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**INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND
THE GENDER PERSPECTIVE**

VIOLENCE AGAINST WOMEN

**Report of the Special Rapporteur on violence against women,
its causes and consequences, Ms. Radhika Coomaraswamy,
submitted in accordance with Commission on Human Rights
resolution 2002/52**

Addendum 1

**International, regional and national developments in the area of violence against women
1994-2003***

* The present document is being circulated in the language of submission only as it greatly exceeds the page limitations currently imposed by the relevant General Assembly resolutions

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Introduction

1. The present report contains a detailed review of international, regional and national developments and best practices for ways and means of combating violence against women over the period 1994-2003. The report is not fully comprehensive, some regions or countries may have been reported on in greater detail than others, reflecting the information that was available to the Special Rapporteur.

2. In order to provide a systematic analysis of global developments, the Special Rapporteur requested information on efforts to eliminate violence against women, its causes and consequences, from Governments, specialized agencies, United Nations organs and bodies, and intergovernmental and non-governmental organizations, including women's organizations, and academics. The Special Rapporteur expresses her gratitude to all who kindly provided information, which contributed significantly in the preparation of her report.

I. International developments

3. This section contains a brief overview of the key developments at the international level concerning the right of women to live free from gender-based violence.

Normative developments

4. A number of international human rights instruments provide protection to women and girls from violence and require States to take effective measures to prevent and eradicate gender-based violence. At the international level, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention against Torture and the Declaration on the Elimination of Violence Against Women all provide protection to women and girls from violence.

5. The Committee on Elimination of All Forms of Discrimination Against Women (CEDAW) adopted general recommendation no. 19 on violence against women in 1992. Therein the Committee suggested to States parties that, in reviewing their laws and policies, and in reporting under the Convention, they should have regard to a number of recommendations concerning gender-based violence. It stated that gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. Furthermore, that discrimination under the Convention is not restricted to action by or on behalf of Governments. For example, under article 2(e) the Convention calls on States parties to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise. Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation. CEDAW's concluding observations in regards to gender-based violence have been extremely useful. The Special Rapporteur has followed up on the concluding observations during country fact-finding missions, and has taken into account and encouraged compliance

with Convention obligations in the framework of urgent actions and when attending international meeting and conferences. On 22 December 2000, the Optional Protocol to the Convention entered into force. The Optional Protocol entitles the Committee to consider petitions from individual women or groups of women who have exhausted national remedies. It also entitles the Committee to conduct inquiries into grave or systematic violations of the Convention.

6. Other human rights treaty monitoring bodies are integrating a gender perspective into their work in their examination of reports submitted by States Parties on their implementation of the different instruments they also regularly adopt concluding observations related to violence against women. However, the treaty bodies are proceeding at different paces in relation to gender integration. While the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child have made significant efforts to incorporate a gender perspective into their work, the Committee on the Elimination of Racial Discrimination and, in particular, the Committee against Torture has included gender analysis to a lesser degree. The Human Rights Committee adopted in March 2000 a comprehensive new general comment on gender equality. The Human Rights Committee is very clear that the right to gender equality is not merely a right to non-discrimination, but that affirmative action is required. In its concluding observations following the examination of State party reports, the Committee has put increasing emphasis on the need to adopt appropriate measures to combat discrimination by non-State actors.

7. It is important that the Committee Against Torture continue to focus on gender dimensions of torture and ill-treatment as it is the Convention Against Torture that is the instrument which provides the most detailed protection against many forms of gender-based violence. Recently they have considered specific forms of torture and ill-treatment, including trafficking in women, domestic violence and rape. While women are victims of gender-based violence at the hands of State officials, much violence against women takes place within the private sphere. Therefore, State responsibility arising out of the acts by private individuals lies at the centre of a gender-inclusive and gender-sensitive interpretation of the Convention Against Torture and in particular the definition of torture as defined in article 1. While it is obvious that not all violence against women can be qualified as torture within the meaning of the Convention, the mere fact that the perpetrator is a private individual rather than a state official should not automatically lead to the exclusion of this type of violence from the scope of the Convention.

8. Many positive jurisprudential and structural developments have taken place since 1994; the international community has developed precise legal standards that confirm that rape and other gender-based violence can be war crimes, crimes against humanity, and components of the crime of genocide, as well as torture or other cruel, inhuman and degrading treatment and enslavement. The International Tribunals for the former Yugoslavia and for Rwanda have set jurisprudential benchmarks for the prosecution of wartime sexual violence. In addition to the work of the ad hoc tribunals, the entry into force of the Statute of the International Criminal Court (ICC), known as the Rome Statute, now specifically defines rape and other gender-based violence as constituent acts of crimes against humanity and war crimes. It also addresses numerous structural issues - including the need to hire judges and prosecutors with special expertise in violence against women and children and the establishment of a victim and witness unit - that are critical if the Court is to function as a progressive mechanism for gender justice. Women's rights activists, and

principally the International Caucus for Gender Justice, played a significant role in every major United Nations preparatory meeting on the ICC: (a) to ensure that the range of abuses that happen to women was accurately reflected in the list of crimes over which the ICC would have jurisdiction; and (b) to ensure that the rules and procedures governing how the court functions would be responsive to gender-specific crimes. It was a significant success in the struggle to end impunity for crimes of sexual and gender-based violence. The Rome Statute's gender provisions are an encouraging example of how the development of the international women's rights movement is positively impacting international human rights and humanitarian law despite the strong influence of conservative political forces. The judges of the ICC must play a critical role in continuing the development of progressive jurisprudence relating to crimes of sexual and gender violence that was begun in the ad hoc tribunals for the former Yugoslavia and Rwanda. While much remains to be done, the progress made since 1994 is extraordinary.¹

9. A number of international conferences have addressed violence against women. In recent years there has been a welcome move away from treating women only as victims of violence to seeing them as actors for change. More regularly, we are hearing the international community urge States to empower women and girls, so that they can fully exercise their rights in all spheres of public and private life, and to ensure the full, equal and effective participation of women in decision-making at all levels, in particular in the design, implementation and evaluation of policies and measures which affect their lives.

10. At the Fourth World Conference in Beijing in 1995, States were urged to look at the roots of gender-based violence and its impact on women and society. In 1999, the General Assembly declared 25 November as the International Day for the Eradication of Violence Against Women, a day on which the world community could assess progress and commit itself to renewed efforts to end gender-based violence.

11. The General Assembly special session, "Women 2000: Gender Equality, Development and Peace for the Twenty-first Century", also known as Beijing + 5, was held to review implementation of the Beijing Platform for Action, and again made violence against women a priority concern. The Platform for Action states that violence against women is a major obstacle to development, equality and peace, and constrains most aspects of women's lives. National action plans constitute the basis for an assessment of the implementation of the Beijing Platform for Action and are a useful tool for examining the success of policies and projects. They further aid in the assessment process if Governments use them to report on implementation. The review and appraisal examines how policy commitments have been converted into concrete policies followed by actions. It examines which benchmarks have been met and which indicators have proven to be appropriate for measurement purposes. Beijing +5 reviewed, inter alia, examples of good practices, positive actions, lessons learned, and the obstacles and key challenges remaining. It also considered further actions and initiatives for achieving gender equality in the new millennium. A declaration was issued as a renewed commitment to the Beijing Platform for Action. The final document appeals to Governments to eliminate discriminatory legislation by 2005 and reaffirms Governments' commitments to adopt measures to end traditional or customary practices affecting women and girls.

12. In the framework of the General Assembly Millennium Summit (2000), one day of discussion was dedicated to key global issues on gender and rights of women. The United Nations Millennium Women's Summit was co-organized by the Council of Women World Leaders and the United Nations and it aimed at providing an opportunity to discuss major issues relating to women in the context of the new millennium. Key issues discussed were peace, security and disarmament; development and poverty eradication; protecting our common environment; good governance, democracy and human rights; and protecting the vulnerable and strengthening the United Nations. The situation of women was considered under each of these items and specific recommendations relevant to women were adopted.

13. The adoption by world leaders of the United Nations Millennium Declaration in 2000, through which Member States provided the world with a common vision for the new century is a significant event. Member States resolved to strengthen their capacity at the country level to implement the principles and practices of human rights, including the rights of women. Although these development goals were brought together for the first time in the Millennium Declaration, most of them were the product of a series of major international conferences convened in the previous decade to examine different aspects of development. In 2001 the Secretary-General published a road map of the steps needed to reach the Millennium Development Goals (see A/56/326).

14. During the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001, recognition was given to the fact that the intersection of discrimination on grounds of race and gender makes women and girls particularly vulnerable to violence, which is often related to racism, racial discrimination, xenophobia and related intolerance.² In the Declaration, States reaffirmed the duty to protect and promote the human rights and fundamental freedoms of all victims, and agreed that they should apply a gender perspective, recognizing the multiple forms of discrimination which women can face, and that the enjoyment of their civil, political, economic, social and cultural rights is essential for the development of societies throughout the world. The Declaration urges States to incorporate a gender perspective in all programmes of action against racism, racial discrimination, xenophobia and related intolerance and to consider the burden of such discrimination, which falls particularly on indigenous women, African women, Asian women, women of African descent, women of Asian descent, women migrants and women from other disadvantaged groups, ensuring their access to the resources of production on an equal footing with men, as a means of promoting their participation in the economic and productive development of their communities.

15. Violence against women was also on the agenda of the Second World Assembly on Ageing, which recognized that older women face a greater risk of physical and psychological abuse, and at the World Summit on Sustainable Development, which acknowledged the importance of eliminating all forms of violence and discrimination against women. The General Assembly's special session on children indicated the determination of all nations to promote all human rights of girls, including the right to live free from coercion, harmful practices and sexual exploitation.

16. In accordance with Commission on Human Rights (CHR) resolution entitled "Integrating the human rights of women throughout the UN system", many special procedures of the CHR

now regularly and systematically take a gender perspective into account in the implementation of their mandates.³ Moreover, the Special Rapporteur on harmful traditional practices and the Special Rapporteur on sexual slavery and slavery-like practices during armed conflict of the Sub-Commission on the Promotion and Protection of Human Rights have each done much to increase awareness of these particular issues.

17. A breakthrough was made in regards to fighting trafficking in persons with the adoption of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1) have been developed in order to provide practical rights-based policy guidance on the prevention of trafficking and the protection of victims of trafficking. Their purpose is to promote and facilitate the integration of a human rights perspective into national, regional and international anti-trafficking initiatives.

18. At its forty-fifth session in 2001, the Commission on the Status of Women adopted agreed conclusions on women, the girl child and HIV/Aids⁴ in which it inter alia, recommended the strengthening of concrete measures to eliminate all forms of violence against women.

19. Most recently, at the fifty-seventh session the General Assembly, resolution 57/179 “Working towards the elimination of crimes committed in the name of honour” was adopted without a vote. The Special Rapporteur welcomes this important step forward, and the General Assembly’s emphasis on the need to treat all forms of violence against women and girls, including crimes committed in the name of honour, as a criminal offence punishable by law.

Specific developments in the area of armed conflict

20. The Security Council has adopted some innovative and creative measures to allow non-governmental voices to be heard by its members. The Arias formula has been used for non-governmental organizations and experts to give testimony to Security Council members on such issues as women in armed conflict, outside the official meetings. The Security Council’s adoption of resolution 1325 (2000) has been very important in recognizing the vital role of women in promoting peace, and calling for an increased use of women’s expertise in conflict resolution and all stages of peacemaking and peace-building. The report of the Secretary-General on women, peace and security⁵ contains recommendations which will further assist in its implementation. On 31 October 2002, on the second anniversary of that Council resolution, the Security Council adopted a presidential statement in which strong and substantive language makes reference to violence against women in conflict and post-conflict situations, the issue of sexual abuse and exploitation of women in peacekeeping contexts and to the need to appoint senior-level gender experts at Headquarters and in the field. The statement also calls for an in-depth follow-up report to be submitted to the Council in October 2004. On the same date, UNIFEM launched its Independent Expert Assessment on the impact of armed conflict on women and the role of women in peace-building. This assessment reflects voices of women based on various field missions carried out by the experts. The report presents a series of recommendations for Member States, the United Nations and other relevant actors. The United

Nations system as well as Member States must move towards concrete implementation of Security Council resolution 1325 (2000), if any real progress is to be achieved.

21. The Department of Peace-keeping Operations have undertaken to mainstream a gender-perspective into all Multidimensional Peace Support Operations and have made efforts to implement Security Council resolution 1325 (2000). To strengthen the awareness and accountability of all mission personnel in relation to exploitation and abuse, the Department of Peacekeeping Operations is currently reviewing its existing policies, procedures and guidelines on disciplinary issues. Updated guidelines have also been prepared on various aspects of standards of behaviour of mission personnel, including investigation procedures and follow-up with troop- and police-contributing countries. The Special Rapporteur welcomes these initiatives and encourages DPKO in its future efforts to prevent any activity in violation of human rights and humanitarian law.

22. Following serious allegations of widespread sexual exploitation and abuse of refugee and internally displaced women and children by humanitarian workers and peacekeepers in West Africa, the Inter-Agency Standing Committee (IASC) established a Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises in March 2002. An OIOS investigation into sexual exploitation of refugees by aid workers in West Africa was also conducted and the report containing its findings presented to the General Assembly. Sexual exploitation and abuse occur in many different environments. However, in humanitarian crises, the dependency of affected populations on humanitarian agencies for their basic needs creates a particular duty of care on the part of humanitarian workers and peacekeepers, when present. Managers have an additional responsibility to ensure that there are proper mechanisms to prevent and respond to sexual exploitation and abuse. Humanitarian agencies must make every effort to create an environment where sexual exploitation and abuse are not tolerated. The Task Force was mandated, within the overall objective of strengthening and enhancing the protection and care of women and children in situations of humanitarian crisis and conflict, to make recommendations that specifically aim to eliminate sexual exploitation and abuse by humanitarian personnel and the misuse of humanitarian assistance for sexual purposes. The report and the Plan of Action established six core principles to be incorporated into the codes of conduct and staff rules and regulations of member organizations of the IASC. These core principles represent the agreed principles and standards of behaviour that humanitarian agencies - whether United Nations or other - expect of their staff. Among other things, the code explicitly prohibits sex with children under 18, prohibits the exchange of money, employment, goods or services for sex, calls for discipline, including dismissal, against those who violate the code of conduct, and requires staff to report suspected abuses. Implementation of these codes of conduct and other measures is underway. In related activities, training of humanitarian staff working in emergency situations has begun. In addition, programmes for raising awareness among communities are going on, and committees of women have been set up among refugee populations to give the population most at risk a role in their own protection. Agencies are implementing improved aid delivery systems, including involving more women in the distribution of aid. The Special Rapporteur welcomes the seriousness with which the issue has been addressed, but the momentum must not be lost. Improved mechanisms of accountability must continue to be a major priority.

23. The Office of Internal Oversight Services report⁶ establishes that the consultants had raised an important issue and thereby provoked a heightened sense of awareness in the international community of the potential for sexual exploitation of victims of forced displacement by those who are supposed to alleviate their suffering. However, there is some concern about the other findings of the OIOS investigation. The Special Rapporteur is concerned by the strong criticism in the report of the consultants who raised their concerns with UNHCR with regard to reports of sexual exploitation and abuse they heard whilst undertaking a sociological study in the camps. Such information should be welcomed and all allegations investigated without delay. For the alleged victims of sexual violence who gave their testimonies to the consultants, and the 43 cases during the OIOS investigation, more needs to be done to clarify the substance of the allegations, to prosecute the perpetrators and provide compensation for the victims in an open and transparent manner in order to end impunity.

24. The ICRC study *Women Facing War* is an extensive reference document on the impact of armed conflict on the lives of women. Taking as its premise the needs of women in situations of armed conflict, the study explores the problems faced by women in wartime and the coping mechanisms they employ. A thorough analysis of international humanitarian law, and to a lesser extent human rights and refugee law, was carried out as a means to assess the protection afforded to women through these bodies of law. The study also includes a review of ICRC's operational response to the needs of women as victims of armed conflict.

25. The Guiding Principles on internally displaced persons⁷ address the various problems and needs faced by internally displaced women. The Guiding Principles make specific reference to the prohibition of gender-specific violence and slavery; they call for the full participation of displaced women in the planning and distribution of humanitarian assistance, and the management of their relocation. The Guiding Principles also refer to women's rights to personal identification and other documentation.

UN system developments

26. All bodies and agencies of the United Nations system are requested to give consideration to violence against women within their particular mandates. It would be impossible for all programmes to be reflected in this report however here follows some examples of United Nations initiatives in this field.

27. The integration of a gender perspective into all human right activities, and ensuring that human rights of women are included in all its activities, is a priority for the Office of the High Commissioner for Human Rights (OHCHR). OHCHR's technical cooperation programme addresses violence against women most directly through its training activities for the police, peacekeepers and human rights monitors. Within the police-training programme, there is a module on women, human rights and law enforcement. The module teaches police, inter alia, about the human rights aspects of women as victims of crime and human rights violations. It also includes training on appropriate police responses to domestic violence. The approach is to address standards, practice and attitudes. Trainees engage in role-playing, group discussions, and the solving of hypothetical situations involving domestic violence. Key issues such as the positive duty of police: to protect women from domestic violence; to prevent "re-victimization";

to treat domestic violence as a crime; and to follow-up appropriately on domestic violence cases. The technical cooperation program has produced a police manual, a pocketbook, and trainers' guide sections on women.

28. The United Nations Population Fund (UNFPA) is working to keep gender-based violence in the spotlight as a major health and human rights concern. It has adopted many strategies to address gender-based violence, including training of health care providers and the supply of services - including emergency contraception - to assist victims of sexual violence; advocacy on gender-based violence in all country programmes in conjunction with other United Nations partners and NGOs; advice on the prevention of gender-based violence in information, education and communication projects (IEC) and also promotes research related to gender-based violence.

29. The United Nations Development Fund for Women (UNIFEM) promotes women's empowerment and gender equality by working primarily at the country level. It works to ensure the participation of women in all levels of development planning and practice, and acts as a catalyst, supporting efforts that link the needs and concerns of women to all critical issues on the national, regional and global agendas. General Assembly resolution 50/166 of 22 December 1995 provided UNIFEM with the mandate to strengthen its activities aimed at eliminating violence against women, in order to accelerate the implementation of the recommendations set out in the Beijing Declaration and the Platform for Action. Established in 1996, UNIFEM's Trust Fund in Support of Actions to Eliminate Violence against Women is the only small-grant mechanism of its kind on gender-based violence in the United Nations system. UNIFEM has produced a publication on lessons learned from the ongoing work undertaken worldwide to end gender-based violence and identifies innovative and successful strategies with potential for wide replication. It is a product of research and analysis undertaken by UNIFEM to assess the outcomes of interventions funded by the trust fund to eliminate violence against women. A study done by UNIFEM shows that as the economic and social costs of gender-based violence keep escalating, as do the number of initiatives to combat it, offering effective strategies for a comprehensive approach to ending violence against women. These lessons are collected in UNIFEM's publication, *Progress of the World's Women 2002: Ending Violence Against Women*. What it shows is that interventions designed to combat violence against women will not be effective until the levels of political will and resources match the scale of the problem.

30. The United Nations Voluntary Fund for Victims of Torture (VTFT) has also provided financial assistance to NGOs working on the issue of violence against women. For example, the VTFT subsidized a project for the medical assistance and psycho-social services for displaced women and children in Tuzla, Bosnia Herzegovina, in 2000.

31. The United Nations High Commissioner for Refugees (UNHCR) has formal guidelines on preventing and responding to sexual violence. Based on recommendations by field workers experienced with rape and piracy attacks, they aim to provide other field workers with practical, non-specialist advice on the medical, psychological and legal ramifications of sexual violence. UNHCR has also developed gender training, known as People Oriented Planning (POP), to encourage staff to focus on the protection and assistance needs of refugee women.

32. In 2002 the World Health Organization (WHO) launched the first World Report on Violence and Health. The goals of the report are to raise awareness about violence as a global

public health problem, highlight the contributions of public health to understanding and responding to violence, and increase the level of response taken by the public health community to preventing violence. Furthermore, WHO undertook a comparative study of national penal law on sexual violence in 12 countries during 2002. The study forms part of a larger initiative to strengthen the health sector response to sexual violence. By reviewing national legislation, they aim to define the legal boundaries and applicability of health policy recommendations (particularly as they relate to the collection and use of forensic evidence to convict perpetrators of sexual violence), and to devise a supporting legal framework for the health service guidelines.

33. INSTRAW's Programme on Men's Roles and Responsibilities in Ending Gender-based Violence (2001) established a virtual community of practitioners, activists, academics and policy-makers from around the world connected through information and communication tools, who share resources and practices from violence-prevention (and intervention) initiatives that involves men and boys. The programme aimed to also encourage collaboration and cohesion among the programme's community by identifying strategic partnerships among members and the overall prevention community. To encourage continued innovation and capacity-building on men's (and women's) roles and responsibilities in ending gender-based violence. By recognizing that gender-based violence is related to the construction of masculinities (for example, how a group defines "what it means to be a man") and that these are informed by belief systems, cultural norms and socialization processes - they helped to identify and strengthen entry points for various violence prevention initiatives around the world that aim to work with men and boys as partners. By focusing on men's responsibilities they moved beyond seeing men as simply part of the problem, and began to envision them as part of the solution by squarely placing men into prevention and intervention strategies. Without engaging men as partners, without enabling both men and women understand their roles and responsibilities in ending violence, they concluded, we will be attempting to resolve this multidimensional problem from a very limited perspective.

Intergovernmental organizations

34. According to information received from the World Bank, the gender dimension of development is an important corporate advocacy priority and the bank is supporting work in a number of areas where gender disparities stand in the way of sustainable poverty reduction and economic growth. Gender-based violence is one such area it not only violates basic human rights but also has steep economic, social, and human costs. Bank efforts in this area involve a combination of demand-driven lending and non-lending operations, policy dialogue with Governments in the context of preparing country-assistance strategies, selected partnerships with organizations, including United Nations organizations and NGOs working on this issue, training, and most importantly targeted research. The most recent bank research includes "Voices of the Poor: Can Anyone Hear Us?" and "Crying out for Change",⁸ which argue that domestic violence is a key dimension of powerlessness and lack of well-being. A key message from the study is that violence against women must be factored into development efforts. Bank-financed projects have included components to address the immediate needs of battered women and their children, and have provided social and legal services to help women with a variety of issues such as domestic violence, sexual violence against children, and child support. Policy dialogues with Governments have included workshops and studies on women and the family as part of preparations for the Bank's strategy of assistance to some countries. These efforts are designed

to increase awareness about the issue of gender-based violence, and stressed the importance of changing attitudes, particularly among policy-makers, law enforcement officers, judges and other officials. The World Bank Institute has also incorporated a module on gender-based violence as part of its training program on gender, health and poverty.

II. REGIONAL AND NATIONAL DEVELOPMENTS IN THE AREA OF VAW

A. The African region ⁹

35. This section takes stock of the developments in the efforts to end violence against women over the period 1994-2003 in the African region. The report is placed in the context of human rights obligations voluntarily assumed by African States that have ratified human rights treaties. It therefore pays special attention to policies, legislation, judicial decisions and other actions by African Governments at the national or regional level. This is not to play down the significant effort and leadership of women's rights and other advocacy organizations, and international agencies in the area of ending violence against women.

The international and regional legal and policy framework

36. All countries for which information was accessed for this review have acceded to or ratified human rights treaties that guarantee the right to equality of all persons, and prohibit discrimination on any basis, including sex. Forty-one of these countries have specifically ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Mali, Namibia, South Africa and Senegal are the only African countries to ratify the Optional Protocol to CEDAW, which establishes an individual complaints procedure, in case of violations of the rights guaranteed by CEDAW and in the absence or inadequacy of domestic remedies. However, a significant number of African countries have signed the Optional Protocol. In addition to the international instruments, all countries covered by this review are States parties to the African Charter on Human and Peoples' Rights.

37. African States also made commitments to women's rights during the United Nations conferences of the 1990s. The Sixth African Regional Conference on Women to review progress made in the Implementation of the Dakar and Beijing Platforms of Action (PFA) was held from 22 to 26 November 1999. African States carried out an assessment of the efforts made in implementing the Platforms for Action and also seized the opportunity to adopt a common African strategy for the next five years.

38. The majority of African States parties to CEDAW have not taken their reporting obligations seriously. Almost all African States parties have at least two reports that are overdue and many of these countries are yet to submit an initial report.¹⁰

Steps to strengthen the policy framework in Africa (intergovernmental level)

39. In spite of the status of reporting under CEDAW, African States have taken commendable steps to strengthen the policy framework on the continent for the elimination of violence against women. An interesting feature of these efforts has been the progress made in creating and/or

strengthening the policy framework at the intergovernmental level. The following are some of the more significant actions taken to end violence against women.

40. The African Union (formerly OAU) is developing an Additional Protocol to the African Charter on Human and Peoples' Rights on women's rights in Africa. The Protocol, already adopted by an intergovernmental meeting of experts (Nov. 2001) was developed at the recommendation of the African Commission on Human and Peoples' Rights. The protocol is seen as amplifying the human rights of women as guaranteed by the African Charter. It acknowledges, reaffirms and builds on all international human rights instruments guaranteeing the human rights of women. The draft protocol explicitly provides for the elimination of violence against women, considered a violation of the right to life and integrity of the person, among others. Once ratified, the Protocol will obligate States parties to enact and enforce laws to prohibit all forms of violence against women and girls whether the violence takes place in the private or public sphere, and to adopt such other legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women and girls. Among others is an obligation for State parties to identify the causes and consequences of violence against women and take appropriate measures to prevent and eliminate such violence.

41. The African Commission on Human and Peoples' Rights is the principal organ for the promotion and protection of human and people's rights in Africa. It was established by the African Charter on Human and Peoples' Rights, which came into force on 21 October 1986 after its adoption in Nairobi in 1981 by the Assembly of Heads of State and Government of the Organization of African Unity (OAU). The African Commission on Human and Peoples' Rights is charged with ensuring the promotion and protection of human and peoples' rights throughout the African continent. Over the years, the Commission has adopted resolutions, appointed special rapporteurs, and participated in joint thematic workshops. In 1993, the Commission provided the forum for the drafting of an Additional Protocol to the African Charter on women's rights which is now being developed by the African Union (see previous paragraph).

42. In the Commission's efforts to address the problems faced by women, it appointed Julienne Ondziel-Gnelenga as Special Rapporteur on the Rights of Women in Africa, in 1998, implementing a decision adopted by the Commission in 1995. The current Special Rapporteur is Anglela Melo (Mozambique). The Special Rapporteur plays a very significant role by researching, gathering and documenting information on women's human rights. Her reports can be used by the Commission to formulate advice to African States. The Special Rapporteur and Commission generally faces a number of financial and other constraints, however both are mechanisms set up to respond to the present day challenges in Africa. The more they are used as regional mechanisms, the stronger and more useful they will become in safeguarding human rights on the continent. NGOs, human rights advocates and lawyers should make use of the Special Rapporteur and the Commission and assist people to submit cases to the latter.¹¹

43. The Intergovernmental Authority on Development (IGAD) which brings together States in East Africa and the Horn of Africa, has established a women's desk within the IGAD secretariat. The mandate of the desk is to spearhead the mainstreaming of gender and human rights in the organization's programmes and activities. Violence against women is identified as a problem

that must be tackled in the context of programmes for disaster preparedness, internally displaced, refugees and food security.

44. The three East African States established the East African Community in which the promotion of gender equality is identified as one of its objectives.¹² The draft protocol acknowledges, reaffirms and builds on all international human rights instruments guaranteeing the human rights of women. Article 121 of the Treaty of the East African Community (1999), the member States undertake to “abolish any legislation and discourage customs that are discriminatory against women; promote effective education awareness programmes aimed at changing negative attitudes towards women; take such other measures that shall eliminate prejudices against women and promote the equality of the female gender with that of the male gender in all respects.”

45. The OAU and ECA’s African Centre for Women agreed at the May 1998 ECA Conference on African Women and Economic Development to set up an African Women’s Committee for Peace and Development, “with the aim of putting women at the epicenter of conflict resolution and peacemaking.” ECA and the OAU would jointly run the Committee’s secretariat. The idea for this initiative was first mooted at the Kampala Conference on Women and Peace in 1993, and later endorsed by the OAU Council of Ministers. The Committee will work in close collaboration with the OAU’s conflict management centre, where it is housed, to ensure women’s effective participation in all high-level decision-making relating to gender, security and sustainable development. While this arrangement has no overt human rights formulation, it presents an opportunity to press for women’s’ human rights and a possible entry-point for NGOs whose focus is on women’s role in conflict prevention and resolution.

46. The Heads of State and Government of the Southern African Development Community (SADC) have adopted the Gender and Development Declaration as the framework for mainstreaming gender and promoting gender equality in all development activities in the region.¹³ A gender unit has been established in the SADC Secretariat to support the community’s gender mainstreaming work. An addendum to the Declaration entitled “The Prevention and Eradication of Violence Against Women and Children” was subsequently adopted. Within the framework of the Declaration and its addendum, each SADC Member State has developed a national plan of action for the elimination of violence against women. SADC has adopted a model for a multi-sectoral integrated approach to ending gender-based violence. The model was developed and promoted by the Commonwealth secretariat. The model is founded on the multifaceted nature of gender-based violence, and its definition as a human rights and developmental problem of concern to the entire society (as opposed to a purely women’s concern). In addition to SADC, the model is currently being implemented in several countries in East Africa.

47. The Economic Community for West Africa (ECOWAS) is also taking steps to strengthen the policy framework for promoting gender equality. Under the ECOWAS Revised Treaty (1993) the Community is committed to the enhancement of the economic, social and cultural conditions of women.¹⁴ Under article 65, member States undertook to formulate, harmonize, coordinate, and establish appropriate policies and mechanisms for the enhancement of the economic, social and cultural conditions of women. A gender policy, to serve as the basic

framework mainstreaming gender and promoting women's human rights, is currently being developed with the support of UNIFEM and the Commonwealth secretariat.

48. In December 2001 the ECOWAS Summit of Heads of State and Government adopted the Political Declaration and the Action Plan on Trafficking in Persons. The Political Declaration underscores the commitment of the Heads of State and Government to the eradication of trafficking in persons, and in particular, the eradication of the trafficking in women and children. The declaration also sets out a series of measures mandatory in pursuit of this objective, among them the Plan of Action.¹⁵ The Plan of Action commits ECOWAS countries to take urgent action against trafficking in persons. It calls for countries to ratify and fully implement international instruments of ECOWAS and the United Nations that strengthen laws against human trafficking and to protect victims of trafficking, especially women and children. The Action Plan calls for special police units to combat trafficking of persons. Training for police, customs and immigration officials, prosecutors and judges, is also an important aim. This training will focus on the methods used in preventing such trafficking, prosecuting the traffickers, and protecting the rights of victims, including protecting the victims from the traffickers. It will take into account human rights and child- and gender-sensitive issues, and encourage cooperation with non-governmental organizations and other elements of civil society.

49. In West Africa today, trafficking in persons is a crime that is pervasive and growing. The involvement of organized crime has driven this growth and increased the number of the sub-region's citizens who suffer its depredations. The crime preys primarily on the most vulnerable, that is to say women, children, the poorest and the least educated. Two main types of trafficking exist in the subregion: trafficking in children mainly for domestic work and for farm labor across and within national borders; and secondly, trafficking in women and children for sexual exploitation, mainly outside of the subregion.

Initiatives by individual countries

50. At the country level, the last decade has witnessed significant policy and legislative reforms in the area of violence against women. Most countries in the region have adopted gender policies as a framework for mainstreaming gender. All have designated national machineries to co-ordinate the advancement of women and mainstreaming of gender. The status of the national machineries within government structure varies – from ministerial level to a division within a bigger department.

51. The immediate results of the policy and legislative reforms in Africa can be summed up into six categories. There is formal and explicit acknowledgement of violence against women as an issue to be tackled at national and regional policy level. It is no longer confined to the private sphere. In particular, acknowledgement of violence against women in the family, particularly spousal abuse, as a specific crime requiring remedies that are often not available when it is treated as criminal assault in penal codes. There is provision for stiffer sentences for violence against women, particularly rape and other forms of sexual violence. Victim-friendly criminal procedures, rules of evidence, and remedies are available in several countries. Specialist units trained to receive, investigate and prosecute cases of violence against women with sensitivity and from a human rights perspective have been established within the police forces of a number of

countries. There is increased public debate on different forms of gender-based violence and appropriate responses by Government and communities

52. A perusal of the specific policy actions taken by African countries¹⁶ indicates the preponderance of legislative measures as the preferred response to VAW. Legislative reform is a measure of successful advocacy by women's advocacy groups, who must convince departments of justice and parliaments of the need for VAW-specific legislation. The legislation condemns specific forms of violence, particularly rape, and increasingly domestic violence. Fewer countries have specific legislation on sexual harassment and, where the legislation exists, it addresses harassment in the place of work only. Sexual harassment in institutions of learning and in the public is not addressed. A survey in Nigeria revealed that young female university graduates seeking employment are routinely required to grant sexual favours before their academic credentials could be evaluated.¹⁷ Some countries in which female genital mutilation is practised have enacted legislation to outlaw the practice. There is less action on other traditional practices including widowhood rituals, payment of bride price and widow inheritance that amount to VAW or increase women's vulnerabilities to it. The growing HIV/AIDS pandemic in Africa may have contributed to the political will to impose stiffer sentences for rape and other sexual offences. A significant number of countries have legal provisions explicit dealing with sexual violence in which the victim is infected with HIV. In others debate on the matter is ongoing.

53. Violence perpetrated or condoned by the State has not received the attention it deserves. During the period under review, more than 20 African countries experienced a period of armed conflict pitting government troops against insurgents or other armed groups. Both sides of any conflict perpetrate violence on non-combatants, and women are often targeted. Forms of violence include rape, mass rape, forced marriage, sexual slavery, and in extreme cases, genocide. In the region, the International Criminal Tribunal for Rwanda (ICTR) has set jurisprudential benchmarks for the prosecution of gender-based violence. The Special Court and the Truth and Reconciliation Commission in Sierra Leone will address gender-based crimes and have applied the International Criminal Court (ICC) standard to ensure that the cases involving gender-based violence are prosecuted and the perpetrators brought to justice. More must be done to ensure that the specific needs of victims of rape and other forms of sexual violence, their right to redress, are fully taken into account in all conflicts in the region.

54. An important feature of the last decade has been the efforts of African countries towards regional economic integration. Different economic arrangements such as SADC, ECOWAS, IGAD, and COMESA are evidence of these efforts. A more progressive policy environment for the ending VAW appears to exist within regional grouping in which gender mainstreaming is an integral part of the work of the bloc. Thus SADC countries have, within the framework of the Declaration on Gender and Development and its addendum on VAW, both legislation and national action plans, as well as a mechanism for reporting and peer review of progress.

Civil society initiatives

55. Africa continues to experience a remarkable upsurge in civil society initiatives around a multiplicity of subjects and concerns. One area of particularly notable visibility is the women's movement. The upsurge in recent visibility of African women's activism has no doubt been

helped by a combination of factors including (but not limited to) limited democratization of African States, the increasing availability of regional and multilateral frameworks providing opportunities for engagement with policy and actors, and the availability of written records, communication and information technology among others. The increased role, visibility and impact of civil society women's initiatives in international policy making has in turn strengthened and emboldened national and local women's groups increasingly able to rely on multilateral international standards in demanding responsible and responsive policies from their home governments.

56. CEDAW and other human rights instruments obligate States Parties to take all measures necessary to respect, promote and protect the rights of women, and to eliminate discrimination against women, including VAW. Unfortunately, in most African countries, it is civil society organizations, particularly women's rights advocacy groups bearing the burden and providing leadership for non-legislative actions to end VAW. These range from public awareness campaigns, and provision of services, including emergency temporary shelter, legal aid, and counseling, to survivors.

Angola

57. Angola acceded to the Convention on the Elimination of All Forms of Discrimination against Women (hereafter, the Convention) on 17 September 1986. However, it is regretted that Angola's initial, and second through fourth periodic reports were due on 17 October 1987, and in 1991, 1995 and 1999, respectively.

Legislation

58. The Constitution and Family Code provide for equal rights; however, societal discrimination against women remains a problem, particularly in rural areas. In addition a portion of the Civil Code dates to colonial times and includes discriminatory provisions against women in the areas of inheritance, property sales, and participation in commercial activities. The law provides for equal pay for equal work; however, in practice women rarely are compensated equally. Upon the death of a male head of household, the widow automatically is entitled to 50 per cent of the estate with the remainder divided equally among legitimate children.

59. A series of national conferences on women's rights, called for the Government to amend the Civil Code to end women's legal inequality, create a social welfare program, and strengthen enforcement mechanisms for existing legislation.

60. Domestic violence is prosecuted under rape and assault and battery laws. Rape is defined as a forced sexual encounter and is punishable by up to 20 years in prison. The age of sexual consent is 12 years, and any sexual relations with a child under 12 years of age is considered rape. Sexual relations with a child between the ages of 12 and 17 can be considered sexual abuse. No specific legal provision regarding sexual harassment exists; however, such cases can be prosecuted under assault and battery and defamation charges. There are no specific laws that prohibit trafficking in persons although under related laws the penalty for trafficking is appropriately severe.

Policies and programmes

61. The Ministry of Women and Family has a project to reduce violence against women and improve the status of women; efforts in 2001 included a public education campaign.

Issues of concern

62. Gender discrimination in Angola is a reality.¹⁸ Violations of the human rights of women and children are widespread, in most cases their perpetrators remain immune due to the lack of effective measures taken by the criminal justice system.

63. Domestic violence against women is widespread. It is reported that significant proportions of homicides were perpetrated against women by their spouses. Sexual harassment is also a problem, which has been publicized, in the official media. According to information received, there are no effective mechanisms to enforce child support laws, and women carry the majority of responsibilities for raising children. In much of the country, women constitute a growing percentage of persons with disabilities, as they were most likely to become victims of landmines while foraging for food and firewood in agricultural areas.

64. Due to poor economic conditions, an increasing number of women engage in prostitution. It is estimated that there are 500 to 1,000 underage prostitutes in Luanda. There are also reports that Angolans are trafficked to the United Kingdom for labor exploitation and that women are also trafficked to South Africa.

65. Allegations of rape by government forces in the central highlands increased during 2001. The government forces reportedly attacked women in their homes, while they were working in the fields, near military camps, and during searches of homes. Rapes by government forces were reported most commonly in the Bie, Huambo, and Uige provinces. Women, many as young as 13 years of age, were recruited forcibly to serve as porters and camp followers, and reports of sexual assault were widespread.

66. In 2001, four FAA (Armed Forces of Angola) soldiers were convicted of the rape of a pregnant woman. They were tried first in a military court and sentenced to seven years' imprisonment; a civil court subsequently sentenced them to the maximum 20 years punishable for the offense.

67. During the conflict, numerous girls were abducted and forcibly "married" to combatants (both FAA and UNITA); most of them had children. An estimated 5,000 girls (UNICEF) are currently unable to return to their communities and families of origin. Cases of sexual abuse of women in Reception Areas, IDP camps and returning refugees are widely reported. Children (girls and boys) living with other families are more exposed to sexual abuse.¹⁹

68. The ceasefire signed in April 2002 presents a new opportunity to build respect for fundamental human rights. The 27-year conflict between the Angolan Government and armed forces of the National Union for the Total Independence of Angola (UNITA) gave rise to gross human rights abuses. However, the National Assembly approved an Amnesty Law on 2 April

2002. It reportedly offers a blanket amnesty to all soldiers and civilians who committed crimes against the security of the Angolan State.²⁰

69. Under the ceasefire agreement, the Government is responsible for the permanent resettlement of abducted Angolan citizens and for locating family members. The Government has launched a campaign to register and identify about five million minors. The Government also operates orphanages throughout the country for abducted children. Victims are entitled to emergency residence status for humanitarian reasons, and receive some services from a handful of government programs. The Ministry of Social Reinsertion (MINARS) worked with UNICEF and NGOs to provide treatment and housing for freed children.

70. Rehabilitation and resettlement programmes must take into account the wartime experiences and post-conflict needs of women. Programmes must take into account the widespread nature of sexual violence and address the specific needs of survivors. Programmes must also be developed for the special needs of dependants of combatants' "camp followers" and female ex-combatants.

Benin

71. Benin ratified the Convention on 12 March 1992. Benin's initial and second periodic reports were due 11 April 1993 and 1997, respectively. The Optional Protocol to the Convention was signed on 25 May 2000.

Legislation

72. All provisions of international human rights instruments may be invoked before the courts or administrative authorities, since the Constitution, in its preamble, reasserts its attachment to the principles of democracy and human rights as defined in the Charter of the United Nations, the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights, adopted in 1981 by the Organization of African Unity and ratified by Benin on 20 January 1986, and whose provisions are an integral part of the Constitution.

73. In Benin, rape is a crime, defined in the Penal Code as an act whereby a man has sexual relations with a woman against her will – regardless whether the lack of consent results from physical violence or emotional abuse, or from any other means of duress or surprise. In the "Bouvenet" Penal Code, adopted by decree on 6 May 1877 and still in force, the punishment for rape is forced labour. If the victim is a child under the age of 13, the punishment is the maximum period of forced labour. Beninese law does not recognize marital rape. This is a concern particularly in cases of forced marriages and the abduction of girls. Incest is illegal and the perpetrators are subject to criminal penalty. Several articles of the Penal Code deal with violence and assault.

74. In 2001, the National Assembly began intense consideration of the proposed Family Code that first was introduced in 1995. Certain provisions of the bill aim to ensure equal inheritance and property rights for women. The National Assembly still was considering the Family Code at the end of 2001.

Policies and programmes

75. The national machinery with responsibility for overseeing the implementation of human rights in Benin includes the Benin Commission on Human Rights, established by Act No. 89-004 of 12 May 1989, whose mission is to promote and safeguard human rights in the Republic of Benin, and the Association of Women Lawyers of Benin, set up on 20 January 1990, with the aim of defending human rights and especially those of women and children.

76. In April 1998, the Ministry of Health, Social Welfare and the Status of Women submitted a draft bill regarding the prohibition of female circumcision/female genital mutilation (FGM) to the National Assembly for review. In addition, the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children, in cooperation with the Ministry of Social Affairs and Health, has conducted a campaign to eradicate FGM. Moreover, this Committee holds seminars and workshops in the villages aimed at eliminating FGM by the year 2015.

77. To prevent trafficking, the Government has supported an information campaign in rural villages for the past several years. It includes films and posters explaining to largely illiterate village audiences the physical and psychological dangers children may be exposed to by traffickers. In other preventive efforts, the Government is working on making primary education free for all females and on rural economic diversification to provide roadbuilding and the provision of water and sanitation. Benin is participating in an international programme to reduce trafficking in children. According to information received, the Government is unable to provide protection to the victims of trafficking, but it cooperates with the international organizations and NGOs providing these services.

Issues of concern

78. Domestic violence against women, including wife beating, is reportedly common. According to incomplete court statistics for Cotonou in 1999, only 35 criminal proceedings based on reports of violence against women were ongoing at the end of 1999; the maximum penalty ranges from six to 36 months' imprisonment. NGO observers believe that women remain reluctant to report cases. Furthermore, judges and police are reportedly reluctant to intervene in domestic disputes; society and law enforcement considers such cases to be an internal family matter.

79. Female genital mutilation is practised on females ranging from infancy through 30 years of age and generally takes the form of excision. Surveys, including one conducted by the World Health Organization in 1999, reliably placed the estimate of the number of women who had undergone FGM at approximately 50 per cent.²¹ The efforts of NGOs and others to educate rural communities about the dangers of FGM and to retrain FGM practitioners in other activities continued in 2002. The press reported that the number of girls and women undergoing FGM has decreased each year since 1996. UNICEF-Benin believes that, if the trend continues, the practice could be eradicated by 2015.

80. Although the Constitution provides for equality for women in the political, economic, and social spheres, women experience extensive societal discrimination, especially in rural areas where they occupy a subordinate role and are responsible for much of the hard labour on subsistence farms.²² By law women have equal inheritance and property rights, but local custom in some areas prevents them from inheriting real property.

81. Benin is a source, transit, and destination country for internationally trafficked persons, mostly children. Trafficking also occurs within Benin; children from poor rural and less-literate families are sent away to work as domestic and commercial helpers for wealthier relations or employers. Many of these children end up in indentured servitude, subject to physical and sexual abuse. According to information received, the Government does not systematically encourage victims to testify or file cases with the courts, and has not successfully prosecuted cases against traffickers. Due to a lack of resources and trained investigative personnel, furthermore, Benin's land borders with Togo, Burkina Faso, Niger and Nigeria are reportedly not well monitored.

Botswana

82. Botswana acceded to the Convention on 13 August 1996. Botswana's initial report was due on 12 September 1997.

83. In 1996 the Government adopted the National Policy on Women in Development. The policy was followed by upgrading of the Women's Affairs Unit at the Ministry of Labour and Home Affairs to a full department to enable it to effectively coordinate the implementation of the policy. The Government also set up a team of experts to review all legislation affecting the human rights of women. In 1998 a report was submitted to the Labour Ministry identifying provisions of existing law that potentially discriminate against women. The Government responded by amending a number of acts. The national police force also started training officers in handling domestic violence problems to make them more responsive in such cases.

Legislation

84. In 1998 the Sexual Offences Act was amended to provide for a mandatory minimum sentence for rape. By law the minimum sentence for rape is 10 years, with the minimum increasing to 15 years with corporal punishment if the offender is HIV-positive, and to 20 years with corporal punishment if the offender knew of his or her HIV status. The Act also provides for mandatory HIV tests for convicted rapists, a maximum sentence of life imprisonment for rape, and also includes provision for trials to be held in camera. In 1999 a High Court ruled unconstitutional a provision in the law that allowed the detention of rape suspects without bail. The law does not address the issue of marital rape.

85. The Public Service Act (1999) criminalizes and provides remedies in case of, sexual harassment in the public services. The provisions and procedures in the Act have been voluntarily adopted by institutions like the University of Botswana and the Bank of Botswana.

Policies and programmes

86. The Government and interested NGOs meet regularly to implement the long-term plan of action described in the National Policy on Women. The plan identifies six critical areas of concern, prioritized as follows: (1) women and poverty, (2) women and power-sharing and decision-making, (3) education and training of women, (4) women and health, (5) the girl child, and (6) violence against women. The Women's Affairs Department of the Ministry of Labour and Home Affairs, in conjunction with UNDP, developed the Program Support Document (PSD) in 1997, which provides a framework for implementation of the national policy on women through 2002. Its five target areas include: (1) institutional strengthening at the national level, (2) advocacy and social mobilization, (3) institutional strengthening of NGO's, (4) research and information sharing, and (5) economic empowerment. The Women's Affairs Department is expected to release a report on progress in the target areas in 2002.

Issues of concern

87. Women by law enjoy the same civil rights as men; however, in practice societal discrimination persists. A number of traditional laws enforced by tribal structures and customary courts restrict women's property rights and economic opportunities. A woman married under traditional law or in "common property/traditional laws" is held to be a legal minor, requiring her husband's consent to buy or sell property, apply for credit, and enter into legally binding contracts.²³ Under the law, women married under an intermediate system, referred to as "in community of property" are permitted to own immovable property in their own names; however, their husbands still retain considerable control over jointly held assets of the marriage. Moreover, the law also stipulates that neither spouse can dispose of joint property without the written consent of the other party. Women have, and increasingly are exercising, the right to marriage "out of common property," in which case they retain their full legal rights as adults. Polygamy is legal under traditional law with the consent of the first wife, but it rarely is practiced.

88. Domestic violence against women reportedly remains a serious problem. Human rights activists estimate that six women in 10 are victims of domestic violence at some time in their lives. Under customary law and in common rural practice, men have the right to "chastise" their wives. According to information received, police rarely are called to intervene in cases of domestic violence. Although the Government has become far tougher in dealing with criminal sexual assault, societal attitudes toward other forms of domestic violence remain lenient.

89. Rape is another serious problem. In 1999 the Government acknowledged that, given the high incidence of HIV/AIDS, sexual assault has become an even more serious offense. Reports of sexual exploitation, abuse, and criminal sexual assault are increasing, and public awareness of the problem is growing. A 1999 study of rape by the police service urged police to develop improved methods of rape investigation, including the use of DNA tests in all rape cases. The police force purchased new equipment, and officers were trained to use it. Women's groups acknowledged an improvement in the treatment of alleged victims by police officials during rape investigations.

90. Sexual exploitation and harassment are also of concern, with men in positions of authority, including teachers, supervisors and older male relatives pressuring women and girls to provide sexual favours.

91. In 1999 the Women's Affairs Department submitted a report on the study of socio-economic implications of violence against women in Botswana to the Attorney-General's office, which is working with other ministries to study further these problems. In May 2001 the Department held a national workshop on violence toward women and issued another report on using an integrated approach among all interested parties to gender-based violence. A number of women's organizations have emerged to promote the status of women, and have an increasingly collaborative relationship with government authorities.

Burkina Faso

92. Burkina Faso acceded to the Convention on 14 October 1987. Burkina Faso's second and third periodic reports were submitted as one document²⁴ which was considered by the Committee at its January 2000 session; the fourth periodic report was due 13 November 2000.

Legislation

93. The Constitution guarantees physical integrity, as well as the protection of life and security. It stipulates that: "Slavery, enslaving practices, inhuman, cruel, degrading and humiliating treatments, physical or psychological torture, physical abuse, child abuse, and all other forms of human degradation are prohibited and punishable by law" (Title I, Chap. 1, art. 2).

94. Rape in Burkina Faso law is punishable by five to 10 years of imprisonment. The sentence is increased to 20 years in certain circumstances.²⁵ The Penal Code explicitly prohibits sexual harassment, but there are no special laws protecting women from gender-based violence other than general laws dealing with violence.²⁶ Forced marriage is prohibited, with specific penalties under the Penal Code for violators.²⁷

95. Burkina Faso is one of the few countries that have adopted laws that explicitly prohibit FGM. Before female circumcision was declared a criminal offense, it was prohibited under the category of "assault and battery". The Penal Code was revised in 1996 to make female genital mutilation a crime, with stricter punishments for those involved in its practice. Perpetrators are subject to six months' to three years' imprisonment and a significant fine.²⁸ The law imposes the maximum sentence if the perpetrator who performs the procedure is a licensed health care professional.²⁹ Efforts to end the practice have resulted not only in the punishment of perpetrators and accomplices, but also of those who, knowing the procedure is imminent, do not alert the appropriate authorities.³⁰

96. The Government has taken a number of steps to improve the status of women. For example, in 1985 the Agrarian and Land Reform Legislation was adopted, granting women the right to own land. The new Individual and Family Code affirms women's and men's equality before the law; and the programme to support the promotion of independently managed social and health activities in rural regions is being implemented. However, the CEDAW Committee

noted that, despite the law on agrarian and land reform, which establishes equality between women and men, prejudices and customary rights hinder the implementation of law. Furthermore, the lack of awareness among women of measures in the Individual and Family Code restricting the practice of polygamy is limiting its effect.

Policies and programmes

97. After the 1997 parliamentary elections, the Government created a Ministry of Women's Affairs; the Minister actively promoted women's rights during 2002 and designated a focal point in all the ministries involved in the follow-up of national policies and programs to benefit women.

98. FGM is practised widely, especially in rural areas, and usually is performed at an early age. The percentage of girls and women who have undergone this procedure may be as high as 70 per cent.³¹ The Government has made a strong commitment to eradicate FGM through educational efforts and the National Committee for the Fight against Excision (CNLPE) campaigns against the practice. The CNLPE, an autonomous agency within the Ministry of Social Affairs and the Family established in 1990, has developed a three-year action plan to carry out its objectives. The Government reportedly continued its sensitization campaign regarding the deleterious effects of this practice.³² According to press reports in previous years, some persons who have practiced FGM and the victims' parents were arrested, and some FGM practitioners were prosecuted and received prison sentences under the law, which forbids FGM.³³ Another form of mutilation, scarification of the faces of both boys and girls of certain ethnic groups, is also gradually disappearing.

Issues of concern

99. Domestic violence occurs frequently, cases of wife-beating are usually handled through customary law and practice. There are no statistics on rape, although it is recognized as a crime. Marital rape is reportedly not discussed.

100. Polygamy is permitted, but both parties must agree to it prior to a marriage, and the woman maintains the power to oppose further marriages by her husband if she can provide evidence that he abandoned her and their children. Either spouse can petition for divorce; custody of children is granted to either parent on the basis of the children's best interests.

101. Although the law provides equal property rights to women and some inheritance benefits depending on other family relationships, in practice customary law prohibits women from the right to own property, particularly real estate. In rural areas, land belongs to the family of the man even though women represent 45 per cent of the work force. Customary law does not recognize inheritance rights for women and regards the woman as property that can be inherited upon her husband's death.³⁴

102. In its concluding observations and comments,³⁵ the Committee on the Elimination of Discrimination against Women expressed particular concern over: the prevalence of discriminatory traditions and customs that accentuate stereotypes and resist all change; the

female illiteracy rate, particularly in rural areas; the absence of legislative texts and policies that specifically protect women who are victims of domestic and sexual violence; the low level of representation of women, particularly in elective bodies; the precarious state of women's health, especially in rural areas; the fact that the high rates of maternal and infant mortality, caused by infectious diseases and malnutrition, result from the lack of local health-care centres and adequate health-care providers; the lack of access for women to family planning services.

Burundi

103. Burundi ratified the Convention on 8 January 1992. Burundi's initial and second periodic reports were due 7 February 1993 and 1997 respectively.

Legislation

104. The Government adopted two decree laws in 1993 to change the legal situation of women. One reformed the Code of the Person and the Family and contained a number of measures eliminating discrimination against women, including the abolition of polygamy and unilateral repudiation of marriage, and introducing legal divorce and regulation of age at marriage. The other revised the Labour Code and was aimed at achieving social and economic justice. Chapter V of the Code addressed women and labour, including women's rights during pregnancy and maternity leave.

105. The Government has adopted legal measures to punish trafficking of women, exploitation of prostitution, violation of public decency and rape. Articles 371-390 of the Criminal Code, in the chapter dealing with immoral acts, provide severe penalties for prostitution, incitement to debauchery or prostitution, acts of indecency and rape. The law prohibits rape, which is punishable for up to 20 years' imprisonment. The law does not specifically prohibit domestic violence; however, persons accused of domestic violence can be tried under assault provisions of the law.

106. The Arusha Accords of August 2000 formed the basis for building lasting peace and granted equal status to women and men, in accordance with CEDAW. The accords recognized the role of women in reconstruction and rehabilitation, and suggested the inclusion of women in all management structures related to reconstruction, the mobilization of women as peace mediators for national reconciliation, the adoption of laws on inheritance rights of women and the rebuilding of houses for homeless women. Reintegration or post-trauma counselling for women victims of violence or those forced into marriage was also considered necessary.

107. Following the creation of the Union of Women of Burundi, women became more aware of the different roles that they could play in society. However, very few women occupy leading positions in the National Assembly, the civil service, the magistracy, or public or private corporations.

Issues of concern

108. Concerning the status of women, the Special Rapporteur on the situation of human rights in Burundi stated³⁶ in 2000 that, although the legislation in force does not discriminate specifically against women, economic problems and tradition have relegated women to a position of inferiority. Furthermore, women are subjected to discrimination in politics: for example, no women took part in the Arusha negotiations.

109. Gender-based violence is widespread, including rape, forced prostitution and domestic violence. Although statistics are not available, the large numbers of cases that are reported to human rights groups attest to the gravity of the problem. Many incidents of violence against women and girls also go unreported. Wives have the right to charge their husbands with physical abuse, but they rarely do so. Police normally do not intervene in domestic disputes, and the media rarely report incidents of violence against women. No known court cases have dealt with the abuse of women. The Government rarely investigates such cases, and prosecutions are rarer still. In detention the lack of separation of male and female prisoners is said to make women vulnerable to rape.

110. According to the Women's Commission for Refugee Women and Children, the ongoing conflict has forced many women into prostitution.³⁷ Increased prostitution has contributed to the growing incidence of HIV/AIDS. There are reports that government and rebel soldiers raped women, many in areas in or near the part of Bujumbura taken briefly by rebels, after their withdrawal in early March 2001.³⁸ It is reported that rebels abducted scores of women to provide sexual and domestic services in their camps.

111. The situation of refugee and displaced women and girls is of concern.³⁹ The Special Rapporteur supports the Committee on the Elimination of the Discrimination against Women in its recommendations to the Government,⁴⁰ which include: to give greater assistance to refugee and displaced women and girls and carry out rehabilitative efforts directed at such women and girls; mainstreaming a gender perspective in all policies and programmes of national and international assistance for displaced people; providing post-trauma counselling, as stipulated in the Arusha Accords, for women who are victims of gender-based violence; to ensure that relevant personnel are trained to give such assistance.

112. The legislative provisions that discriminate against women and the existing gap between de jure and de facto equality are also of concern. The Government must tackle the stereotypes that confine women and girls to traditional roles, and customary law and traditional practices involving, inter alia, inheritance, which violate the rights of children and of girls in particular.⁴¹

113. The Special Rapporteur supports the recommendations made by the Special Rapporteur the situation of human rights in Burundi⁴² to the Government in this regard: to enact legislation to ensure the advancement and fulfilment of women in order to combat de facto inequalities and encourage greater participation by women in development and political decision-making; to take all necessary measures to support the efforts being made by civil society to improve the status of women; increase funding for the Ministry of Social Action and the Advancement of Women so that it may play the role assigned to it.

Cameroon

114. Cameroon ratified the Convention on 23 August 1994. Cameroon's initial and second periodic reports were due 22 September 1995 and 1999 respectively.

Legislation

115. Under the Penal Code, persons who, by using physical or emotional violence, force a woman or pubescent girl to have sexual relations with them are sentenced to five to 10 years in prison.⁴³ There are no gender-specific assault laws, despite the fact that women were the predominant victims of domestic violence. Furthermore, spousal abuse is not a legal ground for divorce. The Penal Code punishes incest by imprisonment of one to three years and a subsequent fine.⁴⁴ In reality, very few incest proceedings reach the courts.⁴⁵ Authorized persons refrain from bringing such actions out of a sense of modesty, to preserve family secrets, or due to fear of becoming societal outcasts. There is no law regarding sexual harassment.

116. Cameroonian law does not specifically address the subject of FGM. However, rights to physical integrity and health, guaranteed in the preamble to the Constitution, together with certain clauses of the Penal Code, are applicable. Cameroon has a law that prohibits trafficking.⁴⁶

117. Civil law theoretically provides equal status and rights for men and women; however, some points are prejudicial to women. The law allows a husband to oppose his wife's right to work in a separate profession if the protest is made in the interest of the household and the family. While the law gives a woman the freedom to organize her own business, the law allows a husband to end his wife's commercial activity by notifying the clerk of the commerce tribunal of his opposition based upon the family's interest. Partly for this reason, some employers required a husband's permission before they hired a woman. Civil law offers a more equal standard than customary law, which is far more discriminatory against women, since in many regions a woman customarily is regarded as the property of her husband.

Programmes and policies

118. In December 1997, the Ministry on the Status of Women was established. It has designated focal points in all other ministries, with a view to taking gender-specific matters into account in all national programmes and policies benefiting women. A national action plan for the advancement of women has also been developed. A department for the promotion of women's rights has been established within the Ministry for the Advancement of Women. The department is responsible for programmes for the elimination of violence against women, including female genital mutilation.

119. The Government has organized public discussions and information programs on FGM. Public campaigns to eradicate this practice in 15-20 years started in 1997. Many workshops and conferences have also addressed sexual harassment.

120. The Government has provided some assistance to victims, including temporary residence status, shelter, and medical care. Cameroon also provides in-kind assistance to NGOs working to help trafficking victims, such as tax concessions, and duty free importation privileges. The

Government supports several programs aimed at prevention, such as the 2001 anti-trafficking education campaign, which increased vigilance by officials at entry points, as well as within the communities. In 2001, the public and private press have published numerous articles on this subject. Related preventive efforts on the part of the government include free public nursery and primary education, and a program to finance micro-projects managed by women and young girls. Cameroon is one of the West African countries involved in an international organization's program to reduce trafficking in children.

Issues of concern

121. Despite constitutional provisions recognizing women's rights, women do not, in fact, enjoy the same rights and privileges as men. Because of the importance attached to customs and traditions, laws protecting women are often not respected. Early marriage is prevalent especially in remote provinces, and many young women face severe health risks from early pregnancies. Despite the law that fixes a minimum age of 15 years for a bride, families marry many girls by the age of 12 years.⁴⁷ Law and tradition permit polygamy, but not polyandry.⁴⁸ Under the customary law of some ethnic groups, husbands not only maintain complete control over family property, but also can divorce their wives in a traditional court without being required to provide either verifiable justification or alimony. In her 2000 report,⁴⁹ the Special Rapporteur noted that there is no legal provision for women to own property in Cameroon. Traditional law normally governs the extent to which a woman may inherit from her husband in the absence of a will, and customs vary from group to group. In many traditional societies, custom grants greater authority and benefits to male than to female heirs. In cases of divorce, the husband's wishes determine the custody of children over the age of 6. While a man may be convicted of adultery only if the sexual act takes place in his home, a female may be convicted without respect to venue.

122. Domestic violence against women is reportedly common.⁵⁰ In cases of sexual assault, a victim's family or village often impose direct, summary punishment on the suspected perpetrator through extralegal means, ranging from destruction of property to beating. While there are no reliable statistics on violence against women, the large number of reports, which are estimated to be a fraction of actual incidents, indicates that it is widespread.

123. The Special Rapporteur is gravely concerned about the exemption from punishment for rape if the rapist marries the victim. It allows the rapist's criminal responsibility to be extinguished, thus treating rape as a crime distinguished from other crimes against a person, and it undermines the woman's free and full consent to marriage since she is often put under pressure in order to save her and the family's "honour".

124. According to information received, FGM is not practiced widely, but it is traditional and continues to be practiced in some areas of Far North and Southwest Provinces. It includes the most severe form, infibulation, and usually is practiced on preadolescent girls.

125. Another problem facing women is forced marriage; in some regions, girls' parents can and do give them away in marriage without their consent. Often, the husband, who sometimes is many years older than the girl, pays a bride's parents a "bride price." Since a price has been paid, the girl is considered the property of the husband. When a married man dies, his widow often is

unable to collect any inheritance, since she herself is considered part of the man's property. Often the widow is forced to marry one of the deceased's brothers. Refusal means that she must repay the bride price in full (she usually has no source of funds) and leave the family property. In the Northern provinces, some *Lamibe* (traditional rulers) reportedly prevent their wives and concubines from leaving their palaces. The lack of a national legal code covering the family leaves women defenceless against male-oriented customs.

126. There are reports that women are subjected to torture in Cameroonian prisons. Rape and sexual assault of women and minors are reportedly perpetrated both by prison officials and by male inmates.⁵¹ It has been reported that several women have been killed by the police because they either were girlfriends of supposed robbers or because they refused to become mistresses of State officials.⁵² According to information received, women are sometimes put into detention on the sole grounds that their boyfriend is thought to be a criminal.

127. Like the Committee on the Elimination of Discrimination against Women, the Special Rapporteur notes with concern: the retention of discriminatory laws from two different legal systems, as well as customary law; the lack of sufficient resources for programmes to promote the advancement of women, resulting in the incomplete execution of programmes and projects; the lack of a holistic approach to the prevention and elimination of the various forms of violence against women and girls, particularly FGM and domestic violence; the increased feminization of poverty and the associated increase in the number of women and girls entering prostitution; the persistence of cultural practices and deep-rooted stereotypes relating to the roles and responsibilities of women and men in all areas of life.⁵³

Cape Verde

128. Cape Verde acceded to the Convention on 5 December 1980. Cape Verde's initial through fifth periodic reports have not been submitted (covering the period 1982-1998); the fifth periodic report was due 3 September 1998.

Legislation

129. In 1998 the Parliament revised the Penal Code, widening the definition of sexual abuse and strengthening penalties against abusers.

Issues of concern

130. Despite legal prohibitions against gender discrimination, as well as provisions for social and economic equality, discrimination against women reportedly persists. Many women do not know their rights or do not possess means to seek redress, especially in rural areas. It is alleged that they are also subject to common, but seldom reported domestic violence. While mechanisms to deal with spousal abuse exist in theory, in practice these mechanisms neither ensure the punishment of all those responsible nor effectively prevent future violence. The Government and civil society encourage women to report criminal offenses such as rape and spousal abuse to the police; however, longstanding social and cultural values inhibit victims from doing so and according to the media, such reports remain rare.

131. Serious concerns about child abuse, sexual violence against children, juvenile prostitution and the prevalence of child labour persist, exacerbated by chronic poverty, large unplanned families, and traditionally high levels of emigration of adult men. The alleged inefficiencies of the judicial system made it difficult for government institutions to address the problem.

132. In July 2000, a group of female attorneys formed the Women Jurists Association, to provide free legal assistance to women throughout the country suffering from social abuse (both violence and discrimination) and spousal abuse. Campaigns to promote women's human rights have been mounted by local nongovernmental organizations. Women's organizations continue to seek legislation to establish a special family court to address crimes of domestic violence and abuse; however, without success.

133. In September 2001 the Education Minister announced that students would be suspended from classes during pregnancy and nursing. The decision, which was intended to protect mother and child and to discourage early pregnancy, was very controversial. The measure reportedly seeks to enable such students to resume their studies at later date because students who drop out because of pregnancy or nursing usually remain out too long to be readmitted into the age group that the law permits to receive free education. Some observers see this measure as discriminatory, and therefore a violation of the Constitution.

134. The country is a transit point for traffickers, and trafficking has become a concern for local authorities. Several press reports noted that the police have arrested some persons, traffickers as well as victims. In 2000 such cases involved fewer than 30 persons. The Government is reportedly cooperating with European authorities, neighboring governments, and foreign embassies to deal with the problem.

Central African Republic

135. The Central African Republic acceded to the Convention on 21 June 1991. The Republic's initial, second and third periodic reports were due 21 July 1992, 1996 and 2000 respectively.

Legislation

136. The law does not discriminate against women in inheritance and property rights, but a number of conflicting customary laws often prevail. A family code designed to strengthen women's rights was enacted in 1998 and the Association of Central African Women Lawyers was set up to provide women with advice on their legal rights.

137. Spousal abuse is considered a civil matter unless the injury is severe. Polygamy is legal, although this practice faces growing resistance among educated women (the law authorizes a man to take up to four wives, but a prospective husband must indicate at the time of the first marriage contract whether he intends to take additional wives). Divorce is legal and may be initiated by either partner.

138. The law does not specifically prohibit trafficking in persons; however, traffickers can be prosecuted under laws against slavery, labor code violations, mandatory school-age laws, and

laws against the exploitation of prostitution by means of coercion or fraud. Specific laws address the crime of prostitution and punish those who traffic women for the purposes of prostitution.

Policies and programmes

139. In 2000 the Government established a commission to study the extent of the trafficking problem, to identify those responsible, and to devise a plan to combat the problem; however, few resources have been devoted to the problem. The Ministries of Social Affairs, Interior, Labor, Rural Development, Justice, and Defense are involved in anti-trafficking efforts and are part of the commission. In August 2001, the Government organized a one-week sensitization campaign for prostitutes and street children in preparation for the World Summit for Children.

140. The National Committee against the Traditional Practices that Affect Women's Health was established in 1996 by the Ministry of Social Affairs with the aims to collect data and initiate studies on the issue, to inform the population about these practices, and to reinforce the legal framework. During 2001, a Government-NGO campaign continued to reduce incidence of FGM in rural areas.

Issues of concern

141. It is reported that domestic violence against women, including wife-beating, is common; however, inadequate data make it impossible to quantify. Furthermore, victims seldom report incidents, and the courts reportedly try very few cases of spousal abuse, although litigants cite these abuses during divorce trials and civil suits. It is said that some women tolerate abuse to retain a measure of financial security for themselves and their children. Single, divorced, or widowed women, even with children, are not considered socially to be heads of households. Only men are entitled to family subsidies from the Government. Women in rural areas generally suffer more discrimination than do women in urban areas.

142. Girls are subjected to FGM in certain rural areas, and to a lesser degree in Bangui. The 1994-1995 national demographic and health survey provided the first comprehensive data on female genital mutilation in the country, indicating an overall prevalence of 43 per cent. However, the rate varies by region and ethnic group.⁵⁴

143. Children are reportedly trafficked from Nigeria, Sudan, and Chad to be used as domestic servants, shop helpers, and agricultural workers. Furthermore, some parents force their daughters into prostitution to help support the family.

Chad

144. Chad acceded to the Convention on 9 June 1995. Chad's initial and second periodic reports were due 9 July 1996 and 2000 respectively.

Legislation

145. Rape and prostitution are prohibited by law;⁵⁵ however, sexual harassment is not. No law or other texts provide for or punish marital rape. The Penal Code strictly prohibits assault and battery, but does not include specific articles on violence against women committed inside the home.⁵⁶ Certain general clauses, however, can be invoked in the effort to obtain justice. The law considers any citizen under the age of 18 years as a minor. The age of consent is 14, sexual relations, even with consent, before that age is considered to be rape and the prescribed sentence is for hard labour in perpetuity.⁵⁷ Although the law prohibits sexual relations with a girl under the age of 14, even if married, this law rarely is enforced, and families arrange marriages for girls as young as the age of 12 or 13; the minimum age for engagements is 11 to 12.

146. Chadian statutory law does not specifically prohibit female genital mutilation (FGM). However, without referring explicitly to female circumcision, the Penal Code punishes amputation or other infirmities resulting from blows, injuries or other types of assault and battery.⁵⁸ Charges can be brought against the parents of FGM victims, medical practitioners, or others involved in the action; however, no suits have been brought under the law. A law to criminalize the practice of FGM was passed by the Council of Ministers; however, by the end of 2001, no action had been taken by the National Assembly.

147. In 1999 the Government held meetings with representatives of religious groups and civil society to update the Family Code; however, no action was taken to amend the Family Code by the end of 2001. In the absence of a comprehensive law governing women's rights, the Family Code sets the parameters of women's rights under the law.

148. Under the law, polygamy is sanctioned; however, spouses may opt for monogamy.⁵⁹ If a monogamous relationship is violated, the marriage may be dissolved at the wife's request alone; however, she must repay the bride price and other expenses related to the marriage.

149. The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country. The Penal Code makes trafficking in persons a crime punishable by five to 20 years in prison; however, no governmental organization focused on the potential problem, and no economic or financial aid would be available unless a victim seeks damages in court.

Policies and programmes

150. The National Commission on Human Rights was created in 1994. Among the Commission's tasks is that of submitting opinions to the Government concerning human rights and freedoms, including the status of women, the rights of children, and the rights of persons with disabilities. Individuals claiming a violation of rights may take their cases to the courts of general jurisdiction; if the courts fail to act, the case may be taken to the National Commission. International treaties take effect in domestic law as soon as they are promulgated and published.

151. Both the Government and the NGO community have conducted active and sustained public education campaigns against FGM. The Ministry of Social Action and the Family is responsible for coordinating activities to combat FGM.

152. In 2001, the Government cosponsored with UNICEF a number of workshops, seminars, and radio broadcasts to raise awareness of the abuses of child labor and to advocate elimination of the worst forms of child abuse. The Government has also sponsored educational campaigns through the media to advise parents to instruct children about the danger of trusting strangers, in an attempt to prevent trafficking.

Issues of concern

153. Violence and societal discrimination against women reportedly remain common.⁶⁰ Domestic violence is believed to be common, although no statistics are available. By tradition wives are subject to the authority of their husbands, and they only had limited legal recourse against abuse. Family or traditional authorities may act in such cases; however, it is reported that police rarely intervened. Rape, prostitution, and sexual harassment are allegedly all problems.

154. FGM is widespread and deeply rooted in tradition. A 1995 United Nations study estimated that approximately 60 per cent of all women have undergone FGM; the practice is especially prevalent among ethnic groups in the east and south, where it was introduced from Sudan.⁶¹ All three types of FGM are practiced; the least common but most dangerous and severe form of FGM, infibulation, is confined largely to the region on the eastern border with Sudan. FGM usually is performed prior to puberty as a rite of passage and an occasion during which many families profit from gifts from their communities.

155. Discrimination against women remains widespread. In practice women do not have equal opportunities for education and training, making it difficult for them to compete for the few formal sector jobs. Property and inheritance laws do not discriminate against women, but traditional practice favors men. There were also some forced marriages, for the financial gain of a dowry. Many young wives then were forced to work for their husbands in fields or homes.

Comoros

156. Comoros acceded to the Convention on 31 October 1994.

Legislation

157. According to information received, in theory a woman could seek protection through the courts in the case of domestic violence, but it is addressed most often within the extended family or at the village level.

158. Prostitution is illegal; child prostitution and child pornography are criminalized under the law. Unmarried children under the age of 13 are considered minors, and they are protected legally from sexual exploitation, prostitution and pornography.

159. While legal discrimination exists in some areas, in general inheritance and property rights do not disfavour women. For example, the house that the father of the bride traditionally provides to the couple at the time of their marriage remains her property in the event of divorce.

160. A matriarchal African tradition affords women some rights, especially in terms of landholding. Societal discrimination against women is most apparent in rural areas where women have farming and childrearing duties, with fewer opportunities for education and wage employment. In contrast, an improvement in the status of women was most evident in the major towns, where growing numbers of women are in the labor force and generally earn wages comparable to those of men engaged in similar work; however, few women hold positions of responsibility in business.

Congo (Republic of the)

161. Congo ratified the Convention on 26 July 1982.

Legislation

162. The Fundamental Act provides for the equality of all citizens, prohibits discrimination based on gender, and stipulates that women have the right to equal pay for equal work. However, marriage and family laws overtly discriminate against women. For example, adultery is illegal for women but not for men. Polygamy is legal; polyandry is not. While the Legal Code provides that 30 per cent of the husband's estate goes to the wife, in practice the wife often loses all rights of inheritance upon the death of her spouse, especially in the context of traditional or common-law marriages. The symbolic nature of the dowry set in the Family Code often is not respected, and men are forced to pay excessive bride prices to the woman's family. As a result, the right to divorce is circumscribed for some women because they lack the financial means to reimburse the bride price to the husband and his family. This problem was more prevalent in rural areas than in urban centers.⁶²

163. There are no specific provisions under the law for domestic violence, apart from general statutes prohibiting assault. Rape is illegal. The Fundamental Act affords children equal protection under the law. Child labor is illegal; however, in practice this law generally was not enforced, particularly in rural areas. The law does not specifically prohibit trafficking in persons.

Policies and programmes

164. The Ministry of Public Service, Administrative Reform, and the Promotion of Women is responsible for coordinating government initiatives regarding the status of women. The Ministry of Health's National Plan of Action now includes a component on sexual violence and rape during war.⁶³

Issues of concern

165. According to information received, domestic violence, including rape and beatings, is widespread. Domestic violence is normally handled within the extended family and only the

more extreme incidents are brought to the police. FGM is not practiced indigenously, but occurs in some of the immigrant communities from countries such as Mauritania and Mali, where it is more common. The Special Rapporteur notes with concern that maternal mortality rates reportedly worsened throughout the 1990s, and in its plan for Congo for 2001-2002, the United Nations estimated that only 2 per cent of Congolese women have access to contraception.⁶⁴ Abortions are illegal except when pregnancy poses a danger to the mother, nevertheless they are available. According to one local clinic willing to share information anonymously, 20 abortions are performed there per day.

166. In his 2000 report, the Special Rapporteur on torture noted that rape was widely practiced by the military.⁶⁵ Widespread rape during the 1998-1999 civil conflict raised public awareness of violence against women. NGOs, such as the International Rescue Committee, continued to draw attention to the issue and provided counselling and assistance to victims.

167. According to information received, teenage girls sometimes exchanged sex under pressure for better grades. This practice resulted in both the spread of HIV/AIDS and unwanted, unplanned pregnancies, which are considered social problems. There were also reports of isolated cases of child prostitution, particularly among the growing numbers of street children; however, the prevalence of the problem is unclear.

168. It is reported that persons were trafficked to, from or within the country. An ILO study conducted in March and April 2000 in Yaoundé, Douala, and Bamenda, Cameroon, indicated that regional traffickers transported children between the Republic of the Congo and Nigeria, Benin, Niger, Chad, Togo and the Central African Republic, through Cameroon.

169. Marriage and family laws reportedly overtly discriminate against women. An analysis of extended food assistance beneficiaries in Brazzaville found that 70 per cent were female-headed households, likely reflecting a post-war increase in single mothers.⁶⁶

170. The Special Rapporteur recommends to the Government to address the inequalities affecting women in society with a view to eliminating them, inter alia by adopting and enforcing appropriate legislative and administrative measures. Furthermore, the Government should give women the necessary protection and assistance, ensure the reintegration of rape victims and do everything possible to identify and prosecute the perpetrators of these crimes.⁶⁷

Côte d'Ivoire

171. Côte d'Ivoire ratified the Convention on 18 December 1995. Côte d'Ivoire's initial and second periodic reports were due 17 January 1997 and 2001 respectively.

Legislation

172. Legislation prohibiting forced marriages and sexual harassment has been enacted.⁶⁸ Although the Penal Code does not define rape, it does punish it with imprisonment of five to 20 years (Article 354, Penal Code). The sentence is life imprisonment if the perpetrator: is assisted in his or her crime by one or several persons; is the father, an older relative, or a person with

authority over the victim; is responsible for his or her education or intellectual or professional training. The sentence is also life in prison if the victim is a minor younger than 15. Marital rape is not considered an offense, a woman is presumed to have consented to sexual intercourse by marrying, even if the union was at an early age and/or forced. There is no specific criminal clause prohibiting a husband from striking his wife. Domestic violence falls within the purview of article 345 of the Penal Code, which punishes willful assault and battery.

173. The law specifically forbids FGM⁶⁹ and makes those who perform it subject to criminal penalties of imprisonment for up to five years and a fine of roughly US\$ 650 to 3,500 (360,000 to 2 million CFA francs); double penalties apply for medical practitioners.

174. The penalty for statutory rape or attempted rape of either a girl or a boy aged 15 years or younger is a one- to three-year prison sentence and a fine of US\$ 140 to 1,400 (100,000 to one million CFA francs).

175. There is no law in Côte d'Ivoire specific to trafficking, and the cases in which authorities attempted to use existing legislation against suspects often results in acquittals or light sentences.

Policies and programmes

176. A National Committee to Combat Violence Against Women and Children has been established.⁷⁰ As part of the campaign against FGM undertaken by the Government and NGOs, several practitioners were arrested in the north for performing excisions. In previous years, arrests were made only following the death of the FGM victim. One of the National Policy's strategies is to revise and develop legislation and regulations to address traditional practices that are harmful to health, in particular, the genital mutilation of women and girls.

177. The Government is cooperating with international organizations and NGOs to repatriate and deliver assistance to trafficking victims. Enforcement at Côte d'Ivoire's marked land border crossing points was dramatically stepped up during 2001. Côte d'Ivoire's most serious and successful efforts on the prevention front result from diplomatic agreements with source countries. The first of a promised series of cooperation agreements with Mali has contributed to a sharp decline of trafficked victims to Côte d'Ivoire, although there is some evidence of a rise in trafficking in Burkinabe children. Additional agreements are planned with major source countries. The Government participates in regional efforts and conferences and sponsored a regional anti-trafficking workshop in January 2002. Côte d'Ivoire is one of the West African countries participating in an international program to reduce trafficking in children.

Issues of concern

178. Domestic violence occurs frequently, a severe social stigma is attached to female victims of domestic violence, who are shamed for their presumed bad behaviour and need of correction. Women who are the victims of rape or domestic violence are often ignored when they attempt to bring the violence to the attention of the police. The courts and police reportedly view domestic violence as a family problem unless serious bodily harm is inflicted, or the victim lodges a complaint, in which case they may initiate criminal proceedings. However, a victim's own

parents often urge withdrawal of a complaint because of the shame that attaches to the entire family. The Government does not collect statistics on rape or other physical abuse of women, and has no clear policy regarding spousal abuse beyond what is contained in the civil code.

179. FGM is a serious problem. FGM is practiced particularly among the rural populations in the north and west and to a lesser extent in the centre. The procedure usually is performed on young girls or at puberty as part of a rite of passage. It is almost always done far from modern medical facilities, and techniques and hygiene do not meet modern medical standards. According to WHO as many as 60 per cent of women have undergone FGM.⁷¹ The practice is becoming less popular, but in places it continues.

180. The Constitution and the law prohibit discrimination on the basis of sex; government policy encourages full participation by women in social and economic life; however, there is considerable informal resistance among employers to hiring women, whom they consider less dependable because of their potential pregnancy.

181. There are large populations of street children in the cities. Some children are employed as domestics and are subject to sexual abuse, harassment, and other forms of mistreatment by their employers, according to the AIDF and the Ministry of Family, Women, and Children's Affairs.

182. Côte d'Ivoire is primarily a destination for children trafficked to labor as plantation and other agricultural laborers, as mine workers, and as domestic servants, under conditions in some cases approaching involuntary servitude. Some women from Côte d'Ivoire are also trafficked to Europe and the Middle East for purposes of prostitution, and some women from the region are brought to Côte d'Ivoire's large cities for the same reason. Women children are trafficked to the country from Mali, Burkina Faso, Ghana, Togo, Benin, and Mauritania for indentured or domestic servitude, farm labour and sexual exploitation. Women principally are trafficked to the country from Nigeria, Ghana, Liberia, and Asian countries. The extent of the problem was unknown. The country's cities and farms still provide ample opportunities for traffickers, especially of children and women.

183. The Special Rapporteur supports the recommendations of the Committee on the Rights of the Child⁷² to the government, inter alia: to undertake studies on domestic violence, ill-treatment and child abuse, including sexual abuse, in order to understand the scope and nature of these practices; to adopt effective measures and policies; and to contribute to changing attitudes. The Special Rapporteur also recommends that cases of domestic violence and sexual abuse at schools be properly investigated through a child-sensitive judicial procedure, and that the perpetrators be sanctioned, with due regard for the right to privacy of the child; that support services be provided to child witnesses in legal proceedings; that provision be made for the physical and psychological recovery and social reintegration of victims of rape, abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention; and that measures be taken to prevent the criminalization and stigmatization of victims.

Democratic Republic of the Congo

184. Democratic Republic of the Congo ratified the Convention on 17 October 1986. DRC's initial through third periodic reports (CEDAW/C/ZAR/1; CEDAW/C/ZAR/2; and CEDAW/C/COD/3) were considered by the Committee at its January 2000 session; the fourth periodic report was due 16 November 1999.

Legislation

185. The Penal Code prohibits rape and indecent assault. Rape is defined as forcible sexual penetration, while indecent assault is a sexual assault without penetration. Rape is punishable by a prison sentence of five to 20 years, and indecent assault is punishable by prison terms between six months and 20 years, depending on the age of the victim and whether violence, ruse, or threat was used.⁷³ Kidnapping or detaining a person using violence, ruse, or threat is also punishable under the Penal Code. If the victim is subjected to physical torture, the punishment is five to 20 years. If the torture leads to the death of the victim, the death sentence or a life prison sentence are applicable.⁷⁴

186. The status of women under Congolese law is that of second-class citizens. The Family Code defines the husband as the head of the household and determines that his wife has to obey him. Article 444 reads: "The husband is the head of the household. His duty is the protection of his wife; his wife owes her obedience to her husband." The terms of the Congolese Family Code specifically violate the international standards requiring the equality of men and women before the law, for example, with reference to women's legal capacity, freedom to choose a residence and to dissolve marriage.

187. No law prohibits FGM. Prostitution is not a crime, except for children under the age of 14. The Juvenile Code includes a statute prohibiting prostitution by children under the age of 14. The law prohibits forced or compulsory labor but does not prohibit specifically forced and bonded labor by children.

Policies and programmes

188. Structures to define policies and programmes to promote the rights of women and families have been established, including the Ministry of Social Affairs and the Family, the General Secretary for the Family, the Ministry of Justice, the Ministry of Human Rights and national and provincial councils on women and children. Significant efforts have been made to implement the recommendations arising from regional and global conferences on women, including the Fourth World Conference on Women, in which the Democratic Republic of the Congo had participated.

189. A national forum on the rights and leadership of women was organized in 1996 to sensitize women with regard to their rights and to elaborate a plan of action. The Ministry of Social Affairs and the Family, in collaboration with NGOs, have modified discriminatory provisions and conducted sensitization campaigns on women's human rights and on violence against the girl child and women. The Government has established a national programme for the advancement of women, which aimed to strengthen the economic power of women, to improve their legal and

social status, formal education, health and access to economic resources, to provide assistance to rural women and to eliminate customs that negatively affect women.

190. The Government, through the Ministry of Information, had made efforts to raise public awareness concerning the Convention and other instruments related to human rights. Since the creation of the Ministry of Advancement of Women in 1980, several awareness-raising campaigns have been organized concerning VAW and to promote a more positive image of the role of women in society and in the family. A study on customary laws and the rights of women had been conducted by the Ministry of Advancement of Women and NGOs to develop strategies to eliminate all harmful customs and practices. A study had also been conducted in October 1999 by the Ministry of Advancement of Women and NGOs to provide a basis for strategies to address violence against women.

191. The newly established “Commission de lutte contre les viols et violence au Sud Kivu” together with the local and international NGOs in the area are trying to address the problem of sexual violence at all levels, legal, medical, social and psychological. Funds are being raised to be able to better inform women in remote rural areas of medical services available as well as to provide transportation to medical facilities. Documentation on numbers of HIV/AIDS cases in local hospitals has also started. One important aspect of the work has been to document the systematic nature of violations, murder, kidnappings, rape, forced pregnancies of women and girls by all the different armed groups in the Kivus for possible later use, if a International Tribunal is to be established for DRC.⁷⁵

Issues of concern

192. According to information received, forces on all sides in the Congo conflict have committed war crimes against women and girls, frequent and sometimes systematic use of rape and other forms of sexual violence in the Rwandan-occupied areas of eastern Congo.⁷⁶ Crimes of sexual violence have reportedly been committed by soldiers of the Rwandan army and its Congolese ally, the Rassemblement congolais pour la démocratie (RCD), as well as armed groups opposed to them – Congolese Mai Mai rebels, and Burundian and Rwandan armed groups. There are reports that Interamhamwe militia in South Kivu Province often raped women. Rwandan troops and RCD rebels also reportedly engaged in the rape of women in public and often in the presence of their families and in-laws. It is reported that combatants’ raped women and girls during military operations to punish the local civilian population for supporting the “enemy”. A woman raped in this manner generally is forced out of the village, leaving her husband and children behind. According to reports, marauding bands of armed men in the occupied territories often put victims of rape through further abuse by inserting rocks, sharp sticks, and hot peppers into their vaginas.⁷⁷ In other cases, Mai Mai rebels and other armed groups abducted women and girls and forced them to provide sexual services and domestic labor, sometimes for periods of more than a year. Numerous groups, particularly human rights groups, have reported that Rwandan Patriotic Army (RPA) troops and RCD rebels in the country targeted Catholic clergy for abuse. Abuses reportedly took the form of attacks on missions, the killings of priests, the rape of nuns, and the burning of churches.

193. No action was taken against the members of the RCD or the Rwanda Patriotic Army (RPA) who were responsible for torturing, beating, raping, or otherwise abusing the persons in the following cases from 2000. No further action was taken in the 2000 case in which there were numerous reports that the Congolese Rally for Democracy forces based in Goma (RCD), participating with or supported by the RPA, beat, tortured, and then buried 15 women alive at Mwenga in December 1999. In December 1999, the RCD/RPA arrested Frank Kasereke, the RCD commander, but he escaped from jail in February 2000 along with 32 other detainees.

194. According to information received, domestic violence against women, including rape, is common, but there are no known government or NGO statistics on the extent of this violence. It is reported that the police rarely intervene in domestic disputes. FGM is not widespread, but it is practised on young girls among isolated groups in the north. The Government has reportedly not addressed the problem.

195. The number of orphans and street children has increased in the last few years. Street children in Kinshasa were reportedly subject to severe harassment and exploitation, particularly by soldiers and police. There were reports that the Congolese Armed Forces (FAC) sexually exploited homeless girls. In addition there were reports that girls as young as 8 years of age were forced into prostitution to earn money to their families.

196. Trafficking is a problem; the country is a source for trafficked women and children. Women are trafficked to Europe, mainly France and Belgium, for sexual exploitation. Rebel and foreign forces have abducted a number of children in the country to be used for labour or sex. According to information received, the Government does not have any programs in place to prevent this practice. The Government has not yet made significant efforts to combat trafficking, due in part to lack of resources or information, an unwillingness to acknowledge there is a significant problem, and because much of the country's trafficking problem occurs in areas controlled by rebel groups and foreign armies. The Government has not investigated vigorously or prosecuted trafficking cases. The Government has no resources for training; however, it permits training of officials by the Government of France and by NGOs. The Government does not coordinate with other countries on trafficking issues and has no funding for protection services.

197. Factors and difficulties affecting the implementation of measures against gender-based violence include: economic, social and political problems related to the war; growing inflation, which has eroded the quality of life of millions of women who do not have enough resources to survive; the persistence of prejudices and stereotypical behaviours with respect to the role of women and men in the family and society, based on the idea of male superiority and the consequent subordination of women to men.

198. In its concluding observations and comments,⁷⁸ the Committee on the Elimination of Discrimination against Women identified the principal areas of concern as follow: remaining discriminatory provisions in the Family Code, the Penal Code and the Labour Code; inadequate resources for the national machinery and the Ministry of Social Affairs and the Family to implement their plan of action; the persistence of traditional customs and practices (e.g. dowry, polygamy, forced marriage, female genital mutilation); reports of women being raped, assaulted or severely tortured during the war; the situation of refugee and displaced women suffering from

the consequences of war, and the psychological and mental trauma experienced by women and girls as a result of the forced conscription of children; the extent of prostitution, often resulting from poverty, and particularly prostitution of girls; the under-representation of women in political life and in the country's governing bodies, including those of the judicial system.

Djibouti

199. Djibouti acceded to the Convention on 2 December 1998; its initial report was due 1 January 2000.

Legislation

200. Women legally possess full civil rights, but custom and traditional societal discrimination in education dictate that they play a secondary role in public life and have fewer employment opportunities than men.⁷⁹ Customary law discriminates against women in such areas as inheritance, divorce, and travel (women are not permitted to travel without the permission of an adult male relative). Male children inherit larger percentages of an estate than do female children. The few women who are educated increasingly turn to the regular courts to defend their interests.

201. The law includes sentences of up to 20 years' imprisonment for rapists. The law states that "violence causing genital mutilation" is punishable by five years' imprisonment and a fine of more than US\$ 5,650 (1 million DF). However, according to information received the Government has not yet convicted anyone under this statute.

Policies and programmes

202. The Government has collaborated with the Djibouti office of the humanitarian organization Caritas and UNICEF on a gender-sensitivity campaign. The Government has adopted the Caritas initiative as part of its own gender programme addressing maternity risks.

Issues of concern

203. Domestic violence against women exists but reported cases are few. VAW normally is dealt with within the family or clan structure rather than in the courts. It is reported that the police rarely intervene in domestic violence incidents and the media report only the most extreme examples, such as murder.

204. It is believed that as many as 98 per cent of females more than 7 years of age have undergone FGM.⁸⁰ FGM traditionally is performed on girls between the ages of 7 and 10. In 1988 the Union of Djiboutian Women (UNFD) began an educational campaign against infibulation, the most extensive and dangerous form of FGM. The campaign has had only a limited impact on the prevalence of this custom, particularly in rural areas, where it is pervasive. The efforts of the UNFD and other groups appeared to be having some effect, at least in the capital city. In 1997 some health workers reported a precipitous drop in the number of

hospitalizations related to FGM in Djibouti City. Many believe that the incidence of infibulation has decreased, although no systematic data is available on the problem.

205. There were reports that security forces beat, otherwise abused, and at times tortured detainees, and raped female inmates. There have been reports that security force personnel raped at least 120 Afar women in the northern districts of Obock and Tadjourah in recent years. In almost all of the cases, the victims did not press charges due to shame and fear.

206. The Government has reportedly not addressed child abuse, which often is punished lightly; for example, when a child is raped or abused, the perpetrator usually is fined an amount sufficient to cover the child's medical care. The Government has not used applicable existing provisions of the Penal Code to deal with child abuse more severely. The country has not ratified ILO Convention No. 182 (1999) on the worst forms of child labor. The Special Rapporteur is particularly concerned about the exposure of children, particularly those living on the street or working in port areas, to sexual exploitation and to sexually transmitted diseases.

207. The Special Rapporteur also expresses her concern over: a lack of sufficient efforts to introduce adequate programmes to facilitate the rehabilitation of children affected by armed conflict and related violence; the high and apparently increasing incidence of prostitution involving children, in particular girls; the lack of facilities to provide services to sexually exploited children; the lack of support and assistance that may be faced by children who had been recently detained in the Gabode prison.

208. The Special Rapporteur supports the Committee on the Rights of the Child⁸¹ that recommends to the Government: to continue efforts to increase the legal minimum age for marriage and ensure non-discrimination against girls in this regard; to consider the need for effective public information and sensitisation activities to discourage early marriage; to give particular attention to addressing discrimination against both girls and women, inter alia by reviewing domestic legislation so as to ensure that discriminatory provisions, including those affecting inheritance rights, are removed and that adequate protection from discrimination is provided; to continue taking effective measures to eradicate female genital mutilation; ensure that the adoption of legal and judicial provisions in this area is accompanied by further efforts to engage the community in the process of changing cultural attitudes.

Equatorial Guinea

209. Equatorial Guinea acceded to the Convention on 23 October 1984. Equatorial Guinea's fourth periodic report was due 22 November 1997.

Legislation

210. There is no discrimination against women in formal inheritance and family laws; however, in the Fang, Ndowe, and Bisio cultures, primogeniture is practiced, and because women become members of their husband's family upon marriage, they usually are not accorded inheritance rights. When her husband dies, the widow either remains with his family in a dependent, marginalized position or she returns the dowry and leaves with nothing. According to the law,

women have the right to buy and sell property and goods; however, in practice the male-dominated society permits few women access to sufficient funds to engage in more than petty trading or to purchase real property beyond a garden plot or modest home.

211. The law does not prohibit trafficking in persons; however there is a government project to provide protection and assistance to trafficked and at-risk children, which includes construction of two shelters scheduled to be operational later in 2002. Over the past few years, the Government has offered to repatriate and provide assistance to trafficking victims. The Government cooperates with NGOs that provide services to victims and at-risk women and children. In terms of prevention, government-sponsored radio announcements promote the law forbidding employment of children under the age of 14. The Government also requested the support of international organizations to finance a national study on child trafficking, and to identify measures for its eradication. Equatorial Guinea actively participates in regional conferences and efforts to combat trafficking in persons.

Issues of concern

212. In the Special Rapporteur on the situation of human rights in Equatorial Guinea's report to the fifty-sixth session of the Commission on Human Rights,⁸² the section of the report dealing with the status of women highlighted, inter alia, that: although the number of girls in schools has increased in recent years, only 12 per cent reach the secondary level, compared with 24.4 per cent of men; the rate of female drop-out from school has been growing because of the persistence of women's inferior role and discrimination within the family. The Special Rapporteur also noted that there is a high rate of child labour and that children in detention are not segregated from adult prisoners or detainees.

213. According to information received, domestic and societal violence against women, particularly wife beating, is common. The public beating of wives is forbidden by government decree; however, violence in the home generally is tolerated. It is reported that the Government does not vigorously prosecute perpetrators of domestic violence.

214. Many prisons do not have separate areas for men and women; women are reportedly subjected to sexual abuse from both the authorities and other prisoners while in detention.

215. Although the Constitution provides for equal rights, women largely are confined by custom to traditional roles, particularly in agriculture. Polygamy, which is widespread among the Fang, contributes to women's secondary status, as does limited educational opportunities. There is discrimination against women in traditional practice. For an estimated 90 per cent of women, including virtually all ethnic groups except the Bubi, tradition dictates that if a marriage is dissolved, the wife (or her father or brother) must return the dowry given her family by the bridegroom at the time of marriage. In many instances, the woman has no money or property after the divorce with which to repay the dowry, and, as a result, is incarcerated. Tradition also dictates that, if a girl's family accepts a dowry from a man, she must then marry him, regardless of her wishes. If the marriage does not take place the family is required by tradition to return the dowry, which they sometimes cannot do. This can lead to imprisonment of the bride or a family member for the debt. Government representatives visited villages during 2001 to encourage local

officials, village chiefs, and the police to encourage the substitution of gifts for cash to eliminate the problem of dowry repayment. If a marriage dissolves, the husband also automatically receives custody of all children born after the marriage, while the mother maintains custody of all children born prior to the marriage.

216. The massive influx of single foreign men in the petroleum sector has contributed to an increase in prostitution. There were reports that the country increasingly was being used as a transit point for trafficked persons. The country is also a source for traffickers that feed the domestic labor market in urban centers of countries such as Côte d'Ivoire and Gabon. Children are trafficked internally and from neighboring countries, such as Nigeria and Benin, for bonded labour in the urban and domestic sectors of Equatorial Guinea. To a lesser extent, children being trafficked for domestic labor transit Equatorial Guinea on their way to Gabon. The country's larger cities are a destination, as well as a transit point on to European countries, for women from Equatorial Guinea, Cameroon, Nigeria and Benin, trafficked for the purpose of sexual exploitation. Equatorial Guinea does not have a law against all forms of trafficking, and while related laws exist, they are rarely used against traffickers. Borders are generally inadequately monitored due to insufficient resources and lack of training for law enforcement authorities.

217. The Special Rapporteur supports the recommendations made by the Special Rapporteur on the human rights situation in Equatorial Guinea in his 2000 report.⁸³ discrimination against women should be combated by taking measures such as ending the practice of imprisoning women for not returning their marriage dowry when they separate from their husbands; special efforts should be devoted to promoting respect for the equality and dignity of women and to opposing domestic violence; women's right to education should be strengthened through actions to correct imbalances in levels of schooling relative to males; specific and effective initiatives should be taken to support women's right to work.

Eritrea

218. Eritrea acceded to the Convention on 5 September 1995. Eritrea's initial and second periodic reports were due 5 October 1996 and 2000 respectively.

Legislation

219. Much of society remains traditional and patriarchal, and generally women do not enjoy equal social status to men. The law provides a framework for improving the status of women, but laws are implemented unevenly, reportedly because of a lack of capacity in the legal system and ingrained cultural attitudes.

220. The Penal Code was revised to exclude all discriminatory clauses and to add protective measures to women, for example, the death penalty is commuted to life imprisonment for convicted women who may be pregnant or have children less than three years. Abortion, although still punishable under the Penal Code, is now permitted in cases where a physician can certify that the woman will suffer grave and permanent damage due to severe physical and mental stress, or the pregnancy has resulted from rape or incest.

221. Rape is punishable under the law with a maximum sentence of imprisonment up to 15 years. Domestic violence is a crime. There is no law prohibiting female genital mutilation (FGM). Prostitution is illegal. The law criminalizes child prostitution, pornography, and sexual exploitation. The law does not prohibit trafficking in persons; however, there were no reports that such trafficking occurred to, from, or within the country.

Policies and programmes

222. The Government consistently has advocated improving the status of women, many of whom played a significant role as fighters in the struggle for independence. The Government had also a record of taking a firm stance against domestic violence, and has taken action to combat the practice of FGM. The Government and other organizations, including the National Union of Eritrean Women, sponsor education programs that discourage the practice. The UNFPA, through the Ministry of Health, sponsors reproductive health projects that provide training and awareness programs that focus on the negative physical and psychological impacts of FGM.

223. Eritrea gained independence in 1993, in this struggle, one-third of the freedom fighters were women. It should be noted that women veterans are highly respected in Eritrea and easily identified by their self-confidence and forthright manner. Many of them have achieved prominence in contemporary Eritrean society: they are teachers; they work in the ministries of health and education, and hold other positions of leadership.⁸⁴

Issues of concern

224. Violence against women in Eritrea takes many forms. Harmful traditional practices such as female genital mutilation, domestic violence, rape and virginity checks are all manifestations of the lower value placed on the female population, and their unequal status in the society. According to information received, the Government has not taken a firm public stance against domestic violence and generally has ignored the problem; however, violence against women is pervasive. Domestic violence, especially wife-beating, is common; however, it is seldom discussed openly by women because of societal pressures. Such incidents are more commonly addressed, if at all, within families or by religious clergy. It was estimated that more than 65 per cent of women in the Asmara area were the victims of domestic violence in 2001. The government response to domestic violence was hindered by a lack of training, inadequate funding, and societal attitudes.

225. Female genital mutilation is wide spread, with estimates placing the number of women and girls who have been subjected to FGM at 95 per cent.⁸⁵ FGM is practiced by almost all ethnic and religious groups in the country. In the lowlands, infibulation - the most severe form of FGM - is practised. There is no law prohibiting FGM.

226. When the Government began detaining and returning Ethiopians to Ethiopia in 2000, it is alleged that authorities singled out young Ethiopian women, particularly prostitutes, barmaids, and waitresses, for detention and involuntary deportation; reportedly this was due, in part, to the fear that these women spread HIV/AIDS. Reportedly those women who could demonstrate that they had a child with an Eritrean father were permitted to remain in the country. However, other

female deportees alleged that they were prevented from taking their children because the fathers were Eritreans. It should also be noted that prostitution has become a serious problem in the country as a result of displacement and difficult economic conditions.

Ethiopia

227. Ethiopia ratified the Convention on 10 September 1981, Ethiopia's fourth and fifth periodic reports were due 10 October 1994 and 1998 respectively.⁸⁶

Legislation

228. The Constitution provides for the equality of women; however, these provisions are not applied in practice. These provisions often are in conflict with the Civil Code and the Penal Code, both of which are under review by the Ministry of Justice. Discriminatory regulations in the Civil Code include recognizing the husband as the legal head of the family and designating him as the sole guardian of children over 5 years old. Domestic violence is not considered a serious justification under the law to obtain a divorce. There is only limited juridical recognition of common-law marriage. Irrespective of the number of years the marriage has existed, the number of children raised, and the joint property, the woman is entitled to only three months' financial support should the relationship end. However, husbands have no obligation to provide financial assistance to his family and, as a result, women and children sometimes are abandoned when there is a problem in the marriage. In 1999 the Ministry of Justice completed a revision of the 1957 Penal Code.

229. In 2000 Parliament adopted a new family law, which raised the legal age for marriage for girls from 15 to 18, the same as for boys; it puts civil law above customary and religious law; allows for the legal sharing of property for unmarried couples who have lived together for at least five years (previously, there was no property sharing for couples separating, even if they had lived together their entire adult lives); eliminates family arbitrators as a means of settling marital disputes in lieu of the court system (historically women have fared poorly under the family arbitration system); allows for the joint administration of common marital property (previously a man could sell joint property without the consent or knowledge of his wife); and requires the courts to take into account the situation of children or the weakest member of the family in the event of a divorce or separation (previously women and children often were forced out of the family home in such cases).

230. Rape sentences have increased from 10 to 13 years, in line with the 10 to 15 years prescribed by law; however, rapists generally remain in prison for a period of between seven and 10 years. The major exception is in cases of marriage by abduction where the perpetrator is not punished if the victim agrees to marry him (unless the marriage is annulled);⁸⁷ even after a perpetrator is convicted, the sentence is commuted if the victim marries him. The Penal Code recognizes statutory rape, but since it defines rape as occurring "outside wedlock," it does not recognize marital rape as a crime.⁸⁸ While the Penal Code assigns criminal penalties for willful injury⁸⁹ and assault,⁹⁰ the laws do not specify the consequences of violence occurring between husband and wife. The Civil Code states, however, that "the spouses owe each other respect, support and assistance."⁹¹

231. The law does not specifically prohibit female genital mutilation (FGM), although it is discouraged officially.⁹²

232. There are no laws that criminalize child prostitution or prostitution in general. Various laws prohibit trafficking in persons and provide for fines and prison sentences of up to 20 years; however, there have been no reported prosecutions or investigations, due in part to limited resources.

Landmark cases

233. In 2000 it is reported that a girl was sold by her father to a local man in exchange for cattle; the girl's mother brought the case to the Ethiopian Women's Lawyers Association (EWLA.) The case was prosecuted in the courts, and the father was convicted and sentenced to two years in prison; this was the first case of this kind.

Policies and programmes

234. To enhance the status of women, the Government established a National Programme of Action. The programme seeks to expand educational and work opportunities for women, improve women's access to health care, and educate women about certain unhealthy traditional practices such as early marriage. There have been few improvements in the status of women since the inception of this program; however, according to a study published by the National Committee on Traditional Practices of Ethiopia (NCTPE) in 1998, certain harmful traditional practices such as early marriage and marriage by abduction appeared to be on the decline. Neither the Human Rights Commission (HRC) nor the Office of the Ombudsman was operational by the end of 2001; however, once operational, both organizations are expected to have a representative responsible for the rights of women.

235. A National Committee on Rape and Abduction was established, and the Parliament is aimed to assess the magnitude of rape and abduction in the country. The members of the Committee were drawn from Parliament, the Women's Affairs Bureau, Ministry of Justice and some NGOs. In spite of this and the reported increase in cases of rape, prosecutions and convictions are few.

236. The Bureau for Women's Affairs introduced a Bill in parliament seeking to amend the Penal Code by legalizing abortion under specified circumstances. It is expected that there are 190 deaths from unsafe abortion per every 100,000 live births and that such deaths represent 54 per cent of direct obstetric deaths.⁹³ Although the Bill is yet to be passed into law, the initiative following a conference of the Ethiopian Society of Gynecologists and Obstetricians, has sparked off intense public debate on the issue of legalizing abortion.

237. The 1994 Constitution of Ethiopia provides that "[w]omen have the right to protection by the state from harmful customs [...] Laws, customs and practices that oppress women or cause bodily or mental harm [...] are prohibited."⁹⁴ The Government and civil society organizations have used the constitutional provision to undertake widespread public awareness-raising

activities against FGM. For example, regional bureaus responsible for primary education are required by the parent ministry (the Ministry of Education) to include information discouraging FGM in education materials.⁹⁵ The Government has been very supportive of the National Committee on Traditional Practices of Ethiopia (NCTPE). The Government also is working to discourage the practice of FGM through education in public schools. The Government has encouraged efforts by domestic and international NGOs that focus on children's social, health, and legal issues. For example, local officials provided transportation and free facilities to NGO activities.

238. In 1999 the Government formed a committee to study trafficking in persons and develop anti-trafficking programs. The federal police's Women's Affairs Bureau, in collaboration with the media, created a public awareness program on the dangers of migrating to Middle Eastern countries. On protection, the implementation of the 1998 Private Agency Proclamation, a law regulating agencies providing employment services abroad has been effective in reducing the number of potential victims by requiring work permits. While the government lacks resources to assist victims, it cooperates with international organizations and NGOs that provide these services. In 2000 the Ministry of Foreign Affairs opened a consulate in Beirut to assist women who were trafficked to Lebanon. Training programs have been implemented for police officers on the criminal aspects of trafficking.

Issues of concern

239. Domestic violence, including wife-beating and marital rape, is reportedly a pervasive social problem in Ethiopia. While women have recourse to the police and the courts, societal norms and limited infrastructure inhibit many women from seeking legal redress, especially in rural areas. Social practices allegedly obstruct investigations into rape and the prosecution of the rapist, and many women are not aware of their rights under the law.

240. Although illegal, the abduction of women and girls as a form of marriage still is practiced widely in the Oromiya region and SNNP. Forced sexual relationships often accompany most marriages by abduction, and women often are abused physically during the abduction. Abductions have led to conflicts between families, communities, and ethnic groups.

241. The majority of girls undergo some form of female genital mutilation. The National Committee on Traditional Practices of Ethiopia conducted a survey that was published in 1998, which indicated that 72.7 per cent of the female population had undergone FGM, down from an estimated 90 per cent of the female population in 1990.⁹⁶ Clitoridectomies typically are performed 7 days after birth and consist of an excision of the labia. Infibulation - the most extreme and dangerous form of FGM - is performed at any time between the age of 8 and the onset of puberty. Other harmful traditional practices surveyed by the NCTPE included uvulectomy, milk-teeth extraction, early marriage, and food and work prohibitions.

242. A new family law adopted in 2000 defines the age of consent as 18 for both females and males; however, early childhood marriage is common in rural areas where girls as young as age 9 are subjected to arranged marriages. In the Afar region of the east, young girls continue to be

married to much older men, but this traditional practice is coming under greater scrutiny and criticism.

243. The maternal mortality rate is extremely high due, in part, to food taboos for pregnant women, poverty, early marriage, and birth complications related to FGM, especially infibulation.

244. Child prostitution continues to be a problem and is perceived widely to be growing.⁹⁷ It is reported that child prostitution is on the increase especially in major urban centres; however, there are no statistics available.⁹⁸ It is alleged that girls as young as age 11 are recruited to work in houses of prostitution where they are kept ignorant of the risks of HIV/AIDS infection and other sexually transmitted diseases. There have been reports of the large-scale employment of children, especially underage girls, as hotel workers, barmaids, and prostitutes in resort towns and rural truck stops. Social workers note that young girls are prized because their clients believe that they are free of sexually transmitted diseases. Factors aggravating the problem of child prostitution are pervasive poverty, migration to urban centres, early marriage, HIV/AIDS and sexually transmitted diseases, and limited educational and job opportunities.

245. Ethiopia is a country of origin for trafficked women, and there are reports of internal trafficking. It is alleged that there is a network of persons based in the tourism and import-export sectors who are involved heavily in soliciting potential clients, recruiting young girls, arranging travel, and fabricating counterfeit work permits, travel documents and birth certificates. There continued to be reports that some domestic workers abroad were subjected to abusive conditions, including sexual exploitation. In addition, the employers of the domestics sometimes seize passports, fail to pay salaries, and overwork the domestics, and some domestics were forced to work for their employers' relatives without additional pay.

246. There were reports that members of the military who were redeployed from border areas to other regions sexually harassed and raped some young women.

Gabon

247. Gabon ratified the Convention on 21 January 1983. Gabon's second through fifth periodic reports were due 20 February 1988, 1992, 1996 and 2000 respectively.

Legislation

248. The preamble of the Constitution affirms the country's commitment to the basic human rights and fundamental freedoms defined in, inter alia, the Universal Declaration, the African Charter on Human and Peoples' Rights, and the 1990 National Charter of Freedoms. The Human Rights Department, established in 1987, is entrusted with the mandate of applying government human rights policy and coordinating initiatives derived from the policy. The Ministry of Justice and Human Rights focuses its efforts on the protection and promotion of human rights. Information on, and the dissemination of, international human rights instruments at the national level is central to the promotion of these rights.

249. The law provides that women have rights to equal access in education, business, and investment. Women own businesses and property, participate in politics, and work throughout the Government and the private sector. Women nevertheless continue to face considerable societal and legal discrimination, especially in rural areas.⁹⁹

250. By law, couples must stipulate at the time of marriage whether they intend to adhere to a monogamous or a polygamous relationship; according to information, polygamous marriages are more common. For monogamous married couples, a common property law provides for the equal distribution of assets after divorce. In a polygamous marriage, a husband is obligated to give all wives the same level of financial support; however, he may marry additional wives without permission from his existing wives. Wives who leave polygamous husbands receive half of their existing support as a one-time payment. In inheritance cases, the husband's family must issue a written authorization before his widow can inherit property. Common law marriage, which is accepted socially and practiced widely, affords a woman no property rights.

251. There are no laws against FGM, but according to information received, it was not practiced on Gabonese girls. Gabon does not have specific laws to address trafficking in persons, but draft legislation was proposed in August 2001. The proposed law stipulates that anyone who organizes, facilitates, transports, harbours, sells, or illegally employs trafficked or exploited children, or otherwise benefits from the trafficking or exploitation of children, will face imprisonment and fines of US\$ 14,000 to 28,000 (10 million to 20 million CFA francs). Foreigners caught participating in these acts could be expelled from the country under the proposed law. According to the proposed law, all assets used in the commission of these crimes, or acquired as a result of them, will become property of the Government, and child traffickers will be responsible for paying for the repatriation of their victims. Other laws that can be used to prosecute trafficking, such as child abuse, are inadequate to punish traffickers.

252. The recently promulgated law on contraception contains provisions favourable to the protection and promotion of the reproductive health rights of women and children. One of the provisions allows for the establishment, under the supervision of the Ministry of Family and Women's Affairs, of a National Centre for Social Consultation responsible, among other things, for setting up a framework to deal with issues of violence against women and girls. The subprogramme will support the ministry in establishing structures to facilitate the implementation of the law. It will also strengthen the capacity of the staff of the national centre.¹⁰⁰

Policies and programmes

253. Through initiatives such as the creation of a network of women ministers and parliamentarians, the Government has become increasingly conscious of gender issues and has been gradually taking measures to improve the status of women. Clear evidence of this greater awareness is the creation of a Ministry for Women's Affairs headed by a woman, and the establishment of a structure to promote and defend women's rights.

254. In 2000, the government initiated a program to provide protection to trafficking victims. Gabon signed an agreement with the European Union, and provided the facility for the

establishment of a centre to provide assistance to victims. The Center was inaugurated in March 2002 and provides shelter, as well as legal, medical and psychological assistance to victims. Regarding prevention, the government provided free billboard space in major cities in 2000 for a United Nations information campaign on child trafficking. Gabon participates in regional conferences on the subject, and recently hosted the Second Sub-Regional Consultations on Cross-Border Child Trafficking in Libreville in March 2002. Gabon is one of the West and Central African countries participating in an international program to reduce trafficking in children.

Issues of concern

255. A critical analysis of social indicators and people's attitudes and behaviour reveals entrenched gender biases against women and the absence of equality and equity in their treatment. Women are victims of gender-based violence and of various types of discriminations at all levels. The situation is further exacerbated by the existence of discriminatory laws in relation to dowry, divorce and inheritance within marriage. Few Gabonese women occupy decision-making positions. There are also important geographical disparities: rural women have specific needs, distinct from those of urban women, including higher fertility levels and greater poverty levels.

256. The Constitution forbids discrimination based on national origin, race, gender, or opinion; however, the Government reportedly does not uniformly enforce these constitutional provisions, and there was considerable discrimination against women, especially in domestic affairs. A regulation requires that a woman obtain her husband's permission to travel abroad; however, this requirement is not enforced consistently.

257. According to information received, domestic violence against women was common and especially was prevalent in rural areas. While medical authorities have not specifically identified rape to be a chronic problem, religious workers and hospital staff reported that evidence of beatings of women was common. It is reported that police rarely intervened in such cases, and women virtually never filed complaints with civil authorities. Only limited medical and legal assistance was available.

258. Female genital mutilation occurred among the resident population of expatriate Africans. There were some reports that girls were sexually abused by family members after reaching puberty. Protection for children's rights is not codified in law.

259. Gabon is primarily a destination country for children trafficked from other West African countries such as Benin, Togo, and Nigeria, for domestic servitude and work in the informal commercial sector. Many children are transported to the Gabonese coast by sea, only to endure long work hours, physical abuse, insufficient food, no wages, and no access to education. A significant number of these children are also sexually abused by their employers. It is reported that some officials at all levels of government may employ trafficked foreign children as domestic labor, and that police and immigration officials may facilitate child trafficking. And while official government policy disapproves of trafficking, employment of trafficked children,

and facilitation of trafficking in children, no government official has been formally accused of or prosecuted for trafficking or related crimes.¹⁰¹

260. The Special Rapporteur supports the Human Rights Committee's recommendations to the Government,¹⁰² inter alia: to review legislation and practice in order to ensure that women have the same rights as men, including the rights of ownership and inheritance; to take specific action to increase the involvement of women in political, economic and social life and to ensure that there is no discrimination based on customary law in such matters as marriage, divorce and inheritance; to abolish polygamy and repeal article 252 of the Civil Code.

Gambia

261. Gambia ratified the Convention on 16 April 1993. Gambia's initial and second periodic reports were due 16 May 1994 and 1998 respectively.

Legislation

262. Wife-beating is a criminal offence in Gambia and constitutes grounds for divorce under civil law. Divorce laws generally tend to favour men in awarding custody and dividing communal assets. Legal evidence given by women carries less weight than that given by men.

263. FGM is illegal under the Penal Code, and senior officials and both the official and private press have spoken against the practice; however, there have been no prosecutions for violations of the code.

264. The law prohibits trafficking in persons and carries a penalty of five to 10 years' imprisonment and confiscation of any money or property received as a result of trafficking activities. The law prohibits the exploitation of vulnerable persons for unpaid or underpaid labor, which carries a penalty of six months to five years imprisonment and a fine of approximately US\$ 25 (36,400) to \$150 (GF 218,400). Submitting a vulnerable or dependent person to inhumane working or living conditions carries a sentence of one month to five years' imprisonment and a fine of approximately US\$ 25 to \$250 (GF 364,000).

Policies and programmes

265. The Government has introduced some policies to address the low status of women. These include the establishment of: (a) the National Women's Council and Bureau to focus on the advancement of women and to act as an advisory body to the Government; and (b) gender and poverty focal points in all government institutions and in a number of NGOs and private sector institutions. The National Policy for the Advancement of Gambian Women, formulated in 1994, provides the institutional framework and operational mandates for gender-oriented population activities in the country.¹⁰³ Several government agencies, particularly the Ministry of Social Affairs and the Promotion of Women and Children, are reportedly involved in anti-trafficking efforts.

266. In May 2000, the Government instituted a working plan to analyze the situation of women and children in the country. The program involves workshops and training for security and judicial personnel, as well as the education community. Government also has made regular statements in the media against sexual harassment.

267. The Government has made efforts to educate health workers on the dangers of FGM, and it supports the Coordinating Committee on Traditional Practices Affecting Women's and Children's Health (CPTAFE)'s efforts. The CPTAFE reports high rates of infant mortality and maternal mortality due to FGM. In March 1997, working in collaboration with the World Health Organization, the Government initiated a 20-year strategy to eradicate FGM. As a result, government ministers, health officials, and the media have discussed FGM more frequently; however, there were no statistics to determine the success of the program. The CPTAFE, in conjunction with the Government, local journalists, and international NGOs, is also promoting an education campaign to discourage underage marriage.

Issues of concern

268. Gambian society is reportedly male dominated with women having little decision-making power. Prevailing culture subscribes to polygamy, female genital cutting (FGC), early marriage resulting in low age at first birth, and low status of women characterized by poor access to resources and education and lack of control over land. In rural areas, traditional beliefs and customs are very strong and women are valued mostly for their fertility.

269. Domestic violence against women is reportedly common, although estimates differ as to the extent of the problem. However, it is alleged that police rarely intervene in domestic disputes. The social stigma attached to rape prevents most victims from reporting it. In particular, marital rape goes unreported because most women and men view it as the husband's right. It is reported that the Government has not vigorously pursued criminal investigations of alleged sexual crimes. Although under-age marriages are prohibited by law, it is reported that parents in the forest region contract marriages for girls as young as 11 years of age. Women working in the formal sector in urban areas complain of frequent sexual harassment.

270. Female genital mutilation is practiced widely in all regions and among all religious and ethnic groups. FGM is performed on girls and women between the ages of 4 and 70, but exact figures on this procedure are difficult to establish. The CPTAFE, a local NGO dedicated to eradicating FGM and ritual scarring, cited a recent decline in the percentage of women and girls subjected to FGM, estimating the figure to be between 65 and 75 per cent.¹⁰⁴ A 1999 Demographic Health Survey estimates that more than 99 per cent of females undergo FGM. The lower figure, if accurate, would represent a decline over recent years due to education of the population by women's rights groups about the health risks associated with the practice. However, infibulation, the most dangerous form of FGM, still is performed in the forest region, but less frequently than in previous years. Despite diseases resulting from crude and unsanitary surgical instruments and deaths resulting from the practice, the tradition continues, seriously affecting many women's lives. FGM also increases the risk of HIV infection since unsterilized instruments are shared among participants.

271. Prostitution exists in the informal economic sector and employs girls as young as 14 years of age. The Government reportedly does not monitor actively child or adult prostitution. Furthermore, it is reported that women and children are trafficked within the country, as well as internationally, for the sex trade and illegal labor. Accurate statistics are difficult to obtain, because victims do not report the crime due to fear for their personal safety. In February 2001 the Children's Protection Division and UNICEF reported that trafficking of children is a problem among the Sierra Leonean and Liberian refugee populations in the prefectures of Guekedou, Macenta, N'Zerekore, and Forecariah; girls are exploited for domestic labour. The International Rescue Committee and UNICEF reported that children living in foster families often do not receive adequate food, shelter and clothing, and are compelled to work in the streets, sometimes as prostitutes, for their subsistence.¹⁰⁵

Ghana

272. Ghana ratified the Convention on 2 January 1986. Ghana's third and fourth periodic reports were due 1 February 1995 and 1999 respectively. The Optional Protocol was signed on 24 February 2000.

Legislation

273. The 1992 Constitution outlaws the practice of all cruel and inhumane aspects of cultural and traditional norms. This had led, over the past decade, to the enactment of specific pieces of legislation in the area of violence against women. The Ghana has also been amended to impose criminal sanctions in respect to the following offences: defilement; forced marriage; customary servitude; female genital mutilation; widowhood rites; and, practice of banishment of "witches".

274. In 1998 Parliament passed legislation that amended the 1960 Criminal Code to provide additional protection for women and children. The legislation added new definitions of sexual offences and strengthened punishments for others. The provisions of the bill ban the practice of "customary servitude" (known as *Trokosi*), protect women accused of witchcraft, increase the minimum sentence for rape from three to five years' imprisonment, raise the age of criminal responsibility from seven to 12 years, criminalize indecent assault (punishable by 6 months' imprisonment) and forced marriages, and raise punishments for defilement, incest, and prostitution involving children. There are no laws that specifically protect women from sexual harassment.

275. In 1994, Ghana became the first independent African State to pass a law against female genital mutilation.¹⁰⁶ Ghana is among the few African countries with a law explicitly prohibiting the practice.

Policies and programmes

276. Gender issues have received considerable attention as a result of national efforts to implement the Programme of Action of the International Conference on Population and Development (ICPD) and the Platform for Action of the Fourth World Conference on Women. The Government has adopted the affirmative action policy guidelines which include increasing

to 40 per cent the representation of women in key positions in public service and in national executive or policy-making institutions. In 1998 the Ghana police established the Women and Juvenile Unit, specially trained to respond to cases of violence against women. The police administration's Women and Juvenile Unit (WAJU) handles cases involving domestic violence, child abuse, and juvenile offenses. In 2000 the Government established a women's desk responsible for addressing the gender imbalance in the civil service. Furthermore, the Government created a new Ministry of Women and Children's Affairs in February 2001 to address gender and children's issues.

277. In 2000 the Government established a National Steering Committee for the International Program for the Elimination of Child Labor (IPEC), composed of representatives from the Government, the Ghana Employer's Association, the Trade Unions Congress (TUC), the media, international organizations, and NGOs to look into child labor issues. The Committee developed the "National Plan of Action for the Elimination of Child Labour in Ghana 2001-2002", which was published by the Ministry of Manpower Development and Employment and ILO/IPEC Ghana. Ghana has also adopted the ICPD concept of reproductive health and has formulated policies, standards and protocols to guide the delivery of reproductive health services.¹⁰⁷

278. In 2000 the Governments of Ghana and Canada hosted a conference on children affected by war in West Africa. The resulting plan of action focused on ways that Economic Community of West African States (ECOWAS) could integrate child protection into ECOWAS peacemaking and peacekeeping initiatives.

279. In October 2001 the Government hosted a regional experts' conference on trafficking in persons under the auspices of ECOWAS, where participating government representatives adopted a two-year Initial Plan of Action to Combat Trafficking in Persons. The Government pledged to draw up its own National Plan to combat trafficking and to establish a National Commission on Trafficking in 2002. In terms of prevention, the Government supports programmes to alleviate child poverty and to enhance women's education and empowerment.

280. In implementing policies and legislation, resistance is often encountered because of certain traditional mores and practices. Thus, despite the major role women play in development at national, community and household levels, they still suffer disparities in access to education, health, and economic resources.

Issues of concern

281. Violence against women, including rape and domestic violence, remains a significant problem. According to reports, at least 54 per cent of women have been assaulted in recent years, particularly in low-income, high-density sections of greater Accra. A total of 95 per cent of the victims of domestic violence are women.¹⁰⁸ These abuses usually go unreported and seldom come before the courts. The police reportedly tend not to intervene in domestic disputes.

282. Belief in witchcraft is still strong in many parts of the country. Rural women can be banished by traditional village authorities or their families for suspected witchcraft. Most accused witches are older women, often widows, who are identified by fellow villagers as the

cause of difficulties, such as illness, crop failure, or financial misfortune. Many of these banished women go to live in "witchcamps," villages in the north populated by suspected witches. In addition to banishment, suspected witches are subject to violence and lynching. In the past, there were reports that forced labour occurred in witchcamps. In the past, it was estimated that the number of occupants of the witches' camp was growing; however, there are no definitive statistics on the number of women living in northern witchcamps.

283. There are several traditional discriminatory practices that are injurious to the health and development of young girls. In particular, female genital mutilation is a serious problem. A 1998 study estimated that between 9 and 12 per cent of women have undergone FGM, but some estimates are as high as 30 per cent (WHO).¹⁰⁹ A Ministry of Health survey conducted between 1995 and 1998 found that FGM is practiced among nearly all the northern sector ethnic groups, up to 86 per cent in rural parts of the Upper West and Upper East Regions. A 1998 study reported that 51 per cent of all women who had undergone FGM were excised before the age of 1, and 85 per cent of total excisions were performed on girls under the age of 15. There have been seven arrests for the practice of FGM since a 1994 law made FGM a crime. Of those arrested, two offenders have been prosecuted and convicted.

284. The Special Rapporteur is concerned about reports of teachers sexually assaulting their female students. The girls often are reluctant to report the attacks to their parents, and social pressure often prevents parents from going to the police and other authorities.

285. *Trokosi*, or "slaves of gods", are found in Ghana.¹¹⁰ It is a religious practice involving a period of servitude lasting up to three years. It is found primarily among the ethnic Ewe group in the Volta region. A virgin girl, sometimes under the age of 10, but often in her teens, is given by her family to work and be trained in traditional religion at a fetish shrine for a period lasting between several weeks and three years as a means of atonement for an allegedly heinous crime committed by a member of the girl's family. In exceptional cases, when a girl of suitable age or status is unavailable, a boy can be offered. The girl, who is known as a *Trokosi* or a *Fiashidi*, then becomes the property of the shrine god and the charge of the shrine priest for the duration of her stay. As a charge of the priest, the girl works in the shrine and undergoes instruction in the traditional indigenous religion. In the past, there were reports that the girls were the sexual property of the priests. *Trokosi* may or may not attend school. In many instances, when a *Trokosi* woman dies, years if not decades after she has completed her service and resumed her life in the village, her family is expected to replace her with another young girl, thus continuing the association of the family to the shrine from generation to generation. In very occasional cases, the family abandons the girl or cannot afford the cost of the final rites, in which case she may remain at the shrine indefinitely. The Government of Ghana has denounced the *Trokosi* system and deemed the practice unacceptable. Although a law in Ghana was passed in June 1998 outlawing the practice, many women still remain enslaved; no priest or family member has been jailed for continuing the practice.

286. Another traditional practice that violates the rights of children is forced childhood marriage, which is illegal. Child prostitution, although illegal, also exists. There were reports that trafficking in children occurs, including children being sold into slavery either for forced labor or sexual exploitation. The country is a source and a destination country for trafficked persons with

the majority of trafficking in the country involving children from impoverished rural backgrounds. The majority of the victims are children trafficked for labor and domestic help to and from neighboring countries, such as Côte d'Ivoire, Togo and Nigeria. Some Ghanaian women are trafficked to work as prostitutes in Western countries, specifically Italy, Germany, and the Netherlands. Ghana is a transit point for a growing trade in Nigerian women trafficked to Europe for sexual exploitation, and for persons trafficked from Burkina Faso to Côte d'Ivoire. Many of these children, sold by their families to traffickers, suffer physical or sexual abuse and receive insufficient food, no wages, and no access to education. According to information received, law enforcement authorities are not trained or given resources to deal with the problem. Law enforcement officials also have a difficult time identifying persons who are being trafficked because of the fluid nature of family relations in the country.

Guinea

287. Guinea ratified the Convention on 9 August 1982. Guinea's initial and second through fifth periodic reports have not been submitted; the fifth periodic report was due 8 September 1999.

Legislation

288. International legal instruments form an integral part of the domestic legal order. The Constitution simply protects the international commitments subscribed to by the State and places them above domestic law. Insofar as human rights are concerned, the provisions of the texts which make up the International Bill of Human Rights are covered by the various codes at the national level. The provisions in international instruments may be invoked before the courts or the administrative authorities and are directly applicable without having to be written into domestic legislation or administrative regulations. Victims whose rights have been violated have the remedy of referring the matter to the courts.

289. On the legal front, much progress has been made in protecting the rights of women, including the enactment in July 2000 of a law on reproductive health. This groundbreaking law includes provisions outlawing the practice of female genital cutting (FGC). Female genital mutilation (FGM) is illegal under the Penal Code.¹¹¹ Wife-beating is a criminal offense in Ghana and constitutes grounds for divorce under civil law. Divorce laws generally tend to favor men in awarding custody and dividing communal assets. Legal evidence given by women carries less weight than that given by men

290. The law prohibits trafficking in persons and carries a penalty of five to 10 years' imprisonment and confiscation of any money or property received as a result of trafficking activities. The law prohibits the exploitation of vulnerable persons for unpaid or underpaid labor, which carries a penalty of six months to five years' imprisonment and a fine of approximately US\$ 25 (GF 36,400) to \$150 (GF 218,400). Submitting a vulnerable or dependent person to inhumane working or living conditions carries a sentence of one month to five years' imprisonment and a fine of approximately US\$ 25 to \$250 (GF 364,000).

Policies and programmes

291. The Ministry of Social Affairs, Promotion of Women and Childhood had been established in 1996 to coordinate national policies for the advancement of women, social protection, pre-school education and the protection of children. The goals of the Government's Gender and Development Framework Programme included a participatory, equitable and human development approach aimed at reducing differences in the enjoyment of rights and strengthening social justice.

292. The Government had undertaken awareness-raising campaigns to combat all forms of violence against women. Since 27 August 1985 had been celebrated the National Day of Guinean Women. This day was the focus of many activities to promote the advancement of women, and had been an occasion for evaluation by the Government of the progress made in 2000 with regard to women's rights. Government had introduced special measures to combat the illiteracy of women and girls, including through the creation of special bodies and programmes, such as the Equity Committee of the Department of Education for the advancement of young women. In May 2000, the Government instituted a working plan to analyze the situation of women and children in the country. The program involves workshops and training for security and judicial personnel, as well as the education community. The Government has also made regular statements in the media against sexual harassment.

293. In March 1997, working in collaboration with the World Health Organization, the Government initiated a 20-year strategy to eradicate FGM. As a result, government ministers, health officials and the media have discussed FGM more frequently; however, there were no statistics to determine the success of the program, and no prosecutions for violations of the code. The Government has reportedly made efforts to educate health workers on the dangers of this procedure.

294. The Government, in conjunction with local journalists and international NGOs, is also promoting an education campaign to discourage underage marriage. Although such marriages are prohibited by law, parents contract marriages for girls as young as 11 years of age in the forest region.

295. Several government agencies, particularly the Ministry of Social Affairs and the Promotion of Women and Children, are involved in anti-trafficking efforts.

Issues of concern

296. The Special Rapporteur is concerned about the persistence of prejudices and stereotypical attitudes regarding the role of women in the family and society, based on the idea of male superiority and the consequent subordination of women to men, and of discriminatory customs and traditional practices. The Special Rapporteur expresses also her concern about the existing gap between the de jure equality and de facto inequality of women and men and the persistence of customary practices that continue to discriminate against women.

297. Discrimination still existed in many provisions of the civil code: the husband was considered to be the head of the family and was able to determine the location of the family domicile; the birth of a child had to be declared by the father if not by the doctors and nurses or others present during the childbirth; and children after seven years were in the custody of the father unless there was a special agreement between the parties. Widows without children were subject to discrimination, and that preference was given to an uncle of a child over the mother if the father were incapacitated and unable to exercise his parental authority.

298. Furthermore, although articles 285 to 287 of the penal code provided for severe punishment for sexually violent crimes, sexual harassment had not yet been addressed in legislation. Despite certain advances in this context, the enjoyment of rights by women continued to be constrained by a number of factors, including complicated administrative procedures, lack of knowledge of judicial procedures, insufficient information and statistical data and the persistence of negative attitudes towards women.

299. The Special Rapporteur expresses her concern at the prevalence of violence against women and girls, including domestic violence, beating, repudiation, early and forced marriages and abuse of widows and menopausal women. Domestic violence against women is common, although estimates differ as to the extent of the problem. It is reported that police rarely intervene in domestic disputes. The social stigma attached to rape prevents most victims from reporting it. In particular marital rape goes unreported, because most women and men view it as the husband's right. The Government has reportedly not pursued vigorously criminal investigations of alleged sexual crimes. Several local NGOs are working to increase public awareness of the nature of these crimes and promote increased reporting.

300. FGM is practiced in all regions and among all religious and ethnic groups. The Coordinating Committee on Traditional Practices Affecting Women's and Children's Health (CPTAFE), a local NGO dedicated to eradicating FGM and ritual scarring, cited a recent decline in the percentage of women and girls subjected to FGM, estimating the figure to be between 65 and 75 per cent. A 1999 Demographic Health Survey estimates that more than 99 per cent of females undergo FGM. Expert estimates vary between 65 and 90 per cent. The lower figure, if accurate, would represent a decline over recent years due to education of the population by women's rights groups about the health risks associated with the practice. However, infibulation, the most dangerous form of FGM, still is performed in the forest region, but less frequently than in previous years. Despite diseases resulting from crude and unsanitary surgical instruments and deaths resulting from the practice, the tradition continues, seriously affecting many women's lives. FGM also increases the risk of HIV infection since unsterilized instruments are shared among participants. The CPTAFE reports high rates of infant mortality and maternal mortality due to FGM.

301. A growing number of men and women oppose FGM. Urban, educated families are opting increasingly to perform only a slight symbolic incision on a girl's genitals rather than the complete procedure. In 2001, CPTAFE held large public ceremonies celebrating the "laying down of the excision knife" in which some traditional practitioners of FGM pledged to discontinue the practice; however, most of those who perform FGM oppose its eradication since the practice is quite lucrative. The Special Rapporteur notes with concern that, despite

prohibitions in statutory law, there is wide social acceptance and lack of sanctions for such practices as female genital mutilation, polygamy and forced marriage, including levirate and sororate, and discrimination in regard to child custody and inheritance. The Special Rapporteur also expresses concern that the Government allegedly uses social practices and customs to justify the non-enforcement of the civil code.

302. The prevalence of HIV and other sexually transmitted diseases among prostitutes is on the increase. Prostitution exists in the informal economic sector and employs girls as young as 14 years of age. According to information received, the Government does not take action when prostitution of minors is brought to its attention, and it does not monitor actively child or adult prostitution.

303. There are reports that girls are trafficked within the country, as well as internationally, for the sex trade and illegal labor. Accurate statistics are difficult to obtain, because victims do not report the crime due to fear for their personal safety. Trafficking in persons from rural areas to urban centres is increasingly recognized as a problem in the country. In February 2001, the Children's Protection Division and UNICEF reported that trafficking of children is a problem among the Sierra Leonean and Liberian refugee populations in the prefectures of Guekedou, Macenta, N'Zerekore, and Forecariah; girls are reportedly exploited for domestic labor, and boys are exploited as street sellers and agricultural workers. The International Rescue Committee and UNICEF reported that children living in foster families often do not receive adequate food, shelter and clothing, and are compelled to work in the streets, sometimes as prostitutes, for their subsistence.

304. The Special Rapporteur supports the Committee on the Elimination of Discrimination against Women, which recommended that the Government:¹¹² ensure full implementation of laws and policies that provide for de jure equality and seek to eliminate discrimination against women, and establish a monitoring mechanism to ensure the implementation of those laws; that it develop an action plan, including a public-awareness campaign targeted at both women and men, with the support of civil society and social partners, to eliminate the gap between statutory law and social customs and practices, especially with regard to family law; that it assign the issue of violence against women a high priority and recognize that such violence, including domestic violence, constitutes a violation of the human rights of women under the Convention. The Government should also enact legislation on domestic violence as soon as possible, and ensure that violence against women and girls constitutes a criminal offence and that female victims of violence have immediate means of redress and protection; that it develop gender training for all public officials, in particular law-enforcement officials and the judiciary, as well as health workers, to educate them about all forms of violence against women and girls; that it strictly enforce laws that prohibit the exploitation of prostitution without penalizing women who provide sexual services and, in addition, pay full attention to the provision of health services for prostitutes so as to curb the rise in the number of HIV/AIDS cases. Furthermore, the Government should continue to give assistance to refugees and displaced women and girls and carry out rehabilitative efforts directed at them

Guinea-Bissau

305. Guinea-Bissau ratified the Convention on 23 August 1985. Guinea-Bissau's initial and second through fourth periodic reports have not been submitted; the fourth periodic report was due 22 September 1998. The Optional Protocol was signed on 12 September 2000.

Legislation

306. Official discrimination against women is prohibited by law; traditional and Islamic laws do not govern the status of women, and men and women are treated equally under the law.

307. No information has been provided on the existence of specific legislation in regard to female genital mutilation (FGM). In 1995, a bill was reportedly rejected by Parliament. Nevertheless, the Assembly has reportedly approved a proposal calling for criminal liability for female excision practitioners in the event of death brought on by female genital mutilation.

308. The law prohibits prostitution and trafficking in persons.

Policies and programmes

309. The Government formed a National Committee against Harmful Practices in the mid-1990s that continues to conduct a nationwide education campaign to discourage FGM. The Institute for Women and Children was also established in 2000. The reactivation by the Parliament of the Ad Hoc Commission for the Child and Woman should also be noted.

Issues of concern

310. Domestic violence, including wife-beating, is reportedly an accepted means of settling domestic disputes. Although police intervene in domestic disputes if requested, the Government has reportedly not undertaken specific measures to counter social pressure against reporting domestic violence, rape, incest, and other mistreatment of women.¹¹³

311. Female genital mutilation is practiced widely within certain ethnic groups, especially the Fulas and the Mandinkas. Excision and circumcision are reportedly practiced in Guinea-Bissau. According to information available to the WHO, average prevalence could be 50 per cent and affect 100 per cent of Muslim women,¹¹⁴ and is reportedly 70 to 80 per cent for the Fula and Mandigue women. In urban areas, it is estimated that 20 to 30 per cent of girls and women have been mutilated. The practice is increasing as the Muslim population has grown and is being performed not only on adolescent girls, but also on babies as young as 4 months old.

Kenya

312. Kenya acceded to the Convention on 9 March 1984. Kenya's third and fourth periodic reports have been submitted as one document (CEDAW/C/KEN/3-4), which is not yet scheduled for consideration; the fifth periodic report is due 8 April 2001.

Legislation

313. The Constitution extends equal protection of rights and freedoms to men and women, but only in 1997 was the Constitution amended to include a specific prohibition of discrimination on grounds of gender.

314. At the legislative level, advocacy to bring about legislative reform led to the setting up of a Task Force to Review Laws Relating to Women and Children in the mid-1990s. The Task Force recommended the development of responsive legislation to address discrimination against women and children. Two milestone legislations to emerge out that work were the Children's Act, which was passed in January 2002 and the Domestic Violence (Family Protection) Bill which is still pending in Parliament but has passed a second reading meaning that it will become law.

315. The Children's Bill, which is expected to become operational in 2002, criminalizes two cultural practices widely practiced in Kenya and which amount to violence against women and girls namely, female genital mutilation and early marriages. It goes further to set the age of majority for all children at 18 years.

316. The Domestic Violence (Family Protection) Bill 2000 prohibits domestic violence in all its forms, and provides a variety of remedies including protection orders and exclusion of the perpetrator from the matrimonial home. The Bill proposes the establishment of a Domestic Violence (Family Protection) Fund to support victims who may need financial assistance for basic necessities like medical and counseling care, legal fees, and food. An Advisory Committee is established to evaluate applications for assistance.

317. The Criminal Amendment Act 2001 imposes stiffer sentences for rape, and attempts to address delays in the prosecution of sexual offences by dispensing with the need for the Attorney-General's prior consent. The Act permits in camera hearings in rape cases. The Bill "seeks to amend the penal laws to facilitate expeditious disposal of cases, discourage torture and harmonize penalties relating to sexual offences", including the offences of rape, defilement and incest. The Bill aims to ensure that there is an element of privacy and confidentiality for a victim giving testimony. The proceedings for trials of certain sexual offences, such as defilement and rape, would be held in camera to protect the identity and safeguard the privacy of the victims.

318. The Attorney-General submitted two other bills to Parliament designed to protect women's rights: the National Commission on Gender and Development Bill, and the Equality Bill; both were pending at the beginning of 2002.

