relations between students and teachers, telephone harassment, etc.), is concerned. These situations constitute a violation of the dignity of persons;
- 61. promote awareness, information and prevention of sexual harassment in the workplace or in relation to work or wherever it may occur and take the appropriate measures to protect women and men from such conduct.

#### **Additional measures with regard to genital mutilation**

Member states should:

- 62. penalise any mutilation of a woman's or girl's genital organs either with or without her consent; genital mutilation is understood to mean sewing up of the clitoris, excision, clitoridectomy and infibulation;

63. penalise any person who has deliberately participated in, facilitated or encouraged any form of female genital mutilation, with or without the person's consent; such acts shall be punishable even if only partly performed;
64. organise information and prevention campaigns aimed at the population groups concerned, in particular immigrants and refugees, on the health risks to victims and the criminal penalties for perpetrators;
65. alert the medical professions, in particular doctors responsible for pre- and post-natal medical visits and for monitoring the health of children;
66. arrange for the conclusion or reinforcement of bilateral agreements concerning prevention, and prohibition of female genital mutilation and the prosecution of perpetrators;
67. consider the possibility of granting special protection to these women as a threatened group for gender-based reasons.

#### **Additional measures concerning violence in conflict and post-conflict situations**

Member states should:

68. penalise all forms of violence against women and children in situations of conflict, in accordance with the provisions of international humanitarian law, whether they occur in the form of humiliation, torture, sexual slavery or death resulting from these actions;
69. penalise rape, sexual slavery, forced pregnancy, enforced sterilisation or any other form of sexual violence of comparable gravity as an intolerable violation of human rights, as crimes against humanity and, when committed in the context of an armed conflict, as war crimes;
70. ensure protection of witnesses before the national courts and international criminal tribunals trying genocide, crimes against humanity and war crimes, and provide them with legal residence at least during the proceedings;
71. ensure social and legal assistance to all persons called to testify before the national courts and international criminal tribunals trying genocide, crimes against humanity and war crimes;
72. consider providing refugee status or subsidiary protection for reasons of gender-based persecution and/or providing residence status on humanitarian grounds to women victims of violence during conflicts;
73. support and fund NGOs providing counselling and assistance to victims of violence during conflicts and in post-conflict situations;

- 74. in post-conflict situations, promote the inclusion of issues specific to women into the reconstruction and the political renewal process in affected areas;
- 75. at national and international levels, ensure that all interventions in areas which have been affected by conflicts are performed by personnel who have been offered gender-sensitive training;
- 76. support and fund programmes which follow a gender-sensitive approach in providing assistance to victims of conflicts and contributing to the reconstruction and repatriation efforts following a conflict.

#### **Additional measures concerning violence in institutional environments**

Member states should:

- 77. penalise all forms of physical, sexual and psychological violence perpetrated or condoned by the state or its officials, wherever it occurs and in particular in prisons or detention centres, psychiatric institutions, etc;
- 78. penalise all forms of physical, sexual and psychological violence perpetrated or condoned in situations in which the responsibility of the state or of a third party may be invoked, for example in boarding schools, retirement homes and other establishments.

#### **Additional measures concerning failure to respect freedom of choice with regard to reproduction**

Member states should:

- 79. prohibit enforced sterilisation or abortion, contraception imposed by coercion or force, and pre-natal selection by sex, and take all necessary measures to this end.

#### **Additional measures concerning killings in the name of honour**

Member states should:

- 80. penalise all forms of violence against women and children committed in accordance with the custom of “killings in the name of honour”;
- 81. take all necessary measures to prevent “killings in the name of honour”, including information campaigns aimed at the population groups and the professionals concerned, in particular judges and legal personnel;
- 82. penalise anyone having deliberately participated in, facilitated or encouraged a “killing in the name of honour”;
- 83. support NGOs and other groups which combat these practices.

**Additional measures concerning early marriages**

Member states should:

84. prohibit forced marriages, concluded without the consent of the persons concerned;
85. take the necessary measures to prevent and stop practices related to the sale of children.

## EXPLANATORY MEMORANDUM

### I. Introductory remarks

#### A. Background

1. Violence against women was for many years an unexplored or even taboo subject. Even though the new prominence given to human rights and the introduction of machinery to protect them certainly served as a launch pad for the campaign against abuse, violence against women, unlike other aspects of gender inequality, only began to be acknowledged in Europe in the 1970s and 80s. The gradual disclosure of the existence and scale of the problem coincided with recognition of the principle of equality between women and men in law<sup>4</sup> (*de jure*).
2. Spurred by feminist groups and non-governmental organisations<sup>5</sup>, public awareness of the problem grew: through a combination of practical support measures and public campaigns, these organisations helped to put combating violence against women on the authorities' agenda.
3. The measures taken by governments and international organisations emphasised the universal nature of the problem. The United Nations, the Council of Europe, the European Union and, more recently, other organisations such as the Organisation for Security and Co-operation in Europe have all introduced broadly based policies and strategies.
4. Following extensive consultation, coalitions of women's organisations from each continent lobbied the United Nations World Conference on Human Rights (Vienna, June 1993) to have gender violence formally recognised as a fundamental violation of women's human rights. This position was reinforced in the Platform for Action adopted by the UN's Fourth World Conference on Women (Beijing, 4-15 September 1995), which called upon governments to take integrated measures to prevent and eliminate violence against women (see Chapter VI.D of the Platform for Action).
5. In 1994, the United Nations appointed a Special Rapporteur on Violence against Women, its Causes and Consequences, who was responsible for documenting and analysing the issue worldwide. In some regions, International Conventions on violence against women have already been introduced, eg the 1984 Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.
6. Violence against women has only recently come to light, and research in this field and the quest for solutions continue to draw attention in most member states of the Council of Europe.

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<sup>4</sup> See the chronology in Appendix I.

<sup>5</sup> Thanks mainly to their work in the field, such as the setting-up of information centres, shelters for victims, etc.

## **B. The main features: a universal, multifaceted problem**

7. Violence against women is a topic that has still not been adequately explored. The emergence of these questions and social responses to them vary, moreover, across the Council of Europe's member states. Some countries are just embarking on the process whereas others have over two decades of experience in attempting to develop new ways of combating violence. There are also differences between countries in terms of which particular forms of violence have been the focus of legal reform, assistance and media interest.

8. There is, then, a "hidden side" to violence, in that it appears from the research carried out in the various countries that, for all forms of violence, the number of cases reported and recorded is significantly lower than the actual number.

9. On the basis of the studies carried out and the data collected, a number of broad features would seem to emerge. The first is the universal nature of the problem: violence against women occurs in all countries and all sections of society. It affects people of all ages, ethnic origins and religions, irrespective of their professional background or personal circumstances, or whether they belong to a particular national minority.

10. Violence can take different forms: verbal, physical, sexual, psychological, economic or emotional. It can be perpetrated within the family or domestic unit, or in the wider community. Certain economic problems (causing unemployment or poverty), political crises and armed conflicts (triggering large-scale migration) can have an aggravating effect, in that women, who often find themselves in precarious situations, become prime targets<sup>6</sup>.

## **C. Legislative differences between Council of Europe member states**

11. There are major legislative differences between Council of Europe member states. Two examples which have a particular impact in this area are: whether the legal system is adversarial or inquisitorial; and whether there is a constitution that safeguards Human Rights. *The former affects legal procedure more than the form and content of legislation. The existence of a constitution, or international obligations which may or may not be part of domestic law, will help determine whether or not acts of violence against women are a violation of Human Rights and fundamental freedoms.*

12. The other significant difference is that some countries have introduced specific legislation and/or legal procedures, thereby sending out a clear message that violence against women will no longer be tolerated.

13. While it is still early to be talking about legislative trends, recent data indicates a new willingness on the part of member states to tackle violence, with some states introducing innovative measures such as restraining orders which prohibit the perpetrator from entering the victim's home and/or other premises<sup>7</sup>.

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<sup>6</sup> On the various forms of violence, see Appendix II.

<sup>7</sup> See the study on "*Legislation in the member States of the Council of Europe in the field of violence against women*", published in January 2001 (document EG(2001)3 prov.)

## **D. Origins of the recommendation: the Council of Europe's work<sup>8</sup>**

14. Starting in the late 1970s, the Council of Europe and in particular its first Committee for the promotion of equality between women and men, took a series of initiatives to promote the protection of women against violence.

15. Recommendations were drawn up on the rights of victims of violence to assistance, the legal remedies open to them and the respect due to them in all criminal proceedings. The need for prevention and education was also stressed. Other surveys were carried out, and proposals formulated<sup>9</sup>, which led to the 3<sup>rd</sup> European Ministerial Conference on Equality between Women and Men (Rome, 21-22 October 1993) on: "Strategies for the elimination of violence against women in society: the media and other means". The *Declaration and Resolutions*<sup>10</sup> adopted by the ministers at that conference contained an outline of the Plan of Action that was to be expanded upon later.

16. This work continued, and in 1997 a Group of specialists working under the auspices of the Steering Committee for Equality between Women and Men (CDEG) finalised a *Plan of Action for Combating Violence against Women*<sup>11</sup>.

17. On the basis of that plan, a number of activities were organised. These mainly took the form of conferences and research seminars:

- Seminar on "Promoting Equality: a common issue for men and women" (Strasbourg, 17-18 June 1997);
- Information Forum on "Ending domestic violence: action and measures" (Bucharest, 26-28 November 1998);
- Seminar on "Men and Violence against Women" (Strasbourg, 7-8 October 1999)<sup>12</sup>.

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<sup>8</sup> This chapter contains a short summary of the Council of Europe's previous work in combating violence against women. It should be noted, however, that major efforts have also been made to combat trafficking in human beings for purposes of sexual exploitation, which are not included here. For more information on this point, see in particular Recommendation No. R (2000) 11 of the Committee of Ministers to member States on action against trafficking in human beings for the purpose of sexual exploitation and its explanatory report, or contact the Council of Europe, Equality Division– DG II, F-67075 Strasbourg Cedex, tel: (33) 3 88 41 20 00; fax: (33) 3 88 41 27 05, E-mail: [dg2.equality@coe.int](mailto:dg2.equality@coe.int); <http://www.coe.int/equality>.

<sup>9</sup> Up to 1993, the Council of Europe's work on violence against women produced the following documents:

- report on sexual violence against women, by Mrs A Snare, presented at the 15<sup>th</sup> Criminological Research Conference (Strasbourg, 22-25 November 1982) (PC-CRC 582) 2 rev);
- proceedings of the colloquy on violence within the family: measures in the social field (Strasbourg, 25-27 November 1987);
- Recommendation No. R (90) 2 of the Committee of Ministers to member States on social measures concerning violence within the family (15 January 1990);
- Sexual violence against women: contribution to a strategy for countering the various forms of such violence in the Council of Europe member states (EG(91)1);
- Communication from the Committee of Ministers on the practice of systematic rape in Bosnia-Herzegovina (9 December 1992).

<sup>10</sup> Document MEG-3(93)22. Readers needing further details should write to the Council of Europe, F-67075 Strasbourg, Cedex.

<sup>11</sup> Document EG-S-VL (97) 1. See also the summary of the action plan, document EG-S-VL (98)1.

