



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2003/75
6 January 2003

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-ninth session
Item 12 (a) of the provisional agenda

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

VIOLENCE AGAINST WOMEN

Executive summary

Since the creation of the mandate on violence against women, its causes and consequences, in 1994 the world has achieved greater awareness and understanding of gender-based violence, and more effective measures are being developed to confront the problem. The international community has made great strides in setting standards and elaborating a legal framework for the promotion and protection of women from violence. While at the normative level the needs of women are generally adequately addressed, the challenge lies in ensuring respect for and effective implementation of existing law and standards. Much more remains to be done to create and sustain an environment where women can truly live free from gender-based violence.

The report documents key developments at the international, regional and national levels. The Special Rapporteur welcomes the many efforts at standard-setting and norm creation at the international level and the array of activities and initiatives taken by States aimed at the elimination of violence against women, including the adoption of amendments to relevant laws, and educational, social and other measures, including national information and awareness-raising campaigns.¹ In addition to the existence of laws, mechanisms for enforcing rights and redressing violations are also of crucial importance. Recent developments at the national, regional and international levels, in the prosecution of those responsible for violence against women are very important steps in the fight against impunity, not only because the perpetrators are brought to justice, but also because of the general deterrent effect such developments will hopefully have.

Despite the progress, in general States are failing in their international obligations to effectively prevent, investigate and prosecute violence against women. Violence against women and girls continues in the family, in the community, and is perpetrated and/or condoned by the State in many countries.

The report emphasizes that violence is a multifaceted problem, with no simple or single solution. Violence must be addressed on multiple levels and in multiple sectors of society simultaneously, taking direction from local people on how women's rights may be promoted in a given context. By working on the improvement of data and statistics on violence against women, adopting special legislation that guarantees equal protection of the law and enforcement of its provisions, Governments can put in place the building blocks of a system that can respond more effectively to gender-based violence. The allocation of resources, support to research and documentation on causes and consequences of gender-based violence, education and prevention programmes to support efforts to increase community responsibility, making information on women's rights readily available and creating partnerships between Governments and NGOs are also necessary important steps.

Lastly, the Special Rapporteur sets out her conclusions, challenges for the future, and several recommendations highlighting the need to address (a) root causes of violence, including women's poor economic, social and political status, which constrains knowledge of their rights and access to options and resources, (b) equal access to the criminal justice system and (c) impunity for gender-based violence. It is the view of the Special Rapporteur that the greatest challenge to women's rights comes from the doctrine of cultural relativism and that the articulation of sexual rights is the final frontier for the women's movement.

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
Introduction	1 - 6	4
I. DEVELOPMENTS (1994-2002)	7 - 14	5
II. ARMED CONFLICT	15 - 25	6
III. VIOLENCE IN THE FAMILY	26 - 36	9
IV. SEXUAL VIOLENCE/RAPE	37 - 46	11
V. SEXUAL HARASSMENT	47 - 50	13
VI. TRAFFICKING	51 - 60	14
VII. RELIGIOUS EXTREMISM AND HARMFUL TRADITIONAL PRACTICES	61 - 70	16
VIII. CONCLUSIONS	71 - 83	19
IX. RECOMMENDATIONS	84 - 104	21

Introduction

1. The Commission on Human Rights, at its fifty-eighth session, in its resolution 2002/52, welcomed the work of the Special Rapporteur on violence against women, its causes and consequences, and took note of her report on cultural practices in the family that are violent towards women (E/CN.4/2002/83 and Add.1-3).
2. Ms. Radhika Coomaraswamy will complete her term of office as Special Rapporteur on violence against women in 2003. In this context, her final report to the Commission on Human Rights looks back at the period of development (1994-2002) and subjects it to review. The purpose is to present a "State of the World" report so that her successor may have the information necessary to assess the future direction and activity for the international community in general and the Commission on Human Rights in particular. It focuses on developments at the international, regional and national levels aimed at eliminating violence against women since 1994 when the mandate of the Special Rapporteur was created.
3. The Special Rapporteur draws the attention of the Commission to addendum 1 to the present report, which contains a detailed review of international, regional and national developments and best practices and which should be read together with this report. Furthermore, addendum 2 to the report contains summaries of general and individual allegations, as well as urgent appeals transmitted to Governments, and their replies thereto.

Working methods

4. In order to provide a systematic review 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.² The Special Rapporteur also constituted a research team to assist her in reporting to the Commission. The results of their research are also included in the present report.³

Country visits

5. The Special Rapporteur regrets that her visit to the Russian Federation (Republic of Ingushetia and Chechnya) with respect to the situation in the Republic of Chechnya, scheduled for 2002, did not take place. The joint visit with the Representative of the Secretary-General on internally displaced persons was postponed for the second time, in September 2002, by the Government, for security reasons. The Special Rapporteur remains concerned about the situation and hopes that the visit will take place in 2003.
6. The Special Rapporteur postponed visits to Turkey, the Islamic Republic of Iran and Mexico due to personal circumstances and hopes that the visits can be rescheduled for 2003.

I. DEVELOPMENTS (1994-2002)

7. The mandate of the Special Rapporteur on violence against women, including its causes and consequences, was created in 1994 after a decade of international activism and concern.⁴ The history of women's rights in the United Nations system has been a reflection of the diverse concerns of women throughout the world and their joint effort to make the international community more sensitive to the needs and rights of women.
8. The struggle for women's rights within the United Nations system may be divided into three important phases, each signalling a major gain for the protection of the rights of women. The first phase occurred soon after the creation of the United Nations with emphasis on vindicating the civil rights of women. Resolutions and declarations called for women's political rights, including the rights of citizenship and the right to vote.
9. The second phase, in the 1960s and the 1970s, culminated in the adoption of the Convention on the Elimination of All Forms of Discrimination against Women ("the Convention"). Structured around the elusive concept of equality, the Convention asserted the equality of women with men and the right of women to be treated equally in every sphere of life. Focusing on political and civil rights as well as economic and social rights, the Convention urged States to take positive measures in the field of public administration, education, health, employment and the family to ensure that women enjoyed full equality with men. In article 5 the Convention confirmed its transformative project by requiring States to take measures to combat cultural practices and stereotypes that result in women's subordination.
10. Ironically, violence against women (VAW) was not to become an international priority until the late 1980s. Since the issue was taboo in many societies where the private sphere was insulated from scrutiny, it took a decade of activism by women's groups to impress upon the international community that VAW was a universal harm that required international standard-setting and scrutiny. In 1991 both the Economic and Social Council and the Commission on the Status of Women decided that the problem of VAW was important enough to warrant further international measures. As a consequence, the Committee on the Elimination of Discrimination against Women (CEDAW) adopted general recommendation No. 19 on VAW in 1992.
11. Finally, in 1993 at the Vienna World Conference on Human Rights, women's rights were recognized as human rights. States resolved in the Vienna Declaration and Programme of Action to take action to fight VAW worldwide. Within six months of the Conference, the General Assembly proclaimed the Declaration on the Elimination of Violence against Women ("the Declaration"), in its resolution 48/104 of 20 December 1993 and the post of the Special Rapporteur on violence against women was created in 1994 by the Commission on Human Rights. The Fourth World Conference on Women held in Beijing in 1995 reiterated the strides taken in Vienna, making VAW the centrepiece of its Platform for Action.
12. Another important development was the entry into force of the Optional Protocol to the Convention in 2000. It entitles CEDAW 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. Other human rights treaty