319. Under Kenyan law, rape is classified under "Offences against Morality", chapter XV of the Penal Code. Kenyan law identifies three types of rape - rape, defilement and incest - which are classified according to the age of the victim and the relationship of the perpetrator to the victim. Each type of rape is seen as a separate criminal offence incurring different maximum sentences.¹¹⁵ Sections 140 and 141 provide a maximum sentence of life imprisonment with hard labour and corporal punishment for those convicted of rape. No minimum sentence is specified. There is no law specifically prohibiting spousal rape.¹¹⁶ Chapter XV also identifies several

offences in relation to unlawful sexual intercourse with minors. In particular, section 145 of the Penal Code provides that unlawful sexual intercourse with any girl under the age of 14 years constitutes an offense, irrespective of whether or not she consented to sexual intercourse.¹¹⁷ Legally, a man does not "rape" a girl under age 14 if he has sexual intercourse with her against her will; he commits the lesser offense of "defilement." The penalty for the felony of rape can be life imprisonment, while the penalty for defilement is up to five years' imprisonment. Men convicted of rape normally receive prison sentences of between five and 20 years, plus several strokes of the cane. Both physical and verbal sexual harassment constitutes criminal offences under section 144 of the Penal Code.

320. Although there are no laws that specifically prohibit trafficking in persons, there are applicable laws against kidnapping and abduction that potentially could be used to prosecute traffickers.

Policies and programmes

321. In 1999 the Attorney-General promised to establish a National Gender and Development Council, which would work with the Attorney General's office and the Kenya Law Reform Commission, to ensure the amendment and development of laws and regulations necessary to remove the sources of gender inequality: "The Council will not only initiate laws but will also initiate policies and programmes which will lead to gender equality." According to information received, this Council has not yet been established.

322. The Government has officially banned FGM. President Moi issued two presidential decrees banning FGM, and the Government prohibits government-controlled hospitals and clinics from practising it.

323. Rape, female circumcision, wife-beating as well as exploitation and underpayment of women and girls have been identified as some of the most common examples of violence against women in Kenya. Kenya is a patriarchal society, where the husband is the head of the household and women often have little influence in decisions affecting their lives. In some rural communities attitudes that put women at particular risk of violence persist. VAW has become entrenched through elements of culture and tradition that discriminate against women. Wife inheritance, bride price, forced marriage and female genital mutilation are institutionalized through culture and tradition, and when the State does not ensure that women's rights are upheld and protected.

324. Domestic violence has remained alarmingly high. In 1999, FIDA-Kenya (International Federation of Women's Lawyers) said at least 60 per cent of women in the country had been assaulted in the home. Many cases of domestic assault are never reported, either due to women's economic dependency on their spouses, or pressure exerted on them by the families of their husbands. The rate of prosecution remains low because of cultural inhibitions against publicly discussing sex, fear of retribution, disinclination of police to intervene in domestic disputes, and unavailability of doctors who otherwise might provide the necessary evidence for conviction. Moreover, sexual offences often take place in private, thus tending to leave the burden of proof

on the victim, especially in the case of children, whose evidence must be corroborated by a witness.

325. In a report launched in 2002, Amnesty International noted that special provisions for women had not been established in any police station or police post in Kenya, despite commitments made by both the Attorney-General and the Police Commissioner in August 2002 to introduce "rape desks" at police stations in order to make the police responsive to gender-based crimes.¹¹⁸ Incidents of police torture of women and non-investigation of violent crimes against women are increasingly reported. It is also noticed an alarming trend where some judicial officers have given unacceptably mild sentences in cases of sexual violence.

326. The Penal Code does not recognize marital rape as a criminal offence because of the presumption, especially in criminal law, that consent to sexual intercourse is given by the act of marriage. No legal challenge to this presumption has been made through the courts in Kenya. The lesser charge of assault is more commonly used in marital rape cases, carrying with it a lower maximum sentence.

327. FGM is practiced by certain ethnic groups and remains widespread, particularly in rural areas. According to reports, 50 per cent of women nationwide have undergone FGM.¹¹⁹ The percentage of girls undergoing the procedure is as high as 80 to 90 per cent in some districts of Eastern, Nyanza, and Rift Valley provinces.¹²⁰ FGM usually is performed at an early age. In an attempt to end FGM, some members of the Marakwet and Maasai ethnic groups instituted new "no cut" initiation rites for girls entering adulthood.¹²¹

328. Women experience a wide range of discriminatory practices, limiting their political and economic rights and relegating them to second-class citizenship. For example, a married woman legally is required to obtain the consent of her husband before obtaining a national identity card or a passport. Women often are excluded from inheritance settlements, particularly if married, or given smaller shares than male claimant. Moreover, a widow cannot be the sole administrator of her husband's estate unless she has her children's consent. Most customary law disadvantages women, particularly in property rights and inheritance. For example, under the customary law of most ethnic groups, a woman cannot inherit land and must live on the land as a guest of males who are relatives by blood or marriage.

329. Child prostitution is reportedly a major problem in Nairobi and Mombasa, often connected with the tourist trade. Prostitution has contributed to the spread of HIV/AIDS, which affected approximately 14 per cent of the population. Economic displacement and the spread of HIV/AIDS continued to affect the problem of homeless street children. The number of Nairobi's street children was more than 60,000 in 2000, an estimated 20 per cent increase from 1999. These children often are involved in theft; drug trafficking, assault, trespassing, and property damage. According to reports, street children face harassment as well as physical and sexual abuse from the police and within the juvenile justice system. They are held in extremely harsh conditions in crowded police station cells, often without toilets or bedding, with little food, and inadequate supplies. They often are incarcerated with adults and frequently beaten by police.¹²²

330. Forced marriage is customary in some communities, contravening article 16 of the Convention which guarantees, on the basis of equality of men and women, the same right to freely choose a spouse and to enter into marriage only with free and full consent. On the death of her husband, a woman is "inherited" by his brother or close relative. The woman's consent to this new marriage or to sexual relations with her new "husband" is not sought. The community uses the custom to further discriminate against women and entrench their secondary position in society. There is also a reported pattern of abuse by men who target minors for sex in the belief that they are less likely to be infected with the HIV/AIDS virus. Men infected with HIV/AIDS have reportedly raped young girls under the illusion that they will be "cleansed" by having sex with a virgin.

331. Another major cause of worry for many Kenyan women is the recent emergence of so-called cultural groups which have been making frequent physical attacks on women, sometimes stripping them of clothes they consider inappropriate.

Lesotho

332. Lesotho ratified the Convention on 22 August 1995, with a reservation to Article 2; three States filed objections to this reservation. Lesotho's initial and second periodic reports were due 21 September 1996 and 2000 respectively. The Optional Protocol was signed on 6 September 2000.

Legislation

333. Under common law, wife-beating is a criminal offence and defined as assault; however, it is reported that few domestic violence cases were brought to trial. The law prohibits rape, which is punishable by a minimum sentence of five years' imprisonment, with no option for a fine. The law also prohibits sexual harassment. Prostitution is illegal.

334. Both law and custom under the traditional chieftainship system severely limited the rights of women in areas such as property rights, inheritance, and contracts. Women have the legal and customary right to make a will and sue for divorce; however, under customary law, a married woman is considered a minor during the lifetime of her husband. She cannot enter into legally binding contracts, whether for employment, commerce, or education, without her husband's consent. A woman married under customary law has no standing in civil court and may not sue or be sued without her husband's permission. Government officials have criticized publicly this customary practice.

335. The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Policies and programmes

336. In 1998 the Government created the Ministry of Environment, Gender, and Youth Affairs. The Ministry funded, with small financial grants and the use of facilities, efforts by women's groups to sensitize women and society in general to the status and rights of women.

Issues of concern

337. The Special Rapporteur notes with concern that women's empowerment and leadership are severely constrained in that they are legally deemed to be minors under the country's legal system.¹²³

338. According to information received, domestic violence against women occurs frequently, and it is believed to be widespread; however, increasingly it was considered to be socially unacceptable behavior.

339. It is reported that young girls move to urban areas to work as prostitutes. It is also reported that illegal immigrant smugglers, primarily from South and East Asia, continue to take advantage of under-supervised borders to pass persons temporarily through the country to transportation hubs in South Africa for onward movement to Europe and North America. There was no clear evidence that these movements included women or children, or that these organizations were recruiting or transporting persons illegally for involuntary servitude, slavery, or forced or bonded labor. It was suspected that most of the persons who are moved by these criminal organizations were primarily economic immigrants seeking employment in other countries. The Government reportedly took no specific action to address trafficking in persons until now.

340. Women's rights organizations in Lesotho have taken a leading role in educating women about their rights under customary and common law, highlighting the importance of women participating in the democratic process.

Liberia

341. Liberia acceded to the Convention on 17 July 1984. Liberia has not submitted its initial and second through fourth periodic reports, due from 1985 through 16 August 1997.

Legislation

342. There is no law against gender discrimination or female genital mutilation in Liberia. Women married under civil law can inherit land and property; however, women married under traditional laws are considered the properties of their husbands and are not entitled to inherit from their husbands or retain custody of their children if their husbands die.

Policies and programmes

343. In March 2001 the Government created the Ministry for Gender and Development, whose mandate included the promotion of the well-being of women and girls.

Issues of concern

344. Hundreds of civilians, including women and girls, have been victims of killings, arbitrary detention, torture and rape in the context of the fighting in Lofa County which began in July 2000. It is reported that women and girls have been raped and submitted to other sexual violence

by members of government and opposition forces, notably after fleeing the fighting and being arrested at checkpoints. Victims of rape include girls as young as 12 years old. Other victims of rape have been arrested in war zones, including Vahun and Kolahun, on suspicion of backing the dissidents, being related to dissidents or being spies. Victims of rape have reportedly often been held in unofficial detention centres, such as abandoned private houses used by government soldiers as their bases. Members of the security forces are reported to have beaten, kicked and stabbed their victims with bayonets when they resisted rape. It is reported that victims have often been threatened with reprisals by the perpetrators if they lodge a complaint. The scale of rape carried out by the Liberian security forces raises serious concerns that sexual violence against women has been used as a weapon of war to instill terror among the civilian population.

345. It was also estimated in July 2001 that more than 40,000 persons had been newly displaced in Lofa County since April 2001. In the country's six camps for the internally displaced, about 70 per cent were women and children who had fled south into areas where food, clean water, shelter and medical assistance were scarce. An unknown number remained in areas inaccessible to humanitarian workers, and without assistance in unsafe conditions in forests and villages.

346. The status of women varies by region, ethnic group, and religion. Before the outbreak of the civil war, women held one-fourth of the professional and technical jobs in Monrovia. On the whole, women have not recovered from the setbacks caused by the civil war, when most schools were closed, and they could not carry out their traditional roles in the production, allocation, and sale of food.

347. According to information, domestic violence against women is extensive; however, it has reportedly not been addressed seriously as a problem by the Government, the courts, or the media.

348. FGM traditionally is performed on young girls in northern, western, and central ethnic groups, particularly in rural areas. Prior to the onset of the civil war in 1989, approximately 60 per cent of women in rural areas between the ages of 8 and 18 were subjected to FGM.¹²⁴ Social structures and traditional institutions, such as the secret societies that often performed FGM as an initiation rite, were undermined by the war. While it is believed that the incidence of FGM dropped to as low as 10 per cent by the end of the war, traditional societies are reestablishing themselves throughout the country, and the increase in the incidence of FGM continued. The most extreme form of FGM, infibulation, reportedly is not practised.

349. Professional women's groups remained vocal about their concerns regarding government corruption, the economy, security abuses, rape, domestic violence, and children's rights. Government officials often responded negatively to public criticism. There were reports of harassment and possible surveillance of outspoken critics.

Madagascar

350. Madagascar ratified the Convention on 17 March 1989. Madagascar's second and third periodic reports were due 16 April 1994 and 1998, respectively.

Legislation

351. The 1992 Constitution stipulated that the Government would undertake to establish an independent body responsible for the promotion and protection of human rights and the government has appointed an ombudsperson with this function. Under Malagasy law there is no special system for compensation for the violation of human rights; therefore actions alleging violations must be brought before the courts in terms of seeking remedy and/or damages. International human rights treaties are incorporated de jure into national law following accession or ratification.

352. Madagascar's Constitution prohibits discrimination based on gender, although discrepancies exist between current laws and their implementation.¹²⁵ The law against rape is the only law that specifically addresses VAW. The law neither prohibits nor condones prostitution; however, the law prohibits the incitement of minors to debauchery.

353. Under the law, wives have an equal voice in selecting the location of a married couple's residence, and they generally receive an equitable share of common property on divorce. Widows with children inherit half of joint marital property. A tradition known as "the customary third" occasionally is observed in some areas. Under this custom, the wife has a right to only one-third of a couple's joint holdings. However, a widow receives a pension, while a widower does not.

354. The law prohibits trafficking and, since 2000, paedophilia and sex tourism. The Government criticizes sex tourism and expresses concern about trafficking. However, it is reported that it lacks the resources to address it effectively.

Issues of concern

355. In recent years, there have been reports that women and girls were trafficked to the nearby islands of Reunion and Mauritius for prostitution; however, the number of such cases is unknown. No local arrests or convictions have been made in connection with trafficking so far.

356. The Special Rapporteur is concerned that women reportedly experience torture in some prisons, including rape. Moreover, women continue to face societal discrimination, particularly in rural areas.

Malawi

357. Malawi acceded to the Convention on 12 March 1987. Malawi's second periodic report was due 11 April 1992; the third periodic report was due 11 April 1996.

Legislation

358. Under the Constitution, women have the right to full and equal protection by law and may not be discriminated against on the basis of sex or marital status;¹²⁶ however, it is reported that in practice discrimination against women is pervasive, and that women do not have opportunities

practice discrimination against women is pervasive, and that women do not have opportunities equal to those available to men.

359. According to information received, the Law Commission has undertaken a review of legislation that discriminates against women and has proposed legislation to bring the law into compliance with new constitutional standards. Based on the Law Commission's recommendations, Parliament raised the minimum level of child support, increased widows' rights, and passed the Employment Act, which includes a provision granting women the right to maternity leave. However, only individuals who utilized the formal legal system benefited from these legal protections.

360. The law does not prohibit trafficking in persons specifically; however, the Penal Code contains several provisions relating to prostitution and indecency that could be used to prosecute traffickers. In October 2001 a bill was introduced in the National Assembly, which proposed 14-year sentences for anyone convicted of promoting, managing, or transporting any person into or out of the country with the purpose of engaging that person in prostitution. The National Assembly is expected to vote on this bill during the 2002 session.

Policies and programmes

361. The Government addresses women's concerns through the Ministry of Gender, Youth, and Community Services. It has recently launched a National Gender Policy (2000-2005), which is developed as an integral part of the national development objectives to enhance the overall government strategy of growth through poverty eradication. Gender being a crosscutting issue, the policy is developed along six thematic areas embracing the Government's priority development concerns. It specifically covers the priority gender issues that must be mainstreamed in development policies and programmes. This is to address the existing gender imbalances for gender equality, sustained and sustainable socio-economic development.¹²⁷

362. Press coverage of domestic violence increased substantially following a conference in November 2001 sponsored by NGOs in cooperation with the Ministry of Gender, Youth, and Community Service called "Sixteen Days of Activism."

Issues of concern

363. At policy and decision-making levels, women's participation is almost negligible and the economic value of their contribution to agricultural production is not acknowledged in the national account.¹²⁸

364. Domestic violence, especially wife-beating, is reportedly common. On a positive note, in April 2001 a NGO in Lilongwe established the country's first shelter for women who are victims of physical or sexual abuse.

365. Female genital mutilation is performed on girls. While rites to initiate girls into their future adult roles still are secret, information suggests that abusive practices, including sexual abuse, are widespread.

366. The age of sexual consent is 14, however there is no age specified for the protection of minors from sexual exploitation, child prostitution, or child pornography. The belief that children are unlikely to be HIV-positive and the widespread belief that sexual intercourse with virgins can cleanse an individual of sexually transmitted diseases, including HIV/AIDS, has allegedly contributed to the sexual abuse of minors.

367. It is believed that Malawian women are trafficked to South Africa. According to information received, there is no government funding for NGO services to victims of trafficking, and there is no training for government officials on how to provide assistance to trafficking victims.

Mali

368. Mali ratified the Convention on 10 September 1985. Mali's second, third and fourth periodic reports were due 10 October 1990, 1994 and 1998 respectively. The Optional Protocol was acceded to on 5 December 2000.

Legislation

369. The Constitution, together with other legislation, establishes a number of institutions and structures for the protection and promotion of human rights in such areas as equality of citizens before the law, equality of access to the courts, impartiality in decision making and others. The organization of the judiciary guarantees the independence of judges, remedies, and measures protecting citizens' rights against arbitrary action.

370. Rape is punishable under the Penal Code by five to 20 years of forced labor, and a one-to-five-year residence ban. If the rape was committed with the assistance of several persons, the perpetrator is subject to 20 years of forced labor and a five-to-20-year residence ban.¹²⁹ The law does not include any provision on marital rape.

371. Although the Penal Code does not include explicit provisions on domestic violence, Article 166 punishes "any individual who voluntarily strikes, injures, or commits any other act of assault or battery, if this violence results in an illness or personal incapacity to work for more than 20 days. The penalty is one to 5 years in prison". Intentional or accidental homicides are also prohibited. Sexual harassment is not specified as an offense in the Penal Code.

372. The Penal Code does not explicitly include any provisions on the crime of incest, but indecent assault committed by an older relative against a child younger than 15 years old, or against a minor older than 15 but younger than 21, is punished under the law. Furthermore, there may be no suspended sentences when an older relative or a person who has authority over the victim commits the rape.¹³⁰

373. There are no laws against female genital mutilation (FGM), and the Government has not proposed legislation prohibiting FGM. The legal system has no record of any tort concerning it, even when a death has resulted.

374. On 29 June 2001, Parliament approved a law that would make child trafficking punishable by 5 to 20 years in prison. There also are laws that prohibit the contractual use of persons without their consent. Penalties for violations of the law prohibiting forced contractual labor include a fine or hard labor. Penalties increase if a minor is involved.

Policies and programmes

375. In 1996 the Government launched a four-year national plan of action for the promotion of women. The plan, sought to reduce inequalities between men and women in six target areas, including education, health, and legal rights. In 2001, the Ministry for the Promotion of Women, Children, and the Family started working on a second four-year action plan that would continue programs started during the first action plan.

376. The Commission for the Promotion of Women created the National Committee for the Eradication of Practices Harmful to the Health of Women and Children. It supported educational efforts to eliminate FGM through seminars and conferences and provides media access to proponents of its elimination. The National Committee against Violence towards Women links all the NGOs active in preventing FGM. In 1999 the Government instituted a two-phase plan to eliminate all forms of FGM by 2008. The first phase, scheduled for 1999-2004, is intended to be one of education and dissemination of information. There has been some public dissemination of information in urban areas, but the program has developed slowly.

377. Both the Ministry for the Promotion of Women, Children and the Family and the Ministry of Employment, Public Services and Labor have addressed trafficking. Both ministries in coordination with the Ministry of Foreign Affairs and the Ministry of Territorial Administration have developed a program to identify and rehabilitate victims, educate the population, and strengthen the legal system with regard to the movement and trafficking of minors. Welcome centres have been set up in Mopti, Sikasso, and Bamako to assist child-trafficking victims in returning to their families. In 2001, the Ministry of Labor selected a coordinator who specifically will handle child-trafficking issues, as opposed to general child labor issues.

378. In August 2000, the Government of Mali and the Government of Côte d'Ivoire signed a treaty to cooperate in combating trafficking. In 2001, approximately 10 traffickers were arrested in Sikasso. Some of the traffickers were citizens, but others were from other countries in the region. At the end of 2001, they were in detention awaiting trial.

Issues of concern

379. Domestic violence against women, including spousal abuse, is reportedly tolerated and common. Despite increasing public discussion on rape, reliable statistics on rape of minors do not exist. The same is true of indecent assault and other kinds of sexual violence against minors, with the exception of FGM. It is reported that victims and their families rarely file complaints out of concern for the family's honor and dignity.¹³¹ Further, the procedures for reporting sexual offenses allegedly do not adequately address the difficult circumstances in which the victims often find themselves. While the proceedings are held in closed chambers, the judge often conducts them in a manner that makes the victims feel as if they have committed a crime. There

is no specific mechanism to allow children to report cases of sexual violence committed against them.

380. FGM is common, especially in rural areas, and is performed on girls at an early age. According to information received, approximately 95 per cent of adult women have undergone FGM.¹³² The practice was widespread among most regions and ethnic groups, is not subject to class boundaries, and is not religiously based.

381. Women have reportedly very limited access to legal services. They are particularly vulnerable in cases of divorce, child custody, and inheritance rights, as well as in the general protection of civil rights. Despite legislation giving women equal rights regarding property, traditional practice and ignorance of the law prevent women from taking full advantage of the law.

382. According to information received, children are trafficked for forced labor in Cote d'Ivoire. An estimated 15,000 Malian children between the ages of 9 and 12 have been sold into forced labor on cotton, coffee, and cocoa farms in northern Côte d'Ivoire over the past few years; an even greater number have been pressed into domestic service. Organized networks of traffickers deceive the children and their families into believing that they will be given paid jobs outside of their villages. They then are sold to plantation owners for sums ranging between US\$ 20 and \$40 (14,500 and 29,000 CFA francs). The children reportedly are forced to work 12 hours per day without pay, and often they are abused physically.

Mauritania

383. Mauritania has not acceded to or ratified the Convention.

Legislation

384. Women face legal discrimination. On account of the legal principles upon which the law and legal procedure are based, and the manner in which law is implemented in the country, courts do not treat women as the equals of men in all cases. For example, the testimony of two women is necessary to equal that of one man. In addition, when awarding an indemnity to the family of a woman who has been killed, the courts grant only half the amount that they would award for a man's death.

385. For commercial and other modern issues, the law and courts treat women and men equally. Women have legal rights to property and child custody, and, among the more modern and urbanized population, these rights are reportedly recognized. By local tradition, a woman's first marriage, but not subsequent marriages, requires parental consent. Marriage and divorce do not require the woman's consent, polygamy is allowed, and a woman does not have the right to refuse her husband's wish to marry additional wives. The approval and publication in June 2001 of the new Personal Status code created a written framework to regularize the prevailing family law, which without defining legislation had been applied unfairly.

386. The Constitution provides for equality before the law for all citizens, regardless of race, national origin, sex, or social status, and prohibits racial or ethnic propaganda. In practice the Government often favored individuals on the basis of ethnic and tribal affiliation, social status, and political ties. Societal discrimination against women, strongly rooted in traditional society, is reportedly endemic, although the situation continued to improve.

387. Abuse and domestic violence is illegal. Rape, including spousal rape, is also illegal; however, there were no known arrests or convictions under this law. The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country. No law prohibits female genital mutilation.

Policies and programmes

388. The Secretariat for Women's Affairs works with many NGOs and cooperatives to improve the status of women. A booklet published late in 2000 advises women of their rights. The Government, women's groups, and national and international NGOs organized meetings, seminars, and workshops in previous years to publicize women's rights.

389. It is a clear public policy of the Government, through the Secretariat of Women's Affairs, that FGM should be eliminated, and the Government bars hospitals from performing it. The Government continued intensive media and educational campaigns against FGM in 2002. Public health workers and NGOs educate women on the dangers of FGM and on the fact that FGM is not a requirement of Islam. For example, a 1996 officially produced Guide to the Rights of Women in Mauritania (with religious endorsement) stressed that Islam does not require FGM and that, if medical experts warn against it for medical reasons, it should not be done. According to information received, the campaign against FGM appeared to be changing attitudes towards the practice.

390. While there is no law prohibiting *gavage*, forced feeding of adolescent girls, the Government has made it a policy to end the practice. The Government continued intensive media and educational campaigns against *gavage* in 2002 in print and broadcast media and through public seminars.

Issues of concern

391. The police and judiciary rarely intervene in domestic abuse cases; women in traditional society rely upon family and ethnic group members to resolve domestic disputes.

392. According to reports, traditional forms of mistreatment of women continue, mainly in isolated rural communities, but these practices appear to be on the decline. One form of such mistreatment is *gavage*, which is practiced only among the Moors. Experts previously estimated that between 60 and 70 per cent of women experienced *gavage* but now conclude that very few Moor women continue to experience it. The change in figures appears to reflect both prior overestimation and a significant decline in the practice in recent years.¹³³

393. FGM is practiced among all ethnic groups except the Wolof. It is performed on young girls, often on the seventh day after birth and normally before the age of six months. A 1996 report by the UNFPA and a study published in 1997 by *Jeune Afrique Economie* cited the country as one in which 25 per cent of women undergo FGM. Among Halpulaar women, more than 95 per cent undergo FGM. Local experts agree that the least severe form of excision is practiced, and not infibulation, the most severe form of FGM. The practice of FGM has reportedly decreased in the modern urban sector.

Mauritius

394. Mauritius acceded to the Convention on 9 July 1984, with reservation to Article 29(1). Mauritius' third and fourth periodic reports were due 8 August 1993 and 1997, respectively.

Legislation

395. The Protection from Domestic Violence Act, enacted in 1997, became fully operational in 1998. It simplifies the procedures for making a complaint of domestic violence. The Act provides for a variety of remedies including: interim or permanent protection orders that restrain a spouse from engaging in conduct which may constitute an act of domestic violence; occupancy orders that may grant exclusive rights to the victim to live in the matrimonial home if it belongs to the victim or the abuser or both. This order may last for a maximum of 24 months; Tenancy orders – giving the victim the exclusive right to occupy a rented house and, if the abuser rents the house, he would pay the rent; A breach of any of these orders is a criminal offence punishable by imprisonment and a fine.

396. A 1998 amendment of the Criminal Code makes sexual harassment a crime punishable by up to two years' imprisonment with or without a fine. Sexual harassment is defined in the context of abuse of authority.

397. The law criminalizes the abandonment of one's family or pregnant spouse for more than two months, the nonpayment of court-ordered food support, and sexual harassment.

398. Under the law, certain acts compromising the health, security, or morality of a child are crimes. Child prostitution is a criminal act; the adult is the offender, while the child involved is given social aid. Child pornography also is a crime, and the child is offered social aid while the adult offender is prosecuted.

399. The law prohibits trafficking in children, but does not specifically mention trafficking in adults. The penalties for those found guilty of child trafficking are a minimum fine of \$370 (10,000 rupees) or imprisonment for up to five years.

Policies and programmes

400. Following the new law on domestic violence, the Ministry of Justice embarked on a legal literacy programme to sensitize the public on domestic violence. For the implementation of the Domestic Violence Act, various support structures have been created. A Domestic Violence

Intervention Unit has been set up to intervene rapidly in reported cases of domestic violence. The domestic violence intervention unit has the power to intervene at any time to assist victims of domestic violence, to receive complaints from victims and record their statements, as well as to make referrals to hospital, counselling centres or to a shelter. The unit works in close collaboration with the Police Department, Ministry of Health and other institutions with a view to providing necessary services to victims. However, there is a need for a restructuring of the unit so the roles and responsibilities of different elements in the structure will be well defined. Two shelters for women and children have been set up to provide temporary accommodation to victims until they are psychologically recovered. The setting up of a family court is also envisaged.

401. Various studies have been carried out to help towards better understand the problem and subsequently develop strategies to eliminate domestic violence. Research commissioned by ministries and funded by UNIFEM was carried out in 2000 on the response to domestic violence to identify some benchmarks for policy and programme improvements. It was found that the staff dealing with domestic violence victims received no formal training on how to deal with the victims. Also, due to staff shortages, it is not possible to carry out follow-up on cases in a systematic way. According to the Government of Mauritius, there is inadequate professional capacity in all the departments, including the judiciary, with specialized skills in dealing with domestic violence cases. There is also inadequate coordination between the different organizations, which deal with domestic violence.¹³⁴

Issues of concern

402. In March 2001 an NGO, SOS Femmes, published a study on domestic violence in the country in which 84 per cent of the women surveyed reported being victims of physical abuse. Since women often depend on their spouses for financial security, many remain in abusive situations for fear of being unable to provide for their children as single parents.

403. Although incidents of child abuse are reported, private voluntary organizations claim that the problem is more widespread than is acknowledged publicly. Most government programs are administered by the State-funded National Children's Council and the Ministry of Women's Rights, Family Welfare, and Child Development, which provide counselling, investigate reports of child abuse, and take remedial action to protect affected children. In June 2000, the Ministry announced that 3,350 cases of child abuse have been reported since 1997. Child labor, including forced and bonded child labour, is a problem.

404. In 1999 there were reports from Madagascar that women and young girls were trafficked to the islands of Reunion and Mauritius for prostitution; however, there were no similar reports in 2001.

Mozambique

405. Mozambique acceded to the Convention on 21 April 1997. Mozambique's initial report was due 16 May 1998.

Legislation

406. Despite constitutional provisions for the equality of men and women in all aspects of political, economic, social, and cultural life, the civil and commercial legal codes contradict the Constitution. Under the Law on Family and Inheritance, the husband or father is the head of household, and both wives and daughters must obtain male approval for all legal undertakings. For example, a woman must have the written approval of her husband, father, or closest male relative in order to start a business. Without such approval, a woman cannot lease property, obtain a loan, or contract for goods and services. The legal domicile of a married woman is her husband's house, and she may work outside the home only with the express consent of her husband. These legal restrictions on women's freedom leave women open to extortion and other pressures.

407. Family law provides that a married couple's assets belong to the husband, who has full authority to decide on their disposition. When a husband dies, his widow is only fourth in line (after sons, fathers, and brothers) to inherit the household goods. A contradictory provision of the law states that a widow is entitled to one-half of those goods that are acquired during the marriage, but it is reported that in practice women rarely know of or demand this right.

408. Customary law varies within the country. In some places, it provides women with less protection than family law, and unless a marriage is registered, a woman has no recourse to the judicial branch for enforcement of the rights provided her by the civil codes. Women are the primary cultivators of family land in the country, however, under customary law; they often have no rights to the disposition of the land. The law specifically permits women to exercise rights over community land held through customary rights.

409. There is no law that defines domestic violence as a crime; however, laws prohibiting rape, battery, and assault can be used to prosecute domestic violence. In 2001, a group of women's NGOs lobbied members of the National Assembly to criminalize domestic violence. The law does not provide specifically an age of sexual consent; however, offering or procuring of prostitution and pornography of any form, including that of children, are illegal under the Penal Code. Sexual abuse of a child under 16 also is illegal under the Penal Code.

410. In order to address child prostitution, the National Assembly passed a law in 1999 prohibiting the access of minors to bars and clubs; however, it is alleged that the Government does not have adequate resources to enforce the law effectively. The law prohibits forced or compulsory labor as well as forced and bonded labor by children. Persons engaged in child prostitution, use of children for illicit activities, child pornography, child trafficking, or forced or bonded labour may be punished by prison sentences and fines. Labour inspectors are authorized to obtain court orders and use police to enforce compliance with child labor provisions.

411. There are no specific laws that prohibit trafficking in persons, although trafficking can be addressed under labor, immigration, and child welfare laws.

Policies and programmes

412. Violence is a worrying and major threat to the security of women, and this has led to the coming together of several Mozambican organizations and institutions to form a group called All Against Violence. This group, comprising diverse associations and also the Ministry of Social Actions Co-ordination, embarked on a three-year multidisciplinary programme in 1996, covering civic education, the replacement of the existing legislation that discriminated against women, concrete support to victims of violence and investigation of the problem. In 2000 police commanders from the Maputo area held a seminar on domestic violence, where they were instructed to handle such cases as criminal matters.

413. The Government took some steps to protect and reintegrate into families or other supervised conditions an estimated 3,000 street children in the Maputo metropolitan area. Some remedial government programs continued, including programs on education, information dissemination, health care, and family reunification.

414. Authorities in several provinces took steps to combat child prostitution. In Sofala province, where child prostitution exists along the Beira development corridor (frequented by truck drivers and businessmen), the Government operates information centres in affected areas to provide information to families and friends of children who are raped and exploited, and counsels them on how to deal with the police, public prosecutors, and judges. In 2000 the Ministry of Women and Coordination of Social Action launched a campaign against the sexual exploitation of children and is working to educate hotels about the problem of child prostitution. The UNDP assisted the Government with training police to aid child prostitutes; however, there is a lack of accommodation centres, and the Government is reportedly unable to offer safe shelter to child prostitutes when they have been removed from danger.

415. The Government has also provided training for police on child prostitution and abuse (including pornography); however, there is no specialized child labour training for the Labour Inspectorate. The Government has disseminated information and provided education about the dangers of child labor. In 1999 the Government signed ILO Convention No. 182 (1999) on the elimination of the worst forms of child labour. In July 2001, the Ministry of Labour and UNICEF jointly held a conference on child labour and designed an action plan to address the worst forms of child labour through prevention, protection, and rehabilitation; however, no significant actions were taken on the action plan by the end of 2001.

Issues of concern

416. According to information received, the police continued to commit serious abuses; torture, beatings, death threats, physical and mental abuse, and extortion reportedly remained problems. In 2001, the League of Human Rights (LDH) reported complaints of torture, including several instances involving the sexual abuse of women, beating, illegal detention, and death threats.

417. Although official statistics are not kept, domestic violence against women - particularly spousal rape and beating - is reportedly widespread. Many women believe that their spouses

have the right to beat them, and cultural pressures discourage women from taking legal action against abusive spouses.¹³⁵

418. It is reported that rape is also widespread. Sexual harassment is regarded as pervasive in business, government, and education, although no formal data exists. Prostitution is prevalent in most cities and towns and especially is rampant along major transportation corridors and border towns where long-distance truckers stay overnight. There were no reports of sexual tourism occurring in the country.

419. According to reports, exploitation of children below the age of 15 continues, and child prostitution remains a concern. However, authorities in several provinces took steps to combat child prostitution. Child prostitution appears to be most prevalent in Maputo and Beira, and at border towns and overnight stopping points along key transportation routes. There was no evidence that it exists in other rural areas. Child prostitution reportedly is growing in the Maputo, Beira, and Nacala areas, which have highly mobile populations and a large number of transport workers. According to the Child Network, a domestic NGO, some members of the United Nations peacekeeping force that was in the country between 1992 and 1994 may have initiated child prostitution in Manica Province. In addition, many child prostitutes have been infected with HIV/AIDS.

420. Mozambique may be a country of origin for a small number of trafficked children who were trafficked to South Africa and Swaziland for prostitution. Many citizens working illegally in South Africa and Swaziland are subject to abuses there. The Government has reportedly not devoted resources to combat trafficking, and there is no specific protection offered by either the Government or NGOs for trafficking victims. The Government did not take any specific actions to combat trafficking in 2001.

421. The estimated maternal mortality rate is 1,500 per 100,000. Numerous development organizations and health-oriented NGOs emphasize programs to improve women's health and increasingly focus resources to combat the spread of HIV/AIDS and sexually transmitted diseases. The mortality rate for infants was 135 per 1,000, and for children under the age of 5 it was 201 per 1,000.

Namibia

422. Namibia acceded to the Convention on 23 November 1992. Namibia's second periodic report was due 23 December 1997. The Optional Protocol was signed on 19 May 2000 and ratified on 26 May 2000.

Legislation

423. The Combating of Rape Act 2000 redefines rape to focus on the aggression rather than the conduct of the victim, and institutes victim-friendly procedures that increase the probability of justice being done. It has the following provisions: it prescribes a severe minimum sentence for rape (45 years for certain repeat offenders); it abolishes the rule that a boy under 14 years is presumed to be incapable of sexual intercourse; it abolishes the cautionary rule under which a

court treats the evidence of any complaint in criminal proceedings in which an accused is charged with an offence of a sexual or indecent nature with special caution, including the need for corroborative evidence to make the evidence of a rape victim weighty; it casts upon a prosecutor of a rape offence the duty to consult with the victim to ensure that all relevant information has been gathered, and also to obtain the victim's view as to whether bail should be granted.

424. A Domestic Violence Bill is currently being discussed and it is hoped that it will be passed in the near future. The bill will provide for the issuing of protection orders with regard to domestic violence and for matters connected therewith; afford the victims of domestic violence the maximum protection from domestic abuse that the law can provide; introduce measures which seek to ensure that the relevant organs of state give full effect to the provisions of the act; and convey that the State is committed to the elimination of domestic violence.

Policies and programmes

425. The Namibian Government, through the National Gender Policy, has put in place strategies to address violence against women and children. These include implementing, monitoring and reviewing legislation to ensure its effectiveness in eliminating violence against women and children, with particular emphasis on the prevention of violence, and prosecution of offenders; continuing to promote visible policies of mainstreaming gender perspectives in all policies and programmes related to violence against women and children; refusing bail, and imposing heavy fines and sentence for offenders; establishing and supporting mechanisms that will enable women and girls to confidently report acts of violence against them without fear of retaliation; organizing and providing shelter and relief support such as medical, psychological, free counselling and legal support, for women and girls who have been victims of violence to return to normal life; supporting community-based education programmes, such as campaigns to raise awareness and to create preventive measures, and to disseminate information on how to combat violence against women; and supporting and making public research findings on the impact of all forms of violence against women and children. A National Gender Plan of Action has also been developed.

426. In Namibia, the Ministry of Justice's Women in Law Committee holds public hearings on violence against women and children regularly.¹³⁶ Rapists and perpetrators of violence against women are no longer eligible for pardon or parole and centres to assist victims of violence are planned throughout the country. The multimedia campaign on violence against women and children established in 1997 by the Ministry of Information in that country has increased awareness and shared information on matters relating to violence and rape. The Government commissioned baseline studies and the drafting of "protocols" or guidelines for doctors, nurses, court officials and the police – people with whom survivors of violence against women must come in touch with in pursuit of justice.

427. The Multi-media Campaign on Violence Against Women and Children (MMCVAWC) is a pressure group making sure that violence against women and children is on the agenda wherever women or human rights are being discussed. They also make proposals for legal reform and put pressure on the police to take rape and other domestic violence cases to court. The MMCVAWC

was launched in June 1996 and consists of governmental agencies, NGOs and individuals involved in combating violence, providing support services or advocacy on issues around Violence Against Women and Children.

428. The Women and Child Protection Units were established in order to serve as shelters for abused women and children and also to create a suitable and conducive environment whereby traumatized victims can have privacy when reporting their cases - thus making it easier for women and children who have suffered any form of violence to come to the police. Furthermore, the units are aimed at preventing, detecting and investigating crimes committed against women and children. It brings the police, social workers, doctors and psychologists together to help victims of serious physical, emotional and sexual abuse, and also provides counselling and health services to victims of violence. The Namibian Police established the first unit in 1993 and it became operational in 1994. Currently there are eight units throughout Namibia covering 10 regions and two other units are in the planning stages while arrangements for three other units are still in the pipeline.

Issues of concern

429. However, VAW in Namibia is and remains a great concern because of the escalating violent cases committed against women and children. Despite all efforts spent on awareness campaigns and education aimed at fighting violence against women and children, domestic violence against women and children still remains the tip of the iceberg for all the crimes committed in the country. It is reported that the response to all these awareness campaigns and education remains minimal and insignificant. Therefore, a lot still needs to be done to curb this disease of violence against women and children in Namibia, including criminalizing domestic violence and stiffer sentences against the perpetrators of such violence.

430. Traditional attitudes regarding the subordination of women exacerbated problems of sexual and domestic violence. However, there continued to be an improvement in the attention paid to the problems of rape and domestic violence. Police stated that more women came forward to report cases of rape and domestic violence. The Special Rapporteur expresses concern that the court system does not have mechanisms to protect vulnerable witnesses from open testimony.

431. It is reported that women were kidnapped, raped or otherwise abused by armed men along the border with Angola in the Kavango and Caprivi regions. The Government claimed that the abuses were carried out by UNITA rebels; however, human rights groups reported that some of the incidents were perpetrated by Angolan Government soldiers.

432. Women married in customary (traditional) marriages continued to face legal and cultural discrimination. Traditional practices that permit family members to confiscate the property of deceased men from their widows and children still existed; however, it is reported that the frequency of such cases lessened considerably the past few years.

433. Child abuse is a serious and increasingly acknowledged problem. The authorities vigorously prosecuted cases involving crimes against children, particularly rape and incest. Although the law does not specifically prohibit trafficking in persons, it does prohibit slavery,

kidnapping, forced labor, including forced prostitution, child labour, and alien smuggling; there were no reports that persons were trafficked to, from, or within the country.

434. It is recommended (from the Report of the Ministry of Women's Affairs 2000) that a law should be introduced that will specifically criminalize domestic violence so that it is removed from the broader large crimes such as assault, and highlight the unique nature of this crime. Educational programmes aimed at preventing domestic violence should be introduced in schools so that young children will grow up sensitized about domestic violence. Police officers, social workers and counsellors who treat victims of domestic violence should be equipped with the necessary skills to make them be sympathetic to victims of domestic violence and treat them with all necessary care. Further detailed research in domestic violence is needed to show all the family dynamics that are surrounding domestic violence. The law on domestic violence should give stiffer sentences to the perpetrators of domestic violence.

Niger

435. Niger acceded to the Convention on 8 October 1999. Niger's initial report was due 8 November 2000. Reservations and declarations were filed to articles 2 (d), 2 (f), 5 (a), 15 (4), 16 (1)(c), 16 (1)(e), 16 (1)(g), and 29; six States filed objections to some aspects of these reservations.

Legislation

436. The Constitution prohibits discrimination based on sex, social origin, race, ethnicity, or religion. However, in practice there were instances of discrimination against women, children, ethnic minorities, and persons with disabilities, including, but not limited to, limited economic and political opportunities. Women's inferior legal status is evident, for example, in head of household status.

437. Some ethnic groups allowed families to enter into marriage agreements on the basis of which young girls from rural areas were sent by the age of 10 or 12 and sometimes younger to join their husband's family under the tutelage of their mother-in-law. In 2001, the National Assembly considered changing the law to prohibit this practice and establish a minimum age for marriage; however, no legislation was passed by 2002.

438. In July 2001 the National Assembly outlawed FGM (sentence of three to 20 years prison); however, some observers believed the Government has not publicized sufficiently the fact that the practice is now a criminal act. In July 2001 the National Assembly also passed revisions to the penal code to include new punishable offenses for crimes against the practice of slavery; however, a presidential promulgation to implement the new revisions was not issued by 2002.

439. Prostitution is illegal. The Labor Code prohibits forced or compulsory labor, except by legally convicted prisoners, but does not prohibit specifically forced and bonded labour by children. Child prostitution was not criminalized specifically, and there is no precise age of consent; however, the law condemns "indecent" acts towards minors, but it was left to a judge to determine what constitutes an indecent act. Such activity and a corollary statute against "the

incitement of minors to wrongdoing" are punishable by three to five years in prison. The law does not prohibit trafficking in persons, and there was evidence that the country is a transit point and destination for a small number of trafficked persons.

Policies and programmes

440. Following ratification of the Convention in 1999; in 2000 the Ministry of Justice formed a committee of legal scholars, which began reviewing relevant laws. Islamic groups criticized the ratification and complained that they were not consulted beforehand.

441. A government decree in 1990 established the Committee to campaign against FGM called Nigerian Committee against Harmful Traditional Practices. It carries out publicity campaigns to raise awareness; disseminates information on this practice in local languages; participates in research. The Government worked closely with local NGOs, UNICEF, and other donors to develop and distribute educational materials at government clinics and maternal health centres.

442. In 2000 the Minister of Justice formed a commission to examine the problem of child brides; the commission's work is reportedly still ongoing. In 2000 the Justice Minister also stated that the Government intended to study the issue of trafficking as part of the more comprehensive legal modernization effort launched by a commission of legal experts.

443. Two national institutions on human rights have been established - Democracy, Freedom and Development and the Human Rights Association - which deal with freedom of association. Efforts have been made to publicize and disseminate information on various human rights instruments on radio (in French and national languages) and television as well as through the newspapers, plays and songs.

Issues of concern

444. Despite the Constitution's provisions for women's rights, deep-seated traditional beliefs results in gender discrimination in education, employment, and property rights. Discrimination is worse in rural areas, where women do much of the subsistence farming as well as child-rearing, water - and wood-gathering and other work.

445. According to reports, domestic violence against women is widespread, although reliable statistics are not available. Wife-beating reportedly is common, families often intervene to prevent the worst abuses, and women may (and do) divorce because of physical abuse. While women have the right to seek redress in the customary or modern courts, few do so due to ignorance of the legal system, fear of social stigma or fear of repudiation. It is reported that prostitution often is the only economic alternative for a woman who wants to leave her husband.

446. FGM is practiced by several ethnic groups in the western department of Tillaberi (which includes Niamey and the towns of Say, Torodi, and Ayorou) and the eastern department of Diffa. A 1998 study by CARE International indicated that 5 per cent of women between 15 and 49 years of age had undergone FGM; however, a 1999 symposium cited a World Health Organization global study of 20 per cent. Clitoridectomy was the most common form of FGM.

447. There are reports of underage girls being drawn into prostitution, sometimes with the complicity of the family. Internal trafficking occurs, and there was reports that organized rings may victimize young girls who come to work as household helpers. Trafficking in persons generally was conducted by small-time operators who promised well-paid employment in Niger. Victims, primarily from Benin, Togo, Nigeria, and Ghana, are escorted through the formalities of entering the country, where they find that their employment options are restricted to poorly-paid domestic work or prostitution. Internal trafficking, which is rooted in the traditions and poverty that underlie the country's largely informal economy, includes the child marriages of girls. In response to economic hardship, some parents reportedly arranged for their young daughters to marry older men, presumably without their consent, and then send them to join their husband's families.

448. It is reported that 44 per cent of Nigerien women, aged 20 to 49, had entered into their first marriage when they were under the age of 15. Similarly, the Inquiry on Demographics and Health, conducted in 1998, showed that 47 per cent of women aged 25 to 49 married before the age of 15. Niger has the highest rate of early marriage in Sub-Saharan Africa. In the 25-49 age group, 77 per cent married before the age of 18. To combat the practice of early marriage, the Department of Human Rights and Social Affairs has suggested that marriage age be raised to 18 to conform to international law.

Nigeria

449. Nigeria ratified the Convention on 13 June 1985. Nigeria's fourth periodic report was due 13 July 1998. The Optional Protocol was signed on 8 September 2000.

Legislation

450. Women have been affected to varying degrees by the adoption of various new laws in 12 northern states. In Zamfara State, local governments instituted laws requiring the separation of Muslim men and women in transportation and health care. Furthermore, several women were subjected to harsh punishments for fornication or adultery based solely upon the fact of pregnancy, while men were not convicted without the requisite number of witnesses. Some concern has been expressed at national and international level regarding the impact of the introduction of the new criminal law in some parts of Nigeria including the Penal Code Law of Sokoto State 2001. Other states which have introduced new criminal laws are Zamfara State (1999), Katsina State (2000), Kaduna (1999), and Niger state (2000).

451. Both Nigerian criminal codes define rape in similar terms. In southern Nigeria, the criminal code defines rape as "unlawful carnal knowledge of a woman or girl, without her consent"¹³⁷. Unlawful intercourse with a women's consent also constitute rape if the consent is obtained by force, fraud, threats, or intimidation of any kind. The law in southern Nigeria also proscribes attempted rape as an offense. In northern Nigeria, the penal code defines rape to be sexual intercourse with a woman against her will or without her consent, or sexual intercourse with a girl under the age of 14.¹³⁸ Furthermore, the Penal Code criminalizes consensual intercourse if the woman's consent was obtained through the use of force. The punishment for rape under both codes is imprisonment for life. In general, both criminal codes in Nigeria provide little protection

against marital rape. Under the Criminal Code in southern Nigeria, intercourse between a husband and wife can never constitute rape (Criminal Code Art. 6). Pursuant to the Penal Code in Northern Nigeria, the definition of rape explicitly excludes the marital rape of a woman who has attained the age of puberty (Criminal Code Art. 282). Women may receive limited protection from marital rape under the prohibitions against assault. In addition, the above provisions that preclude prosecution of marital rape do not apply to the rape of an estranged spouse. The Penal Code permits husbands to use physical means to chastise their wives as long as it does not result in "grievous harm," which is defined as loss of sight, hearing, power of speech, facial disfigurement, or other life threatening injuries.¹³⁹ No laws deal explicitly with sexual harassment in Nigeria.¹⁴⁰

452. Currently, there are no federal laws banning FGM; however, a federal law banning FGM was pending before the National Assembly at the end of 2001. In 2000 Edo, Ogun, Cross River, Osun, Rivers, and Bayelsa States banned FGM. In Edo State, the punishment is a US\$ 10 (1,000 naira) fine and six months' imprisonment.¹⁴¹ The Girl-Child Marriages and Female Circumcision (Prohibition) Law 2000 of Cross River State, and the Criminal Code (Amendment) Law 2000 of Edo State are statutes that raise the age of consent for sexual intercourse to 18 years so that sexual intercourse with a girl who has not attained the age of 18 years is rape whether or not she consented. The law also creates an offence of international trafficking in females for the purpose of prostitution or such immoral act.

453. The Inhuman Treatment of Widows (Prohibition) Law (2001) of Edo State defines inhuman treatment as including any form of act or ceremony which amounts to a clear breach of the fundamental rights of any woman as provided for under the Constitution, international or regional treaties to which Nigeria is signatory, especially conduct that which is particularized under the schedule to the law. Such conduct as listed includes: making a woman sleep with the corpse of a deceased husband; making a woman marry a relative of her deceased husband; and making a woman drink water in which the corpse of her deceased husband was washed.

454. Prostitution is not illegal in Lagos State; however, authorities can use statutes that outlaw pandering as a justification for arresting prostitutes. In both southern and northern Nigeria, the criminal laws also contain specific prohibitions against the "procurement" or employment of a minor child in prostitution.¹⁴² The adoption by northern states of legal systems based on religious values resulted in the strong enforcement of laws against child prostitution. Southern states, such as Edo, also are criminalizing prostitution and raising the legal age for marriage from 16 to 18. The Government does not specifically prohibit forced and bonded labor by children; however, the law prohibits forced or compulsory labor, a prohibition that extends to children.

455. No law makes trafficking in persons a crime. Draft legislation was under review in the National Assembly that would make trafficking a crime; however, no action was taken on it by the end of 2001.

Policies and programmes

456. The National Commission for Women Decree established a National Commission for Women in 1989 to coordinate the implementation of programmes to facilitate and enhance the

advancement of women in Nigeria. The Commission had been upgraded to the Federal Ministry of Women's Affairs and Social Development. In addition, the state Ministries of Women Affairs and Social Development had been established in the 36 states of the Federation. A National Committee of Women and Children reviewed all laws relating to women and children, in order to bring them into conformity with the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.

457. A Special Adviser to the Presidency on trafficking in women has been established, to spearhead governments' efforts to study and craft appropriate response to this form of violence. The Office of the Special Advisor has partnered with the International Organization for Migration and UNIFEM to implement a public-awareness campaign and pilot services to victims. Unfortunately, the official approach is from an immigration point of view rather than human rights.

458. Paragraph 2.2.2.7 of the National Reproductive Health Policy and Strategy adopted in July 2001 declares the Government's commitment to formulating and enforcing legal instruments to support activities aimed at eliminating the practice of female genital mutilation and other forms of harmful practices, especially sexual violence and rape. Paragraph 3.2.5 states the goal of limiting gender-based violence and other practices that are harmful to the health of women and children. The Ministry of Women's Affairs sought to raise awareness among women and men of the need to empower women and to forge a new partnership based on mutual respect for the family. The Ministry of Women's Affairs had emphasized the importance of education and the acquisition of skills for women and girls.

459. Nigeria cooperates with other Governments on investigations and prosecutions of trafficking cases. For example, Nigeria obtained the extradition of Nigerian traffickers from Guinea. In terms of protection, the Government established a modest police unit in Lagos to assist in the repatriation of trafficked victims, and to provide limited short-term shelter. There is no witness-protection program in place, but Nigerian NGOs have been very active in raising public awareness, in shaping legislation on trafficking, and in providing sometimes-needed protection from family members for repatriated women. Over the past three years, Nigeria has cooperated with the Italian Government on the repatriation of over 1,000 persons with illegal status in Italy. Many of these returnees were victims of trafficking. Nigeria also cooperates with international organizations on programs to return and assist victims of trafficking, including those with HIV/AIDS. In an attempt to prevent trafficking, the Nigerian authorities have engaged in the questionable practice of parading the victims and the traffickers on television and in the communities. Nigeria actively participates in regional efforts to combat trafficking, and recently set up an Inter-Ministerial Committee to address trafficking in persons.

Issues of concern

460. There have been recent cases in Nigeria of women being sentenced to corporal and capital punishment including whipping and stoning to death.¹⁴³ In addition to the fact that these forms of punishment violate the prohibition on torture in international law, there are strong indications that the women concerned have been the victims of entrenched gender discrimination in the administration of justice. The Special Rapporteur is particularly concerned by the fact that even

where women have succeeded in appealing sentences of stoning to death, they are often summarily subjected to corporal punishment including whipping. Of further concern in relation to Nigeria is that the practice of sentencing women to death by stoning for alleged adultery appears to be on the increase, even if these sentences have frequently been overturned on appeal for technical reasons.

461. Under the Maliki school of thought, which dominates the interpretation of Shariah in northern Nigeria, pregnancy is considered sufficient evidence to condemn a woman for *Zina*, an offence which is to be read as adultery or as voluntary premarital sexual intercourse. The oath of the man denying having had sexual intercourse with the woman is often considered sufficient proof of innocence unless four independent and reputable eyewitnesses declare his involvement in the act of voluntary sexual intercourse.

462. Based on the cases of Amina Lawal and Safiya Hussaini, the Special Rapporteur emphasizes that the law as practised in the northern states of Nigeria, does not protect women from possible sexual assault and coercion, instead it is willing to punish the victims of such assault. In both cases the Court has not pursued the allegations of coercion. The clear implication of this decision is that men violate and rape girls and women with impunity as long as they make sure that there are no witnesses of their crime. On the other hand, women and girls who are victims of rape or coercion have their situation further compounded. They will be subjected to charges of *Zina* and false accusation. This clearly violates women's rights, justice and security while protecting those men who harass, molest and rape women and girls.

463. According to reports, domestic violence is a problem. Reports of spousal abuse are common, especially those of wife beating. Police normally do not intervene in domestic disputes, which seldom are discussed publicly. It has been estimated that spousal abuse occurs in 20 per cent of adult relationships. In more traditional areas of the country, courts and police are reluctant to intervene to protect women who accuse their husbands formally if the level of alleged abuse does not exceed customary norms in the areas.¹⁴⁴ Rape and sexual harassment continued to be problems.

464. It is reported that at least 40 to 50 per cent of women undergo FGM.¹⁴⁵ Studies conducted by the United Nations development systems and the World Health Organization estimated the FGM rate at approximately 60 per cent among the nation's female population. However, according to local experts, the actual prevalence may be as high as 100 per cent in some ethnic enclaves in the south. While practised in all parts of the country, FGM is more predominant in the southern and eastern zones. Women from northern states are less likely to undergo FGM; however, those affected are more likely to undergo the severe type of FGM known as infibulation. The practice is reportedly perpetuated because of a cultural belief that uncircumcised women are promiscuous, unclean, unsuitable for marriage, physically undesirable, or potential health risks to themselves and their children, especially during childbirth. The National Association of Nigerian Nurses and Midwives, the Nigerian Women's Association, and the Nigerian Medical Association worked to eradicate the practice and to train health care workers on the medical effects of FGM; however, contact with health care workers remains limited. Nevertheless, most observers agree that the number of women and girls who are

undergoing FGM is declining each year. The federal Government publicly opposes female genital mutilation; however, it has taken no legal action to curb the practice.

465. In some parts of the country, women continue to be harassed for social and religious reasons. Purdah, the practice of keeping girls and women in seclusion from men outside the family, continued in parts of the far north. There are no laws barring women from particular fields of employment; however, women often experience discrimination because the Government reportedly tolerates customary and religious practices that adversely affect them. Women remain underrepresented in the formal sector but play an active and vital role in the country's important informal economy. While the number of women employed in the business sector increases every year, women do not receive equal pay for equal work and often find it extremely difficult to acquire commercial credit or to obtain tax deductions or rebates as heads of households. Unmarried women in particular endure many forms of discrimination.

466. Although women are not barred legally from owning land, under some customary land tenure systems only men can own land, and women can gain access to land only through marriage or family. In addition many customary practices do not recognize a women's right to inherit her husband's property, and many widows were rendered destitute when their in-laws took virtually all of the deceased husband's property. Widows are subjected to unfavourable conditions as a result of discriminatory traditional customs and economic deprivation. "Confinement" is the most common rite of deprivation to which widows are subjected, and it occurs predominately in eastern Nigeria. Confined widows are under restrictions for as long as one year and usually are required to shave their heads and dress in black. In other areas, a widow is considered a part of her husband's property, to be "inherited" by his family. Personal law protects widows' property rights. Polygamy continues to be practiced widely among all ethnic groups and among Christians, as well as Muslims and practitioners of traditional persuasions. Women are required by law to obtain permission from a male family member to get a passport. Furthermore, the testimony of women is not equal to that of men in criminal courts.¹⁴⁶

467. Cases of child abuse, abandoned infants, child prostitution, and physically harmful child labour practices remain common throughout the country. Although the law stipulates that "no child shall be ordered to be imprisoned," juvenile offenders are incarcerated routinely along with adult criminals. The Government criticized child abuse and neglect but, according to information, did not undertake any significant measures to stop customary practices harmful to children, such as the sale of young girls into marriage. Indeed, there were credible reports that poor families sell their daughters into marriage as a means of supplementing their incomes. Young girls sometimes are forced into marriage as soon as they reach puberty, regardless of age, in order to prevent the "indecent" associated with premarital sex.

468. There is an active and growing market for trafficking in women and children within the region and to Europe. Nigeria is a source, transit, and destination country for persons trafficked to Europe, the Middle East, and West and Central Africa. Nigerian women are trafficked mostly for sexual exploitation to Italy, but also to other destinations including France, Spain, the Netherlands, and the Czech Republic. Children are trafficked for domestic and agricultural labor, from and to West and Central African countries, including Benin, Cameroon, Gabon, and Togo. There are reports that Nigerian crime syndicates may use indebtedness, threats of beatings and

rape, physical injury to the victim's family, arrest, and deportation to persuade those forced into sex work from attempting to escape or from contacting police and NGOs for assistance. Investigations are allegedly hampered by a lack of resources, as well as by widespread corruption among law enforcement officials. Prosecutions are few, due in part to the difficulty in securing witness corroboration in addition to the victim's testimony.

469. The Special Rapporteur supports the Committee's recommendations to the Government,¹⁴⁷ *inter alia*: to collect information on the issue of violence against women and to introduce and enforce appropriate laws, programmes and policies to confront all forms of violence against women; to establish shelters for victims and the introduction of measures to ensure that women are protected from reprisal where they report their victimization; to introduce, at all levels of education, courses on women's and children's rights, as well as public awareness campaigns with regard to these issues. The Special Rapporteur further recommends that statistical data and information be compiled on the incidence of HIV/AIDS and other sexually transmitted diseases, and that the Government strengthen its socio-economic programmes so as to reduce discrimination suffered by rural women.

Rwanda

470. Rwanda ratified the Convention on 2 March 1981. Rwanda's fourth and fifth periodic reports were due 3 September 1994 and 1998, respectively.

Legislation

471. The 1992 Family Code improved the legal position of women in matters relating to marriage, divorce, and child custody. The law allows women to inherit property from their fathers and husbands and allows couples to choose the legal property arrangements they wish to adopt.

Policies and programmes

472. In 1996, the Ministry of Health, in cooperation with the Ministry of Gender, Women and Social Affairs,¹⁴⁸ initiated a comprehensive health project in response to the finding that women and girls suffered the most during the genocide as a result of being victims of sexual violence, sexual abuse and rape. The objectives of the project were to improve the access of women victims to medical services; to increase the technical capacity of the health personnel and to increase the availability of medical equipment and medication, especially for women victims of violence. A number of concrete activities were undertaken within the framework of the project, including a seminar to train trainers for health service providers, the dissemination of information on violence against women through the radio, newspaper articles and interviews, and fund-raising for medical supplies. A National Trauma Centre provides an integrated mental and social rehabilitation programme based on public health principles for survivors of the genocide. The Trauma Centre provides professional counselling and has outreach teams in all prefectures. The Ministry of Health also sponsors an HIV/AIDS Counselling Centre where free testing and counselling are available and the right to privacy is respected.

Issues of concern

473. At the invitation of the Government of Rwanda, the Special Rapporteur on violence against women visited Kigali, Ntarama, Butare, Gikongoro, Gitarama and Taba in Rwanda, from 27 September to 1 November 1997, to study the issue of violence against women in wartime and in post-conflict situations. The Special Rapporteur also visited the International Criminal Tribunal for Rwanda (ICTR) in Arusha, United Republic of Tanzania, from 23 to 25 September 1997. Furthermore, in view of the number of women who participated in the genocide and who are consequently being held in prisons and in detention centres awaiting trial, the Special Rapporteur also decided to study the conditions of women in custody during her mission to Rwanda.¹⁴⁹

474. It is reported that Rwandan Patriotic Army (RPA) officers were responsible for human rights violations in 2000 during fighting with Ugandan army troops in Kisangani, which resulted in hundreds of civilian deaths, more than 1,700 persons injured, and 60,000 displaced persons. Credible sources claim that RPA and Ugandan troops raped many women and shot civilians during extensive fighting in the city. In 1999 the RCD forces, participating with or supported by the RPA, reportedly buried 15 women alive at Mwenza, DRC. In 1999 the RCD/RPA arrested the RCD commander whose troops allegedly buried alive the women, but he escaped from jail in 2000 along with 32 other detainees.

475. Since the landmark Akayesu verdict in 1998, the first and only case as yet in which rape was found to be an act of genocide; the ICTR has brought several more indictments for rape. In some, however, the rape count was only added belatedly, when witnesses alluded to rape and sexual violence while testifying in court, raising serious questions about the quality of investigations and decision-making on drafting indictments. The ICTR tribunal's record of failing to effectively address sexual violence continued in 2001.

Sao Tome and Principe

476. Sao Tome and Principe ratified the Convention on 31 October 1995, and signed the Protocol to the Convention on 6 September 2000.

477. The Constitution stipulates that women and men have equal political, economic, and social rights, and while many women have access to opportunities in education, business, and government, in practice women still encounter significant societal discrimination. Traditional beliefs concerning the division of labour between men and women leave women with much of the work in agriculture, with most child-rearing responsibilities, and with less access to education and to professions. The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

478. Medical professionals and officials reported first-hand experience in dealing with victims of gender-based violence, including rape. They also reported that although women have the right to legal recourse - including against spouses - many were reluctant to bring legal action or were ignorant of their rights under the law. Traditional beliefs and practices also inhibit women from taking domestic disputes outside the family.

Senegal

479. Senegal ratified the Convention on 5 February 1985 and signed the Optional Protocol on 10 December 1999 and ratified it on 26 May 2000. Senegal's third and fourth periodic reports were due 7 March 1994 and 1998, respectively.

Legislation

480. Law No. 06-99, which was adopted in 1999, stipulates that persons convicted of rape may be imprisoned for up to 10 years. If the victim is a minor, her age is considered an aggravating circumstance.¹⁵⁰ Rape trials often result in convictions. There is no law regarding marital rape. Also, incest per se is not defined in the Penal Code. However, indecent assault perpetrated by any parent or person with authority over the minor victim, if this minor is under the age of 13, is punishable by the maximum sentence of five years.¹⁵¹ Domestic violence is punished under Article 297 bis of the Penal Code, amended in January 1999, by imprisonment of one to five years. According to the criminal law, sexual harassment is a crime punishable by imprisonment of up to three years and a fine of US\$ 650 (500,000 CFA francs). In 1999 a law was passed mandating longer jail terms of up to 10 years for convicted pedophiles.¹⁵²

481. Female genital mutilation was criminalized in 1999.¹⁵³ The law made FGM a criminal offense, carrying a jail term ranging from six months to five years for persons directly practising FGM or ordering it to be carried out on a third person.

482. According to article 111 of the Family Code, the minimum age of consent to marry is 21 for males and 16 for females.¹⁵⁴ In reality, the average age of marriage varies between 15 and 19 and among certain ethnic groups is as low as 12 or 13 years.¹⁵⁵ Under certain conditions, a judge may grant a special dispensation to a person under age. The law is not enforced in some communities, where marriages are arranged. The Penal Code punishes the consummation of marriage involving children under the age of 13 and imposes a sentence of two to five years of imprisonment.¹⁵⁶ The law prohibits trafficking in persons.

Landmark cases

483. On 31 October 2002, in the village of Dabo (Kolda region), eight persons were convicted and sentenced to four-month prison terms for the excision of 18 girls between the ages of 2 and 5. On 24 November 2001, in Velingara (Kolda region), a mother of two and an FGM practitioner were arrested for the October excision of the mother's two daughters; trials for the two women were pending at the end of 2001.

Policies and programmes

484. Senegal has adopted several policies in the area of reproductive rights. For example in 1996, the Government adopted a Family Planning Policy Declaration and, in response to the recommendations of the 1994 International Conference on Population and Development (ICPD), in March 1997 the Government established a National Reproductive Health Programme (1997-

2001). The programme's main objective is to promote reproductive health by reducing morbidity and mortality, and by improving overall well-being.¹⁵⁷

485. According to information received, the National Reproductive Health Program seeks to reduce FGM by 50 per cent and to reduce the various forms of violence against women, adolescents and girls by 50 per cent.¹⁵⁸ The Ministry of the Family and National Solidarity has adopted a National Plan for the Elimination of the FGM, by the year 2005. The plan adopts multi-strategies including the creation of public awareness on the problem, the establishment of support structures at community level. The Senegalese Committee for the Prevention of Traditional Practices Harmful to Women's Health has done significant advocacy work to raise awareness about this practice.

486. In April 2000, inhabitants of 26 villages on the Sine Saloum Islands publicly announced their decision to ban the practice of FGM in their communities. Since July 1997, following an educational campaign initiated by the Government with the assistance of UNICEF and a number of international and domestic NGOs, approximately 400 villages nationwide have banned FGM among their inhabitants.

487. Senegal is actively cooperating with several United Nations programmes, as well as with NGOs, to assess the trafficking problem in Senegal. In January 2002, government representatives attended a seminar organized by NGOs to discuss trafficking. Senegal is also hosted a regional meeting of experts to discuss trafficking in persons.

Issues of concern

488. The Constitution states that "men and women shall be equal in law" and prohibits discrimination based on race, religion, sex, class, or language. Despite constitutional protections, women face extensive societal discrimination, especially in rural areas where traditional customs, including polygamy, and rules of inheritance are strongest, and women generally were confined to traditional roles.

489. There are reports that domestic violence against women, usually wife-beating, is common.¹⁵⁹ It is reported that police usually do not intervene in domestic disputes, and most persons are reluctant to go outside the family for redress. The Special Rapporteur notes with concern that the law provides no possible measures to protect women from violence or provide shelter to victims of domestic violence.

490. Female genital mutilation is not practised by the country's largest ethnic group, the Wolofs (representing 43 per cent of the population), but it is performed on girls belonging to some other ethnic groups. Infibulation, the most extreme and dangerous form of FGM, is practiced by members of the Toucouleur and Peulh ethnic groups, particularly those in rural areas. Recent studies estimated that between 5 and 20 per cent of girls undergo FGM.¹⁶⁰

491. Senegal is a source and transit country for women and girls trafficked to Europe and the Middle East for sexual exploitation. Senegalese children are sometimes held in conditions of involuntary servitude by some religious instructors in Senegal's largest cities. Provisions of

Senegalese criminal law prohibit abduction, hostage-taking and the sale of persons, but the penalties for committing those crimes are inadequate to combat trafficking.

Seychelles

492. Seychelles ratified the Convention on 6 May 1992.

Legislation

493. The Government has taken action to address domestic violence, through legislation as well as services and structures. The Family Violence (Protection of Victims) Act 2000 is the most recent example. Women in the Seychelles are well represented in politics and business, and discrimination in inheritance, employment and education are rarely reported.

494. Rape, spousal rape, and domestic abuse are all criminal offenses.

495. The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

Issues of concern

496. Domestic violence against women, particularly wife beating, remains a problem.¹⁶¹ According to information received, police seldom intervene in domestic disputes, unless the dispute involves a weapon or major assault. The few cases that reach a prosecutor often were dismissed, or, if a case reached court, the perpetrator usually was given only a light sentence.

497. The society is largely matriarchal, with 75 per cent of births out-of-wedlock in 2000. There were no reports of societal discrimination against unwed mothers, and fathers are required by law to support their children. The age of consent was lowered from 16 to 14 in 1993, and 13 per cent of all births in 2000 occurred to women under 20 years of age. Girls are not allowed to attend school when they are pregnant, and many do not return to school after the birth of a child. Ministry of Health data and press reports indicate that there are a significant number of rapes committed against girls under the age of 15. Very few child abuse cases actually were prosecuted in court. There was criticism that the police failed to investigate vigorously charges of child abuse.

Sierra Leone

498. Sierra Leone ratified the Convention on 11 November 1988. Sierra Leone's initial and second and third periodic reports were due 11 December 1989, 1993 and 1997, respectively. The Optional Protocol was signed on 8 September 2000.

Legislation

499. The Constitution provides for equal rights for women, but in practice women face both legal and societal discrimination. Sierra Leone has a dual judicial system of formal and

customary law. Women's rights and status under traditional law vary significantly depending on the ethnic group to which they belong. The Temne and Limba tribes of the north afford greater rights to women to inherit property than does the Mende tribe, which gives preference to male heirs and unmarried daughters. However, in the Temne tribe, women cannot become paramount chiefs. In the south, the Mende tribe has a number of female paramount chiefs.

500. Women are nevertheless very active in civic organizations and NGOs, were instrumental in pressuring the previous government to allow free and fair multiparty elections in 1996, and were vocal representatives of civil society during the peace talks in Lome. They also played an important role in seeking an end to the conflict, and participated actively, both as candidates and voters, in the electoral process for the presidential and parliamentary elections held on 14 May 2002. The general and paramount chieftaincy elections resulted in the appointment of 18 women to the legislature, whereas only six sat in the previous parliament. The number of female ministers has also risen from two to three (out of a total of 24 ministers). The May 2002 elections also included the country's first-ever woman presidential candidate.¹⁶²

501. Rape is punishable by up to 14 years' imprisonment.¹⁶³

Policies and programmes

502. The Ministry of Social Welfare, Gender, and Children's Affairs (MSWGCA) designed national policies on gender mainstreaming and the advancement of women that include provisions for improving protections for women against violence. Both were adopted in 2000.

503. A Family Support Unit within the police structure was created in September 2000 to address family-related violence. The FSU has helped to improve the relationship between the community and the police which has resulted in an increase in the number of reported cases of rape and sexual violence. Since the FSU has been established in Kenema, there have been 52 cases that have been brought to court and two convictions.¹⁶⁴

504. A National Consultation on "Women and men in partnership for post-conflict resolution" was held in 2001. The consultation resulted in recommendations and a national plan of action.

505. The inter-agency Coordination Committee for the Prevention of Sexual Exploitation has formulated a humanitarian community action plan and standards of accountability to govern the conduct of all staff; community/agency reporting systems and training and empowerment initiatives have also been put in place. Within the overall humanitarian community's action plan, UNHCR Sierra Leone, in collaboration with its implementing partners, has formulated a plan of action to minimize the risks of exploitation in every sector of Liberian refugee and Sierra Leonean returnee operations. Building on existing sexual and gender-based violence programmes, initiatives have been undertaken in training, mass information, codes of conduct, protection reception days and increasing beneficiaries' access to UNHCR staff in camps and communities. UNHCR is trying to improve refugee shelter standards through various measures, such as increasing the size and providing separate adult and child quarters. Post-distribution monitoring has been put in place by food pipeline agencies and UNHCR. A proposed legal framework will include employment and other refugee rights.

506. UNAMSIL Human Rights Section is conducting training for police and civil society organizations and creating awareness through radio programmes and Women's and Children's Forums held at district level. This training has focused mainly on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol. A survey on FGM and a campaign against domestic violence are also being undertaken by women's rights organizations.

Issues of concern

507. At the invitation of the Government of Sierra Leone, the Special Rapporteur visited Sierra Leone on official mission from 21 to 29 August 2001 to study the issue of violence against women committed during the conflict and to identify key measures and initiatives needed to ensure the rights of women in the aftermath of the conflict. The Special Rapporteur visited Freetown, Kenema, Bo and Makeni.¹⁶⁵

508. Despite a plethora of international obligations, the accompanying legislation to incorporate the international obligations in domestic law is lacking. No law prohibits female genital mutilation (FGM). No law prohibits trafficking in persons. Even though the national age of consent is 16, girls in villages may be forced or encouraged into earlier sexual relationships or marriages, reflecting the implementation of local customary law and practice in cases where national law is not enforced.¹⁶⁶

509. The Special Rapporteur noted in her 2002 report that the failure to investigate, prosecute and punish those responsible for rape and other forms of gender-based violence has contributed to an environment of impunity that perpetuates violence against women in Sierra Leone, including rape and domestic violence. The Special Rapporteur noted her concern about the criminal justice system in relation to women, and the reported low level of conviction for rape and other forms of gender-based violence. She particularly urged the Government to intensify its efforts to combat violence against women, through comprehensive measures, including gender-sensitive training in the criminal justice system.¹⁶⁷

510. The Special Rapporteur stressed also in the report that the wartime experiences and post-conflict needs of women and girls must be fully taken into account in the formulation of repatriation and resettlement plans, as well as during the demobilization and disarmament process. The necessary conditions must be provided to enable those women and girls who were forced to become the sexual partners of members of the rebel forces (so-called "bush wives") to leave demobilized combatants, if they wish to. Rehabilitation programmes must take into account the wide extent of sexual assault and rape and formulate programmes to address the specific needs of survivors. Programmes must also be developed for the special needs of female ex-combatants. Moreover, special initiatives must be developed to ensure that the security and subsistence concerns of war widows and other female heads of household are adequately addressed.¹⁶⁸

511. According to information received, the Revolutionary United Front (RUF) forces continued the practice of using previously abducted villagers, including women and children, as forced laborers, child soldiers, and sex slaves. While more than 2,600 abducted children were

released by the RUF, most of those released were male. International aid groups believe that girls who were abducted by the RUF may remain as sex slaves. Human rights groups and the United Nations have expressed concern that, while girls represent approximately 50 per cent of those abducted, they make up only an estimated 6 per cent of those released. These groups fear that many girls continue to be held as "sex slaves". Rebel atrocities caused the internal displacement of hundreds of thousands of civilians over the past several years; however, such displacement was reportedly reduced significantly in 2002. At year's end, approximately 200,000 persons remained outside the country on their own or in refugee camps, primarily in Guinea and Liberia.

512. In 2000 there was an increase in the number of rapes committed by the Civil Defence Force (CDF) forces, which in past years reportedly had not engaged in rape. For example, in July 2000, some CDF members raped three women whom they accused of transporting goods to rebel-held areas. There was no reported action taken against the CDF members responsible for beating, raping, or otherwise abusing the persons in the following case from 2000: the July raping of 3 women who were accused of transporting goods to rebel-held areas. RUF forces continued to use rape as a terror tactic against women. There were credible reports of gang rapes and mass rapes of groups of women. RUF members raped returning refugees throughout the year. Human Rights Watch documented abuses, including rape and abduction, by the RUF against refugees in the country as well as against Sierra Leonean refugees returning from Guinea.

513. There is growing recognition of the central importance of combating impunity in order to achieve a sustainable peace in Sierra Leone.¹⁶⁹ The Truth and Reconciliation Commission (TRC) and the Special Court have been established to achieve some form of national reconciliation. The Statute of the Special Court establishes jurisdiction over serious violations of Art.3, common to the Geneva Conventions, including "outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault." It also makes provision for the application of gender sensitive justice, including victim and witness protection measures, as well as achieving fair representation of female and male judges. According to local NGOs, women and girls are prepared to testify before the TRC and Special Court. Standards related to restorative justice such as reparations, witness protection, and other areas set by these two bodies could serve as a model for how prosecution of gender based violence can be carried out in the domestic system. There remains a need to strengthen the judiciary in Sierra Leone to more competently take on sexual violence cases.

514. Generally women and girls also continue to suffer violations of their human rights through domestic violence and traditional harmful practices such as female genital mutilation (FGM).¹⁷⁰ Violence against women has been identified as a "long-standing problem".¹⁷¹ It is reported that domestic violence against women, especially wife-beating, is common.¹⁷² The police are reportedly unlikely to intervene in domestic disputes except in cases involving severe injury or death. In rural areas, polygamy is a common practice among men, but women suspected of marital infidelity often are subject to physical abuse. There also were reports that women suspected of infidelity were required to undergo animistic rituals to prove their innocence. Domestic violence is not recognized as a societal problem.

515. Cases of rape are underreported, and rarely are charges brought, especially in rural areas. Medical or psychological services for women who were raped after they were abducted are almost nonexistent.

516. Prostitution is also widespread and on the rise as a result of the increased presence of international peacekeepers, as well as Sierra Leone's economic collapse and population dislocation.¹⁷³ Many women, especially those displaced from their homes and with few resources, resort to prostitution as a means to support themselves and their children. A 1999 national government survey of over 2,000 prostitutes found that 37 per cent were less than 15 years of age; more than 80 per cent were unaccompanied or displaced children.¹⁷⁴

517. Following the publication in February 2002 of a report revealing allegations of sexual abuse and exploitation of refugee women and children by some humanitarian workers and peacekeepers in Guinea, Liberia and Sierra Leone, UNAMSIL has adopted a policy of "zero tolerance" towards cases of sexual exploitation and abuse and has set up a Personnel Conduct Committee (UPCC) to receive complaints from persons outside of the mission of misconduct and impropriety by members of UNAMSIL. Reports can be made to the Committee, either in writing or by telephone to lines established for this purpose. A public awareness programme targeting both civilians and the military on the Code of Conduct for United Nations personnel, with particular emphasis on the protection of vulnerable groups including women and children, has also been developed.

518. UNAMSIL Human Rights Section, in collaboration with child protection agencies, conducted investigations into allegations of sexual abuse and exploitation of women and children involving peacekeepers. Investigations in February and March 2002 in Lungi (Port Loko District) revealed an increase in commercial sex activities in areas where peacekeepers are deployed. Although the majority of commercial sex workers are adults, testimonies collected by human rights officers indicated that at least four underage girls had been involved in prostitution with peacekeepers. The Human Rights Section also received information suggesting that, in November 2001, in Kabala (Koinadugu District), a peacekeeper had attempted to rape a 16-year old girl in her home. In all cases, the alleged victims and witnesses who were interviewed were unable to identify the perpetrators of the acts they described. Between April and June 2002, UNAMSIL human rights officers investigated 12 further cases of alleged sexual exploitation and abuse of girls under the age of 18 – some as young as 14 at the time of the incident – and two alleged cases of rape of women by UNAMSIL peacekeepers in Makeni, Bombali District. All 14 complainants were allegedly impregnated by peacekeepers that then left the Mission in February 2002. In May and August, the Human Rights Section brought the findings of its investigation to the attention of the SRSG, with a view to a request being made to the authorities abroad for them to open an investigation into the allegations. In October written authorization was obtained from 11 complainants to transmit details of their cases, including their identities, to the SRSG, so that relevant information could be made available to the authorities abroad and a thorough inquiry could be conducted into their cases.¹⁷⁵

519. The Special Rapporteur reiterates the recommendations made in her previous report and urges Government to pass legislation banning FGM and undertake preventive information campaigns. The Government needs to carry out sensitization and awareness-raising campaigns

for practitioners and the general public, to change traditional attitudes and discourage harmful traditional practices. The Special Rapporteur recommends the adoption of an alternative practice of a merely ceremonial nature, which does not involve violating the physical integrity of girls.

520. Urgent and sustained assistance is still needed to address the needs of women and girls who have been victims of rape and other forms of sexual violence, including VVF surgery for girl survivors of rape or pregnancy and psychosocial assistance for those suffering from psychological trauma. The Government should prioritize this area and seek technical assistance in this domain. The Special Rapporteur urges the Government to invest sufficient resources and give free health care for those who need it. The Government also needs to develop a strategy for prevention of the disease, including information campaigns, and for care of people who are victims of HIV/AIDS.

521. Women continue, however, to suffer the economic and social effects of the 10-year conflict. They constitute the majority of the rural labour force and play a substantial role in the sustenance of the family but continue to lag far behind men with regard to literacy, school enrolment and economic activity. Female literacy, at 19.1 per cent, is only half the male rate of 38.7 per cent. Widespread destruction of educational facilities, displacement of families, abduction, rape, forced marriages, pregnancy and early motherhood resulting from the conflict have only served to aggravate the situation of women and girls. Women and girls made up the majority of victims during the conflict and they continue to suffer psychological and physical harm, unwanted babies, sexually transmitted infections including HIV/AIDS, and social ostracism. Girls who were abducted and forced to live with their abductors have, in some cases, been rejected by their families, while others continue to live with these ex-combatants against their will.

Somalia

522. Somalia has not acceded to or ratified the Convention.

Legislation

523. Both religious law and customary law address the resolution of family disputes. Laws prohibiting rape exist. There are no laws against marital rape.

524. In Somalia, FGM remains illegal under the Penal Code. In 1999 Puntland authorities passed legislation banning FGM in northeastern areas of the country.

525. Under inheritance laws, female children can inherit property, but only half of the amount to which their brothers were entitled. Similarly according to the tradition of blood compensation, those found guilty in the death of a woman must pay only half as much to the aggrieved family as they would if the victim were a man.

526. The pre-1991 Penal Code prohibits trafficking.

Policies and programmes

527. An expert group to eradicate the practice of FGM has been established. The Institute of Women's Education set up in 1984 also engages in activities to eradicate FGM in a general health program – Family Planning Project.

Issues of concern

528. Women suffered disproportionately in the civil war and in the strife that followed. Violence against women and girls, including rape, are common in Somalia, particularly in displaced persons' camps and against women and girls of rival clans and those of minority groups.¹⁷⁶

529. There are also reports of rapes of Somali women and girls in refugee camps in Kenya. Somali bandits who crossed over the border and a small number of Kenyan security forces and police reportedly perpetrated the majority of the rapes. UNHCR documented more than 100 reported cases between February and August 2001 but estimates that the actual number is likely 10 times greater. The aid agency CARE estimated that approximately 40 women were raped every month in four refugee camps; other reports indicated that 10 per cent of Somali women in the camps have been raped. The rapes usually followed looting attacks by bandits and occurred when women and girls left the camps to herd goats or collect firewood or at night when bandits enter the refugee camps. The victims ranged in age from 4 to 50 years of age, and many of the rapes reportedly resulted in pregnancies during 2001.

530. Domestic violence against women exists, although there are no reliable statistics on its prevalence. According to information received, rape commonly is practiced in inter-clan conflicts.

531. Female genital mutilation is widespread. Estimates place the percentage of women who have undergone FGM at 98 per cent.¹⁷⁷ The majority of women are subjected to infibulation, the most harmful form of FGM.

532. Women are subordinated systematically in the country's overwhelmingly patriarchal culture. Polygamy is permitted, but polyandry is not.

533. Trafficking in women for the purposes of sexual exploitation is also a problem.

South Africa

534. South Africa has signed and ratified the Convention on 15 December 1995. South Africa's second periodic report is due 14 January 2001.

Legislation

535. The Constitution prohibits discrimination on the grounds of race, religion, disability, ethnic or social origin, color, age, culture, language, sex, pregnancy, or marital status. The Promotion of

Equality and Prevention of Unfair Discrimination Act, which entered into force on 9 August 2001, outlaws unfair discrimination against any person on the grounds of gender, race, and disability, and places a responsibility on the State and any person in the public domain to promote equality. The act addresses discrimination in a broad context in the workplace, health care, education, services, pensions, and other socio-economic areas. Legal recourse is available to those who believe that they have been discriminated against; however, entrenched attitudes and practices, as well as limited resources, limit the practical effect of these protections. Sexual harassment is addressed as a form of discrimination.¹⁷⁸

536. The Domestic Violence Act (1998) broadens the definition of domestic violence to include: “Physical, sexual, emotional, verbal, psychological, and economic abuse, intimidation, harassment, stalking, property damage, entering the complainant’s residence without consent and any other controlling or abusive behavior towards the complainant”.¹⁷⁹ The law defines marital rape as a criminal offense and allows women to obtain injunctions against abusive husbands in a simple, less expensive, and more effective manner. Rather than focus on married couples the 1998 Act covers all domestic relationships in the South African context, including cohabiting couples, same-sex couples, adoptive parents or guardians, and anyone in an “actual or perceived romantic, intimate or sexual relationship”.¹⁸⁰ Police officers are obligated to render assistance to the complainant (survivor of violence), including finding alternative accommodation and informing her of her legal rights. The act institutes easier, faster and victim friendly procedures, including the publication of any material that might lead to the identification of parties to proceedings under the act.

537. There is no law that specifically prohibits sex tourism, although it is covered under the general prohibition against prostitution. In August 2001 the Pretoria High Court ruled that sections that prohibited prostitution in the Sexual Offences Act were unconstitutional. The law prohibits the commercial sexual exploitation of children, sexual intercourse with children under 16, and allowing a female under 16 to stay in a brothel for the purpose of prostitution.

538. The Recognition of Customary Marriages Act recognizes customary marriages, both monogamous and polygamous, but it does not address religious marriages, which are not recognized by the law. The law was introduced in 1998 but not implemented by the end of 2001.

539. The law prohibits gender discrimination on a number of grounds: gender-based violence; FGM; preventing women from inheriting family property; practices which impair the dignity and equality of women; policies that unfairly limit access to land rights or other resources; discrimination based on pregnancy; limiting access to social services and benefits; and denial of access to opportunities. The act also provides for the establishment of equality courts with specific jurisdiction to hear complaints under the act.

540. Domestic violence against children is prohibited under the law, which also compels medical, educational, and other practitioners working with children to report abuse immediately. The minimum sentence for rape of a child is life in prison, but judges have the discretion to grant more lenient sentences. The law prohibits the commercial sexual exploitation of children, sexual intercourse with children under 16, and allowing a female under 16 to stay in a brothel for the purpose of prostitution.

541. The country does not have legislation that specifically prohibits the trafficking of persons; however, there are other laws that can be applied to prosecute offenses related to trafficking, including laws dealing with illegal aliens, employment, occupational health and safety, sexual offenses, domestic violence, and organized crime.

Landmark cases

542. In August 2001 the Constitutional Court ruled that a woman could be awarded damages on the basis that the Government failed to protect her security.

Policies and programmes

543. The Office on the Status of Women, located in the Office of the Deputy President, coordinates departmental gender desks, which develop strategies to ensure integration of gender concerns into governmental policy and planning. In 2000 the Office of the Status of Women published a detailed study, the National Policy Framework for Women's Empowerment and Gender Equality, which outlined the Government's plan for achieving gender equality. The Commission on Gender Equality (CGE), a constitutionally mandated body, is authorized to investigate allegations of gender discrimination and make recommendations to Parliament on any legislation affecting women. Parliament's Joint Committee on Improvement of Quality of Life and Status of Women is mandated to monitor the effects of government programmes and policies on women. During the year, the committee devoted special attention to monitoring gender equity in the government budget process.

544. The Department of Justice has made the most positive attempts to address violence against women by drafting legislation and attempting to train its agents. In addition, the Department of Education has completed a comprehensive gender-analysis within its department, which has formed the basis for the development of policies, and programmes, which benefit women and girl children.

545. The Gender Policy of 1999 calls for the establishment of an inter-departmental team to develop guidelines for the retraining of service providers, including the police, welfare officers and medical and health-care personnel.

546. Over 26 special courts have been established in the nine provinces of the country to handle cases of sexual violence. This follows the successes registered from the operation of the so-called Wynberg Sexual Offences Court by the Department of Justice. The sexual offences courts adopt gender sensitive procedures and improve the conviction rates.

547. The Government finances 25 shelters for abused women. The South African Police Services (SAPS) operates 12 Family Violence, Child Protection, and Sexual Offences (FCS) units, which deal specifically with these issues and which are intended, in part, to increase victims' confidence in the police, thereby leading to increased reporting of such crimes. Six training courses for FCS Investigating Officers are held annually, and there are numerous additional workshops and seminars for other members of the police force, including gender sensitivity training. The Government conducts domestic violence awareness campaigns and

counseling services in partnership with the Network on Violence Against Women, an NGO consortium. The Government has established 22 sexual offense courts throughout the country. In 2000 the Government launched a pilot project in two communities aimed at providing holistic care for rape victims. The Government also has designated waiting rooms for victims, established counseling, installed more than 2,000 intermediary facilities at courts, and provided training of judicial officers.

548. The National Economic Development and Labor Council (NEDLAC), a government body, produced a code of good practices designed to eliminate sexual harassment in the workplace; however, no specific action was taken to implement the code.

Issues of concern

549. At the invitation of the Government of the Republic of South Africa, the Special Rapporteur visited Pretoria, Johannesburg and Cape Town in South Africa from 11 to 18 October 1996, to study the issue of rape in the community. In addition, the Special Rapporteur was interested in studying the situation of violence against women in post-apartheid South Africa, in a society, which has been very violent.¹⁸¹ In her report, the Special Rapporteur expressed her concern at the distrust by the public of the criminal justice system, the disparity in law enforcement, the gender-insensitivity of the judiciary, and the sentencing structure in South Africa. The Special Rapporteur recommended to the Government that it redefine and develop the criminal justice system. The Special Rapporteur noted that the legacy of apartheid, which prevented effective, community-based law enforcement, continues to be present and that there was a compelling need to ensure a representative police force, an effective prosecution system and a gender-sensitive judiciary.¹⁸² The Special Rapporteur also urged the Government to consider the possibility of amending its Penal Code to reflect the recent trends within the common law jurisdiction with regard to sexual violence.

550. Since 1994, there have been great strides made through concerted effort from the civil society sector and by the South African Government to put legislation in place and to educate the public on the issue of violence against women in the country. However, although the political will has been strong, the Government has reportedly not managed to mainstream gender equity and regulate its actors and agents to fulfill their responsibilities. Violence against women continues to emerge with alarming intensity as a daily feature of a large majority of South African women's and girls' lives. Culturally imbedded patriarchy, unequal power relations between men and women, social acceptance of violence, the brutal construction of masculinity and economic disempowerment continues to determine the shape that women's lives will take. Poverty and HIV/AIDS are the biggest challenges facing the country and are the major obstructions to women living out their potential. According to information received, the Government had failed to translate political commitments into sustainable programmes.

551. There is an extremely high rate of domestic violence, including physical, sexual, emotional, and verbal abuse, as well as harassment and stalking of former partners.¹⁸³ Entrenched patriarchal attitudes towards women are a significant factor in underreporting. It is difficult for abused women's cases to be prosecuted effectively, and abused women often are treated poorly by doctors, police officers, and judges. Societal attitudes and a lack of

infrastructure, resources, and training hampered the implementation of domestic violence legislation for law enforcement officials. Researchers at the University of Cape Town's Institute of Criminology reported that while many police and other judicial system officials are committed to complying with the law, it has not been implemented adequately. It is believed that the number of women who filed complaints represented only a fraction of those who suffered abuse. Domestic violence has been the subject of extensive media coverage, much of which has been focused on the need to improve implementation of domestic violence legislation and to impose longer sentences on convicted abusers.

552. There is a high incidence of rape for reasons including a poor general security climate and societal attitudes condoning sexual violence against women. In the large majority of rape cases, the perpetrator reportedly goes unpunished. The South African Police Services (SAPS) reported that between January and March 2001, there were 144.2 rapes reported per day or 29.5 rapes per 100,000 persons. In 2000 approximately 52,860 rapes were reported; however, according to a 1998 SAPS survey cited in the Statistics South Africa report, only half of all respondents who were raped reported the incident to the police. Of the cases reported, 47.6 per cent were referred to court after an investigation. Of the cases that went to court, 45.6 per cent were withdrawn in court, and an additional 4.5 per cent settled out of court; 19.8 per cent of the cases that went to court resulted in the conviction of the accused. It is also reported that rape, sexual assault, and sexual harassment of black female farm workers by farm owners, managers, and by other farm workers was common. Furthermore, female immigrants and asylum seekers were reportedly abused sexually during detention.

553. The Office on the Status of the Women, located in the Presidency, reported in the 2000 National Policy Framework for Women's Empowerment and Gender Equality that "there are few support structures for victims of rape. At police stations, rape victims face a lack of facilities coupled with the unsympathetic treatment women frequently receive from both the police and the justice system." Although judges in rape cases generally follow statutory sentencing guidelines, judges occasionally are reported to use questionable criteria, such as the victim's behaviour or relationship to the rapist, as a basis for imposing lighter sentences. The issue of rape was covered widely in the media in 2001, although NGOs working with rape victims reported a decrease in attention from 2000.

554. Gender discrimination remains a serious problem despite equal rights under family law and property law with regard to inheritance, divorce, and custody of children, and equal legal rights under the judicial system. Polygamy continues to be practiced by several ethnic groups. Exacting a bride price ("*lobola*") also is a traditional practice of some ethnic groups. FGM is practised in some areas of the Eastern Cape and KwaZulu-Natal, although it is not considered to be widespread. The law specifically prohibits FGM as unfair discrimination. Virginity testing on young girls still is prevalent in various parts of the country. Virginity-testing is a violation of the law and exposes women to a potentially higher risk of being raped because of the virginity myth.

555. There have been reported incidents of harassment by policemen demanding sexual favors of prostitutes under threat of penalizing them for lewd conduct or public loitering. Although no official statistics are available, there is also evidence that sexual harassment is a widespread problem. The Women's Legal Center, a NGO, estimated in July 2001 that 76 per cent of women

had experienced some form of sexual harassment; 40 per cent of these women had left their jobs or changed jobs as a result of the harassment. Perpetrators of sexual harassment can be prosecuted under a number of laws; however, there have been few successful prosecutions.

556. Women, especially black women, typically have lower incomes and less job security than men. Most women are engaged in poorly paid domestic labor and micro-enterprises, which do not provide job security or benefits. The Office of the Status of Women reported in 2000 that "although gender discrimination has been removed from labor laws, this has not been sufficient to achieve equality in women's participation in the paid labor force."

557. Reports of child rape have increased significantly, as have reports that men are committing rape due to a growing myth that having sexual intercourse with a virgin can cure HIV/AIDS. Between January 2000 and June 2001, the police reported 31,780 cases of rape and attempted rape of children; however, observers believe that these figures represent a small percentage of the actual incidents of child rape, because most cases involve family members and are not reported. The country has a low conviction rate for rape and child abuse. There was a reported 2.6 per cent conviction rate in cases of child abuse in Johannesburg.

558. Girls are reportedly confronted with levels of sexual violence and sexual harassment in schools that impede their access to education on equal terms with male students.¹⁸⁴ A 2000 survey documented that 39 per cent of sexually active teenage girls reported being raped. According to Human Rights Watch, girls who experience sexual violence often leave school temporarily, change schools, or quit attending school to escape continuing abuse; those who remain in school have difficulty completing their studies. The level of sexual violence in schools also increased the risk for girls of contracting HIV/AIDS or other sexually-transmitted diseases, as well as unwanted pregnancies.

559. The Government has introduced initiatives to address school violence; however, it does not have a national policy to address sexual violence and harassment in schools. Human Rights Watch reported an absence of standard procedural guidelines governing how schools should treat persons accused of sexual violence or harassment.

560. Child prostitution is a growing problem in metropolitan areas. A 2000 report by the NGO Molo Songololo estimated that there are 28,000 child prostitutes in the country. The child sex industry increasingly has become organized, with children either forced into prostitution by gangs or exploited by their parents to earn money for the family. The 33 SAPS Child Protection Units reportedly lack the capacity to deal adequately with the problem of child prostitution. The Government previously had established a task force to develop a plan of action to combat the sexual exploitation of children, and has created training courses for the police force and the judiciary regarding the problem.

561. The country is a transit and destination point for the trafficking of persons from and to other countries in Africa, Asia, Eastern Europe, and the former Soviet Union. Women and children are trafficked into the country for the sex industry. The extent of trafficking operations is not known; however, it has been estimated that an average of 1,000 women are trafficked across the country's borders every month. The Government made efforts to address the

trafficking problem with investigations and arrests by the police. However, these efforts are allegedly hampered by police corruption, lack of training, and understaffing. There is no plan or program in place to assist trafficking victims. There has not been any specialized training for dealing with trafficking victims. However, it is reported that the border police included protection of women and children from trafficking in its strategic plan (2001).

Sudan

562. Sudan has neither signed nor ratified the Convention.

Legislation

563. Article 149 of the Criminal Act of 1991 defines rape as the act of sexual intercourse, by way of adultery or homosexuality without the consent of the person. The punishment for rape under the Criminal Act varies from 100 lashes to 10 years imprisonment to death. In most cases, convictions are not announced. The health law forbids doctors and midwives from performing infibulation. Prostitution is illegal. There are no specific laws regarding sexual harassment.

564. Although the law does not prohibit specifically trafficking in persons, the Constitution specifically prohibits slavery and forced labor.¹⁸⁵

Policies and programmes

565. In 1996 the Government established the Special Commission to Investigate Slavery and Disappearances in response to a resolution passed by the General Assembly in 1995. The Commission technically still is functioning but has yet to produce a final report. In May 1998, the Government formed the Committee for the Eradication of the Abduction of Women and Children (CEAWC). The Committee and UNICEF jointly sponsored a workshop on abductions in July 1999, during which the Committee recognized abduction as a problem that the Government could and should address. The Committee formed mechanisms to identify and return abductees. Despite the existence of formal reports describing thousands of victims of abduction, the committee has had limited success. CEAWC has traced and retrieved more than 500 abducted children and women from slavery. Although approximately 300 individuals were returned to their homes in 2000, there were no reports that the Government returned abducted persons to their homes in 2001. An additional 1,200 have been identified; however, the Government's refusal to allow flights into SPLA territory prevented their return. In addition the Government did not record the identity of the abductors in these cases and chose not to prosecute them.

566. In November 2001 the Government announced the establishment of special civilian tribunals, under the Ministry of Justice, in the border regions separating the south and the north of the country to prosecute persons involved in the abduction, transport, holding, and selling or exchanging of women and children from war zones. By the end of 2001 tribunals were not established and nor were administrative procedures.

567. The Government does not support FGM, and in recent years it has introduced information about FGM in some public education curriculums.

Issues of concern

568. Many traditional and customary practices in Sudan discriminate against women and girls in the family and community spheres. Despite the fact that Sudan is a party to international instruments that prohibit discrimination on the basis of sex, a number of regulations and laws that severely curtail the human rights of women have been enacted, among them the explicitly discriminatory Personal Law Act of 1991.

569. Various government bodies have decreed on different occasions that women must dress according to modest Islamic standards, including wearing a head covering. In January 1999, the governor of Khartoum State announced that women in public places and government offices and female students and teachers would be required to conform to what is deemed an Islamic dress code. However, none of these decrees have been the subject of legislation. In September 2000, the Governor of Khartoum State issued a decree forbidding women from working in businesses that serve the public such as hotels, restaurants, and gas stations. He defended the ban as necessary to protect the dignity of women. The issue was not brought before the courts, nor was the decree reversed; however, it was no longer a subject of public discussion, and the authorities did not enforce it; however, some employers removed women from their positions on this basis.

570. According to information received, domestic violence against women continues to be a problem, although, because reliable statistics do not exist, the extent is unknown. Many women are reluctant to file formal complaints against such abuse, although it is a legal ground for divorce. It is reported that the police normally do not intervene in domestic disputes.

571. The payment of bride price, linked to early marriages, increases the vulnerability of girls to violence at the hands of their husbands and parents-in-law, when the husband and his family feel they have “purchased” the wife and may therefore treat her in whichever way they see fit.

572. In Sudan, rape is one of the most common forms of violence against women. Displaced women and girls are particularly vulnerable to rape and sexual abuse. Women and girls in Sudan are not very likely to report instances of rape for fear of the reflection it might have on their families, and the reputation that they might acquire if anyone finds out about it. In addition to the social stigma which is attached to rape in Sudan, the laws relating to rape do not encourage women to denounce the crime of rape. Reportedly, the lack of consent cannot be proved without testimony of physical violence.¹⁸⁶ Testimony from four adult witnesses is also a prerequisite to proving rape. The victim also may run the risk of being accused of committing adultery, which is considered a *Hudood* offence, an offence of honour, reputation and public morality. In the case of *Hudood* offences, a woman’s testimony has limited effect: the testimony of two women has the same credibility as the testimony of one man. Therefore, a woman or a girl who has been raped runs the risk, if she fails to prove the rape, of being prosecuted, convicted and sentenced for adultery – according to article 146 of the Criminal Act 1991 – with death by stoning if she is married and with 100 lashes if she is not married.

573. Women and girls are particularly vulnerable to corporal punishment, due to discriminatory evidentiary requirements; women and girls are at greater risk than men for being convicted for adultery for which penalties vary from stoning to death to flogging.

574. FGM is widespread, especially in the north of the country. It is estimated that 89.2 per cent of the women and girls in Sudan have undergone FGM and that 82 per cent of women have undergone infibulation, the most severe form of FGM.¹⁸⁷ Usually it is performed on girls between the ages of 4 and 7 by traditional practitioners in improvised, unsanitary conditions, which cause severe pain, trauma, and risk of infection to the child. Women displaced from the south to the north reportedly are imposing FGM increasingly on their daughters, even if they themselves have not been subjected to it. A small but growing number of urban, educated families are abandoning the practice completely. A larger number of families, in a compromise with tradition, have adopted the least severe form of FGM, "Sunna", as an alternative to infibulation. In this context, the Special Rapporteur on Sudan¹⁸⁸ encourages the Government to play a more active role including in terms of awareness-raising, and strengthening existing laws and their implementation, with a view to eradicating such a traditional harmful practice. In this connection, he was pleased to learn that the Wali of South Darfur had approved a law on FGM, which was praised by the civil society.

575. There are reports that during raids on civilian settlements, government and government-allied militias abducted persons, particularly women and children. In the last 15 years, between 5,000 and 15,000 Dinka women and children have reportedly been abducted; between 10,000 and 12,000 persons, most of whom are Dinka, remained unaccounted for at the end of 2001. Although reliable statistics generally are unavailable, observers believe that the number of abductions increased during 2002. It is reported that some of the abductees were sold into slavery, while others were used as forced labor or drafted into the military. In some cases, observers believe that the abductees escaped or eventually were released or ransomed, and that in other cases some were killed.¹⁸⁹

576. Displaced women from the south were vulnerable to harassment, rape, and sexual abuse. It is alleged that the Government does not address the problem of violence against women, nor is it discussed publicly. Slavery, forced labor, and trafficking persist, particularly affecting women and children. There are numerous reports that Government and Government-associated forces abducted and sold women to work as domestic servants and concubines, and abducted children for purposes of forced labour. A considerable number of children suffered serious abuse, including abduction, enslavement, and forced conscription in the war zones.

577. At its most recent session in 2002, the United Nations Working Group on Contemporary Forms of Slavery reported that it had again received information concerning forced labour and slavery in Sudan.¹⁹⁰ Sudan is a country of destination for internationally trafficked persons, as well as a country with widespread internal trafficking. Thousands of Ugandan men, women and children, have been abducted by rebel groups to be used as sex slaves, domestic helpers, child soldiers, and forcibly conscripted soldiers. Women and children have also been subjected to intertribal abductions for domestic and sexual exploitation in the southern part of the country. There are reports of Sudanese persons being sold into slavery through Chad, to Libya.

578. Abductions by Government-affiliated militia as a form of remuneration for military services, are reportedly a strategy of destabilization in rebel-controlled areas. Although laws against rape, abduction, torture, and unlawful detention exist, the Government allegedly has not made an effort to investigate and prosecute any traffickers or abductors. Over the past years, the Government made several promises and outlined several plans to identify and release Ugandan children and Sudanese abductees, and to set up civilian tribunal tribunals to prosecute persons involved in abductions. To date, the tribunals have not been set up, no related prosecutions have taken place, and only a few hundred Ugandan children have been returned, with an estimated ten thousand still in captivity. The Government has reportedly made no significant efforts toward the protection of victims or the prevention of trafficking.¹⁹¹

Swaziland

579. Swaziland has not acceded to or ratified the Convention.

Legislation

580. Women occupy a subordinate role in society. In both civil and traditional marriages, wives are treated as minors legally, although those who marry under civil law may be accorded the legal status of adults, if stipulated in a signed prenuptial agreement. A woman generally requires her husband's permission to borrow money, open a bank account, obtain a passport, leave the country, gain access to land, and, in some cases, take a job. An unmarried woman requires a close male relative's permission to obtain a passport.

581. The dualistic nature of the legal system complicates the issue of women's rights. Since uncodified law and custom govern traditional marriage, women's rights often are unclear and change according to where and by whom they are interpreted. Couples often marry in both civil and traditional ceremonies, creating problems in determining which set of rules applies to the marriage and to subsequent questions of child custody and inheritance in the event of divorce or death. In traditional marriages, a man may take more than one wife. A man who marries a woman under civil law legally may not have more than one wife, although in practice this restriction sometimes is ignored. Traditional marriages consider children to belong to the father and to his family if the couple divorces. Children born out of wedlock are viewed as belonging to the mother. Under the law, a woman does not pass citizenship automatically to her children. Inheritances are passed through male children only.

582. Women have the right to charge their husbands with assault under both the Western and the traditional legal systems, and urban women frequently do so, usually in extreme cases when intervention by extended family members fails to end such violence. Even in the modern courts, sentences frequently result in several months in jail, a fine, or both. The law provides some protection from sexual harassment, but its provisions are vague and largely ineffective.

583. A number of laws directly address children's issues. The law prohibits prostitution and child pornography and provides protection to children under 16 years of age from sexual exploitation and sets the age of sexual consent at 16 years of age.

584. The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Policies and programmes

585. The Government has committed itself to various women's initiatives. The Ministry of Home Affairs coordinates women's issues it has organized seminars and workshops to address gender issues around the country. Although gender sensitization is not part of the formal school curriculum, some schools have organized debates on gender issues. The University Senate also has a subcommittee that encourages students and faculty to hold seminars and workshops on gender issues.

Issues of concern

586. Domestic violence against women, particularly wife-beating, is reportedly common, despite traditional strictures against this practice. Rural women often have no relief if family intervention does not succeed, because the traditional courts can be unsympathetic to "unruly" or "disobedient" women and are less likely than the modern courts to convict men for wife-beating.

587. Rape also is common and regarded by many men as a minor offense, while women are inhibited from reporting such crimes by a sense of shame and helplessness, especially when incest is involved.

588. A five-year sex ban for young Swazi women has been introduced by the Swazi King Mswati III as a measure against the spread of HIV/AIDS. This ban may provoke unwanted side effects. Severe penalties for breaking the sex ban are included in the rule: any girl denounced is put on trial at a chief's court, without benefit of legal council.

Togo

589. Togo acceded to the Convention on 26 September 1983. Togo's initial and second through fifth periodic reports have not been submitted; the fifth periodic report was due 26 October 2000.

Legislation

590. Article 87 of the Criminal Code of Togo defines rape as the act "of imposing sexual relations upon someone by fraud or violence against their will". In accordance with the provisions of the same article "any person perpetrator or accomplice of rape will be punished with an imprisonment from five to ten years." The sanction can extend to 20 years "if the perpetrator imposes various sexual relations on the victim or if the violations caused a pregnancy, or an illness, or the inability to work for more than 6 weeks. This is also applicable if the victim is less than 14 years old."¹⁹² Togolese legislation does not make a distinction between rape and marital rape and certain legislators have stated that they would not support a move to define forced sexual relations between people who are married or live together, as rape. Domestic violence is considered an ordinary crime, as the Criminal Code does not contain any provisions specifically dealing with it. There are no plans for the drafting of a specific law

addressing domestic violence.¹⁹³ There are no legal provisions for the prohibition and punishment of sexual harassment in Togo.

591. Although article 43 of the PFC establishes the legal age for marriage at 17 for girls, there are no administrative or penal provisions in Togolese legislation that sanctions those who violate this age limit. Moreover, there are no provisions for the victims' redress.

592. The law prohibits FGM with penalties for practitioners ranging from two months' to five years' imprisonment as well as substantial fines. The first trial under the law took place in 1998. Both the father of the victim and the practitioner were found guilty in 2000, sentenced to one year in prison and fined US\$ 175 (100,000 CFA francs). Both were released after serving 2 months in jail. The law rarely is applied because most FGM cases occur in rural areas where neither the victims nor police know the law. Traditional customs often supersede the legal systems among certain ethnic groups.

593. The Constitution declares women equal under the law; however, women continue to experience discrimination, especially in education, pension benefits, and inheritance as a consequence of traditional law. A husband legally may restrict his wife's freedom to work or control her earnings. The Government requires that a married woman have her husband's permission to apply for a passport. In urban areas, women and girls dominate market activities and commerce. Under traditional law, which applies to the vast majority of women, a wife has no maintenance or child support rights in the event of divorce or separation and no inheritance rights upon the death of her husband. Polygamy is practised.

594. The law does not prohibit specifically trafficking in persons, although other statutes against kidnapping, procuring, and other crimes linked to trafficking were used to prosecute traffickers. Draft laws addressing trafficking, are currently under consideration but have not been yet enacted.

Policies and programmes

595. The Ministry of Social Affairs, Promotion of Women and Protection of Children, independent women's groups and related NGOs, campaign actively to inform women of their rights. The Government continues to sponsor seminars to educate and campaign against FGM.

596. In 1998 the Government acknowledged the existence of international trafficking in children, particularly girls, who are sold into various forms of indentured and exploitative servitude, which amounts at times to slavery. In 2001, the issue received national attention due to several high profile cases and the Government's commitment to address the problem. The Government devotes personnel in the Ministries of Social Affairs, Education, and Labor to work on prevention and protection issues. In terms of protection, victims are reportedly not treated as criminals by government officials and security forces. The government attempts to find the victims' families for reunification, and works with NGOs to provide them with shelter, legal and medical services. Over the past three years, the Government organized public campaigns on the dangers posed by child traffickers and the legal penalties facing those who engage in criminal practices. Prevention campaigns were also organized for the prefects and the security forces.

Togo participates in international and regional efforts to combat trafficking, and is one of the West African countries participating in an international program to reduce trafficking in children.

Issues of concern

597. Despite guarantees of equality in Togo's Constitution and its ratification of international and regional human rights instruments which prohibit discrimination on the basis of sex, the subordination of women and girls continues to be part of both law and socio-cultural practices that are based upon male dominance. Women and girls are subjected to discrimination in the family, community and State spheres and this discrimination is perpetuated and condoned in legislation and by social customs. For example, the Personal and Family Code of Togo makes provision for polygamous marriage, specifies that girls may be married at 17 while the age of marriage for men is 20, entrenches men as heads of household and defines the husband as the administrator of common property of the spouses.

598. Domestic violence including battering and marital rape are serious problems in Togo; as a result of a combination of different social, economic and legal factors, many women are either unwilling or unable to report this violence.¹⁹⁴ There is no specific legislation for the prevention and punishment of domestic violence and the police are reportedly ill equipped to handle complaints of family violence. Domestic violence continues to be regarded as a "private affair" by most law enforcement personnel and members of the judiciary who generally urge women to take steps to reconcile with their abusers rather than lodging official complaints.¹⁹⁵

599. While government and NGOs have been reasonably effective in raising awareness of the harmful nature of FGM in most parts of the country, other violent cultural practices persist and few steps have been taken to eliminate these. Four years of prohibiting the practice seem to produce a slow decrease of its prevalence; however female genital mutilation continues to be practiced.

600. Conditions of detention for women in Togo do not meet minimum international standards and there are reports that women are subjected to torture and inhuman and degrading treatment whilst in police custody, prisons and other places of detention.¹⁹⁶ The failure to amend the Criminal Code in order to create a criminal offence of torture and to provide appropriate sanctions for those found guilty is of concern. In addition, the fact that women in detention are routinely supervised by male wardens renders them particularly vulnerable to violence, including rape and sexual assault, whilst in detention.

601. Togo is a source and transit country for internationally trafficked persons, mostly children. The majority of the victims are trafficked for indentured servitude or domestic labor to Côte d'Ivoire, Gabon, Ghana, Nigeria, France and Germany. Saudi Arabia and Lebanon are also reported destinations. There were reports that young girls were trafficked from the country to Nigeria for prostitution. According to information, Togo lacks resources and trained personnel to properly address the problem of trafficking and the needs of the victims.

Uganda

602. Uganda ratified the Convention on 22 July 1985. Uganda's third and fourth periodic reports were due 21 August 1994 and 1998, respectively.

Legislation

603. The 1995 Constitution of Uganda prohibits discrimination based on race, sex, religion, disability, language, or social status. Through reforms in laws and the legal system, laws that discriminate against women are reportedly being reviewed and amended with a view to making them gender-sensitive.¹⁹⁷

604. While defilement carries a maximum sentence of death, that punishment never has been meted out to a convicted rapist. Defilement applies to all cases of sexual contact outside of marriage involving girls younger than 18 years of age, regardless of consent or the age of the perpetrator.

605. The Ugandan Penal Code prohibits the import, export, purchase, sale, receipt or detention of persons as slaves. The Criminal Code prohibits slavery with penalties of up to 10 years' imprisonment.

606. There are no laws that specifically protect women from battery or spousal rape, although there is a general law concerning assault. There is no law against female genital mutilation.

Policies and programmes

607. The Government has adopted the National Gender Policy and formulated a National Action Plan on Women, which provided guidance on strategies and interventions for the empowerment of women.¹⁹⁸ The Government and women's groups working with the UNFPA continue to carry out programs to combat female genital mutilation through education.

608. The Government has made efforts to combat trafficking in persons despite resource constraints and the civil conflict with the Lord's Resistance Army (LRA). In September 2001, the Government's Joint Anti-Terrorism Task Force arrested six foreigners suspected to be involved in trafficking in persons. On 26 October 2001, all were released without charge.

609. The Government has also established protected camps garrisoned by the Uganda People's Defense Force (UPDF) to prevent abductions. The UPDF escorted rescued abductees to NGO facilities, which provide physical assistance and counseling to the children and their families so that the children can be reintegrated into society. The Government does support universal primary education and programs to bolster women's participation in economic decision-making as broader preventative measures against trafficking.

Issues of concern

610. Traditional and widespread societal discrimination against women continues, especially in rural areas, despite constitutional provisions to the contrary. Many customary laws discriminate against women in the areas of adoption, marriage, divorce, and inheritance. In most areas, women may not own or inherit property, nor retain custody of their children under local customary law. Divorce law requires women wanting to prove adultery to meet stricter evidentiary standards than are required for men. Polygamy is legal under both customary and Islamic law, and a wife has no legal status to prevent her husband from marrying another woman.

611. Despite the adoption of its gender-sensitive Constitution in 1995, legislative provisions that discriminate against women continue to exist. The Special Rapporteur is particularly concerned about the high incidence of VAW, such as domestic violence, including marital rape, incest, sexual harassment in the workplace and other forms of sexual abuse of women. It is reported that law enforcement officials, reflecting general public opinion, continued to view wife beating as a husband's prerogative and rarely intervened in cases of domestic violence.

612. The International Federation of Women Lawyers (FIDA), Uganda chapter, argues that although Uganda is currently viewed as exemplary for its leadership in recognizing women's rights by putting in place laws which criminalize domestic and sexually related violence, economic factors and the lack of supporting infrastructure - such as shelters for abused women - continue to prevent many women from lodging complaints against their abusers.

613. According to reports, some men of the Karamojong ethnic group in the northeastern section of the country continued their cultural practice of claiming unmarried women as wives by raping them. Between February and July 2000, Karamojong warriors reportedly raped approximately 20 women during raids on neighbouring districts in the northeast.

614. The situation of internal armed conflict in northern and western Uganda has resulted in many young girls and women being abducted from the areas affected by the insurgency, who are forced to serve as sex slaves to rebel commanders and soldiers.

615. Police and court records indicate that reports of defilement (statutory rape) are increasing. According to the Commissioner General of Prisons, 4,000 (38 per cent) of all capital cases during 2001 were defilement cases; the Kasese district Education department recorded 360 defilement cases and Bushenyi department recorded 120 cases in 2001. Only a small fraction of these incidents is reported, especially when the perpetrator is a family member, neighbor, or teacher - as often is the case. In 2000 there were 4,209 reported cases of defilement, an increase from 2,637 in 1999; 2,410 of the cases were investigated, and 2,317 arrests resulted from such investigations. Increasing numbers of accusations reached the courts, although neither conviction nor punishment was common. Cases frequently were reported in newspapers, but a payment to the girl's parents often ended the matter. While defilement carries a maximum sentence of death, that punishment never has been meted out to a convicted rapist. Defilement applies to all cases of sexual contact outside of marriage involving girls younger than 18 years of age, regardless of

consent or the age of the perpetrator. The marriage of young girls by parental arrangement is common, especially in rural areas.

616. There is concern that, despite successes achieved in reducing FGM in some districts in 1996, this practice continues to exist. Female genital mutilation is practiced by the Sabiny tribe, located in the highly rural Kapchorwa district in the east, and by the Pokot tribe (also known as the Upe), which spans the remote northeastern border with Kenya. There are approximately 10,000 Sabiny and approximately 20,000 Upe who live in the country. Among the Sabiny, initiation ceremonies involving FGM are carried out every two years. In December 2000, there were reports that approximately 121 Pokot girls and 621 Sabiny women and girls were subjected to FGM when the last ceremony was held.

617. Uganda is a source country for trafficked persons, primarily women and children. The Special Rapporteur is concerned that exploitation of women and girls in prostitution is increasing. The Special Rapporteur is also concerned that the prevalence of HIV/AIDS and other sexually transmitted diseases among prostitutes is on the rise.

United Republic of Tanzania

618. Tanzania ratified the Convention on 20 August 1985. Tanzania's fourth periodic report was due 19 September 1998.

Legislation

619. Amendments have been made to the laws relating to sexual offences and new laws have been introduced relating to trafficking in women, the exploitation of prostitution and criminalizing the practice of female genital mutilation. A new section of the penal code criminalizes trafficking; however the penalty is relatively light. Consideration has also been given to amending laws relating to women's rights to land. The Law of Marriage Act recognized polygamous marriages.

620. The Sexual Offences Special Provisions Act of 1998 prohibits and criminalizes FGM of girls and imposes a maximum of 15 years' imprisonment; however, there is no legal protection for adult women who undergo FGM. The law amends the Penal Code by extending the definition of rape to encompass cases where a couple is legally separated and the husband has intercourse with his wife without her consent. However, marital rape where there is no legal separation is not included.¹⁹⁹ Punishment for rape has also been increased to life imprisonment with corporal punishment and a fine, and a person convicted of rape will also be liable to pay compensation to the victim for injuries caused.²⁰⁰ The Act further creates the offence of sexual harassment, defined to include the use of assault, criminal force, and "words or actions" to cause "sexual annoyance or harassment" or intentionally insults the modesty of a woman.

621. The Marriage Act prohibits violence against the spouse (Section 66);²⁰¹ however, it does not impose any penalties for the violation of this section of the act. The Penal Code does not specifically address spousal abuse, but does define crimes such as unlawful assault and unlawful wounding (para. 240). Any person who attempts to have carnal knowledge of a girl under the age

of 14 years is liable to imprisonment for 14 years, with or without corporal punishment.²⁰² The law criminalizes child prostitution and child pornography. The minimum age for protection from sexual exploitation is 18 years. Under the law, sexual intercourse with a child under 18 years is considered rape regardless of consent; however, the law is not effective in practice because it is customary for girls as young as 14 years of age to be considered adults for the purposes of sexual intercourse and marriage.

Policies and programmes

622. The Government has instituted committees against harmful traditional practices, under the auspices of the Ministry of Health, to spearhead public education campaigns.

623. The Ministry of Health continued an educational campaign on FGM as part of its Safe Motherhood Initiative. The enforcement of policies to stop FGM remains difficult because some regional government officials are in favour of the practice or fear speaking out against it because of the power of traditional leaders.

Issues of concern

624. According to information received, domestic violence against women remains widespread. Traditional customs that subordinate women remain strong in both urban and rural area, and local magistrates often upheld such practices. It is accepted for a husband to treat his wife as he wishes, and wife-beating occurs at all levels of society. Cultural, family, and social pressures prevent many women from reporting abuses to the authorities. Government officials frequently make public statements criticizing such abuses, but action rarely is taken against perpetrators. Police often have biases against pursuing domestic abuse cases and have demanded bribes to investigate allegations.

625. There were reports that members of the police raped women in Zanzibar and Pemba in the period following the 2000 elections and following the January 2001 demonstrations. Sexual and gender-based violence continued to be a problem in the refugee camps. There was continuing concern over violence allegedly perpetrated by some Burundian and Rwandan refugees, although such violence has reportedly diminished since 1999.²⁰³

626. Although the Government officially discourages FGM, it is performed by approximately 20 of the country's 130 main ethnic groups. Some local government officials have begun to combat the practice and have convicted and imprisoned some persons who performed FGM on young girls. Seminars sponsored by various governmental organizations and NGOs are held regularly in an attempt to educate the public on the dangers of FGM and other traditional practices. These practices include the tradition of inherited wives, which critics contend contributes to the spread of HIV/AIDS, and child marriages, which are sanctioned under the law for girls 12 years of age or older with parental consent.

627. While progress on women's rights has been noticeable in urban areas, strong traditional norms still divide labor along gender lines and place women in a subordinate position. Discrimination against women is most acute in rural areas, where women are relegated to

farming and raising children, and have almost no opportunity for wage employment. Custom and tradition often hinder women from owning property such as land, and may override laws that provide for equal treatment. The overall situation for women is less favorable in Zanzibar. Women there, and on many parts of the mainland, face discriminatory restrictions on inheritance and ownership of property because of concessions by the Government and courts to customary and Islamic law. While provisions of the law provide for certain inheritance and property rights for women, the application of customary, Islamic, or statutory law depends on the lifestyle and stated intentions of the male head of household. Thus far, the courts have upheld discriminatory inheritance claims, primarily in rural areas. Under Zanzibari law, unmarried women under the age of 21 who become pregnant are subject to two years' imprisonment.

628. Tanzania is a source country for trafficked persons. Women and girls are trafficked to South Africa, the Middle East, North Africa, Asia, and Europe to work as prostitutes. To a lesser degree, Tanzania is a destination point for trafficked persons from India and surrounding African countries. Severe financial constraints, pervasive corruption, and porous borders and only nascent understanding of the scope of the problem have hampered anti-trafficking efforts, resulting in an inconsistent and incomplete framework to combat trafficking.

Zambia

629. Zambia ratified the Convention on 21 June 1985. Zambia's third and fourth periodic reports have been submitted as one document (CEDAW/C/ZAM/3-4) which is not yet scheduled for consideration by the Committee; the fifth periodic report is due 21 July 2002.

Legislation

630. The 1991 Constitution expressly provides safeguards against violation of fundamental rights and freedoms of the individual by the State. International human rights instruments are not self-executing and require legislative implementation. As such, they cannot be invoked directly in the courts although courts have, in some cases, given judicial notice of international instruments to which Zambia is a State party even though not incorporated in domestic law and have accordingly given redress.

631. Both the Constitution and the law entitle women to equality with men in most areas; however, certain centuries-old discriminatory customary laws and practices are still prevalent in Zambia, and the arbitrary administration of customary law has been identified as a major hindrance to the elimination of discrimination against women. Importantly, the Constitution contains a limitation in Article 23 (4) (c) in that it reserves the right to enact discriminatory provisions with respect to "adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law." This is a particularly significant limitation upon the right to be free from discrimination as it is precisely in the areas of family and property law that women are often disadvantaged in relation to men. Customary law and practice also place women in a subordinate status with respect to property, inheritance, and marriage, despite constitutional and legal protections.²⁰⁴ A Technical Committee to Review Laws, Enforcement Mechanisms and Support Systems relating to gender-based violence had recommended that customary law that was not contrary to natural justice should be codified. A law development commission was

documenting the diverse customary laws and practices with a view to eliminating those that were repugnant to gender equality.

632. Women are frequently discriminated against in the application of family law in Zambia, for example, while the legal age for statutory marriage is 21 years for men, it is only 18 years for women and many women are married under customary law at a much younger age. Early marriage exposes women to increased risks of violence including marital rape as well as to teenage pregnancy and the health risks that this may entail.²⁰⁵

633. Acts that caused physical, sexual or psychological harm or suffering to women and children are condemned in the Zambian Constitution, Part III, which bestows upon all persons in Zambia regardless of race, place of origin, political opinion, colour, creed, sex or marital status, the rights and freedom enshrined therein. The courts normally sentence defendants convicted of rape to hard labour.²⁰⁶ At present, the criminal law remedies available to women who are victims of domestic violence are limited to the commencement of proceedings for assault occasioning actual bodily harm under section 248 of chapter 87 of the Zambian Penal Code. Women who have suffered physical injury as a result of domestic violence may also sue their husbands or partners for damages in the civil courts²⁰⁷ and physical violence is recognised as providing a motive for divorce under both customary and statutory law.²⁰⁸ Importantly, however, none of these remedies cover women who are victims of psychological violence. The Penal Code of Zambia does not currently contain an explicit prohibition on rape in the context of marriage. sections 159 and 161 of the Zambian Penal Code criminalize incest whether committed by male or female family members.

634. Zambia has not legislated against prostitution but has sections that prohibit activities related to it. Under the Penal Code (chap. 87), prostitution is referred to as a phenomenon with an economic dimension and certain aspects of it are penalized. It is illegal to solicit for customers, and to live off the earnings of a person who is engaged in sex work. It is also a punishable offence to detain a woman or a girl against her will and compel her to have sex with a man.²⁰⁹ There are laws that criminalize child prostitution, pornography, and sexual exploitation of children under the age of 21. Laws against child prostitution were not enforced effectively; however, cases of child pornography and sexual exploitation generally were reportedly enforced effectively.

635. The Constitution prohibits trafficking of children under the age of 18, as well as trafficking in women for immoral activities; however, there are no other laws prohibiting trafficking in persons.²¹⁰

Policies and programmes

636. The Government, civil society and non-governmental organizations were cooperating to sensitize women, men, girls and boys about their rights and the course of action to be taken in discrimination cases. Steps were being taken to eliminate stereotyping in school textbooks, introduce gender training for curriculum development officers, and encourage girls to enroll in technical courses. Efforts have been made to strengthen the national machinery on women, to introduce gender mainstreaming and to adopt several policies to eliminate discrimination against

women, including the National Gender Policy and the establishment of the Gender in Development Division, under the Office of the President. The Government instituted programs to increase public awareness of HIV/AIDS and attempted to address the problem of child labor by establishing a child labor unit with awareness programs in 2000. Importantly, although the Government has recently adopted a National Gender Policy, there is at present no specific national plan for the prevention and eradication of violence against women in the family.²¹¹

Issues of concern

637. In its concluding observations on the report of Zambia in 1996, the Human Rights Committee expressed its concern over the situation of women who "despite some advances, continue to be de jure and de facto the object of discrimination, particularly as regards education, access to work and participation in public affairs."²¹² The Committee also drew attention to the application of customary law in matters of personal status, marriage, divorce and inheritance rights and highlighted the fact that this has frequently worked to reinforce "outdated attitudes concerning the role and status of women." Finally, the Committee regretted the "lack of measures to adequately address problems raised with regard to violence against women and the high maternal mortality rate resulting from abortion". The Special Rapporteur is concerned that the observations made by the Human Rights Committee in relation to the status of women in Zambia in 1996 are still equally pertinent today. Violence against women remains widespread, and women continue to experience discrimination in both law and fact, including the denial of widows' inheritance rights.

638. Family relations are governed by a dual legal system of statutory and customary laws, with customary law being largely biased against women. Customary laws are unwritten and administered in male-dominated local courts mainly presided over by untrained justices with patriarchal attitudes. Customary law may perpetuate violence and other forms of discrimination against women. While local court justices are well versed in the various customary laws, they are not trained in human rights law and, as a result, seldom take into consideration the gender dimensions or criminal aspects of the cases before them.²¹³ Furthermore, existing constitutional and other legal rights of women to redress for discrimination are not being properly implemented or enforced.

639. A survey published in 1998 by the World Health Organisation (WHO) revealed that 40 per cent of the women interviewed reported having been subjected to physical abuse by their husbands or partners at some stage during the year 1997.²¹⁴ A study undertaken by the Young Women's Christian Association (YWCA) in 1999 found that most women reported gender-based violence as a common occurrence in their relationship and that this violence most often took the form of rape, beating, stabbing, burning, murder and threats of murder. The same study discovered that recorded cases of domestic violence had increased by 253 per cent between 1998 and 1999.²¹⁵ Although the police have a Victim Support Unit to attend to the problems of domestic assault, wife beating, mistreatment of widows by the deceased husband's relatives, and "property grabbing", in practice police often are reluctant to pursue reports of domestic violence, preferring instead to encourage reconciliation. In 1999, at the Sixth African Regional Conference on Women, the Government of Zambia reported that it was considering introducing specific legislation on domestic violence.²¹⁶ Since that time, no concrete measures have been taken for

the drafting and adoption of specific legislation on domestic violence despite growing awareness amongst policy-makers of the necessity for such legislation.

640. The discriminatory attitudes of many police and members of the judiciary have reportedly lead to a lack of confidence in the law enforcement response to acts of violence against women and thus to the subsequent underreporting of rape and other forms of violence against women in Zambia.²¹⁷ Furthermore, the reported failure of courts in Zambia to apply appropriate sanctions to persons convicted of crimes involving sexual violence against women and girls is allegedly widespread and has been the subject of protest by local human rights organisations on several occasions.

641. The payment of *malobolo* (*lobola*) or bride price is still a common feature of many marriages in Zambia. The practice of making *malobolo* or *lobola* payments often exposes women to violence at the hands of husbands and parents-in-law as it is felt that the payment entitles them to treat the bride as a virtual slave.²¹⁸ The early marriage of girls also frequently exposes girls to an increased risk of domestic violence including wife battering and marital rape.²¹⁹ Women and Law in Southern Africa (WLSA), a non-governmental women's rights organisation, has reported that the early marriage of girls for financial gain is a widespread practice in Zambia that has increased in recent years due to growing poverty, particularly in rural areas.²²⁰

642. Women's reproductive health, particularly in the rural areas, remains an area of concern. The Zambia demographic and health survey had estimated the maternal mortality rate at 649 deaths per 100,000 live births and a 1995 study by the University Central Hospital indicated that 75 per cent of maternal deaths occurred among teenage mothers.

643. The number of street children in Lusaka increased from approximately 35,000 in 1991 to approximately 95,000 in 2001, partly because of the growing number of orphans whose parents have died from HIV/AIDS. These children face greater risks of child abuse, sexual abuse, and child labor. In 1997, the Special Rapporteur on the sale of children, child prostitution and child pornography noted that Zambia had one of the highest levels of child prostitution in Africa. The Special Rapporteur stated that the large number of children working as prostitutes in Zambia was a direct consequence of structural adjustment programmes, which had increased unemployment and poverty thereby forcing many children into prostitution in order to provide income for their families.²²¹

644. There were some reports of trafficking of Zambian women to South Africa. Angolan Government forces and UNITA deserters reportedly abducted citizens and forced them to accompany them back to Angola, where the abductees were forced to engage in prostitution. There have been numerous reports of torture and ill treatment being perpetrated by State officials against women who have been arrested or detained.²²² Some of these women have been arrested as a result of their membership of political opposition groups or of human rights organisations, while others have been held in detention for their alleged involvement in common law crimes or family disputes. The torture, cruel, inhuman and degrading treatment that women in Zambia are reportedly exposed to at the hands of State agents tends to be characterised by sexual violence as well as by degrading treatment such as being forced to parade naked in front of groups of male law enforcement officials. As with acts of torture committed against men in Zambia, the

perpetrators of this violence have largely gone unpunished and the victims have, in the main, not been granted compensation for the injuries that they have suffered.

645. The Special Rapporteur supports the Committee on the Elimination of Discrimination against Women,²²³ which recommends to the government to assign the issue of violence against women high priority, to enact legislation on domestic violence as soon as possible and to ensure that violence against women and girls constitutes a criminal offence. The Committee also recommends gender training for all public officials, in particular law enforcement officials and the judiciary, as well as health workers, to educate them about the consequences of all forms of violence against women and girls. It also recommends the establishment of counseling services for the victims and public awareness campaigns in order to adopt and implement a zero tolerance policy with regard to all forms of violence against women and girls.

Zimbabwe

646. Zimbabwe acceded to the Convention on 13 May 1991. Zimbabwe's second and third periodic reports were due 12 June 1996 and 2000 respectively.

Legislation

647. The Constitution protects the rights to life, freedom from slavery and forced labour, freedom from inhuman treatment and others. Provisions also guarantee the rights of freedom of conscience, expression, assembly, association and movement. Any person who feels that rights set out in the Declaration of Rights have been violated may apply to the Supreme Court for redress. The Declaration of Rights may also be invoked in other courts and it is established practice that the rights contained in the Declaration are considered on the basis of the interpretation of equivalent rights in other jurisdictions and relevant international and regional human rights instruments.

648. In August 2001 the Sexual Offences Act was enacted, which improved the legal recourses available to women. The Act enhances the protection of women by making nonconsensual sex among married partners a crime. The Act provides penalties for up to 10 years in prison for sexual crimes. It also expanded the definition of sexual offenses to include rape, sodomy, incest, indecent assault, or an immoral or indecent act with a child or person with mental disabilities. The definition of rape is broadened to cover all non-consensual acts, including oral sex, and acts involving the insertion of objects in the genitalia or anus. The Sexual Offences Act 2001 criminalizes also the voluntary transfer of HIV, the virus that causes AIDS. Unfortunately, the same Act also criminalizes same-sex acts.

649. The law recognizes women's right to own property independently of their husbands or fathers. Although unmarried women may own property in their own names, women married under customary law are not allowed to own property jointly with their husbands. The Administration of Estates Amendment Act makes inheritance laws more favorable to widows. However, in 2000 the Supreme Court upheld a magistrate court decision that, under customary ethnic law, a man's claim to family inheritance takes precedence over a woman's, regardless of the woman's age or seniority in the family. The Court cited Section 23 of the Constitution, which

allows discrimination against women under customary law. Divorce and maintenance laws are favorable to women, but women generally lack awareness of their rights under the law.

650. The Sexual Offences Act 2001 provides for a maximum fine of US\$ 115 (Z\$ 35,000) or imprisonment of up to seven years for those convicted of prostituting children under 12 years of age. It also provides for a maximum fine of US\$ 167 (Z\$ 50,000) and a maximum prison sentence of 10 years for "procuring another person to become a prostitute and have sex whether inside or outside Zimbabwe."²²⁴

651. Although there are no laws that specifically address trafficking in persons, common law prohibits abduction and forced labor, and the Sexual Offences Act makes it a crime to transport persons across the border for sex.

652. The Law Development Commission has submitted proposals for legislative reform that would make evidence on the moral standing or previous sexual conduct of the victim inadmissible in cases of rape.

Landmark cases

653. In the decision of *H v. H*, the court stated "[i]f a man cannot assault or indecently assault his wife, it seems to fly in the face of all common sense that he should be allowed to rape her".

654. In *Banana v. State*²²⁵ the Supreme Court held that the cautionary rule that directs a court to treat the evidence of a victim of sexual violence with caution is not warranted. Prior to this ruling, a court would almost never convict an alleged rapist on the evidence of the victim, without corroboration.

Policies and programmes

655. The Ministry of Community Development and Women's Affairs was established in 1981. Although the Ministry has since been dissolved, the National Machinery continues and gender focal points have been appointed in all ministries. An Inter-Ministerial Committee on Human Rights, which advises the Government on human rights issues, has been established, and violations of human rights, including those relating to gender, can be investigated by the ombudsperson. During a 2000 cabinet restructuring, the Cabinet-level position of Minister of State for Gender Affairs in the Office of the President was eliminated. The Government created a new Ministry of Youth Development, Gender, and Employment, but it does little to advance the cause of women. The Government gives qualified women access to training in the military and national service.

656. In April 2001 members of the Zimbabwe Republic Police (ZRP), government officials, and NGOs attended a regional conference on women's and children's issues in Harare on the problem of trafficking in southern Africa. The conference recommended that all regional governments pass legislation outlawing the trafficking of persons.

Issues of concern

657. Since independence, the Government has enacted laws aimed at enhancing women's rights and countering certain traditional practices that discriminate against women. However, women remain disadvantaged in society. Illiteracy, economic dependency and prevailing social norms prevent rural women in particular from combating societal discrimination. Despite legal prohibitions, women still are vulnerable to entrenched customary practices, including the practice of pledging a young woman to marriage with a partner not of her choosing and the custom of forcing a widow to marry her late husband's brother.

658. According to information received domestic violence, especially wife-beating, is common and crosses all racial and economic lines. It occurs throughout the country and sometimes results in death. The Musasa Project, a leading woman's rights organization, reported that the number of incidents of domestic violence increased during 2001 due to the deteriorating economy and higher unemployment among men.

659. There continued to be reports of rape, incest, and sexual abuse of women. Many cases were not reported because of the social stigma attached to the crime and wives' fear that husbands may disown them. It is reported that the actual number of politically motivated rapes may number in the hundreds. There were instances of gang rapes of young girls and elderly women and rapes of female farm workers and health care workers during the pre-election period in 2000. Women face many obstacles in filing reports of rape; for example, many police stations are not prepared to handle properly the investigation of such cases. In addition women are reluctant to file reports because of the social stigma of rape. When cases go to court, lengthy sentences for rape and wife-beating generally are imposed. However, a "binding over" order (an order to appear in court to respond to an accusation of violent behavior) is issued based only on actual physical abuse and not on threats of violence. Courts also do not have the power to oust an abusive spouse from a couple's home. Systemic problems and lack of education often mean that police do not respond to women's reports or requests for assistance. The legal system generally does not discriminate against women or minorities. Some High Court judges reportedly imposed lenient sentences in some cases of rape and child sexual abuse, and local women's and legal organizations challenged these decisions.

660. Female genital mutilation (FGM) rarely is performed in the country. However, according to press reports, the initiation rites practiced by the small Remba ethnic group in Midlands Province include infibulation, the most extreme form of FGM.

661. Although labor legislation prohibits discrimination in employment on the basis of gender, women are concentrated in the lower echelons of the work force and commonly face sexual harassment in the workplace. It is estimated that one in three working women at all levels were subjected to sexual harassment in the workplace.

662. There were an estimated 12,000 homeless street children in the country in 1999, and the number was estimated to be at least twice that number during 2001. The number of incidents of child abuse, including incest, infanticide, child abandonment, and rape is reportedly increasing. There was a large volume of rape cases in the Harare victim-friendly courts (VFC), which

consist of individual magistrates designated to try family cases. The large volume led to calls by children's rights' advocates to establish additional courts in surrounding areas. Children are at increasing risk of HIV/AIDS infection as a result of the rising rate of sexual abuse cases. The 2000 case in which war veterans abducted and sexually abused 10 schoolchildren was reportedly under investigation; however, there was no further information available at the beginning of 2002.

663. The traditional practice of offering a young girl as compensatory payment in interfamily disputes continued in 2002. Indigenous African churches that combine elements of established Christian beliefs with some beliefs based on traditional African culture and religion generally accept polygamy and the marriage of girls at young ages; they also generally approve of healing only through prayer and oppose science-based medicine including the vaccination of children.

664. There are reports of child labour, including reports of an increasing number of girls engaged in prostitution. Trafficking of persons was a growing problem in the country. There continued to be reports that persons were trafficked, particularly women and children, from the country to South Africa for prostitution and forced labor; the country also is a transit point for the trafficking of persons from Asia, Mozambique, and Malawi to South Africa. In cases where trafficking is discovered, the ZRP usually focused on the illegal immigration status of the victims rather than the activities of the traffickers. Most discovered victims of foreign nationality were detained and then deported.

B. The Arab region

665. This section contains a brief overview of key developments in the Arab region towards ending violence against women, during the period 1994-2003.²²⁶

666. Arab States have made significant progress regarding the promotion and protection of women's human rights during the period under review, and particularly in the last two years since the first Arab Women's Summit. Recent years have seen changes in how some Governments function. These encouraging steps have taken various forms, whether through increased political participation and alteration of power within the governance institutions or through an increasingly active civil society working to enlarge the public space and defend basic freedoms. The issue of violence against women is now being openly discussed. States are more aware of the challenges and appear to be taking measures to address the situation, such as naming 1 February as Women's Day in the Arab World and declaring the Year of the Arab Woman 2001. Among recent achievements: the launching of an Arab Women's Organization by the League of Arab States; a number of conferences stimulating debate around women's rights in the region and the adoption of strategies to improve women's status; and the establishment of an Arab Women's Council.

667. Implementation of the Beijing Platform for Action in the region has brought women closer to their aspirations.²²⁷ Considerable achievements have been made and positive steps taken to improve women's status. However, in spite of those gains, the progress of women in the region has been uneven and several challenges and gaps remain.²²⁸ One particular challenge is that many States have expressed "reservations about any provisions that might run counter to Islam

and Arab values and traditions”; this is the case for both the Beijing Platform for Action and the Convention on the Elimination of All Forms of Discrimination against Women.

668. Of the 22 members of the Arab League, 14 States have signed/ratified the Convention; however it is highly significant that only two of those States, Djibouti and Comoros did so without reservations. The justifications by Governments for the reservations are often attributed to religious-based values. Some States entered reservations in respect to article 29 of the Convention, however the majority of States have expressed reservations about the main articles, referring to the elimination of gender-based discrimination and equality.²²⁹ These concern, more specifically, in chapter 1, the first six articles that concern gender equality as a basic women’s human right and, from other chapters, articles 8 to 16 which concern the Convention’s programme of action in the economic, social, political, civil and cultural areas. Work is currently under way in some States to review the reservations to assess whether they may be removed.