<sup>12</sup> The proceedings of these seminars are available from the Council of Europe, Equality Division – DG II, F-67075 Strasbourg Cedex, tel (33) 3 88 41 20 00, fax (33) 3 88 41 27 05, <http://www.coe.int/equality>.



The following reference documents have also been published:

- “Violence against Women. Compilation of Council of Europe texts since 1995” (document EG(99)14);
- “Legislation in the member states of the Council of Europe in the field of violence against women” (document EG(2001)3).

18. The Council of Europe Parliamentary Assembly’s Committee on Equal Opportunities for Women and Men also held a seminar on “Violence against Women: from Domestic Abuse to Slavery” (Bari, Italy, 4-6 November 1999). The Assembly itself has recently adopted two texts:

- Recommendation 1450 (2000) on violence against women in Europe;
- Resolution 1212 (2000) on rape in armed conflicts.

### **E. The authors of the recommendation and their approach**

19. These studies showed that violence is still a major problem in all the Council of Europe member states and a persistent obstacle to the promotion and advancement of women’s rights. In spite of recent progress, national and international legal instruments remain inadequate, while violence against women is still rife in all sections of the community.

20. The Council of Europe’s Committee of Ministers and the CDEG accordingly felt that it was important to build on the work already done by devising guidelines for the introduction of a comprehensive system to combat violence. To this end, a Group of Specialists for the Protection of Women and Young Girls against Violence (EG-S-FV) was set up under the authority of the CDEG<sup>13</sup>. The EG-S-FV comprised 9 experts from various Council of Europe member states<sup>14</sup>. It began work in June 1998 and completed its task in June 2000. During that period, it held five working meetings.

21. The Group’s aim was to prepare a legal reference text, which governments could use as a basis for supplementing, amending, adjusting or drafting legislation to successfully combat violence against women in each member state. To assist it in its task, the Group consulted the Council of Europe’s earlier texts and work, Article 3 of the European Convention for the Protection of Human Rights and its case law, the relevant international

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<sup>13</sup> The EG-S-FV’s terms of reference were as follows:

On the basis of the work already done in this area by the CDEG, and particularly the Group of Specialists for Combating Violence against Women (EG-S-VL), and bearing in mind the work done by other international institutions, in particular the Special Rapporteur of the United Nations and the Platform for Action of the 4<sup>th</sup> World Conference on Women (Beijing, 4-15 September 1995), as well as existing legal texts, the Group is responsible for: drafting, particularly on the basis of the Plan of Action drawn up by the EG-S-VL and a preparatory study, and taking into account Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, a draft recommendation containing guidelines for developing national legislation aimed at combating violence against women and young girls, particularly by identifying the various forms of violence, the measures to be taken, the remedies which should be open to victims – and any other provision which the Group may deem useful.

<sup>14</sup> The Group comprised nine specialists from various Council of Europe member states, appointed by the CDEG in a manner which ensured fair geographical distribution between states and balanced representation of the various legal systems. The members had to be people with experience of drafting legislation at national level and a thorough knowledge of areas of law (civil, criminal, etc.) relevant to combating violence against women, or who had served on national committees responsible for examining legislation in this field. They came from the following states: Austria, Belgium, France, Iceland, Italy, Romania, the Russian Federation, Spain and Turkey.

texts (particularly the UN texts) and existing national legislation. The Group tried to gather as much documentation as possible, including examples of national laws and systems which had proved effective and, where possible, been evaluated. This enabled it to construct a series of “optimum models” in each area – a list of “best standards and practices” – as a basis for its work. The Recommendation gives member states a list of measures which may help to protect victims’ interests in practice, safeguard their rights and prevent all forms of violence against women.

22. These measures provide a set of guidelines which states may decide to apply, according to national circumstances.

## **II. Comments on the recommendation**

### **A. Personal scope of application: definition of the persons involved**

23. The authors began by looking at the scope of the recommendation. The issue of male victims of violence was examined on the basis of studies conducted in certain states on male victims of violence perpetrated by women.<sup>15</sup> Conscious of the fact that, statistically speaking, such cases are still in the minority, and bearing in mind the exact terms of reference assigned to them (see footnote no. 10), the authors of the recommendation defined those involved in violence as follows.

24. Women: in keeping with their terms of reference, the authors decided to concentrate on violence against women. The recommendation deals with violence perpetrated against women throughout their lifetime, from birth to death, and includes girls. This choice was made for several reasons:

- the particular characteristics of violence against women, which differentiate it from other forms of violence. Violence against women is an expression of the domination by one sex over the other and it is often more tolerated by society. Violence against girls is often a demonstration of cultural or religious traditions which reproduce the same models;
- the terms of reference and competence of the CDEG, which relate to questions concerning women’s rights and equality between women and men.

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<sup>15</sup> In particular, the authors examined reports according to which, for the past thirty years, discussions on domestic violence have tended to cast men in the role of aggressors and women in the role of victims with the result that today, in the United Kingdom, male victims receive scant attention from both government policy-makers and the community at large. According to these reports, there are over forty-five homes for battered women and their children in England and Wales, but not a single government-funded facility for men, who have no one to turn to, even just for information. It would seem that the great majority of male victims of violence feel that, on the whole, the police and social welfare agencies are unsupportive and, in some cases, downright hostile. On 7 January 1999, a Channel 4 programme (“Dispatches”) featuring a report on a hundred men who had suffered domestic violence revealed how 25% of these men – and not the female partner who had attacked them – had been arrested by the police when they sought help. Only seven of the women had been arrested and of these, none were convicted. See Home Office Research Study 191 on “Domestic Violence: Findings from a new British Crime Survey self-completion questionnaire” by Catriona Mirrles-Black and “The physical aggression of women and men to their partners: A quantitative analysis” by John Archer, University of Central Lancashire, United Kingdom.

25. It was for these reasons that the drafters decided to deal mainly with violence against women without, however, totally excluding young boys, particularly in the case of violence committed within the family or domestic unit. Various parts of the text therefore refer to measures aimed at children who are victims of violence.<sup>16</sup>

26. Girls/children: the recommendation is based on the definition provided by the UN Convention on the Rights of the Child<sup>17</sup>: “a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”.

27. Girls experience all the same kinds of violence as those perpetrated against women. Nowadays, they seem to be even more vulnerable owing to the fact that they are under constant pressure, including sexual pressure, to grow up fast. Certain forms of violence are more especially associated with girls: forced marriages and very early marriages; incest; sexual mutilation; violence perpetrated by other young people (gang rape). As far as incest is concerned, the authors have included acts committed by any members of the family as well as persons who share the victim’s home on an occasional basis: the term can apply to any adult who abuses his or her authority.

28. All violence perpetrated against girls has very severe repercussions in adulthood and often prevents them from leading a full and satisfying life. Long-term follow-up care should be provided to help girls come to terms with the abuse they have suffered. The cost of such treatment should be borne by society.

29. In the course of their work, the authors acknowledged the fact that violence also hits boys who, like girls, are victims of, or have to cope with the consequences of, domestic violence as well as violence perpetrated outside the family (violence in school, paedophilia, sexual exploitation, etc.).

30. The victims: although there is no such thing as a typical victim profile, surveys<sup>18</sup> have shown that women, whatever their social background, experience all forms of violence<sup>19</sup>. For the victims, any violence has an impact on their physical and/or mental well-being, and some forms of abuse can be ongoing or continue over their lifetime. Victimisation at an experiential level often involves combinations of various forms of violence and abuse and, while there is nothing preordained about the process, women who have suffered physical abuse in childhood are more likely to suffer violence in later life<sup>20</sup>.

31. The perpetrators: in the vast majority of cases, abuse of women and children is perpetrated by men. While assaults and abuse by women do occur, and need to be addressed, the authors were anxious that this minority of cases should not detract from the central issue – ie that male violence against women is endemic in most societies. International research has also shown that women are more likely to experience violence from men they know,

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<sup>16</sup> These are measures foreseen in the appendix concerning mainly criminal law, civil law and judicial proceedings: in these cases, the text extends protection to all children victims of violence, regardless of sex.

<sup>17</sup> Adopted by the UN General Assembly in Resolution 44/25 of 20/11/89.

<sup>18</sup> See in particular the Enveff survey conducted in 2000 in France, commissioned by the Department of Women’s Rights and the State Secretary for Women’s Rights (monthly bulletin of the *Institut national d’études démographiques*, no. 364, January 2001).

<sup>19</sup> The Enveff survey showed that violence, in particular domestic violence, is closely related to age: young women (20-24 years) are twice as likely to suffer violence as older women.

<sup>20</sup> Such women are five times more likely to suffer physical violence (11% as against 2% of women who have not been abused) and four times more likely to suffer sexual violence from their spouse (4% as against 1%). Source: Enveff survey.

especially relatives and partners. In some cases, however, the men in question are either acquaintances or strangers<sup>21</sup>.

32. Violence against women is committed in a wide range of relationships and locations. Abuse is perpetrated by: family members, current and former sexual partners, other relatives and friends, acquaintances (including colleagues and clients), those in various positions of authority (including bosses and superiors in the hierarchy, doctors, therapists, carers, clergy/religious leaders, teachers, police, military, institutional staff) and strangers. The assaults usually involve one assailant, although multiple offenders are not uncommon.

33. The state: the authors felt that the state was a key player in combating violence, and that governments have a responsibility to create a climate of zero tolerance of violence, by taking the appropriate measures and instituting a system of protection and prevention. To this end, and on the basis of European examples<sup>22</sup>, the recommendation specifies a series of measures and suggests initiatives that member state governments might consider adopting and implementing.

## **B. Preamble**

34. The preamble briefly charts the events leading up to the outlawing of all forms of violence against women and girls, as reflected in the various international instruments referred to.

### **Paragraphs 1-5**

35. The preamble sets out the basic principles on which the entire recommendation is based. It embodies the very essence of the text, pointing out that the Committee of Ministers ranks violence against women as a most serious factor preventing the enjoyment of Human Rights. This principle is now recognised by the international community.

36. As regards the universal nature of the phenomenon and the various forms that violence can take, see also the comments above (under “introductory remarks”).

### *Paragraphs 6 -*

37. Apart from the basic principles, the preamble emphasises that violence against women concerns society at large. It involves the basic family unit and, particularly in its extreme forms, such as trafficking in human beings, poses a threat to democracy as a whole.

38. This statement is based partly on the heavy cost of violence against women, which only a few countries are beginning to recognise. The brunt is borne by women, but there are

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<sup>21</sup> This particularly applies to groups of women who do not live with men, eg lesbians, disabled women or elderly women who live alone.

<sup>22</sup> Notable examples include the two policy memoranda issued by the Netherlands in 1982 and 1990, which were concerned with Human Rights and addressed legislation, law enforcement, preventive measures, research and victim support. A series of action programmes were initiated in Norway in 1983 to combat violence against women, in 1986 with specific reference to domestic violence and in 1992-93 on child sex abuse. An independent committee was set up by the Irish Ministry of Justice to review the legal framework for women and girls reporting crimes of violence against them. In 1997, Switzerland launched its first national campaign to raise awareness about violence against women. In 2000, France conducted an in-depth survey (see previous notes) and in January 2001 held a second national conference on violence against women.

also significant costs to the state. They include: criminal and civil investigations and proceedings, healthcare costs (in terms of physical and mental health); lost days at work; provision of temporary and permanent rehousing and academic failure among children whose lives have been disrupted by domestic violence. Methods for calculating the financial cost of violence are beginning to be developed.<sup>23</sup> The figures obtained provide only a rough guide, however.