monitoring bodies are integrating a gender perspective into their work in their examination of reports submitted by States parties and also regularly adopt concluding observations relating to VAW.

13. At the regional level, the Declaration of the Advancement of Women in the ASEAN Region was signed in 1988; the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Para) was adopted by the General Assembly of the Organization of American States in 1994. In the same year, the Inter-American Commission established the Special Rapporteur on the rights of women. The African Commission on Human and Peoples' Rights appointed a Special Rapporteur on the rights of women in Africa in 1998. The European Union Presidencies have, since 1998, placed violence against women on the political agenda and adopted a number of recommendations. The African Union is currently developing an Additional Protocol on women's rights in Africa to the African Charter on Human and Peoples' Rights. The League of Arab States launched the Arab Women's Organization in 2002 and a number of conferences to debate women's rights and strategies to improve women's status in the region have taken place.

14. When the post of Special Rapporteur was created in 1994, VAW was widespread and unchallenged. International women's groups lobbied Governments to place VAW during armed conflict and by the State; in the family, such as domestic violence and cultural practices; and in the community, such as rape, sexual harassment, religious extremism and trafficking, on the international agenda. All these concerns became part of the Special Rapporteur's mandate.

II. ARMED CONFLICT

15. In 1994, no effective international framework for vindicating the rights of women who were affected by violence during conflict existed. After the war in Bosnia Herzegovina and the genocide in Rwanda, the terrible reality of VAW during wartime presented a graphic reality etched in the minds of all. Rape was used with impunity as a tactical weapon to intimidate and terrorize the target population. In places like Haiti and the then East Timor, rape was used to punish wives and female sympathizers of the suspected enemy. In many wars and communal conflicts rape was seen as a means of humiliating the other side and destroying the sexual purity of their women. Integrally linked to concepts of honour, rape was a means of communicating defeat to the men of the other side.

16. Though codes of conduct during the ancient and medieval periods prohibited rape and pillage by warriors, modern systems of laws relating to armed conflict paid little attention to VAW. The Fourth Geneva Convention, to which most countries in the world are signatories, regarded rape during wartime as a prohibited act although it is not clearly articulated as a "grave breach". Many countries argued that rape during war was not a war crime or a crime against humanity. The argument was forcefully made by Japanese officials when the issue of "comfort" women and sexual slavery was raised before them. The invisibility of crimes of VAW during wartime was part of the legacy of international law and international criminal practice. Filling this great gap was one of the important areas on which all groups and individuals interested in vindicating the rights of women at the national and international levels focused their activities.

17. Since 1994 the most significant development in this area is the adoption of the Rome Statute of the International Criminal Court (ICC), which specifically defines rape and other VAW as constituent acts of crimes against humanity and war crimes. Explicit language now prohibits all types of sexual VAW during wartime. Article (7) (1) (g) states that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or other forms of sexual violence of comparable gravity constitute crimes against humanity when the constituent elements of the crime are present. Article (8) (2) (b) (22) does the same with regard to war crimes during international conflicts and article (8) (2) (e) (6) with regard to war crimes during internal conflicts. In addition, the crime of enslavement is recognized in article (7) (2) (c) to include trafficking in women and children. Article (7) (1) (h) recognizes gender as an independent ground of persecution when it concerns to crimes against humanity and the definition of torture in article (7) (2) (e) is broad enough to include acts by private actors.

18. The Rome Statute also addresses numerous structural issues - including the need for judges and prosecutors with special expertise in VAW 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 justice for victims of gender-based violence. Article 36 (8) (a) of the Statute calls for a gender balance among the judges and article 36 (8) (b) requires that one of the judges be a specialist on VAW and children.

19. Developments included important cases before the ICTY and the International Criminal Tribunal for Rwanda (ICTR). The Foca case, the FWS-75 case before the ICTY, and the case of JJ a witness in the famous Akeyesu trial before the ICTR, were landmark cases where VAW during wartime was taken seriously and perpetrators prosecuted. Their testimonies were becoming part of public international record and their stories the basis for major developments in international law. The Court in the Foca case found the perpetrators guilty of crimes against humanity on the grounds of rape, torture, outrages on personal dignity and enslavement. As a result of these cases, there is a growing international jurisprudence on issues relating to VAW during wartime. The international courts are grappling with definitions that could set important precedents for national and international jurisprudence.

20. There are diverse approaches within the courts on these issues and it is essential to streamline the jurisprudence to ensure that final concepts and procedures give women access to justice while protecting the rights of defenders before a criminal tribunal. One area where these concerns are manifest is the definition of rape. The various trial courts of the tribunals have defined rape in the context of war crimes and crimes against humanity differently. In the Akeyesu case ICTR defined rape in the context of war crimes and crimes against humanity as “a physical invasion of a sexual nature committed under circumstances that are coercive”. In the Furundzija case, ICTY defined rape as “sexual penetration (a) of the vagina, anus of the victim by the penis of the perpetrator or any other object used by the perpetrator or (b) of the mouth of the victim by the penis of the perpetrator, by coercion, or force or threat of force against the victim or third person”. In the Foca case the Court also required the definition of rape to include sexual penetration and also adds that rape occurs where “(i) the sexual activity is accompanied by force or threat of force to the victim or the third party, (ii) the sexual activity is accompanied by force or a variety of other specified circumstances which made the victim particularly

vulnerable or negated her ability to make an informed refusal or (iii) the sexual activity occurs without the consent of the victim". The test of the Foca case is whether the victim was unable to resist.