669. The Arab Human Development Report 2002: Creating Opportunities for Future Generations, whilst showing that Arab States have in general made substantial progress in human development in more than one area over the past three decades, the report also highlights existing obstacles to building human development in the region. It argues that more needs to be done, particularly in areas that include promoting human rights and protecting human freedoms as the basis of good governance, enabling women to capitalize on their capabilities by enhancing their empowerment at all levels, and productively consolidating the acquisition of knowledge and its effective utilization as a fuel for progress and the enhancement of human well-being.

670. Gender empowerment is a critical aspect of human freedom. Applying the UNDP gender empowerment measure (GEM)²³⁰ to Arab countries clearly reveals that the latter suffer a glaring deficit in women’s empowerment. Among regions of the world, the Arab region ranks next to last as measured by GEM; only sub-Saharan Africa has a lower score. It should be noted that Arab countries have scored important successes in girls’ education, although the share of girls in enrolment is still relatively low, especially in higher education. The main reason for the low GEM values of Arab countries is the limited participation of women in political organizations. The process remains heavily regulated and partial; it has not been opened up to all citizens. Persisting inequities in the region—reflecting poverty, illiteracy, the urban/ rural divide and gender inequality —continue to exclude many from public discourse. As a result, the process of political liberalization has bypassed too many people. For example, in one country that has an elected national assembly, women are denied the right to hold office. In other countries, despite the legal equality of women and men in terms of political rights, women are greatly underrepresented in all political organizations.²³¹

671. The proportion of women in Arab parliaments is low. According to UNDP,²³² women occupy 3.5 per cent of all seats in parliaments of Arab countries compared to 4.2 per cent in East Asia (excluding China), 8.4 per cent in sub-Saharan Africa, 12.7 per cent in South-East Asia and the Pacific, 12.9 per cent in Latin American and Caribbean countries and 21.2 per cent in East Asia (including China).

The League of Arab States (LAS) and its work to promote and protect women's rights in the region²³³

672. In recent years efforts have been made to integrate human rights into the work of the League of Arab States. Some structural changes have been made. The Human Rights Section of the Legal Department has been upgraded to a separate department. It was previously a small secretariat within the legal department and was responsible for servicing the Arab Permanent Commission for Human Rights. The Commission is constituted of one representative for each of the members of the LAS, and meets once a year to consider human rights issues. In the past, NGOs proposed by Governments were allowed to participate in the meetings of the Commission as observers. According to a recent resolution by the Council of the League of Arab States, wider participation of NGOs is encouraged. The Permanent Commission also established a Sub-Committee of legal experts from several Arab states to consider the ratification of inter-Arab Agreements relevant to human rights. A Working Group has been convened to study and make recommendations on the ratification of the UN Refugee Convention and Protocol by Arab States. Only nine States have done so, so far.²³⁴

673. The new Human Rights Department has a mandate, inter alia, to train LAS staff on human rights principles and mechanisms, exchange information and developments on human rights, participate in international and regional human rights conferences and supply LAS with human rights documentation. There has also been the creation of new commissions, including the Family, Women and Children Commission. While welcoming the move to address women's rights, the Special Rapporteur is concerned that the issues of family, women and children are all under the same division, and would recommend their separation. According to information received the division is currently only one person, who has a strong background in children's rights, pending further relocation or recruitment, especially of someone to cover family and gender issues.

674. The Arab Charter for Human Rights adopted on 15 September 1994 (not yet entered into force due to non-ratification) is not a strong instrument for the protection of women's rights in the region, particularly as it does not meet the standards contained within international human rights instruments. The Special Rapporteur welcomes the League of Arab States invitation²³⁵ to all Arab countries to provide recommendations on ways to modernize the Arab Charter. Such reform is needed for it to be a useful regional instrument.

675. The first Arab women's summit was held in 2000. The conference marked the culmination of a long series of steps Arab feminists have taken over the past decades, and marked a new start for the Arab women's movement. The summit produced the Cairo Declaration, which announced a plan of action for organizing and mobilizing Arab women during the year of 2001 - the year of the Arab woman. It called upon feminist movements across the Arab world to promote the socio-economic and political role of women in their respective countries. Delegates decided to hold a biennial gathering of first ladies as well as an extraordinary summit in the Year of the Arab Woman in 2001. The Arab Women's Summit is part of the joint efforts in the Arab World to further strengthen and enhance cooperation and solidarity amongst people in the region. Since the first summit, four theme forums out of a total six emerging from the conference resolutions have convened in four Arab capitals.

676. An extraordinary Arab Women's Summit was held in Cairo in November 2001. The meeting reviewed each country's progress toward implementing the decisions of the first summit and the results of the forums that took place throughout the year, which dealt with important issues such as women in the media, women in migrant countries, women and the law, and women and political participation. But most importantly, the extraordinary summit offered one major achievement; the representatives covered extensive ground towards establishing an Arab Women's Organization. A specialized Arab League Agency that aims at advancing the status of Arab women by ensuring their effective participation in nation-building, creating a better life for women throughout the Arab world.

677. A series of events followed the Arab League's Women's Summit, in the year of the Arab Woman 2001. Women's groups from across the Arab world came together in Bahrain on 28-30 April 2001 in the First Arab Forum, a conference on promotion of women's rights. Over 200 delegates attended the Forum that was called specifically to focus on the legal status of women in Arab states. Nine papers addressing the different aspects of the legal status of women were presented at the three sessions of the conference. Speakers looked at women's rights with regard to national legislation, regional accords, international law and Islamic jurisprudence. General themes emerged from the presentations: there was widespread agreement that although the constitutions of Arab states guarantee equality, national legislation in most Arab countries must to be strengthened in order to ensure equality in practice. Several of the speakers urged all Arab states to adopt personal laws to cover marriage, divorce, and inheritance rights; those States which lack a comprehensive legislative framework in these areas were urged to address this failing.

678. The Arab Expatriate Women's Forum (Amman, 2001) was the third of a series of five regional events held in 2001 to promote Arab women's solidarity. Reactions by Western communities against Arab women and families living among them after the 11 September 2001 terrorist attacks on Washington and New York ranked high on the delegates' agenda. Similar forums tackling different aspects of Arab women and their role in society were hosted by Bahrain, Iraq and Tunisia earlier in the year, and were also organized by the Arab League's general secretariat, Lebanon's Al Hariri Foundation and Egypt's National Council for Women.

679. In November 2002 the Second Women's Arab Summit was held in Amman, Jordan.²³⁶ Experts, women's rights activists, and Arab first ladies took part in the conference, chaired by Queen Rania Al-Abdullah of Jordan. The conference focused on women's role in legal, political, cultural, and economic issues in Arab societies, and participants discussed the recent Arab Human Development Report 2002: Creating Opportunities for Future Generations published by the United Nations Development Programme and the Arab Fund for Economic and Social Development. The report stated that the reason the Arab world has not been able to truly modernize is because it has failed to use the full capabilities of Arab women. Though the literacy rate for Arab women has increased threefold and school education rates have doubled since the 1970s, half of Arab women still remain illiterate, and in Saudi Arabia, women contribute to only 3 per cent of the economy despite making up 50 per cent of the population.

680. The Arab Women's Organization (AWO) was launched at the summit under the patronage of the Arab League.²³⁷ The new organization intends to unify efforts to empower women and

promote their participation in the development process. The admittance of the AWO was the result of efforts exerted since the First Women's Summit, efforts exerted by women's organizations in the Arab world had helped place women's causes and challenges on top of the agendas for discussion. It is expected that AWO will research the conditions for women with its goal to harmonize laws across the region. AWO will work as a mechanism to draw unified strategies in order to improve women's status and to merge them in the social development movement. The organization will have the task of coordinating the views of Arab women at international forums and of exchanging expertise on questions related to the condition of Arab women. The Arab League has urged its member countries to join the AWO in order to work effectively in advancing Arab women's situation. As of November 2002, 20 Arab countries have approved the creation of AWO, open to the Arab League member states as well as non-governmental organizations, who will be represented as observers. The ICRC study *Women facing War in Arabic* was also launched at the summit.

681. The Summit adopted the Amman Declaration 2002, a strategy in the form of several recommendations aimed at reinforcing the civil, political and social status of women in the region. There were calls to Arab Governments to rectify the image of Arab women — one of the main summit goals — saying some media put them in a negative light. Arab Governments were also urged to improve education for women and to empower women in economic development by providing jobs to them. There were calls for the creation of special Arab legal groups to help chart legislation that will emancipate women, and help them to be more active participants in decision making through greater roles in their respective parliaments. The declaration will be a reference document on which policies and national programmes in the Arab world can be built according to the country's needs. The United Arab Emirates (UAE) will host the Third Arab Women's Summit.

682. On the sidelines of the summit, three sessions on women and human rights, women in decision-making and women and education, were held with participation of grass roots and civil societies of the participant countries. Ideas culminating from the three-topic discussions are to be regarded as guides that Jordan can build upon during its two-year presidency of the Arab Women's Summit. A major point of debate was the of image women in Islam. Many participants said Arab societies should separate prevalent cultural norms, restricting women's freedoms and the right to self-determination, from religious doctrines, primarily Islam. They emphasized that the problem remains with the proper application of Islamic doctrines, laws could be passed in accordance with the whims of a male judge and have nothing to do with religion. Lawyers, religious scholars and human rights activists, attending a session on human rights and women, agreed that cultural restrictions portrayed women's role as marginal and limited. Others suggested Islamic doctrines should be intricately examined to create more flexible applications according to the needs of modern life.

683. There was a call for Arab countries to revisit international human rights conventions to which they are signatories, and to reconsider prevalent laws that contradict constitutions guaranteeing freedoms. Participants reviewing the status of women's rights also agreed that regression in human rights in general has placed women's issues at the far end of the spectrum. Attendants said the lack of freedoms, access to knowledge and female empowerment remain major obstacles to ensuring human rights. The former excuse of women having a lack of

knowledge in helping build societies no longer applied. The two-hour debate failed to produce a clear mechanism for advancing women's rights, but managed to put into perspective many of the challenges ahead.

684. During the session on Women in Decision Making /Leadership Roles, participants said Arab women must first find within themselves the initiative to collectively push forward their rights, particularly in light of changes brought about by globalization. Sharing country experiences on successes achieved by women through research and databases is an essential tool for helping others seeking the same end. The issue of women as leaders capable of making a difference in the economic and political life of their respective countries was a driving force in many speeches delivered by the various member delegations. The bleak reality of low levels of Arab women's participation in decision-making roles - as indicated in Arab Human Development Report 2002 - was noted amongst participants as a serious wake-up call to engage resources and mobilize greater action to help lead women into the professional arena. Touching upon the findings of the Arab Women's Development Report: Globalization and Gender: Economic Participation of Arab Women (2001), participants noted that prevailing gender-based constraints impeding women's rights and capabilities have left women economically, socially and politically incapacitated. Although still striving to increase levels of women's participation beyond the labour force and into more policy-making roles, various participants said the final determinant is the patriarchal system influenced by traditions regarding the freedom of women outside roles as wives and mothers. Some participants said that despite women's freedom to vote in their country, Arab women remain afraid of exercising their rights due to societal pressures.

685. Moreover, specialists met to discuss women and education. They maintained that education is the most urgent issue with regard to efforts for women's empowerment. Figures indicate that the Arab world has the largest percentage of illiterate women in the field of information technology (IT), while general illiteracy has reached an alarming 50 per cent of the total female population in the Arab world. Panelists agreed that education for women is not confined simply to schools, stressing that family and all other institutions have a role to play in empowering women to become effective members of their societies. Participants called for the creation of more opportunities for women in higher education, training and IT studies to ensure gender equality. Participants proposed a number of ideas to address educational problems facing Arab women, such as the launch of an Arabic web portal concerned with educational content and media.

686. A meeting was held in regards to empowering women through media, in Beirut (Nov. 2002). The Executive Secretary of the United Nations Economic and Social Commission for Western Asia (ESCWA), said the media, with all the technological advancement within its reach, could help in transforming the traditions and customs which have greatly hampered the advancement of Arab women.

687. Following Beijing and Beijing +5, the majority of countries in the region, including some of Gulf countries (Oman and Qatar) have designed, endorsed and tried²³⁸ to implement National Strategies on Women which include a topic on violence against women. There are some countries in the region that have already endorsed specific strategies on gender-based violence, such as Morocco, or are in the process of designing one, for example Egypt or Djibouti. In other

States work is done at the project level (Algeria) or integrated services (psychological and legal assistance).

Legal framework

688. In all States that have national Constitutions, gender equality is clearly stated and all forms of discrimination prohibited. Laws are also based on the principle of equality between all citizens. Nevertheless, the area of family law is generally problematic in terms of women's human rights.²³⁹ Even in States that have good gender equality provisions in the Constitution or laws that prohibit gender-based violence, for example FGM in the case of Sudan and Djibouti, there has been a certain reluctance to implement existing laws protecting women rights. There are a number of contradictions, on the one hand the endorsement of international human rights instruments and programmes of action and, on the other hand, a return to traditional views which have resulted in steps backwards in terms of women's rights. For example, the rejection of the political participation of women in Kuwait or the fall in age of marriage²⁴⁰ in Yemen.

689. In many States there is no authority guaranteeing the enforcement of the constitutional equality for women nor the prohibition of violence against them. Sometimes women, victims of gender-based violence,²⁴¹ are put in jail to be "protected",²⁴² for example in cases of honour killing. At other times,²⁴³ when women have finished their prison sentence a man/legal guardian must pick them up from the prison; if not, they will not be allowed to leave and may remain indefinitely. There have been reports that women in Yemen suffer from entrenched gender discrimination in the judicial and penitential systems and that women are frequently subjected to arbitrary detention for alleged crimes against "morals". UNICEF estimated that in 1998 there were approximately 1,000 women incarcerated in State detention facilities throughout Yemen²⁴⁴. There have been numerous reports that conditions for female prisoners are very poor, with allegations that detained women are routinely abused by the almost exclusively male prison staff. (Jalal Al-Shara'abi, "Violence against Women in Yemen", *Yemen Times*, 31 January-6 February 2000, vol. X).

690. According to information received from local non-governmental organizations, women are regularly detained beyond the end of their prison sentences until such time as a male relative decides to come and collect them from prison, a situation which effectively means that some women are condemned to life imprisonment.²⁴⁵ Many detained women either choose to remain in prison for fear of abuse by family members and rejection by their communities or they are forced to remain because their male relatives refuse to take responsibility for them due to the "shame" associated with their having been in detention. To date, the Yemeni Government has taken little action with regard to accommodating women who have served their sentences but have no male relatives willing to take custody of them.²⁴⁶

691. Women also reportedly receive disproportionate prison sentences, particularly in cases where they are charged with "moral" crimes such as *zina* (adultery or fornication) or *khilwa* (an offence which no longer appears in the Yemeni Penal Code, but one for which men and women are still reportedly being detained and punished). In her report for the year 2000, the Special Rapporteur on violence against women documents several cases of women convicted for *zina* spending more than four years in prison despite the fact that the maximum punishment provided

for in the Penal Code is one year. In addition, one of the women, aged 17 years, was reportedly being detained in Ta'iz prison following her arrest three years previously for *zina*. At the time that the Rapporteur submitted her report, the girl had yet to be sentenced.²⁴⁷

692. Some progress is being made in Djibouti, including the endorsement by the Parliament of: (a) the women's national strategy which stated clearly Gender Equality and Empowerment of Women (GEEW) principles and eliminating all forms of discrimination and violence against women through life cycle, as well as (b) the first Family Law in the country on the basis of fairness principle and in accordance to the international standard, even if it needs more effort.

693. There are no clear or specific directives with regard to the development of legal and administrative mechanisms to ensure effective justice for victims of violence. However, Governments are trying to deal with this phenomenon through the national strategies and/or projects, as well as by supporting NGOs and national or local initiatives. However, there is still a need for clearer governmental commitment to implementation especially in the context of legal amendments and enforcement of existing laws (e.g. FGM) and removal of reservations to the Convention.

694. The support services for women victims of violence that do exist remain very rare and are not generalized in the context of public policy/strategy, for instance, shelters (Algeria and Morocco), and legal and psychological counselling (Algeria, Morocco, occupied Palestinian territory, Egypt, Sudan). The specialized assistance and rehabilitation including the socio-economic reinsertion are provided in most cases by non-governmental organizations with support (sometimes) of the Government and/or international organizations. UNFPA projects in the region on gender mainstreaming in reproductive health and services have included a module on gender-based violence.

695. Concerning the criminal justice system and the law in the region, the pioneer in this domain is the Ministry of Justice in Morocco, which conducted a study on forms, causes and consequences of gender-based violence in divorce cases in courts of Casablanca. In the new Penal Code it will be extended to other governorates in the Kingdom. The Ministry of Justice has also participated in the design of gender-based violence strategy and will be one of the partners of the ministry on the status of women in its implementation. Also, a module on gender-based violence and the human rights framework is to be integrated in the curricula of the High Institute of Magistrates (bench and public prosecutor) as well as the Royal Academy of Police. Involvement of both criminal justice and police bodies indicates clearly their recognition of the current situation and practices that are universally based on the social and individual tolerance of gender-based violence and their commitment to changing them.

Remaining regional challenges

696. There are a number of societal norms and practices that reinforce the gender based violence in the region.²⁴⁸ Gender discrimination starts with preference to the boy child, and denial of schooling for girls. She is also subject to cultural and nutritional forms of discrimination within the family and the society that impinge on her opportunities to thrive as a human and social element of the society. At varying levels, girls are less likely to attend school and less likely to

have equal access to food and health care. They are more likely to be subject to intensive labour and experience sexual exploitation and abuse. Traditional practices undermine women's rights, such as denial of education, early and forced marriage, domestic violence, crimes committed in the name of honour, dowry and female genital mutilation (more than 130 million girls or women have undergone some sort of mutilation).

697. The quality of reproductive health services in many Arab countries still needs improvement, especially in rural nomadic areas or in areas of conflict or economic sanctions. A significant number of female heads of households in the Arab region live in poverty, and although women's participation in the labour market has increased, the rate is still very low. Arab countries have been exposed to several wars and conflicts that have threatened the progress of the region in general, and the development of women in particular. For example for decades, Palestinian women have suffered from occupation and displacement, Lebanese women have suffered from continued invasions in the south and Syrian women had endured occupation. The Iraqi, Sudanese and Libyan women have been plagued by economic sanctions and embargoes.

Algeria

698. Algeria acceded to the Convention on 22 May 1996 with reservations on articles 2, 9(2), 15(4), 16, and 29(1); six States filed objections to all or some aspects of these reservations. Algeria's second periodic report was due 21 June 2001.

Legislation

699. The 1984 Family Code treats women as minors under the legal guardianship of a husband or male relative. On 8 March 2001, President Bouteflika called the Family Code "discriminatory" and said some of its provisions ran counter to "the spirit of Islam". But neither he nor the National Assembly took any initiative to amend articles that favoured men in matters of marriage, divorce, inheritance and child custody.

700. There are no specific laws against spousal rape. Rape is illegal, and in principle a spouse could be charged under the law. However, there are strong societal pressures against a woman seeking legal redress against her spouse for rape, and there have been no reports of the law being applied in such cases. According to information received from the Government, the law prohibits prostitution, and it is reportedly not considered to be a problem.²⁴⁹

Policies and programmes

701. The Government has established a national intersectoral programme to address the needs of those traumatized by terrorist violence. There is a rape crisis centre that specializes in caring for women who are victims of rape by terrorists. It provides compensation for the beneficiaries of victims who have died, for persons who have suffered bodily and material injuries and for victims of accidents occurring within the context of terrorist violence.²⁵⁰

Issues of concern

702. Gender discrimination persists in the political, social and economic spheres of Algerian society. There is divergence between constitutional provisions, on the one hand, and national legislation and practice, on the other. The Special Rapporteur urges the Government to undertake a radical reform of the Family Code in order to give full recognition to the equal rights of women, to conduct an information campaign on gender equality.²⁵¹

703. Many traditional social practices discriminate against women. Married females under 19 years of age may not travel abroad without their husbands' permission. However, men may take out business loans and are the sole custodians of their dowries. Despite incorporating equality between men and women into the legislative and regulatory texts governing the workplace, in practice women still are confronted with discrimination in employment resulting from stereotypes that exist regarding a woman's place in society.²⁵² While social pressure against women pursuing higher education or a career exists throughout the country, it is much stronger in rural areas than in major urban areas. Women constitute only 10 per cent of the work force. Nonetheless, women may own businesses, enter into contracts, and pursue opportunities in government, medicine, law, education, the media and the armed forces. About 25 per cent of judges are women, a percentage that has been growing in recent years. President Bouteflika's changes to the judiciary in August 2001 increased the number of courts headed by women. Although the law bans sexual discrimination in the workplace, it is reported that violations are commonplace.

704. Insufficient attention is devoted to the problem of domestic violence in terms of prevention or punishment. The absence of legal texts that specifically protect women who are victims of domestic and sexual violence is of concern. Furthermore, there are very few facilities offering safe haven for abused women, and many more are needed. Education and awareness training on domestic and sexual violence should be made available to police officers, judges, doctors and the mass media to make their intervention more effective.

705. There were numerous incidents of women and girls being killed and mutilated in massacres. The Algerian press, reflecting official estimates, reported that 2,600 women had been sexually assaulted or raped during the conflict, mostly in the 1995 to 1998 period, but some women's rights activists estimated the number at some 5,000.²⁵³ Women, as well as children, continued to be killed by armed groups. Armed terrorist groups reportedly kidnapped young women and held them captive for extended periods for the purposes of rape and servitude.²⁵⁴ The more general problem of gender-based violence was dramatized by attacks on women living alone carried out by mobs of men who were apparently unaffiliated with armed groups.²⁵⁵

Bahrain

706. Bahrain signed the Convention on 18 June 2002.

Legislation

707. Rape is illegal in Bahrain; however, marital rape is not a legal concept within the law.

708. Law based on religious values governs the legal rights of women and specific rights vary according to different interpretations. Women of either branch may initiate a divorce and routinely gain custody of daughters under the age of 9 and sons under the age of 7. A non-citizen woman automatically loses custody of her children if she divorces their citizen father. A Muslim woman legally may marry a non-Muslim man if the man converts to Islam. In such marriages, the children automatically are considered to be Muslim. Women of either branch may own and inherit property and may represent themselves in all public and legal matters. In the absence of a direct male heir, Shi'ah women may inherit all property. In contrast, Sunni women - in the absence of a direct male heir - inherit only a portion; the balance is divided among brothers, uncles, and male cousins of the deceased. The Bahrain's Human Rights Committee recently drafted a report specifying the legislation that needs to be amended in order to ensure equal rights for both men and women. It includes the right for women to request a passport without their husband's consent, the freedom to travel abroad and the rights to rent and own property under their own name.²⁵⁶

709. The Labour Law does not discriminate against women; however, in practice, there is discrimination in the workplace, including inequality of wages and denial of opportunity for advancement. Sexual harassment is prohibited; however, it is reportedly a widespread problem for foreign women.

Policies and programmes

710. The Supreme Council for Women was established in August 2001. It is considered a milestone for the empowerment of women in the Gulf Cooperation Council (GCC) area. The Council, which is under the authority of the Emir, has been granted legal status and is the authority to which all officials refer with regard to the affairs of women. Its role is to propose public policy to the Government on issues relevant to women, including a national plan to improve the situation of women, in addition to recommending amendments to existing legislation.

711. In a landmark move, the King of Bahrain granted women suffrage in September 2002, as well as the right to run for national office. The recent election held in Bahrain is a giant leap forward for the entire Persian Gulf region, where women are still denied the right to vote.

712. Bahrain is among five other countries testing a training manual on women's rights in the context of the Convention. A workshop, which is organized by the Bahrain Centre for Human Rights in collaboration with United National Development Fund for Women (UNIFEM), will be held in December 2002 to discuss women's political rights and immigrant women rights.

Issues of concern

713. Women's groups and health care professionals state that spousal abuse is common, particularly in poorer communities. In general there is little public attention to, or discussion of, the problem. Incidents usually are kept within the family. No government policies or laws explicitly address violence against women. There are very few known instances of women

seeking legal redress for violence. Anecdotal evidence suggests that the courts are not receptive to such cases.

714. It is not uncommon for foreign women working as domestic workers to be beaten or sexually abused. Numerous cases have been reported to local embassies and the police. However, most victims are too intimidated to sue their employers. Courts reportedly have allowed victims who do appear to sue for damages, return home, or both.

715. It should be noted that, although prostitution is illegal, some foreign women, including some who work as hotel and restaurant staff, engage in prostitution.

Egypt

716. Egypt ratified the Convention on 18 September 1981. Reservations were made to articles 2, 9 (2), 16 and 29; four States filed objections to all or some aspects of these reservations. Egypt's third periodic report²⁵⁷ has been submitted and is pending consideration at the Committee's January 2001 session; the fourth and fifth periodic reports have been submitted as one document²⁵⁸ which is not yet scheduled for consideration; the sixth periodic report is due 18 October 2002.

Legislation

717. The Constitution establishes the rights and freedoms of citizens and has provisions on equality between women and men. All crimes related to human rights as set out in international instruments are punishable under Egyptian penal law. The international treaties that Egypt has ratified, including human rights instruments, are part of the law in force in the country.

718. The law does not prohibit spousal abuse specifically; provisions of law relating to assault in general are applied. Spousal abuse is grounds for a divorce; however, the law requires the plaintiff to produce eyewitnesses, a difficult condition to meet. The Government prosecutes rapists, and punishment for rape ranges from three years in prison to life imprisonment with hard labour.²⁵⁹ If a rapist is convicted of abducting his victim, he is subject to execution; however, there were no reports of the execution of rapists. In 1999 the Government abolished an article of the Penal Code that permitted a rapist to be absolved of criminal charges if he married his victim. However, marital rape is not illegal. The law does not prohibit sexual harassment; there are no statistics available regarding its prevalence. Prostitution and sex tourism are illegal but known to occur, mostly in Cairo and Alexandria.

719. The Egyptian Supreme Court ruled in 19 December 1997 to ban on female genital mutilation. It also stated that there is no citation of the Koran that permits this practice.

720. The law provides for equality of the sexes; however, aspects of the law and many traditional practices discriminate against women. By law unmarried women under the age of 21 must have permission from their fathers to obtain passports and to travel. In 2000 the Supreme Constitutional Court ruled that married women should not require permission from their husbands, reasoning that the practice violated the principle of equality of the sexes. On 9 July

2001 the Ministry of Interior announced that the ruling would be implemented, but women's rights organizations reported inconsistency in implementation by police through year's end. Egypt has made a reservation to article 9, paragraph 2, of the Convention concerning the granting to women of equal rights with men with respect with the nationality of their children. Only males may confer citizenship; children born to women with foreign husbands are not conferred the benefits of citizenship. In rare cases, this means that children who are born to Egyptian mothers and stateless fathers are themselves stateless. A woman's testimony is equal to that of a man's in the courts.

721. Laws affecting marriage and personal status generally correspond to an individual's religion. In January 2000, the Egyptian Parliament approved several procedural amendments on the Personal Status Laws (PSL) presented by the Ministry of Justice that made it easier for a Muslim woman to obtain a divorce without her husband's consent, provided that she is willing to forego alimony and the return of her dowry. (The Coptic Orthodox Church permits divorce only in specific circumstances, such as adultery or conversion of one spouse to another religion.) Law No. 1 of 2000, enacted after a 10-year period of consultation, grants women the right to *khul*, or unilateral divorce, by repudiation without the need to prove damage. Executive decrees issued as a result of Law No. 1 of 2000 included a new marriage contract, which came into effect on 16 August 2000, elaborating protective provisions relating to finances and polygamy.²⁶⁰

722. Under Islamic law, non-Muslim males must convert to Islam to marry Muslim women, but non-Muslim women need not convert to marry Muslim men. Muslim female heirs receive half the amount of a male heir's inheritance, while Christian widows of Muslims have no inheritance rights. A sole female heir receives half her parents' estate; the balance goes to designated male relatives. A sole male heir inherits all his parents' property.

Policies and programmes

723. Egypt created in 1978 the National Commission for Women to serve as central machinery for women's advancement. This commission, which was restructured in 1993, has fulfilled many achievements in many areas towards the promotion of women. In recognition of women's developmental role in society, the political leadership of the country has created the National Council for Women to translate its commitment to promoting women into action.²⁶¹ The council consisted of 30 members of public figures and experts in women's issues and social work. The formation of the council members is enacted by a Presidential Decree.²⁶²

724. The Ministry of Insurance and Social Affairs operates more than 150 family counselling bureaus nationwide, which provide legal and medical services. It should be noted that a component on women has been included in the national budget and in the national five-year plan (1997/98 to 2001/02). The date of 16 March has been specified to celebrate the annual day of Egyptian women. The celebration is meant to educate the public and advocate for the importance of developing the role of women in society.²⁶³

725. In 1997 the Court of Cassation upheld the legality of a 1996 decree banning female genital mutilation (FGM) that was issued by the Minister of Health and Population Planning. In addition to attempting to enforce the decree, the Government supports a range of efforts to educate the

public. A discussion of FGM and its dangers has been added to the curriculum of the school system. The Government broadcasts television programs criticizing the practice. Government ministers speak out against the practice and senior religious leaders also support efforts to stop it. The Sheikh of al-Azhar, the most senior Islamic figure in the country, and Pope Shenouda, the leader of the Coptic Orthodox community, have stated repeatedly that FGM is not required by religious doctrine. A project on elimination of harmful practices against women signed on August 1998 between the Ministry of Insurance and Social Affairs (MISA), WHO, UNICEF and UNFPA came essentially in view of the current status of Egyptian women, and the importance of working toward developing and improving the status of women. The objective of which is to eradicate female genital mutilation by the year 2010 and to decrease the percentage of early marriage among females by 50 per cent.²⁶⁴

Issues of concern

726. There remains a considerable divergence between constitutional provisions on the one hand and domestic legislation and practice on the other. With respect to the societal status of women in general, women's participation in political life, the provisions in criminal law with respect to adultery and female genital mutilation; and, the divergence between law and practice with regard to the occurrence of child labour²⁶⁵. Although the Government has undertaken initial steps against FGM by criminalizing this practice outside hospitals by persons without a medical qualification, this measure does not render the practice a criminal offence by medical practitioners; and the percentage of women who are victims of FGM remains alarmingly high.

727. The Committee on the Elimination of Discrimination against Women, in its 2001 concluding observations, expressed its concern that, although efforts have been made, there is no holistic approach to the prevention and elimination of violence against women, including domestic violence, marital rape, violence against women in detention centres and crimes committed in the name of honour or the punishment of perpetrators. The Committee is also concerned at the high level of violence against adolescent girls and young married women.²⁶⁶

728. Although reliable statistics regarding rape are not available, activists believe that it is not uncommon, despite strong social disapproval. "Honour killings" (a man murdering a female for her perceived lack of chastity) are known to occur, but are not common. According to reports, the courts sentence perpetrators of honour killings to lighter punishments than those convicted in other cases of murder. The Egyptian law stipulates that the legal age for marriage is 16 for girls and 18 for boys. The difference in age in this law may encourage the completion and attainment of school degrees for boys at the age of 18, whereas girls' education can be curtailed earlier, in fact implying that it is of secondary importance. Moreover, this law is rarely enforced and even younger marriages of girls remain widespread.²⁶⁷ Early marriage often leads to early pregnancy, before girls are biologically and psychologically mature, which is detrimental to both the mother and the child's life.²⁶⁸

729. FGM is reportedly common despite the Government's commitment to eradicating the practice and NGO efforts to combat it. Traditional and family pressures remain strong; a study conducted in 2000 estimates the percentage of women who have ever been married and have undergone FGM at 97 per cent.²⁶⁹ The survey showed that attitudes may be changing slowly;

over a five-year period, the incidence of FGM among the daughters (from ages 11 to 19) of women surveyed fell from 83 to 78 per cent. FGM generally is performed on girls between the ages of 7 and 12, with equal prevalence among Muslims and Christians.

730. In Cairo, women from Sudan, Ethiopia, Eritrea, Nigeria and the Philippines form one group of domestic workers who are either legally, or illegally, residing and working in this city. These women are often deprived of their rights as citizens and, fearing deportation, are often more vulnerable to violence. According to information received, African immigrants are harassed in the street on the basis of their appearance although many of them wear hijab or scarves in the street in an effort to appear more “Egyptian”. During 1996-1997, there were several government round-ups, house arrests, mass arrests of such women who reported being beaten and sexually assaulted by the police.²⁷⁰

731. Women are also reportedly targeted by the State in their private roles as mothers, sisters, wives, partners and daughters of political activists. They are the victims of a policy known as “hostage-taking”. Under these circumstances, women are particularly vulnerable to rape, the threat of rape and other sexual mistreatment. As this type of sexual abuse is considered a severe offense against both woman’s and her family’s honour, it is used against women to force wanted persons to give in, or to extract information and evidence on the activities of husbands and family members.²⁷¹

Iraq

732. Iraq acceded to the Convention on 13 August 1986. Reservations were made to the General Declaration and to articles 2 (f) and (g); 9, paragraphs 1 and 2; 16; and 29, paragraph 1; two States filed objections to all or some aspects of the reservations. Iraq’s second and third periodic reports were submitted as one document,²⁷² which was considered by the Committee at its June 2000 session; the fourth periodic report was due 12 September 1999.

Legislation

733. In April 2000, the Patriotic Union of Kurdistan (PUK) declared that immunity would not be given for honour crimes in the area under its control. In September 2001 the Kurdistan Democratic Party (KDP) began admitting women to the police academy in preparation for the planned integration of women into the police force. Several active women's organizations operate in the Kurd-controlled regions in the north. Rape is prohibited by law. Spousal violence constitutes grounds for divorce and may be prosecuted; however, suits brought on such charges are reportedly rare. Under a 1990 law, men who committed honor crimes may receive immunity from prosecution. The Iraqi Kurdistan parliament has recently amended legislation for “honour crimes” by abolishing a legal loophole that allowed perpetrators to receive light sentence by claiming “mitigating circumstances”.²⁷³ Prostitution is illegal.

Policies and programmes

734. In June 1997 the Government adopted a National Strategy for the Advancement of Women in implementation of the Beijing Platform for Action. Also in 1997 the high-level National

Committee for the Advancement of Iraqi Women was created, consisting of representatives of ministries involved in activities of relevance to women. The General Federation of Iraqi Women was established to implement the Convention.

735. The Government stated that it is committed to equality for women, who make up approximately 20 per cent of the work force. It has enacted laws to protect women from exploitation in the workplace and from sexual harassment; to permit women to join the regular army, Popular Army and police forces; and, to equalize women's rights in divorce, land ownership, taxation, and suffrage. It is difficult to determine the extent to which these protections are afforded in practice. It should also be noted that women are not allowed to travel outside the country alone.

Issues of concern

736. The failure to revoke legislative provisions that discriminate against women and to address discriminatory views and attitudes that impede women's enjoyment of their rights. The lack of a provision in the Constitution specifically to prohibit discrimination that has the effect or purpose of adversely affecting women's human rights.

737. The lack of a comprehensive approach to the issue of violence against women; the lack of data and information on the incidence and types of violence perpetrated against women in the home and in society; and, the lack of information on the social, medical and psychological support available to women subjected to violence and on measures to prosecute and punish perpetrators and to provide legal redress. Indeed, domestic violence against women reportedly occurs but little is known about its extent. Such abuse customarily is addressed within the tightly knit family structure. There is no public discussion of the subject, and no statistics are published.

738. The prevailing view that emphasizes women's stereotypical role in the family and in private life to the detriment of establishing equality of women in all spheres of life. The insufficient attention given to modifying harmful traditional and cultural practices (e.g. polygamy) and stereotypical attitudes that perpetuate discrimination against women; honour killings; the continuing low representation of women in public life; the level of illiteracy among women, the increasing rate at which girls drop out of compulsory education and the low enrolment of women in technical schools; women's low participation in the labour market; the absence of a law establishing minimum wages.

739. Concern is also expressed over: the negative impact of the flexibility granted to employers on women's employability and security of employment; the differences in maternity benefits granted to women in the public and the private sector; the lack of specific and targeted measures to address women and children's well-being in health care, nutrition, employment and other basic social services; the high incidence of maternal mortality and the lack of basic health services, medicines and reproductive health services, including qualified birth attendants; the absence of measures to address the mental and psychological health of women; the failure to take steps to determine the prevalence of HIV/AIDS and the absence of relevant preventive education and information campaigns aimed at women; the lack of information provided about the situation of

rural women; the lack of information on the situation of women belonging to ethnic minorities, including Kurds, Turkmens and Assyrians.

Jordan

740. Jordan ratified the Convention on 1 July 1992. Reservations were made to articles 9, paragraph 2; 15, paragraph 4; and 16, paragraphs 1 (c), (d) and (g).²⁷⁴ Jordan's initial and second periodic reports²⁷⁵ were considered by the Committee at its January/February 2000 session; the third periodic report is due 31 July 2001.

Legislation

741. Rape is considered and classified as a felony under Jordanian Penal Code. Therefore, the perpetrator is given a sentence of a minimum of 10 years' imprisonment with hard labour, which could be extended up to the maximum of 15 years' imprisonment depending on the severity and the circumstance in which the crime was perpetrated.²⁷⁶ Abused women have the right to file a complaint in court against their spouses for physical abuse but in practice familial and societal pressures discourage them from seeking legal remedies. Marital rape is not illegal. According to the law, sexual harassment is strictly prohibited and subject to criminal penalties including fines and imprisonment. Sexual harassment, assault and unwelcome advances of a sexual nature against women do not appear to be widespread problems.

742. The Criminal Code provides leniency for a person found guilty of committing an "honour crime", a violent assault with intent to commit murder against a female by a relative for her perceived immodest behavior or alleged sexual misconduct.²⁷⁷ The Government issued a draft law in November 1999 that, if approved, would have both cancelled article 340 and increased the penalties for people found guilty of adultery. At the end of January 2000, however, the Lower House rejected the draft bill for a second time.²⁷⁸ In December 2001, article 340 of the Penal Code was repealed and replaced with a provision that permits a reduction in penalty only if the murder is committed immediately on finding the victim in the act of committing adultery. While the amendment of article 340 is welcomed, those committed so called "honour" killings still benefit from the provisions of articles 97 and 98.²⁷⁹

743. Women experience legal discrimination in matters of pension and social security benefits, inheritance, divorce and the value of court testimony. In religion-based courts, a woman's testimony is worth only half that of a man. Under religion-based values as applied in the country, female heirs receive half the amount of male heirs and the non-Muslim widows of Muslim spouses have no inheritance rights. A sole female heir receives half of her parents' estate; the balance goes to designated male relatives. A sole male heir inherits both of his parents' property. Men are able to divorce their spouses more easily than women. Special courts for each denomination adjudicate marriage and divorce matters for Christians. Married women are ineligible for work in the diplomatic service, and, until recently, most women in the diplomatic corps automatically were assigned to administrative positions. There are six female judges in the country.

744. The law requires a married woman to obtain her husband's permission to obtain a passport. Married women do not have the legal right to transmit citizenship to their children. Furthermore, women may not petition for citizenship for their non-Jordanian husbands. The husbands themselves must apply for citizenship after fulfilling a requirement of 15 years of continuous residence. Once the husbands have obtained citizenship, they may apply to transmit the citizenship to their children. However, in practice such an application may take years and, in many cases, citizenship ultimately still may be denied to the husband and children. Such children become stateless and, if they do not hold legal residency, lack the rights of citizen children, such as the right to attend school or seek other government services.

745. Act No. 8 issued by the Jordanian Parliament in 1996, also known as the new Labour Code, redressed significant gender imbalances in national legislation with respect to labour.²⁸⁰ In December 2002 government agencies and labour organizations as well as other concerned parties reviewed the status of working women in rural areas in light of international labour criteria in order to provide equality between male and female workers.²⁸¹

Landmark cases

746. In October 2002, for the first time, the Court of Cassation sent an "honour" crime case back to the Criminal Court for tougher sentencing on the basis that the murder was premeditated. The original three-month sentence passed against Fawaz Syouf was increased to 10 years.²⁸²

Policies and programmes

747. The Jordanian Government established the Jordanian National Commission for Women (JNCW) in 1992, chaired by Her Royal Highness Princess Basma Bint Talal. The commission is comprised of representatives from both the private/civil and public sectors who are primarily concerned with women's issues. In 1993, JNCW formulated the National Strategy for Women, which provides the framework for all national efforts to advance the status of women, and issued two comprehensive programmes for action for the years 1998-2002. A further step towards the advancement of women was the establishment of the Princess Basma Women's Resource Centre (PBWRC) in 1996, following the Fourth World Conference on Women. PBWRC is a unique, non-profit, non-governmental support mechanism for women's groups and policy-makers throughout Jordan.²⁸³

748. The National Population Commission (NPC), established in 1975, launched the innovative documentary training and advocacy project, Arab Women Speak Out, to promote women's empowerment and engagement in social development. Furthermore, in 1996, NPC launched a four-year pilot project that aims to enhance awareness of reproductive health and gender issues through community mobilization sessions.

749. The Family Protection Department is affiliated to the Public Security Directorate and is entrusted with safeguarding women and children's rights and with investigating cases of abuse against them. Queen Noor Al Hussein chairs a Family Protection Project (FPP) that aims to devise a national strategy to protect women and children from abuse. The Royal Commission for Human Rights was set up by decree in March 2000. The Commission is set to focus on a number

of human rights issues, particularly those pertaining to women and children. To this effect a member of the JNCW gained a seat in the Commission. It should also be noted that the FPP has successfully lobbied the Judicial Council, which recently gave initial approval to the establishment of separate domestic violence cases from regular cases heard at the Criminal Court.

750. The Jordanian government intends to undertake in-depth research²⁸⁴ that will focus on violence perpetrated by husbands against their wives. The general aim of the study is to identify the scale and dimensions of the problem of marital violence in Irbid, and to form a social support group on the basis of the results of the research.²⁸⁵

Issues of concern

751. Violence against women appears in different forms, ranging from wife abuse to incest, sexual harassment and rape. Most violence against women takes place in the home, and is carried out by perpetrators who are directly related to the victims. Preliminary data suggest that domestic violence is a widespread phenomenon in Jordan and cuts across the boundaries of age, education, class and religion.²⁸⁶ Furthermore, a report by the Public Security Directorate shows a rise in crimes against women, listed as family violence.²⁸⁷ A serious constraint to documenting the nature and extent to which women are victims of violence is the absence of data and information on the size of the problem. This data gap is due to the sensitivity of the issue and under-reporting, linked to the fact that most of these cases fall under domestic violence.²⁸⁸ Cultural norms discourage victims from seeking medical or legal help, thus making it difficult to assess the extent of such abuse. NGOs such as the Jordanian Women's Union, which has a telephone hotline for victims of domestic violence, provide assistance in such matters. Wife-battering technically is grounds for divorce, but a husband may seek to demonstrate that he has authority from the Koran to correct an irreligious or disobedient wife by striking her.

752. "Honour killings" (the murder of women for alleged sexual impropriety as well as rape) are the most extreme forms of violence against women in Jordan. It is also considered one of the most common forms of violence in the Jordanian community. It is widespread among all social classes, regardless of economic or educational status. However, indicators suggest that it may worsen with the spread of poverty. Fourteen such murders were reported in 2001, the victims were strangled, stabbed, or shot several times. The actual number of honour crimes is believed to be significantly higher: it is reported that nearly two dozen women and children have been killed in Jordan so far in 2002 in the name of family honour.²⁸⁹ According to information received, it is estimated that 25 per cent of all murders committed in the country are honour crimes. The Special Rapporteur notes with concern that women such as these have nowhere to turn when they are under threat of an attack. There is no national women's shelter in Jordan. The police regularly imprison women who are potential victims of honor crimes for their own protection.²⁹⁰ There were up to 40 women involuntarily detained in such "protective custody" in 2001.

753. Female Genital Mutilation (FGM) rarely is practiced. However, one southern tribe of Egyptian origin in the small village of Rahmah near Aqaba reportedly practices FGM.

Kuwait

754. Kuwait acceded to the Convention on 2 September 1994. Reservations were made to articles 7 (a); 9, paragraph 2; 16 (f); and 29, paragraph 1; eight States filed objections to all or some aspects of the reservations.

755. Kuwait's initial and second periodic reports were due 2 October 1995 and 1999, respectively.

Legislation

756. Kuwait incorporated the principles of equality and non-discrimination on grounds of sex, origin, language or religion in the Constitution which was promulgated in 1962, and specifically in article 29 thereof. Article 31 of the Constitution further prohibits the use of violence against any human being or treatment that is prejudicial to his or her dignity. The Permanent Mission of the State of Kuwait affirmed, in response to a request for information made in May 2002 by the Special Rapporteur, that women are afforded special treatment under Kuwaiti legislation and regulations, including in particular the Kuwaiti Constitution. According to the Government, the provisions of these laws aim at protecting women against any form of violence in the family, at work, or in any other sphere of life, and endeavour to help them to reconcile their lives with their responsibilities.

757. Kuwaiti law, and perhaps most notably the Civil Status Code, affords guarantees for the protection of a married women against the possible infliction of psychological or physical violence by her husband, as reflected in the terms of articles 64, 88, 126, 136, 139, 140 and 165 of the aforesaid Code.

758. Under the Kuwaiti Penal Code No. 16 of 1960 and its amendments, women enjoy full protection against all forms of physical violence, including both physical abuse and rape. The Code prohibits acts involving violence, assault, ill-treatment, sexual exploitation, kidnapping, abduction, and slave trafficking of any human being, male or female, whether perpetrated by persons acting in an official capacity or by government employees in the course of their duties. The penalties applied to these acts are commensurate with the gravity of the offence committed. The Penal Code increases the penalties where the victim is a minor or the perpetrator is responsible for the victim's care.

759. Likewise, articles 33 and 34 of Act No. 26 of 1962, concerning the regulation of prisons, provide that women prisoners, whether pregnant or not, must be well treated and pregnant women must be provided with the requisite health and psychological assistance up to the time of their delivery. They must receive special health care and be transferred to hospital prior to their confinement and until the child has been delivered. The child remains in its mother's care until he or she reaches the age of 2.²⁹¹

760. With regard to employment, the legislature has incorporated provisions into the relevant legislation with a view to ensuring the protection of working women. Thus, under the terms of section 6 of the Non-Governmental Sector Employment Act No. 37 of 1964, it is illegal to

employ women in night work, in the industrial sector, in hazardous work or work that is prejudicial to their health. There is no specific law that addresses "sexual harassment"; however, it is not reported to be a widespread problem. Individuals who believe they are being harassed may file complaints that could result in administrative or criminal measures being taken against the harasser.

Issues of concern

761. Women continue to experience legal and social discrimination. For example, women are denied the right to vote²⁹² and their testimony is not given equal weight to that of men in the family courts.

762. Violence against women is reportedly a problem in Kuwait.²⁹³ According to some local experts, domestic abuse of women occurs in an estimated 15 per cent of all marriages. The police and the courts generally seek to resolve family disputes informally and may ask the offending spouse to sign a statement affirming that he agrees to end the abuse. There is no specific article in the Penal Code addressing spousal rape, but the courts can find a husband guilty of abuse, depending on the circumstances of the case and the damages sustained by his wife.

763. Rape and sexual assault is of concern, particularly for foreign domestic servants by male employers and male co-workers. The local press devotes considerable attention to the problem, and both the police and the courts have taken action against employers when presented with evidence of serious abuse. However, in 2000 the Government reportedly reduced the operations of a specialized police facility designated to investigate complaints and provide some shelter for runaway maids; this resulted in a further deterioration of conditions for domestic employees. The operations of this facility remained limited. Unemployed, runaway foreign domestic workers are susceptible to recruitment into prostitution. The police actively enforce laws against pandering and prostitution, with arrests reported almost every week. Police recently carried out large-scale anti-prostitution sweeps in Kuwait City and its suburbs in 2001, arresting hundreds of procurers and prostitutes. Prostitutes generally are deported to their countries of origin. Procurers often receive long prison sentences. In August 2001 an Asian man who established a brothel was sentenced to 13 years' imprisonment.

764. In its concluding observations and comments²⁹⁴, the Human Rights Committee noted a number of areas of concern, including discrimination against women that limits their enjoyment of Covenant rights; the difference in marriage age for women and men (15 years for women and 17 for men); polygamy still being practised; provisions that do not treat women and men who commit adultery in the same manner; and the tolerance of so-called "honour crimes."²⁹⁵

Lebanon

765. Lebanon acceded to the Convention on 16 April 1997. Lebanon's initial report was due 21 May 1997. Reservations were made to articles 9, paragraph 2; 16, paragraphs 1 (c), 1 (d), 1(f) and 1 (g); and 29, paragraph 1; four States filed objections to all or some aspects of the reservations.

Legislation

766. According to the Penal Code, a man who kills his wife or other female relative may receive a reduced sentence if he demonstrates that he committed the crime in response to a socially unacceptable sexual relationship conducted by the victim.²⁹⁶ In 1999 the law was amended to increase the severity of the sentence for perpetrators of "honour crimes". Several instances of honour crimes are reported in the media every year, and reportedly there were an average of two to three cases of honour crimes each month in 2001. No person has been convicted in a case legally considered as an honour crime.

767. In 2000 the Government amended certain labor laws affecting women. For example, maternity leave was extended, and women no longer are forbidden from working at night. In 2001, Parliament adopted a law providing equal pay for equal work for men and women.

768. The law prohibits rape the minimum sentence for a person convicted of rape is five years in prison. The minimum sentence for a person convicted of raping a minor is seven years.²⁹⁷ Prostitution is legal but regulated; however, in practice most prostitution is reportedly unlicensed and thus illegal.

Issues of concern

769. Violence against women is a common problem in Lebanon. The press reports cases of rape with increasing frequency and cases reported are believed to be only a fraction of the actual number. There are no authoritative statistics on the extent of spousal abuse, but most experts agree that the problem affects a significant portion of the female population. In general, battered or abused women do not talk about their suffering due to fear of bringing shame upon their own families or accusations of misbehaviour upon themselves. Many women are compelled to remain in abusive marriages because of social and family pressures. Possible loss of custody of children and the absence of an independent source of income also prevent women from leaving their husbands. In most cases, the police reportedly ignore complaints submitted by battered or abused women.

770. Foreign domestic servants in Lebanon often are mistreated, abused, and in some cases, raped. Asian and African female workers have no practical legal recourse available to them because of their low status, isolation from society, and because the labor laws do not protect them. Because of such abuse, the Government prohibits foreign women from working if they are from countries that do not have diplomatic representation in the country.

771. Thousands of foreign women, primarily from Russia and Eastern Europe, engage in prostitution. The country is a destination for trafficked persons, primarily women.

Libyan Arab Jamahiriya

772. The Libyan Arab Jamahiriya acceded to the Convention on 16 May 1989. Reservations were made to articles 2; 16 (c) and (d); eight States filed objections to all or some aspects of

these reservations. Libya's second periodic report²⁹⁸ has been submitted but is not yet scheduled for consideration by the Committee; the third periodic report was due 15 June 1998.

Legislation

773. The 1969 Constitutional Proclamation granted women total equality. Despite this legal provision, traditional attitudes and practices prevail, and discrimination against women persists and keeps them from attaining the family or civil rights formally provided them. For instance, a woman must have the permission of her husband or another close male relative to travel abroad.

Issues of concern

774. Although there is little detailed information regarding the extent of violence against women in Libya, it reportedly remains a problem. In general the intervention of neighbours and extended family members tends to limit the reporting of domestic violence. Some nomadic tribes located in remote areas still practice FGM on young girls.

775. Although their status is still not equal to that of men, the opportunity for women to make notable social progress increased in recent years. Educational differences between men and women in urban areas narrowed. However, a significant proportion of rural women still do not attend school and tend to instill in their children such traditional beliefs as women's subservient role in society.

776. Female participation in the workforce, particularly in services, has increased in the last decade. However, employment gains by women tend to be inhibited by lingering traditional restrictions that discourage women from playing an active role in the workplace and by the resurgence of Islamic fundamentalist values. Some observers have noted that even educated women tend to lack self-confidence and social awareness and seek only a limited degree of occupational and social equality with men.

Morocco

777. Morocco acceded to the Convention on 21 June 1993 with reservations to articles 2; 9, paragraph 2; 15, paragraph 4; 16 and 29; one State filed an objection to some aspects of these reservations. Morocco's second periodic report²⁹⁹ has been submitted and is not yet scheduled for consideration by the Committee.

Legislation

778. The Constitution provides for the equality of all citizens; however, non-Muslims and women face discrimination in the law and in traditional practice.

779. The Criminal Code provides for severe punishment for men convicted of rape or sexual assault. The defendants in such cases bear the burden of proving their innocence. However, sexual assaults often go unreported because of the stigma attached to the loss of virginity. While

not provided for by law, victims' families may offer rapists the opportunity to marry their victims in order to preserve the honour of the family.

780. The civil law status of women is governed by the Code of Personal Status - known as the *Moudouwana* - which is based on the Malikite School of Islamic law. Although the Code of Personal Status was reformed in 1993, gender discrimination remains, particularly under the laws governing marriage, divorce and inheritance.³⁰⁰

781. Under the Criminal Code, women generally are accorded the same treatment as men, but this is not the case for family and estate law, which is based on the Code of Personal Status. Moreover, even in cases in which the law provides for equal status, cultural norms often prevent a woman from exercising those rights. For example, when a woman inherits property, male relatives may pressure her to relinquish her interest.

782. According to information received, the Government in Morocco has moved to push through voting law reform: an electoral reform bill aimed at enhancing the number of women in Morocco's parliament has been put before parliament after being rejected by the constitutional council.³⁰¹

783. The Government and the King continued to promote their proposal to reform the Personal Status Code (*Moudawana*) in order to advance women's rights. It is reported that Islamists and some other traditional segments of society firmly opposed the proposal, especially with respect to its more controversial elements, such as reform of women's legal status in marriage and family law issues.

Policies and programmes

784. On 8 March 2001, the King, Prime Minister, and several other ministers met with 40 representatives of women's organizations at the Royal Palace. In April 2001 the King created a Consultative Commission for the *Moudawana*.

785. The European Union and the Government recently created a national centre dealing with women's issues, which works with the Ministry in Charge of the Condition of Women, Protection of the Family, and Children, and Integration of the Handicapped. The Moroccan Bar Association and the Government have opened 15 support centres to assist victims of violence.

Issues of concern

786. In 2000, the Committee on Economic, Social and Cultural Rights noted with concern the persisting patterns of discrimination against women in national legislation, particularly in family and personal status law, as well as inheritance law.³⁰² The Human Rights Committee expressed similar concerns in 1999.³⁰³

787. Spousal violence is reportedly common in Morocco. While physical abuse legally is grounds for divorce, a court will grant a divorce only if the woman is able to provide two

witnesses to the abuse. Medical certificates are not sufficient. If the court finds against the woman, she is returned to her husband's home. Thus, few women report abuses to the authorities.

788. The law is more lenient toward men with respect to crimes committed against their wives; for example, a light sentence may be accorded a man who murders his wife after catching her in the act of adultery. However, such "honour crimes," remain rare in Morocco.

789. Prostitution is reportedly prevalent, especially in urban centres. Prostitution is against the law, however women who have been coerced into providing sexual services are not prosecuted. Trafficking in persons, particularly child maids, is also a concern.

Oman

790. Oman has not acceded to the Convention.

Legislation

791. The law does not specifically address domestic violence against women, but, according to Shariah, all forms of physical abuse are illegal. The law prohibits rape. Prostitution is illegal, and is reportedly not a widespread problem. The right to vote for the Consultative Council has been granted to Omani women. Some aspects of law based on religious values and tradition as interpreted in the country discriminate against women. For instance, male heirs are favoured in adjudicating inheritance claims. Furthermore, it is reported that many women are reluctant to take an inheritance dispute to court for fear of alienating the family.

Policies and programmes

792. The Government³⁰⁴ stated that the need to review and refine policy approaches and support structures for women and girls was at the forefront of [their] agenda and as a result, Oman's Five-Year Development Plan (1996-2000), had proactively addressed several gender concerns. Women's enhanced participation in all fields of national development is being actively promoted with public proclamations from the highest level and a demonstrated government interest resulting in positive civil service rules that place, promote and create training opportunities for women. A number of activities including workshops, curriculum reform and communication initiatives have been successful in increasing gender awareness. Concerted efforts have been directed at ensuring a wider participation of women in local-level decision-making on community issues.³⁰⁵

793. Within the Government, women's affairs are the responsibility of the Ministry of Social Affairs, Labour and Vocational Training.³⁰⁶ The Ministry provides support for women's affairs through support for and funding of the Oman Women's Association (OWA) and local community development centres (LCDC's). The OWA provides an informal counselling and support role for women with divorce-related difficulties, girls forced to marry against their will, and women and girls suffering from domestic abuse.

794. Specific future actions were being formulated, inter alia: to address underreporting in national statistics; to change perceptions about the woman's role; and increase awareness of better living concepts and productive options.

Issues of concern

795. There are reports of employers physically and sexually abusing domestic servants; employers are not always held accountable for such actions.

796. According to information received, a few communities in the interior and in the Dhofar region still practice FGM. Experts believe that the number of such cases is small and declining annually.

797. While progress has been made in changing laws and attitudes, women continue to face many forms of discrimination. Illiteracy among older women hampers their ability to own property, participate in the modern sector of the economy, or inform themselves of their rights.

Qatar

798. Qatar has not acceded to the Convention.

Legislation

799. The activities of women are restricted closely both by law and tradition. For example, a woman is prohibited from applying for a driver's license unless she has permission from a male guardian.³⁰⁷ According to religion-based law, the testimony of two women equals that of one man, but the courts routinely interpret this on a case-by-case basis.

800. A draft Family Status Law covering marriage, inheritance, divorce, and child custody is under review by the Ministry of Justice, after which it will be submitted to the Advisory Council and the Cabinet. Women have actively participated in drafting the law by forming committees, organizing and chairing public meetings and discussions, actively provoking debates on the issues, and publicizing the draft law.

801. The maximum penalty for rape is death. The legal system allows leniency for a man found guilty of committing a "crime of honour," however; such honor killings are reportedly rare.

Policies and programmes

802. Qatar's Emir Sheikh Hamad bin Khalifa Al-Thani recently issued a decree for the establishment of the National Committee for Human Rights.³⁰⁸

803. The Ministry of Endowments and Islamic Affairs includes a Department for Women's Affairs. The Department is divided into four sections, covering maternity and childhood as well as programmes, development and training for women. The Government actively supports women's education. Females constitute approximately two-thirds of the student body at Qatar

University. Increasingly, women receive government scholarships to pursue degrees at foreign universities.

804. In 2002 a female minister was appointed to the Supreme Council for Family Affairs (SCFA). The SCFA is working with UNIFEM on a co-funded project to set up a national strategy for women's advancement. The project will focus on enhancing and consolidating the capacity of SCFA to carry out its strategic role in building a coordinated, comprehensive gender analysis policy and programming approach at all levels. The project is currently at the preliminary stage.³⁰⁹ The Qatar Foundation for Education, Science and Community Development has established a Family Development Centre that offers women counselling, protection and medical care and provides access to various skills development and training programmes.

805. The Qatar Red Crescent Society (QRCS) is a regional leader with regard to gender issues and has active women's sections working on a wide range of activities and with a particular focus on welfare. It is the only NGO in the country that carries out significant gender-related work.

Issues of concern

806. In the past few years, the Government has demonstrated an increased willingness to make arrests in cases of domestic violence, whether against citizens or foreigners.

807. Some employers reportedly mistreat domestic servants, especially those from South Asia and the Philippines. The mistreatment involved nonpayment or late payment of wages, but also included rape and physical abuse. Foreign embassies provide shelter for maids who have left their employers as a result of abuse or disputes. Abused domestic servants usually do not press charges for fear of losing their jobs.

808. Although women legally are able to travel abroad alone, tradition and social pressures cause most to travel with male escorts. There also have been complaints that citizen husbands take their foreign spouses' passports and, without prior approval, turn them in for Qatari citizenship documents. The husbands then inform their wives that the wives have lost their former citizenship. In other cases, foreign wives report being forbidden by their husbands or in-laws to visit or to contact foreign embassies.

Saudi Arabia

809. Saudi Arabia ratified the Convention on 7 September 2000. General reservation was made to articles 9, paragraph 2; and 29, paragraph 1.

Legislation

810. By religious law and social custom, women have the right to own property and are entitled to financial support from their husbands or male relatives. However, women have few political or social rights and are not treated as equal members of society. In court, the testimony of one man equals that of two women. Women legally may not drive motor vehicles and are restricted

in their use of public facilities when men are present. Women must enter city buses by separate rear entrances and sit in specially designated sections. Women risk arrest by the Mutawwa'in for riding in a vehicle driven by a male who is not an employee or a close male relative. Women are not admitted to a hospital for medical treatment without the consent of a male relative. By law and custom, women may not undertake domestic or foreign travel alone. In 1999 the Ministry of Interior announced that preparations were underway to issue identity cards to women, which would represent a step toward allowing women to establish independent legal identities from men. In November 2001 the Government announced that women could obtain their own identity cards; however, it required that they obtain permission to receive a card from their nearest male relatives. In addition the identity cards were not made mandatory for women, although some women applied for and obtained the cards.

811. Although the law permits polygamy, with up to four wives, it is becoming less common due to demographic and economic changes. Some women participate in *Al-Mesyar* (or "short daytime visit") marriages, or what are described as "weekend marriages," in which the women relinquish their legal rights to financial support and nighttime cohabitation. Additionally, the husband is not required to inform his other wives of the marriage, and any children resulting from such a marriage have no inheritance rights. The Government places greater restrictions on women than on men regarding marriage to non-citizens and non-Muslims.

812. Women must demonstrate legally specified grounds for divorce, but men may divorce without giving cause. In doing so, men are required to pay immediately an amount of money agreed upon at the time of the marriage, which serves as a one-time alimony payment. Women who demonstrate legal grounds for divorce still are entitled to this alimony. If divorced or widowed, a Muslim woman normally may keep her children until they attain a specified age: 7 years for boys; 9 years for girls. Children over these ages are awarded to the divorced husband or the deceased husband's family. Numerous divorced foreign women continued to be prevented by their former husbands from visiting their children after divorce.

813. In 2000 a princess and distant cousin of the King was appointed assistant under-secretary at the Ministry of Education - the highest position ever held by a Saudi woman - in charge of girls' education.

Issues of concern

814. The Government does not keep statistics on spousal abuse or other forms of violence against women. However, based on the information available regarding physical spousal abuse and violence against women, such violence and abuse appear to be common problems. Hospital workers report that many women are admitted for treatment of injuries that apparently result from spousal violence; hospitals now are required to report any suspicious injuries to authorities. Female genital mutilation (FGM) is practised among some foreign workers from East Africa and the Nile Valley. It is not always clear whether the procedure occurred in Saudi Arabia or the workers' home countries.

815. Some seven million foreigners work in Saudi Arabia, many of them from India, Egypt, Indonesia, Pakistan, the Philippines and Bangladesh. Conditions are particularly difficult for the

estimated one million women who are employed as domestic workers, a job category not covered by the labour law. Over 19,000 women domestics fled from their employers in 2000, a Labour Ministry official acknowledged in April 2001, citing mistreatment, nonpayment of wages and other grievances.³¹⁰ Furthermore, foreign embassies continued to receive many reports that employers abuse foreign women working as domestic servants. Some embassies of countries with large domestic servant populations maintain safe houses to which their citizens may flee to escape work situations that include forced confinement, withholding of food, beating and other physical abuse, and rape. The Government reportedly considers such cases to be family matters and does not intervene unless charges of abuse are brought to its attention. It is almost impossible for foreign women to obtain redress in the courts due to the courts' strict evidentiary rules and the women servants' own fears of reprisals.

816. Saudi women continue to face severe discrimination in all aspects of their lives, including the family, education, employment and the justice system.³¹¹ As stated above, women are not permitted identity cards in their own name, only "family cards" in the name of their husband or father, do not enjoy freedom of movement, are not permitted to drive, and lack equal rights with men with respect to the nationality of their children, among other discriminatory practices.³¹²

Syrian Arab Republic

817. Syria has not acceded to the Convention.

Legislation

818. The Constitution provides for equality between men and women and the Government has sought to overcome traditional discriminatory attitudes toward women and encourages women's education. However, the Government has not yet changed personal status, retirement, and social security laws that discriminate against women. In addition, some secular laws discriminate against women. For example, under criminal law, the punishment for adultery for a woman is twice that as for the same crime committed by a man. Under the Syrian Code, a wife's right to maintenance ceases when she works outside the home without her husband's permission. A woman who leaves her marital home without legitimate reason is defined as having violated marital law, and the price she pays for doing so is loss of the right to maintenance for the duration of her absence. Christians, Muslims, and other religious groups are subject to their respective religious laws on marriage, divorce, and inheritance.

819. Rape is a felony in Syria. The law prohibits prostitution and sexual harassment and specifies different punishments depending on whether the victim is a minor or an adult.

820. The law specifically provides for reduced sentences in "honour crimes". Instances of honour crimes occur primarily in rural areas in which Bedouin customs prevail.

Policies and programmes

821. The National Committee on Women's Affairs (NCWA) formulated a 10-year National Strategy for Women with nine main axes, namely, law, social status, environmental protection,

media, decision-making, economy, education, human rights and health.³¹³ The Ministry of Agriculture and Agrarian Reform recently established a Gender and Development Unit, with the assistance of the Food and Agriculture Organization (FAO), in order to mainstream the development of rural women.

822. The Syrian Women's Federation offers services to battered wives to remedy individual family problems. The Syrian Family Planning Association also attempts to deal with this problem. Some private groups, including the Family Planning Association, have organized seminars on violence against women, which were reported by the government press. There are a few private, non-official, specifically designated shelters or safe havens for battered women who seek to flee their husbands.

823. Women have been active in campaigning against the suffering of women in conflict areas and, in particular, in the Syrian Arab Golan. In May 2001, the Syrian Arab Red Crescent organized a seminar entitled "Women and war: the Syrian part of an international campaign."³¹⁴

Issues of concern

824. Violence against women occurs, but there are no reliable statistics regarding the prevalence of domestic violence or sexual assault. The vast majority of cases are unreported, as victims generally are reluctant to seek assistance outside the family. One preliminary academic study suggested that domestic violence is the largest single reason for divorces, and that such abuse is more prevalent among the less-educated and persons who live in rural areas.³¹⁵

Tunisia

825. Tunisia ratified the Convention on 20 September 1985. Reservations were made to articles 9, paragraph 2; 15, paragraph 4; 16, paragraphs (c), (d), (f), (g) and (h); and 29, paragraph 1; three States filed objections to some aspects of these reservations. Tunisia's third and fourth periodic reports were due 20 October 1994 and 1998, respectively.

Legislation

826. At the legislative level, amendments to certain articles of the Personal Status Code and the Penal Code were adopted in 1993. Pursuant to the reform of article 23 of the Personal Status Code, the stipulation that a wife had a duty of submission to her husband was erased and replaced by the notion of mutual treatment between spouses.³¹⁶ A wife is no longer included among the property of her husband, who has a duty of protection.³¹⁷

827. Article 207, which granted the benefit of attenuating circumstances to any husband who murdered his wife caught in flagrante delicto of adultery was repealed in 1993. This crime is now subject to the penalty applicable for manslaughter, namely life imprisonment, if the act proves to have been voluntary.

828. In matters of violence towards a spouse, Act No. 93-72 of 12 July 1993 amending article 218 of the Penal Code treats the marital bond as an aggravating circumstance, which warrants a

heavier penalty, whereas marital violence was previously subject to the ordinary penalty for assault. Marital violence is now subject to a penalty of imprisonment for a two-year period and a fine of 2,000 dinars, whereas any act of violence or assault is subject only to imprisonment for a one-year period and a fine of 1,000 dinars.³¹⁸

829. In 1995, the Government enacted the Code for the Protection of Children, which prohibits child abuse, abandonment, and sexual or economic exploitation. Penalties for abandonment and assault on minors are severe.³¹⁹

830. There are stiff penalties for spousal abuse. Both the fine and imprisonment for battery or violence committed by a spouse or family member are double those for the same crimes committed by an individual not related to the victim. Rape is specifically prohibited by the Penal Code. There is no legal exception to this law for spousal rape, but in part due to social stigma there were no reports of spousal rape being prosecuted. Prostitution is prohibited by the Penal Code specifically, but charges against individuals are rare. Sexual harassment is prohibited specifically by the Penal Code.

831. The Personal Status Code, enacted in 1956, outlawed polygamy and established legal divorce proceedings. Either the mother or father may convey citizenship to a child. The code also set the minimum age for marriage at 17 for girls, and provided that they must consent to the marriage. Legislation requires civil authorities to advise couples on the merits of including provisions for joint property in marriage contracts. Nonetheless, most property acquired during marriage, including property acquired solely by the wife, still is held in the name of the husband. Inheritance law, based on religious values and tradition, discriminates against women, and women still face societal and economic discrimination in certain areas, such as private sector employment. The Government introduced a law in December 2001 that would enable a Tunisian mother to register her child as a citizen even in the absence of the foreign father.

832. The amendment to the Labour Code in 1996 established the principle of non-discrimination between men and women in all aspects of employment. This assumes equal access to the labour market, as well as security on this market in terms of working conditions, schedules, opportunities for promotion, and salaries. Although there are no statistics comparing the average earnings of men and women, generally women and men performing the same work are paid the same wages.

Policies and programmes

833. There is a separate Ministry for Women and Family Affairs, with a relatively large budget nearly 3 per cent of the total budget of US\$ 2 million (3 million dinars) with the mission to ensure the legal rights and improve the socio-economic status of women. The Government also supports and provides funding to the National Union of Tunisian Women (UNFT), women's professional associations, and the Government's Women's Research Centre.

834. The phenomenon of violence within the family has been addressed simultaneously on various fronts by the State with the following aims: combating stereotypes, equality before the law and partnership within the family. The anti-violence strategy adopted by the public

authorities since the early 1990s focuses on three areas: legislation, the institutional field and the communication field.³²⁰

835. A 1998 presidential decree created a national fund to protect the rights of divorced women, ensuring that the State would provide financial support to women whose former husbands refused to make child support and alimony payments regularly. By 2001, the Government has processed 7,100 requests providing divorced women over US\$ 10 million (14.5 million dinars) since the fund's inception. The Government has taken measures to reduce official discrimination, including adding equal opportunity for women as a standard part of its audits of all governmental entities and State-owned enterprises and providing leadership training for female civil servants; however, it did not extend such measures to the private sector.

836. The Government reported that the public authorities have encouraged both governmental institutions and non-governmental organizations to establish women's advice centres and refuges for women in distress.³²¹ One of the measures adopted was to open registers in casualty departments and police stations to identify cases of battered women. A circular from the Ministry of Public Health, dated 11 November 1995, called on hospital casualty departments to report to the authorities concerned all cases of violence that they admitted or treated. Pursuant to article 28 of the Child Protection Code, a body of regional child protection officers has been established at the rate of one or two officers per governorate based on the needs and density of the population.³²²

837. At the level of social and political communication, a national plan of action for the family campaign made a substantial contribution to promoting dialogue as a way of forming relations based on equality and mutual respect and as a means of managing disputes. The Ministry launched a national awareness raising campaign under the title of "civic responsibility begins at home" in 1995 for Women and Family Affairs in association with ERTT.³²³ The project to create a television programme for the family in order to strengthen its skills in providing socialization in human rights values, are all measures which combine to offer fresh prospects in the fight to eliminate sexual stereotypes in social, media and cultural communications.

838. Still within the framework of the national plan of action for the family, the Ministry for Women and Family Affairs has undertaken two major studies. The first study, conducted in 1998/99 on socialization within the family, highlighted the growing importance of the value of dialogue as a method of dispute management and of education within the family. The second study on relations within the family, which was scheduled for the year 2000, aims to identify violence in couples and between family members.

839. In 1960, Tunisia was the first Arab and African country to adopt a family planning policy to achieve a balance between population and economic growth. The National Report (1995) maintains that this policy was also designed to give women the right to control their sexuality, and thus enable them to redefine their position in society.³²⁴ Tunisia's family planning policy (and, more recently, its primary health care policy) offers relatively complete health coverage for Tunisian women. Indeed, Tunisia is one of the few developing countries where there is virtually no gap between rural and urban areas in terms of female infrastructure and maternity care services.³²⁵

Issues of concern

840. Violence against women occurs, but there are no comprehensive statistics to measure its extent.³²⁶ According to information received in 2000, women file 4,000 complaints of domestic violence each year, but later drop approximately half of those complaints. Instances of rape or assault by someone unknown to the victim are rare. Police intervention often is ineffective because police officers and the courts tend to regard domestic violence as a problem to be handled by the family. Nonetheless, instances of rape or assault by someone unknown to the victim are rare. There have been no reported cases of trafficking, forced prostitution, or sex tourism.

841. Women continue to enter the work force in increasing numbers, particularly in the textile, manufacturing, health, and agricultural sectors. According to 2000 government statistics, women constituted 29 per cent of the work force. There are an estimated 5,000 businesses headed by women, which is an increase from 3,900 in 2000. Women serve in high levels of the government as cabinet ministers or secretaries of state. Women constitute 37 per cent of the civil service, employed primarily at the middle or lower levels in the fields of health, education, and social affairs. Women constitute 60 per cent of all judges in the capital and 24 per cent of the nation's total jurists. Four women were named deputy governors during the year bringing the number to 10 out of 24.

842. Approximately 50.4 per cent of university students enrolled in the 2000-2001 academic year were women. While the rate of illiteracy has dropped markedly in both rural and urban areas, the rate of female illiteracy in all categories is at least double that of men. Among 10- to 14-year-old children, 5.5 per cent of urban girls are illiterate, compared with 2.2 per cent of urban boys, and 27 per cent of rural girls compared with less than 7 per cent of rural boys.

United Arab Emirates

843. The United Arab Emirates has not acceded to the Convention.

Legislation

844. The Constitution notes: "The family is the basis of society, which shall be responsible for protecting childhood and motherhood. Laws shall be formulated in all fields to observe this protection and care, in a way which safeguards the dignity of women, preserves their identity and secures for them the conditions appropriate for a prosperous life and suitable work which is in accordance with their nature and capabilities as mothers and wives and as workers".

845. The law permits men to have more than one wife, but not more than four, at a time, and the practice is widespread. Divorce is permissible. A woman may be granted a divorce if she can prove that her husband has deliberately stayed away from her for three months and has not paid for her upkeep, or for the maintenance of her children. Divorced women are granted custody of female children until they reach the age of maturity; they are granted temporary custody of male children until they reach the age of 12.

846. The law prohibits cohabitation by unmarried couples. The Government may imprison and deport non-citizen women if they bear children out of wedlock. In the event that a court sentences a woman to prison for such an offence, local authorities, at the request of the prisoner, may hold the newborn children in a special area within the confines of the prison or place them with a relative. In rare cases, children are held in other facilities until the mother's release. In Dubai Emirate, unmarried pregnant women must marry the father of the child; both parties are subject to arrest for fornication.

847. Under the terms of the Labour Law, which governs employment, for example, it is prescribed that there shall be no discrimination between men and women in terms of salaries for the same posts. Moreover, the architects of the law have taken into account the fact that certain special conditions apply to women.³²⁷ The officially supported UAE Women's Federation is currently campaigning for amendments to the law, to provide yet further support. One focus of the campaign is for the Civil Service Law to be changed, to promote further employment of women in Government. The last proposal is currently being studied, and would, if adopted, have a major impact upon the legal rights of young mothers.

848. At an international level, the Government is in the process of studying all international agreements on the elimination of all forms of discrimination against women. The purpose is to ensure that any clauses these may contain do not contradict the UAE's own legal code and laws.

Policies and programmes

849. The UAE Women's Federation itself was established in 1975, at the initiative of Sheikha Fatima, to bring together under one umbrella all the women's societies in all seven emirates. The aim of the Federation, is to develop on a national scale the appropriate opportunities, in all aspects of life, for the country's women to achieve the full realization of their capabilities.³²⁸

850. A conference to launch the "National Strategy for the Advancement of Women in the UAE" was held in December 2002 at the premises of the General Women's Union.³²⁹

851. Access to education and to opportunities for employment is reportedly a key part of the Government's strategy for developing the human resources of the State, one, moreover, which is based upon the objective of offering equality of opportunity to both men and women. Women officially are encouraged to continue their education, and government-sponsored women's centres provide adult education and technical training courses. Uniquely amongst the six member states of the Arab Gulf Cooperation Council, moreover, the federal armed forces accept female volunteers, who may enroll in a special training course that was begun after the Gulf War. The Dubai Police College also recruits women; many are deployed at airports, immigration offices, and women's prisons.

Issues of concern

852. There continue to be credible reports of physical and sexual abuse of female domestic servants by some local and foreign employers.³³⁰ There are also some reports of sexual harassment in the workplace. Sexual harassment outside the workplace and sexual discrimination

are reportedly widespread. As a form of deterrence, Dubai-based newspapers regularly publish pictures of men arrested in Dubai for harassing women in public places.

853. Trafficking in women for the purposes of sexual exploitation is reportedly a problem, even though no accurate statistics are available. Prostitution has become an increasingly open phenomenon in recent years, particularly in Dubai. Substantial numbers of women arrive from the States of the former Soviet Union, Africa, East Asia, Eastern Europe, and other States of the Middle East for temporary stays during which they engage in prostitution and possibly other activities connected with organized crime. There is credible evidence to suggest that the majority of these women seek to enter the country in order to make substantially more money than they could earn in their home countries by engaging in prostitution.

854. Women play a subordinate role in the family-centred society because of traditional attitudes regarding women's duties and early marriages. Cultural attitudes also deter ownership by women. Custom dictates that a husband may bar his wife, minor male and female children, and adult unmarried daughters from leaving the country, and a married woman may not accept employment without her husband's written consent, although such permission usually is granted.

855. It is clear that the women of the United Arab Emirates have made substantial progress, in terms of literacy and education in general, health care and employment opportunities.³³¹ Citizen and non-citizen women constitute 15 per cent of the national workforce. The Federal Government publicly has encouraged citizen women to join the workforce, ensuring public sector employment for all that apply. According to the available statistics, women constitute 100 per cent of nursery school teachers, 55 per cent of primary school teachers, 65 per cent of intermediate and secondary school teachers, 54 per cent of healthcare workers, and 40 per cent of all government employees. Women also constitute 4 per cent of the military. At the same time, however, there remain a number of problems yet to be solved if the country's women are to be permitted to play their full role in all spheres of society. At the legal level, of course, women are guaranteed equality of opportunity, and of legal rights, with men. In practical terms, however, more needs to be done.

856. Much remains to be done, partly because of constraints placed on female employment by social attitudes. Some UAE men, for example, are opposed to women working at all, while others will approve of female members of their family only working in areas of activity in which they do not come into contact with men. While women's participation in education exceeds that of men, their share in the workforce is still relatively weak and the traditions that hold them back remain strong. Despite all the incentives and official encouragement given to them to continue education, many young women and girls leave school early to marry and perhaps raise children. These attitudes, however, are changing, partly as a result of the Government's active encouragement of female employment.³³²

Yemen

857. Yemen acceded to the Convention on 30 May 1984. Yemen's fourth periodic report³³³ has been submitted but is not yet scheduled for consideration by the Committee; the fifth periodic report is due 29 June 2001. Reservations were made to article 29, paragraph 1.

Legislation

858. The law provides for protection against violence against women; however, it is reported that such provisions rarely are enforced. Law prohibits rape. Prostitution is prohibited and it is generally grouped together with adultery for the purposes of punishment under the Penal Code.³³⁴ The legal system does not appear to make any distinction between forced and consensual prostitution and it is unclear as to whether women who are forced or trafficked into prostitution are also liable to punishment. Slavery is prohibited and punished under article 248 of the Penal Code which stipulates that "whosoever: buys, sells or presents a human being as a gift; brings into the country or takes a person out of the country for the purpose of trading that person; shall be punished with imprisonment for a period not exceeding 10 years." It should be noted, however, that this article does not explicitly address trafficking in persons for the purposes of forced or bonded labour or for sexual exploitation.³³⁵

859. Of particular concern is article 40 of the Personal Status Act that establishes the marital obligations of the wife. Article 40 states that a woman is legally required to provide her husband with "sexual access", thereby excluding the possibility of marital rape. The article states that wives are required to obey their husbands in all "matters that are not sinful" and to perform tasks in the marital house.

860. The Penal Code allows for leniency for persons guilty of committing a "crime against honor".³³⁶ Legal provisions regarding violence against women state that an accused man should be put to death for murdering a woman. However, a husband who murders his wife and her lover may be fined or imprisoned for a term not to exceed a year.

861. Discrimination against women is deeply entrenched in Yemeni legislation and there are provisions in the Penal Code, the Personal Status Act (1992) and the Citizenship Law that clearly violate international norms prohibiting discrimination on the grounds of gender.³³⁷ Polygamy is permitted and regulated by article 12 of the Personal Status Act. By law the minimum age of marriage is 15. However, the law largely is not enforced, and some girls marry as early as age 12.³³⁸ The Personal Status Act (1992) governs family law in Yemen. The Act contains many provisions that discriminate against women; for example, article 23 provides that while the consent of the bride is required in order to conclude the marriage contract, when the bride is a virgin silence will be interpreted as consent.

862. The law provides that the wife must obey the husband. She must live with him at the place stipulated in the contract, consummate the marriage, and not leave the home without his consent. With regard to divorce, the Personal Status Act allows for verbal unilateral repudiation of the wife by the husband in its articles 72 to 74. A woman has the legal right to divorce; however, she must provide a justification, such as her husband's non-support, impotence, or taking of a second wife without her consent. The expense of hiring a lawyer also is a significant deterrent, as is the necessity for rural women to travel to a city to present their case.³³⁹ When a divorce occurs, the family home and older children often are awarded to the husband. The divorced woman usually returns to her father's home or to the home of another male relative. Her former husband must continue to support her for another three months, since she may not remarry until she proves that she is not pregnant.

863. The law permits a Muslim man to marry a Christian or Jewish woman, but no Muslim woman may marry outside of Islam. Women do not have the right to confer citizenship on their foreign-born spouses; however, they may confer citizenship on children born in the country of foreign-born fathers. The Special Rapporteur also expresses her concern as women who seek to travel abroad must obtain permission from their husbands or fathers to receive a passport and to travel. They also are expected to be accompanied by male relatives. However, enforcement of this requirement is not consistent.

864. According to the information received, the application of tribal laws or *ahkam al-aslaf* (rules of ancestors) continues to have a direct and frequently negative impact upon the human rights of women in Yemen.³⁴⁰

Policies and programmes

865. The Government consistently supports women's rights and the expansion of the public role of women.³⁴¹ The President frequently speaks publicly about the importance of women in politics and economic development. In 1999 the Prime Minister mandated that all ministries must promote at least one woman to the director - general level. In addition in late 2000, the Ministry of Interior initiated an aggressive campaign to recruit and train female police officers; the new officers completed training and were deployed in March 2002. In 2000 the Prime Minister established the Supreme Council for Women, an independent governmental body charged with promoting women's issues in the Government. With the Government's active support, bilateral and multilateral donors have initiated long-term (1994-2004) projects worth US\$ 31 million (4.96 billion riyals) aimed at advancing vocational education and reproductive health for women and girls. The Ministry of Labour and Vocational Training has recently developed a National Strategy for Women Employment (2001-2011), which aims to lead women to economic, social and cultural changes at urban and rural areas.³⁴²

866. The Government's publication of the data on female genital mutilation (FGM) was an important first step in addressing this problem. In January 2001 the Cabinet issued a decree making it illegal for public or private health service practitioners to practise FGM, and some government health workers and officials continue to discourage the practice actively and publicly. However, FGM technically remains legal, and local women's groups have not adopted the problem as a major concern.

867. The National Women's Committee (NWC), a Government-sponsored semi-independent women's association founded in 1996, promotes women's education and civic responsibility through seminars and workshops and by coordinating donors' programs. The committee's chairwoman sits on the Prime Ministerial Supreme Council for Women. In July the NWC, in a legal reform project financed by the World Bank, completed a 6 month review of 58 significant national laws to find and rectify provisions that discriminated against women or violated equal status requirements agreed to by the Government in international conventions. The team identified sections of the law with such problems, developed revised language, provided a legal justification, and offered an Islamic interpretation to validate the change.³⁴³ The Cabinet has approved the recommended changes in principle, with some revisions; the NWC is working with

Parliament to formally change the law; however, Parliament passed no legislation regarding this matter by 2002.

Issues of concern

868. Yemen is among the countries with one of the lowest levels of gender equality in the world according to the criteria developed by the United Nations Development Programme. In the 2001 Human Development Report, Yemen ranks 131 out of the 146 countries that figure on the gender development index.³⁴⁴ Characterized by low levels of female literacy, high average birth rates as well as high maternal mortality, a lack of female representation and participation in decision-making structures at all levels of government, restricted educational and economic opportunities for women and high levels of violence against women in both the private and public spheres.³⁴⁵

869. In general, the position and status of women in Yemeni society are heavily influenced by family and tribal structures and the “correct behaviour” of women is regarded as being central to the honour of the family.³⁴⁶ These social customs inform and support restrictive interpretations of religious laws and have frequently resulted in ongoing violations of women’s rights, including a widespread failure to provide women with legal protection against violence and the increased vulnerability of women to accusations of “moral crimes.”³⁴⁷

870. The press and women's rights activists only recently have begun to investigate or report on violations of women's rights. NGO-sponsored conferences in April and September 2001 attempted to raise the media's awareness of violence against women. The Women's Forum on Research and Training conducted a workshop on domestic violence for security and NGO officials in September. The issue of violence against women became a topic of heated public debate in 2000, following the murder of two female students at Sana'a University's medical school and extensive press reports documenting the authorities' dismissive treatment of the female students' concerns and inadequate attention to their security.

871. Violence committed against women by family members is reportedly a widespread and increasingly serious problem in Yemen. The exact extent and scope of this violence are difficult to quantify given that women are, for a number of reasons, unlikely to report domestic violence and that there has been very little research carried out at the national level.³⁴⁸ A team of two researchers completed one of the first exploratory studies on domestic violence in Yemen in August 2000. The survey revealed that 46.3 per cent of the women questioned had experienced battering by spouses or other family members at some point in their lives.³⁴⁹ Patriarchal socio-cultural attitudes and practices both perpetuate and reinforce domestic violence as it is widely believed that physical abuse by a husband in the privacy of the home is not aberrant behaviour but rather an acceptable way to enforce the duty of conjugal obedience.³⁵⁰ One study notes that even though there are more governmental channels through which crimes, including domestic violence may be reported, there is a generalized reluctance among victims to use these due to a lack of confidence in these processes.³⁵¹

872. In spite of the fact that it would appear that domestic violence is a serious and relatively widespread phenomenon in Yemen, there is no specific legislation on domestic violence. The few cases of domestic violence that are prosecuted are brought under the general assault

provisions of the Penal Code which do not take into consideration the special relationship that exists between the perpetrator and the victim in cases of family-based violence. In fact, certain provisions in Yemeni legislation actually serve to perpetuate and condone domestic violence.³⁵² As mentioned previously, marital rape is effectively condoned in article 40 of the Personal Status Act that provides that a woman is legally obliged to grant her husband “sexual access.” In addition in many cases, women who are victims of violence in the family are treated as co-perpetrators and in the event that they do decide to report crimes of violence committed against them by family members, they actually run the risk of being punished.³⁵³

873. Some citizens reportedly practice female genital mutilation (FGM). According to a 1997 demographic survey conducted by the Government, nearly one-fourth (23 per cent) of women who have ever been married have been subjected to FGM.³⁵⁴

874. Women in Yemen reportedly suffer from entrenched gender discrimination in the judicial and penitential systems and women are frequently subjected to arbitrary detention for alleged crimes against “morals.”³⁵⁵ UNICEF estimated that in 1998 there were approximately 1,000 women incarcerated in State detention facilities through Yemen.³⁵⁶ There have been numerous reports that conditions for female prisoners are reportedly very poor with allegations that male prison staff routinely abuse detained women.³⁵⁷

C. The Asia-Pacific region

875. This section contains an overview of developments in the Asia-Pacific region in the area of violence against women during the period 1994-2003. It will discuss the commonalities, trends and patterns in the region. It also contains information on the two regional mechanisms, namely, the South Asia Association for Regional Cooperation and the Association of Southeast Asian Nations.

876. Nearly all the States in the Asia-Pacific region have ratified the Convention. Notable exceptions are Brunei and some of the Pacific Islands. Although a majority of the countries in this region are party to the Convention, many of the countries have reservations. Some of the exceptions are Bhutan, Cambodia, Japan, the Lao People’s Democratic Republic, Mongolia, Nepal and Sri Lanka.

877. However, many countries in the region adopt a “dualist” approach to international law. Therefore, unless the Government passes separate legislation, these international standards, including the Convention, cannot be enforced in the domestic legal system.³⁵⁸

878. There is an explicit reference to gender equality in many national constitutions in the Asia-Pacific region.³⁵⁹ However, these are often juxtaposed by discriminatory laws and practices.³⁶⁰

879. A number of countries have paid increased attention during the period under review, to the issue of violence against women in the region. Measures taken include establishing national commissions for the protection of women’s human rights, enactment of new constitutional provisions and other legislation and the adoption of national plans of action to combat the problem of violence against women. Governments have taken the initiative in some countries to

enact domestic violence legislation like in Malaysia. Steps have been taken to make investigative procedures more women-friendly with the creation of women's police desks.³⁶¹ There are many examples of gender sensitization programmes in the region. Support services have also been strengthened. These include medical and counselling support, legal aid, financial and housing assistance. Eradicating poverty, illiteracy and providing basic health care and reproductive health care continue to remain a priority area of concern in this region. Visible progress has been made in improving female life expectancy and reducing maternal and child mortality rates in several countries in the Asia-Pacific region.³⁶² Campaigns to educate the public on women's human rights and other awareness-raising methods have been used quite successfully. There has also been an increase in civil society activism. Closer collaboration has been observed between regional and national non-governmental organizations and the private sector with the Government.

880. Progress in some countries is slow. This is mainly due to societal attitudes such as stigma attached to victims of violence or divorcees or the belief that violence in the home is a private affair. State inaction on the issue has compounded the situation.

881. Most countries in this region have a system where family relations are governed by different regimes of law depending on religion or ethnicity. Post-colonial nationalism and a sense of ethnic and religious identity have contributed to a resurgence of these personal or local laws. This trend has been re-enforced by politicized religious fundamentalism that has given way to militant resistance to any change. This was aptly demonstrated in Afghanistan.³⁶³

882. Arguments that women have duties in the community and the family in Asian societies which transcend individual rights or the idea that human rights are "Western" concepts often pose a challenge to the recognition of the universality of international norms and standards on gender equality and non-discrimination and provide a rationale to perpetuate violence against women.

883. Many countries in the region are either participating in an armed conflict or are recovering from one.³⁶⁴ The issues of custodial violence against women, violence against female combatants and the general sense of lawlessness pose a major threat to women's human rights

884. Globalization has in one way expanded the opportunities for women but it has also had the negative impact of increasing the vulnerability of women in the region and exacerbating the inequalities between men and women. The feminization of migration, especially illegal women workers and those that were trafficked, pose a challenge for human rights protection in this region. Some countries in the region have been adversely affected by the recent financial and economic crisis and the effect it has had on women was detrimental. The spread of HIV/AIDS is another challenge these countries are beginning to face.

The South Asian Association for Regional Cooperation (SAARC)

885. SAARC comprises seven countries of South Asia: Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan and Sri Lanka. A focus on social issues under the broad heading of Health and Population Activities was one of the original five areas of cooperation. The primary

focus was on maternal and child health, primary health care and control and combating of major diseases including HIV/AIDS. Thirteen meetings have been held of the Technical Committee on Women in Development since gender issues were included under the Integrated Programme of Action in 1986. Activities include pursuing a Regional Plan of Action for Women, publishing the SAARC Solidarity Journals on specific themes on women, and holding gender-related workshops, seminars and training programmes.

886. The SAARC Convention on Preventing and Combating the Trafficking in Women and Children for Prostitution and the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia were both signed in January 2002 at the inauguration of the Eleventh Summit in Kathmandu, Nepal. The Trafficking Convention is to promote cooperation amongst member States to effectively deal with various aspects of prevention, interdiction and suppression of trafficking in women and children; repatriation and rehabilitation of victims of trafficking and preventing the use of women and children in international prostitution networks, particularly where the SAARC member countries are the country of origin, transit and destination.

Association of Southeast Asian Nations (ASEAN)

887. Since the 1980s, ASEAN has placed high priority on the integration of women in the development progress of the region. In an effort to undertake regional cooperation to uplift the status of women and to meet their needs and aspirations, the Declaration of the Advancement of Women in the ASEAN Region was signed in Bangkok in July 1988. The Declaration called for the promotion of women in all fields and at various levels of the political, economic, social and cultural life of society. The ASEAN Plan of Action for Children was adopted in 1993 to deal with issues related to child abuse, neglect and exploitation including child prostitution and child trafficking.

888. ASEAN Heads of State or Government summits have called for the protection of women and children. At the fifth ASEAN Summit in December 1995, the need for equitable and effective participation of women in all levels of society was reiterated. ASEAN was called upon to take firm and stern action to combat transnational crime, including trafficking in women and children at the ASEAN Summit in December 1997. The ASEAN Vision 2020 and the Hanoi Plan of Action deal with combating trafficking and crimes of violence against women and children.

889. The ASEAN Committee on Social Development established the ASEAN Subcommittee on Women in 1976 with the aim to promote and implement activities for the effective participation of women in all fields and levels. The Subcommittee has been actively involved in promoting public awareness among policy makers, programme planners and implementers on the role of women in development.³⁶⁵

Pacific region

890. The Pacific Women's Network Against Violence Against Women³⁶⁶ was established in 1992. The Network links Governments and non-governmental organizations throughout 13

Pacific Island countries that are working to eliminate violence against women. It embraces 35 agencies and organizations. After the inaugural meeting in Suva in 1992 a second regional meeting was held in 1996. The aim of the second meeting was primarily to review programmes on violence against women and to devise a regional plan to address the disturbing trends in this area in the Pacific region. Although the third regional meeting was scheduled for August 2000, it was postponed to February 2001 because of the political instability in Fiji.

891. The Network is involved in providing counselling and support services, community awareness on the issue of violence against women and children and lobbying for policy and legislative reform to promote and protect women's human rights. It also publishes a regional newsletter that is published by the Fiji Women's Crisis Centre, which acts as the secretariat for the Network, with funds from AusAID.

892. A Pacific Regional Workshop on Strengthening Partnerships for Eliminating Violence Against Women, is planned for February 2003. It is a joint collaboration between the United Nations Development Fund for Women (UNIFEM) Pacific, the Commonwealth Secretariat, the Pacific Islands Forum Secretariat and the Secretariat of the Pacific Community. The three-day workshop will bring together a diverse range of stakeholders, committed to working together to eliminate all forms of violence against women. One of key outcomes of the workshop is the formulation of practical recommendations and national and regional draft plans of action. This workshop, is an opportunity for participants to review the progress made by Pacific Island governments in implementing their commitments made to eliminate violence against women through their ratification of the Beijing Platform for Action, the Pacific Platform for Action and the Biketawa Declaration, as well as national plans of action, such as the Fiji Government's own Women's Plan of Action (WPA), and of course the State party commitments in the Convention on the Elimination of All Forms of Discrimination Against Women. NGOs will also have their say in a number of sessions organized for the workshop, giving them an opportunity not only to address the impact of recent political conflicts in the Pacific region, but also address some of the traditional and religious obstacles to eliminating violence against women.

Afghanistan

893. Afghanistan signed the Convention in 1980.

Legislation

894. Although the Interim Administration³⁶⁷ cancelled all decrees and laws passed by previous authorities, it is unclear whether the Taliban issued decrees are indeed abolished. On 5 October 2002 the Transitional Administration established a Drafting Committee of the Constitutional Commission. The Committee, composed of nine members, two of whom are women, is to prepare a preliminary draft of the Constitution to be finalized by the full Constitutional Commission that will be appointed at a later stage. As decided at the Emergency Loya Jirga, the former King Zahir is to oversee the work on the new Constitution. The final draft of the Constitution will be submitted for adoption to a Constitutional Loya Jirga to be held in 2003.

Policies and programmes

895. In April 2002, Afghanistan began the process of choosing its next Government to replace the Interim Administration. While there are reserved seats for women representatives at the Loya Jirga, women face considerable challenges due to entrenched traditional attitudes and the security situation prevailing in the country.³⁶⁸

896. According to the terms of the Bonn Agreement, the Interim Authority established the Ministry of Women's Affairs to protect and promote women's rights. The Ministry is involved in legal counselling, awareness-raising on women's human rights, health and reproductive health education. It intends to set up women's centres in the provinces to provide a space for women to gather and receive counselling.³⁶⁹ Following the Loya Jirga, the Transitional Islamic Government of Afghanistan developed the post of the State Minister for Women's Affairs.³⁷⁰

897. The United Nations Assistance Mission in Afghanistan (UNAMA) is working closely with the Ministry to strengthen their capacity to formulate a national policy on the human rights of women.³⁷¹

898. The Afghan Independent Human Rights Commission is the main national institution in the field of human rights. The promotion of the human rights of women is one of their four main areas of work. It focuses on sensitizing government officials and others to women's rights, non-discrimination and rights of Afghan women. The Afghan Human Rights Commission works with UNAMA in the monitoring, investigating and reporting activities focused on the violations of women's rights.

Issues of concern

899. At the invitation of the Governments of Pakistan and Afghanistan, the Special Rapporteur on violence against women, its causes and consequences, visited Pakistan and Afghanistan from 1 to 13 September 1999, to study the issue of violence against Afghan women. In Afghanistan, the Special Rapporteur visited Faizabad on 7 September 1999 and Kabul from 9 to 11 September 1999. E/CN.4/2000/68/Add.4. She had also requested access to Mazar-e-Sharif, but owing to a misunderstanding it was not possible for the visit to take place.

900. In the post-Taliban era, women and girls have improved access and freedom to participate in public life, education, health care and employment. However women continue to fear physical violence and insecurity, especially outside of Kabul. Warlords are still in power and people fear breakdown of the fragile security arrangements. A Human Rights Watch report discusses the way women's human rights are denied by mounting abuses, harassment and restriction of their fundamental human rights. Earlier restrictions remain in place in many parts of the country. Throughout 2002, girls' schools in at least five different provinces have been set on fire or destroyed by rocket attacks.³⁷² The lack of security outside Kabul and therefore the lack of physical safety limit women's participation in the reconstruction of Afghanistan.³⁷³

901. Rape, including significant incidence of gang rape and rape of women and girls from minority communities in the north, women and girls from nomadic groups, female aid workers, and female members of aid worker's families, has been a common and recurrent manifestation of the current insecurity. Since the Taliban were overthrown, unresolved long-standing inter-ethnic tensions and conflicts are generating important new population movements particularly of Pashtuns from the North. Pashtuns have been subject to numerous abuses, including sexual violence, killings, extortion and looting.

902. Women continue to be incarcerated, often in prisons not meeting the requirements of basic international standards, for acts deemed to be social offences such as refusal to consent to arranged marriages, running away from abusive spouses or families, and alleged infidelity. Such incidents of incarceration are attributed to efforts to protect women from violent retribution from families or communities, a perceived need to enforce social customs and community practices, and an absence of social or institutional alternatives to incarceration. In November 2002 Afghan President Hamid Karzai issued a decree to pardon 20 women held in a Kabul prison accused of minor crimes. A commission comprised of the Ministry of Interior and Kabul prison authority has reportedly also recommended the release of another 13 female prisoners.

903. There are allegations of female trafficking involving Afghan girls. It is believed that girls are purchased inside Afghanistan and taken to Pakistan, where they are sent to Iran, Gulf States, and other places to be prostitutes or wives. In Pakistan, some girls reportedly remain in brothels that exist solely for Afghans.

904. The UNAMA Human Rights Team has undertaken investigation of cases of domestic violence, forced marriages, kidnapping of young girls by local commanders, attacks against girl schools in some parts of the country, and restrictions affecting women's basic freedoms. In each of these situations, UNAMA officials have worked closely with community leaders and Afghan authorities to promote corrective action and bring about adherence to principles enunciated by the Universal Declaration of Human Rights³⁷⁴.

Australia

905. Australia has ratified the Convention (1980) but continues to maintain two reservations to the Convention in articles 11, paragraph 2, and 7 (b). The Australian government announced in August 2000 that it would not ratify the Optional Protocol to the Convention.

Legislation

906. Criminal law in Australia is the jurisdiction of state or territory governments, therefore each state or territory has its own disparate criminal laws, organizations structures and government departmental procedures.³⁷⁵

907. One of the key features of the Australian legal system for dealing with violence against women is the combination of both criminal remedies against the perpetrator and civil protection (restraining orders). Restraining orders are frequently used in domestic violence situations. They are interim orders that can be obtained quickly – a magistrate can make the order on the balance

of probabilities that the applicant will suffer further harm. Further, the order can be tailored to specific violence or harassing conduct, the breach of which is a criminal offence. These orders are frequently used by women and can be obtained without legal representation. Problems with restraining orders lie in enforcement and response to reports of domestic violence. Police response to domestic violence, as the initial and vital intervention, is often inadequate.

908. There has been significant law reform in Australia over the course of the last two decades with regard to violence against women. The Sex Discrimination Amendment Act 1995 (No.165 of 1995) made significant changes in relation to the test for indirect discrimination, the test for direct pregnancy discrimination, combat-related duties exemption and a comprehensive special measures provision. There has also been law reform in the area of domestic violence and the law of rape. The Family Law Reform Act 1995 (No. 167 of 1995) amends the 1975 Act.

909. Recent amendments to the Commonwealth Criminal Code were incorporated to create offences of slavery, sexual servitude and deceptive recruiting for sexual services.³⁷⁶

Policies and programmes

910. The Government has many programmes and policies with regard to violence against women. The Family Violence Intervention Program (FVIP) is one example, a coordinated criminal justice and community response to criminal family violence matters.³⁷⁷ The coordinated inter-agency response was recommended by the ACT Community Law Reform Committee in 1995 and accepted by Government in 1996. In 1997, a working group of key agencies began meeting on the issue. This resulted in: drafting a successful submission to the national *Partnerships Against Domestic Violence* initiative for a pilot inter-agency program, the establishment of the Criminal Justice Sub-Committee (CJSC) of the Domestic Violence Prevention Council (DVPC) and the Initiation of the pilot FVIP (May 1998-June 1999).

911. The New South Wales Women's Domestic Violence Court Assistance Program³⁷⁸ has been highly successful in encouraging domestic violence victims to press charges against their abuser and in supporting them through the process. The program is funded by the New South Wales government, managed by the Legal Aid Commission and comprises 33 Court Assistance Schemes across NSW as well as a Training and Resource Unit based at the Domestic Violence Advocacy Service. Workers at the program provide support in the broadest sense, including advocacy, referral and information. Many of the workers have survived domestic violence situations themselves and several are from immigrant or Indigenous backgrounds. Special "safe rooms" have been put aside in the courts where the program workers meet with domestic violence victims.

912. In 1997, the federal Government launched a national initiative called Partnerships Against Domestic Violence, a Commonwealth initiative that works with the state and territory governments to prevent domestic violence.³⁷⁹ This program has enabled a number of innovative programs targeting key areas to be trialed, such as increased support programs in rural areas and for Indigenous women. However, it is reported that the program has focused overly on the production of information material and failed to address certain key areas such as ongoing funding for community services and training for service providers, particularly government

employees. Women from non-English speaking backgrounds were not identified as a key area even though research shows them to be the most vulnerable to violence.

913. The New South Wales Department of Health has sponsored an innovative education program specifically for Aboriginal family health workers. The program has been developed by the Education Centre Against Violence in NSW and contains modules that consider power relationships in relation to race, the use of power in Australian history against Indigenous Australians, family violence in Indigenous communities, adult sexual assault, violence and young people and child abuse. The training is an important tool for empowering Aboriginal support workers and expanding their knowledge and skills. The next phase of the project is to develop similar training for non-Aboriginal workers who provide mainstream health and violence support services.

914. The National Indigenous Family Violence Grants Programme established in 2001 to help local indigenous communities take action to reduce family violence.

915. The Australian Government recently allocated Aus\$ 16.5 million for a National Initiative to Combat Sexual Assault, but funding was dramatically cut in 1997 for work that was done on workplace sexual harassment.

916. The Education Centre Against Violence is a specialist organization committed to producing high-quality training and resources for doctors and inter-agency professional working women and children who have suffered violence.

917. The Human Rights and Equal Opportunity Commission released a Convention package on International Women's Day 2001.³⁸⁰ The package aims to educate women in Australia about the human rights parameters of their lives.

Issues of concern

918. While these achievements should be acknowledged, Australian women still continue to endure acts of violence.³⁸¹ Many scholars have argued that disturbing trends, such as the re-emergence of "men's rights" movements and the focus on the family at the expense of fundamental women's human rights, have impeded on women enjoying their rights. The 1996 Women's Safety Survey that was carried out by the Australian Bureau of Statistics found that, out of women who have been married or in a de facto marital relationship, 23 per cent experienced violence by a partner at some time during or following the relationship.³⁸² In 2001 the number of reported sexual assaults rose to 16,744 from 15,759 in 2000 and the 1996 Women's Safety Survey found that nine out of 10 victims of sexual assault did not report the assault to the police. The most significant group of women suffering domestic violence in Australia are indigenous women. Because of the growing problem of racism, non-Australian women living in Australia or indigenous women cannot fully benefit from the strong legislative framework and comprehensive support systems. The second most affected group are immigrant and refugee women. Although Australian law provides a special protection for women in Australia on a temporary spouse/partner visa who suffer domestic violence, the affected group is unaware of these rights.

919. The Chief Justice of the Supreme Court of Victoria, Justice Phillips AC argued in 1999³⁸³ that the long-established laws on provocation and self-defence in murder trials should be changed in Victoria to encompass the experiences of battered women.³⁸⁴ He stated that the laws had been developed from a male perspective and do not adequately take account of the experiences of a person trapped in a violent relationship and accused of a violent crime against their spouse or partner.

920. According to information received,³⁸⁵ there is an urgent need to assess the effectiveness of current training programs for health professionals and to implement new programs in consultation with relevant community organizations. There is also a need to increase funding for gender-sensitive health initiatives aimed at assisting survivors of domestic violence and sexual abuse.

Bangladesh

921. Bangladesh has ratified the Convention (1984) with two reservations, to articles 2 and 16, paragraph 1 (c). Two other reservations, to articles 13 (a) and 16, paragraph 1 (f) were withdrawn in 1997. The Government of Bangladesh signed the Optional Protocol to the Convention in September 2000 with reservations to articles 8 and 9.

Legislation

922. The Government of Bangladesh has formulated four special laws to prevent oppression of women in the last 10 years: the Repression against Women and Children Prevention (Special Provision) Act, 1995; the Repression against Women and Children Prevention Act, 2000; the Control of Acid Violence Act, 2002; and the Acid Control Act 2002.³⁸⁶ Under these acts Special Tribunals have been set up for the speedy trials of violence-against-women cases. Special provisions such as in camera trials and investigations within a certain time limit are made available. Special Tribunals have also been established across the country to exclusively deal with cases of dowry-related violence, rape, trafficking, kidnapping and abduction. Under the Bangladeshi Suppression of Violence Against Women and Children Act 2000 trafficking of women and children is illegal. Harsh penalties are prescribed for the offenders. There have been reports that Bangladesh is also in the process of drafting a domestic violence Act.

Landmark cases

923. Among the landmark cases on violence against women in Bangladesh was the rape case of *Al-Amin v State* [51 DLR 1999, 154-179], the Court observed that the definition of rape contained in the Penal Code should be amended to remove certain loopholes and inadequacies, among other recommendations.

Policies and programmes

924. Following the Beijing Platform for Action, the Government has adopted a National Policy for Advancement of Women and an Action Plan in 1997 in which violence is a priority area for intervention. The National Council for Women's Development and the Law Commission are

specifically mandated to propose reforms of laws and procedures to prevent violence against women. The Ministry of Women and Children Affairs along with four other ministries are implementing the Multi-Sectoral Programme on Violence against Women, which provides legal, psychological and medical support, a rehabilitation programme and a DNA laboratory will be set up soon. A One-Stop Crisis Centre was established in the Dhaka Medical College Hospital to provide treatment and support for victims of violence in August 2001.³⁸⁷

Issues of concern

925. At the invitation of the Governments of Bangladesh, Nepal and India, the Special Rapporteur on violence against women, its causes and consequences, visited Dhaka, Kathmandu, Bhairahwa in Rupandehi district, Delhi, Bombay and Calcutta from 28 October to 15 November 2000, to study the issue of trafficking in women and girls in the region (E/CN.4/2001/73/Add.2).

926. Despite some positive legal developments, some steps are seen as going back on women's rights. In 1998, the Government of Bangladesh imposed a ban on women travelling abroad to work as housemaids and nurses as a response to the growing number of abuse of women working abroad. These protective measures have serious consequences for women's human rights in Bangladesh.

927. Fatwas, or the illegal practice of rural elders and religious leaders meting out punishments, primarily to women, were on the increase throughout the decade, seriously preventing women from fully enjoying their rights.³⁸⁸ Although this practice is illegal and the High Court has ruled that these religious edicts are illegal, it continues. There have been a few reported cases of violence against women in custody. The case of Shima Choudhury in July 1997 is about a woman who was raped in custody and died while in detention.³⁸⁹

928. The problem of "safe custody", where women and children are taken in to custody for their own "protection" is a rising issue and one of great concern. People who are victims of crimes or circumstances are collected by the police and taken to prison and treated like convicted prisoners. Most often they are women who are illiterate or homeless. Others include girls marrying outside of their religious community or against their parents' will, women who have left their homes due to domestic violence or victims of trafficking. Although they have been imprisoned without conviction they are not segregated from the general prison population and the prison conditions are not very healthy or safe.³⁹⁰

929. Many women are trafficked from Bangladesh each year to India, Pakistan and countries in the Middle East and are forced into marriages, used as domestic labour, factory labour or as prostitutes.³⁹¹

930. Acid attacks on women have been occurring at an alarmingly growing rate in Bangladesh despite various measures taken. Figures released by the Acid Survivors Foundation in Bangladesh show that the number of acid attacks jumped 50 per cent in 2001 from the previous year.³⁹²

Bhutan

931. Bhutan acceded without any reservations to the Convention on 31 August 1981.

Legislation

932. In 1996 the Bhutanese National Assembly passed a revised Rape Act which provides a clear definition of criminal sexual assault and specifies penalties. Rape is now categorized into different types of acts carrying varying punishments. For example, marital rape, rape of a minor, and gang rape are each punished differently. Sentences range from five to 17 years in cases involving the rape of a minor, and in extreme cases, a life sentence can be imposed. The guilty person has to pay compensation and medical expenses in addition to serving a prison sentence.

933. According to inheritance legislation, equal inheritance is guaranteed among all sons and daughters. However, various traditional inheritance practices may be observed if the heirs do not choose to pursue a legal challenge. Inheritance practices that favour daughters are thought to account for the large numbers of women who own shops and businesses, sometimes at the expense of their education. Polygamy is legal on the condition that permission is given by the first wife. Dowries are rarely used, and all marriages are required to be registered by law. Divorce is common, and existing legislation favours women in matters of alimony.

Policies and programmes

934. The Bhutanese Government has very few programmes aimed at combating violence against women. However, certain government policies are considered responsible for growing female school enrolment.

935. There were only 10 reported cases of rape in 1999, and rape and spousal abuse are not considered to be serious problems. However, there are reports that government forces were involved in the rape of large numbers of ethnic Nepalese women in the early 1990s. There are no laws that specifically target trafficking in human beings; however, no trafficking cases were known in 2001.

Brunei Darussalam

936. Brunei is not a State party to the Convention.

Legislation

937. The Constitution does not prohibit discrimination based on gender or race, though it does provide provisions against discrimination based on religion. The Married Women's Law, which went into effect in 1999, has improved the rights of non-Muslim married women with respect to property and domestic violence. Also passed in 1999, a new Family Law covers divorce, custody of children and marriage. Though the law is expected to improve the rights of married women, women are still denied equal status with men in some areas. For example, citizenship is

transmitted through the father, making it impossible for a woman married to a foreign national to transmit citizenship to her children.

938. Minor domestic assault is punishable by a fine and one to two weeks in jail. Caning and longer jail sentences can be imposed when the assault results in more serious injury. Brunei's courts usually discourage divorce in domestic violence cases. However, religious authorities have recognized wife-beating as grounds for divorce, and some courts appear to be moving away from encouraging wives to reconcile with blatantly abusive husbands. Prostitution is illegal, and women entering the country for the purposes of prostitution are usually deported quickly. The Law for the Protection of Women and Girls prohibits trafficking in women for any purpose.

Landmark cases

939. Family privacy is usually closely guarded in Brunei, however a new precedent was set in 1999 when a photograph of a man accused of stabbing his wife and assaulting one of his children was published in a daily newspaper. In another important case, two members of the Royal Brunei Armed Forces were sentenced to four years in prison and three strokes of the cane after being found guilty of attempted molestation and sodomy of a 20-year-old deaf girl.

Policies and programmes

940. Brunei has recently established a Domestic Violence Unit within the Police Department specifically to investigate domestic violence complaints.³⁹³ The unit is staffed by female officers, and a hotline service has been provided for victims and the public to report abuse. The Brunei Darussalam Women's Council has been established as a coordinating body for different women's organizations. In addition, the Social Affairs Services unit of the Ministry of Culture runs a small women's shelter and provides counselling for women and their spouses.

Issues of concern

941. Domestic violence is believed to be a serious problem. In 1999, the number of cases of domestic abuse recorded by the police had risen to 91 from 72 in 1998, but it is assumed that a majority of cases go unreported. Violence against domestic workers is of particular concern. Servants are sometimes beaten or refused the right to leave the house on days off, but they are often unwilling or unable to file complaints because most female domestics are foreign nationals and are highly dependent on their employers. It is reported that workers are trafficked to the country under false pretences from Indonesia, Malaysia, Pakistan and the Philippines.

Cambodia

942. Cambodia is a state party to the Convention (1992) and has signed the Optional Protocol.

Legislation

943. In 1996 the Law on the Suppression of Kidnapping and Trafficking of Human Beings and Exploitation of Human Beings was passed. The 1997 Labour Law prohibits gender

discrimination, and abortion was made legal in the same year. In 2002 Cambodia was in the process of drafting a new Criminal Code and Code of Criminal Procedure that will have special provisions to deal with the many aspects of violence against women. The Government has begun preparing legislation to decriminalize and regulate prostitution as part of a package of legal measures designed to address the problem of trafficking of women and children.

Landmark cases

944. In March 2000, a brothel owner was sentenced to 12 years in prison for beating to death a prostitute. This was regarded as the first successful prosecution of a crime against a sex worker.

Policies and programmes

945. In order to mainstream gender issues and promote the rights of women, the Royal Government created the Secretariat of State for Women's Affairs. In 1996, this was upgraded to the Ministry of Women's Affairs. In 1998, its mandate was redefined and expanded and it became the Ministry of Women's and Veterans' Affairs (MWVA). This institution is responsible for facilitating the advancement and participation of women in all sectors.³⁹⁴ The MWVA chairs the National Committee against Illegal Trafficking of Women and is conducting a national information campaign against domestic violence. The Counter Trafficking Office of the MWVA is to be equipped to review existing laws and draft new laws to enforce the full protection of women's rights in relation to the problem of trafficking.

946. The Cambodian Human Rights Committee and the Commission on Human Rights and Reception of Complaints of the Cambodian National Assembly also play a role in monitoring the equality of women before the law and violations of women's human rights.

947. The National Five Year Strategic Plan (1999-2003), *Neary Rattanak* - Women are Precious Gems - is in the process of examining the status of women and rights of women in order to see what necessary changes should be made in the areas of health, education, economic empowerment and legal protection. Another programme with strategic planning in mind is "Partnership in Building Together - Toward Achieving Gender Equity and Social Development".

948. A major programme on the Prevention of All Forms of Trafficking in Women and Children in Cambodia was launched in March 2000. In 1997 a campaign was conducted to deal with prostitution. This was followed by a training session for Cambodian immigration police officers on Prevention of Trafficking and Assisting Women and Children Victims of Trafficking in March 2000. The Cambodian Women's Crisis Centre, a non-profit organization, was established in 1997 to provide shelters, counselling and other support services to survivors of trafficking, rape and domestic violence.

Issues of concern

949. Despite these developments, the economic and political crisis has led to a surge in domestic trafficking of women and girls, especially young girls.³⁹⁵ There are reports that

trafficked women and girls are dealt with as criminals who have violated immigration laws and not as victims whose rights were violated.

950. The war has left a visible effect on women and children. There are many women-headed households, a high number of dependent relatives who rely on women who are the main caregivers. These women are often at the receiving end of violence and abuse.

951. Forced marriages are still practiced in many parts of Cambodia and polygamy is common although both these practices are prohibited.

China

952. China ratified the Convention on 4 November 1980, but maintains a reservation to article 29.

Legislation

953. Article 27 of the Constitution states that women enjoy equal rights with men in all respects and that the State protects marriage, the family and the mother and child, family violence against women is reported to be quite widespread.

954. Even though China has no national law specifically targeting domestic violence, amendments to the Marriage Law, passed in April 2001, provide some protection against spousal abuse. In addition, 13 provinces and provincial cities have passed their own legislation addressing domestic abuse. For example, the Domestic Violence Ordinance of 1997 provides protection in situations of domestic violence for the residents of Hong Kong.

955. The Law on Population and Family Planning 2002 makes China's 'One-Child' Policy an official law. Even though it provides for the improvement of reproductive health education and prohibits mistreatment of, and discrimination against women who give birth to female children, it severely restricts women's enjoyment of reproductive rights.

956. In 1996 and 1997 China revised its Criminal Procedure Law and Criminal Law with the aim of strengthening laws against forced prostitution and the abduction of women and children. The new legislation contains provisions that protect women from acts of violence in their every day lives as well as from violence administered while in police custody.³⁹⁶

Policies and programmes

957. In 1996 China began to execute the third five-year plan for the publicity and education of the legal system.³⁹⁷ The plan includes education of laws regarding women, as well as the creation of an inspection team to periodically inspect the enforcement of the Law on the Protection of the Rights and Interests of Women.

958. In July 1995 the Programme for the Development of Chinese Women was formulated with the participation of the State Council Working Committee on Women and Children and other

ministries and commissions. Local governments also formulated plans for the development of women during 1996 and 1997, and corresponding bodies were set up in the provinces, prefectures and counties. In 1998/9 four regional conferences were held to monitor and analyse the progress made. As part of the media component, the television programme "Half the Sky" deals with many topics including reproductive health, violence against women, sexual harassment, and women's image in the mass media. Also in 1995, the Government launched a child-bearing insurance scheme for employed women that included a collective social fund to bear the expenses of childbearing.

Issues of concern

959. Despite the abovementioned protective measures, violence against women remains a serious problem. According to a July 2000 survey by the All China Women's Federation (ACWF), violence occurs in 30 per cent of Chinese families, with 80 per cent of cases involving spousal abuse. Domestic violence is present in all socioeconomic levels, and is reportedly more frequent in rural areas. Although awareness of this problem seems to be growing, there are reportedly no shelters for victims of domestic violence.

960. Despite central Government legislation that formally prohibits the use of force to compel persons to submit to abortion or sterilization, the intense pressure to meet Government imposed family planning targets sometimes leads family-planning officials to force women to undergo abortions and sterilization. In addition, Genetic testing, banned since January 1995, has become a lucrative underground business in the country and has also led to pressure to abort female foetuses.

961. Women in Tibet continue to undergo hardship and are also subjected to gender-specific crimes, including reproductive rights violations such as forced sterilization, forced abortion, coercive birth control policies and the monitoring of menstrual cycles. There have been many reports of Tibetan women prisoners facing brutality and torture in custody.³⁹⁸

962. It has also been reported that China has intensified repression of the Falung Gong. According to reports, there are numerous cases of Falung Gong practitioners facing harassment and torture in various areas of the country. They face extortion, prolonged detention, physical and psychological abuse and imprisonment. Some have died in prisons under unacceptable circumstances.³⁹⁹

963. According to statistics compiled by the World Bank, Harvard University, and the World Health Organization, over half of the world's female suicides occur in China. About 500 Chinese women commit suicide a day, at a rate that the World Bank estimates to be five times the global average. The low economic and social status of women is thought to be largely to blame.

964. Another problem that has flourished in the last few years is the trafficking of women for the purposes of sexual exploitation and prostitution.⁴⁰⁰ China is both a source and a destination for trafficking in persons, although most trafficking is internal. Even though the law prohibits trafficking in women and children, women are kidnapped and sold for the purpose of providing

farmers with brides or sons, or are forced into prostitution in urban areas. There also reports that suggest that some victims, especially children, are trafficked for the purpose of forced labour.

Democratic People's Republic of Korea

965. The Democratic People's Republic of Korea became a party to the Convention on 27 February 2001, but has reservations to articles 2 (f); 9, paragraph 2; and 29.

Issues of concern

966. Although the Constitution states that women hold equal social status and rights with men, it is believed that in practice women face discrimination and gender specific violence. There have been reports of trafficking in women and girls from the Democratic People's Republic of Korea but there is no specific law addressing trafficking. It is said that women who try to leave the country are deceived by smugglers into thinking that they are being helped but are often sold as brides or prostitutes in China. Some women are sold by their families, and many endure sexual and physical abuse.⁴⁰¹

967. In prison or during interrogations, women are reportedly subjected to several methods of torture, including the insertion of objects into the vagina. Women who have become pregnant in China are especially targeted in detention, and are forced to undergo abortions.⁴⁰²

968. At the invitation of the Governments of the Republic of Korea and Japan, the Special Rapporteur on violence against women, its causes and consequences, visited Seoul from 18 to 22 July 1995 and Tokyo from 22 to 27 July 1995 to study in depth the issue of military sexual slavery in wartime, within the wider framework of violence against women (E/CN.4/1996/53/Add.1). In this context, the Government of the Democratic People's Republic of Korea submitted information to the Special Rapporteur regarding the implementation of the Special Rapporteur's recommendations⁴⁰³. The Government reiterated its request that the United Nations pay particular attention to the past crimes committed by Japan and to urge the Government of Japan to accept its legal responsibility and implement its obligations accordingly.

India

969. India signed the Convention in 1983 but maintains reservations to articles 5 (a); 16, paragraphs 1 and 2; and 29. The Committee considered India's initial report (CEDAW/C/IND/1) at its January/February 2000 session.

Legislation

970. The Constitution guarantees fundamental human rights that can be enforced by an application to the Supreme Court. There is recognition of a fundamental right to gender equality and non-discrimination, and a specific enabling constitutional provision on affirmative action. The Special Rapporteur welcomes the contribution made by the Supreme Court in developing the concept of social action litigation and jurisprudence integrating the Convention into domestic law.

971. Initiatives are under way to review the Indian Penal Code. The 172nd report of the Law Commission of India (March 2001) made a number of recommendations including: substitution of the word “rape” by “sexual assault” in order to make the law more comprehensive; making the law gender-neutral by substitution of “woman” with “person”; and making punishments more stringent, especially for persons in positions of trust who indulge in child sexual abuse. The Department of Women and Child Development convened a meeting in February 2002 to discuss the recommendations, and consultations with States were being held in 2002 before finalizing the amendments.

972. A review of many pieces of legislation guaranteeing women’s rights has taken place during the period under review including: the Marriage Bill 1994, the Codification of Criminal Laws Relating to Women (Amendment) Bill 1994, and the Criminal Laws (Amendment) Ordinance 1996.

973. The Immoral Traffic (Prevention) Act 1956 (ITPA) supplemented by the Indian Penal Code prohibits trafficking in persons. An amendment to ITPA was under way in 2002. The Government has proposed to incorporate a new clause defining the term “trafficking in persons” in line with the International Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, in the proposed amendment to the Immoral Traffic Prevention Act (ITPA), 1956.⁴⁰⁴ Furthermore, to increase the conviction rates of traffickers the draft amendments to the ITPA include deletion of sections 8 and 20 so that cases are booked under sections 3, 4, 5 and 6 of the Act.⁴⁰⁵

974. The Parliament in 1994 enacted major legislation aimed at the regulation and prevention of the misuses of prenatal diagnostic techniques (PNDT Act) for the purposes of sex-determination, but the practice continues. As a result of this, in February 2000, public-interest litigation was filed in the Supreme Court under article 32 of the Constitution and, in May 2001, it was held that despite an act being in place neither the state governments nor the central Government have taken appropriate action for its implementation. Hence, the Supreme Court issued appropriate interim directions to the central Government, Central Supervisory Board, state government/ other administrations, and appropriate authorities on the basis of various provisions for the proper implementation of the PNDT Act and monitoring of the prohibited activities.

975. A Protection from Domestic Violence Bill was introduced in the Lower House of Parliament in March 2002.

Landmark cases

976. In the case of *Vishakha v. State of Rajasthan* (1997 Supreme Court Case 241) the Supreme Court of India held that the Convention was an essential part of Indian law. The Supreme Court referring directly to the Convention provided a definition of sexual harassment and set guidelines for the prevention and punishment of sexual harassment in the workplace. The National Commission of Women has prepared a code of conduct in pursuance of the Supreme Court guidelines and has circulated the same to all ministries, educational institutions and public and private sectors for information and implementation.

977. The Supreme Court has delivered two important judgments with regard to the issue of trafficking. On the issue of child prostitution, in the case of *Vishal Jeet v. Union of India*, the Supreme Court called on the central and state governments to set up advisory committees to advise Government on matters relating to child prostitution and social welfare. As a result of this decision, the Government of India set up a Central Advisory Committee on Child Prostitution and state governments also set up advisory committees.

978. In the second decision, *Gaurav Jain v. Union of India*, the Supreme Court in 1997 directed the Government to constitute a committee to make an in-depth study of the problem of prostitution and child prostitutes and to develop strategies for their rescue and rehabilitation. A Committee on Prostitution, Child Prostitutes and Children of Prostitutes was constituted, headed by the Secretary, Department of Women and Child Development. Its report was submitted in 1998.

Policies and programmes

979. The National Commission for Women was established by an act of the Legislative Assembly in 1994 to oversee the implementation of constitutional and legal safeguards against gender discrimination and the protection of women's rights and privileges. It is authorized to receive complaints of gender discrimination and other issues and problems of women and to help formulate strategies to resolve them. Various states of India have also set up state-level commissions for women with the same objectives. India has had a Commissioner for Women's Rights since 1996.⁴⁰⁶

980. The year 2001 was named Women's Empowerment Year by the Government of India. Activities were scheduled on the rights of women under the ninth five-year plan (1997-2002), which has identified the empowerment of women as a strategy for development.

981. The Government has introduced a range of policies and programmes over the years to improve the situation of women. A Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children has been formulated.⁴⁰⁷ The implementation of the Plan of Action is monitored by the Central Advisory Committee on Child Prostitution. One of the features of the Plan of Action is the creation of a thematic "Nodal Agency" under section 13 (4) of the ITPA 1956.⁴⁰⁸ Such an agency having all-India jurisdiction would be in a position to overcome interstate jurisdiction delays that presently hinder effective enforcement of the ITPA.⁴⁰⁹

982. The National Commission for Women held a seminar on "Women in Detention" in May 2001. The recommendations of the seminar, which contain a number of recommendations for women in Remand Homes, have been endorsed by the Commission and forwarded to the Department of Women and Child Development.⁴¹⁰ The National Human Rights Commission has constituted a special cell to combat trafficking in women and children and is collaborating with the Department of women and child Development.⁴¹¹ The Department of Women and Child Development has formulated three pilot projects to combat trafficking in areas of tradition source areas and destination areas. The Government also launched a scheme for recovery and reintegration of trafficked victims, called Swadhar, in December 2001.

Issues of concern

983. At the invitation of the Governments of Bangladesh, Nepal and India, the Special Rapporteur on violence against women, its causes and consequences, visited Dhaka, Kathmandu, Bhairahwa in Rupandehi district, Delhi, Bombay and Calcutta from 28 October to 15 November 2000, to study the issue of trafficking in women and girls in the region (E/CN.4/2001/73/Add.2). The visit took place at a time when the SAARC countries were debating how to tackle the trafficking issue. The Special Rapporteur suggested new strategies for anti-trafficking work in the region, recommended possible partnerships among players and the mechanisms for coordination of regional activities and, furthermore, encouraged States to develop an effective regional convention on trafficking, in line with current international legal developments and in particular the protocol to the United Nations Convention against Transnational Organized Crime.

984. Constitutional and legislative provisions that have been enacted to protect women from discrimination have not proved to be an effective deterrent. There remains a high incidence of gender-based violence against women, which takes even more extreme forms because of customary practices (e.g. dowry, *sati*, *devadasi*); extreme forms of physical and sexual violence and harassment against women who belong to particular castes or ethnic or religious groups; the risk of high levels of violence, rape, sexual harassment, humiliation and torture against women in areas where there are armed insurrections; the continuing discrimination, including violence, suffered by women of the Dalit community, despite the passage of the Scheduled Castes and Scheduled Tribes (prevention of atrocities) Act of 1989.

985. Other concerns include, inter alia, the exploitation of women and girls in prostitution and inter-state and cross-border trafficking and their exposure to HIV/AIDS and health risks; the very high maternal and infant mortality rates; the adverse sex ratio and the incidence of sex-selective abortions despite the law banning that practice; the selective targeting of family planning only at women; the low participation of qualified women in the administration and the judiciary, including family courts and *lok adalats* or conciliation tribunals; the practice of debt bondage and the denial of inheritance rights in land; the lack of an enforcement power or power of intervention for the NCW in terms of its proposals for law reform or to prevent discrimination in the private or public sector; the inadequate resources provided to the NCW and to state commissions, and the lack of a formal link between them; and the fact that women activists and human rights defenders are exposed to violence and harassment in the communities in which they work.

986. The Centre for Women's Development Studies, New Delhi, has recorded that in 1999 there were 337 cases of crimes against women reported daily, 42 women were raped and 18 cases of dowry deaths occurred.⁴¹² According to the Crime Records Bureau of the Union Home Ministry, of the nearly 1.35 lakh (135,000) cases of crime committed against women every year, almost 37 per cent are cases of domestic violence. These are just the reported cases.⁴¹³ The Indian Ministry of Women and Children Development says that on average one woman is raped every hour in the country and 14 wives are murdered by their husbands' families every day.⁴¹⁴

987. The figures of the 2001 Census have revealed that the sex ratio in the country has decreased in the last decade from 945 to 927 females for every 1,000 males.⁴¹⁵ This decline is reportedly largely due to female foeticide. The phenomenon of female foeticide in India is not new. What is new is the use of technology i.e. prenatal diagnostic techniques whereby female embryos or foetuses are detected and selectively eliminated, thus eliminating girl children even before they are born. The long standing tradition of son preference, coupled with medical technology now gives Indian families the “choice” between payment of large dowry for their daughters or elimination of daughters before they are born.

988. According to information received, extensive violence against women took place in Gujarat during February and March 2002, and continued sporadically until June 2002. It is alleged that the violence that targeted Muslim communities was pre-planned and that every instance of violence against the community in general was accompanied by a pattern of violence against women. It is reported that there are many women in relief camps who have suffered sexual violence including rape, gang rape, forced nudity and molestations. A majority of rape victims are said to have been sexually mutilated and then burnt alive. A climate of impunity was reportedly created where violent excesses, including sexual violence, were allowed to take place. This was allegedly worsened by the reported apathy, and sometimes complicity, of law-enforcement agencies. Women survivors were reportedly denied the right to file FIRs (first information reports), and there is no existing institutional mechanism in Gujarat through which women can seek justice. It is reported that conditions in the relief camps are extremely serious, and State effort to help victims is insufficient.

Indonesia

989. Indonesia ratified the Convention in 1984. The Indonesian Government signed the Optional Protocol to the Convention in February 2000 but maintains a reservation to the Convention in article 29.

Legislation

990. Several laws and regulations are scheduled to be discussed by the House of Representatives in the year 2003. Among these are: draft bills on witness and victim protection, domestic violence, ratification of Convention for the Suppression of Trafficking in Persons and of the Exploitation of the Prostitution of Others, women’s reproductive health, protection of Indonesian migrant workers, and revision of the Marriage Law based on principles of gender justice. The statute creating the Human Rights Court, which was established in November 2000, defines sexual violence as a crime against humanity.

991. Currently there is no specific legislation on domestic violence. Violence in the family is punished by article 356 of the Penal Code, which only refers to physical violence. It fails to take into account the needs of the victim by not providing for protective measures or counselling services.

992. Article 285 of the Penal Code punishes rape with a maximum imprisonment of 12 years. Marital rape is not considered a crime under the law.

Policies and programmes

993. The Indonesian National Commission on Violence against Women was established by the Government on 15 July 1998, in response to strong protest from a broad spectrum of women activists/organizations at government passivity in the face of incidents of sexual violence during the May 1998 riots. It was founded on the basis of Presidential Decree No. 181 (1998), with reference to the Convention. The objectives of the Commission are (a) to promote public understanding of all forms of violence against women; (b) to create an environment for the elimination of violence against women and defend the human rights of women; and (c) to improve prevention of violence against women and defend the human rights of women. Its activities are directed towards empowering women and society in general, strengthening the capacities of organizations defending women against violence, and influencing the Government to take the necessary steps to create an environment conducive for the elimination of all forms of violence against women.

994. According to the Indonesian National Commission on Violence Against Women,⁴¹⁶ the visit of the Special Rapporteur increased the visibility of women's efforts to eliminate violence against women and strengthened women's organizations networking. Following her recommendations,⁴¹⁷ women's crisis centres have been established. In 2000, an Integrated Crisis Centre was created in the main national teaching hospital in Jakarta. The Department of Health, in cooperation with the World Health Organization, provides capacity building programmes to enhance the capacity of local health centres to deal with women who are victims of violence. By 2002, the police stations of 19 provinces established 163 "police women's desks". The Department of Social Affairs has created a special directorate to help victims of violence and migrant workers. The State Ministry on Women's Empowerment referred to the recommendations made by the Special Rapporteur in her report to Commission in 1999 in formulating and launching its "zero tolerance" policy on violence against women.

Issues of concern

995. At the invitation of the Government of Indonesia, the Special Rapporteur, visited Indonesia from 20 November to 4 December 1998 to study the issue of violence against women as perpetrated or condoned by the State. The Special Rapporteur also visited East Timor. She had requested to visit Irian Jaya and Aceh; however, the Government denied access on the grounds that there was insufficient time. The Rapporteur reported on (a) violence against women during the May 1998 riots; (b) violence against women in East Timor, Irian Jaya and Aceh (E/CN.4/1999/68/Add.3).

996. In its consideration of the Indonesian combined second and third reports under CEDAW, the CEDAW Committee expressed its concerns for Indonesia's failure to collect data on certain issues that are crucial for the well being of women, such as the prevalence on violence against women. In its recommendations, the Committee emphasized the need for the gender sensitization of authorities, including the judiciary, law enforcement officers, lawyers, social workers, health professionals or others who are directly involved in combating violence against women.⁴¹⁸ This recommendation was reiterated by the Special Rapporteur in her call for a criminal justice system more sensitive to human rights violations.⁴¹⁹

997. There continue to be reports of sexual violence by Indonesian security forces in areas such as Aceh, Maluku, Central Sulawesi, in situations of armed conflict, both in and out of detention. Several special commissions or teams have been appointed by the National Human Rights Commission but they have been criticised for not being effective in preventing the violence.

998. Women migrant workers tend to face a number of problems, including violation of rights, such as torture and rape. In its report under CEDAW, the government indicated that it had established a computerized system to monitor the mobility of women overseas and was intensifying the pre-departure training of women.⁴²⁰ Concerns have been expressed on the situation of women migrant workers, who are reportedly often subjected to abusive treatment, by both the employers and recruitment agencies.⁴²¹

999. Globalization and its impact on the environment has affected women, especially indigenous women. In many cases they have lost their sources of livelihood and access to land. They are also reportedly subjected to sexual exploitation by multilateral companies. Trafficking in women and children is a growing problem in Indonesia. The efforts to combat trafficking have only just begun.⁴²²

Iran (Islamic Republic of)

1000. Iran is not a State party to the Convention. In January 2002 a Bill was presented to the parliament proposing accession to the Convention, but it was rejected. The Bill contained two conditions, namely that Iran will only apply the articles that are not in contradiction with Islam and that Iran will not be bound to settle disputes over the implementation of the Convention through arbitration or the International Court of Justice.⁴²³

Legislation

1001. In August 2002, Iran's parliament approved a bill that grants women equal divorce rights. Previously, a man could divorce his wife at any time without citing a reason. Now, both men and women have restrictions on when they can obtain a divorce.⁴²⁴

1002. A bill was approved recently to change the age of marriage. Earlier, women could be legally married at 9 lunar years of age and boys at 14. But, children could also be married earlier with their parents' consent. In June 2002 this law was amended to raise the age of marriage for women to 13 and to 15 for boys. Still, children can be married earlier with the approval of their parents and court approval.

1003. A group of parliamentarians drew up a bill in August 2002 to legalize abortion during the first four months of pregnancy for women whose babies would be born with severe handicaps.⁴²⁵

1004. Stoning is to be abolished as a form of capital punishment in Iran. Ayatollah Mahmoud Hashemi Shahroudi, head of the judiciary, has reportedly issued an internal directive to judges instructing them to use prison terms and other forms of punishment for the crime of adultery.⁴²⁶

1005. In January 2001, the law was amended to remove the ban of women from studying abroad without the permission of a male guardian and from receiving financial assistance for such studies. But it was immediately overturned by the Guardian Council.⁴²⁷

1006. In 1998 the Parliament passed legislation mandating segregation in hospitals and medical care. Now only female doctors and nurses can attend to female patients. Another amendment was recently proposed to get boys and girls over 10 years of age to be taught by members of the same sex.⁴²⁸

Policies and programmes

1007. The Bureau for Women's Affairs was promoted to the Centre for Women's Participation and the centre's head became a member of the Cabinet. There is also a National Committee for the Elimination of Violence Against Women. A National Plan of Action on the Elimination of Violence Against Women has been created by a subcommittee. While this action should be commended, it is important to note that the document links women's rights and "duties in the family and society". Under the auspices of President Khatami, the Centre for Women's Participation helps women who are victims of physical, mental and verbal abuse from their families and has plans to establish an emergency hotline.⁴²⁹ Women offices were established in most of the ministries and state organizations. Rural midwifery centres were established to render services in rural areas and many volunteers were trained on health information to pass on their knowledge to the communities.

1008. The Education Ministry announced in August 2002 that teachers and students at Iran's all-girls' schools could remove their veils in the classrooms for the first time since the revolution.⁴³⁰

1009. Designating a day of the annual women's week as a day for defending women against home violence was a symbolic act that denounced violence against women. In November 2000, a brainstorming session was conducted to recognize violence against women and to determine methods for its prevention. A national intersectoral committee was set up to meet regularly and follow up on the activities suggested during the workshop.

Issues of concern

1010. The Government still continues to enforce discriminatory civil and criminal laws that subordinate women's status in society and restrict personal freedom even though the constitution calls for equality of the sexes before the law. Women are considered to be under male supervision. They cannot travel abroad without permission of their husbands or another male guardian or even apply for a passport, and must live in a residence chosen by their husbands. They are also bound to a strict dress code by article 638 of the penal code. Women are banned from the presidency, membership in the armed forces and positions in the judiciary that involve casting a verdict.⁴³¹ Article 1105 of the Civil Code designated the husband as the exclusive head of the family. Article 1117 allows the husband to prevent his wife from engaging in occupations or work deemed incompatible with the family. A woman's testimony in courts is only worth half that of a man. A woman can only inherit half that is bequeathed to her own brother.

1011. A recent case tells us of the arrest of 17 girls and boys due to an “immoral gathering”. The “anti-Islamic acts” were getting together on a beach to listen to music. It is also considered illegal to listen to western music or songs sung by a woman. Iranian authorities have recently increased the restriction on people in public places, separating unmarried men and women more frequently, as in the first years following the 1979 Islamic revolution. It was reported that 10 cafés were recently shut down because it opened its doors to “unaccompanied women”.⁴³²

1012. According to the report of the State Security Forces, an average of six women are killed and maimed everyday in Tehran. Death by stoning is the prescribed punishment for offences such as adultery, prostitution and homosexuality in Iran’s penal code.⁴³³ Other methods of punishment include hanging, flogging and amputations.⁴³⁴

1013. Trafficking in women is an invisible problem in Iran. There are reports that women are trafficked to, from and within Iran for purposes of sexual exploitation.⁴³⁵

1014. It was reported that Iran has the highest suicide rate in the world and 75 per cent of the victims are women.⁴³⁶

Israel and the occupied territories

1015. Israel ratified the Convention on 3 October 1991 with reservations to articles 7 (b), 16 and 29, paragraph 1. Israel has entered a reservation to article 16 of the Convention on the Elimination of All Forms of Discrimination against Women, maintaining the supremacy of Israel’s religious communities without taking into account whether religious laws applied in the religious courts discriminate against women. Religious courts generally rule on personal status and family laws – marriage, divorce, alimony, and custody and property rights – according to religious laws. Israel’s third periodic report was due 2 November 2000.