39. At a more fundamental level, the authors stressed that it was impossible to calculate the extent of the loss to society of women not being free, equal and safe; nor was it possible to gauge all the ramifications of living with the threat and reality of gender violence.

#### *Paragraphs 9 to 18*

40. After briefly describing the context in which violence against women and girls occurs in Europe, the preamble refers to the main international instruments in this area.

41. It is worth recalling firstly that in the Final Declaration adopted at the second Council of Europe Summit (Strasbourg, 1997), the Heads of State and Government of the Council of Europe affirmed their determination to combat violence against women and young girls and all forms of sexual exploitation.

42. In their work, the authors repeatedly referred to the principles embodied in the European Convention on Human Rights (1950) and the Convention bodies' case-law, the European Social Charter (1961) and Revised Social Charter (1996), the additional protocol to the European Social Charter providing for a system of collective complaints (1995), and the European Convention on the Exercise of Children's Rights (1996), which are fundamental to the Council of Europe's activity. They also took account of the principles derived from the UN texts, in particular the UN Declaration on the Elimination of Violence against Women (1993) and the Platform for Action adopted at the Fourth World Conference on Women (Beijing, 1995), and the follow-up thereto (see the measures adopted at the special session of the UN General Assembly in order to further implement the Platform for Action)<sup>24</sup>.

43. The preamble also lists a series of recommendations adopted by the Council of Europe's Committee of Ministers and Parliamentary Assembly, to which reference was made when preparing the text.

### **C. Provisions of the recommendation**

44. The recommendation is aimed at the member states and urges them to incorporate the principles enshrined therein into the appropriate national legislation, amending it where necessary. In keeping with the spirit of the text, the following provisions must constitute the basic principles of government action in combating violence.

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<sup>23</sup> Estimates compiled in Australia provide an idea of the figures involved: the annual expenditure related to domestic violence is 1.5 billion dollars in New South Wales; in Queensland, the annual cost of domestic violence is put at 557 million dollars, and that of rape and sexual assault at 63 million dollars. See also the study on "The Price of violence – The costs of Men's Violence against Women in Finland", Statistics Finland and Council for Equality, Helsinki, 2001. This study gives the figure of more than 50 million Euros as an evaluation of the cost of men's violence against women in Finland for the year 1998.

<sup>24</sup> 23<sup>rd</sup> special session, New York, 5-9 June 2000.

## ***Point I***

### *Paragraph 1*

45. The text draws on both Article 3 of the UN Declaration on the Elimination of Violence against Women and on Articles 2, 3, 5, 6 and 14 of the European Convention on Human Rights. Indeed, the rights that states must ensure the respect of are a mandatory part of the European Convention on Human Rights – and all Council of Europe member states have adhered to this legally binding text. This paragraph recalls the principle that is based on legal texts.

### *Paragraph 2*

46. The authors wished to stress the importance of economic and social rights in combating violence and particularly the difficulties that women lacking economic autonomy face in order to put an end to a violent situation, especially by ceasing cohabitation with the perpetrator of the violence. In general, studies on this subject show that better protection of women's economic and social rights constitute a major tool to prevent violence.<sup>25</sup> "Economic and social rights" are to be understood as the rights listed in the main relevant international legal texts, such as the International Covenant on Economic, Social and Cultural Rights (1966), the European Social Charter (1961) and the Revised European Social Charter (1996).

### *Paragraphs 3 and 4*

47. The action states take will involve various groups and authorities. Criminal law reform, recognition and compensation of victims, and punishment of offenders will thus be a matter for the ministry of justice; information, awareness-raising and training for the police and for medical and social service staff will be dealt with by three other ministries; international action will be the responsibility of the foreign affairs ministry, while equal opportunity, employment and education measures will be handled by yet other ministries. The ministries will also have to work with employers' organisations, trade unions and non-governmental organisations. This requires a high degree of co-ordination between the authorities, state institutions and NGOs, with the latter playing a very important role on the ground. The idea will be to facilitate co-operation and co-ordination between all the agencies concerned. The support given to NGOs should enable them to pursue an ongoing strategy, something that requires sustained funding.

## ***Point II***

48. This short paragraph deals with a complex issue, still not fully developed: the responsibility of states with regard to violence.

49. The aim of the authors was to envisage the extremely serious cases of violence against women and children perpetrated by the state, or its agents, (i.e. law enforcement officials or other security or military personnel) which are an especially grave violation of human rights, now recognised as torture or even as crimes against humanity if perpetrated systematically (see below "Additional measures concerning violence in conflict and post-conflict situations"). The European Court of Human Rights considered in the case of *Aydin v.*

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<sup>25</sup> For example, the Enveff survey conducted in France in 2000 showed that domestic violence is more common among unemployed women and women receiving the "minimum integration income" (RMI) (14%) than among women who are gainfully employed or housewives (9%).

Turkey<sup>26</sup> that the rape and ill-treatment of a female detainee by an official of the state amounted to torture in breach of Article 3 of the Convention.

50. A similar logic can be applied in relation to violence that is or that could be perpetrated in institutions, and particularly in prisons.

51. Beyond this, a problematic area appears when envisaging state responsibility arising out of acts of private individuals.

52. The trend towards holding states responsible for acts perpetrated by certain private actors is based on the unequal de facto protection accorded by legal provisions to women subjected to violence. Article 2(e) of the Convention on the Elimination of all forms of Discrimination Against Women states that states parties are required “to take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise.” Article 16 explicitly refers to discrimination in the family and General Recommendation No. 19 of the Committee on the Elimination of Discrimination Against Women (CEDAW) includes family violence in its scope. In Recommendation No. 19, it is emphasised that: “States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and providing compensation.”

53. The participants at the 3<sup>rd</sup> European Ministerial Conference on equality between women and men (Rome, 21-22 October 1993), organised by the Council of Europe, adopted a Declaration in which they noted that “the responsibility of states is engaged with regard to acts of violence carried out by public officials and that it may also be engaged with regard to private acts of violence if the state does not take action with sufficient diligence to prevent the violation of rights or investigate acts of violence, to sanction them and provide support for the victims”. Seven years after, this was reiterated in the Final Outcome Document on further actions and initiatives to implement the Beijing Declaration and Platform for Action, adopted by the United Nations General Assembly (New York, 5-9 June 2000).

### ***Point III***

54. The recommendation underlines the structural reasons for violence against women. The authors felt that violence against women needed to be understood in a social context, and not as a series of individual unconnected events. It is the result of a social construction of a particular form of masculinity (aggressive masculinity) – the set of traditions, habits and beliefs – which permit the perpetrators (mainly men) to assume the right to use violence as a means of exercising their dominance and control. That is not to say, however, that men are not individually responsible for their actions. Members of all communities have a collective duty to condemn the use of violence against women and give paramount importance to the safety of victims of violence. Everyone, everywhere must refuse to tolerate violence against women and uphold the belief that no woman deserves violence and that the use of violence is a crime<sup>27</sup>.

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<sup>26</sup> 57/1996/676/866

<sup>27</sup> See in particular the conclusions of the seminar held by the Council of Europe in Strasbourg in 1999 on “Men and Violence against Women”, and those of the Forum held in Romania in 1998 “Ending domestic violence: actions and measures”.

***Point IV***

55. Two elements were held by the authors to be of particular importance: the preparation of action plans containing concrete measures to be implemented at national, regional and local levels, and the involvement of all the appropriate institutions and professions to put these action plans into practice. The information and knowledge acquired through the exchange of experiences and practices between states and NGOs which have set up certain European programmes (such as the DAPHNE programme) can be used when preparing such action plans.

***Points V, VI and VII***

56. The authors wished to urge governments to support research into combating violence, as a key factor in achieving a better understanding of the problem and introducing more effective means of preventing and dealing with it. The aim is for this research to form the basis for concrete action. To that end, links between research and other sectors must be strong and co-ordinated: the authors observed that violence against women is a subject that has only been partially explored and wanted to stress that co-operation between researchers and decision-makers is essential in order to carry out efficient action.

***Point VIII***

57. Because of the major legislative differences between Council of Europe member states, some of the measures listed in the recommendation may not apply to all of them. It will be up to each state to select the measures needed to supplement or amend their policies on women and young girls subjected to violence.



### III. Appendix to the recommendation

#### Definitions

##### *Paragraph 1*

58. Defining violence against women is not easy, for it is a concept that admits of more than one interpretation. The various international instruments and national texts on the subject define violence against women in more or less broad terms. International policy seems to be giving growing emphasis to domestic violence, and its impact on all the members of the family, including children. While including this type of violence within their field of inquiry, the authors wished to adopt the broad, comprehensive approach favoured by the United Nations, encompassing all forms of violence<sup>28</sup>.

59. The chosen definition covers all forms of gender-based violence, regardless of where and by whom it is perpetrated, and whatever the circumstances. The list of acts contained in a), b), c) and d) is not exhaustive<sup>29</sup>. Appendix II to this report contains extracts from the Plan of Action for combating violence against women, which the authors used as a basis for preparing the recommendation.

#### General measures concerning violence against women

##### *Paragraph 2*

60. It is the responsibility of states to make sure that the fundamental rights referred to in paragraph 18 are not violated. Bearing in mind the reasons sometimes cited in order to justify certain practices such as genital mutilation, killings in the name of honour, early marriages or “ritual abuse<sup>30</sup>”, the authors were anxious to exclude any exception to this rule, which may on no account be broken for reasons related to custom, religion, tradition, etc. Reference can be made here to the Platform for Action adopted at the Fourth World Conference on Women, Strategic objective D.1, paragraph 124 a.

##### *Paragraphs 3 to 5*

61. The drafters wanted to reiterate and make clearer the basic principles set out in the provisions of the recommendation (see in particular points I, IV, V, VI and VII). These paragraphs thus explain in more detail the elements that should constitute national policies against violence (paragraph 3), the modalities needed to co-ordinate measures to combat violence (paragraph 4) and the principal sectors where research should be developed (paragraph 5).

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<sup>28</sup> See the UN Declaration on the Elimination of Violence against Women (1993) and the Platform for Action adopted at the Beijing Conference (chapter IV.D).

<sup>29</sup> Specific measures have been provided for in the recommendation concerning particular forms of violence.

<sup>30</sup> In the Report by the Canadian study group (*Canadian Panel on Violence against Women, Changing the Landscape: Ending Violence – Achieving Equality*, 1993, Ministry of Supplies, Ottawa) ritual abuse is defined as “a combination of severe physical, sexual, psychological and spiritual abuse used systematically and in combination with symbols, ceremonies and/or group activities that have a religious, magical or supernatural connotation. Victims are terrorised into silence by repetitive abuse over time and indoctrinated into the beliefs and practices of the cult or group” (p. 45).

