

UNHCR comments to the first Meeting of the Ad hoc Committee on preventing and combating violence against women and domestic violence (6 – 8 April 2009)

UNHCR welcomes the implementation by the Council of Europe of Recommendation 1847(2008)¹ of the Parliamentary Assembly to draft a framework convention on “the severest and most widespread forms of violence against women, in particular domestic violence against women, sexual assaults and harassment, forced marriages, so-called ‘honour crimes’ and female genital mutilation.”

UNHCR welcomes the use of a human rights framework and a gender equality perspective as an overarching guiding principle in light that violence is a human rights issue caused by the historical unequal relations between men and women.

In respect of UNHCR’s mandate as it concerns refugees, asylum seekers, internally displaced persons (IDPs) and stateless persons who are in need of different forms of international protection, UNHCR recommends the following:

1. In line with Recommendation 1847(2008), the convention should focus on “the severest and most widespread forms of violence against women, in particular domestic violence against women, sexual assaults and harassment, forced marriages, so-called ‘honor crimes’ and female genital mutilation” and not be limited to addressing violence in the domestic sphere. UNHCR would strongly welcome that the Council of Europe embarrasses a wider approach to include other forms of gender based violence.
2. The intersection of domestic violence and sexual violence, and as a result the sole focus on domestic violence, may leave substantial groups of women without advice and assistance since services on domestic violence do not always provide adequate responses to sexual violence. In addition, in comparison of the two types of violence, sexual violence has relatively fewer services across Europe.² Forcibly displaced women are likely to have suffered sexual assault, rape, exploitation and during refuge may then be subjected to domestic violence. Therefore an instrument should be drafted to meet the needs of such groups of women in addition to those who may have suffered domestic violence alone.
3. Under the “P” for prevention³ strategy, the option of access to asylum should be included. Asylum acts as a mechanism of prevention from violence against women specifically addressing persons suffering gender based persecution including persecution based on sexual orientation.
4. Under the “P” for protection, the option of access to asylum as a mechanism of protection for survivor/victims should be included, specifically to address gender based asylum claims including claims based on sexual orientation.
5. Under the prevention and protection dimensions, “outreach” should be included to cover the identification, monitoring and accelerated access to basic services, including asylum procedures, as the need may arise for refugees and asylum seekers who may otherwise be reluctant to approach the authorities for assistance or be unaware of the procedures to do so.

¹ Recommendation 1847(2008) on “Combating violence against women: towards a Council of Europe convention”, 3 October 2008.

² Kelly, Rodick, *Combating violence against women: minimum standards for support services*, September 2008.

³ The structure of the instruments should be based on the “three Ps” which are the priorities: Prevention, Protection of victims and Prosecution of offenders.

6. UNHCR notes the existing Convention on children⁴ and underlines that children deserve specific forms of protection and assistance. However, forms of violence such as early marriage and female genital mutilation that are proposed for inclusion in this instrument are not included within the existing Council of Europe Convention on children. These forms of violence predominately but not exclusively affect children. Therefore it will not be possible to leave children out of the proposed instrument as suggested by some Member States. Furthermore, in relation to early marriage, child victim/survivors may have already been exposed to abuse and as a result may require the range of services normally reserved for child victims of sexual abuse and exploitation.
7. Information, communication and education on violence against women should be culturally and linguistically accessible to refugees, asylum seekers, IDP's and stateless persons.
8. Protection services, including shelter, should be made accessible to refugees, asylum seekers, IDP's and stateless persons irrespective of their status. Shelter for victim/survivors should provide legal advice pertaining to asylum procedures, to enable asylum seekers who are victims of violence to have the full enjoyment of their rights.
9. Under the principle of confidentiality, the implications for services providers sharing information on the residency status of survivors with the other authorities should be considered so that it does not result in *refoulement*. Survivors should also be allowed sufficient time to extrapolate themselves from abusive relationships and where their status is dependant on the asylum claim/status of the abuser be allowed to regularize their status accordingly.
10. In line with the Recommendation 1850(2008) the rights of irregular migrants, refugees and asylum seekers arriving should be guaranteed and the authorities should ensure that their humanitarian needs are met⁵. Minimum reception standards for migrants, refugees and asylum seekers should provide adequate facilities. There is concern that excessive periods of detention, cramped and unsuitable accommodation with poor sanitation, lack of privacy for families, isolation from the outside world, and inadequate legal assistance contribute to violence against women including domestic violence.
11. With regard to monitoring mechanisms of the convention, the convention should allow UNHCR to provide comments to the Council of Europe on the situation of refugees and asylum seekers with respect to violence against women in specific countries as the need may arise.
12. UNHCR would welcome the inclusion of the category “violence against women in situations of armed conflict” but recommends that it should be expanded to include post conflict situations and as such read “violence against women in situations of armed conflict and post-conflict situations”. This category enables women exposed to severe forms of violence to be addressed and would reinforce the implementation of UN Security Council Resolution 1820(2008) on “Women peace and security” which focuses on violence against women in conflict and post-conflict situations.

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⁴ The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201).

⁵ Recommendation 1850 (2008) of the Parliamentary Assembly of the Council of Europe, “Europe’s boat people: mixed migration flows by sea into southern Europe”.