Legislation

1016. The religion of the individual determines which religious court has jurisdiction over his or her personal status and family law matters.⁴³⁷ The Knesset may enact civil laws, which are binding on religious courts,⁴³⁸ however, civil laws frequently contain exceptions in order to adapt to religious laws. The Women’s Equal Rights Law (1951), for example, contains a provision that the law does not apply to matters relating to marriage and divorce. Thus, this law has no influence on the areas where women have greatest need of protection. Except for matters concerning marriage and divorce, Israeli civil laws sometimes allow women to choose the court system – civil or religious – under which they wish to bring their personal status claims. However, this choice is not available to all women.⁴³⁹

1017. Under personal status law, a Jewish woman is not allowed to initiate divorce proceedings without her husband’s consent. As a consequence, there are estimated to be thousands of so-called *agunot* who cannot remarry or have legitimate children because their husbands have either disappeared or have refused to divorce them. Although the 1995 Rabbinical Courts Law allows rabbinical tribunals to impose sanctions on husbands who refuse to divorce their wives in cases where there are serious grounds for divorce, such as abuse, in some cases, rabbinical courts have

failed to invoke these sanctions. For Muslim women, religious law can be even more restrictive.⁴⁴⁰

1018. In November 2001, the Knesset enacted an amendment to the Family Courts Law. The new law permits Muslim women to handle matters of custody and maintenance in a civil family court as an alternative to the Islamic court system. It also allows Christian women to turn to the civil family court in cases of maintenance during their marriage, as an alternative to the Christian court system.⁴⁴¹ In March 2000, the Knesset amended the Equality of Women Law, which provides for equal rights for women in the workplace, the military, education, health, housing, and social welfare, and entitles women to protection from violence, sexual harassment, sexual exploitation, and trafficking.⁴⁴²

1019. The Prevention of Domestic Violence Law was passed in March 1991. This law regulates against domestic violence and provides victims of violence with an immediate initial restraining order and an injunction to expel the violent family member from the home.⁴⁴³ A 1996 amendment to Penal Code of 1977 makes further progress in recognizing abusive violence within the family as a specific form of assault. The amendment defines violence against family members as a specific offence and provides a maximum punishment that is double the usual maximum punishment for assault. The Knesset also amended laws in order to facilitate the delivery of welfare benefits to women staying in shelters. The amendment also prohibited any employer from dismissing an employee during that person's first six months of residence in a shelter.

1020. Rape is illegal. In March 1988, the Knesset passed an amendment to the Penal Code of 1977 concerning the punishment of rape.⁴⁴⁴ A differentiation is made between rape, for which the maximum punishment is 16 years' imprisonment, and aggravated rape, for which up to 20 years may be imposed.⁴⁴⁵ Most importantly were the changes in the definition of rape and recognition of rape as a crime against an individual instead of as a moral offence. While sentences handed down to men convicted of rape have increased in recent years, some women's rights activists argue that the penalties are not sufficiently severe.⁴⁴⁶ In June 2001 the Knesset amended the law to simplify the definition of rape as a crime. In 1998 Israel adopted a comprehensive sexual harassment prevention law;⁴⁴⁷ since that time, several prominent cases have increased public awareness of the issue.⁴⁴⁸

1021. Prostitution per se is not illegal; however, the operation of brothels and organized sex enterprises is outlawed. The law criminalizes trafficking for the purposes of sexual exploitation.⁴⁴⁹ Other statutes including rape, false imprisonment, seizing a passport, exploitation, and kidnapping for prostitution may also be used in prosecuting trafficking cases.

Policies and programmes

1022. Government funding to combat VAW increased significantly in 1998 but has remained level since. In 1998 the Government appointed a commission to address the subject of domestic violence; on the basis of the commission's recommendations, the Government allotted a supplementary budget to combat domestic violence. Funds went to fund crisis center projects, victim support programs, and education programs. Groups that focus on domestic violence

include a committee established by the Ministry of Labour and Social Affairs that includes Jewish and Arab NGOs as well as government representatives, and a coalition of human rights organizations; however, women's rights activists reported that most of the groups are funded privately.

1023. The Government provides partial funding for 12 shelters for battered women, including one exclusively for Arab women and one for ultra-Orthodox Jewish women. The Government also provides funding for 13 rape-crisis centers. There are approximately 10 hotlines and 25 domestic violence prevention and treatment centres, which mainly are funded privately.⁴⁵⁰

1024. The Government has established an inter-ministerial committee on trafficking in persons. In July 2001, the Minister of Public Security initiated a seminar on trafficking that included participants from numerous ministries, law enforcement, NGOs and the Knesset. The State Attorney-General has published, and distributed, guidelines on the "Investigation and Prosecution of Prostitution and Trafficking in Persons for the Purposes of Prostitution" to police investigators and prosecutors. The Government has also provided specialized training sessions on trafficking in persons for investigation units. An independent department within the Ministry of Justice, charged with investigating any complaint of involvement of police personnel in crimes, has successfully investigated allegations and taken legal action against those involved. The government has undertaken some initiatives to protect victims, including working with NGOs and international organizations to improve services that they provide to victims.

Issues of concern

1025. Violence against women is a problem in Israel, despite the steps taken by the Government and other organizations to reduce it in Jewish and Arab communities. According to the most comprehensive report to date on domestic violence in Israel released by Labor and Welfare Minister Shlomo Benizri in 2001, 214,000 battered Israeli women - 11.2 per cent of the women in the country - are victims of domestic violence each year.⁴⁵¹ The report states that there is a considerable and surprising amount of legitimization of violence to women.⁴⁵²

1026. With regard to violence against Palestinian Women. A study on domestic violence in the Palestinian community, found that 25 per cent of Palestinian women are physically abused at least once a year; 50 per cent are physically abused at least once during the duration of their married life, and 0.5 per cent are physically abused on a weekly basis.⁴⁵³ However, only a few victims report the violence to the police because of societal and family pressure, fear of shame being brought upon them and their families, economic and social dependency on the family, ignorance of the law, and the functioning of the judicial system which is biased against women. Palestinian women are especially vulnerable to gender-bias from law enforcement officers. It is alleged that many judges, as well as the police, regard issues such as domestic violence as the private concern of the family, and as a phenomena which grows out of the traditions of Palestinian society; they therefore do not apply the law with the same vigour as they do in the Jewish community.⁴⁵⁴

1027. It is difficult to obtain precise statistics on the number of incidents of sexual violence, as many instances go unreported. Palestinian women often do not have access to rape crisis centres,

or confidential support and assistance in Arabic. Many women lack the awareness that sexual violence is a crime, and a violation of their fundamental rights.⁴⁵⁵ Among the reasons why few women turn to the police are the lack of gender-sensitive training and awareness of violence against women by the police. There are hardly any Palestinian female police investigators, leading to extreme discomfort for women when making complaints of violence.

1028. Every year, women and girls in Israel are murdered in order to preserve the so-called “family honour”. According to data provided by the police, 20 women have been killed for crimes committed on what they call a “romantic basis” in 2001.⁴⁵⁶ According to reports, between 1990 and the end of 1999, there were 67 murders of women for reasons related to “family honour”.⁴⁵⁷ Many of these crimes have not been resolved; this is reportedly partially because of a lack of willingness to pursue the issue, and partially because of the complicity of the community itself – an unwillingness to help bring the killers to justice.⁴⁵⁸ It is reported that most judges, as police, continue to regard “honour” crimes as a private issue and as a phenomenon that stems from the social norms and values of traditional Palestinian society, and they take the view that their judgments must be sensitive to these “cultural concerns”.⁴⁵⁹

1029. It is reported that female genital mutilation was practiced.⁴⁶⁰ However, the procedure has reportedly been modified to a non-cutting ritual in more recent years. However, the phenomenon of forced marriage still exists in Israel. Particularly in Muslim communities and especially among the Bedouin, young women are reportedly sold by their fathers or other male relatives to significantly older men for marriage, or families decide for their daughters on the day of their birth whom they will marry when they reach marriageable age, or in some cases women do not sign their own marriage contracts, but have rather their fathers or other male relatives sign it.⁴⁶¹ Although the Ministry of Interior has the ability to trace these cases by checking the signatures, to date it has reportedly taken no action.

1030. NGOs report that an unknown number, possibly between 100 and 200, of the nation's prostitutes are under the age of 18. Trafficking in women has become a significant problem in recent years.⁴⁶² According to recent studies, every year hundreds of women from the former Soviet Union are trafficked to Israel by well-organized criminal networks to work as prostitutes.⁴⁶³ Despite new legislation, the Israeli Government has reportedly continued to treat trafficked women not as victims of human rights abuses, but as criminals and “illegal aliens,” housing women in prisons.⁴⁶⁴ As trafficked women risk detention, forced deportation and further human rights abuses at the hands of their traffickers, pimps, or other people involved, either in Israel or abroad, women are afraid to file a complaint with the Israeli police or to testify in criminal cases. Consequently, trafficked women remain trapped in an abusive situation and the human rights abuses committed against them, despite the new law, often go unpunished.⁴⁶⁵

1031. The criminal justice system⁴⁶⁶ contains gender bias that contributes to the perpetuation of a social climate that condones violence against women, including crimes against women committed in the name of “honour”. This problem appears to be most egregious for Palestinian women, where under the complex mixture of laws and regulations that apply to the occupied territories, Palestinians are reportedly disadvantaged under Israeli law and practices compared with the treatment received by Israelis in terms legal and judicial protection.⁴⁶⁷ Moreover, the Special Rapporteur has received reports of torture and ill-treatment of female Palestinian

prisoners, including girls below the age of 18, in Neve Tertze women's prison in Al Ramleh.⁴⁶⁸ She is concerned that since the beginning of the Al-Aqsa intifada in 2000, the situation of Palestinian women in Israeli prisons has seriously deteriorated.

1032. Palestinian women in Israel have increasingly begun to speak out against discrimination and violence against women, especially domestic violence and sexual violence. In addition, Palestinian women in Israel are also increasingly involved in political parties and are now demanding that they have become involved in decision-making processes. However, as stated above Palestinian women in Israel continue to face three levels of discrimination: as members of the Palestinian national minority in Israel, as women in Israel, and as women within the national society. The intersection of gender and ethnicity has resulted in Palestinian women being the poorest, least paid, and least educated sector of the population. It is important to note that the low socio-economic and political status of Palestinian women is a major factor underlying violence against them, particularly in the form of wife-battering, child marriage, and "honour" crimes. This is particularly clear when it comes to violence against Palestinian women, which seems to be seen by the Israeli government as a problem specific to the Palestinian community.

Japan

1033. Japan is a state party to the Convention as of 1985. Japan's fourth periodic report (CEDAW/C/JPN/4) has been submitted but is not yet scheduled for consideration by the Committee; the fifth periodic report is due 25 July 2002.

Legislation

1034. The Basic Law for a Gender-equal Society went into effect in June 1999. It clarifies basic concepts of forming a gender-equal society and indicates the direction the State should take.

1035. Japan began to consider specific legislation and support services to combat domestic violence in mid-1999, which resulted in a 2001 law titled the Law for the Prevention of Spousal Violence and the Protection of Victims. It provides protection orders to prevent spousal violence and to protect victims. It also stipulates the establishment of a spousal violence counselling and support centre.

1036. A new anti-stalking law went into effect in November 2000 in response to rising complaints about women's lack of recourse in dealing with stalkers. The Equal Opportunity Law was also revised in 1999 to address the problem of sexual harassment. Although the law does not include punitive measures to enforce compliance, it can identify and publicise companies that fail to prevent sexual harassment.

1037. The Partial Amendment to the Law on Control and Improvement of Amusement Businesses was passed in 1998 and came in to effect in 1999. It prevents employers from confiscating passports of employees or making them owe large amounts of money as debt. A Bill punishing acts related to juvenile prostitution, child pornography and the protection of children was passed in 1999. It not only prohibits buying sex from those under 18 but also bans the

manufacture, sale and distribution or export of pornographic photographs, videos and Internet images.

Policies and programmes

1038. In 1994, the Headquarters for the Promotion of Gender Equality was set up within the Cabinet. In addition, the Office for Gender Equality and the Council for Gender Equality were established by cabinet orders in the Prime Minister's Office. The Council for Gender Equality established the Committee on Violence Against Women, which made an interim report in 1998. During the reform of the Central Government in 2001, a Council for Gender Equality and a Gender Equality Bureau were established in the Cabinet Office. The Bureau is mandated with the formation of a gender-equal society and to promote the Basic Plan for Gender Equality, which was formulated in 2000.⁴⁶⁹

1039. The National Personnel Authority established workplace rules in April 1999 in an effort to stop harassment in public servants' workplaces. Frequent complaints by female commuters that have been groped or otherwise molested on crowded trains led the Tokyo Metropolitan department to establish special molestation complaint offices at three Tokyo train stations in 1995.

1040. Every prefecture police headquarter operates a Sex Crime Hotline, has an instructor on sexual crimes investigations methods and a sexual crimes investigation unit in order to establish an environment which encourages women to file complaints against sexual crimes. Police women conduct the investigation interviews and accompany the victim to the hospital. At the trial stage, public prosecutors protect the women by making objections to inappropriate questions.⁴⁷⁰

1041. The Asian Women's Fund (AWF) was established in 1995 as a private, government-sponsored fund to extend atonement and support to former "comfort women" who were forced to provide sexual services to Japanese soldiers during the Second World War. The Government has been unwilling to pay direct compensation to individual victims, on the grounds that post-war treaties already settled all war claims. In accordance with the five-year term of the project, the atonement project for former "comfort women" from Korea, the Philippines and Taiwan has been completed. In addition, victims in the Netherlands received the benefits from medical and welfare project by July 2001. As previously planned, the project in Indonesia will continue until the year 2007⁴⁷¹.

1042. The AWF has also developed a number of programmes addressing the issue of violence against women. For example, the AWF has been engaged in a variety of activities including training of counselors, and forums to enhance the public awareness on domestic violence. The AWF continues to work closely with many prefectural and municipal governments for substantial implementation of the Law for the Prevention of Spousal Violence and the Protection of Victims, and in promotion of public awareness and understanding of the issue throughout Japan. In addition to the activities related to domestic violence, AWF organize conferences relating to women's human rights vis-à-vis violence. They are planning to hold an international conference on "Women under Armed Conflict."

Issues of concern

1043. At the invitation of the Governments of the Republic of Korea and Japan, the Special Rapporteur on violence against women, its causes and consequences, visited Seoul from 18 to 22 July 1995 and Tokyo from 22 to 27 July 1995 to study in depth the issue of military sexual slavery in wartime, within the wider framework of violence against women (E/CN.4/1996/53/Add.1). Japan has still not accepted legal responsibility for the “comfort women” who were kept in military sexual slavery during the Second World War. It has also not punished many of the perpetrators responsible for such crimes.

1044. Domestic violence remains a serious problem in Japan and has received the attention of the State and women’s groups. Although the Constitution and the Equal Employment Opportunity Law prohibit sexual discrimination, it remains a serious problem in Japan. A 1997 survey by the Ministry of Labour reported that 62 per cent of women claimed to have experienced at least one act of sexual harassment.⁴⁷²

1045. According to information received, Japan has not adopted many of the new recommendations made by the international community to receiving countries on how to deal with trafficked victims. It is reported that the Government treats trafficked women as illegal immigrants.⁴⁷³

Kazakhstan

1046. Kazakhstan ratified the Convention on 26 August 1998, as well as the Optional Protocol to the the Convention on 24 August 2001.

Legislation

1047. Since 2000, national legislation had been subject to gender analysis and amendments on violence against women had been introduced into the Criminal Code.

1048. There is no specific law on domestic violence; however, it may be addressed under assault and battery provisions of the Criminal Code. There is no law that specifically prohibits spousal rape. The maximum sentence for wife beating is three years. The punishment for rape can range from three to 15 years’ imprisonment. The Criminal Code and the Labour Code prohibit sexual harassment.

1049. In February 2002, a temporary measure was amended to the Criminal Code to cover trafficking of adults. Existing law already prohibited trafficking in children. Some actions have been brought under existing statutes or as civil actions in sexual and labour exploitation cases. The criminal code provides punishment of up to three years in jail for illegal involvement in prostitution. Prostitution is legal; however, prostitution connected with organized crime is punishable by up to five years in jail. According to article 135, the kidnapping of persons is punishable by a term of up to seven years. An organized group working for sexual or other exploitation can be punished with up to 15 years in prison and confiscation of property.

Policies and programmes

1050. An official state policy (adopted in 1997) states that constitutional prohibitions on sex discrimination must be supported by effective government measures.

1051. The National Commission for Women and Children was established in December 1998 by the Decree of the President of Kazakhstan to ensure the necessary conditions for the participation of women in the political, social, economic and cultural life of the country. It developed a Plan to Advance the Status of Women. A special parliamentary group on the family and a special subcommittee of the lower chamber of the Parliament on the issues of women, family, youth, tourism and sport has also been created. A section entitled "Women in development" has been included in the indicative plan for social and economic development of the country for 2000-2005. The Government has also started to collect statistical data disaggregated by sex and has published a statistical handbook entitled "Women and men in Kazakhstan".⁴⁷⁴

1052. Within the Government, the National Commission for Women and Children has taken the lead to address trafficking. Law enforcement agencies have investigated specific cases of trafficking. In July 2001 a regional court convicted a man of trafficking young women and sentenced him to 4 years in prison. The Government has initiated training programs for law enforcement and is conducting random investigations of travel agencies promising work abroad. The Government has also cooperated with international investigations.

Issues of concern

1053. Violence against women, including domestic violence, remains a serious problem in Kazakhstan. In a 1999 government survey, 28 per cent of women surveyed indicated that they had been victims of domestic abuse. Most respondents correlated domestic abuse with physical or sexual assault and not with psychological or economic abuse. NGO activists and prison officials stated that domestic violence was a significant factor in the majority of cases of women serving sentences for murder.⁴⁷⁵ Furthermore, it is reported that the police are often reluctant to intervene in domestic disputes, unless they believe the abuse is life-threatening.

1054. Kazakhstan is a source, transit and destination country for women and men trafficked for purposes of sexual exploitation and labour. Victims are trafficked to Kazakhstan from the Kyrgyz Republic, Tajikistan and Uzbekistan and trafficked to the United Arab Emirates, South Korea, Israel, Albania and Western Europe. Corruption as an aspect of trafficking is reportedly a problem at many levels, and the Government has convicted at least one customs official for taking bribes. According to information received, there is no government action on victim services. Some trafficked victims are initially jailed for prostitution or labor violations, or are returned to their home countries by immigration officials without further investigation of their situations. However, if it is determined that an individual is a trafficked victim, the Government cooperates with NGOs to secure victim services provided by NGOs. The Committee on the Elimination of Discrimination against Women recommended the formulation of a comprehensive strategy to combat trafficking of women, which should include the prosecution and punishment of offenders and increased international, regional and bilateral cooperation. It also recommends the introduction of measures aimed at improving the economic situation of women so as to

reduce their vulnerability to traffickers, and rehabilitation and reintegration measures for women and girls who have been victims of trafficking.⁴⁷⁶

Kyrgyzstan

1055. Kyrgyzstan ratified the Convention on 2 September 1994, but has not signed the Optional Protocol.

Legislation

1056. The Family Law specifically prohibits domestic violence and spousal abuse.⁴⁷⁷

1057. There is no law specifically prohibiting trafficking in persons; however, other existing laws can be used to prosecute traffickers for crimes such as kidnapping, exploitation, rape, and deprivation of freedom. The maximum sentence for those prosecuted under these laws is 15 years; however, the very few traffickers that were caught received lenient sentences or fines. In 2001, three persons were tried and convicted of trafficking-related crimes and there were four trafficking-related convictions in 2000.

Policies and programmes

1058. A Gender Analysis Council has been established; the Council has analyzed six laws from a gender perspective and has plans to review more than 20 laws and regulations. As a result of the Council's work, the National Gender Policy Council had been created in the office of the President in July 1998. The Council would monitor the national implementation of international human rights treaties and agreements, including the Convention on the Elimination of All Forms of Discrimination against Women.

1059. Concrete national programmes relating to the economy, education, health care and poverty that are aimed at the advancement of women and the elimination of de jure and de facto discrimination against women have been designed and were being implemented.⁴⁷⁸

1060. The government agencies involved in anti-trafficking efforts are the Ministry of Foreign Affairs, the Ministry of Interior, the National Security Service, the Ministry of Health, the State Procurator's Department, the State Agency of Migration and the State Committee for Tourism, Sport and Youth policy. The Government created an inter-Ministerial Council to develop a plan of action to combat trafficking. The Council recommended that the Government cooperate with other governmental ministries and departments as well as with international organizations, NGOs, and Interpol. The Ministry of Interior had planned to establish a special police unit to combat trafficking; however, it was unable to function due to a lack of funding.

Issues of concern

1061. There has been an alarming increase in crimes of violence against women. In 2001, Interior Ministry statistics indicated that there were approximately 2,600 crimes of all types against women, but many crimes against women are not reported due to psychological pressures,

cultural traditions, and reported apathy by law enforcement officials. It is also reported that rape is on the increase, although it is not clear whether the incidence of rape or only the reporting of such attacks is becoming more common. There were also reports that police raped women in custody.

1062. The Legal Information Centre in Osh, the biggest city in troubled South Kyrgyzstan, reported in autumn 2002 that nearly 75 per cent of women in the region are unaware that they can legally seek government aid or resist domestic violence. This statistic comes from an analysis the centre conducted of its first two years in operation. It is reported that Kyrgyz culture strongly discourages such victims from seeking redress.⁴⁷⁹

1063. There has been an increase in prostitution and the trafficking of girls and women but efforts to combat trafficking have only just begun. The Kyrgyz Republic is a country of origin, transit and, to a lesser extent, of destination for trafficked women, men and children.⁴⁸⁰ Women, mostly under 25 years old, are trafficked for prostitution to the United Arab Emirates, Turkey, China, Germany and Greece. Women who are either destined for or transiting through Kyrgyzstan usually come from Uzbekistan and Tajikistan.⁴⁸¹ According to information received, the Government does not actively investigate or prosecute trafficking cases. The Government of Kyrgyz does not provide protection or assistance for trafficking victims. Moreover, it is reported that government officials, in some cases, have forced victims to pay bribes to cross the border or have taken bribes from traffickers in exchange for allowing a trafficking operation to continue.⁴⁸² Although the Government acknowledges that trafficking is a problem, it has reportedly not conducted any public-awareness campaigns or other programs targeted specifically to prevent trafficking.

Lao People's Democratic Republic

1064. Laos ratified the the Convention without any reservations on 14 August 1981.

Legislation

1065. The Constitution accords equal rights to men and women, and legal discrimination in marriage and inheritance is prohibited by the Family Code.

1066. Spousal abuse is illegal, though spousal rape is not. Rape is thought to be rare, but in the past defendants in rape cases have received sentences ranging from three years in prison to execution. Although sexual harassment is not illegal, some forms of it can be punished under a law against "indecent sexual behaviour" towards another person, which is punishable by six months to three years in prison. Prostitution is illegal and is punished with prison terms ranging from three months to one year. The abduction and trade in persons is outlawed, as well as the constraint, procuring and prostitution of another person.

Policies and programmes

1067. From 1998 to 2001, the Government increased support for development programmes aimed at improving the position of women in Laotian society and politics. One such programme,

the Gender Resource Information and Development Project, is designed to build the capacity of government institutions and gender resources in order to promote equitable socio-economic development. The Lao Women's Union, which is the national mechanism for the promotion of equal rights and the advancement of women, is responsible for executing the project. In addition, the Population Development Strategy and the Lao Women's Action Plan work to promote the role and status of women in the country. The Government has also been involved in coordinating training courses, establishing legal counselling offices and providing prevention measures and assistance to victims.⁴⁸³

1068. The Government has also become active in combating the problem of trafficking in women and girls. It has increased support for monitoring and education programmes that are designed to teach women and girls about the schemes used by traffickers and recruiters for brothels and sweatshops in neighbouring countries.

Issues of concern

1069. Cases of domestic violence against women have been documented, although the problem is not believed to be widespread. Conversely, trafficking in persons remains a significant problem. It is estimated that roughly 15,000 to 20,000 women and girls are trafficked annually from the country for the purposes of prostitution. Most are taken to Thailand, and some are believed to be trafficked after their arrival in Thailand as seasonal agricultural labourers. Minority women from the highlands have become particularly vulnerable to traffickers in recent years.

Malaysia

1070. Malaysia acceded to the Convention in July 1995. Since 1998, some of the earlier reservations made have been withdrawn, with the exception of those pertaining to existing laws that have not been changed yet. These include reservations made to articles 5 (a); 7 (b); 9, paragraph 2; 11; 16, paragraphs 1 (a), (c), (f) and (g) and paragraph 2.

Legislation

1071. The 1994 Domestic Violence Act (Act 521) recognized domestic violence as an issue of public concern. Now domestic violence is dealt with as a criminal offence. The main purpose of the Act is to ensure the safety of victims of violence. It provides interim protection orders and penalties for the breach of the protection orders. It is administered by the Ministry of National Unity and Social Development and enforced by social welfare officers and the police. The Act does not protect individuals who live together but are not married according to civil or customary law.⁴⁸⁴

1072. Rape is dealt with in section 376 of the Penal Code. It states that whoever commits rape shall be punished with imprisonment of five to 20 years. Rape within the marriage is not recognized by the legislation.⁴⁸⁵

1073. The Guardianship of Women's and Infants Act was amended in 1999 to give mothers equal parental rights. Malaysia has also taken effective legal measures to prohibit the practice of female genital mutilation and raise awareness of its prohibition.

Policies and programmes

1074. In April 2000, the Government announced plans to review weaknesses in the law and eliminate loopholes. The Malaysian Government, through an interministerial committee, is also reviewing all legislation pertaining to social matters. In August 1999, the Ministry of Human Resources issued a Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace. It recognizes five forms of sexual harassment: verbal, non-verbal/gestural, visual, psychological and physical harassment. It recommends to employers to develop a complaint procedure to deal specifically with complaints on sexual harassment. The Code has been effective in creating some level of awareness on the seriousness of sexual harassment at the workplace. However, it is a voluntary code and the response from companies has been rather low. As of March 2001, only 1.12 per cent of companies have adopted the Code and not all elements have been implemented by pioneer companies.⁴⁸⁶

1075. In October 2000, the Deputy Minister of the Women's Affairs Secretariat (HAWA) initiated a National Steering Committee on Violence Against Women. The Committee comprises governmental agencies and NGOs. Its objectives are: (a) to review, set-up and improve immediate services for women who are victims of violence; (b) to review laws and policies on violence against women; (c) to raise public awareness; and (d) to contribute to the elimination of violence against women.⁴⁸⁷

1076. A one-stop crisis centre has also been set up in almost all hospitals in Malaysia to provide treatment for victims of violence. Another innovation is the standardized special rape investigation kit which gathers medical and legal evidence throughout the country. Shelter homes and counselling services are now provided to battered and abandoned women.⁴⁸⁸ From September 2002, the Women's Aid Organization has extended its services for women. They include: a refuge for battered women and their children; telephone counseling for crisis situations and basic legal information; a sexual assault helpline which provides information and support to victims of sexual assault; and a face-to-face counselling.⁴⁸⁹

Issues of concern

1077. The Family Law contains many provisions that are discriminatory toward women.⁴⁹⁰

1078. Domestic violence remains a serious problem though Malaysia has created institutions and mechanisms to deal with the problem.

1079. Abuse of foreign domestic workers, mostly women, is a growing problem in Malaysia. Abuse can take the form of beating, overworking, withholding the salary, malnourishment, and denial of contacts with the family. A survey of media conducted between September 1997 and September 1998 revealed some of the attitudes which lead to abuse and mistreatment of foreign

domestic workers. They are often portrayed as promiscuous and flirtatious and belonging to an inferior culture which might influence negatively the hosting family.⁴⁹¹

Maldives

1080. Maldives is a party to the Convention (1993). It still maintains reservations to articles 7 (a) and 16.

Legislation

1081. A new Family Law was enacted in December 2000 which includes provisions on conditions for prenuptial agreements, polygamy and divorce, terminates the husband's right to non-judicial unilateral divorce and requires court proceedings, provides for the equal division of joint property on divorce and financial provision from the former husband for the children and former wife and establishes the minimum legal age of marriage for both women and men at 18 years.⁴⁹²

1082. The Nationality Law was amended to give equal rights with men to acquire, change or retain their nationality to their children.

Policies and programmes

1083. A Committee was formed in order to identify the critical areas from the Beijing Platform of Action that has to be implemented. These areas include violence against women.

1084. The Ministry of Women's Affairs and Social Welfare was created in 1996 but was changed to The Ministry of Women's Affairs and Social Security in 1998.

1085. The National Women's Council was reconstituted as the Gender Equality Council chaired by the President in 2000. Among its mandate is the incorporation of women's development programmes into national development programmes and to advise the Ministry on measures to eliminate gender discrimination and violations of women's rights.

1086. A female representative from each atoll now attends the Atoll Chiefs' meeting held every two years as a result of the recommendation made by the participants of political and legal awareness workshops.⁴⁹³

1087. The Vision 2020 programme works towards women's human rights as an integral dimension of national development.

Issues of concern

1088. There is a lack of data with regard to violence against women in the Maldives. Women's groups, however, highlight domestic violence as a serious problem that is invisible in the society.⁴⁹⁴

Mongolia

1089. Mongolia has ratified the Convention (1981) and is a State party to the Optional Protocol.

Legislation

1090. The Labour Law that came into effect in 1999 contains specific provisions prohibiting acts of discrimination, exclusion or preference in labour relations. The Law has a separate chapter on Women's Labour. Women's equal rights for inheritance, land use, ownership of livestock and other properties were formalized in the Civil and Family Laws. Newly amended laws on Social Insurance and Social Security guarantee pensions and benefits for pregnant women, mothers after childbirth, child-caring mothers and mothers with many children, and they define the size, conditions as well as time period for benefits and pensions. The new Family Law that was adopted in 1999 states, inter alia, that responsibilities and duties in the family are equal for both men and women and the law allows for the dissolution of a family without requiring substantial evidence or a reconciliation period. A few non-governmental organizations are in the process of drafting and lobbying for domestic violence legislation.

Policies and programmes

1091. The National Programme for the Advancement of Women, which was formulated by the National Committee for the Implementation of the Decision of the Beijing Conference, was approved by the Government in 1996. Human rights and violence against women are two of the main goals of this Programme. Each province has designed its own subprogramme.

1092. A recently held seminar on "Ways to eliminate violence" resulted in a set of recommendations to the State to make urgent measures and to allocate financial sources to support survivors of violence.

1093. A working group was established in the Parliament to study the opportunities to create a favourable legal environment to fight violence.

1094. The National Centre Against Violence, the General Police Department and the Police Academy have signed an official tripartite agreement to include domestic violence issues in the core curricula for police retraining and primary police training programmes.

Issues of concern

1095. Domestic violence continues to be a serious problem in Mongolia though data is not so readily available. Trafficking and prostitution also seems to be an important concern though efforts to combat trafficking have been minimal.

Myanmar

1096. Myanmar became a party to the the Convention in July 1997 with a reservation to article 29.

Legislation

1097. The Suppression of Prostitution Act 1949 was amended in April 1998.

1098. Although rape is illegal, spousal rape is only considered a crime if the wife is under 12 years of age. There are laws that can be used to target aspects of trafficking, such as a law against abduction, though there is no law that specifically outlaws trafficking in persons.

Policies and programmes

1099. The Myanmar National Committee for Women's Affairs (MNCWA) was established on 3 July 1996 under the Ministry of Social Welfare, Relief and Resettlement, and 3 July has now been designated Myanmar Women's Day. Soon after, state, district and township-level working committees on women's affairs were established. Among the work of the MNCWA are publications of existing laws that deal with women in local languages. It has also established a task force on trafficking in women. A representative of the MNCWA sits on the censor board of the Myanmar Motion Pictures and Video organization.

1100. The Myanmar National Action Plan for the Advancement of Women was adopted in December 1997. Among the six critical areas of concern is violence against women, for which a subcommittee was established. The subcommittee is involved in raising awareness on violence against women, upgrading the capacity for providing health care for survivors of violence including the establishment of drop-in centres, counselling centres and shelter homes. In addition, the Government participates in the operation of schools and rehabilitation programmes for former prostitutes.

Issues of concern

1101. Myanmar is a country which has been ruled by a series of Burman-dominated military regimes since 1962. Violence against women by the State remains the most serious problem faced by women in Myanmar. This includes sexual violence against women from minority communities, against refugees, as well as other physical violence, torture and forced displacement. The Special Rapporteur received allegations of sexual violence against women by members of the Myanmar Armed forces⁴⁹⁵. Including reports that army soldiers and other army personnel raped women who were members of ethnic minorities, especially in Shan, Karenni, and Karen States. The Myanmar Police Force statistics show a sharp increase in human trafficking cases from 8 in 1999 to 37 in the first 10 months of 2002.⁴⁹⁶ Women are trafficked internally from poorer regions to urban areas, as well as to other countries for the purposes of prostitution. Domestic violence remains an invisible issue but efforts are being made to combat this crime in some areas. The incidence of illegal abortion is believed to be very high, and unsafe abortions account for approximately 50 per cent of maternal deaths.⁴⁹⁷

Nepal

1102. Nepal is a State party to the Convention (1997) and has signed the Optional Protocol.

Legislation

1103. As a result of the work done by various government ministries and civil society groups the 11th Amendment Bill of 1997 was issued. The act guarantees equal property rights and conditional abortion rights to women. Now that the Lower House has endorsed the bill again, it does not require the endorsement of the Upper House. The bill also bans the practices of child marriage and polygamy.⁴⁹⁸ The Elimination of Offences Related to Trafficking in Persons (Crime and Punishment) Act 2000, which is a police proposal, prohibits a wide range of activities related to trafficking in persons and various forms of sexual exploitations.

1104. In 1994 the Supreme Court struck down provisions of the Citizenship Law that discriminate against foreign spouses of Nepalese women. The Supreme Court of Nepal has declared that marital sex without a wife's consent should be considered rape and punishable by law.⁴⁹⁹

1105. Seventy lawyers filed a case against the discriminatory inheritance law in the Supreme Court of Nepal. The Court directed that the Government should introduce an appropriate bill in parliament taking in to account the constitutional provisions on equality.

Policies and programmes

1106. The Ministry of Women and Social Welfare (subsequently renamed the Ministry of Women, Children and Social Welfare) was established in 1995. The goal of the Ministry is to mainstream women in the development process through empowerment. To achieve this end, the Ministry has pursued strategies such as gender-sensitization programmes for parliamentarians.

1107. The Ninth National Plan of Action (1997-2002) has a gender equality and women's empowerment section for the first time. Violence against women and the human rights of women are two of the critical areas of concern.⁵⁰⁰

1108. The 1997-2017 National Health Policy of Nepal recognizes access to health care services as a basic human right. Under this, the National Reproductive Health Strategy and the National Safe Motherhood Plan of Action aim to strengthen the reproductive health and family planning programmes.⁵⁰¹

1109. Nepal has made a reservation policy for women in elections for Village Development Committees as well as municipalities. The reservation ratio is 20 per cent.

1110. The National Council of Women in Development, which is under the Prime Minister, provides overall policy guidance and oversees interministerial coordination. A National Commission for Women will be established in the near future. Fighting Violence against Women was the theme for International Women's Day 2000. The 1997 Government-initiated policy on trafficking aims to campaign against girl trafficking, promulgate laws to end discrimination against women and implement programmes for controlling trafficking in cooperation with non-governmental and international organizations. Further action includes increased compensation for the victims of sexual exploitation and the creation of a national commission on girl

trafficking.⁵⁰² The Seventh Five Year Development Plan, the National Plan of Action against Trafficking of Children and their Commercial Exploitation, The National Task Force on Trafficking and District Task Force on Trafficking are some of the policies that address trafficking. Organizations such as the Alliance against Trafficking in Nepal and the Ministry for Women in Nepal are working to combat the issue of trafficking. Women's cells have been established at the centre and at district police offices in various parts of Nepal, which will provide more women-friendly services on issues such as trafficking, rape, polygamy, child marriage and abortion.

Issues of concern

1111. At the invitation of the Governments of Bangladesh, Nepal and India, the Special Rapporteur on violence against women, its causes and consequences, visited Dhaka, Kathmandu, Bhairahwa in Rupandehi district, Delhi, Bombay and Calcutta from 28 October to 15 November 2000, to study the issue of trafficking in women and girls in the region (E/CN.4/2001/73/Add.2).

1112. Abortion is a crime in Nepal under Muluki Ain, 2020 (the "Country Code"), forcing women to seek clandestine abortions under conditions that endanger their lives and health. Roughly half of maternal deaths are attributed to unsafe abortion⁵⁰³. The arrest, prosecution and imprisonment of women accused of abortion is also of great concern.⁵⁰⁴ The most recent legislative attempt to reform the law is the 11th Amendment Bill, which proposes to amend all gender discriminatory laws in the Country Code, including the prohibition on abortion, it is due to be reconsidered by the lower House of Parliament in 2002.

New Zealand

1113. New Zealand is a party to the Convention (1985) and the Optional Protocol. It has reservations in relation to women in combat and maternity leave with pay.⁵⁰⁵

Legislation

1114. Significant progress has been made to combat violence against women. These include: the Domestic Violence Act 1995 (No. 86 of 1995) and making FGM illegal in New Zealand. The Domestic Violence Act came into force in July 1996. The definition of violence in the Act closely resembles the definition of violence used in the Declaration on the Elimination of Violence Against Women. The act provides a new single protection order and includes psychological violence in the meaning of violence. All family and household members will be able to apply for protection orders, which is beneficial for Maori women. The act also provides for free legal aid for protection orders, special information, education and support programmes for women and children and new guidelines for police for arresting violent abusers.⁵⁰⁶ An amendment to this act was passed in 1998. (No. 41 of 1998).

1115. New Zealand has also taken effective legal measures to prohibit the practice of female genital mutilation and raise awareness of its prohibition among all communities.

1116. The Human Rights Amendment Act was passed in December 2001 to promote the further development of a robust human rights culture by increasing government compliance to a high standard, creating a new institutional framework and a better dispute resolution process.

1117. Changes were also made to the Guardianship Act to ensure the safety of the child in custody and access cases where there have been allegations of violence.

Policies and programmes

1118. Immediately after the Beijing Conference the Government took the initiative of identifying areas where further action would be taken to improve the status of women. These include mainstreaming a gender perspective in the development of all policies and programmes, the gender pay gap and the need to collect more and better data on all aspects of women's lives. In March 1996 the Government directed the Ministry of Women's Affairs to work with other relevant departments and to report on progress and policy options to address these issues.⁵⁰⁷

1119. The Ministry of Women's Affairs, in consultation with other agencies is developing a strategy for the advancement of government goals for women. It seeks to examine critical areas for change, which will enable women to enhance their contribution to achieving higher standards of living and well-being.⁵⁰⁸

1120. Other government initiatives include the New Zealand Government Statement of Policy on Family Violence of 1996, the development of a government strategy on sexual and reproductive health, including providing two varieties of oral contraceptives free of charge, implementation and the and the protection of children from sexual exploitation by New Zealand nationals in other countries.

1121. The Human Rights Commission conducted Sexual Harassment Prevention Weeks in October 2000 and September 2001. The campaign consisted mainly of information dissemination, running provocative advertising methods, carrying out surveys and providing free sexual harassment training. In 2000, the Human Rights Commission appointed a Women's Advocate to provide a reference point for women's groups and to assist and support them in delivering services that improve the lives of women. The Human Rights Commission survey on sexual harassment found that one-third of all women had been sexually harassed. Younger women were likely to be harassed and the most common place was the office.⁵⁰⁹ Domestic violence continues to be a major problem among certain communities in New Zealand though a great deal of effort is being made to help combat the problem.

Pakistan

1122. Pakistan became a State party to the Convention in March 1996 but maintains a reservation to Article 29.

Legislation

1123. The suspended Constitution provided for equality before the law for all citizens and broadly prohibited discrimination based on race, religion, caste, residence, or place of birth; however, in practice there is significant discrimination based on these factors.

1124. There are no specific laws pertaining to domestic violence, except for the Qisas and Diyat ordinances. The Penal Code incorporates the doctrines of Qisas (roughly, an eye for an eye) and Diyat (blood money). Qisas is not known to have been invoked; however, Diyat occasionally is applied, particularly in the NWFP, in place of judicial punishment of the wrongdoer. Only the family of the victim, not the State, may pardon the defendant. Qisas and Diyat cannot be invoked where the victim is a direct lineal descendant of the perpetrator.

1125. Under the penal code, honour killings are treated as murder. However, the law states that the family of the victim is allowed to compromise with the killer (who is usually a relative).

1126. In 1997 the National Assembly passed a law that provides for the death penalty for persons convicted of gang rape. Marital rape is not a crime in Pakistan. The Hudood ordinances criminalize nonmarital rape and extramarital sex (including adultery and fornication).

Landmark cases

1127. In a recent case, six men were sentenced to death by hanging in September 2002, by an anti-terrorism court in Dera Ghazi Khan, Pakistan, for their part in a gang rape sanctioned by a tribal council in Pakistan. Eight others were acquitted over the incident which shocked the country and sparked international outrage. Thirty-year-old divorcee Mukhtiar Mai was raped for more than an hour in a hut in the Punjab village of Meerwala to atone for her younger brother's alleged affair with a sister of one of the accused rapists.⁵¹⁰

Policies and programmes

1128. In 1997 the Ministry of Women's Development was created and among its main functions is the formulation of public policies and laws to meet the specific needs of women. The National Plan of Action was officially launched by the Prime Minister of Pakistan on 14 August 1998 and is to be implemented by the Ministry of Women's Development. The Pakistan 2010 Programme, which was published in 1997, includes the enhancement of women's status as one of the 16 goals listed in the document.

1129. The National Commission on the Status of Women Ordinance was passed in 2000. One of the functions of the Commission is to review all laws, rules and regulations affecting the status and rights of women and to suggest repeal, amendment or new legislation essential to eliminate discrimination. At the request of the Women's Ministry the Commission set up a Committee of experts to review the Hudood and Zina Ordinances which are said to discriminate against women. It is expected that the findings will be available in August 2002.

1130. Crisis Centres for women in distress have been established in Islamabad, Vehari, Lahore, Sahiwal and others are being opened in other parts of the country. The objectives of these centres are to protect women against violence of all kinds and to eliminate all forms of discrimination. This is an initiative of the Ministry of Women's Development with the assistance of local NGOs.⁵¹¹

1131. The Ministry of Law, Justice and Parliamentary Affairs established a fund of 50 million for women in distress and detention to provide relief to the victims of violence.

Issues of concern

1132. Honour Crimes are serious problem in Pakistan.⁵¹² According to the non-governmental Human Rights Commission of Pakistan (HRCP), honour killings and other forms of violence against women are increasing. Methods of carrying out honour killings vary across the country. In the southern province of Sindh, where it is often referred to as "karo kari", the victim is hacked to death, often with the complicity of the community. Among the tribal Pashtun communities in North West Frontier Province (NWFP) and Balochistan in the southwest, where the practice is known as "tur", the victim can be hacked, stabbed, burned or shot. In both cases, the practice's name means "black" in the local languages, in reference to the perceived culturally unacceptable behaviour of the victims. In the populous Punjab, the killings - usually by shooting - are more often based on individual decisions and carried out in private. In most cases, husbands, fathers or brothers of the women concerned perpetrate the murders. In some cases, jirgas, or tribal councils, decide that the woman should be killed and send men to execute her. The victims range from pre-pubescent girls to grandmothers. They are usually killed on the mere allegation of having engaged in 'illicit' sexual relationships. They are never given an opportunity to give their version of events: most significantly of all, often the making of the allegation alone suffices to defile a man's honour and, concomitantly, to justify killing the woman. Most often the perpetrators are not brought to justice. It is reported that only a handful of the perpetrators are arrested, and most of them receive only token punishment; the law also allows the heirs of the victims to forgive the accused or accept compensation (*diyat*) in place of imprisonment.

1133. HRCP statistics for the first 10 months of 2001 reveal at least 379 cases in the southeastern province of Sindh, the victims of 151 of which were men. This compares to a total of 196 cases reported in 1998. Sindh is the only place in the country where the lives of men are also taken in honour killings. In the Punjab, there were 227 reported honour killings in 2001. However, there were also some 722 murder cases involving women, and the likelihood of a proportion of them being honour killings was high. One disturbing case in the Punjab was that of Samia Sarwar, who was murdered for trying to escape an abusive marriage. At the instigation of her own parents, the 36-year-old woman was shot dead in her lawyer's office in Lahore on 6 April 1999. Although the circumstances of her death are well known, the case was reportedly never brought to court.

1134. Other related atrocities include women and girls who are burned or maimed by husbands or brothers who believe or suspect them of what is considered "immoral behaviour". Information has been received of cases of blinding and facial disfigurement due to acid burning or razor attacks to parts of the face.

1135. There is concern over the increasing incidences of domestic violence. In March 2000, HRCP reported that, on average, at least two women were burned every day in domestic violence incidents.⁵¹³ It was estimated that 70 to 95 per cent of women had experienced domestic or familial violence.⁵¹⁴ The Parliamentary Commission of Inquiry for Women called for legislation clearly stating that domestic violence against women is a criminal offence.

1136. During the last 11 months of the year 2002, 4,136 different cases of physical as well as sexual abuse were reported against women in the national and provincial newspapers. Of the reported cases, 1,321 cases were of murdered women, 925 cases of rape, 350 cases of torture, 90 cases of burn and 13 cases of stripping.⁵¹⁵

1137. According to information received, women frequently are charged under the Hudood Ordinances for sexual misconduct, such as adultery. Men accused of rape sometimes are acquitted and released while their victims are held for adultery or fornication. This has resulted in women being imprisoned because they have alleged that they were raped but were not successful in proving it due to discriminatory evidence laws.

1138. Reports say that Pakistan is the destination point for girls being trafficked into the country by many South Asian and Central Asian states and also from the Far East Asia before being smuggled elsewhere.⁵¹⁶

1139. At the invitation of the Governments of Pakistan and Afghanistan, the Special Rapporteur on violence against women, visited Pakistan and Afghanistan from 1 to 13 September 1999, to study the issue of violence against Afghan women. In Pakistan, the Special Rapporteur visited Islamabad, Peshawar, Lahore and her assistant also visited Quetta to meet with Afghan refugees on her behalf (E/CN.4/2000/68/Add.4). As a host to millions of Afghan refugees who escaped drought and war, Pakistan faced many problems with regard to the security of refugee women.

Philippines

1140. The Philippines is a State party to the Convention (1981) and has signed the Optional Protocol.

Legislation

1141. The Act Giving Representation to Women in the Social Security System (1994), Migrant Workers and Overseas Filipino Act of 1995 (enacted to establish a higher standard of protection and to promote the welfare of migrant workers, especially women), the Anti-Sexual Harassment Act (RA7877- deals with the problem in the employment, education and training sectors) of 1995 the Paternity Leave Act (8187) in 1996 are some of the new laws enacted in the Philippines during the decade.

1142. The Anti-Rape Law of 1997 (RA8353) amended the definition of the crime from what was once considered a private offence against chastity to a public crime against the person. Rape was also redefined to include other acts of sexual assault and recognised marital rape implicitly. This new law also allows anyone to file a complaint. The Rape Victim Assistance and Protection Act

(RA 8505) of 1998 provides assistance and protection for rape victims and calls for the setting up of women's crisis centres in all the provinces. The Family Court Act (RA 8369) created special courts whose jurisdiction included cases of domestic violence. The Anti-Trafficking in Filipino Women and Minors Act is a bill that has been filed to the Congress and provides a comprehensive measure to address all forms of trafficking of women and children.⁵¹⁷

1143. The Amendment to the Sexual Harassment Bill, the Anti-Domestic Violence Bill and the Anti-Prostitution Bill are waiting to be passed in to law.

Landmark cases

1144. A recent judgement by the Supreme Court gave a favourable ruling on the criminal aspect of sexual harassment and the first marital rape conviction also took place.

Policies and programmes

1145. The Philippine Plan for Gender Responsive Development 1995-2025 is a 30-year framework for attaining gender equality. The Institute of Judicial Administration of the University of the Philippines trained newly-appointed executive judges on the proper handling of violence against women cases. The Philippine National Police continues to establish women and children's desks that are staffed by trained policewomen. In 1997, a nationwide campaign against violence against women was undertaken under the theme of "Yes to Women's Health, No to Violence Against Women".

1146. Under the Special Project for Women in Especially Difficult Circumstances, the Department of Social Welfare and Development maintains substitute homes, crisis centres and community-based support mechanisms around the Philippines.

1147. The Philippine Human Rights Plan developed in 1995 carries a distinct chapter for women and consolidates the human right perspective plan for women for the period of 1996-2000.

1148. The National Family Violence Prevention Programme is a community-based strategy of preparing family members to protect themselves against violence, and manage peaceful resolution of conflict within the context of family relations.

1149. In conjunction with "World Rural Women's Day" of 1997, Proclamation 1105 declared 15 October of every year as "National Rural Women's Day" to recognize the largely unrecognized contribution of rural women to the economy.

1150. To celebrate the International Day of Action for Women's Health, the National Commission on the Role of the Filipino Woman and the Department of Health launched the Barangay Procedure for handling violence against women cases, a manual on handling sexual harassment in government agencies and a training manual in addressing rape in the legal system as tools to address violence against women.

Issues of concern

1151. Violence against women remains a problem in the Philippines, especially in the areas of domestic violence and violence against migrant workers, despite the initiatives taken by the Government.

1152. Women in the custody of law enforcement officials are reportedly particularly vulnerable to torture, including rape and sexual abuse⁵¹⁸. Most of the victims are said to be members of socially disadvantaged groups, including suspected prostitutes, street children, drug addicts and other women considered to come from the lowest strata of society. It is reported that the police use article 202 of the Revised Penal Code, “the anti-vagrancy law”, on a routine basis as a pretext to arrest women arbitrarily, extort money or subject them to sexual violence. In 1997, the Committee on the Elimination of Discrimination against Women criticized the discriminatory application of this law, noting that it was enforced against female sex workers but not against men involved as traffickers, pimps or clients. The alleged vague wording of this law is also reported to leave it open to abuse by law enforcement officials.

Republic of Korea

1153. Republic of Korea is a State party to the Convention (1984) with one reservation, to article 16, paragraph 1 (g).

Legislation

1154. The Gender Discrimination Prevention and Relief Act was enacted in 1999 to prohibit gender discrimination in employment, education, use of goods, services and facilities and the enforcement of laws and regulations. The Equal Employment Act was revised in 1999 to incorporate demands for the prohibition of indirect forms of sexual discrimination in employment and the prevention of sexual harassment.

1155. In December 1997, the Special Act for the Punishment of Domestic Violence and the Prevention of Domestic Violence and Protection of the Victim Acts was enacted. They deal with the punishment and rehabilitation of the perpetrator and reporting by medical institutions and counselling centres.

1156. The 1961 Prevention of Prostitution Act was revised in 1994 to strengthen punishment of both parties involved in prostitution and also of those mediating prostitution. Furthermore, it emphasized measures for guidance and protection of prostitutes.

1157. In accordance with the Women’s Development Act of 1995, the Government has initiated the Master Plan on Women’s Policy, which is to be implemented from 1998-2002. The act also requires the establishment of national basic plans for women’s policies every five years. It provides a legitimate basis for the Government to give preferential treatment to women in areas where few or no women are engaged. The act has created the Women’s Development Fund and has mandated the Government to support women’s organisations.

1158. Revisions for the Family Law under the Civil Law were submitted in November 1998 that deals with marriage, paternity and parental rights.

1159. Teenagers Protective Law was passed to prohibit any teenager under 19 from providing sexual services at entertainment establishments.

1160. Starting from April 2001, extensive research has been undertaken with the view of refining laws relating to trafficking and prostitution. Among the welfare and social support services are counselling centres, victim protection facilities and special facilities for differently-abled women who have become victims of sexual violence.⁵¹⁹

Policies and programmes

1161. The Government established the Ministry of Gender Equality in January 2001 but in size and budget, it is the smallest ministry in the government structure.

1162. In 1994, the Special Committee on Women was formed in the National Assembly for the efficient and effective evaluation of women's policies.

1163. The government drafted the "Ten Policy Priorities for the Advancement of Women" in 1995 with the objectives of relieving the burden of housework on women, providing support for the employment of women, developing capacity of women and to reduce gender discriminatory perception and practices. Among the policy priorities of the Republic of Korea Government is the elimination of discriminatory systems and practices and the promotion of equal employment.

1164. There are gender quotas in the recruitment of public servants and incentive awards encouraging government-run companies to employ women.

1165. The Presidential Commission on Women's Affairs was established in 1998 and it has contributed to the formation of policies to address urgent women's issues, such as the unemployment of women in the economic crisis in 1998. It also has the authority to investigate cases of gender discrimination and to prescribe corrective measures including immediate cessation of discriminatory practices, restoration, damage compensation, planning and training for the prevention of recurrence and publication of actual cases.

1166. Gender Equality Offices were established in the five main ministries of Korea.

1167. Facilities offering protection and rehabilitation for trafficking survivors have increased from 10 in the year 2000 to 24 in 2002.⁵²⁰

1168. A sexual violence and domestic abuse course in the curriculum of the Judicial Affairs Training Institute for public prosecutors and other general judicial positions were recently introduced.

1169. A women's hotline for women engaged in prostitution and an emergency counselling number is also available.

1170. The Korean “comfort Women” are supported by the Republic of Korea Government programmes and the Government also offers counselling services with the help of many non-governmental organizations.⁵²¹

Issues of concern

1171. At the invitation of the Governments of the Republic of Korea and Japan, the Special Rapporteur on violence against women visited Seoul from 18 to 22 July 1995 and Tokyo from 22 to 27 July 1995 to study in depth the issue of military sexual slavery in wartime, within the wider framework of violence against women, its causes and consequences.

1172. The problem of domestic violence, abuse of migrant workers and trafficking and prostitution remain some major areas of concern in the Republic of Korea but the Government and a strong NGO movement are making efforts to deal with these issues.

Singapore

1173. Singapore became a State party to the Convention in October 1995 with reservations to articles 2; 11, paragraph 1; 16; and 29.

Legislation

1174. The Women’s Charter was amended in May 1997 and provided, among others, wider protection of victims of domestic violence, widening the scope of family violence beyond physical or threats of physical violence, extending the protection to other family members other than spouses and children, empowering the court to issue a Personal Protection Order on a balance of probabilities and also additional orders such as mandatory counselling.

1175. Section 364A was added to the Criminal Procedure Code in 1999 to allow for evidence to be given through live-video or live-television link in proceedings involving witnesses below the age of 16 years for certain criminal offences.

1176. In April 1998, the Penal Code was amended to include a section on enhanced penalties for offences against domestic maids.

Policies and programmes

1177. An Inter-Agency Women and Family Violence Committee was created recently. The Singapore Council of Women’s Organizations has identified family violence as one of its three priority areas and in 1999 established a crisis centre for abused persons. The police have incorporated the management of spousal violence into the training syllabus for their trainees and such training has been given to doctors and social workers handling such cases.

1178. The Rape Investigation Squad was set up in 1997 as a specialized branch of the Criminal Investigation Department to investigate cases of rape, incest, and unnatural offences.

1179. A Task Force has been set up by the Ministry of Community Development to look into the development of a database on family violence.

Issues of concern

1180. While many initiatives have been taken to reduce domestic violence in Singapore, it is still a problem faced by many women.

Sri Lanka

1181. Sri Lanka is a State party to the Convention (1981) and maintains no reservations.

Legislation

1182. In March 1993, the Government of Sri Lanka adopted a Women's Charter which incorporates many of the provisions of the Convention and also contains specific provisions on the right to protection from gender-based violence including rape, incest, sexual harassment, physical and mental abuse, torture and cruel, inhuman or degrading treatment.

1183. New amendments to the Penal Code introduced in 1995 by Act No. 22 specifically addressed sexual abuse and exploitation. The 1995 amendments created several new offences including incest, sexual harassment, trafficking and grave sexual abuse. Rape laws were modified to create a more equitable burden of proof and to make punishments more stringent. Marital rape is considered an offence in cases of spouses living under judicial separation. Statutory rape for non-Muslims was raised to 16. It also criminalizes incest. These laws also govern sexual harassment in the workplace. In 1995 the Government raised the minimum age of marriage for women from 12 to 18 years, except in the case of Muslims, who continue to follow their customary marriage practices.

1184. A later amendment in 1998 decriminalized attempted suicide, which is a significant change as there are many female suicides. The Maintenance Amendment Act of 1999 reformed a British colonial law of 1889 and introduced gender-sensitive provisions. It is based on the idea of reciprocal and joint spousal and parental responsibility for family support depending on the means of each spouse. The law also rejects the idea that a woman who gives birth to a child out of wedlock is the sole responsibility of the mother. A Bill for amending the discriminatory Citizenship Laws of the country is now in parliament.

1185. A draft domestic violence Bill is in the process of being finalized.

Landmark cases

1186. The case of Krishanthi Kumaraswamy received much national and international publicity. It dealt with the a situation of gang rape and murder of Krishanthi Kumaraswamy and three others at the hands of the State security forces in 1996. This was one of the few cases where

action was taken against the perpetrators of violence against women during armed conflict. The case was given priority and was decided before a trial at bar.

Policies and programmes

1187. After the Women's Charter for Sri Lanka, which adapted the Convention to local needs, was accepted as a national policy by the government in 1993, a National Committee was appointed in 1994 to oversee the implementation of the Charter. The National Committee for Women is being considered to be changed in to an Independent Commission, which has legal validity.

1188. A National Plan of Action for women was formulated in 1995/6 by the Ministry of Women's Affairs and the National Committee for Women and it contains several long and short term strategies for the promotion and protection of the human rights of women. Violence against women, women and human rights, and women and armed conflict have been identified among the eight areas of critical concern. A separate Ministry of Women's Affairs was created in 1997.

1189. Although the Human Rights Commission's powers are limited to State action, women can get redress in the case of infringement of their rights.

1190. Women's and Children's Desks have been established in some of the main police stations around the country.⁵²² In February 1997, police in Colombo introduced a 24-hour helpline for reporting domestic violence.

1191. The Commander of the Sri Lanka Army established a directorate to deal with human rights issues. This directorate has been mandated to implement the directives of the Commander of the Sri Lanka Army relating to human rights and to oversee the implementation of human rights norms and standards, in line with domestic constitutional and other legal provisions and those relating to international human rights law. The new Directorate is administratively linked to the Directorate of Humanitarian Law, established in 1997, and has been designated as the Directorate of Human Rights and Humanitarian Law.

Issues of concern

1192. The international standards with regard to violence against women are being introduced into the Sri Lankan regulatory framework, but the mechanisms of implementation are still weak.

1193. Nearly two decades of armed conflict in Sri Lanka resulted in many violations of women's human rights including rape in custody, rape, sexual harassment at checkpoints, and other violations due to the number of internally displaced persons and refugees. There is an ongoing peace process but the involvement of women in the official proceedings is minimal. A women's committee has been set up to advise the process. Sri Lanka is also experiencing growth in violent crime including rape. Torture and ill-treatment by police officers are also on the rise.⁵²³

1194. Like the Committee on the Elimination of Discrimination against Women⁵²⁴, the Special Rapporteur notes with concern: the high incidence of violence against women, including domestic violence; that no specific legislation has yet been enacted to combat domestic violence and that there is a lack of systematic data collection on violence against women, in particular domestic violence; that marital rape is recognized only in the case of judicial separation; that the police fail to respond to complaints of violence against women in a gender sensitive and effective manner. Furthermore, it is of concern that abortion is allowed only if a woman's life is in danger and is strictly prohibited otherwise.

1195. The Special Rapporteur supports the Committee in urging the Government to ensure full implementation of all legal measures relating to violence against women and to provide women victims of violence with accessible and effective means of redress and protection. The Special Rapporteur recommends that abortion be permitted in cases of rape, incest and congenital abnormalities.

1196. Increasingly, women migrant workers are in vulnerable situations, subjected to abuse and in some cases death despite the progressive and protective measures taken by the Government, including mandatory registration and insurance coverage. The Special Rapporteur joins the Committee in urging the Government to ensure the full and effective enforcement of measures taken to protect women migrant workers, including preventing activities of illegal employment agencies.

1197. Issues related to family law, including divorce, child custody and inheritance are adjudicated by the customary law of each ethnic or religious group and results in discrimination against women.

Tajikistan

1198. Tajikistan has ratified the Convention on 26 October 1993, and signed the Optional Protocol to the the Convention on 7 September 2000.

Legislation

1199. The Criminal Code prohibits rape, which is punishable by up to 20 years in prison;⁵²⁵ however, it is believed that most cases are unreported, and that the problem is growing, particularly in urban areas. Prostitution is illegal; however, in practice prostitutes are not tried in court, but instead are given a cursory fine and released. Pimps and madams are prosecuted regularly. The law prohibits keeping brothels, procuring, making or selling pornography, infecting another person with a venereal disease, and the sexual exploitation of women; however, prostitutes operate openly at night in certain urban areas.⁵²⁶

1200. There is no law specifically prohibiting trafficking in persons. Traffickers may be prosecuted under laws prohibiting exploitation of prostitution, rape, kidnapping, buying and selling of minors, illegal limitations on arrival and departure in and out of the country, document fraud, and immigration violations. The penalties for these offences are in most cases fines or

imprisonment of up to three years, though certain immigration violations carry a sentence of up to 10 years, and rape is punishable by up to 20 years in prison.

Policies and programmes

1201. A National Commission on Realization of the National Plan for Action was established on 10 September 1998 by Presidential Decree; the Advisory Body is headed by the Deputy Prime Minister. The National Committee on Work with Family and Women in the Cabinet of Ministers participated in the preparation and implementation of the State Programme on Women. The existence of a Committee on Work with Women and Families in the Parliament should also be noted.

Issues of concern

1202. Violence against women remains a serious problem in Tajikistan. According to figures from the regional branch of the World Health Organization,⁵²⁷ 50 per cent of the women in the country had been exposed to physical violence and 47 per cent to sexual violence. Women also faced verbal abuses and humiliating treatment, often from their husbands. Given their economic dependency on husbands abusing them, some women saw no other way out of violent situations than suicide, with self-burning as an extreme form.⁵²⁸ In addition, the abduction of young women, who are raped or forced to marry their abductors, is reported widely. According to information received, there are no special police units for handling rape cases; there are no statistics on the number of rapists prosecuted, convicted, or punished each year. In one widely publicized case in 2000, Dilfuza Nimonova, an alleged victim of rape was convicted, in a trial of questionable fairness, of having killed the man who raped her.⁵²⁹

1203. The Constitution guarantees equal rights for women. However, due to norms and attitudes prevailing in society, women were often in a weak position. Particularly in rural areas, where patriarchal traditions remained strong, girls were married off at a young age. The average age of brides in the country as a whole was 20, but in some areas it was not uncommon for a girl to marry at 14.⁵³⁰ Sometimes young women had to marry a husband who already had one or two wives, although polygamy was officially illegal.

1204. Prostitution involving young girls is another major problem in Tajikistan. There were few accurate statistics, but the authorities believed that the average age of prostitutes had fallen sharply - to as low as 11-12. Sometimes the affected girls were sold to traffickers by relatives, but more often they were abducted.⁵³¹ An increasing number of women were exploited in drug smuggling. Tajikistan is a country of origin for young women trafficked to Uzbekistan, Kazakhstan, the Kyrgyz Republic, Russia and countries of the Persian Gulf, including the United Arab Emirates, Yemen, Iran and Saudi Arabia for purposes of sexual exploitation.

1205. Although there is a growing awareness of trafficking as a problem in Tajikistan, the Government has not evidenced a willingness to address it and does not have a national plan. To date, there have been no reported prosecutions of traffickers. According to information received, law enforcement officials do not vigorously investigate trafficking. Corruption is allegedly endemic throughout the trafficking process.⁵³² There is no specialized training for law

enforcement on trafficking; the borders are not controlled or monitored for trafficking in persons. It is reported that the Government of Tajikistan does not provide protection assistance to trafficking victims, encourage victims to seek legal action, or provide restitution.

Thailand

1206. Thailand is a State party to the Optional Protocol but has reservations to articles 16 and 29 of the Convention.

Legislation

1207. The 1997 Constitution of Thailand guarantees the equal rights of men and women and provides for the establishment of a National Human Rights Commission to watch for violations of human rights and to promote human rights in accordance with international obligations.

1208. The Prevention and Suppression of Prostitution Act of 1996 revised the 1960 Act to decriminalize prostitution and give heavier penalties to procurers, brothel owners, pimps, managers, mamasans, customers and even parents who send their children to prostitution.

1209. The Measures in Prevention and Suppression of Trafficking in Women and Children Act of 1997 stipulates that conspiracy to commit an offence relating to trafficking in women and children is a crime and subject to punishment. The National Commission on Women's Affairs has set up a Subcommittee on Legislation whose priority is set on the introduction of a domestic violence act. The draft bill has already been prepared.

Policies and programmes

1210. The National Policy and Plan of Action for Elimination of Violence against Women and Children will be approved in the near future. Thailand established the National Committee for Family Development and Elimination of Violence against Women and Children and the National Committee on Trafficking in Women and Children. The National Reproductive Health Policy is to ensure that, "all Thai males and females, at any age, to have a healthy reproductive health".

1211. Although abortion is legal only in cases of rape or if there is a threat to the health of the mother there have been instances where abortion was allowed when there was a risk of a foetus suffering from disease or disability. The Ministry of Public Health recently launched a monitoring and evaluation on the hospitals included in its pilot project "One Stop Crisis Centre", which was started in 1999. The evaluation revealed that some hospitals have been very efficient and gender sensitive with a strong committed team of staff.

1212. The training of community members in the prevention and handling of domestic violence has also started. A project to conduct an analysis of media coverage on violence against women was launched in January 2002. It aims to provide some critiques and feedback to the media on their sensitivity and points to be considered in their presentations.

Issues of concern

1213. Trafficking of women for prostitution remains a serious problem in Thailand though the Government and NGOs have made efforts to deal with the issue.

Timor-Leste (East Timor)

1214. Timor-Leste gained independence and became a United Nations member on 23 May 2002. On Human Rights Day, 10 December 2002, the Timor-Leste parliament approved accession to some international human rights instruments, including the Convention and the Optional Protocol to the Convention.

Legislation

1215. A coalition of national lawyers, coordinated by the local NGO "Fokupers" and supervised by the Advisor of the Prime Minister for Promotion of Equality, drafted an outline for domestic violence legislation. UNFPA and the Office for Promotion of Equality hosted a workshop from 20 to 22 November 2001 to review the draft legislation on domestic violence before it is formally presented to the Council of Ministers.⁵³³

1216. The National Commission of Human Rights, Komnas Ham, set up a Commission of Inquiry into the violations that took place between January and October 1999. Its report, which was presented to the Commission in January 2000, concluded that gross and systematic violations had been carried out, including violence against women.

1217. The Human Rights Office of the United Nations Transitional Administration in East Timor (UNTAET) was involved in translating key human rights documents for wide distribution and providing air time for a regular programme on human rights. Women's groups in East Timor were concerned about the treatment of women who had reported incidents of rape. Their cases were being settled through traditional rules, where only compensation is provided to the victim and the perpetrator is not held accountable under criminal law. UNTAET attempted to address this issue by establishing a Vulnerable Persons Unit to address cases of violence against women in all District Police Stations that deal with victims of rape, domestic violence and any other gender related crimes. The Ainaro Project also deals with this issue.

Policies and programmes

1218. UNTAET created a Gender Affairs Unit within East Timor Transitory Administration and this unit continues under East Timor Public Administration as the Office for the Promotion of Equality. The unit provides training to women to ensure that women have a say in the new Government. The project "Strengthening response capacity to gender based violence", which is funded by UNFPA is also implemented by the Office. It aims to address the legislation, capacity building and advocacy dealing with gender-based violence.

1219. A campaign to create awareness on the main human rights treaties was implemented for the accession of East Timor to the United Nations. Information campaigns were done for the public

as well as parliamentarians about the contents of the Convention as well as the procedure of implementation. These were done through talk shows, workshops and the distribution of translated documents on the Convention.⁵³⁴

Issues of concern

1220. Pro-Indonesian militia and some Indonesian soldiers raped, mutilated and sexually abused many women during their struggle for independence. Reports of sexual violence became common. Reports also indicate that sexual violence occurred during the forced movement of people to West Timor. However, there has been very little accountability for these crimes and impunity continues for the acts committed. Domestic violence against women is a significant problem in Timor-Leste, which is exacerbated by a culture of violence and militarization. From January to the end of August 2002, 574 offences against women have been reported to the police compared to 504 cases for the whole of the year 2001.⁵³⁵ However, very few women report cases of domestic violence to the police and therefore the statistic is thought to be only the tip of the iceberg.

Turkmenistan

1221. Turkmenistan ratified the Convention on 1 May 1997, but has not signed the Optional Protocol to the the Convention.

Legislation

1222. The law states that rape is illegal and these laws were reportedly enforced effectively. There is no law that specifically prohibits sexual harassment; however, a case could be tried under existing legislation. The Penal Code prohibits prostitution, which is punishable by two years' imprisonment or hard labor. The penalty for involvement of a minor in prostitution or using force, threat, or blackmail to involve someone in prostitution is three to eight years' imprisonment. The penalty for procuring persons for prostitution is three to eight years' imprisonment with the possibility of confiscation of property. The law does not prohibit specifically trafficking in persons, but there were no reports that persons were trafficked to, from, or within the country.

Policies and programmes

1223. The Inter-Agency Coordination Council on Realization of the National Action Plan for the Advancement of Women, headed by the Deputy Speaker of the Parliament, was created on 28 August 1998 by Decree N4 of the Deputy Chairman of the Cabinet of Ministers. The existence of the Women's Union of Turkmenistan named after Gurbansoltan-eje, a Government NGO and headed by the Deputy Speaker of the Parliament, should also be noted. The Government does not have programmes in place to combat trafficking in persons, but cooperates with the International Organization for Migration (IOM) in educational efforts on this topic.

Issues of concern

1224. It is reported that domestic violence against women was common, but no statistics were available.⁵³⁶ The subject is not usually discussed in society, and the majority of victims of domestic violence keep silent, partly because they are unaware of their rights, or because they are afraid of increased violence from their husbands and relatives.⁵³⁷ There are no programmes addressing domestic violence, except for one project on advocacy that conducted seminars on women's human rights and domestic violence. As many as 1,500 women took part of at these seminars, including victims of domestic violence.⁵³⁸ There were no court cases and no references to domestic violence in the media. Sexual harassment is said to exist in the workforce; however, it is reported that the government does not discuss this topic publicly.

Uzbekistan

1225. On 19 July 1995, Uzbekistan acceded to the Convention without any reservations. Uzbekistan is not, however, a party to the Optional Protocol.

Legislation

1226. The law punishes physical assault; however, there are currently no specific laws dealing with domestic violence in place, neither in the penal law nor in the civil law. Individuals who use violence against their spouses or others can, in principle, be prosecuted under articles of the Criminal Code covering crimes against the life or health of persons.⁵³⁹ It should be noted that Uzbekistan's articles on rape in the Criminal Code neither explicitly address marital rape nor do they exclude it.

1227. Article 118 of the Criminal Code criminalizes rape, i.e. sexual intercourse using physical force, threats and abusing the helpless condition of a victim, and provides that it is punishable by three to five years' imprisonment. Rape committed by (a) two or more persons; (b) by a dangerous recidivist or a repeat offender; (c) by a group of persons; or (d) accompanied by a threat of murder is punishable by seven to ten years' imprisonment. The rape of (a) a person under the age of 18 if they are known to the perpetrator; (b) committed during mass riots; (c) committed by an especially dangerous recidivist; or (d) resulting in grave consequences is punishable by 10 to 15 years' imprisonment or capital punishment. Rape of a person under the age of 14, if the age of the victim is known to the perpetrator, is punishable by imprisonment for a period of 15 to 20 years or by the death penalty.

1228. There are no laws that specifically prohibit trafficking in persons. However, several provisions of the Criminal Code may apply to the prosecution and punishment of trafficking in women.⁵⁴⁰

Policies and programmes

1229. In 1995, the parliament created the office of the National Human Rights Ombudsman and its regional offices to promote human rights and improve national legislation. One of its departments is concerned with issues related to women, maternity and children. The office of the

Ombudsman has the authority to consider individual complaints, monitor compliance with human rights standards and sanction human rights violators. However, like the deputy majors, the ombudsman's offices have reportedly been neither given the power nor the resources to adequately respond to human rights violations. The Government has created the Committee of Women of Uzbekistan with branches in various regions in the country. Although the Committee of Women has the status of an NGO, it is a governmental organization but reportedly does not play a substantive role in the formulation of policy.

1230. In 1998, a special action plan was drawn up by the Ministry of Internal Affairs within the framework of the State programme of measures to safeguard the interests of the family. In order to identify and eliminate the causes and circumstances contributing to the commission of violent crimes, an official investigation is made of each set of facts.⁵⁴¹

1231. The Government has not publicly acknowledged the problem of trafficking, but has taken some measures to combat it. According to information received, the police force in Samarkand formed a special unit on trafficking in women in 1998, but the unit's effectiveness has been hampered by a lack of resources.

Issues of concern

1232. There is a prevalence of all forms of violence against women, including domestic violence. According to several reports, violence against women in the family is widespread.⁵⁴² It occurs across all ethnic and religious groups and social classes.⁵⁴³ Although the Government of Uzbekistan has publicly declared that it recognizes the problem of domestic violence, until now, besides the adoption of the new Family Code in 1998, its response seems limited to the creation of education and training programmes for government personnel and others such as school children. The Uzbek Government has not developed effective measures to meet the needs of the victims and it does not keep statistics on assault or other crimes that indicate the relationship between the perpetrator and the victim. Domestic violence in Uzbekistan is a highly underreported crime.⁵⁴⁴ Furthermore, such cases usually are handled by family members or elders within the community (*mahalla*) and rarely come to court. Indeed, Reconciliation seems to be their main objective, thereby undermining the individual rights of women in the family. Although there is no legal requirement stating that the *mahalla* should become involved before the police are contacted, it is common practice that the *mahalla* decides whether the police should be contacted or not.⁵⁴⁵ When women turn to the criminal justice system in cases of violence against them, the crime is often reportedly not effectively addressed. On the one hand, the legal system also focuses on reconciliation, which means in practice that the police, prosecutors and judges refer cases of family violence to the *mahalla* for reconciliation, unless these involve serious injury or death. On the other hand, when the police take action, domestic violence cases are reportedly charged as violations of the Administrative Code rather than as crimes. In fact, cases of domestic violence are rarely prosecuted and often only receive attention when victims commit suicide.⁵⁴⁶ The problem of female suicide has also caught the attention of State officials in Uzbekistan.⁵⁴⁷ It should also be noted that there are no civil remedies such as protective orders in Uzbekistan. No laws exist to remove abusive men from their homes for a period of time. Rape is believed to be widespread in Uzbekistan, but due to cultural norms and values which place great importance on women's sexual purity, the crime is underreported.

Public condemnation of rape victims is common, particularly in rural areas.⁵⁴⁸ According to articles 321 and 325 of the Criminal Procedure Code, rape is not subject to automatic prosecution in Uzbekistan as criminal proceedings can only be initiated after a written complaint is filed by the victim. Thereafter the investigator starts to gather evidence. A case may be dropped if the victim withdraws the charges herself. As a result, many rape cases are not prosecuted, as women do not report or drop charges because of social pressure. According to the law, perpetrators of rape cannot avoid prosecution by marrying the victim. However, in practice, rapists escape criminal prosecution when all sides agree to arrange a marriage between the perpetrator and the victim.⁵⁴⁹ It is reported that, officially, trafficking in women, as understood by international experts, does not exist.⁵⁵⁰ In reality, hundreds of young women are sent abroad illegally (officially as tourists) in order to earn money to live.⁵⁵¹ Women and girls are trafficked for the purpose of forced prostitution to destinations including the Persian Gulf, South Korea and Turkey. Children's advocates reported that the trafficking of minor children for work in the sex industry abroad continued. Women and girls are also forced into prostitution in Uzbekistan itself. Prostitutes who have been forced into prostitution may also run the risk of detention. According to article 190 of the Uzbek Administrative Code, prostitution is punishable by administrative measures. Twenty to 30 per cent of girls in the Kokand Detention Centre are prostitutes. The reasons for sending these girls to the detention centre include; "amoral behaviour", drinking of alcohol, and "behaviour not under the control of the family".⁵⁵² There are reportedly no government programmes to educate or assist potential victims.

Viet Nam

1233. Viet Nam became a State party to the the Convention on 17 February 1982, and has a reservation to Article 29.

Legislation

1234. Reforms to ensure women's equality and non-discrimination took place in the Civil Law in 1995, the Penal Code in 1997, the Laws on Election to the National Assembly in 1997, the Law on Nationality in 1998, the Law on Marriage and Family in 1998, and the National Council in 1999. In addition, the Labour Code was revised to give reduction of taxes to employers who employ a number of women workers in their enterprises. Other changes include a decision by the National Assembly to increase penalties for procurers of prostitution and sex abusers of female children and adolescents.

1235. Though not criminalized individually, rape, spousal rape and some forms of sexual harassment can be addressed under the Penal Code, which makes it a crime to use violence, threaten violence, take advantage of a victim being unable to act in self defence, or resort to trickery in order to have intercourse with a person against that person's will.

Policies and programmes

1236. At the institutional level, the National Committee for the Advancement of Women has become a member of ASEAN Subcommittee on Women.⁵⁵³ The Prime Minister recently signed a strategy for the advancement of women covering the next 10 years in areas such as rights of women in the workplace, education and health as well as their political role and leadership. UNIFEM and UNDP are working with the members of the Vietnam Women's Union to strengthen its capacity to identify and address women's issues and gender concerns.⁵⁵⁴ The Women's Union is also working with the Youth Union in education and rehabilitation programmes to combat the social and economic pressures that force women into prostitution.

Issues of concern

1237. Data on domestic violence and other forms of violence against women is difficult to ascertain; however, it is believed to be common. Existing legislation addressing domestic abuse is believed to be ineffectively enforced, and the problem is increasingly discussed in the media. There are no known cases of prosecution of spousal rape, even though it is considered to be criminalized under general penal laws. Though officially illegal, prostitution appears to be largely tolerated and some women are coerced into working as prostitutes, either by parents, by false promises of lucrative work or by the introduction of young women to heroine. Similarly, trafficking in women and children for the purposes of sexual exploitation and forced labour is a serious problem. Women are trafficked domestically and internationally to become brides, domestic workers and prostitutes. It is estimated that, between 1995 and 2000, nearly 5,000 women and children were trafficked to and escaped from Cambodia.

(i) Pacific island States

1238. Fiji (1995), Vanuatu (1995), Papua New Guinea (1995), Samoa, Tuvalu (1999), Tonga, Solomon Islands (2002) and Nauru have ratified the Convention. Countries like Cook Islands, Niue and Tokelau have ratified the Convention through their association with New Zealand. Niue has a reservation to article 11, paragraph 2 (b) and Cook Islands has reservations to articles 2 (f), 5(a) and 11, paragraph 2 (b). Kiribati, Marshall Islands, Micronesia, Palau and other islands are yet to ratify the Convention. Fiji's first report to the Convention was made in January 2002. Fiji Islands' reservations to articles 5 (a) and 9 made during the time of ratification were removed in May 1999 to bring about consistency with the Fiji Constitution. Solomon Islands are party to the Optional Protocol.

Legislation

1239. The 1997 Fiji Islands Constitution has a provision for non-discrimination on the grounds of gender, including equal citizenship rights. The Fiji Penal Code has been revised, especially the provisions on sexual offences. The Sexual Offences against Children Legislation is to be tabled in the Fijian Parliament. The Law Conference on Women and Children in Vanuatu appointed a law committee to look into domestic violence protection orders, and since December 2001 there

are 3 specific Domestic Violence Protection Orders under the Family Protection Order Bill, which has not yet been passed.

Policies and programmes

1240. In 1999, a Human Rights Commission was established under the Human Rights Act (10/99) in Fiji. The Department of Women and Culture was upgraded to a full Ministry in 1997 in Fiji.

1241. Government Gender Focal Points at Deputy Permanent Secretary Level were established in 17 ministries and departments in 1998 to ensure the implementation of the Women's Plan of Action in Fiji. The Fijian Inter-Ministerial Committee on Women was also established in 1998 along with the five task forces, which includes a task force on violence against women and children.

1242. The Fiji National Women's Advisory Council was established in 1999 to provide a forum where the Minister for Women and Culture meets with women representatives. The Fiji Women's Plan of Action 1998-2008 was approved in 1998. Since September 1995, the Fiji Police has adopted a "no drop policy" on all reported cases of domestic violence. A Sexual Offences Unit was established in Fiji in 1995 to be responsible for specific cases of sexual assaults and abuse.

1243. The Fiji Women's Crisis Centre (FWCC) is one of the few establishments that provide support services to women survivors of violence. Mobile counselling and community outreach programmes are involved in awareness-raising on the issue of violence against women.

1244. The Fiji Law Reform Commission in 1997 commissioned the review of laws relating to the family, including marriage, divorce, maintenance, custody, affiliation and the introduction of a family court. The review was completed in 1999 and was approved by the Cabinet.

1245. In 1999, the Fiji Law Reform Commission commissioned a High Court Judge to look in to the laws regarding sexual assault. A comprehensive report was completed, which suggests progressive changes to legislation.

1246. The Papua New Guinea Law Reform Commission recently conducted a national research on the incidence and extent of family violence. A submission for the establishment of the Office of the Status of Women was presented to the Papua New Guinea National Executive Council in 1998. The Papua New Guinea Inter-Agency Advisory Committee on Gender and Development is responsible for co-ordinating and monitoring implementation of the National Women's Policy. A gender desk and a gender programme were established in the Police Department of Papua New Guinea. Weekly talk shows on women's reproductive health issues and women's reproductive rights are used to educate women on health issues in Papua New Guinea. A gender degree programme has been introduced at the University of Papua New Guinea. The Comprehensive Reform Programme of Vanuatu has violence against women and discriminatory laws as one of the nine areas for reform. The Department of Women's Affairs in Vanuatu has recently been putting together a policy to address violence against women.

1247. The Marshall Islands Government's health office provides counselling for reported cases of spousal abuse.

1248. The Women and Development Centre in the Prime Minister's office and the National Council of Women of Tonga are dealing with issues of violence against women. There are shelters for abused and troubled women in Tonga, which are mostly Church-affiliated. The women's unit of the Ministry of Environment and Social Development in Kiribati is involved in community education, awareness raising and training for police officers.⁵⁵⁵

Issues of concern

1249. Since the 2000 coup, amid a general sense of lawlessness and a downturn in the economy, domestic violence and police brutality against women has increased in Fiji. The Fiji Police Statistics show that Offences against Public Morality (Rape, defilement, indecent assault etc.) increased by 14 per cent from 2000 to 2001. FWCC National Research on the Incidence and Prevalence of Domestic Violence shows that 66 per cent of women in Fiji had been beaten by their partner.⁵⁵⁶

1250. In Papua New Guinea, violence against women, including domestic violence and gang rape, is a serious problem but prosecution is rare because communities are willing to settle incidents of rape through material compensation. Although rape is punishable by imprisonment, some communities are still willing to settle incidents of rape through material compensation. The decision of whether or not they accept the compensation is made by her family.⁵⁵⁷

1251. Traditional methods of dispute resolution are not always sensitive to women's needs. Sometimes women are given as compensation to settle disputes between clans. This practice has often been seen as a violation of women's human rights. Village courts tend to be overly severe on women when men are treated very lightly for the same kind of offence. Customary methods of resolving conflicts and arguments, in the form of village or customary courts, are still used. These courts often discriminate against women. On the island of Tanna in Vanuatu, women are not given the chance to speak on their own behalf. Male relatives or the chief must address the main chief.⁵⁵⁸

1252. Polygamy and bride price still exist in Vanuatu and other Pacific Islands. If a woman wants to leave her husband her family is obliged to pay back the bride price. As a result, her family often will not support her in her decision to leave.

D. The Americas

1253. This section provides a brief overview of key developments in the Latin America and the Caribbean region. It includes information about the inter-American human rights system concerning the right of women to be free from violence and discrimination, including the work of the Inter-American Commission on Human Rights and its Special Rapporteurship on the Rights of Women since 1994.

1254. Political instability has been a common feature in some of the countries in Latin America. Women's organizations have continued to address problems related to armed conflict and post-conflict situations, prostitution, sexual harassment, lack of education, overload of responsibilities on women for the survival of the family, poverty, increasing numbers of unwanted pregnancies and high female morbid mortality rates. Countries have different levels of economic development and embody geographical, climatic and racial diversity.⁵⁵⁹ Poverty is very high in the region and contributes to worsen the access to justice by women. In Belize, for example, a Poverty Assessment Study done in 1996 indicated that 33.1 per cent of the female population lived in poverty.⁵⁶⁰ At the same time, indigenous and Afro-Caribbean-Latin American women suffer double oppression. In Mexico, groups such as the International Indian Treaty and the National Indigenous Assembly have denounced the discrimination they experience in that country.⁵⁶¹ Similarly, the National Association for Peasants, Indigenous and Afro-Colombian Women and the League of Women displaced by violence have permanently denounced being victims of threats, homicides, forced displacement and other human rights violations.

1255. In Latin America:⁵⁶² Domestic violence affects 25 to 50 per cent of women in the region. Inter-American Development Bank (IDB, 1997) concluded, after research conducted in Santiago (Chile) and in Managua (Nicaragua), that a working woman who suffers physical, psychological or sexual violence by her partner, in general, earns less than a working woman who is not a victim of domestic violence costs caused by domestic violence represent 14.2 per cent of the GDP (Gross Domestic Product), which means around US\$ 170 billion, in programmes related to the problem, as medical care to the victims and police. According IDB, this amount could be used to generate productive investments in the region. Allocation of resources by the States is considered a fundamental issue for women's organizations.

Evaluation of the role of the SRVAW

1256. The SRVAW has been an important mechanism for the formulation of actions, programmes and measures to sanction eradicate and prevent violence against women. Her reports have had an impact on the discourses and practices of the region. However, more than its impact on Governments, the role of the Special Rapporteur has been raised and taken into consideration by NGOs, feminists and the women's movement through out the region. The UNSRVAW has contributed to make the demands and proposals from the women's groups more visible and made it possible to discuss with the Governments. The legal proposals of the countries on cases of DV have not incorporated properly the model legislation proposed by the UNSRVAW in the terms of document E/CN.4/1996/53/Add.2. Countries of the Caribbean Region under CARICOM have worked on a common legislation following the New Zealand Model legislation on Domestic Violence.

The Inter-American Commission on Human Rights

1257. Two developments of special importance in the regional human rights system with respect to the rights of women occurred at the same time as the mandate on violence against women, its causes and consequences, was created by the United Nations Commission on Human Rights. First, 1994 was the year the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women ("Convention of Belém do Pará") was adopted by the

General Assembly of the Organization of American States (hereinafter “OAS”) and opened for signature. The entry into force of that Convention has provided an unparalleled basis for advances in fighting violence against women in the Americas. The year 1994 was also when the Commission decided to place renewed emphasis on ensuring that the rights of women are fully respected and ensured in each member State, by establishing its Special Rapporteurship on the rights of women.⁵⁶³ Together, the Commission and its Rapporteurship have made some important contributions in addressing priority challenges in this regard in the region.

1258. The Inter-American Commission on Human Rights is the principal organ of the OAS mandated to protect and promote human rights in the Americas.⁵⁶⁴ The Commission derives its authority principally from the OAS Charter and the American Convention on Human Rights (hereinafter “American Convention”), as well as the American Declaration of the Rights and Duties of Man (“American Declaration”) and the other regional human rights treaties including the “Convention of Belém do Pará”. The Commission is composed of seven members, who are elected in their personal capacity by the OAS General Assembly. They serve as independent experts, and do not represent their countries of origin or residence.

1259. In the period leading up to the Beijing Conference, the Commission was increasingly confronted with the reality that, while the constitutions of each member State formally guaranteed equality, discrimination based on gender persisted both in law and in practice. Accordingly, the Commission established its Special Rapporteurship on the Rights of Women with an initial mandate to analyze the extent to which member State law and practice affecting the rights of women complied with the broad obligations of equality and nondiscrimination set forth in the American Convention and American Declaration. Following the intensive study carried out by the Rapporteurship, the Commission published its *Report on the Status of Women in the Americas* to: provide an overview of the situation; issue recommendations designed to assist member States in eradicating discrimination in law and practice; and establish priorities for further action by the Rapporteurship and the Commission.

1260. Since that initial study, the Rapporteurship⁵⁶⁵ has played a vital role in the Commission’s work to protect the rights of women through the publication of thematic studies; assisting in the development of new jurisprudence in this area within the individual case system; and supporting the investigation of broader issues affecting the rights of women in specific countries of the region through on-site visits and country reports.⁵⁶⁶

1261. The Commission and its Rapporteurship place special emphasis on the problem of violence against women, itself a manifestation of gender-based discrimination, as recognized in the “Convention of Belém do Pará”.

1262. The current work program of the Rapporteurship is designed to address a priority challenge for the rights of women throughout the region: how to ensure women effective access to justice, particularly women who have been subjected to violence. The priority nature of this challenge has been amply demonstrated in the Rapporteurship’s thematic work, as well as through the Commission’s case system and country reporting. It is also underlined in the challenges identified as priorities by member States, experts and representatives of civil society.

Normative developments: the Convention of Belém do Pará

1263. An unprecedented advance in the aim to eradicate violence against women was achieved with the adoption and entry into force of the Convention of Belém do Pará in 1995. While this Convention is a relatively recent addition to the regional system, it is now the most widely ratified of the regional instruments - 31 of the 35 member States are parties. The Convention reflects a regional consensus on the need to recognize the gravity of the problem of violence against women and to take concrete steps to eradicate it.

1264. From the normative perspective, this Convention breaks new ground in a number of ways in terms of setting standards responsive to the situation of women. To highlight a few key aspects, the Convention:

- expressly recognizes the link between gender violence and discrimination, indicating that such violence is a manifestation of the historically unequal power relations between women and men, and that the right to be free from such violence includes the right to be free from discrimination and to be valued and educated free of stereotypes;⁵⁶⁷ and

- recognizes that such violence affects women in a multitude of ways, preventing them from exercising other fundamental rights, both civil and political, *and* economic, social and cultural rights;⁵⁶⁸ and, bridges the so-called “public-private sphere” divide, by defining violence against women as “any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or private sphere.”⁵⁶⁹

1265. Not only do States parties commit themselves to ensuring that their own agents refrain from such violence, they also commit themselves to apply due diligence to prevent, investigate and punish such violence wherever it occurs – in the home, the community or at the hands of State agents. States must ensure that these obligations are given effect in the domestic legal system, and that women at risk for or subjected to violence have access to effective judicial protection and guarantees.⁵⁷⁰

1266. The mechanisms for supervision of compliance include reports to the Commission of Women of the OAS (hereinafter “CIM”), and the processing of individual complaints alleging violations of the principal obligations through the petition system of the Inter-American Commission on Human Rights.⁵⁷¹ The Commission is now processing a number of petitions invoking this Convention, and in 2001 issued its first merits report interpreting and applying the principal obligations set forth in a specific case. That case, *Maria da Penha Maia Fernandes v. Brazil*, will be referred to further in the section on individual petitions below.

1267. Clearly full implementation and enforcement of the Convention of Belém do Pará are the key challenges now. What we have already seen in terms of results is the adoption of legislation on domestic and/or intrafamilial violence by the majority of the member States that have ratified this Convention (consistent with the obligation to give domestic legal effect to the duties undertaken on the international plane).

1268. Most of the countries of the region have also adopted new or additional policies and programmes aimed at making effective their obligations under regional and national law in this regard. It is also important to emphasize that the Convention is being invoked in litigation at the national level.⁵⁷²

1269. In terms of standard-setting, the Commission also provides guidance on the implementation of regional standards through the issuance of studies and recommendations.

1270. One of the Commission's most important contributions to advancing the rights of women has been its competence to issue decisions on individual cases under the American Convention,⁵⁷³ the American Declaration, and other applicable instruments including the Convention of Belém do Pará. Since 1994, the Commission has issued a substantial number of case reports dealing with human rights violations with gender specific causes and consequences,⁵⁷⁴ and is currently processing a series of other such petitions. The section that follows contains a brief summary of several of the most relevant of these reports.

1271. In its report on the case of Maria da Penha Maia Fernandes, the Commission applied both the American Convention and the Convention of Belém do Pará in establishing the nature of the State of Brazil's obligations to apply due diligence to investigate, prosecute and punish domestic violence.⁵⁷⁵ As noted above, this report was the first to apply the substantive provisions of the Convention of Belém do Pará in an individual case. The facts indicate that the victim's husband, Marco Antonio Heredia Viveiros, subjected to her to a pattern of violence, including two attempts to kill her in 1983 that left her with irreversible paraplegia. It took eight years before the prosecution obtained his conviction by a jury. He was sentenced to 15 years in prison. The court of appeals then waited three years before accepting the defence's appeal and revoking the conviction. Two years later, pursuant to his retrial, the perpetrator was condemned to 10 years and six months in jail. A second appeal was filed and remained pending as of the Commission's decision.

1272. In its report, the Commission emphasizes that that the pendency of the prosecution so many years after the crimes raised the real possibility that they would be left in complete impunity, and finds violations in this sense of articles 1, 8 and 25 of the American Convention. Further, the Commission takes into account the pattern and practice of violence against women in Brazil in establishing that the measures taken to combat this problem were insufficient and had not had any effect in the present case, in violation of Article 24 of the American Convention. Finally, it indicates that the pattern of impunity prevailing in domestic violence cases, and in this case in particular, stands in direct opposition to the State's duties under article 7 of the Convention of Belém do Pará. In relation to the Commission's recommendations requiring the completion of the prosecution and punishment of the perpetrator, media reports in early November of 2002 indicated that the perpetrator, who had been at liberty, had been detained by the Brazilian authorities.

1273. The Commission adopted its report on the merits of the case of Ana, Beatriz and Celia González Pérez on April 4, 2001.⁵⁷⁶ In its analysis, the Commission establishes that the sisters, members of the Tzeltal community, were illegally detained by military personnel in Chiapas and tortured, principally by being raped. The Commission's report sets forth the responsibility of the

State for the acts of its agents, as well as for its failure to exercise due diligence to investigate, prosecute and punish the crimes, in violation of articles 1, 5, 7, 8, 11 and 25 of the American Convention, and in the case of the minor victim, article 19 of that Convention, as well as article 8 of the Inter-American Convention to Prevent and Punish Torture. The Commission's report indicates that these victims were subjected to multiple levels of discrimination and victimization by virtue of the fact that they do not speak Spanish, the language of their aggressors, and that used by the authorities. The report also emphasizes that, while an ineffective investigation had been opened in the military justice system, the measures necessary to combat impunity in this case included carrying out an effective investigation within the regular criminal courts of Mexico.

1274. The Commission's report on the case of *Raquel Martin de Mejía v. Peru*, adopted in March of 1996, is also notable for its treatment of rape as torture under the American Convention, interpreted with reference to the Inter-American Convention to Prevent and Punish Torture.⁵⁷⁷ In making its evaluation, the Commission took into account that the area in question had been under a state of emergency and military control at the time of the facts, and that the practice of rape by members of the security forces had been extensively documented. In addressing the rape itself, the Commission determined that each of the three elements set forth in the regional convention on torture had been met: (1) "an intentional act through which physical and mental pain and suffering is inflicted on a person;" (2) "committed with a purpose;" (3) "by a public official or a private person acting at the instigation of the former." The Commission took into account the physical and psychological suffering caused by rape in analyzing these points, and referred to the short and long-term consequences for the victim, as well as the reluctance of many victims to denounce this type of human rights violation. This report, and the Commission's prior work on the systematic use of rape as a form of torture during the de facto regime in Haiti have helped inform the development of relevant jurisprudence by the international tribunals for the former Yugoslavia and for Rwanda.⁵⁷⁸

1275. With respect to discrimination, it was as a result of the processing of the case of María Eugenia Morales de Sierra⁵⁷⁹ that the State of Guatemala adopted a series of crucial reforms to the Civil Code concerning the rights and duties of women and men in marriage. The case challenged the compatibility of nine provisions of the Civil Code that assigned roles to spouses within marriage with the provisions on nondiscrimination and equal protection of the American Convention. Decrees 80-98 and 27-99, adopted as a result of the processing of this case, addressed eight of the nine articles challenged. Article 109, which had authorized the husband to represent the marital union, was reformed to provide that such representation corresponds equally to both spouses. Article 110, which had attributed to the wife the special duty to care for the home and children, was modified to provide that both spouses have the duty to care for minor children. Article 115, which had indicated the exceptional circumstances under which a wife was permitted to represent the union, was amended to provide that in case of a disagreement between spouses as to such representation, a family judge shall decide on the basis of the conduct of each partner. Article 131, which had authorized the husband to administer marital property, was reformed to provide that both spouses may administer such property, either jointly or separately, and article 255, which had attributed similar authority to the husband with respect to the representation of children and their property was modified to provide that both parents shall exercise this authority, either jointly or separately. Three articles were repealed: 113, which had permitted a wife to pursue work outside

the home only if this did not prejudice her role as wife and mother; 114, which had authorized a husband to oppose his wife's activities outside the home, as long as he provided for the household and his reasons were justified; and 133, which had specified the exceptional circumstances under which a wife was permitted to administer marital property.

1276. Further with respect to discrimination, in 2002 the Commission published a friendly settlement report on the matter of *Mónica Carabantes Galleguillos v. Chile*, which involved the expulsion of a pregnant secondary student from a publicly subsidized private school on the basis of her pregnancy.⁵⁸⁰ When her family challenged the expulsion through the courts, the school's action was upheld through the level of Supreme Court review. The settlement involved the adoption of legislation concerning the access of pregnant students to education, the recognition by the State of the violations claimed, and a scholarship for the victim's higher education. The Commission is currently facilitating negotiations aimed at concluding a friendly settlement between the parties in the case of *María Mamérita Mestanza Chávez v. Peru*, which addresses claims of sterilization absent full informed consent and related violations.

1277. Returning to the issue of violence more specifically, the Commission has admitted and continues to process other cases dealing with claims of violence with gender specific causes and consequences, including *Zoila América Narváez Murillo v. Nicaragua* and *MZ v. Bolivia*.

1278. A review of the Commission's jurisprudence with respect to human rights violations with gender-specific causes and consequences confirms a common denominator: the inability of most victims to obtain prompt access to effective judicial protection and guarantees. The individual petition system provides a mechanism to investigate and evaluate deficiencies in the State's response to these kinds of violations and to make specific recommendations designed to remedy the violations concerned, thereby bringing the response at the national level into greater conformity with what is required under international law.

1279. In terms of broader approaches to the protection of the rights of women under the American Convention and American Declaration, the Commission has in recent years devoted specific attention to the situation of women's rights through its on-site visits and related country reports. Since 1995, country reports have generally included a chapter specifically dedicated to this subject. Steps taken to comply with the recommendations made in these reports are then evaluated in follow-up reports published in the Commission's annual report the following year.

1280. Lastly, with the assistance of the Special Rapporteurship, the Commission has convened a number of hearings of a general nature during its periods of sessions to receive information concerning the rights of women in the region. Most recently, during its 114th regular period of sessions (March, 2002), the Commission convened hearings on: the status of women in the law; violence against women; and the situation in Ciudad Juárez. During its 116th regular period of sessions (October, 2002), the Commission convened hearings addressing: the status of the right of women to be free from discrimination, and the situation in Ciudad Juárez. The Commission has also convened a significant number of hearings to deal with individual petitions concerning the rights of women.

(i) Latin America and the Caribbean⁵⁸¹

Antigua and Barbuda

1281. Antigua and Barbuda acceded to the Convention on 1 October 1989. Antigua and Barbuda's fourth periodic report was due 31 August 2002.

1282. The Offences Against the Person Act, cap. 58 of the *Laws of Antigua and Barbuda*, and the Criminal Law Amendment Act, cap. 21, criminalize certain sexual assaults against women, including but not limited to rape, abduction and defilement of women, sodomy, carnal knowledge, and provides penalties for persons convicted of such crimes.⁵⁸² Marital rape is recognized by the Sexual Offences Act (Act 9/1995) as a crime imposing a penalty up to 15 years. There is no information on case law related to marital rape. This might be related to women's reluctance to address the court for cases of sexual abuse coupled with the general attitude of the police which tends to refrain from intervening in cases of domestic violence. In order to overcome these obstacles in filing complaints, women's organizations are active in legal literacy programmes. A similar pattern can be found on sexual harassment, which is illegal but rarely prosecuted.

Argentina

1283. Argentina ratified the Convention on 15 July 1985. Argentina's fourth periodic report is due 14 August 1998. A reservation was made to article 29, paragraph 1. The country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women and accepted the jurisdiction of the Human Rights Inter-American Court.

Legislation

1284. The 1994 Law of Protection against Family Violence (Law 24.417) deals with domestic violence. It provides for protection measures, which include the exclusion of the aggressor from the household, the prohibition of access to the home or workplace of the injured person, home reinstatement, and communication with the children involved. Complaints can be filed in written and oral form without the assistance of a lawyer.

1285. In 1998 the House of Representatives defined sexual violence (against both women and men) "a crime against sexual integrity" replacing the notion of sexual violence as a "crime against honesty".⁵⁸³

1286. Sexual harassment at work within the public administration is regulated by Decree 2385/93 (1993), which defines sexual harassment as the actions and behaviour of an officer, who, by taking advantage of his/her hierarchic position, forces the victim to accept his/her sexual advances, whether or not there is intercourse.

1287. There is no legislation on sexual harassment at work applicable in the private sector and only three provinces foresee the punishment of sexual harassment in the public sector.⁵⁸⁴ In 2002 the Tripartite Commission of Equality of Opportunities and Treatment for Women and Men presented a draft law on sexual harassment through a group of 15 female senators of all political

parties. The draft law deals with sexual, sexist and homophobic harassment occurring at work, during training and vocational training, within trade union, political parties, armed forces as well as in relations between doctors and patients. The draft law envisages the reversing of the burden of proof and it does not require the alleged perpetrator to be superior in the hierarchy.⁵⁸⁵

1288. The 1996 Constitution of the Autonomous City of Buenos Aires can be quoted as an example of legislation at the local level. Article 38 states that the Autonomous City of Buenos Aires provides for the prevention of physical, psychological and sexual violence against women and grants specialized care services. Examples of legislation at the local level on violence within the family can be found in Tierra del Fuego,⁵⁸⁶ Buenos Aires,⁵⁸⁷ Rio Negro,⁵⁸⁸ Mendoza,⁵⁸⁹ San Juan,⁵⁹⁰ Corrientes,⁵⁹¹ Chaco,⁵⁹² Chubut,⁵⁹³ Misiones,⁵⁹⁴ Neuquen,⁵⁹⁵ Santa Fe⁵⁹⁶ and Catamarca.⁵⁹⁷ The City of Buenos Aires adopted an instrument to fight against sexual harassment.⁵⁹⁸

Policies and programmes

1289. Several programmes and institutions at the local level provide assistance to victims of domestic violence. Some of these are: the provincial programme for prevention and assistance to victims of domestic violence in Chaco; the provincial coordination centre of police services in Mendoza, which provides counselling services to women who are victims of maltreatment; since 1993 the city of Buenos Aires provides shelter to battered women and their children; in Misiones, an emergency telephone line provides assistance to women victims of violence; in Rosario, the Social Community Network on Violence provides services ranging from assistance to victims of violence to training on gender and human rights for officers of the local government.

Issues of concern

1290. A case filed before the Inter-American Commission of Human rights revealed the inhuman treatment suffered by women visiting prisons as a consequence of body inspections performed by guards. Despite the recommendations of the Commission,⁵⁹⁹ body inspections continue to be made in abusive conditions, violating the human rights of women visiting prisons.

1291. The impunity factor is signalled as one of the problems in fighting domestic violence effectively. Even though 21 out of 24 districts have legislation on domestic violence,⁶⁰⁰ filing a case on domestic violence is a difficult process with highly uncertain outcomes. The judiciary tends to formulate ambiguous resolutions, where the figure of the aggressor is diluted and the repair of damages or compensation does not exist.⁶⁰¹

1292. According to a recent study, the number of condemnatory sentences for cases of sexual abuse is 10 times less than the claims filed. Besides, it is estimated that only 10 per cent of the cases are made public so that, considering 60,000 cases of sexual crimes a year, that makes 16 cases a day.⁶⁰² In most cases, women undergoing a proceeding on sexual abuse are neglected. Training courses for police officers and magistrates are too sporadic to redress this situation and the institutions supposed to provide assistance to the victims, such as the Department for

Assistance of Victims in the Federal Police and the Office for the Assistance of Victims at the Attorney General's Office, are not sufficiently known.

1293. Part of the migration flow to Argentina is made up of thousands of women coming from Latin American countries, particularly the Dominican Republic. They are often exploited or at great risk of being exploited as sexual workers. Their status of "illegal migrants" precludes them from getting access to justice.

Bahamas

1294. Bahamas acceded to the Convention on 6 October 1993. Bahamas' initial and second periodic reports were due 5 November 1994 and 1998 respectively. Reservations were made to articles 2 (a); 9, paragraph 2; 16 (h); and 29, paragraph 1.

1295. A Law Reform Commission has been appointed to review laws related to inheritance as well as the Nationality Act with a view to remove discriminatory provisions.

1296. Government crime statistics do not separate domestic violence from other incidents of violence. The Government operates a nationwide toll-free hotline, with two trained volunteers on each of the inhabited islands who are on call to respond in the event of a crisis. Government and private women's organizations conduct public awareness campaigns highlighting the problems of abuse and domestic violence. In November 2000, the Department of Social Services in partnership with a private company established, for the first time, two safe houses to assist battered women. The Domestic Court, which exclusively addresses family issues such as spousal abuse, maintenance payments, and legal separation, continued to receive a high volume of cases. The court can and does impose various legal constraints to protect women from abusive spouses or companions. However, advocates for women's rights see a need to improve the effectiveness of enforcement of the court's orders. They cite a general reluctance on the part of law enforcement authorities to intervene in domestic disputes and a lack of police training and sensitivity in dealing with domestic violence. The police have recognized domestic violence as a high priority and have provided specialized training to more than 200 officers, with plans to expand this training.

Belize

1297. Belize ratified the Convention on 16 May 1990. The third periodic report was due 15 June 1999. Belize ratified the Optional Protocol to the Convention in 2002.

1298. One of the most prominent issues of concern has been domestic violence and the effectiveness of the 1992 Domestic Violence Act. The implementation of the Act led to the establishment of a Domestic Violence Task Force whose mission is, inter alia, to develop a national plan to address domestic violence. The plan fostered coordination between the police, the Women's Department and the Women's Commission as well as NGOs committed in the eradication of domestic violence. Between 1996 and 1999 the Family Court recorded some 1,300 cases of reported domestic violence. The Court prosecuted 50 per cent of the reported cases.

1299. In 1996 the Government passed the Sexual Harassment Act, which does not provide an effective framework for complaints.⁶⁰³

1300. The Police Department has a Family Unit that addresses complaints of spousal abuse. Despite rape, including marital rape, and sexual harassment are considered crimes by the law, few offenders are charged and convicted.

Bolivia

1301. Bolivia ratified the Convention on 8 June 1990. Bolivia's second and third periodic reports were due 8 July 1995 and 1999, respectively. The country ratified the Optional Protocol to the Convention in 2000. In 1994 Bolivia ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women and accepted the jurisdiction of the Human Rights Inter-American Court.

Legislation

1302. Law 1674 of 1995 on domestic violence protects the physical, psychological, moral and sexual integrity of each family member. The 1998 Supreme Decree 25087 amended Law 1674 establishing the possibility for prosecutors to issue precautionary measures and prohibiting the victim to renounce to the rights he/she is entitled to in cases of domestic violence. Despite being amended in 1999, article 317 of the Penal Code provides that there shall be no punishment in cases of rape, sexual abuse or kidnapping when perpetrators marry their victims, with free consent, before the execution of the judgement.

Policies and programmes

1303. The 1994 National Plan for the prevention and eradication of violence against women comprises four areas: legal reform; services for victims; information; and, change of cultural patterns. In the framework of the National Plan, the Family Protection Brigades (*Brigadas*) were established. Launched on 8 March 1995, the Brigades work in coordination with the national police and with UNICEF's support.

1304. "Violence against women and girls: a proposal for coordinated action" is a project coordinated by the Ministry of Health and Social Benefits, the Vice Minister of Gender and the Pan-American Health Organization (OPS). It defines violence against women and girls as a public health problem. It proposes the creation of community networks in the urban areas. In 1996, the project was executed in three pilot municipalities followed by 12 more.

1305. The Programme for the Prevention of Violence at School was designed to prevent and eradicate all forms of violence and gender discrimination inside and outside school.

Issues of concern

1306. Indigenous women in Bolivia continue facing discrimination, starting with the language barrier.

1307. Street girls in Bolivia are frequently sexually abused and ill-treated with little or no intervention of the security forces. Anti-narcotics actions also have given rise to complaints of violence against women involved in coca plantations.⁶⁰⁴

1308. According to reports, women and girls in Bolivia suffer from several types of domestic violence. Of the reported cases of physical violence, 89.6 per cent involved physical aggression; 6.2 per cent involved homicide/murder or attempted murder; one per cent involved suicide and attempted suicide and 3.1 per cent other types. As regards to psychological violence, 40 per cent of cases were related to failure to comply with requests for family aid; 34.6 per cent involved abandonment of family; 17.3 per cent involved emotional abuse; 1.6 per cent involved adultery, bigamy and 6.5 per cent other forms of violence.⁶⁰⁵

1309. As regards to domestic violence, a number of concerns can be raised. Victims of domestic violence go more to the aforementioned Brigades than to the competent judge, demanding from the former the imposition of immediate punishment for the aggressors. The Brigades have been assuming functions that do not correspond to them. The judges themselves, instead of admitting the complaints, send the cases to the Brigades. Law enforcement authorities tend to give priority to the family integrity, forcing "reconciliation" in the name of the well being of the children. Providing evidence of domestic violence is a major difficulty in case there are no physical marks.

Brazil

1310. Brazil ratified the Convention on 1 February 1984. Brazil's initial and second through fourth periodic reports were due 2 March 1985, 1989, 1993 and 1997, respectively. Reservations were made to article 29, paragraph 1. Brazil ratified the Optional Protocol to the Convention in 2002. In 1995 Brazil ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women.

Legislation

1311. The 1988 Federal Constitution, in its article 226, no. 8, establishes that "The State shall ensure assistance to the family and all its members, creating mechanisms to restrain violence in relationships". The Constitutions of most of the 26 States (except three⁶⁰⁶) have provisions on domestic violence.

1312. Sexual rape has been included in the serious crimes by Law 8.930 (1994). Violence against pregnant women is an aggravating circumstance (Law 9.318, 1996).

1313. The law which prevented a married woman from filing a complaint without her husband's consent was repealed in 1997 (Law 9.520).

1314. The State of São Paulo has been active in adopting new legislation to combat violence against women. In 1986, Law 5.467 established the Police Delegations for the Defence of Women. The 1991 Decree 32.959 instituted the Programme on Women Victims of Violence. The Law 19.291 of 1999 obliges police officers to inform the victims of sexual abuse on their right to

abortion in case of subsequent pregnancy. In 1999, the Law 10.354 provided the framework for information and counselling services for victims of violence.

Policies and programmes

1315. In 2002, the National Program on Affirmative Action (NPAA) was launched to promote access of people of African descent, women and disabled people to high advisory and management positions in the public sector.⁶⁰⁷

1316. The national human rights programme launched in 1996 has a component on women and gender-based violence. The campaign "Without women, rights are not human" was conducted in this framework. An emergency telephone line receives complaints on sexual exploitation of boys and girls.

1317. The Human Rights National Secretariat, which is part of the Ministry of Justice, launched the campaign A Life Without Violence is Our Right, which focused on domestic violence.

Issues of concern

1318. At the invitation of the Government of Brazil, the Special Rapporteur visited Brasilia, Rio de Janeiro, Sao Paulo, Campinas and Porto Alegre, Brazil, from 15 to 26 July 1996, to study in depth the issue of domestic violence against women (see E/CN.4/1996/53/Add.2). Although the Special Rapporteur noted the many innovative programmes in Brazil for the elimination of violence against women, such initiatives appear to be concentrated in certain areas of the country, in particular urban centres. She recommended that it is important to devise an integrated strategy which would allow for the implementation of such programmes, such as women's police stations, in all parts of the country. Regional disparities and differences in race and income should not affect the planning of programmes and initiatives to combat violence against women throughout the country.

1319. Although the so-called "honour defence" is not supported by legislation and has been ruled unlawful by the judiciary, the Special Rapporteur noted that jury trials still result in the acquittal of perpetrators based on the "honour defence". Where feasible, it may be necessary to initiate a legislative process which would lead to more narrowly defined judicial standards with regard to instructions to the jury so that aggressors who commit violence against women are sentenced as criminals.

1320. The dearth of shelters in Brazil for women victims of violence is an area of particular concern. It is important that the Government of Brazil, at the national and State levels, in cooperation with non-governmental organizations, take steps to establish shelters as a matter of priority. Funding for such shelters may be drawn not only from Government and donor agencies but also from elements of the private sector wishing to invest in charitable activities.

1321. Trafficking of women is a serious problem in the North and in the Center-West, where there is a real slave trade for the *garimpo*.⁶⁰⁸ In the North-East, sexual tourism is rampant. In the South and South-East, exploitation of infant/juvenile prostitution is widespread.

Chile

1322. Chile ratified the Convention on 7 December 1989. Chile's fourth periodic report was due 6 January 2003. The Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women was ratified in 1996.

Legislation

1323. The 1994 Law 19.325 deals with domestic violence with provisions on access to justice, protection of the victim and sanctions against the perpetrators. Since the law went into effect, the number of cases presented in the courts has increased from 1,419 in 1994 to 73,559 in 1999. The courts may order counselling for those involved in domestic violence. At the end of 2000, there were 12 governmental and eight private centres to attend to victims of domestic violence. The Government opened five additional centres during the year.

1324. Law 19.617 amended the Penal Code, the Penal Procedures Code and other legal instruments on matters of sexual violence. The new legislation included clauses to facilitate proof of the crime and to protect the privacy and safety of the person making the charge. The Citizens' Peace Foundation indicated that there were 1,250 cases of rape reported to the police in 2000, 1,297 in 1999, and 1,052 in 1998. Experts believe that a majority of rape cases go unreported.

Policies and programmes

1325. A National Program for the Prevention of Domestic Violence is ongoing since 1991.⁶⁰⁹ In 1995, the Mobile Police Station for Family Affairs was created in Santiago and other cities with the purpose of granting orientation and receiving cases of domestic violence and sexual offenses against women and minors.

1326. The Inter-Ministry Commission on Domestic Violence, composed of different ministries, the judiciary and the police, designs and monitors measures aimed at preventing and sanctioning domestic violence. It provided capacity building on the issue to more than 25,000 public officials.

Issues of concern

1327. Problems related to the application of the law on violence against women range from resistance of law enforcement authorities to admit cases of maltreatment that do not leave visible marks to the actual implementation of the measures decided by the judiciary. Justice administrators seem to lack sensitivity towards the issue. This indicates that the judiciary has not been able to keep the pace of the legislative changes and progress occurred in this area.⁶¹⁰

Colombia

1328. Colombia ratified the Convention on 19 January 1982. Colombia's fifth periodic report was due 18 February 1999. The Inter-American Convention to Prevent, Sanction and Eradicate

Violence against Women was ratified in 1996. The Inter-American Court of Human Rights has jurisdictional competence.

Legislation

1329. The Constitution expressly states that violence occurring within the family is destructive and, therefore, punishable by law (art. 42, sect. 5). The 1996 Law 294 on domestic violence was reformed in 2000 by Law 575, which sets up, inter alia, a series of protective measures for victims of physical, psychological and sexual ill-treatment, including degrading treatment such as restricting the liberty of the victim or forcing him or her to use drugs.

1330. The new Penal Code includes crimes of war including sexual slavery and rape.

Policies and programmes

1331. The policy for equality and women's participation (*epam*) 1994-1998 defined four lines of priority action: to promote the recognition and exercise of women's rights through legal reforms; the progressive incorporation of equity for women; to foster the equal representation and participation of women in decision-making processes; the design of policies, plans and programmes that contribute to eliminating violence against women.

1332. The presidential advisory office for human rights implemented the project on promotion of sexual and reproductive rights for the prevention of sexual violence with the support of UNDP and the participation of the Ombudsperson's office, the national police and the Institute of Legal Medicine.

1333. The 1996 Decree no. 1974 created an inter-institutional committee to combat trafficking of women, girls and boys within the Ministry of Justice.

1334. The Bureau of National Equity for Women implemented the Programme for the Prevention and Elimination of Violence against Women, 1996/1998. The programme supported initiatives aimed at strengthening women's participation in the peace process such as the "peace route of women" (*la ruta pacífica de las mujeres*). Between 1996 and 1998 the peace route of women mobilized more than 3,000 women in favor of neutrality and peace negotiations to solve the national armed conflict.

Issues of concern

1335. The Special Rapporteur visited Colombia, at the invitation of the Government, from 1 to 7 November 2001, to investigate allegations and assess and report on the impact of the conflict on the human rights of women. The report (E/CN.4/2002/83/Add.3) contains recommendations to ensure that policies and programmes of assistance address the gender dimensions of the conflict. The Special Rapporteur calls for greater protection, particularly in regard to gender-based violence, including the verification of gender-based violations, improved monitoring and reporting, and special protection measures. However, it is reported⁶¹¹ that despite the Special Rapporteur's recommendations, the situation has not improved.

1336. Women's human rights organizations are subject to systematic intimidation and persecution. Members are not the only ones directly affected. Women's children, husbands or partners have also been murdered as a result of the woman's social and political activities. Women from the indigenous and Afro-Colombian populations suffer intersectional discrimination on the basis of gender, race, colour and ethnic origin and as internally displaced persons. Many suffer attacks on their villages, especially those living in areas where the guerrillas are operating.

1337. It is estimated the number of Colombian women in the sex industry has increased. It is known that several trafficking networks for sexual exploitation take women to Europe. A report on this issue⁶¹² highlighted that women in prostitution are mainly single mothers with children from different relationships who normally live with their family, which is often not aware of their activity. They are the ones who provide for the family members and due to their lack of education do not have access to employment in better conditions. They are often harassed and suffer stigma from their relatives, police officers and the neighbourhood. In cities like Barranquilla and Cartagena, prostitution is very visible in the streets, popular hotels, night clubs and bars.

1338. Despite the advances achieved through the legislation with respect to equality, various kinds of obstacles to the effective application of this legislation persist. One of the major ones is the patriarchal culture.

1339. Abortion is still a criminal offence in Colombia, punishable by from one to three years' imprisonment for both the woman seeking the abortion and the practitioner who performs it. The law provides for no exceptions, even in instances of rape, to save the life of the mother, or to avoid serious and permanent damage to her health. Abortion is the second cause of maternal mortality in Colombia according to Servicio Colombiano de Comunicación and Profamilia.

Costa Rica

1340. Costa Rica ratified the Convention on 4 April 1986. Costa Rica's fourth periodic report was due 4 May 1999. The country ratified the Optional Protocol to the Convention in 2001. The Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women was ratified in 1995.

Legislation

1341. The 1996 Domestic Violence Law (no. 7586) recognizes the equal rights of women and men to lead a violence-free life. It establishes 18 different precautionary measures to help victims in breaking the violence cycle. It also foresees sanctions for police officials who fail to intervene in domestic violence cases according to the law. Since the adoption of the law, the number of cases of reported domestic violence has been increasing. According to data compiled by the judicial branch in 2000, 32,646 reports of domestic abuse were received, 6,209 more than in 1999. However, 70 per cent of the cases were dropped because the women decided not to pursue prosecution.

1342. The 1995 law on sexual harassment in employment and teaching (no. 7476) establishes a procedure to denounce sexual harassment. It is binding for public as well as private employers.

Policies and programmes

1343. The National Plan on the Prevention of Domestic Violence (*Planovi*) is operational since 1994. The plan has been operating through civil society networks made of institutions and organizations concerned with domestic violence. For example, the emergency telephone line "Breaking the silence" (*Rompamos el silencio*, 800-300-3000) is administered by NGOs contracted by the Women's National Institute (*Instituto nacional de las mujeres*, Inamu). Between September 1997 and April 1999, the telephone line provided 16,870 advisory services.

1344. Since 1993 the Inamu has coordinated the programme on shelters for battered women and their children. The programme provides not only for food and accommodation but also medical and psychological assistance, legal assistance and education re-insertion for minors. Between September 1997 and April 1999, 284 women and 498 children, boys and girls, received assistance through this programme.

1345. In 1999, the programme on violence-free schools, implemented with the support of UNESCO, focused on the development of teaching methods aimed at the promotion of tolerance and respect.

Issues of concern

1346. A major constraint in fighting against domestic violence effectively is the lack of institutional support, especially in financial terms. More and specialized attention should be given to the protection of disabled women who victims of domestic violence.

1347. Domestic violence against black women is more widespread, especially between couples made of a white man and a black woman. Black women tend to be more reluctant in filing complaints.⁶¹³ It is a clear case of intersection of gender and race which multiplies the impact of domestic violence against women.

Cuba

1348. Cuba ratified the Convention on 17 July 1980. Cuba's fifth periodic report was due 3 September 1998. A reservation was made to article 29.

Legislation

1349. The Cuban Constitution, in articles 41 to 44, explicitly grants women equal economic, political, cultural, social and familial rights to men. These rights are further supported by provisions in various laws, including the Family Code (Ley No. 1289 (1975)), which guarantees equal rights to women and men in marriage and divorce, and equal parental rights. Article 295 of the Penal Code (Ley No. 62 (1979)) also provides for sexual equality. However, the Penal Code does not contain any specific reference to domestic violence.

1350. Sanctions against rape and sexual abuse are provided for in articles 298 and 300 of the Penal Code (Ley No. 62 (1979)). On 5 February 1999, Law No. 87 introduced amendments to the Penal Code, which, according to information received, increase the legal protection for women and girls and severely increase penalties for “lascivious conduct” including exploitation of the prostitution of others. Rape and sexual abuses are sanctioned in articles 298 and 300 of the Penal Code. However, article 298 (3) is a cause of concern in that it provides the death penalty for rape.

1351. Article 301 of the Penal Code (Ley No. 62) sanctions perpetrators of sexual harassment, in aggravated circumstances such as abuse of professional or familial relationships, with from two to five years’ imprisonment.

1352. According to national legislation (art. 302 of the Penal Code, Ley No. 62), prostitution in itself is not a crime in Cuba, but all acts relating to prostitution, such as the exploitation of prostitution of others, are punishable by law with deprivation of liberty for from four to 10 years. Pimping in aggravated circumstances, such as by public officials, is sanctioned with up to 20 years’ imprisonment. Trafficking in women is sanctioned with up to 30 years in prison.

1353. The Penal Code does not criminalize prostitution itself. It does, however, define a state of dangerousness (*el estado peligroso*) as the tendency of a person to commit crimes which are observed to be in contradiction with the norms of socialist morality (arts. 72-74, Ley No. 62). Anti-social behaviour and causing disturbance to the community are considered manifestations of such dangerousness. If a person is determined to be dangerous in accordance with the aforementioned provision, the Penal Code allows for the imposition of pre-criminal measures, including re-education for periods of up to four years. The person may be detained by the State during that time until the dangerousness disappears from the subject. The Special Rapporteur has difficulties with the concept of a judicial sentence for an activity which is not a crime under national law. In addition, the arbitrariness of leaving a sentence open until it is considered that the person no longer poses a social threat leaves room for abuse and subjectivity which is inconsistent with fair judicial procedures.

Policies and programmes

1354. In follow-up to the 1995 Beijing World Conference on Women, a State council which includes the participation of non-governmental organizations, was established to implement the Beijing Platform for Action and the Cuban National Plan of Action. The Federation of Cuban Women (FMC) is the focal point for overseeing its implementation.

1355. In 1997 a National Working Group on the prevention of domestic violence was established. The group is coordinated by the FMC and is composed of different ministries, educational institutions and the media. The Working Group focuses on capacity-building, research and dissemination activities to prevent domestic violence.⁶¹⁴

1356. As a result of the National Plan of Action, the training of judges in the area of violence against women was made a priority issue. Similarly, the Cuban Revolutionary National Police is involved in implementing the National Plan of Action which includes gender-disaggregated

analysis of data, increased application of administrative and preventive measures to curb violence against women and the training of police on domestic violence issues. Basic police training is a three-year programme which includes psychological and legal training so that police are well equipped to deal with women victims and are sensitized to women's issues.

Issues of concern

1357. At the invitation of the Government of Cuba, the Special Rapporteur visited Cuba on an official mission from 7 to 12 June 1999, to study the situation of violence against women, its causes and consequences. In her report (E/CN.4/2000/68/Add.2) the Special Rapporteur made a number of recommendations to the Government, including:

- Taking comprehensive steps at the legislative and executive levels to deal with the issue of violence against women, to ensure they are fully involved in devising plans for the eradication of violence against women from society;

- Giving the maximum available resources to the FMC;

- Adopting special domestic violence legislation, as well as sexual harassment legislation, combining civil and criminal proceedings, in order to enhance the legal protection of women against violence;

- Engaging in a comprehensive programme of sensitizing its police force, its judiciary and its prosecutors with regard to issues of violence against women, with technical cooperation from the United Nations;

- Dismantling the special rehabilitation centres set up for prostitutes as the centres violate their due process rights;

- Permitting international and national organizations to visit Cuban prisons and detention centres regularly and systematically and to monitor prison conditions; and

- Respecting the political and civil rights of its women by allowing for independent political and civil organizations and by ensuring the independence of the judiciary; stopping the practice of arbitrary detention.⁶¹⁵

1358. Some of these recommendations were reiterated by the Committee on the Elimination of Discrimination against Women, which considered Cuba's fourth periodic report at its June 2000 session. The Committee pointed out a number of areas of concern, which included, inter alia: the insufficient assessment of the question of violence against women, in particular domestic violence, and sexual harassment in the workplace; the lack of specific laws to penalise domestic violence and sexual harassment in the workplace; the lack of sufficient statistical data about various types of violence against women, including elderly women and children; the insufficient information on the response by law enforcement officials, the judiciary and health care providers to such violence; the lack of complete information on the impact of programmes and other

measures to prevent women from becoming prostitutes, and to rehabilitate and reintegrate them into society.⁶¹⁶

Dominica

1359. Dominica ratified the Convention on 15 September 1980. Its fifth periodic report was due 3 September 1998. In 2000 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women.

Legislation

1360. In 1998, a new Sexual Offences Act replaced the previous act, which required medical evidence or witness corroboration for indictment.

Policies and programmes

1361. Domestic violence cases are common and there is no family court to deal with these issues. Statistics from the Complaints and Reports Hot Line stated that there were 128 cases of violence against women in 2000 compared to 114 in 1999. Women can bring charges against husbands for battery and both the police and the Courts prosecute cases of rape and sexual assault. As a matter of policy all rape cases are handled by women police officers. The Department of Labour recruited a permanent counsellor to assist women victims of domestic violence. The Welfare Department reports all cases of abuse to the police and they assist victims to find shelters, providing counselling to both parties and recommend police action. Mediation centres for men and women are available.

1362. A national campaign to combat violence against women was held from November 1997 to November 1998. It was followed by the 1998-99 Programme of Community Education Sessions on Women and Law, which covered eight districts and provided training on issues including the Sexual Offences Act, violence against women and incest.

1363. The Dominica National Council for Women, inaugurated in 1986, has been focusing on domestic violence since its inception offering counselling services, the aforementioned hot line and shelter for battered women.⁶¹⁷

Dominican Republic

1364. The Dominican Republic ratified the Convention on 2 September 1982. The Dominican Republic's fifth periodic report was due 2 October 1999. The country ratified the Optional Protocol to the Convention in 2001.

Legislation

1365. In presenting the law on domestic violence (24-97), the national women's machinery (*Dirección General de Promoción de La Mujer*, DGPM) emphasized that gender violence is one of the principal causes of death among Dominican women between the ages of 15 and 49 years

old. The Penal Code was modified to adopt the new law on domestic violence, which, inter alia, introduced the following crimes: domestic violence, sexual harassment, sexual harassment by telephone, violation of individual's privacy, incest, sexual aggression in all its forms.

Policies and programmes

1366. Women's organizations have been exerting pressure to get a condemnatory sentence in the case of the murder of Yuberkis del Carmen Rodriguez, who was killed in 1998 by her husband, a member of the police force.

1367. Six police desks for cases of domestic violence were created in the country. A centre for the support of women who are victims of violence has been created in Santo Domingo. In 1998 the Committee for the Prevention and Eradication of Violence within the Family was created but suffers of lack of funds.

Issues of concern

1368. It is reported that, in cases of violence against women from 1990 onwards, between 40 and 68 per cent of aggressors are partners or former partners of the victims. According to statistics provided by the Support Centre Aquelarre the Women Support Nucleus (*Nucleo de Apoyo a la Mujer*, NAM), there are five cases of sexual abuse per day. Victims are mainly girls and the perpetrators are relatives in 5 to 10 per cent of the cases. It has to be noted that in the case of murders of women, the "crime of passion" was claimed as the reason for killing in 51 per cent of cases in 1995 and 41 percent in 1997.⁶¹⁸

Ecuador

1369. Ecuador ratified the Convention on 9 November 1981. Ecuador's fourth and fifth periodic reports were due 9 December 1994 and 1998 respectively. The Optional Protocol to the Convention was ratified in 2002. In 1995 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women and accepted the jurisdiction of the Human Rights Inter-American Court. In 1998, the Ecuadorian government yielded to the sentence of the Court in the case of Consuelo Benavides, assassinated by members of the Armed Forces.

Legislation

1370. Law 105 amended the Penal Code on sexual harassment and rape, widening their definition and increasing the penalties. The 1995 Law on violence against women and the family defines domestic violence, which includes physical, psychological and sexual violence. It provides for protective measures for the victim and establishes an ex officio complaint procedure.

Policies and programmes

1371. Government's efforts to combat violence against women have been mainstreamed into several national plans. The Equal Opportunities Plan 1996-2000 elaborated by the National

Women's Bureau has a component on human rights, peace and violence.⁶¹⁹ The Social Development National Plan 1996-2005 includes a component on policies for women, which include, inter alia, violence and human rights. Similarly, the 1998 Human Rights National Plan has a component on violence against women.

1372. Other actions to combat violence against women include:

- the creation of the Welcome Home, a shelter for battered women in 1998;
- a national campaign to combat violence against women, as a matter of human rights (1992); and
- the establishment of the Women's Ombudsperson's Office (*Defensoría Adjunta de la Mujer*) in 1998.

Issues of concern

1373. Penal legislation still contains sexist terminology and discriminatory provisions, such as the notion of "honesty" associated to the virginity of a woman. The Human Rights Committee in 1998 observed that, in penal regulations regarding procedures, discriminatory regulations subsisted, such as the one that precludes a prostitute from being considered as witness in a trial. The Human Rights Committee, in relation to Ecuador's fourth periodic report, included among its main motives of concern "the numerous cases of violence exercised against women and the very limited number of judicial decisions on this respect".⁶²⁰

El Salvador

1374. El Salvador ratified the Convention on 19 August 1981. El Salvador's third through fifth periodic reports were due 18 September 1990, 1994 and 1998, respectively. A reservation was made to article 29, paragraph 1. In 1995 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women.

Legislation

1375. The 1996 Law against Domestic Violence establishes procedures, guarantees and preventive measures or measures of protection in favor of the victims. Article 338-A of the Penal Code sanctions those who disobey an order or precautionary measure dictated by public authority in application of the law against domestic violence. The sanction foreseen is one to three years of prison.

1376. Article 165 of the Penal Code on sexual harassment, adopted in 1997, sanctions those who perform sexual acts unwanted by the person who suffers them. The sanction is six months to one year. Adopted in 1997, articles 158 and 160 of the Penal Code on rape and other sexual aggressions sanction rape with imprisonment of six to 10 years.

Policies and programmes

1377. The National Women's Policy 1997-1999 included in its objectives the prevention of domestic violence and provided care services to the victims. The Family Relationship Program has a service called Friend of the Family Telephone Service, whose mission is to provide counselling services for cases of domestic violence, aggression and sexual offense.

Issues of concern

1378. Migratory flows include trafficking of women for sexual exploitation.

Grenada

1379. Grenada ratified the Convention on 30 August 1990. Grenada's initial, second and third periodic reports were due 29 September 1991, 1995 and 1999, respectively. . In 2000 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women.

Legislation

1380. In May 2001 the Parliament enacted a Bill aimed at combating domestic violence. It provides for penalties including jail sentences, fines, community services and provisions for issuance of restraining orders.

Policies and programmes

1381. The police stated that most cases of abuse are not reported and others are settled out of court. There is a shelter for battered and abused women and their children in the northern part of the island, with medical and psychological counselling personnel. The shelter accommodates 20 persons. The Division of Women's Affairs prepared and distributed nationally a brochure on domestic violence. It also conducted conferences and other sensitisation events on violence against women.

Issues of concern

1382. The lack of sensitivity of policymakers and public officials in key positions is signaled as one of the obstacles in combating violence against women, coupled with inadequate resources and infrastructures to support victims of violence and their families.⁶²¹

Guatemala

1383. Guatemala ratified the Convention on 12 August 1982. Guatemala's third through fifth periodic reports were due 11 September 1991, 1995 and 1999 respectively. The Optional Protocol to the Convention was ratified in 2002. In 1995 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women and accepted the jurisdictional competence of the Human Rights Inter-American Court

Landmark cases

1384. The case of Maria Eugenia Morales de Sierra was brought before the Human Rights Inter-American Commission. It concerns discrimination against women within marriage. The case is still pending a decision, but it has already caused the reform of the Civil Code, by means of Decree 80-98 dated 19 November 1998. It is worthwhile noting that in 1991 the Human Rights deputy Public Prosecutor formulated an unconstitutionality action against the article of the Civil Code on duties and rights within marriage.

Legislation

1385. The 1996 Law to Prevent, Sanction and Eradicate Domestic Violence (Decree 94-96) envisages protective measures for the victims (women, boys, girls, teenagers, senior citizens and persons with disabilities). The Framework Law on dignifying and promoting women refers to provisions of the Convention, the Inter-American Convention to Prevent, Sanction and Eradicate Violence Against Women, the Beijing Platform for Action and the Action Plan of Cairo. It also includes some commitments of the Peace Agreements referred to the situation of women.

1386. In December 1996, after 30 years of conflict, a peace agreement was signed. It considered the obligation of classifying sexual harassment as a crime and considering it aggravated when the victim is an indigenous woman. The use of sexual violence as a war strategy was recognized in the conclusions and recommendations of the Commission for Historical Awareness (*Comisión para el Esclarecimiento Histórico, CEH*).

Policies and programmes

1387. The Ombudsperson for the defense of indigenous women (*Defensoría de la Mujer Indígena*) was created as a consequence of the Peace Agreement, which recognizes the vulnerable situation of indigenous women and the need to promote actions to encourage and achieve their full citizenship.

Issues of concern

1388. A long patriarchal tradition persists in the administration of justice, expressed in the discriminatory treatment towards women and the use of gender stereotypes (Virgin Mary models). Police officers, despite their duty to intervene to eradicate violence against women, are reluctant to perform effective interventions in defense of the rights of the victims.

Guyana

1389. Guyana ratified the Convention on 17 July 1980. Guyana's third through fifth periodic reports were due 3 September 1990, 1994 and 1998, respectively. In 1996 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women.

Legislation

¹³⁹⁰. The Domestic Violence Act of 1996 defines domestic violence as a crime and gives women the right to seek prompt protection. The act allows victims to seek protection, occupation, or tenancy orders. Protection orders prohibit abusers from being anywhere that the applicant lives, works, visits, or attends school. Occupation orders allow the victim and any children to remain in a home previously shared with an abuser, while the abuser must leave. Similarly, tenancy orders require an abuser to leave a rented dwelling and to continue to pay some or all of the rent. The insensitivity of magistrates is signaled as an obstacle in the effective implementation of the law.⁶²²

Policies and programmes

1391. In March 2000, the Human Rights Committee expressed its concern on the lack of information relating to the impact of the Domestic Violence Act in reducing the level of violence against women. The Committee called for training police and other law enforcement personnel to make them understanding the importance of ensuring that women who are victims of violence are accorded equal protection and those preventive and punitive measures are enforced.⁶²³ The Government held two-week training seminars for police officers on how to deal with cases of violence against women. The officers who received training are to conduct outreach for their fellow officers. A household guide on domestic violence was produced and distributed.

1392. Help and Shelter (H&S), the first local NGO dedicated to fighting domestic violence, focuses on societal reeducation in order to sensitize the public on domestic violence. By February 2001, H&S had counselled 3,872 persons since it began offering counseling services in November 1995. H&S reported that 74.5 per cent of its cases involved spousal abuse.

Issues of concern

¹³⁹³. Rape, particularly of girls and young women, is a serious problem but infrequently reported or prosecuted. Health professionals and NGOs also reported a high incidence of incest. Lawyers say that while more victims are reporting these crimes to the authorities, there still is a social stigma applied to the victim for doing so. An estimated 5 per cent of cases reported to H&S were rape cases; the vast majority of these (80 per cent) were reported by victims age 17 and under.

Haiti

1394. Haiti ratified the Convention on 20 July 1981. Haiti's fifth periodic report was due 3 September 1998. In 1997 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women.

Legislation

1395. In its response to a questionnaire sent by the United Nations Division for the Advancement of Women on the implementation of the Beijing Platform for Action,⁶²⁴ the Government

indicated that the Minister for the Status of Women (*Ministère à la condition féminine et aux droits de la femme*, MCFDF) had prepared draft laws on sexual abuse and domestic violence. Between 1999 and 2000 the MCFDC coordinated the provision of psychological support to battered women and victims of psychological violence and sexual harassment. In 1999 it conducted a six-month media sensitization campaign on violence against women. In June 2002 there was enormous pressure from women's groups to release Marjorie Rivette, convicted of accidental manslaughter for the death of her husband. Her sentence exceeded the normal guidelines and therefore expressed discrimination based on sex.

Issues of concern

1396. In follow-up to Commission on Human Rights resolution 1999/77 entitled "Situation of human rights in Haiti", which reiterated its call to the Special Rapporteur to consider favourably the invitation by the Government of Haiti to visit the country, the Special Rapporteur visited Haiti from 14 to 17 June 1999. The Special Rapporteur's fact-finding focused on the situation of violence against women in Haiti and the available response mechanisms, including the law enforcement and judicial institutions, and on political rapes committed against women during the military regime from 1991 to 1994, in particular.

1397. In her report (E/CN.4/2000/68/Add.3), the Special Rapporteur addressed a number of recommendations to the government, including to:

- cooperate with non-governmental and women's organizations with a view to preparing a consolidated comprehensive report to the Committee on the Elimination of Discrimination against Women without delay;
 - implement the recommendations of the Truth and Reconciliation Commission and take steps to punish the perpetrators and compensate the victims; condemn political rape in the most definitive terms;
 - amend the laws on rape to meet international standards, and introduce new legislation with regard to domestic violence and sexual harassment;
 - strengthen financially and substantively the Ministry for the Status of Women, in particular with qualified legal personnel to receive and process allegations of violence against women, and enable the Ministry to send representatives to all nine departments at the community level;
 - provide increased resources, both human and financial, including gender specialists, to the Ombudsman's Office, to ensure representation in all provinces in order to reach out to the entire population;
 - through the Ministry for Social Affairs and Labour, redirect some funding towards providing social services for the victims of violence, including for establishing shelters for battered women in Port-au-Prince and in all the departments in the country; and

- establish in all departments across the country at least one detention facility where women detainees can be held in separate quarters from the male prison population.⁶²⁵

Honduras

1398. Honduras ratified the Convention on 3 March 1983. Honduras' fourth and fifth periodic reports were due 2 April 1996 and 2000, respectively. The Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women was ratified in 1995. Honduras has accepted the jurisdictional competence of the Human Rights Inter-American Court.

Legislation

1399. The 1997 Law against Domestic Violence (Decree 132-97) has the objective to prevent, sanction and eradicate violence in relationships. The Special Women's Prosecutors can apply security measures and start legal action against the perpetrators of violence.

Policies and programmes

1400. The Family Counselling Centres are multidisciplinary teams attached to the Department of Mental Health composed of a psychiatrist, a legal adviser, a psychologist and a social worker. Their function is to assist, protect and support the victims of domestic physical, psychological and sexual violence.

Issues of concern

1401. Problems related to the application of the law exist due to the attitude of both police officers and magistrates as well as, more broadly, to the inefficient administration of justice. Police officers tend not to apply protection mechanisms in urgent cases. In some courts, conciliation, understood as reconciliation, is promoted. Trials on sexual violence often conclude in impunity due to cultural, economic and political reasons. These processes last on average between 14 and 22 months, even when the law establishes 90 days as a maximum.

Mexico

1402. Mexico ratified the Convention on 23 March 1981. Mexico's fifth periodic report was due 3 September 1998. The Optional Protocol to the Convention was ratified in 2002. The Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women was ratified in 1998.

Legislation

1403. Legislation on domestic violence has been adopted by the local Congress of each State. Laws on domestic violence do not envisage penal sanctions, with the exception of the law adopted in Colima and in Baja California.