## **Information, public awareness, education and training**

### *Paragraphs 6 to 13*

62. Information and awareness-raising are the two main tools for prevention. Information gathering (preferably through the creation of databases) is vital for introducing an effective awareness-raising policy. At European level, it is important to establish criteria for collecting comparable data, in order to be able to raise public awareness not only nationwide but also across Europe. Information campaigns should seek to inform and educate the public in general, and victims in particular<sup>31</sup>.

63. In addition, the recommendation advocates creating or developing national initiatives for members of all the professions concerned. These need to be understood in the broad sense as including: judges, prosecutors, court welfare officers, police, probation officers, prison guards, social workers, psychologists, psychiatrists, doctors and in particular paediatricians, nurses, midwives, accident and emergency staff, teachers, youth workers, counsellors, interpreters, crisis workers including those working in emergency housing, public housing workers, social security staff, refugee workers, immigration officials, clergy, disability workers, government officials and policy-makers.

64. These training courses should comprise a common core focusing on the definition, forms and scale of violence against women, its impact on the victims, the way perpetrators deny and deflect responsibility, and the financial and social costs of violence. The needs and experiences of particular groups of women should also be included. Specific additional elements should address the particular role each group can play in developing zero tolerance.

65. These curricula should become required elements in vocational qualifications and training courses and regular refresher sessions on new research and policies should be available. Awareness of violence against women and the link with equality issues should be a formal rating factor in staff performance appraisals.

### *Paragraphs 14 to 16*

66. Education also has a key role to play in combating violence against women and children, whether in the short term, through awareness-raising, or in the longer term, by challenging the assumptions and attitudes that lie at the root of, and help to perpetuate, structural inequalities. Clearly, educators in every context and at every level have a responsibility to participate fully in this effort, while governments have a duty to establish the general framework within which this education is delivered, as well as the necessary facilities.

## **Media**

### *Paragraphs 17 to 20*

67. The media form an influential group in modern societies. They relay information in various ways (press, TV and radio, advertising, cinema, the Internet, the telephone, books and conferences) and their influence in the matter of violence against women and girls can be complex – negative when they encourage violence by peddling stereotypes, positive when

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<sup>31</sup> The “Action Plan to combat violence against women” (document EG-S-VL (97)1) contains examples of successful information campaigns, such as the “Zero Tolerance” campaign in Edinburgh, Scotland (United Kingdom) (chapter VII and appendix I).

they inform the public and raise awareness. While respecting press freedom, governments might consider taking measures to make the media aware of the extent of their influence in both cases, with a view to enlisting their co-operation.

68. To this end, the recommendation stresses that media self-regulation could contribute to a better understanding by media professionals of the problems related to violence against women.

### **Local, regional and urban planning**

#### *Paragraphs 21 and 22*

69. According to studies carried out by criminologists, local, regional and urban planning can help to improve security in cities or at least reduce the sense of insecurity. The recommendation refers to a series of measures which, although they come under local and regional planning and/or town planning, are nevertheless factors in ensuring better security for the public in general and women in particular. They include: reducing or eliminating high-risk (poorly lit and monitored) areas; not concentrating offices in particular districts, which are deserted after 5 pm; sitting public transport stops (bus, metro, railway) in secure areas; stepping up security patrols; developing community policing; setting up local points and centres to assist the public in emergencies; setting up neighbourhood committees; trying to keep people in the cities, and so avert a situation where they live in dormitory suburbs and town centres become deserted after hours; making cities more human<sup>32</sup>.

### **Assistance for, and protection of, victims (reception, treatment and counselling)**

#### *Paragraphs 23 to 33*

70. The provisions of the recommendation are directly based on existing best practice in Europe. They describe a protocol that should be followed by professionals who come into contact with victims of violence (especially sexual abuse). These are specific procedures the primary purpose of which is to ensure that victims receive the proper care and attention and that evidence is gathered with a view to possible legal action without causing further distress (known as “secondary victimisation”).

71. The authors referred in particular to the operating procedure adopted by the Rape Trauma Centre in Reykjavik (Iceland). Another notable example is the *Sexual Assault Kit (SAK)* used in Belgium.<sup>33</sup> The authors wished to point out that victims must be able to benefit

<sup>32</sup> See the pilot project conducted in 9 different towns in Italy: “URBAN Cities Anti-violence Network-Italy”, financed by the European Regional Development Fund under the auspices of the European Commission.

<sup>33</sup> “The SAK is a means of ensuring that judicial enquiries are properly conducted in cases where sexual offences are reported. It is designed to prevent victims from being victimised a second time by ensuring that they are properly dealt with by the police, police surgeons and public prosecutors. In addition to recommendations and instructions to the above authorities, the SAK is a medical kit, containing a whole range of items which are carefully chosen and specially designed to test for all signs of sexual violence. These signs can provide scientific proof of the offence, as well as evidence of the suspect’s guilt or innocence. This gives victims effective means of proof, and so greatly strengthens their position. The examination follows a standard course, which means that it cannot be challenged and removes the need for victims to undergo a second examination. Another advantage is that victims need to give evidence less frequently in court. The data in the police report, the results of the medical examination and analysis of the prints together provide sufficient information. The police and police surgeons are given standard instructions, requiring them to treat victims of sexual violence with respect and understanding – which represents an important step forward.” Source: *Bilan de*

from the measures listed in the recommendation without any discrimination (paragraph 44). An indicative (and non-exhaustive) list of motives for discrimination was drawn up. These are: age, sex, sexual orientation, level of education, language, religion, physical and mental capacity, cultural and ethnic origin of the victims. Other forms of discrimination could also be prohibited depending on the case.

### **Criminal law, civil law and judicial proceedings**

72. This part of the recommendation was extensively discussed by the group of drafters. Confronted with very disparate legislation, they made it their goal to put protection of victims first, and accordingly based their approach on the most recent and innovative legislation adopted in Europe.<sup>34</sup>

### **Criminal law**

#### *Paragraphs 34 and 35*

73. "By studying certain classes of offences, it is possible to identify acts treated by law as contrary to social norms at a given time, and to measure, in terms of the penalty prescribed, the importance which society attaches to the values protected."<sup>35</sup> The drafters followed this penological orientation and made it their first concern to point out that provisions relating to violence must be legitimised by the bodily or sexual harm inflicted on individuals. The aim above all is to protect their physical and sexual integrity, and not solely to uphold the moral order; this must constitute the foundation for criminal law measures.

74. The drafters in fact challenged the view of sexual offences as being primarily breaches of society's good order and of public morality. Even though these offences can still be considered contrary to public morality, it must be unequivocally set down that the principal effect of violence, and specifically its sexual forms, is serious harm to the victim, whose protection is the prime obligation of the law.

75. Proceeding on this principle, the drafters examined a number of concepts whose meaning has evolved markedly with time and according to differing national contexts. The text of the recommendation is not restrictive and leaves each state in control of defining criminal offences within the domestic legal framework: it indicates guidelines or basic principles whose adaptation to the national context will rest with each member state.

76. Over and above the peculiarities of each domestic legal system, the following explanations relate to a series of points which the drafters wished to highlight.

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*dix ans de lutte contre la violence physique et sexuelle à l'égard des femmes et des enfants*, Miet Smet, Belgian Minister of Employment and Labour, responsible for the equal opportunities policy for men and women, 1996.

<sup>34</sup> See in particular the legislation applicable in Austria, Belgium, Spain, Iceland and Sweden, and the French Penal Code which came into force in 1994, cf. compendium of Legislation of Council of Europe member states on violence against women, document EG (2001) 3, volumes I and II.

<sup>35</sup> Source: "*Des atteintes aux mœurs et à la pudeur aux agressions sexuelles*" (conceptualisation of sexual offences and indecent assault as sexual assault) by Luc-Michel NIVOSE, auxiliary judge of the French Court of Cassation, *Chroniques de Droit Pénal* series, May 1995, pp. 1-3.

## Rape

77. While the definition of rape and sexual violence is entirely a matter for domestic legislation, it should be noted that the recommendation plainly advocates criminalising rape between spouses or partners.

## Consent

78. Under the legislation of most countries, the act is punishable only if performed without the passive partner's consent. This is normally for the court to determine. The drafters nevertheless wanted to emphasise that lack of physical resistance does not necessarily signify consent; fear or threat can subdue any inclination to resist, without there being any question of valid consent. Use of force cannot be measured solely according to the degree of resistance put up by the victim.

79. The drafters have made reference to cases where consent may be rendered impossible and where a presumption of absence of consent could be contemplated, for instance in the following cases:

- Where the act is forced upon the victim by violence, threat, coercion or deceit;
- Where the act is made possible because of the victim's vulnerable condition, infirmity or physical or mental impairment (this presumption would apply only to acts made possible precisely because of the victim's infirmity or physical or mental impairment; it is essential to certify that the existence of such infirmity was what enabled the abuser to violate the victim's sexual integrity). The victim's infirmity or impairment must have constituted the means by which the abuser was able to achieve his ends. This is in no way intended to negate the capacity of persons who have an impairment to engage in consenting affective relationships, but rather to protect them against any abuses which could befall them owing to their special situation;
- Where a situation of authority, trust or dependence prevails between abuser and victim; this is a particularly sensitive issue, and cases where the culprits were people such as doctors, psychologists and agents of the state have been recorded;
- Minors must be protected against any assault by family members in the broad sense, whether or not the minors concerned are married. The relationship of authority, trust and affection between minors and the father or mother is usually such as to place the minor in a subordinate position, and in this case consent can never be validly given;
- Situation where the abuser (adult or minor) is a person related to the underage victim in the ascending line, an adoptive parent, a brother or a sister, whether or not living with the victim;
- Situation where the abuser is any adult who regularly or occasionally lives with and holds authority over the victim;
- An adoptive parent is treated as a blood relative in the ascending line;
- A relative in the ascending line or an adoptive parent is a parent, grandparent or great-grandparent by blood or adoption;

– Considering the number of family situations that no longer conform to the traditional categories, the above definitions also include foster parents, half-brothers and sisters, stepfathers, stepmothers and any person who cohabits with a relative in the ascending line or any other person who may regularly or occasionally live with and hold authority over the minor. The concept of "regularly living with" is a practical one which must take into account the chief place of effective residence, the place where day-to-day life goes on. It need not be the domicile of the minor or the family member. "Occasionally living together",<sup>36</sup> is likewise a practical concept mainly concerning cases where minors have short stays with one parent. The circumstance of living together and the relationship of authority combine to create a power relationship for the minor.

### **Definition of the age of majority in each state**

80. This raises questions about the role of state authorities in the protection of minors, parental authority, respect for private and family life, and the interests and welfare of minors. The legal age of consent to sexual acts does not always correspond to the age of criminal responsibility; consequently, the drafters use the terms minor and adult with reference to the age of criminal responsibility and leave states free to fix an age below which there exists an irrefutable presumption of lack of consent. Below that age, consent is invalid.

### **The burden of proof**

81. When convicting the suspected perpetrator of violence it is necessary to take all requisite measures available in accordance with the European Convention on Human Rights, and especially its article 6, paragraph 2, which states that "everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law".