21. Over the years, specialists redefined rape laws to eliminate the requirements of overwhelming physical force, the requirement of sexual penetration of the vagina, the emphasis on the consent of the victim and the need for corroboration of the victim's testimony to give women greater access to justice. Rule 96 of the Rules of Procedure and Evidence of the ICTY also deals specifically with the issue of consent. It states, "... (ii) consent shall not be allowed as a defence if the victim (a) has been subjected to or threatened with or has reason to fear violence, duress, detention or psychological oppression, or (b) reasonably believed that if the victim did not submit, another might be subjected, threatened or put in fear; (iii) before evidence of the victim's consent is admitted, the accused shall satisfy the Trial Chamber in camera that the evidence is relevant and credible".

22. In this context of new approaches to VAW, some of the recent jurisprudence coming out of the tribunals is disturbing. Though the overwhelming nature of the evidence has been such that perpetrators have been prosecuted and punished for their actions, it is important that the tribunals do not fall short of current gender-sensitive law reform. Though one welcomes the sexual violence provisions of the Rome Statute, it is important that the evidentiary rules and procedures also protect the rights of women. Otherwise, there will be crimes enumerated on paper but actual prosecutions may fail because they do not give women proper protection under the law. A remaining weakness of the international criminal system is that women are treated as witnesses rather than complainants in the prosecution of crimes of sexual violence against them. The experiences of the victims must be central to the process with greater emphasis on victims' interests, concerns and rights, including compensation, in order for the procedure to empower them through recognition and catharsis.

23. Women are affected in diverse ways by armed conflict. Victims of rape often suffer health problems, including HIV, rejection, depression, destitution and prostitution. In many conflicts women face sexual violence by the enemy, and are subjected to domestic violence by their husbands. Women and children are the majority of refugees or the internally displaced population. Women are also increasingly combatants, playing a major role in the armed conflict itself, or trafficked to areas where large armies of men are stationed. Finally, they suffer continued violence and discrimination in the rehabilitation and reconstruction process, and although women make up the majority of heads of household in most post-conflict situations, their families and their needs are rarely adequately factored into international donor and reconstruction programmes, or in the distribution of humanitarian aid.

24. 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 2002.⁵ 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 the IASC member organizations. These principles represent agreed principles and standards of behaviour that humanitarian agencies, United Nations or NGOs, expect of their staff. UNHCR has formal guidelines on preventing and

responding to sexual violence and many donor agencies have included women's concerns in their donor activity in war-torn countries. The next decade must ensure that these international standards actually result in changed practices at the field level. Effective systems of monitoring and evaluation will have to be developed and implemented.

25. Finally, the adoption by the Security Council 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 at all stages of peacemaking and peace-building. The report of the Secretary-General on women, peace and security (S/2002/1154) contains recommendations which will further assist in the implementation of resolution 1325 (2000), together with those of the independent experts of the United Nations Development Fund for Women (UNIFEM) on the impact of armed conflict on women and the role of women in peace-building.⁶

III. VIOLENCE IN THE FAMILY

26. In 1994 the crime of domestic violence was hidden behind deference to notions of intimacy in the private sphere; violence in the home was rarely prevented or prosecuted. The belief that family integrity should be protected at all costs prevented many women from seeking outside help. Meanwhile, laws and criminal justice procedures did not recognize domestic violence as a separate crime, and prosecutions had to be brought under the general law of assault and battery. As a result cases were rarely prosecuted and women continued to suffer in silence.

27. Since 1994, a great deal has occurred at the standard-setting level with regard to domestic violence. The Declaration clearly states that State inaction with regard to preventing and punishing crimes of domestic violence is a violation of international human rights. The Convention of Belém do Para reiterated this at the regional level and CEDAW in its general recommendation No. 19 articulates a similar provision. As domestic violence is perpetrated by private actors, the due diligence standard drawn from international law doctrine has been used to assess the duty of States with regard to violence in the family. In order to protect women's human rights Governments are expected to actively intervene even if the rights are violated by a private individual. By failing to intervene, in particular if this failure is systematic, the Government itself violates the human rights of women, too. Governments are requested to pursue by all appropriate means and without delay a policy of eliminating VAW, whether those acts are perpetrated by the State or private individuals.

28. In terms of legislation, domestic violence is undoubtedly the area in which many countries have made progress over the past decade. There is an emerging consensus that States in fighting domestic violence should enact special legislation with regard to the crime of domestic violence.⁷ This may be in the form of amendments to existing penal codes ensuring that the crime is treated seriously by the police, or as separate legislation to deal with the specific requirements of victims of domestic violence on account of the intimate connection with the perpetrator.

29. The ideal legislation with regard to domestic violence would be one that combines both criminal and civil remedies. Countries have experimented with varying degrees of success with the concept of mandatory arrest of the perpetrator of domestic violence. This is often

accompanied by mandatory prosecution of the perpetrator regardless of the victim's concerns. Some have argued that "mandatoriness" goes against the concept of women's human rights and that the victim should retain control of the proceedings, while others have argued that mandatory arrest and prosecution will prevent abuse of discretion by the police and serve as a strong deterrent to abusers.

30. Civil remedies are essential; the protection order which forbids the offender from having contact with the victim and protects her home and family from the perpetrator is an important weapon in the arsenal used to fight domestic violence. In legislation dealing with domestic violence, the family is often defined broadly to include the plethora of relationships that can occur within the domestic arena, including cohabiting couples, the elderly, children and domestic workers. Violence is also increasingly defined to include psychological abuse and the withholding of economic necessities from the victim.

31. Besides legislation, sensitization and reform of the criminal justice system are necessary, as they are generally insensitive to the needs of the female victim. Some countries have set up special police stations or police desks staffed by women to be more responsive to the needs of the victim. However, they frequently lack the necessary resources, officers do not receive appropriate training and, in addition, they are often located in only a few police stations in the urban areas and women in the rural areas still go to the main police stations where police see the problem as a "woman's issue". The provision of specialized services in the form of special police stations or desks is welcome, but there is no substitute for training in domestic violence and other VAW issues for the whole police force so that they are aware of the issues and the type of measures that should be taken.

32. It is not only the police force that requires sensitization; judges' training institutes and public prosecutors' offices need to have special courses on domestic violence to ensure a more responsive criminal justice system. Any comprehensive programme to deal with domestic violence must also include training for health professionals as they have privileged access to the victim. Health professionals may ascertain whether a particular injury is due to domestic violence and refer the victim to appropriate services and support. In some countries in South-East Asia the hospital has become the place where the victims of domestic violence seek a whole host of services. This is an innovative and welcome development.