1404. In December 1997, the Congress of the Union approved the Decree that reforms, adds and amends several provisions of the Federal Civil Code on domestic and sexual violence. The origin of this reform was a long work of consultations and analysis by a broad group of NGOs, which presented a proposal on procedural, civil and penal matters related to domestic violence.

1405. Sexual harassment is considered a criminal offense in the Penal Code. It involves not only the conduct of the chief, employer or supervisor over his or her subordinates, but also of all those who have any kind of authority over the harassed person.

Policies and programmes

1406. The Program on Women, Child and Family Affairs of the Human Rights National Commission, inter alia, handles complaints on violations of women's human rights and those of boys and girls, and other vulnerable members of the family.

1407. Women's Institutes are present in 12 states. The first one was created in 1998. One of their functions is combating against gender-based violence.

1408. The National Program against Domestic Violence (1999-2000) had the purpose of institutionalizing an integrated, interdisciplinary, inter-institutional and coordinated system of public institutions and civil society organizations to combat domestic violence more effectively.

Issues of concern

1409. A survey on sexual violence⁶²⁶ carried out by the *Instituto Nacional de Estadística, Geografía e Informática* (INEGI) in 1999 on 6,000 homes of the Federal District and the state of Mexico, revealed that:

- one out of three homes experienced a form of domestic violence, such as emotional maltreatment, physical or sexual abuse;

- only 14.4 per cent seek assistance; and

- 70.2 per cent of the homes which experienced violence fear a repetition of the acts of violence.

1410. The same Institute reported that, in 2000, of 118,881 judicial resolutions in the country, only 2.85 per cent of them were related to rape and 0.72 per cent to sexual abuse, with a high index of absolutory resolutions.⁶²⁷

1411. In relation to rape and sexual violence, statistics from the *Procuraduría General de Justicia* of the Federal District shows for the year 2001 an average of 98.7 rapes per month and 1,184.4 per year alone in the Federal District.

1412. The Special Rapporteur is concerned about gender-based crimes in Ciudad Juárez (Chihuahua). According to information provided by the Special Rapporteur on summary executions, in her report (E/CN.4/2000/3/Add.3) following her mission to the country in July

1999, since 1993 a total of 193 cases of murder, mostly of young women, have been registered. Girls as young as 15 were murdered, usually after having been raped and in many cases mutilated. Far more have "disappeared" and do not find mention in the official figures given by the authorities. The report states that the families of the victims and almost every woman's organization throughout the country had serious misgivings about the authorities' intention to investigate these crimes. It was pointed out that this series of crimes was taking place with impunity because of the inaction of the authorities, on the one hand, and their public statements on the other, which emboldened the culprits. There were serious allegations of gender bias among the authorities and the police.

Nicaragua

1413. Nicaragua ratified the Convention on 27 October 1981. The sixth periodic report was due 26 November 2002. In 1995 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women and accepted the jurisdictional competence of the Human Rights Inter-American Court.

Legislation

1414. The 1992 Law 150 reformed the Penal Code on rape and other sexual aggressions. The 1996 Law 230 introduced in the Penal Code the prevention and sanction of domestic violence, including psychological violence. It decriminalized adultery.

Policies and programmes

1415. The National Commission against Violence is an inter-institutional entity aimed at coordinating actions to combat violence against women and children with an integrated approach. It designed the National Plan on Violence against Women, Teenagers and Children. The plan was launched in 1998.

1416. The first three women's police station opened in 1993. They are now 11. In collaboration with the Women against Violence Network they organize training activities on gender and citizen safety. The national police have a Gender Council at the highest level of the organigram.

1417. In 1998 the institution MIFAMILIA was established. It coordinates and monitors the performance of governmental organisms in charge of dealing directly or indirectly with childhood, the family, women, youth, persons with disabilities and an ageing population.

1418. The National Commission for the Promotion and Defense of the Rights of Boys and Girls formulates public policies for the defence of the rights of children in the framework of the Convention on Rights of the Child. It was created in 1990 with the name National Commission for the Protection of the Nicaraguan Children. In 1994 it adopted a more gender-sensitive name and became the National Commission for the Promotion and Defense of the Rights of Boys and Girls.

Issues of concern

1419. Law 230 does not acknowledge all the manifestations of domestic violence. Rape within marriage is still not expressly typified. Patrimonial violence is not acknowledged. Defloration is not considered an offence if the aggressor marries the victim. Psychological violence is not adequately addressed: on the one hand, the authorities tend to be reluctant in dealing with complaints of psychological violence; on the other hand, lack of human and material resources to determine psychic injuries and assess their gravity prevents an effective examination of cases. Approximately 50 per cent of the complaints of domestic violence made in police stations are solved via extrajudicial arrangements. The “preservation of the family unit” is a criterion to discourage the exercise of judicial actions. Many aggressors condemned for domestic violence are set free by means of the payment of bail. Cases of sexual violence frequently end up in impunity. The denounced persons seem to enjoy a high degree of credibility in the judicial proceeding. The high costs of a legal action on sexual violence, both financial and psychological, discourage large numbers of women to start a legal procedure.

Panama

1420. Panama ratified the Convention on 29 October 1981. Panama’s fourth and fifth periodic reports were due 28 November 1994 and 1998, respectively. The Optional Protocol to the Convention was ratified in 2001. In 1995 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women and accepted the competence of the Human Rights Inter-American Court.

Legislation

1421. The 1995 Law 27 amended the Penal Code legislating on domestic violence and sexual abuse, which is an ex officio procedure. The 1995 Law 44 deals with sexual harassment at work.

Issues of concern

1422. During the period 1994-1997, sentences of the Supreme Court of Justice were achieved, declaring the partial or total unconstitutionality of several articles discriminating against women. The actions were promoted by organizations and advocates of women’s rights. The legislation on abortion and rape needs to be revised.

1423. In the presentation of the second and third periodic reports of the country to the CEDAW Committee, the representative of Panama indicated that the Government had prioritized the issue of violence against women and that the submission of a report of the Special Rapporteur on violence against women had initiated the formulation of a national policy to address the underlying causes of violence against women. In its concluding comments on Panama’s reports, the CEDAW Committee recommended that multidisciplinary measures should be taken to provide special care to the victims of sexual violence which should include legal and psychological assistance for the victim. It also recommended that women who are pregnant as a result of rape should be granted the opportunity to seek termination of such pregnancies.⁶²⁸

Paraguay

1424. Paraguay acceded to the Convention on 6 April 1987. Paraguay's third and fourth periodic reports were due 6 May 1996 and 2000, respectively. The Optional Protocol to the Convention was ratified in 2001. In 1995 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women and accepted the jurisdiction of the Human Rights Inter-American Court in 1993.

Legislation

1425. The legislation on domestic violence is not adequate. Article 229 of the Penal Code sanctions domestic violence only a fine. Forms of violence that are not physical and "perpetrated on a regular basis" are excluded. Article 128 deals with rape and sexual harassment.

Policies and programmes

1426. The Secretariat of Women's Affairs chairs a national committee, made up of other government agencies and NGOs, which developed a national plan to prevent and punish violence against women. The National Plan for the Prevention and Sanction of Violence against Women was launched in May 1994. Under the plan, an office of care and orientation receives reports on violence against women and coordinates responses with the police, primary health care units, the Attorney-General's office and NGOs. The plan gave priority, inter alia, to support and counselling services for women victims and/or their relatives; training of national police officers, personnel working on health and teachers; education and sensitization campaigns.

Issues of concern

1427. The most pervasive violations of women's rights involve sexual and domestic abuse, which are underreported. Spousal abuse is common. Although the Penal Code criminalizes spousal abuse, it stipulates that the abuse must be habitual before being recognized as criminal, and then it is punishable only by a fine. Thousands of women are treated annually for injuries sustained in violent domestic altercations. CODEHUPY reports, according to a government survey, that from January to August one woman was killed every 12 days by a family member or other acquaintance. Between January and August, the Secretariat of Women's Affairs registered 533 cases of violence against women, a 25 per cent increase over the same period in 2000. According to these surveys, between January and August 2000, 63 per cent of the cases of violence against women were rapes.

1428. According to reports, official complaints rarely are filed or they are withdrawn soon after filing due to spousal reconciliation or family pressure. In addition, the courts allow for mediation of some family violence cases, which are not provided for by the law. There are no specialized police units to handle complaints involving rape. Services provided for by the National Plan in practice are available only in Asuncion, and women living elsewhere in the country rarely benefit from them.

1429. The Women's November 25th Collective, an NGO, operates a reception centre where female victims of violence can receive legal, psychological, and educational assistance. No shelters for battered and abused women are available outside the capital of Asuncion. Most imprisoned women reportedly were detained for assault, including murder, committed following domestic violence.

1430. The Labour Code prohibits sexual harassment; however, a majority of women in the workplace face sexual harassment. Sex-related job discrimination continues to be common and widely tolerated.

Peru

1431. Peru ratified the Convention on 13 September 1982. Peru's fifth periodic report was due 13 October 1999. The Optional Protocol to the Convention was ratified in 2001. In 1996 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women and accepted the jurisdiction of the Human Rights Inter-American Court.

Landmark cases

1432. The Latin American Commission on the Defence of Women's Rights (*Comité Latino Americano de Defensa de los Derechos de la Mujer*, CLADEM) has filed two cases before the Human Rights Inter-American Commission, under the American Convention on Human Rights and the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women: one on sexual violence and another on forced sterilization. In both, the Commission has initiated the procedure. Regarding the first one, the Government has suggested the framework of a "friendly solution". The final report of the Inter-American Commission on the case of Raquel Martin de Mejia against Peru (1996) considered rape as a torture and deliberate outrage to the dignity of women. In June 1999 CLADEM filed a complaint before the Inter-American Commission in Washington regarding the case of Maria Mamerita Mestanza Chavez concerning a forced surgery/birth control operation.

Legislation

1433. The 1993 Constitution broadened the provision related to the right to personal safety with the purpose of including the protection of the persons vis-à-vis aggressions and sanctioning violence in whatever environment it occurs: "Nobody shall be subject to physical, psychological or sexual violence [...]".

1434. The 1993 Law 26260 deals with domestic violence and envisages a number of protection measures for the victim. The 1998 Law 27016 integrates the legislation on domestic violence by establishing that physical and mental health certificates issued by a public health institution are accepted as evidence in cases of domestic violence. The family relationship between victim and aggressor constitutes an aggravating factor of injuries. The 1999 Law 27115 establishes ex officio penal action for the offenses against sexual freedom. The legal defense for minors who are victims of sexual violence is granted by the State.

Policies and programmes

1435. Between 1988 and 1999, 14 women's police stations were created nationwide. The Specialized Office for the Defence of Women's Rights is attached to the Ombudsperson Office and intervenes in cases of violence against women.

Issues of concern

1436. During the armed conflict and to some extent in the post-conflict phase as well, grave violations of human rights were committed, including forced disappearances, extrajudicial executions, tortures, sexual rape of arrested women and women in zones under military occupation.

1437. Concerns have been expressed by women's and human rights NGOs on the lack of participation of women and, more broadly, civil society in the on going process of constitutional reform, which is expected to be finished in 2003.

Puerto Rico (United States of America) ⁶²⁹

Legislation

1438. The 1976 resolution 2471 provided funds for the creation of the Support Centre for Victims of Rape. The 1979 Law 6 precludes that, in any trial for the offense of rape or an attempt, evidence be admitted on the previous conduct or sexual history of the assaulted woman. Law 54 of 1989 deals with domestic violence.

1439. In 1998 a provision in the Penal Code was introduced to establish the prescriptive term of the penal action for sexual and maltreatment offences. It is for five years if the victim is older than 21 at the time the offence is committed and, in the cases that the victim is under 21, five years as of the date at which the victim reaches that age. The legislation prohibits sexual harassment against students of public or private schools.

Issues of concern

1440. Backward steps are observed in some judicial decisions. In the case of the *People vs. Valentin Capo* (1999), the Tribunal of the Appeals Circuit limited the scope of protection of the Law 54 excluding couples in adulterous relationships or of the same sex.

Saint Kitts and Nevis

1441. Saint Kitts and Nevis acceded to the Convention on 25 April 1985. The initial, second, third and fourth periodic reports for Saint Kitts and Nevis were due 25 May 1986, 1990 and 1994 and 1998, respectively. In 1995 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women.

Legislation

1442. There is no legislation on sexual harassment. In 2000 the Domestic Violence Act was passed. It criminalized domestic violence.

Policies and programmes

1443. The National Plan on Gender and Development for 1996-2000 included five areas of concern, namely: violence against women and children; poverty; institutional mechanisms; health and leadership. The plan launched several initiatives to combat violence against women and children, such as awareness courses on gender-based violence for police officers, public health nurses, social workers, counsellors and career guidance workers; awareness raising campaigns, including Zero Tolerance in 1997 and a Life Free of Violence Campaign in 1997-1998.

Issues of concern

1444. In its concluding comments on the combined initial, second, third and fourth period report of Saint Kitts and Nevis, the CEDAW Committee, expressed its concern about the persistent high level of violence, especially domestic violence, the high incidence of sexual abuse of girls particularly by older men. Concerns were also expressed about the unwillingness of women to initiate complaints of domestic violence against husbands because of the unwritten code of family loyalty, which regards such violence as a private matter. The Committee encouraged the State to come up with initiatives such as shelters for victims of violence, adopt a zero tolerance approach to the sexual abuse of girls, and establish telephone help lines, rehabilitation programmes for offenders, and educational programmes targeted at men and boys on the prevention of violence and the reform of traditional negative attitudes towards women.⁶³⁰

Saint Lucia

1445. Saint Lucia acceded to the Convention 8 October 1982. Saint Lucia's fifth periodic report was due 7 November 1999. In 1995 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women.

Legislation

1446. The 1995 Domestic Violence Act allows a judge to issue protection orders not only to prohibit an abuser from entering or remaining in the place where the victim is, but also to order that the abuser's name be removed from housing leases or rental agreements with the effect that the abuser will no longer have the right to live in the same residence as the victim. The Division of Gender Relations produced and distributed a guideline on the Domestic Violence Act.⁶³¹

1447. The State does not prosecute crimes of violence against women unless the victim presses charges. A Family Court, established in 1997, hears cases of domestic violence and crimes against women and children. There is no special police unit to handle these cases and in general,

police forces are hesitant to intervene in these problems. The Saint Lucia Crisis Centre for Women monitors cases of physical and psychological abuse.

Policies and programmes

1448. The Government of Saint Lucia has approved a national policy on women and four areas have been prioritized for action. These are: gender and poverty; gender and health; violence against women; and women in power and decision-making.⁶³²

Saint Vincent and the Grenadines

1449. Saint Vincent and the Grenadines acceded to the Convention on 4 August 1981. The fourth and fifth periodic reports of Saint Vincent and the Grenadines were due 3 September 1994 and 1998, respectively. In 1996 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women.

Legislation

1450. The Domestic Violence/Matrimonial Proceedings Act and the Domestic Violence Summary Proceedings Act provide for protection orders, occupation and tenancy orders. The former is only accessible through the High Court but the latter can be obtained without the services of a lawyer in the Family Court. The punishment for rape is generally 10 or more years in prison depending on the age of the victim and the magnitude of the offence.

Issues of concern

1451. In its concluding observations on the combined initial, second and third periodic report of Saint Vincent and the Grenadines, the CEDAW Committee expressed its concerns on the non-availability of shelter homes and counselling services for victims. It also noted with concern that domestic violence was rampant.⁶³³

Suriname

1452. Suriname acceded to the Convention on 1 March 1993. Suriname's initial and second periodic reports were due 31 March 1994 and 1998, respectively. In 2002 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women.

Legislation

1453. The law does not differentiate between domestic violence and other forms of assault. Although there are no reliable statistics on the extent of violence against women, some data were provided by the report *They Are Crying for Help - A Survey of Institutions Working in the Field of Relief and Support of Female Victims of Domestic Violence*, which was commissioned by the Inter-American Development Bank 1998.⁶³⁴ According to the study, 50 per cent of women indicated that there was sexual harassment in the workplace and one third of the women

experienced sexual harassment at work.⁶³⁵ It is estimated that 50 per cent of the victims of sexual abuse are under 16, while in cases of domestic violence the average abused women is married, 25-50 years old, has an average of 2-3 children and a low-paid job.

Policies and programmes

1454. Although police officers seem reluctant to intervene in domestic violence cases, the police attitude has improved as a consequence of a sensitisation training conducted in 1998. Altogether, some 500 of the 1,100 police officers who comprise the police force of Suriname, plus approximately 200 local social workers were trained.⁶³⁶

1455. In 2000 members of the Parliament were trained as a background to the elaboration of legislation on violence against women and women's rights. In 2001, the Ministry of Home Affairs established the Commission on Gender Legislation with the task of advising and elaborating legislation in conformity with the Convention and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.

Issues of concern

1456. In its concluding comments on the combined initial and second period report of Suriname, the CEDAW Committee expressed its concern that marital rape is not an offence and that there are inadequate data on this form of domestic violence. It urged the State to criminalize marital rape. It also requested the Government to provide information on the establishment of a national commission to make an inventory of legislation on violence against women and examine the compatibility of such legislation with international instruments.⁶³⁷

Trinidad and Tobago

1457. Trinidad and Tobago ratified the Convention on 12 January 1990. Trinidad and Tobago's initial, second and third periodic reports were due 11 February 1991, 1995 and 1999 respectively. A reservation was made to article 29, paragraph 1. In 1995 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women.

Legislation

1458. The Domestic Violence Act of 1991 intended to facilitate court-issued restraining orders to protect victims. In 1999 a new Act was approved and allowed easier access for police in instances of domestic violence. The Sexual Offences Act makes provision for the offences of rape, indecent assault, defilement, procurement and abduction of females. There is no legislation which provides persons who are sexually harassed with legal remedies.

Policies and programmes

1459. A national domestic violence hotline was established in 1998. In that year, it received 2,611 calls, of which 2,193 from women. Pilot drop-in counselling and information centres were established in 22 communities by the Ministry of Culture and Gender Affairs. The centres are

composed of multidisciplinary teams with a social worker, a police officer and a ministry official. They provide support services to victims of domestic violence, rape and sexual assaults. Gender training initiatives were conducted using drama as an educational tool. The Domestic Violence Unit, attached to the Ministry of Culture and Gender Affairs, contracted the Creative Arts Centre of the University of West Indies to perform plays addressing domestic violence.⁶³⁸

1460. Some of the initiatives to combat violence against women focus on male support services, such as counselling and conflict resolution programmes, support therapy for male perpetrators of violence, prison outreach support to assist inmates in making a smooth transition back to society, counselling and intervention with children manifesting behavioral problems. The Men against Violence against Women (MAVAW) group is one of the only male-based NGOs that offers exclusive services for men in the country whether they are perpetrators or victims of gender violence. The services provided include male support therapy for perpetrators of violence, counseling of couples in “at-risk” relationships, awareness-raising through public education and print media about the problem of male violence.⁶³⁹

Uruguay

1461. Uruguay ratified the Convention on 9 October 1981. The fourth and fifth periodic reports were due 8 November 1994 and 1998, respectively. The Optional Protocol to the Convention was ratified in 2001. In 1996 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women and accepted the jurisdiction of the Human Rights Inter-American Court.

Legislation

1462. The 1993 Law 16.359 (art. 17) criminalized sexual harassment previously considered an “offensive approach”. The 1993 Law 16.707 (art. 18) deals with domestic violence and establishes its pursuit ex officio. However, Uruguay maintains the possibility of condoning certain offences when the aggressor marries the victim. Article 102 of the 1994 Law 16.462 outlines the Programme for the Prevention of Violence and the Rehabilitation of its Victims.

Policies and programmes

1463. The Office to Support Victims of Family Violence deals with some 100 cases per month.⁶⁴⁰ It depends on the Montevideo Police Force’s Safety Bureau. The Permanent Project for the Prevention, Assistance and Treatment of Family Violence of the Family and Women’s Institute (INFM), initiated in 1992, grants free information and counselling. The National Institute of the Family and Women promotes, designs, formulates and assesses national policies related to women and the family.

1464. The Women’s Commission of the Municipal Intendancy of Montevideo manages a telephone service for women who victims of violence. The service is active since 1992. The El Faro Center (INAME), active since 1997, grants support to teenagers and young women, between 12 and 20 years old, who have suffered physical or sexual violence.

Issues of concern

1465. Cases of Uruguayan women trapped in women's traffic networks for the purpose of sexual exploitation in Europe have been documented.

Venezuela

1466. Venezuela ratified the Convention on 2 May 1983. Venezuela's fourth and fifth periodic reports were due 1 June 1996 and 2000, respectively. A reservation has been made to article 29, paragraph 1. The Optional Protocol to the Convention was ratified in 2002. In 1996 the country ratified the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women and accepted the jurisdiction of the Human Rights Inter-American Court.

Legislation

1467. The 1999 Law on Violence against Women and the Family aims at preventing, controlling and sanctioning domestic violence and providing protection to the victims. It addresses three forms of violence: physical, psychological and sexual violence. It focuses not only on the penalties for the aggressors but also on prevention and assistance, defining the functions of the National Women's Institute responsible for policies and programmes for the prevention of violence against women. However, the Law does not consider violence between partners that have not lived together. Article 19 of the law addresses sexual harassment at work.

Policies and programmes

1468. The Programme for the Defence of the Family against Maltreatment was launched and three women's houses that provide free legal counselling to the victims of violence have been created. The Women's National Council established the Venezuelan Network against Domestic Violence and Health formed by NGOs dealing with domestic violence. In January 1999, the Judicial Technical Police (PTJ) created the Division on Violence against Women and the Family.

1469. The Regional Pilot Program for the Prevention and Care of Domestic Violence against Women was approved and launched in January 1998. It started its activities with the establishment of a coordinating network of government and non-government instances and then focused its activities on training and capacity building.

Issues of concern

1470. Statistics from the Centre for Peace Studies at the Central University of Venezuela specify that, during the first half of 1998, 26 women in Caracas died as victims of homicide. It was estimated that 50 per cent of these deaths were due to conflicts with their partners. The study estimates that every 12 days a man in Caracas kills a woman for reasons related to their relationship.

1471. Complaints of domestic violence often tend to be resolved by conciliation. The officers in charge of the reception of complaints tend not to pay attention to psychological violence and

threats. Adequate infrastructure is needed for the effective application of some of the provisions of the Law on Violence against Women and the Family.

(ii) North America

1472. The North American relationship with the Inter-American system is fairly negative. Canada and the United States of America have not ratified the American Convention, and do not recognize the jurisdiction of the Commission and Court. However, the Commission is still competent to receive complaints against Canada and the United States and other non-Convention states under the 1949 American Declaration of the Rights and Duties of Man, and there are a few cases currently pending.

Canada⁶⁴¹

1473. Canada is a state party to the Convention.

Legislation

1474. Canada ratified the International Criminal Court Statute in 2000, and was the first country to adopt implementing legislation with the Crimes Against Humanity and War Crimes Act. Under the act, Canada can domestically prosecute International Criminal Court crimes, including gender-based persecution, rape, and sexual slavery. Canada played a leading role in ensuring that the International Criminal Court would be gender-sensitive, pushing for references that judges should possess expertise in violence against women, and that the Prosecutor would take measures to investigate sexual violence. Canada also maintains an Interdepartmental Working Group to develop its position with respect to the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children under the UN Convention Against Transnational Organized Crime. Canada ratified the Convention and its Protocol on May 14, 2002. The Crimes against Humanity and War Crimes Act criminalizes domestic trafficking, in accordance with crimes under the jurisdiction of the International Criminal Court.

1475. Canada has tailored its immigration and refugee policies toward preventing violence against women. The new Immigration and Refugee Protection Act, which came into force on June 28, 2002, addresses family violence issues. It attempts to prevent spousal violence prolonged by the sponsorship requirement for spouses, common-law and conjugal partners by reducing the sponsorship period for partners from 10 to three years. The new legislation also prohibits partners who have been convicted of spousal violence in the past 10 years from being sponsors. Finally, it eliminates the fiancé category for immigration purposes, with the aim of reducing the number of mail-order brides trapped in abusive relationships.⁶⁴² Female genital mutilation (FGM) has been the source for review of Canada's criminal law in several recent instances. In 1993, the Criminal Code was amended to prohibit the removal of a child from the country with the intention of committing any of a number of offences, including assault with a weapon and aggravated assault. The effect of these prohibitions is that removal of a child with the intention of having FGM performed in another country is now punishable under Canadian law. On the domestic prohibition front, FGM was specifically prohibited by a 1997 amendment to the Criminal Code that set to rest any questions that FGM is illegal within Canada. After a

number of reported incidents of sexual assault and harassment in the military, the 1998 National Defence Act was passed to enable the military justice system to handle complaints of sexual assault.⁶⁴³ Honour Crimes occur very rarely in Canada, and if they should, they would be prosecuted under the Criminal Code under assault, aggravated assault, murder or other provisions.

Landmark cases

1476. The Supreme Court in the case *R. v. Ewanchuk*⁶⁴⁴ applied a subjective test for determining whether consent to sexual activity has occurred. It explained that the accused cannot rely on the complainant's silence or ambiguous conduct to initiate sexual conduct. Moreover, where a complainant expresses non-consent, the accused has a corresponding escalating obligation to take additional steps to ascertain consent.⁶⁴⁵ It has been explained that this approach moves beyond an historical approach to consent to an equality approach.⁶⁴⁶ The historical approach posits that a man is entitled to presume consent until a woman resists, and that consent can be implied through how a woman dresses or her past sexual conduct or non-resistance. The equality approach starts by examining not whether the woman said "no", but whether she said "yes". Women do not walk around in a state of constant consent to sexual activity unless and until they say "no", or offer resistance to anyone who targets them for sexual activity. The right to physical and sexual autonomy means that they have to affirmatively consent to sexual activity. To assume otherwise is a breach of their equality rights protected by the guarantees of equality and security of the person found in Canada's Charter of Rights and Freedoms, which are consistent with Canada's obligations under the Women's Convention.

Policies and programmes

1477. The Canadian federal Government has spearheaded several initiatives to combat the problem of domestic violence. The Family Violence Initiative, begun in 1997, will culminate in a five-year report in 2002. This initiative addresses the problem of violence in the family primarily as it concerns women and their children, aiming to tailor the criminal justice and housing system to better meet their needs. The initiative coordinates three government agencies and 13 departments in reducing violence in the home, and operates the National Clearinghouse on Family Violence.⁶⁴⁷ The Department of Justice has taken several measures to combat the problem of spousal abuse. Women are the victims of the majority of domestic assaults and homicides, and are far more likely to suffer further psychological effects from abuse, such as sleeplessness. Moreover, an estimated 3 per cent of women with current spouses at the time of publication were estimated to have been the victims of spousal violence in the preceding 12 months.⁶⁴⁸

Issues of concern

1478. The law does not prohibit trafficking in persons, although the Government prosecutes such offenses as violations of immigration policies; trafficking in women and children is a problem. The country is primarily a transit and destination point for trafficking in persons into sexual exploitation and involuntary servitude. There are no overall estimates as to the extent of the problem. There have been several widely reported cases of smuggling and trafficking, including

hundreds of Chinese who arrived illegally by ship in British Columbia during the summer of 1999. There are also reports that Mexican and Haitian men and women are trafficked to Canada. The traffickers use violence to ensure that their clients pay and that they do not inform the police. Asian women and girls who are smuggled into Canada often are forced into prostitution. Traffickers use intimidation and violence, as well as the illegal immigrants' inability to speak English, to keep these victims from running away or informing the police. There are no government-sponsored programs to help victims of trafficking; however, the Government funds NGO assistance programs. Victims may apply for permanent residence under the "humanitarian and compassionate" provisions of the Immigration Act. Some victims of trafficking are arrested and deported. In prostitution cases, often the prostitute instead of the customer is arrested. If the woman is in the country illegally, she may face deportation, especially after committing a crime. Local authorities to some degree lack awareness about the victims of trafficking, which is compounded by the fear many victims have of telling the authorities about the crime committed against them.

United States of America⁶⁴⁹

1479. The United States is not a State party to the Convention. On June 30, 2002, the Senate Foreign Relations Committee took the first step by voting to forward the treaty to the entire Senate for ratification. In December 2000, the United States signed the United Nations Convention against Transnational Organized Crime, including its two supplementary protocols on trafficking in persons and migrant smuggling.⁶⁵⁰

Legislation

1480. The Violence Against Women Act (VAWA)⁶⁵¹ was passed as part of the Violent Crime Control and Law Enforcement Act of 1994. Under this law, the federal Government for the first time adopted a comprehensive approach to fighting domestic violence and sexual violence. The act is administered principally by the Department of Health and Human Services and the Department of Justice. In the first category, VAWA makes it a federal crime to cross state lines to continue to abuse or harass a spouse or partner.⁶⁵² It also amended the Gun Control Act⁶⁵³ to make it illegal for a person to possess a firearm while subject to a restraining order due to domestic violence or stalking.⁶⁵⁴ VAWA affects evidentiary rules by extending rape shield laws to protect crime victims from abusive inquiries into their personal life. The Act also created new relief measures designed for immigrants whose abusive spouses obstruct their access to lawful status in the United States.⁶⁵⁵ New York City has adopted a local VAWA that allows civil rights actions for gender-motivated violence.⁶⁵⁶ California has adopted a state-level VAWA providing a civil remedy for violent crimes motivated by gender animus.⁶⁵⁷ VAWA and the 1996 Illegal Immigration Reform and Immigrant Responsibility Act provide significant legal resources for battered immigrant women. Every state now criminalizes marital rape in at least some situations, though only 17 states plus the District of Columbia have completely abolished exceptions in criminal law for marital rape.

1481. A federal welfare reform law, The Personal Responsibility and Work Opportunity Act of 1996 (PRWORA),⁶⁵⁸ contains several provisions designed to promote prosecution of statutory rape and to increase awareness of the issue and its role in teen pregnancy.⁶⁵⁹ An amendment to

the Child Abuse Prevention and Treatment and Adoption Reform Act⁶⁶⁰ included statutory rape within the definition of child sexual abuse.⁶⁶¹ In 2001, Illinois lawmakers gave final approval to a bill that requires hospitals to tell rape victims about emergency contraception. In July 2001, Governor George Ryan signed what analysts call the first law of its kind in the country.⁶⁶²

1482. Stalking, a form of violence that has been acknowledged only recently, is now recognized as a crime in all 50 states. The Interstate Stalking Punishment and Prevention Act of 1996 dramatically increased federal sanctions against stalking and harassment.⁶⁶³ Alaska, Michigan, Oklahoma and Wyoming prohibit not only conventional stalking but also stalking through electronic means such as email. Twenty-one states prohibit letter threats. Ten states provide for enhanced penalties against persons who stalk minors. Injunctions and lawsuits under the 1993 Freedom of Access to Clinic Entrances (FACE) Act⁶⁶⁴ and the Racketeer Influenced and Corrupt Organizations Act (RICO) have been used to prosecute cases of violence targeting women exercising their constitutional right to reproductive choice, as well doctors and clinicians who assist them.

1483. Since 1994, United States asylum law has made progress in addressing the specific needs of refugee women. INS Gender Guidelines issued in 1995 represent a progressive response to the particular problems faced by women around the world, including discriminatory laws, systemic sexual violence, repressive population-control laws, female genital mutilation practices, and domestic violence that goes unprosecuted. In 2000, Congress passed the Victims of Trafficking and Violence Protection Act,⁶⁶⁵ which improves federal procedures and regulations to tackle the problem.

1484. PRWORA replaced the existing federal welfare program with a new system entitled Temporary Assistance for Needy Families (TANF). In addition to expanding work requirements and imposing time limits, TANF recipients are expected to establish the paternity of their children as well as seek child support from their children's father. Failure to do so can prevent recipients from benefiting from TANF assistance. To alleviate this problem, the PRWORA's Family Violence Option (FVO) allows states to modify the requirements for paternal assistance and to extend time limits in order to assist victims and survivors of domestic violence.⁶⁶⁶

1485. The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program was amended in 1996 by Megan's Law,⁶⁶⁷ and the Pam Lychner Sexual Offender Tracking and Identification Act of 1996.⁶⁶⁸ Under these statutes, sex offenders and child molesters must register their address with state law enforcement agencies for 10 years after their release from prison.⁶⁶⁹

1486. The Civil Rights of Institutionalised Persons Act (CRIPA)⁶⁷⁰ allows the Department of Justice to bring civil suits to enforce the constitutional or federal statutory rights of prisoners. The 1996 federal Prison Reform Litigation Act (PRLA) limits the ability of private actors and NGOs to litigate claims of sexual misconduct, and terminates any court order after two years, regardless of the degree to which it has been implemented.⁶⁷¹

1487. By 1996, 15 states and the District of Columbia had responded to the problem of domestic violence by enacting mandatory arrest laws.⁶⁷² Several states, such as California, Minnesota,

New Mexico, Washington, Wisconsin and Colorado, have passed laws that prohibit housing discrimination against, or provide some protections for, domestic violence victims in certain circumstances.⁶⁷³ The 1996 welfare reform bill's Family Violence Option allows states to relax some of the requirements for battered women to qualify for public assistance. California, Maine, Maryland, New York State, and Rhode Island, as well as New York City, all passed legislation since 2000 protecting victims of domestic violence against employment discrimination.⁶⁷⁴ In 1996, Congress enacted the Federal Prohibition of Female Genital Mutilation Act⁶⁷⁵ making FGM a federal crime punishable by up to five years in prison. The statute expressly forbids any exemption for FGM performed as a "matter of custom or ritual." The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 requires the Immigration and Naturalization Service to educate new immigrants from areas where FGM is practiced on the risks associated with the practice and its illegality within the United States.⁶⁷⁶ A series of laws in the 1990s significantly increased the availability and quality of information about crime on college campuses.

1488. The United States Supreme Court has ruled that Congress's attempt in the VAWA to provide women with a federal civil remedy for gender-based abuse violated principles of federalism.⁶⁷⁷ While the federal system does allow more progressive states to take the lead in passing appropriate legislation, it also allows other states to lag behind in protection of women. In March 1998, as part of a response to a US\$ 500,000 legal settlement in a case between inmates and corrections staff at various federal institutions in California, the Federal Bureau of Prisons agreed to institute a variety of measures to prevent and respond to sexual abuse against prisoners. One of these provisions was a telephone link to allow women to report complaints of sexual abuse to an external inquiry unit.⁶⁷⁸

Landmark cases

1489. In February 1997, the Senate held hearings on sexual harassment in the military in response to a sexual harassment scandal at an army training facility in Aberdeen, Maryland. The United States Army had made public charges of rape, sexual harassment, and other abuses of authority against four drill instructors and a captain at Aberdeen. A sexual harassment hotline was set up in Aberdeen and in just two months received 6,825 calls from women in all branches of the military. The Aberdeen incident also caused the Army to take specific steps to train its personnel about sexual harassment policies. Other remedial steps taken by the Army included additional instruction on sexual harassment, increased psychological testing for drill-instructor candidates, and intensified scrutiny of candidates' records.⁶⁷⁹

1490. In 1998, in *Oncale v. Sundowner Offshore Services*,⁶⁸⁰ the Supreme Court held that sex discrimination consisting of same-sex sexual harassment is actionable under Title VII. The groundbreaking decision found that Title VII's prohibition of discrimination "because of sex" protected men as well as women from sexual harassment by perpetrators of either sex. In *re A - Z* -,⁶⁸¹ an administrative judge granted asylum to a woman who was subjected to physical and mental abuse over 30 years of marriage to a wealthy and politically-connected husband. The analysis in this case was not based on the form of persecution, but on state responsibility and identifying grounds of persecution. Domestic violence asylum claims are more successful in United States courts where the Government or a particular state is unable or unwilling to protect

women from such violence. This was precisely the justification for awarding asylum in *In re Sharmin*,⁶⁸² as well as in *re M – K –*,⁶⁸³ *U.S. v. Cadena*⁶⁸⁴ involved the federal prosecution of traffickers of young women from Mexico into Florida and the Carolinas. The women were forced to work as prostitutes in brothels serving migrant workers, were threatened with beatings and rape, and endured forced abortions. In March 1998, 16 men were charged with a number of criminal offences, including importing aliens for immoral purposes, visa fraud, and violation of civil rights. The defendants' sentences ranged from two and a half to six and a half years, with one ringleader receiving 15 years. The trafficking ring was also forced to pay \$1 million in restitution to the victims.

Policies and programmes

1491. States have mandated the enforcement of protective orders, although their effectiveness varies depending on the education and awareness of police and court officials. Some states have introduced controversial mechanisms such as mandatory arrest of abusers in order to increase the effectiveness of prosecution for violence within the family. VAWA funds additional training for investigators and law enforcement officials to deal with sexual assault crimes, facilitates the filing of complaints by victims of sexual abuse, and updates the Federal Rules of Evidence. Examples of programmes include grants to battered women's shelters,⁶⁸⁵ the STOP (Services, Training, Officers, Prosecutors) Violence Against Women grant program and a grant to the Department of Health and Human Services to establish a toll-free National Domestic Violence Hotline.⁶⁸⁶ VAWA also authorizes grants to study gender bias in the federal courts.⁶⁸⁷ The Department of Justice also provides grants to encourage states to develop creative and innovative programs in law enforcement and prosecutor training, to improve data collection and communication strategies, and to improve victim service and stalking programs. The Department of Justice established the Violence Against Women Office (VAWO) in 1995 to administer the programs authorized by VAWA, as well as other independent programs.⁶⁸⁸ Campaigns such as V-Day and the Domestic Violence Awareness Month have increased public awareness of the problem. Advocates have lobbied successfully for more effective sexual assault laws on the state and federal levels and have won greater funding for services and training for those who work in preventing and prosecuting sexual violence against women. The Department of Justice created the Centre for Sex Offender Management in 1996 to coordinate state systems of offender registration and to provide training and technical assistance to local jurisdictions in the management of sex-offenders. In the wake of sexual harassment and assault scandals in the early 1990s, the military commissioned studies of the problem and instituted additional training and education programs. Live-in migrant domestic workers have begun to organize within their own ethnic/national communities, and receive support from a number of organizations. Examples include Andolan, serving South Asian women in greater New York City since 1998,⁶⁸⁹ and the Committee against Anti-Asian Violence Women Workers Project in New York City.⁶⁹⁰ These organizations assist abused immigrant workers who wish to leave their employers, and file lawsuits for back pay.

Issues of concern

1492. At the invitation of the Government of the United States of America, transmitted by letter dated 15 May 1998, the Special Rapporteur visited Washington, D.C., and the states of New

York, Connecticut, New Jersey, Georgia, California, Michigan and Minnesota from 31 May to 18 June 1998 to study the issue of violence against women in the state and federal prisons in each of the states mentioned (E/CN.4/1999/68/Add.2).

1493. Federal and state governments responded to criticism about the state of prisons from the international human rights community by temporarily increasing collection of data on violence against women in prison, as well as additional training for prison officials, but this activity seems to have subsided. Meanwhile, prisoners in some states are finding their ability to seek legal remedy against abuse by prison officials limited by new state laws. Violence against girls in primary and secondary schools remains an under-researched problem.

1494. Women constitute a high percentage of victims of violence within intimate relationships. In 1999, women accounted for 85 per cent of the victims of intimate partner violence (671,110 total) while men accounted for 120,100 victims total.⁶⁹¹ More information is needed about the causes of and solutions to intimate-partner violence among different demographic groups.⁶⁹² According to a government-sponsored national survey, nearly one fifth of women in the United States report surviving completed or attempted rape at some time in their lives.⁶⁹³

1495. In the area of reproductive rights, many state legislatures have created laws that harm women's health by restricting access to abortion and contraceptive services due to religious based values.⁶⁹⁴ Protests, insults and even death threats by anti-choice groups, such as those belonging to "Operation Rescue" in the United States, pose serious obstacles to women obtaining safe abortions.

1496. The problem of harassment and sexual violence against immigrant women by border patrol agents has gone unaddressed.⁶⁹⁵ The international matchmaking industry may also lead to abuse of immigrant women.⁶⁹⁶ Critics fear these industries may serve as fronts for trafficking, and anecdotal evidence suggests that the women may be at increased risk for domestic abuse and sexual assault. Immigrant women, especially those who immigrated illegally, have been more vulnerable to workplace abuse and exploitation due to laws such as employer sanctions and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)⁶⁹⁷ that effectively criminalized the hiring of illegal immigrants.⁶⁹⁸ Some of these concerns were subsequently addressed by the Violence Against Women Act of 2000 (VAWA 2000). Out of the 700,000 to 2 million women and children trafficked each year, approximately 45,000 to 50,000 come to the United States.⁶⁹⁹ They are trafficked into and within the country for forced labour, slavery, involuntary servitude and peonage into domestic work, prostitution, servile marriages, farm labour, sweatshops and street vending. Female genital mutilation (FGM) is also a growing problem in immigrant communities. An estimated 160,000 females have been subjected to the procedure in the United States.⁷⁰⁰

E. The European region⁷⁰¹

1497. This section contains a brief overview of key developments in the European region to end violence against women, during the period 1994-2003. It contains information regarding European conventions currently in force, relevant case law, as well as recommendations,

resolutions and directives adopted at the European level and addressed to the member States of the European Union.

Regional legal and policy framework

1498. The Convention for the Protection of Human Rights and Fundamental Freedoms was drawn up within the Council of Europe. It was opened for signature in Rome on 4 November 1950 and entered into force in September 1953. The object of its authors was to take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration of Human Rights of 1948.

1499. In addition to laying down a catalogue of civil and political rights and freedoms, the Convention set up a system of enforcement of the obligations entered into by Contracting States. Three institutions were entrusted with this responsibility: the European Commission of Human Rights (set up in 1954), the European Court of Human Rights (set up in 1959) and the Committee of Ministers of the Council of Europe, the latter organ being composed of the Ministers for Foreign Affairs of the member States or their representatives.

1500. Under the 1950 Convention Contracting States and, where the Contracting States had accepted the right of individual petition, individual applicants (individuals, groups of individuals or non-governmental organizations) could lodge complaints against Contracting States for alleged violations of Convention rights.

European Court of Human Rights

1501. The case law of the Court under article 3 has, from the outset, displayed sensitivity to the gender of the victim. In the landmark decision of *Ireland v. the United Kingdom* (No.5310/71), judgment of 18 January 1978, the Court lists relevant factors for assessing the severity of treatment or punishment, one of which is the person's sex.⁷⁰²

1502. Three recent judgements concerning custodial violence are *Aydin v. Turkey* (1997), *Akkoc v. Turkey* (2000), *Eram and Saglam v. Turkey* (2002).⁷⁰³ In all three cases the Court held that the act of rape to which they were subjected in custody amounted to torture in breach of article 3 of the Convention.

1503. Another judgment concerning article 3 is also relevant, *Sevtap Veznedaroglu v. Turkey* (No. 32357/96), a judgment of 11 April 2000. While the Court was unable to determine whether the applicant had in fact been subjected to torture and threats of rape at the hands of the police, it found a violation of article 3 on the basis that the authorities breached their duty to investigate the applicant's allegations.

1504. Violence against women and girls has also led to judgments under other provisions of the Convention. The following cases are cited by way of example.

1505. The first of these is the case of *X. and Y. v. the Netherlands* (No. 8978/80), judgment of 26 March 1985. The Court found that the failure to prosecute the man alleged to have raped the second applicant (who was mentally handicapped and 16 years old at the time) violated article 8:

"This is a case where fundamental values and essential aspects of private life are at stake. Effective deterrence is indispensable in this area and it can be achieved only by criminal-law provisions;" (para. 27).

1506. The issue of marital rape arose in the case of *C.R. v. the United Kingdom* (No. 20190), judgment of 22 November 1995. The applicant claimed that his conviction for raping his wife in 1989 violated article 7 of the Convention since, in his view; his behaviour did not constitute a crime at that time. The English courts had, he maintained, engaged in judicial activism in order to find him guilty. This argument is forcefully rejected by the Court in the following terms: "The essentially debasing character of rape is so manifest that the result of the decisions of the Court of Appeal and the House of Lords - that the applicant could be convicted of attempted rape, irrespective of his relationship with the victim - cannot be said to be at variance with the object and purpose of article 7 (art. 7) of the Convention, namely to ensure that no one should be subjected to arbitrary prosecution, conviction or punishment (see para. 32 above). What is more, the abandonment of the unacceptable idea of a husband being immune against prosecution for rape of his wife was in conformity not only with a civilized concept of marriage but also, and above all, with the fundamental objectives of the Convention, the very essence of which is respect for human dignity and human freedom." (para. 42).

1507. The sexual and physical abuse of children led to the case of *D.P. and J.C. v. the United Kingdom* (No. 38719/97), judgment of 10 October 2002. The issue to be determined was not whether such appalling treatment was inhuman and degrading, a point on which all parties agreed. Rather, the applicants claimed that the State was responsible for the failure of social services to intervene. The Court found that, on the facts before it, the failure of the social services to detect the abuse or to place the applicants in care did not violate article 3. However, the Court did find a violation of article 13, as the applicants did not have an adequate remedy available to them, i.e. one which would have permitted them to seek to establish the social services' liability and to seek damages for injury suffered.

The European Union⁷⁰⁴

1508. The European Union has launched Daphne, a four-year programme implemented by the European Commission to prevent violence against children, young persons and women, provide support to the victims of violence and prevent their future exposure to violence. The current Daphne programme will end at the end of 2003. Daphne supports a number of projects and initiatives, including a project entitled European Network for the Prevention of Female Genital Mutilation in Europe, started in December 1999. The objective of the project is to make an inventory of available resources related to FGM with the intention to examine problems surrounding FGM in the EC and to propose a consensus on FGM within the member states of the European Union. Another initiative supported by Daphne is the project "Who are these boys, who are these girls?," organized by *Azione Gay e Lesbica* in Florence to raise awareness on violence against adolescents because of their sexual orientation. A 200-point questionnaire published on the Internet offered young people the opportunity to give their own personal testimonies. The responses showed that 38 per cent of the gay adolescents who replied had suffered from discrimination, and 27 per cent from violence. Lesbians in particular were targeted both by families and peer groups. And while only half the victims had disclosed their

experiences – sometimes years later – 42 per cent had considered suicide, and 14 per cent had attempted it.

1509. The European Union has been active in taking initiatives on the development of penal legislation and law enforcement and judicial cooperation and to a lesser extent on the prevention of trafficking and the protection of victims. In a first communication on trafficking in women for the purpose of sexual exploitation in 1996, the European Commission developed a European strategy to prevent and fight against this phenomenon. Also in 1996, the mandate for Europol was extended in order to enable the organization to combat trafficking in human beings. Furthermore, in November 1996, the incentive and exchange programme STOP was launched to support actions by the persons responsible (public officials and NGOs) for the fight against and prevention of trafficking in human beings and the sexual exploitation of children. In February 1997, the Council adopted a Joint Action calling on member States of the European Union to review their national criminal legislation as regards trafficking in human beings and judicial cooperation as well as to encourage protection of victims in judicial proceedings. Despite this Joint Action, continuing discrepancies and divergences in penal legislation have been identified among the member States. Following the mandate of the European Council the Commission presented on 21 December 2000 a proposal for a Council Framework decision on combating trafficking in human beings. Furthermore, the European Union Council Framework Decision on combating trafficking in human beings was adopted on 19 July 2002.

1510. A legal definition on sexual harassment was included into the revised EU 1976 Directive law on “Equal treatment between women and men as regards access to employment, vocation training, promotion and working conditions”. Employers are now required to take measures to prevent discrimination including sexual harassment in the work place and employment related areas (training, etc). The revised Directive was adopted at the beginning of 2002 and member States have five years to transpose this into national law. Article 4 of the Council Directive 97/80/EC of 15 December 1997 on the burden of proof foresees the reversing of the burden of proof in cases of discrimination based on sex.

1511. Over the past 10 years, while the rate of reporting incidences of rape has increased, the attrition/prosecution rate has decreased.⁷⁰⁵ Within the EU, limited attention to rape and sexual assault in national and European programmes on violence against women, together with failure of the criminal justice systems to prosecute rape effectively and the absence of co-ordination, information exchange and networking across Europe on rape are all factors that contribute to shifting the issue of rape lower on the violence against women related scale.

1512. In terms of legislation, domestic violence is undoubtedly the area in which practically all member States have made progress over the past decade; however, the type of legislation varies from one country to another⁷⁰⁶. In all cases, there are either limited mechanisms to evaluate the impact and outcomes of the law or none at all it is therefore difficult to ascertain the effectiveness of the measures adopted in this area. The EU Presidencies have, since 1998, placed the issue of violence on the political agenda and passed a number of recommendations dealing mainly with domestic violence. In addition, a European Campaign on Domestic Violence was launched in 1999.⁷⁰⁷

1513. Some EU countries, mainly the Nordic States (Sweden and Denmark), have specific legislation banning traditional practices, such as female genital mutilation and forced marriages, from taking place within the countries mentioned. Increasingly, NGOs, particularly migrant women's NGOs are actively seeking EU measures to ban traditional practices on the territory of the EU and also measures to enable prosecution of those who remove their girl child to undergo traditional practices in the countries of origin where these are practiced.

1514. All of the EU member States are faced with an increase in the numbers of people seeking asylum and/or new living and working conditions with the result that immigration issues are dominating the political debate and in particular discussion on measures to curtail immigration. Currently, there are a number of draft proposals for a Directive on the EU table, which take into account gender specific persecution and gender violence in cases of asylum. In relation to resident rights for women accompanying their partner, the Netherlands has adopted legislation that gives women the possibility of seeking individual status in situations of domestic violence, on the basis of humanitarian grounds.

1515. There are new opportunities within the current political context of the European Union to include a legal basis and stronger commitment to address violence against women particularly in light of the EU enlargement to Eastern and Central European countries, which is the focus of a revision of the treaties to accommodate the changes that will occur in the near future. The joining of new countries, along with an increasing awareness that VAW transcends all geographical barriers, coupled with other policy commitments on mainstreaming gender into all new (and old) areas of EU policy opens the prospect of strengthening measures on VAW within the EU.

1516. Areas where there is still need for action in the EU. Particular attention should be paid to the situation of women with mental health problems living in institutions as they are more vulnerable to becoming a victim of medical and pharmaceutical abuse or forced into programmes without consent, such as forced sterilisation. Reported rapes and incidences of violence experienced by women in these situations are rarely, if ever, highlighted. Similarly, existing research shows that disabled women are at a higher risk of becoming a victim of various forms of violence (including rape). The issue of violence and rape against disabled women in situations of armed conflict and war also needs to be highlighted.

The Council of Europe⁷⁰⁸

1517. 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. 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,⁷⁰⁹ which led to the third 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 Resolutions⁷¹⁰ adopted by the ministers at that conference contained an outline of the Plan of Action that was to be expanded upon later.

1518. 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 Women⁷¹¹.

1519. Aware of the need for renewed standard-setting work in this field, the CDEG set up a Group of Specialists for the Protection of Women and Young Girls against Violence (EG-S-FV) in 1998 to prepare a draft recommendation from the Committee of Ministers to member States on the subject. 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. The recommendation on the protection of women against violence was adopted by the Committee of Ministers on 30 April 2002. It covers every potential area of gender-based violence; and examines how these crimes should be dealt with by the courts. Proposals include measures that would allow victims of domestic violence to stay in their homes, making the violence partners leave, and thus shifting the current trend for victimised women to have to go women's shelters. There is also a strong emphasis on assistance and protection for victims, through police and court action.

1520. The Council of Europe has also been involved for several years in the fight against trafficking in human beings and aimed at organizing activities dealing with the fight against trafficking in the following areas: studies and research;⁷¹² awareness-raising;⁷¹³ legal texts;⁷¹⁴ and regional approach.⁷¹⁵

Organization for Security and Cooperation in Europe (OSCE)⁷¹⁶

1521. The Organization for Security and Cooperation in Europe (OSCE) has made efforts to integrate women's human rights into its efforts to monitor human rights violations and develop policies to curtail such abuses in the region. In December 1998, the Permanent Council allocated funds for gender issues and activities, such as "women in politics" trainings in Kazakhstan and Poland, and called on member States to provide voluntary contributions for staffing. The British and Swiss governments each seconded a staff member to serve as gender advisors to the OSCE, one in Warsaw and one in Vienna. A gender focal point continued to work in the secretariat in Vienna. These gender advisers were an important force for change internally.

1522. In February 2001, the Office for Democratic Institutions and Human Rights (ODIHR), which is charged with implementing and funding human rights programs of the OSCE, announced the establishment of an anti-trafficking project fund financed by the United Kingdom. The OSCE continued its leadership role within the Stability Pact for South Eastern Europe, pressing participating countries to adopt national plans of action and to take concrete steps to combat trafficking.

1523. The OSCE held the first of the three Supplementary Human Dimension Meetings for 2002 in Vienna on 18-19 March. The meeting was dedicated to the topic of "Preventing and Combating Violence Against Women". It gathered 191 participants from 55 OSCE participating States, including more than 60 representatives from the NGO community. Mediterranean Partners for Cooperation, international organizations as well as OSCE institutions and field operations were also present.

1524. The aim of the meeting was to address three categories of issues: Domestic violence against women as a human rights violation: its causes, manifestations, prevention and elimination; Violence against women in the community - private and public human rights violations in the workplace, in public institutions and by law enforcement officials: measures for intervention and redress; Women and conflict: pre- and post-conflict stages; women's role in conflict prevention and post-conflict transformation; ensuring physical, economic and social security in transformation efforts; best practices and lessons learned in the OSCE region.

1525. The meeting sought to develop recommendations based on best practice across the OSCE region. Delegations, international organizations and NGOs were invited to make recommendations for ways to improve the implementation of relevant OSCE and international commitments. A background note containing definitions, international standards and OSCE commitments related to the issue of preventing and combating violence against women was prepared for this meeting and circulated among the participants. A compilation of OSCE commitments relating to gender equality and non-discrimination was also published and made available for participants.

(i) Western Europe

1526. The response to gender-based violence varies across the region. 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.

1527. Furthermore, there are major legislative differences between countries. 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. 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.

1528. 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.⁷¹⁷

1529. In terms of legislative provision and policy developments, many countries have 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.

1530. 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 United Kingdom and Finland. There have also been changes to the rules of evidence in rape cases (e.g. in Denmark, Germany, Sweden and the United Kingdom) and free legal representation is made available in Denmark, Germany, the Netherlands and Norway. Psychological violence has been recognized 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.

1531. In relation to other forms of violence, Slovenia and the United Kingdom 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.

1532. 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.

1533. There are clearly wide variations in the nature and enforceability of legislation, and more specific problems include, 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.

1534. Action plans on violence against women currently in place in some countries of the region are not comprehensive but rather focus on only some forms of violence and/or the development of inter-ministerial committees with the aim of elaborating a national plan of action on VAW.⁷¹⁸

1535. Several points emerge from an analysis of the information received in regards to specific forms violence against women in Europe.⁷¹⁹ The levels of reporting of rape and sexual assault 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.⁷²⁰

1536. The information supplied to the Special Rapporteur on domestic violence 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 mandate. 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.⁷²¹ In other words, more women were contacting the police, availing themselves of refuges/shelters and turning to other women's organizations.

1537. The information collected demonstrates that sexual violence against children and girls has become an issue of increasing concern over the last decade. Reporting has increased over time but the overall figures are lower than for rape and domestic violence.

1538. 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 per cent and a maximum of 59 per cent 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.

1539. Some countries have recorded an increase in the number of reported cases of sexual harassment, 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. It is still difficult to 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 per cent, and those reporting it at between 5 and 22 per cent. Studies of sexual harassment tend to focus on the workplace. The harassment encountered by women in public places is seldom studied.

1540. Very few European countries have collected statistics on female genital mutilation, with the exception of the United Kingdom. No prevalence study which includes or directly addresses it is available anywhere. 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.

1541. Bulgaria, Norway, Switzerland, Sweden and the United Kingdom have enacted specific criminal provisions against injuring the sexual organs, injury to the female genital organs being generally targeted except in the Bulgarian provisions.

1542. Finally, 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.

Andorra

1543. Andorra ratified the Convention on 15 January 1997, and signed the Optional Protocol of the Convention on 9 July 2001.

Legislation

1544. Andorra's initial report⁷²² to the CEDAW indicated that the protection of women against violence is primarily guaranteed by the Constitution, article 8.2 of which states that everyone has the right to physical and moral integrity and that no one must be subjected to torture or to cruel, inhuman or degrading treatment or punishment. This article is complemented by article 39, which guarantees that the rights and freedoms recognized in chapters III and IV of Title II are directly applicable and immediately binding on all public authorities as directly enforceable law. It also states that their scope cannot be limited by law and is protected by the courts. The Penal Code also punishes offences of bodily harm with imprisonment for terms of up to 15 years.

1545. Sexual offences are defined in article 204 et seq. of the Penal Code, which prescribes sentences of imprisonment up to a maximum term of 12 years. Such actions are deemed to constitute an offence when committed against minors aged 14, irrespective of the minor's consent, thus protecting the 14-16 age group. The penalty is augmented when the perpetrator is the ascendant, in which case the courts may additionally deprive the parents of their parental functions or guardianship. Article 213, paragraph 1, of the Penal Code characterizes in a general manner the offence of pornography, which is distinctly stated in paragraph 2 to be an aggravated offence with aggravation when committed against minors.

1546. Articles 214 and 215 of the Penal Code prohibit prostitution and punish with imprisonment up to a maximum term of six years any person who encourages, facilitates or promotes the same. This penalty is augmented to 10 years if the victims are minors or if the offence is committed by abusing a position of authority or a relationship in which the victim is in a lower wage-earning or hierarchical position. Article 211 of the Penal Code punishes indecent exposure or immoral behaviour with imprisonment up to a maximum term of 30 months when committed by a means of social contact or against a minor. Article 228 et seq. of the Penal Code also regulates major offences against the freedom of persons which are punishable by a term of imprisonment of up to 20 years.

1547. The law does not specifically prohibit trafficking in persons, although the law does provide punishment for traffickers of illegal workers; however, there were no reports that persons were trafficked to, from, or within the country.

1548. In its concluding observations and comments,⁷²³ the Committee on the Elimination of Discrimination against Women welcomed: the fact that human rights treaties are directly applicable in the national legal system and that the specific elements of some treaties have been reflected in legislation; the absence of reservations to the Convention and the government's decision to sign the Optional Protocol in 2001; the establishment of the Secretariat for Family Affairs as the machinery to deal with women's issues and to ensure the implementation of the Beijing Platform for Action.

Policies and programmes

1549. The Andorran State decided, by means of the Law of 4 June 1998, to establish the office of the Ombudsman. The Ombudsman is a fully independent institution charged with protecting the rights and freedoms enshrined in the Constitution and ensuring that they are respected and applied. In regard to the inadmissibility of discrimination against women, the Ombudsman has at present requested that a series of measures should be considered with a view to ending the social problem created by husbands who are violent towards their wives.

1550. The Government has declined to create a department specifically for women's issues; however, in June 2001 the Government created a Secretariat of State for the Family. The Department of Public Health and Social Welfare collaborates with the AAW to help battered women, single parent families, and others in need.

Issues of concern

1551. Violence against women persists in Andorra. According to information received, women suffering from domestic violence requested help from the AIA and the AAW but very rarely filed a complaint with the police. Such domestic violence exists at all levels of society.

1552. In its concluding observations, the Committee expressed concern about the following elements: the persistence of patriarchal patterns of behaviour and the existence of negative stereotypes relating to the roles of women and men in the home, the workplace and society; the situation of women migrant workers, in particular those who work in the tourist industry; the highly segregated labour market, the large percentage of women in low-paid jobs and in unpaid family labour; the wide gap in pay between women and men, noting that women may not receive equal pay for work of equal value; the absence of specific legislation prohibiting discrimination in employment in general and guaranteeing equal pay for work of equal value; discriminatory provisions in laws - e.g. the requirement in the Marriage Law that widowed or divorced women must wait 300 days before remarriage; the punitive laws on abortion that could cause women to seek unsafe and clandestine abortion; the fact that efforts to eliminate *de jure* inequality between women and men have not been matched by efforts to eliminate *de facto* inequality.⁷²⁴

Austria

1553. Austria has ratified the Convention on 31 March 1982, as well as the Optional Protocol to the Convention on 7 September 2000.

Legislation

1554. The Federal Ministry of the Interior took a decisive step against domestic violence, by launching the Federal Act on Protection Against Domestic Violence, which entered into force on 1 May 1997. The Act provides for an exclusion order to be issued by the police against persons likely to commit domestic violence. Under the law enforcement regulations it is also further possible to obtain an interim injunction under family law.⁷²⁵

1555. The Criminal Code Amending Act of 2001 explicitly eliminates the authority to consent to a bodily injury such as the mutilation of the genital organs. The explicit elimination of legal justification to consent reinforces that the practice is a crime. This amendment took effect on 1 January 2002.

1556. Since 1996, all the ministries concerned as well as experts from the fields of medicine and psychology, have worked on a reform of the Penal Law on Sexual Offences under the guidance of the Federal Ministry of Justice. The reform of the criminal law on sexual offences reviewed the severity of punishment and the statutes of limitation to match the special nature of offences against the mental, physical and sexual integrity. The amendment to the Penal law of 1996 stipulates that in penal proceedings on sexual offences the list of lay judges or the jury – according to the type of court – has to include a certain number of persons of the same sex as the victim. This is intended to minimise the distress caused to the victims of sexual offences when being questioned in court as well as to allow gender-specific perspectives to be taken more into account of children and minors.

1557. In March 1997, “exploitative trafficking” was established in law as an act constituting a criminal offence. A new article in the Austrians Aliens law, which entered into force on 1 July 2000, shall protect trafficked, smuggled and other unlawful resident aliens from exploitation. Art. 105 (new, “exploitation of aliens”) states that people who exploit these aliens can be sentenced by court up to two years of imprisonment. In combination with the provisions against human trafficking existing under criminal law, this provision is intended to enable effective action against criminal organizations and gangs which induce women, mostly under false pretences, to entrust themselves to these organizations and gangs.

1558. If a prostitute has no legal status in Austria, the authorities can grant her a residence permit for humanitarian reasons if she is a victim of trafficking in women. Such residence permits may be granted to trafficked individuals (art. 217 of the Criminal Code) who are prepared to testify in court as witnesses and thus assure the prosecution of the perpetrator(s) or who intend to raise civil law claims against the perpetrator(s), for the period required for such court proceedings. As a result of the 1996 Amendment to the Criminal Code, it is now possible to punish sexual offences committed on children and young people outside of Austria according to Austrian law, irrespective of the law at the place where the offence was committed, if the offender is an Austrian and has his/her habitual place of residence in Austria.

1559. Under the new Alien Act, which entered into force in January 1998, women migrants will gain more independence. The opportunities for female migrants to make a living in Austria have improved. Since the beginning of 1998 work permits can be granted under certain circumstances to foreigners with residence in Austria if they can no longer be expected to live together with their spouse owing to violence that has been threatened or committed by the same.

Policies and programmes

1560. In 1995, the Federal Ministry commissioned a nationwide inquiry into what range of experience doctors had with violence against women and children. The findings revealed certain deficits in their knowledge about and handling of the victims of violence. As a result a manual on

diagnosing and attributing symptoms of physical and/or sexual violence against children is now being produced for this professional group in cooperation with doctors.

1561. The Austrian Government reported to the Special Rapporteur⁷²⁶ that, prompted by an initiative of the Federal Minister for Women's Issues, the phenomenon of "domestic violence" was first submitted to a broad public discussion and reflection process in the early 1990s. In the course of this process, the population was sensitized to the subject by means of information campaigns (e.g. a comprehensive anti-violence campaign started at the end of 1998); in addition, all groups professionally involved in the problem of domestic violence against women and children, such as teachers, psychologists, social workers, police officers, judges, and members of the medical professions, were addressed at the national and regional level.⁷²⁷ Intervention Centres against Domestic Violence were set up as a secondary measure and to ensure the efficient implementation of the law on protection against violence.⁷²⁸

1562. Early in 1997, the Advisory Council for Fundamental Issues of Violence Prevention was set up at the Federal Ministry of the Interior. The Council consists of representatives of the ministries concerned and NGOs and has the task of advising the Federal Minister of the Interior on programmes for violence prevention and on the development of general strategies for more effective co-operation between police authorities and organisations for the protection of victims.

1563. In September 1997, the federal Government drew up a 25-point catalogue of measures for the consolidation and further development of the previous measures and programmes for combating violence against women and children. Training seminars have been organised for specific occupational and professional groups (to sensitize participants to the special problems of the women concerned); training courses for police personnel on how to deal with situations of domestic violence.⁷²⁹ At present, the Government reported to the Special Rapporteur that Austria has a total of 24 women houses and women emergency shelters, which temporarily accommodate women and children exposed to family violence.⁷³⁰ Furthermore, the Government indicated that Austrian statistics on violence issues are currently being improved.⁷³¹ Statistical records on age and gender of victims and abusers are reportedly under way.

1564. A reporting agency of Interpol for child pornography on the Internet was set up by the Ministry of the Interior in 1998. At the end of October 1998, a national action plan drawn up by experts for combating child pornography on the Internet was passed by the Austrian Government.

1565. Seminars about gender-specific claims to asylum were held for employees of the Federal Asylum Agency, which is responsible for asylum proceedings, to sensitize them to the special needs of women refugees. Under the new Asylum Act which entered into force on 1 January 1998, persons citing interference with their sexual self-determination as the reason for their flight have to be interviewed by persons of the same sex. When arranging accommodation for refugees, increasing attention is paid to the availability of special facilities for women and children.

Issues of concern

1566. There are no accurate statistics available on the number of women abused annually, but it is believed to be a widespread problem. Police and judges enforce laws against violence; however, it is estimated that less than 10 per cent of abused women file complaints. The Association of Houses for Battered Women has estimated that one-fifth of the country's 1.5 million adult women have suffered from violence in a relationship. Of the 850 cases brought to the Ombudsmen for Equal Opportunity in 2000, 142 were complaints of sexual harassment.

1567. Women's shelters in Austria are financed primarily by the public sector, and their funding falls within the responsibility of the federal province concerned. In the last few years, new shelters have been established, but the financial situation of Austria's women's shelters remains precarious. The funding they receive is reportedly insufficient to cover their actual costs. Moreover, only in one federal province exist legislative provisions to guarantee this funding, so that most shelters have to fight for their money year after year.⁷³²

1568. The Special Rapporteur is particularly concerned about the situation of migrant women, women seeking asylum in Austria, and in particular about human rights violations by State officials. The Special Rapporteur supports the Committee on the Elimination of Discrimination against Women, which recommends that the Government adopt policies that acknowledge gender-specific grounds for women seeking asylum in Austria, including gender-violence and persecution and female genital mutilation.⁷³³ The Special Rapporteur also urges the Government to ensure ongoing education for law enforcement officials and the judiciary, including sensitization to violence against women in migrant communities, and to extent such programmes to health professionals. Furthermore, programmes of therapy for male offenders should be instituted.

Belgium

1569. Belgium ratified the Convention on 10 July 1985. Belgium had also begun its ratification process for the Optional Protocol to the the Convention, which required ratification of the Protocol by the federal State and the communities and regions.

Legislation

1570. In February 1996, the Ministry responsible for equal opportunities policy conducted a study of penal law as it relates to indecent assault, rape, physical violence in the family and genital mutilation. The work led to adoption of the law to combat violence between partners, of 24 November 1997, whereby violence against a spouse or against a person with whom the perpetrator is or was cohabiting or has or had a lasting sexual and affective relationship is explicitly covered by the criminal code, and penalties are increased in such cases. Even though violence within the family does not exist as a specific offence in criminal law, a family relationship between the perpetrator and the victim may constitute an aggravating circumstance.⁷³⁴ Rape within marriage is punishable by law. Furthermore, the offence of (ritual) sexual mutilation of women or girls, even with their consent, was introduced into Belgian law

(Article 409 of the Criminal Code) by the Criminal-Law Protection of Minors Act, adopted by the Senate on 16 November 2000.

1571. Sexual harassment receives specific treatment, in the legislation on combating discrimination. For purposes of the Law of 7 May 1999 on equal treatment for men and women⁷³⁵, sexual harassment in the workplace is automatically treated as discrimination on the basis of gender⁷³⁶.

1572. Legislation on trafficking in persons, particularly in women and children, for the purpose of sexual exploitation had been introduced on 13 April 1995; it accorded greater weight to statements of victims and provided increased protection.⁷³⁷ The offence of trafficking in human beings is not limited to trafficking in human beings for the purpose of sexual exploitation, but deals with trafficking for the purpose of economic exploitation generally. The primary objective of the legislation is to equip the justice system with the means to combat the different forms of trafficking across the broadest possible front. The law on trafficking was also intended to cover sexual tourism. An extraterritorial clause allows prosecution of anyone found in Belgium who has committed the offences of indecent assault or rape of a minor or sexual mutilation of a minor in another country. Currently they may be prosecuted for exploitation of sexual immorality, prostitution, pornography or trafficking in human beings.

1573. In the granting of refugee status, Belgium applies the 1951 Geneva Convention on the status of refugees. The Belgian institutions responsible for examining asylum requests interpret the Geneva Convention in a broad manner, well-founded fear of gender-based persecution may be accepted under the heading of membership of a particular social group, as referred to in article 1 (A) 2 of the convention. Refugee applicants alleging serious persecution on the sole basis of their female gender are then treated as a social group and their asylum requests may be granted on that basis.

Policy and programmes

1574. For 10 years, Belgium has been pursuing a policy to combat violence against women and children. A national information and awareness campaign was launched on the issue. New local policies on physical and sexual violence had been initiated, including measures to gather statistical data and to provide assistance to victims. An effort has also been made to improve the legal situations of victims, as reflected in the new rape law of 4 July 1989. The responsible ministries at all levels of government were reviewing a national plan to combat violence against women. Particularly, confronting domestic violence and trafficking in women and sexual exploitation had been deemed of the highest priority.

1575. On 10 November 2001, an extensive awareness-raising campaign was launched with regard to domestic violence. In 1996, a qualitative survey of violence, sexual harassment in the workplace was initiated. At the same time, efforts have been made to strengthen the various strategies open to victims to deal with these problems or to put an end to them.⁷³⁸

1576. National initiatives have been taken by the Ministry of Justice and the Ministry of the Interior, which have adopted a policy of providing better attention for victims of violence, such

as offering qualified personnel who have had special training; setting up shelters for victims of physical and sexual violence.⁷³⁹ Steps have been taken to ensure appropriate arrangements at police stations and proper training for police forces, and a police response kit for helping victims of violence has been prepared. Affirmative action initiatives for bringing women into the police forces have been introduced.

1577. A coordinated multidisciplinary policy for combating traffic in human beings has been implemented. This policy exists on several levels. At the Federal level, for instance, a central office on traffic in human beings within the Aliens Office was established, with responsibility for co-ordinating and managing the implementation of directives on granting provisional residence permits to victims of traffic in human beings; the Ministry of Justice also issued policy guidelines on investigating and prosecuting traffic in human beings and child pornography on 31 May 1999 (entered into force on 1 September 1999): standardizing the approaches adopted by judicial districts and strengthening cooperation and consultation between the different agencies dealing with traffic in human beings. At the regional level, each district prosecutor's office has a liaison member of staff who specialises in traffic in human beings; many districts have special police/gendarmerie brigades or welfare-inspection services dealing with traffic in human beings.

1578. There is a policy for assisting the victims of traffic in human beings. This policy is based on creating/recognizing three special reception centres, with NGO status, for supporting exploited women. A system of temporary stay permits for victims has also been instituted: victims are allowed to stay of 45 days in order to seek counselling and assistance from specialized social agencies before returning to their country of origin, and a renewable three-month stay permit is issued to victims who bring a complaint and cooperate with the justice system in a course of a judicial inquiry. Victims who have a temporary stay permit are entitled to social assistance.

Issues of concern

1579. The Special Rapporteur shares the Committee on the Elimination of Discrimination against Women's concerns regarding the high incidence of violence, including domestic violence, against women and children in Belgium.⁷⁴⁰ The Special Rapporteur is concerned that Belgium's law does not define sexual crime as a human rights violation and classifies sexual abuse as a crime of morality rather than as a violent crime.

Cyprus

1580. Cyprus has ratified the Convention and is a party to the Optional Protocol.

Legislation

1581. The Violence in the Family (Prevention and Protection of Victims) Law of 1994, Law No. 47(1/94), was enacted. Among the salient provisions are the inclusion of marital rape, speeding up trials dealing with cases of domestic violence, facilitation of the reporting of violent incidents and provision of expert advice.

1582. The Amendment Bill on Violence in the Family (Prevention and Protection of Victims) was passed in July 2000. It removes difficulties in admitting evidence of psychiatrists or psychologists and electronically recorded audio-visual depositions. It also provides for the setting up of a Fund for Victims of Violence.

1583. A Law on Equal Opportunities and Treatment in Employment was passed in July 2000. The Suppression of the Traffic in Persons and of Sexual Exploitation of Children Law was passed in 2000. This law provides for protection, compensation and rehabilitation of victims and appoints a “guardian of victims” who will provide humanitarian support and assistance to the victims.

Government programmes and policies

1584. Many measures have been taken to eradicate violence against women including, setting up an Advisory Committee on Domestic Violence, setting up of a shelter for victims of violence and gathering data on the nature of the problem of violence against women.

1585. The National Institution for Human Rights was established in September 1999. A complaints office within the Ministry of Labour and Social Insurance, in charge of dealing with complaints made by foreign domestic workers and domestic workers, was also recently established.

Denmark

1586. Denmark has ratified the Convention on the Elimination of all Forms of Discrimination Against Women on 21 April 1983, as well as the Optional Protocol to the the Convention on 31 May 2000.

Legislation

1587. There is no specific law regarding domestic violence; domestic violence is classified with other offences of violence in the Criminal Code. There are no plans as to changing the law in such a way that violence against women and/or domestic violence constitute special paragraphs or clauses.⁷⁴¹ During spring 2002, a motion was passed in the Danish parliament with respect to removal of the perpetrator from the home if it is deemed that the woman has been subject to violence.

1588. The Danish Criminal Code criminalizes: rape; sexual intercourse forced by other unlawful compulsion than assault; sexual intercourse by exploitation of another person's mental disease or deficiency or other state of dependency; sexual intercourse with children under 18 years; offences against decency.⁷⁴² There have been no changes to these laws in the last 10 years but in 1989 witness protection rules were adopted.

1589. Denmark began implementing tough new immigration and asylum rules on 1 July 2002. To prevent forced marriage the age limit for spousal reunification is to be raised to 24 years from the present 18; this would be applied to men, as well as women, in. Female genital mutilation or circumcision is punishable by Danish law. However, Danish residents who arrange for female

genital mutilation abroad are not liable to prosecution in Denmark unless female genital mutilation is a crime in the country in which it is performed.

1590. In February 2002, the Government presented a bill on new legislation concerning trafficking in human beings. With the adoption of the bill in May, Parliament agreed to ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The Act contained a newly constructed provision on all aspects of trafficking in human beings, and set the maximum sentence for violation of the new provision at eight years' imprisonment.

Policies and programmes

1591. The Government stated⁷⁴³ that violence against women is considered and treated as a human rights issue in Denmark; in recent years the attention given to the issue has increased considerably. Denmark supports various projects and programmes related to the theme.

1592. Denmark has focused on female genital mutilation by conducting studies and seminars. In 1996, guidelines for the prevention of FGM by means of development assistance were published. The guidelines are followed in implementing relevant health and education projects and sector programmes.⁷⁴⁴

1593. In 1998, the Ministry of Health set up a working group charged with developing guidelines on how to strengthen national victim support with respect to sexual violence, at local and national level. As a result, DKK 5 million has been granted to a pilot scheme, which offers victims of sexual violence comprehensive medical and judicial support, and counselling, and which will gather information and eventually submit standards and guidelines for all parties involved in handling victims of sexual violence. Crisis centres and Women's Centres also offer advice and support to women. In 2002, there are approximately 36 crisis centres nationwide.⁷⁴⁵ Under the Social Services Act, which came into effect on 1 July 1998, county councils have to provide requisite accommodations for the temporary residence of people with special social problem, who cannot stay in their own homes.⁷⁴⁶ Furthermore, the Government recently indicated that the criminal statistics have been improved in order to accommodate research in the area of violence against women.⁷⁴⁷ Other initiatives include: police training, including psychology to improve their interrogation of people in crisis; the option to be interrogated by a woman police officer; the right to legal representation and to provide a booklet containing information on her rights.

1594. The Minister of Gender Equality has established a working group together with the Ministry of Justice, the Ministry of Social Affairs, the Ministry of Health and the Ministry of Domestic Affairs to work on the issue of violence against women. On the basis of their discussion about violence against women in the home, in the course of 2000 and 2001, the Inter-departmental working group has drawn a status report about domestic violence against women and a list of recommendations.⁷⁴⁸

1595. On 8 March 2002 the Danish Government presented an action plan to prevent violence against women. One part of the action plan is the Project Violence in the Family. The project

includes training for police officers with respect to domestic violence, including support for the victims, the perpetrator, and collection of evidence and dissemination of information. The project will run for four years as a trial project in three of Denmark's 14 counties.⁷⁴⁹

1596. The Danish Government cooperated with the other Nordic and Baltic countries in two working groups under the Nordic Council of Ministers with regard to trafficking in women. A number of initiatives are being planned to combat trafficking in women, including a joint Nordic nationwide information campaign. Furthermore, the Minister of Gender Equality, the Ministry of Social Affairs and the National Commission of the Danish Police are cooperating on an Eastern European support project with the Baltic States. The working groups is considering launching information campaigns, initiating training seminars for professionals and improving repatriation possibilities in one or more of the Baltic sender countries.⁷⁵⁰

Issues of concern

1597. The Special Rapporteur is concerned about the situation of migrant, refugee and minority women in Denmark, including gender-based discrimination and violence that they experience. It is reported that the share of battered women with an ethnic minority background at crisis shelters has reached 35 percent in the past years.⁷⁵¹ It is expected that the situation of foreign married women with temporary residence permits who experience domestic violence will worsen when the amendment to the Aliens Act enters into force on 1 July 2002, which will increase the required number of years of residence from three to seven before a permanent residence permit may be obtained. The Special Rapporteur is concerned that women's fear of expulsion will be a deterrent to their seeking assistance or taking steps to seek separation or divorce. Under the amended Aliens Act, some women who do not have refugee status might be forcibly repatriated to where they had been subjected to rape and/or other atrocities and may face threat of further persecution.⁷⁵²

1598. The Special Rapporteur is also concerned about persistence of stereotypical attitudes towards women, which threaten to undermine their rights and make them vulnerable to violence, including domestic violence.

Finland

1599. Finland has ratified the Convention on the Elimination of all Forms of Discrimination Against Women on 4 September 1986, as well as the Optional Protocol to the the Convention on 29 December 2000.

Legislation

1600. Marital rape was criminalized in Finland in 1994. Domestic violence became an offence subject to public prosecution in 1995. An Act on Restraining Orders entered into force in 1999. A restraining order means that in order to protect the life, health, freedom or peace of a person, another person can be ordered not to contact the protected person. The punishment for a breach of the restraining order is a fine or imprisonment not exceeding one year. In 1999, over 1000 restraining orders were imposed. However, a Restraining Order cannot be requested if the victim and the perpetrator share accommodation. Responding to a request for information sent by the

Special Rapporteur early this year, the Government indicated that the Ministry of Justice was currently preparing a reform of the Act, which would allow placing a Restraining Order also in the above-mentioned case. A working party set up by the Ministry of Justice detected and uprooted problems on the phenomenon of mail-order wives. The working party stressed that the present legislation should be applied when combating the problem.

1601. A revised version of the chapter dealing with sexual offences in the Penal Code entered into force in the beginning of 1999 the chapter now contains a separate provision on aggravated rape. An amendment to the Penal Code allowed for the prosecution of Finnish citizens for sexual offences committed abroad; the purchase of sexual services from minors and possession of child pornography material have been criminalized. It should also be noted that mutilation is criminalised and considered an assault.

1602. The general rule is that sexual offences are subject to public prosecution; however the Criminal Procedure Act of 1997 provides victims of sexual and domestic violence offences with the right to a legal assistant or support person free of charge during the pre-trial investigation and trial stage.

Policies and programmes

1603. In accordance with the Government's Equality Programme, in 1998, the Ministry of Social Affairs and Health started two national projects - a project to prevent violence against women and a project to prevent prostitution - carried out by the National Research and Development Centre for Welfare and Health (STAKES) during the period 1998 - 2002. Among objectives of the project on violence against women were strengthening attitudes condemning violence, making violence visible and making the public aware of the extent and impact of violence on society, reducing the incident of violence, and to ensure that easily accessible services are available for the victims and the perpetrators. In 1998, the Council for Equality and Statistics of Finland, in cooperation with the Ministry of Social Affairs and Health carried out an extensive statistical survey of men's violence against women⁷⁵³. The Council for Equality and Statistics of Finland has also recently conducted a study of the costs of violence against women in Finland⁷⁵⁴. It shows that violence against women annually causes direct costs of at least 300 million Finnish marks (FIM). One of the subcommittees of the project examines especially the issues of women with multicultural backgrounds. The Academy of Finland has granted FIM 10 million for a research project called "Power, violence and gender", to be carried out between 2000 and 2003. Furthermore, at the regional level, co-operation with other national police forces and authorities dealing with preventing violence against women has been developed.

1604. The Committee on Refugee and Immigrant Affairs operating within the Ministry of Labour has mandated a working party to examine immigrant women's status in Finland. The Ministry of the Interior appointed a working party to develop effective measures to prevent trafficking in women and men in 1999. The Ministry of Social Affairs and Health appointed a working party in 1999 to prepare a national program to prevent commercialized sexual exploitation of children. The Police Department of the Ministry of the Interior issues guidelines to the police for combating prostitution and related crimes in 1997. In December 2000 Finland had signed the

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

1605. Several services exist for victims of violence. Basic health care has been supplemented with services specialized in the treatment of victims and abusers. The social welfare and health office of each municipality is responsible for the local prevention of violence against women and the treatment of victims and perpetrators. Emergency help can be given by the police, health centres, emergency social services and shelters.

1606. The training of Finnish peacekeeping forces includes training on human rights and rights of women in particular. The training also includes basic knowledge of the situation of women in the target area. In addition, the Ministry of Defence has started a project in the initiative of the National Research and Development Centre for Welfare and Health on promoting preventive work in the sphere of violence against women, especially prostitution. According to the plan, the training will be given to persons selected to peacekeeping forces. Additionally, the peacekeeper's handbooks are planned to contain basic information on the topic. The training and preparation of handbooks should commence during 2002, according to the Government.

Issues of concern

1607. According to the research mentioned above, 40 per cent of the women had, at least once during their lifetime, been target to physical or sexual violence or had faced a threat of violence, from the part of a man. Police statistics for 2000 recorded 2,876 cases of domestic violence, 51 more than during the previous year. Of the victims, 2,280 were women, and 596 were men. A total of 579 cases of rape were reported to the police in 2000, compared with 514 in 1999. Government experts say that as many as half, if not more, of all rape cases may go unreported.⁷⁵⁵

1608. On 22 January 2001, the Committee on the Elimination of Discrimination against Women (CEDAW) considered the third and fourth periodic reports of Finland under the International Convention on the Elimination of All Forms of Discrimination against Women.⁷⁵⁶ The Special Rapporteur supports the Committee's concern over the high incidence of sexual harassment in the workplace as well as of domestic violence. The Committee welcomed the ongoing efforts to combat violence against women, but urged the Government to pay more attention to prevention and to take steps to establish legally binding zero-tolerance policies. While noting the measures already taken by the Government to deal with the problems of trafficking in women and prostitution involving women, the Committee called for increased cooperation with foreign authorities, particularly those in Russia and the Baltic States, to prevent the situation from deteriorating.

1609. The Special Rapporteur is particularly concerned about the continuing discrimination of immigrant and minority women particularly Roma and Sami women, who suffer from double discrimination, based on both their sex and ethnic background. The Special Rapporteur urged the Government to undertake studies on the participation of minority women in society, to take effective measures to eliminate discrimination against them and to strengthen efforts to combat xenophobia and racism in the republic.

France

1610. France ratified the Convention on 14 December 1983, and the optional protocol to the the Convention on 9 June 2000 (entered into force on 22 December 2000). Furthermore, France ratified on 7 August 2002 the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

Legislation

1611. The protection of victims has been developed in three ways: the banning of certain types of behaviour, such as sexual harassment and domestic violence; simplification of proceedings for recovering compensation; evolution of case law.

1612. The new Penal Code, which entered into force on 1 March 1994, lays down aggravated penalties for “deliberate offences against the person [committed] by the spouse or cohabiter of the victim or the former spouse or former cohabiter”. The penalties for domestic violence vary according to the type of crime and range from three years' imprisonment and a fine of approximately US\$ 42,450 (300,000 FF) to 20 years in prison.⁷⁵⁷

1613. In the past, in French law, the question of FGM appeared “delicate” in that it seemed to bring two fundamental notions into conflict with each other: the respect for other cultures and the application of French law. It has been the courts who have settled the issue and which have gradually recognised the criminal nature of FGM. In 1983, the Criminal Division of the Court of Cassation had already ruled that the “ablation of the clitoris”, involving deliberate violence, constituted a mutilation. Since 1994 the French Penal Code has prohibited and punished mutilation under Articles 222-9 and 222-10 of the Penal Code. When the victim is a child of less than 15 years of age, the maximum penalty is increased to 15 years' imprisonment, or 20 years if the offence is committed by parents or grandparents.

1614. Rape and sexual assault are included in the Penal Code under the heading “Offences against the Person”. The difficulties relate to: definition and proof; procedures which place victims in the “position of defendants”; the requirement for victims to submit to psychiatric examinations aimed at establishing the truth of their allegations, such examinations being so very onerous and accusatory as to constitute one of the main obstacles to the laying of complaints and securing convictions for psychological, physical or sexual violence.

1615. The most significant innovation is the adoption of the Law of 17 June 1998 on the Prevention and Punishment of Sexual Assaults and the Protection of Minors. This instrument creates an additional new penalty for the perpetrators of sexual assault, a status of under-age victim and aggravated penalties in cases of sexual assaults of minors.

1616. France does not have a law specifically against trafficking, but has several criminal laws against trafficking-related offences, including laws that allow prosecution in the case of domestic slavery, domestic or sexual exploitation, pressuring someone into prostitution, pimping, and abusing a person's economic and social dependency. However, victims of trafficking are not granted any legal status and it is on a case-by-case basis, relying on various pieces of legislation,

that victims are protected. Major improvements would be made possible if a bill, which has been given a first reading in the National Assembly on 24 January 2002, were enacted.⁷⁵⁸ This proposal should be adopted or amended by the Senate and again by the French Assembly at the end of the year 2002. Furthermore, it should be noted the adoption in 2002 of a specific provision in the Penal Code to fight child prostitution. While sexual exploitation of minors was already prohibited under the Penal Code, a loophole existed for minors between the ages of 15 and 18. Those charged under this new crime may face 10 years in prison and a fine of \$180,000 (1,347,301 FF) - Article 225-7 Penal Code.

1617. A draft bill on Internal Security, which is currently before the French Parliament, would give internal security forces increasing powers to clamp down on prostitution. The Special Rapporteur is concerned that article 18 modifies the legal conditions of application of the charge of soliciting, firstly, in making no distinction between active and passive soliciting, secondly, in changing the minor offence into a criminal offence (under the proposed law, prostitutes could face 6 months in prison or a fine of up to \$7,500 if convicted under the law).

Landmark cases

1618. In February 1999 a memorable trial took place at the Paris Assize Court following the laying of a complaint by a young girl who had been excised in childhood. She brought a claim for damages against the excisionist and against her mother, along with another 24 parents who had been traced through the address book of the excisionist. Forty-eight victims of acts of excision performed on minors were listed and the Assize Court for the first time ordered that they be paid damages of FF 80,000 per child plus interest by way of compensation for the harm they had suffered. The excisionist was sentenced to eight years' immediate imprisonment, the mother of the young girl to two years and the other parents were given suspended terms of imprisonment of between three and five years.

1619. French and Belgian police have cooperated to dismantle Bulgarian prostitution networks. In August 2001 the police broke up a ring which resulted in an investigation into visa issuance at the French Embassy in Sofia, Bulgaria. Charges were brought against the former chief of the visa section and others for issuing business visas to young women who were trafficked from Bulgaria to work in prostitution rings in France. In September 2001 in Strasbourg, criminal charges were filed against 11 defendants accused of conscripting young Bulgarian, Slovakian, and Czech girls into prostitution in France. The charges carry a sentence of 8 years' imprisonment, fines of approximately US\$ 360 (FF 2,500) and banishment from France. Employers have also been sentenced and fined for enslaving domestic servants.⁷⁵⁹

Policies and programmes

1620. In 1989 and 1990 various measures for the prevention of physical and sexual violence towards women were adopted: awareness-raising campaigns aimed at alerting public opinion to domestic violence, the establishment of a national telephone helpline for the victims of domestic violence and (in 1992) the creation of action committees within the *départements* to combat violence to women⁷⁶⁰. These committees, established by a government circular in 1989 and revitalized in 1992 and 1996, work in partnership, under the supervision of the *département* chief

administrators, with the institutions and associations concerned to draw up plans of action to assist women who are the victims of violence. These committees are run and coordinated by the special adviser on women's rights for each *département*.

1621. An inter-departmental government circular on eliminating domestic violence was issued on 8 March 1999.⁷⁶¹ A government working party under the Ministry of Justice was also set up in 1999 to deal with violence against women. Its tasks were to evaluate the legislation in force, to carry out a comparative analysis with that of European countries, to appraise current legal practice, to identify innovative actions adopted by some courts in order to make these more widespread and to improve coordination between the various civil and criminal procedures. This partnership should make further progress following the decisions made on 8 March 2000 by the interdepartmental committee for women's rights and equality. The interdepartmental convention "for the promotion of equality of opportunity between girls and boys, women and men in the educational system", signed on 25 February 2000 sets out preventive and educational plans of action for combating violence.⁷⁶² An Observatory for Combating Violence against Women has been created by Decree in 2001.

1622. Furthermore, in the matter of accommodation and housing for women who are victims of violence, a joint circular from the Secretaries of State for Housing and for Women's Rights, dated 8 March 2000, was sent to the *département* chief administrators, asking them to give priority to the particular needs of women in great distress, including women heads of household and women who had been the victims of domestic violence with their children, in drawing up the next *département* action plans for disadvantaged persons. Information and awareness-raising brochures have been compiled inter-departmentally for police officers, gendarmes, health workers and social workers who have to deal with domestic violence situations.⁷⁶³

1623. The Government and private associations have undertaken a campaign to inform immigrants, some of whom may be from countries where female genital mutilation (FGM) is customary, that FGM is contrary to the law and would be prosecuted. In 1994 a circular relating to the integration of immigrant populations included the prevention of genital mutilation in the action plans of *départements* accommodating the populations in question. Some of the commissions set up by *départements* to combat violence to women have formed a subsidiary working party to deal with genital mutilation. At the same time, training on the medical, legal, social, psychological and ethnological aspects has been given by specialist associations to the professionals who have direct contact with the population concerned. Awareness-raising campaigns, information and education are being organised by medical and social workers.

1624. A National Conference dealing with Violence against Women was held Paris in 2001. It dealt with all aspects of abuse to which women are victims: physical, sexual, verbal, psychological or economic. They form part of the continuing European campaign of 1999-2000: "Violence against women – zero tolerance" five years after the Conference on Women held in Beijing, and received extensive media coverage.

1625. Several law enforcement agencies are involved in the effort to combat trafficking such as the Central Office for the Repression of Trafficking in Humans (OCRTEH). A Sub-Commission against Trafficking on Human Beings for Sexual Exploitation (National Commission on

Violence against Women) has been established in January 2002. The Government cooperates with other countries to dismantle trafficking networks. In 2002, France created with Switzerland a joint customs and police centre in Geneva to combat cross-border crime. The Government works closely with other countries in Central and Eastern Europe and sub-Saharan Africa on prevention and reintegration programs and with NGOs to combat trafficking. The Government supports trafficking prevention programs as part of the European Union, including information and media campaigns, seminars, and a trafficking prevention project in West Africa. The Government has recently ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime New York, 15 November 2000.⁷⁶⁴

Issues of concern

1626. Violence against women is a serious problem in France. The Ministry of the Interior reported that in 2000 there were 8,458 rapes and 14,263 instances of other criminal sexual assault, in 2000 there were 1,772 prosecutions for rape.

1627. According to a survey carried out by the Women's Group for the Abolition of Sexual Mutilation and other Practices Harmful to the Health of Women and Children, FGM affects 30,000 women and little girls in France, most of them originating from sub-Saharan Africa.

1628. France is a destination country for trafficked victims, primarily women, from Africa, Central and Eastern Europe, and the former Soviet Union. To a lesser extent, France is also a transit country for trafficked women from Africa, South America, and Eastern and Southern Europe. The number of women trafficked from the former Soviet Union, Eastern Europe, and the Balkans has increased markedly and has received increased press attention. Women are trafficked into prostitution and domestic servitude. There are organized rings of traffickers, primarily from Southeast Europe, and the number of young women, often between the ages 16 and 19 years of age, brought into the country to work as prostitutes reportedly continued to increase, in part because traffickers throughout Europe have benefited from the open borders under the Schengen Accords.

1629. While the law prohibits gender-based discrimination in employment and sexual harassment in the workplace, these laws have reportedly not been fully implemented. Women's rights groups have criticized the scope of the law as narrow and the fines and compensatory damages as often modest. For example, the law limits sexual harassment claims to circumstances where there is a supervisor-subordinate relationship but fails to address harassment by colleagues or a hostile work environment.

Germany

1630. Germany has ratified the Convention on the Elimination of all Forms of Discrimination Against Women on 10 July 1985, and signed the Optional Protocol to the the Convention on 15 January 2002.

Legislation

1631. Since 1 January 2002 the new "*Gewaltschutzgesetz*" (Law on the protection against violence) is in force, it provides a new level of protection for women from domestic violence the police can force a perpetrator from the home for a period of between two to six weeks.⁷⁶⁵ The "*Gewaltschutzgesetz*" is a federal law, and the "*Länder*" (States) are responsible for its application. In July 1997, after years of debate and several attempts in the German Bundestag, rape in marriage was criminalized. The previous law only defined extramarital rape as a crime, whereas sexual intercourse forced on the wife by the husband could only be prosecuted as coercion or bodily harm. In 1997, the regulation concerning an independent right of residence for foreign spouses was amended in the Aliens Act. In cases of special hardship (including domestic violence), the wife can obtain an independent right of residence without having to comply with a time limit. In the past, a marriage had to have existed for at least three years in Germany before residence was granted forcing women to remain in a relationship. An amendment (2000) to the same regulation lowered the time period to two years.

1632. Regarding violence against women in the community, penal provisions imposing penalties for sexual abuse in a counselling, treatment or support relationship, were introduced in 1998.⁷⁶⁶ This law also benefits handicapped women. Changes in the penal law and in the law of prison administration are intended to give courts and prison authorities new and more flexible options for guaranteeing protection of the general public against, in particular, dangerous sex offenders. The therapy options for treatable offenders are, for example, to be expanded and the options improved for committing such offenders to a social therapy institution during their prison term. The Act on the Protection of Employees against Sexual Harassment at the Workplace affords legal protection against sexual harassment at the workplace to all employees in the civil service and the private sector. The sixth amendment to the Penal Code (1998) provides for a maximum prison sentence of 10 years for the commercial or organized dissemination of child pornography portraying an actual or realistic event.

1633. Germany is primarily a destination country, but also a transit country, for women and girls trafficked for the purpose of sexual exploitation. Various legal measures to combat trafficking have been implemented. Protection for trafficking victims includes the granting of some temporary immigration benefits, such as a four-week grace period and temporary toleration for witnesses who remain for the duration of a trial. The Government covers the costs of repatriation of victims. Victims of violence are also entitled to federal victims' compensation. In a recent legal development, these benefits are available also to undocumented aliens if they are witnesses in a case.⁷⁶⁷

1634. Owing to the deletion of the restricting requirement that the victim be a German citizen, it has now been possible to hold (since 1 September 1993) German tourists who sexually abuse children abroad responsible under criminal law, even if the offence is not punishable in the country where it was committed.

Policies and programmes

1635. The federal Government has commissioned and published a multitude of scientific research projects and studies, as well as promoting pilot projects, on this topic. In addition, numerous studies and projects have been carried out by the federal *Länder*, the churches and autonomous women's groups.⁷⁶⁸ There is still a need for action in certain areas such as international cooperation, the field of victim protection, measures for sensitization in the area of prevention and networking.

1636. A three-year campaign (1993-1996) on violence against women by the Federal Ministry for Women addressed women and men in different ways with a host of individual measures. Furthermore, the Federal Government issued a comprehensive National Action Plan to combat violence against women on 1 December 1999. Focusing on structural changes, rather than the occasional, isolated measures that disregard the complexity of the manifestation of violence.

1637. Counselling is envisaged for the victims of sex offences and is provided at the expense of the State, regardless of the financial situation of the victim. Victims are entitled to bring an associated action to claim civil damages, especially victims of sexual offences, defamation and crimes involving bodily harm. The national and local governments are encouraging the police and the public prosecutor's offices to adopt a sensitive approach to the treatment of victims of violence.⁷⁶⁹ Today there are more than 400 women's shelters in Germany. Other pilot projects of the federal Government are: an emergency helpline for female victims of sexual violence; a walk-in therapy centre; counselling and housing for sexually abused girls; counselling and housing for prostitutes under duress and victims of trafficking in women.

1638. A national interagency working group on trafficking links federal and state efforts with NGOs and facilitates cooperation programs between counselling centres and the police.⁷⁷⁰ Some states also have their own task forces and interagency groups. The Ministry of Foreign Affairs recently cosponsored an international conference on trafficking to raise awareness about the issue. The Ministry of Foreign Affairs also sponsors anti-trafficking projects in foreign countries. Germany actively participates in several regional law enforcement organizations that combat trafficking.

1639. In order to ensure that the needs of female refugees are given adequate and sensitive consideration in the asylum procedure, the "Federal Office for the Recognition of Foreign Refugees" regularly holds courses on reasons for flight specific to women. Furthermore, male and female sole decision-makers who have received special training are appointed as special commissioners in cases of female, minors and torture victims. In addition to dealing with corresponding cases, their tasks include advising decision-makers in cases of persecution of women and to forward information on the latest developments in this sector. These special commissioners are in the future going to be available throughout the country in all branches of the Federal Office.

Issues of concern

1640. There are gaps in protecting women from violence in the family and in society. Measures should be taken to ensure that women victims of domestic violence have immediate means of

redress and protection. Measures should also be taken to sensitize the judiciary to all forms of violence against women, particularly taking into account the increased vulnerability of foreign women to such violence.

1641. The Committee of the Elimination of Discrimination against Women noted its concern at the high incidence of trafficking in women and girls, and urged the Government to increase efforts of cross-border and international cooperation, especially with countries of origin and transit, to reduce the incidence of trafficking and to prosecute traffickers. It also called on the Government to ensure that trafficked women have the support that they need.⁷⁷¹

1642. According to information received, the treatment of refugees and the asylum practices in Germany do not take the sexual traumatization of women seriously enough. For example, Bosnian women were reportedly deported back to the place where they were raped by acquaintances or neighbours.⁷⁷² The federal Government should fulfill its commitment by providing sufficient financial support to NGOs for the physical and emotional rehabilitation of women who have been traumatized by rape or other acts of war.

Greece

1643. Greece has ratified the Convention on the Elimination of all Forms of Discrimination Against Women on 7 June 1983, as well as the Optional Protocol to the Convention on 24 January 2002.

Legislation

1644. Since the last revision of the Greek Penal Code in 1984, rape is included in the category of “crimes against sexual freedom and economic exploitation of sexual life.” The fact that gender-specific forms of violence, such as rape, insult of sexual dignity, peculation for indecent act, etc, are categorized as “crimes against sexual freedom and crimes of economic exploitation of sexual life” and not as “crimes against personal freedom”, such as the crimes of slave -trading, abduction, kidnapping, illegal detention, illegal violence, is largely debated by women’s groups in Greece. It is feared that even though almost all crimes of this category contain the element of violence, the acts are not considered as crimes against the personal freedom of women, but are recorded in the subordinated category of sexual crimes. Moreover, the category of sexual crimes entails lower punishments than the category of crimes against personal freedom.⁷⁷³

1645. Although domestic violence is recognized in Greece as a social problem, it is noted with concern that there is no legislation that specifically protects women against domestic violence.⁷⁷⁴ It is included in the offences of violence against the person. Analyses of official statistics have demonstrated that penalties inflicted are less strict than the law allows; only a few cases lead to imprisonment. Furthermore, rape in marriage does not constitute a separate crime.

1646. Greek law offers no protection to women against sexual harassment in the workplace under general provisions, but there are specific laws in both the Penal and Civil Codes.⁷⁷⁵ A victim of sexual harassment must bring the charge against the perpetrator. The case law and the written laws, which govern sexual harassment at work, do not provide a solution to the following problems:

burden of proof on the woman; complex court procedures; difficulty of finding witnesses; fear of dismissal; fear of repercussions in professional advancement; social prejudice regarding position of women in the labour market.⁷⁷⁶

1647. On 16 October 2002 the Greek parliament passed a new version of the law aimed at combating sex-trafficking in women and children.⁷⁷⁷ The law has removed the option of victims seeking to stay in Greece, and instead stipulates forced repatriation of migrant women and children. The May 2001 immigration law sets aside judgments against women who press charges against their traffickers, and allows these victims to remain in the country. The law also temporarily suspends deportation of victims if deportation raises humanitarian concerns.

Policies and programmes

1648. In its programme of action up to 2000, the General Secretariat for Equality (GSE) set out priorities in studying and addressing violence against women. An Inter-ministerial committee of experts was set up (July 1999) which consists of various associates, university faculty members, experts, representatives of the Ministry of the Interior, Justice, Public Order, and Health and Welfare, and representatives of NGOs. The task of the committee is to study the existing legislative framework and to submit proposals for improving it. A draft law on domestic violence is expected to be released soon. A needs assessment for the provision of services for women victims of violence has also started.

1649. At the state level, a battered women's centre has been in operation since October 1988, which provides legal and psychological support to women who are victims of violence. The second Consultation Centre on Violence against Women started to operate in 1999 in Piraeus. Women can also seek help at the state hospitals, health centres, mental health centres, but these institutions are not adequately staffed with personnel specialized in dealing with such cases.

1650. Regional Equality Centres have been established in thirteen regions to raise awareness and support women victims of violence.

1651. A joint ministerial decision by the ministers of public order and interior was signed in May 2001 providing for a "work management group on trafficking" to develop, coordinate and implement policy in Greece. The purpose of this memorandum to the government is to emphasize the need for both immediate and long-term, effective responses to the trafficking of women into Greece for forced prostitution⁷⁷⁸. The GSE cooperates with the Ministry of Public Order to deal with the phenomenon of prostitution and to take measures against the sexual slavery and procurement associated with it (e.g. guarding the frontiers, distribution of relevant pamphlets in the countries of origin, at the borders and in Greece, the protection of women who are victims of violence when they bring charges in instances of violence, and Greece's cooperation with the states of origin of women who are victims of violence.) The Inter-Ministerial Committee for Trafficking launched a national anti-trafficking campaign in spring 2002 with posters and pamphlets. Police academies began including training on how to identify trafficked women in September 2001.⁷⁷⁹

Issues of concern

1652. The problems can be divided into three areas: legal gaps, insufficient enforcement of the law and stereotypes that marginalize women. Apart from some individual research, the lack and/or unsuitability of the data on the nature of gender-based violence create difficulties in establishing the extent, nature, seriousness and consequences of this phenomenon in Greece. The study of violence against women is a high ranking priority and an axis of policy and action of the GSE.

1653. Most women suffering from abuse reportedly do not press charges against their abusive partners. There is an extremely limited infrastructure for the empowerment and support of victims of family violence. Subsequently, even if a woman chooses to take legal action against her violent spouse and press criminal charges, there is no welfare solution or alternative provided for her by the State. There are only two Reception Centres for Abused Women operated by the General Secretariat of Equality, in Athens and Pireas, which offer legal advice and psychological support, but no hospitality. Moreover, law enforcement personnel in Greece are generally ill-equipped to handle complaints from women and girls alleging that they were the victims of rape and other forms of sexual violence. The reported discriminatory attitudes of members of the police and the judiciary have led to a lack of confidence in the law enforcement responses to rape and other forms of sexual violence, and subsequently to an underreporting of these crimes.⁷⁸⁰

1654. Women are deterred from recourse to law by: light penalties; the time-consuming nature of penal procedure; the burden of proof lying with the woman; the suspicion met by women reporting rape after the medical examination which refers to her previous sexual history, including whether she was a virgin or not; court interpretation of law and attitudes of legal functionaries are affected by prevailing social prejudice. Another obstacle concerns the fact that incidents of domestic violence, when reported, are usually regarded by police officers and often judges, as private matters that fall outside of their mandate and in many cases the abused woman is encouraged to settle for an extra-judicial compromise. Furthermore, there is a lack of institutionalized training for law enforcement officials and members of the judiciary in relation to the investigation, prosecution and punishment of cases of family-based violence.

1655. The Special Rapporteur is concerned about the increase in trafficking in women and girls into Greece, predominantly for the purposes of sexual exploitation.⁷⁸¹ While the Government has taken some legislative and policy measures to address the issue of trafficking, there still exists no comprehensive legislation criminalizing the trafficking of human beings. The Special Rapporteur is also concerned that trafficked victims continue to be prosecuted and detained. Consequently, victims of trafficked are afraid to file a complaint with the Greek authorities, and subsequently remain trapped in abusive situations.

1656. The Special Rapporteur is concerned about prison conditions in Greece. There is only one prison for women and this prison is overcrowded and unsanitary and diseases such as hepatitis are prevalent. According to information received, there is a lack of medical care. As there is only one prison for women, women and girls are detained in the same facility. Moreover, women and men are held together in the same police establishments where women, men and children have to

share the same facilities. There is a serious shortage of female police and prison staff. Many women in prison have reportedly been subjected to violence by male correctional officers in the prison, including sexual violence.⁷⁸²

1657. Roma women are particularly vulnerable to violence at the hands of State officials. The multiple inequalities Roma women experience render them more vulnerable to exploitation and violence, due to the multiple grounds of power difference Roma women encounter with the police.

1658. The Government should envisage incorporating the following measures within domestic violence legislation: the establishment of a system for the enforcement of *ex-parte* restraining and protective orders that would have the effect of ensuring that the perpetrator could not approach the victim or other witnesses and that the perpetrator be obliged to vacate the family home; provisions on the rights of victims to receive appropriate legal, medical and other assistance including alternative shelter and reparations.⁷⁸³ The Penal Code should penalize marital rape. The Government should also collect data and maintain accurate statistics on the scope and nature of domestic violence and develop a broad-based public awareness campaign concerning domestic violence.

1659. The Special Rapporteur recommends that all law enforcement personnel are given appropriate gender-sensitive training in responding to cases of rape and other forms of sexual violence against women, including violence occurring within the family. Moreover, the law should be revised in such a manner that victims of rape and other forms of sexual violence cannot be put under pressure to stop the prosecution of the case.

1660. The Special Rapporteur suggests that Greece formulate and implement adequate policies to combat trafficking and forced prostitution which require the enactment of effective laws, services to victims in the form of social security, shelters, medical care and psychological support, granting (temporarily or permanently) residency permits in appropriate cases, and witness protection programmes as well as facilitating the access of women to viable employment and training opportunities.

1661. The Special Rapporteur recommends that steps be taken to improve prison conditions and that in doing so account should be taken of the United Nations Standard Minimum Rules for the Treatment of Prisoners. In order to prevent sexual violence against women in detention, male staff should not be allowed to supervise female inmates, to undertake body searches, and to be present where female inmates are naked and women, men and children should be separated. The Special Rapporteur would also recommend amending article 137A of the Penal Code on torture to explicitly include rape and other forms of sexual violence as a form of torture.

Iceland

1662. In 1985, Iceland ratified the Convention, and, on 7 March 2001, the Optional Protocol of the Convention. All other relevant instruments have been ratified.

Legislation

1663. There is no specific legislation relating to violence against women, including domestic violence, in Iceland. It is regulated like other forms of violence, with the same rules applying to both sexes.⁷⁸⁴ Rape in marriage is outlawed, prosecuted and sanctioned in the same way as other forms of rape. In 2000 Parliament passed legislation that gives the courts the power to issue restraining orders, which has been a legal tool in protecting women from abusive husbands and boyfriends. Rape and sexual assault are regulated in the Penal Code, mainly as crime against the person.⁷⁸⁵ The low penalties for crimes of sexual violence including rape (12 to 24 months imprisonment) should be noted. In 1999, the Government amended the Criminal Code to provide victims of sexual crimes with lawyers to advise them of their legal rights and help them pursue cases against the alleged assailants.

1664. In 1998, the Office of Gender Equality and the Administration on Occupational Safety and Health had published a study on sexual harassment which confirmed that this was a problem in the workplace. In response, the Gender Equality Act had defined and prohibited sexual harassment. In May 2000, a new act on the Equal Status and Equal Rights of Women and Men (the Gender Equality Act), which replaced the former Gender Equality Act of 1991, had been passed. The Act had created a new special institution, the Centre for Gender Equality, administrated by the Ministry of Social Affairs and entrusted with monitoring of the Act's implementation.

1665. The law does not prohibit specifically trafficking in persons, although a number of legal provisions may be used to prosecute such cases; trafficking was suspected in connection with the hundreds of foreign women who entered the country to work in striptease clubs.

Government programmes and policies

1666. In Iceland, violence against women is recognized as an obstacle to equality. In a new four-year programme (2002-2006) on measures to promote gender equality a number of measures focus on violence against women.

1667. In May 1994, the Icelandic legislative body passed a resolution proposal requesting the Minister of Justice to appoint a committee to prepare and supervise a study of the causes, extent and nature of violence against women in Iceland. The declared objective was to obtain an overview of the situation with the goal of seeking methods of reform. This committee began its work in February 1995 and the main results of the investigation were published in February 1997.⁷⁸⁶ The Minister of Justice appointed three committees to examine whether it is necessary to amend Icelandic law in order to fight violence against women and to study the handling of such matters in the judicial system.⁷⁸⁷ In 1996, the Minister for Social Affairs appointed a committee to study sexual abuse against the mentally disabled. The Committee has completed his work and has suggested to the Minister that a comprehensive be made on the extent of such abuse in Iceland. Additionally, the committee proposed that education on these matters be greatly increased among the mentally disabled, their parents and the personnel of institutions.

1668. The Government helps finance various facilities and organisations that provide assistance to victims. The City of Reykjavik, in addition to partially funding such services, provides special help to immigrant women who find themselves in abusive relationships, offering emergency accommodation, counselling, and information on legal rights.

1669. Due to the increase of night- and strip-clubs in Iceland the last couple of years, the Government has taken action and passed an amendment in April 2000 to the legislation of work permission for foreigners from 1994: strip-dancers who perform as artists in nightclubs have to apply for work permits. A study on prostitution, commissioned by the Ministry of Justice and released in March 2002, concluded that organized prostitution existed at some, if not all, of the striptease clubs. In the absence of national legislation, some municipalities have taken action on their own to prohibit the opening of striptease clubs within their jurisdictions. However, the changes were not expected to be retroactive and would not affect the existing clubs, most of which were located downtown.

Issues of concern

1670. Police statistics show that the incidence of violence against women – including rape and sexual assaults – is low; however, the number of women seeking assistance at the public women's shelter, the counselling shelter, and the emergency ward of the National Hospital indicates that many incidents go unreported.

Ireland

1671. Ireland ratified the Convention on 23 December 1985, as well as the Optional Protocol to the Convention on 8 September 2000.

Legislation

1672. Ireland has reviewed its laws regarding violence against women and has made some significant reforms including: Family Law Act 1996, Family Law (Divorce) Act 1996 and the Domestic Violence Act 1996. While domestic violence is a criminal offence in Ireland, it is within the scope of the civil law that most legal remedies in the form of safety and protection are granted, namely through provisions in the Domestic Violence Act of 1996. Under the legislation, two main options are provided: a *safety order*, granted by the Court - which prohibits a person further violence or threats of violence but does not oblige the person to leave the family home. The second form of protection provided by the Domestic Violence Act, is a *barring order*, which requires the violent person to leave the family home.

1673. The Domestic Violence Act 1996 introduced further reforms. The main features of this Act include: extending the powers of the courts to grant barring and protection orders; empowering the court to grant barring orders on an interim ex-parte basis in situations of extreme emergency; increasing the maximum duration of a barring order made in the District Court from one to three years (renewable on application for a further three years); providing increased fines and terms of imprisonment for breaches of barring, safety and protection orders and strengthening the Garda powers to arrest without a warrant in domestic violence cases generally. Under the new legislation

a third party can apply for safety measures on behalf of any person cited above. In cases of domestic violence which causes severe bodily harm, a third party, i.e. the police and/or the Director of Public Prosecution can pursue criminal charges on behalf of the victim. Rape in marriage has been outlawed since 1990 through the Criminal Law (Rape) Amendment Act, which removes the exemption of marital status being incompatible with non-consensual sex.

1674. The Family Law Act 1996 empowers the court in a wide range of family proceedings (including domestic violence proceedings) to order social reports from the Probation and Welfare Service and health boards. This provision is of particular importance in situations of domestic violence. Provisions to protect the safety and welfare of spouses and children are also enshrined in Ireland's new divorce laws. Removal of the constitutional ban on divorce was approved by the people in a Referendum on 24 November 1995. The Family Law (Divorce) Act, 1996 gives legislative effect to divorce.

1675. The Criminal Law (Rape) (Amendment Act) 1990 represents a significant improvement in the legal protection afforded to victims of sexual assault. It so extends the restrictions on cross examination about previous sexual history to other sexual offences defined within the Act. The Sex Offenders Bill 2000 provides that, for the first time ever, the courts will be able to order the supervision of sex offenders by the Probation and Welfare Service on their release from prison. The Sex Offenders Bill 2000 also provides for the introduction of separate legal representation for complainants in rape and other serious sexual assault cases where application is made to adduce evidence or to cross-examine the complainant about his or her past sexual experience.

1676. The Employment Equality Act 1998 defines sexual harassment for the first time in Irish law. It outlaws sexual harassment in the workplace and in the course of employment whether by an employer, another employee or by clients, customers or business contacts of an employer. It also provides that different treatment of a person in the workplace or in the course of employment, because of rejection or acceptance of sexual harassment, whether in the workplace, in the course of employment or outside the workplace, constitutes discrimination on the gender ground.

1677. There are no specific statutory offences of trafficking in women specifically for the purpose of their sexual exploitation. However, the Government planned to introduce a provision similar to the provisions which have already been introduced in relation to children (The Child Trafficking and Pornography Act, 1998), in relation to trafficking in adults for the purposes of their sexual exploitation. The Illegal Immigrants (Trafficking) Act, 2000 creates an offence of trafficking in illegal immigrants and asylum seekers and provides a framework through which those engaging in the trafficking of illegal immigrants for gain can be dealt with under the law. Ireland has instituted a programme that allows asylum-seekers to obtain permits to work legally while their case is pending. The Sexual Offences (Jurisdiction) Act 1996 targets the child sex tourist by providing that Irish citizens, or people ordinarily resident in Ireland, who engage in unlawful sex with children in other countries can be dealt with in the Irish courts. It also targets the organizers of sex tourism by making it an offence to arrange transport for, or transport, child sex tourists, or to publish information on child sex tourism.

Policies and programmes

1678. The Government established the National Steering Committee on Violence against Women in 1997⁷⁸⁸. Its objectives included the development of public-awareness campaigns, criminal justice intervention, services and support. Regional Committees on Violence had been formed in the eight Health Board regions and were designed to draw together the services available to women to provide a consolidated approach to the treatment of victims of violence.⁷⁸⁹

1679. A Garda Síochána Policy on Domestic Violence Intervention was introduced in 1994 and revised in 1997. Provisions of the policy include: pro arrest, given reasonable cause, when a barring, safety or protection order is believed to have been breached; dealing with domestic violence calls promptly on the basis that it is a crime and life and property may be at risk; police bail should not be given, as the likelihood of further victimization is high; providing information on civil remedies and relevant services; being aware of child protection issues; recording reasons if no arrest is made⁷⁹⁰. Training about domestic violence is part of induction training for Gardai.

1680. There have reportedly been real improvements in the response of the Gardaí in recent years. The establishment of the Domestic Violence and Sexual Assault Investigation Unit in Dublin in 1993 marks the introduction of a unit which deals with the specialist investigation and treatment of persons who have been sexually assaulted or raped. Its brief also includes liaising with statutory and non statutory bodies and organizations which have a brief to deal with rape and sexual assault. While primarily designed to meet local needs, in January 1997, it was placed under the National Bureau of Criminal Investigation giving it a country-wide brief. There are currently 16 Rape Crisis and Sexual Abuse Counselling Services in Ireland. The Department of Education and Science has developed a social and personal education programme for use with boys on post-primary schools which include a module on violence against women.

1681. The Ministry of Justice and the Ministry of Foreign Affairs were involved in anti-trafficking efforts, and there are links between government officials, NGOs, and other elements of civil society on trafficking issues.

1682. Regarding violence against women perpetrated or condoned by the State, measures have been introduced to deter discrimination against refugees and asylum seekers, including the Refugee Act of 1996. Measures to address vulnerable categories of refugees, such as victims of trauma, torture or rape, had also been introduced. Furthermore, new women's prison had been built to replace existing inadequate accommodation. Education, work-training and physical education facilities for female prisoners had also been introduced.

1683. A Plan for Women's Health had been developed (1997-1999) to meet women's health needs. It provides a coherent framework for the improvement of health services for women. A Women's Health Council has also been established.

Issues of concern

1684. The Special Rapporteur is concerned about the persistence of the emphasis on the role of women as mothers and caregivers, which tends to perpetuate sex role stereotypes. Although Ireland is a secular State, the influence of the Church is strongly felt not only in attitudes and

stereotypes but also in official State policy. In particular, women's right to health, including reproductive health, is compromised by this influence. The Special Rapporteur urges the Government to facilitate a national dialogue on women's reproductive rights, including on the restrictive abortion laws.⁷⁹¹

1685. With very limited exceptions, abortion remains illegal in Ireland. Women who wish to terminate their pregnancies have to travel abroad. This creates hardship for vulnerable groups, such as female asylum seekers who cannot leave the territory of the State. In her 1999 report to the Commission on Human Rights⁷⁹², the Special Rapporteur stated that many forms of violence against women result in violations of women's reproductive rights because such violence often imperils their reproductive capacities and/or prevents them from exercising reproductive and sexual choices. Similarly, many reproductive rights violations constitute violence against women per se.

1686. Regarding violence against women in the community, it is reported that the overall number of reported rapes continued to rise.⁷⁹³ Despite recent changes in law, improvements in policing and improved funding for Rape Crisis Centres, there remains a high level of concern in Ireland in relation to the operation of the law and Criminal Justice Processes relating to rape and sexual assault. It is reported that only a small number of rape cases are ever reported to the Gardaí and even smaller numbers lead to criminal proceedings. Garda figures demonstrate that, of cases which are reported to them, few results in conviction.

Italy

1687. Italy ratified the Convention on 10 June 1985, as well as the Optional Protocol to the Convention on 22 September 2000.

Legislation

1688. The Government presented a draft law, "Measures Against Violence in Family Relations", which introduced some of the judicial measures that already exist in other countries' legislation such as "barring orders" (ensuring the removal of the perpetrator of violence from the family home.) The law treats spousal rape in the same manner as any other rape.

1689. In 1996, a law against sexual violence was approved. The offence against the physical and psychological integrity of women, through sexual abuse, was removed from the category of offences against public morality, and was instead placed in the category of crimes violating personal rights and freedom. The law also included the unification of rape and sexual assault in the single act of sexual violence. This crime is prosecutable on the basis of the irrevocable filing of charges by the woman. This crime may also be prosecuted without the woman filing a complaint, if the offence is associated with other crimes, in particular, with gang rape, as well as in the case that the victim of sexual violence is under age, disabled or a person subjected to authority. In 1998, the Parliament passed a law against the sexual exploitation of children.⁷⁹⁴

1690. Considerable work has been done the last years on the issue of sexual harassment and coercion in the workplace. Specific measures in national labour contracts to protect working

women from harassment have been introduced; many codes of conduct have also been drafted, especially in the civil service and health-care sectors.

1691. While there is no law that specifically prohibits trafficking in persons, other laws that can be used to prosecute traffickers include laws prohibiting the exploitation of prostitution (the so-called Merlin law), slavery, sexual violence, kidnapping, and assisting the entry of illegal migrants.⁷⁹⁵ A draft law against trafficking in human beings has been approved by the Chamber of Deputies on 21 November 2001. The draft law is now being discussed at the Senate; the first session took place on 13 June 2002; the final approval is expected by the end of the year 2002. The main purpose of this new law is to strengthen the legal definition of the crime of human trafficking, to toughen the penalties and dispense specific protection measures for victims of trafficking along with a range of preventive measures.

Policies and programmes

1692. The entry of more women into the police force has contributed to an increased willingness of female victims of violence to cooperate with police. Furthermore, Special investigation services and training to social and health workers have been organised to respond more adequately to the women who denounce sexual violence in many police stations throughout Italy.⁷⁹⁶

1693. The Minister of Equal Opportunity leads an intergovernmental committee charged with monitoring trafficking and coordinating government activity to combat it. The Ministry of the Interior has begun special training programs to sensitize police to the problem of trafficking. The Government has also sponsored awareness campaigns on trafficking in the country. The Government also sponsored an information campaign conducted by the IOM in Albania and provided funding for information campaigns conducted by the EU in Poland and Ukraine. The Government also has cooperated with foreign Governments investigating and prosecuting trafficking cases.

1694. In an effort to protect victims, the Government provides temporary residence permits, which under certain circumstances can lead to permanent residency. The legislation permits a temporary stay for victims, even if the victims refuse to file charges against their traffickers. During this time, victims are provided with shelter, benefits, and services such as counseling and medical assistance, in cooperation with NGOs. They also may be permitted to work or study. If the victim agrees to cooperate with law enforcement and judicial authorities, the residence permit and services are extended for the length of the criminal proceedings. However, some victims still are deported, particularly Nigerian prostitutes, although such deportations have decreased. In July 2000, the Government set up a toll-free telephone number to help victims take advantage of this program. As a result of these and related policies, there reportedly has been a significant increase in witness testimony and the successful prosecution of traffickers was reported.⁷⁹⁷

Issues of concern

1695. Despite the progress in raising the awareness about violence against women, the situation remains severe and highly complex. The number of cases of sexual violence and physical and

psychological abuse occurring within families, reported to the police has practically doubled. A 1998 ISTAT (Italian National Statistics Institute) survey reported that at least 9.4 million women between the ages of 14 and 59 had experienced some form of sexual violence during their lives. A 1999 survey conducted by the ISTAT revealed that in over 80 per cent of the cases, the violence occurred within the context of a trust-based relationship. New issues have also emerged, such as trafficking in women and female genital mutilation.

1696. While commending the State party for its efforts to combat violence against women, the Committee on Economic, Social and Cultural Rights⁷⁹⁸ expressed its concern that the Government has not yet devised a comprehensive, coordinated and concerted strategy to address the problem of violence against women. The Committee recommended that the State party devise a national strategy to combat violence against women, the elements of which should include data collection, enactment of relevant legislation, training courses for and sensitizing of the police forces and the judiciary, establishment of refuges for battered women and public awareness-raising campaigns.⁷⁹⁹

Liechtenstein

1697. Liechtenstein has ratified the Convention on the Elimination of All Forms of Discrimination against Women on 22 December 1995 and its Optional Protocol on 24 October 2001.

Legislation

1698. The principle of gender equality is laid down in the Liechtenstein Constitution. The Gender Equality Act⁸⁰⁰ was passed in 1998 and took effect on 5 May 1999. On 1 April 1999 the revised Marriage Act⁸⁰¹ took effect.

1699. A working group was established in April 1996 to revise the Penal Code and the Code of Penal Procedure. In February 2001 revised laws on sexual offences⁸⁰² took effect. They place emphasis on the principle on empowering women to decide freely on matters relating to their sexuality (sexual self-determination). The key innovations are: The extension of the statute of limitations, which provides protection for victims even after their rights have been violated, covers rape, sexual coercion, sexual assault, sexual abuse and endangering a minor or adolescent, incest, abuse of authority, pandering, promotion of prostitution, and trafficking in persons. Rape and sexual coercion within a marriage or co-habitation relationship are subject to a term of imprisonment of up to 10 years, provided that the victim files criminal charges against the perpetrator. Sexual harassment, whether verbal or by deed, is subject to fines or a term of imprisonment of up to six months. No infractions of these laws have been reported to the relevant authorities since the revised laws took effect.

1700. The Office of Foreign Affairs has reported to the Special Rapporteur that, in the course of a revision of the Penal Code (sexual offences) in 1999/2000, work was started for an amendment of the Code of Penal Procedure (*Strafprozessordnung*, StPO) in the field of the protection of victims. The draft amendments currently under consideration by interested national institutions aim at improving the victims' legal position in criminal proceedings and putting greater emphasis

on the interests in particular of minor victims and victims of sexual offences. Some elements of the planned amendments include gentle interrogation, counsel to witnesses, extending the options for refusal to testify, better protection of privacy, and an extension of the obligation to inform and instruct the victims.

1701. The law prohibits all forms of domestic violence, and the Government vigorously enforces the law. In December 2000, Parliament adopted legislation that in cases of domestic violence gives law enforcement agents the right to expel an assailant from the family home and to prohibit the aggressor from re-entering the premises. The "Protection against Violence" law entered into force on 1 February 2001. The State may file charges without a complaint from the victim.

1702. Rape and sexual assault are regulated in the Penal Code; the sentence is 6 month to 20 years of imprisonment. Prostitution is punished with 2 years of imprisonment. The law does not prohibit trafficking in persons; it is reported that, as in neighbouring countries, trafficking in women occurs, but there were no specific reports of trafficking cases in 2001. However, seven cases of trafficking in persons (assistance with illegal immigration) were reported in 2000; in most of the cases, the traffickers were relatives of illegal immigrants. It can lead up to 10 years of imprisonment to actively encourage someone, woman or man, for the purpose of prostitution.

Policies and programmes

1703. The critical issue of violence against women had been identified as a priority concern. From September to December 1997, an anti-violence campaign was launched (through the Equality Bureau in cooperation with NGOs) in order to create and enhance awareness of this multi-faceted problem.

1704. In 1991, the Women's shelter supported by the Association for Protection of Mistreated Women and Children was established in Liechtenstein. It serves the whole country and the region, and has proved to be an important source of assistance for women victims of violence, particularly of domestic violence. It provides refuge for non citizens as well. This project is financed with government funds. The shelter serves as a model for other jurisdictions.

1705. According to information received from the Office for Foreign Affairs for this report, a three-year interregional program was launched in February 2001 with the aim of compiling transnational data on domestic violence, building awareness and sensitizing the public on a transnational basis through the provision of information and providing efficient and competent intervention against violence (through communication, cooperation, prevention, social awareness-building and adequate assistance).

1706. Furthermore, a national "programme on AIDS prevention for sex-workers" is currently being carried out. It aims at empowering women, who might be victims of trafficking and suffering from sexual exploitation. Women experts visit women working in night-clubs, informing them on their rights and on the risk they are running. The program has been awarded in 2002 with the annual Equality Prize of the Government.

Issues of concern

1707. After an invitation from the Government of Liechtenstein, the Special Rapporteur visited the country in April 1998. She met with members of the Government, of the administration, of the Public Prosecutor's Office, as well as with representatives of non-governmental organizations. Her report was submitted to the Commission on Human Rights at its fifty-fifth session for consideration.⁸⁰³

1708. The Special Rapporteur is concerned at the lack of studies and disaggregated data on the subject of violence against women. The Special Rapporteur recommends to the Government that a review be made of the law relating to prostitution to ensure that prostitutes are not penalized.⁸⁰⁴ Like the Committee on the Rights of the Child, the Special Rapporteur is concerned about the possible underreporting of abuse of children as well as the fact that medical doctors are exempted from the obligation to report cases of child abuse.⁸⁰⁵ Adequate procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice and to avoid impunity for the offenders.

Luxembourg

1709. Luxembourg has ratified the Convention in 1989 as well as the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. The optional Protocol to the Convention has been signed on 10 December 1999 and the Optional Protocols to the Convention on the Rights of the Child in 2000.

Legislation

1710. Luxembourg does not have specific legislation relating to violence against women. However, the Government elected in 1999 is reportedly committed to passing legislation on domestic violence.⁸⁰⁶ Sexual violence is covered by articles 372, 373 and 375 of the Criminal Code, under Book II, Part VII, on "crimes and offences against family order and against public morality".

1711. Article 373 punishes indecent assault, committed with violence or threats, or committed against persons who are not in a position to give free consent or to offer resistance, by six months' to five years' imprisonment. Since its modification by the Law of 10 August 1992 on the protection of young people, Article 375(1) classifies rape as any act of sexual penetration, of whatever kind and by whatever means, committed against another's person, by the use of violence or threats, or by trickery or artifice, or by taking advantage of a person who is not in a position to give free consent or to offer resistance. Before the Law of 10 August 1992 entered into force, rape was not defined and, in the majority of cases, the case-law reserved the classification of rape for "the ultimate attack on a person's privacy, likely to lead to pregnancy". At the most, forced anal or oral penetration of another person, whether male or female, was punishable as indecent assault.

1712. Articles 373 and 375 do not exclude from their scope sexual violence between spouses and between unmarried consorts. Moreover, the case-law seems to recognise the existence of rape

within a couple. In a judgment of 21 June 1994 (Judgment no. 223/94 V), the Court of Appeal stated: "It is now accepted that rape of a spouse is punishable in the same way as that carried out by the perpetrator against a person to whom he is not linked in matrimony." However, there is very little case-law as regards marital rape.

1713. The law on protection against sexual harassment in the workplace entered into force on 26 May 2000. The purpose of this law is to compensate for the legislative vacuum with regard to protection against sexual harassment in the workplace, by adopting a comprehensive approach based on the principles outlined in the code of practice presented by the European Commission on 27 November 1991.

1714. A recent bill amending the Criminal Code and the Code of Criminal Procedure aimed at strengthening the provisions on trafficking in human beings and the sexual exploitation of children. The bill punishes trafficking in human beings for the purposes of sexual exploitation (new art. 379(3) of the Criminal Code, as amended by sect. 3 of the bill). It also allows the punishment of sexual tourism by Luxembourg nationals and residents (new sect. 9 of the bill, which inserted an art. 5 *bis* in the Code of Criminal Procedure). The Penal Code provides for five years' imprisonment for trafficking. However, by 2001, no one had been arrested or prosecuted on trafficking charges.

Policies and programmes

1715. Campaigns against violence towards women are organized on a regular basis. The year 1999 was declared (national) year against violence towards women and numerous information and awareness-raising activities were conducted as part of this project. Public awareness campaigns had been implemented to sensitize the public to the issue of domestic and marital violence.⁸⁰⁷

1716. In the recent past the police have introduced a number of concrete measures for the prevention and suppression of violence against women. These measures take three forms: personnel training, prevention and suppression. In the event of a complaint of sexual violence against a woman, the police inquiry is automatically entrusted to the competent investigation section or group for the locality. When interviewing the victim the investigators are assisted by female police officers. The Government supports the activities of reception centres for women in difficulty. In addition help-line was set up in March 1998 with the support of the Ministry for the Advancement of Women.

1717. During 2001, the Green Party initiated a trafficking-awareness campaign that consisted of several media interviews and the first-ever public conference on the issue in Luxembourg.

Issues of concern

1718. The Special Rapporteur recommends that the Government develop a policy and legislation to prevent and eliminate domestic violence, and sexual violence, including rape, against women and girls, and to prosecute violators.⁸⁰⁸

1719. Luxembourg is a destination country for trafficked women. Most women trafficked into the country come from Russia, Ukraine, Hungary, and Romania and work in “cabarets.”

Malta

1720. Malta has acceded to the Convention on the Elimination of the Discrimination against Women on 8 March 1991, but has not signed the Optional Protocol of the the Convention.

Legislation

1721. The Criminal Code section titled “Crimes against the Peace and Honour of Families and against Morals” include rape and violent indecent assault; crimes against the person; private violence; abduction; defilement of minors; pornography; prostitution; and trafficking in women.

1722. There is no specific legislation concerning domestic violence. However, a White Paper has been published following a report by a committee set up by the Parliamentary Secretary for Women’s Rights. This White Paper sets out proposals for amendments to Maltese legislation to provide for better protection to victims of domestic violence. Domestic violence is prosecuted under violence against the person: causing bodily harm; grievous bodily harm; grievous bodily harm caused by weapons. There is a clause which defines when wives and husbands are permitted to give evidence against each other. Husband and wives cannot give evidence for or against each other, except when the offence is committed against a wife or husband or his/her ascendants, descendants.

1723. Rape and violent indecent assault carry sentences of up to 10 years’ imprisonment. The law treats spousal rape in the same manner as other rape. Divorce is not legal. There are no specific laws in Malta governing sexual harassment.

1724. Prostitution is a serious offence under the law, and stiff penalties are reserved for organizers. The law does prohibit trafficking in persons.⁸⁰⁹ This law, which came into force in 2002, addresses the offence of trafficking in human beings and substantially increases the penalty for their illegal transportation. Other laws can also be used to prosecute trafficking; there were no reports of trafficking in persons.⁸¹⁰

Policies and programmes

1725. The Domestic Violence Unit is made up of specialized social workers who support and empower victims of domestic violence. Social workers within the Domestic Violence Unit assist clients in finding shelter when it is requested, and link them to other necessary services. The Unit has started providing services for perpetrators of domestic violence in the form of a group programme where abusive beliefs are challenged. The Unit is also committed to the prevention of violence through education and media, and participates actively in the lobbying for changes in legislation.

1726. The Child Protection Services Unit and the Children’s Support Group Service, as well as Support to Interagency Fostering Team and the Supervised Access Visits Service aim to provide effective Support to children facing violence and sexual abuse. The Service of Family Therapy focuses on the family as a whole system. There is a hotline to assist victims of abuse through

counseling and through referrals to legal assistance shelters. The Government also maintains an emergency fund and subsidizes shelters.

1727. In 1991, an action committee was set up with the aim of developing an action plan to deal with domestic violence. A report was issued in January 1992. A number of points suggested in the plan have been implemented, one of which was the setting up of the Victim Support Unit of the Malta Police Force. This unit works not only with victims of domestic violence, but also with a number of other categories of victims such as those of child abuse, rape, and incest. This unit gives police services of protection and prosecution in court. The Domestic Violence Unit of the Social Welfare Development Programme and the Malta Police Force organized training programmes for the police. Other active bodies in this field are the Parliamentary Secretary for Women's Rights, the Department for Women's Rights and the University of Malta.

Issues of concern

1728. As of October 2001, 168 cases of domestic violence were reported to the Police Domestic Violence Unit.

1729. In its concluding observations, the Committee on the Rights of the Child noted its concern at the insufficient data and awareness of the phenomenon of commercial sexual exploitation of children in the State party, and at the absence of a comprehensive and integrated approach to preventing and combating this phenomenon.⁸¹¹

Monaco

1730. Monaco has not ratified the Convention. The Constitution provides that all nationals are equal before the law. It differentiates between rights that are accorded to nationals (including preference in employment, free education, and assistance to the ill or unemployed) and those accorded to all residents, for example, freedom of religion and inviolability of the home.

Legislation

1731. The law governing transmission of citizenship provides for equality of treatment between men and women who are nationals by birth; however, women who acquire Monegasque citizenship by naturalization cannot transmit it to their children, whereas naturalized male citizens can.⁸¹²

1732. The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

The Netherlands

1733. The Netherlands ratified the Convention on 23 July 1991, as well as the Optional Protocol to the Convention on 22 May 2002.

Legislation

1734. General provisions of criminal law cover domestic violence.⁸¹³ All kinds of violence such as abuse, causing grievous bodily harm, manslaughter or murder, entering a dwelling unlawfully, criminal damage, rape or sexual assault are criminal offences, irrespective of whether it takes place in the public or private sphere. When common assault and grievous bodily harm take place within marriage, the punishment can be raised by one third of the maximum penalty.⁸¹⁴ In case of a wrongful act, it is possible to bring interim injunction proceedings and apply for a banning order, e.g. a street ban or contact ban.

1735. Rape and sexual assault are offences against public decency/morality. A number of amendments to the "Offences against decency" in the Netherlands Criminal Code came into force in January 1991. These offer greater protection against serious sexual violence against women, and update the law in this area. The amendments included: to criminalize marital rape; the old-fashioned term "sexual intercourse" was replaced by the phrase "sexual penetration of the body"; mentally handicapped people and patients under treatment were offered greater protection against sexual violence. Preventative measures: In some cases, preliminary relief hearings can be used to declare certain areas off limits to offenders. Offenders can be fined or prosecuted for breaking these injunctions. Similar measures can be included in sentencing.

1736. The law requires employers to take measures to protect workers from sexual harassment. In 1998 the Elimination of Sexual Abuse and Sexual Harassment in Education Act was introduced for the primary and secondary education sector and for adult and vocational education. Under this act, educational establishments are obliged to report any suspected offences. The act supplements existing measures to prevent sexual harassment.

1737. Netherlands legislation prohibits female genital mutilation based on the right every person has to personal integrity. Crimes against women committed in the name of honor had been committed in that country, with one case in 1999 having attracted extensive media coverage. A Dutch research study had also revealed that there had been at least 30 honour crimes committed. Under Dutch criminal law, vengeance, when exacted to uphold family honour, do not mitigate the offence, whether serious or minor, and appropriate steps under the criminal law are always taken in response to such acts.

1738. On 1 February 1996 the Child Pornography Act came into force, followed by guidelines from the Public Prosecutor. The Act focuses on the protection of minors against sexual abuse. Article 240b of the Criminal Code was amended to incorporate the new law. The sentence for disseminating and/or displaying sexual images of persons under the age of 16 has been increased to four years for a single offence and to six years for more structural and repeated offences. A maximum fine of NLG 100,000 (45,378 euros) can also be imposed.

1739. The Netherlands outlaws trafficking in persons, and vigorously investigates and prosecutes traffickers. Courts have handed down many convictions. A national public prosecutor for trafficking in persons was appointed in 2001, and each district court has its own trafficking in person's prosecutor. Under the law, illegal residents, who may have been victims of trafficking, may not be deported before investigations are completed. Victims are allowed 3 months to

consider pressing charges, and victims who do so are allowed to stay in the country until the judicial process is completed. During this period, victims receive legal, financial, and psychological assistance. In special circumstances, residence permits are granted on humanitarian grounds. After completion of the judicial process, illegal prostitutes returning to their native countries are eligible for temporary financial assistance. The law on abolition of the ban of brothels was passed on 1 October 2000. The abolition of the ban of brothels is seen as one of the weapons in the fight against trafficking in women.⁸¹⁵

1740. Women who have been victims of sexual violence and who cannot be granted conventional refugee status may be given exceptional leave to remain in the country. The exception may be granted if there are pressing humanitarian reasons that militate against an individual to be sent back to the country of origin.⁸¹⁶

1741. Women with Dependent Residence Status: Foreign women, who terminate their relationship with their husbands or partners as a result of sexual violence, can find their residence status affected. If the woman does not hold a residence permit, her right to remain is dependent on the continued existence of her relationship, unless the relationship commenced 3 years prior to the time of separation. In exceptional cases, the right to remain can be granted if there are pressing reasons for doing so. In this context, account is taken of the position of women in the country of origin and the existence of acceptable reception facilities there.

Policies and programmes

1742. Violence against women is recognized as an obstacle to equality between women and men. The Netherlands policy on violence against women is part of their emancipation programme. The policy addressed legislation, enforcement, preventive measures, research, victim relief and assistance. In addition to government action, lower authorities and private institutions have taken measures.

1743. During 1999, the Ministry of Justice developed a coordinated national multidisciplinary action plan into an inter-ministerial action plan to prevent and combat domestic violence as part of the European year to eliminate domestic violence against women. There is a network of 48 government-subsidized shelters offering the services of social workers and psychologists to battered women. In addition battered women who leave their domestic partners become eligible for social benefits, which include an adequate basic living subsidy as well as an allowance for dependent children.

1744. The Government has taken measures to counter harassment among civil servants, including in the police force. The Minister of Health, welfare and Sports supports a policy plan entitled "Sporting policy against sexual harassment, 1996-1999", drafted by the national sporting umbrella organization Netherlands Olympic Committee and Sports Confederation. Since 1 January 1998, special telephone lines have been opened so that people can report incidents of sexual harassment in sports.

1745. Various policy measures have been taken to provide information and support to women living in the Netherlands who are from countries where FGM is a traditional practice. The

Netherlands engaged in a dialogue with and among the various population groups, discussing possible educational, social and other measures. Dutch embassies are supporting a number of projects in the context of development cooperation policy to inform, raise awareness of and eradicate female circumcision in countries receiving aid. The Netherlands had also supported several projects to combat honor crimes through its diplomatic mission abroad and non-governmental agencies.⁸¹⁷ The Netherlands reported that its child protection board had decided to include honor crimes in its inter-culturalization programme, which devised policy aimed at raising staff awareness on matters of diversity and ethnicity. Through advocacy, lobby and media campaign, projects had also sought to reduce and eventually eliminate acid attacks on women, widow-burning, violent acts related to excessive dowry claims and female foeticide.