The drafters were aware that in the area of civil law and labour law (e.g. sexual harassment at the workplace), the burden of proof can also be put on the employer or the perpetrator. Criminal law does not, however, allow for such a reversal/sharing of the burden of proof.<sup>37</sup>

### **Civil law**

#### *Paragraphs 36 and 37*

82. Here, the drafters used the example of Iceland, where a state-supported financing system has the function of compensating victims for the damage suffered. The state authorities then institute proceedings against culprits to obtain compensation in turn. While the drafters did not recommend such an elaborate system, they did however suggest that states should envisage the establishment of financing systems (in whatever form) whose aim would be to compensate victims.

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<sup>36</sup> Source: «*La modernisation du Code pénal dans le cas de violences intrafamiliales physiques et sexuelles*» (modernisation of the Penal Code in respect of physical and sexual violence within the family), Prof. Hustebaut, University of Louvain School of Criminology, Belgium, 1996.

<sup>37</sup> This question is being researched in certain Council of Europe member states, such as Iceland and Sweden.

## **Judicial procedure**

### *Paragraphs 38 to 49*

83. The procedural rules presented in these paragraphs have the essential purpose of protecting victims, particularly minors. They take account of the United Nations Convention on the Rights of the Child which provides for the capacity of children to take legal action, through a representative if need be.

84. Paragraph 38 refers to Article 6 of the European Convention of Human Rights, and in particular to the following rights:

- the right to fair and equitable treatment, in particular to objective and considerate examination;
- the right to respect for private life, dignity, confidentiality and, among others, the right to a hearing in camera;
- the right to be heard in the best possible conditions so that the damage suffered may be established accurately;
- the right to have the legal access to one's file and the right to be informed about the legal proceedings, the handling of the case with regard to court decisions, the execution of the sentence and the date on which the sentences expires;
- the right to legal assistance.

## **Intervention programmes for the perpetrators of violence**

### *Paragraphs 50 to 53*

85. Many of the suggested intervention programmes are still pilot schemes that seek to prevent recidivism by making perpetrators of violence appreciate the significance of their wrongdoing, teaching them to control their deviant behaviour and to avoid certain critical situations, and instilling social communication techniques that will enable them to express themselves in a non-violent manner.

86. The programmes may take place in state-approved specialised open centres employing specially qualified persons from NGOs that deal respectively with women victims of violence and violent men. It is indeed important that the two types of NGOs work in a co-ordinated fashion for the sake of good mutual understanding. Perpetrators should come to these centres of their own accord, at their request and after serving their sentence, and supervision by a team must be provided to prevent any relapse.<sup>38</sup>

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<sup>38</sup> Programmes of this type are operating in Ireland, Iceland and Norway; see Statement by Mr Per ISDAL at the Forum organised by the Council of Europe in Bucharest, Romania from 26 to 28 November 1998 on "Ending domestic violence: action and measures" (document EG/BUC (99) 1). Another example is that of the Danish Prison Service which offers teaching in cognitive skills to inmates serving time for violent behaviour, in order to give them the opportunity to change their behaviour. See also programmes set up by the MOVE organisation in Ireland.

## **Additional measures with regard to sexual violence**

### **Genetic data bank**

#### *Paragraph 54*

87. Setting up data banks storing the genetic profile of all convicted perpetrators of sexual violence as well as all unknown individuals (unidentified rapists) where a specimen of their biological material has been obtained from the victim would make it possible to determine the profile of attackers by cross-checking and would aid their arrest.

88. While this type of measure has indubitable advantages for police tracking of identified or unidentified abusers, it should be applied taking domestic legislation into account, in conformity with the relevant Council of Europe standards, viz. the Convention for the Protection of Persons with regard to Automatic Processing of Personal Data,<sup>39</sup> the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine<sup>40</sup> and Recommendation No. R (92) 1 of the Committee of Ministers to member states on the use of analysis of deoxyribonucleic acid (DNA) within the framework of the criminal justice system.

## **Additional measures with regard to violence within the family**

#### *Paragraphs 55 to 59*

89. The studies carried out in member states all identify the family environment as the scene of the most violence of all types against women and children. Realising the importance of the issue, the drafters wished to envisage specific measures.

#### *Paragraph 55*

90. According to a certain number of practices and/or legal systems, violence committed within the family, and especially domestic violence, is considered to be a private affair that does not require legal treatment. This is why the drafters wanted to point to the necessity for member states to classify violent acts committed within the family as penal violations of varying degrees of seriousness according to their nature.<sup>41</sup>

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<sup>39</sup> ETS No. 108.

<sup>40</sup> ETS No. 164.

<sup>41</sup> The UK Government is fully committed to all action to increase the safeguards afforded to women and children to protect them from violence, and is therefore content with paragraph 55. However, the UK Government does not consider that this paragraph applies to the proportionate and reasonable physical chastisement of a child by its parents. UK law allows parents to use physical punishment to discipline their children as long as the punishment amounts to “reasonable chastisement”. If a parent is charged with assaulting their child and claims that they were exercising “reasonable chastisement” Courts have to take certain factors into account when considering whether the punishment did indeed amount to reasonable chastisement. The factors are:

- the nature and context of the treatment;
- its duration;
- its physical and mental effects; and, in some instances,
- the sex, age and state of health of the victim.



*Paragraphs 56 to 58*

91. The drafters regarded as a potential perpetrator any adult regularly or occasionally living with the victim. The circumstance of living together, even occasionally and even without any specific relationship of authority, nonetheless creates an intimate situation that warrants reinforcement of protection.

92. In this type of situation, police action remains an essential factor. Police forces should be enabled, if a person is in danger, to expel a perpetrator immediately from the dwelling, irrespective of the property relations concerning the residence or of any objections of fellow occupants. The provisions of the recommendation specify injunctions to the abuser to keep away from the victim's dwelling and/or other places, or *restraining orders* (whereas under conventional legislation the victim was expected to leave home). This type of arrangement, founded on concern to protect victims and spare them the trauma of leaving home, is established in Austria and Finland.<sup>42</sup> As an example, under Austrian law, expulsion carried out by the police force constitutes an administrative order that must consequently be confirmed by a court decision.

*Paragraph 59*

93. The situation of migrant women is distinctive: they may have suffered violence either before emigrating or afterwards. Risks of violence are also linked with their limited knowledge of the host country's language, culture and applicable legal provisions, which lessens their ability to avail themselves of aid services. The recommendation concerns those women whose right to reside in a given place depends on staying married to a violent man. The intention is to remedy the difficulty that, for women in such circumstances, any attempt to put a stop to the violence carries a risk of expulsion.

**Additional measures concerning sexual harassment**

*Paragraphs 60 and 61*

94. In this area, direct reference should be made to the texts adopted in the European Union framework (Council of the European Communities Resolution of 25 May 1991 on the protection of the dignity of women and men at work, calling on member states to institute positive measures in the public sector, in keeping with national legislation, to serve as an example for the private sector; European Commission Recommendation of 27 November 1992 on the protection of the dignity of women and men at work, requesting member states to take measures in the public sector to implement the code of practice on measures to combat sexual harassment), and to Convention No. 111 of the International Labour Organisation on Discrimination (Employment and Occupation).

95. Situations of sexual harassment are unacceptable if: a) such conduct is unwanted, unreasonable and offensive to the recipient; b) in the workplace, a person's rejection of, or submission to, such conduct on the part of employers or workers is used explicitly or implicitly as a basis for employment decisions concerning this person; c) such conduct creates an intimidating, hostile or humiliating environment for the recipient.

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<sup>42</sup> Federal Act on protection against violence in the family, which came into force in Austria in May 1997. In 1999, 2,076 injunctions of this kind were made in Austria. Act on Restraining Orders, which came into force in Finland on 1 January 1999.

## **Additional measures with regard to genital mutilation**

### *Paragraphs 62 to 67*

96. Several international instruments have condemned genital mutilation (United Nations General Assembly Resolution 48/104 adopting a Declaration on the Elimination of Violence against Women, World Health Organisation Resolution of 10/05/94 on maternal and child health and family planning: traditional practices harmful to the health of women and children, Convention on the Rights of the Child, Article 24.3).

97. Bulgaria, Norway, Sweden, Switzerland and the United Kingdom have enacted specific criminal law provisions against injuring the sexual organs, injury to the female genital organs being generally targeted except in the Bulgarian provisions.

98. The recommendation encourages member states to enact national legislation which reaffirms the principles set forth in the relevant international instruments.

99. Mutilation refers to complete or partial removal of an organ, and specifically the practices of female circumcision, excision or infibulation.<sup>43</sup>

## **Additional measures concerning violence in conflict and post-conflict situations**

### *Paragraphs 68 to 76*

100. Reference should be made to the Statute of the International Criminal Tribunal adopted in Rome in July 1998. Article 7 of the Statute defines rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of sexual violence of comparable gravity, as crimes against humanity. Furthermore, Article 8 of the Statute defines rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of sexual violence as a serious breach of the Geneva Conventions and as war crimes.

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<sup>43</sup> A report to the Council of Europe Parliamentary Assembly by the Committee on Equal Opportunities for Women and Men, describes these practices in detail (document AS/EQ (2000) 20 of 18 October 2000):

- The two most widespread types of mutilation are excision (80%) and infibulation (15%).
- Excision involves ablation of a large part of the clitoris and the labia minora. This form of mutilation is practised above all by tribes in West Africa. It might be compared with sectioning the penis of boys.
- Infibulation involves excision of the clitoris and labia minora and sectioning of the labia majora, the two remaining flaps being brought together in such a way that only a tiny opening remains for evacuation of urine and menstrual flow. The place of the vulva is taken by heavy scar tissue, which must be cut at marriage and childbirth. Infibulation is characteristic of East Africa.
- One type of infibulation peculiar to West Africa entails leaving the labia majora intact but drawing the reduced labia minora together so that the vagina is closed off almost entirely.
- There are still other forms of excision, including vaginal introcision, the introduction of corrosive substances or plants into the vagina in order to cause bleeding or reduce its size, pricking or perforation of the clitoris and cauterisation by burning the clitoris.
- These operations, which last some fifteen or twenty minutes, are generally carried out by a traditional excisor, usually the community headwoman, with crude instruments and without anaesthetic. Among the wealthier classes they are sometimes performed in hospitals by qualified staff.
- The age at which mutilation is carried out varies according to ethnic group and locality. It may concern babies no more than a few days old or girls between four and ten years of age. Sometimes it is delayed until adolescence, and on occasion it takes place at marriage or during the first pregnancy.
- All these forms of mutilation are irreversible and damaging to health, and they all have lifelong consequences.

101. In preparing the recommendation, the drafters monitored the detection of cases of rape in a war situation, forced pregnancies and acts of "ethnic cleansing" occurring in the former Yugoslavia. They addressed the issue of the organised violence committed against women by members of the armed forces and police. The prevalence of this form of violence has not yet been properly studied. Also considered are cases of individuals who have used the powers attaching to offices conferred on them by the state as a means of access and of inflicting certain forms of violence on women.<sup>44</sup>

### **Additional measures concerning violence in institutional environments**

#### *Paragraphs 77 and 78*

102. The specific characteristics of confinement or isolation and the authority brought to bear by the personnel over the individuals in an institutional environment, may lead to a greater vulnerability of the latter in situations of violence. If these characteristics make it difficult to detect this kind of violence, they must be the object of active prevention policies and court proceedings.

