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Council of Europe: Women should be free of all gender-based violence

Summary of Amnesty International's initial recommendations on the scope and content of a future Council of Europe Convention on action to combat violence against women

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Amnesty International calls on the 47 Member States of the Council of Europe to agree to draft a comprehensive human rights treaty on the human rights of women and girls to be free of all forms of gender-based violence, through the life cycle. The elaboration of such an instrument would be a critical next step in the effort to eradicate violence against women.

The organization urges the Council of Europe Committee of Ministers to mandate a multi-disciplinary expert group, aided by the input of NGO participants, to begin the drafting of such a Convention. Such an initiative, launched at the end of the 18-month Council of Europe Campaign to Combat Violence against Women, including Domestic Violence, would send a clear signal that the Council of Europe's member states are resolved to take further effective action to address these gender-based violations of women's human rights. As the Council of Europe's Deputy Secretary General, Maud de Boer-Buquicchio, noted only last week while in Yerevan, such violations take place "in all countries, at all levels of society and even among families, colleagues and friends, and are an obstacle to achieving equality between women and men." It would be a key strategic next step in animating the commitment expressed by the Heads of State and Government gathered at the Third Summit of the Council of Europe in Warsaw in May 2005 "to eradicating violence against women and children, including domestic violence."¹

¹ Warsaw Declaration, paragraph 9, available at:
http://www.coe.int/t/dcr/summit/20050517_decl_varsovie_en.asp.

Amnesty International endorses the Council of Europe's Commissioner for Human Rights conclusion that "the time has come to develop legally binding norms for the prevention, protection and prosecution of violence against women, including measures for the care of victims".² The organization concurs with the Opinion of the Council of Europe's Task Force against Violence against Women, including Domestic Violence in the view that the scope of such a Convention should cover all forms of gender based violence against women and girls throughout their life cycle, including domestic violence.³

Amnesty International's research⁴, the research of other NGOs and the work of the Council of Europe⁵ indicates that, notwithstanding the efforts being taken by members of civil society and some governments, more concerted and coordinated action is needed. In the words of the Council of Europe's Secretary General, Terry Davis, "violations of women's human rights are still common and have actually increased in some regions of Europe in recent years. Women are often exposed to practices which could be classed as torture or inhuman or degrading treatment. These include domestic violence, sexual harassment, rape, forced marriage, "honour" killings, genital mutilation and trafficking in human beings."⁶

² Viewpoint of the Council of Europe's Commissioner for Human Rights, "An international or European treaty is needed for the protection of women against violence", 7 January 2008, available at http://www.coe.int/t/commissioner/Viewpoints/080107_en.asp.

³ Document: EG-TFV (2008) 2 final of 4 April 2008.

⁴ See, e.g., *Hungary Cries unheard: The failure to protect women from rape and sexual violence in the home*, AI Index no: EUR 27/002/2007, available at <http://www.amnesty.org/en/library/info/EUR27/002/2007>; and Amnesty International's submissions to the Human Rights Council's Universal Periodic Review Mechanisms on the Czech Republic, Poland, the United Kingdom, available respectively at <http://www.amnesty.org/en/library/info/EUR71/003/2007>; <http://www.amnesty.org/en/library/info/EUR37/005/2007/en>; <http://www.amnesty.org/en/library/info/EUR45/020/2007/en>.

⁵ See, e.g., the *Stocking Study* on measures and action taken in Council of Europe member states to combat violence against women, available at [http://www.coe.int/T/E/Human_Rights/Equality/PDF_CDEG\(2006\)3_E.pdf](http://www.coe.int/T/E/Human_Rights/Equality/PDF_CDEG(2006)3_E.pdf); the *Analytical study on the Effective Implementation of Recommendation Rec (2002) 5 in Council of Europe member states*, available at [http://www.coe.int/T/E/Human_Rights/Equality/PDF_CDEG\(2006\)3_E.pdf](http://www.coe.int/T/E/Human_Rights/Equality/PDF_CDEG(2006)3_E.pdf), and the recent assessment of the implementation of seven key measures identified by the Parliamentary Assembly of the Council of Europe, set out in *Parliaments united in combating Domestic Violence against women, : follow-up to Resolution 1582(2007) Replies from Contact Parliamentarians and National Delegations on the Assessment of the implementation of key measures identified by PACE*, Doc: AS/Ega(2008) 15 rev, update: 7 May 2008.