1746. The Government has an active policy to combat trafficking in persons. Police training, especially of the vice squad was introduced, and training of women policemen prioritized. The purpose was to learn how to deal with victims reporting sexual assault, tracing of suspects, medical examination and provision of assistance and information. Police officials believe the training has led to an increase in criminal investigations and reports to the police. A number of police forces have established special units to deal with trafficking. The Attorney-General has also introduced guidelines concerning arrest and prosecution, trafficking in women and treatment of victims. In April 2000, the Government created the Bureau of the National Rapporteur on Trafficking in Persons, which is to report annually to the Government on the nature, extent, and mechanisms of trafficking, as well as on the effects of national policies. It is an independent government agency, led by a public prosecutor. The Government subsidizes the "Dutch Foundation Against Trafficking in Women" centre, an independent, national expertise centre that offers many services to victims. To prevent trafficking, the Government cooperates extensively with other European Union countries and financially supports national and international projects run by NGOs and international organizations to promote the empowerment of women in Central and Eastern Europe; the Caucasus and Central Asia; Cambodia, and Vietnam. One such program helps to prevent Colombian women from being trafficked to the Netherlands.

1747. The Ministry of Justice has appointed seven women liaison officials (responsible for interviewing asylum-seekers in respect of their claim to asylum) as a result of a study on sexual violence against women refugees, commissioned by the Ministry of Social Affairs and Employment. "The Refugee Health Care Centre" (under the responsibility of the Ministry of Welfare) has the task to ensure adequate health care facilities for refugees and asylum seekers; special attention is paid to sexual violence.

Issues of concern

1748. A report released in 2001 by the Social Affairs Ministry showed that each year approximately 200,000 women, particularly ethnic minorities, are victims of violence by their former or present spouses or partners. Each year approximately 50,000 women suffer from serious violence (defined as battering, physical and mental abuse, manslaughter, and sexual violence), and 60 to 80 die of domestic violence. The country is a major destination for trafficked women from countries around the world. There are no reliable figures available; however, the Foundation Against Trafficking in Women estimates that each year approximately 3,000 women and girls are trafficked into the country for the purpose of prostitution.

1749. Despite the efforts made to combat discrimination in the Netherlands, the Special Rapporteur is concerned at the continuing discrimination against immigrant refugee and minority women who suffer from multiple discrimination, based both on their sex and on their ethnic background, particularly with respect to education, employment and violence against women. The Special Rapporteur supports the Committee on the Elimination of Discrimination against Women that particularly recommends to the Government to take effective measures to eliminate discrimination against immigrant, refugee and minority women, both in society at large and within their communities. Effective and proactive measures, including awareness-raising programmes should be taken to sensitize the community to combat patriarchal attitudes and practices and stereotyping of roles and to eliminate discrimination and violence against women in immigrant and minority communities.⁸¹⁸

1750. The Special Rapporteur remains concerned that a well-founded fear of genital mutilation or other traditional practices in the country of origin that infringe the physical integrity or health of women (art. 7 of the Covenant) does not always result in favourable asylum decisions, for example when FGM, despite a nominal legal prohibition, remains an established practice to which the asylum-seeker would be at risk.⁸¹⁹

Norway

1751. Norway ratified the Convention on 21 May 1981, as well as the Optional Protocol to the Convention on 5 March 2000.

Legislation

1752. Domestic violence is not a specific offence. Violent attacks in the private sphere come under the general provisions of the Penal Code relating to assault, bodily harm, rape etc. It has been ruled that the provision regarding free legal aid for abused women includes women subjected to domestic violence from spouses and cohabitants, as well as prostitutes and pimps. In 1998, unconditional prosecution was introduced in cases of domestic violence: a criminal case may be brought before the court, even if the woman withdraws the formal report.⁸²⁰ New legislation has been passed to protect battered and sexually-abused women from their abuser. In an amendment (1 January 1995) to the Criminal Procedure Act (para. 222a), a person can be prohibited from entering a specific area, following, visiting or otherwise contacting another person.⁸²¹

1753. Regarding violence against women in the community, an amendment to the provision relating to rape in the General Civil Penal Code entered into force on 11 August 2000.⁸²² After this amendment, the provision on rape covers not only acts where the intent can be proved, but also acts where gross negligence can be proved. In addition, the definition of rape is extended to cover all kind of threats that force a person to commit an act of indecency (only threats inducing fear for a person's life or health were previously covered). Furthermore, acts of indecency with a person incapable of resisting the act due to unconsciousness are covered. In the preparatory work to these amendments, it is mentioned that the courts in their practice should increase the penalty level in grave cases of rape. It should also be noted that the scope of the competence of the courts to use the maximum penalty for rape, i.e. 21 years of prison is extended. In addition, the minimal punishment for willful rape is increased from one to two years. Norway has a general provision

in section 12 of the Working Environment Act of 4 February 1977 on harassment at the workplace. The white paper, which was presented to the *Storting* in connection with the adoption of the provision in 1995, had a special reference to sexual harassment of women at the workplace.⁸²³ The prohibition of child pornography is sharpened in so far as it is now punishable to view child-pornography material by payment via the Internet.⁸²⁴

1754. No law specifically criminalizes trafficking in persons, although existing labor and immigration statutes may be used to prosecute trafficking cases. Cases of possible trafficking generally may be prosecuted under general laws concerning labour, indentured servitude, immigration, and sexual assault; however, there were no prosecutions for such offences in 2001. Immigration and law enforcement authorities have begun to pay attention to the problem of trafficking.⁸²⁵

Policies and programmes

1755. In 2000, the Government launched a programme of action against domestic violence. The programme consists of a wide range of activities to reduce domestic violence and to improve services to victims such as: improving the expertise and competence of personnel who are likely to be approached by woman experiencing domestic violence; providing financial support to local projects in order to provide assistance to women who experience domestic violence. In August 2001, the Government reorganized its work and established a Commission on Violence against Women. The Commission is going to submit its final report, which will contain a summary of issues relating to violence against women, proposals concerning the legal system, social services) in September 2003.⁸²⁶

1756. Over the last few years, there have been several cases of forced marriage in Norway. In 1998 the Government presented a platform for action to combat forced marriages. Furthermore, amendments to the 1994 Marriage Act allows a party to a marriage to initiate proceedings to declare the marriage null and void if he/she was forced into the marriage.⁸²⁷

1757. It has been estimated that 4,000 women and girls from countries practicing female genital mutilation are presently living in Norway.⁸²⁸ An Act prohibiting this practice entered into force in 1996. Furthermore, the Norwegian Board of Health issued in October 2000 guidelines for health personnel in providing comprehensive medical care for girls and women who have undergone female genital mutilation, and in prevention of new cases. The Norwegian Government presented a comprehensive plan of action against female genital mutilation in December 2000.

1758. Others initiatives and measures include: consultative offices for victims of crime established as a test project in Norwegian towns since 1996 in order to give help, advice and guidance to victims of crime; a "Competence Centre for Aid to Victims of Violence" established with governmental funding in 1996 (until 2002) to disseminate information on violence among professionals, to provide education on psychological and social consequences of acts of violence and to strengthen competence within the field; alarms supplied to women who have been violently treated or threatened by their ex-husbands or ex-common law husbands (give immediate access to the police in an emergency). Furthermore, it should be noted that a recent

government-supported university research project on women with disabilities has revealed cases of sexual abuse among women in this group. The Norwegian Government's third program of action for disabled people 1998-2001 follows up the research project included in the second program of action for disabled people 1994-1997, with information and study material offered to disabled women.⁸²⁹

1759. The Norwegian policy is that prostitution is not a desirable phenomenon because of its damaging effects for the women involved, and because of its negative consequences for building gender equality in society. The Norwegian Government has therefore provided financial support to organisations working against prostitution and trafficking in women. The Ministry of Children and Family Affairs coordinates an inter-ministerial working group, which has developed a plan of action to combat trafficking. In 2001, the working group published a report on government measures to combat trafficking. Victims of trafficking in the country had the same legal rights as other foreigners to apply for residency, asylum, welfare, social aid, and emergency health care. The Ministry of Children and Family Affairs is responsible for assisting possible victims of trafficking; however, most asylum requests by victims have been denied.

1760. The Ministry of Justice and the Police recognize the importance of treatment in prison and after-care for the perpetrators of sexual offences. Group therapy is provided for male prisoners serving sentences for sexual offences. In addition to the treatment offered in prison, prisoners may be given external psychiatric treatment individually or in groups. The Ministry of Health and Social Affairs provides funding for the treatment of persons convicted of sexual crimes, and aims to increase the extent and types of treatment for such prisoners.

1761. The Special Rapporteur welcomes the new plan of action against racism and discrimination, which is also being worked on and shall be presented during the summer of 2002.⁸³⁰ This plan of action focuses on ethnic discrimination, and on racist violence background. One area of concentration in the plan of action will be women and minority background. The plan is to be applicable to discrimination not only against persons of immigrant background but also to persons whose background lies within national minority communities, and the Saami people.

Issues of concern

1762. According to investigations, Norwegian women are subjected to violence and threats of violence more frequently than men.⁸³¹ Organizations involved in assisting women exposed to violence, feel that Norway lacks a thorough mapping of the extent of violence and sexual assaults against violence.

1763. The financial support to shelters for battered women ought to be ensured. As of today, the central government does provide 50 per cent of the shelters' budget. However, the security of the shelters for battered women is dependent on the municipalities or local authorities which approve the shelters' budget. Recently, some municipalities have been cutting down on their budgets for shelters, which mean that the central government also cuts down on its share of the financing. This creates an unstable and insecure situation for the shelters.⁸³²

1764. The Special Rapporteur is concerned at the situation of immigrant and refugee women in Norway, and particularly at the three-year rule. Women, who come to Norway for family reunification, are not given permanent residence permits until after three years. These three years they have to stay married, or their temporary residence permits will be revoked. This leads to a number of women enduring mental and physical abuse from their husbands in up to three years, out of fear of being deported or become ineligible for a permanent residence permit. The Norwegian Government has eased the rules so that women who are abused during marriage can obtain a residence permit before three years have passed. This, however, is a seldom event, as the Norwegian authorities apply very strict rules in regards to evidence of abuse and to justification of possible social and cultural difficulties in the home country upon return.⁸³³ It should also be noted that ⁸³⁴near 70 per cent of the women seeking refuge at the Oslo Crisis Centre had immigrant background.

Portugal

1765. Portugal ratified the Convention on 30 July 1980, as well as the Optional Protocol to the Convention on 26 April 2002.

Legislation

1766. Law No. 61/91 of 1991 was designed to provide protection for women who were victims of violence. Since then, several legal measures have been adopted. The law provides for criminal penalties in cases of violence by a spouse, and the judicial system has proven to be willing to prosecute suspects accused of abuse against women. Law of 27 May 2000 made the ill-treatment of a spouse a public crime in respect of which not only the victim but anyone who has knowledge of such violence can lodge a complaint and/or institute proceedings. This also obliges the police to follow through on reports of domestic violence. The change gives police and the courts more leverage to prosecute such cases and removes from the victim some of the burden of bringing charges. Parliament also mandated the creation of domestic violence units in the police, and of a new domestic violence category in the Attorney-General's report on crime.

1767. Under the law, perpetrators of domestic violence may be barred from contact with their victims, and in extreme cases, the police can order the immediate expulsion of a perpetrator from the victim's dwelling. The law also calls for the development of new programs to teach anger management to perpetrators and to assist victims with the professional development necessary to live independent lives. In 1999 the law established a national support network and a system of compensation for victims of domestic violence. Another law provided for the expansion of the system of shelters for victims.

1768. The Criminal Code makes rape and sexual assault criminal offences. The prison sentence for rape is between three and 10 years. Since 1995, the Criminal Code has penalised "sex under duress". The penalty for this offence is one to eight years' imprisonment. Under Law No. 11/98 of 24 January 1998, reorganising the forensic system, complaints can now also be lodged with the coroner's services. Incest is not an offence as such. However, where rape and sexual assault are concerned, the fact that these acts have been perpetrated by an ascendant, an adoptive parent, a relative of the first or second degree (direct ascendant or collateral) is an aggravating

circumstance. According to information, there is now more response from the police to cases of sexual abuse of children. Telephone help lines have been set up and the number of cases of this type brought before youth courts are increasing.

Policies and programmes

1769. As regards law enforcement, according to reports, the police are better informed and also respond better to cases of women who have been victims of sexual violence; the victims have the option to be heard by women police officers. Law No. 93/99 of 14 July 1999, governing the application of measures to protect witnesses during criminal proceedings, establishes a special system for the protection of particularly vulnerable witnesses, thus ensuring that victims are not obliged to appear in court.

1770. Sexual harassment, a problem that continued to gain public attention, is covered in the Penal Code as a sex crime. However, the legal definition of the term "sexual harassment" is unclear, and it is only a crime if perpetrated by a superior and in the workplace. The penalties are two to three years' imprisonment.

1771. There is no specific legislation dealing with the trafficking in human beings. Because of the loopholes and shortcomings in the overall legal framework governing these matters, new legislation is currently under preparation and discussion. On 25 June 2002, the establishment of a National Immigration Plan, which includes amendments to the current legal framework, was announced by the Government. Pending the enactment of these measures, the current state of the law with regard to the fight against trafficking in human beings can be summarized as follows. Article 169 of the Portuguese Criminal Code, amended by the Act 99/2001 of 25 August 2001, and has criminalized trafficking in human beings for sexual exploitation, punishable by 2-8 years' imprisonment. The 2001 amendments have broadened the scope of Article 169 by including other forms of sexual exploitation.⁸³⁵

1772. The Government actively investigates trafficking cases, as exhibited by increased investigations and arrests of alleged traffickers. Concerted efforts by national police forces have resulted in the breaking up of two large construction industry trafficking rings during the year 2001. Police arrested almost 100 alleged traffickers during the year 2001: of these, 38 were awaiting trial at year's end, three were convicted and sentenced, and the remainder was in preventive detention pending further investigations.

1773. Combating violence against women is one of the major objectives of the Global Plan for Equal Opportunities, approved by Cabinet Resolution of 24 March 1997, specifying various measures for combating violence against women. A National Plan against Domestic Violence was approved on 15 June 1999 by Cabinet Resolution. The Commission on Equality in the Workplace and in Employment, is empowered to examine, but not adjudicate, complaints of sexual harassment; however, it receives few such complaints. In 1998 the Commission for Equality for Equality and Rights of Women set up a national emergency hotline for the victims of domestic violence, which provides legal information on this subject. Its success demonstrates an increased public awareness, which reportedly is helping to break down the social reluctance to report cases of domestic violence.

1774. The attitude of the police towards domestic violence seems to have improved over the past ten years, especially since the Commission for the Equality and Rights of Women began organising several information and training seminars as part of police officers' initial and ongoing training to make them more aware of domestic violence.

Issues of concern

1775. In its concluding observations the Committee on the Elimination of Discrimination against Women emphasized the continuing problem of violence against women, especially domestic violence.⁸³⁶ Domestic violence is thought to be widespread in Portugal, but it has been a largely hidden social problem as relatively few victims seek help and legal recourse. Traditional social attitudes and beliefs reportedly prevent many battered women from seeking help through the judicial system.⁸³⁷ The Special Rapporteur notes with concern the persistence of stereotypes concerning the role of women in the family and society. Notwithstanding the Government's recognition of the problem and its efforts to address the problem, such stereotypes continue to constitute an obstacle to the achievement of equality for women.

1776. International trafficking rings smuggle Portuguese women abroad. Foreign women - particularly from Brazil, Lusophone Africa, and from Senegal - are trafficked into Portugal. There are no official statistics or concrete data on trafficking, and no specific programmes, shelters or services to deal with victims of trafficking.⁸³⁸

1777. The Special Rapporteur recommends that the government includes incest as a crime punishable under the Penal Code. The Government should also strengthen measures to sensitize the judiciary and law enforcement personnel to all forms of violence against women that constitute infringements of the human rights of women. Prevention programmes and special training for police officers should be introduced and the government should set up a system of compensation. A legal framework regarding sexual harassment needs to be established; employers, employees and political leaders need to be made more aware of the problem.

Spain

1778. Spain ratified the Convention on 5 January 1984, as well as the Optional Protocol to the Convention on 6 July 2001.

Legislation

1779. Specific reference to domestic violence, defined as "any form of violence within a stable relationship", was introduced in the new Criminal Code in 1995. This provision recognizes violence as a continuum which includes acts of psychological, as well as physical, violence perpetrated by the husband (or ex-husband)/partner. The seriousness of the crime is also identified by the punishment prescribed. In 1999, changes to criminal law were introduced, in particular recognition of seriousness of habitual psychological violence. The law prohibits rape and spousal abuse.⁸³⁹

1780. Spain does not have comprehensive legislation that provides for ex-parte restraining or protective orders. Following the lodging of a complaint concerning domestic violence, however, individual judges have the discretion to adopt provisional measures of protection in order to prevent the perpetrator from approaching the victim.

1781. The law prohibits sexual harassment in the workplace,⁸⁴⁰ but very few cases have been brought to trial under this law (even though police received 364 sexual harassment complaints in 2001).⁸⁴¹ Although prohibited by law, discrimination in the workplace and in hiring practices persisted.

1782. There was no information of crimes committed in the name of honour having been committed in that country, but closer attention was being paid to such crimes as Spain became increasingly multicultural;⁸⁴² if such crimes were committed they would be punishable under the Penal Code.⁸⁴³

1783. The law prohibits trafficking in persons with a specific provision outlawing trafficking in workers. The 2000 Immigration law redefined trafficking as a criminal offence. The penalty for trafficking is 2 to 4 years' imprisonment and a fine, or 6 to 12 years if the crime is committed by a public official. The exploitation of prostitutes through coercion or fraud and the exploitation of workers in general also are illegal, although prostitution is legal. Trafficking in workers is punishable by 2 to 5 years' imprisonment and a fine. During 2000 law enforcement agencies arrested over 1,000 individuals involved in some aspect of trafficking in persons or migrant smuggling and initiated over 700 prosecutions. To protect victims, the law allows temporary residence for undocumented persons who cooperate with law enforcement for the prosecution of migrant smugglers. Victims who are granted the right to stay are authorized to work and travel. After legal proceedings conclude, the victim is given the option to remain in Spain or return to his or her country of origin. However, these special permits are only granted to women who collaborate with the police or with judicial authorities. Moreover, this permission can be revoked if the woman, during the procedure in which she is a victim or a witness, suspends cooperation.

Policies and programmes

1784. In May 2001, the Government initiated its second Plan Against Domestic Violence (2001-2004), with a proposed budget of \$72 million (13 billion pesetas) over 4 years. The four principal areas outlined in the plan are preventive education; improvements in judicial regulations and practices to protect victims and increase the penalty for abusers; the extension of social services for abused women to all parts of the country; and increased coordination among the agencies and organizations involved in preventing domestic violence. During the first plan, from 1998 to 2000, the Government sponsored three publicity campaigns and distributed over 750,000 educational pamphlets. It trained additional personnel for each of the 54 Civil Guard units that assist battered women and created 43 similar units in the National Police. There are 53 offices that provide legal assistance to victims of domestic violence and approximately 225 shelters for battered women.

1785. The Government specifically targets trafficking as part of its broader plan to control immigration. Regional authorities also participate in fighting organized criminal activity. In

addition the Interior Ministry chairs an interagency committee on all immigration issues, including trafficking. The Ministries of Foreign Affairs, Health, Education, Treasury, and Labour also are members of the committee. Spain cooperates with other Governments, especially those from source countries, in the investigation and prosecution of trafficking cases, primarily through Interpol and Europol. Medical assistance is available from Government and NGO sources, although undocumented migrants are ineligible for government assistance other than emergency care. The Government provides some funding to religious organizations and other NGOs, such as shelters for rape victims or immigrants' health or legal services organizations, that indirectly serve trafficking victims.⁸⁴⁴

Issues of concern

1786. Despite the measures that have been taken by the Government to more effectively promote and protect the human rights of women, the de facto situation of women in Spain remains far from ideal. In practice, traditional sociocultural stereotypes concerning the status of women persist and women continue to be viewed primarily in the context of their role in the "private" sphere of the family.

1787. In 1997, the Ombudsman published an important report on domestic violence against women, which proved to be a bombshell by revealing the extent of the problem, discussion of which had previously been taboo. The report contains statistics from the Home Affairs Ministry and the Labour and Social Affairs Ministry, as well as information from NGOs, and emphasizes the repetitive nature of domestic violence. The report's recommendations stress the need to produce statistics that provide a more realistic picture of domestic violence.⁸⁴⁵

1788. Two important sociocultural factors work to deter many women in Spain from reporting domestic violence: an emphasis on the unity of the family and the criminal judicial process itself and its effects on the victim, including considerations such as the excessive length of procedures. The average length of legal proceedings is around four months in cases of misdemeanours, 14 months for crimes and two years in cases of serious crimes judged by the High Court.⁸⁴⁶ It should also be noted that impunity for domestic violence is the norm and that very few complaints actually result in convictions.⁸⁴⁷ According to reports, defendants are convicted in only 18 per cent of domestic violence cases. In most of the cases that do go to trial, the minimum penalty is imposed.⁸⁴⁸ Moreover, the criminal procedure is not, on its own sufficient. In more than the half of the cases of domestic violence, women decide to discontinue the procedures due to a lack of protection and support.⁸⁴⁹ Finally, the difficulties involved in successfully prosecuting cases of psychological ill-treatment, even though this form of domestic violence is covered under article 153 of the Penal Code, reflects the lack of adequate training and awareness of judges in this area.⁸⁵⁰

1789. The number of women living in Spain who come from countries that practice female genital mutilation (FGM) is currently more than 30,000 and is increasing. With this increase, FGM has become a concrete problem in Spain. The Government has made public statements⁸⁵¹ promising to assist women who request residence permits because they may be subjected to FGM. Nevertheless, so far these promises have not had any effect in practice. Authorities interpret Spain's Asylum Law⁸⁵² as only applying to persons claiming to be victims of political

prosecution and therefore women who are fleeing their countries in order to avoid being subjected to FGM have not been successful with asylum applications in Spain.⁸⁵³ The Special Rapporteur welcomes the initiative that was taken in Catalonia in June 2002 where the Generalitat of the Catalan government introduced the first protocol in Spain for the prevention of the FGM, and encourages the national Government to take similar initiatives in all areas of Spanish territory in order to raise awareness of the problem and to educate communities about the harm that FGM inflicts on women.

1790. The Special Rapporteur is concerned about the situation of foreign women workers in domestic service, asylum-seekers and women who may otherwise be living clandestinely in Spain.⁸⁵⁴ These women may lack adequate protection from violence and abuse. Spain is both a destination and a transit country for trafficked women. Trafficking is carried out almost exclusively for the purpose of sexual exploitation. Most victims come from the Western Hemisphere (including Colombia, the Dominican Republic, and Brazil), sub-Saharan Africa (Nigeria, Guinea, and Sierra Leone), northern Africa and Eastern Europe. The Special Rapporteur is concerned that, although foreign trafficking victims may be offered temporary residence when they agree to testify against the trafficker, foreign victims of trafficking are treated as illegal immigrants and often are detained or expelled from the country.

1791. There are approximately 500,000 Roma living in Spain. The Special Rapporteur is concerned that Roma women in Spain face discrimination on multiple levels. As members of the Roma community they suffer from racial discrimination including over-policing and violence at the hands of State officials. Roma women may also face discrimination within their own communities as a result of their gender. There is evidence indicating that Roma women suffer disproportional surveillance by the authorities and that they are more frequently arrested and sentenced to time in prison than other women.⁸⁵⁵

1792. Numerous cases of allegations by women of torture and ill-treatment in custody have been reported.⁸⁵⁶ Sexual assault appears to be a frequently employed method of torture and inhuman and degrading treatment. Women detainees have reported having been forced to undress and being insulted, touched on their breasts and genital area and threatened with rape. Furthermore, the Spanish Ombudsman has criticized the inequality of treatment between female and male prisoners in Spain. In his 2001 report, he described the lack of space and worse facilities which are usually reserved for women, and noted that the general structural inadequacy of women's detention facilities results in restricted access to activities and makes it almost impossible for the women to benefit from educational programmes.⁸⁵⁷ In addition, due to a lack of space, the separation of different categories of women prisoners is not ensured and, in many cases, all women are held together irrespective of the seriousness of the offence committed. In some cases, women in preventive detention have been kept with convicted prisoners.⁸⁵⁸

Sweden

1793. In 1980, Sweden ratified the Convention, and signed the Optional Protocol on 10 December 1999.

Legislation

1794. In February 1998 the Government submitted a Bill on Violence against Women to Parliament.⁸⁵⁹ The main features of the act were improved legislation, further preventive measures and better methods of dealing with women victims of violence. The definition of the crime of rape has been broadened. Some of the acts that were previously regarded as sexual coercion are now defined as rape. Rape in marriage is included in the legal definition of rape. A new offence was introduced into the Penal Code – “gross violation of a woman’s integrity” - that makes it possible for the courts to increase the penal value of these offences in situations where they are part of a process that constitutes a violation of integrity, which is often the case in domestic violence. In 1998, the Restraining Orders Act came into force to provide protection for women who are threatened, persecuted or harassed. Orders prohibit men from contacting or visiting women when there is a risk of persecution, harassment or other criminal action. The purchase of sexual services became a punishable offence, and the provision in the Act concerning Equality between Men and Women regarding sexual harassment in the workplace were strengthened.

1795. A special project to address violence against immigrant women had been introduced, and amendments to the Aliens Act provided for special residence permits for immigrant women and children who had been subjected to violence by their partners. In 1999, the Aliens Act was amended to provide for the granting of asylum on the basis of gender-based persecution. Guidelines on refugee women were prepared by the Migration Board, and projects to support immigrant girls and women have been introduced. The Aliens Act also restricted the capacity of Swedish residents with a history of violence to women and children to bring partners into the country. Regarding female genital mutilation, the scale for penalties has been increased, preparation and complicity, as well as failure to reveal incidences of genital mutilation, are now also punishable offences. Furthermore, the scope of criminal responsibility has been extended since 1 July 1999 to comprise also a person performing genital mutilation abroad, even if the country concerned does not prohibit such practices.

1796. Since January 1999, with the entry into force of a law prohibiting the purchase of sexual services, the exploitation of prostitutes became a criminal offence, and the number of street prostitutes had declined. The “Prohibition of Trafficking in Human Being for Sexual Purposes Act” entered into force on 1 July 2002.⁸⁶⁰ It covers all cross-border trafficking for sexual exploitation in which the perpetrator exploits the vulnerability of another person. The new law concentrated on trafficking in human beings for sexual purposes, but the new provision can be seen as a first step toward future extended penal legislation covering all forms of trafficking, such as trafficking for other forms of exploitation.

Landmark cases

1797. There have been three publicly identified cases of “honour killings” in Sweden in recent years. The third case, Fadime Sahindal, took place in January 2002. She was murdered by her father after having a relationship with a Swedish man. Her male relatives threatened her, which forced her into hiding and the police started proceedings against them. The case received publicity as Fadime Sahindal spoke on TV about her situation and participated in numerous

debates around the country on honour killings. However, when she visited her mother and sister her father killed her- sparking national outrage that this type of incident could happen in Sweden. As a reaction, in February 2002, the Minister for Integration adopted a strategy on how to protect girls living in vulnerable situations.

Policies and programmes

1798. In 2000, the Government established a National Council on Violence against Women, which is to have an advisory role concerning matters on violence against women. The council pays particular attention to, inter alia, violence against immigrant women. Since 2000, the Council has arranged six seminars on the subject of violence against women, one of them on “Violence against women with immigrant backgrounds: culture, religion, patriarchy” including specifically the concept of honour murders.

1799. In February 2002, the Minister for Integration issued a strategy on how to protect girls living in vulnerable situations. It includes proposals for law reform which are expected to start in January 2003.

1800. Several public authorities were charged to undertake common tasks in the period up to and including the year 2002. They were instructed to increase their efforts to prevent violence against women and to draw up action plans for their own work in this area. Emphasis is placed on the importance of cooperation between authorities and organizations. Other tasks were aimed directly at individual authorities. For example, the National Council for Crime Prevention (BRA) was to improve its systems for registering crimes and crime statistics, and the National Police Board was instructed to survey police methods and routines for dealing with violence against women.

1801. A major programme of education and training of public officials was initiated, as well as study of developments in the extent and distribution of prostitution. Particular attention was given to the victims of crimes and it was decided that a study of crime victims should be carried out. The Government allocated a total of 41 million SKR (4.52 million euros) for 1998 for various projects and measures. Non-governmental organizations also received support.

1802. In its dealings with the police, prosecution and social service authorities, the Swedish Ministry of Foreign Affairs, on humanitarian grounds, has taken the position that girls and young women abducted abroad for forced marriages or into other vulnerable situations should be able to return and be given protection in Sweden. As a result, the public and prosecution authorities had been better able to take legal measures with respect to, inter alia, crimes motivated by honour.⁸⁶¹

1803. Action to combat trafficking is also a priority for Sweden and in December 2000, the Government signed the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The National Police Board has been appointed the national reporter for Sweden in accordance with an EU declaration signed jointly by the Ministers for Justice and the Ministers for Equality Affairs. Its brief includes fact-finding and drafting an action plan. The National Police Board was also instructed to cooperate in the work of the European Police Organisation

and Interpol. In September 1998 the Board decided on a special action plan containing measures to combat trafficking in women. In April 2002, a special operative police commission with the task to investigate and to take action against trafficking crimes was established within the County Police in Stockholm.⁸⁶²

1804. Regarding assistance to the victims of trafficking in human beings, a Swedish Parliamentary Committee is currently studying questions of how best to assist victims of trafficking. The Committee is discussing the possibility to grant victims short-term residence permits and other kinds of support in order to make it possible for them to assist crime investigations.

Issues of concern

1805. According to official statistics, violence against women in Sweden is increasing.⁸⁶³ On 14 May 2001, a research report by the Crime Victims Compensation and Support Authority was presented to the Government. According to the investigation seven out of ten women have experienced violence or sexual harassment of some kind. 46 per cent of the women in the study had been subjected to violence by a man after they had turned 15. Approximately every fourth woman had been exposed to physical violence during the last twelve months and every third woman who had separated from or divorced her husband had been subjected to violence from her former partner.⁸⁶⁴ More than one fourth out of these women report systematic violence by the man they used to live with. Physical violence dominates within a relationship. Outside the home, sexual violence is the most common form of gender-based violence. The prevalence of violence against women demonstrates the persistent power imbalance between women and men.⁸⁶⁵ The Special Rapporteur is also concerned that the criminalization of the purchase of sexual services might increase the incidence of clandestine prostitution, thereby rendering prostitutes more vulnerable.

1806. The Special Rapporteur recommends that the Government continue its efforts to implement and strengthen current policies aimed at combating violence, with special attention given to women with disabilities and migrant women. When presenting its report to the Human Rights Committee (spring 2002), the delegation of Sweden conceded that the country was facing problems relating the crimes committed in the name of honour. The Committee made specific recommendations on that very issue in its concluding observations (CCPR/CO/74/SWE): The Human Rights Committee notes with concern cases of female genital mutilation and "honour crimes" involving girls and women of foreign extraction (arts. 3, 6 and 7 of the Covenant). The State party should continue its efforts to prevent and eradicate such practices. In particular, it should ensure that offenders are prosecuted, while promoting a human rights culture in the society at large, especially among the most vulnerable sectors of immigrant communities.

Switzerland

1807. Switzerland ratified the Convention on 27 March 1997, but has neither signed nor ratified the Optional Protocol to the Convention.

Legislation

1808. The law prohibits domestic violence but does not differentiate between acts of violence committed against men and women. Since amendments to the Criminal Code provisions on sex offences in 1991 marital rape has been considered a criminal offence. This provision came into force in 1992. Unlike complaints concerning rape in other circumstances, proceedings on grounds of marital rape are only initiated at the victim's request. This situation is the result of a compromise agreed on by Parliament, despite the inequality in the treatment of married and unmarried women, it is nevertheless a first step towards the full protection of all women against any violation of their sexual integrity. During summer 2001 the Federal Council adopted a motion with respect to removal of the perpetrator from the home to if it is deemed that the woman has been subjected to violence.⁸⁶⁶

1809. A law providing for assistance for victims of violence came into force in 1993. Although providing assistance to women who are victims of violence was not its main purpose, it has made it easier for them to assert their rights. This law forms the basis of a comprehensive policy for providing care, improving legal procedures and ensuring that victims receive compensation.⁸⁶⁷ A commission of experts was established in order to review the law on assistance for victims by 2002.⁸⁶⁸

1810. The law includes provisions aimed at eliminating sexual harassment and facilitating access to legal remedies for those who claim discrimination or harassment in the workplace. Article 4 of the law on equality between women and men, which came into force on 1 July 1996, explicitly stipulates that sexual harassment in the workplace is a form of discrimination and, as such, is illegal.⁸⁶⁹

1811. The Penal Code criminalizes sexual exploitation and trafficking in persons: trafficking in persons may result in prison sentence of up to 5 years; coercing a person into prostitution or restricting a prostitute's personal freedom can carry a sentence of up to 10 years in prison. With respect to the prosecution of child sexual abuse abroad, the law provides for prosecution in Switzerland only if the act is considered a crime in the country in which it took place. Experts have proposed making such acts punishable in Switzerland regardless of where the crime took place, but there was no legislative action on the problem during 2001.

1812. The new Asylum Law, which entered into force in 1999⁸⁷⁰, stipulates that gender-specific issues must be considered in the process of reviewing application for asylum.⁸⁷¹

Landmark cases

1813. On 9 April 2001, the Criminal Court of Lausanne sentenced a 38-year-old Nigerian to nine years in prison after he was found guilty of trafficking in women across Europe and of money laundering. The court found that the trafficker was not member of any specific criminal organization despite his having worked closely with his mother and sister, who lived in Nigeria. In March 2000, Neuchatel cantonal police also arrested four persons, including two African women married to Swiss nationals, on trafficking-related charges.

Policies and programmes

1814. In 1982 a report by the Federal Commission for Women's Issues, entitled "Violence against Women in Switzerland", called for a national enquiry concerning the frequency of violence against women but there was no response until the early 1990s when a number of research projects were commissioned. In the 1990s there was a slight increase in the number of grants allocated to the running and setting up of women's refuges. Rape crisis centres began to offer more specialist services and self-defence courses expanded. As the services are publicly funded the authorities and the general public were obliged to acknowledge the problem; all requests for assistance now give rise to debates in the cantons on the issue of violence against women. However, despite 20 years' work by the feminist movement to make people aware of violence against women, prejudices and myths are being dispelled only very slowly.

1815. In 1997 the Swiss Conference of Gender Equality Delegates launched a wide-ranging national information campaign to draw attention to the problem of violence in the home, entitled "Putting an end to violence against women in the home". The focus of this campaign was on the very widespread violence perpetrated by men against women, in both married and unmarried couples. Projects have also been set up in several cantons to counter domestic violence, protect victims and bring their assailants to court.

1816. Victims of domestic violence may obtain help, counselling, and legal assistance from specialized government and NGO agencies or from nearly a dozen hotlines sponsored privately or by local, cantonal, and national authorities. The cantons are obliged to set up advisory services, which provide medical, social, material and legal assistance on a 24-hour basis; these services may be delegated to existing centres. The women concerned are entitled to immediate assistance in an advisory centre of their choice.⁸⁷²

1817. The Government office to combat trafficking has existed in its present form since 1998 as part of the criminal intelligence unit of the Federal Department of Police. In order to confront modern forms of trafficking in women, especially via the Internet, the Federal police have increased the number of their agents since 1999. Because the investigation, enforcement, and prosecution of individual trafficking and related cases is the responsibility of the cantonal police authorities, the federal human trafficking office also supports the cantonal prosecution authorities with information concerning trafficking abroad. The Office for Equality between Men and Women operates a program to educate visa applicants in their native countries about the methods used by traffickers and the dangers of falling victim to them. In June 2000, the Federal Council adopted a motion calling for extended protection for all female victims of trafficking and, in particular, for a new definition under criminal law that would include all activities linked to trafficking in women. The Federal Council charged the Federal Department of Justice and Police with setting up an interdepartmental working group to assess whether the Penal Code required amendment, to determine what measures should be taken to better protect the victims of female trade, and to determine whether it was necessary to create additional consultation centres. A number of government-funded NGOs provide services to victims of trafficking. The organizations provide information and counselling, and in some cases, emergency assistance. Some cantons assist repatriated nationals, for example, by arranging escorts, ensuring that victims are met at the airport, and organizing meetings with victims' families.

Issues of concern

1818. Switzerland is a country of destination for trafficking victims, almost exclusively women, and, to a lesser extent, a transit country.⁸⁷³ In general persons responsible for trafficking may not be prosecuted unless the victims are willing to testify. However, very few victims are willing to testify because they fear retaliation or are concerned that they will be forced to leave the country because they are illegal immigrants. The Special Rapporteur recommends that the Government provide foreign victims with an extended residency permit to allow them to remain in the country to assist in the trial. Cantonal authorities already allegedly grant a residency permit on a case-by-case basis, but a legal framework providing this right has not been established.

1819. The Special Rapporteur is concerned that immigrant women who marry Swiss husbands, but live in Switzerland for less than five years, risk deportation if they divorce their spouse. The five-year residency requirement may be reduced to three years under exceptional circumstances. This requirement may prevent women with marital problems from being able to seek help - or leave their husbands - without serious consequences.

1820. Although the Constitution prohibits all types of discrimination, and the law provides for equal rights, equal treatment, and equivalent wages for men and women, some laws continue to discriminate against women. A federal marriage law provides that in the event of a divorce, assets accumulated during the marriage will be divided equally; however, the Supreme Court ruled that the primary wage earner must be left with sufficient income to remain above the poverty level. Since the man is the primary wage-earner in most marriages, when the income is too low to support both parties, it is usually the wife (and children) who are forced to survive on public assistance. Statistics from 1999 show that nearly 70 per cent of women who did not work outside the home while married fell below the poverty line immediately after a divorce. Although mandated by a constitutional amendment in 1945, no federal law on maternity insurance exists.

Turkey

1821. Turkey acceded to the Convention on 20 December 1985, with reservations to article 29, paragraph 1. Turkey fourth report was in 1999. The Optional Protocol to the Convention was signed on 8 September 2000.

Legislation

1822. The 1998 Law to Protect the Family provides for protection orders for women subjected to domestic violence. Violation of the protection order can be used as grounds for arrest and a jail sentence. The practical importance of this law lies in the fact that it provides women with an easy-to-implement legal recourse to fight domestic violence. The protection order also restricts the husband's access to the home and the workplace of the wife. The law also foresees the issue of provisional maintenance payments to the spouse or children when necessary. The protection order law allows not only the woman herself but also any third party to apply to the court directly without having to go through the police. The simplicity of this legal procedure is particularly important in a country like Turkey, where women subject to domestic violence find it difficult to

access legal and institutional mechanisms for support. One of the shortcomings of the law is that it is limited to spouses and there are reports of problems in regards to its implementation.

1823. In October 2001 equality of spouses was added to article 41 of the Constitution on the Protection of the Family. The Head of the Family concept was been removed from the Civil Law in 2001. This amendment assures equal authority and right of decision making of the spouses.

Policies and programmes

1824. There are nine government-sponsored shelters and 6 consultation centres for battered women. In addition the child protection and social services agency provides services to victims of domestic violence through its 19 social centres. There are no shelters in the East or South-East of the country. Many groups have reported that access to the shelters can be random and arbitrary.

1825. The Ankara Bar has established a women's consulting centre (*Ankara Barosu Kadın Danisma Merkezi*), which supports women seeking legal redress for domestic violence. Concerns still remain on the stigmatization placed on women who seek redress for domestic violence by the police, the judiciary, the neighborhood and the family.

Issues of concern

1826. The draft Turkish Criminal Code reportedly does not include a number of necessary reforms, including the definition of rape, the recognition of sexual abuse and marital rape as crimes and it does not provide for increased penalties for perpetrators of "honour" crimes.

1827. According to the Family Research Institute in the Prime Minister's office, domestic violence is one of the most frequent forms of violence against women. A 2000 survey revealed that at least 10 per cent of women experienced violence on a daily or weekly basis.

1828. Honour killings remain a serious problem, especially in the Kurdish community. According to media reports, there are dozens of such killings every year. Because of sentence reductions for juvenile offenders, young male relatives often are designated to perform the killing. The high rate of suicide among young girls forced into marriage is a dramatic phenomenon linked to honour killings. The Special Rapporteur recommends that the Government review legislation with a view to addressing these crimes in an effective way and eliminating any provisions allowing reductions of sentence if the crime is committed in the name of honour. Training and resources should be provided to the criminal justice system with a view to effectively protecting women who are in danger of honour killings and in effectively prosecuting these cases.

1829. Sexual abuse in custody is believed to be a widespread form of violence against women. It is alleged that women from all social and cultural backgrounds are subjected to abuse, assault and rape in detention. Some sectors of women are said to be particularly at risk, especially women of Kurdish origin from the south-east and women who hold political beliefs unacceptable to the authorities or military. The Legal Aid project for women raped and sexually abused in

custody founded in Istanbul in 1997 provides some figures, which are estimated to be only the tip of the iceberg, as most cases of rapes in custody are unreported. Between mid-1997 and June 2002, 155 women sought the help of the legal aid project in Istanbul. Most women are Kurds (111). The alleged perpetrators are mainly police officers (108 cases).

1830. For victims of sexual violence in custody, access to a thorough, impartial and independent investigation is severely circumscribed. In the case of *Sukran Aydin v. Turkey* before the European Court of Human Rights, on 25 September 1997 the court found that Ms. Aydin had been the victim of torture at the hands of officials, and that Turkey was in violation of articles 3 and 13 of the European Convention on Human Rights. In this judgment, it was found that the State had not conducted a full, thorough and impartial investigation into allegations of torture.⁸⁷⁴ Also, "It would appear that [the prosecutor's] primary concern in ordering three medical examinations in rapid succession was to establish whether the applicant had lost her virginity. The focus of the examinations should really have been on whether the applicant was a rape victim, which was the very essence of her complaint".

1831. The traditional practice of "virginity testing" also continued, despite governmental regulations prohibiting it unless requested by the woman.⁸⁷⁵ The practice of virginity testing is forbidden by all but forensic medical personnel in order to establish whether a crime has taken place. In practice, virginity testing continues. When a woman is held in custody, she is asked to undergo a virginity test. There have been reports of virginity testing being performed in order to establish whether or not recent sexual activity has occurred. An example of this practice was the 2001 directive of the Health Minister authorizing virginity testing for high school nursing students suspected of having sexual relationships. A large study of forensic medical personnel performed in 1998 revealed that at least 50 per cent of 5,901 examinations performed in the past year were performed against the patient's will.⁸⁷⁶ Research at a gynecological department in an Istanbul hospital, conducted after the ban on virginity testing was issued, revealed that only 16.8 per cent of all virginity tests were performed for the purposes of gathering evidence against an alleged perpetrator of sexual assault, whilst the remainder were for social reasons (Alkan et al., 2002).

1832. Public prominence for the issue was attained after a high-school principal ordered some of his students to undergo virginity testing, resulting in the suicide of one of the students (*Hurriyet*, May 2 1992: "Virginity test caused suicide"). During the same period the Minister for Health was discovered to have ordered routine testing for women at the local mental health facility, with the justification of "protecting women from the sexual abuse of men". In 1992 the Turkish Medical Association issued a statement condemning virginity testing as a form of gender-based violence and an assault on women's sexual identity.

1833. The Special Rapporteur believes that forcibly subjecting detainees to so-called virginity tests is an egregious form of gender-based violence constituting torture or cruel, inhuman or degrading treatment. "Virginity tests" on high school students are discriminatory, can cause severe pain or suffering, and when are inflicted intentionally by state officials and therefore can amount to torture or ill-treatment.

1834. Trafficking in women for the purpose of sexual exploitation is a serious problem although there are no statistics on its magnitude. Turkey is both a destination and a transit country primarily from Central Asia, the Middle East, Africa, and the former Yugoslavia.

United Kingdom of Great Britain and Northern Ireland

1835. The United Kingdom ratified the Convention on 7 April 1986, but has neither signed nor ratified the Protocol to the Convention.

Legislation⁸⁷⁷

1836. Changes in 1996 to the Family Law Act brought a package of civil measures to improve women's safety, mostly in the form of protection orders which aim to remove and keep the perpetrator away from the home and immediate family environment. With this law, a single set of measures, accompanied by regulations on the family home, make it easier for victims of domestic violence to seek and be granted protection which extends to all members of the family. Furthermore, the Courts were also given powers of arrest for breaches of these new measures, which include members of the family no longer living under the same roof but who continue to use threats or real forms of abuse.

1837. The Protection from Harassment Act 1997 introduces new measures for protection under both the criminal and civil law, and also provides a new link between criminal and civil law. The provision includes two new criminal offences: the offence of criminal harassment and a more serious offence involving fear of violence. If convicted of either of these offences, there is an additional measure for protection: a restraining order can also be granted by the court, prohibiting the offender from further similar conduct.

1838. On 29 March 1999 the Family Homes and Domestic Violence (Northern Ireland) Order 1998 came into force. This replaced the existing law and improves and extends the protection available to victims of domestic violence. The Order puts Northern Ireland at the forefront in the United Kingdom and Europe in relation to anti-domestic violence legislation.

1839. FGM is outlawed under the Prohibition of Female Circumcision Act 1985; this act makes it a criminal offence for a person to carry out FGM, or to aid, abet, counsel or procure such an act. The maximum penalty for this offence is five years' imprisonment, an unlimited fine, or both.

1840. In December 2001 the Government placed restrictions on the admissibility of evidence on complainant's previous sexual history.

1841. No law specifically prohibits sexual harassment; criminal action for sexual harassment cases must be prosecuted under assault legislation.⁸⁷⁸

1842. Although it has no specific law against trafficking in persons, the United Kingdom prohibits related offences such as unlawful imprisonment, related offences of sexual and physical violence, and immigration and other sexual offence violations. Those who traffic women into prostitution are most commonly prosecuted under the Sexual Offences Act for "living off

earnings of prostitution". In November 2002, the Scottish Parliament commenced discussions on closing a legal loophole existent in Scottish legislation. Ministers want to introduce amendments to the Criminal Justice (Scotland) Bill to target the organized crime gangs responsible for human trafficking. The new provisions to the bill proposed by ministers would bring Scots law in line with Europe. The executive is proposing a new law against trafficking for sexual exploitation providing for penalties of up to a 14-year prison sentence for those found guilty of arranging transportation for prostitution to or within Scotland.⁸⁷⁹

Policies and programmes

1843. In June 1999, the Home Office and the Women's Unit published a joint document "Living without Fear", which sets out an integrated approach to tackling violence against women.⁸⁸⁰ It addresses all forms of violence against women, including domestic violence, sexual harassment, rape and sexual assault, violence at work and stalking.

1844. The Home Office has also produced a number of Circulars for the work of its dependent bodies on domestic violence. These include two Police Circulars, one relating to the type of treatment and intervention for victims of rape and domestic violence, and the second stresses the need for police forces to consider domestic violence a serious crime. In 1995 the Home Office and the Welsh Office jointly issued an Inter-departmental/Inter-Agency Circular, *Domestic Violence: Don't Stand for It*, to tackle domestic violence on a co-ordinated basis, and to "outline the Government's view of the nature and extent of domestic violence, and the strategy being pursued at the national level". A similar circular was produced for Northern Ireland, entitled *Tackling Domestic Violence*, published by the Northern Ireland Office. These Circulars were published as a result of recommendations from the Parliamentary Home Affairs Select Committee investigation started in 1993 to look at the policy option for domestic violence. Following on from this, the Government set up Inter-departmental working groups at both Official and Ministerial level to "take forward the Government's response to the Committee's report and to promote a co-ordinated response to the issue at national and local level."

1845. The Government provides funds to the Foundation for Women's Health, Research and Development (FORWARD) which has assisted the Department of Health and local authorities in developing a culturally sensitive policy and education programmes on female genital mutilation targeted at the communities concerned. Moreover, the United Kingdom reported of a number of initiatives funded by its Department of International Development in connection with crimes committed against women in the name of honour, which included the provision of assistance to the Government of Pakistan in the design of a comprehensive national strategy to address violence against women.⁸⁸¹

1846. On rape in particular, the Home Office have been studying the reporting process of rapes to identify where and why cases are dropping out of the system. Work on this began in 1996. On 10 June 1998 the Government published "Speaking up for Justice", the report of the interdepartmental working group on vulnerable or intimidated witnesses. The report contains 78 recommendations which aim to improve the way in which vulnerable or intimidated witnesses (including women and girls) are treated, with the aim of improving their access to the criminal

justice system. A steering group has been set up to co-ordinate implementation of all the proposals.

1847. The British police have dedicated contact officers in national and international law enforcement agencies who deal specifically with trafficking. The Metropolitan Police has a special unit of 14 officers to investigate sexual exploitation: trafficking is one of the unit's special concerns. To protect victims, the government may provide trafficking victims with temporary residence. The Government supports numerous international and domestic organizations that combat trafficking, and is involved in international efforts to combat trafficking through the European Union, OSCE and the Balkans Stability Pact. The Department for International Development runs education programs on trafficking in Eastern Europe and South-East Asia. The government addresses organized, immigration-related crime through formal, interagency coordination. The Government is legally obligated to implement within two years the European Union framework decision on trafficking.

1848. In 2000 the Government issued guidelines for use by the courts in considering asylum claims by women. Judges were urged to consider situations more likely to be faced by female asylum applicants, including FGM and trafficking.

Issues of concern

1849. Violence against women is reportedly a widespread and serious problem in the United Kingdom. Domestic violence accounts for one quarter of all the violent crimes reported and this is likely to be underestimated.⁸⁸² The Special Rapporteur is concerned about the absence of a national strategy on the prevention and elimination of violence against women. Different regimes are being established in Wales, Scotland and Northern Ireland with responsibility for women's equality issues, including legislative and administrative provisions and mechanisms. However there is a need to develop a coordinated national strategy for the provision and funding of refuges, help lines, outreach, counselling and other specialist services for women and children who are survivors of gender-based violence. The Special Rapporteur is concerned that at the moment the protection of women's human rights is uneven dependent on the area where a woman resides rather than her needs. Women in Northern Ireland are reportedly particularly affected by violence.

1850. The Special Rapporteur is also concerned at several aspects of the criminal justice system in relation to women, and notes the high number of women in prison, particularly those from ethnic minorities. Indeed, the Special Rapporteur highlights the disadvantaged situation of women belonging to ethnic minorities, notwithstanding the existence of legislative protection against discrimination on the basis of race and ethnicity. Ethnic minority women continue to experience higher levels of unemployment, lower levels of education and training, lower wages and salaries and fewer benefits than white women. The Special Rapporteur also notes that in the United Kingdom, and particularly in Northern Ireland, young female offenders are held in adult prisons, there are inadequate educational and rehabilitative programmes for women prisoners and they are often held in prisons situated far from their families.⁸⁸³

1851. The United Kingdom is a destination country for the trafficking of women into prostitution and the trafficking of labourers into agriculture, sweatshops and industry. The Special Rapporteur is concerned that the Government does not have any targeted programmes to protect victims of trafficking. The provision of shelters and other services are reportedly done on a case to case basis and provided by NGOs that work with victims of other forms of gender-based violence for example domestic violence and forced marriage (shelters) or with prostitutes (Health needs). There is reportedly no agency providing legal assistance to victims of trafficking. There are no witness-protection schemes yet for the victims if involved in legal proceedings. Furthermore, there is no possibility of residency permits.⁸⁸⁴ There are no alternatives to removals (except voluntary return/ reintegration via IOM if the victim wants).⁸⁸⁵

1852. The Metropolitan Police's Clubs and Vice Unit (CO14) have an explicit remit to address trafficking in women.⁸⁸⁶ Apart from the pro-active Clubs and Vice Unit in London, it is reported that very little attention is given to the trafficking of women by other police forces.⁸⁸⁷ Women are reportedly viewed by the police as victims of crime and potential witnesses, whereas the Immigration Service views them as illegal entrants and potential deportees.⁸⁸⁸ Trafficking cases necessitates inter-agency work between the United Kingdom domestic law enforcement agencies and the Immigration Service, both at the level of enforcement and intelligence gathering.⁸⁸⁹ Furthermore, the United Kingdom does not have a specialized counter-trafficking Task Force or Squad. Several organizations have counter trafficking as an area of responsibility, but the different agencies rely on cooperation between each other. There is to date no National Counter-Trafficking Action Plan in existence.⁸⁹⁰

(ii) Eastern Europe⁸⁹¹

1853. There are new opportunities within the current political context of the European Union to include a legal basis and stronger commitment to address violence against women, particularly in light of the EU enlargement to Eastern and Central European countries. For countries seeking accession to the European Union, inter alia, the issue of equality between women and men is a requirement. Some commentators have expressed concern that countries may agree to translate the legal requirements into their domestic legislation in order to please the European Union or to comply with the directives, but may not take the necessary steps to construct implementation mechanisms to generate an end to gender-based discrimination and violence.

1854. There are some positive steps being taken by States across the region in terms of women's status, legal protection and institutional mechanisms. Whatever has been achieved, is due in part to the NGO sector and particularly of women's organizations who have been very active, whether in terms of dealing with victims of domestic or sexual violence, providing legal assistance to women who are discriminated against, providing shelter and a new chance at life to returned trafficked women, or undertaking all efforts to education family planning. It is also worth noting that international organizations, governmental and non-governmental, have been of great assistance in most of the countries, assisting local NGOs, providing both know-how and financial support.

1855. One pattern across the region is the lack of accountability for those who discriminate against women and the almost non-existent judicial or other types of remedies for victims. There

are exceptions, such as Hungary for example, where the legislation has been changed, although the judiciary is still reluctant, but in many countries even the concepts of "institutional responsibility" and "civil remedy" for victims of gender-based discrimination do not exist in the legal system or in the jurisprudence. In the countries of the former Soviet Union accountability is reduced to criminal liability. This is to say that it is considered impossible to sue an organization or an institution for discrimination that occurred under its aegis and seek a remedy.

1856. In a few countries, the issue of polygamy has been tackled from a legal point of view, trying to regulate *de jure* a situation that exists and is accepted *de facto*. Undeniably, this has to do with the influence of religious and traditional values, but it is also highly supported due to the level of poverty. Polygamy is also widespread in Russia, mainly in the Caucasian region. Despite the fact that polygamy was forbidden after the establishment of the Soviet form of Government, it continued to exist in the traditional patriarchal communities (Central Asia, Caucasus).

1857. Domestic violence is the most widespread form of gender-based violence in all the surveyed countries. Across the region the legal systems do not properly address this issue: no specific provisions exist, nor are any restraining orders possible. There is also an insufficient understanding in society of what exactly domestic violence is and thus a failure to always recognize and name it. The lack of knowledge about the nature of domestic violence among women, and the absence of support networks in part explain why women themselves often downplay the seriousness of the abuse. There are no shelters for victims of domestic violence. It is very common for women to stay in an abusive marriage or relationship due to economic dependence on an abusive male husband or partner; at the same time, state authorities do either little or nothing to put an end to this situation. With regard to marital rape, although a few countries changed their legislation, making it an offence, in practice no cases have been decided by the courts.

1858. The sexual abuse and rape of women is also common, traditional views on the responsibility of victims of rape are prevalent and prevent women from seeking assistance as they are made to feel that they are to blame for the incident.

1859. Reproductive rights are another problematic aspect of women's lives throughout the entire region. Abortion is frequently used as a method of birth control, in rural and remote areas, women do not have access to modern medical facilities and services, and the operation is often performed in very poor conditions, seriously threatening women's health and lives.

1860. Finally, trafficking in women continues across the region, encouraged by States' lack of commitment to overcome the phenomenon, years of conflict, backed by pervasive corruption and supported by a large group of consumers, including from Western countries.

Albania

1861. Albania became a State party to the Convention on 11 May 1994, but has neither signed nor ratified the optional protocol. As of 8 August 2002, no country report has been submitted.

Legislation

1862. Rape, spousal rape, sexual assault and incest are illegal. Sentences for rape range between three and 10 years in prison, but rise to between five and 15 if serious harm is caused, or 20 if the crime results in death or suicide.⁸⁹²

1863. Prostitution, pimping and brothel-keeping are all prohibited. According to the Council of Europe, prostitution is not clearly defined and it is unclear whether procuring is also illegal.⁸⁹³ Penalties for pimping range from fines to 10 years in prison if a minor is involved.

1864. New legislation was passed by Parliament in January 2001 that criminalized trafficking. Penalties for trafficking in persons range from five to 15 years' imprisonment, and the penalty for trafficking minors is a minimum of 15 years in prison. On 21 August 2002, Albania ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

Landmark cases

1865. During 2001 members of Parliament attempted to impeach three members of the Supreme Court for allowing a high-profile trafficking suspect to be released on bail, and subsequently flee the country. The impeachment failed, due, in part, to lack of evidence.

Policies and programmes

1866. The State Committee on Women and Children is the primary government agency dealing with women's issues. The Ministry of Public Order has established an Anti-Trafficking Unit, an Organized Crime Section and an Office of Internal Control, which was set up to control police involvement in trafficking. The General Prosecutor's office has also worked on the establishment of an Organized Crime Strike Force which would handle high profile and sensitive cases with the collaboration of prosecutors and police officers.

1867. The Inter-Ministerial Commission on Human Trafficking has completed a draft National Strategy and appointed a National Anti-Trafficking Coordinator. On 15 October 2001 the Vlora Anti-Trafficking Centre was established through collaboration with foreign Governments; however it remained unstaffed at the end of 2001. In December 2001 a shelter for trafficked Albanian women and victims of domestic violence was opened. Some foreign trafficked women were referred by the Ministry of Public Order to a shelter run jointly by the International Organization for Migration and the International Catholic Migration Commission. There they benefited from a shelter, temporary social assistance, an interagency referral system and repatriation.

Issues of concern

1868. A 1999 poll by an Albanian NGO showed that 64 per cent of women questioned had experienced some kind of physical, sexual or emotional abuse.⁸⁹⁴ Most cases of spousal abuse are thought to go unreported as a result of cultural acceptance and lenient law enforcement. The

concepts of spousal rape and sexual harassment are not well established, and a traditional code called the “Kanun,” which subordinates women to men, is still followed by many men, especially in north-eastern Albania.

1869. Prostitution and trafficking in women and remain serious problems despite new legislation penalizing trafficking. Women are lured through false marriages, promises of marriage and employment, and to a lesser extent through kidnapping and sale by family members. Most women are transported to European countries from the ports of Vlora and Durrës, and 25 per cent of those trafficked are believed to be minors. Due to lax border controls and corruption, Albania is also a country of transit for women trafficked from other countries. It is reported that high-profile trafficking cases were often not thoroughly investigated, and the absence of a witness-protection program made it difficult for prosecutors to build cases against traffickers. Police treatment of trafficked women is a concern as they are often treated as criminals rather than as victims of a crime. Many trafficked women were charged with crimes such as illegal entry and prostitution. It is reported that some foreign detained women did not have access to translation services and were not given their choice of lawyers. Other detainees were kept in overcrowded unsanitary conditions, sometimes for periods of more than six months. Women who rejected voluntary repatriation were deported to the border where many of them were trafficked again. Some women also face stigmatization from their families and communities after they have been returned. The Albanian Government does not yet offer assistance programs and psychological counselling to victims; however several NGOs have begun to address these issues.

Armenia

1870. Armenia acceded to the Convention on 13 September 1993.

Legislation

1871. There is no specific law regarding domestic violence. Cases would be considered under the Armenian penal code, under the crime of assault or battery. The law does not specifically prohibit sexual harassment; however, some articles in the criminal code address different aspects of sexual harassment.

1872. There is no specific law prohibiting trafficking in persons, however traffickers may be prosecuted under different articles of the Criminal Code. For example, illicit seizure of non-property documents (passports or other personal documents), as well as use of these documents, may be punished by imprisonment up to 1 year; falsification and selling of documents, by imprisonment up to 5 years; pandering, by imprisonment up to 5 years; bogus marriage and bogus divorce with mercenary ends or other reasons, by imprisonment up to 1 year; extortion (coercion of a person, or coercion by publishing compromising information about a person), by imprisonment from 2 to 4 years; coercing of a woman to perform sexual intercourse by a person on whom this woman is financially (or economically) dependent by imprisonment up to 7 years. The Criminal Code specifically prohibits keeping brothels, although prostitution itself is legal (Article 226 Criminal Code).

Landmark case

1873. In 1999, the court of first instance of Malatsia-Sebastia community in the city of Yerevan sentenced four persons for involvement in pandering. They recruited women from different regions of Armenia and sent them to Dubai. A total number of 25 women including adolescents, who had engaged or were trafficked into prostitution in Dubai, were witnesses during this trial. Two criminals were sentenced to a one-year prison term, and two others to a one-year imprisonment with delay in the execution of the sentence.⁸⁹⁵

Policies and programmes

1874. In 1998, the Government endorsed a National Plan of Action on Enhancement of the Status of Women and Increasing Their Role in the Society 1998-2000.⁸⁹⁶ With this aim, it has established both a Division on Family Matters and a Gender Commission. However, reports indicate that the Division on Family Matters lacks the authority and the standing to adequately address the issues it is assigned.⁸⁹⁷

1875. A Prime Minister decree in May 2002 created the position of Deputy Minister for Women's Issues within the Ministry of Social Security.⁸⁹⁸ The Deputy Minister heads the Department of Women's Affairs, coordinates all women-related activities of other ministries, and ensures collaboration with women's NGOs. By the same decree, two Commissions for Women's Issues were established; the first to develop the National Program and Plan of Action for the Improvement of Women's Status and create mechanisms for its implementation, and the second to deal with trafficking of women. Furthermore, a special Inter-ministerial working group on trafficking was tasked with elaborating appropriate programmes of action, proposing legislative reforms or amendments has recently been formed. In March 2002, the State Department for Migration and Refugees established a "Migrant Service Point", which was also mandated to implement trafficking prevention programmes.

Issues of concern

1876. The *de jure* status of women is generally good in Armenia. Legally speaking, women enjoy full equality in civil, political and economic spheres. The law provides punishments for rape, forced abortion, forbidding a woman from marrying, and discrimination in hiring due to pregnancy. However, the transition period has presented new problems as well as highlighted age-old problems, which must be addressed by new legislation to protect women.⁸⁹⁹ The draft criminal code contains very few references to gender;⁹⁰⁰ specifically there is no law outlawing domestic violence or trafficking in women and children. The few laws that are in place concerning the status of women in society are reportedly not adequately enforced.⁹⁰¹

1877. It is reported that family violence is common in Armenia, even though it is rarely reported to the authorities and there are very few statistics concerning domestic violence.⁹⁰² Since there is a lack of information in Armenia concerning the exact statistics of such violence, it is difficult to assess the magnitude of this problem.⁹⁰³ Furthermore, many cases were not reported to police because victims are reportedly afraid of physical harm if they do so, afraid that police would refuse to take action and instead return them to their husbands, or embarrassed to make "family

matters" public.⁹⁰⁴ There are reportedly no government-sponsored shelters in place to protect victims of abuse. There is also a lack of awareness about women's rights even among women.⁹⁰⁵ According to reports, the punishment for domestic violence is either a fine or 15 days' imprisonment. In contrast, entering the country without a valid passport is punished by 1-3 years' imprisonment, and 2-5 years if it is a repeat offender.⁹⁰⁶ This punishment discrepancy underlines the lack of attention to issues of domestic violence and the failure of the government to take this crime seriously.

1878. Marital rape is also under-reported in Armenian society. Although the law against rape defines rape broadly as "coerced intercourse against the will of the victim,"⁹⁰⁷ traditional notions of marriage and of men as superior allow marital rape to occur with impunity. Furthermore, lack of shelters and police attention to address the problem also inhibits women from reporting these violations. As with domestic violence, women are unaware of their rights with regards to marital rape.

1879. From January to June 2001, 24 cases of rape or attempted rape were registered by the authorities. This low number of reports indicates that women do not have high expectations of the judicial system and women are not comfortable filing a complaint with the police. Given the difficulties that women face in reporting sexual crimes, experts speculate that the true number of rapes in Armenia is much higher. Additionally, according to reports, it is difficult for a woman to prosecute her case if there is no physical evidence that she has been beaten or forced.⁹⁰⁸ A woman must prove that she had absolutely no possibility of escape. Such an evidentiary procedure may discourage women from reporting rape. The Special Rapporteur also expresses her concern that the current penalties for rape are very light.

1880. The Special Rapporteur strongly recommends to the government to enact legislation on domestic violence, and to ensure that victims have means of redress and effective protection. The Committee also recommended to the government: that measures be taken to provide shelters for women and girls victims of violence and to ensure that law enforcement officials and the judiciary are fully sensitized to all forms of violence against women and girls.⁹⁰⁹

1881. Armenia is a source country for women and girls trafficked to the United Arab Emirates, Turkey, Russia, Greece and Germany for sexual exploitation.⁹¹⁰ Only three cases of trafficking were investigated in 2001. Courts are reportedly lenient on traffickers and cases do not usually result in punishment of the perpetrators. There is no specialized training for law enforcement officials on trafficking. Moreover, there are few resources available or devoted to services for victims or in terms of protection. The government has not initiated any prevention or public awareness campaigns because of a lack of funds. However, the government has expressed a willingness to work with NGOs and international organizations to develop a prevention program. The government has shown signs that it recognizes a growing problem of trafficking but has not developed a national plan nor taken significant steps to counter trafficking.

1882. The Special Rapporteur recommends that the government implements the recommendations of the CEDAW, inter alia: to assign the issue of trafficking in women and girls high priority through the formulation of a comprehensive strategy to combat this crime; and to

introduce measures aimed at improving the economic situation of women so as to eliminate their vulnerability to traffickers.⁹¹¹

Azerbaijan

1883. Azerbaijan acceded, without reservations, to the Convention on 10 July 1995, and ratified the Optional Protocol on 7 September 2001.

Legislation

1884. The new Criminal Code, Code of Criminal Procedure and Code for the Execution of Punishments, which came into force on 1 September 2000, are all significant for the protection of women's rights. Alongside the general provisions regarding the application of punishment set out in the codes, the law stipulates that, in certain circumstances, less severe forms of punishment shall be imposed on women.

1885. There is no specific legislation addressing domestic violence however there are general provisions on physical violence in the Criminal Code. Article 125 of this Code holds that threats, cruel treatment or systematic humiliation leading to suicide or to an attempted suicide of a materially, officially or in any other way dependent person is punishable by imprisonment from three to seven years. Articles 126, 127 and 128 of the Criminal Code deal with different degrees of deliberate infliction of bodily harm resulting in different degrees of health disorders and disabilities. Article 133 deals with the infliction of physical or psychological suffering by systematic beatings or by violent acts.

1886. The punishments for rape are higher under the new Criminal Code than under the old one.⁹¹² Under the new criminal code, prostitution is not a crime, and prostitutes cannot be criminally charged (however, it is deemed an administrative offence). However, pimps and brothel-owners are liable to criminal laws. Pornography is also prohibited.

1887. The new Criminal Code also incorporates numerous changes reflecting the state's attempts to follow international counter-trafficking initiatives. For example, a new article appearing in the current criminal code considers the trade in minors or transferring possession of them to another a criminal offence. Although there is no specific law prohibiting trafficking in persons, traffickers may be prosecuted under articles prohibiting forced prostitution and labor.⁹¹³ Under the new criminal code, the act of forcing an individual into prostitution carries a 10 to 15 year jail term, which is a harsher sentence than in the previous code.

Policies and programmes

1888. The President signed a decree on 14 January 1998 establishing the State Committee on Women. In March 2000, the President signed a Decree to implement the State policy on Women. There are gender focal points within different ministries and departments. The National Plan of Action on Women's Issues was ratified by decision of the Cabinet of Ministers on 6 March 2000. A section in the NPA is devoted to matters such as the prevention of all forms and manifestations of violence against women, trafficking in women, and the exploitation of women for prostitution;

the Plan also provides for appropriate measures, including legal proceedings against persons guilty of violating the rights of women, and the harmonization of existing domestic law to reflect provisions against trafficking in women.

1889. Since 2001 the International Organization for Migration (IOM) and the Organization for Security and Cooperation in Europe (OSCE) have been implementing a joint counter-trafficking project in Azerbaijan. The overall aim is to analyze the phenomenon, help the Government to counter this problem and organize public information campaigns about risks connected with trafficking. A national conference organized jointly by IOM and the Milli Majlis (Parliament) of Azerbaijan was held in March 2002 in Baku.

Issues of concern

1890. Domestic violence against women is reportedly a taboo subject in Azerbaijan's patriarchal society. Particularly in the rural areas, women have no recourse against violence by their husbands.⁹¹⁴ According to a special study conducted among 850 women between the ages of 19-60⁹¹⁵, 37 per cent of respondents reported having experienced incidents of violence.

1891. Although rape is severely punished in Azerbaijan, especially in conservative rural areas, only a small fraction of offences against women are reported and prosecuted.⁹¹⁶ Due to fear, shame and negative social consequences, women most often conceal the fact that they have been raped. According to the Human Rights Centre of Azerbaijan, the widespread under-reporting of rapes is shown by the fact that there are only a few dozen rape cases annually reported, in comparison to the numerous cases of other serious crimes against women such as murder, assault, etc. Moreover, the fact that there are no specialized departments within the police or prosecutor's office that deal with rape cases does not assist in reducing the level of impunity enjoyed by the perpetrators of rape.

1892. Due to unemployment and economic difficulties, prostitution is reportedly on the increase, particularly in Baku.⁹¹⁷ The country primarily is a country of origin and a transit point for trafficked men, women, and children. Women are reportedly trafficked to the United Arab Emirates (UAE), Iran, Turkey, or Western Europe, mainly Germany, to work in the sex industry. Women from Iran, Russia, and Iraq are reportedly transported through the country to the UAE, Europe, and occasionally the United States for the same purposes. There are very few government support services for female victims of trafficking. Furthermore, despite improvements to the national legal system where trafficking offences are concerned, additional steps are required to fill the gaps in current legislation.⁹¹⁸

Belarus

1893. Belarus has ratified the Convention on 4 February 1981, but has neither ratified nor signed the Optional Protocol to the Convention.

Legislation

1894. Both the 1994 and 1996 Constitutions state that all citizens are equal before the law and have the right to equal protection of their rights and legitimate interests; however, they do not specifically prohibit discrimination based on factors such as race, sex, or religion.

1895. The 1997 Penal Code addressed violence against women in all its forms and included provisions relating to the protection of victims, witnesses and their families. Spousal abuse is punishable under the Criminal and Administrative Codes; non-severe beating is punishable by a fine or up to 15 days' imprisonment and more serious offences are punishable by up to 15 years' in jail. According to information received, police generally enforce the laws against domestic violence, and the courts generally impose these sentences. The primary problem remained a general reluctance among women to report instances of domestic violence due to fear of reprisal and the social stigma. A law against rape exists; however, most women do not report rape due to shame or fear that the police will blame the victim. Sexual harassment reportedly was widespread, but no specific laws deal with the problem other than laws against physical assault.

1896. On 1 January 2001, article 181 of the new Criminal Code for Belarus entered into effect. It penalizes trafficking in persons for the purpose of sexual or other kinds of exploitation. The Criminal Code also criminalizes the hiring of individuals in order to exploit them sexually or otherwise. The penalty for trafficking is between five and seven years' imprisonment.

Landmark cases

1897. A criminal case against a trafficker was opened in the region of Grodno, in which a man was charged with trafficking at least 35 women from Belarus to Poland over a period of 2 years. There were convictions in 12 of the cases. When the case was first tried in October 2000, the accused received a four-year sentence for pandering but the Grodno Regional Court dismissed the verdict and ordered a new investigation in order for the defendant to be charged under the new Criminal Code. However, the prosecution again charged the man with drug dealing and pandering.

Policies and programmes

1898. In 1996, the Government adopted a national plan of action to improve the situation of women for the period 1996-2000 and of a national programme entitled "Women of the Republic of Belarus". Efforts have also been made to establish national machinery for the advancement of women and to achieve equality between women and men.⁹¹⁹

1899. Among the practical steps taken by the Government to improve the situation of women were special programmes for gender education, practical activities for the elimination of violence against women, as well as close cooperation with UNDP, UNICEF, and NGOs in the field of gender issues. In 1998, the first women's crisis centre had been established and awareness-raising campaigns, the provision of information and the publication of studies had been initiated.

1900. The authorities have begun to recognize and address the problem of trafficking in persons. In 1999 a Board of Morals and Illegal Distribution of Drugs was created by the Ministry of the Interior to combat and prevent recruiting and trafficking. The Ministry of Interior and the Ministry of Social Welfare are involved in anti-trafficking efforts. In partnership with the United

Nations Development Program (UNDP), the Ministry of Social Welfare established the Gender Information and Policy Center (GIPC), which also deals with this problem. The Ministry of the Interior, with the help of all parties concerned, established a State programme of efforts to combat trafficking and dissemination of prostitution for 2002-2007 (it was adopted by the Council of Ministers of the Republic of Belarus on 8 November 2001, resolution No 1636). Different practical operational, legal, prevention, awareness – raising, rehabilitation, and other actions leading to achieve visible results in combating trafficking in human beings and prostitution, were planned in the framework of the State programme. In principle, the Government may provide protection services and assistance to victims although it presently has no resources to implement a victim-protection programme.

Issues of concern

1901. Women's low social and economical status allows for practices that result in violence against women. They also lack independent means to walk away from this abuse.⁹²⁰ It has also been reported that the high incidence of violence is the result of the cultural and traditional stereotypes in Belarus that tolerate violence as a means of regulating gender relations.⁹²¹ According to a 1996 survey, 14 per cent of women and 26 per cent of men find domestic abuse admissible.⁹²² Moreover, 12 per cent of Belarusian women also consider it permissible for a man to use physical violence against them in certain situations.⁹²³

1902. Several reports and studies suggest that domestic violence is a significant problem in Belarus. The primary problem remains a general reluctance among women to report instances of domestic violence due to fear of reprisal and the social stigma. An increasing number of women have also become the victims of sexual violence such as rape, sexually motivated murders, sexual harassment, forced prostitution and trafficking in Belarus.⁹²⁴ However, victims do not always report sexual crimes. Besides the shame and the traumatic effects of sexual violence, there is a lack of trust in law enforcement officials and the judiciary and of experience or specialised services to provide for the necessary support in Belarus.

1903. As a result of the increasing unemployment and poverty among women, local street prostitution is growing, and prostitution rings operate from State hotels. Moreover, young women looking for work or travel abroad are particularly vulnerable to sexual exploitation.

1904. According to information received, Belarus is a source country for women being trafficked to Central and Western Europe for purposes of prostitution.⁹²⁵ Belarus is also a transit country. The absence of a border between Russia and Belarus has facilitated traffickers' attempts to reach the Belarus-Polish border. Women also seldom report incidences of trafficking to police because of a generally negative public opinion about law enforcement authorities, shortcomings in legislation on the subject, and the insufficient protection of victims and witnesses.⁹²⁶ Trafficking victims generally are detained until the investigation identifies them as victims. Furthermore, victims can be prosecuted for violations of other laws. No information is available on state or non-governmental initiatives to help victims return to their countries. Crisis centres established by some NGOs do provide psychological assistance to victims of violence. However, such centres do not include specialists in dealing with victims of trafficking. No specialized training is provided to law enforcement on trafficking.

1905. According to information received, imprisoned women are subjected to worse conditions than imprisoned men. Torture, degrading treatment and punishment are reportedly a part of daily routine. Even though there are no statistics available on cases of rape during detention, surveys indicate that women prisoners rather frequently report abuse from law enforcement officers, including sexual attacks. Almost 7 per cent of female inmates reported sexual abuse.⁹²⁷

1906. The Special Rapporteur supports the Committee on the Elimination of Discrimination Against Women that recommends that the Government⁹²⁸: address the root causes of violence against women, especially domestic violence, so as to improve the effectiveness of legislation, policies and programmes aimed at combating such violence; review and strengthen the legislation on violence against women; put in place immediate means of redress and increase psychological counselling for victims, including for those women who are serving prison sentences; and to implement training and sensitization programmes for the judiciary, law enforcement officials and members of the legal profession, as well as awareness-raising measures to create zero tolerance in society with regard to violence against women.

Bosnia and Herzegovina

1907. Bosnia and Herzegovina has ratified the Convention by succession on 1 September 1993, and signed the Optional Protocol to the Convention on 7 September 2000.

Legislation

1908. Local legislation does not treat the issue of domestic violence separately; however, the criminal law of the Bosnia and Herzegovina Federation and Republica Srpska treats this issue through other general regulations.⁹²⁹

1909. Regulations in the criminal law of the Bosnia and Herzegovina Federation address rape and marital rape as criminal acts.⁹³⁰ It should be noted that, according to the article 221 of the Criminal Law of the Bosnia and Herzegovina Federation, the criminal act of raping implies only forced sexual intercourse; any other form of sexual assault must be punished under Article 226 as acts of debauchery. The penalty in such cases is imprisonment for up to three years. The criminal law of the Republica Srpska (RS) does not regulate rape in marriage and extramarital union as criminal act.

1910. Neither the entities nor the cantons had a law that specifically prohibits trafficking; prosecutors could use existing laws against pimping, pandering, false imprisonment, abduction, assault, and slavery.⁹³¹ However these provisions are not recognised by the police in relation to trafficking, nor by the judges, and the sentences are often not a sufficient deterrent. Although the sentence for rape may range up to 10 years' imprisonment, the more common charges of pandering and promoting prostitution are punishable by a maximum of three years' imprisonment. Traffickers rarely are sentenced to more than six to eight months' imprisonment.

1911. In October 2001 a new Criminal Code entered into force in the Republika Srpska, which now includes a distinct crime of "trafficking in persons for the purpose of forced prostitution" and penalises it with six months to twelve years imprisonment.

Landmark cases

1912. Although police received specialized training to handle cases of domestic violence, there were reports of police inaction in cases of domestic violence and sexual assault. As an example, on 15 May 2001, a Pale court convicted a man of three counts of causing bodily harm to his ex-wife. The judge ordered only a US\$ 407 (900 KM) fine. Local police reportedly failed to actively pursue an investigation while the abuse was ongoing despite repeated complaints by the woman. According to information received, the Pale Assistant Police Commander stated that the incidents happened "behind closed doors" so the police could not intervene.

1913. In November 2001, an owner of a nightclub in Prijedor (Republika Srpska) was sentenced for illegal trafficking in women and organised prostitution. This was the first sentence for trafficking in women in the Republika Srpska.

1914. To date, there have been 11 successful cases of prosecution of traffickers in BiH. There are four trafficking cases currently before the trial court. In 2001, one person was sentenced to three years' imprisonment for the offence of trading in women for the purpose of prostitution, one to two years and four months for the same offence, one to one year and three months (same offence). Others were sentenced to one to two years or 4-5 months. Approximately 17 victims of trafficking testified at trial against bar owners or traffickers, and 174 trafficked persons testified before the Investigative Judge⁹³².

Policies and programmes

1915. The Gender Center of the Federation of Bosnia and Herzegovina was established in December 2000 by the Government of the Federation of Bosnia and Herzegovina, and the Gender Center of Republika Srpska was established in January 2002 by the Government of Republika Srpska. Both Governments have issued by-laws by which they regulated the establishment, mandate, and funding of these machineries. These by-laws have been published in the *Official Gazettes* of each Entity.

1916. Since the end of 2000, the Government in Bosnia and Herzegovina has become much more involved in anti-trafficking work. In December 2000, it signed the United Nations Convention Against Transnational Organized Crime and its two Protocols, as well as the Anti-Trafficking Declaration of South-Eastern Europe. In December 2001, the Convention was ratified. Under the leadership of the Ministry of European Integration, a National Working Group on Trafficking was established in November 2000, to identify priorities and coordinate activities among government, international organisations and NGOs. Under the joint leadership of the Ministry of Human Rights and Refugees and the Ministry of European Integration, the working group has developed a comprehensive National Plan of Action to combat trafficking that was adopted by the Council of Ministers in December 2001: prevention and awareness raising activities planned within NPA framework; victim assistance and support services planned as well; shelter project developed and seeking funds.

1917. With international assistance, an anti-trafficking strike force has recently been established at the state level, with involvement from the State Border Service, Federal Financial Police and

prosecutors, and police ministries from both entities and the Brcko district, to investigate and prosecute trafficking and organized crime groups.

1918. The Ministry of Human Rights and Refugees is coordinating a working group, in which international organisations and NGOs are participating, to review the laws relating to trafficking set up under the framework of the National Plan of Action, including immigration, civil and criminal law, health and social welfare. Furthermore, the Ministry of Civil Affairs and Communication, in close cooperation with the Office of the High Representative, has established a working group with the Ministries of Justice of the Republika Srpska and the Federation of Bosnia and Herzegovina, public prosecutors from both entities and university law professors, to draft the new State-level criminal legislation.

1919. A telephone hotline for victims of violence was established and it provided help to women who had been ill-treated by their husbands or partners.

Issues of concern

1920. Violence against women in Bosnia and Herzegovina, including spousal abuse and rape, remains a widespread and underreported problem. The problem of domestic violence against women increasingly became a topic for public debate.⁹³³ A report by the International Helsinki Federation for Human Rights in 2000 estimated that approximately 30 per cent of women in the country were victims of domestic violence; however, there is little data available regarding the extent of the problem.

1921. As a general rule, women in Bosnia and Herzegovina refrain from reporting cases of family violence, as Bosnian society is traditionally patriarchal and views domestic violence as a part of life. Victims of domestic violence are also very reluctant to report to police, mainly due to a fear of not being understood or of being further ostracized by making their private life public. Consequently, the number of those cases that are actually reported gives a far from accurate picture of the extent of the problem. As is the case with domestic violence, women in Bosnia and Herzegovina do not report rape or other forms of sexual assault. If women victims of these crimes do report to the police, the subsequent investigation frequently involves three or more cross-examinations. Police are untrained and insensitive in investigating sexual offences and the attitude towards the victim is somewhat more oriented to passing judgment on her character. She must also prove that she tried to escape and was unsuccessful in her attempt. Unfortunately though, the law neither defines nor specifies the concrete terms and procedures for proving that the offence took place. As a result, law enforcement in this regard is open to police interpretation, which in practice lessens women's chances of seeking justice.⁹³⁴

1922. Trafficking in women and the expansion of prostitution were serious problems. The country is a major destination and transit point, and to a lesser extent a country of origin, for women and girls trafficked for sexual exploitation. The country is extremely vulnerable to trafficking in persons, because of weak laws, porous border controls, and corrupt police who are bribed easily and facilitate trafficking. An official UNMIBH background paper on anti-trafficking efforts set the number of trafficked women and girls in Bosnia and Herzegovina at approximately 1,000.⁹³⁵

1923. Police complicity at the local level is a serious problem. According to information received, some police and judicial authorities tacitly accept or actively facilitate trafficking. There were allegations of involvement of State Border Service (SBS) officials in facilitating the importation of women, although there were increased instances of some SBS officials finding and identifying trafficking victims. Police, who are responsible for registering foreign workers, were reportedly involved in registering trafficked women in several instances. In addition the Ministries of Labour in both Entities enforced few controls on the issuing of work permits, many of which went to trafficked women⁹³⁶.

1924. It is reported that Government prosecutors have only reluctantly pressed charges against traffickers—and then only for the most minimal violations. In all, since 1999 the Bosnian Government has conducted only a handful of successful prosecutions of trafficking cases. Most cases that have gone to court have been prosecuted as mediation in prostitution, not trafficking, cases.⁹³⁷ And even in those cases that ended in convictions, only a small fraction of the perpetrators served any time in prison. Yet while only sporadically prosecuting traffickers, the Bosnian government still occasionally prosecuted trafficking victims for document fraud, prostitution, and illegal migration status offenses in 2001.⁹³⁸ According to information received, The Bosnian Government largely ignored corruption among police and local authorities, only rarely investigating, disciplining, or prosecuting officials for involvement in trafficking.⁹³⁹

1925. Furthermore, the Government supports limited prevention and protection measures. Law enforcement actions targeting the sex industry have been infrequent, but have on occasion resulted in the detention, incarceration, and deportation of trafficked women. Although the United Nations maintains a programme that provides some legal support to trafficked women, trafficking victims are not encouraged to pursue civil suits against their traffickers. In many cases women are afraid to testify against their traffickers and the judicial system offers them little protection. Local officials have been slow to bring charges of intimidation. The judicial system, beset by fundamental procedural flaws and massive case backlogs, offers only minimal prospects of redress for plaintiffs in civil litigation. Furthermore, the Government does not conduct prevention programs.

Bulgaria

1926. Bulgaria has ratified the Convention on 8 February 1982, and signed the Optional Protocol to the Convention on 6 June 2000.

Legislation

1927. Rape and forced prostitution are the only forms of gender based violence specifically recognized in law. Domestic violence between spouses is treated as a general crime and is only prosecuted by the State when it results in severe bodily injury according to the specific criteria of the Penal Code. If the result is moderate or minor injury inflicted by one spouse on another, according to Article 161 of the Penal Code, the crime is prosecuted upon a complaint by the victim and it is called a "private character crime".⁹⁴⁰ According to the Criminal Procedure Code, victims have the right to initiate a private suit but they seldom exercise this right because they face additional difficulties; for example, they bear the entire burden of proof. Legal counsel is

very expensive and because most of the victims are poor, they can rarely afford to initiate a lawsuit. The process is cumbersome and almost hopeless. An analysis of the court cases in Sofia and Plovdiv for 1996 and 1998 indicates that in 95 per cent of cases the victim subsequently withdraws the complaint.⁹⁴¹ Economic dependence, concern for the children, negative public perceptions of single women, and lack of adequate protection after leaving a relationship are all factors that prevent women from leaving an abusive relationship.⁹⁴²

1928. Rape of a person of the female sex is criminalized, with a sanction of three to 10 years' imprisonment.⁹⁴³ The new draft penal code envisages raising the upper limit. The sexual abuse of any person under 14 is criminalized with sanctions of up to three years' imprisonment. This rises to five years when force is used (Penal Code article 151), and from between one and six years, if advantage is taken of the victim's helplessness, or the victim is reduced to such a condition or if this is a repeat offence, or it is a particularly grave offence. The Penal Code envisages legal protection for women in case of sexual harassment in the work place by taking advantage of economic dependence or official position (art. 153).⁹⁴⁴ The punishment for this crime is deprivation of liberty for up to three years. There are precedents in the practice of the Supreme Court involving the provisions of the above-mentioned article.

1929. Trafficking in women is not prosecuted as a separate offence in the Bulgarian Criminal Code (1968) and the law does not define it as a special offence. This means that there is still no legal concept within the framework of criminal law about this perilous phenomenon. Moreover, the current law indicates that the legislature is far from conceptualizing the phenomenon as a violation of human rights. The very placement of the main provisions with regard to trafficking in women in the chapter on "Lechery" may be interpreted to mean that the legislature views it as a violation of the sexual inviolability of a woman rather than other human rights in general. There are provisions in the Criminal Code that may punish the components of this complex crime. The proposed sanctions for forced prostitution are between three and 10 years for forcible prostitution of women and minors, or for using premises for this purpose.⁹⁴⁵ The new draft penal code includes provisions for pimps. A Law on Combating Trafficking in Human Beings will come into force on 1 January 2003. It brings the United Nations Protocol's definition of trafficking within the Bulgarian domestic legal order. The Act is focused on prevention measures and the protection of victims, with little emphasis on the prosecution of traffickers. The supervision of its effective implementation is entrusted to a national inter-ministerial commission chaired by the Deputy Prime Minister and topping a network of local commissions.⁹⁴⁶ The bill provides for the formation of a "National Anti-Human Trafficking Committee", which would collect information, analyze cases of human trafficking, and prepare strategies for combating trafficking. The committee would consist of representatives of various ministries, state agencies, judicial bodies, NGOs and international organizations. The bill also calls for the formation of local committees with similar functions and a witness-protection program.

1930. The Penal Code, in the sections "Crimes against the Person" and "Crimes against Marriage, Family and Youth", contains provisions related to abducting a woman for the purpose of forcing her to enter into marriage, receiving payment to permit his/her daughter or relative to conclude marriage, violating an obligation to a spouse incapable of caring for herself, living in concubinage with a female person under 16 years of age, procuring for performances of acts of lewdness or sexual intercourse, abducting a person of female sex for the purpose of her being placed at the disposal for acts of debauchery. Under the Law on the Amendment of the Penal

Code in 1997, fines have been increased for the above-mentioned crimes and also for the threat towards someone with a crime against his physical entity or property or against the physical entity or property of his close relative.

Policies and programmes

1931. In 1996 a National Plan for Action, based on the Beijing Plan of Action, was adopted by the Government by a special decision of the Council of Ministers.⁹⁴⁷

1932. The Criminology Research Institute of the Ministry of Interior produced research that showed that violence against women is a serious problem, which affects all strata of the society. The results of this study will be used in order to improve the action of the police in opposing violence against women and their inter-actions with NGOs working with victims of violence. Also, the difficult economic situation, the improper upbringing, the education etc have been identified as causes of the violence against women and therefore suitable programmes are envisaged in information, education, mass media, promotion of NGOs for protecting human rights etc.⁹⁴⁸

1933. During the period 2000-2001 Bulgaria took action to combat trafficking. Government activities were concentrated in the area of law enforcement and legal reform. Trafficking has been treated as a trans-border crime/ illegal migration with little attention being paid to the human dimension of the problem or to the rights of the trafficked persons. The Ministry of the Interior established a Task Force to Combat Human Trafficking in Persons for Sexual Exploitation on 18 June 2001. Moreover, a permanent expert group was also established on 22 August 2001 to solve urgent problems arising from the migration policy of the Republic of Bulgaria.⁹⁴⁹ There are two police units that specifically address the problem of trafficking in persons. One is part of the border police and the other is in the Ministry of Interior's organized crime fighting agency. The Government introduced reforms into its Customs Service that address trafficking. The Government also has increased its international cooperation in this area through the Southeast Europe Cooperation Initiative (SECI) Anti-Crime Center in Bucharest and in bilateral efforts.

1934. To prevent trafficking, the Government has cooperated with NGO and international organization efforts to conduct information and education campaigns to combat trafficking. For example, Bulgaria participates in the 1998-2001 La Strada programme for the prevention of trafficking of women and girls in Central and Eastern Europe. The Government lacks of financial means to establish its own structure of protection services but has been cooperated with numerous NGOs in informational campaigns and in offering services (short-term shelter, legal counselling, medical and psychological treatment and repatriation assistance, as necessary).⁹⁵⁰

Issues of concern

1935. No official statistics on the issue of violence against women are available. According to information received, domestic violence is a widespread phenomenon in Bulgaria although its comprehension and articulation in the public is still in the initial stages.⁹⁵¹ Police reportedly do not interfere in what is regarded the private sphere.⁹⁵² Violence within the family is not treated as a crime persecuted by the State, with the only exception when it results in a heavy physical

a crime persecuted by the State, with the only exception when it results in a heavy physical impairment. Often cases, initiated by victims under private complaint - the normal procedure - conclude by abandonment or by out-of-court settlements.⁹⁵³ Another shortcoming in the legislation is the lack of any specific provisions for dealing with domestic violence and the lack of civil measures, such as court protection orders and restraining orders.

1936. Since the fall of the Berlin Wall in 1989, and the resulting political and economic changes, there has been an alarming increase in trafficking in women in and from Bulgaria.⁹⁵⁴ Unemployment, poverty and the subordinate position of women nourish it. Police officials and social assistance organizations in both Eastern and Western Europe so far only reach a fraction of the victims. According to information received, the Government does not provide relief from deportation or temporary residence status to trafficking victims. The Government has no victim or witness protection capability.

1937. The Special Rapporteur recommends that national legislation should be reviewed, and that effective administrative and police structures need to be created. Media sensitization and training campaigns should also be conducted and the work of women's non-governmental organizations in this area promoted.

Croatia

1938. Croatia ratified the Convention on 9 September 1992 and the Optional Protocol to the Convention on 7 March 2001.

Legislation

1939. A new Criminal Act came into force on 1 January 1999. The law regulates the criminal offence of racial and other discrimination,⁹⁵⁵ including gender-based discrimination proclaimed by the Constitution of the Republic of Croatia.

1940. There is no separate law that regulates domestic violence. The provisions of the Criminal Act and the Family Act (1 July 1999) regulate these matters. Article 118 of the Family Act (III Part, Protection of Rights and Welfare of the Child) specifies that: "Violent behaviour of a spouse or of any adult member of a family shall be prohibited." Violation of this article is sanctioned by article 362 of the Family Act with 30 days' imprisonment. The principle of neutrality also applies to the criminal offences of rape defined in article 188 of the Criminal Act, sexual intercourse with an incapacitated person⁹⁵⁶, and sexual intercourse as a result of abuse of authority.⁹⁵⁷ The group of criminal offences against sexual freedom and sexual morality in the Criminal Act includes the following offences: sexual intercourse with a child (art. 192, CA), acts of indecency (art. 193, CA), satisfaction of lust in front of a child or a minor (art. 194), procuring (art. 195, CA), exploitation of children or minors for pornography (art. 197, CA), and incest (art. 198, CA).

1941. In 2000 the Government revoked 1997 Penal Code amendments that removed domestic violence from the categories of crimes to be prosecuted automatically by the State attorney. As a result, a domestic violence case can be initiated by persons other than the victim; for example, cases can be initiated on the basis of suspicions of health care workers or police rather than

requiring the victim to press charges.⁹⁵⁸ Legislation passed in autumn 2000 created a specific Penal Code provision for family violence to replace inadequate existing provisions, and to direct that perpetrators of family violence, in addition to being punished, be placed under supervision and receive psychiatric treatment. National legislation does not provide yet for the removal of the offender from the shared household, but the Parliament has tasked the Government to come up with a bill envisaging immediate eviction of a violent member of the family household.

1942. Workplace sexual harassment is a violation of the Penal Code's section on abuse of power but is not specifically included in the employment law. However, it is reported that in practice, women who were sexually harassed often did not resort to the Penal Code for relief for fear of losing their jobs.

1943. The law does not specifically prohibit trafficking in persons, although other existing laws may be used to prosecute traffickers (under laws prohibiting slavery, the illegal transfer of persons across state borders, international prostitution, or procurement or pimping). Croatia has signed the Palermo Protocols and is in the process of re-drafting the Criminal Code specifically to include an article on trafficking. From 1998 to 2000, only five criminal offences were reported under article 175 (slavery) of the Criminal Code and 21 under the article 178 (international prostitution). These cases involved 24 trafficked women, the majority from Hungary and Ukraine, but including two girls under 18 from Romania.⁹⁵⁹ Between 1995 and 2000, 56 persons were arrested as intermediaries in prostitution, including six women. These organizers were also sentenced for employing foreigners without a work-permit.⁹⁶⁰

Policies and programmes

1944. Government efforts on gender equality improved in recent years. In March 2001 the Parliament created a Committee for Gender Equality to review pending legislation for compliance with gender equality criteria, and to offer amendments and modifications. In September 2001 the Government established a new human rights office; an existing office on gender equality within the Labor Ministry was upgraded and attached to this human rights office. Among its ongoing tasks were the implementation of the 2001-2005 National Action Plan on gender equality; and the coordination of tasks among ministries, parliamentary offices, unions, and the NGO community to promote gender equality. Furthermore, to improve the efficiency of police officers and to ensure balanced handling of cases involving family violence; by the end of 1999 instructions were issued for the police on how to handle such cases.

1945. At the beginning of 2001, the Ministry of Foreign Affairs organized an Inter-ministerial Meeting on Trafficking and the Ministry of Interior was appointed to coordinate anti-trafficking activities in Croatia. In July 2001, a National Coordinator was appointed, although the government did not officially confirm the appointment. The trafficking working group is developing a National Plan of Action in consultation with NGOs and international organisations. A first draft was finalised at the end of 2001, but without the input of NGOs. The Ministry of Justice has also established a working group on the preparation of the Alien Law and Asylum Law, which will enable provisions for the protection of victims to be developed.

1946. Under the Stability Pact, the Republic of Croatia has signed a “Partner agreement for the preparation of the National Action Plan on the Permanent Stability in the field of Asylum, Migration, Border Control and Surveillance of the State Border” with the Federal Ministry of Interior of the Republic of Germany, the Federal Ministry of the Interior of the Republic of Austria and Ministry of the Interior of the Republic of Slovenia.

1947. In compliance with existing national laws and international human rights instruments, Croatia actively cooperates with the International Criminal Tribunal for the Former Yugoslavia, and takes actions to bring to justice those presumed responsible for torture, crimes against humanity, war crimes and genocide committed during the armed conflict.

Issues of concern

1948. Currently, there is no systematic mechanism for the gathering of data in relation to the amplitude, causes and consequences of violence against women and there appears to be no disaggregated statistical information available concerning the rates of violence against women from different ethnic groups. It is clear, however, that violence and other forms of discrimination against women in Croatia remain serious problems and that comprehensive policies and legislation in order to address the issue of violence against women in the family, in the community and by the State have yet to be developed.⁹⁶¹ There is evidence to suggest that the currently high levels of family and community-based violence in Croatia are directly related to the ongoing impact of the armed conflict. Furthermore, in its concluding observations on Croatia in 2001, the Human Rights Committee noted the lack of a comprehensive law for the prohibition of discrimination on the basis of gender, racial or ethnic identity in private-sector areas such as employment and housing.⁹⁶²

1949. While there is only limited information available on the status of women from ethnic minority groups in Croatia, it is apparent that women⁹⁶³ and persons from minorities⁹⁶⁴ do suffer from various forms of discrimination including violence in the family, in the community and violence perpetrated by State officials and it is, therefore, reasonable to assume that minority women are subjected to multiple forms of discrimination as a result of their gender and their ethnicity. There is evidence of a failure by law enforcement officials to exercise due diligence in the investigation, prosecution and punishment of offences being committed against members of minority ethnic groups. Women from ethnic minorities who do report violence to the police therefore risk being harassed or intimidated by the very authorities who are supposed to protect them. Furthermore, in Roma communities, domestic violence is often dealt with within the community itself, and there is strong pressure on Roma women not to seek outside legal assistance.

1950. There is reportedly no protection or assistance for the women who are abused by their partner/husband. The social welfare system does not provide support services for women victims of domestic violence. The only protection and assistance that is provided when it comes to domestic violence is for the children who are directly abused in the family or the children who suffer as a result of violence against their mother. According to information received, there are no special police units for the prevention or investigation of cases of domestic violence, police are generally “insensitive and untrained for interventions in domestic violence situations” and

often refuse to intervene in situations of domestic violence as they believe that it is a “private matter”.⁹⁶⁵ Rates of conviction for reported sexual crimes have recently declined in recent years.⁹⁶⁶ According to the State Institute for Statistics, there were 98 reported rapes and 63 convictions in 1994. In 1998 there were 116 reported rapes and only 29 convictions.⁹⁶⁷ Other sexual crimes, such as sexual intercourse with a disabled person, are underreported, but it is apparent that the rates of conviction for these crimes are also diminishing. In 1994 there were eight reported incidents and seven convictions. In 1998, there were nine reported incidents and two convictions.⁹⁶⁸

1951. Croatia is a transit country for women trafficked to other parts of Europe for prostitution, and only to a very limited extent a destination country for women and girls trafficked for sexual exploitation.⁹⁶⁹ Police awareness of the problem of trafficking is low, and victims are not encouraged to take legal action against their traffickers. Public awareness of trafficking is low, and there have been no trafficking awareness campaigns in the country. There are no government programmes to deal with the prevention of trafficking. There were no support services available for trafficking victims, and no research related to the dimensions of trafficking. Trafficking victims typically are reportedly detained for illegal entry and voluntarily deported. Women and children who are taken into custody as illegal migrants are not screened as potential victims of trafficking. The border police are not trained to identify trafficked persons, victims of trafficking are treated as illegal migrants or foreigners involved in international prostitution, and are fined according to the national laws governing these offences.

1952. The Special Rapporteur recommends that the Government change the Penal Code in order to establish special regulations that will exclusively deal with the protection of abused women; to initiate special safety measures, such as restraining orders, and measures for the perpetrator’s removal by the police before the judicial proceedings; and, regarding judicial practices, to make the punishment harsher and to open special judicial and prosecuting sections to deal exclusively with such cases. Other recommendations concern: education on the issue of violence against women, and sensitization among those who are involved or will be involved in working with the problem of domestic violence (social workers, attorneys, physicians and medical personnel, psychologists, police workers).

Czech Republic

1953. The Czech Republic ratified the Convention on 22 February 1993 and the Optional Protocol to the Convention on 27 February 2001.

Legislation

1954. A number of improvements have been made in the national legal system with regard to women’s rights. In May 2001, the Optional Protocol to the Convention had entered into force for the Czech Republic. The principle of gender equality had been introduced into the legal system through the revision of acts including the Employment Act, the Labour Code and the Wages and Salaries Acts. Public debate about violence against women is rare, despite the efforts of women's groups to focus public attention on the problem; however, a series of public service

announcements on radio and television received nationwide attention. The press occasionally reported on the problem of violence against women and trafficking in prostitutes.

1955. There is no specialized legislative instrument governing violence against women. Protection of personal integrity against violent attacks is laid down in law. The protection of women is an integral part of criminal law, social and family law, and the civil code. As a response to a general rising crime rate, the criminal law and crime prevention programmes are being gradually reformed. The Government is preparing a new Penal Code in which domestic violence will be specifically addressed.

1956. Current legislation does not address spousal abuse specifically; however, the Criminal Code covers other forms of domestic violence. An attack is considered criminal if the victim's condition warrants medical treatment (incapacity to work) for seven or more days. If medical treatment lasts less than seven days, the attack is classified as a misdemeanor and punished by a fine not to exceed approximately US\$ 80 (3,000 Czech crowns -- approximately one fourth of the average monthly wage). Repeated misdemeanor attacks do not result in stricter sanctions on the abuser.

1957. Sexual harassment is a recognized problem, and the labour law contains a definition of, and prohibition against, sexual harassment. The law defines sexual harassment as unwanted, inappropriate or offensive sexual behaviour, acceptance or rejection of which could be interpreted by another employee as affecting her status in the workplace. Although the law prohibits sexual harassment, studies concluded that approximately one-half of all women have experienced sexual harassment in the workplace. The concerns of women's groups over workplace sexual harassment previously were ignored or dismissed; however, in 1999 a university student became the first woman to win a civil sexual-harassment lawsuit.

1958. The law prohibits trafficking in persons. The penalties for trafficking are roughly commensurate with those for rape and sexual assault. The Government investigates and prosecutes cases of trafficking in persons, although the conviction rates are low. In 2001, 25 persons were prosecuted for trafficking crimes, compared to 13 in 2000. In several cases, they received additional sentences for charges under other sections of the Criminal Code. Organizing prostitution and pimping are illegal and punishable by a prison term of up to 8 years, with a term of up to 12 years if the victim is under the age of 15. (Adults can be prosecuted for engaging in sexual activity with a minor under the age of 15.)

Policies and programmes

1959. The Government maintains a comprehensive awareness and prevention program designed to address problems of trafficking, abuse, and violence against women. A public awareness campaign launched in 2001 highlighted the issue of domestic violence. In April 2001, an inter-ministerial working group had been set up to create interdisciplinary teams allowing for health care, social, legal and police cooperation in detecting and prosecuting cases of violence against women.

1960. To improve police responsiveness and prosecution efforts, the Ministry of the Interior runs a training program in protocols for investigating family violence and sexual crime cases. The police continued to train specialized personnel to handle domestic violence; however, the police do not yet engage in regular contact with welfare and medical services. The Police Academy and secondary police schools have introduced, into both the introductory and continuing education curriculums, instructional material to improve the identification and investigation of domestic violence and sexual abuse cases and to sensitize police to the treatment of victims.

1961. According to information received, rape victims can seek psychological help through helplines or crisis centres. There were 107 state-supported shelters located in most major cities and towns and accept women who have been raped or abused; local NGOs provide medical and social assistance to women. According to information received, the situation has improved, but there still were not enough shelter spaces to meet the demand.

1962. The Czech Police Organized Crime Division includes a Unit on Trafficking in Persons, established in 1995, which cooperates with other nations to enforce these laws. The Czechs cooperate extensively with other Central and Eastern European countries, European Union members and the United States during investigation and prosecution of trafficking cases. In 2001, a school curriculum package was introduced in schools across the country to educate minors about trafficking. In November 2001 the IOM and the Interior Ministry organized a three-day workshop for officials dealing with trafficking problems. The event brought together experts from several countries to discuss methods to combat trafficking. The Government does not provide direct assistance to victims, but does refer them to NGOs that provide assistance. The Government provides funding to some of these NGOs.

1963. Czech society is still living under the influence of deeply rooted prejudices and attitudes regarding the traditional division of roles between men and women. In many cases, these opinions are reflected in an unequal standing of partners within marriage, when raising children, and during divorce proceedings - including their standing before the State authorities.⁹⁷⁰

Issues of concern

1964. The actual extent of violence against women is unknown; however, some studies by experts indicate that it is more common than publicly acknowledged.⁹⁷¹ It is reported that the police do not keep detailed records in relation to the extent and scope of domestic violence.⁹⁷² According to research performed by the STEM agency for the *Bily kruh bezpeci* (White Circle of Safety) organization, 26 per cent of the inhabitants of the Czech Republic have experienced domestic violence directly, and 61 per cent have heard of cases of domestic violence in their surroundings.⁹⁷³

1965. The Special Rapporteur is concerned that the definition of the crime of rape is based on the use of force, rather than lack of consent. Moreover, rape within marriage is not currently considered a specific crime. The Special Rapporteur expresses her concern at the presence of male guards in prisons for women where that may lead to an abuse of their authority.

1966. It is reported that victims of domestic violence do not receive special assistance and there is a lack of professionally trained staff such as psychologists, social workers, police, doctors and nurses who are capable of responding to cases of domestic violence.⁹⁷⁴ Reportedly, neither the police nor the Public Prosecutor's Office nor the courts have a special department for dealing with cases of domestic violence. These authorities are ill-equipped to respond to domestic violence and frequently behave insensitively towards the victims. They reportedly constantly interrogate the victims, accuse them, traumatize them, and make their situations even more difficult.⁹⁷⁵ It is believed that domestic violence is a highly underreported crime in the Czech Republic. When the police are contacted by a woman who is a victim of domestic violence, there is generally a lack of understanding and little willingness to deal with the case.⁹⁷⁶

1967. The Special Rapporteur is concerned about the lack of an adequate response by the authorities to violence perpetrated against Roma women. While in general women reporting domestic violence face an unwillingness to deal with these cases by the authorities, it would appear that systemic police discrimination and violence against Roma communities has made Roma women especially unwilling to approach the Czech authorities for assistance and redress in cases where they are victims of domestic and other forms of violence. The socio-economic marginalisation of Roma women tends to limit their access to justice.

1968. The Czech Republic is a country of origin, transit, and destination country for trafficking in persons. The trafficking of foreign women to the Czech Republic is a new phenomenon. Until 1992 Czech and Slovak women were the main victims of exploitation. Subsequently Belarusian and Ukrainian women were increasingly imported and put on the streets. Now there are more foreign than Czech organized criminal groups. Nightclubs controlled by gangs headquartered in Ukraine and Russia have mushroomed in the region.

1969. Foreign victims of trafficking are reportedly treated as illegal immigrants and either are detained or asked to leave the country within 30 days; however, foreign victims also may be offered temporary residence if they agree to testify against a trafficker. Those detained are sometimes deported, but more often are eventually released and ordered to depart the country within 30 days. Czech citizens who are trafficked to other countries often cannot receive government assistance upon their return because their identity documents were stolen or taken by the traffickers. Returnees also frequently are loath to go to their families or public social service providers for help because of the stigma attached to having been trafficked.

Estonia

1970. Estonia has ratified the Convention on 21 October 1991, but has neither signed nor ratified the Protocol to the Convention.

Legislation

1971. Since 1998, violence against women has been recognized in Estonia as an expression of uneven distribution of power between men and women. While the Constitution ensured equality before the law for all and prohibited discrimination on the basis of sex, the concept of "discrimination against women" was not defined in the effective legislation. However, a new

Gender Equality Act proposed by the Government clarified the terminology and definitions with regard to gender equality. The draft law also explicitly prohibited direct discrimination, established measures against indirect discrimination and provided for gender equality in education, training and employment. As of the end of 2002, the proposed law was awaiting a first reading in the Parliament. For the third year, promotion of gender equality was included in the annual government plan.

1972. Neither domestic violence nor marital rape are criminalized, although they can be prosecuted under existing law.⁹⁷⁷ Marital rape can be identified as rape if proven in the pre-trial investigation. In such cases, the court can impose sanctions on the offender, including husbands. The sexual abuse of children is a criminal offence punished with a term of imprisonment of up to ten years.

1973. A new Penal Code was adopted in June 2002 containing a provision to criminalize trafficking in women.⁹⁷⁸

Policies and programmes

1974. Significant improvements in combating violence against women have occurred, including the creation of a sociological database of the scale and scope of violence against women; and a large-scale project aimed at elaborating cooperation between the police and social workers in respect of prevention activities and assistance to victims. A government action plan for mitigation and prevention of violence against women is being formulated and includes as objectives convincing the public of the danger of violence against women; improving legislation; raising the capacity of police; introducing a victim-centred approach; and increasing inter-agency cooperation.

1975. In 2000 the Government concluded several interstate cooperation agreements concerning fighting crime including trafficking in persons. It also concluded several bilateral agreements on the extradition of Estonian citizens accused of trafficking in other countries. The Ministry of Social Affairs and the Statistical Office have compiled data on 15 refuges and eight rehabilitation centres established in the majority of countries by the local authorities or NGOs. Confidential telephone services are available in all countries. The Ministry of Social Affairs has channeled some foreign financial aid into the establishment of confidential telephone and family counseling services and the network of shelters for abused.

Issues of concern

1976. One area of concern is the resurgence of traditional gender attitudes that the country has experienced in the last decade, as a backlash against the obligatory equality between the sexes that was enforced during the Soviet era.⁹⁷⁹ Domestic violence is still a taboo and together with other factors, including a lack of financial resources, this often prevented women from leaving violent partnerships. As the issue of violence against women has not yet been widely discussed in society nor within the legal profession, the enforcement and interpretation of laws, as well as the police and court practice in these cases are too narrow and do not take fully into account the

specific nature of violence against women. There is shortage of well-funded shelters for battered women and children.

1977. According to reports, rape and attempted rape occur relatively infrequently.⁹⁸⁰ However, studies show that 40 per cent of crime goes unreported, including domestic violence. Even when the police are called, the abused spouse often declines to press charges, due to societal pressure. The police and experts investigative officers are not trained to handle incidents of violence against women, and there is no specialized department within the police or the prosecutor's office to deal with cases of rape.

1978. While there were no official reports in 2001 that persons were trafficked, to, from, or within the country, it is generally believed that Estonian women were trafficked to Central Europe for prostitution.⁹⁸¹ However, there were no arrests or prosecutions of traffickers in 2001. There is still not enough information on trafficking or a comprehensive policy to address the problem, as well as no specific legislation regarding trafficking in women and the punishment of traffickers. Furthermore, there are reportedly no special support services for victims of trafficking in Estonia, but women may receive medical and psychological support in Estonian medical treatment establishments and from NGOs.

1979. The Committee on the Elimination of All Forms of Racial Discrimination expresses its concern about the situation of the Russian minority residing in Estonia, inter alia in relation to issues under article 5 of the Convention, especially economic, social, and cultural rights, including the right to employment, health care, and education. The Committee is particularly concerned about double discrimination against women, based on sex and on national or ethnic origin.⁹⁸²

1980. The status of a refugee is awarded only if a person has a reasonable fear of persecution on the ground of race, religion, nationality, membership of particular social group or political opinion. Persecution based on sex is not recognized as a ground for granting refugee status.

Georgia

1981. On 22 September 1994 Georgia has joined the Convention. Georgia has not ratified the Optional Protocol of the Convention.

Legislation

1982. In conformity with the Constitution of Georgia, every human being is equal before the law regardless of, inter alia, his/her sex (arti. 14). In general, the constitutional provisions guaranteeing human rights and freedoms are based on principles of gender equality and non-discrimination. Furthermore, the Georgian legislation, proceeding from the constitutional principles, attaches particular attention to equality between men and women, in criminal, civil or any other matters. However, discrimination and violence against women are still a deep problem in the country, mainly caused by traditional views concerning the role of a woman in society and family.

1983. There are no laws that specifically criminalize spousal abuse or violence against women, although the criminal law that entered into force on 1 July 2000, classifies marital rape and sexual coercion as crimes. The new Criminal Code of Georgia contains chapter XXII entitled “Crimes against sexual liberty and sexual inviolability of person”. This chapter contains several articles relating to corpus delicti associated with rape/sexual assault. Like marital rape, incest does not appear in the Penal Code as a crime. Moreover, there are no legal provisions on child abuse within the family. As a result, incest is also a hidden crime in Georgian society and there is no data available to demonstrate that there is an awareness of the existence of the problem.

1984. The Criminal Code envisages also the following crimes: coercive actions of a sexual nature; compulsion to sexual intercourse with exploiting of official dependence of a victim, or under the menace of disclosure of disgracing information about a victim; sexual intercourse or other sexual assault against a person under the age of 16 years; lecherous actions against a person under the age of 16 years. The Criminal Code provides for various punishments for the crimes listed above, in particular: rape is punished with 3 to 7 years of imprisonment, under aggravating circumstances 5 to 20 years.⁹⁸³ The criminal legislation of Georgia makes no distinction between rape committed in marriage and rape, as such. The criminal legislature of Georgia does not include sexual harassment.

1985. In conformity with the law in force prostitution as such does not constitute a crime. However, according to the new Criminal Code, the following acts are classified as crimes: inveigling into prostitution through use of violence, threat of violence or of destruction of property, as well as by blackmail or fraud (art. 253); organisation and keeping of the den for prostitution (art. 254); inveigling a minor into prostitution or other sexual lechery (art. 171, para. 1). Various sanctions are imposed for commitment of these crimes: from fine to imprisonment up to two to five years. The law does not prohibit specifically trafficking in persons, although trafficking can be prosecuted under laws prohibiting slavery, forced labour, illegal detention, and fraud.

Policies and programmes

1986. A group has been established within the office of the Ombudsman for Human Rights dealing specifically with the issues of women and children; the Commission for the Elaboration of a State Policy for the Advancement of Women has also been established in collaboration with the United Nations Development Programme and the World Bank.

1987. Based on conclusions/recommendations adopted by the Committee on the Elimination of Discrimination against Women,⁹⁸⁴ a Decree of the President of Georgia “About the Measures on Strengthening the Protection of Human Rights of Women” entered into force on 28 August 1999. According to the Decree, the State Commission was entrusted with preparation of a national “Action Plan on Combating Violence against Women for 2000-2002”. The Ministry of Internal Affairs, in collaboration with the Prosecutor’s Office, was instructed to collect and process the data regarding every fact of violence against women, as well as to provide the registration of facts of domestic violence and carry out preventive measures for exposing and eliminating such kind of violence.

1988. The Presidential Decree was followed by the Order no. 64 “On Approval of the Action Plan on Combating Violence against Women (2000-2002)”. The present Action Plan provides for objectives such as: improvement of research into the nature, character and results of violence against women, analysis of the application of legislation against violence; prevention of domestic violence and decrease of such kinds of cases; elaboration of special programmes for potential perpetrators; development of legislation, execution of laws and court decisions; assistance to and protection of victims of violence; Combating ethnic violence, support of victims of ethnic conflicts, deportation, internal displacement or exile; obtaining information on cases of violence against girls, coordinating study of causes and results, making them a subject of public discussion, analysing the application of legislation available in the field of violence against girls; prevention and elimination of trafficking in women for the purpose of sexual exploitation.

1989. Within the framework of the “Presidential Programme on Social Protection” and “Professional Training and Prevention of Delinquency in Adolescents” (1996-1999), special rehabilitation centers were set up for children in conflict with the law. Minor prostitutes are also sent to these centres where they have the opportunity to get comprehensive education and development. Furthermore, the Government established a hotline for abused women.

1990. In regard to the question of trafficking, a special section of the “Action Plan on Combating Violence against Women” is to be noted. In order to provide prevention and elimination of trafficking in women, to condemn trafficking for the purpose of sexual exploitation as an infringement of the basic principles of human rights, the following measures are stipulated by the Plan: to define trafficking in all its elements and reinforce the sanctions accordingly; to collect data on trafficking for the purpose of sexual exploitation; to facilitate cooperation among law enforcement, migration, social, legal and administrative bodies for elimination of trafficking in women. However, the programme has reportedly not been implemented due to budgetary constraints.

Issues of concern

1991. It is reported that violence against women remains a problem in Georgia. Various forms of family violence have been observed in 50 per cent of Georgian families.⁹⁸⁵ A survey on physical abuse conducted by the NGO International Centre for Civic Culture during April-May 2000 shows that domestic violence is a serious problem in Georgia. Domestic violence continued to rise as economic conditions became more difficult. It is alleged that spousal abuse occurs frequently but rarely is reported or punished because of social taboos against raising the problem outside of the family. According to information received, police did not always investigate reports of rape.⁹⁸⁶ There are anonymous telephone services that assist rape victims, but no shelters, specialized services, or other mechanisms to protect or assist them. Sexual harassment and violence against women in the workplace is also a problem, especially as economic conditions worsen, and rarely investigated.

1992. The kidnapping of women for marriage continued to occur, especially in rural areas, although the practice continued to decline. Such kidnappings often are arranged elopements; however, at times these abductions occurred against the will of the intended bride, and sometimes involved rape. It is reported that police rarely took actions in such cases.

1993. Georgia is a source and transit country for women trafficked primarily to Turkey, Israel, Greece, and Western Europe for purposes of sexual exploitation and domestic servitude. There are only a few victim protection services and these are provided by NGOs.⁹⁸⁷ One measure of prevention efforts was the formation of the Strategy Department in May 2001 to address victim rights. This office is taking the lead on trafficking but does not have financial resources to fund information campaigns. The Special Rapporteur is concerned that the absence of specific laws on trafficking makes it difficult to pursue criminal cases against suspected traffickers. Moreover, police indifference to the problem of trafficking leads to impunity for this violation of women's human rights.

1994. The Special Rapporteur is concerned about reports that police officers reportedly beat and raped prostitutes, and harassed or abused street children.⁹⁸⁸ Moreover, the Special Rapporteur notes that women representatives of ethnic minorities experience double discrimination as women and representative of the ethnic minority.

1995. The armed conflicts in the regions of Abkhazia and South Ossetia that erupted in the early 1990s are still unresolved. Although cease-fires are in effect, incidents of sporadic violence continue to occur in Abkhazia. The armed conflicts have primarily affected women. There are currently 280,000 internally displaced persons in Georgia who have been uprooted as a result of the armed conflict.⁹⁸⁹ The overwhelming majority of these internally displaced persons, some 266,000, are ethnic Georgians from Abkhazia, while the remainder were displaced by the conflict in South Ossetia.⁹⁹⁰ Women make up approximately 55 per cent of the population of internally displaced persons (IDPs).⁹⁹¹ Women have reportedly been the primary targets of sexual and physical violence, both during and after the termination of the hostilities in Abkhazia.⁹⁹²

1996. The Special Rapporteur recommends that the Government take effective measures, including the enactment and implementation of appropriate legislation, training of police officers, promotion of public awareness, and, in more concrete terms, human rights training to protect women against violence.⁹⁹³ Furthermore, programmes of rehabilitation and reintegration should be developed for the victims of sexual exploitation in prostitution and cross-border trafficking. Comprehensive measures to eliminate gender stereotypes through a number of efforts should also be taken, including the review of textbooks beyond primary education and the sensitization of teachers. The Special Rapporteur recommends the establishment of a network of crisis centres and the expansion of consultative services so as to render the necessary assistance to women victims, especially girls, both in urban and rural areas.

1997. It is noted that there were no women representatives in the Georgian Government delegation participating in the meeting of the Security Council on 29 July 2002, which was to present women's concerns and women's points of view on conflict resolution and peace building. In this regard, the Special Rapporteur recalls resolution 1325 (2000) which urges Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for prevention, management and resolution of conflict.

Hungary

1998. Hungary ratified the Convention on 22 December 1980, and signed the Optional Protocol to the Convention on 22 December 2000.

Legislation

1999. Since the amendment of the Penal Code in 1997, rape in marriage constitutes a criminal offence. In 2001 Parliament enacted legislation that prohibits domestic violence and establishes criminal penalties for those convicted of such acts. Concerning domestic violence, a concept was elaborated in April 2001, taking into consideration international conventions and the practices in western countries. However, this concept, which could serve as the basis for a draft bill, has not been fully discussed even in the Ministry of Social and Family Affairs, which is responsible for this area.⁹⁹⁴

2000. Since the modification of the Criminal Law in 1997, sexual assault and indecent assault with violence constitute criminal offences. The law does not prohibit sexual harassment in the workplace. The Labour Code regulates questions of security in the workplace; acts of sexual harassment may be prosecuted under the defamation statutes (if violent, such acts are considered sexual misconduct). Sentences of up to three years' imprisonment may be imposed for sexual harassment. In 2001 it is reported that no charges were brought under this provision of the Labour Code.

2001. In recent years, continuous efforts have been made to elaborate a system, to prevent and control prostitution, without violating the rules and principles of the Convention on the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others. The result was a new law, based on a so-called *limited abolitionist* concept. According to this model, there are *zones of prohibition*, described by the law, where prostitution is not allowed and *zones of tolerance* to be created by the local governments, in the places where prostitution dominantly appears. By introducing a limited abolitionist concept that partly legalizes prostitution, the aim is to prevent prostitutes from exploitation by pimps and traffickers and to gain/strengthen the prostitute's independence and self-determination.⁹⁹⁵ On 1 March 1999, an amendment was introduced to Chapter XII of the Penal Code, which penalised trafficking in human beings.⁹⁹⁶ Severe penalization for trafficking in human beings, pornography, smuggling of people etc. are parts of the combat against organized crime. In 2000 a total of 13 trafficking cases were reportedly brought to trial, all of which remained pending at the end of 2001.

Policies and programmes

2002. In 1995, the Office of Women Policy was established within the framework of the former Ministry of Labour. Since 1998, it has operated in the framework of the Ministry of Social Affairs and Family Matters under the name Office on Women's Issues. The Office is providing support and a forum for the general NGOs as well as for those dealing with women's issues. In 1999, the Council for Women's Issues was established in order to accelerate the implementation of legislation and programme of action to secure equal opportunities of women. In December 1999, it established an Ad Hoc Committee against Forced Prostitution and Trafficking in Persons

to deal with this problem. This committee's tasks are to elaborate measures on prevention, information, and assistance for victims and training, in cooperation with authorities and NGOs.

2003. Regarding protection, it is reported that the government provides only limited assistance to trafficking victims.⁹⁹⁷ In theory, assistance with temporary resident status, short-term relief from deportation, and shelter assistance are available to trafficking victims who cooperate with police and prosecutors. There are, however, no documented cases of such assistance having been rendered. A Victim Protection Bureau was established in 1998 within the framework of the Ministry of Interior. Its tasks include coordinating and organising the establishment of more victim support organisations, to examine, develop and supervise the conditions and circumstances for victims at police stations, as well as to provide training for police officers in the field of victimology. The police have established special departments for organized criminality, prostitution and crime prevention.

2004. Steps are being taken by the Government to establish a close contact with relevant NGOs and to support their activities.⁹⁹⁸ The Ministry of Social and Family Affairs is sponsoring a project to disseminate information on trafficking in women and to provide training for the police and NGOs on assistance to victims. The Government cooperates with foreign countries to facilitate improved police cooperation to combat organized crime and trafficking in persons.

Issues of concern

2005. The Special Rapporteur is concerned about the prevalence of violence against women and girls, including domestic violence. It is hard to estimate the extent of domestic violence in Hungary as there have been few surveys⁹⁹⁹ and official statistics do not reveal this data. Official statistics indicated in 2000 that 25 per cent of women over the age of 14 years are victims of domestic violence. In 66 per cent of the cases of crimes against the person, including homicide, the victims are women and the offenses take place at home.¹⁰⁰⁰ However, as the figures depend on crimes reported to the police, it is likely that these figures are underestimated. The vast majority of violence against women reportedly happens in the family in Hungary.¹⁰⁰¹ In spite of all these facts, there is reportedly little done to raise awareness of the subject in the public opinion, in the media and in education. There are several organizations (shelters for mothers, emergency lines) where women victims of domestic violence can get help, but significantly more help would be needed. It is also reported that there is little support for efforts to criminalize sexual harassment, and that sexual harassment is tolerated by women who fear unemployment more than harassment.

2006. The Special Rapporteur is particularly concerned that no specific legislation has been enacted to combat domestic violence and sexual harassment and that no protection or exclusion orders or shelters exist for the immediate protection of women victims of domestic violence. The Special Rapporteur supports the Committee on the Elimination of the Discrimination against Women that recommends the drafting of a proposal for development and implementation of effective methods for the elimination of domestic violence, also introducing reforms in legislation.¹⁰⁰² The Special Rapporteur stresses the need of a specific law on violence against women, the existing law covering only the ordinary kinds of violence, and states that the Penal Code is in need of harmonization and modernization, regarding crimes against sexual morality.

According to the Government, the codification procedure addressing the issue would be finished in 2004.¹⁰⁰³ Furthermore, the Special Rapporteur recommends to the government to develop programmes for the prevention of domestic violence within the system of public education. It would be also desirable to call the attention of NGOs and the Office for Refugees and Immigration and local governments to the situation of single women with children in refugee camps.

Latvia

2007. Latvia acceded to the Convention on 14 April 1992. It has not submitted a country report, but it has replied to the Secretary-General's questionnaire on the implementation of its plan of action.

Legislation

2008. The Constitution states that all persons are equal under the law, and amendments to the Constitution passed in 1998 ban discrimination due to race, sex, religion, language or disability.

2009. There are no laws specifically banning domestic violence in Latvia's new Criminal Law written in 1999. Marital rape and abuse are sentenced under other categories, and depending on the severity of the crime, fines, police supervision, or up to 15 years imprisonment could be applied as sentences.

2010. Rape is punishable by five to 20 years in prison depending on the severity of the act. According to Latvian law, only females can be victims of rape. Forced or violent sodomy, whether the victim is male or female, does not constitute rape and receives a lesser sentence.¹⁰⁰⁴ Sexual harassment is not specifically defined under Latvian law. However, in some cases it can be classified as other offences such as threat of rape or offence against a person's honour.

2011. Prostitution of adults is legal, but procuring, pimping and forcing someone into prostitution is not.¹⁰⁰⁵ Prostitutes must carry a medical card, and it has also been reported that prostitutes have no formal legal protections.

2012. In May 2000 a revision to the Criminal Code made it illegal to forcibly send a person to another country for sexual exploitation, however there is no law that specifically bans trafficking in persons. Certain Criminal Law articles prohibit elements of trafficking in women, such as forced prostitution, pimping and incapacitation of a person's freedom.¹⁰⁰⁶

Policies and programmes

2013. Since 2000, the Latvian Government has begun to allocate more resources to combat trafficking, including increased funds for police working on trafficking issues. A high-level working group on trafficking has also been established. It includes representatives of the Ministry of the Interior, The Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Welfare, and the National Centre for the Protection of the Rights of the Child. The Ministry of

the Interior, which comprises the State Police and the Citizenship and Migration Department, handles most trafficking issues.

Issues of concern

2014. Domestic violence is thought to be a significant problem despite the absence of official statistics. Police compile figures on domestic violence under general categories such as assault or battery, and not as a distinct category. Though spousal abuse and marital rape are illegal, cultural norms are said to prevent most domestic abuse cases from making their way to court.¹⁰⁰⁷ According to observers, the legal system in general is reluctant to view domestic violence in a serious light.

2015. In 2001, 112 cases of rape were reported. Many victims of abuse are thought to be reluctant to seek redress through the justice system because they are not well informed about their rights.

2016. Though prostitution is legal, it is often linked to organized crime. The NHRO reports that prostitutes have no legal protections and there are no State institutions that assist or protect adult prostitutes. However, the privately run Latvian Centre for Gender Problems reportedly provides medical and social assistance to prostitutes.

2017. Latvia is a country of origin and of transit for trafficking, and the number of Latvian women trafficked abroad for sexual exploitation is increasing. Women are reportedly lured through false job offers, modelling agencies, nightclubs, and travel agencies and trafficked to Germany, Switzerland, Denmark, Spain, Greece, Italy and the United Kingdom. They are largely drawn from economically depressed areas in Eastern Latvia. There is no State assistance program for trafficking victims; however there are a few NGOs that work with prostitutes and educate youth about trafficking issues.

Lithuania

2018. Lithuania has ratified the Convention on 18 January 1994, and signed the Optional Protocol to the Convention on 8 September 2000.

Legislation

2019. The Constitution provides for equal rights for men and women; however, women continued to face discrimination. The Law on Equal Opportunities, which provides for the definition of sexual harassment, entered into effect in 1999. The Office of the Ombudsman for Equal Opportunities of Women and Men was established in May 2000. The Ombudsman's Office is an independent agency, accountable to the Parliament, which oversees the implementation of the law and investigates complaints concerning violations of gender discrimination and sexual harassment. The ombudsman also has some enforcement powers in this regard, and the new Criminal Code contains criminal sanctions for discrimination or harassment.

2020. The law does not criminalize specifically domestic violence but specifically prohibits rape¹⁰⁰⁸. Sexual intercourse through resorting to physical violence or threats, or by taking advantage of the helpless state of the victim, incurs punishment (4 to 7 years imprisonment). Persons convicted of rape generally receive sentences of from 3 to 5 years in prison. There is no law specially designed to tackle rape and sexual assault in marriage, however article 118 of the Penal Code is also applied by courts in cases of rape in marriage if the requirements defined in this article, i.e. abuse, physical coercion, helpless position of a victim, etc. are fulfilled. The same sanctions are applied for rape in marriage as in rape outside marriage.¹⁰⁰⁹

2021. There are no legal mechanisms to stop a perpetrator of domestic violence by police and prevent future violent behaviour, unless an incident resulted in murder or heavy injuries. Criminal procedure in cases of violence by a stranger or in the domestic environment is different. In the case of domestic violence, police make investigation and brings the case to the court, even if a victim refuses to make a complaint herself. In cases of violence in the domestic environment, the victim personally has to bring the case to the court (or apply personally to the police).¹⁰¹⁰ Private cases are analysed by judges without pre-investigation by prosecution (unless there are no heavy injuries). But in all these cases the application of a victim is obligatory.

2022. Prostitution is illegal (administrative offence) but not prohibited under the Criminal Code. The penalty for prostitution is limited to a fine of US\$ 75-125 (300-500 litai) for a first offence. Lithuania has criminal and labor laws against slavery, sale and trafficking of persons for sexual abuse, material or personal gain, and trafficking of persons for prostitution. A 1998 law criminalizes trafficking in persons for purposes of sexual abuse: the penalty is 4 to 8 years' imprisonment.¹⁰¹¹ The penalty is increased from 6 to 12 years if the crime was repeated, premeditated, and committed by a dangerous criminal or against juveniles. Additional punishment, such as confiscation of property, may also be applied. Recent amendments to the Criminal Code and Criminal Process Code allow for separate testimony of a victim in trafficking cases to a judge in order to provide an alternative for victims who are fearful of testifying in open court. These amendments also permit the introduction into court of video-taped testimony of foreign victims of trafficking.

Landmark cases

2023. In 2001 the police investigated 14 cases of trafficking in persons (four cases in 2000). In 2000 two cases had reached the courts: in one case the suspect fled; in the other, the court ordered the trafficker committed to psychiatric care. In the former case, a young woman was lured abroad by the promise of better pay in foreign hotels and bars but was forced to work as a prostitute in Spain. She was the first victim to sue the traffickers and to speak out about the problem in public. Several other victims were witnesses in the case.

Policies and programmes

2024. In 1999, the Government, with the support of UNDP, had launched a project on training police officials to deal with the issue of violence against women. The Police Department had established, in the Academy of Law, a special course on preventive measures to combat violence against women and children. Telephone hotlines and crisis centres have been created with the

collaboration of non-governmental organizations to provide information and assistance to women victims of violence.¹⁰¹²

2025. Resolution no. 29 of the Government of Lithuania on the National Programme against Commercial Sexual Exploitation and Sexual Abuse of Children was adopted on 11 January 2000. Two major stages of implementation are established: 2000-2001, to determine the extent of sexual exploitation and sexual abuse against children; 2002-2004, to create the fundamental principles of a control and preventive system. The development of a preventive system against commercial sexual exploitation and sexual abuse of children is linked to legal, economic, social, information, analytical, organisational and other measures covered by this programme.

2026. An inter-ministerial commission is scheduled to coordinate the implementation of the anti-trafficking program for 2002-04, and a higher level committee will deal with a broader range of trafficking-related issues. Five officers from the Office of Criminal Business Investigation at the Organized Crime Investigation Service of the Police Department and the Ministry of Interior are directly involved in anti-trafficking activity. These services also exchange relevant information with the Border Police, Customs, the Prosecutor General's Office, Special Investigation Service, State Security Department, and the Ministry of Defense. Since 2000 the Government has collected statistics on deported persons.

2027. There are no specific government assistance programs for victims of trafficking; however, the police offer protection for witnesses. To protect victims, the government provides funding to the Missing Persons Support Center, which is a shelter that also runs a hotline, and can place victims and witnesses at shelters run by local governments and NGOs. State-run health care facilities provide free medical care for victims and witnesses, and the police provide limited financial assistance to victims and witnesses as well as some legal counselling services. The Government can assist victims by providing temporary or permanent residence status.

2028. The Pedagogic Psychology Center of the Education Ministry conducts preventive work among potential victims of sexual abuse and trafficking. The Ministry prepared informational material on sexual abuse against children for teachers and parents, and problems of trafficking are discussed during ethics and religion classes in the schools. Over the past several years, a number of anti-trafficking campaigns were carried out by NGOs and the media. Starting in 1997, the support centre has organized annual conferences on trafficking, sponsored and supported by the Government, the European Union, local and foreign associations, and NGOs.

2029. The Government has procedures to cooperate with other Governments on trafficking cases, specifically with Belarus, the Russian Federation, and Ukraine, and also cooperated with Germany and Norway.

Issues of concern

2030. Summarizing the results from various surveys,¹⁰¹³ the general conclusion could be made that the most serious and growing problems for women in Lithuania are domestic and sexual violence, even though highly underreported.¹⁰¹⁴ According to reports, there are no consultative centres, phone lines offering psychological help, or other services specifically dedicated to

victims of rape and sexual crimes. Furthermore, there are no legal mechanisms to protect victims from future violence, such as procedure to remove the assailant from the domicile or prohibit future contact with the victim.¹⁰¹⁵

2031. Lithuania is a source, transit and destination country for trafficking in women and children. Lithuanian women are trafficked primarily to Germany, Spain, Belgium, Netherlands and Norway. The Middle East (Israel and United Arab Emirates), France and Austria are also destination countries. Women from the Ukraine, Russia, Belarus, Latvia and the Lithuanian countryside are trafficked to major Lithuanian cities. A limited number of police agents are involved in investigating trafficking cases. There is no direct evidence that government authorities or individual members of government forces facilitate, condone, or otherwise are complicit in human-trafficking activities. However, the customs and border guards are believed to be very corrupt, and human right groups blame them for neglecting the fight against trafficking.¹⁰¹⁶

2032. According to Government resolution No.77 of 21 January 1998 on the Implementation of Action Plan of the Advancement of Women in Lithuania in 1998-2000, the legal basis (Criminal Code) should be permanently improved. Training of law enforcement officers on the issues of violence against women should also be developed, and the programme on the prevention of child and forced prostitution prepared. Defining sexual harassment in the law and establishing liability in the Criminal Code are other commitments that have been reported. Moreover, new inter-state agreements on legal assistance between Lithuania and other States should be implemented.

2033. The Special Rapporteur recommends that the government amend article 118 of the Criminal Code in order explicitly to define rape as sexual intercourse without consent, and to introduce a specific law prohibiting domestic violence against women, which would provide for protection and exclusion orders and access to legal aid and shelters.

2034. The Special Rapporteur recommends also that the Government continues to pay serious attention to domestic violence against women, including through ongoing training of police officials, future lawyers and judges and through easy access to courts by the victims of domestic violence.

Poland

2035. Poland ratified the Convention on 30 July 1980, but has neither ratified nor signed the Optional Protocol to the Convention.

Legislation

2036. Poland has not enacted comprehensive legislation in relation to domestic violence; however, there are certain provisions of the Penal Code that can be invoked by women who are victims of this form of violence. In the Polish Penal Code, the sections dealing with crimes of abuse against family members are found in the chapter entitled "Crimes against Family and Custody." Abuse is defined in article 207, paragraph 1 (formerly 184), which covers both physical and psychological violence. Basically, the provisions of the new Penal Code are not

markedly different from those contained in the Code in force until 1998. The novelty is paragraph 2, which deals with violence committed with particular cruelty. Physical abuse is illegal and spousal rape is treated in the same manner as other types of rape. Sentences for abuse of family members range from three months to five years or from two to 10 years if the victim attempts suicide as a result of the abuse. However, statistics show that a large majority of convictions (83 per cent) result in suspended sentences.¹⁰¹⁷

2037. According to Polish law, rape is a crime against personal sexual freedom and morality. It is a publicly prosecuted crime but only prosecuted upon the request of a victim.¹⁰¹⁸ If the offender commits the crime with particular cruelty, or commits the crime with other people, the jail sentence should range from two to 12 years. In comparison to the Penal Code in force until September 1998, however, this penalty was lowered; under the new code, rape constitutes a misdemeanor not a felony as under the old penal code. Apart from this reduction, the new Code provisions seem to be quite modern: they do not specify the gender of the rapist or the victim; they embrace homosexual rape, marital rape and the rape of prostitutes. The new Code redefined the meaning of rape: although no Supreme Court guidelines have been issued on this subject, the wording and literature limits the scope of basic definition of rape. The sexual acts covered by the first paragraph seem to be limited to sexual intercourse and not cover other forms of sexual abuse. These other sexual actions, referred to in the second paragraph, are punishable, but the sentences provided under the new law are much lower. There are positive changes too. For example, according to the new law, gang rape is charged when two or more people commit the crime (before the minimum was three) and the victim cannot withdraw the charges after filing a motion. In cases of rape, it is incumbent on the victim to instigate proceedings. Abortion is illegal in Poland.

2038. While there are no laws specifically addressing sexual harassment, social awareness of the problem continued to increase, and there are mechanisms to deal with the problem. This type of crime is only investigated if the victim reports it. Because of women's lack of awareness about the possibility of punishment for this kind of crime, difficulties in proving it, and unwillingness to speak about it for fear of losing their jobs, very few cases have been brought to the court. The Ministry of Justice statistics do not even include this offence.

2039. New offences were introduced into the Polish Criminal Code as to the issue of trafficking. Of particular note were the enslavement of others, the recruitment of others for the purposes of prostitution and the traffic in women. The law prohibits trafficking in human beings and pimping and imposes sentences of up to 10 years on those convicted. It also bans recruiting or luring persons into prostitution; penalties for this offence are also up to 10 years. The most severe sentences are reserved for individuals trafficking in children and those luring women into prostitution abroad. In 1998 statutes on trafficking were revised (art. 203 and art. 253 of the Penal Code).

2040. The scope of trafficking in the country is most likely much larger than the numbers reflected in prosecutions and arrests for specific violations of the criminal code. The numbers arrested, indicted and prosecuted in Poland have increased considerably over the course of the last three years. In 2000 the Government prosecuted 198 cases under article 204, which prohibits luring persons into prostitution, and 13 cases under article 253, which pertains to trafficking in

persons and organizing adoptions for material benefit. In the first half of the year 2001, the Government prosecuted 345 cases of luring persons into prostitution and 11 trafficking cases. As of August 2001, the Government had prosecuted 345 cases for luring persons into prostitution and 11 trafficking cases. It is not clear whether this increase is due to a growth in the number of women trafficked or to greater activity by the authorities.

Policies and programmes

2041. In 1998 the police, in cooperation with the State Agency for Solving Alcoholic Problems, introduced the "blue card," a record-keeping system designed to better document incidents of spousal abuse.

2042. In spring 1999 the Warsaw police have started a training program for policewomen to prepare them for work with rape victims. Chief Warsaw Police Officer delivered an order saying that every woman fallen victim to rape has the right to be interrogated by a policewoman. In the Main Police Office a special group was set up to deal with violence issues. In July 2000, the Government established an Office of Victims' Rights Spokesman at the Ministry of Internal Affairs and Administration. The main task of the office is to ensure that victims of violence are treated with respect by law enforcement and the judicial system. The office provides legal and psychological assistance for victims and their families.

2043. To prevent trafficking, the Ministry of Foreign Affairs has an information campaign aimed at travellers and tourists to warn them of the dangers of trafficking and to educate them about its existence in Poland among brothels and escort agencies. The government works with NGOs who sponsor training to increase border guards' awareness of trafficking and to improve their ability to detect trafficked victims. The Government funds programmes that indirectly help prevent trafficking, including public-awareness campaigns against domestic violence and child abuse and programmes to lower the teenage dropout rate. The Government has a positive relationship with NGOs who provide considerable assistance to prevent trafficking. The Ministry of the Interior and Administration works on reducing women trade. For the last four years the Ministry of Foreign Affairs has cooperated with respective organs in other countries to deal with the problem of sexual abuse of Polish women abroad.