33. The most successful initiatives often involve a partnership between the criminal justice system and women's organizations. Women's groups provide victims of violence with support services such as legal, medical and psychological counselling, which the police are not able to provide, enabling a victim to have support through the different stages of the process.

34. Programmes for the treatment of batterers are another approach. Some have high success rates while others show high drop-out rates by the perpetrators and a violence-free lifestyle of only up to two years. While programmes for batterers may be helpful, they cannot deal effectively with domestic violence in isolation.

35. The last decade has witnessed an enormous growth in awareness of domestic violence. This has been augmented in some countries by legislation and programmes and NGO activities aimed at fighting domestic violence. However, there is a long way to go. In 2002 the World

Health Organization, launched the first World Report on Violence and Health. One section deals with the issue of violence by intimate partners. The findings show that despite the progress in the last decade, we have only touched the tip of the iceberg:

- In 48 population-based surveys from around the world between 10 and 69 per cent of women reported being hit or physically harmed by an intimate male partner at some time in their lives (p. 89);
- Studies from Australia, Canada, Israel, South Africa and the United States of America show that 40-70 per cent of female murder victims were killed by their husband or boyfriend, frequently in the context of an ongoing abusive relationship (p. 93);
- In many societies women themselves agree with the idea that men have the right to use force against their wives. In Egypt over 80 per cent of rural women share the view that beatings are justified if a woman refuses her man sex, 61 per cent believe that beatings are justified if she neglects the children or the house and 78 per cent believe that beatings are justified if she answers back or disobeys her husband (p. 95);
- 20-70 per cent of abused women never told another person about the abuse until they were interviewed for the WHO study (p. 96);
- Among the factors associated with domestic violence is that the individual perpetrator is usually young, a heavy drinker, with psychological or personality disorders. He is likely to have low academic achievement, low income, and may have witnessed or experienced violence as a child. Community or societal factors that affect the incidence of domestic violence are weak community sanctions against domestic violence and societal norms that support violence in the resolution of conflict (p. 97).

36. The WHO report shows that a great deal more has to be done with regard to fighting violence in the home. Increasingly, there is a belief that while laws and programmes are useful, there has to be a coordinated community-based intervention in order for the violence to stop. The Pan-American Health Organization (PAHO) is currently attempting to set up coordinating councils at the community level, including the mayor, magistrates, the local priest, health professionals and representatives of women's groups. These councils are responsible for a door-to-door campaign against domestic violence. Now that the framework of international and national laws is falling into place, it is becoming increasingly important to take the campaign to the local level. Without that effort, it is unlikely that there will be any major change in the actual lives of women with regard to violence in the family.

IV. SEXUAL VIOLENCE/RAPE

37. In 1994, the crime of sexual violence was an invisible crime that was rarely reported or prosecuted. Women victims were often too ashamed to come forward and if they did the criminal justice system penalized them. This forced a rethinking of the issues and many countries began to consider law reform to ensure a better system of justice for the victims.

38. The classical approaches to rape and sexual violence present a legal structure that is deeply suspicious of the victim. In some countries, rape is seen as a crime of honour and not a crime against the person. This paradigm sees rape as a moral issue and not a problem of violence. If the woman is not “honourable” in the social sense, then her case can falter on the facts. In some countries a man can be excused of his crime if he marries the woman he raped. In this way the “honour” of the woman and the “integrity” of her family are seen to be protected. In these systems of law, rape as a violation of the human person is not given its due place in the criminal law.

39. In countries that inherited the Anglo-American system, rape was a crime against the person but the classical rape laws put the victim, and not the perpetrator, on trial. The classical definition of rape required sexual penetration of the vagina by the penis. Other forms of sexual acts that did not include the vagina or involved objects and not the male organ were not seen as rape. In addition the term “against her will” required proof of physical resistance by the woman in the form of bruises and wounds. In these same codes, the prosecutors have to prove that the woman did not consent. Past sexual history was allowed to be used as evidence to challenge her reputation and any allegation of rape had to be corroborated by medical evidence or by witnesses.

40. In addition to laws that were considered biased against the woman, the criminal justice system was often totally insensitive to the crime of rape. There was said to be an implicit hierarchy of rape victims. If you were a young unmarried virgin, the criminal justice system took your allegation more seriously. If you were an older married woman then your chances of a rape conviction were somewhat slim. If you had a past sexual history that was not monogamous or exclusive to a husband or a boyfriend, the chance of a rape conviction was non-existent. In this context, women were afraid of the criminal legal process, especially if they were from marginalized or vulnerable groups, and resisted complaining to the police.

41. In many countries, legislation has been enacted to amend the rape laws to conform to modern notions of justice. The sexual act covered by “rape” or sexual violence has been broadened to include the whole gamut of sexual acts. In some countries these acts are part of the continuum of sexual assault. In addition, the term “against her will” has been removed, thus not requiring physical injuries or bruises to show the woman’s resistance. Evidentiary laws have been amended so that past sexual history cannot be introduced as evidence and the victim’s testimony need not be corroborated to prove sexual violence. In addition, various types of rape are recognized, including marital rape and custodial rape. In a few countries marital rape is recognized as a crime and in some countries rape by State officials in institutions of custody and care is dealt with severely. In some countries gang rape and a rape of a minor involve severe punishments.

42. In many countries, the police station is not as unfriendly to rape victims as it once was. There are “rape suites” where rape victims can give their evidence in private comfortable surroundings, and units in the police and the prosecutor’s office specializing in crimes of sexual violence. These units develop a certain expertise and become effective over time in dealing with the complex questions involved in sexual violence cases.

43. Judges often either do not convict rape perpetrators or give short sentences of one to two years. Some countries have dealt with this reality by imposing mandatory sentences of seven years and above. While this ensures an adequate minimum sentence for perpetrators, it makes judges reluctant to condemn an alleged perpetrator when the evidence is less clear.

44. Efforts have also been made to train health professionals and provide special examination kits that ensure that all the evidence needed for a rape case is collected. These kits, along with DNA testing, have made rape prosecutions easier than they were a few years ago. In addition, as in domestic violence cases, hospitals have linked into networks that support women victims and therefore provide specialized services for the victim.