### **Additional measures concerning failure to respect freedom of choice with regard to reproduction**

#### *Paragraph 79*

103. This concerns the interferences with women's freedom of choice and physical integrity which can occur in a variety of situations (for example, the practice of pre-natal selection by sex). In Europe, these interferences have been particularly brutal in situations of overt or latent conflict.<sup>45</sup>

### **Additional measures concerning killings in the name of honour**

#### *Paragraphs 80 to 83*

104. Murders to clear the family honour are still committed in certain parts of Europe. This form of violence involves the brutal murder of young women by members of their family – usually young men who are often below the age of criminal responsibility – for apparent departures, perceived as "dishonouring", from the behaviour patterns expected of women. The drafters examined a number of cases of such murders in Turkey, as well as anecdotal testimonies to cases in other regions.<sup>46</sup> Although the phenomenon is not very widespread, it

<sup>44</sup> See the proceedings of the Seminar "Rape is a war crime. How to support the survivors. Lessons from Bosnia – Strategies for Kosovo", organised by the European Commission (Vienna, 18-20 June 1999), and the proceedings of the seminar on "Men and violence against women" organised by the Council of Europe, Strasbourg 1999 – EG/SEM/VIO (99) 11 (report on male violence against women and children in wartime by Dubrovka Kocijan Hercigonja).

<sup>45</sup> The most recent cases in Europe were recorded during the Yugoslav conflict.

<sup>46</sup> The following examples illustrate these practices. Rabia (age 25) (August 1995). Rabia fell in love with a young man and wanted to marry him, but her family objected. She eloped with him and they spent the night in a cemetery where they had sexual intercourse; next morning she had regrets and went to the police station. The family was summoned and the father said that, since his daughter had gone with the man of her own free will, he had nothing against the man and consented to their marriage. She was sent home on the strength of that statement. However, her angry father and brothers kept repeating that they would never again be able to look the neighbours in the eye; the family was disgraced. The following day, Rabia was taken away by car with her mother, who was dropped along the way. Suspecting that she was to be killed, the girl jumped out and hid in a shop. She was chased by her brother, dragged out by the hair, and thrown under the wheels of a passing tractor.

was considered most important that the recommendation should mention these practices and prescribe measures for their prohibition.

### **Additional measures concerning early marriages**

#### *Paragraphs 84 and 85*

105. The drafters recommended that the age of consent (especially for marriage) should be determined by national legislation.

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He later declared that it was an accident. The court held that murder had been committed, on the same grounds as in previous cases: according to local custom, the family of a girl who elopes is shunned by society unless she kills the abductor. The family was placed under strong social pressure. Each of the accused was sentenced to twelve years and six months imprisonment. Between 1994 and 1998, five girls were killed for reasons of honour at Şanlı Urfa, a town in south-eastern Turkey. Such murders are common in the region and among its former residents living in major cities.

## **Appendix I**

### **Chronology**

Violence against women is a phenomenon which has constantly evolved with the passage of time but which remains more present than ever within our societies, whatever their nature.

From the 18<sup>th</sup> century onwards, successive industrial and social revolutions have afforded a number of women access to the world of work and education, though without granting them equivalent rights to men in keeping with their role or function.

Not until the 20<sup>th</sup> century were they able to claim equal rights, which were secured at least in law only towards its close. In practice, women are still subjected to discrimination in social, occupational and family life; they are the first to be affected by economic and political crises; they are the prime targets, the hostages and the first victims of conflicts in all parts of the world.

1945: the principle of equality between women and men was enshrined in the United Nations Charter; this major legal event of the post-war period concerned 50 nations, asserting "the determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women and of nations large and small". Accordingly, the Charter entitles women to full realisation of their fundamental rights and places the member states of the United Nations under a legal obligation to strive to eliminate all forms of discrimination against women.

1946: formation of the Commission on the Status of Women.

1975: in order to protect the status of women, too often flouted in the world at large, the UN proclaimed 1975 "International Women's Year" and organised the first World Conference on the International Women's Year in Mexico City.

1976-1985: United Nations General Assembly Resolution 3250 (XXX): proclaimed the decade 1975-85 the "Decade For Women: Equality, Development and Peace".

1979: Following this proclamation, the Council of Europe set up a "Committee on the status of women" whose primary responsibility was to establish a Council of Europe programme aimed at promoting equality between the sexes. On completing its terms of reference, the Committee considered that the Council of Europe should have a permanent structure to examine all aspects in this field, and suggested setting up a "Committee for Equality between Women and Men" (CAHFM), an intergovernmental co-ordinating and consultative body of a multidisciplinary and inter-sectoral nature.

1980: Second World Conference on women's issues in Copenhagen.

1982-86: The Council of Europe Committee for Equality between Women and Men (CAHFM) had the main function of evaluating and stimulating the Organisation's action in favour of equality between women and men, and promoting measures suitable for adoption at the level not only of the Council of Europe but also of the member states.

1985: Third World Conference to review and appraise the achievements of the United Nations Decade for Women: Equality, Development and Peace in Nairobi (15-26 July 1985).

1987: On the expiry of the CAHFM's terms of reference, a new committee was set up, the European Committee for Equality between Women and Men (CEEG). Its functions were extended to promoting European co-operation for the attainment of real equality between women and men, and promoting measures suitable for adoption at the level not only of the Organisation but also of the member states.

1988: The Declaration of the Committee of Ministers, dated 16 November 1988, was a landmark in the Council's policy on equality between women and men. It affirms that the principle of equality of the sexes is an integral part of human rights, and that sex-related discrimination is an impediment to the exercise of fundamental freedoms. Its eradication is a *sine qua non* of democracy and an imperative of social justice.

1989: In pursuance of this policy, the European Committee was transferred from the field of social and economic affairs to that of human rights, which is one of the prime areas of the Council of Europe's work.

1992: The setting up of the current Steering Committee for Equality between Women and Men (CDEG) was a further important step in Council of Europe policy measures to promote equality. Its advancement to the status of a steering committee, which increased its importance and prerogatives (including the right to set up subordinate structures), demonstrated that equality between women and men constituted a priority for the Council of Europe.

1995: Fourth World Conference on Women in Beijing, 4-15 September 1995.

The Platform for Action adopted at this conference contains several chapters partly or entirely relating to the issue of violence against women (IV.C on women and health; IV.E on women and armed conflicts).

2000: The Special Session of the United Nations General Assembly (New York, 5-9 June 2000) "Women 2000: Gender Equality, Development and Peace for the Twenty-first Century", celebrating the 5<sup>th</sup> anniversary of the Beijing Conference, adopted a series of "Further actions and initiatives to implement the Beijing Declaration and Platform for Action" (see document A/S-23/10/Rev.1 – General Assembly, 23<sup>rd</sup> Special Session, Supplement No. 3). This text contains innovatory provisions on violence, in that it identifies killings in the name of honour and marital rape as practices to be condemned.

## Appendix II

### Defining violence against women and girls

*Excerpts from the Plan of action for combating violence against women  
(document EG-S-VL (97) 1)*

The information presented below was obtained by circulating a series of questionnaires to governmental organisations, NGOs and other bodies.

Some illustrations of the types of behaviour which the drafters include in the ambit of the term “violence against women”:

#### *Physical violence*

Pushing, shoving, hair-pulling, hitting, beating, kicking, burning, biting, strangling, stabbing, genital mutilation, torture, murder. Severity of injury ranges from minimal tissue damage, broken teeth and bones to permanent injury and death.

#### *Sexual violence*

Any non-consensual sexual activity including sexual taunts and jokes, staring and leering, unwelcome comments, indecent exposure, offensive phone calls, unwanted sexual propositions, forced viewing of or participation in pornography, unwanted touching, coerced sex, rape, incest, performance of sexual acts which the woman finds painful or humiliating, forced pregnancies, trafficking in women, and their exploitation by the sex industry.

#### *Psychological violence*

Taunts, jeers, spiteful or humiliating comments, threats, isolation, contempt, bullying, public insult. This kind of behaviour is usually experienced as damaging to self-image and self-confidence, especially if it is persistent.

#### *Economic violence*

Inequitable control over access to shared resources, for example denying/controlling access to household money, preventing the partner's access to employment or further education, or denial of the wife's right to property.

#### *Structural violence*

This form of violence is closely related to economic violence, and comprises non-visible and non-tangible barriers against the realisation of women's potential options and basic rights. These obstacles are grounded and reproduced daily in the very fabric of society, ie the power differentials and power relations (structures) which generate and legitimise inequality.

#### *Spiritual violence*

Behaviour that erodes or destroys a woman's cultural or religious beliefs by ridiculing or penalising them or forcing her to adhere to a different belief system.

The majority of instances of violence against women are combinations of physical, sexual and psychological violence, underpinned by structural violence, and sometimes also include economic and spiritual violence.

### *Rape and sexual assault*

This paragraph discusses reported cases of rape and sexual assault. Direct comparisons were impossible since the available data covered various combinations of reported rapes, prosecuted cases and/or convictions for rape and associated crimes.

Several general points emerge from an analysis of the information:

The levels of reporting vary greatly between European countries, being comparatively high in some and comparatively low in others. While prevalence can indeed vary, some of the variation is due to differing levels of taboo, awareness and women's confidence in the police and other agencies;

In many countries an increase in reported rapes has been registered over the last decade, and the figures are larger each year. This is probably a reflection of liberation from taboo and increasing confidence in the criminal justice system;

In some countries this increased faith in the criminal justice system has not been borne out in practice since, while reporting has increased, the proportion of cases which result in convictions has decreased.<sup>47</sup>

Only two prevalence surveys on rape were reported to the drafters; by asking women about their experiences, these surveys allowed some estimate of the extent of under-reporting. In both, 20-25% of women reported rape or attempted rape. Their husbands or partners were usually the culprits and, where rape occurred in the context of a settled relationship, it was very likely to be a recurrent experience.

This finding raises a number of issues: the wide variations in reporting of rape between, and probably also within, countries; the "attrition" of reported cases as they are processed through the departments of the criminal justice system; the limited research data on rape in Europe.

### *Domestic violence*

The information supplied to the drafters clearly demonstrates increased reporting and recording of domestic violence over the last decade. It also appears that more research has been conducted on this issue than on many of the others covered by this report. The increase in reporting of cases was particularly marked in the 1990s, as illustrated by the figures received from different countries and different types of organisation. In other words, more women were contacting the police, availing themselves of refuges/shelters and turning to other women's organisations.

Domestic homicide, ie men killing female partners and ex-partners, and women killing their abusers, form a useful indicator of the levels and seriousness of domestic violence, and such

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<sup>47</sup> The proportion of reported rapes leading to a conviction in the UK fell from 34% in 1977 to less than 10% in 1994 (Home Office figures). These percentages should be compared with figures from the Polish Ministry of Justice indicating verdicts of guilty in two-thirds of reported rape cases in 1994. The Home Office announced in late 1996 that it would conduct an inquiry into the decrease in conviction rates for rape cases.



figures should be regularly collected. The figures published for Russia, 5,300 women's deaths in 1991 and 14,000 in 1993, greatly alarmed the Group of Specialists. If the Interior Ministry figures are correct, they point to a rate 20 times that of the United States.<sup>48</sup>

The present report is confined to reported cases of domestic violence. In many countries, domestic violence made up a significant proportion of crimes against the person, in a range from 66% to 10%. Some countries also provided information from hospitals, where the proportion of injuries due to assault by a partner was surprisingly high. Another indication of prevalence was the proportion of women alleging violence or cruelty in divorce petitions, the highest figure in this respect being 70%.