Issues of concern

2044. At the invitation of the Government of Poland, the Special Rapporteur visited Warsaw and Szczecin in Poland from 24 May to 1 June 1996, to study the issue of trafficking and forced prostitution of women (E/CN.4/1997/47/Add.1). In her report, the Special Rapporteur underlined that trafficking in Central and Eastern Europe (CEE) reached epidemic proportions in the beginning of the 1990s. In fact, Poland is in a singular situation regarding trafficking as it is a country of origin, of transit and of destination for victims of trafficking. According to the international NGO La Strada's estimates, up to 10,000 women are trafficked yearly out of Poland to the West, and approximately 60 per cent of the 2,500 foreign prostitutes in Poland have been trafficked.¹⁰¹⁹

2045. Deportation practices in Poland make incrimination of traffickers difficult. Illegal migrants must be repatriated within 48 hours from the time of arrest, during which time they are kept at prison-like detention centres. Most police do not suspect that an illegal migrant prostitute may be a victim of trafficking. The hectic deportation process, language barriers and the prevalent negative attitude to prostitution prevent attempts to understand her situation. Victims have no legal status, and there are almost no public resources available to assist them.¹⁰²⁰ If a girl is recognized as a victim of trafficking, she will be given a temporary visa for the duration of the court proceedings but no safe shelter, allowance for living expenses, work permit or protection from traffickers. She may decide to provide written testimony and return home. Written testimony is much less effective in court than oral. Without key witnesses, it is difficult to convict traffickers. Nearly all of the few prosecution cases against traffickers in Poland originated in German courts where the deportation process is more accommodating.

2046. Despite major changes, violence against women remains hidden and surrounded by taboos, underpinned by a strong tradition of shame and guilt in the case of disclosure, especially in small villages and towns. It incorporates powerful stereotypes about women and men's traditional roles in family life. The Catholic Church perpetuates the conservative model of the family and traditional gender roles, and Polish law encourages this traditional female role. There have been very few studies on the subject, and the available statistics do not distinguish between male and female victims of violent acts. The Government neglects to implement a comprehensive policy on its prevention and the Governmental Plenipotentiary for Family Affairs has not fully implemented the program against violence against women from the National Plan of Action.

2047. In spite of the fact that there is little statistical information concerning the prevalence and scope of domestic violence in Poland, data collected by local NGOs confirm that this form of violence against women is widespread and that it affects women of all ages and socio-economic backgrounds.¹⁰²¹

2048. Domestic violence and violence against women are still not adequately recognized as a grave social problem in Poland. As a consequence of the emphasis on strong family values, Poland tends to overlook the high instance of domestic violence within its borders.¹⁰²² Rape and sexual abuse in Poland is also widespread.¹⁰²³ The unresponsiveness and ineffectiveness of the criminal justice system in domestic violence cases (e.g. no immediate isolation of the perpetrator from his victim) prevent many women from reporting violence.¹⁰²⁴ Those that do, often later retract their statement. It should be noted, for example, that the pre-trial proceedings often last two to three years before the case is actually tried in court. In the meantime, victims and perpetrators often live together under the same roof, causing victims to be vulnerable to further violence and other forms of pressure from the perpetrator. Cultural and societal perceptions of the role of women lead to a trivialization of domestic violence, for example, requirements that women provide evidence that they have been battered on numerous occasions in order to press charges, refusal of police officers to acknowledge domestic violence as a crime, emphasis on reconciliation between spouses rather than prosecution and claims that marital rape does not occur in Poland because it is a wife's duty to submit to her husband.¹⁰²⁵ Negligence by law enforcement agencies is reflected in weak sentencing of the perpetrators of rape. Most rapists receive the minimum sentences stipulated in the Penal Code. Serious legal and institutional deficiencies in the family violence intervention system are mainly caused by a lack of knowledge

about the complexities of domestic violence among policemen, prosecutors, and judges. Inadequate is the way the police and courts treat the cases of rape. Virtually no public pressure exists to change this drastic situation.

2049. Victims of rape have difficulties in finding specialized psychological assistance and counselling. Practically no rape crisis centres exist in Poland and very few professional psychologists can adequately address the specific problems of the victims of rape. The lack of a well-organized victim service programs is probably one of the main reasons why raped women so rarely press charges against the perpetrators. Victims may seek help in women's NGOs, but very few provide them with professional assistance that could be helpful in contact with the police and the court. Few hotlines exist where women can talk to professionally trained counsellors.

2050. Poland acknowledges the existence of so-called “institutional” violence in police forces, prisons and courts.¹⁰²⁶ The authorities state that significant measures have been taken to prevent women from being subjected to ill-treatment in prisons.

Republic of Moldova

2051. The Republic of Moldova acceded to the Convention on 1 July 1994, and its last report was examined in 2000. It has not yet ratified the optional protocol. A national action plan has been submitted as well as a reply to the Secretary-General’s questionnaire on the implementation of the plan.

Legislation

2052. The Constitution guarantees equality before the law regardless of race, gender, religion, disability or social origin. The Universal Declaration on Human Rights is affirmed by the Constitution.¹⁰²⁷

2053. A new Criminal Code of Moldova is scheduled to enter into force 1 January 2003. The current Criminal Code does not specifically prohibit domestic violence or spousal rape, and women must seek redress for such crimes through general assault laws. Husbands can receive prison sentences of up to six months in such cases. Systematic assault or torture can lead to a three-year sentence, and if the aggression results in death a sentence of up to 15 years can be applied.¹⁰²⁸ Civil law stipulates that a mother and her children have a right to social assistance and protection in cases of domestic violence, but there are no legal provisions that establish mechanisms to provide victims with such assistance.

2054. The Committee on the Elimination of Discrimination against Women has considered the gender disparity in the minimum age of marriage, 16 for girls and 18 for boys, to be in violation of article 16 (2) of the Convention.¹⁰²⁹

2055. Rape, which is defined as a “forced sexual relation,” is punished by three to seven years imprisonment. Increased sentences can be applied in more severe circumstances.¹⁰³⁰ The age of consent is 16 years, and sexual relations with a minor are punished by two to six years imprisonment.¹⁰³¹

2056. Trafficking was made illegal by amendments to the Constitution passed in July 2001. Sentences range from 10 to 15 years in prison for human trafficking, and from 15 to 25 years for more serious offences such as trafficking of groups and minors, trafficking through kidnapping or abuse of power, and trafficking with violence or by a criminal organization.

Policies and programmes

2057. The Government has reportedly supported educational efforts to increase public awareness of domestic violence and to train law enforcement to better deal with this issue. In October 1999, the First Lady of Moldova at the time and the mayor of Chisinau began a project to open a women's shelter in Chisinau. The project was under construction for some time and it is unclear whether it has now been opened.

2058. With encouragement from an NGO, the Government formed an anti trafficking working group and developed a national plan of action to combat trafficking. The OSCE and the Council of Europe fund a Government programme which trains trafficking investigators through the Ministry of Internal Affairs and the Ministry of Labour. In addition, there is a special law enforcement unit within the Ministry of the Interior.

Issues of concern

2059. Human rights advocates report that domestic violence is widespread and underreported. During the first eight months of 2001, the Ministry of Internal Affairs reported 48 spousal abuse cases, of which 27 resulted in serious bodily injury, 21 in attempted murder and 8 in murder. A 1997 survey revealed that 22 per cent of the women interviewed had experienced abuse by a partner.¹⁰³²

2060. Rape is also believed to be underreported. The 139 cases reported by the Ministry of Internal Affairs during the first nine months of 2001 represent a decrease in reported cases from the previous year. A survey published by the International Helsinki Federation for Human Rights revealed that 31 per cent of girls and young women aged 16 to 19 had suffered sexual violence.¹⁰³³ Forensic evidence plays a crucial role in proving rape, and is the only medical evidence that is acceptable in a criminal proceeding. Therefore women who come forward later or did not sustain bodily injury have little chance of having their case prosecuted under the unrevised criminal code.¹⁰³⁴

2061. Trafficking women is a serious problem and there are reports of Moldovan women being trafficked to countries throughout Eastern and Western Europe and the Middle East. A Moldovan Member of Parliament and women's rights activist reported that there are more than 10,000 Moldovan women working abroad as prostitutes. A local NGO reported that young women and minors often respond to employment offers or connections through a "friend of a friend". Another approach targets orphans as they are released from orphanages at 16 or 17 years of age. Some NGOs suspect that some governmental officials are involved in, or close their eyes to, human trafficking.

Romania

2062. Romania ratified the Convention on 7 January 1982, and signed the Optional Protocol to the Convention on 6 September 2000.

Legislation

2063. Romania has no separate legislation criminalizing domestic violence, including marital rape. All sanctions against such violence are set out in the Penal Code. The only one provision that could be considered (related to violence against women) is the one that refers to rape, which according to article 197 of the Penal Code is an offence that can be perpetrated only by a man.¹⁰³⁵ Penalties for domestic violence are partly governed by Law No. 61/1991 on the infringement of the rules on marital life, public order and public security. Apart from this law, which deals specifically with violence between spouses, Romanian criminal law draws no distinction between the private and public spheres. Under Romanian legislation women who have suffered domestic violence can bring judicial proceedings and claim damages. Assault and battery, bodily harm, grievous bodily harm and injuries causing death are punishable under criminal law. It should be noted that the defense of the so-called “reparatory marriage” in the Criminal Code eliminates criminal liability of a rapist if the rape victim consents to marry him. There is no legislation concerning sexual harassment.¹⁰³⁶

2064. Prostitution, trafficking in women and procuring are punishable under criminal law. Prostitution is a specific offence in Romania. A law passed in November 2001 prohibits trafficking.¹⁰³⁷ The Law on the Prevention and Combat of Trafficking includes legal mechanisms and procedures for implementation and protection, including the adoption of new laws on combating organized crime, on evidence, and on victims and witness protection, and training programmes for law enforcement, lawyers, and border police and to improve cooperation between the police and NGOs. It defines trafficking as the use of coercion to recruit, transport, harbor, or receive humans for exploitation. Coercion includes fraud or misrepresentation. Exploitation includes slavery, forced labor, prostitution, and performance in pornographic films, organ theft, or other conditions that violate human rights. For minors under the age of 18, it is not necessary to prove coercion. The new law also eliminates criminal penalties for prostitution if the victim turns in traffickers, or cooperates in investigations against traffickers. However, trafficking victims who cooperated with authorities nonetheless were sentenced for crimes such as illegal emigration.

Policies and programmes

2065. In April 2001 the Government assigned a senior police general to coordinate the anti-trafficking unit, significantly increased personnel assigned to the unit, and began to expand interagency and local resources assigned to human trafficking. The unit had conducted a series of human trafficking arrests by the end of the year. In 2001, the unit arrested 77 human traffickers for pimping and kidnapping offences and continued to investigate another 90 individuals suspected of human trafficking at the end of 2001. Police also began a comprehensive investigation of agencies that advertised jobs abroad for possible human trafficking connections and exposed one ring of traffickers.

2066. The Romanian Government Decision No. 425, of October 1995, established the General Department for Women's Rights Security and Promotion, having two directorates: the General Directorate for Women's Rights Strategies Coordination and the Directorate for Family Policies. This structure was set up within the Ministry of Labour and Social Protection. The main objectives of the activity aims at the monitoring of internal legislation from the gender perspective, the development of the national policies and machinery in the field of women's equal participation in development, the improvement of cooperation with the civil society and trade unions in order to improve strategies for women's rights security and promotion.¹⁰³⁸ In 1996, the Ministry of Labour and Social Solidarity organized the first governmental shelter for the victims of the violence in the family (The Pilot Center for Women and Children Protection against Domestic Violence), and the first governmental Center for Family Consulting and Information.

2067. A pilot project opened a shelter for victims of domestic violence in Constanta in December 2000. The shelter opened with the cooperation of the police and the Constanta mayor's office and helped in 246 cases from January to November 2001. Other measures to combat domestic violence had included the creation of centres for family counselling and assistance to victims and a study on domestic violence. Further actions would include studies on the causes and effects of violence against women, legislative improvements to include criminal, civil and administrative penalties for domestic violence and protection of victims, training programmes for police and lawyers and support for civil society in preventing domestic violence.¹⁰³⁹

2068. The Romanian Government has recently taken many actions in the area of law reform and enforcement against trafficking. These activities are connected with the demands on Romania to adjust its national legislation to European Union standards in the process of accession to the EU. Other changes are the result of the NATO accession process, the Stability Pact agreements or bilateral contracts for combating organized crime in the Balkan region. In spring 2001, Romania established the National Task Force on Trafficking, to coordinate the efforts made by the Romanian Government to prevent and combat trafficking. Additionally, an Inter-Ministerial Committee was established on the initiative of the Ministry of Foreign Affairs in cooperation with the Ministry of the Interior, Justice, Education and Research, Labour and Social Solidarity, the Prosecutor's Office, as well as international and local NGOs. The Committee has met twice a month since July 2001, to draft the National Plan of Action (NPA). The Inter-Agency Working Group on trafficking in human beings, as a supporting body for the National Task Force and one of the agencies implementing the NPA, was also established to work on the legislation, law enforcement procedure and victim assistance issues.¹⁰⁴⁰

2069. In 2001, the Government undertook many new initiatives in the fields of prevention, prosecution and protection of trafficked persons. The signing by Romania of the Palermo Convention and its Protocols resulted in the initiation of changes in legislation in compliance with international standards. The Stability Pact has provided a regional and an institutional framework within which the response to trafficking becomes easier and has supported given new initiatives for dealing with the issue. Other plans for victim assistance and support included in the NPA are: to conclude bilateral and multilateral agreements on returns; to create facilities for returning trafficked persons; to provide legal, social, medical and psychological assistance; to hire and train personnel to work with trafficked persons; to establish a hotline for victims; to

create alternative programmes for those trafficked persons who chose not to go back home; and, to educate families and communities not to stigmatize or blame the victims. Prevention efforts included cooperation with international organizations' programs, including an anti-trafficking school program and a campaign to eliminate child labour.

Issues of concern

2070. The Special Rapporteur notes the increase in violence against women. It is reported that domestic violence is common, and that violence against women in the workplace is not uncommon.¹⁰⁴¹ Furthermore, a complicated criminal process discouraged domestic violence victims from pressing charges against perpetrators. Police are reportedly reluctant to intervene in instances of domestic violence. Moreover, the prosecution of rape is difficult because it requires both a medical certificate and a witness, and a rapist can avoid punishment if he marries the victim. The successful prosecution of spousal rape is almost impossible. The Special Rapporteur expresses therefore her concern about the absence of legislation criminalizing domestic violence, including marital rape, and the recognition of the defence of a so-called "reparatory marriage" in the Criminal Code, which eliminates criminal liability of a rapist if the rape victim consents to marry him.¹⁰⁴² Efforts should also be increased at combating stereotypical attitudes about the role of women and men in the family and society.

2071. Women must also be provided with access to protective measures before the courts, in order to prevent renewed violence by potential aggressors. A law that would offer protection for the victims and witnesses of violence is definitely necessary: for example, their names and addresses should not appear in the case's file, that their testimony to be recorded on tape and presented to the court so that and the physical presence of the victims and witnesses of violence shouldn't be compulsory.¹⁰⁴³ There are no projects of law or any review process of the Penal Proceedings Code to be initiated on this matter.

2072. Trafficking in women is an underreported but serious and growing problem. It is reported that as many as 20,000 women are trafficked from Romania each year.¹⁰⁴⁴ While the Government is beginning to recognize trafficking as a problem, it has only begun to mount an effective effort to combat it. Corruption in the police force, particularly in local forces, also may contribute to the problem. Awareness of human trafficking is low, and while victims are not treated as criminals, they are seen as social outcasts. However, numerous media stories have begun to report on the problem.

2073. Women, who have been identified as victims of trafficking in the destination country, can be judged by the Romanian police to be illegal migrants or prostitutes, often as a result of their testimonies, and be convicted after assisting the police with their investigation.¹⁰⁴⁵ To date, the law enforcement agencies, in majority of cases, have been very careful not to charge the returned women and girls with prostitution of illegal border crossings, and have described them as victims of trafficking. However, clear rules and procedures are necessary if the system of protection is to be effective and fair. These should include a minimum standard of treatment for returned trafficked persons that would protect the rights of the women and children, and would clearly described the obligations of the governmental agencies and the rules of conduct of the institutions involved. Another deficiency in Romanian law is the fact that there is no punishment

for trafficking for purposes other than prostitution.¹⁰⁴⁶ In the government programme of victim assistance, there is no mention of providing information on the rights of trafficked women, of providing interpreters and information in their own language, or the rights to claim compensation or occupational reintegration. There are no plans to provide trafficked persons with an alternative settlement, including the right to apply for asylum in appropriate cases, or access to welfare.

Russian Federation

2074. The Russian Federation (successor State to the Union of Soviet Socialist Republics) became a party to the the Convention in January 1981, with a reservation to article 29, paragraph 1. However, this reservation was withdrawn in 1989.

Legislation

2075. There is no legal definition of domestic violence in Russian law, and it is not recognized as a distinct crime. The Criminal Code addresses some forms of battering, but they are defined too narrowly to be applied in most cases. Over 40 versions of a national civil law to address domestic violence have been rejected in the Duma.

2076. Recruitment for prostitution is illegal, but it is not treated as a criminal offence. There is no law specifically prohibiting trafficking, but traffickers can be prosecuted under laws regarding border-crossing violations, document fraud, kidnapping, forced sexual activity, fraud, organized crime and pornography.

2077. Article 21 of the Russian Constitution protects against acts of torture, violence and cruel or inhuman treatment or punishment. However, the concept of torture is not specifically defined in Russian criminal law, except as an aggravating circumstance in the context of evidence.

Landmark cases

2078. On December 31, 2002 Colonel Yury Budanov, the only serving Russian officer to stand trial for atrocities committed in Chechnya, was acquitted for the murder of an 18-year-old Chechen girl on the grounds that he was insane. The girl, Kheda (also known as Elza) Kungayeva, was also raped, but no rape charge was brought against the accused. On March 26, 2000, Budanov and a group of soldiers seized the young woman in her family's home and took her back with them to their base. A medical examination later determined that the girl had been raped and strangled to death. Critics claim that the trial was weighted against the family of the victim. It has also been reported that a large number of similar crimes have been committed in the years of the war, but this is the only one to have made it to trial.

Policies and programmes

2079. Between 1995 and 1998 the network of social services offices for families and children was significantly expanded from 997 to 2,134 offices. In 1998 there were six crisis centres providing legal, medical, and psychological assistance to women, and 32 help centres for women

victims of violence. The centres are organized by NGOs, but operation in cooperation with the appropriate State services.

2080. The Interior Ministry's Federal Migration Services office was established in February 2000, and in addition to handling refugee and immigration issues, it serves as the lead agency on trafficking. Victim services and protection rights for trafficking victims are available, and repatriated victims are not jailed, detained or prosecuted for prostitution. A new witness protection programme has been developed but not yet implemented. The national Government has not participated in information campaigns or other prevention programmes against trafficking in persons, though some regional governments have collaborated with NGOs on such activities.

Issues of concern

2081. An upsurge in the incidence of domestic violence in the last decade has been largely attributed to economic difficulty and a resulting increase in alcohol abuse. Domestic abuse is largely perceived as private domestic issue and police officers are reluctant to get involved.

2082. Trafficking in women for sexual exploitation abroad is a serious problem, and the Russian Federation is both a source and destination for trafficked women and girls. Women are lured into trafficking through advertisements offering high paying jobs abroad and fraudulent employment agencies. Relative economic vulnerability has rendered women from all educational backgrounds particularly vulnerable to traffickers. Women represent 63 per cent of the registered unemployed, and the sharp decrease in social services since the end of the Soviet Union has left many single parent families in difficulty. There is insufficient statistical data on trafficking as well as legislation against it. In addition, there are reports that corrupt government officials have facilitated the trafficking industry.

2083. There have been numerous allegations of torture and violence against women prisoners and detainees. In addition, a pattern of impunity enjoyed by civil and military officials has created an environment that further perpetuates these abuses. The situation is compounded by extremely poor pre-trial detention and prison conditions and a reported prevalence of tuberculosis and other diseases in such facilities. Health care for sick prisoners is often insufficient, and menstruating women are not provided with sanitary supplies.

2084. Chechen women and men detained during raids on populated areas and at checkpoints face a large spectrum of violations while in custody including: torture and ill-treatment, including rape; arbitrary detention; forced "disappearance"; and extra-judicial executions. Women and girls have been attacked and killed during military operations, and women are reportedly detained following raids on their homes. Forms of torture experienced by detainees have included rape, beating with hammers and clubs, electric shocks, and spraying of tear gas. In addition, observers in 2001 noted the emergence of a pattern of rape of detained Chechen women by Russian officials.

2085. Few cases of crimes against civilians are investigated, and only one has made it to court. The reluctance of prosecutors to take into consideration allegations of violence against women,

and the large degree of impunity enjoyed by Russian forces operating in Chechnya, has dissuaded many families and victims from filing complaints. In instances of rape, traditional and cultural values that see rape as a shame on the family of the victim have also had a dissuasive effect.

2086. Of the 160,000 persons internally displaced by the conflict, a large majority are women and children. Their situation has been made progressively precarious by severe winters and repeated threats by federal authorities to cut humanitarian aid and forcibly return them to Chechnya. At least one instance where internally displaced Chechens were forcibly returned took place in 2000.

Serbia and Montenegro

2087. Serbia and Montenegro acceded to the Convention on 12 March 2001. No reports have since been submitted. However, a report submitted by the former Yugoslavia was examined in 1991.

2088. On 6 September 2002, Serbia and Montenegro ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.¹⁰⁴⁷ However, the Montenegrin Criminal Code does not specifically outlaw trafficking in persons.

Legislation

2089. Regarding the definition of incest in Serbian law, there is no specific difference between voluntary and forced sexual intercourse, or between blood relatives, regardless of whether they are adults or minors. The issue of incest is therefore left primarily to court practice and interpretation.¹⁰⁴⁸ Also under Serbian law, in order to prove rape and to prosecute the perpetrator, it is necessary to prove resistance during the entire episode of rape.¹⁰⁴⁹

2090. In Kosovo, discrimination on the basis of gender, race, religion or ethnic origin is prohibited by UNMIK (United Nations Mission in Kosovo) regulations. Government officials are bound to abide by provisions of international human rights law and conventions by UNMIK regulation 1999/24. Domestic violence and rape are illegal under UNMIK's regulation on applicable criminal law. However, marital rape is not a criminal offense.

Landmark cases

2091. The Kosovo Department of Justice has encouraged international judges and prosecutors to select cases involving trafficking victims, and so far about 10 such cases have been selected, including one involving an UNMIK International Police Officer.

Policies and programmes

2092. In Kosovo, the UNMIK Police Force has adopted Domestic Violence Policy and Procedures at the central and the regional levels and established Regional Domestic Violence

Coordinators within the UNMIK Special Victims Unit. The Coordinators are responsible for investigating cases of domestic violence and improving police responses. In addition, the Department of Justice has established a specialized unit, the Victims' Advocacy and Assistance Unit (VAAU), to support and assist victims of crime, particularly victims of domestic violence, sexual assault, and trafficking. Foreign victims of trafficking are generally repatriated, and there are currently no Government-run services offered to them. However, the VAAU and specialized UNMIK Police units have jointly established an interim and secure facility (ISF) that will be accessible on a 24-hour basis for victims of trafficking beginning in early 2003.

2093. A joint campaign between UNMIK and the OSCE resulted in the increased recruitment of women into the Kosovo Police Service. The Kosovo Police School provides training on rape, domestic violence and trafficking in human beings. During 2001, the police trained a special police unit, with help from the OSCE, to deal with human trafficking. UNMIK also runs an Office of Gender Affairs that works to coordinate gender issues in UNMIK programmes and offices, thus implementing gender policy and facilitating exchanges between UNMIK and women's organizations. The Office of Gender Affairs has established local posts of Gender Officers in all 30 municipalities of Kosovo.

Issues of concern

2094. According to reports, rape and domestic violence are serious problems. Rape, sexual abuse and domestic violence are believed to go largely unreported due to cultural acceptance and a traditional stigma associated with victims and their families. Spousal abuse is thought to have increased in the post war period, though few victims file complaints. Rape was used frequently by Yugoslav and Serbian forces and the KLA in 1999; however few women have come forward. In Kosovo this is thought to be due to ethnic Albanian values which see rape as a dishonour to the family. In 2001, the number of reported rape and attempted rape cases represented an increase from the previous year.

2095. Despite legislative equality, traditional laws and customs continued to subject some women, especially in rural areas, to discrimination. An Albanian custom requires that children who have lost a father be given to the deceased father's family and not their mother. Similarly, property passes only to men, therefore when a husband dies, his property passes to his birth family and not to his wife, who is returned to her birth family. Therefore, women widowed during the war risked losing their children and their property.

2096. Trafficking in women is thought to have increased since the Kosovo war, especially in Montenegro. The Republic was a transit and destination point for trafficked women, many of whom had responded to false job advertisements. Women are sometimes sold several times and have reported being raped and beaten by their traffickers. The International Helsinki Federation has reported that police and local authorities sometimes turn a blind eye to traffickers and clubs known to keep trafficked women as prostitutes. There are also reports that Montenegrin authorities have taken bribes to facilitate trafficking.

Slovakia

2097. Slovakia ratified the Convention on 28 May 1993, and signed the Optional Protocol to the Convention on 17 November 2000.

Legislation

2098. Violence against women and family violence are not codified in the legal system of the Slovak Republic and there is no act or code protecting women from violence in their own homes. Violence against women can, however, be treated as a misdemeanor or penal offence depending on the intensity and consequences of the conduct.¹⁰⁵⁰ An amendment to paragraph 215 of the Penal Code in 1999 brought a significant change to the penal system. Until 1999, paragraph 215 only concerned violence against children and persons consigned to care or upbringing. The paragraph now also concerns closely related persons - i.e., also adults - and the penalty was also increased. However, the amended act will not apply to divorced wives living in the same flat (residence) with violent ex-husbands, which is a rather common situation. Moreover, paragraph 163 (a) in the Code of Criminal Procedure creates problems concerning the judicial remedies available to women who suffer violence from their partners. The provision establishes the right for women to decide whether to agree to the prosecution and whether it can continue. Women can withhold consent at any time until the appeal court's final consultation. However, consent that has been explicitly withheld cannot be given again.

2099. In the framework of the preparation of the new Penal Code and with the aim to ensure better protection for women, a new qualification of sexual assault has been elaborated. The new crime "sexual abuse by other means than sexual intercourse" is defined as "any person who by violence, threat of violence, by use of the victim's defenselessness or by any other means than by intercourse, sexually misuses a woman." This crime is not identical to rape; it is defined as the abuse of a woman in a defenseless situation. The need to complement the Penal Code with such a qualification is necessary since a number of women might be sexually abused, in particular under the influence of drugs.

2100. In accordance with article 205 of the Penal Code the following acts are criminal: offering and exhibition of pornography to persons under the age of 18 years; production and spreading of pornography; production of child pornography; spreading of child pornography; receiving (concealing) of child pornography. It should be noted that the concept of sexual harassment is not defined in the Slovak legal system and is therefore not punished – although some circumstances may fall under other criminal or administrative offences.

2101. There is no law prohibiting prostitution. According to the Slovak Government, a draft law on the issue has still to be submitted to the Parliament.¹⁰⁵¹ The Penal Code specifically prohibits trafficking in women for sexual exploitation, with a prison term of between three and five years. Women subjected to crimes of trafficking in women and procuring may invoke a claim for compensation in the preparatory stage of the court's proceedings against the suspected. The Court makes a decision based on the merits of the claim and includes the relevant compensation for the victim into the judgment against the perpetrators. Charges cannot be brought against an

abuser by the police independent of the victim; securing a conviction often requires the corroboration of independent witnesses.

2102. In civil law, the perpetrators may be required to pay assistance to the victim; divorce/legal separation is not available as a remedy for domestic violence; protection orders are not available; counselling may be required for the perpetrator and is available to the victim; no financial support is available from the State.

Policies and programmes

2103. The “Coordination Committee for the Problems of Women” prepared a National Action Plan for Elimination of Violence Against Women : to create legislative and educational measures for the elimination of violence against women; to support new shelters for women subjected to violence, and centres with counselling for people in difficult life situations; to promote for changes of the legislation; to prepare educational programmes to change the behaviour of aggressive individuals, and when it is possible, their reintegration and return to the family; to create conditions for the establishment of more specialized SOS lines for victims of domestic violence and the training of SOS line staff; to enter national and international programmes to eliminate forced prostitution and trafficking in human beings. A special council to act as an advisory body to the Government on the issue of violence against women had been established.

2104. The Government established in the frame of the Ministry of Interior a special council on the prevention of criminal acts and of other antisocial behaviour (1997). Positions for crime prevention specialists were also established at all district and regional directorates of the Slovak constabulary.

2105. The Ministry of Interior is involved in activities to combat trafficking and sponsored training for the Customs Directorate, the Migration Office, and the police to identify and handle cases of victims of trafficking. According to the Government, a new authority had been set up to monitor cases of trafficking in women and children, and a center had been established to deal with victims of trafficking.¹⁰⁵² Victims are reportedly provided temporary relief from deportation through admittance to a detention centre where they can remain for 30 days while their case is investigated, at which time the person usually is sent to their country of origin. Within the framework to combat organized crimes, the Slovak Republic cooperates with other countries, e.g. Austria, Cyprus, Czech Republic, Croatia, France, Germany, Hungary, Romania, Russian Federation and Ukraine.

Issues of concern

2106. In Slovakian society, violence against women is reportedly tolerated rather than condemned.¹⁰⁵³ Whereas the abuse and sexual abuse of children generally give rise to very negative reactions on behalf of the public and specialists, the abuse and exploitation of women by their partners encounter ambivalent attitudes and reactions. Women experiencing violence, particularly violence from their partners, are blamed and are even given partial responsibility for the violence to which they are subjected. Generally, there is still a tendency to not speak about this problem, not only in public but also in state structures and administration. The consequences

of violence against women on their lives and health are reportedly not discussed. Furthermore, it is reported that neither the Government nor the two organizations established and supported by it (NCE and CCWI) have done any qualitative or quantitative research on the causes and consequences of violence against women. There have been no research by governmental/State organizations either and there are reportedly no official statistics on cases of violence against women and domestic violence.

2107. A study on violence against women in the Slovak Republic during the years 1995-1997 shows that a majority of offenses take place in the private sphere.¹⁰⁵⁴ A national poll from 2000 indicated that as many as one in five women are subjected to some form of physical violence in the home. Furthermore, police estimate that two-thirds of female rape victims fail to report their cases. However, as stated above, there is a lack of relevant data on domestic violence. It should also be stressed that no special standards for legal procedures and the conduct of persons active within the system of criminal justice system that would enforce justice and equality for women have been developed. Withdrawal of a notice by the victim is also a frequent problem. Such a reaction from the victim is mainly due to the fact that there is often no opportunity to provide separate accommodation for the victim, and that the perpetrator is usually prosecuted with a release from custody. While over 40 shelters for women exist, it is reported that only three shelters provide assistance and services to abused women and children. According to information received, the 40 shelters the Government refers to do not provide adequate assistance to women and children.

2108. Trafficking victims are reportedly not provided temporary to permanent residency status. Furthermore, there is very little legal, medical, or psychological assistance for victims of trafficking. According to information received, government agencies such as customs and police officers treat victims poorly since many law enforcement officials believe that victims were not forced, but rather chose their fate.¹⁰⁵⁵

Slovenia

2109. Slovenia acceded to the Convention on 6 July 1992, and has signed the Optional Protocol. An initial country report was examined in 1997, and a second is tentatively expected to be submitted in 2003.

Legislation

2110. Equality before the law is affirmed by the Constitution regardless of race, ethnic roots, sex, religion, disability, language, education or social status. Article 141 of the Criminal Offences against Human Rights and Liberties section declares that the violation or deprivation of the human rights and liberties of another person is punishable by a fine or prison sentence.¹⁰⁵⁶

2111. There are no specific laws specifically targeting violence against women or domestic violence, however such crimes may be prosecuted under related provisions of the criminal code.¹⁰⁵⁷ Marital rape is punished under the same provisions as rape.

2112. Rape is punishable by one to 10 years in prison and is defined as compelling “a person of the same or opposite sex to engage in sexual intercourse, by force or threat”. In order to prosecute rape, a woman must prove that she put up physical resistance. Often physical injuries are the only evidence. Other forms of sexual violence are punishable under Slovenian law, by six months to five years in prison.¹⁰⁵⁸ The age of sexual consent is 15 years.¹⁰⁵⁹

2113. Prostitution is treated as a minor offence, not a criminal offence, and sentences are not to exceed two months’ imprisonment. However, procuring, pimping and introducing another into prostitution are offences that can be penalized by up to five years in prison.¹⁰⁶⁰ The penalties can be increased to 10 years when the victim is a minor or was forced. There is also no law specifically outlawing trafficking in persons; however a law on enslavement is used to prosecute trafficking cases, and sentences of one to 10 years can apply.¹⁰⁶¹

Policies and programmes

2114. The State partially funded three battered women’s shelters, and in November 2000, Slovenia had a total of five women’s shelters, and a crisis centre for women victims of violence.¹⁰⁶²

2115. The Albanian Government does not provide protection for victims and witnesses in trafficking cases. However, trafficking victims are not treated as criminals. In the absence of government run programmes to prevent trafficking or assist victims, there are NGOs that run safe houses for women who are victims of violence. Women who are in Slovenia illegally are given shelter in a refugee shelter until they can be returned to their country of origin.

Issues of concern

2116. Awareness of spousal abuse and violence against women is thought to be increasing. 82 persons were charged with domestic violence in 1999 and 2000 and an NGO-run emergency hotline for battered women received 6,300 calls. However, most violence against women is still thought to be underreported. According to police estimates, approximately 1,000 women are trafficked through, and 400 are trafficked from, Slovenia each year. Only a small number of trafficked persons are thought to originate in Slovenia. Foreign women are brought into the country illegally by agents who were paid between \$500 and \$2,500 for them.

The former Yugoslav Republic of Macedonia

2117. The Former Yugoslav Republic of Macedonia has ratified the Convention on 18 January 1994; the initial report was submitted in May 2000. The Optional Protocol was signed on 3 April 2000.

Legislation

2118. The Constitution of the Republic of Macedonia does not address the issue of gender equality separately. Article 9, the general provision on discrimination, states that “Citizens of the Republic of Macedonia have equal freedoms and rights irrespective of sex, race [...]. All citizens

are equal under the Constitution and the law". In addition, article 42 provides special protection for mothers.

2119. To a large extent, the national legal framework is congruent with the Declaration on the Elimination of Violence against Women and with the standards set forth under the Convention on the Elimination of All Forms of Discrimination against Women. Gender-based discrimination is punishable under the Penal Code.¹⁰⁶³ However, there is no reference to gender discrimination in article 417, which addresses racial and other types of discrimination.

2120. There are no specific legal articles on violence against women or domestic violence, within the context of violence in general. However, article 123 of the Penal Code states that "Whosoever murders a woman whose pregnancy he/she was familiar with shall be sentenced to ten years-life imprisonment". Article 129 on interruption of pregnancy could also be applied. Chapter 19 of the Penal Code ("Criminal acts against gender freedom and gender morality") could also be used as a legal basis and cases of violence against women based on an abuse of position could be submitted under these provisions. The Criminal Procedure Code has no specific provisions dealing with prosecution and procedures in cases of violence against women.¹⁰⁶⁴

2121. Legal recourse is available to rape victims, including victims of marital rape.¹⁰⁶⁵ Article 194 of the Penal Code addresses the crime of incest: "(1) A person who has intercourse with a blood relative of the first line, or with a brother or sister shall be punished by imprisonment of three months to three years. [...]" No special forms of protection exist either in the law or in practice. There is no specific provision that relates to sexual acts in Chapter 30 of the Penal Code ("Crimes against official duty") However, there is a provision on the abuse of official position or authority in order to acquire some kind of benefit (Article 353), which is punishable by imprisonment from six months to three years (the punishment is up to five to even ten years if the gain is greater).¹⁰⁶⁶

2122. Prostitution is forbidden and punished under the Penal Code.¹⁰⁶⁷ Macedonia adopted a new law in 2002 that criminalizes trafficking and actions associated with trafficking, such as the destruction of identification documents. Since the passage of the new law, Macedonia has already had a number of arrests, including that of an alleged organizer of a trafficking ring. Prior to the enactment of the new law, Macedonia prosecuted suspected traffickers under laws relating to kidnapping and rape. Many of these cases resulted in convictions.

Policies and programmes

2123. The institution of Ombudsperson, whose function is to monitor the human rights situation, has existed in the Republic of Macedonia for the last two years. A Department for the Promotion of Gender Equality has been established within the Ministry of Labour and Social Policy in 1997. The basic task of this newly established department is to positively influence the advancement of women's position in conformity with the international conventions and documents ratified or accepted by the Republic of Macedonia, and to coordinate certain activities with a clearly built conception and strategy for overcoming the problems faced by women in the country. During 1999, the Department and the National Committee in the framework of the

Project entitled "Strengthening of the National Machinery for Women's Advancement" supported by the UNDP Office in Skopje, prepared the National Action Plan for Gender Equality (NAPGE). This NAPGE was reviewed and ratified by the Government of the Republic of Macedonia in December 1999. The National Action Plan is an instrument of the Government to inform citizens about its priorities and activities on gender equality issues.¹⁰⁶⁸

2124. To protect victims of trafficking, a government shelter offers medical and psychological assistance to victims. The shelter has reportedly assisted many trafficking victims. The government has facilitated the return of victims so they could testify against traffickers. To prevent trafficking, the Government has worked with local NGOs to develop awareness-building campaigns. The Ministry of Labor and Social Welfare funds a small prevention program. The Government routinely cooperated with neighboring governments in trafficking cases. Despite budgetary limitations, the Government has devoted significant resources to anti-trafficking programs, including an interministerial working group devoted to legal reform, the creation of a special police unit dedicated to anti-trafficking efforts, and the establishment of a shelter for victims.

Issues of concern

2125. Violence against women is reportedly a persistent and common problem.¹⁰⁶⁹ However, cultural norms discourage the reporting of such violence, and criminal charges on the grounds of domestic violence were very rare. There is reportedly no special training in place to help judicial personnel to better protect women victims of violence during criminal proceedings - either during the investigation or in court.¹⁰⁷⁰ A few NGOs organized several seminars for lawyers and judicial personnel, but they are very general and are not practically oriented. According to victims' statements, the police usually treat domestic violence as a private matter and rarely respond.¹⁰⁷¹ There are no special units in the police stations to respond to this kind of violence, and there is no rule about sending a female police officer, or any kind of special procedure that would involve the presence of a social worker or psychologist. No procedures or rules for the protection of victims of domestic violence have been formulated either and it is largely for these reasons that there is no official data on the number of cases of domestic violence. Shelters for victims of spousal abuse were operated by NGOs. A hotline remained open, but had limited hours. The Government offers some limited support for victims of domestic violence, but relies heavily on international donor support to maintain a hot line and shelter.

2126. While there are provisions for bringing criminal charges in cases of sexual violence and rape within marriage, they can only be brought in a private suit, which, although an improvement, does not provide the same level of protection, as is the case with crimes that are prosecuted ex officio. So far no cases have been brought on the basis of this article, nor have NGOs addressed the issue of marital rape. The sexual abuse of girls in the family is reportedly not perceived as a problem in Macedonia, even though the centres for social work indicate a widespread occurrence of this type of violence (especially in village communities and among the Albanian and Roma nationality). The sexual abuse of a minor always carries a heavier penalty under the law. Acknowledging the Government's recognition of problems in the area of adolescent and sexual health issues, the Committee on the Rights of the Child¹⁰⁷² joined the State party in expressing concern, in particular at the high level of abortions among girls and at

party in expressing concern, in particular at the high level of abortions among girls and at the incidence of sexually transmitted diseases.

2127. Macedonia is a country of transit and destination primarily for women and children trafficked for prostitution from the former Soviet Union and Eastern Europe, notably Ukraine, Moldova, Romania and Bulgaria. Some victims remain in Macedonia, while others are trafficked to Albania, Kosovo or Italy. The Ministry of Interior estimated that there are approximately 2,000 victims of trafficking in Macedonia at any given time, and that between 8,000 and 18,000 women and girls are trafficked to or through the country per year. It is reported that victims are subject to violence, including rape and assault, and intimidation. Instances of corruption and involvement of police in trafficking in persons allegedly occurred on the local level. According to information received, there is no witness protection legislation to protect victims. Traditionally victims of trafficking are detained, fined, and deported, and police insensitivity is reportedly a problem; however, sensitivity training for police is slowly changing attitudes.

Ukraine

2128. Ukraine ratified the Convention on 12 March 1981, and signed the Optional Protocol to the Convention on 7 September 2000.

Legislation

2129. The Criminal Code outlaws rape and "forced sex with a materially dependent person," which may allow prosecution for spousal rape. In November 2001, the Parliament of Ukraine adopted a law "On the prevention of domestic violence," which defines the legal and organizational basis for preventing domestic violence, as well those bodies and organisations responsible for its implementation. The Act outlines the legal and organizational aspects of preventing domestic violence, and names the bodies and institutions that are responsible for taking preventive action in this sphere. The law also adopts a wide definition of violence by including terms such as physical, sexual, psychological, and economic violence in the family. According to the law, violence in the family is defined as "all deliberate acts of a physical, sexual, psychological or economic nature by one family member towards another family member, if such acts violate the constitutional rights and freedoms of the family member and citizen and cause moral damage, or damage to physical or psychological health." The law is gender neutral in this regard, since it does not specify the sex of the victim.

2130. Section 4 of the Criminal Code of Ukraine establishes criminal responsibility for crimes committed against the "sexual freedom or sexual inviolability" of a person. Under article 152 of the Code, rape is defined as "sexual intercourse by force, threat of force, or by taking advantage of the victim's helplessness" and is punishable by terms of imprisonment ranging from three to five years. If the rape is committed by a person who has previously been charged with rape or any other crime under articles 153-155 of the Code, it is punishable with imprisonment for between 5 and 10 years. Rape is punishable by seven to 12 years imprisonment if committed by a group of persons or against a minor under 18. Rape resulting in "severe injuries" and rape of a minor under 14 years of age are punishable by imprisonment for a term ranging from eight to 15 years.

2131. Based on international law and analysis of the actual condition in the country, Article 302 of the Criminal Code stipulates criminal responsibility for a person who is involved in the maintenance of brothels and procures for lechery. The punishment is up to five years of imprisonment. Prior to the adoption of the new Criminal Code, prostitution was not regarded as a crime in Ukraine. Previously, prostitution threatened only public order, and the coercion of women into prostitution was punished in accordance with the Criminal Code. Article 303 on "Prostitution or Coercion or Engagement in Prostitution" was amended by the new Criminal Code, according to which "Systematic prostitution, that is the provision of sexual services for material gain, is liable to a monetary fine ranging from 50 to 500 officially set tax-free minimal incomes or to community work for up to 120 hours."¹⁰⁷³

2132. A 1998 amendment to the criminal code imposes harsh penalties for, among other offences, trafficking in human beings, including for sexual exploitation and pornography. The new criminal code that became effective in September 2001 also contains antitrafficking provisions: article 149¹⁰⁷⁴ mandates three to 15 years of imprisonment for trafficking. Under some circumstances - for example, trafficking of children or groups of victims - traffickers can be sentenced to prison terms of up to 10 years. The law permits the extradition of foreign nationals charged with trafficking when appropriate bilateral agreements with the country in question have been signed, when the crime was committed within the jurisdiction of another country, and when trafficking is a crime under the laws of the requesting country; however, there have been no cases of extradition of trafficking suspects. The Constitution prohibits the extradition of citizens.

Landmark cases

2133. According to the Ministry of Internal Affairs, 145 cases have been opened against traffickers from 1998 to 2001. In 2001, 90 cases were opened, which resulted in at least four reported convictions in which the accused were sentenced to real or suspended jail terms. However, sentences for those convicted of trafficking generally were not severe and usually consisted of fines. A November 2000 case, in which a Greek man and two Ukrainian women were convicted of trafficking in human beings and sentenced to seven years and five years in prison, respectively, marked the first time convicted traffickers received jail sentences. The Government reported that it regularly reviews the licenses of Ukrainian employment agencies, and has suspended the licenses of 125 individuals and companies suspected of trafficking in human beings since 1998.

Policies and programmes

2134. The topic of violence against women is reflected in the new National Action Plan for the advancement of women and the promotion of gender equality in society in the period 2001-2005.

2135. Work has started on establishing a network of specialized institutions for victims of domestic violence: crisis centres and shelters for battered women, and medical and social rehabilitation centres for victims of domestic violence. As part of the programme of cooperation between the State Committee for Family and Youth Affairs and the United Nations

Children's Fund (UNICEF) in the period 2002-2005, there are plans to open five crisis centres (shelters) every year, to be funded in part by UNICEF and local budget resources.

2136. Trafficking is becoming a higher priority for law enforcement agencies. The Ministry of Internal Affairs has established special anti-trafficking units at the national and *oblast* levels. These units became operational in 2000; however, they have had a limited impact. They suffer from lack of adequate resources and often are tasked to work on cases involving other crimes.

2137. In 1999 the Human Rights Ombudsman established a National Coordinating Council for the Prevention of Trafficking in Human Beings, and the organization increasingly has become an outspoken and leading advocate in the Government in raising public and international awareness of the trafficking problem. However, the Ombudsman's office lacks enforcement powers and has yet to demonstrate its effectiveness. In September 1999, the Cabinet of Ministers adopted a national program for the prevention of trafficking in women and children, involving 20 ministries, local governments, international organizations, donors, and domestic and international NGOs. The goal of the programme was to combat trafficking as well as to assist victims; however, severe budget constraints limited the ability of the Government to implement the program effectively. This program ended in 2000 and a new National Action Plan for Anti-Trafficking for 2002-2005 was developed. In September 1999, the Ministry of Education adopted a curriculum in trafficking as part of the first national program for the prevention of a curriculum on trafficking prevention and awareness in high schools.

2138. The Government generally cooperates with other Governments in the investigation and prosecution of trafficking cases; however, efforts are hampered by a number of factors, including insufficient investigative resources, the reluctance of victims to give evidence against traffickers, and in some cases, lack of cooperation from officials in destination countries.

Issues of concern

2139. In Ukraine, the problem of violence against women is extremely pressing and pervasive. Statistics in recent years have been unfavorable: while statistics compiled by the United Nations Development Programme showed that the number of reported rapes and attempted rapes had decreased over the previous few years, surveys indicated that the majority of rapes and other cases of physical abuse went unreported.¹⁰⁷⁵ The International Helsinki Federation for Human Rights reported in 2000 that 20 per cent of women aged 17 to 21 had faced attempted rape; the Institute of Sociological Research reported in September 2000 that 12 per cent of women under the age of 28 had been victims of domestic violence. At the same time, lawyers claim that law-enforcement bodies register only a small percentage of all cases of assault. In general, violations against women and girls, especially domestic violence, sexual and psychological abuse, remains "clandestine".

2140. Domestic violence is a widespread problem in Ukraine and this violence has an impact upon women of all social classes in every region of the country.¹⁰⁷⁶ Despite its prevalence, the response by the criminal justice system to incidences of domestic violence has generally been very weak with women often being urged not to pursue complaints against abusive husbands or partners.¹⁰⁷⁷ It has been reported that some prosecutors have refused to take up cases of domestic

violence even in situations where women have suffered serious injuries.¹⁰⁷⁸ This failure by law enforcement officials and members of the judiciary to consider domestic violence as a criminal offence and to take effective measures to investigate and punish perpetrators has led to a lack of confidence by women in the criminal justice system and to the subsequent underreporting of this kind of violence.¹⁰⁷⁹

2141. According to information received, violence against women does not receive extensive media coverage, despite the efforts of human rights groups to highlight the problem. State-run hotlines, shelters, and other practical support for victims of abuse are few in number. Municipal authorities in Kiev run a women's centre, the only municipally supported shelter in the country.¹⁰⁸⁰ The bulk of support for women who are victims of domestic violence is therefore provided by non-governmental organizations throughout the country.

2142. Women's groups reported that there was widespread sexual harassment in the workplace, including coerced sex. Apart from the law that prohibits forced sex with a "materially dependent person," which applies to employees, legal safeguards against harassment are reportedly inadequate. There were no known prosecutions for sexual harassment in 2001.

2143. The trafficking in women from Ukraine, especially for sex-work, is a serious and increasing problem for the country. Evidence exists from a wide variety of sources of the widespread and increasing nature of the problem. However, Ukraine has no published statistics on the magnitude of the problem and unofficial estimates of the numbers of persons being trafficked differ.¹⁰⁸¹ Following a recent study by the International Organisation of Migration (IOM), reference is now being made to 420,000 women having been trafficked out of the country in the last few years alone.¹⁰⁸² As a country of origin for trafficking victims, Ukrainian citizens are generally transported to countries in the Council of Europe, Central Europe, Cyprus, Turkey and other Mediterranean countries. According to the Interpol bureau, Ukrainian law enforcement bodies have received messages from Germany, Serbia, Italy, Austria, Turkey and Russia about trafficking in young Ukrainian women and their exploitation in the sex industry. Ukraine is also a transit country for trafficked women and there is increasing evidence to suggest it could also be regarded as a destination country.¹⁰⁸³

2144. It is reported that law enforcement officials do not provide sufficient protection to witnesses to encourage them to testify against traffickers, and traffickers are able to intimidate victims to withdraw or change their testimony.¹⁰⁸⁴ A witness protection law exists, but is in abeyance because of lack of funding. Furthermore, the Government is reportedly unable to assist trafficking victims effectively, primarily due to lack of funds. In its concluding observations, the Committee on the Rights of the Child expressed its concern at the lack of implementation of the National Plan of Action to prevent trafficking in women and children; it also noted with concern the large-scale trafficking of children, in particular girls, for the purpose of sexual and other forms of exploitation and the lack of a clearly defined minimum age of sexual consent.¹⁰⁸⁵

2145. According to information received, there are large numbers of undocumented migrants and refugees currently living in Ukraine.¹⁰⁸⁶ Statistics from the UNHCR show that there are approximately 3,000 registered refugees in Ukraine, however, it is thought that there are far greater numbers of undocumented migrants and asylum seekers present in the country. Violence

and other forms of discrimination against migrants and refugees in Ukraine is reportedly widespread¹⁰⁸⁷ and migrant women face multiple forms of discrimination as a result of both their ethnicity and their gender. Migrant women who have been raped are frequently unable to get help from within their own communities as they are regarded as having been "dishonoured", they are not entitled to receive free medical treatment from Ukrainian health service providers and, if they do report the crime, they risk being placed in detention and then deported by law enforcement authorities.¹⁰⁸⁸

2146. According to information received, women in pre-trial detention are reportedly often subjected to intimidation and sexual abuse.¹⁰⁸⁹ There have been allegations that law enforcement officials responsible for investigating complaints of trafficking have treated women in a violent manner and there have also been reports of official complicity in trafficking operations.¹⁰⁹⁰

III. BEST PRACTICES IN FIGHTING VIOLENCE AGAINST WOMEN

2147. The following section illustrates a number of initiatives, which can be considered "best practices" or "good practices" as they lead to actual change, contributed to a policy environment more conducive to gender equality and/or have broken new ground in non-traditional areas for women. The purpose of this section is also to highlight the variety of measures that can be taken to effectively fight violence against women.

International

2148. International civil society networks are increasingly well-organized; they play an active role in lobbying at conferences and have historically made important contributions to the formulation and advocacy of women's rights. One of the most significant achievements of the Women's Caucus for Gender Justice was lobbying for gender-based language in the Rome Statue. Other human rights non-governmental organizations have worked at the international level including Human Rights Watch, Equality Now, Rights and Democracy (ICHRD). Since 1996 World Organization Against Torture (OMCT) started a specific program for the protection of women from gender-based violence around the world. Particular emphasis is put on the prevention of serious abuses against women through urgent appeals on violence against women and providing reports on country situations to the United Nations treaty-monitoring bodies. Amnesty International launched an international campaign on violence against women in 2002.

2149. Worldwide campaigns have been launched to galvanize support for the elimination of violence against women, including the World March of Women 2000, an unprecedented series of actions in 157 countries against poverty and violence against women. The petition campaign, demanding that the United Nations and its Member States take concrete measures to: eliminate poverty and ensure a fair distribution of the planet's wealth between rich and poor, and between men and women; and also to eliminate violence against women and ensure equality between women and men. The work of the march was grassroots, with no sponsorship or sanction from Governments. The demands of the march challenge patriarchy by demanding redress of women's lack of political representation and access to wealth. Many groups use the network that was created through the march to further their work. The networking was also interpersonal, and showed the ability of women to communicate with and support each other beyond borders.

Women from around the globe are linking arms to demand that their local governments and international financial institutions like the World Bank and the International Monetary Fund (IMF) address these two issues in a more concrete and pro-active manner. Professional advocates and grassroots activists issued an unprecedented call for more programmes that feed, house, educate and provide healthcare for people in need. More than 65 women representing 35 countries met in Montreal in October 2001 to continue the feminist international action network known as the World March of Women. Representatives from an additional 50 or so other countries want to continue the work of the World March but were unable to send delegates to the international gathering.

2150. Women's rights activists have used key days as opportunities to lobby internationally for the elimination of violence against women. Between Valentine's Day (V-Day) on 14 February and International Women's Day on 8 March, many women's activists linked up with one of the most radical political, social and theatrical campaigns the International V-Day College Campaign to end violence against women and girls.¹⁰⁹¹ Furthermore, between the International Day for the Elimination of Violence Against Women (25 November)¹⁰⁹² and Human Rights Day (10 December) many activists around the world have creatively used this time for 16 days of activism to end gender-based violence.

2151. Another important form of activism has been Women in Black an international peace network, a means of mobilization and a formula for action. Women in Black vigils were started in Israel in 1988 by women protesting against Israel's occupation of the West Bank and Gaza. Women in Black has developed in countries such as Italy, Spain, Germany, England, Azerbaijan, Colombia, and in Yugoslavia, where women in Belgrade stood in weekly vigils since 1991 to protest war and the Serbian regime's policies of nationalist aggression. Women in Black groups have formed in many cities in the United States since 11 September 2001.

Africa

2152. UNDP Africa Regional Gender Programme is a long-term, multifaceted programme that targets some of the more formidable obstacles to gender equality and equity in Africa. The Regional Bureau for Africa (RBA) has a number of programmes to fight violence against women and girls. These include: (a) support to women's rights networks such as Women in Law and Development in Africa (WILDAF) for community-level networking, advocacy and training, and legal literacy; (b) funding research, including the work of the Council for the Development of Social Science Research in Africa (CODESRIA, Senegal) and its 1997 Gender Institute Programme on "Men, Women and Violence"; (c) work with groups such as Femmes Africa Solidarité (FAS) and the Federation of African Women in Peace (FERFAP) to promote women's contributions to decision-making processes for peace-building and conflict resolution in Burundi, Rwanda, Ethiopia and Eritrea; and, (d) participation in the inter-agency project committee for the UNIFEM Trust Fund on Violence. For example, RBA is working with an NGO on a training and advocacy programme for women survivors of sexual violence in Congo-Brazzaville. It also collaborates with UNIFEM's African Women in Crisis Programme (AFWIC) to develop innovative advocacy approaches with women refugees. RBA is also active in the recently launched Interagency Public Awareness Campaign on violence against women in Africa, along with UNIFEM, UNICEF, UNESCO, DAW, UNIC, ADB, ECA, FAO, OAU, WHO and the

World Bank. UNDP media resources in the pipeline include a video on violence against women in Zambia, and materials on sexual violence in Namibia.

2153. In Nigeria, BAOBAB for Women's Human Rights, is working for women's human rights and legal rights under religious laws, statutory laws, and customary laws. BAOBAB works with legal professionals and paralegals, policy makers, women's and human rights groups, other NGOs, and members of the general public. Its programmes promote human-rights education, particularly women's human rights. BAOBAB sponsors women's rights training and education projects, and programmes to enhance understanding of women's rights with the goal of influencing social and government policies.

2154. In Sudan, the Badya Centre for Integrated Development Services puts on community plays on women's rights, performed by school children for communities in the Nuba Mountains region, with special attention to "honour killings." Additionally, workshops are held for local administrative religious and women leaders and teachers from which a network will be formed to facilitate sharing of experiences on combating violence against women.

Arab region

2155. In the Arab region, advocacy campaigns have been successfully organized to address gender-based violence, including its more sensitive forms of female genital mutilation, sexual harassment (propositions for integrating this issue in legislation and in progress amendments have been made in Morocco); and honour killings. In the case of Jordan, advocacy efforts and campaigns contributed to the amendment of the Penal Code - the infamous article 340¹⁰⁹³ in December 2001. The new version stipulates that "honour killings" are no longer considered as anymore as justified/excused "crimes" with extenuating circumstances with the penalty of prison sentence between three and 12 months, as previously exercised. It is considered now as a crime that could be condemned with death penalty as specified by penal law for homicides. The amendment also established "Gender Equality" in case of adultery; specifically the right to, and empowerment of the wife, to bring her husband to justice in cases of violation of the marital bond.

2156. AMAN, the Arab Regional Resource Centre on Violence against Women, was established in October 2000 in Amman, Jordan.¹⁰⁹⁴ The aim of AMAN is to improve the quantity and quality of information available to professionals and decision-makers working on combating violence against women by organizing and centralizing the location of such information, and making it more readily accessible.¹⁰⁹⁵

2157. In 1999 a UNIFEM study was conducted to highlight the points of conformity between the rights of the Moslem women as stipulated in the Islamic Shariah, and in the Convention. This formed the discussion paper of the regional roundtable workshop, which opened a dialogue on the subject of the Convention and Shariah. Opening this space has afforded a unique opportunity to support and facilitate the ratification, implementation and removal of reservations in the region, and to support governments to create effective mechanisms for implementing the Convention obligations. More efforts are needed to continue this process.¹⁰⁹⁶

2158. The Permanent Arab Court To Resist Violence Against Women (The Women's Court)¹⁰⁹⁷ is a symbolic popular court that aims at fighting all forms of violence practised against women in Arab societies. The Court has both plays an advocacy role and provides direct support to women subjected to any form of violence. The Women's Court raised awareness on the personal status codes existing in the Arab counties in order to reveal to the public the injustice that these codes are inflicting on women.

Asia/Pacific

2159. Five *Nari Adalat* or women's courts have been holding regular sessions one day a week in five villages in the western state of Gujarat, India, for the last five years. At a time when the formal judicial system seems to have become increasingly remote and inaccessible to the poor people, especially women, this alternative judicial system renders justice through a process of social censure, cajoling, argument and persuasion. They hear, mediate and adjudicate cases of divorce, fights between women and their mothers-in-law, complaints about drunkenness, domestic violence, rape, dowry extortion, maintenance for abandoned or divorced women, inheritance and the treatment of widows and the elderly. Many of the court officers are barely literate but they have learned about the law, its implications and limitations.¹⁰⁹⁸

2160. A new section was added in the Indian Evidence Act (sect. 114A), which made sexual intercourse by persons in a custodian situation (policemen, public servants, managers of public hospitals and remand homes and wardens of jails) an offence. In such cases, once a woman proves that sexual intercourse took place and states on oath that she did not consent, then the burden of proof would shift to the accused.¹⁰⁹⁹

2161. Recognizing the key role that men can play in fighting violence against women and in changing stereotypes detrimental to gender equality, Population Services Philippines Inc. and the Philippines partner for Marie Stopes International have sought to involve men in efforts to eliminate violence against women in the Philippines. In order to do this, they organized a series of workshops with the objective of selecting strategic segments of the adult male population and engaging them in raising awareness on violence against women. The programme targeted men, particularly members of the police force and elected male village heads.¹¹⁰⁰

2162. The Hospital-Assisted Crisis Intervention to Women Survivors of Violent Environments (HAVEN) in the Philippines provides medical and legal services and serves as a drop-in centre for victims of violence against women. Project HAVEN has been envisioned as a 'one-stop-shop' where all services needed by the survivor could be provided. These include counselling, temporary shelter, and legal assistance, financial assistance for medical treatment, psychiatric support and social services. The Centre was initially run by an NGO and was supported by the government in 1997. This also motivated the Department of Health to issue an administrative order mandating all public hospitals to establish Women and Children Protection Units.¹¹⁰¹

2163. In Fiji, a Taskforce on Violence Against Women has been created. It includes various departments like the Law Reform Commission, Ministry for Women, Social Welfare Departments, Police, Health, Disabled People's Association and the Justice Ministry. Being violence against women a multifaceted phenomenon, a variety of services is needed to combat it.

Joint strategies will tackle the problem in various aspects and will help to expedite the process of eliminating violence against women.¹¹⁰²

2164. The National indigenous family violence community awareness campaign, called 'Walking into Doors', was launched in April 2001 in Australia. The campaign features indigenous musicians who talk about the experience of violence in their lives and those of indigenous families and perform a range of songs. These activities are aimed to generate public awareness and people's action for the prevention, intervention and elimination of violence against women.¹¹⁰³

Americas

2165. Various non-profit groups and governmental entities provide judicial training on matters of violence against women in the United States of America. The National Judicial Education Program to Promote Equality for Women and Men in the Courts (NJEP) was established in 1980.¹¹⁰⁴ NJEP creates model curricula, and consults on gender bias in the courts for judicial organizations, bar associations, law schools, and legal and lay organizations across the country. Understanding Sexual Violence: The Judicial Response to Stranger and Non-stranger Rape and Sexual Assault, the NJEP's model curriculum on rape trials, was published in December 1994 and has been presented in more than 20 states, as well as abroad. A self-directed video version of this curriculum and an adaptation for prosecutors are also available.¹¹⁰⁵ NJEP was a catalyst for a series of task forces established by state chief justices and federal circuit councils to examine gender bias in their own court systems, including the efficacy of protection orders and enforcement of other domestic violence legislation.¹¹⁰⁶

2166. Verizon Wireless in the United States has developed an initiative to put wireless products and services to work to combat domestic violence. Its HopeLine® program donates cellular phones to victims of domestic violence so that they can remain in communication with police and others for safety purposes.¹¹⁰⁷

2167. The role played by the police stations for women in Latin America has been quite relevant to encourage women to break silence and seek for information and services. At the same time this experience has been quite useful to obtain data and statistics on the magnitude of domestic violence. The Inter-American Commission for Human Rights, the Inter-American Court of Justice contributed to strengthen the plight of women to access to justice.

2168. A recent successful initiative in Latin America is the one implemented by the Pan American Health Organization (PAHO). It is based on a model that considers intra-family violence a severe threat to women's mental and physical health. The initial detection point is located in health services. Men are involved in the initiative through reproductive health programmes, which include sensitization on violence within the family. Two regional projects are being implemented.¹¹⁰⁸

Europe

2169. In 1997 the European Women's Lobby (EWL)¹¹⁰⁹ developed the European Policy Action Centre on Violence against Women, to provide a forum for women's NGOs to enable them to

take a leadership role in engaging policy and decision-makers to take responsibility for violence against women. In the initial period, an “observatory on violence against women” was formed, which is an expert group composed of 15 women, one from each of the current EU member States with extensive expertise in the area of violence against women. The task of the Observatory is to advise the EWL on strategies to address violence against women within the EU, hence extending beyond national boundaries to achieve European-wide responses and policies to address and combat violence against women. The work of the EWL/Policy Action Centre on VAW with the input of the experts of the observatory has been instrumental in facilitating and developing a co-ordinated approach to VAW within the European Union. With the input of the experts, two studies were carried out, which led to the publication of “Unveiling the hidden data on domestic violence in the EU” and “Towards a common European framework to measure progress in combating violence against women”. This latter document contains a table of indicators to measure government’s progress and is being used by the EWL/Policy Action Centre to collate information and data on violence against women with the EU member States.

2170. The South-Eastern European Women’s Legal Initiative (SEELINE) was initiated by B.a.B.e (Be Active, Be Emancipated), a group in Zagreb, Croatia, which works for the affirmation and implementation of women’s human rights. Experience of monitoring Croatian laws, introducing changes in legal system and lobbying for desired gender-sensitive legislation made them recognize the need to work in the framework of a regional South-Eastern European network. To influence legislation on a regional level and make it more gender-sensitive, unified and balanced. SEELINE will provide an opportunity for women’s advocates to meet and work together to exchange strategies that have worked in their respective countries, as well as start the work on unification and balance of legislative systems within the region. It is hoped that the work of the regional network will force Governments and parliaments to be more accountable and to incorporate gender mainstreaming and gender sensitive provisions within legal systems and in the national machinery of protection of women’s rights.¹¹¹⁰

Notes*

¹ See the Special Rapporteur’s report E/CN.4/2001/73 entitled Violence against women perpetrated and/or condoned by the State during times of armed conflict (1997-2000).

² For more information see SRVAW report A/CONF.189/PC.3/5

³ See SG report on integration of women’s human rights into the UN system 2002/3.

⁴ Official records of the Economic and Social Council, 2001, supp.No.7 & Corr. (E/2001/27 & Corr.1), chap.1, sect.A. IV

⁵ S/2002/1154

⁶ OIOS Investigation into sexual exploitation of refugees by aid workers in West Africa A/57/465

⁷ The GP were presented to Commission on Human Rights in 1998 and later that year IASC adopted a decision welcoming them and encouraging its members to apply them in their activities in the field.

⁸ Deepa Narayan, *Voices of the Poor: Vol. 1. Can Any One Hear Us; Vol. 2. Crying Out for Change*. World Bank. Washington, 2000.

⁹ Acknowledgement and thanks to Florence Butegwa for her background paper - which used data collected during the global assessment of actions to end violence against women commissioned by the United Nations Development Fund for Women (UNIFEM). This review also draws on a report commissioned and published by the Center for Reproductive Law and Policy covering Ethiopia, Ghana, Kenya, Nigeria, South Africa, Tanzania, and Zimbabwe.⁹

¹⁰ Information from the web site of the Office of the United Nations High Commissioner for Human Rights, www.unhchr.ch, dated 11 October 2002.

¹¹ For more details about the African Commission on Human and People’s Rights, see www.achpr.org

¹² Article 5, The Treaty for the Establishment of the East African Community

¹³ The Declaration was adopted in Malawi, 1997.

¹⁴ Articles 61, 63 of ECOWAS Revised Treaty 1993.

* Notes are supplied for general information purposes and have not been edited for accuracy or consistency.

¹⁵ Twenty fifth ordinary session, December 2001

¹⁶ For country profiles, see below

¹⁷ Josephine Effah - Chukwuma and Ngozi Osarenren, *Beyond Boundaries: Violence Against Women in Nigeria*, Project Alert on Violence Against Women, 2001, 93.

¹⁸ Information provided by the U.N. Department of Peace-Keeping Operation in contribution for this report (input from the United Nations Mission in Angola (UNMA), December 2002.)

¹⁹ Ibid

²⁰ Information provided by Amnesty International

²¹ World Health Organization (WHO), *Female Genital Mutilation – An Overview*, Geneva, 1998.

<http://www.who.int/dsa/cat98/fgmbook.htm#Africa>

²² United Nations Population Fund (UNFPA), *Recommendations by the Executive Director – Assistance to the Government of Benin*, U.N. Doc. DP/FPA/BEN/5, 27 January 1999, § 8.

²³ United Nations Population Fund (UNFPA), *Recommendations by the Executive Director – Assistance to the Government of Botswana*, U.N. Doc. DP/FPA/BWA/3, 9 February 1998, § 8.

²⁴ CEDAW/C/BFA/2-3

²⁵ The sentence is increased to 20 years if: the perpetrator is an older relative of the victim of the rape or attempted rape; the perpetrator is in a position of authority vis-à-vis the victim; the perpetrator has acted with others; the rape or attempted rape victim is especially vulnerable due to pregnancy, disease, disability, or physical or mental deficiency; the rape or attempted rape victim is a minor 15 years old or younger; or the rape is committed using the threat of a weapon (Penal Code, Art. 417 §3)

²⁶ Penal Code Art. 327 to 332.

²⁷ Code of Persons and the Family, Title I Art. 234. For further information, see Center for Reproductive Law and Policy, *Women of the World: Laws and Policies Affecting their Reproductive Lives*, 2001, pp. 44

²⁸ Under the Penal Code, FC/FGM now constitutes an offense punishable by six months to three years imprisonment and/or a fine of 150,000 (U.S.\$238.78) to 900,000 CFA francs (U.S.\$1,432.69). FC/FGM is defined as “the violation of the physical integrity of the female genital organ, either by total ablation, or by excision, infibulation, desensitization, or any other means.” When the victim dies, the sentences are increased to between five and 10 years imprisonment. (Penal Code, Art. 380)

²⁹ Depending on the jurisdiction in which the case is tried, perpetrators may be subject to losing their professional licenses for a period not exceeding five years (Penal Code Art. 381)

³⁰ The Penal Code stipulates that “any person who is aware of the acts specified in Article 377 and does not alert the appropriate authorities to said acts shall be punished by a fine of 50,000 (U.S.\$79.59) to 100,000 CFA francs (U.S.\$159.19).” Penal Code Art. 382

³¹ See WHO Report

³² For further information, see Center for Reproductive Law and Policy, *Women of the World: Laws and Policies Affecting their Reproductive Lives*, 2001, p. 55.

³³ See the national daily “l’Observateur paalga” no. 4731 of September 4 and 6, 1998, at 4.

³⁴ See United Nations Population Fund (UNFPA), *Recommendations by the Executive Director – Assistance to the Government of Burkina Faso*, U.N. Doc. DP/FPA/BFA/5, 20 November 2000, § 9.

“Women in Burkina Faso have a very low status. The illiteracy rate for females over age 10 is 86.7 per cent compared to 73.4 per cent for men. The gap in female education is a serious hindrance to women’s participation in the modern sector, where they represent 21 per cent of the public administration staff and only 5 per cent in the private sector. Out of the 45.5 per cent of people living below the poverty level, 51.3 per cent are women. Discrimination in school enrolment and in decision-making, lack of economic power, and harmful practices such as FGM and wife inheritance contribute to the poor health of women. HIV/AIDS infection is higher in women than in men.”

35 A/55/38, paras. 329-286

³⁶ Report on the human rights situation in Burundi submitted by the Special Rapporteur, Mrs. Marie-Thérèse A. Keita Bocoum, in accordance with Commission resolution 1999/10, E/CN.4/2000/34.

³⁷ Women’s Commission for Refugee Women and Children, “Watchlist on Children and Armed Conflict: Burundi”, 2002 (http://www.womenscommission.org/reports/wl_burundi.pdf)

³⁸ Human Rights Watch, *World Report 2002*, p.40; see also Human Rights Watch, *To protect the people: the Government-sponsored “self-defense” program in Burundi*, December 2001 (<http://www.hrw.org/reports/2001/burundi/burundi1201.pdf>)

³⁹ See HRW World Report 2002, p. 545: “Refugee camps in Tanzania continued to showcase some of the dangers facing women in flight, especially refugees from Burundi. Local Tanzanians and other refugees physically and sexually assaulted women refugees with impunity, both inside and outside refugee camps. The United Nations High Commissioner for Refugees (UNHCR) and aid agencies working with the camps sought to raise awareness among refugees about sexual and gender-based violence, and provided counseling to victims, but UNHCR reported a continuing high evidence of domestic violence, recording some 1,739 cases in Tanzania’s Burundian refugee camps between April and December 2000. UNHCR said some Tanzanian authorities were prosecuting some rape cases. Generally, however, the Tanzanian justice system failed to provide an effective remedy for victims of sexual and domestic violence in the camps, such cases often being seen by the authorities as “private” domestic matters beyond the scope of state intervention.”

⁴⁰ CEDAW, A/56/38, paras. 32-67

⁴¹ See also CRC/C/15/Add.133

⁴² E/CN.4/2000/34

⁴³ Penal Code, Article 296

⁴⁴ Penal Code, Article 360 (1)

⁴⁵ See Center for Reproductive Law and Policy, *Women of the World: Laws and Policies Affecting their Reproductive Lives*, 2001, p. 81

⁴⁶ In Cameroon, the Criminal Code identifies prostitution and procuring as punishable offences. According to article 343, "(1) Anyone of either sex who habitually engages in sexual acts with others, for remuneration, shall be liable to imprisonment for six months to five years and a fine of 20,000 (US\$26.32) to 500,000 francs (US\$657.89) [...]. (2) Anyone who, with a view to prostitution or sexual immorality, proceeds publicly by gestures, words, written messages or any other means to solicit persons of either sex shall be liable to the same penalties." Moreover, procuring is criminalized under article 294 which provides that "(1) Anyone who incites, aids or facilitates the prostitution of others or shares, even occasionally, in the proceeds of the prostitution of others or receives subsidies from a person engaged in prostitution shall be liable to imprisonment for six months to five years and a fine of 20,000 (US\$26.32) to 1,000,000 francs (US\$1315.79). (2) Anyone who, while living with a person engaged in prostitution, is unable to provide evidence of resources sufficient to enable him to support himself unaided shall be presumed to be receiving subsidies."

⁴⁷ See Center for Reproductive Law and Policy, *Women of the World: Laws and Policies Affecting their Reproductive Lives*, 2001, p. 83

⁴⁸ Le Centre pour le droit et les politiques en matière de santé et de reproduction, *Les femmes à travers le monde: Lois et politiques que influencent leur vie reproductive*, l'Afrique francophone, 1999, p. 74.

⁴⁹ E/CN.4/2000/68/Add.5, para. 14

⁵⁰ See the Report prepared by the World Organization against Torture (OMCT) for the Committee against Torture, *Violence against Women in Cameroon*, 2000.

⁵¹ FIDH, La Lettre N° 259, *Cameroon: Arbitraire, impunité et répression*, 1998, p. 31.

⁵² ACAT Cameroun, *Rapport sur les violations des droits de l'homme dans la province du Littoral*, May 2000.

⁵³ See CEDAW Concluding Observations, A/55/38, 2000, paras. 30-66

⁵⁴ Central African Republic, Ministry of Economics, Planning and International Cooperation/Macro International. *Enquête démographique et de santé, République Centrafricaine 1994-95. (Demographic and health survey, Central African Republic 1994-95)*. Calverton, MD, Macro International, 1995.

⁵⁵ The Penal Code does not define rape, but nonetheless punishes it with a sentence of forced labor (Penal Code Title VI Chapter I Article 275). If the rape was committed on a child younger than 13, or with the assistance of one or several persons, or by one of the victim's older relatives, the sentence is forced labor for life (Article 276). In addition, the older relatives are stripped of their paternal rights (Article 278).

⁵⁶ Under Article 252, any person who voluntarily strikes, injures, or commits any other act of assault or battery against another shall be punished by imprisonment of six days to one year and a fine of 500 (U.S.\$0.80) to 50,000 CFAfrancs (U.S.\$79.59). If there is premeditation or a trap, imprisonment will be six months to five years, and the fine 5,000 (U.S.\$7.97) to 100,000 CFA francs (U.S.\$159.19) [see Penal Code, Title V, Chapter I, Art. 252]. If these violent acts result in illness or an incapacity to work for more than 20 days, imprisonment will be one to five years, and the fine, 5,000 (U.S.\$7.97) to 100,000 CFA francs (U.S.\$159.19). If the acts caused mutilation, amputation, or deprivation of the use of a limb or an eye, the loss of an eye, or other injuries, or if they inadvertently caused death, imprisonment will be five to 10 years and the fine 10,000 (U.S.\$15.93) to 500,000 CFA francs (U.S.\$795.94) [see Penal Code, Title V, Chapter I, Art. 253]

⁵⁷ See Center for Reproductive Law and Policy, *Women of the World: Laws and Policies Affecting their Reproductive Lives*, 2001, 107.

⁵⁸ The Penal Code section on bodily integrity (Art. 252) stipulates that "any individual who has voluntarily administered blows and caused injuries, or committed any other act of assault or battery on another, shall be punished by imprisonment of six days to one year and a fine of 500 (U.S.\$0.80) to 50,000 CFA francs (U.S.\$79.59). When the blows or injuries were inflicted upon a child under the age of 13, the penalty will be doubled." (Art. 254)

⁵⁹ Order 03/INT/61 of June 21, 1961, First Art.

⁶⁰ U.S. Department of State Report, *supra* n.5

⁶¹ World Health Organization (WHO), *Female Genital Mutilation – An Overview*, Geneva, 1998.

⁶² See Women's Commission for Refugee Women and Children, *Country Profile from Africa – "Post Conflict Situation in the Republic of Congo"*, January 2001, p. 3.

⁶³ *Ibid*

⁶⁴ United Nations, *Plan: Republic of Congo, 2001-2002*, 28

⁶⁵ E/CN.4/2000/9

⁶⁶ United Nations, U.N., *Plan: Republic of Congo, 2001-2002*, 11.

⁶⁷ CCPR/C/79/Add.118

⁶⁸ Act No. 98-757 of 23 December 1998.

⁶⁹ Act No. 98-757, 1998.

⁷⁰ Decree No. 2000-133 of 23 February 2000.

⁷¹ See WHO Report

⁷² CRC/C/15/Add.155, 9 July 2001

⁷³ Penal Code Art. 167, 168, 170, 171

⁷⁴ Penal Code Art. 67.

⁷⁵ Information provided by the U.N. Department of Peace-Keeping Operation in contribution for this report (input from the United Nations Mission in Democratic Republic of the Congo (MONUC), December 2002.)

⁷⁶ Human Right Watch, *The War within the War - Sexual Violence Against Women and Girls in Eastern Congo*, June 2002.

⁷⁷ On 15 May 2001 in the village of Kinyogote, South Kivu Province, a group of RPA soldiers reportedly raped Jeanine Ruhembo and Ndole Sifa in the presence of their husbands and children. On 17 July 2001 in the village of Mwenga, South Kivu Province, RCD Commandant Pitchen reportedly forced Alexandrine Mwenga into his home and raped her repeatedly.

⁷⁸ A/55/38 paras.194-238, 01/02/2000.

⁷⁹ Few women work in managerial and professional positions; women largely are confined to trade and secretarial fields.

⁸⁰ WHO Report

⁸¹ CRC/C/15/Add.131

⁸² U.N. document E/CN.4/2000/40.

⁸³ U.N. document., E/CN.4/2000/40, para.138.

⁸⁴ Global Fund for Women, *When the Road Ends and the Walking Begins* Africa Report, "Eritrea – Looking to the Future – Giving Girls new Opportunities", 1999 (on the website: <http://www.globalfundforwomen.org/4news/africa-report/00-cover.html>)

⁸⁵ WHO Report

⁸⁶ Reservations and Declarations: Article 29(1).

⁸⁷ Penal Code, Art. 558; see Women's Action, "Ethiopia: Official License for Abduction and Rape", March 2002, on website: http://www.equalitynow.org/action_eng_22_1.html)

⁸⁸ Penal Code, Art. 589

⁸⁹ Penal Code, Arts. 538-39

⁹⁰ Penal Code, Art. 544

⁹¹ Civil Code, Art. 536

⁹² The Health Policy lists as a general strategy the identification and discouragement of harmful traditional practices [HEALTH POLICY OF THE TRANSITIONAL GOVERNMENT OF ETHIOPIA 23 (Sept. 1993). This definition is consistent with the Preamble of the Constitution of the World Health Organization, which defines health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity." 1 INT'L ENCYCLOPEDIA OF LAWS 55-59 (1993)]

⁹³ Center for Reproductive Law and Policy, *Women of the World: Laws and Policies Affecting their Reproductive Lives (Anglophone Africa)*, 2001, 22

⁹⁴ Article 35.

⁹⁵ *Ibid*, 24.

⁹⁶ *Ibid*, 23

⁹⁷ See also Special Rapporteur on Sale of children, child prostitution, child pornography in report E/CN.4/2000/73, paras. 91-92. The Special Rapporteur cited information indicating that: most cases of sexual abuse of girls in Ethiopia occur at home and are committed by persons who are close to the family, such as neighbours or friends or siblings; they extent of the problem is greater than the rate of reporting of such offences; the low rate of reporting is attributable to a discouraging legal process, from the medical examination that the victim has to endure, to court proceedings which are rarely sympathetic to the victim; another area of concern is that of domestic violence and sexual abuse of the domestic servant.

⁹⁸ See Committee on the Rights of the Child, Concluding Observations, CRC/C/15/Add.144, paras. 46 and 72.

⁹⁹ See UNITED NATIONS POPULATION FUND (UNFPA) PROPOSED PROJECTS AND PROGRAMMES Recommendation by the Executive Director Assistance to the Government of Gabon – U.N. Doc. DP/FPA/GAB/4, 24 December 2001, § 13 (discriminatory laws in relation to dowry, divorce and inheritance within marriage.)

¹⁰⁰ Reproductive health centres will be equipped with skills to diagnose, treat and counsel victims of such violence. NGOs and civil society organizations will be encouraged and supported to continue to work for the promotion and protection of women's status and rights. (see UNFPA report, §30)

¹⁰¹ In April 2001 a Nigerian-registered ship, the *MV Etireno*, arrived at the port of Owendo in Libreville and was turned away by government authorities who suspected that illegal immigrants were aboard. The international press reported that the ship was carrying up to 250 children trafficked from West Africa to work as laborers and domestic servants in the country. The ship returned to Cotonou, Benin, after approximately 2 weeks at sea. International organizations and their embassies assisted the 23 children aboard (from Benin, Togo, and Mali) when they arrived in Cotonou. In September 2001 a ship carrying 130 West African child trafficking victims from Nigeria to the country capsized off the coast of Cameroon. The children were assisted by Cameroon government officials and repatriated to their home countries.

¹⁰² U.N. Doc., CCPR/CO/70/GAB, November 2000.

¹⁰³ See UNITED NATIONS POPULATION FUND (UNFPA) PROPOSED PROJECTS AND PROGRAMMES Recommendation by the Executive Director Assistance to the Government of Gambia – U.N. Doc. DP/FPA/GMB/5, 13 August 2001, § 4

¹⁰⁴ See CPTAFE, *Survey on Female Genital Mutilation in Upper and Middle Guinea, Discussion of Principal Findings*, Arlington, Virginia: John Snow, Inc./MotherCare, 1998; CPTAFE, *Female Genital Mutilation: Identifying Factors Leading to its Perpetuation in Two Regions in Guinea 1996-1998*, Arlington, VA: MotherCare Project, John Snow, Inc., 1999.

¹⁰⁵ According to information received, twenty-three Guineans who were abducted during the December 2000 and March attacks on Guekedou and Nongowa escaped in May 2001 after spending months as forced laborers and sex slaves for the RUF. In late July 2001, authorities reportedly arrested 51 Nigerians in Conakry for trafficking in persons. The authorities released 33 young girls, who were destined for Europe, to the Nigerian Embassy. The remaining 17 were adult males who are to be prosecuted by a special tribunal for trafficking in persons.

¹⁰⁶ An Act (484 of 1994) to amend the Criminal Code, 1960 (Act 29) to include in the Code the offence of female circumcisions and for connected purposes, 4 August 1994.

¹⁰⁷ It is reported that health facilities at the primary health care level offer reproductive health services in an integrated manner through 1,050 public sector health centres and over 12,753 community outreach sites. Ten regional and 110 district hospitals are the main referral centres. In addition, reproductive health services are provided through 1,039 private health facilities. The main objective of the health SWAp, which became operational in 1997, is to minimize vertical programming and improve budgetary efficiency. UNFPA participates in the ongoing review of sector priorities and performance and has worked to ensure the inclusion of reproductive health dimensions and gender concerns in the health sector

programme. (see UNITED NATIONS POPULATION FUND (UNFPA) PROPOSED PROJECTS AND PROGRAMMES Recommendation by the Executive Director Assistance to the Government of Ghana – U.N. Doc. DP/FPA/GHA/4, 21 November 2000, § 8.)

¹⁰⁸ According to data gathered by the International Federation of Woman Lawyers (FIDA).

¹⁰⁹ See WHO Report

¹¹⁰ See the 2002 Report of the Special Rapporteur on violence against women on Cultural practices on family that are violent towards women, E/CN.4/2002/83; see also “The Trokosi: religious slavery in Ghana” by Obenewa Amponsah at www.anti-slavery.org/global/ghana/

¹¹¹ Penal Code, Article 265 (Decree No. D/96/205/PRG/SGG of 5 December 1996 promulgating the Code of Medical Deontology [Article 40].)

¹¹² U.N. Doc., A/56/38, 2001, paras. 97-144

¹¹³ See the Concluding Observations of the Committee on the Rights of the Child, CRC/C/15/Add.117, June 2002.

¹¹⁴ See WHO Report

¹¹⁵ Laws of Kenya, Ch. 63, §§140-167. Various other sexual offenses are contained in Chapter XV of the Penal Code, including *inter alia*: abduction of a woman of any age against her will for the purposes of marriage or sexual relations (Laws of Kenya, Ch. 63, § 142); “indecent assault” of any woman or girl (ib. § 144); procurement of women or girls for the purpose of prostitution (§ 147); inducement of sexual intercourse through duress, fraud, or the administration of overpowering drugs (§ 148); and detention of any woman against her will for the purposes of sexual intercourse (§ 151).

¹¹⁶ Under Kenyan customary laws, only “unjustified or excessive beating” by the husband would be sufficient ground for divorce or for the wife to return to her family. Nonetheless, violence against a wife might constitute an offense under any one of the provisions of the Penal Code criminalizing assault, which is defined as the unlawful infliction of bodily harm to any person or the intent to unlawfully harm another person. Assault or battery may also be grounds for civil actions in tort. (Laws of Kenya, Ch. 63, §§ 231, 234, 250, 251.)

¹¹⁷ Laws of Kenya, article 145. It is, however, sufficient defense to such a charge of statutory rape that the accused had reason to believe, and did in fact believe, that the girl was 14 years or older, or that the girl was his wife. For further discussion on sexual offenses against minors, see the section on adolescents below (id.)

¹¹⁸ Kenya: Rape – The invisible Crime, Amnesty International, March 2002.

¹¹⁹ See WHO Report, supra no.1

¹²⁰ According to the women's rights organization *Maendeleo Ya Wanawake* (“Development of Women” in Swahili).

¹²¹ According to statistics compiled by a group of NGOs in Marakwet, only 169 girls were subjected to FGM in 1999, compared with 12,000 girls during the same month in the 4 previous years.

¹²² Human Rights Watch, *Juvenile Injustice: Police Abuse and Detention of Street Children in Kenya*, Human Rights Watch Children’s Rights Project, June 1997.

¹²³ See United Nations Population Fund (UNFPA), *Recommendations by the Executive Director – Assistance to the Government of Lesotho*, U.N. Doc. DP/FPA/LSO/3, 10 February 1998.

¹²⁴ WHO Report,

¹²⁵ See United Nations Population Fund (UNFPA), *Recommendations by the Executive Director – Assistance to the Government of Madagascar*, U.N. Doc. DP/FPA/MDG/4, 20 November 1998.

¹²⁶ Constitution of Malawi, Chapter IV, Article 24

¹²⁷ For further information on the Malawi National Gender Policy, see the Sustainable Development Networking Programme (SDNP/UNDP) website, “Gender Policy in Malawi”, <http://www.sdn.org.mw/~ettah/gender/>

¹²⁸ Ibid

¹²⁹ Centre for Reproductive Law and Policy, *Women of the World: Laws and Policies Affecting Their Reproductive Lives – Francophone Africa*, NY, NY, December 1999.

¹³⁰ For further information, please refer to Centre for Reproductive Law and Policy (CRLP), *Reproductive Rights of Young Girls and Adolescents in Mali: A Shadow Report*, 1999, http://www.crlp.org/pdf/sr_mali_0999_eng.pdf

¹³¹ From 1998 to 1999, only about 10 cases of rape or sexual assault were reported to the Center for Information, Consultation and Legal Assistance, which is directed by the Association of Jurists of Mali (CRLP report, supra n. 121)

¹³² Ministry of the Promotion of the Woman, Child and Family, National Plan for the Eradication of Excision by the Year 2007 at 3 (July 29, 1998).

¹³³ See United Nations Population Fund (UNFPA), *Recommendations by the Executive Director – Assistance to the Government of Mauritania*, U.N. Doc. DP/FPA/MRT/4, 9 February 1998, article 8.

¹³⁴ Information provided by the Permanent Mission of the Republic of Mauritius to the United Nations (October 2002) in response to a request for information made by the Special Rapporteur.

¹³⁵ In 2001, All Against Violence (TCV), an NGO, registered 699 requests for assistance in cases involving domestic violence, of which 10 were forwarded to the courts.

¹³⁶ For further details, please see the website of The Southern African Research Documentation Centre: http://www.sardc.net/Widsaa/sgm/1999/sgm_ch6.html

¹³⁷ Criminal Code Article 357

¹³⁸ Criminal Code, Article 282

¹³⁹ For further information on the legal framework, see Centre for Reproductive Law and Policy (CRLP), *Reproductive Rights of Young Girls and Adolescents in Nigeria: A Shadow Report*, 1998.

¹⁴⁰ However, criminal law in Nigeria prohibits “indecent assault,” which is defined as an act of “gross indecency” committed against a person, without consent or by use of force or threats (See CRIM.CODE §§ 353, 360; PEN.CODE § 285). But pursuant to the Criminal Code, indecent assault committed against a woman is a lesser offense than indecent assault of a man, and the crime carries lower penalties.

¹⁴¹ Female Circumcision and Genital Mutilation (Prohibition) Law 1999 of Edo State, Section 3, makes it an offence to circumcise or mutilate the genital of any female, with or without consent of the female. The offenders under the law include any person who offers herself for circumcision or genital mutilation; any person who coerces, entices, induces any person to undergo female circumcision or genital mutilation; any person who allows any female who is either a daughter or ward to be circumcised or be subjected to genital mutilation; and any person who performs the operation of female circumcision or genital mutilation. The offence under the Act is punishable with fine or imprisonment for not less than six months or both.

¹⁴² See PENAL CODE §§ 275, 276, 278, 281; CRIM. CODE §§ 219, 223, 224.

¹⁴³ On 22 March 2002, a court at Bakori in Katsina State sentenced Amina Lawal to death after she confessed to having had a child while divorced. The man named as the father of her baby girl reportedly denied having sex with her and the charges against him were discontinued. In this case pregnancy outside of marriage constituted sufficient evidence to enable a woman to be convicted of adultery. Importantly, this most recent sentence of death by stoning for alleged adultery was handed down three days before a court in Sokoto State upheld the appeal by 35 year-old Safiya Husseini Tungar Tudu who had also been convicted of adultery and sentenced to death by stoning. The case of Safiya Husseini elicited a strong reaction from both the Federal government of Nigeria, international inter-governmental organizations and non-governmental organizations. Furthermore, on 11 January 2001, the Special Rapporteur on violence against women sent an urgent appeal with the Special Rapporteur on Torture on behalf of Bariya Ibrahim Magazu, a 17-year-old girl. She was reportedly sentenced to 180 strokes of the cane by a court in Tsafe, Zamfara State, in early September 2000, allegedly for having had sexual relations outside marriage and for having falsely accused three men of having sexual relations with her. See E/CN.4/2001/73/Add.1 and E/CN.4/2002/83/Add.1 (paras. 92-93)

¹⁴⁴ Mrs. F. I. Igwe in a Keynote address at the Legal Rights Advocacy Seminar of WOPED, Feb. 1998, stated that such cases are seldom investigated or prosecuted as criminal assaults until case results in death.

¹⁴⁵ NAHID TOUBIA, FEMALE GENITAL MUTILATION: A CALL FOR GLOBAL ACTION 25 (Rainbo 1995); Mairo U. Mandara, *Prevalence Of Female Genital Mutilation in Zaira: A Critical Appraisal*, in DISCUSSING REPRODUCTIVE RIGHTS IN NIGERIA, at 29, 36 (1995); see also WHO Report

¹⁴⁶ See the Special Rapporteur on violence against women's report on the relationship between violence against women and economic and social policy (E/CN.4/2000/68/Add.5, paras. 13, 14, 15, 16): “in Nigeria, women have the legal status of a minor; bearing in mind that unequal ownership rights leave women dependent on men, 90 per cent of land and property are in the name of men; only men can receive accommodation grants from the employer as women are expected to move in with the husband; landlords are reluctant to give accommodation to single women or mothers, who have the reputation of being promiscuous; since women do not possess land, a house or other property, they are effectively barred from obtaining credit.”

¹⁴⁷ A/53/38/Rev.1, paras. 138-174, July 1998.

¹⁴⁸ Project funded by the World Health Organization and the Government of Italy

¹⁴⁹ See the Report of the Special Rapporteur on violence against women, its causes and consequences, Report of the mission to Rwanda on the issues of violence against women in situations of armed conflict, E/CN.4/1998/54/Add.1

¹⁵⁰ Criminal Code, Article 320

¹⁵¹ Id.

¹⁵² Centre for Reproductive Law and Policy, *Women of the World: Laws and Policies Affecting Their Reproductive Lives – Francophone Africa*, NY, NY, December 1999.

¹⁵³ Act adopted on 29 January 1999

¹⁵⁴ Family Code, Article 111

¹⁵⁵ United Nations Development Programme, *Les Sénégalais en Chiffres*, 2000.

¹⁵⁶ If serious injury to the child results, the sentence is increased to five to 10 years (Penal Code, Art. 300)

¹⁵⁷ Ministère de la Santé et de L' Action Sociale, Direction de L'Hygiène et de la Santé Publique, Programme National en Santé de la Reproduction, 1997-2001, 1997, quoted in Centre pour le droits et les politiques en matière de santé et de reproduction (CRLP) et Group de recherche femmes et lois au Sénégal (GREFELS), *Les femmes a travers le monde : lois et politiques qui influencent leur vie productive*, 1999, p. 81. The principal objectives of the programme includes: providing quality prenatal care to 80% of pregnant women; increasing assisted childbirth to 80%; ensuring that 50% of women who give birth have quality postnatal care; in creasing contraceptive prevalence to 20% with a mean annual progression of 3%; reducing the rate of spontaneous and induced abortion by 50%; increasing responsible sexual behaviour among men and women by 50%; maintaining the HIV prevalence rate below a threshold of 2.5%; reducing the incidence of STIs by 50%; ensuring the coverage of medical and psychological costs for at least 60% of persons infected with HIV, as well as those with AIDS; reducing FGM by 50%; reducing the various forms of violence against women, adolescents, and young girls by 59%; reducing the incidence of early and/or unwanted pregnancy in young women and adolescents ages 10 to 24 years by 25%; providing accessible services to meet the needs of seniors; and ensuring the management and organisational efficiency of these services

¹⁵⁸ Ministère de la Santé et de l' Action Sociale, Direction de l'Hygiène et de la Santé Publique, Programme National en Santé de la Reproduction, 1997-2001, at 3 (March 1997)

¹⁵⁹ See World Organisation against Torture (OMCT), *Violence against Women in Senegal*, 2001

¹⁶⁰ WHO Report, supra n.1

¹⁶¹ A survey of six church parishes conducted in 1999 by the Association for the Promotion of Solid Humane Families, an NGO, revealed that 25 percent of those surveyed stated that they had been victims of domestic violence, confirming the general belief that the problem is more widespread than official statistics indicate.

¹⁶² HC report on the situation in Sierra Leone to 59th session of CHR 2003

¹⁶³ World Health Organization, *HIV/AIDS in Sierra Leone: The Future Is at Stake, The Strategic and Organisational Context and Recommendations for Action* (Freetown, 2000), 2.

¹⁶⁴ Information provided by the International Rescue Committee (IRC) and the local NGO, Female Association of Women Educationist s (FAWE) who are implementing a sexual and gender based violence program for women and girls.

¹⁶⁵ Report of the Special Rapporteur on violence against women, its causes and consequences, Mission to Sierra Leone (21-29 August 2001), E/CN.4/2002/83/Add.1

¹⁶⁶ See Women's Commission for Refugee Women and Children, *Country Profile from Africa – "Post Conflict Situation in Sierra Leone"*, January 2001, p. 37.

¹⁶⁷ *Ibid.*, §112.

¹⁶⁸ *Ibid.*, §109-110.

¹⁶⁹ See Amnesty International, *Sierra Leone: Rape and Other Forms of Sexual Violence against Girls and Women* (Boston, 2000). See also: PHR, "Preliminary Findings and Recommendations," March 2000 Delegation to Sierra Leone, unpublished report.

¹⁷⁰ Information provided by the U.N. Department of Peace-Keeping Operation in contribution for this report (input from the United Nations Mission in Sierra Leone (UNAMSIL), December 2002.)

¹⁷¹ Cited in Government of Sierra Leone, *Situation Analysis of Women and Children in Sierra Leone* (Freetown, 1999), 63.

¹⁷² Cross-sectional research undertaken in Freetown in 1998 found that 66.7 percent of 144 women surveyed had been beaten by an intimate partner—of whom 60 per cent required medical treatment for injuries. Of the 50.7 percent who acknowledged having been forced to have sex, boyfriends and husbands ranked in the 90th percentile as the perpetrators (see A. Coker and D. Richter, "Violence Against Women in Sierra Leone: Frequency and Correlates of Intimate Partner Violence and Forced Sexual Intercourse" *African Journal of Reproductive Health*, 2, No. 1 (1998): 65.)

¹⁷³ Women's Commission for Refugee Women and Children, *Country Profile from Africa – "Post Conflict Situation in Sierra Leone"*, January 2001, p. 37.

¹⁷⁴ Government of Sierra Leone, *Situation Analysis of Women and Children in Sierra Leone*, 121.

¹⁷⁵ See report of the United Nations High Commissioner for Human Rights on the situation in Sierra Leone to the 59th session of the Commission on Human Rights 2003

¹⁷⁶ Situation of human rights in Somalia, Report of the independent expert, Mr. Ghanim Alnajjar, submitted in accordance with Commission on Human Rights resolution 2002/88(E/CN.4/2003/115)

¹⁷⁷ See WHO Report

¹⁷⁸ *ibid.*; Employment Equity Act 1998 S 6(1), (3).

¹⁷⁹ Domestic Violence Act of 1998, S.1(viii) referred to in Center for Reproductive Law and Policy, *Women of the World: Laws and Policies Affecting Their Reproductive Lives (Anglophone Africa)* Progress Report 2001, New York, 109.

¹⁸⁰ *ibid.*

¹⁸¹ See the Report on the mission of the Special Rapporteur on violence against women, its causes and consequences, on the issue of rape in the community (11-18 October 1996), E/CN.4/1997/47/Add.3

¹⁸² Report, § 75

¹⁸³ A study conducted in three provinces by the Medical Research Council (MRC), a statutory body, found that 27 percent of women in the Eastern Cape, 28 percent of women in Mpumalanga, and 19 percent of women in the Northern Province had been abused physically in their lifetimes by a current or ex-partner. In a 1999 study by the MRC of 1,394 men working for 3 Cape Town-area municipalities, approximately 44 percent admitted to abusing their female partners. In a MRC study of 1,800 working men in the Western Cape Province over a 10-year period, 22 percent reported forcing their wives or girlfriends to have sex.

¹⁸⁴ In March 2001 Human Rights Watch released a report entitled *Scared at School: Sexual Violence against Girls in South African Schools* that documented widespread rape, sexual abuse, sexual harassment, and assaults of girls at school by teachers, students, and other persons in the school community.

¹⁸⁵ Article 20 of the Constitution of Sudan criminalises slavery and forced labour. Article 161 of the Criminal Code of 1991 prohibits the abduction of any person below puberty by taking or coercing them for the purposes of removing them from the custody of their lawful guardian without the guardian's consent. Article 163 of the Criminal Code provides for the punishment of persons responsible for subjecting others to forced labour. Article 164 of the Criminal Code punishes whoever confines any person and prohibits their movement, or unlawfully forces them to move to a certain place. The law does not specifically prohibit trafficking in persons.

¹⁸⁶ « Women and Law in Sudan », vol.2, p.9.

¹⁸⁷ Sudanese Organisation against Torture, Female Genital Mutilation, at <http://www.soatsudan.org/reports>.

¹⁸⁸ See, report of the Special Rapporteur on Sudan to the 59th session of the Commission on Human Rights 2003

¹⁸⁹ There were at least eight confirmed abductions of NGO workers by government forces and progovernment militias during 2001. Some persons were handed over to the Government and taken into custody. On 21 October 2001, in South Kapoeta, Wilson Wani, an employee of OLS, was abducted; his whereabouts remained unknown at year's end. On 2 November 2001, in Bahr El Ghazal, military forces abducted Juliana Muiruri, a Kenyan citizen working for an NGO, and handed her over to the Government; she later was released. There was no further investigation or action taken on the November 2000 unconfirmed PDF attack on the village of Guong Nowh and abduction of 24 persons, or the alleged February 2000 PDF attack on several villages in eastern Aweil and Twic counties, northern Bahr El Ghazal, and abduction of more than 300 women and children.

¹⁹⁰ U.N. document E/CN.4/Sub.2/2002/23, para 42. However, according to the representative of Sudan, the information submitted lacked objectivity and, in fact, was frequently groundless. The representative further mentioned that in his view, the continuing abduction of women and children was more an issue of tribal traditions than forms of slavery. He noted that the tribes concerned wished to cooperate in seeking a solution without government intervention.

¹⁹¹ See the 2003 Report of the Special Rapporteur on the situation of human rights in Sudan.

¹⁹² Indecent assault is defined under article 84 of the Criminal Code as "... any physical contact taking place against the victim's will in the aim of exciting one's senses." According to article 86, all persons found guilty of indecent assault "... against a person of less than 14 year of age will be punished by imprisonment from one to five years." The sentence can be extended to 5 to 10 years of imprisonment "... if the assault was executed with violence on behalf of other people, or if it caused an infirmity or inability to work for more than six weeks". Article 85 of the same Code punishes the perpetrator of "... indecent assault committed without violence on a child below 14 years of age" with one to five years imprisonment. The sanction can be extended to 5 to 10 years imprisonment if the child was subjected to violence or threats by the perpetrator.

¹⁹³ Some provisions of the Criminal Code, particularly those contained in article 56 (c) concerning "intentional violence and homicide committed by a person against his/her spouse and his/her accomplice if they are caught in flagrant adultery"— while gender-neutral in theory, may, in practice, lead to the male perpetrators of spousal homicide receiving mitigated punishments, because the local mentality and custom and tradition have entrenched the belief that only women are capable of adultery.

¹⁹⁴ World Organization against Torture (OMCT), Alternative country report for the UN Human Rights Committee 2002 session, entitled *Violence against Women in Togo*, 2002. The study reveals that 93% of domestic violence committed against women in Togo is addressed within the family structure. In this sense, only 28% of victims dare report the phenomenon and nearly all who bring complaints (86%) turn to the head of the family or the traditional chief. There are many reasons why this phenomenon is under-reported. These reasons include; women's ignorance of their rights, the absence of a legislative base for complaints of domestic violence, the lack of financial resources to pursue complaints and traditions that educate women from childhood to accept male dominance including violence. Fears of retaliation and social ostracism also play a significant role in maintaining silence around the issue, which, according to the figures, is widespread.

¹⁹⁵ Ibid.

¹⁹⁶ Ibid.

¹⁹⁷ National Progress Report of Uganda – Implementation of the Beijing Platform for Action, August 1999

¹⁹⁸ For further information on government's initiatives and policies, please refer to the National Progress Report of Uganda 1999 and the National Report to the Committee on the Elimination of Discrimination against Women, Convention on the Elimination of All Forms of Discrimination against Women/C/UGA/3, 3 July 2000.

¹⁹⁹ The Sexual Offences Special Provision Act, 1998, §5 (amending §130 (2) (a))

²⁰⁰ Ibid., para. 131

²⁰¹ Centre for Reproductive Law and Policy, *Women of the World: Laws and Policies Affecting Their Reproductive Lives – Anglophone Africa*, NY, NY, December 1999. The Penal Code does not specifically address spousal abuse, but does define crimes such as unlawful assault and unlawful wounding (§240)

²⁰² Penal Code Art. 136.

²⁰³ In 1999 in Kasulu, approximately 50 Burundian refugee women collecting firewood allegedly were attacked and raped by villagers in reprisal for the killing of a local teacher; 11 men were arrested for the rape in 1999. In December 2000, the case was dismissed on a technicality. The police appealed the magistrate's decision to the High Court in Tabora, which overturned the dismissal and remanded the case to the lower court for retrial. The retrial still was pending in Kigoma at the end of 2001.

²⁰⁴ For further information, please refer to World Organization against Torture, Alternative country report for the UN Committee against Torture 2002 session, entitled *Violence against Women in Zambia, 2002*

²⁰⁵ Lewis Mwanangombe, "Study on Zambia's High Maternal Deaths Concluded", PANA, 2 February 2000, <http://www2.womensnet.org.za> .

²⁰⁶ Sections 133 and 134 of Chapter 87 (entitled "offences against morality") of the Zambian Penal Code provide for a sentence of life imprisonment for persons found guilty of rape or attempted rape. Rape is defined in Section 132 of the Code as "... unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of bodily harm, or by means of false representations as to the nature of the act, or, in the case of a married woman, by personating her husband." Abduction and indecent assaults are also criminalized under Sections 135-137 of the Penal Code and these crimes are punishable by prison sentences ranging from seven to fourteen years. The Penal Code also contains the crime of "defilement" which is committed by "any person who unlawfully and carnally knows any girl under the age of sixteen years" and is punishable by life imprisonment.

²⁰⁷ *The LRF News*, No. 28, June 2001, www.lrf.org.zm/Newsletter/june2001.

²⁰⁸ Ibid..

²⁰⁹ Sections 140 and 144 of Chapter 87 of the Zambian Penal Code criminalize "procuring defilement of women by threats or fraud or administering drugs" and "detention with intent or in a brothel". Sections 146 and 147 of the Code provide that male and female persons living on the earnings of prostitution or aiding and soliciting for prostitution shall be guilty of a misdemeanour.

²¹⁰ Article 24 of the Constitution prohibits trafficking in "young persons" who are defined as being persons under the age of fifteen, however there is no general Constitutional prohibition on trafficking in persons.

²¹¹ Patricia Malasha, *CARE-PROSPECT Report on Violence Against Women in Zambia*, October 2001, on file with the author.

²¹² Human Rights Committee, Comments on Zambia, U.N. Doc. CCPR/C/79/Add.62, 3 April 1996, para. 9.

²¹³ Patricia Malasha, *CARE-PROSPECT Report on Violence Against Women in Zambia*, October 2001, supra n.

²¹⁴ International Planned Parenthood Federation, *The facts about gender-based violence*, November 1999, www.ippf.org/resource/gbv/ma98/1.htm.

²¹⁵ Patricia Malasha, Excerpt from YWCA Femicide Report cited in *CARE-PROSPECT Report on Violence Against Women in Zambia*, October 2001, on file with the author (cited in OMCT Report, supra n.).

²¹⁶ Economic Commission for Africa, *Assessment Report On: Women's Legal and Human Rights*, Sixth African Regional Conference on Women, 22-26 November 1999, Addis Ababa, Ethiopia, November 1999, p. 13.

²¹⁷ Charles Mubambe, "Droits-Zambie: Un jugement clément provoque l'indignation des défenseurs des droits de l'Homme", *International Press Service*, 9 January 2001.

²¹⁸ Off Our Backs, "Zambia: Women demand end to bride price", 3 January 2001.

²¹⁹ Obiageli Nwankwo, *Child Marriage as Child Abuse*, Civil Resource Development and Documentation Centre (CIRDDOC), CIRDDOC Series No. 6, Nigeria, 2001.

²²⁰ Times of Zambia, "Unreported sexual offences worrying women's law body", 3 May 2001. See also Hazel Barrett and Angela Browne, "Environmental and Social Change in Zambia: the value of children to rural households", ESCR Global Environmental Change Programme, www.sussex.ac.uk/Units/gcc/pubs/briefing/brief-22.htm

²²¹ Ofelia Calcetas-Santos, Report by the Special Rapporteur on the sale of children, child prostitution and child pornography, UN Doc. E/CN.4/1997/95, 7 February 1997, para. 45.

²²² Information received from the Zambia Association for Research and Development (ZARD) on file with the author, October 2001

²²³ CEDAW /C/2002/11/CRP.3, 7 June 2002, Para.29.

²²⁴ Centre for Reproductive Law and Policy, *Women of the World: Laws and Policies Affecting Their Reproductive Lives – Anglophone Africa*, NY, NY, December 1999.

²²⁵ *Banana v State* 2000 7(SC 41/2000)

²²⁶ Acknowledgement to UNFPA Arab regional office for their paper.

²²⁷ 10 June 2000 GA reaffirming Beijing

²²⁸ Commission on Status of Women - 20 March 2000 : Arab Region Caucus and Alliance for Arab Women

²²⁹ This makes the ratification null and void

²³⁰ The GEM measures the participation of women in economic, professional and political activities using the indicators of income per capita (PPP\$), women's percentage share of professional and technical positions, and women's percentage share of parliamentary seats, respectively.

²³¹ For further details see The Arab Regional Development Report-UNDP (2002).

²³² Human Development Report, 2000

²³³ The member states of the League of Arab States are Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen.

²³⁴ As of August 2002.

²³⁵ March 2002

²³⁶ 3-4 November, 2002

²³⁷ Feminist Daily News Wire October 31, 2002

²³⁸ Difficulties and/or delays could have many origins (financial, political, ideological or simply unconscious resistances).

²³⁹ It is justified in the name of Islam but interpretations are totally different from one to another Islamic country and clearly depend of a gender division of roles and interests, societal constructions as well as State policy and political will. Some practices are common to Islamic and Christian communities in the same country (e.g. early marriage, FGM or honour killing)

²⁴⁰ For girls, 11 years old.

²⁴¹ In cases of sexual assault as a rape, incest...

²⁴² Jordan

²⁴³ Yemen

²⁴⁴ UNICEF, 1998 Study on women and children in Yemen, p. 8.

²⁴⁵ Yemen Observer, « Tradition versus modernity: Rough justice for Yemeni women », 5 June 2000, www.yemen-observer.com.

²⁴⁶ International Human Rights Law Group, *IHRLG in Yemen*, 2001, www.hrlawgroup.org.

²⁴⁷ Special Rapporteur on violence against women, UN Doc. E/CN.4/2000/68/Add.1, 27 January 2000, para. 121

²⁴⁸ information provided to the Special Rapporteur on violence against women by UNFPA

²⁴⁹ National Report of Algeria, Follow-Up to the Implementation of the Plan of Action and Recommendations of the IV International Conference on Women Beijing 1995.

²⁵⁰ For further information on government initiatives, see the National Report of Algeria, Follow-Up to the Implementation of the Plan of Action and Recommendations of the IV International Conference on Women Beijing 1995.

²⁵¹ See also the concluding observations of the Committee on the Elimination of Discrimination against Women, A/54/38, paras. 41-94, 27 January 1999.

²⁵² International Labor Organization (ILO), Report 2000.

²⁵³ Human Rights Watch, World Report 2001.

²⁵⁴ See Human Rights Watch, World Report 2001; Amnesty International, *Broken bodies, shattered minds – The torture of women worldwide*, March 2001; Rapport alternatif de la Fédération International des Droits de l'Homme (FIDH) au rapport initial présenté par l'Algérie au CEDAW (20ème session – 19 janvier/5 février 1999).

²⁵⁵ E.g. in Hassi Messaoud, 13 July 2001: migrant women raped; assailants motivated by accusation that the women practiced "loose morals" – July 2001: in Tebessa, three women assaulted; assailants fighting "debauchery"

²⁵⁶ Information provided by United Nations Economic and Social Commission for Western Africa, Social Development Issues and Policies - Women in Development, "Country Profile: Bahrain" (<http://www.escwa.org.lb/divisions/social/women.html>)

²⁵⁷ CEDAW/C/EGY/3

²⁵⁸ CEDAW/C/EGY/4-5

²⁵⁹ Accordingly article 267 of the Egyptian Penal Code states: "if a man has sexual intercourse with a woman without her consent, he will be subject to temporary imprisonment with hard labour. However, if the perpetrator was one the victim's ascendants or was under the obligation to protect or to raise her or has legal authority over her, or was employed by her or employed by of those mentioned above, he will be liable to life imprisonment with hard labour". The sentence will be aggravated if a special relationship existed between the perpetrator and the victim in whom the perpetrator took advantage in order to commit the crime. This aggravated sentence will be life imprisonment with hard labour.

²⁶⁰ See Concluding Observations of the Committee on the Elimination of Discrimination against Women, A/56/38, paras. 312-358 (§316), 2 February 2001. However, the Committee notes with concern that women who seek divorce by unilateral termination of their marriage contract under Law No. 1 of 2000 (khul) must in all cases forego their rights to financial provision, including the dower. The Committee recommends that the Government consider a revision of Law No. 1 of 2000, in order to eliminate this financial discrimination against women (§§328-329)

²⁶¹ Presidential Decree No. 90 for 2000.

²⁶² In addition to these, a number of ministries have established sub units that are concerned with women's affairs as follows: The Policy and Coordination Unit for Women in Agriculture (PCUWA) in the Ministry of Agriculture and Land Reclamation (MOLAR); The National Unit/Project for Productive Activities for Women Settlers in the New Lands in MOLAR; The Mother and Childcare Unite in the Ministry of Health; The Gender and Policy Unite in the Institute of National Planning; The Gender Unit of the Social Fund for Development.

²⁶³ Egypt has been selected to lead an International initiative ensures the girls' right to education. Egypt ranked second after major industrial countries in increasing the percentage of compulsory education. Dr. Laila Bisharat, UNICEF Representative, commanded the attention His Excellency President Mubarak is giving to improve education in Egypt. She also highlighted the extraordinary efforts of Her Excellency Mrs. Mubarak in supporting education and her pioneer initiative of the one-classroom schools. (in Newsletter of UNIFEM WID Facilitation Initiative Project in Egypt 1999 (http://www.arabwomenconnect.org/docs/EG_WIDFI_BBN1.doc and http://www.arabwomenconnect.org/docs/EG_WIDFI_BBN2.doc - In collaboration with the Ministry of Insurance and Social Affairs and The Netherlands Embassy in Egypt)

²⁶⁴ Provision of accurate information on women and the girl child as well as work on elimination of harmful practices against women is a key aspect of this project. The Convention on the rights of the child and its implementation is also one of the areas this project addresses since it obliges state parties to eliminate all traditional harmful practices that reflect negatively on the health of the girl child. (Newsletter of UNIFEM WID Facilitation Initiative Project in Egypt 2000 - In collaboration with the Ministry of Insurance and Social Affairs and The Netherlands Embassy in Egypt)

²⁶⁵ See Concluding Observations of the Committee on the Economic, Social, and Cultural Rights, E/C.12/1/Add.44, 2000.

²⁶⁶ Committee on the Elimination of Discrimination against Women, Concluding Observations, A/56/38, § 344, 2001. The Committee urged the Government to conduct a national survey of the extent of violence against women, including rural women. It called upon the Government to assess the impact of existing measures to address the various forms of violence against women. It recommended that the root causes of violence against women, especially domestic violence, be investigated so as to improve the effectiveness of legislation, policies and programmes aimed at combating such violence. It also recommended that the Government implement training and sensitization programmes for the judiciary, law-enforcement officials and members of the legal and health professions, as well as awareness-raising measures to create zero tolerance in society with regard to violence against women.

²⁶⁷ It is reported that 44% of rural women married between 1989 and 1993 were under 16 years old at the time of their marriage (a study conducted by the Minister of Health of Upper Egypt). The Committee on the Elimination of Discrimination against Women expressed its concern about the high number of early marriages of girls, especially in rural areas. The Committee recommended that the Government amend the law on the legal age of marriage to prevent early marriage, in line with its obligations as a State party to the Convention. (Concluding Observations 2001, supra n. , §§ 352-353)

²⁶⁸ Ibid.

²⁶⁹ The Egyptian Demographic Health Survey Conducted 1995, which was the first national survey to measure FGM, indicated that the percentage of women ever married which have been circumcised reaches 97%. The percentage of FGM among unmarried girls less than 19 years of age were about 82%. As for the attitude toward FGM it was observed that about 87% indicates the prevalence of this practice among Egyptian women.

²⁷¹ Ibid., see case p.254 (1993-1996)

²⁷² CEDAW/C/IRQ/2-3

²⁷³ Jordan Times, "Iraq Kurds amend law to reduce "honour crimes"", August 15, 2002.

²⁷⁴ Article 9, paragraph 2: on equality of rights with respect to the nationality of the children; Article 15, paragraph 4: on equality before the law with regard to the movement of persons and freedom to choose their residence and domicile; Article 16, paragraph 1 (c): on the elimination of all discrimination against women in matters relating to marriage and family, with regard to the rights and responsibilities during marriage and its dissolution; Article 16, paragraph 1 (d) and (g): on the elimination of all discrimination against women in matters relating to marriage and family, with regard to the rights and responsibilities towards children, and to the right to choose a family name, a profession and an occupation.

²⁷⁵ CEDAW/C/JOR/1, CEDAW/C/JOR/2

²⁷⁶ Article (292) Section (A) of the Jordanian Penal Code states that: "if a man has sexual intercourse with a woman (other than his wife) without her consent, either by using force, threat, fraud or deceit, he will be subject to a minimum sentence of ten years imprisonment with hard labour". The maximum of this sentence could be derived from article (20) of the Jordanian Penal Code, which stipulates, "if the sentence of the crime was imprisonment with temporary hard labour, the minimum sentence given (unless expressed otherwise by the law) should be no less than three years imprisonment, and the maximum should be no more than fifteen years imprisonment". For a comprehensive study and a discussion on rape under the Jordanian Penal Code, please refer to Dr. Nadera Shalhoub-Keorkian, *Legal Review on Sexual Violence: Reflections from Middle Eastern Countries*, School of Social Work & Institute of Criminology Faculty of Law, Hebrew University, Jerusalem, Israel, August 2002 (report prepared for the World Health Organization Legal Review in Sexual Violence)

²⁷⁷ See Articles 340 and 98 of the Penal Code (Article 98 of the Jordanian Penal Code states that "He who commits a crime in a fit of fury caused by an unrightful and dangerous act on the part of the victim benefits from a reduction of penalty")

²⁷⁸ See United Nations Economic and Social Commission for Western Africa, Social Development Issues and Policies - Women in Development, "Country Profile: Jordan" (website: <http://www.escwa.org.lb/divisions/social/women.html>)

²⁷⁹ See Equality Now, "Jordan: National Efforts to Confront Honour Killings and to Protect Women from Violence", November 2002, on http://www.equalitynow.org/action_eng_18_2.html

²⁸⁰ See United Nations Economic and Social Commission for Western Africa, Social Development Issues and Policies - Women in Development, "Country Profile: Jordan" (website: <http://www.escwa.org.lb/divisions/social/women.html>)

²⁸¹ The Jordan Times, "Government agencies, labour organizations review rights of working women", 17 December 2002.

²⁸² See Equality Now paper, supra n. 46

²⁸³ Information provided by the Princess Basma Women's Resource Centre "Jordanian Women Past and Present - A Reference Booklet", October 1999

²⁸⁴ The Jordanian National Commission for Women, *National Programme of Action for the Advancement of Jordanian Women 1998-2002 - Within the Framework of the Follow-Up to the Implementation of the Plan of Action and Recommendations of the IV International Conference on Women Beijing 1995*.

²⁸⁵ Specific objectives: Identify the characteristics and forms of physical, sexual and psychological violence perpetrated by husbands against their wives; Identify the demographic characteristics of families in which violence occurs such as social, psychological, economic and other characteristics; Measure women's physical and psychological responses to the violence against them; Identify the means and measures to which women resort when exposed to violence; Provide social and psychological support mechanisms for women and families subjected to violence; An awareness raising campaign against violence targeting both women and men.

²⁸⁶ Fadia Faqir, "Intrafamily femicide in defence of honour: the case of Jordan", *Third World Quarterly*, Vol. 22, No. 1, pp. 65-82, 2001.

²⁸⁷ *Al Mar'a al-Urduniyya Bayna al-Madi wa al-Mustaqbal*, (Jordanian Women: Past and Future), Princess Basma Resource Centre, 1998, p. 19

²⁸⁸ See Fadia Faqir, supra n. 55, pp. 67-68. According to a study released in May 1999 entitled *Violence Against Women in Jordan: Demographic Characteristics of Victims and Perpetrators*, conducted by the Human Forum for Women's Rights, a discrepancy exists between the official estimates of crimes of physical and sexual violence against women in Jordan, and the actual number of these crimes.

²⁸⁹ Equality Now Paper, November 2002

²⁹⁰ See Fadia Faqir, p. 73

²⁹¹ According to the government, if the mother does not wish to keep the child with her, or when the child reaches the aforementioned age, it is delivered into the care of the father or a relative of the mother's choosing. In the absence of relatives and the father, the child will be placed in a special children's welfare institution. The child's right to visit his or her mother is clearly specified in the ordinances promulgated in this regard (information provided by the Permanent Mission of the State of Kuwait based in Geneva, May 2002)

²⁹² As in previous years, women's rights activists brought cases (five during the year) asking the courts to order that they be allowed to register to vote. Several of the cases were turned down on procedural grounds; the two that remained active at year's end repeatedly had faced temporary adjournments. Both remaining sets of plaintiffs stated that their goal was for the Constitutional Court to rule that the current election law was unconstitutional. The activists claimed that the two remaining cases are not vulnerable to the technicalities that caused previous suits to be dismissed. See Human Rights Watch, *World Reports 2001 and 2002*.

²⁹³ Human Rights Watch, *World Report 2001*

²⁹⁴ Human Rights Committee, Concluding Observations, CCPR/CO/69/KWT, July 2000.

²⁹⁵ The Committee recommended that the government, *inter alia*: grant women equality in law and in practice; prohibit polygamy by law; adopt all necessary measures to sensitize the population in order to eradicate attitudes that lead to discrimination against women in all sectors of daily life and in society; adopt all necessary measures in order to guarantee women

²⁹⁶ Article 562 states: "will benefit from the exonerating excuse any person who catches his spouse or any of his ascendants or descendants or sisters committing a clear act of adultery or unlawful sexual intercourse with another person and kills or wounds one of them unintentionally. Moreover, will benefit from a reduction of sentence whoever catches his spouse or any of his ascendants or descendants or sisters in a suspicious situation and kills or wounds one of them". Article 249 states: "no excuse for a crime unless the law stipulates otherwise clearly". Further, article 250 states: "an exonerating excuse will diminish any sentence. However, it may be possible, if necessary, to indulge the criminal under certain measures or rehabilitation centres". For further details, see Dr. Nadera Shalhoub-Kevorkian, *Legal Review on Sexual Violence: Reflections from Middle Eastern Countries*, School of Social Work & Institute of Criminology Faculty of Law, Hebrew University, Jerusalem, Israel, August 2002 (report prepared for the World Health Organization Legal Review in Sexual Violence)

²⁹⁷ Article 503 of the Lebanon Penal Code states: "if a man commits by the use of force or threat unlawful sexual intercourse with a woman (other than his wife), he will be subject to a minimum sentence of five years imprisonment with hard labour. However, the sentence should be no less than seven years imprisonment with hard labour if the victim was under the age of fifteen years old". Article 505 states: "if a man commits sexual intercourse with a girl under the age of 15 years old, he will be subject to temporary imprisonment with hard labour. Moreover, if the victim was under the age of 12 years old the sentence should be a minimum imprisonment of five years with hard labour and if the victim was above the age of 15 years and under the age of 18 years old the sentence should be a minimum of two months to a maximum of two years imprisonment".

²⁹⁸ CEDAW/C/LBY/2

²⁹⁹ CEDAW/C/MOR/2

³⁰⁰ Information provided by the Association Marocaine pour les Droits des femmes, Centre Fama, to the Special Rapporteur (in response to a request for information), October 2002.

³⁰¹ Information provided by the Arab Regional Resource Center on Violence against Women in July 2002, on http://www.amanjordan.org/english/daily_news/wmview.php?ArtID=289

³⁰² CESCR, E/C.12/1/Add.55, § 16, December 2000.

³⁰³ Human Rights Committee, Concluding Observations, CCPR/C/79/Add.113, § 12, 1999

³⁰⁴ STATEMENT OF H.E.Dr.Thuwayba bint Ahmde bin Issa Al Barwani, Under Secretary for Social Affairs, Head of the delegation of the Sultanate of Oman, to the Twenty-Third Special Session of the General Assembly "Women 2000: Gender Equality, Development and Peace for the Twenty-First Century" New York Thursday 8 June, 2000.

³⁰⁵ Ibid: "The organized NGO sector is still at an initial stage in Oman, however efforts to expand the scope of activities and strengthen their management capacity have led to an increase in the number of Women's Associations from 17 in 1995 to 25 by 1999. A significant step forward in this respect has been the establishment of the Coordination Committee for Women's Voluntary Work with a key role in coordinating, planning and researching women related issues."

³⁰⁶ Sultan Qabous Bin Saeed of Oman has issued a Sultanate decree providing for the division of the ministry of social affairs, labor and vocational training to two ministries. They are the ministry of social development which is in charge of social affairs and the Labor force ministry which is in charge of work specialization and vocational training. (*Oman, Politics*, 11/9/2001 in <http://www.arabicnews.com>)

³⁰⁷ Information provided by United Nations Economic and Social Commission for Western Africa, Social Development Issues and Policies - Women in Development, "Country Profile: Qatar" (<http://www.escwa.org.lb/divisions/social/women.html>)

³⁰⁸ The Arab Regional Resource Center on Violence against Women, "Qatari Emir issues decree to form Human Rights Committee", November 17, 2002

³⁰⁹ Information provided by United Nations Economic and Social Commission for Western Africa, Social Development Issues and Policies - Women in Development, "Country Profile: Qatar" (<http://www.escwa.org.lb/divisions/social/women.html>)

³¹⁰ Human Rights Watch, World Report 2002

³¹¹ See Committee on the Rights of the Child, Concluding Observations, CRC/C/15/Add.148, February 2001. The committee found "direct and indirect discrimination against girls and children born out of wedlock, including in areas relating to civil status (e.g. lack of identity cards for females) and personal status (e.g. inheritance, custody, and guardianship)," and expressed concern that the nationality law did not "grant equal citizenship status to children of Saudi women married to non-nationals."

³¹² Human Rights Watch, World Report 2001

³¹³ For further information, see [The National Strategy for Women Up to 2000 in the Syrian Arab Republic \(.doc\)](#) (67 KB) also available on UNIFEM Arab States Regional Office website

³¹⁴ The Arab Regional Resource Centre on Violence against Women, "Syria's week on women and war", 7 March 2002, on website: http://www.amanjordan.org/english/daily_news/wmview.php?ArtID=62

³¹⁵ Information provided by United Nations Economic and Social Commission for Western Africa, Social Development Issues and Policies - Women in Development, "Country Profile: Syria" (<http://www.escwa.org.lb/divisions/social/women.html>). It is said that the total number of divorces increased between 1994 and 1998 by 13 per cent, from 8,104 to 9,148.

³¹⁶ New article 23 provides that: "Each of the spouses shall be considerate of, maintain good relations with and avoid causing injury to the other."

³¹⁷ Information provided to the Special Rapporteur by the Government of Tunisia, June 2002.

³¹⁸ New article 218 provides that: "Any individual who wilfully commits assault or battery or any other act of violence or assault which is not covered by the provisions of article 319 shall be punished by imprisonment of one year and a fine of one thousand (1,000) dinars. If the perpetrator of the assault is a descendant or spouse of the victim, the penalty shall be imprisonment of two years and a fine of two thousand (2,000) dinars. If there was premeditation, the penalty shall be imprisonment of three years and a fine of three thousand (3,000) dinars."

"Withdrawal of the case by a victim who is an ascendant or spouse shall terminate any proceedings, trial or enforcement of penalty. Attempted assault shall be punishable."

³¹⁹ The Child Protection Code (1995) "guarantees children the right to benefit from various preventive measures in the social, educational and health fields and from other arrangements and procedures aimed at protecting them from any form of violence, harm or physical, mental or sexual assault." (Article 2).

³²⁰ See Ministry of Women and Family Affairs, Post-Beijing National Plan of Action, 1997-2001; see also the Combined third and fourth periodic national reports of Tunisia to the Committee on the Elimination of Discrimination against Women, CEDAW/CTUN/3-4, 2 August 2000.

³²¹ Ibid

³²² In accordance with article 30, the child protection officer is "responsible for assuming a task of preventive action in all cases where it is proved that the health of the child or his physical or mental integrity is threatened or endangered owing to the environment in which he lives or to acts which he carries out or as a result of ill-treatment to which he is subjected ...".

³²³ Part of the national plan of action for the family, the campaign was based on four television advertisements focusing on dialogue within the family (between couples and between parents and children), the redistribution of domestic tasks and the promotion of a non-violent upbringing. These advertisements, which were heavily screened at peak viewing hours, were backed up by posters and formed the subject of an impact assessment study with a view to more appropriate targeting. A first evaluation has been made in 1999, and a second one will be starting in 2002.

³²⁴ National Report on Women, presented at the Fourth World Conference on Women, September 1995, 96 pages.

³²⁵ Centre for Research, Studies and Documentation on Women (CREDIF), *Femmes tunisiennes/Tunisian Women*, 1995, 56 pages.

³²⁶ Canadian International Development Agency, *Gender Profile : Tunisia*, April 2001, on <http://www.acdi-cida.gc.ca>

³²⁷ Thus Article 51 prescribes that women shall receive 45 days' paid maternity leave, which shall be additional to any normal entitlement. Article 52 states that Muslim female employees shall be granted special paid leave for a period of four months and ten days if their spouse dies, in addition to any normal entitlement to leave. Article 54 states that civil servants may be granted at least two months' leave by their Minister if they are obliged to accompany a parent or a child abroad for medical treatment, a facility available to both men and women, but one which is, at the same time, likely to be of more importance to mothers and to daughters.

³²⁸ For further information on social services, centers, etc, see General Women Union Kit (.doc) (30 KB) also available on UNIFEM Arab States Regional Office website

³²⁹ Gulf News, "UAE women strategy launch today" by Barbara Bibbo, 12 December 2002 (on <http://www.gulf-news.com/Articles/news.asp?ArticleID=70782>)

³³⁰ In the United Arab Emirates (UAE), foreigners comprised about 70 percent of the population of 2.76 million and 90 percent of the labor force. Workers did not have the right to organize trade unions, to strike, or to bargain collectively, and faced deportation if they carried out such activities. Domestic and agricultural workers were excluded from protection under the labor law, and reports continued of the physical abuse of women domestics and withholding of their wages. Migrant workers also faced corporal and capital punishment following unfair trials. Human Rights Watch, World Report 2001.

³³¹ Women continue to make rapid progress in education. They constitute over 75 percent of the student body at the UAE University in Al-Ain. UAE University has separate campuses for men and women, largely because women, unlike men, rarely study abroad. Zayid University, an all-women, state-run university, has campuses in Abu Dhabi and Dubai. The state-run Higher Colleges of Technology has five sets of separate campuses for men and women in five emirates. Sharjah University, a private university located in Sharjah, has separate campuses for men and women. The American universities in Dubai and Sharjah, also private institutions, are coeducational. However, academic materials are subject to censorship, and female students are banned from reading texts in which the human body is pictured or sexuality is featured. (information provided by the government in *Women in United Arab Emirates*. (.doc) (155 KB) also available on UNIFEM Arab States Regional Office website.)

³³² Information provided by the government in *Women in United Arab Emirates*. (.doc) (155 KB) also available on UNIFEM Arab States Regional Office website.

³³³ CEDAW/C/YEM/4

³³⁴ Yemen Women National Committee, *National Report on the Implementation level of the Convention on the Elimination of All Forms of Discrimination Against Women*, December 1999, para. 52. (Article 277 of the Code defines both adultery and prostitution as "commitment of acts that abuse honour and contravene the Shari'a for spoiling manners of others or for illicit gain." Article 278 provides that "any person exercising adultery or prostitution shall be punished with imprisonment for a period not exceeding 3 years or with a fine)

³³⁵ World Organization against Torture (OMCT), *Violence against Women in Yemen*, 2002.

³³⁶ See Penal Code Article 232

³³⁷ See Human Rights Committee, Concluding Observations and Comments, CCPR/CO/75/YEM, § 7, 26 July 2002

³³⁸ Ibid, §10

³³⁹ A woman seeking a divorce also must repay the mahr (a portion of her bride price), which creates an additional hardship. As a woman's family usually retains the mahr, the refusal by a family to pay the mahr effectively can prevent a divorce. The family's refusal to accept the woman back into the home also may deter divorce, as few other options are available to women.

³⁴⁰ OMCT report

³⁴¹ For a comprehensive report on government programmes and initiatives, please refer to National Report on the Implementation Level of the Convention on the Elimination of all Forms of Dis (.pdf) (439 KB) and Report on the Status of Women in Yemen Five Years after Beijing 1995 (pdf) (227 KB), also available on UNIFEM Arab States Regional Office website.

³⁴² See National Strategy for Women Employment (.doc) (155 KB), also available on UNIFEM Arab States Regional Office website.

³⁴³ The NWC's 7-member legal committee, consisting of lawyers, women's rights experts, and Islamic scholars, found that 10 laws contained discriminatory language or "negligence with respect to women" and that 15 others were ambiguous because the laws used the masculine impersonal pronoun when the statutes governed women as well as men.

³⁴⁴ United Nations Development Programme, *Human Development Report 2001*, Human Development Indicators, www.undp.org/hdr2001/.

³⁴⁵ Oxfam, *Yemen Country Programme*, www.oxfam.org.uk.

³⁴⁶ Mohamed Baobaid, Catrien C.J.H. Bijleveld, "Violence against women in Yemen: Official statistics and an exploratory survey", 7 August 2000, p. 4.

³⁴⁷ International Human Rights Law Group, *IHRLG in Yemen*, 2001, www.hrlawgroup.org; see also Yemen Women National Committee, *National Report on the Implementation level of the Convention on the Elimination of All Forms of Discrimination Against Women*, December 1999.

³⁴⁸ World Organization against Torture (OMCT), *Violence against Women in Yemen, 2002*: see also Mohamed Baobaid, Catrien C.J.H. Bijleveld, "Violence against women in Yemen: Official statistics and an exploratory survey", 7 August 2000, p. 8.

³⁴⁹ Other results of the study noted that 50.9 per cent of women had been the victims of threats of violence, 54.5 per cent had suffered physical abuse, 17.3 per cent had been subjected to sexual violence, 28.2 per cent had had their freedom restricted and 34 per cent had had property either damaged or stolen. Only 28.2 per cent of the women surveyed had not experienced any form of violence in the home while a sizeable 44.5 per cent suffered from three or more kind of violence.

³⁵⁰ Marta Colburn, *A situation analysis of gender and development in Yemen*, Oxfam GB Yemen, February 2001, p. 137.

³⁵¹ *Ibid.*, p. 138.

³⁵² For example, article 232 of the Penal Code provides that: "if a man kills his wife and the one committing adultery with her in the case of their being caught red-handed in the commission of adultery, or assaults them leading to death or an impairment, there shall be no retribution. However, the man may be punished with imprisonment for a period not exceeding one year or a fine. The same ruling shall apply to whosoever surprises any of his direct or subsidiary relations or sisters during the red-handed commission of the crime of adultery."

³⁵³ See Marta Colburn's report, *supra* n.3

³⁵⁴ Yemen Observer, « Tradition versus modernity : Rough justice for Yemeni women », 5 June 2000, www.yemen-observer.com.

³⁵⁵ See OMCT Report

³⁵⁶ UNICEF, 1998 Study on women and children in Yemen, p. 8.

³⁵⁷ Jalal Al-Shara'abi, "Violence against Women in Yemen", *Yemen Times*, 31 January – 6 February 2000, Vol. X; see also Human Rights Watch, *World Report 2001*; and, Human Rights Committee in its 2002 Concluding Observations, *supra* n. 118 , §12.

³⁵⁸ See Women's Charter of Sri Lanka in 1993.

³⁵⁹ This is found in Bangladesh, India, Maldives, Nepal, Pakistan, Sri Lanka, China, Mongolia, Republic of Korea, Philippines, Japan, Indonesia, Viet Nam among others.

³⁶⁰ Laws on nationality, guardianship and maintenance, inheritance, reluctance to accept marital rape as a serious offence etc.

³⁶¹ Found in Bangladesh, India, Pakistan, Philippines, Sri Lanka and Thailand.

³⁶² Information from the United Nations Economic and Social Commission for Asia and the Pacific- Women in Asia and the Pacific: High-level Intergovernmental Meeting to Review Regional Implementation of the Beijing Platform for Action, 26-29 October 1999- Proceedings. United Nations, New York, 2000.

³⁶³ See also the Offences of Zina in Pakistan.

³⁶⁴ Afghanistan and Sri Lanka faced nearly two decades of armed conflict. East Timor got independence in 2002 after a long civil war. Other countries include Cambodia, India, Indonesia, Myanmar, Nepal, Pakistan, Philippines and some Pacific Islands.

³⁶⁵ Information from the ASEAN website: www.asean.or.id

³⁶⁶ Other regional NGOs include the Asia-Pacific NGO Working Group, Isis International- Manila, South-East Asia Watch, Asia-Pacific Forum on Women, Law and Development, Asian-Pacific resource and Research Centre for Women, Pacific YWCA and the Pacific Women's NGO Coordinating Group.

³⁶⁷ Following the fall of the Taliban regime and the assumption of office of the Interim Administration (December 2001), an Emergency Loya Jirga (traditional National Council) was convened in June 2002. This appointed a transitional administration for a period of 18 months, which will in turn convene another Loya Jirga to draw up a constitution and organize general elections.

³⁶⁸ www.hrw.org/press/2002/05/burqa0509.htm

³⁶⁹ Women's Rights in Afghanistan: Report of Rights and Democracy's Mission to Afghanistan September 2002- Prepared by A. Brunet and I. S. Helal.

³⁷⁰ A blasphemy charge was brought against the former Minister, Dr. Sima Samar but was later dropped.

³⁷¹ Under the terms of the Bonn Agreement endorsed by Security Council Resolution 1383 (2001), the United Nations Assistance Mission in Afghanistan (UNAMA) is entrusted with promoting a rights-based and gender sensitive approach in its activities. UNAMA has also been mandated inter-alia-to analyze the human rights situation, to investigate alleged human rights violations and provide humanitarian assistance in a way that promotes the achievement of human rights. Information submitted to the Special Rapporteur on relevant activities undertaken by UNAMA, December 2002.

³⁷² 'We Want to Live As Humans: Repression of Women and Girls in Western Afghanistan', Human Rights Watch Report, December 2002. See also 'All our Hopes Are Crushed: Violence and Repression in Western Afghanistan', Human Rights Watch Report, November 2002.

³⁷³ Press Release by the Afghanistan Women's Council on the occasion of the 44th year of approval of the Human Rights Declaration, 11 December 2002.

³⁷⁴ Information submitted to the Special Rapporteur on relevant activities undertaken by the United Nations Assistance Mission in Afghanistan (UNAMA) December 2002.

³⁷⁵ Details of the relevant laws and systems in each state/territory of Australia is available in J. Putt & K. Higgins, *Violence against women in Australia: Key Research and Data Issues*, Australian Institute of Criminology ACT 1997, www.aic.gov.au.

³⁷⁶ Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999.

³⁷⁷ "Family violence" matters includes any incident categorized as an offence under the *Crimes Act 1900* involving people in a relationship or family context. Therefore includes sibling assault, child assault, assault in a lesbian or gay relationship and sexual offences taking place in a relationship or family context. Offences include assault, breach protection order, unlawful confinement, trespass, and so forth.

³⁷⁸ Further information is available at www.cjc.nsw.gov.au/lc/dvlink.nsf/pages/pol_cap_prog.

³⁷⁹ More information is available at www.padv.dpmc.gov.au.

³⁸⁰ Extract from the report by the National Council of Women of Australia Inc. - Australian NGOs report for the Special Rapporteur on VAW, July 2002.

³⁸¹ Australian country report, presented by Ms. Sabina Lauber on behalf of the Women's Rights Action Network (WRAN), Australia at the Asia-Pacific Regional NGO Consultations with the United Nations Special Rapporteur on violence against women: 30-31 Aug., 2002, Colombo, Sri Lanka.

³⁸² WRANA Violence Against Women Report for Australia, submitted to the Special Rapporteur at the Asia-Pacific Regional NGO Consultations with the United Nations Special Rapporteur on Violence Against Women: 30-31 August, 2002, Colombo, Sri Lanka.

³⁸³ Speech given at the Inaugural Lesbia Harford Oration, Melbourne 1999.

³⁸⁴ In Australia, criminal law is under the jurisdiction of the States. There is no uniform national law for domestic violence.

³⁸⁵ Refer to the *Report of the First Australian Tribunal on Women's Human Rights*, WRANA 1999, available on www.vicnet.net.au/~wrana.

³⁸⁶ Report submitted by Naripokkho, Bangladesh for the UNSRVAW.

³⁸⁷ Report to the UNSRVAW by Ain o Salish Kendra (ASK).

³⁸⁸ Country Briefing Paper- Women In Bangladesh, Programmes Department (West), Asian Development Bank, August 2001.

³⁸⁹ Information received by the UNSRVAW at the APWLD consultations from the survey that was distributed to the participants.

³⁹⁰ 'Effective Remedies Are Ineffective in Asia' - Asian Human Rights Commission Human Rights Day Statement, 10 December 2002.

³⁹¹ www.antislavery.org/homepage/antislavery/award/traffickinginbangladesh.htm

³⁹² www.news.bbc.co.uk/2/hi/south_asia/1791513.stm

³⁹³ www.un.org/womenwatch/daw/followup/countrylist.htm

³⁹⁴ Ibid.