45. "One-stop centres" that provide 24-hour services, including legal, medical and psychological counselling services, have been set up by NGOs, either attached to a hospital or police station or autonomous. They support the victim through every step of the criminal justice process. These groups, working in partnership with the police, ensure that the rape trial is not the terrible, isolating ordeal that it once was. In addition, because of this support more women are willing to come forward, give evidence and work with the police and the prosecutors in their search for a rape conviction.

46. Despite many changes over the last decade, it is important to reiterate that reforms have not taken place in all countries. The WHO report confirms that only a small percentage of rape cases are reported to the police or to surveys and that the vast majority of rapes worldwide go unreported. Here are more of its findings:

- In some countries 6-8 per cent of the women surveyed reported sexual assault in the past five years (p. 151);
- In some countries 40 per cent of the married women interviewed stated that they were the victims of attempted or completed forced sex by their intimate partners (p. 152);
- 31.9 per cent of young girls attending an antenatal clinic in Cape Town, South Africa, reported that force was used during their sexual initiation. This was true for other countries in the Caribbean and in Peru (p. 152);
- In a survey in Canada, 23 per cent of the girls claimed that they had experienced sexual harassment while attending school (p. 155).

V. SEXUAL HARASSMENT

47. In 1994, sexual harassment was a relatively new concept with only a few decades of legal history. Over the last decade many countries have adopted laws on sexual harassment and have taken action to ensure the protection of women in public settings and in the workplace.

48. There are essentially two types of sexual harassment laws that have emerged over the last decade. The first, under the rubric "Eve teasing", in some countries is unwelcome advances and physical contact in public places. Many countries have legislated against this by making sexual

harassment in this kind of situation a crime. This requires a woman to make a complaint at a police station when she has been manhandled on a bus or is being subjected to physical advances or sexually coloured remarks.

49. The second type relates to sexual harassment in the workplace. In this context employers can be held accountable if an employee is subjected to harassment such as an offer of favours for sex or denial of promotion because she resisted sexual advances. In addition, employees can hold their employers accountable if there is a hostile work environment where verbal or physical conduct of a sexual nature has the purpose or effect of unreasonably interfering with an individual's job performance or creating an intimidating, hostile or offensive work environment. In this context, the Indian Supreme Court, in the famous Visakha case, ruled that all institutions that have more than 50 employees must set out a sexual harassment policy; to include a complaints mechanism where an employee would have access to a committee to hear the complaints; that this committee must be headed by a woman and that not less than half the members must be women. Furthermore, a legal definition of sexual harassment was included in the revised European Union 1976 directive on equal treatment between women and men as regards access to employment, vocational training, promotion and working conditions. A revised directive was adopted in 2002 and member States have five years to translate it into national law.

50. The important strides in sexual harassment law and policy have started to transform the nature of some workplaces so that women can work without fear of intimidation or sexual advances. Human rights activists have warned against taking sexual harassment policy to its extreme. The plethora of rules and regulations that attempt to control speech and behaviour must always be sensitive to the implications for free speech and association.

VI. TRAFFICKING

51. In 1994 the problem of trafficking was gaining some visibility as a form of VAW; however, the international community was sharply divided between schools and approaches to the definition of trafficking.⁸

52. The traditional framework for dealing with the question of trafficking was the 1949 Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. That Convention, adopting the abolitionist approach to trafficking and prostitution, punishes those who exploit the prostitution of others. This framework came under a great deal of criticism and in 1994 there were two basic challenges to this approach to trafficking and prostitution. The first came from the regulationist school that wanted to decriminalize all aspects of prostitution and wanted to license and regulate its practice. In this model sex work is a legitimate enterprise and sex work may be carried out under licence from the State. This would mean compliance with certain zoning laws, ensuring health and safety standards, and labour law protection for the sex worker. The second model saw prostitution as sex work but wanted to rely on the organization and unionization of sex work. These organizations would protect the rights of sex workers and also ensure their health and safety. This trade union model has emerged over the last few decades especially in countries where the regulationist model is followed.

53. Both the regulationist model and the rights model challenged the basic assumption of the mainstream abolitionist framework that saw prostitution as legitimate sex work. In addition, while the old framework linked trafficking to prostitution with or without the consent of the victim, new schools of analysis with regard to the phenomenon of trafficking began to see matters differently. Firstly, the increase in migration patterns throughout the globe underscored the link between migration, the free movement of people and trafficking. Many writers were of the belief that any framework to regulate trafficking must protect the freedom of movement of individual women since migration was often the key to their survival. In addition, it was recognized that trafficking was not only for the sole purpose of prostitution, but that people were trafficked for a whole host of other purposes such as forced labour, forced marriage, organ removal, etc.

54. These criticisms of the mainstream framework were strongly resisted by many countries and NGOs who continued to believe that the abolitionist framework was the correct approach. Their only concern was that the 1949 Convention had no monitoring or enforcement mechanism and that a new Convention was necessary to ensure compliance. In 1994, due to the lack of an international consensus a new International Convention on Trafficking seemed unlikely.

55. However, in 2000, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime was adopted. The international community now has a new international standard to combat modern forms of trafficking. The definition involved long and arduous negotiations but the following was agreed:

“‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

56. The definition will evolve in its interpretation; however, mere recruitment or transportation across borders for purposes of prostitution is not enough as per the 1949 Convention. Some kind of force or abuse is required. The threshold for that abuse or force is extremely low and could involve the mere abuse of vulnerability, a category hitherto unknown in the criminal law. A subsequent article states that, mere transportation or recruitment of children is enough to incur liability. In addition exploitation is defined broadly to include not only the exploitation of prostitution but also forced labour, slavery-like practices and the removal of organs.

57. The achievements with regard to trafficking have not only been a new international definition of trafficking; concerted action is being taken in some regions and countries to fight trafficking. The European Union has a comprehensive policy and programme on trafficking with the national police forces cooperating with one another and with special donor assistance for groups that work with trafficking victims. The United States has also adopted comprehensive

legislation on fighting trafficking and has an aid policy that punishes countries that do not take measures against trafficking in their societies. The South Asian region inaugurated its first convention against trafficking.

58. Many salutary developments have taken place: large trafficking rings have been exposed and brought to trial; immigration policies have changed so that women victims are not deported immediately but given a certain time to testify against traffickers and expose the trafficking ring. Strong laws on trafficking and organized crime have been introduced in some countries including provisions for witness incognito and victim protection programmes. Mandatory sentences have been introduced in certain countries to ensure that traffickers are punished, and there has been extensive training of the police forces in the different regions. Active NGOs in host countries and in sending countries have been generously supported by donors so as to ensure effective action with regard to trafficking. This includes programmes in the cities and villages from where women migrate to rescue and rehabilitation and counselling support in the countries to which women are trafficked. Only effective action over a period of time can ensure that the phenomenon is either wiped out or brought under control.