⁶ Speech delivered by Terry Davis, Secretary General of the Council of Europe, during the 6th Ministerial Conference on Equality between Women and Men, in Stockholm, 8-9 June 2006 available at http://www.coe.int/T/DC/Press/news/200600408_disc_sg_stockholm_en.asp.

Some of the present discussion has considered limiting the convention's reach to one form of violence, namely domestic violence. While the prevention, protection of victims and prosecution of those responsible for domestic violence is of paramount importance, to restrict the scope of the convention in this manner would be to miss an opportunity to tackle the larger problem in an integrated manner and would be to disregard the view of the Committee of Ministers in its seminal Recommendation Rec (2002) 5. The UN Secretary-General's *In-depth study on all forms of violence against women*⁷ has also noted: there are "many forms and manifestations of violence against women in a wide range of settings, including the family, the community, State custody and institutions, armed conflict and refugee and internally displaced persons situations. Such violence constitutes a continuum across the lifespan of women, it cuts across both the public and the private sphere and one form of violence often reinforces another."

Limiting the scope of a Council of Europe Convention only to violence between current and former partners could serve to curtail the protection afforded to women and girls in Europe. It would exclude protection for victims of violence in the community, such as sexual attacks in the street, or by the state, such as in a social care home or in a police or prison cell. It would also exclude other victims of violence against women in the family (for example, when a crime is committed against a woman by a brother or father in the name of "honour"). Such victims could continue to experience difficulties in accessing services or achieving justice because, in the absence of binding obligations to do so, the state undertakes to devote greater resources to a much narrower class of victims, based on the relationship between herself and the perpetrator.

Further, if the existing Council of Europe definition of domestic violence is applied, the great harm of repeated physical and/or sexual violence suffered by an adult woman – whether domestic worker or family member such as sister, daughter or mother – would not be covered in the scope of a Council of Europe Convention. Under that definition, the perpetrator of such violence is identified as a "partner". It would be grotesque as well as legally inaccurate to describe the abusers in such cases as the woman's "partner" yet this abuse continued for years within a home.

Violence against women in all its forms requires a comprehensive and proactive approach, where women and girls are assisted fully, regardless of the type of violence they have suffered or the existence or otherwise of a relationship with the perpetrator.

The need to adopt binding treaty obligations aimed at ensuring comprehensive and coherent state action to eradicate a range of forms of gender-based violence against

⁷ UN Doc: A/61/122/Add.1, 6 July 2006. This document was the fruit of several years' work and a number of meetings of experts from all over the world. The preparation of the study had been mandated by the UN General Assembly, which endorsed and adopted the study, in 2007, in a recommendation calling for "[i]ntensification of efforts to eliminate all forms of violence against women." See General Assembly Resolution 61/142, UN Document A/RES.61/143, 30 January 2007.

women has been recognized by both the Organization of American States and the African Union alike, both of which have adopted binding provisions aimed at elimination of all forms of violence against women. The *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women* (also known as Convention of Belem do Para), is the most widely ratified convention within the Inter-American human rights protection system. The *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa* addresses the question in the African region.

Amnesty International therefore urges the 47 members of the Council of Europe, who are represented by the Committee of Ministers, to agree, without delay, to draft a treaty which incorporates and builds on existing Council of Europe and other international standards aimed at the eradication of all forms of violence against women and girls throughout their life cycle.

The organization considers that such a human rights based Convention should set out provisions which require states parties to respect the rights of women to be free from violence, and to take a range of legislative and other measures to prevent, protect and bring to justice those responsible for violence against women, including domestic violence.

The Council of Europe Convention should ensure that states take a coordinated multidisciplinary approach to assisting women and girls – across professions, including lawyers, medical personnel, civil servants, housing and other service providers. Reforms of criminal law alone (whether substantive or procedural) are not enough. If women and girls are afraid of going to the police for a variety of reasons: for example, either because they fear being turned away or further abused; they fear worsening their situation because they are dependent on their abuser for housing or economic means of survival; or they fear losing custody of their children. Women need to be able to approach the state confidently that the state apparatus will treat them fairly and in accordance with their human rights as a whole.

Amnesty International also considers that the Convention should establish a monitoring body, composed of independent experts with experience in a range of relevant disciplines, to monitor and guide states in the implementation of such a Convention through a system of reviewing of periodic reports and consideration of complaints brought by individuals, groups or organizations.