³⁹⁵ www.hrw.org/press/2002/06/camtraff.htm

³⁹⁶ The Falun Gong Human Rights Working Group Report to the UNSRVAW 2002.

³⁹⁷ www.un.org/womenwatch/daw/followup/countrylist.htm

³⁹⁸ Information received by the UNSRVAW from the Tibet Bureau in Geneva, 03 December 2002.

³⁹⁹ The Falun Gong Human Rights Working Group Report to the UNSRVAW 2002.

⁴⁰⁰ From a report prepared by the World Organisation Against Torture to the Committee against Torture, 2000.

⁴⁰¹ Human Rights in North Korea, Information received from Christian Solidarity Worldwide, 10 December 2002.

⁴⁰² Ibid.

⁴⁰³ Information submitted by the Government of the Democratic People's Republic of Korea on the implementation of recommendations of the Special Rapporteur on violence against Women for the settlement of the issue of Japanese military sexual slavery in wartime, 2002.

⁴⁰⁴ Information submitted to the Special Rapporteur on violence against women by the Permanent Mission of India to the United Nations Office in Geneva dated 22 August 2002 on action taken to implement recommendations made by the SRVAW following her mission to India in November 2000.

⁴⁰⁵ Information submitted to the SRVAW by the Permanent Mission of India to the United Nations Office in Geneva dated 22 August 2002 on action taken to implement recommendations made by the SRVAW following her mission to India in November 2000.

⁴⁰⁶ www.empowering-women.com/aboutus.asp.

⁴⁰⁷ The objectives are to reintegrate women and child victims through strategies that cover prevention, legislation, law enforcement, provision of basic services to victims, rescue and rehabilitation, awareness generation and social mobilization.

⁴⁰⁸ A proposal for setting up the Nodal Agency under the aegis of the Ministry of Home Affairs was under consideration in 2002

⁴⁰⁹ Information submitted to the SRVAW by the Permanent Mission of India to the United Nations Office in Geneva dated 22 August 2002 on action taken to implement recommendations made by the SRVAW following her mission to India in November 2000.

⁴¹⁰ Ibid.

⁴¹¹ Ibid.

⁴¹² Information submitted to the SRVAW in 2002 by the Lawyers' Collective, Women's Rights Initiative.

⁴¹³ The Week February 3, 2002.

⁴¹⁴ www.news.bbc.co.uk/1/hi/world/south_asia/709343.stm

⁴¹⁵ India's Gender 'Holocaust' warning- Vir Singh- Tuesday, 19 February, 2002, BBC.

⁴¹⁶ Indonesian National Commission on Violence Against Women: Indonesia Country Report prepared for the annual consultation with the Special Rapporteur, Colombo, August 2002

⁴¹⁷ The Special Rapporteur recommended the Government, in partnership with NGOs, to "set up crisis centres for victims of violence against women. These centres should provide shelter, legal counseling, psychological counseling and vocational training for women's economic empowerment". E/CN.4/1999/68/Add.3, para. 122

⁴¹⁸ A/753/38/Rev.1, paras 283 and 303

⁴¹⁹ E/CN.4/1999/68/Add.3, para 117

⁴²⁰ A/753/38/Rev.1, paras 269

⁴²¹ OMCT: Indonesia Country Report on Violence against Women Prepared for the Committee against Torture, 2001

⁴²⁴ Nazila Fathi, 'Iran approves a bill to give women equal right to divorce' International Herald Tribune, 27 August 2002.

⁴²⁵ Agence France Presse, Iranian MPs draft 'preventative' abortion bill, 28 August 2002.

⁴²⁶ Information received by Guy Dinmore, Tehran, December 19 2002.

⁴²⁷ Human Rights Watch, 'Iran blocks overseas education for women', 26 January 2001.

⁴³¹ Association of Iranian Women- USA, 'Constitutional Violence Against Women in Iran', February 2000

⁴³² A Review of the Recent Situation of Human Rights in Iran, September 30, 2002- Report submitted by the Foreign Affairs Committee of the National Council of Resistance of Iran Human Rights Centre.

⁴³³ Agence France Presse, 'Woman Sentenced to Death by Stoning for Murder and Adultery', 9 July 2001.

⁴³⁴ Information received by the Special Rapporteur on 3 October 2002.

⁴³⁶ Women's Committee of the National Council of Resistance of Iran, 'The Suicide Crisis in Iran', March 2002.

⁴³⁷ According to article 51 (a) of the British Mandatory Law of 1922, which is still applicable, all recognised religious communities in Israel have their own religious courts: the Rabbinical courts for Jewish citizens, and Muslim, Christian and Druze courts for their respective citizens.

⁴³⁸ In case of a conflict, civil laws have primacy over religious laws in religious courts. An example of such a civil law is the Inheritance Law of 1965, which mandates that men and women have equal inheritance rights.

⁴³⁹ Israeli laws have vested concurrent or parallel authority in the civil courts on issues of child custody and support, alimony and property rights, for Jews and Druze. Civil courts have concurrent jurisdiction with religious courts on issues of child custody and child support for Christians. However, the Muslim religious courts maintain exclusive jurisdiction over all personal status matters.

⁴⁴⁰ According to the concept of *Ela'sma*, which gives power to one member of the married couple, the spouse who has *Ela'sma* has the power to decide if and when to divorce his/her partner. As a rule, men possess *Ela'sma*, except when there is an agreement between the couple which states otherwise. Thus, in the majority of cases, a husband need only to say to his wife: "You are divorced," in order to divorce his wife. Druze men also have a practice similar to *Ela'sma*.

⁴⁴¹ Until this legislation was enacted, Arab women could only turn to their respective religious courts in matters of maintenance and custody. However, Jewish women had the alternative of turning either to religious or civil courts in these personal status matters. In the religious courts, Arab women suffer considerable discrimination. For example, Muslim law grants custody of children to the father when a boy is 7 and a girl 9, in contrast to civil courts, which determine custody according to the welfare of the children. Moreover, the level of maintenance allocated by religious courts is considerably lower than that allocated by civil courts. This important new law will enable thousands of Arab women to gain more fair settlements in cases of maintenance, custody and paternity.

⁴⁴² See Human Rights Watch, *World Report 2001*.

⁴⁴³ A restraining order can be issued by the upper or lower courts and requires only the presence of one party. Moreover, the police may also issue a temporary restriction order (for up to 30 days), and domestic violence up to 48 hours, depending on the circumstances of the case. The Law operates independently of the existing personal family law.

⁴⁴⁴ Section 345 of the Penal Law 1977

⁴⁴⁵ Aggravated rape consists of any of the above acts, where the rapist: 1) Threatens the use of weapons; 2) causes severe bodily or emotional damage or causes pregnancy; 3) abuses the woman before the act, during the act or after it; 4) commits the rape in the presence of others who are there in order to participate -actively or passively- in the commission of the rape.

⁴⁴⁶ The fact that sentences imposed in rape cases constitute rarely more than a fifth of the maximum was also admitted in the government report of Israel submitted to the Committee on the Elimination of Discrimination Against Women, U.N. Doc. CEDAW/C/ISR/1-2.

⁴⁴⁷ The Sexual Harassment Law sets out specific obligations that employers must take to prevent sexual harassment. However, the Law does not limit the prohibition of sexual harassment to the workplace - sexual harassment in any context is a crime and a civil offense. The Law also provides clear channels (in criminal, civil or labor courts) through which people can file complaints. The Law requires employers, among other things, (i) to take reasonable actions to prevent sexual harassment in the workplace, (ii) to appoint someone responsible for receiving, investigating and preparing a report about complaints of sexual harassment at work, and (iii) to publicize "sample articles" in any workplace with more than 25 employees, explaining the prohibition on sexual harassment and procedures for filing complaints if it occurs.

⁴⁴⁸ See Israel Women's Network on <http://www.iwn.org.il>

⁴⁴⁹ Section 201 of the Penal Code stipulates that it is a criminal offence, punishable by between 5 and 7 years' imprisonment, to force or coerce a person to engage in prostitution. Section 202(b) of the Penal Code makes it a criminal offence to induce a woman to leave Israel with the intent to "practice prostitution abroad." However, the amendment to the criminal law in Israel criminalizes only trafficking for forced prostitution, excluding all those who are trafficked into other forms of forced labour in Israel. (World Organisation Against Torture (OMCT), *Violence against*

women in Israel - Mainstreaming the Human Rights of Women, a report prepared for the Committee Against Torture at its 27th Session, 12-23 November 2001.)

⁴⁵⁰ For further information, see OMCT Report

⁴⁵¹ The report was compiled by the Minerva Center for youth research in Haifa University with the participation of 2,841 women and 510 men. According to the report, about 142,000 of them were beaten this year, 40,000 required medical treatment and 15,000 were hospitalized. Some 146,000 women were raped at least once and 2 percent of these were threatened with murder in 2001.

⁴⁵² Almost 30 percent of the men who took part in the survey and about 23 percent of the women said a man's violent behavior was justified when it comes in response to a wife's violence. Twenty-three percent of the men and 18 percent of the women said violence was justified if it was a reaction to the wife's sexual infidelity. About half of the respondents - 50 percent of the men and 49 percent of the women - placed the responsibility for the violence on both spouses, rather than on the violent one.

⁴⁵³ See The Working Group on the Status of Palestinian Women in Israel, *NGO Report: The Status of Palestinian Women Citizens in Israel*, Submitted to the United Nations Committee on the Elimination of All Forms of Discrimination Against Women, July 1997. Moreover, according to a study among 1,826 married Palestinian women (excluding Bedouin) in Israel (systematic random sample) by Hai Yahia in 1997, 30% reported sexual coercion by their husbands in the last year (World Health Organisation, home page www.who.org, consulted on 15 October 2001)

⁴⁵⁴ Arab Association for Human Rights, *Discriminatory Diary*, 5 December 1999.

⁴⁵⁵ The Working Group on the Status of Palestinian Women in Israel, see n. , p. 77.

⁴⁵⁶ OMCT Report

⁴⁵⁷ Ibid.

⁴⁵⁸ The Arab Association for Human Rights, *Discrimination Diary*, 5 December 1999.

⁴⁵⁹ The Working Group on the Status of Palestinian Women in Israel, see n. 48, p. 72.

⁴⁶⁰ Asali A et al. Ritual female genital surgery among Bedouin in Israel. *Archives of sexual behavior*, 1995, 24:573-577

⁴⁶¹ The Working Group on the Status of Palestinian Women in Israel, see n. 48, p. 69.

⁴⁶² Human Rights Watch, *World Report*, 2001.

⁴⁶³ Amnesty International, *Israel, Human Rights abuses of women trafficked from countries of the former Soviet Union into Israel's sex industry*, May 2000.

⁴⁶⁴ Human Rights Watch, *World Report 2001*

⁴⁶⁵ See OMCT Report

⁴⁶⁶ See also World Organisation Against Torture (OMCT), *Violence against women in Israel - Mainstreaming the Human Rights of Women*, a report prepared for the Committee Against Torture at its 27th Session, 12-23 November 2001.

⁴⁶⁷ Please refer to the OMCT Report for further information on the specific case of Palestinian women in Israel.

⁴⁶⁸ For general comments on torture and ill treatment by the Israeli authorities of Palestinian detainees, including children, in Israel, see the joint report by PCATI, LAW and OMCT.

⁴⁶⁹ www.gender.go.jp/english_contents/sorcial2_e.html

⁴⁷⁰ www.gender.go.jp/english_contents/beijing-e/p-3-a-4.html

⁴⁷¹ Information provided to the Special Rapporteur by the Asian Women's Fund-Japan October 2002.

⁴⁷³ Human Rights Watch- World Report 2002.

⁴⁷⁴ Report by the Government Representative to the CEDAW Committee on 2 February 2001. The representative also emphasized the educational achievements of women, noting in particular that women constituted 62 per cent of specialists with higher and secondary levels of education.

⁴⁷⁵ In a 2001 December conference on sexual violence, the Ministry of Interior representative reported that approximately 68 percent of female prisoners might be in prison on charges resulting from domestic violence.

⁴⁷⁶ Ibid.

⁴⁷⁷ See Law on Gender Equality (draft); Family Law (draft); Laws on Fighting Domestic Violence and Measures of Social and Legal Protection of Victims of Violence of Violence (draft 23 October 2000)

⁴⁷⁸ See CEDAW Concluding Observations, A/54/38, paras. 95-142, 27 January 1999.

⁴⁷⁹ Alla Pyatibratova, "Legal Center Helps Wronged Women Learn Their Rights", 10/02/02 - Posted October 2, 2002 (Eurasianet <http://www.eurasianet.org/index.shtml>)

⁴⁸⁰ See IOM Research Report on Kyrgyzstan in "Trafficking in Migrants", Bulletin No. 22, February 2001

⁴⁸¹ Human Rights Watch, *World Report 1999*.

⁴⁸² Report OSCE and IOM

⁴⁸³ Press Release GA/SHC/3698.

⁴⁸⁴ Women's Aid Organisation: Women's Equality in Malaysia, Status Report, March 2001 (www.wao.org.my)

⁴⁸⁵ Women's Centre for Change (WCC), Penang (Pusat Kesedaran Wanita) (www.wccpenang.org/index.htm)

⁴⁸⁶ Joint Action Group Against Violence Against Women (JAG): Briefing notes on Sexual Harassment and the Need for Legislation, March 2002 (www.wccpenang.org/index.htm)

⁴⁸⁷ Women's Aid Organisation web site (www.wao.org.my)

⁴⁸⁸ www.un.org/womenwatch/daw/followup/countrylist.htm

⁴⁸⁹ Women's Aid Organisation web site (www.wao.org.my)

⁴⁹⁰ Human Rights Watch World Report 2002.

⁴⁹¹ Women's Aid Organisation' web site (www.wao.org.my).

⁴⁹² www.hri.ca/fortherecord2001/vol3/maldivestb.htm

⁴⁹³ www.un.org/womenwatch/daw/followup/maldives.htm

⁴⁹⁴ www.undp.org.in/maldives.html

⁴⁹⁵ See E/CN.4/2003/75/Add.2

⁴⁹⁶ BBC Monitoring Asia Pacific- Political. (Source: The Myanmar Times web site, 29 November 2002 by Nwe Nwe Aye)

⁴⁹⁷ Asia and the Pacific: A Region in Transition, United Nations Population Fund, 2002.

⁴⁹⁸ Kathmandu Post, March 15, 2002.

⁴⁹⁹ Panos.org.uk/news/October 2002/marital_rape_outlawed_by_nepal.htm

⁵⁰⁰ www.un.org/womenwatch/daw/followup/countrylist.htm

⁵⁰¹ Abortion In Nepal: Women Imprisoned- A Report done by the Centre for Reproductive Law and Policy and the Forum for Women, Law and Development, 2002.

⁵⁰² Country Briefing Paper- Women In Nepal, Programmes department (West, Division 1), Asian Development Bank, December 1999.

⁵⁰³ See Prabhat Rana, *Fight continues to end harsh abortion law*, REAL LIVES, Aug.2000, at 22(IPPF South Asian Region, eds.)

⁵⁰⁴ See Centre for Reproductive Law and Policy and the Forum for Women, Law and Development, *Abortion in Nepal: Women Imprisoned*, 2002.

⁵⁰⁵ The Status of Women in New Zealand 2002: The Fifth Report on New Zealand's Progress on Implementing CEDAW, Prepared and Published by the Ministry of Women's Affairs, November 2002.

⁵⁰⁶ CEDAW/C/NZL/3-4.

⁵⁰⁷ Ibid.

⁵⁰⁸ www.mwa.govt.nz/pub/2002IncomingBrief.pdf

⁵⁰⁹ The Status of Women in New Zealand 2002: The Fifth Report on New Zealand's Progress on Implementing CEDAW, Prepared and Published by the Ministry of Women's Affairs, November 2002.

⁵¹⁰ www.sabcnews.com/world/asia1pacific/0,1009,41964,00.html

⁵¹² See UNSRVAW report- E/CN.4/2002/83 and information received from Dr. Tahira Khan at the UNSRVAW consultations organised by APWLD 2002.

⁵¹³ Human Rights Watch World Report 1999.

⁵¹⁴ Human Rights Watch World Report 2000.

⁵¹⁵ Information received by Lawyers for Human Rights and Legal Aid, 9 December 2002.

⁵¹⁶ The Friday Times 09 May, 2001.

⁵¹⁷ Most of the information obtained from: www.un.org/womenwatch/daw/followup/countrylist.htm

⁵¹⁸ See E/CN.4/2002/83/Add.1

⁵¹⁹ Information received at the NGO consultations with the UNSRVAW from Kangsil Lee 2002 and information from www.un.org/womenwatch/daw/followup/countrylist.htm

⁵²⁰ Information received from the Permanent Mission of the Republic of Korea in Geneva, August, 2002.

⁵²¹ Information received from the Korean Council for the Women Drafted for Military Sexual Slavery by Japan.

⁵²² Information from the NGO alternative report to CEDAW.

⁵²³ The International Organisation Against Torture reported a case in November 2002 (Case number LKA 221102) where women were tortured by the police to obtain information.

⁵²⁴ Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Sri Lanka 26th session 14 January-1 February 2002.

⁵²⁵ See Criminal Code art. 139-142

⁵²⁶ See in particular Criminal Code art. 238-239

⁵²⁷ In OSCE "Human Rights in the OSCE Region: The Balkans, the Caucasus, Europe, Central Asia and North America" Report 2002 (events 2001).

⁵²⁸ Ibid

⁵²⁹ The obstacles to ensuring fair public trials were evident in the 2000 murder trial of Dilfuza Nimonova, a woman accused of murdering the man who raped her. The OSCE mission observed the trial and reported that there were numerous inconsistencies and violations of internationally accepted legal principles during the trial. There were reports that Nimonova's lawyer was denied access to his client, and that the politically well-connected family of the victim pressured the judges hearing the case. In 2000 Nimonova was sentenced to death, although the Government later commuted her sentence to 16 years in prison after President Rahmonov received international appeals to intervene in the matter. There also was strong evidence that Nimonova, a rape victim, was forced to undergo an abortion while in prison.

⁵³⁰ The Eurasia Foundation, Lidia Isamova, "Economic Instability in Tajikistan Perpetuates Unhealthy Reliance on World Neighbours", *Eurasia Insight*, 5 July 2001.

⁵³¹ Institute for War and Peace Reporting, Lidia Isamova, "Tajik Women Turn to Crime", in *Reporting Central Asia*, No. 48, 19 April 2001.

⁵³² International Organization of Migration, *Deceived Migrants from Tajikistan - A Study of Trafficking in Women and Children*, August 2001.

⁵³³ Information received by the Special Rapporteur from the United Nations Support Mission in East Timor (UNMISET).

⁵³⁴ Ibid.

⁵³⁵ Ibid.

⁵³⁶ See also Institute for War and Peace Reporting, Polina Mikhailova (pseudonym), "Turkmen Bashed Mothers", *Reporting Central Asia*, No. 68, 6 September 2001.

⁵³⁷ International Helsinki Federation for Human Rights, *Women 2000 - An Investigation into the Status of Women's Rights in the former Soviet Union and Central and South-Eastern Europe*, 2000, p. 469 (<http://www.ihf-hr.org/reports/women/turkmenistan.pdf>)

⁵³⁸ International Helsinki Federation for Human Rights, *Women 2000 - An Investigation into the Status of Women's Rights in Central and South-Eastern Europe and the Newly Independent State*, 2000.

⁵³⁹ Article 97 of the Criminal Code deals with premeditated murder, and article 98 deals with "murder carried out in a state of high psychological stress." Article 103 of the Criminal Code holds that driving a person to suicide or attempted suicide through severe ill-treatment or systematically attacking the honour and dignity of a person who is in a position of economic or other dependence upon the guilty party is to be punished with imprisonment. Articles 104 to 111 dealing with crimes against the health of a person foresee punishment for the purposeful infliction of heavy to light degrees of physical injury. A forensic doctor establishes the level of injury. Article 106 prescribes lesser penalties if the violence is committed under psychological stress and article 107 concerns intentionally causing serious injury in excess of necessary self-defence. Psychological violence is not taken into consideration.

⁵⁴⁰ Article 121 of Chapter IV entitled "Crimes against Sexual Freedom" provides that forcing a woman to have sexual intercourse and satisfy sexual needs in unnatural forms at work or by a person on whom the woman is economically dependent is punishable by correctional work of up to two years or detention for up to six months. In chapter 6 entitled "Crimes against Freedom, Honour and Dignity", article 135 states that the recruitment of persons for the purpose of sexual or other exploitation, committed through deception, is punishable by a fine ranging from 40 to 100 times the minimum salary, correctional work for up to three years or detention for up to 6 months, with or without the confiscation of property. The same crime committed (a) repeatedly; or (b) by a group of persons in prior conspiracy; or c) against a minor, is punishable by imprisonment for up to five years, with or without the confiscation of property. The same crime, committed for the purpose of trafficking persons abroad from Uzbekistan is punished by 5-8 years imprisonment with the confiscation of property. Under Article 131 of the Criminal Code, the establishment or operation of brothels is punishable, as well as procurement for profitable or other base motives, is punishable by a fine of from twenty five to fifty times the minimum wage or by corrective labour for up to three years or by deprivation of liberty for up to three years with confiscation of property.

⁵⁴¹ CEDAW State Report, U.N. Doc. CEDAW/C/UZB/1

⁵⁴² Information received by the Legal Aid Society; Human Rights Watch, *Sacrificing Women to Save the Family? Domestic Violence in Uzbekistan*, 2001, p. 13; Minnesota Advocates for Human Rights, *Domestic Violence in Uzbekistan*, 2000; International Helsinki Federation for Human Rights, *Women 2000: An Investigation into the Status of Women's Rights in Central and South-Eastern Europe and the Newly Independent States*, 2000, p. 513.

⁵⁴³ An inspector from the Ferghana Valley estimated that 80% of the calls he receives are family quarrels, and that 50% to 60% of these involve injuries Minnesota Advocates for Human Rights, see supra n. 5, p. 20

⁵⁴⁴ See HRW Report, supra n. 5, 14-15 (particularly the reasons discouraging women from divulging their experiences of domestic violence outside the home)

⁵⁴⁵ Ibid, p. 21.

⁵⁴⁶ See International Helsinki Federation for Human Rights, see note 5, p. 503 and Human Rights Watch, see note 5, p. 41.

⁵⁴⁷ U.N. Doc. CEDAW/C/UZB/1.

⁵⁴⁸ International Helsinki Federation for Human Rights, see note 5, p. 504.

⁵⁴⁹ Information received from the Human Rights Society of Uzbekistan (in World Organization against Torture, "Violence against Women in Uzbekistan", submitted to the United Nations Committee against Torture, 2002); see also the International Helsinki Federation for Human Rights, see note 5, p. 505.

⁵⁵⁰ International Helsinki Federation for Human Rights, *A Form of Slavery: Trafficking in Women in OSCE Member States*, report to the OSCE Supplementary Human Dimension Meeting on Trafficking in Human Rights, Vienna 2000, p. 64.

⁵⁵¹ OMCT Report, supra n.12

⁵⁵² Information received from the Legal Aid Society (in OMCT Report)

⁵⁵³ www.un.org/womenwatch/daw/followup/countrylist.htm

⁵⁵⁴ www.peacewomen.org/campaigns/regions/asia/vietnam.html

⁵⁵⁵ Information received by the Fiji Women's Crisis Centre at the NGO Consultations held for the UNSRVAW 2002.

⁵⁵⁶ Ibid.

⁵⁵⁷ Ibid.

⁵⁵⁸ www.fijiwomen.com/media_info/p_releases/26_02_2001.htm

⁵⁵⁹ See WHO Review of Sexual Crime Legislation in Five Latin American Countries: Argentina, Chile, Colombia, Mexico and Peru, by Julieta Lemaitre and Aida Constantin, Bogota, August 2002. There are important differences among them: Mexico is a Federation so criminal legislation is different in each state; Argentina is also a Federal Republic but the Criminal Code is the same for all the country while other laws vary from province to province.

⁵⁶⁰ Response to the Questionnaire to Governments on the implementation of the Beijing Platform for Action from Belize.

⁵⁶¹ ⁵⁶¹ The militarization of the indigenous communities and the situation in Chiapas have been denounced.

⁵⁶² Pandjarian, Valeria; "Reflections on the Economic Context of Domestic Violence against women in Latin America-A gender and Human Rights Perspective".

⁵⁶³ The priority given by the Commission and its Rapporteurship to the protection of the rights of women reflects the importance given to this area by the member States themselves. In particular, the Plan of Action adopted by the Heads of State and Government during the Third Summit of the Americas recognizes the importance of women's empowerment, and their full

⁵⁶⁴ The member States of the OAS are: Antigua and Barbuda, Argentina, The Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba (suspended), Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States, Uruguay and Venezuela.

⁵⁶⁵ The current Special Rapporteur, Commission member and Guatemalan jurist Marta Altolaquirre, was designated by the Commission in 2000. The first Rapporteur, former Commission member Claudio Grossman, a Chilean jurist, was named by the Commission in 1994, and served until 2000.

⁵⁶⁶ More specifically, the Rapporteurship on the Rights of Women serves to: raise awareness of the need for further action to ensure that women are able to fully exercise their basic rights; issue specific recommendations aimed at enhancing member State compliance with their priority obligations of equality and nondiscrimination; promote the mechanisms – for example, the filing of individual complaints of violations – that the inter-American human rights system provides to protect the rights of women; conduct specialized studies and prepare reports in this area; and assist the Commission in responding to petitions and other reports of violations of these rights in the region. Additional information on the Commission and its Rapporteurship may be found at www.cidh.org.

⁵⁶⁷ See preamble, Arts. 4, 6.

⁵⁶⁸ See preamble, Arts. 4, 5.

⁵⁶⁹ See Arts. 1, 2 and 3.

⁵⁷⁰ See Art. 7; see also, Arts. 8 and 9.

⁵⁷¹ See Arts. 10-12.

⁵⁷² To give one example, in 1996, the Guatemalan Constitutional Court became one of the first to examine the applicability of the Convention of Belém do Pará on the domestic plane, when it ruled on a challenge to several articles of the Criminal Code concerning adultery and concubinage. The plaintiffs had argued that the provisions were incompatible with the Constitution, the Convention on the Elimination of All Forms of Discrimination against Women, the American Convention and the Convention of Belém do Pará. In a brief opinion, the Court found that the provisions contravened the constitutional guarantee of equality, and, noting the hierarchical superiority accorded to international human rights obligations under the Constitution, found them incompatible with "the international conventions ratified by Guatemala in this area." Decision of March 7, 1996, File No. 936-95. The principal documents of the case were published by a Guatemalan nongovernmental human rights organization that provided legal advice to the claimants. ACCIÓN DE INCONSTITUCIONALIDAD POR DISCRIMINACIÓN A LA MUJER EN EL CÓDIGO PENAL (Centro para la Acción Legal en Derechos Humanos ed. 1997).

⁵⁷³ The following member States are party to the American Convention on Human Rights: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Uruguay and Venezuela. The Commission exercises jurisdiction over the remaining member states through the terms of the OAS Charter and the American Declaration.

⁵⁷⁴ See the list of cases attached as an annex. It may be noted that the Inter-American Court of Human Rights ("IACtHR") has examined two matters with relevance to the intersection of law and gender: the *Loayza Tamayo Case* (Peru), Judgment of September 17, 1997 (Merits), Ser. C No. 33 (examining allegations of rape through a standard of proof which is not explained); and the "Proposed Amendments to the Naturalization Provisions of the Constitution of Costa Rica," Advisory Opinion OC-4/84 of January 19, 1984, Ser. A No. 4 (finding proposed legislative distinctions on the basis of gender incompatible with the terms of the American Convention). Court decisions are available through its website: www.corteidh.org.

⁵⁷⁵ Report N° 54/01, Maria da Penha Maia Fernandes, Case 12.051 (Brazil), *Annual Report of the IACHR 2000*, OEA/Ser.L/V/II.111, Doc. 20 rev., 16 april 2001, ch. III.

⁵⁷⁶ Ana, Beatriz and Celia González Pérez, Case 11.565 (Mexico), *Annual Report of the IACHR 2000*, OEA/Ser.L/V/II.111, Doc. 20 rev., 16 april 2001, ch. III. For the earlier report adopted on admissibility, see, Report N° 129/99 Ana González et al., case 11.565 (Mexico), *Annual Report of the IACHR 1999*, OEA/Ser.L/V/II.106, Doc. 3 rev., April 13, 2000, ch. III.

⁵⁷⁷ Report N° 5/96, Case 10.970, Raquel Martín de Mejía (Peru), *Annual Report of the IACHR 1995*, OEA/Ser.L/V/II.91, Doc. 7 rev., Feb. 28, 1996.

⁵⁷⁸ REPORT ON THE SITUATION OF HUMAN RIGHTS IN HAITI, OEA/Ser.L/V/II.88, doc. 10, rev, 1995.

⁵⁷⁹ Report N° 4/01, Case 11.625, María Eugenia Morales de Sierra (Guatemala), *Annual Report of the IACHR 2000*, OEA/Ser.L/V/II.111, Doc. 20 rev., 16 april 2001, ch. III. Report N° 28/98, *Annual Report of the IACHR 1997*, OEA/Ser.L/V/II.98, Doc. 7 rev., April 13, 1998, ch. III.

⁵⁸⁰ Report 33/02, Petition 12.046, Mónica Carabantes Galleguillos (Chile), adopted March 12, 2002.

⁵⁸¹ This part of the report reflects information submitted to the Special rapporteur by the Latin-American and the Caribbean Committee for the Defence of Women's Rights (CLADEM) in July 2002. The report included information on the following countries: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Paraguay, Puerto Rico, Uruguay and Venezuela.

⁵⁸² CEDAW/C/ANT/1-3.

⁵⁸³ See WHO review of sexual crime legislation on five Latin American countries, written by Julieta Lemaitre and Aida Constantin, Bogota 2002.

⁵⁸⁴ The three districts are the Province of Buenos Aires, the City of Buenos Aires and the Province of Santa Fe.

⁵⁸⁵ See Lubertino, M.J.: *If it bothers, it is harassment*, 2002 (in www.ispm.org.ar)

⁵⁸⁶ Law 473 (1992)

⁵⁸⁷ Law 11.143 (1992)

⁵⁸⁸ Law 2.250 (1992)

⁵⁸⁹ Law 6182 (1994)

⁵⁹⁰ Law 6542.(1994)

⁵⁹¹ Law 5.019.(1995)

⁵⁹² Law 4.175 (1995) and Law 4311(1996)

⁵⁹³ Law 4.118.(1995)

⁵⁹⁴ Law 3.325.(1996)

⁵⁹⁵ Law 2.212

⁵⁹⁶ Law 11.529

⁵⁹⁷ Law 4943.

⁵⁹⁸ Regulation 47.506, AD 230-57,B.M. 17/1/94

⁵⁹⁹ Report N° 38/96 (case 10.506)

⁶⁰⁰ The 3 districts with no legislation on domestic violence are Salta, Formosa and Santa Cruz.

⁶⁰¹ See CLADEM: *A Question of Life. A Regional Balance and Challenges about the right of women to a life free from violence*, Lima 2000, p. 221 in www.cladem.org

⁶⁰² See CECYM: *The medical consultation in the cases of violation*, Buenos Aires, 1997, p.11.

⁶⁰³ Belize's Response to the questionnaire to Governments on the implementation of the Beijing Platform

⁶⁰⁴ Information provided by OMCT 2002

- ⁶⁰⁵ Information provided by OMCT 2002
- ⁶⁰⁶ Pernambuco, Roraima y Alagoas.
- ⁶⁰⁷ Reply to request for information sent by the Special Rapporteur, Permanent Mission of Brazil to the UN Geneva, June, 2002.
- ⁶⁰⁸ Mineral extraction zone, mainly gold.
- ⁶⁰⁹ Conclusions and recommendations of the Committee for the Elimination of the Discrimination against Women to the First Periodic Report presented by Chile, 1995 (A/50/38).
- ⁶¹⁰ Chile's Response to the questionnaire to Governments on the implementation of the Beijing Platform
- ⁶¹¹ Working Group on Women and Armed Conflict: *Follow-up to the Recommendations of the Special Rapporteur on Violence against Women*, Colombia, 2001
- ⁶¹² "La Prostitución en Colombia", paper sent to the Special Rapporteur, August 2002.
- ⁶¹³ Costa Rica's response to the questionnaire to Governments on the implementation of the Beijing Platform
- ⁶¹⁴ Cuba's Response to the questionnaire to Governments on the implementation of the Beijing Platform.
- ⁶¹⁵ E/CN.4/2000/68/Add.2.
- ⁶¹⁶ See CEDAW/C/CUB/4.
- ⁶¹⁷ Dominica's response to the questionnaire to Governments on the implementation of the Beijing Platform
- ⁶¹⁸ Taule, G.: *Sexual violence within relationships in the Dominican Republic*, 1999
- ⁶¹⁹ Ecuador's First Periodic Report before the Committee for the Rights of the Child, September 24, 1999 CRC/C/3/Add.44.
- ⁶²⁰ CCPR/C/79/Add. 92, 1998
- ⁶²¹ Grenada's response to the questionnaire to Governments on the implementation of the Beijing Platform
- ⁶²² Guyana's response to the questionnaire to Governments on the implementation of the Beijing Platform
- ⁶²³ CCPR/C/79/Add.121, para 14, 2000.
- ⁶²⁴ May 2000
- ⁶²⁵ E/CN.4/2000/68/Add.3
- ⁶²⁶ Moreno, C.; Ortega, A.; Ramos, C.; Rayas, L.: *Sexual violence against women in Mexico*, 2002.
- ⁶²⁷ Instituto Nacional de las Mujeres: *Report for the Special Rapporteur on violence against women*, Mexico, June 2002
- ⁶²⁸ A/53/38/Rev.1, paras 180 and 201 (1998)
- ⁶²⁹ Puerto Rico does not have sovereignty to sign international conventions, treaties or other instruments. The United States, as the administrative country, has not ratified the Convention.
- ⁶³⁰ A/57/38 (part II), paras 76, 78, 105-106 (2002)
- ⁶³¹ Saint Lucia's response to the questionnaire to Governments on the implementation of the Beijing Platform
- ⁶³² Report of the ECLAC-CDCC/Commonwealth Secretariat Regional Workshop on Gender Mainstreaming (LC/CAR/G.624), 2000
- ⁶³³ A/52/38/Rev.1, para 135 (1997)
- ⁶³⁴ Suriname's response to the questionnaire to Governments on the implementation of the Beijing Platform, 1999
- ⁶³⁵ A/57/38 (Part II), para 51 (2002)
- ⁶³⁶ 'Women are not made to be hit', *Police officers and social workers in the Caribbean learn how to help families afflicted by domestic violence*, (Inter-American Development Bank) in <http://www.iadb.org/idbamerica/index.cfm?thisid=1173> (last consulted on 29 January 2003)
- ⁶³⁷ A/57/38 (Part II), para 52-54 (2002)
- ⁶³⁸ Trinidad and Tobago's response to the questionnaire to Governments on the implementation of the Beijing Platform, 1999
- ⁶³⁹ National Reports on the Situation of Gender Violence against Women, Trinidad and Tobago, Regional Project RLA/97/014, UNDP, 1999.
- ⁶⁴⁰ Fourth Periodic Report presented by Uruguay before the Human Rights Committee (CCPR/C/95, May 1997).
- ⁶⁴¹ Extract of the paper written by Professor Rebecca Cook, Professor Bernard Dickens and Paul Kaufman⁰⁴ of the Faculty of Law, University of Toronto, Canada
- ⁶⁴² Government of Canada. Government of Canada Response to Request by the UN Special Rapporteur on Violence Against Women (SRVAW). Canada, July 2002, 2.
- ⁶⁴³ Government of Canada. Convention on the Elimination of All Forms of Discrimination against Women – Fifth Report of Canada, 2002, 47.
- ⁶⁴⁴ *R. v. Ewanchuk* [1999] 1 S.C.R. 330.
- ⁶⁴⁵ Per L'Heureux-Dube J. in *Ewanchuk*, *Supra* note 2 at paras. 98-99.
- ⁶⁴⁶ Catherine Fraser, *Sexual Violence in Work-related Settings-R. v. Ewanchuk: A case Study on the Meaning of Consent in Cases of Violence against Women in United Nations, Bringing International Human Rights Law Home*, New York: United Nations, 2002.
- ⁶⁴⁷ Government of Canada. Government of Canada Response to request for information by UN Secretary-General concerning implementation of Sub-Commission on Promotion and Protection of Human Rights 2000/10 on harmful traditional practices affecting women and girls. Canada, June 2001. 5.
- ⁶⁴⁸ Statistics Canada – Canadian Centre for Justice Statistics. Family Violence in Canada: A Statistical Profile 2002. 1.
- ⁶⁴⁹ Extract of the report done by the Allard K. Lowenstein International Human Rights Clinic Yale Law School: James J. Silk (Executive Director), Deena R. Hurwitz (Cover/Lowenstein Fellow) 2002
Participating Students: Mary De Ming Fan, Jason File, Kapil Longani, Tara Malloy, Bonita Meyersfeld, Anna Rich, Priyeha Vahali.
- ⁶⁵⁰ U.N. Doc. A/55/383 (November 2, 2000).
- ⁶⁵¹ Violence Against Women Act of 1994, Pub. L. No. 103-322, 108 Stat. 1902 (codified as amended in scattered sections of 8, 16, 20, 28, and 42 U.S.C.) [hereinafter "VAWA"].
- ⁶⁵² 18 U.S.C. §§ 2261-2262 (1994). To be more specific, the VAWA creates the crimes of in testate domestic violence and interstate violation of a protection order.
- ⁶⁵³ Pub. L. No. 90-618, 82 STAT. 1213 (codified as amended in scattered sections of 18 & 26 U.S.C.).
- ⁶⁵⁴ 18 U.S.C. 922(d)(8), (g)(8) (1994). Law enforcement officers remain exempt from the firearm prohibitions in the 1994 amendments. Also, while this was part of the 1994 Crime Bill that VAWA was amended to, it was not listed as part of the VAWA in the Committee Report.
- ⁶⁵⁵ 42 U.S.C. § 14051, 8 U.S.C. § 1154(a) (1994) (remedies generally limited to immigrant spouses of U.S. citizens or lawful permanent residents).

⁶⁵⁶ The Victims of Gender-Motivated Violence Protection Act, Number 752-A (signed into law December 19, 2000). See Mayor's Office, Mayor Giuliani Signs Bill Granting Victims of Violent Crimes Motivated by Gender an Enhanced Civil Cause of Action against Their Attackers, Release #479-00, at <http://www.nyc.gov/html/om/html/2000b/pr479-00.html>.

⁶⁵⁷ Assembly Bill 1928, California's version of VAWA was signed by Governor Gary Davis in 2002 and created a statutory civil action for injuries resulting from acts of gender based violence and allows such action to be brought within three years of the act of gender related violence or within eight years after the victim reaches 18, whichever is later. It will take effect on January 1, 2003. See www.endabuse.org/newsflash/index.php3?Search=Article&NewsflashID=376, the website for the Family Violence Prevention Fund.

⁶⁵⁸ Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (1996) (codified in various sections of 42 U.S.C.).

⁶⁵⁹ *Id.* §103, 110 Stat. at 2113-14.

⁶⁶⁰ 42 U.S.C. § 5106a (1996).

⁶⁶¹ In all states, sexual abuse is included in the state statutory definition of child abuse; however, the definition of "sexual abuse" differs from state to state, and statutory rape is not necessarily included in each state's definition of sexual abuse. See Admin. Children & Families, U.S. Dept of Health & Hum. Serv., National Clearinghouse on Child Abuse and Neglect Information, Child Abuse & Neglect State Statutes Elements, at Mandatory Reporters, No. 2 (current through Dec. 31, 1999), at <http://www.calib.com/nccanch/services/statutes.htm#Laws>.

⁶⁶² Christi Parsons, Law to Help Victims of Rape Get Advice; Women to be Told of Contraception, CHICAGO TRIBUNE, July 26, 2001, at 1.

⁶⁶³ 18 U.S.C. § 2261A, 2261, 2262.

⁶⁶⁴ Pub. L. No. 103-259, codified at 13 U.S.C. § 248.

⁶⁶⁵ Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, Div. A, 114 Stat. 1464 (October 28, 2000).

⁶⁶⁶ *Id.*

⁶⁶⁷ Pub. L. No. 104-145, 110 Stat. 1345, codified at 42 U.S.C. § 170101(d).

⁶⁶⁸ Pub. L. No. 103-322, tit. XVII § 1701012, as added Pub. L. No. 104- 236, § 2(a), 110 (1996), codified as 42 U.S.C.A. § 14072 (1998).

⁶⁶⁹ FEDERAL BUREAU OF INVESTIGATIONS, NATIONAL SEX OFFENDER REGISTRY, at <http://www.fbi.gov/hq/cid/cac/registry.htm>.

⁶⁷⁰ 42 U.S.C. § 1997 *et seq.*

⁶⁷¹ 18 U.S.C. § 3626.

⁶⁷² Vito Nicholas Ciraco, Fighting Domestic Violence with Mandatory Arrest, Are We Winning? An Analysis in New Jersey, 22 WOMEN'S RTS. L. REP. 169 (2001)

⁶⁷³ NOW Legal Defense and Education Fund, Housing Discrimination Against Domestic Violence Victims (2002), at http://www.nowdef.org/html/issues/vio/statelocal_laws.pdf.

⁶⁷⁴ NOW Legal Defense and Education Fund, Violence Against Women, Fact Sheets On State Laws: Discrimination Against Domestic Violence Victims (May 2002), at <http://www.nowdef.org/html/issues/work/StateLawFactshts/Laws-Discrim.pdf> (last visited October 10, 2002).

⁶⁷⁵ 18 U.S.C. § 116.

⁶⁷⁶ 8 U.S.C. § 1374.

⁶⁷⁷ *U.S. v. Morrison*, 529 U.S. 598 (2000).

⁶⁷⁸ AMNESTY INTERNATIONAL, "NOT PART OF MY SENTENCE": VIOLATIONS OF THE HUMAN RIGHTS OF WOMEN IN CUSTODY, (1999), available at <http://www.amnestyusa.org/rightsforall/women/report/index.html>, citing Private Settlement Agreement, *Lucas v. White*, Case number C96-02905 U.S. District Court of Northern California.

⁶⁷⁹ Paul Richter, *Army's Behavior Rules Found Confusing*, L.A. TIMES (July 24, 1997), at A16

⁶⁸⁰ 523 U.S. 75, 78 (1998).

⁶⁸¹ Nos. A72190893, A72793219 (Arlington, VA., EOIR Immigr. Ct., Dec. 20, 1995), cited in ANKER, *supra* note 2.

⁶⁸² No. A73556833, slip op. at 15 (N.Y., N.Y., EOIR Immigr. Ct., Sept. 27, 1996), cited in ANKER, *supra* note 2, at 261, note 443.

⁶⁸³ No. A72374558, slip op. at 22 (Va., EOIR Immigr. Ct., Aug. 9, 1995), cited in ANKER, *supra* note 2, at 372, see also 392, note 733.

⁶⁸⁴ *U.S. v. Cadena*, Superseding Indictment, Case No. 98-14015-CR-RYSKAMP, US District Court, Southern District of Florida, April 23, 1998.

⁶⁸⁵ 8 U.S.C. § 1154(a)(1994).

⁶⁸⁶ 42 U.S.C. § 10461(e)(2)(E) (1995).

⁶⁸⁷ Pub. L. No. 103-322, tit. IV, subtitle D, (108 STAT.) at 1942-45.

⁶⁸⁸ <http://www.ojp.usdoj.gov/vawo/>.

⁶⁸⁹ Referenced at www.fcny.org/scripts/usq/getpage.pl?orgid=0102.

⁶⁹⁰ www.caaav.org.

⁶⁹¹ BUREAU OF JUSTICE STATISTICS SPECIAL REPORT, *INTIMATE PARTNER VIOLENCE AND AGE OF VICTIM*, 1993-99, (October 2001). This figure may be significantly affected if one takes into account the incidences of domestic violence within gay and lesbian relationships which are not reported due to the fear of prejudice and general marginalization of such couples.

⁶⁹² JOAN ZORZA, *VIOLENCE AGAINST WOMEN: LAW, PREVENTION, PROTECTION, ENFORCEMENT, TREATMENT, HEALTH* 1-3-4 (Civic Research Institute, 2002) (noting that rates of domestic violence during the 1990s have declined for black women while holding steady for white women).

⁶⁹³ National Institute of Justice and Centers for Disease Control and Prevention, *Prevalence, Incidence, and Consequences of Violence Against Women: Findings from the National Violence Against Women Survey* (Nov. 1998).

⁶⁹⁴ See Center for Reproductive Rights http://www.crlp.org/st_laws.html

⁶⁹⁵ See Human Rights Watch, *Brutality Unchecked: Human Rights Abuses along the U.S. Border with Mexico*, (June 1992) and *Crossing the Line: Human Rights Abuses along the U.S. Border with Mexico Persist Amid Climate of Impunity*, (April 1995), available at <http://www.hrw.org/reports/world/usdom-pubs.php>.

⁶⁹⁶ *International Matchmaking Organizations: A Report to Congress, Immigration and Naturalization Services* (February 1999), available at <http://www.ins.gov/graphics/aboutins/repstudies/Mobrept.htm>.

⁶⁹⁷ *Illegal Immigration Reform and Immigrant Responsibility Act*, PL 104-208 Div. C, September 30, 1996.

⁶⁹⁸ See National Network for Immigrant and Refugee Rights, *Hands That Shape the World: Report on the Conditions of Immigrant Women Five Years after the Beijing Conference* (1999) available at <http://www.nnir.org/projects/handsthat.htm>.

⁶⁹⁹ Amy O'Neil Richard, State Dept. Bureau for Intelligence and Research, *International Trafficking in Women to the United States: A Contemporary Manifestation of Slavery and Organized Crime* 3 (1999).

⁷⁰⁰ *Female Genital Mutilation Outlawed in U.S. as of March 29th*, at

www.feminist.org/news/newsbyte/uswirestory.asp?id=4032.

⁷⁰¹ Acknowledgements to European Women's Lobby for their substantive contribution.

⁷⁰² All decisions and judgments of the Court can be retrieved on the Hudoc <<http://hudoc.echr.coe.int/default.htm>> database. The Special

⁷⁰³ In the case of *Aydin v. Turkey*, the Court found that "[r]ape 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 victims which do not respond to the passage of time as quickly as other forms of physical and mental violence (...) 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".

⁷⁰⁴ There are 15 current member States of the European Union: Austria, Belgium, Denmark, France, Germany, Finland, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, the United Kingdom, and Sweden. With some 13 candidates for accession to the European Union: Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Malta, Poland, Romania, the Slovak Republic, Slovenia, Turkey, making up a varied sample of countries in terms of their geographical, economic and cultural situation.

⁷⁰⁵ See the recent study carried out by the Child and Woman Abuse Studies Unit of the University of North London, "Rape: The Forgotten Issue?" A European research and networking project, Professor Liz Kelly and Linda Reagan.

⁷⁰⁶ See for example in *Austria*, legislation was passed in 1999, which gives powers to the police to remove the perpetrator from the home in cases of domestic violence. Similar laws have been passed in other countries, notably in *Germany* (January 2002) and changes have been introduced to facilitate this type of approach in *Belgium* and *Sweden*. In Sweden, legislation covers "gross violation of women's integrity" a concept that encompasses verbal and psychological violence (which is also the case in *Spain*). In other countries, such as *Ireland*, guidelines have been introduced for the police outlining the action they should take when faced with situations of domestic violence.

⁷⁰⁷ A study carried out in 1999 by the EWL on "Unveiling the hidden data of domestic violence in the EU" showed that while some (national) studies provide results concerning all types of violence that women have been subjected to throughout their lives, the figures, regardless of the method used to collect them, the sample or the country in which the study was conducted, reveal that in the EU 1 woman in five experiences violence by a man known to her at some stage in her life.

⁷⁰⁸ Council of Europe: 44 Member States: 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, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine, and United Kingdom.

⁷⁰⁹ 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 15th 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).

⁷¹⁰ Document MEG-3(93)22.

⁷¹¹ Document EG-S-VL (97) 1. See also the summary of the action plan, document EG-S-VL (98)1.

⁷¹² The following activities have been organised under the authority of the Steering Committee for equality between women and men (CDEG): a Seminar on action against traffic in women, considered as a violation of human rights and human dignity (Strasbourg, 1991), resulted in the creation of a Group of experts on traffic in women, which carried out its work in 1992 and 1993. Following on from this work, a consultant expert was invited by the CDEG to prepare a Plan of action against traffic in women (doc. EG (96) 2). This plan, which constitutes a genuine programme of action for governments, contains food for thought and numerous proposals for research to be carried out in the fight against trafficking. A Group of specialists on the impact of the use of new information technologies on trafficking in human beings will complete its work at the end of 2002.

⁷¹³ Other activities organised on the initiative of the CDEG have been aimed at raising awareness: organisation of an International seminar on action against trafficking in human beings for the purpose of sexual exploitation: the role of NGOs (Strasbourg, June 1998). The conclusions of this seminar (which assembled 150 participants from more than 40 countries) advocate joint and concerted action, and notably co-operation between the NGOs of different countries; organisation of a Workshop on "good" and "bad" practices regarding the image of women in the media: the case of trafficking in human beings for the purpose of sexual exploitation (Strasbourg, September 1998); organisation of several seminars in the countries of origin of the victims of trafficking (Albania, Bulgaria, Bosnia and Herzegovina, Moldova, Ukraine) over the past years. The aim is to alert the different actors (police, judges, social workers, embassy staff, teachers) to their role vis-à-vis the victims of trafficking and to the dangers faced by certain persons; in 1999, an information and prevention campaign on the risks of trafficking was organised in Albania, mainly for the intention of the refugees of Kosovo.

⁷¹⁴ The various organs of the Council of Europe have adopted texts concerning the fight against trafficking. *Committee of Ministers*: Recommendation Rec(2001)16 of the Committee of Ministers to member States on the protection of children against sexual exploitation (adopted by the Committee of Ministers on 31 October 2001, at the 771st meeting of the Ministers' Deputies); 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 by the Committee of Ministers on 19 May 2000, at the 710th meeting of the Ministers' Deputies); Recommendation No. R (91) 11 of the Committee of Ministers to member States concerning sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults (adopted by the Committee of Ministers on 9 September 1991 at the 461st meeting of the Ministers' Deputies). *Parliamentary Assembly*: Recommendation 1545 (2002) on a campaign against trafficking in women; Recommendation 1526 (2001) on a campaign against trafficking in minors to put a stop to the east European route: the example of Moldova; Recommendation 1325 (1997) on traffic in women and forced prostitution in Council of Europe member States.

⁷¹⁵ In the framework of the Stability Pact for South-Eastern Europe, the Council of Europe organised an International seminar on "Co-ordinated action against trafficking in human beings in South-Eastern Europe: towards a regional action plan". As part of the Council of Europe contribution to the aims of the Stability Pact Task Force on Trafficking in Human Beings as well as of the Stability Pact Initiative against Organised Crime (SPOC), the Council of Europe implemented a pilot project in Romania and Moldova. This project, entitled "criminal law reform on trafficking in human beings in South-Eastern Europe" aimed at contributing to the effective criminalisation of trafficking in human beings at the regional level and ensuring the protection of victims' human rights in accordance with European and other international standards. The Council of Europe also organised, under the Stability Pact Task Force on Trafficking, a regional training course on criminal law reform on trafficking in human beings in South Eastern Europe on 23-24 November in Belgrade.

⁷¹⁶ OSCE: 55 Member States: Albania, Andorra, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Georgia, France, Germany, Greece, Holy See, Hungary, Iceland, Italy, Ireland, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Slovak Republic, San Marino, Slovenia, Spain, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Turkey, Turkmenistan, Ukraine, United Kingdom, Federal Republic of Yugoslavia, United States of America, Uzbekistan.

⁷¹⁷ 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.

⁷¹⁸ See for example: *Belgium* (action plan since May 2001) focuses on two priorities, namely, domestic violence and trafficking in women and children; *Netherlands*, an inter-department project was set up (period 2001-2002) to focus on domestic violence, a national action plan on the sexual abuse of children was established in the Netherlands in 1999; *Spain*, a national action plan was devised to cover the period 2001-2004 and this is supplemented by regional action plans in line with the autonomous regions; *Denmark*, an inter-ministerial committee was established in 2000; *Sweden*, the government set up the National Council for the protection of women against violence (2000) and the ministry of equality chairs a national Council for Women's Peace; *Greece*, an inter-ministerial committee was also established in 1999, chaired by the General Secretariat for Equality, which is part of the Ministry of the Interior; *Finland*, a plan of action for the promotion of equality was adopted in 1997 in which two sections are devoted to (1) the prevention of violence against women and (2) the prevention of prostitution; a similar situation exists in *Germany* where a national action plan was published in 2000 and regional "Länder" are also developing specific action plans at this level; *Ireland*, a national action plan is being finalised after carrying out a national consultation process and a previously established Task Force.

⁷¹⁹ See Council of Europe Recommendation 2002

⁷²⁰ The proportion of reporting rape 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.

⁷²¹ In many countries, domestic violence made up a significant proportion of crimes against the person, in a range from 66% to 10%. Another indication of prevalence was the proportion of women alleging violence or cruelty in divorce petitions, the highest figure in this respect being 70%. Furthermore, various studies show 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 hand of a male partner or ex-partner.

⁷²² CEDAW/C/AND/1, July 2000

⁷²³ *A/56/38*, paras. 23-53

⁷²⁴ It should be noted that the Associació de Dones d'Andorra (Andorra Women's Association), in cooperation with the Andorran National Commission for UNESCO, Crèdit Andorrà (a bank) and Grafinter (a publishing company), devised and sponsored a study on the situation of women in the Principality of Andorra in the work, family and social fields. This study leaned towards the conclusion that the world of work is a world of inequalities between men and women: "the presence of women in some sectors is particularly poor", "in general, women carry out less skilled tasks" and "the onus of the important decision-making in companies falls essentially on men".

⁷²⁵ Further information available in the National Report of Austria, Status of the Implementation of the Beijing Platform for Action, May 1999.

⁷²⁶ Information provided by the Government of Austria to the Special Rapporteur in response to a request for information (2002)

⁷²⁷ See information kit "Counteracting Violence Against Women and Children", issued in 1998.

⁷²⁸ These agencies actively offer their help and support to women who are victims and perform a networking function between all parties involved in any specific case of violence. The Federal Minister for Women's Affairs and Consumer Protection together with the Federal Ministry of the Interior launched a long-term establishment of a nationwide structure of Intervention Agencies. Since autumn 1999 each federal province has its own intervention center.

⁷²⁹ Since 1995, two-day seminars on the issue of domestic violence have been a mandatory part of the initial training of police personnel throughout Austria.

⁷³⁰ Further institutions, offering support to women exposed to violence, include 37 counselling centres, 6 women emergency numbers, which provide counselling and support for rape victims, and the establishment of a toll-free 24-hour helpline for women exposed to violence, which was advertised through TV spots. In 1997 the Ministry of the Interior and the Ministry of Social Affairs and Generations established also an Intervention Centre for Victims of Trafficking in Women in Vienna that provides support to the women, especially to obtain a residence permit for humanitarian reasons. For psychological, health and legal support as well as help in family-related problems, victims of trafficking are supported and helped by victim-protection facilities.

⁷³¹ The Government stated that the criminal report for the year 2000 records, for the first time, the abuser-victim relation in determined offence groups.

⁷³² Comments provided by the NGO Autonome österreichische Frauenhäuser (aof)

⁷³³ CEDAW Concluding Observations, A/55/38, § 229, 15 June 2000.

⁷³⁴ See Council of Europe, *Legislation in the member States of the Council of Europe in the field of Violence against Women*, EG (2001) 3, vol. I, Strasbourg January 2001.

⁷³⁵ Law of 7/05/1999 on equal treatment for men and women with regard to working conditions, access to employment and promotion opportunities, entry to the professions, and supplementary social security schemes.

⁷³⁶ Crown Decree of 9 March 1995 protecting staff against sexual harassment in the workplace in public administration, and the Law of 30 October 1998 inserting an article in the Criminal Code making harassment an offence should be particularly mentioned.

⁷³⁷ The Law of 13/04/1995 on traffic in human beings and child pornography inserted Article 383bis in the Criminal Code, which article was then amended by the Criminal-Law Protection of Minors Act of 16 November 2000. During parliamentary discussion of the act, the Minister of Justice stated that Article 383bis is also applicable to pornography in cyberspace. For further details, please refer to <http://www.legislationline.org> (OSCE-ODIHR site)

⁷³⁸ For further information regarding government initiatives, please refer for instance to the Third and fourth periodic reports of Belgium. 29 September 1998, CEDAW/C/BEL/3-4.

⁷³⁹ A provincial coordinators' project on violence against women has also been instituted to advise all partners in contact with victims of violence about the issue of violence and to familiarize them with the different instruments developed by the authorities, etc.

⁷⁴⁰ See CEDAW/C/2002/II/CRP.3/Add.2, para.33.

⁷⁴¹ Danish Women's Society, NGO, information provided to the Special Rapporteur in contribution to the present report

⁷⁴² The information was provided by the Department of Gender Equality in November 2000 (in Council of Europe, *Legislation in the member States of the Council of Europe in the field of Violence against Women*, EG (2001) 3, vol. I, Strasbourg January 2001)

⁷⁴³ Danish government's contribution to this present report (response to request, 10 June 2002)

⁷⁴⁴ See Danish National Response to UN Questionnaire prior to Beijing +5: "Equality in Denmark Towards a Millennium"

⁷⁴⁵ For comprehensive information on the Danish government's activities to fight violence against women, please refer to the government action plan to stop violence against women, March 2002

⁷⁴⁶ It should also be noted that a research programme Gender and Violence has been initiated and is funded by the Nordic Council of Ministers (2000-2004). The aim is to generate new knowledge in four prioritised sub-fields: Victimization, Parenthood, Masculinity and Cultures.

⁷⁴⁷ Royal Danish Ministry of Foreign Affairs, information provided with reference to resolution 55/68 and note from the Secretary-General dated 12 November 2001 (2 May 2002)

⁷⁴⁸ Go to the website <http://www.lige.dk> to obtain the status and the recommendations.

⁷⁴⁹ According to the Danish Women's Society (see supra n.16), most of the points do not contain any detailed plan as to active specific actions. It is mainly a listing of intentions including several evaluations, investigations and analysis and there is only secured of USD 1.2 million per year for the coming 3 years

⁷⁵⁰ See CEDAW/C/DEN/5/Add.1

⁷⁵¹ See the Government Action Plan

⁷⁵² See CEDAW/C/2002/II/CRP.3/Add.3, 21 June 2002, paras. 46-48.

⁷⁵³ Markku Heiskanen, Minna Piispa: *Faith, Hope, Battering*, Statistics of Finland, and Council for Equality. Justice 1998:12, Helsinki; the publication is available in Finnish and English

⁷⁵⁴ Minna Piispa, Markku Heiskanen: *The Price of Violence – The costs of violence against women in Finland*. Statistics Finland, Justice 2000:14, Council for Equality, Equality Publications 2000:6, Helsinki; the publication is available in Finnish and is being translated into English.

⁷⁵⁵ Information provided by the Government of Finland to the Special Rapporteur in response to her request for information July 2002.

⁷⁵⁶ Committee on the Elimination of Discrimination against Women, Twenty-fourth session, Consideration of Reports of State Parties, Finland, Third and Fourth Periodic Reports, 22 January 2001, A/56/38, paras. 279-311.

⁷⁵⁷ According to the national criminal records office, the conviction figures for deliberate offences against spouses or cohabiters rose to 4677 in 1996, the last year for which figures are available. Between 1994 and 1996 this figure rose six-fold. This increase is caused by the new classification of such actions under the new Penal Code. It should be pointed out that the highest increase is in deliberate acts of violence resulting in Total Incapacity to Work (TIW) of less than 8 days (600% higher). These variations would appear to be caused both by an increase in the acts of violence recorded and greater support for women by the support agencies as a whole.

⁷⁵⁸ The Bill follows on from a 2001 Parliamentary Commission of Inquiry into "modern slavery" and focuses on presenting a new definition of the offence of human trafficking, which is made punishable by seven years' imprisonment and a fine of Euro 150.000. The definition does not require a person to have been subjected to force, coercion or deception, but should there be use of force, coercion or deception, the sentence would be increased from seven to ten years' imprisonment (and a fine of Euro 1.500.000). Other aggravating circumstances are, among others, crimes involving several victims, a minor or a particularly vulnerable person.

⁷⁵⁹ In April 2001 the Twelfth Chamber Court of Appeals sentenced a couple to 1 year in prison and a \$14,285 (100,000 FF) fine for enslaving a young Togolese girl. In May 2001 a court sentenced and fined another couple for enslaving a young Indian woman. In September 2001 a court sentenced a couple to 6 months in prison (suspended) and a \$14,285 (100,000 FF) fine for enslaving a young girl from Madagascar. In November 2001 the French Service of Investigation and Research in Lille announced that police had dismantled a prostitution network using girls from Eastern Europe transiting the Belgian port at Antwerp to France and arrested 18 persons. In December 2001 a couple from Ghana was arrested and charged with aggravated

pimping based on complaints from young girls from Sierra Leone. This followed an investigation pursuant to claims from the NGO GISTI- which assists immigrants - of the recruitment of prostitutes among asylum seekers in France.

⁷⁶⁰ See The National Report of France - Status of the Implementation of the Beijing Platform for Action, 1999; Sénat, Rapport d'activité pour l'année 2000 (fait au nom de la délégation du Sénat aux droits des femmes et à l'égalité des chances entre les hommes et les femmes), N°209 ; Assemblée Nationale, Rapport d'activité de la Délégation aux droits des femmes et à l'égalité des chances entre les hommes et les femmes, année 2001, N°3663.

⁷⁶¹ In part one it reviews the legislation on physical and sexual domestic violence against women; in part two it describes the inter-agency partnership necessary to deal with this violent phenomenon; while in part three it details the responses offered to victims in terms of refuge and treatment by the police force, the Gendarmerie units and the justice services. The final part summarizes the measures for assuming responsibility for victims of violence and securing compensation for them in private.

⁷⁶² Funds made available for the fight against violence towards women have enabled more than 4 million francs to be spent on the work of the national associations working in this field and on maintaining two national telephone services, the work of which has sharply increased over the past two years, and have also financed the setting up and running costs of over a hundred local counselling and support centres for women who are the victims of domestic or sexual violence.

⁷⁶³ These guides, which were jointly signed and issued by the government departments concerned, responded to the following objectives: to remove acts of violence from their private, inter-personal context in order to view the problem globally; to explain the mechanism and gravity of acts of violence; to enable women to exercise their rights by urging professionals to inform women, and by enabling women to establish proofs of the offences committed; to instil in professionals preventive attitudes, particularly in relation to re-offending. These documents, which were originally issued in 1994 and 1995, have been widely circulated and re-edited. See Ministry of Justice, Secrétariat d'Etat aux Droits des Femmes, *Report on Domestic Violence*, in <http://www.justice.gouv.fr/publicat/violence.pdf>

⁷⁶⁴ Loi No. 2002-1041 of 6 August 2002

⁷⁶⁵ Information provided by the National Council of German Women's organisations (2002).

⁷⁶⁶ See Council of Europe, *Legislation in the member States of the Council of Europe in the field of Violence against Women*, EG (2001) 3, vol. I, Strasbourg January 2001.

⁷⁶⁷ See Council of Europe, "Trafficking in Human Beings", EG (2000) 2 rev.2, vol. II, April 2002; OSCE-ODIHR, Federal Republic of Germany Conference Report, "Europe against Trafficking in Persons", 15-16 October 2001, Berlin

⁷⁶⁸ For more information on government initiatives, please refer to the Response of the Government of the Federal Republic of Germany to the UN Questionnaire on the National Implementation of the Platform for Action of the World Conference on Women in Beijing (June 1999)

⁷⁶⁹ To this end: Special departments of public prosecutors have been established in all Länder for prosecuting criminal offences against a person's right to sexual self-determination; In most Länder, it is an established principle that women and girls victimized by sexual violence shall be questioned only by women police officers; Posts for staff with special responsibilities for dealing with women have been established at Bavarian police stations; The police are endeavoring to take into account religious and cultural traditions in the investigations of cases involving women from minority ethnic groups; Leaflets and brochures have been produced for victims of sexual offences in order to inform them of their rights and the assistance available; In many Länder, special training on sexual offences is given to police officers; Lectures and seminars on the subject of women and violence are offered to judges and public prosecutors.

⁷⁷⁰ See <http://www.legislationline.org> (OSCE-ODIHR site)

⁷⁷¹ It also urged that training of border police and law enforcement officials provide them with the requisite skills to recognize and provide support to victims of trafficking. It further recommended that the Government review its procedures for issuance of visas to dependent spouses taking into consideration that such spouses may be vulnerable to sexual exploitation (A/55/38, §322, 2 February 2000). See also the Concluding Observations of the Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.68, §25, 24 September 2001: "The Committee is concerned that the victims of trafficking in persons, and in particular women, are doubly victimized, owing to a lack of sensitization of police, judges and public prosecutors, a lack of appropriate care for victims, and the risks and dangers awaiting them upon deportation to their home countries."

⁷⁷² Information provided to the Special Rapporteur by the German's Women Council in 2002

⁷⁷³ For example, the 18th Chapter of the Greek Penal Code named crimes against personal freedom, article 323 prohibits slave-trading with punishment incarceration (which means 5-20 years unless otherwise specifically specified). In the 19th Chapter of the Greek Penal Code, named crimes against sexual freedom, etc., article 351 prohibits 'white flesh' trade with punishment imprisonment of 1-3 years and a fine.

⁷⁷⁴ Article 336 of the Greek Penal Code reads: "1. Whoever with physical violence or with threat of grave and direct danger forces another to intercourse extra-matrimonial or to tolerance or action of an indecent act, is punished with incarceration." Case law has interpreted extra-matrimonial intercourse in article 336 of the Penal Code broadly, including various forced sexual acts in the definition of rape. As mentioned above, rape is punishable only if committed outside marriage.

⁷⁷⁵ Laws that may be invoked include: Law 1414/1984 on equality which bans sex discrimination at work; Article 57 of the Civil Code which states that any person whose personal dignity has been affronted unlawfully can demand that such affronts cease and are not repeated in the future; Article 59 of the Civil Code which states that the court can condemn the guilty party to pay compensation for any non-material damages; Article 281 of the Civil Code which provides for penalties for any abuse of rights; Article 662 which provides that the employer guarantees the safety and health of employees at work; Article 932 which provides for compensation of an employee who has suffered damage to his or her health or mental well-being or has been deprived of his or her freedom; Article 337 of the Penal Code which provides penalties for criminal acts which are an affront to personal dignity with respect to a person's sex life; Article 343 of the Penal Code which provides for punishment of any State employee who sexually abuses a subordinate; and Article 361 of the Penal Code which provides punishment for insult by word or deed.

⁷⁷⁶ See Greek Helsinki Monitor and the World Organisation Against Torture (OMCT), Joint Alternative Country Report entitled "Violence Against Women in Greece", August 2002.

⁷⁷⁷ See website <http://www.legislationline.org> (OSCE-ODIHR site)

⁷⁷⁸ More specifically: the drawing up of a report on trafficking in human beings in Greece and the protection of their rights and fundamental freedoms; the drafting and introduction of relative legal framework concerning prevention and suppression of such crimes; the planning of functioning of a special body of the Greek Police, aiming at the prevention and suppression of crimes relating to trafficking in human beings; the organization of a pilot project concerning the voluntary repatriation of victims of crimes relating to trafficking in human beings.

⁷⁷⁹ Other actions by the General Secretariat for Equality:

- Pamphlets have been published, which are addressed both to victims and to professionals involved (police, social workers etc.)
- Special seminars were designed and implemented as a means of further education and awareness of police personnel dealing with women abuse
- Subjects connected with family violence and women trafficking for purposes of sexual exploitation were included in the curricula of police schools
- The same subjects were included in regular seminars for police personnel
- Special educational and further training seminars were organized for professionals serving in the Reception Centers for Abused Women, in the SOS telephone line and in the Units for Social Exclusion Interventions (March 2000)

⁷⁸⁰ Information provided by OMCT 2002

⁷⁸¹ In 1999 the Committee on the Elimination of Discrimination against Women already noted the increase in trafficking in women, A/54/38, § 197, 1 February 1999.

⁷⁸² Information provided by OMCT 2002

⁷⁸³ This section is mainly based on the information received from Greek Helsinki Monitor and the World Organisation Against Torture (OMCT), Joint Alternative Country Report entitled "Violence Against Women in Greece", August 2002.

⁷⁸⁴ See Council of Europe, *Legislation in the member States of the Council of Europe in the field of Violence against Women*, EG (2001) 3, vol. I, Strasbourg January 2001.

⁷⁸⁵ Criminal Code, art. 194, 196, 197, and 198 in particular. Child sexual abuse/incest: see Criminal Code art. 200, 2001, and 202.

⁷⁸⁶ The survey showed that 1.3 % of women had experienced violence at the hands of their partner in 2001. Around 54% of women subjected to violence from their partner have experienced severe violence. 4.5 % of the women said that they have been raped after reaching the age of eighteen. More than 80 % knew the perpetrator. Only 13.3 % reported the rape to the police. In the instances when the women knew the rapist only 9 % reported the incident but 30 % when they did not know the perpetrator.

⁷⁸⁷ See The Ministry of Social Affairs, Implementation of the Beijing Platform for Action, 1999

⁷⁸⁸ A national survey (conducted for Women's Aid) showed that 7% of women had been abused in 2000 by a partner or ex-partner; 18% of women had been abused at some point in their lives; that multiple forms of abuse were common and 10% had experienced physical violence. In 1999, the number of domestic violence incidents recorded by An Garda Síochána (Irish police), increased by a massive 20% over 1998's figures (Garda Síochána 1999). There were 10,877 Garda call outs to domestic violence incidents in 2000 (Garda Síochána 2000).

⁷⁸⁹ Further information on government initiatives is available in the National Report of Ireland, UN Questionnaire to governments on implementation of the Beijing Platform for Action, January 2000.

⁷⁹⁰ However the Task Force on Violence Against Women (1997) found that the policy was unevenly applied in different districts and recommends that the policy be more closely supervised and at a high level within the police and more closely monitored with regular publication of statistics on calls received, action taken and reasons for not charging stated.

⁷⁹¹ See CEDAW Concluding Observations, 1 July 1999, A/54/38/Rev.1, paras. 185-186; see also Human Rights Committee Concluding Observations, "The Committee is concerned that the circumstances in which women may lawfully obtain an abortion are restricted to when the life of the mother is in danger and do not include, for example, situations where the pregnancy is the result of rape." A/55/40, § 23, 24 July 2000.

⁷⁹² E/CN.4/1999/68

⁷⁹³ According to the Dublin Rape Crisis Center, there was a significant increase in the number of calls received by the center in all categories in 2001. The center estimated in 2000 that only 28 percent of rape and child sexual abuse victims reported the crime to police and that 6 percent of these cases resulted in convictions, with 44 percent of cases pending. Recent rape victims and victims raped by a stranger were more likely to have reported the rape to police. Since 1994, a number of important Irish reports on the issue of violence against women have been published including: Making the Links (1995), Women's Aid, and National Women's Council and the Report of the Task Force on Violence Against Women published by the Office of Tanaiste, April 1997. The terms of reference of the Task Force were to develop a coordinated response and strategy on the problem of 'mental, physical and sexual violence against women - with a particular focus on domestic violence'.

⁷⁹⁴ Report of Italy on the Implementation of the Beijing Platform for Action, 1999

⁷⁹⁵ For further information on legislation on trafficking, please refer to OSCE-ODIHR website: <http://www.legislationline.org> (Draft law n. 1584 on "Measures against trafficking of human beings" (in Italian); Law n. 5029 against Trafficking of Persons amending the Penal Code (new articles 600 and 602bis) (March 2001) (in Italian); Law n. 55 on Prostitution and the Fight against the Exploitation of Prostitution by others (20 February 1958) (in Italian); Law n. 269 "against the prostitution of minors, pornography, sex tourism and other contemporary forms of slavery" (3 August 1998) (in Italian); Law n. 2207-B establishing a Special Witness Protection Scheme (January 2001) (in Italian); Legislative decree n. 286/98 on Immigration and Aliens - article 18 referring to the granting of temporary residence permits (25 July 1998) (in Italian); Presidential Decree n. 394 bringing regulations and norms relating to immigration and aliens in line with article 1, paragraph 6 of the Legislative Decree n. 286 (Chapter IV: "Provisions of a

Humanitarian Nature") (30 August 1999)

⁷⁹⁶ Further information on governmental initiatives are available in the Report on the Implementation of the Beijing Platform for Action supra n. 69, p. 40-41

⁷⁹⁷ Social projects on trafficking will continue also in 2001 and will be integrated by actions against trafficking included in the multi-regional operational programme of "Objective 1, Italy 2000-2006", National operational programme "Security in Southern Italy". These actions will specifically target young girls, and will include field and statistical research, local actions and pilot projects for assistance, psychological support, education and training, as well as access to employment and an awareness-raising campaign, particularly in the areas where street prostitution has contributed to the development of racist attitudes towards immigrants (in Council of Europe, *Legislation in the member States of the Council of Europe in the field of Violence against Women*, EG (2001) 3, vol. I, Strasbourg January 2001.)

⁷⁹⁸ Concluding Observations of the Committee, E/C.12/1/Add.43, § 14, 23 May 2000

⁷⁹⁹ Ibid, § 27

⁸⁰⁰ Act of 10 March 1999 on Equality of Women and Men, LGBl. 1999 No. 96.

⁸⁰¹ Act of 17 December 1998 amending the Marriage Act, LGBl. 1999 No 28.

⁸⁰² Act of 13 December 2000 amending the Criminal Code (Sexual Offences), LGBl. 2001. No. 16.

⁸⁰³ Report of the Special Rapporteur on violence against women, E/CN.4/1999/68, Annexe II.

⁸⁰⁴ See also Committee on the Elimination of Violence against Women, Concluding Observations, A/54/38, 1 February 1999, §168.

⁸⁰⁵ See Committee on the Rights of the Child, Concluding Observations, CRC/C/15/Add.143, 21 February, §24-25

⁸⁰⁶ See Council of Europe, *Legislation in the member States of the Council of Europe in the field of Violence against Women*, EG (2001) 3, vol. I, Strasbourg January 2001.

⁸⁰⁷ See Country Report to the CEDAW, CEDAW/C/LUX/3, 1998

⁸⁰⁸ See also CEDAW Concluding Observations, A/55/38, § 410-411, 17 January 2000.

⁸⁰⁹ Chapter 9 (Criminal Code), Subtitle VIII BIS, of the Laws of Malta.

⁸¹⁰ The White Slave Traffic Ordinance, which has been amended several times, most recently in 1989, and the Criminal Code prohibit procurement for prostitution, pornography, sexual offenses, defilement of minors, illegal detainment, unlawful carnal knowledge, and indecent assault. Traffickers also may be prosecuted under the Immigration Act for unlawful entry or unregulated status. For further details on the Laws of Malta (in full format): <http://www.justice.gov.mt>

⁸¹¹ CRC/C/15/Add.129, 28 June 2000, §47

⁸¹² See Committee on the Rights of the Child, Concluding Observations, CRC/C/15/Add.158, §20

⁸¹³ See Council of Europe, *Legislation in the member States of the Council of Europe in the field of Violence against Women*, EG (2001) 3, vol. II, Strasbourg January 2001.

⁸¹⁴ Fewer than 10 per cent of victims of domestic violence report to the police; most cases are not reported out of fear, shame, or guilt. Per year approximately 800 men are prosecuted for battering their partners.

⁸¹⁵ The aim is that by decriminalising prostitution, setting up a licensing system for brothel operators and improving working conditions for prostitutes, the industry will be less susceptible to crime. An important additional advantage is that the licensing system will make the industry more transparent and easier for the police to monitor. If a brothel owner employs women who do not have valid residence permits, this will affect the licence one needs to operate a brothel, and may in some cases lead to closure of the premises. The introduction of stringent regulations will make it unattractive and largely impossible to employ illegal immigrants as prostitutes, trafficking in women will lose a key market in the Netherlands.

⁸¹⁶ From a purely legal perspective, the 1951 Geneva Convention relating to the Status of Refugees does not offer clear-cut protection for women who have been victims, or fear becoming victims, of sexual violence. Sexual violence could constitute grounds for admission, if the individual has a well-founded fear of persecution by the authorities in the country of origin, or if the authorities fail to, or are not willing to, offer protection against serious acts of violence.

⁸¹⁷ Report of the Secretary General, "Working Towards the Elimination of Crimes against Women Committed in the Name of Honour", A/57/169, 2 July 2002.

⁸¹⁸ See Concluding Observations by the Committee on the Elimination of the Discrimination against Women, A/56/38, para. 206.

⁸¹⁹ See Concluding Observations by the Human Rights Committee, CCPR/CO/72/NET, para. 11.

⁸²⁰ See Council of Europe, *Legislation in the member States of the Council of Europe in the field of Violence against Women*, EG (2001) 3, vol. II, Strasbourg January 2001.

⁸²¹ See the 6th Report to the Committee on the Elimination of Discrimination against Women: CEDAW/C/NOR/6, § 342, June 2002.

⁸²² Act No. 76.

⁸²³ See the 5th Report to the Committee on the Elimination of Discrimination against Women, CEDAW/C/NOR/5

⁸²⁴ In addition, whoever, entices a person under the age of 18 to allow him/herself to be photographed as a link in commercial presentations of films or pictures with sexual contents can be prosecuted. Pictures that can be construed as soft pornography are included within this prohibition (CEDAW/C/NOR/6).

⁸²⁵ A new provision has been undertaken that makes it a punishable offence to buy sexual services from persons between the age of 16 and 18, even though those over 16 are above the age of consent. Purchasing sexual favours from persons under the age of 16 is covered in other provisions of the statute on sexual criminality, and is, as before, unlawful.

⁸²⁶ CEDAW/C/NOR/6

⁸²⁷ CEDAW/C/NOR/5, see also Concluding Observations of the Committee on the Rights of the Child, "The Committee notes, further, the adoption of the 1995 Act prohibiting the circumcision of women and amendments to the 1994 Marriage Act allowing a party to a marriage to initiate proceedings to declare the marriage null and void if he or she was forced into the marriage. In addition, the Committee welcomes the extensive support and intervention programmes available to parents." CRC/C/15/Add.126, § 9.

⁸²⁸ Council of Europe Report, *supra* n.

⁸²⁹ Further information available in the 5th Report to the CEDAW, *supra* n.

⁸³⁰ CEDAW/C/NOR/6

⁸³¹ *Ibid*

⁸³² Information provided by the NGO Shelters for battered women.

⁸³³ See MIRMA, Fact Sheet on Black, Immigrant and Refugee Women in Norway.

⁸³⁴ *Ibid*

⁸³⁵ See <http://www.legislationline.org> (OSCE-ODIHR site); see also IOM, Questionnaire on Trafficking, 2002 (information provided to the Special Rapporteur)

⁸³⁶ CEDAW/C/2002/V/CRP.3/Add.1. (Concluding Observations/Comments), § 27, 23 January 2002.

⁸³⁷ The first government-sponsored national report on family violence was published in March 1999. During 2000 police agencies recorded 11,765 cases of family violence. The major NGO providing services to victims handled 7,593 cases in which there were a total of 8,429 crimes of domestic violence. In these cases, 95 percent of the victims were women. Although cases of domestic violence occurred throughout the country, the vast majority of cases came from the large urban centers of Lisbon and Porto. Domestic violence is particularly a problem in the Azores archipelago.

⁸³⁸ See the Concluding observations of the Committee on Economic, Social and Cultural Rights, "concerned at the increase of trafficking in women which is linked to organized crime", § 13, 1 December 2000; and, the Concluding observations of the Human Rights Committee, "organized crime and, in particular, trafficking in women and prostitution, persist in Macao", CCPR/C/79/Add.115, § 11, 1999

⁸³⁹ Criminal Code, Art. 178s

⁸⁴⁰ Criminal Code, Article 184.

⁸⁴¹ U.S. Department of State, Human Rights Report 2002

⁸⁴² Report of the Secretary General, "Working Towards the Elimination of Crimes against Women Committed in the Name of Honour", A/57/169, 2 July 2002.

⁸⁴³ Under article 138 of the Penal Code, death on the ground of honour would be a crime of murder, and consanguinity could mitigate or aggravate guilt, depending of the motives for the crime and its nature and effects. Where a crime committed in the name of honour did not result in death, it would be characterized as a crime of injury under articles 147 and 148 of the Penal Code

⁸⁴⁴ Furthermore, the Ministry of Labor provided support to an NGO that produced a pamphlet reviewing the problem of trafficking intended to raise the visibility of trafficking within Spanish society. The Autonomous Community of Madrid and the European Commission provided funding for a best practices guide produced by a journalists' organization for journalists covering prostitution and trafficking in women.

⁸⁴⁵ In 2001, women filed 5,983 criminal complaints and 18,175 misdemeanor complaints against their husbands or male partners. In 2000 women filed 5,722 such criminal complaints and 14,846 such misdemeanor complaints. A 1999 study commissioned by the Women's Institute, which is part of the Ministry of Labor and Social Affairs, indicated that 4.2 percent of women reported domestic abuse in the previous year but concluded that the number who actually had been abused was closer to 12.4 percent, based on the survey responses of approximately 20,000 women.

⁸⁴⁶ THEMIS (Asociación de mujeres juristas), <http://themis.matriz.net>.

⁸⁴⁷ See World Organization Against Torture (OMCT), Violence Against Women, Annual Report 2002

⁸⁴⁸ THEMIS

⁸⁴⁹ *Ibid*.

⁸⁵⁰ See also the Committee on the Elimination of the Discrimination against Women Concluding Observations, A/54/38, §263.

⁸⁵¹ ENRIQUE FERNÁNDEZ-MIRANDA Y LOZANA, Spanish Government representative for overseas and immigration.

⁸⁵² Asylum Law is regulated by the Law 5/1984 of 26 March 1984 on Right of Asylum and the condition of refugee. This Law was modified by the Law 9/1994 of 19 May 1994. A decree of implementation 203/1995 was adopted on 10 February 1995.

⁸⁵³ Anna Büllesbach, UNHCR, "Right to refugee status, mandatory return and risks of female genital mutilation (FGM)", available at <http://www.web.net/~ccr/excision.htm>.

⁸⁵⁴ See also CEDAW *supra* n.57, § 274.

⁸⁵⁵ See OMCT Report 2002

⁸⁵⁶ The Basque NGO Torturaren Aurkako Taldea (TAT) - Observatorio Vasco de Derechos Humanos

⁸⁵⁷ Informe Anual del Defensor de Pueblo, 2001, at <http://www.defensordelpueblo.es>

⁸⁵⁸ See OMCT Report 2002

⁸⁵⁹ Sweden's Follow-up to the UN Fourth World Conference on Women, April 1999.

⁸⁶⁰ See <http://www.legislationline.org> (OSCE-ODIHR site)

⁸⁶¹ Report of the Secretary General, "Working Towards the Elimination of Crimes against Women Committed in the Name of Honour", A/57/169, 2 July 2002. See also the Human Rights Committee Concluding Observations, CCPR/CO/74/SWE, § 8, 24 April 2002.

⁸⁶² The commission consists of some 10-15 policemen working full-time with questions of this kind of criminality. Similar commission will be established in Gothenburg in the autumn of 2002. Furthermore, a working group has been set up within the Government Offices consisting of representatives of the Ministry of Justice, the Ministry of Health and Social Welfare, the Foreign Ministry and the Ministry of Industry, Labour and Communication.

⁸⁶³ According to statistics from BRÅ, the Swedish National Council for Crime Prevention, 19 801 cases of violent abuse towards women were reported in 2000. The same year, 8 254 complaints to the police on sex-related crimes were recorded, 1 931 of these were rapes. There is a slight decrease in the number of crimes reported in 2000 compared to 1999, but this is more of a coincidence than a result of effective, preventive measures. (Report to the CEDAW Committee, June 2001)

⁸⁶⁴ Report to the CEDAW Committee, June 2001

⁸⁶⁵ See the Committee on the Elimination of Discrimination against Women Concluding Observations, A/56/38, § 319-360, 31 July 2001.

⁸⁶⁶ See the first and second reports of Switzerland to the Committee CEDAW, December 2001, § 121

⁸⁶⁷ Improvements in police enquiries and legal procedures:

- victims are entitled to apply for compensation; compensation is, however, not granted unless formally requested;
- a person of their choice may accompany them to all hearings;
- they may ask to be heard by a woman;
- they may refuse to answer personal questions (for example, concerning their past sex life);
- they are only confronted with the perpetrator of the violence during the hearing if the latter's right to an *inter partes* hearing so requires (some cantons, for example Zurich, have extended this provision to include the possibility that the woman may refuse to confront her assailant);
- they may submit civil claims in criminal proceedings (for example for damages and compensation for non-pecuniary damage);
- they may be represented by a lawyer whose fees may, in some cantons, be paid by the court, irrespective of the victim's income;
- they may ask for the proceedings to be held *in camera*.

⁸⁶⁸ Report to the CEDAW, § 111 for further details on this initiative.

⁸⁶⁹ The information was supplemented by the Federal Office for Equality between Women and Men in November 2000 (in Council of Europe, *Legislation in the member States of the Council of Europe in the field of Violence against Women*, EG (2001) 3, vol. II, Strasbourg January 2001.)

⁸⁷⁰ Loi fédérale sur l'asile du 26 juin 1998 (LAsi), RS 142.31

⁸⁷¹ For further information, report to the CEDAW, § 96-101

⁸⁷² Further information about regional projects of intervention against domestic violence is available on the website <http://www.equality.ch/intervention.html> (Conférence Suisse des délégués à l'égalité entre femmes et hommes); see also The Federal Commission for Women's Issues, *Great achievements – small changes? On the situation of women in Switzerland*, 1995.

⁸⁷³ According to authorities, most persons trafficked in 2000 originated in Thailand, parts of Africa, or South America. An increasing number of trafficked women arrived in every canton from Eastern Europe, particularly Hungary, Russia, Ukraine, or other states of the former Soviet Union. A large number of women were trafficked from the Dominican Republic, Brazil, and Columbia (to Zurich and Ticino), and parts of Africa and Thailand (to Bern and Basel).

⁸⁷⁴ Aydin Judgment of 25 September 1997 (Application No 23178/94, p. 27)

⁸⁷⁵ The Decree on Vaginal and Anal Examinations [in Turkish]. Ministry of Justice, Ministry of Health, and Ministry of State of Turkey. January 27 1999.

⁸⁷⁶ Frank, M.W., Bauer, H., Arican, N., Korur Fincanci, S. Iacopino, V. (1999). Role of forensic physicians in controlling female sexuality. *Journal of the American Medical Association* (282), 485-490.

⁸⁷⁷ For further information on legislation in the UK addressing the issue of violence against women, please refer to the Women's Aid Federation of England publications on Protection from violence under the civil law and under criminal law - website (<http://www.womensaid.org>)

⁸⁷⁸ It is reported that civil suits concerning sexual harassment and discrimination on the basis of gender at times take up to 31/2 years to appear before an industrial tribunal. In Northern Ireland the Protection from Harassment (NI) Order 1997, in addition to creating a criminal offence of harassment, will also protect victims through the civil law when Article 5(3) to (9) comes into operation. The courts will be able to make an injunction preventing harassment, breach of which will be a criminal offence. The Order also empowers the civil courts to award damages to the victim for, among other things, any anxiety caused by the harassment and any financial loss resulting from it. These new remedies will be useful to women who are the victims of stalking, nuisance telephone calls etc. and will complement the domestic violence remedies available under the Family Homes and Domestic Violence (NI) Order 1998.

⁸⁷⁹ The plans are a response to fears that this growing international problem is possibly on the increase in Scotland. The human trafficking practice involves abduction and debt bonding, bringing women and children from abroad and forcing them to work as prostitutes. The Scottish Executive believes current laws are insufficient to tackle the issue, with the status quo being that criminals are more likely to be prosecuted and face longer sentences for trafficking drugs than people. Amendments are due to seek the Justice 2 Committee's backing for its inclusion in the Criminal Justice (Scotland) Bill on 26 November 2002. The committee is carrying out its line-by-line review of the legislation at stage two, the point at which amendments can be added or sections rejected from the bill. The bill was brought forward by MSP Margo MacDonald. The Justice 1 committee is taking evidence from police and Crown Office representatives in order to establish the existence and magnitude of the problem in Scotland.

⁸⁸⁰ Documents on government initiatives are available on the Home Office website: <http://www.homeoffice.gov.uk/domesticviolence/index.htm>; see also Report from the UK Women's National Commission on the implementation of the Beijing Platform for Action in the UK, December 1999; National Report of the UK - Status of the Implementation of the Beijing Platform for Action, 1999.

⁸⁸¹ The Department was working closely with the Asian Development Bank on a programme to improve access to justice in Pakistan. Indicators of honour killings, how they were reported and followed up by the police and court systems, and an analysis of outcomes were key components of that programme. The Department was also co-funding a United Nations Development Programme (UNDP) project, the results of which would provide a statistical baseline on violence and abuse to inform effective policy and programming within the Government of Pakistan. Many NGOs in Bangladesh supported by the Department were also working on the issue of honour crimes, and a public access to justice project in Bangladesh, designed specifically to have an impact in reducing violence against women through work in sensitizing the police, had been proposed by the Department.

⁸⁸² For domestic violence statistics, please refer to Women's Aid Federation of England, "Domestic Violence Statistical Factsheet No. 1", August 2001

⁸⁸³ See CEDAW Concluding Observations, 1 July 1999, A/54/38, paras. 311-312.

⁸⁸⁴ Information provided by the International Organization of Migration (IOM), 2002.

⁸⁸⁵ A specific project for voluntary return and reintegration of women and unaccompanied minors victims of trafficking is being designed at present by IOM London, to be submitted to Home Office funding.

⁸⁸⁶ The Unit has four graded priorities for their works: Corruption, coercion and exploitation of children; Trafficking of women and children for sexual exploitation; Violence and coercion towards prostitutes (this is considered an equal priority with trafficking); and Organized crime.

⁸⁸⁷ ECPAT, *What the Professionals Know: The trafficking of children into, and through, the UK for sexual purposes*, UK 2001

⁸⁸⁸ IOM, Response to Questionnaire (EU-IOM STOP Conference), 2002

⁸⁸⁹ Kelly, Liz and Regan, Linda 1998: *Stopping Traffic: Exploring the extent of, and responses to, trafficking in women fro sexual exploitation in the UK*, Police Research Series Paper 125.

⁸⁹⁰ IOM Report, see supra n. 169

⁸⁹¹ International Helsinki Federation for Human Rights, *Women 2000 - An Investigation into the Status of Women's Rights in Central and South-Eastern Europe and the Newly Independent States*, 2000

⁸⁹² Council of Europe document, "Legislation in the member States of the Council of Europe in the field of violence against women," website: www.humanrights.coe.int/equality/Eng/WordDocs/Document%20list.htm

⁸⁹³ Council of Europe document, "Legislation in the member States of the Council of Europe in the field of violence against women," website: www.humanrights.coe.int/equality/Eng/WordDocs/Document%20list.htm

⁸⁹⁴ The Advice Center for Women and Girls.

⁸⁹⁵ See World Organization against Torture (OMCT), *Trafficking in Women and Children from the Republic of Armenia: A Study*, September 2001, p.35.

⁸⁹⁶ See National Statistical Service of the Republic of Armenia web site available at <http://www.armstat.am>

⁸⁹⁷ International Women's Rights Action Watch (IWRAW), *Initial Report on Armenia*, 5 December 1998, p. 4.

⁸⁹⁸ Information provided in Government report to CEDAW, Consideration of reports of States parties, Exceptional Session, 23 August 2002

⁸⁹⁹ See World Organization against Torture (OMCT) Annual Report 2001 on Violence against Women.

⁹⁰⁰ UNDP Report, *Women Status Report: Impact of Transition*, 1999, p. 28.

⁹⁰² *Ibid.* p. 31.

⁹⁰³ A survey of 100 women conducted by the Women's Rights Center in Yerevan revealed that 86 of these women claim that violence against women exists in Armenia and 46% of the participants have personally been victims of physical abuse in the home. Women's Rights Center, *Violence Against Women and Reproductive Rights in Armenia*, 1999, p. 4.

⁹⁰⁴ Dr. Karine Martirosyan, *Reproductive Health in Armenia*, 1999, p.5 see

http://matweb.hcuge.ch/matweb/endo/Reprod_health_all/Reprod_Health_Eastern_Europe/armenia/Armenia_Martirosyan.html.

⁹⁰⁵ See Women's Rights Center Report *Violence Against Women and Reproductive Rights in Armenia*, 1999

⁹⁰⁶ International Helsinki Federation for Human Rights, *A Form of Slavery: Trafficking in Women in OSCE Member States*, Report to the OSCE Supplementary Human Dimension Meeting on Trafficking in Human Beings, Vienna, 19 June 2000, p. 2.

⁹⁰⁷ See UNDP, *Women Status Report: Impact of Transition*, 1999, p. 30.

⁹⁰⁸ *Ibid.*

⁹⁰⁹ CEDAW Consideration of reports of States parties, Advance Unedited Version, Exceptional Session, 23 August 2002, §3.

⁹¹⁰ International Helsinki Federation for Human Rights, *A Form of Slavery: Trafficking in Women in OSCE Member States*, Report to the OSCE Supplementary Human Dimension Meeting on Trafficking in Human Beings, Vienna, 19 June 2000, p. 2.

⁹¹¹ CEDAW Consideration of reports of States parties, Advance Unedited Version, Exceptional Session, 23 August 2002, §3.

⁹¹² According to article 149 (1) of the Criminal Code, rape, i.e. sexual intercourse by using force or by threats involving the use force towards the victim or third persons or by using the helpless state of a victim, is punishable by imprisonment for a period of 4 to 8 years. According to article 149 (2) if the rape was committed by a group of persons; or if it has lead to a venereal disease; or if the victim was under the age of 18 and this was clear for the rapist; or if the victim was threatened to be killed or to be caused grievous bodily harm or the rape was committed with special cruelty; or if the rape was committed repeatedly, the rape is punishable by imprisonment for a period from 5 to 10 years. According to article 149 (3) a rape, which has resulted in death of a victim, or has infected the victim with HIV, or when committed against a person under the age of 14, is punishable by imprisonment for a period of 8 to 15 years. According to article 152 of the Criminal Code, the age of sexual consent is 16.

⁹¹³ The articles in the new Criminal Code related to trafficking and sexual exploitation of women and minors are as follows: Article 106 (slavery, including sexual slavery), Article 108 (sexual abuse), Article 150 (violence of a sexual nature), Article 151 (forcible sexual activity), Article 152 (sexual intercourse), Article 171 (coercion of minors into prostitution), Article 173 (trade in minors), Article 243 (coercion to engage in prostitution) and Article 244 (maintaining a brothel). The Public Security Department of the Ministry of Interior reports that 90 people have been punished under Article 244, 37 under Article 243, and no criminal cases have been heard under the other aforementioned articles.

⁹¹⁴ World Organization against Torture (OMCT), *Violence against Women in Azerbaijan*, Annual Report

⁹¹⁵ International Helsinki Federation for Human Rights, *An Investigation into the Status of Women Rights in Central and South Eastern Europe and the Newly Independent States*, 2000, p. 48. (The Shafag Initiative Group (SIG), together with the UNDP's Gender Project, conducted the survey) To the question how often they had been subjected to acts violence, 8.3% responded often, 37% responded sometimes, 18.7% has difficulties in replying and 36% refused to reply. When asked where the violence occurred, 32% of the respondents reported being subjected to acts of violence within the family into which they were born, 58% cited the family of their husbands and 10% were victims of violence in society (i.e. the work place or on the street).

⁹¹⁶ See OMCT Report, 2002

⁹¹⁷ International Helsinki Federation for Human Rights, *A Form of Slavery: Trafficking in Women in OSCE Member States*, report to the OSCE Supplementary Human Dimension Meeting on Trafficking in Human Rights, Vienna 2000, p. 4.

⁹¹⁸ See in particular International Organization for Migration (IOM), *Shattered Dreams - Report on Trafficking in Persons in Azerbaijan*, August 2002.

⁹¹⁹ See also U.N. document CEDAW/C/2000/1/CRP.3/Add.5/Rev.1, para 4.

⁹²⁰ See the Report prepared by the World Organization against Torture for the U.N. Committee against Torture, *Violence against Women in the Republic of Belarus*, November 2000.

⁹²¹ Irina Dunaeva, *Gender Features of Criminality and victimisation in Belarus*, in *Belarus in the World: Politics-Economics- Security*, n. 3, vol. 3 (1998), p. 54, quoted in International Women's Rights Action Watch, IWRAP Publications, IWRAP, Country reports: Belarus.

⁹²² United Nations Development Programme.

⁹²³ *Ibid.*

⁹²⁴ *Ibid.*

⁹²⁵ Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe, *Trafficking in Human Beings: Implications for the OSCE*, ODIHR Background Paper 1999/3, Review Conference, September 1999.

⁹²⁶ See International Helsinki Federation for Human Rights, *A Form of Slavery: Trafficking in Women in OSCE Member States*, report to the OSCE Supplementary Human Dimension Meeting on Trafficking in Human Rights, Vienna 2000, p. 8.

⁹²⁷ Irina Dunaeva, *Gender Features of Criminality and victimisation in Belarus*, in *Belarus in the World: Politics-Economics- Security*, n. 3, vol. 3 (1998), p. 54, quoted in International Women's Rights Action Watch, IWRAP Publications, IWRAP, Country reports: Belarus.

⁹²⁸ CEDAW, Concluding Observations, A/55/38, paras.334-378, 2000.

⁹²⁹ For example, in the criminal law of the BH Federation: Article 178 (that treats light physical injury), paragraph 2; Article 177 of the same law is also important – it treats heavy physical injury against a married partner or extramarital partner.

⁹³⁰ Without containing a specific legal provision on marital rape, the change consists in raising the possibility of prosecuting rape that occurred within the marriage (Art. 221 and 226) by removing the old legal provision that defined rape as an act against a woman "with whom [a man] does not or has not lived in a matrimonial union".

⁹³¹ The Criminal Code of the FBiH has some provisions that may be used in fighting trafficking such as: slavery and transportation of enslaved persons (Article 167), forced abortion (Article 176), kidnapping (Article 184), duress (Article 185), unlawful detention (Article 187), rape (Article 221), forced sexual intercourse (Article 222), sexual intercourse with a juvenile (Article 224), sexual intercourse by abuse of position (Article 225), acts of debauchery (Article 226), procurement (Article 228), and recruitment into prostitution (Article 229). Similar provisions can be found in the Criminal Law of Republika Srpska. For further information, see International Helsinki Federation for Human Rights, Report "A Form of Slavery: Trafficking in Women in OSCE Member States", 2000; see also for the same organization, "A perspective on the Women's Status", Country Report, July 2000

⁹³² Sonja Cronin, Prosecution of Trafficking Cases. UNMIBH, Sarajevo, updated 14 December 2001.

⁹³³ International Helsinki Federation for Human Rights, "Human Rights in the OSCE Region: The Balkans, the Caucasus, Europe, Central Asia and North America" Report 2002 (events 2001)

⁹³⁴ See International Helsinki Federation for Human Rights, *Women 2000 - An Investigation into the Status of Women's Rights in the former Soviet Union and Central and South-Eastern Europe*, 2000.

⁹³⁵ United Nations Mission in Bosnia and Herzegovina, "Background Paper on Efforts Against Human Trafficking," submitted to the U.S. House of Representatives International Relations Committee, April 23, 2002. The International Organization for Migration office in Sarajevo estimated that at any given time there are between 600 and 3,000 trafficked women in Bosnia and Herzegovina. See IOM, "Victims of Trafficking in the Balkans," 2001, p. 43.

⁹³⁶ A May 2000 report by UNMBIH and the Office of the U.N. High Commissioner for Human Rights (OHCHR) documented evidence of complicity by local police, international police, and SFOR in 14 out of 40 cases that it investigated between March 1999 and March 2000. Police crime departments have not conducted proper investigations into trafficking allegations and in some cases, investigations have been prevented by high level political involvement.

⁹³⁷ According to a STOP report, a total of 91 bar owners and traffickers were convicted and sentenced as of October 12, 2002. The statistics hid the fact that all but a handful of these cases were for "mediation in prostitution," not for trafficking, and that the perpetrators rarely faced any punishment. According to Alun Roberts, UNMIBH spokesman, of the fifty-six persons sentenced for trafficking-related offenses as of 25 July 2002, only eleven served jail time. Human Rights Watch telephone interview, Alun Roberts, UNMIBH spokesman, Banja Luka, October 29, 2002. An internal U.N. memorandum on prosecution of trafficking cases noted that there were no prosecutions in 1999, three successful prosecutions in 2000, and six successful prosecutions in 2001 with four additional cases pending (as of December 14, 2001). U.N. Mission in Bosnia and Herzegovina, "Prosecution of Trafficking Cases," Sarajevo, December 14, 2001, on file with Human Rights Watch. Prosecutions increased after December 2001, but most for minor crimes such as "mediation in prostitution." Human Rights Watch telephone interview, Madeleine Rees, head of the Office of the High Commissioner for Human Rights, Sarajevo, October 21, 2002.

⁹³⁸ According to Madeleine Rees, head of the Office of the High Commissioner for Human Rights in Bosnia and Herzegovina, the number of these prosecutions has decreased markedly since September 2001. Human Rights Watch telephone interview, Madeleine Rees, head of the Office of the High Commissioner for Human Rights, Sarajevo, December 19, 2001.

⁹³⁹ Human Rights Watch, « Hopes Betrayed : Trafficking of Women and Girls to Post-Conflict Bosnia & Herzegovina for Forced Prostitution », November 2002, vol. 14 No. 9 (D)

⁹⁴⁰ Article 128 states that "(1) A person who inflicts severe bodily injury on another person shall be punished by deprivation of liberty for three to ten years imprisonment. (2) Bodily injury shall be considered severe if it causes: continuous disturbance of consciousness; permanent blindness in one or both eyes; permanent deafness; loss of speech; loss of reproductive function; disfigurement which causes permanent disturbance of the speech or of a sensory organ; loss of one kidney, the spleen or a lung lobe; loss or mutilation of a leg or an arm; permanent general health impairment, that is dangerous to life." Article 129 states that "(1) A person who inflicts moderate bodily injury on another person shall be punished by deprivation of liberty for up to five years. (2) Bodily injury shall be considered moderate if it causes: permanent weakening of eyesight or hearing; permanent disturbance of speech; difficulties of the movement of the extremities, the body or the neck; disturbance of the

functions of the genital organs without causing reproductive incapacity; breaking of a jaw or knocking out of teeth; disfigurement of the face or of other parts of the body; permanent impairment of health not dangerous to life or impairment of health temporarily dangerous to life; injuries which penetrate into the cranial, thoracic and abdominal cavities.”

⁹⁴¹ *Eliminating violence through research and education*, BGRF, 1998

⁹⁴² International Helsinki Federation for Human Rights, *Women 2000 - An Investigation into the Status of Women's Rights in the former Soviet Union and Central and South-Eastern Europe*, 2000.

⁹⁴³ According to Article 152 of the Penal Code, "(1) A person who has sexual intercourse with a person of the female sex: 1. Who is deprived of the possibility of self-defence and without her consent; 2. By compelling her with force or threat; 3. By reducing her to a state of helplessness, shall be punished by the deprivation of liberty for two to eight years. (2) The punishment for rape shall be the deprivation of liberty for three to ten years: 1. If the raped woman has not attained sixteen years of age; 2. If she is a relative of descending line; 3. (New - SG, No. 28/1982) if it was committed for a second time. (3) (As amended - SG, No. 28/1982). The punishment for rape shall be the deprivation of liberty for three to fifteen years: 1. If it has been performed by two or more persons; 2. If moderate bodily injury is caused; 3. If an attempt at suicide follows; 4. If it constitutes a case of dangerous recidivism. (4) (As amended - SG, No. 28/1982) If severe bodily injury is caused by the rape, or suicide follows, and in other particularly grave cases, the punishment shall be the deprivation of liberty for ten to twenty years."

⁹⁴⁴ However, it must be stressed that Article 153 of the Penal Code is from the section called "Debauchery" and applies only to sexual intercourse by abuse of men's power over the woman. The notion of sexual harassment is not mentioned as such. This provision is reportedly only scarcely used and only in situations of clear economic dependence.

⁹⁴⁵ According to Article 156, persuading (or inducing) a female into prostitution is punishable by a 3-year Sentence; Article 156 provides a penalty of up to 10 years imprisonment for the abduction of a female for the purpose of making the woman available for lechery. The penalty is higher (between 3 and 12 years of imprisonment) if the abducted woman is under 18 years, or if she has already been made available for lechery, or if the purpose of the abduction is to dispose the person for lechery abroad. This last paragraph of Article 156 could be successfully applied to trafficking in women. Other relevant texts in the Criminal Code include: "The illegal detention of a person" (Article 142a), which could be used against perpetrators, and "Blackmail" (Article 214).

⁹⁴⁶ The mandate of these commissions is broad: it includes the supervision of the penal antitrafficking policy, the launching of raising-awareness campaigns and more importantly, the setting up of shelter houses or centres - but on the request of local authorities only - for victims of trafficking who will be allowed to stay for 30 days maximum (10 days + 20 more days upon approval by the local commission). In the event of a criminal procedure, this period may be extended until completion of the proceedings on the Prosecutor's order.

⁹⁴⁷ See, on the website SEELINE, South Eastern European Women's Legal Initiative, <http://www.seelineproject.net/NM/BulgariaNM.htm>

⁹⁴⁸ See answers to the questionnaire on implementation of the Beijing Platform for action, presented by the government of the Republic of Bulgaria.

⁹⁴⁹ Decision No. 608 of the Council of Ministers on 22 August 2001.

⁹⁵⁰ International Helsinki Federation for Human Rights, Report "A Form of Slavery: Trafficking in Women in OSCE Member States", 2000, pp. 13-15; see also International Helsinki Federation for Human Rights "A Perspective on the Women's Status" Country reports, July 2000 <http://www.ihf-hr.org/reports/royaumont/WHR-Bulgaria.pdf>)

⁹⁵¹ See for instance, International Helsinki Federation for Human Rights, *Women 2000 - An Investigation into the Status of Women's Rights in the former Soviet Union and Central and South-Eastern Europe*, 2000.

⁹⁵² Domestic Violence in Bulgaria, Minnesota Advocates for Human Rights, Minnesota, 1996

⁹⁵³ Bulgarian Centre for Human Rights: Results of the Legal Research under the joint project "Elimination of violence through research and education", Sofia, 1998, p. 7 - 15

⁹⁵⁴ In EU countries girls and women from Bulgaria are one of the largest groups (an estimated number of 10 000) among forced prostitutes. (La Strada, IOM)

⁹⁵⁵ Article 174, paragraph 1 of the Criminal Acts reads: "Whoever violates fundamental human rights and freedoms recognised by the international community on the basis of race, gender, colour, nationality or ethnic origin shall be sentenced to imprisonment from six months to five years."

⁹⁵⁶ Art. 190 CA

⁹⁵⁷ Art. 191 CA

⁹⁵⁸ In all other cases of severe bodily harm, when the perpetrator is not related to or is not in a relationship with the victim, the State Criminal Prosecutor is obliged by the law to press charges against the perpetrator upon the receipt of the official report from the police or a doctor, and does not have to wait that the victim initiates pressing charges herself. The same procedure of pressing charges is stated in the Article 188.5. for the crime of rape committed in a marriage and a domestic partnership, and between close family members. According to the NGO B.a.B.e., by this type of law the State considers domestic violence to be a private family problem (most often, a woman's problem since she is the most likely victim). By doing so, the State works against the constitutional principle stated in the Article 61 of the Constitution, which stipulates that the family is under special protection of the State. (B.a.B.e., Violence Against Women: Legislature and Practice, Fall/Winter 2000, available on-line at <http://www.babe.hr>)

⁹⁵⁹ IOM, « Sex Trafficking in Croatia. An Assessment Study » Zagreb, September 2001 – draft p.10

⁹⁶⁰ IOM Report, *ibid.* p.38.

⁹⁶¹ OMCT Annual Report 2002 Violence against Women

⁹⁶² Human Rights Committee in its Concluding Observations on Croatia, 26 April 2001, UN Doc. CCPR/CO/71/HRV, para. 19.

⁹⁶³ International Helsinki Federation for Human Rights, "Women 2000: An investigation into the status of women's rights in Central and South-Eastern Europe and the newly independent States", 2000.

⁹⁶⁴ Report of Mr. Jiri Dienstbier, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia, and the Federal Republic of Yugoslavia, UN Doc. E/CN.4/2001/47/Add.1, 22 March 2001; Committee on Economic, Social and Cultural Rights, Concluding Observations: Croatia, UN Doc. E/C.12/1/Add.73, 30 November 2001; Human Rights Committee, Concluding Observations: Croatia, 26 April 2001, UN Doc. CCPR/CO/71/HRV.

⁹⁶⁵ B.a.B.e., Violence Against Women: Legislation and Practice, Fall/Winter 2000, available on-line at www.babe.hr.

⁹⁶⁶ The Center for Reproductive Law and Policy, "Women's Reproductive Rights in Croatia – A Shadow Report" in *Laws and Policies Affecting Women's Reproductive Lives - Implementation, Enforcement, and the Reality of Women's Reproductive Lives*, 2001, p. 9.

⁹⁶⁷ *Initial report of the Republic of Croatia on the implementation of the International Covenant on Civil and Political Rights*, Human Rights Committee, 71st Session., page 20, at 73, U.N. Doc. CCPR/HRV/99/1(Mar. 2000) [hereinafter U.N. Doc. CCPR/HRV/99/1], available at [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)](http://www.unhcr.ch/tbs/doc.nsf/(Symbol))

⁹⁶⁸ *Ibid.*

⁹⁶⁹ See OSCE Report Trafficking in Human Beings in Southeastern Europe, June 2002. See also International Helsinki Federation for Human Rights, "Women 2000: An investigation into the status of women's rights in Central and South-Eastern Europe and the newly independent States", 2000, p. 132; Committee on Economic, Social and Cultural Rights, Concluding Observations: Croatia, UN Doc. E/C.12/1/Add.73, 30 November 2001, para. 13; Nevenka Sudar, "Prostitution in Croatia", Penelopes, *Points de vue*, August 2001, www.penelopes.org/; Greek Helsinki Federation, "A Form of Slavery: Trafficking in Women in OSCE Member States", Special issue of The Balkan Human Rights, July 2000.

⁹⁷⁰ Marketa Hunkova, Coordinator of the Environmental Law Service's Counselling Centre for Women in Crisis Project.

⁹⁷¹ It is estimated (ROSA) that 1 in 10 women in domestic situations suffer from emotional or physical abuse, and that 30 percent of the abusers were university educated. A 1998 research study conducted by Prague's Sexological Institute indicated that 13 percent of women were raped. Spouses or partners were responsible for 51 percent of rapes, with an additional 37 percent of the attacks committed by men known to the victims. Only 12 percent of rape victims were attacked by strangers. According to police statistics, there were 500 rapes reported countrywide in 2000, although researchers at the Institute estimated that only 3.3 percent of rape victims reported the crime to the police; however, it is believed that rape and domestic violence cases are widely underreported. According to the Ministry of Justice, in 2001 there were 140 convictions for rape throughout the country. Researchers and NGOs estimated that between 3.3 and 7 percent of rape victims filed reports with the police, and it is believed widely that rape and domestic violence cases were greatly underreported.

⁹⁷² This is admitted in the "Replies by the Government of the Czech Republic to the list of issues (E/C.12/CZE/1) to be taken up in connection with the consideration of the initial report of the Czech Republic concerning the rights referred to in articles 1-15 of the International Covenant on Economic, Social and Cultural Rights, U.N. Doc HR/CEESCR/NONE/2001/10.

⁹⁷³ Marketa Hunkova, see note 1.

⁹⁷⁴ International Helsinki Federation for Human Rights, see note 17, p. 148.

⁹⁷⁵ Marketa Hunkova, see note 20.

⁹⁷⁶ International Helsinki Federation for Human Rights, see note 17, p. 148.

⁹⁷⁷ See in particular Article 115 of the Criminal Code. Rape is defined in the Criminal Code as sexual intercourse with a woman by violence or threat of violence or by taking advantage of the helpless situation of the victim. Rape is punishable with 2 to 5 years of imprisonment. Rape is punishable with 3 to 10 years of imprisonment if it is committed by a person who has previous a criminal record for rape, a group of persons, against a minor or if the rape causes the victim a permanent or life-threatening bodily injury. Rape is punishable with 8 to 15 years of imprisonment if it is committed against a child or if the rape results in serious consequences for the victim.

⁹⁷⁸ See on the OSCE-ODIHR website <http://www.legislationline.org>

⁹⁷⁹ See the Concluding Observations of the Committee on the Elimination of Discrimination against Women, A/57/38, §72-118, 7 May 2002

⁹⁸⁰ International Helsinki Federation for Human Rights, Women 2000 - An Investigation into the Status of Women's Rights in the former Soviet Union and Central and South-Eastern Europe, 2000, p. 170.

⁹⁸¹ For further information, see International Helsinki Federation for Human Rights, Report "A Form of Slavery: Trafficking in Women in OSCE Member States", 2000

⁹⁸² CERD, Concluding Observations, A/57/18, § 357, November 2002

⁹⁸³ Coercive actions of sexual nature are punished with 3 to 7 years of imprisonment, under aggravating circumstances 5 to 20 years; compulsion to sexual intercourse is punished with a fine, or correctional labour up to 1 year, or up to 2 years of imprisonment; sexual intercourse or other sexual assault against a person under the age of 16 years is punished with restriction of liberty up to 3 years, or arrest up to 3 months, or up to 3 years of imprisonment; lecherous actions against a person under the age of 16 years are punished with a fine, correctional labor up to 1 year, or up to 2 years of imprisonment. See Articles 137-141 Georgian Penal Code.

⁹⁸⁴ CEDAW Concluding Observations, A/54/38, §70-116, 1 July 1999.

⁹⁸⁵ International Helsinki Federation for Human Rights, Women 2000: An Investigation into the Status of Women's Rights in Central and South-Eastern Europe and the Newly Independent States, 2000, p. 183.

⁹⁸⁶ *Ibid.*, p. 183

⁹⁸⁷ In 2000 the NGO Women Aid Georgia received international funding and launched a widespread public information campaign to educate women about the dangers of trafficking. The International Organization for Migration (IOM) also works on trafficking issues in the country.

⁹⁸⁸ Information received from Marina Meskhi, Head of the Women's Rights Studying Group of the Georgian Young Lawyers' Association (in the Report prepared by the World Organization against Torture for the Committee against Torture, *Violence against Women in Georgia*, May 2001.

⁹⁸⁹ The Government cites the precise figure of 282.155 persons. Ministry of Foreign Affairs, Government of Georgia, Report on Internally Displaced Persons (IDPs) in Georgia, May 2000, p. 3. The U.S. Committee for Refugees cites the approximate figure of 280.000. U.S. Committee for Refugees, World Refugee Survey, 2000 (Washington, D.C. Immigration and Refugee Services of America, 2000, p. 239. Quoted in the report of the Representative of the UN Secretary-General on internally displaced persons, Mr Francis Deng, submitted pursuant to the Commission on Human Rights Resolution 2000/53, U.N. Doc. E/CN.4/2001/5/Add.4.

⁹⁹⁰ U.N. Doc. E/CN.4/2001/5/Add.4.

⁹⁹¹ Ibid.

⁹⁹² Quoted in Eka Ketiladze, Women in Situations of Conflict and Women Refugees, in UNDP, p. 21

⁹⁹³ See also CCPR Concluding Observations, CCPR/CO/74/GEO, §14-15; CAT Concluding Observations, A/56/44, §77-82; CEDAW Concluding Observations, A/54/38, §70-116

⁹⁹⁴ Please refer to Seeline Project Website: <http://www.seeline-project.net/NM/HungaryNM.htm#11> ; see also LENKE FEHER, Special Adviser of the Legal Institute of the Hungarian Academy of Sciences, responding to the experts of the Committee on the Elimination of Discrimination against Women considering the combined fourth and fifth periodic report of Hungary (exceptional session, August 2002, 586th & 587th Meeting)

⁹⁹⁵ Council of Europe, *Legislation in the member States of the Council of Europe in the field of Violence against Women*, EG (2001) 3, vol. I, Strasbourg January 2001.

⁹⁹⁶ Chapter XII (Crimes Against Person), Title III. Crimes against personal freedom and human dignity.

⁹⁹⁷ IOM Questionnaire (2002), information provided to the Special Rapporteur

⁹⁹⁸ IOM with the financial support of the EU and the Ministry of Interior has set up a secondary school education program against trafficking in human being from February 2001 to January 2002. The aim of the program was that the issue could be included in the official secondary school curricula. The program is registered for accreditation.

⁹⁹⁹ Krisztina Morvai: Terror in the Family (in Hungarian); Kossuth Kiadó, Bp. 1998; Olga Tóth: Violence in the Family (in Hungarian) TÁRKI, 1999. N. 12.

¹⁰⁰⁰ Information provided by the Secretariat for Women's Issues, Ministry of Social and Family Affairs in November 2000 (in Council of Europe Report, supra n. 39)

¹⁰⁰¹ National Report of Hungary on the Implementation of the Beijing Platform for Action, June 2000 (According to a countrywide representative survey in 1998 2.2% of the adult female population had experienced having been raped in her life; in addition 8% had hardly been able to escape from rape.)

¹⁰⁰² While welcoming the State party's comprehensive review of its current law on sexual crimes, the Committee on the Elimination of Discrimination against Women "remains (also) concerned that the Hungarian Penal Code currently treats sexual crimes as crimes against decency rather than violations of women's rights to bodily security. It is particularly concerned that the definition of rape, including that within marriage, is based on the use of force rather than lack of consent, as well as the law on seduction of girls below the age of 14 years. The Committee is also concerned that Hungarian law permits early marriage of girls between the ages of 16 and 18 in certain circumstances.", CEDAW Concluding Observations, CEDAW/C/2002/EXC/CRP.3/Add.10/Rev.1, 23 August 2002 (see particular recommendations)

¹⁰⁰³ See CEDAW meeting,

¹⁰⁰⁴ Council of Europe document, "Legislation in the member States of the Council of Europe in the field of violence against women," entry on Latvia, website: www.humanrights.coe.int/equality/Eng/WordDocs/Document%20list.htm

¹⁰⁰⁵ Council of Europe document, "Legislation in the member States of the Council of Europe in the field of violence against women," entry on Latvia, website: www.humanrights.coe.int/equality/Eng/WordDocs/Document%20list.htm

¹⁰⁰⁶ Council of Europe document, "Legislation in the member States of the Council of Europe in the field of violence against women," entry on Latvia, website: www.humanrights.coe.int/equality/Eng/WordDocs/Document%20list.htm

¹⁰⁰⁷ Council of Europe document, "Legislation in the member States of the Council of Europe in the field of violence against women," entry on Latvia, website: www.humanrights.coe.int/equality/Eng/WordDocs/Document%20list.htm

¹⁰⁰⁸ The Penal Code, article 118: " *Sexual intercourse through physical coercion or threats, or when the perpetrator take advantage of a woman in a helpless situation.*" The term "rape" comprises several types of abuse and covers several levels of rape. The term "consent" is not defined. The main criterion is "against a woman's will". Technical evidence is not necessary in court proceedings against a rapist. Cross-examination is used during the hearing.

¹⁰⁰⁹ The length of criminal sentencing for domestic violence depends on the degree of harm caused to the victim. For example, intentional bodily injury or infection with a disease or illness that does not have long lasting health effects is punished by up to six months of imprisonment, community service of up to one year, or a fine. A systematic intentional minor bodily injury is punished by up to three years of imprisonment (BAUDŽIAMASIS KODEKSAS art. 116)

¹⁰¹⁰ Giedre Purvaneckiene, *Violence against Women*, in WOMEN IN LITHUANIA (Women's Issues Information Centre ed., 1999) (visited May 10, 2000) http://www.undp.lt/wiic/women_in_lithuania/violence.html

¹⁰¹¹ BAUDŽIAMASIS KODEKSAS art. 1313(1).

¹⁰¹² See Center for Reproductive Law and Policy, *Women's Reproductive Rights in Lithuania: A Shadow Report*, 2000, p. 27

¹⁰¹³ See various surveys in the Government Response to the Secretary General's Questionnaire on Implementation of the Beijing Platform for Action

¹⁰¹⁴ A 1999 survey entitled *Violence against Women* found that 63.3% of Lithuanian women have been victims of male physical or sexual violence or threats after their 16th birthday, and 11% of Lithuanian women had at least once, after their 16th birthday, been victims of male

physical or sexual violence or threats perpetrated by a stranger. Another 8.2% of women had experienced violence or threats perpetrated by a friend, and 14.4% reported being victimized through violence or threats by an acquaintance or relative. Nearly 27% of Lithuanian women had experienced sexual abuse by a stranger after their 16th birthday; 18.2% by a known man; and 17% by a date. Only 10.6% of the victims reported the most serious incident to the police (see Giedre Purvaneckiene, *Violence against Women, in WOMEN IN LITHUANIA* (Women's Issues Information Centre ed., 1999) (visited May 10, 2000) http://www.undp.lt/wiic/women_in_lithuania/violence.html .

¹⁰¹⁵ For further information, please refer to International Helsinki Federation for Human Rights "A Perspective on the Women's Status" Country reports, July 2000, p.287s

¹⁰¹⁶ International Helsinki Federation for Human Rights, Report "A Form of Slavery: Trafficking in Women in OSCE Member States", 2000; Gintautas Sakalauskas, *Crime: Patterns and Trends*, in LITHUANIAN HUMAN DEVELOPMENT REPORT 1999, at 147 (visited Feb. 18, 2000) <http://www.undp.lt/HDR/1999/default.htm>

¹⁰¹⁷ According to information received there were 23,987 cases of family abuse reported in 2000, with 213 of those being of particularly severe abuse.

¹⁰¹⁸ Article 197 Penal Code: 1. Who, by means of violence, unlawful threat or deceit, forces a sexual act on another person shall be liable to penalty of 1 to 10 years imprisonment. 2. If the perpetrator, in a way described in Paragraph 1, makes another person submit to another sexual action or perform such an action, shall be liable to penalty of 3 months to 5 years imprisonment. Articles 156 and 157 of the Penal Code contain general prohibitions on assault are also relevant to cases of family-based violence. These general assault provisions are primarily based on the degree of severity of the injuries resulting from the violence rather than on the actions of the perpetrator.

¹⁰¹⁹ La Strada, Trafficking in Women, <http://free.ngo.pl/lastrada>.

¹⁰²⁰ Marek Okólski, "Migrant Trafficking and Human Smuggling in Poland", in IOM, *Migrant Trafficking and Human Smuggling in Europe*, IOM, Geneva, 2000, p. 250.

¹⁰²¹ Urszula Nowakowska and Anna Swedrowska, "Women in the Labour Market", in *Polish Women in the '90s*, U. Nowakowska (ed), Women's Rights Center, 2000, p. 153. See also Report prepared by the World Organization Against Torture (OMCT), *Violence Against Women*, for the 29th Session of the Committee on Economic, Social, and Cultural Rights, Geneva November 2002.

¹⁰²² There are no comprehensive surveys that document the problem adequately. According to the Women's Rights Center, 23 percent of women have been victims of domestic violence. According to the NGO La Strada 18 percent of married women admitted to being victims of physical abuse by their husbands. Women's organizations assert that the number of women suffering from domestic abuse is probably much higher due to the fact that battered women usually refuse to admit abuse even to themselves. Government and police statistics do not differentiate between male and female victims of violence.

¹⁰²³ Poland ranks second in Europe for victimization rates among women for sexual assaults In 2000 there were 2,399 rape cases reported, compared with 2,029 in 1999, and according to police statistics, the frequency of rape further increased during 2001 (Police Headquarters, Warsaw, "Statistical information about the crime of rape in the year 1999", 2000). However, NGOs reported that women often are unwilling to report the crime and estimate that the actual number of rapes is 10 times higher than that reported.

¹⁰²⁴ In their 2002 report on domestic violence in Poland, Minnesota Advocates for Human Rights noted that they had received unofficial data on rates of domestic violence from several police officers. All of the officers who provided information stated that the actual prevalence of domestic violence is far greater than the reported cases, with one officer claiming that in more than 60 per cent of cases eventually reported to the police or prosecutors, the victim did not initially call the police or seek police intervention. It can, therefore, be concluded that intervention statistics from the police only reflect a small percentage of the real number of cases of domestic violence (Minnesota Advocates for Human Rights, *Domestic Violence in Poland*, Minnesota, July 2002, p. 10)

¹⁰²⁵ International Helsinki Federation, *Women 2000*, p. 335; Urszula Nowakowska, *Polish Women in the '90s*, *op.cit.*

¹⁰²⁶ International Helsinki Federation for Human Rights, *Human Rights in the OSCE Region: the Balkans, the Caucasus, Europe, Central Asia and North America*, Report 2002, www.ihr-hr.org, p. 250.

¹⁰²⁷ Council of Europe document, "Legislation in the member States of the Council of Europe in the field of violence against women," Moldova entry, website: www.humanrights.coe.int/equality/Eng/WordDocs/Document%20list.htm

¹⁰²⁸ Council of Europe document, "Legislation in the member States of the Council of Europe in the field of violence against women," Moldova entry, website: www.humanrights.coe.int/equality/Eng/WordDocs/Document%20list.htm

¹⁰²⁹ OMCT report on violence against girls in Moldova

¹⁰³⁰ Council of Europe document, "Legislation in the member States of the Council of Europe in the field of violence against women," Moldova entry, website: www.humanrights.coe.int/equality/Eng/WordDocs/Document%20list.htm

¹⁰³¹ Council of Europe document, "Legislation in the member States of the Council of Europe in the field of violence against women," Moldova entry, website: www.humanrights.coe.int/equality/Eng/WordDocs/Document%20list.htm

¹⁰³² OMCT report on violence against girls in Moldova.

¹⁰³³ Ibid

¹⁰³⁴ Ibid.

¹⁰³⁵ For further information, see Dina Loghiu, "The Situation of Women in Romania", SEF Foundation, in International Helsinki Federation of Human Rights, *A Perspective on the Women's Status – Country Reports*, July 2000.

¹⁰³⁶ In November 2001 the Senate approved a law prohibiting sexual harassment and any form of gender discrimination; however, the law was not passed at year's end.

¹⁰³⁷ Law No. 678 on the Prevention and Combat of Trafficking in Human Beings (December 2001)

¹⁰³⁸ In the period following the year 1997, the national machinery for women's rights promotion and protection was confronted with a dimensional diminution. The administrative changes within the governmental bodies transformed, after 1997, the prioritization of women's issues. However, in 2001, the Parliament of Romania decided to reactivate the Sub-Commission of Equal Opportunities, and to register on its agenda the final projects of the Equal Opportunities Law and the Law on Domestic Violence. For further information on national machinery, see South Eastern European Women's Legal Initiatives (SEELINE), National Machinery Report, Romania, <http://www.seelin-project.net/NM/RomaniaNM.htm>

¹⁰³⁹ See the Committee on the Elimination of Discrimination against Women Concluding Observations, A/55/38, § 283, 23 June 2000.

¹⁰⁴⁰ See OSCE Report, *Trafficking in Human Beings in Southeastern Europe*, June 2002; see also *Study on the situation of trafficked women in Romania and on the national Romanian legislation concerning trafficking in women and forced prostitution*, SEF Foundation – for the Boltzman Institute, 2000.

¹⁰⁴¹ See a 1999 report by the U.N. Children's Fund (UNICEF). Furthermore, a survey conducted by the U.S. Centers for Disease Control reported that in 2000, 23.4 percent of women had experienced verbal abuse from their partners, 10 percent had experienced physical abuse, and 1.8 percent sexual abuse. The same survey reported that 22.5 percent of women experienced moderate to severe physical abuse over their lifetimes. Romania has few statistics on domestic violence. Such violence is mentioned in 70% of divorces (1980-1993) and they mostly affect the underprivileged sections of the population, those with a low standard of education and alcoholics. The divorce rate has increased sharply (up from 45 000 in 1992 to 60 000 in 1993). A total of 11 700 medical reports mentioning assault and bodily harm against women are submitted every year in Bucharest, which means that this phenomenon affects 0.2% of the female population.

¹⁰⁴² See also the Committee on the Elimination of Discrimination against Women Concluding Observations, A/55/38, paras. 278-322, 23 June 2000.

¹⁰⁴³ At present the law permits the injured party to be represented in the court / instance by a lawyer (art.173-174), but there are certain stages of the trial when he /she /they are obliged to appear in court (for ex. to hearing of the defendant, of the parties– art. 326, etc). Moreover, there are certain situations when the unjustified default of the injured party determines the ceasing of the trial and release of the offender. Thus, article 284(1) of the Penal Proceeding Code establishes that if the injured party that filed a complaint misses (without justification) two consecutive terms of the trial, it is considered that he /she has renounced the complaint and the trial ceases.

¹⁰⁴⁴ IOM, « Vulnerability to trafficking in human being of young female population of Romania », Bucharest, July 2001.

¹⁰⁴⁵ International Helsinki Federation for Human Rights, *A Form of Slavery: Trafficking in Women in OSCE Member States – Country Reports*, "Romania", July 2000.

¹⁰⁴⁶ Ibid

¹⁰⁴⁷ www.legislationonline.com, FRY entry

¹⁰⁴⁸ WHO Contribution to the Report of the SR on VAW, "Criminalization of sexual violence in Eastern Europe."

¹⁰⁴⁹ idem

¹⁰⁵⁰ Violent conduct is most often qualified and punished as a violent act against a group of people or against an individual (§197 a), harm to health (§221 and 223), the curtailment of personal freedom (§231) and blackmail (§232).

¹⁰⁵¹ Committee on Economic, Social and Cultural Rights (CESCR), 29th session, 13 November 2002.

¹⁰⁵² Ibid; according to the delegation, eight cases of trafficking had been registered in 1998, rising to 20 in 1999, and 29 in 2000 – "there was 15 cases in 2001 and 31 so far for 2002."

¹⁰⁵³ International Helsinki Federation for Human Rights, *Women 2000 - An Investigation into the Status of Women's Rights in the former Soviet Union and Central and South-Eastern Europe*, 2000, p. 402

¹⁰⁵⁴ See Council of Europe, *Legislation in the member States of the Council of Europe in the field of Violence against Women*, EG (2001) 3, vol. II, Strasbourg January 2001.

¹⁰⁵⁵ See International Helsinki Federation for Human Rights, Report "A Form of Slavery: Trafficking in Women in OSCE Member States", 2000, pp. 57-59

¹⁰⁵⁶ Council of Europe document, "Legislation in the member States of the Council of Europe in the field of violence against women," entry on Latvia, website: www.humanrights.coe.int/equality/Eng/WordDocs/Document%20list.htm

¹⁰⁵⁷ Ibid

¹⁰⁵⁸ Ibid

¹⁰⁵⁹ Ibid

¹⁰⁶⁰ Ibid

¹⁰⁶¹ Ibid

¹⁰⁶² Council of Europe document, "Legislation in the member States of the Council of Europe in the field of violence against women," entry on Slovenia, website: www.humanrights.coe.int/equality/Eng/WordDocs/Document%20list.htm

¹⁰⁶³ Article 137, Chapter 15, states that "(1) Whosoever, on the basis of sex, race, skin colour, ethnic or social origin, political or religious beliefs, wealth or social position, language or other personal attributes or circumstances, takes away or limits a person's rights as determined by the Constitution, the law or by a ratified international treaty, or whosoever, grants privileges on the basis of these differences, shall be punished by three months to three years imprisonment".

¹⁰⁶⁴ For further information on the legal framework concerning violence against women, you may refer to International Helsinki Federation for Human Rights "A Perspective on the Women's Status" Country reports, July 2000 <http://www.ihf-hr.org/reports/royaumont/WHR-Macedonia.pdf> or International Helsinki Federation for Human Rights, *Women 2000 - An Investigation into the Status of Women's Rights in the former Soviet Union and Central and South-Eastern Europe*, 2000, <http://www.ihf-hr.org/reports/women/macedonia.pdf>)

¹⁰⁶⁵ Rape is dealt with under Article 186 of the Penal Code; see also Article 187 of the Penal Code.

¹⁰⁶⁶ Further, Article 189 of the Penal Code states that "(1) A person who by abusing his/her position induces another person in a position of subordination or dependence to have intercourse or some other sexual act shall be punished by imprisonment of three months to three years."

¹⁰⁶⁷ According to Article 191, "(1) Whosoever recruits, instigates, or entices another into prostitution or participates in handing a person over for the purpose of prostitution shall be punished by imprisonment of six months to five years. (2) Whosoever, for profit, enables another to have sexual services shall be punished by a fine or imprisonment of up to one year. (3) Whosoever, for profit and by using force or serious threat of force, forces another, or through deceit induces another to provide sexual services, shall be by imprisonment of six months to five years. [...] (6) A person who organises the crimes in paragraphs 1 to 5 of this Article shall be punished by one to ten years' imprisonment."

¹⁰⁶⁸ For further information on the national machinery, please refer to South Eastern European Women's Legal Initiatives (SEELINE), National Machineries Report, Macedonia (<http://www.seeline-project.net/NM/MacedoniaNM.htm>)

¹⁰⁶⁹ See CCPR/C/79/Add.96, 18 August 1998, §14

¹⁰⁷⁰ International Helsinki Federation for Human Rights, *Women 2000 - An Investigation into the Status of Women's Rights in the former Soviet Union and Central and South-Eastern Europe*, 2000, p. 307.

¹⁰⁷¹ International Helsinki Federation for Human Rights "A Perspective on the Women's Status" Country reports, July 2000, p.7.

¹⁰⁷² CRC/C/15/Add.118, 23 February 2000, §40

¹⁰⁷³ *The Criminal Code of Ukraine: official edition-K.*, 2001.

¹⁰⁷⁴ Article 149 states that "Trafficking in human beings involves the sale or other paid transfer of a person, as well as any other illegal transaction with respect to a person, concerning the legal or illegal transfer of that person via the state boarder of Ukraine, with or without that person's consent, with the aim of further sale or paid transfer of that person to another person(s) for sexual exploitation, use in the pornography business, engagement in criminal activities, debt bondage, adoption for commercial purposes, use in armed conflict, or the exploitation of the labour of that person." *The Criminal Code of Ukraine: official edition.-K.*, 2001.-p.97-98.

¹⁰⁷⁵ UNDP, Gender Analysis of Ukrainian Society, 1999, p. 217.

¹⁰⁷⁶ Minnesota Advocates for Human Rights, *Domestic Violence in Ukraine*, December 2000, www.mnadvocates.org, p. 6; Human Rights Committee, Concluding Observations: Ukraine, UN Doc. CCPR/CO/73/UKR, 5 November 2001, para. 10. A survey conducted by the World Bank and the Kyiv Institute of Sociology found that 12 percent of women in the age group 18-28 had experienced physical violence from their husbands.

¹⁰⁷⁷ Olexandra Rudneva, *Violence against Women in Ukraine: Contribution to OMCT's alternative report to the Committee against Torture*, Kharkiv Centre for Women's Studies, November 2001, p. 5; see also OMCT's Country Reports on Violence Against Women in Ukraine, December 2000.

¹⁰⁷⁸ *Ibid.*

¹⁰⁷⁹ *Ibid.*

¹⁰⁸⁰ Minnesota Advocates for Human Rights, *Domestic Violence in Ukraine*, December 2000, www.mnadvocates.org, p. 20.

¹⁰⁸¹ Minnesota Advocates for Human Rights, *Trafficking in Women : Moldova and Ukraine*, December 2000 at 16. The International Helsinki Federation for Human Rights in its *Women 2000* report at p. 491 cites the figure of 100,000 having been transported across the border illegally since 1991 from the Ukraine. Current estimates appear much higher however.

¹⁰⁸² IOM, *Information Campaign Against Trafficking in Women from Ukraine : Research Report* 1998, p. 16.

¹⁰⁸³ International Helsinki Federation for Human Rights, Ukraine chapter in *Women 2000*, International Helsinki Federation for Human Rights, 2000, p. 491 and IOM Publication : *Migrant Trafficking and Human Smuggling in Europe : A review of the evidence with case studies from Hungary, Poland and Ukraine*, 2000, p. 331.

¹⁰⁸⁴ La Strada – Ukraine cited in Ukraine chapter in *Women 2000*, International Helsinki Federation for Human Rights, 2000, p. 491. La Strada however do conduct training seminars for law enforcement personnel to change their conduct towards trafficked victims.

¹⁰⁸⁵ Committee on the Rights of the Child, concluding observations (unedited version), CRC/C/15/Add.191, § 62.

¹⁰⁸⁶ Olexandra Rudneva, *Violence against Women in Ukraine: Contribution to OMCT's alternative report to the Committee against Torture*, Kharkiv Centre for Women's Studies, November 2001, p. 11.

¹⁰⁸⁷ US Department of State, *Country Reports on Human Rights Practices* (2000), Bureau of Democracy, Human Rights and Labor, February 2001.

¹⁰⁸⁸ Olexandra Rudneva, *Violence against Women in Ukraine: Contribution to OMCT's alternative report to the Committee against Torture*, Kharkiv Centre for Women's Studies, November 2001, p. 13.

¹⁰⁸⁹ International Helsinki Federation for Human Rights, Ukraine chapter in *Women 2000*, International Helsinki Federation for Human Rights, 2000, p. 492.

¹⁰⁹⁰ See OMCT Report 2002

¹⁰⁹¹ The V-Day College Campaign brings student productions of "*The Vagina Monologues*" to colleges and universities around the world to raise awareness about violence against women and girls and funds for local anti-violence groups and women's organizations. The "V" in "V-Day" stands for victory over violence, Valentine's Day and vagina. For more information see www.vday.org/college.

¹⁰⁹² In December 1999, the 54th session of the United Nations General Assembly adopted Resolution 54/134 declaring November 25 the International Day for the Elimination of Violence Against Women. The origins of November 25 go back to 1960, when the three Mirabal sisters from the Dominican Republic were violently assassinated for their political activism. The sisters, known as the 'Unforgettable Butterflies,' became a symbol of the crisis of violence against women in Latin America. November 25 was the date chosen to commemorate their lives and promote global recognition of gender violence, and has been observed in Latin America since the 1980s.

¹⁰⁹³ “Extenuating circumstances” legally justified the killing of women to protect the “honor” of men, family or community, in the majority of cases without any evidence on their guilt.

¹⁰⁹⁴ AMAN was co-founded by SIGI Jordan (Sisterhood is Global Institute-Jordan) and The Hinrich Boel Foundation.

¹⁰⁹⁵ See <http://www.amanjordan.org/english/index.htm>

¹⁰⁹⁶ http://www.unifem.undp.org/global_spanner/arab.html

¹⁰⁹⁷ The Court was established by a group of Arab NGOs and distinguished personalities gathered in Rabat, Morocco on 30th November and 1st December 1996.

¹⁰⁹⁸ Kalpana Sharma - Women’s Enews Inc., July 29, 2002.

¹⁰⁹⁹ Information received by the Lawyers Collective, Women’s Rights Initiative, July 2002.

¹¹⁰⁰ Information received by Virgilio Pernito, Programme Director, Population Services Pilipinas Inc.

¹¹⁰¹ Information received by the Women’s Crisis Centre, Manila at the NGO Consultations held for the UNSRVAW by APWLD.

¹¹⁰² Written Report submitted to the UNSRVAW by the Fiji Women’s Crisis Centre, August 2002.

¹¹⁰³ Information received by the Commonwealth Office of the Status of Women, June 2002.

¹¹⁰⁴ ¹¹⁰⁴ See <http://www.nowldef.org/html/njep/index.htm> for further information.

¹¹⁰⁵ In 1996, NJEP published *Adjudicating Allegations of Child Sexual Abuse When Custody is in Dispute* to assist judges in dealing with this subject by providing the current, empirical information on assessing child sexual abuse allegations in the custody context. *When Bias Compounds: Insuring Equal Justice for Women of Color in the Courts*, published in 1998, addresses problems faced by women of color as litigants, witnesses, defendants, court employees, lawyers, and judges.

¹¹⁰⁶ For a list of task force reports, see <http://www.nowldef.org/html/njep/PDFdocs/taskforce.pdf>.

¹¹⁰⁷ For more information, see Verizon Wireless, HopeLines Fact Sheet, at

http://www.verizonwireless.com/jsp/aboutus/community_service/hopeline_fact.jsp (last visited October 10, 2002).

¹¹⁰⁸ In Central America (Belize, Costa Rica, El Salvador, Nicaragua and Panama. Another project in the Andean region (Peru, Bolivia and Ecuador).

¹¹⁰⁹ EWL is a coalition of women’s NGOs in the European Union (EU) representing over 3,000 affiliated organisations from the current fifteen Member States of the EU as well as European-wide women’s organisations. It was established in 1990 to achieve equality between women and men and to ensure that gender equality and women’s rights are taken into consideration and mainstreamed in all EU policies.

¹¹¹⁰ See <http://www.seeline-project.net>