The drafters were informed of six prevalence studies on domestic violence, and collected data on four more. There was astonishing consistency between the results, as all studies concluded that 25% of women suffered domestic violence and between 6% and 10% of women suffered violence in a given year.

Although the number of complaints of violence to law enforcement authorities varied, it would appear the rates were more consistent than for rape, and that the results of the prevalence surveys agreed sufficiently to suggest that at least one in four women in Europe suffers some form of violence at the hands of a male partner or ex-partner.

#### *Sexual violence against children, especially girls*

The information collected demonstrates that sexual violence against children and girls has become an issue of increasing concern over the last decade. Violence against all children needs to be taken seriously, but this report focuses on girls since they are more likely to be sexually abused than boys, especially by a family member. The likelihood of girls being constantly victimised is far greater where childhood experiences are compounded by harassment and assaults in adulthood.

This paragraph discusses reported cases of child sexual abuse. Here again, reporting has increased over time but the overall figures are lower than for rape or domestic violence. It is plainly harder for children and young people to report offences to the authorities than for women. Although the drafters received only limited information on prosecutions, the facts disclosed would suggest that very few cases reach that stage, so that very few abusers are punished for their wrongdoing.

Slightly more information was found concerning the prevalence of sexual violence, and this showed the extent of under-reporting. The findings of these studies vary considerably, with a minimum of 8% and a maximum of 59% of girls reporting some form of sexual violence in childhood. The variation is largely due to difference in the methods used by the researchers, for example the time when the study was conducted (before or after liberation from taboos), definitions of childhood (ending at 14, 15, 16 or 17), and the definitions of sexual violence (whether it includes "non-contact" forms and abuse by peers as well as adults). These substantial differences in methodology mean that it is impossible to determine whether there are variations in prevalence between countries.

While a significant proportion of sexual violence is committed by family members (father, stepfather, brother, grandfather or uncle) and a smaller proportion by strangers, the

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<sup>48</sup> Source: The Economist 12.8.95.

intermediate grouping of adults and peers known to victims also needs to be considered. This group includes, for example, family friends, male peers, teachers, sports coaches, neighbours, religious leaders and institutional staff.

### *Sexual harassment*

The drafters received far less information about reported cases of sexual harassment or studies of it.

Some countries have recorded an increase in the number of reported cases, whereas others stated that no official report had been prepared. It was not clear from the information received whether there were distinct official data collection channels, since in many countries sexual harassment is not a criminal offence. The drafters had only very limited data on prosecuted cases and could not establish whether the reason was the fewness of cases or rather the absence of data-gathering mechanisms.

Estimates made from six European studies place the proportion of women experiencing workplace sexual harassment at between 45% and 81%, and those reporting it at between 5% and 22%.

Studies of sexual harassment tend to focus on the workplace. The harassment encountered by women in public places is seldom studied. Recent high-profile cases of "stalking" in the United Kingdom (repeated harassment which includes being followed in the street, receiving telephone calls and letters, and face-to-face contact), committed by men whom the victims scarcely knew, have highlighted the extent of the problem and the limited legal and protective remedies available to victims.

Other research data from the United Kingdom reveal the importance of other "neglected" forms of violence against women:

63% of women report at least one experience of flashing (exhibitionism);<sup>49</sup>

2 in 3 women have received abusive/obscene phone calls;<sup>50</sup>

1 in 10 women receive at least one such phone call per year.<sup>51</sup>

A substantial proportion of women interviewed during a survey in Merseyside (between 50% and 80% depending on the activity) said that they avoided certain activities<sup>52</sup> (walking alone at night, going out at night, attending evening classes/leisure activities, going on holiday alone) because of fears for their safety.

### *Female genital mutilation*

Very few European countries have collected statistics on this issue, with the exception of the United Kingdom. No prevalence study which includes or directly addresses it is available

<sup>49</sup> Source: Sandra McNeill (1988) "Flashing – its effect on women" in: *Women, Violence and Social Control*, London.

<sup>50</sup> Source: Glasgow Women's Support Project (1990).

<sup>51</sup> Source: Obscene, threatening and other troublesome telephone calls to women in England and Wales: 1982-1992 (1995) Research and Planning Unit Paper 92, London. Home Office.

<sup>52</sup> M Foley and K Cook (1995), *Women's Safety Survey*, unpublished.

anywhere. In fact (see comparative legal study) many countries asserted, on sparse and unsubstantiated evidence, that they were not affected by the problem. The United Kingdom organisation FORWARD, committed to studying the problem of female genital mutilation, estimates that in the United Kingdom alone, at least 10,000 girls and young women are at risk.

### *Trafficking and the sex industry*

Several countries have noted an increase in trafficking within Europe and into Europe from elsewhere in the world. This increase in turn reflects the growth of sexual exploitation in Europe where new forms are emerging, including those which use technology such as telesex, virtual sex and computer pornography.

The increase in trafficking between European countries evidently stems from Eastern Europe and is directed at Western Europe. It takes various forms ranging from kidnapping to bogus marriage bureaux and misleading women as to their destination and future employment.

In this matter, reference should be made to Recommendation No. R (2000) 11 of the Committee of Ministers to member states on action against trafficking in human beings for the purpose of sexual exploitation and the explanatory report thereto, and other relevant publications.<sup>53</sup>

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<sup>53</sup> Recommendation No. R (2000) 11 of the Committee of Ministers to member states on action against trafficking in human beings for the purpose of sexual exploitation, adopted on 19 May 2000. <http://www.humanrights.coe.int/equality>.



**Recommendation 1582 (2002)** <sup>[1]</sup>  
**of the Parliamentary Assembly of the Council of Europe**  
*Provisional edition*

**Domestic violence against women**

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1. Domestic violence is a most common form of violence against women and its consequences affect many areas of the lives of victims — housing, health, education and the freedom to live their lives without fear and in the way they wish. This widespread phenomenon is common to all European countries and is not limited to any particular social group or class. Domestic violence can take a number of forms such as physical assault, sexual abuse and rape, threats and intimidation and should be recognised as a crime.

2. Violence committed within the family is still considered to be a private matter. Statistics shows that for women between 16 and 44 years of age, domestic violence is thought to be the major cause of death and invalidity, ahead of cancer, road accidents and even war. Therefore, domestic violence should be treated as political and public problem, concerning human rights violation.

3. The Assembly recalls the Final declaration adopted at the Second Summit of the Council of Europe (Strasbourg, 1997), Assembly Recommendation 1450 (2000) on violence against women and Committee of Ministers Recommendation (2002) 5 on the protection of women against violence in which all forms of violence against women have been condemned as being a general violation of their rights as human beings.

4. The Assembly considers acts of domestic violence to be criminal acts and calls on the member states to recognise that they have an obligation to prevent, investigate and punish the acts of domestic violence and to provide protection to victims.

5. Taking into account the hidden nature of domestic violence, the Assembly urges governments to introduce effective awareness-raising policies and information campaigns to inform and educate the population on this problem. Each government should obtain objective information and data on the dimension of these crimes.

6. The Assembly recognises the importance of the development of community intervention strategies at local levels, aimed at the co-ordination of inter-agency cooperation and the mobilisation of financial and human resources in the fight against domestic violence, calling on people to take responsibility for change where they live and work.

7. Therefore the Assembly calls on the member states of the Council of Europe to:

**A. adopt the following measures regarding victims of domestic violence**

- i. to provide victims of domestic violence with free legal advice and assistance before taking legal action;
- ii. to help victims of domestic violence, by opening residential centres where women can receive psychological support and by giving financial support to welfare associations and emergency services;

- iii. to insure effective protection for victims of violence after the incident and during the whole legal procedure;
- iv. to give special financial support to non-governmental organisations as well as to women's associations working with victims of domestic violence;
- v. to adopt or reinforce social protection measures so that injuries caused to women and children by violent acts are provided for under social protection schemes;
- vi. to promote the training of professionals working with young people, as well as health personnel, to identify children and adolescents growing up in violent homes and to take the necessary measures to help and assist them;
- vii. to ensure the training of medical personnel to enable them to identify victims of violence;
- viii. to grant immigrant women who have been or who are victims of domestic violence an independent right of residence.

**B. take the following steps regarding the prevention of domestic violence**

- i. to improve statistics on domestic violence, to give a clear picture of its nature and prevalence, to enable the identification of resources addressing it, and to enable the evaluation of initiatives to tackle it;
- ii. to develop a partnership between the authorities responsible for the protection of women's rights and regional and local authorities in order to increase the number of rehabilitation centres and shelters for women-victims of domestic violence;
- iii. to promote continuing cooperation and understanding between the police, government departments and non-governmental organisations on the problems and dangers associated with domestic violence;
- iv. to develop action plans in co-operation with women's non-governmental organisations in order to create a general climate where domestic violence is rejected;
- v. to launch through the media national awareness campaigns against domestic violence;
- vi. to organise training for people who deal with victims of domestic violence: health care staff, police and social workers;
- vii. to start gender equality education and education on non-violent behaviour at a very early stage and to ensure an adequate training for teachers on the issue of domestic violence and gender equality;
- viii. to encourage citizens through educational programmes to accept their responsibilities, and take positive steps to reduce and prevent domestic violence incidents in the society;
- ix. to increase state funding to support the social services dealing with this problem of domestic violence;
- x. to encourage the media to cover in a regular, objective and non-biased manner the problem of domestic violence; the mass media should also try to educate the public about the causes and consequences of domestic violence;
- xi. to encourage women to learn self-defence techniques;
- xii. to elaborate proper training programmes for the perpetrators of violence against women;
- xiii. to develop special information programmes for men with the aim of preventing acts of domestic violence;

**C. provide for the following legal measures**

- i. national legislation should prohibit all forms of domestic violence and introduce effective legal provisions, including the immediate removal of the violent partner from the common household and the environment of the woman and her children, without prior proof and on the first complaint without waiting for the court order;
- ii. the concept of domestic violence should be defined in national legislations in such a way that it is treated as a serious criminal offence whatever its form;
- iii. in view of the legal and institutional reform aimed at establishing more effective systems for protecting women against domestic violence, a review of existing national laws and comprehensive research are necessary ;
- iv. conjugal rape should be made a criminal offence;
- v. access to justice and the different procedures should be more flexible: hearings preferably held in private, reduced burden of proof, etc;
- vi. the police and law enforcement agencies should be granted authority to carry out investigations and obtain evidence, and to lodge complaints on behalf of victims of domestic violence.

8. The Assembly invites the Committee of Ministers to launch a European Year Against Domestic Violence, which would highlight this problem at European level and incite European governments to undertake concrete action to combat domestic violence.

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[1]. Assembly debate on 27 September 2002 (32nd Sitting) (see Doc. 9525, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Keltošová and Doc. 9563, opinion of the Social, Health and Family Affairs Committee, rapporteur: Mr Hancock). Text adopted by the Assembly on 27 September 2002 (32nd Sitting).