59. In reforming laws with regard to trafficking sometimes States adopt measures that violate the human rights of the potential victims they wish to protect. In some countries, States have passed regulations that women have to have permission from male relatives before they can get a passport or travel abroad, or have the approval of their village head if they wish to leave the village. These types of measures have terrible consequences for women. It is important to protect their freedom of movement and their desire to migrate to make a better life for themselves. Many women leave their villages because of abuse and violence in the home, or because their husbands have taken second wives, or because they found life stifling and oppressive. Measures should be targeted to prevent abuse of their desire to migrate by traffickers, which is at the heart of modern forms of trafficking, while protecting the freedom of movement of women.

60. In this context, the Special Rapporteur encourages all States to use the Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1) which 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.

VII. RELIGIOUS EXTREMISM AND HARMFUL TRADITIONAL PRACTICES

61. In 1994, as well as today, the greatest challenge to women's rights and the elimination of discriminatory laws and harmful practices comes from the doctrine of cultural relativism. While in the public sphere, where men dominate, the Internet and modern forms of economic and social globalization are destroying citadels of cultural exclusivism, in the area of women's rights, especially in matters concerning the home and family, the Universal Declaration of Human Rights is challenged as being a cultural imposition from the outside. This is made worse by the policies adopted since 11 September 2001 by many groups and societies that feel threatened and under siege.

62. Cultural relativism is the belief that no universal legal or moral standard exists against which human practices can be judged. It is argued that the human rights discourse is not universal but a product of the European enlightenment and its particular cultural development, and thus a cultural imposition of one part of the globe upon another. Ironically, despite these claims, States sign international human rights instruments and agree to abide by their principles. It could therefore be argued that States have consented to be bound by certain universal principles. Human rights have become universal in scope and application. Human rights provide us in many contexts with a framework for dealing not only with brutality and violence, but also arbitrariness and injustice that must necessarily shock the conscience. Human rights such as the equal dignity of human beings resonate in all the cultural traditions of the world. In that sense, there is sufficient basis in every cultural tradition to foster and promote the value of human rights.

63. In actual fact very few States speak about the irrelevance of human rights in general to the conduct of their societies. It is only with regard to women's rights, those rights that affect the practices in the family and the community, that the argument of cultural relativism is used. Commentators have argued that during the struggle against colonialism, cultural attributes of a society were relegated to the home and the family. The home became the repository of a society's cultural traditions and values in the face of the colonial onslaught. As a result any attempt to change the norms and practices of the family is seen as an assault on the culture as a whole. Given this social and political reality, it is unlikely that cultural practices that are harmful to women will be eradicated overnight through the action of the international community. What is needed is a concerted strategy to work towards the goals of equality and non-violence over a period of time with the full participation of women from the affected societies.

64. Over the past decade a number of cultural practices have been brought to the attention of the international community. Among them are female genital mutilation, honour killings, sati (widow burning), punishment according to religious-based law and other practices that are particular to certain cultural communities. The Special Rapporteur's report to the fifty-eighth session of the Commission (E/CN.4/2002/83) highlighted many practices that exist throughout the world and in every region.

65. The regulation of female sexuality and protection of the institution of marriage continue to be underlying causes of many practices that constitute VAW. The inequality lies in the fact that in many cases only women are subject to these practices. World conferences have made breakthroughs in international recognition of the rights of women over their bodies and their sexuality. In particular, the Programme of Action of the International Conference on Population and Development (Cairo, September 1994) states that "Reproductive health ... implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and freedom to decide, if, when and how often to do so." The Platform for Action (A/CONF.171/13, para. 7.2) adopted at the Fourth World Conference on Women (Beijing, September 1995) also states that "the human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence" (A/CONF.177/20, para. 96). The inclusion of the paragraph and its accompanying vision of sexual autonomy and freedom of choice were developments in international human rights discourse, but still are far from being

implemented. In recognizing women's sexual and reproductive autonomy rather than protecting women's sexual purity, one can tackle the roots of gender-based violence. The articulation of sexual rights constitutes the final frontier for the women's movement.

66. The fight to eradicate certain cultural practices that are violent to women is often made difficult by what may be termed "the arrogant gaze" of the outsider. Many societies feel that the campaign to fight cultural practices is often undertaken in a way as to make the third world appear as the primitive "other", denying dignity and respect towards its people, these campaigns caricature local customs and practices and deny historical value and understanding to traditional social structures. This "arrogant gaze", many feel, has increased since 11 September and they believe that in the future the campaigns to fight for women's equality will be conducted without respecting the inherent dignity of the women who are often the chief initiators of these practices.

67. How do we fight laws and practices that are violent towards women while respecting the dignity of the people who have come to see these practices as tradition? The Special Rapporteur suggests that we use jus cogens, principles of international law that cannot be derogated from by States because they form the basis of international consensus. States are bound whether they give their express consent or not since the norm is of universal applicability. The prohibition against torture is one of these norms. In this context, cultural practices that are irreversible and cause "severe pain and suffering" must be seen as torture and universally condemned. Severe physical violence that mutilates bodies and results in terrible pain and suffering cannot be tolerated. It is important to use the law to ban and criminalize such practices.

68. Discriminatory laws and cultural values that regulate family life often violate basic tenets of the Convention. Gender discrimination prevails, clearly violating women's rights, justice and security while protecting men who harass, molest and rape women and girls. Furthermore, punishments such as stoning and flogging, which are considered cruel, inhuman and degrading treatment by international human rights standards, have been carried out in several countries. The United Nations Safeguards guaranteeing the protection of the rights of those facing the death penalty requires that countries which maintain the death penalty should only use it for most serious crimes, offences which are intentional and with lethal or other extremely grave consequences. The act of consensual extramarital sexual intercourse does not fulfil these conditions.

69. These discriminatory laws have an integral connection to the communities that sustain them and are part of a complex web of social and economic relations. Frequently States fail to end such practices because they do not want to antagonize minorities, particularly in multi-ethnic States. The right to self-determination is used as an argument against Convention articles that oblige the State to correct any inconsistency between international human rights law and religious and customary laws within its territory.