**Resolution 1327 (2003)<sup>54</sup>**  
**of the Parliamentary Assembly of the Council of Europe**

*Text adopted by the Assembly on 4 April 2003 (16th Sitting).*

**So-called “honour crimes”**

1. The Parliamentary Assembly is very concerned by the increase in so-called “honour crimes”, committed against women in the name of honour, which constitute a flagrant violation of human rights based on archaic, unjust cultures and traditions.
2. The Assembly recalls the European Convention on Human Rights, which safeguards the right to life and the right not to be subjected to torture or to inhuman or degrading treatment or punishment.
3. It also refers to its Recommendations [1450](#) (2000) and [1582](#) (2002) concerning violence against women in Europe which condemn all “honour crimes”, and to Resolution [1247](#) (2001) on, more specifically, female genital mutilation, and which stresses the importance and urgency of making a distinction between the need to protect minority cultures and turning a blind eye to unacceptable customs that amount to torture and/or a breach of human rights.
4. The Assembly notes that whilst so-called “honour crimes” emanate from cultural and not religious roots and are perpetrated worldwide (mainly in patriarchal societies or communities), the majority of reported cases in Europe have been amongst Muslim or migrant Muslim communities (although Islam itself does not support the death penalty for honour-related misconduct).
5. The Assembly welcomes the adoption by the United Nations General Assembly of the Resolution on Working towards the Elimination of Crimes against Women Committed in the Name of Honour, which invites the international community to support the efforts of all countries, at their request, aimed at strengthening institutional capacity for preventing crimes against women committed in the name of honour and in addressing their root causes.
6. The Assembly also recalls the United Nations Convention on the Elimination of all Forms of Discrimination Against Women and its Optional Protocol, which make the state responsible for failures to implement the provisions of the convention concerning the ill-treatment of women, including crimes committed in the name of honour. It appeals to member states of the Council of Europe to ratify the convention and especially its optional protocol.
7. The Assembly notes that some states use case-law as a tool to defend so-called “honour crimes”, and deplores inaction in the countries where they are justified by the traditions and customs of minorities.

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<sup>54</sup> *Assembly debate* on 4 April 2003 (16th Sitting) (see [Doc. 9720](#), report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Cryer; and [Doc. 9770](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Wohlwend).

8. The Assembly is concerned by the insufficiency of adequate data recording the occurrence of so-called “honour crimes” and the policies of some states, which do not disclose such information. It considers that member states of the Council of Europe should make public all information relevant to these crimes, in order to facilitate the efforts to combat such forms of violence and increase awareness of their occurrence.

9. The Assembly welcomes the measures taken by some European countries aimed at the prevention and elimination of so-called “honour crimes”, including amendments to national legislation and granting residence permits or even asylum status to women who have been subjected to such crimes.

10. Therefore the Assembly calls on the member states of the Council of Europe to:

- i. adopt the following legal measures regarding the prevention and prosecution of so-called “honour crimes”:
  - a.* amend national asylum and immigration law in order to ensure that immigration policy acknowledges that a woman has the right to a residence permit, or even to asylum, in order to escape from “honour crimes”, and does not risk deportation or removal if there is, or has been, any actual threat of a so-called “honour crime”;
  - b.* enforce the legislation more effectively to penalise all crimes committed in the name of honour and ensure that allegations of violence and abuse are treated as serious criminal complaints;
  - c.* ensure that such crimes are effectively (and sensitively) investigated and prosecuted. The courts should not accept honour in mitigation, or as a justifiable motive, of the crime;
  - d.* take the necessary measures to implement the laws related to these crimes and to give policy makers, the police and the judiciary a better understanding of the causes and consequences of such crimes;
  - e.* ensure a stronger female presence within the judicial bodies and the police;
- ii. adopt the following preventive measures:
  - a.* launch national awareness-raising campaigns through the media, in schools, universities and religious institutions in order to discourage and prevent “honour crimes”;
  - b.* provide special educational programmes for women and men from communities where such crimes occur, to raise their awareness of women’s rights;
  - c.* ensure that all children are made aware of gender equality from an early age;
  - d.* encourage the collation and dissemination of statistical information on the occurrence of so-called “honour crimes”;
  - e.* provide gender equality training to law enforcement and judicial personnel to enable them to address complaints of violence in the name of honour with impartiality;
- iii. adopt the following protective measures:
  - a.* provide support for the victims and potential victims of attempted so-called “honour crimes” who request asylum;
  - b.* provide support for the victims and potential victims of attempted so-called “honour crimes”, including personal protection, legal aid and psychological rehabilitation;
  - c.* create conditions for people to report such crimes in a safe and confidential environment;
  - d.* support NGOs and women’s associations which combat these practices and provide a safe refuge.

## **Recommendation 1663 (2004)<sup>55</sup>**

### **of the Parliamentary Assembly of the Council of Europe**

*Text adopted by the Assembly on 22 June 2004 (19th Sitting).*

#### **Domestic slavery: servitude, au pairs and “mail-order brides”**

1. The Parliamentary Assembly is dismayed that slavery continues to exist in Europe in the twenty-first century. Although, officially, slavery was abolished over 150 years ago, thousands of people are still held as slaves in Europe, treated as objects, humiliated and abused. Modern slaves, like their counterparts of old, are forced to work (through mental or physical threat) with no or little financial reward. They are physically constrained or have other limits placed on their freedom of movement and are treated in a degrading and inhumane manner.

2. Today’s slaves are predominantly female and usually work in private households, starting out as migrant domestic workers, au pairs or “mail-order brides”. Most have come voluntarily, seeking to improve their situation or escaping poverty and hardship, but some have been deceived by their employers, agencies or other intermediaries, have been debt-bonded and even trafficked. Once working (or married to a “consumer husband”), however, they are vulnerable and isolated. This creates ample opportunity for abusive employers or husbands to force them into domestic slavery.

3. Domestic slaves, exploited au pairs and abused “mail-order brides” find it difficult to extract themselves from their situation. In a foreign country, far from home, many of the victims do not even speak the language of the country they live in, let alone know its laws and customs. Their employer or husband will usually have a hold over them, threatening them or their relatives with further abuse and reprisals should they dare to complain or leave. Many of them do not know where to turn for help and do not dare go to the police for fear of deportation. In addition, the police in host countries are often less than sympathetic to domestic slaves who have escaped, especially if they have no papers or if their papers are not in order.

4. In this sense, the Italian experience can be considered an example of good practice, thanks to the adoption in 2003 of an effective anti-trafficking law which incorporated the basic guidelines set forth in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, and made any behaviour which may be associated with trafficking in human beings a specific criminal offence; it also added servitude to slavery as grounds for indictment in the criminal code. Strict sanctions are accompanied by a strengthened mechanism for protecting and assisting victims through the establishment of an ad hoc fund for action against anti-trafficking under the presidency of the Council of Ministers.

5. The Council of Europe must have zero tolerance for slavery. As an international organisation defending human rights, it is the Council of Europe’s duty to lead the fight

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<sup>55</sup> Assembly debate on 22 June 2004 (19th Sitting) (see Doc. 10144, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mr Gaburro).

against all forms of slavery and trafficking in human beings. The Organisation and its member states must promote and protect the human rights of the victim and ensure that the perpetrators of the crime of domestic slavery are brought to justice so that slavery can finally be eliminated from Europe.

6. The Assembly thus recommends that the Committee of Ministers:

*i. in general:*

- a.* bring the negotiations on the Council of Europe draft convention on action against trafficking in human beings to a rapid conclusion;
- b.* encourage member states to combat domestic slavery in all its forms as a matter of urgency, ensuring that holding a person in any form of slavery is a criminal offence in all member states;
- c.* ensure that the relevant authorities in the member states thoroughly, promptly and impartially investigate all allegations of any form of slavery and prosecute those responsible;
- d.* recommend that member states review their immigration and deportation policies, granting victims of domestic slavery at least temporary residence permits (if possible, in conjunction with work permits) and allowing them to file complaints against their abusive husbands or employers if they wish to do so;
- e.* urge member states to provide an efficient support network for victims (including emergency accommodation, health care, psychological and legal counseling services) and attribute funds to non-governmental organisations working in this area;
- f.* ensure that victims of slavery are provided with reparation, including compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition;

*ii. as concerns domestic servitude:*

- a.* elaborate a charter of rights for domestic workers, as already recommended in [Recommendation 1523 \(2001\)](#) on domestic slavery. Such a charter, which could take the form of a Committee of Ministers' recommendation or even of a convention, should guarantee at least the following rights to domestic workers:
  - the recognition of domestic work in private households as “real work”, that is, to which full employment rights and social protection apply, including the minimum wage (where it exists), sickness and maternity pay as well as pension rights;
  - the right to a legally enforceable contract of employment setting out minimum wages, maximum hours and responsibilities;
  - the right to health insurance;
  - the right to family life, including health, education and social rights for the children of domestic workers;
  - the right to leisure and personal time;
  - the right for migrant domestic workers to an immigration status independent of any employer, the right to change employer and to travel within the host country and between all countries of the European Union and the right to the recognition of qualifications, training and experience obtained in the home country;
- b.* recommend the introduction of a system of accreditation for agencies placing domestic workers, which would commit these agencies to certain minimum standards, such as charging reasonable fees, tracking the employees they have placed and providing emergency help in cases of difficulty. Accredited agencies could have visa applications put forward on their behalf validated automatically;
- c.* ensure regular monitoring by appropriate authorities of the agencies accredited under the system referred to in sub-paragraph *b* above;

iii. *as concerns au pair placement:*

*a.* issue guidelines in the form of a Committee of Ministers' recommendation to member states, which would ensure that the distinctive status of au pairs (neither students nor workers) is recognised and safeguarded, their working conditions and social cover are fixed and that the au pair industry is appropriately regulated at national and international level;

*b.* recommend government regulation of the au pair placement industry, through the creation of a system of accreditation, by virtue of which agencies that commit themselves to certain minimum standards – such as charging reasonable fees, ensuring au pairs enter into a legally binding contract with their employers which clearly states rights, responsibilities and duties and providing emergency help in cases of difficulty – would see visa applications put forward on their behalf validated automatically. Accredited agencies should also be committed to doing background checks on both the prospective au pair and the prospective host family to ensure that they do not have criminal convictions, for example for sexual or child abuse;

*c.* ensure regular monitoring by appropriate authorities of the agencies accredited under the "accreditation" system referred to in sub-paragraph *b* above;

iv. *as concerns "mail-order brides":*

*a.* consider including "mail-order brides" in the scope of the draft convention on action against trafficking in human beings, in particular when the "bride" in question has become a victim of violence or other abuse, such as domestic slavery;

*b.* recommend the regulation of agencies active in this field through the introduction of an accreditation system, which would commit these agencies to certain minimum standards, such as charging reasonable fees, ensuring that the persons responsible for an Internet agency site are clearly identifiable and that users of the site are obliged to identify themselves, following up marriages and providing an emergency contact number. Agencies should also be committed to carrying out background checks on the prospective bridegroom to ensure he does not have a criminal record (for example for domestic violence or procurement) when couples consider marriage;

*c.* ensure regular monitoring by appropriate authorities of the agencies accredited under the "accreditation" system referred to in sub-paragraph *b* above.