70. In fighting for equality and justice in this sphere, outsiders may do more harm than good by provoking a backlash that may make future advances impossible. It is important to consult and work with women in the countries concerned to ensure that the most effective strategy is adopted. It is imperative to re-engage and take direction from local people on how women's rights may be promoted in a given context. Working in partnership with women and men in the societies concerned will protect against the "arrogant gaze" and guarantee that any amendment

or change receives the full endorsement of large sections of the local population. Without their participation and endorsement, no strategy to advance women's rights will succeed. Moreover, any strategy that imposes hard choices from above may only strengthen the polarization in the world today between and within regions. A consultative, participatory effort is needed to ensure that cultural practices that are harmful to women are eradicated from all societies which have endorsed the Charter of the United Nations as the basic social contract governing the community of nations.

VIII. CONCLUSIONS

71. In the course of the last decade, many developments have taken place in the struggle to eradicate VAW. The greatest achievements have been in awareness-raising and standard-setting.

72. A survey of international, regional and national developments shows that regions and countries have undertaken law reform and initiated measures to promote and protect women's rights. There is some recognition that VAW is a multifaceted problem requiring a multipronged response. Action at the international level shows willingness to combat VAW as a requisite for social development. United Nations agencies and intergovernmental organizations have programmes directly or indirectly to eliminate VAW. At the regional level, the appointment of Special Rapporteurs on women's rights to analyse relevant State law and practice and the creation of institutions to address women's rights are important contributions in addressing challenges in the respective regions.

73. There have been great advances in standard-setting. The Rome Statute, ICTY and ICTR have developed extensive standards with regard to VAW in wartime. The Protocol to Prevent, Suppress and Punish Trafficking in Persons and General Assembly resolution 57/179 of 18 December 2002 on working towards the elimination of crimes against women committed in the name of honour have set the framework for concerted international action to end specific forms of gender-based violence.

74. At the regional level, the Convention of Belém do Para, the Additional Protocol on women's rights in Africa to the African Charter on Human and People's Rights and the Convention on Preventing and Combating the Trafficking in Women and Children for Prostitution adopted by the South Asian Association for Regional Cooperation demonstrate regional consensus on the need to recognize the gravity of the problem and to take steps to eradicate it.

75. The development of jurisprudence and prosecution of perpetrators of VAW through international, regional and national courts is an important step in the fight against impunity for gender-based crimes.

76. Numerous declarations, resolutions, guidelines and principles exist at the international and regional levels. In addition, research on the issue within the United Nations system, in academic institutions and by NGOs has generated a comprehensive body of data on many aspects of VAW. However, in many countries there are no statistics with regard to domestic

violence since the crime is categorized as general assault. Gradually the process of data collection has begun though it will be another decade before adequate information can be collated.

77. Despite these successes in awareness-raising and standard-setting, as the WHO report clearly indicates, very little has changed in the lives of most women. A few women have benefited from these changes, but for the vast majority VAW remains a taboo issue, invisible in society and a shameful fact of life. Statistics continue to show high rates of violence and abuse. Most cases of VAW result in impunity for the perpetrators, which fuels the perpetuation of this grave violation. More must be done to provide equal access to effective judicial protection and guarantees.

78. If the first decade emphasized standard-setting and awareness-raising, the second decade must focus on effective implementation and the development of innovative strategies to ensure that the prohibition against violence is a tangible reality for the world's women. In this context, the Special Rapporteur's successor must focus on how to ensure effective protection of women's rights and equal access to justice for women who have suffered violence, in accordance with States' obligations under international law. States should be assisted in eradicating discrimination in law and practice and monitoring the effectiveness of strategies to end VAW.

79. In many ways, the first decade of this mandate was an exploratory one. As the issue of VAW was new on the human rights agenda, it was necessary to develop definitions and standards. This has been done by many relevant mechanisms, including CEDAW. While the first decade emphasized the need for conceptual clarity and standard-setting, the second decade must focus on compliance and monitoring. The first decade involved persuading States to accept international standards, to pass appropriate legislation and to set mechanisms in place to combat VAW. The second decade must test the practice and implementation of these standards by focusing on a set of indicators.

80. In previous reports, the Special Rapporteur outlined a number of recommendations to eliminate VAW, its causes and consequences, including the exercise of due diligence to prevent, investigate and punish acts of gender-based violence as formulated in the Declaration, which may be used as indicators of State compliance with international standards.

81. The next decade must ensure that the international, regional and national mechanisms set up during this decade are accessible for women seeking redress. The ICC, the Optional Protocol to the Convention and the individual case system of the regional courts are mechanisms that are now available for women seeking justice. It is hoped that the prosecutions and deliberations of these bodies will set standards of jurisprudence for national jurisdictions to follow. The involvement of the international community in cases will strengthen the hand of individual women who have exhausted all local remedies but feel that justice has not been done.

82. In the end, the success of activism with regard to any human rights rests on the enjoyment of these rights by people in their communities. While a great deal has been done at the international level, it is now important to take the fight to individual communities, to involve all social and political actors and to ensure that mechanisms are set up at the grass-roots level so

that all women are protected from violence. A decade ago, VAW was a completely invisible issue. Today the right of women to be free from violence is recognized as an international human right and standards and mechanisms are in place. It is therefore our future duty to ensure access, compliance and monitoring so that the right to be free from violence is the fundamental right of all women no matter where they live.

83. Finally, the success of women's rights will only be realized if human rights in general are preserved and protected. The struggle for women's right to be free from violence must always take place within the framework of human rights practice and protection. In this context, the greatest challenge to human rights comes from the doctrine of cultural relativism where women's issues play a vital part. It is important to confront this challenge with open-mindedness, without arrogance, involving men and women from the local communities in the struggle to vindicate human rights and human dignity. If human rights and women's rights are to be accepted as universal and timeless they must resonate with the actual expectations and lifestyles of people living all over the globe. The greatest challenge is to ensure that the fight for human dignity is a collective fight involving all the world's people and not the imposition of a dominant will. The greatest challenge for women's rights in the next decade is to fight cultural and ideological practices that violate women's rights without offending the dignity of the very women whose rights we are defending.

IX. RECOMMENDATIONS

At the national level

84. States should ratify all instruments for the protection and promotion of the rights of women, including the Rome Statute of the International Criminal Court and the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, and withdraw reservations. States should comply with their reporting obligations, include gender-disaggregated data therein, especially data relating to VAW, and should also comply with the recommendations made in this regard.

85. States must promote and protect the human rights of women and exercise due diligence:

(a) To prevent, investigate and punish acts of all forms of VAW whether in the home, the workplace, the community or society, in custody or in situations of armed conflict;

(b) To take all measures to empower women and strengthen their economic independence and to protect and promote the full enjoyment of all rights and fundamental freedoms;

(c) To condemn VAW and not invoke custom, tradition or practices in the name of religion or culture to avoid their obligations to eliminate such violence;

(d) To intensify efforts to develop and/or utilize legislative, educational, social and other measures aimed at the prevention of violence, including the dissemination of information, legal literacy campaigns and the training of legal, judicial and health personnel;

(e) To enact and, where necessary, reinforce or amend domestic legislation in accordance with international standards, including measures to enhance the protection of victims, and develop and strengthen support services;

(f) To support initiatives undertaken by women's organizations and non-governmental organizations on VAW and establish and/or strengthen, at the national level, collaborative relationships with relevant NGOs and with public and private sector institutions.

86. States should take or strengthen measures, including through bilateral or multilateral cooperation, to address root causes of VAW, such as poverty, underdevelopment and lack of equal opportunity, some of which may be associated with discriminatory practices.

87. Government measures to address trafficking must focus on the promotion of the human rights of the women concerned and must not further marginalize, criminalize, stigmatize or isolate them. Poverty reduction and sustainable livelihood options for women and girls are also essential.

88. States should implement General Assembly resolution 57/179 on working towards the elimination of crimes against women committed in the name of honour and intensify efforts to prevent and eliminate such crimes by using legislative, administrative and programmatic measures.

89. All violations of women's reproductive rights should be recognized and eliminated. Strategies which aim at developing the sexual and reproductive autonomy of women should be encouraged.

90. States should establish, strengthen or facilitate support services to respond to the needs of actual and potential victims, including appropriate protection, safe shelter, counselling, legal aid, health-care services, rehabilitation and reintegration into society.

91. Protective custody as a means of dealing with victims of VAW should be abolished. Any protection provided should be voluntary. Shelters should be opened and offer security, legal and psychological counselling and an effort to help women in the future. NGOs' cooperation in this field should be sought.

At the international level

92. The international community, including relevant United Nations bodies, funds and programmes, should support the efforts of all countries aimed at strengthening the institutional capacity for preventing VAW and at addressing the root causes of such crimes.

93. The international community should refer to the Declaration on the Elimination of Violence against Women to provide effective guidelines for the eradication of VAW.

94. The international community should facilitate the exchange of information between countries about strategies to eliminate VAW through international and regional cooperation.
95. In order for the International Criminal Court to be effective in ensuring justice for women, it should uphold and elaborate on the existing international human rights and humanitarian norms and develop rules of criminal procedure that protect the rights of the female victim.
96. The relevant human rights treaty bodies should continue to address VAW, its causes and consequences.
97. All United Nations country teams should fully incorporate a gender perspective into all areas of their work and give priority to issues of VAW.
98. The donor community should increase funding for programmes that address the needs of victims of gender-based violence, including medical care, trauma counselling, education, vocational training and income-generating schemes.
99. The United Nations should take immediate steps to ensure that the representation of women is increased in all institutions of the United Nations and at all levels of decision-making, including as military observers, police, peacekeepers, human rights and humanitarian personnel in United Nations field-base operations, and as special representatives and envoys of the Secretary-General.
100. A Gender Unit should be created and senior gender advisers appointed within the Department for Peacekeeping Operations, as well as senior gender advisers and child protection advisers with gender-sensitive training to all field missions.
101. The United Nations should take steps to ensure that all personnel who commit abuses in violation of human rights and humanitarian law, including against women and girls, are held accountable and prosecuted. All investigations into such crimes and their outcome should be made public, including in regular reports to the Secretary-General. The Special Rapporteur urges that an ombudsperson or other disciplinary and oversight mechanism be created within all peace support operations.
102. 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 in demobilization, rehabilitation, reintegration and post-conflict reconstruction programmes. All international organizations should protect and support the delivery of humanitarian assistance for women and girls affected by conflict, in particular internally displaced women. Women's human rights should be central in the planning of reconstruction and rehabilitation programmes.
103. The international community should support women's participation in peace processes, in accordance with Security Council resolution 1325 (2000). Women should participate in every capacity to promote gender-sensitive and gender-inclusive responses to the conflict, the peace process and violations, without threat of further violence and egregious attacks.

104. The international community should develop a plan of action with concrete timelines for the implementation of the recommendations contained in the Secretary-General's report on women, peace and security and the recommendations contained in UNIFEM independent experts' Assessment of the Impact of Armed Conflict on Women and Women's Role in Peace Building.

Notes

¹ See E/CN.4/2003/75/Add.1 for a detailed review of international and regional developments and country profiles containing details of national initiatives taken to eliminate violence against women.

² Inter alia, the following individuals/organizations submitted useful contributions: Working Group on Women and Armed Conflict-Colombia, European Women's Lobby (EWL), CLADEM, Asia Pacific Women, Law and Development (APWLD), Ain o Salish Kendra (ASK), Anu Pillay, John Darcy, International Planned Parenthood Federation, Amnesty International, OMCT, UNFPA, WHO, and DPKO.

³ The Special Rapporteur would like to thank, and acknowledge the briefing papers prepared for this report by Saama Rajakaruna, Elodie Moser, Rossana Favero, Florence Butegwa, Elizabeth Abi-Mershed, Katy Barnett, Brindusa Nicolau, Deena Hurwitz, and Rebecca Cook.

⁴ The Commission on Human Rights invited the Special Rapporteur to seek and receive information on violence against women, its causes and consequences; recommend measures, ways and means at the national, regional and international levels to eliminate violence against women its causes, and to remedy its consequences.

⁵ 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.

⁶ Women, War and Peace: The Independent Expert's Assessment of the Impact of Armed Conflict on Women and Women's Role in Peace-building by Elisabeth Rehn and Ellen Johnson Sirleaf, UNIFEM, 2002.

⁷ See a framework for model legislation on domestic violence: a report of the Special Rapporteur on violence against women (E/CN.4/1996/53/Add.2) and General Assembly resolution 52/86 of 12 December 1997 on measures to eliminate violence against women. Both are guides for Governments in developing their strategies and taking concrete legislative and practical measures for the effective prevention of and response to violence against women. A large group of States have introduced new legislation and several other measures to deal with domestic violence.

⁸ See report of the Special Rapporteur on trafficking in women, women's migration and VAW (E/CN.4/2000/68).
